

## Chapter 20

# Re-weighting of Votes in the Council and Composition of the Commission: When Size Matters

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### Introduction

The IGC 2000 was slow to attack the two most controversial institutional issues, viz. the reweighting of votes in the Council and the composition and size of the Commission. This chapter will give an account of how these two issues were dealt with by IGC 2000.

Both issues to a large extent pitted the larger Member States against the smaller ones. Indeed, it was largely the larger Member States that called for a reweighting of votes in the Council in their favour, arguing that the future enlargement with many smaller states would require some adjustments. If a large group of small states with a minority of the Union's population could dominate, it would not be legitimate. It was also mainly the larger Member States that insisted on a smaller Commission which would lead to a situation where not all Member States would have a Commissioner of their nationality. They claimed a smaller Commission would be more efficient. But most small states attached great importance to nominating a Commissioner, seeing the Commission as a bulwark against a *directoire* of the large ones. They basically saw it as an issue of legitimacy.

In the following we will proceed chronologically, starting with the Portuguese Presidency during the first half of 2000, moving to the French Presidency during the second half, and finishing with the Nice summit in December, where these issues were decided upon after the longest summit in the EU's history. It was not only long, it was also very acrimonious. After all the settlement of these issues would determine influence in a future much enlarged EU.

The report of the three wise men, Dehaene, von Weizsäcker and Simon, issued in October 1999 had discussed the institutional issues. On the Commission the three authors said: "For understandable reasons most Member States do not accept the perspective of a Commission in which their country would not be represented. But the Commission is not, and must not become, an assembly of national delegates. It is a European institution of great originality, which has a crucial role to play in both decision making and management. It therefore needs to remain effective, operational and well respected." The question of reweighting of votes was seen as "politically and symbolically important," but the group did not feel it had a mandate to make specific proposals (Von Weizsäcker, Dehaene and Simon, 1999).

In accordance with Article 48 TEU, the Commission produced an opinion in January 2000 prior to the start of the IGC in February. Concerning the Commission the opinion discussed two options: a Commission composed of fewer members than the future number of Member States, or a Commission made up of one national from each Member State. In the former case "a system of rotation that would treat all Member States strictly equally on the basis of a pre-set order" would have to be provided. In the latter case "there would at the same time need to

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be a major restructuring of the Commission” (European Commission, 2000a, pp. 13-14). But the Commission did not make a choice between the two options.

Concerning the question of weighting of votes in the Council, the Commission gave some useful historical background information and discussed basically two options: reweighting the votes of the Member States and double simple majority. Some changes were considered necessary. Successive enlargements had led to a decline in representativeness of a qualified majority vote (QMV) in terms of population from 67,70% in 1958 to 58.15% in EU-15. Based on an extrapolation the QMV in EU-25 would only represent 51,35% of the total Union population. Option one would require that the relative weight of the votes of the most populous Member States be increased. However, the Commission opted in favour of the double simple majority. A QMV would consist of a simple majority of Member States representing at the same time a majority of the total population of the Union. The argument in favour of such a solution was that it would lead to “a readable, simple and democratic decision-making process in the Council” (Ibid., p. 31).

In accordance with Article 48 TEU, the European Parliament was also consulted prior to the start of the IGC, but the resolution it passed contained no specific suggestions on the issues dealt with in this chapter (European Parliament, 2000).

## **The Portuguese Presidency**

The Portuguese Presidency first produced a note on the Commission in March 2000. Basically it outlined the two options already discussed in the Commission opinion prior to the start of the IGC, a college consisting of a national from each Member State, or a college consisting of a fixed number of Commissioners regardless of the number of Member States of the Union. It also asked some other questions relating to the Commission (CONFER 4727/00), and The IGC representatives had a first discussion of the issue on 28 March.

The IGC representatives had a first discussion of the issue of weighting of votes in the Council on 4 April 2000 on the basis of a document from the Presidency (CONFER 4728/00). The document gave some background information. The Protocol on the institutions annexed to the Amsterdam Treaty mentioned two possibilities: modifying the weighting of votes by reweighting or by dual majority. The protocol also linked the issue with that of Member States giving up the possibility of nominating a second Commissioner, suggesting the possibility of extra compensation for the large Member States losing a Commissioner in connection with enlargement. Further, Declaration No 50 from Amsterdam was mentioned. This Declaration stated that the Ioannina compromise would be extended until the first enlargement and that a solution for the special case of Spain be found.

The Ioannina compromise dates back to 1994 when the membership of Finland, Sweden and Austria was decided upon. The increasing size of the blocking minority was becoming a problem for some of the Member States, especially Spain and the UK. These two states proposed that the blocking minority should remain 23 as in EU-12 to allow for a blocking minority of two large and one small Member State (except Luxembourg) also in EU-15. While Norway was still a candidate, a blocking minority, based on an extrapolation of the existing system, would have created a blocking minority of 27. Such a blocking minority would require two large and two small Member States.

On 29 March 1994, in the Greek town of Ioannina, the Council reached a compromise:

If members of the Council representing a total of 23 to 26 votes indicate their intention to oppose the adoption by the Council of a Decision by qualified majority, the Council will do all in its powers to reach, within a reasonable time and without prejudicing obligatory time limits laid down by the Treaties and by

secondary law ... a satisfactory solution that could be adopted by at least 68 votes (OJ No. C105, 13.4.94, p. 1)

According to Westlake, there was a “widespread but shortlived debate.” But, “insiders saw [the Ioannina Compromise] as a diplomatic device to enable a Member State government to retreat gracefully from a position which had become untenable” (Westlake, 1999, p. 94).

When it turned out that Norway would not join the EU the Ioannina Compromise was changed to read “Members of the Council representing a total of 23 to 25 votes” and “a satisfactory solution that could be adopted by at least 65 votes” (OJ No. C 1, 1.1.95, p. 1).

The so-called Spanish problem dated back to Spain’s accession in 1986 when the country was given the choice of 10 votes in the Council like other large states and one Commissioner or eight votes in the Council and two Commissioners. Spain chose the latter arrangement, but would now according to the decision at Amsterdam lose one Commissioner. So Spain expected extra compensation in the Council.

