

February 2015



EU Supplement

This supplement covers the significant EU developments from September 2014 to December 2014 in the broad areas of social policy, consumer policy and citizens' rights.

There is further information about almost all the issues mentioned on the Europa website: europa.eu. In some cases, we give the extended website address. The Official Journal of the EU may be accessed at eur-lex.europa.eu.

The new European Commission

A new European Commission took office on 1 November 2014. Its term of office is five years. Each member state nominates one member of the Commission so there are 28 Commissioners at present. The President of the Commission was appointed by the European Council and approved by the European Parliament. The Commission members were also approved by the European Parliament. The President is responsible for:

- Laying down guidelines within which the Commission is to work
- Deciding on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body
- Appointing Vice-Presidents from the Commissioners (the High Representative of the Union for Foreign Affairs and Security Policy is an exception; this Vice-President is appointed by the European Council)

In this Commission, there are seven Vice-Presidents. Each Vice-President has a co-ordinating role in relation to a number of Commissioners. These teams and priorities may change during the term of the Commission. Each Commissioner has a specific portfolio. In some cases, that portfolio may involve a number of different Directorates-General (departments).

First Vice-President

The First Vice-President is in charge of Better Regulation, Inter-Institutional Relations, the Rule of Law and the Charter of Fundamental Rights. He has a specific role in ensuring that every Commission proposal respects the principles of subsidiarity and proportionality and in overseeing the European Commission's relations with national parliaments and with the other European institutions.

This involves co-ordinating with all Commissioners but particularly the Commissioner for Justice, Consumers and Gender Equality and the Commissioner for Migration and Home Affairs.

Vice-President for Budget and Human Resources

This Vice-President is concerned with vetting all Commission initiatives for their budgetary and personnel implications and modernising European public administration. This involves working with all Commissioners.

High Representative of the Union for Foreign Affairs and Security Policy

The High Representative of the Union for Foreign Affairs and Security Policy conducts the EU's foreign policy. This involves working with the European Council and all Commissioners but particularly the Commissioners for European Neighbourhood Policy and Enlargement Negotiations; Trade; International Cooperation and Development; and Humanitarian Aid and Crisis Management.

Other Vice-Presidents

The other Vice-Presidents are leading project teams which are concerned with:

- Jobs, growth, investment and competitiveness
- Climate change policy
- Digital single market
- A deeper and fairer economic and monetary union

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Jobs, growth, investment and competitiveness

This involves the Commissioners for Economic and Financial Affairs, Taxation and Customs; Employment, Social Affairs, Skills and Labour Mobility; Regional Policy; Internal Market, Industry, Entrepreneurship and SMEs; Financial Stability, Financial Services and Capital Markets Union; Digital Economy and Society; Climate Action and Energy; and Transport.

Climate change policy

This involves the Commissioners for Climate Action and Energy; Transport; Internal Market, Industry, Entrepreneurship and SMEs; Environment, Maritime Affairs and Fisheries; Regional Policy; Agriculture and Rural Development; and Research, Science and Innovation.

Digital single market

This involves the Commissioners for Digital Economy and Society; Internal Market, Industry, Entrepreneurship and SMEs; Employment, Social Affairs, Skills and Labour Mobility; Justice, Consumers and Gender Equality; Economic and Financial Affairs, Taxation and Customs; Regional Policy; and Agriculture and Rural Development.

A deeper and fairer economic and monetary union

This involves the Commissioners for Economic and Financial Affairs, Taxation and Customs; Employment, Social Affairs, Skills and Labour Mobility; Financial Stability, Financial Services and Capital Markets Union; Internal Market, Industry, Entrepreneurship and SMEs; Education, Culture, Youth and Sport; Regional Policy; and Justice, Consumers and Gender Equality.

How the Commission makes decisions

In general, decisions are made by consensus. Any vote is a simple majority vote. The Commission has collective responsibility for all decisions.

Work programme 2015

The Commission has published its Work Programme for 2015. This plan emphasises:

- The implementation of the Investment Plan for Europe
- A digital single market package
- Energy policy
- A fairer approach to taxation
- Developing a new approach on legal migration
- Continued efforts to promote economic stability and attract investors to Europe.

Link: ec.europa.eu/priorities/work-programme/index_en.htm

Employment and social policy

Free movement

In a recent case (Case C-333/13), the Court of Justice of the European Union ruled that economically inactive EU citizens who go to another member state solely for the purpose of getting social assistance may be refused certain social benefits. This decision does not involve any change in EU law. It clarifies what has always been the case.

