



# NEW COUNCIL VOTING RULES

Analysis & Insights

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FLEISHMANHILLARD

## A NEW DECISION-MAKING FRAMEWORK IN COUNCIL

As of 1 November 2014, **voting rules in Council will change** as foreseen in the 2007 Lisbon Treaty.

With the Union now totalling 28 Member States, the Treaty changes sought **to facilitate agreements amongst an increasing number of EU countries** and improve the **efficiency of the EU rulemaking process** by creating a **new 'double majority' rule** and (progressively) abandoning the voting-weighted system, which is currently in use.

Under the 'old' qualified majority system, an agreement was reached once a certain number of votes had been cast - 260 votes from at least 15 Member States (each country differing in terms of weight assigned).

While this favoured the representation of small Member States, the new dual majority rules will give much **more importance to demographic weight**:

- + A proposal will be adopted with **55%\* of Member States** (or 16 countries) **representing at least 65% of the EU population** (\*72% if the text has not been proposed by the European Commission).

- + A **blocking minority** will be possible if **four countries representing at least 35% of the EU population** are against a proposal.
- + Finally as a transitional provision, it will be **possible to revert back to the 'old' voting-weights system until 31 March 2017** on any texts discussed in Council, on a file-by-file basis at the request of any Member States.

During this transitional period but also beyond, it will still be **possible to apply the 'Ioannina compromise'**. This clause enables countries which have been unable to form a blocking minority to express their opposition to a text, and *de facto* force the Council to solve their concerns under a 'reasonable timeframe'. This provision can be used in case there is opposition from countries representing at least 55% of the EU population (75% currently) and at least 55% of the number of Member States required to form a blocking minority (75% currently).

## AT A GLANCE





## POLITICAL IMPLICATIONS

*These new voting rules will de facto change the requirements that allow a text to pass in Council, but also the political influence amongst Member States considering the importance given to demographic weight in the new arrangements. However, it is not expected to fundamentally change the Council's 'culture of compromise'.*

### + COUNCIL AGREEMENT STILL DRIVEN BY THE SEARCH FOR CONSENSUS IN DAY-TO-DAY TALKS

A **compromise-led approach** has been and will probably remain the most important driving force behind the decision-making process in Council ; the **voting rules are there to enable consensus**, not force countries to cast negative votes or abstain.

Voting records in Council\* | 2013

<b>Unanimous approval</b> <i>(all MS in favor)</i>	<b>65%</b>
<b>Majority voting</b> <i>(negative vote or abst.)</i>	<b>35%</b>
<i>with at least one MS vote against</i>	15%
<i>with at least one MS abstention</i>	15%
<i>with both abstention &amp; vote against</i>	5%

In practice, there are a **few instances** where one or more **Member States actually** decide(s) to **vote against** a proposal or **abstain**. In 2013, out of 150 texts adopted in Council\*, around 65% of texts were approved by all 28 EU countries (all voting in favour). 35% of the time, at least one Member State voted against or abstained. In day-to-day compromises, **voting rules** are generally more an **instrument in the hands of the Presidency and Member States to identify (and solve) key issues**, and to push negotiations forward rather than isolating one or several Member States. Going forward, the new framework however has the potential to create different dynamics.

### + LARGE MEMBER STATES' INFLUENCE SIGNIFICANTLY INCREASES IN COMPARISON WITH MEDIUM AND SMALL COUNTRIES

With population size getting more prominence in this system, **the strength of the four largest EU countries is reinforced**. Germany to a larger extent, along with the UK, France, and Italy have gained the biggest winners in this transition.

Beyond this group, **all others shrink in relative terms**, but the **impact** of these rules is especially **magnified for medium and small countries**.

Spain, Poland, Romania and the Netherlands would remain more or less under the same *status quo* but do not benefit as much as the largest four Member States. While they look as if they remain the same, they have lost out in relative terms. The influence of others such as the Czech Republic, Belgium, Greece, Sweden, Austria, Portugal, Denmark, or Hungary, will be quite significantly downsized as well (their weights are lessened by nearly double).

**Small Member States** will lose the most under the new rules: Cyprus, Luxembourg, and Malta's **weight** are **reduced by a factor of 11** compared with the current voting requirements.