The Presidency document included an annex with the current votes as well as population figures. In another annex these figures were extrapolated to EU-28 (see table 21.1)

At the time of an EU-15, a QMV was 62 votes out of 87, representing 71,26% of the votes and minimum 58,16% of total EU population of a little more than 375 million. A blocking minority was 26 votes, representing 29,89% of the votes and a minimum of 12,38% of the population. In EU-28 the percentages of votes would not change much if such extrapolation was used, but a QMV would only require 51,45% of the total population and a decision could be blocked by a group of small states representing only 11,88% of the population.

The Presidency document also mentioned that a QMV in EU-15 would require at least half of the Member States when deciding on the basis of a Commission proposal. For decisions not based on a Commission proposal, Article 205 TEC stipulates an additional requirement that a QMV must comprise two-thirds of Member States. Would it be acceptable in the future that a decision might be taken by less than half the States, the document asked. The essential requirements of a new system should be fairness, transparency and efficiency, it was stated. The document also asked whether the new system should be based on a purely political or a more objective approach.

**Table 21.1: Extrapolation of current votes to EU-28 (1999 Eurostat population data)**

Member States	Votes	Population (thousands)
Germany	10	82 038
Turkey	10	63 400
United Kingdom	10	59 247
France	10	58 966
Italy	10	57 612
Spain	8	39 349
Poland	8	38 667
Romania	6	22 489
Netherlands	5	15 760
Greece	5	10 533
Czech Republic	5	10 290
Belgium	5	10 213
Hungary	5	10 092
Portugal	5	9 980
Sweden	4	8 854
Bulgaria	4	8 230
Austria	4	8 082
Slovakia	3	5 393
Denmark	3	5 313
Finland	3	5 160
Ireland	3	3 701
Lithuania	3	3 744
Latvia	3	2 439
Slovenia	3	1 978
Estonia	3	1 446
Cyprus	2	752
Luxembourg	2	429
Malta	2	377
<b>TOTAL EU 28</b>	<b>144</b>	<b>544 579</b>

**Determining a qualified majority**

<b>Total votes = 144</b>	<b>Votes</b>	<b>% Votes</b>	<b>Min. % Population</b>
Qualified Majority	102	70,83%	51,45%
Blocking Minority	43	29,86%	11,88%

Source: CONFER 4728/00, 24 March 2000. 1998 data for Malta. Estimated figures for Turkey.

In May, the Presidency produced another document on weighting of votes in the Council. It was discussed by the government representatives on 30 May. The document claimed that there was a “very broad agreement that any weighting of votes must reflect the dual nature of the Union, which is both a Union of States and a Union of peoples” (CONFER 4745/00). This meant that a QMV must represent a minimum threshold in terms of population to ensure its legitimacy. The discussion in March had shown “a rather clear trend in favour of a minimum threshold in the vicinity of 60%.” On the second point, “most of the Member States also consider that any qualified majority should include at least half of the Member States of the Union, as has always been the case up to now,” even if not specified as a rule.

This new document included a hypothetical proposal from the Presidency. It was suggested to double the number of votes to broaden the scope for differentiation, and then subtract one vote from each Member State to introduce an element of reweighting, and finally allocate additional votes to the Member States that had to give up the right to nominate a second Commissioner. The result was a weighting starting with 23 votes for the Big Five (Germany, Turkey, UK, France and Italy), 19 votes for Spain and Poland and then down to three votes for the smallest three members (Cyprus, Luxembourg and Malta). This would give a total of 288 votes. A qualified majority of 206 votes would then represent a minimum of 58,18% of the population (CONFER 4745/00, Annex IV).

Another annex suggested how the population weight could be calculated in a dual majority system. In EU-28 Germany will have about 15% of the population. It was suggested to see this as 150 out of 1000. For France, with 10.8% of the population the figure then would be 108. The figure for the three smallest states, Cyprus, Luxembourg and Malta would be 1.

At the meeting on 30 May the representatives again discussed the issue of the size and composition of the Commission. This discussion took place on the basis of a note from the Presidency outlining three options. Apart from the two options discussed so far, the third option was a kind of compromise allowing the Commission to “consist of one national from each of the Member States after the first enlargement, while leaving the question of its definitive size after a second enlargement entirely open” (CONFER 4744/00). The same note also dealt with the question of introducing rules concerning the Commission asking for a vote of confidence from the European Parliament.

The Portuguese summarized the situation in a report to the Feira European Council meeting in June 2000. In annexes various possible solutions to the question of voting in the Council were reproduced. This included a possible reweighting of votes in favour of the most populated Member States going back to the Amsterdam negotiations in 1997. The proposal started with 25 votes for the Big five, 20 for Spain and Poland, and then falling gradually down to three for the smallest Member States. The total in EU-28 would be 311 votes. A QMV of 222 votes would represent 71,38% of the votes and as a minimum 58,18% of population (CONFER 4750/00, Annex 2.6). Another possible reweighting in favour of the most populated Member States was based on a doubling of existing votes and the adding five votes to the Member States losing a second Commissioner. This led to a scale from 25 to the largest over 21 to Spain and Poland down to four votes for the smallest Member States. This would give a total of 323 votes in EU-28. With a QMV set at 231 the minimum percentage of population would be 58,04% (CONFER 4750/00, annex 2.7).

More interestingly, the Feira report also reproduced a Swedish proposal based on an arithmetical approach.<sup>2</sup> The proposal was to give “each Member State a number of votes equal to double the square root of its population expressed in millions of inhabitants, rounded off to the nearest figure.” (see fig. 21.2). Such an approach would be “completely transparent” and it had the “advantage of adjusting automatically” to future enlargements (CONFER 4750/00, p. 23).

On the question of the Commission, the Feira report again basically outlined the two main options being discussed. It was claimed that most delegations considered that a college made up of one national from each Member State was “the only way of safeguarding the Commission’s legitimacy in the eyes of the public.” However, other delegations were of the opinion that such a solution “would be contrary to the Commission’s very nature, as an independent, collegiate body whose Members do not represent States.” The latter group also felt that such a large Commission would create problems of efficiency and consistency. And,

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<sup>2</sup> The Feira report does not say that this was a Swedish proposal, but when the French Presidency reproduced it in November it was called the Swedish proposal (CONFER 4796/00).

admitted the Presidency, “It seems difficult to reconcile these two approaches at present” (CONFER 4750/00, pp. 12-13).

