The ordinary legislative procedure step by step – multilingual aspects

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Purpose

- Contribute to a better understanding of our respective roles in the overall text production process
- Contribute to a better understanding of the need for knowledge-sharing throughout the process
 Ordinary Legislative Procedure

- Diagram is in handout and in
  http://ec.europa.eu/codecision/stepbystep/diagram_en.htm

- Explanations in
  http://ec.europa.eu/codecision/index_en.htm
  and in
Workflow in the Commission: A text is born

Colleagues, HoU

Desk officer

Interservice Consultation (ISC)

Director, Directorate (the other units)

Cabinet

D-G, other directorates

(…but also Upstreaming coordination: Internal and external – DGs, LS; MS, experts, stakeholder consultations, etc.)

→ many different levels
→ many interventions

(On the one hand: a very hierarchical structure…)
Interservice consultation

Interservice Consultation -
CIS-NET (database)

Legal Service
DGT
Other DGs
ISC – Legal Service

- Subject-matter lawyers (juristes de fond)
  - Main activity: Court cases, but also legal advice incl. ISC
  - ISC: Focus on legal basis, legal certainty (conflicts with other legislation, etc.). No time for dealing with drafting aspects
  - Both legislation and other documents

- Legal revisers (cf. CONS, EP, ECJ)
  - Screening of CIS-Net
  - Focus on legislative drafting quality (Joint Practical Guide)
  - Only legislation proper (not even explanatory memoranda)
  - Rarely ex-post revision of translations (box to tick)
  - No power to enforce, only advice
ISC – DGT

- D.4 Editing Service
  - Screening of CIS-Net (other selection criteria than legal revisers)
  - Focus on linguistic drafting aspects (cf. legal revisers)
  - 50% outside ISC
Workflow in the Commission: last steps

- Submission to the Commission for adoption
- *Chefs de cabinet* meeting
- (Discussion during Commission’s meeting)
Workflow in the Commission: Arrival in DGT for translation

- Texts arrive before, during or after ISC
- Even when texts arrive after ISC, it is normal to have several versions
- Originals have been revised many times
Workflow in the Commission
Ordinary Legislative Procedure

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Zoom in: 1st reading

1. Proposal from Commission

2. First reading by EP – position

3. Amended proposal from Commission

4. First reading by Council

5. Council approves all EP's amendments

6. Council can adopt act as amended (without further amendments and in the wording of EP's position)

7. EP has approved proposal without amendments

8. Council can adopt act (without amendments and in the wording of EP's position)

9. Council position at first reading

10. Communication from Commission on Council position at first reading

11. Second reading by EP
11. Second reading by EP

12. EP approves common position or makes no comments
13. Act is deemed to be adopted

14. EP rejects Council position at first reading
15. Act is deemed not to be adopted

16. EP proposes amendments to Council position at first reading

17. Commission opinion on EP's amendments

18. Second reading by Council

19. Council approves amended Council position at first reading
   (i) by a qualified majority if the Commission has delivered positive opinion
   (ii) unanimously if the Commission has delivered negative opinion

20. Act adopted as amended

21. Council does not approve the amendments to the Council position at first reading
EP and Council 2nd readings take place in succession (first 11, then 16, finally 18)

Council works on text as amended by EP
EP and Council first readings take place **in parallel** (steps 2 and 4).
First reading

“For it to be possible to conclude dossiers subject to the ordinary legislative procedure (formerly ‘ codecision’) at the end of the first reading, proceedings need to be conducted in parallel in the two institutions, there must be an intensive exchange of information, and the Council Presidency has to be readily available for exploratory contacts and negotiations with the EP.”

Source: Council’s Guide to the ordinary legislative procedure, October 2010
1st Council reading

1. Proposal from Commission
2. First reading by EP – position
3. Amended proposal from Commission
4. First reading by Council

1 A. Opinions by National Parliaments
1 B. Opinions, where specified, by ESC and/or, CoR
Council First Reading (pre-Lisbon)

- Zoom into step 4 of colour flowchart
- COM proposal goes to working parties, then COREPER, then Council
- They bring in political amendments (which is normal),
  - but also…
Council first reading
(pre-Lisbon)

- (In theory) entire COM proposal was revised by Council’s linguists

- Linguistic and technical changes introduced
  - by Council’s linguists
  - or at the initiative of experts from national delegations
Council First Reading
(post-Lisbon)

- EP (and no longer Council) has the final say
- Act adopted in the wording corresponding to EP’s position
- If Council wants to get its amendments in at first reading, it negotiates informally with EP
In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for a second reading and conciliation.

The amendment adopted corresponds to what was agreed between the three institutions and ought therefore to be acceptable to the Council. Consequently, once the Legal/Linguistic Experts have examined the text, the Council should be in a position to adopt the legislative act.
Problems with the original (monolingual perspective)

- No clearly identifiable “master version” of proposals at each stage
- EP and Council work in parallel on the same text at some stages
- No clear mechanisms for bringing changes together afterwards
The parallel life of the translations (multilingual perspective)

- Where do translators fit in the overall process?
- Where do translation-related problems arise?
If Council changes without informing DGT translators...