The Court held that the free movement directive (Directive 2004/38/EC on the right of EU citizens and their family members to move and reside freely in other members states) does not require member states to grant social assistance to a person exercising the right of free movement during the first three months of residence. After that, it is a condition of residence that people who are not economically active must have sufficient resources to maintain themselves. In general, this means that they must have sickness insurance and have enough resources not to become an unreasonable burden on the social assistance system of the host member state.

Individual member states may, of course, choose to grant benefits to economically inactive people from other member states but they are not required by EU law to do so.

The regulations on social security (Regulation 883/2004 as amended by Regulation 1244/2010) do not generally apply to social assistance. They apply partially to "special non-contributory cash benefits" which have characteristics of both social security and social assistance and are financed from general taxation. The principle of equal treatment applies to these benefits.

If you do not have a right of residence then you may be refused the "special non-contributory cash benefits" which are available to nationals of the member state who are in the same situation as you are. This does not constitute discrimination in the application of social security regulations.

So, for example, a person from another member state who comes to Ireland is not entitled to claim Jobseeker's Allowance or Rent Supplement. However, if that person gets a job, they are eligible to receive Family Income Supplement.

Website: curia.europa.eu

Disability in employment equality law

EU legislation prohibits discrimination in employment on a range of grounds including disability. The Court of Justice of the European Union has ruled (in Case C-354/13) that obesity could fall within the definition of disability for the purposes of the legislation. Discrimination on the grounds of obesity is not in itself prohibited by the legislation. However, the concept of disability must be understood as referring to a limitation which results in particular from long-term physical, mental or psychological impairments which in interaction with various barriers may hinder the full and effective participation of the

person concerned in professional life on an equal basis with other workers. In this case, the Court of Justice did not itself decide if the person concerned met this definition of disability; that is for the national court to decide.

Website: curia.europa.eu

Justice and home affairs

Justice and home affairs decisions

One of the provisions of the Treaty of Lisbon in respect of decisions in justice and home affairs came into effect on 1 December 2014. The area of justice and home affairs used to be known as the “third pillar” of the EU. Initially, decisions in this area were made by the Council and there was limited Commission involvement and virtually no Court of Justice involvement. This changed over time and the Treaty of Lisbon provided for the abolition of the pillar structure. On 1 December 2014, the last element of justice and home affairs which was still conducted under the old third pillar decision making rules – police and judicial co-operation in criminal matters – became subject to the usual rules.

Since 1 December 2014, the Commission and the Court of Justice have the same role in this area as in, for example, social and employment policy. One of the consequences of this is that the Commission has the power to go to the Court of Justice to argue that a member state has not correctly implemented an EU law in this area. The Court of Justice now has full jurisdiction in this area.

Consumer affairs

Food labelling

New rules on food labelling came into effect on 13 December 2014. These were agreed in 2011. Regulation 1169/2011 on the provision of information to consumers replaces the previous labelling rules. The main changes are:

- Information must be more legible; there is a minimum font size for mandatory information and the presentation of this mandatory information must not be adversely affected by other information such as a slogan
- Allergens (for example, soy, nuts, gluten, lactose) must be shown more clearly on pre-packed foods
- It is mandatory to provide allergen information on non-pre-packed foods, for example, in restaurants
- Certain nutrition information (for example, energy, fat, sugar, salt) must be displayed on most pre-packed processed foods (this will be mandatory from 13 December 2016)
- It is mandatory to give information about the origin of fresh meat from pigs, sheep, goats and poultry
- The same labelling requirements apply to online, distance-selling or buying in a shop

- There must be specific information on the vegetable origin of refined oils and fats

The new rules are implemented in Ireland by SI 489/2014 (in relation to allergen labelling) and SI 556/2014.

The Food Safety Authority of Ireland (FSAI), which has detailed information about the new rules on its website, is the implementing agency in Ireland. Website: fsai.ie

Food which was put on the market or labelled before 13 December 2014 is not subject to the new rules.

Link: ec.europa.eu/food/food/labellingnutrition/foodlabelling/index_en.htm

Banking fees for card transactions

The European Council and the European Parliament have reached political agreement on the proposal for a ‘Regulation on Interchange Fees for Card-based Payment Transactions’.