**Table 21.2: Reweighting based on an arithmetical approach (Swedish model)**

<b>Member State</b>	<b>Votes</b>
Germany	18
Turkey	16
United Kingdom	15
France	15
Italy	15
Spain	13
Poland	12
Romania	9
Netherlands	8
Greece	6
Czech Republic	6
Belgium	6
Hungary	6
Portugal	6
Sweden	6
Bulgaria	6
Austria	6
Slovakia	5
Denmark	5
Finland	5
Ireland	4
Lithuania	4
Latvia	3
Slovenia	3
Estonia	2
Cyprus	2
Luxembourg	1
Malta	1
<b>Total EU of 28</b>	<b>204</b>

**Determining a qualified majority in a Union of 28 Member States**

<b>Total votes = 204</b>	<b>Votes</b>	<b>% votes</b>	<b>Minimum number (and %)</b> <b>of Member States</b>	<b>Minimum % of population</b>
Qualified majority	146	71,57%	15 (50%)	58,18%
Blocking minority	59	28,92%	4 (14,29%)	12,08%

Source: CONFER 4750/00, 14 June 2000.

## **The French Presidency**

A first document on weighting of votes was presented by the French Presidency on 3 July 2000. The document discussed the underlying considerations of efficiency, legitimacy, transparency and political balance. It asked various questions, but made no concrete proposals (CONFER 47547/00).

A first document on the Commission from the French Presidency appeared on 11 July. It mainly dealt with the internal organization of the Commission, arguing that “it would not be worthwhile to resume the discussion” at that stage about the two main options outlined in the Feira report (CONFER 4757/00).

A second document on reweighting of votes from the French Presidency followed on 5 October. Significantly, it said that the issue of the weighting of votes was “one of the most sensitive points at the Conference which can be settled only within the framework of an overall agreement.” It claimed that “a majority is emerging in favour of reweighting the votes *sensu stricto*, subject to achievement of an outcome which is politically acceptable to all parties,” but it basically asked questions without putting forward proposals (CONFER 4781/00).

An informal meeting of the European Council took place on 13 and 14 October at Biarritz. It did not produce written conclusions. According to press reports, however, Biarritz showed that there were still fundamental differences in views. Indeed, over the dinner the confrontation between the large and small Member States became very clear (Lemaitre and Zecchini, 2000).

Afterwards the leaders explained some of their positions to the press. On both the size and composition of the Commission and the question of voting in the Council, Luxembourg’s Prime Minister said that it was 10 against 5: 10 were for “one Commissioner per Member State” and 5 for a reduced Commission, and 10 were in favour of dual majority and 5 in favour of reweighting of votes (*Agence Europe*, 16 October 2000). Juncker may have simplified, but there was clearly a small vs. large division on these two issues.

Juncker explained why he favoured one Commissioner per Member State by saying that a Commission where the large countries were not represented would have less political clout and clout would move to the Council. Similarly Swedish Prime Minister Göran Persson said that a Commission without a German or French Commissioner would not be “legitimate.” And Austria’s Chancellor Wolfgang Schlüssel explained that although a Commissioner does not represent his country in the Commission a Commissioner does act as a “bridge between the Commission and the public opinion of their country” (*ibid.*).

Germany faced a special situation. Chancellor Schröder explained that Germany “could live quite happily” with the formula of dual majority. What was not acceptable was an enlarged Union where Germany with 80 million inhabitants would have 10 votes while the 17 smallest countries with the same population would have 57 votes (*ibid.*).

A new document on weighting of votes submitted by the French Presidency on 9 November listed various proposals, including the Swedish square-roots proposal (CONFER 4796/00, annex V). It included the simple dual majority as proposed by the Commission (see table 21.3). In a double majority model the population weight could of course be set higher than 50%, and the first component could also be based on current weights or a reweighting of votes.

The Presidency document of 9 November also included an Italian proposal for a “substantial” reweighting which would give 33 votes to the Big Four in EU-27 (Turkey not included), 26 to Spain and Poland, 14 for Romania, 10 for medium sized countries, from Netherlands to Portugal, down to three for the five smallest Member States (see table 21.4). The logic seemed to be more than a tripling for the big ones, a doubling for the medium-sized ones and less than a doubling for the smallest ones. The total in EU-27 would come to 330. With a QMV set at 234 votes, representing 70,91% of the votes, such a QMV could be reached by 12 states (less than half), but it would represent a minimum of 61,27% of the population (CONFER 4796/00, annex IV).

On 9 November the French Presidency also produced a new note on the size and composition of the Commission. The note suggested a discussion of four questions:

- (1) the conditions for and timing of any changeover to a Commission consisting of one national from each Member State;
- (2) the conditions for and timing of any changeover to a Commission with an upper limit;
- (3) the principle and practical details of egalitarian rotation in the case of a Commission with an upper limit;
- (4) the organisation of the college.

An annex suggested a new treaty article increasing the powers of the President of the Commission (CONFER 4797/00).

**Table 21.3: “Simple” Dual Majority (Commission Proposal).**

Members of Council	Weighting A	Weighting B
Germany	1	170
United Kingdom	1	123
France	1	122
Italy	1	120
Spain	1	83
Poland	1	80
Romania	1	47
Netherlands	1	33
Greece	1	22
Czech Republic	1	21
Belgium	1	21
Hungary	1	21
Portugal	1	21
Sweden	1	18
Bulgaria	1	17
Austria	1	17
Slovakia	1	11
Denmark	1	11
Finland	1	11
Ireland	1	8
Lithuania	1	8
Latvia	1	5
Slovenia	1	4
Estonia	1	3
Cyprus	1	2
Luxembourg	1	1
Malta	1	1
<b>Total EU 27</b>	<b>27</b>	<b>1000</b>

**Determining a qualified majority**

	Minimum number (and %) of Member States		Weighting B	Minimum % of population
Qualified Majority	14 (51,85%)	<u>AND</u>	501	50,10%
Blocking minority	14 (51,85%)	<u>OR</u>	500	11,62%

Source: CONFER 4796/00, Annex I.



