

Voting in the Council of the European Union

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Voting in the Council of the European Union

Voting procedures

Rules governing voting in the Council are laid down in Article 205 of the Treaty establishing the European Community (EC) and in Article 118 of the Treaty establishing the European Atomic Energy Community (EAEC or Euratom). The procedures are as follows:

- simple majority;
- qualified majority;
- unanimity;
- 4/5 majority.

Simple majority

Simple majority is presented as the procedure for which general provision was made in the EC and EAEC Treaties, but it is used only in limited areas of minor importance (Articles 207, 208, 209 and 284 of the EC Treaty).

Qualified majority

Following the entry into force, in 1958, of the Rome Treaties establishing the European Community (EC) and the European Atomic Energy Community (EAEC or Euratom), unanimity was the most often used procedure. However, each time that the Founding Treaties have been reformed, the number of areas where decisions are taken by qualified majority has increased, such that this has now become the most commonly used voting procedure.

The calculation of a majority is based on the votes allocated to each Member State according to a system of weighted votes that has changed with each successive enlargement of the Communities and the European Union.

In 1958, one sole vote was allocated to the smallest country and 4 to the larger countries. From 1973 to October 2004, the number of votes ranged from 2 to 10. As from November 2004, the minimum number of votes is 3 and the maximum is 29. The number of votes required to secure a qualified majority has gone from 12 in 1958 to 255 in 2007.

Fear of losing the power to block a decision has often involved the Member States in difficult negotiations when the number of subjects requiring a decision by qualified majority has been increased and when new Member States have acceded. In this context, the 'Luxembourg Compromise' and that of Ioannina are especially important.

The EEC Treaty provided for the introduction of majority voting by the end of 1965. However, on 30 June of that year, the French Government opposed its implementation and made clear its intention not to take its seat in the Council until a solution which satisfied its interests was found. This was the 'empty chair crisis'. The crisis was overcome by the adoption of the 'Luxembourg Compromise'. Under the terms of this policy statement, '[w]here, in the case of decisions which may be taken by a majority vote on a proposal from the Commission, very important interests of one or more partners are at stake, the members of the Council will endeavour, within a reasonable time, to reach solutions which may be adopted by all the Members of the Council, while respecting their mutual interests and those of the Community, in accordance with Article 2 of the Treaty.'

The practical consequence of the 'Luxembourg Compromise' was the use of unanimity as the normal

decision making procedure from 1966 until 1985. During that period, the Council endeavoured to find a solution acceptable to all the members in every case.

The 'Ioannina Compromise', set out in the Council Decision of 29 March 1994, laid down a procedure that helped increase consensus on a proposal, when members of the Council representing a number of votes very close to the blocking minority opposed a decision. The 'Ioannina Compromise' has no longer been applicable since the Treaty of Nice came into force in 2003.

Based on principles expressed in the Declaration on the enlargement of the European Union, annexed to the 2001 Treaty of Nice, the system now in force, created by the Treaty of Accession of Romania and Bulgaria, signed in Luxembourg on 25 April 2005, laid down the following weighting that came into force on 1 January 2007:

Belgium	12
Bulgaria	10
The Czech Republic	12
Denmark	7
Germany	29
Estonia	4
Greece	12
Spain	27
France	29
Ireland	7
Italy	29
Cyprus	4
Latvia	4
Lithuania	7
Luxembourg	4
Hungary	12
Malta	3
Netherlands	13
Austria	10
Poland	27
Portugal	12
Romania	14
Slovenia	4
Slovakia	7
Finland	7
Sweden	10
The United Kingdom	29.

A qualified majority is secured under two conditions:

- there is a minimum number of votes in favour of a decision (255, the threshold of the qualified majority),
- Acts are adopted which gain the votes of at least a majority of the Member States, if acts are to be adopted on a proposal from the Commission, and of at least two thirds of the members in other cases.

A third condition also exists which envisages that the votes in favour represent at least 62 % of the population of the Member States. However, this condition is only applicable if a member of the Council requests verification that it has been fulfilled.

When calculating the qualified majority, abstention by a State representative does not lower the threshold, but is considered as a negative vote.

Unanimity

Unanimity is required for certain policies or certain sensitive areas within the framework of the EC Treaty. In general, unanimity is required if the Council wishes to diverge from a Commission proposal (subject to Article 251 in the codecision procedure and other articles which require a qualified majority for the adoption of acts).