This regulation aims, among other things, to introduce maximum fees for consumer debit and credit cards.

Interchange fees are paid indirectly by retailers to your bank each time you pay using a payment card. You are generally unaware of these fees and they are passed on to you by the retailer in the form of higher prices for the goods concerned. There are many different arrangements for the payment of these fees. The European Court of Justice ruled (in Case-382/12P) that specific inter-bank fees for cross-border payment transactions in the European Economic Area (EEA) were in breach of EU competition rules.

Link: ec.europa.eu/competition/sectors/financial_services/payments_en.html

Insolvency

The Council has reached political agreement on the proposed new insolvency rules which will apply where there are assets and/or creditors in more than one member state. The proposals were described in the July 2013 issue of EU Supplement. The new rules are expected to come into effect in early 2017.

Link: ec.europa.eu/justice/civil/commercial/insolvency/index_en.htm

General

Voting in the Council

The European Council consists of the heads of state or government of the member states, its President and the President of the European Commission. It gives overall political direction to the EU.

The Council of the EU is composed of one government minister from each member state. There are different Council formations, for example, the Agriculture Council; the Council of Employment, Social Policy, Health and Consumer Affairs Ministers. The Council makes the final decisions on legislation

The Citizens Information Board provides independent information, advice and advocacy on public and social services through citizensinformation.ie, the Citizens Information Phone Service and the network of Citizens Information Services. It is responsible for the Money Advice and Budgeting Service and provides advocacy services for people with disabilities.

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either alone or, in most cases, jointly with the European Parliament.

The system of qualified majority voting (QMV) used to make decisions in the European Council and the Council of the EU was changed on 1 November 2014. The change was agreed in the Lisbon Treaty. The Treaty generally came into effect in 2009 but this particular aspect was scheduled to come into effect in 2014.

Some decisions must be made unanimously, for example, decisions in relation to defence and taxation. In practice, most decisions are made by consensus. If there is no consensus, decisions in most areas may be made by QMV. Under the old QMV system, each member state's vote was given a weighting. This was related, but not directly proportionate to the population; smaller member states had a greater share than their populations would warrant.

The new QMV system is sometimes called the double majority system. If a decision is being made after a proposal has been made by the Commission (this is the usual way in which decisions arise), then a qualified majority means that the following two conditions must be met:

- 55% of the member states must agree: that means at least 16 member states at present (there are 28 member states at present) and
- Those supporting must represent 65% of the EU population (the population is about 506 million at present so those supporting must represent 329 million)

In order to prevent a decision being made, a blocking minority will have to include at least four member states – this means that if there are less than four member states opposed to a decision then the qualified majority will be treated as having been reached.

In some cases, only certain member states take part in decisions, for example, the member states that have adopted the euro make certain decisions in relation to it and the members of the Schengen area make certain decisions about it. In these cases, the percentages apply to the participating member states only.

If a decision is being made in cases where there has not been a proposal from the Commission, the following two conditions must be met:

- 72% of the member states must agree: that means at least 21 member states at present and
- Those supporting must represent 65% of the EU population

If only certain member states are taking part in these decisions, the percentages apply to those member states only. A blocking minority must include at least the number of participating states representing 35% of the population of the participating states plus one.

Transitional arrangements

There are transitional arrangements in place for the period to 31 March 2017. During that time, a member state may ask for the application of the old QMV system rather than the new system. There is also a mechanism for dealing with cases where the blocking minority is nearly reached.

Further information is available from: consilium.europa.eu

Ireland's contribution to EU Budget

All member states are obliged to contribute to the EU Budget. The contribution consists of:

- Customs duties (and some other levies)
- A VAT related payment and
- A payment related to each member state's share of EU Gross National Income (GNI)

In 2013, Ireland contributed €1,726 million to the EU Budget; that is about 1.14% of the EU's overall budget. The European Central Bank is not funded from the EU Budget.

Single Resolution Board

The Single Resolution Board has been established. It is the governing body for the Single Resolution Mechanism (SRM) which aims to ensure that a resolution can be managed efficiently with minimal costs to taxpayers and the economy in cases where regulated banks are facing difficulties – see EU Supplement, October 2013.

The Council and the European Parliament have also agreed the way in which the banks' contributions to the resolution funds will be calculated from January 2015.

Link: ec.europa.eu/finance/general-policy/banking-union/single-resolution-mechanism/index_en.htm

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