**Table 21.4: “Substantial” Reweighting (Italian proposal)**

<b>Members of Council</b>	<b>Weighted Votes</b>
Germany	33
United Kingdom	33
France	33
Italy	33
Spain	26
Poland	26
Romania	14
Netherlands	10
Greece	10
Czech Republic	10
Belgium	10
Hungary	10
Portugal	10
Sweden	8
Bulgaria	8
Austria	8
Slovakia	6
Denmark	6
Finland	6
Ireland	6
Lithuania	6
Latvia	3
Slovenia	3
Estonia	3
Cyprus	3
Luxembourg	3
Malta	3
<b>Total EU of 27</b>	<b>330</b>

**Determining a qualified majority**

Total votes = 330	Votes	% votes	Minimum number (and %) of States	Minimum % of population
Qualified majority	234	70,91%	12 (44,44%)	61,27%
Blocking minority	97	29,39%	3 (11,11%)	17,40%

Source: CONFER 4796/00, Annex IV

A week later, on 16 November, the Presidency produced new notes on the Commission and the weighting of votes in the Council for a ministerial conclave on 20 November.

In the note on the Commission the Presidency now claimed: “Following discussions by Heads of State or Government at the informal European Council in Biarritz, a majority of delegations are prepared to consider the possibility of an upper limit on the number of Commission, at a time and subject to conditions which remain to be determined depending in particular on likely developments in the enlargement process.” This of course was known as the French preference, but the Presidency duly did add: “Other delegations repeated their

position of principle, namely that the Commission should include a national from each Member State” (CONFER 4802/00). The note went on to discuss again the conditions for and timing of the changeover to one Commissioner per Member State and later the conditions for and timing of the changeover to a Commission with an upper limit. In principle the first changeover was linked with enlargement. Should the next come a specific year, such as for instance 2010, or when the EU reached a certain number of members, such as 25 or 27? This note also had an annex on increasing the powers of the President of the Commission.

In the following document on weighting of votes of 16 November, the French Presidency said that although some delegations preferred a dual majority model like the one proposed by the Commission, it had emerged that “a large majority of delegations were prepared to continue discussion on the basis of a simple reweighting model, provided that the system – whatever it might be – still took account of the population and of the number of Member States” (CONFER 4801/00). The document therefore only presented three variants, a “weak” reweighting coupled with a “population safety net” of at least 58% of the total population of the Union, a moderate reweighting calculated in such a way that a QMV would comprise close to 58% of the population (a Swedish type B model), and a “substantial” reweighting which would have the effect of producing a QMV of more than 60% of the population (the Italian proposal).

That the issue largely was one of the large versus the small states could also be read from the document. Many of the larger states favoured something like the Italian proposal. The problem with the Swedish proposals was that they were not compatible with the “ad hoc” compensation written into the Amsterdam protocol (for the large ones losing a Commissioner). The smaller states wanted only a weak reweighting and several of them objected to the “population safety net”.

A majority of the delegations did want the criterion requiring that a QMV should include half of the Member States.

In a “Revised Summary” presented by the French Presidency on 23 November no figures were given for the votes (CONFER 4810/00). It had been prepared for a conclave in Val Duchesse (Brussels) on 25 and 25 November.

Concerning the Commission a final note was submitted by the French Presidency on 1 December. According to this note, “The Representatives’ most recent discussions have shown that a majority of delegations are prepared to consider the deferred ceiling solution for the number of members of the Commission.” The question then was, should the Nice Treaty set a limit now for a later date or postpone the decision till later through a so-called *rendez-vous* clause (CONFER 4813/00).

The note also discussed the idea of rotation. Two principles were suggested in an annex: “(a) the difference between the total number of terms of office held by nationals of any given pair of Member States may never be more than one, [and] (b) each successive college must be so constituted as to reflect satisfactorily the demographic and geographical range of all the Member States of the Union” (ibid.).

The draft Treaty proposal from the French Presidency on 6 December did not include concrete proposals for the weighting of votes in the Council. Concerning the Commission it proposed to change to a Commission with one Commissioner per Member State on 1 January 2005, and then to decide later what would happen after 2010. It also suggested an increase in the powers of the President of the Commission (CONFER 4816/00). This draft was distributed on the eve of the European Council in Nice. It was becoming amply clear that it was now left for the Heads of State or Government to try to reach a compromise on the difficult questions of the voting arrangements in the Council and the size and composition of the Commission.

The French Presidency put forward its first proposal on weighting of votes in Nice on Saturday 9 December in the morning. The proposal was to triple the number of votes for the Big Four to 30 votes and double the votes for most medium-sized and smaller Member States. Spain would move from eight to 28, more than a tripling (a tripling + 4!). Oddly enough, Poland with nearly the same population size as Spain would get 26. Luxembourg would move from two to three, less than a doubling (see Table 21.5). There was a certain inspiration in the proposal from the Italian proposal, but it was more generous towards Spain and a little less generous towards the Big Four, Germany, United Kingdom, France and Italy. Germany was kept on par with France, something referred to as ‘clustering’ during the IGC. In the first proposal the Netherlands and Belgium also stayed on par. French European Affairs Minister Pierre Moscovici explained that the logic of the proposal was “not purely demographic” (quoted by Sung, 2000a). In other words, it was political.

The first proposal was strongly criticised by the smaller states. Portugal’s Foreign Minister Jaime Gama said that it would “humiliate or confiscate power from the small and medium-sized countries” (quoted from Sung, 2000a). Portugal’s Prime Minister Antonio Guterres talked about an “institutional coup d’Etat,” and Austrian Chancellor Wolfgang Schüssel said it was an “arbitrary and subjective proposal” (*Agence Europe*, 12 December, 2000). Also Sweden and Denmark, which were not the most outspoken among the small states, criticised it. Sweden’s Prime Minister Göran Persson said: “The proposals keep the existing deadlocks. Nothing has changed” (quoted from Porter, 2000). The Danish Prime Minister Poul Nyrup Rasmussen called the proposal unacceptable and said: “There is too much imbalance between the large and the small states. The negotiations are going to be very hard” (quoted from Daley, 2000). But the big ones were not united. German Chancellor Gerhard Schröder criticised the proposal: “This is not the document on which we are going to find agreement” (quoted from Porter, 2000). In the afternoon the proposal was taken off the table and the Presidency started producing a new one.