In principle, and save in the case of derogation, the Council acts unanimously when adopting decisions relating to the common foreign and security policy (CFSP) and police and judicial cooperation in criminal matters (Articles 23 and 34 of the Treaty on European Union (EU)).

Abstention by members, either present or represented, does not prevent the adoption of decisions taken by the Council acting unanimously.

Even where it was not required, the Council has frequently sought unanimity in the spirit of the 'Luxembourg Compromise' of 29 January 1966. In practice, unanimous voting was the standard Council decision making procedure from 1966 until 1985.

The 1986 Single European Act provided for more frequent use of majority voting and established qualified majority voting for decisions concerning the establishment of the internal market. The Act left the 'Compromise' pending by revitalising this decision making procedure in the Council.

For the first time, the 1997 Treaty of Amsterdam introduced provisions that reiterated the spirit of the 'Luxembourg Compromise'. A right of veto on important national policy grounds was established in order to prevent the adoption, by qualified majority, of Council decisions relating to the CFSP. If a member of the Council declares that it intends to oppose the adoption of such a decision, it is not put to the vote, and the Council may request that the matter may be referred to the European Council for a decision by unanimity (Article 23(2) of the EU Treaty).

The same safeguard clause which Member States and their national policies enjoy exists in the area of enhanced cooperation, in the first pillar (Article 11 of the EC Treaty and in the third pillar (Article 40 of the EU Treaty). The issue is referred, for a decision by unanimity, to the Council meeting in the composition of the Heads of State or Government, if it relates to the first pillar, and to the European Council, if it relates to the third pillar.

The shift from unanimity to qualified majority voting in the Amsterdam Treaty was very limited in comparison to what had been envisaged at the opening of the 1996 Intergovernmental Conference.

Following entry into force of the 2001 Treaty of Nice, 27 new provisions passed wholly or in part from unanimity to qualified majority voting

The four-fifths majority vote

If the Council is called on to determine that there is a clear risk of a serious breach by a Member State of democratic principles, it acts by a majority of four fifths of its members after obtaining the assent of the European Parliament (new paragraph 1 of Article 7 of the EU Treaty introduced by the Treaty of Nice).

Voting process

The Council is called upon to vote by the President. The President must also open a voting procedure on the initiative of a member of the Council or the Commission, provided that a majority of the Council's members so decides.

The members of the Council vote in the order of Member States laid down in Article 203 of the EC Treaty (Article 116 of the EAEC Treaty), beginning with the member who follows the member holding the Presidency. Proxy voting is admissible only when another member acts on behalf of the member not voting.

The presence of a majority of members entitled to vote is required for the Council to take a vote.

Results of votes and explanations of vote are made public:

- when the Council acts in its legislative capacity;
- when the Council adopts a common position under the codecision and cooperation procedures (Articles 251 and 252 of the EC Treaty). The same rule applies to votes and explanations of votes by members of the Council or their representatives on the Conciliation Committee;
- when the Council establishes a convention under Title VI of the Treaty on European Union.

Results of votes are made public:

- when the Council acts under Title V of the Treaty on European Union by unanimous decision of the Council or Coreper, taken at the request of one of their members;
- when the Council adopts a common position under Title VI of the Treaty on European Union, by unanimous decision of the Council or Coreper, taken at the request of one of their members;
- in other cases, by decision of the Council or Coreper, taken at the request of one of their members.

In all three cases, the explanations of votes made when the vote was taken are also published, at the request of the Council members concerned, with due regard for the rules of procedure, legal certainty and the interests of the Council.

Written vote

Council decisions on urgent matters can be taken by written vote when the Council or Coreper unanimously so decides. Under certain circumstances, the President may also propose the use of the written vote. In such a case, the agreement of all members of the Council is required. The Commission must also agree when the written vote to be taken involves a matter which the Commission has brought before the Council.

For the purpose of the common foreign and security policy (CFSP), the Council may act by simplified written procedure, known as the ‘silence procedure’, via the ‘COREU’ network (European correspondents) on the initiative of the Presidency. The proposal is deemed to be adopted on expiry of the period set by the Presidency, except where a member of the Council objects.

On the initiative of the President, the Council may also act by simplified written procedure in all cases where the consultation of other institutions or bodies is required by Community law.