### + MEMBER STATES' DYNAMICS GOING FORWARD AND BLOCKING MINORITIES IN QUESTION

**Blocking minorities** are meant to become **more difficult to form** under the new voting framework. Designed to safeguard small Member States against an alliance of the largest ones, it rarely blocks a text completely in Council. It does remain however, a useful mechanism to pinpoint issues amongst like-minded countries.

The **impact** of the new voting rules on current **Member States' political dynamics** will be interesting to see unfold in negotiations especially in light of divisions amongst **'pro-austerity'** vs **'pro-flexibility'** countries but also more broadly between **'north'** vs **'south'**, **'eastern'** vs **'western'** Member States and more recently in the context of Banking Union between the **'Euro-ins'** and the **'Euro-outs'**.

\*Source: Council Legislative Transparency



POLITICAL IMPLICATIONS ... [CONTINUED]

The table below shows potential blocking minorities that could be formed by Member States, while also comparing their status vis-à-vis the old rules.

POSSIBLE BLOCKING MINORITIES IN QUESTION		new rules	old rules
Euro-outs	UK, SE, DK, PL, RO, CZ, HU, BG, HR	33,50%	128
South	FR, IT, ES, PT	36,11%	97
	FR, IT, ES, PT, EL, BE	40,51%	121
North	UK, SE, DK, FI, IE	17,59%	60
	UK, SE, DK, FI, IE, NL	20,91%	73
	UK, SE, DK, FI, IE, DE	33,52%	89
	UK, SE, DK, FI, IE, NL, DE	36,84%	102
East	CZ, HU, SK, PL, RO, BG, LT, LV, EE, SI, LV	18,72%	101
Visegrad	CZ, HU, SK, PL	12,80%	58

In **green**: working blocking minority | In **red**: unachievable blocking minority.

Under the **old rules**, a coalition of countries representing **91 votes or 38% of EU population** was necessary to get a blocking minority. Under the **new voting rules**, this is possible with a min. of **four countries representing at least 36% of the EU population**.

**Large Mediterranean** countries including France, Italy, Portugal and Spain would still retain their ability to form a blocking minority. Interestingly the **'Euro-outs'** would no longer have this possibility in the new set-up, while the ability of the **Visegrad** group (regrouping Slovakia, Poland, Hungary and Czech Republic) to rally the newer Member States (the Baltics and other central and eastern EU countries)

will be scaled back. While **Germany** has gained the most relative influence overall, under the new voting scheme, its ability to corral the other 27 Member States behind the promotion of its core issues such as austerity for instance, will be challenging to maintain, especially given the importance of France, Italy and Spain.

With Germany at risk of being more isolated on a number of topics, it may need to seek other allies, and the UK could be a potential important partner in this regard. Along with two other mid-size countries such as Poland, the Netherlands or Sweden, Germany and the UK would be able to form blocking alliances more easily .

Were a **country to leave the EU** or new **Member States to join**, the voting rules will not change per se, but it will lead to a **rebalancing of relative voting weights** between EU countries.

**+ USE OF OLD VOTING RULES IN THE TRANSITIONAL PERIOD**

One or more Member States could request the use of the old voting weight structure on any texts discussed in Council until March 2017. This would allow a **safety net** for countries which have seen their voting powers reduced significantly under the Lisbon Treaty.

However using this special **transitional requirement** in the next two-and-a-half years, will **require countries to spend significant political capital** to back their claim. In effect, its use will have to be balanced carefully.

TABLE OF REFERENCE

<b>DE</b> Germany	<b>NL</b> Netherlands	<b>AT</b> Austria	<b>LT</b> Lithuania
<b>FR</b> France	<b>BE</b> Belgium	<b>BG</b> Bulgaria	<b>SI</b> Slovenia
<b>UK</b> United Kingdom	<b>EL</b> Greece	<b>DK</b> Denmark	<b>LV</b> Latvia
<b>IT</b> Italy	<b>PT</b> Portugal	<b>FI</b> Finland	<b>EE</b> Estonia
<b>ES</b> Spain	<b>CZ</b> Czech Republic	<b>SK</b> Slovakia	<b>CY</b> Cyprus
<b>PL</b> Poland	<b>HU</b> Hungary	<b>IE</b> Ireland	<b>LU</b> Luxembourg
<b>RO</b> Romania	<b>SE</b> Sweden	<b>HR</b> Croatia	<b>MT</b> Malta

Source: Eurostat



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