

# *The Treaty of Nice - an Important Moment in the European Union's Construction*

*- The Institutional Reform -*

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## *The legal procedure*

The Treaty of Nice was adopted on 7-11 December 2000, completing the Intergovernmental Conference that had been opened on 14 February 2000. This Conference was named the "Marathon Conference", as it lasted 4 days, in spite of a Council's Regulation which states that, generally, a Conference lasts only 72 hours. The Treaty was signed by the heads of state or government on 26 February 2001 and now it follows the ratification phase. The aim of the Nice Conference, from the institutional reform's point of view, was to adapt the way in which the European institutions operate in order to make it possible for the European Union to take in new member states. Thus, the Treaty of Nice marks a new stage in the preparations for the enlargement of the

European Union to include countries of Central and Eastern Europe, the Mediterranean and the Baltic.

As we all now, the composition and operation of the European institutions and bodies were agreed in the 1950's when the European Community had only 6 members; at the present, the European Union has 15 members and there has been no major reform of the institutions since the founding of the European Community. So, the conclusion is that the institutional framework needs some improvements in order to function well when there will be 27 member states or even more.

Thus, we will present and analyse the institutional changes made by the Nice Treaty to the European Union's institutions and the main bodies.

## *The institutional reform*

### **I. THE EUROPEAN PARLIAMENT**

The European Parliament is the institution that represents the citizens of the member states. In many areas, the Parliament acts as co-legislator with the Council. Also, the Parliament and the Council jointly constitute the budgetary authority. Besides, the Parliament exercises democratic

control over the Commission's activities. The members of the Parliament may enter one of the political groups of the European Parliament.

As far as the changes made by the Nice Treaty are concerned, we must say that the Treaty enhances Parliament's role as co-legislator. According to art.189 (2), the

maximum number of the eurodeputies is 732, although the Amsterdam Treaty had limited it to 700. The Treaty also allocated the seats between member states and candidate countries, with effect from the next elections (see the table below). The candidate countries will not, of course, be represented in the European Parliament until they become members of the Union.

After analysing the number of seats allocated to each member, we could notice

that Germany is the only state which will keep the same number, whereas the others have fewer seats; on the other hand, Belgium and Portugal will have 22 seats, whereas Hungary and the Czech Republic, that have larger population, get only 20 seats.

In conformity with the Nice Treaty, the Council will have the power to approve the eurodeputies' statute with a qualified majority. The Council will also be able to approve the political groups' statute.

#### *Allocation of seats in the European Parliament*

Member States		Candidate Countries	
Belgium	22	Bulgaria	17
Denmark	13	Cyprus	6
Germany	99	Czech Republic	20
Greece	22	Estonia	6
Spain	50	Hungary	20
France	72	Latvia	8
Ireland	12	Lithuania	12
Italy	72	Malta	5
Luxembourg	6	Poland	50
Netherlands	25	<b>Romania</b>	<b>33</b>
Austria	17	Slovakia	13
Portugal	22	Slovenia	7
Finland	13		
Sweden	18		
United Kingdom	72		
<b>Total: 732 votes</b>			

## II. THE COUNCIL

The Council is the EU institution in which the governments of the member states are represented. Together with the Parliament, it is the Community legislator and budgetary authority. It is also the lead institution for decision making on the common foreign and security policy and on police and judicial co-operation in criminal matters.

The Treaties specify whether the Council is to take its decisions by unanimous agreement of all members, by qualified majority or by simple majority, in case of procedural matters.

At Nice it was reaffirmed the idea that it would be very difficult to obtain unanimous

agreement in a Union that would one day have almost 30 member states. There is a danger of the decision process' paralysis. The reform is, therefore, meant to reduce the number of cases in which member states could impose their veto. The ratification of the Nice Treaty will allow qualified majority voting for decisions on 30 articles of the Treaty that previously required unanimity.

The process of extending the majority voting was rather difficult, as some member states have important interest in some domains, for example: Germany for the policy regarding immigration, asylum, United Kingdom for the tax policy and so on.