A second proposal was presented on Sunday 10 December in the morning. Most small and medium-sized members would get an additional vote in this proposal, but the Netherlands would get two extra votes, thus creating a differentiation between Belgium and the Netherlands, while France and Germany stayed on par. Poland now moved up to the level of Spain, but strangely Lithuania was moved one vote down. Some of the smallest members got an extra vote, some did not. This proposal wasn’t accepted either by the medium-sized and smaller members. Belgium was unhappy about the Netherlands moving ahead. Portugal still felt that Spain’s voting weight was increased too much relative to Portugal’s number of votes. Germany failed to get extra votes, but was now promised a new IGC in 2004 (James, 2000). A second population mechanism was also brought into play. A QMV should represent 62% of the population. This would allow Germany with two other large Member States to bloc a decision. Germany would also retain its 99 seats in the European Parliament, while other Member States would have to accept reductions. One observer referred to the emerging system as “a new system of Byzantine complexity that left Germany as first among equals” (Hughes, 2000).

**Table 21.5: Presidency proposals for voting weights in the Council and the final result.**

	9 December Presidency proposal (SN 511)	10 December Presidency proposal (SN 522)	10 December Finnish proposal	11 December agreement (SN 533, Draft Treaty 12 December)
Germany	30	30	29	29
United Kingdom	30	30	29	29
France	30	30	29	29
Italy	30	30	29	29
Spain	28	28	27	27
Poland	26	28	27	27
Romania	12	13	15	14
Netherlands	10	12	14	13
Greece	10	11	12	12
Check Republic	10	11	12	12
Belgium	10	11	12	12
Hungary	10	11	12	12
Portugal	10	11	12	12
Sweden	8	9	11	10
Bulgaria	8	9	11	10
Austria	8	9	11	10
Slovakia	6	7	8	7
Denmark	6	7	8	7
Finland	6	7	8	7
Ireland	6	7	7	7
Lithuania	6	5	7	7
Latvia	4	4	5	4
Slovenia	4	4	5	4
Estonia	4	4	5	4
Cyprus	3	4	4	4
Luxembourg	3	4	4	4
Malta	3	3	4	3
Total	321	339	357	345

Sources: SN 511, SN 522 and SN 533. Finnish proposal according to *Agence Europe*, No. 7860, 12 December. According to *Agence Europe* there was also a Portuguese proposal on 10 December. The final figures can also be found in the Treaty as published in OJ C 80 (10.03.2001).

**Table 21.6: Council Votes in EU-27 (as of 1 January 2005 and onward) according to the Treaty of Nice**

	Present votes	Future Votes	Population (mio.)	% of Union population
Germany	10	29	82,03	17,05
United Kingdom	10	29	59,25	12,31
France	10	29	58,97	12,25
Italy	10	29	57,61	11,97
Spain	8	27	39,39	8,19
Poland		27	38,67	8,04
Romania		14	22,49	4,67
Netherlands	5	13	15,76	3,28
Greece	5	12	10,53	2,19
Czech Republic		12	10,29	2,14
Belgium	5	12	10,21	2,12
Hungary		12	10,09	2,10
Portugal	5	12	9,98	2,07
Sweden	4	10	8,85	1,84
Bulgaria		10	8,23	1,71
Austria	4	10	8,08	1,68
Slovakia		7	5,39	1,12
Denmark	3	7	5,31	1,10
Finland	3	7	5,16	1,07
Ireland	3	7	3,74	0,78
Lithuania		7	3,70	0,77
Latvia		4	2,44	0,51
Slovenia		4	1,98	0,41
Estonia		4	1,45	0,30
Cyprus		4	0,75	0,16
Luxembourg	2	4	0,43	0,09
Malta		3	0,38	0,08
Total EU 27	87	345	481,18	100
Qualified majority of votes	62	258/255* (as well as a majority of members if proposed by Commission, otherwise two-thirds of members)		Furthermore at least 62% of the Union population if a member state asks for control of this criterion
Blocking minority	26	88/91*		

Sources: Treaty texts and European Parliament, "Draft Treaty of Nice (initial analysis)," Brussels, 10 January 2001. Galloway, 2001, p. 88. The final version of the Nice Treaty was published in the *Official Journal of the European Communities* C 80, 10 March 2001.

\* On the confusion about qualified majority and blocking minority, see the text of this chapter (see also *Agence Europe*, 23 December 2000; and Best, 2001).

The second proposal did not solve the problems which the smaller states saw. According to *The Guardian*: “In the most naked and bitterly contested of the power plays at the Nice summit, a crucial vote re-weighting deal stalled shortly before midnight after hours of furious haggling. President Jacques Chirac, the summit chairman, suspended the talks after Portugal, Finland and Belgium led a revolt of small countries angry at what they saw as a coup by the Big Four” (Black, 2000). Another report also mentions Austria, Greece and Sweden as members of a group of six smaller states strongly criticising the Presidency proposal (Sung, 2000b).

Portugal’s State Secretary for European Affairs, Francisco Seixas da Costa, said: “The Portuguese delegation has told the French presidency very clearly that the moment of truth has arrived. Without a change in the position of the presidency, an agreement cannot be reached” (quoted from Black, 2000).<sup>3</sup>

Saturday evening Finland made a proposal, limiting the votes of the Big Four to 29 and giving 27 to Spain and Poland. Slight increases were proposed for most smaller or medium-sized members (*Agence Europe*, 12 December, 2000).

After midnight the Presidency offered the medium-sized members one additional vote and reduced the large Member States’ votes by one. Most of the smaller states accepted this proposal, but Belgium kept objecting. As a compensation Belgium was then offered 22 seats in the European Parliament instead of the 20 so far on offer. The argument in favour of such a solution was that Belgium was bilingual. But in order not to decouple Portugal and Greece from Belgium they too were offered 22 seats in the European Parliament. The Czech Republic and Hungary, not present at the IGC meeting of the Heads of State or Government, but with a similar size of population as Belgium stayed at 20 (*Agence Europe*, 12 December, 2000, and *Agence Europe*, 23 December 2000). Belgium was offered another ‘sweetener’: Gradually all meetings of the European Council would take place in Belgium (Sung, 2000b).

