

How Decisions are made in the European Union

Introduction

Discussions have been going on for some time about changing the way decisions are made within the EU. There are many reasons why the governments and citizens of the member states want change. There are issues about the relative powers of the larger and smaller member states. It is generally considered that the decision making procedures and rules are cumbersome, and that the difficulty in understanding them means that the citizens of the EU are unable to get involved and so feel very far removed from the institutions of the EU. The current attempt to draw up a new Constitution for the EU may result in changes, but these will not be implemented for some years. Here we outline the main decision making processes which exist at present and the changes which will come into effect in 2004 and 2005. These changes were agreed in the Treaty of Nice and the Treaties of Accession of the countries which will join in 2004. The description given here includes the main elements of the processes but does not cover all the details.

The EU Presidency

On 1 January 2004, Ireland took over the Presidency of the EU. Each member state takes on this role for six months at a time. It means that Ireland chairs all meetings of EU member states – for example, the Taoiseach chairs meetings of the European Council, the Minister for Finance chairs meetings of the finance ministers, Irish civil servants chair meetings of their groupings. The Irish representatives act as spokespeople for the EU in public events and in meetings with other countries or other groups of countries. Holding the Presidency does not mean that Ireland's powers within the EU are different – it may, however, provide an opportunity to make progress on issues which particularly concern Ireland.

The Irish Presidency website is at:
<https://www.eu2004.ie/>. It will have information on the various EU related activities in Ireland during the period January to June 2004.

Informing Citizens

One of the many conferences which will be held in Ireland during the Presidency is one which will consider how the EU should best be communicated to its citizens. It will be held in Wicklow on 7 and 8 April 2004.

Enlargement

Ten new member states will join the EU on 1 May 2004. Celebrations will be held in Ireland to mark this event.

These ten countries – Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia – have all signed Treaties of Accession with the EU. The accession treaties must be ratified by all the existing member states. In Ireland, the Dáil has approved the terms of the Treaties of Accession and the European Communities (Amendment) Act 2003 has been passed. This brings certain parts of the Treaties of Accession into Irish law.

EU Structures

The EU is a complex organisation. It has three main elements – these are called the three Pillars. The way decisions are made differs between these three pillars but there is also a number of decision making processes within each pillar.

Three Pillars

The three Pillars are

- ◆ 1st Pillar: The “European Community” which is broadly the original institution. It covers a range of areas including social and employment policies,



information for all

consumer, environment, competition and internal market laws and policies. These are sometimes called “Community” activities.

- ◆ 2nd Pillar: Common Foreign and Security Policy – this deals with security and defence policies and foreign policy generally.
- ◆ 3rd Pillar: Police and Judicial Co-operation in Criminal Matters – this is more commonly known as Justice and Home Affairs and covers areas such as law enforcement, asylum seekers, refugees and immigration (some of these issues are also in the 1st Pillar).

The three pillars together constitute the European Union. From a strictly legal perspective, the “European Community” (EC) refers to the First Pillar only while the Union (EU) refers to all three Pillars. However, in practice the terms tend to be used interchangeably. There are significant differences between how decisions are made in the 1st Pillar and in the others.

In general, in the EC Pillar, the Commission makes proposals and the Council makes the decision either after consulting the European Parliament or in conjunction with the Parliament (see below for the different ways in which the Parliament is involved). The Council may make its decisions unanimously or by qualified majority, depending on the requirements of the legal basis. The European Court of Justice has an overall supervisory and enforcement role.

There is another significant procedure available within the 1st Pillar. The social partners (trade union and employer bodies) can agree certain issues and the agreement then becomes part of EU law. This happened, for example, in the case of the EU legislation on part time workers and fixed term workers.

In the other two Pillars, decisions are largely taken by the Council. The other institutions have a limited role. In the 3rd Pillar, Ireland and the UK have the right to opt in or out of various laws and policies. The government must get Oireachtas approval if Ireland wants to opt in to any specific proposal.

Consultation

The Economic and Social Committee and the Committee of the Regions must be consulted on various proposals for legislation and policies – mainly those in the 1st Pillar. In practice, the Commission is also likely to consult the governments of the member states and, frequently, the social partners and non governmental organisations both before drawing up proposals and while those proposals are being considered by the different institutions. Sometimes the Commission engages in public consultation – these consultative processes are usually described in EU News as they arise (www.cidb.ie).