The Nice Treaty also provides for a change in the weighting of votes from 1 January 2005; the number of votes assigned to each member state is altered and the candidate countries have been set a certain number of votes (see the table below). After the Treaty's ratification, qualified majority will be obtained if a decision receives a specified number of votes and if a decision is approved by a majority of member states. Moreover, a member state may ask for confirmation that the qualified majority represents at least 62%

of the total population of the, otherwise the decision is not considered to be adopted.

According to the new allocation of votes, the four big states (Germany, France, Italy and United Kingdom) have 29 votes each, and Spain keeps an intermediate status, owning 27 votes, just like Poland.

In conclusion, we may say that at Nice, as far as the Council was concerned, the main problem was represented by the decision adopting process, which had to be made efficient for the time when there will be 27 or more member states.

*Weighting of votes for member states and candidate countries in the Council*

Member States		Candidate Countries	
Belgium	12	Bulgaria	10
Denmark	7	Cyprus	4
Germany	29	Czech Republic	12
Greece	12	Estonia	4
Spain	27	Hungary	12
France	29	Latvia	4
Ireland	7	Lithuania	7
Italy	29	Malta	3
Luxembourg	4	Poland	27
Netherlands	13	<b>Romania</b>	<b>14</b>
Austria	10	Slovakia	7
Portugal	12	Slovenia	4
Finland	7		
Sweden	10		
United Kingdom	29		
<b>Total: 345 votes</b>			

### III. THE COMMISSION

The Commission was created as an independent institution to represent the European interest common to all member states of the Union. The Commission is the one that has the power to propose the legislation on which the European Parliament and the Council have to take a decision.

Also, the Commission is responsible for implementing common policies, it administers the budget and manages the Community programmes. In external affairs, the Commission represents the Community and

conducts international negotiations. As a final competence, the Commission monitors compliance with the Treaties and the decisions taken by the Community institutions.

We might add that this institution is collectively accountable to the European Parliament and that the Commission's decisions are taken by simple majority. At present, it consists of two nationals of the most heavily-populated member states and one national of each of the others.

At Nice, they started the discussion from the given fact that the Commission should function efficiently in an extended Union, too.

Thus, the Treaty of Nice introduces some changes within the European Commission, as follows: it limits the Commission to one member per member state with effect from 2005. A ceiling on the number of commissioners will be imposed once the Union has 27 member states. At that point, the Council will take a unanimous decision on the exact number of

commissioners (which must be less than 27). The nationality of the commissioners will then be determined by a system of rotation that will be fair to all countries.

The Treaty of Nice also decided to increase the powers of the president who will, thus, decide on the allocation of portfolios and may re-assign responsibilities in the course of the Commission's term of office. The president will also be entitled to demand a commissioner's resignation, subject to the Commission's approval.

#### IV. THE COURT OF JUSTICE

The European Court of Justice is the institution responsible for enforcing Community law. The Court of First Instance was set up in 1989 to exercise some of the powers conferred by the Court of Justice.

The reform introduced by the Nice Treaty is essential, regarding the following aspects:

- setting up the judicial panels for the Court of First Instance;
- allocation of powers between the two Courts;
- composition and functioning of the two judicial institutions.

It is notorious the fact that the Court is already overloaded with cases and the number can only increase with accession of new member states. As a result, there are long delays in obtaining judgements, which is detrimental to the working of the Community and unsatisfactory for the parties concerned.

In order to relieve the workload of the Court, the Treaty of Nice seeks to share tasks between the Court of Justice and the Court of First Instance more effectively and allows for the creation of specialized Chambers for particular areas, such as disputes involving European officials.

The adoption of the rules regarding the composition and powers belongs to the Council, which states with unanimity, at the Commission's proposal and after the Parliament's and European Court of Justice's consultation or at the latter's request. The members of the Chambers are named by the Council with unanimous vote.

Also, the Treaty of Nice provides for that the exceptional re-examination of a case by the Court of Justice follows an emergency procedure, in the situation there is a serious risk to violate the unity and coherence of the Community Law (art. 225, para. 2).

As far as the powers are concerned, the Treaty brings a new disposition referring to the competence of the Court of First Instance to judge prejudicial issues in particular domains enshrined by the its Statute.