In the end the Belgians, too, gave in to the pressure. At 4:20 Monday morning an agreement was announced. The Belgian Prime Minister, Guy Verhofstadt, told the press that he had fought as hard as possible “for Europe, for smaller and medium-sized countries.” He also said that the final deal was acceptable because the three Benelux countries would get 29 votes, the same number as the Big Four (Sung, 2000b).

The French Prime Minister, Lionel Jospin, made a point of “praising the efforts of Belgian Prime Minister, Mr. Verhofstadt, who, at the last moment, allowed an agreement among fourteen to become a complete agreement.” Finland’s Prime Minister, Paavo Lipponen, who said that “We will have to redo this treaty in the future,” added, “Guy Verhofstadt is the hero of the evening. He fought as a true European” (*Agence Europe*, 12 December 2000).

If there is any logic in the figures, it is a political logic. The French Presidency tried to group the Member States in clusters of states. By maintaining that the four large ones should have the same number of votes France would remain on par with Germany. But the logic of clusters was not implemented consistently.

All kind of linkages and bargaining exchanges were brought into the negotiations. Portugal felt that Spain was treated too generously. And the treatment of the Netherlands upset the Belgians. Some of the countries that were upset got extra seats in the European Parliament, and Belgium was promised that future summits would take place in Brussels. Further, the decision that the Commission President in the future should be appointed by a qualified majority was also seen as a *cadeau* to Belgium, whose candidate Jean-Luc Dehaene had been vetoed when Jacques Santer got the job back in 1995 after Jacques Delors. Germany was mainly ‘bought’ by the stipulation that a QMV must also represent 62% of the population in the EU. Germany also got what some observers considered a relatively good solution for the

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<sup>3</sup> According to *Agence Europe*, No. 7869, 12 December 2000, Portugal also put forward a proposal, but a full list of the proposed votes was not given.

European Parliament (Germany retaining 99 seats, while the three other large countries, France, UK and Italy, had to accept a reduction of 15 seats, from 87 to 72) (*Le Point*, 2000). The German proposal to have another IGC in 2004 was also accepted (*Les Echos*, 2000).

The re-weighting of votes in the Council that was agreed after prolonged negotiations can be seen in table 21.6, which also includes population figures.

Afterwards it turned out that there were some inconsistencies in the Treaty. For EU-15, the treaty had the weights in a protocol. The weights for EU-27 were in a declaration. In EU-15 there would be a total of 237 votes after entry into force of the new weights, if there had not been an enlargement by then. In the version of the treaty that appeared on 12 December, the QMV was set at 170 votes in such EU-15. In the context of enlargement there was, however, also a declaration on the qualified majority threshold and the number of votes for a blocking minority which said:

“On 1 January 2005, when the new vote weightings take effect and insofar as all the candidate countries ... have not yet acceded to the Union, the percentage of votes constituting a qualified majority will be lower than the current percentage. The applicable percentage will increase until it reaches a maximum of 73,4%. When all the candidate countries ... have acceded, the blocking minority will rise from 88 to 91 votes” (SN 533/00).

During the end game Belgium succeeded getting two extra votes for Lithuania and one extra for Romania. This took the total in EU-27 from 342 votes to 345 votes. The figures in the quoted declaration had been based on an EU-27 with a total of 342 votes, and this was not changed. With a blocking minority of 91 out of 345, the QMV will be 255 votes, which corresponds to 73,9% (*Europolitique*, 20 December 2000).

After some intense negotiations in COREPER the figure for the QMV in EU-15 was changed from 170 to 169, corresponding to an increase of the blocking minority from 68 to 69. Especially Spain was against this change, since it would reduce its possibilities of blocking a decision in EU-15. With 68 votes Spain could form a blocking minority with one large and one small state, such as Italy and Greece for example. With 69 it would need a fourth coalition partner (Bocev, 2000)

But the final version of the treaty kept the QMV of 258 (out of a total of 345 votes) in EU-27, and the declaration underwent a subtle change:

Insofar as all the candidate countries ... have not yet acceded to the Union when the new vote weightings take effect (1 January 2005), the threshold for a qualified majority will move, according to the pace of accessions, from a percentage below the current one to a maximum of 73.4%. When all the candidate countries ... have acceded, the blocking minority, in a Union of 27, will be raised to 91 votes, and the qualified majority threshold resulting from the table given in the Declaration on enlargement of the European Union will be automatically adjusted accordingly (SN 1247/01).

Interpretation: 73.4% would apply in say EU-25, but the blocking minority of 91 would apply in EU-27. In EU-27 the 73.4% level would actually require a blocking minority of 93 votes. But the French Presidency proposed to stick to 91 votes for the blocking minority in EU-27. Again, especially Spain was unhappy about this (Zecchini, 2000).<sup>4</sup>

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<sup>4</sup> To follow up on this story, the Brussels summit in October 2002, when it was becoming clear that 10 of the candidate countries would accede to the EU on 1 May 2004, decided that in EU-25, with a total of 321 votes, a QMV would be 232 votes, i.e. 72.27%. The old weights would apply until 1 November 2004. In the interim period there would be 124 votes in total, with the QMV set at 88, i.e. 70.96% (*Tomorrow Europe*, February 2004, p. 10).

**Table 21.7: Seats in the European Parliament (EU-27)**

	Population (mio.)	Population as % of EU	Seats per Member under present system	Seats per Member under the Treaty of Nice	Reduction in numbers	Reduction in %	Number of inhabitants per seat
Germany	82,04	17,05	99	99	0	0	828.667
United Kingdom	59,25	12,31	87	72	15	17,24	822.875
France	58,97	12,25	87	72	15	17,24	818.972
Italy	57,61	11,97	87	72	15	17,24	800.167
Spain	39,39	8,19	64	50	14	21,88	787.880
Poland	38,66	8,04		50			773.340
Romania	22,49	4,67		33			681.485
Netherlands	15,76	3,28	31	25	6	19,35	630.400
Greece	10,53	2,19	25	22	3	12	478.773
Czech Republic	10,29	2,14		20			514.500
Belgium	10,21	2,12	25	22	3	12	464.227
Hungary	10,09	2,1		20			504.600
Portugal	9,98	2,07	25	22	3	12	453.636
Sweden	8,85	1,84	22	18	4	18,18	491.889
Bulgaria	8,23	1,71		17			484.118
Austria	8,08	1,68	21	17	4	19,05	475.412
Slovakia	5,39	1,12		13			414.846
Denmark	5,31	1,1	16	13	3	18,75	408.692
Finland	5,16	1,07	16	13	3	18,75	396.923
Ireland	3,74	0,78	15	12	3	20	312.000
Lithuania	3,70	0,77		12			308.417
Latvia	2,44	0,51		8			304.875
Slovenia	1,98	0,41		7			282.571
Estonia	1,45	0,3		6			241.000
Cyprus	0,75	0,16		6			125.333
Luxembourg	0,43	0,09	6	6	0	0	71.500
Malta	0,38	0,08		5			75.800
Total EU 27	481,18	100		732			657.351

Source: European Parliament, "Draft Treaty of Nice (initial analysis)," Brussels, 10 January 2001.