- **Frustration from**
  - DGT translators (who see their effort wasted)
  - National experts from MS consulted in relation to the translation (who see their input apparently taken on board at first, then ignored)

- **Risk for negative impact on “objective” quality of legislation and on resources**

- **If so, bad for the image of translation departments and the EU as a whole**
Role of the Directorate for Legislative Acts (DLA)

Ensure, at all stages of the Parliamentary procedure, the highest possible quality of legislative texts in all languages.

Provide drafting advice and other legislative services.

Ensure that Parliament's political will is rendered in high-quality legislative acts.
Methods

- **Specialised teams** (LLs/ASTs) follow committees
- **Continuity** - each file is coordinated by the same LL throughout the whole process (submission of a COM proposal to EP → signature)
- **Drafting advice** provided before Plenary decides (committee documents, trilogues)
- **Interinstitutional cooperation**: availability of translations, finalisation of COD documents, working groups
Revision by lawyer linguists: legal linguistic issues

- Is the wording of the amendments legally and linguistically correct?
- Do the amendments comply with Union drafting rules?
- Is terminology used correctly and consistently?
- Would the wording of any amending provisions, if adopted, fit seamlessly into the basic act?
- Do the amendments include provisions relating to delegated or implementing acts?
Revision by lawyer linguists: procedural issues

- Parliamentary models
- National parliaments, the Economic and Social Committee and the Committee of the Regions
- References to existing legislation
- Admissibility
- In second reading texts, are the amendments correctly based on the text of the Council position?
Verification of all language versions

PLENARY

File coordinator

Liaison with authors and other services

Instructions / MEF

Questions / comments

Vote

Texts

Adopted
Council Chef de file

EP File coordinator

Committee secr.

Council service traitant

National experts

Pre-meeting

translations

Council NE meeting

Final version uploaded into Euramis

Adoption by Council

Members / other services / Elise

Commission

Original

Council service

FINALISATION
Adoption at 1st reading

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11. Second reading by EP
Ordinary Legislative Procedure

Figure 1: Distribution of stages of agreement based on all co-decision files agreed during the legislature 2004-2009

Ordinary Legislative Procedure

Adoption at 1st reading

- **Frustration from**
  - Council translators (who see their effort wasted)
  - Delegates from MS governments (who see their requests apparently taken on board at first, then ignored)

- **Impact on “objective” quality of legislation, waste of resources**

- **Bad for the image of translation departments and the EU as a whole**
Problems with the translations:

(multilingual perspective)

- No clearly identifiable “master version” of translations at each stage
- EP and Council work in parallel on the same text at some stages
- No clear mechanisms for bringing changes together afterwards
Conclusions (1)

- Many unresolved structural problems which affect all languages, both originals and translations
- Any solutions need to be applied throughout all translation departments and will involve all three institutions
Conclusions (2)

- Fiction of monolingual decision-making
  - Multilingual aspects not sufficiently taken into account, as if translation was taken for granted
  - Originals revised much more than translations
  - Improvements of translations get lost or are difficult to take into account
  - Consequences for the quality of legislation, the efficient use of resources, motivation and, politically, for the legislators
Way forward: Knowledge-sharing (1)

- Sharing of relevant information
  - to ensure the legislative quality
  - to make efficient use of scarce resources
  - to strengthen each actor’s “ownership” of good solutions to avoid frustration
Way forward: Knowledge-sharing (2)

Different means:

- Note, Elise, feedback: incident reporting, one-stop-shops, Euramis, IATE; annotations, proactive terminology and training, ...

- Mechanism to indicate linguistic and technical changes as opposed to political ones?

- Effective mechanism to spot (and prevent!) translations being carried out in parallel by EP, Council and COM?
Knowledge-sharing: two recurring questions

- **What is relevant information?**
  - It depends…up to language community to decide…
  - Cf. Interinstitutional guidelines for Elise

- **What’s in it for me?**
  - Need to know the global workflow
  - Need to know each others needs
Way forward:
Full implementation of the Lisbon Treaty (1)

Article 293(3) and (4) of TFEU

'3. The European Parliament shall adopt its **position** at first reading and communicate it to the Council.

4. If the Council approves the European Parliament’s position, the act concerned shall be adopted **in the wording which corresponds to the position** of the European Parliament.'
Way forward:

Full implementation of the Lisbon Treaty (2)

1st reading agreements: legal linguistic finalisation shall be concluded before EP votes

Advantages:
- Issues discovered in the course of finalisation can be easily corrected (no need for corrigendum) = high quality texts are at disposal of Members before the vote
- EP translation services don’t need to translate consolidated amendments in the pre-session weeks (finalised versions can be used)
- Final acts are published soon after their signature
- Streamlining of current procedures = better use of resources
Way forward:
Common presentation of documents

Point 43 of the Joint declaration on practical arrangements for the codecision procedure of 13 June 2007:
'The European Parliament and the Council shall agree on a common presentation of the texts prepared jointly by those institutions.'

Advantage:
Transparent and coherent communication of political changes to citizens
More effective use of documents originating from other institution
Thank you!

- Questions?
- Comments?