

The European Union Decision-making

Evolution of the decision-making process

» From an inter-governmental decision-making process to the Community decision-making process

The process of European integration is dominated by two dimensions of decision-making: on the one hand, the inter-governmental dimension (decision by the Council of Ministers and unanimously by all the member states), and on the other hand, the Community dimension (decisions are taken by the European institutions themselves, i.e.: the Commission; the Council and the European Parliament, which together form the legislative branch, known as the “Bundesrat model”).

It should be noted, throughout the integration process, that there is a continuing evolution from the purely intergovernmental method of decision-making to Community decision-making.

» Evolution towards a process of decision-making by qualified majority

The above trend is associated with a change in the voting procedure in the Council (from a right of veto to a qualified majority).

Each member state has a certain number of votes (approximately in proportion to the size of the population: e.g. 29 votes for large countries like Germany; 12 votes for smaller countries like Belgium). A proposal is adopted when there is a dual majority (as from November 2014): the number of votes in the Council must reach 55% and these member states (at least 15) must represent at least 65% of the population.

» Transfer of policy fields to the Community sphere

More and more policy fields are becoming the subject of the ordinary decision-making procedure. Areas of policy which, before the Lisbon Treaty (2009) were still the prerogative of the member states (and which were therefore predominantly inter-governmental) are now the subject of the Community decision-making process (these include aspects of judicial affairs and police cooperation).

The Common Foreign and Security Policy still remain largely inter-governmental (unanimous vote in the Council).

Recent measures to content with the financial crisis have also mostly been taken on an inter-governmental basis.

Current legislative procedures

Since the Lisbon Treaty, only two legislative procedures still exist.

- **The ordinary decision-making procedure**
This is the co-decision procedure, where the European Commission exercises the right of initiative, and where the Council and the European Parliament together form the legislative power.
- **Special decision-making procedures**
These are laid down in the Treaty on a case by case basis. In this case, the Council is often the only legislator. The European Parliament now has a consultative role or approval role. Examples of such procedures are: procedures for consultation of the European Parliament; the assent procedure of the European Parliament (in the case of accession treaties) and the budget procedure.

In most of these cases, the Council plays the key role and these are therefore inter-governmental procedures.

There is also what is known as a “passerelle” procedure for using the ordinary legislative procedure with a qualified majority, without a complete revision of the treaty.

Legislative instruments

» Regulation

A regulation is binding on all member states, is immediately applicable and does not have to be implemented first in national law.

» Directive

A European directive is binding on all member states, but only imposes an objective to be achieved. Member states may decide for themselves what means are used to achieve the objective set. So directives require implementation in national legislation.

» Decision

A decision is directly applicable and binding on persons, undertakings, or States to which it is addressed.

» Recommendation

Recommendations are not binding. They encourage member states or other players (institutions) to behave in a particular way.

» Opinion

An opinion is not binding either. It may be issued to member states, other European institutions or another group of players.

New features of the decision-making process

The Lisbon Treaty (2009) introduced two new features.

» Right of initiative

Before the Lisbon Treaty, the European Commission had the sole power to put legislative proposals before the Council and the European Parliament.

The treaty introduced the citizens' initiative. Over a million citizens - drawn from at least 7 member states - may call on the Commission to take a legislative initiative. The first citizens' initiative that met the conditions required is "Right2Water". The European Commission took it into consideration, but did not deem it necessary to draft a new legislative proposal in the field of water policy.

» Subsidiarity

The Treaty of Lisbon ascribes a major role to national parliaments. They can verify whether a legislative proposal by the European Commission complies with the subsidiarity principle. This means that the European Commission can only take an initiative if it can show that an objective cannot be achieved more efficiently at national or regional level.

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