Less controversial was that the Treaty of Nice also assigned a new number of seats in the European Parliament (see table 21.7). Here a differentiation between Germany and France had existed since a mini-reform in 1993. In the future Germany would retain its 99 seats, but the other Member States would have to accept reductions in their representation, except Luxembourg, which would retain six seats. But as mentioned Belgium, Portugal and Greece were offered two extra seats in the end game in Nice as bargaining exchanges for accepting the weighting of votes in the Council.

Concerning the issue of size and composition of the Commission, the Treaty of Nice only found a partial solution. From 1 January 2005 "the Commission shall include one national of each of the Member States." When "the EU consists of 27 Member States":



The number of Members of the Commission shall be less than the number of Member States. The Members of the Commission shall be chosen according to a rotation system based on the principle of equality, the implementing arrangements for which shall be adopted by the Council, acting unanimously” (SN 1247/01, p. 96).

The number of members as well as the implementing arrangements for the rotation system should also be set by the Council acting unanimously. But two principles were laid out for the arrangements:

- (a) Member States shall be treated on a strictly equal footing as regards determination of the sequence of, and the time spent by, their nationals as Members of the Commission; consequently, the difference between the total number of terms of office held by nationals of any given pair of Member States may never be more than one;
- (b) Subject to point (a), each successive college shall be so composed as to reflect satisfactorily the demographic and geographical range of all the Member States of the Union (SN 1247/01, p. 97).

The changes “shall apply as from the date on which the first Commission following the date of accession of the twenty-seventh Member State of the Union takes up its duties.”

Nice also strengthened the role of the President of the Commission. In the future the President may decide the internal organisation of the Commission and reallocate responsibilities among the Commissioners during the Commission’s term of office. The President may also call on a member of the Commission to resign after obtaining the collective approval of the Commission.

Afterwards Peter Norman in *Financial Times* called Nice ‘a horse-trading marathon.’ It was, he said, ‘a power play in which the five big members were determined to secure more clout’ (Norman, 2000). Suzanne Daley in *New York Times* commented: “the leaders of the 15 countries which gathered in this Riviera city seemed unable to lift their heads above their own national political agendas” (Daley, 2000b).

Many of the leaders were disappointed. They left Nice feeling that next time it had to be done in a different way. British Prime Minister Tony Blair said: “...as far as Europe is concerned, we can’t do business like this in the future. How we take these decisions has to be part of the agenda for the future” (quoted from Rafferty, 2000).

Many observers criticised the French Presidency for the confusion at the end of the negotiations in Nice. Peter Ludlow said:

Prime responsibility for the disorderly proceedings, however, undoubtedly lay with Chirac. His misjudgements included: fixation with formal parity between Germany and the other three large states; the decision to give the Spaniards everything they wanted before the negotiations started, thereby destroying any rational basis for the reallocation of votes and skewing the arithmetic at every subsequent point in the proceedings; a serious underestimation of the determination of the small states to safeguard their position; and above all the apparent desire to be all things to all men (Ludlow, 2001).

Maybe one of the wisest remarks came from Luxembourg’s Prime Minister Jean-Claude Juncker who said: “I think we are going to scale down our ambitions and then, in the great European tradition, call it a success” (quoted from Hughes, 2000).

## Bibliography

*Agence Europe: Europe Daily Bulletins* (Brussels), various dates.

Best, Edward (2001), "The Treaty of Nice: Not Beautiful but It'll Do," *Eipascope*, No. 1, pp. 2-9.

Black, Ian (2000), "Nice summit: Reweighting: Europe's big four pull rank on minnows: EU giants fight for voting dominance in bitter dispute," *Guardian*, December 11.

Bocev, Pierre (2000), "Les Quinze sont parvenus à un accord; Le traité de Nice enfin finalisé," *Le Figaro*, December 23.

CONFER 4727/00: Note from the Presidency. IGC 2000: The Commission. 24 March 2000.

CONFER 4728/00: Presidency Note. IGC 2000: Weighting of votes in the Council. 24 March 2000.

CONFER 4744/00: Note from the Presidency. IGC 2000: The Commission, 24 May 2000.

CONFER 4745/00: Presidency note: CIG 2000 – Weightings of votes in the Council. 24 May 2000.

CONFER 4750/00: Intergovernmental Conference on Institutional Reform. Presidency report to the Feira European Council. 14 June 2000.

CONFER 4754/00: Presidency note. IGC 2000 – Weighting of votes. 3 July 2000.

CONFER 4757/00: Note. IGC 2000 – The Commission, 11 July 2000

CONFER 4781/00: Note. IGC 2000 – Weighting of votes in the Council. 5 October 2000.

CONFER 4796/00: Working Document. IGC 2000: Weighting of votes in the Council, 9 November 2000.

CONFER 4797/00: Presidency note. IGC 2000: Size and composition of the Commission, 9 November 2000.

CONFER 4801/00: Note. IGC 2000: Weighting of votes in the Council. 16 November 2000.

CONFER 4802/00: Note. IGC 2000: Commission, 16 November 2000.

CONFER 4813/00: Note. IGC 2000: Size and composition of the Commission.

CONFER 4816/00: Projet de Traité de Nice. Conférence intergouvernementale sur la réforme institutionnelle. 6 December 2000.

Daley, Suzanne (2000a), "On Rocky Road to Reform, Europe Advances, but Not Far," *New York Times*, December 9.