Who makes the decisions

The EU is governed by the various treaties which established it. It only has the power to make laws and pursue policies in areas where the treaties give it legal authority – there has to be an article in the treaties which gives a “legal basis” for all legislation and policies. How exactly decisions are made depends on the legal basis for the proposal in question.

All the treaties, including the recently agreed Accession treaties, are available at:
http://europa.eu.int/eur-lex/en/search/search_treaties.html

Once any proposal has been made, you can follow the decision making procedure on the Pre-Lex database.
http://europa.eu.int/documents/pre-lex/index_en.htm

Sometimes, the Council decides that it would be desirable to have greater co-operation and/or coherence between the policies of the member states in areas where the EU does not have then power to require this. For example, each member state decides its own policy on social inclusion and on pensions. However, there are arrangements within the EU for the co-ordination of these policies and for the Commission to make comments on them – this is sometimes called the “open method of co-ordination”. This process does not impose any requirement on the member state to implement any of the suggestions made at EU level.

The Commission

At present, there are 20 members of the Commission. They have been nominated by the 15 member states – the five larger countries each nominated two. A new Commission will be appointed in 2004. The new Commission will have 25 members – one from each member state. The Commission makes proposals for legislation and policies – it does not make the decisions on them. It does make decisions on the implementation of policies and legislation.

When the Commission makes a proposal, it usually includes a detailed explanation of the reason for it, the background to it, the legal basis for it and why it must be done at EU level (this justification is needed because of the treaty requirement of “subsidiarity” – i.e. that decisions should must be taken at the appropriate level).

The Council

The Council is the main decision making body. It is composed of a Minister from each member state. The Council meets in a number of “formations” as follows:

1. General Affairs and External Relations Council (Minister for Foreign Affairs)

2. Economic and Financial Affairs Council (Minister for Finance)
3. Justice and Home Affairs Council (Minister for Justice, Equality and Law Reform)
4. Employment, Social Policy, Health and Consumer Affairs Council (Minister for Enterprise, Trade and Employment or Minister for Health and Children or Minister for Social and Family Affairs, depending on the precise issue)
5. Competitiveness (Internal Market, Industry and Research) Council (Minister for Enterprise, Trade and Employment)
6. Transport, Telecommunications and Energy Council (Minister for Communications, Marine and Natural Resources or Minister for Transport)
7. Agriculture and Fisheries Council (Minister for Agriculture and Food or Minister for Communications, Marine and Natural Resources)
8. Environment Council (Minister for the Environment, Heritage and Local Government)
9. Education, Youth and Culture Council (Minister for Education and Science or Minister for Arts, Sport and Tourism).

The European Council

The European Council is composed of the heads of state or government. The Taoiseach represents Ireland and will chair meetings of the European Council during the Irish Presidency.

How the Council decides

The various Councils meet formally a number of times each year. They may also meet informally – a number of informal meetings will be held in Ireland during the Presidency. Decisions are not taken at informal meetings.

The Council may make decisions unanimously, by simple majority or by qualified majority voting depending on the requirements of the legal basis. In practice, many decisions are taken without a vote either because the decision is not contentious or a compromise has been agreed between the different views.

Qualified Majority Voting (QMV)

Unanimous decisions are required in a small number of areas, for example, on foreign policy, taxation, social security, equality. Individual member states may “exercise a veto” over these areas. The majority of decisions may be taken by qualified majority. Qualified Majority Voting (QMV) means that each country’s vote is worth a certain number – it has a “weighting”. This weighting is related to the population of the country but is not directly proportionate. The weighting arrangements give smaller countries a greater share than their populations would warrant if a directly proportional arrangement existed. Of the current total of 87 votes for the 15 member states, Ireland has 3 votes.

The weightings will change when the new member states join but the principle remains the same.

From 1 November 2004, the weighting of votes in the Council will be as follows:

France, Germany, Italy, UK	29 each
Spain, Poland	27 each
Netherlands	13
Belgium, Czech Republic, Greece, Hungary, Portugal	12 each
Austria, Sweden	10 each
Ireland, Denmark, Finland, Lithuania, Slovakia	7 each
Cyprus, Estonia, Latvia, Luxembourg, Slovenia	4 each
Malta	3

Most Council decisions must be approved by at least 232 votes in favour and by a majority of the member states. Some decisions need the support of at least two thirds of the member states. A member state may ask for proof that a decision has the support of member states representing at least 62% of the EU’s total population.