The Treaty also stipulates that the Court of Justice, which in an enlarged Union will consist of one judge for each member state, may sit in a Grand Chamber of 13 judges instead of always meeting in a plenary session attended by all judges.

The procedure regulations of the two institutions will have to be approved by the Council using the qualified majority.

#### V. THE COURT OF AUDITORS

This institution monitors the Community accounts, examining the legality and regularity of the revenue and the expenditure in the Community budget and ensuring sound financial management. The Court of Auditors

currently has 15 members, appointed for a six-renewable term by the Council acting unanimously. The members direct the audit activities of the Court officials and draw up reports and opinions.

It is important to remind the fact that the Court of Auditors is not a judicial instance, like the Court of Justice or the Court of First Instance.

The Nice Treaty stipulates that The Court of Auditors will consist of a national of each member state; the members will be appointed for a six-year term by the Council acting by qualified majority, rather than unanimity.

The Court of Auditors will be able to set up chambers to adopt certain types of report or opinion.

At Nice, the Court of Auditors and the national audit institutions are urged to improve cooperation and one way to do this would be for the president of the Court of Auditors to set up a contact committee to liaise with the chairmen of the national audit institutions.

**VI. THE ECONOMIC AND SOCIAL COMMITTEE**

The Economic and Social Committee is an European body which consists of representatives of various economic and social interest groups. It issues advisory opinions to the institutions, for example as part of the legislative procedure. It currently has 222 members.

The Nice Treaty states that the Committee is to be composed of representatives of the various components of organised civil society. The number of the members is not to exceed 350 (see the table below), which allows the member states to retain their present number of seats.

The allocation of seats will be the following:

Member States		Candidate Countries	
Belgium	12	Bulgaria	12
Denmark	9	Cyprus	6
Germany	24	Czech Republic	12
Greece	12	Estonia	7
Spain	21	Hungary	12
France	24	Latvia	7
Ireland	9	Lithuania	9
Italy	24	Malta	5
Luxembourg	6	Poland	21
Netherlands	12	<b>Romania</b>	<b>15</b>
Austria	12	Slovakia	9
Portugal	12	Slovenia	7
Finland	9		
Sweden	12		
United Kingdom	24		
<b>Total: 344 seats</b>			

**VII. THE COMMITTEE OF THE REGIONS**

This is another consultative body, consisting of representatives of regional and local governments. It articulates the interests of the regions at European level. It has 222 members, too.

The Nice Treaty limited the number of the members to 350 (see the table below),

just like for the Economic and Social Committee. Also, the Treaty regulates the requirement that the members of the Committee have electoral mandate from the authorities it represents or the members to be politically accountable to those authorities.

**The allocation of seats will be the following:**

Member States		Candidate Countries	
Belgium	12	Bulgaria	12
Denmark	9	Cyprus	6
Germany	24	Czech Republic	12
Greece	12	Estonia	7
Spain	21	Hungary	12
France	24	Latvia	7
Ireland	9	Lithuania	9
Italy	24	Malta	5
Luxembourg	6	Poland	21
Netherlands	12	<b>Romania</b>	<b>15</b>
Austria	12	Slovakia	9
Portugal	12	Slovenia	7
Finland	9		
Sweden	12		
United Kingdom	24		
<b>Total: 344 seats</b>			

In conclusion, we could state that the Nice reforms have prepared the European Union institutional framework for the enlargement, by admission of new members. Thus, Nice becomes an important moment in the European construction's evolution, just like the "Maastricht moment" or the "Amsterdam moment".

As far as Romania is concerned, we must say that the Nice Treaty somewhat clarifies our country's place related to that of the other 11 candidate countries which negotiate their admission to the European Union. Also, the Romania's taking into consideration for the European institutional

structures may represent a great motivation for further progress on the way of integration in the Union.

The Nice European Council becomes an historic one, because it confirms the UE's enlargement, in detail discussed at Laeken at the end of the year 2001, in the perspective of a new Intergovernmental Conference on the subject in 2004.

The main conclusion is represented by the fact that the European Union knows that the enlargement serves not only for itself, but also for everybody's interest, being a normal and necessary stage in the complex and difficult process of the European integration.