Daley, Suzanne (2000b), "European Union Reform: After 5 Days, a Yawn," *New York Times*, December 12.

European Commission (2000a), "Adapting the Institutions to make a success of enlargement: Commission Opinion in accordance with Article 48 of the Treaty on European Union on the calling of a Conference of Representatives of the Governments of the Member States to amend the Treaties," COM (2000) 34, Brussels 26 January.

European Commission (2000b), "Conduct of the IGC,"

[http://www.europa.eu.int/comm/archives/igc2000/geninfo/index\\_en.htm#progress](http://www.europa.eu.int/comm/archives/igc2000/geninfo/index_en.htm#progress)

European Parliament (2000), "Resolution of the European Parliament on the convening of the Intergovernmental Conference,"

[http://www.europarl.eu.int/igc2000/offdoc/pdf/res03022000\\_en.pdf?redirected=1](http://www.europarl.eu.int/igc2000/offdoc/pdf/res03022000_en.pdf?redirected=1)

European Parliament, Commission des Affaires Constitutionnelles (2001), "Projet du Traité de Nice (première analyse)," PE 294.737. Bruxelles, 10 January.

European Union (1997), *Consolidated Treaties*. Luxembourg: Office for Official Publications of the European Communities.

European Union (2001), *Treaty of Nice*. Luxembourg: Office for Official Publications of the European Communities. Also in *Official Journal* C80 (10.03.2001), Downloadable from <http://www.europa.eu.int/eur-lex/en/treaties/index.html>

- Europolitique* (2000), "Conférence Intergouvernementale: Le Coreper va tenter de clarifier le texte provisoire du traité de Nice," December 20.
- Galloway, David (2001), *The Treaty of Nice and Beyond: Realities and Illusions of Power in the EU*. Sheffield: Sheffield Academic Press.
- Hughes, David (2000), "The final curtain on a French farce," *Daily Mail*, December 11.
- James, Barry (2000), "EU Nears Limited Accord Protecting Big Members," *International Herald Tribune*, December 11.
- Le Point* (2000), "Sommet de Nice; La France rate sa sortie," December 15.
- Lemaitre, Philippe and Laurent Zecchini (2000), "Le sommet de Biarritz a été le theatre d'une explication animée entre les Quinze; Les grands pays placent les petits devant leurs responsabilités," *Le Monde*, October 17.
- Les Echos* (2000), "Traité de Nice: la France a payé au prix fort la parité avec l'Allemagne," December 12.
- Ludlow, Peter (2001), "The Treaty of Nice: Neither Triumph nor Disaster," *ECSA Review*, Vol. 14, No 1 (Spring), pp. 1-4.
- Norman, Peter (2000), "Leaders have second thoughts as marathon runs its course," *Financial Times*, December 12.
- Plechanovová, Bela (2003), "The Treaty of Nice and the distribution of votes in the Council: voting power consequences for the EU after the oncoming enlargement" European Integration online Papers, Vol. 7, No. 6. <http://eiop.or.at/eiop/texte/2003-006.htm>
- Porter, Andrew (2000), "France puts its national interests before treaty deal," *The Scotsman*, December 10.
- Rafferty, Neil (2000), "Blair claims victory for UK after deal is finally done at tetchy Nice summit," *Business a.m.* (Scotland), December 12.
- Ross, George (2001), "France's European Tour of Duty, or Caution – One Presidency May Hide Another," *ECSA Review*, Vol. 14, No. 2 (Spring), pp. 4-7.
- Smith, Brendan P.G (2002), *Constitution Building in the European Union: The Process of Treaty Reforms*. The Hague: Kluwer Law International.
- SN 511/00: "Meeting Document. Subject: Elements for an overall agreement," Nice, 9 December 2000. Kindly provided by the Danish Foreign Ministry.
- SN 514/00: "Mødedokument. Vedr.: Elementer til en samlet aftale," Nice, 9. december 2000. Kindly provided by the Danish Foreign Ministry.
- SN 521/00: Konferencen mellem repræsentanterne for medlemsstaternes regeringer, "Arbejdsdokument Vedr.: RK 2000 – Formandskabets endelige kompromisforslag," Nice, 10. december 2000. Kindly provided by the Danish Foreign Ministry.
- SN 522/00: "Protocol on the Enlargement of the European Union and Declaration on the Enlargement of the European Union to be included in the Final Act of the Conference (This Annex Cancels and Replaces pages 88-96 of CONFER 4816/00)," Nice, 10 December 2000. Kindly provided by the Danish Foreign Ministry.
- SN 533/00: Treaty of Nice. Provisional text approved by the Intergovernmental Conference on institutional reform" 12 December 2000, <http://www.euoffice.metu.edu.tr/abouteu/nice.pdf>
- SN 1247/01: "Treaty of Nice. This document contains the text of the Treaty of Nice in its definitive form, as finalized by the Legal/Linguistic Experts Working Party," Brussels, 30 January 2001. <http://ue.eu.int/cigdocs/en/cig2000-EN.pdf>
- Sung, Grace (2000a), "It's each country for itself at EU summit," *Straits Times* (Singapore), December 11.
- Sung, Grace (2000b), "Small EU nations score win," *Straits Times*, December 12.
- Tomorrow Europe* (2000): "A multi-speed Europe," No. 21 (February).

- Usher, John A. (2003), "Assessment of the Treaty of Nice – Goals of Institutional Reform," in Mads Andenas and John Usher (eds.), *The Treaty of Nice and Beyond: Enlargement and Constitutional Reform*. Oxford and Portland: Hart Publishing, pp. 183-206.
- Von Weizsäcker, Richard, Jean-Luc Dehaene and David Simon (1999), "The Institutional Implications of Enlargement: Report to the European Commission. Brussels, 18 October. [http://www.europa.eu.int/igc2000/repoct99\\_en.pdf](http://www.europa.eu.int/igc2000/repoct99_en.pdf)
- Westlake, Martin (1999), *The Council of the European Union*. London: John Harper Publishing.
- Zecchini, Laurent (2000), "Les Quinze peinent a s'entendre sur l'interprétation du traité de Nice; Imbroglio politico-juridique sur la pondération des voix," *Le Monde*, December 23.