The European Parliament

European Parliament elections will be held in June 2004. A total of 732 MEPs will be elected by the 25 member states (currently there are 626 MEPs). Ireland will elect 13 MEPs – this number has been agreed in the Accession treaties. (At present, Ireland has 15 MEPs). The division of the country into constituencies is decided by the Irish government.

The Parliament’s role in the decision making process depends on the subject matter of the proposal.

Consultation – the Commission issues the proposal and the Parliament is consulted. This consultation may be obligatory if it is required by the treaties or the Council may decide to consult the Parliament. The Council may take the Parliament’s views into account but is not obliged to do so. This procedure applies to decisions on, among other things, taxation, some aspects of social and environmental policy and justice and home affairs matters.

A Directive which is drawn up under this procedure is described as a Council Directive. For example, Directive 2000/78 establishing a general framework for equal treatment in employment and occupation is a Council Directive. Its legal basis is Article 13, the European Parliament gave its opinion and the Council decided unanimously.

Assent – The Commission proposes, Parliament is consulted. If the Parliament does not agree (does not assent), the Council cannot adopt the proposal. This applies to decisions on, for example, the accession of new member states.

Co-operation procedure – The Commission proposes, Parliament may propose amendments. Ultimately the Council makes the final decision. This now applies to relatively few decisions.

Co-decision procedure – The Commission proposes and the final decision is made jointly by the Parliament and the Council. There may be two readings in the Parliament and the Council may reach what is called a “common position”. If there is disagreement between the Council and the Parliament, then a Conciliation Committee is convened. This is composed of MEPs and Council members and it aims to find agreement between the two institutions. If agreement cannot be reached then the proposal fails. This procedure applies to a wide range of decisions including those on free movement of workers, consumer protection, education, health and culture.

A Directive which is made under the co-decision procedure is called a Directive of the Council and of the European Parliament. For example, the Directive on the re-use of Public Sector Information (described in the EU Supplement) is one such. Its legal basis is Article 95; in its first reading, the Parliament proposed a number of amendments, many of which were accepted. The Council then issued a common position. Parliament held a second reading and proposed amendments to the common position. These were accepted by the Council.

Enhanced Co-operation

There is a facility for a number of member states to use the institutions of the EU to pursue certain policies which the other member states do not want, or are not qualified, to pursue. The procedure is called “enhanced co-operation” or “flexibility” and has never been formally used. The arrangements for the Schengen area and for the Euro do involve a number of member states pursuing policies which the others do not want to pursue but this particular mechanism was not used. It may be used for purposes which are consistent with the aims of the EU and in the following circumstances:

- ◆ at least eight member states must want to use it and
- ◆ the Council agrees by qualified majority to allow it to be used.

It may only be used in the Common Foreign and Security Policy area to a limited extent and any member state can prevent its use in this area.

EU Finances

The EU is mainly funded by contributions from the member states (known as “own resources”). The contribution which Ireland makes annually to the EU Budget is based on a formula related to VAT and Gross National Income and also includes the revenue from customs duties and agricultural levies. Ireland also contributes money towards EU development aid programmes – this is separate from the main contribution. At present, the maximum the EU may spend is 1.24% of the total EU Gross National Income. A number of member states have proposed that this be reduced to 1%. Decisions on the future financing of the EU will be made later this year.

Ireland also receives money from the EU – this is mainly in agricultural supports and structural funds. Decisions on EU spending are made by the Council and the Parliament. The Council makes the final decision on certain spending – for example, on the Common Agricultural Policy – while decisions on matters such as the structural funds are made jointly. There is a fairly complex procedure involved in drawing up the Budget. If there is a conflict, the Parliament may reject the proposed Budget entirely and has done so on a number of occasions. In December 2003, the Parliament approved the 2004 Budget. The total Budget for the 15 member EU is just under €95 billion and for the 25 member EU is almost €100 billion. Nearly half of this is to be spent on agricultural supports and about a third on structural funds.