

**SCENARIOS  
FOR  
INSTITUTIONAL  
REFORM  
IN THE EU  
BEFORE AND AFTER  
THE NICE SUMMIT**



**EU MONITOR**



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## F O R E W O R D

The chapters that follow present an undoubtedly interesting study and a well-timed one as well. Negotiations for accession to the EU have recently sparked an increase in interest among the Slovene public, but they have also brought up the questions of where we aim for and what the association we are supposed to join looks like. Once we become a full member, the future development of the EU will certainly become one of the main political topics in Slovenia. Within the EU itself, the constitutional debate is already underway. It has been triggered by German Minister of Foreign Affairs Joschka Fischer's speech at Humboldt University in May 2000 and by the speech delivered by French President Jacques Chirac in the German Bundestag in June 2000. While the former advocated a kind of federal organization, and thus came under criticism for his presumably centralistic tendencies, the latter opposed closer institutional links between EU Member States, thus earning the title "supporter of decentralization." However, a closer look at their viewpoints will show that the so-called "German proposal" is more de-centralistic than the French one, one of the reasons perhaps being the fact that the former draws on a federalist and the latter on a unitarian heritage. It is true that the German proposal calls for a type of state organization that, compared to the current organization of the EU, would no doubt mean greater centralization. Yet it also advocates re-

nationalization of certain policies that have been common up to now, in a sense in line with the German understanding of subsidiarity. According to it, only those decisions that cannot be adopted and implemented by lower-level authorities should be delegated to higher levels. In contrast, the French proposal advocated, on the face of it, looser ties but also more common policies in various fields. This would in fact mean centralization when compared to the currently valid system in the EU. One could say that such centralization would in a sense be in harmony with the French understanding of subsidiarity. According to this proposal, decisions that should be delegated to higher levels are those which could more rationally be taken and implemented at a higher level. This, of course, alerts us to existence of both unitarian countries that are already deeply committed to decentralization (e.g. Spain and Great Britain), as well as federal countries, though being federal only in name, while in fact being unitarian (e.g. East European countries in the past, and South American countries of today). In between there is a whole spectrum of countries with various other types of state organization (e.g. “regional” Italy and “regionalized” France). Indeed these classic theoretical models of state organization, which classify countries according to fixed schemes, are today obsolete, and it is questionable whether they ever lived up to reality. History teaches us that the organization of a country changes in the course of its development (Austria-Hungary is one such example) as do organizations of various associations between countries. Confederations were mainly transitional forms of some duration that led either to federations (e.g. the Swiss Confederation) or independence. Therefore, classic theoretical classifications of sovereign countries into unitarian and composed states (and further subdivisions into personal and real unions, confederations and federations), do not help much

when considering the present evolution of the EU. As Germans would say, every theory is gray. By the same token, bickering over the correct pigeonhole for one or another country is similarly unproductive. Slovene people no doubt still remember futile debates in the former Yugoslavia about whether the 1974 Constitution prescribed a federal or confederative form. As for Europe, even though the idea of a state was in the background of the vision of a united Europe, the EU itself never wanted to specify what precisely it was evolving into, among other reasons because that could have given rise to infinite wrangles - wrangles about form and, consequently, about the content that would be constrained by a specific rigid form. And that could have jeopardized the otherwise dynamic and successful international (economic) links, or in other words, economic integration. Nevertheless, the evolution of the integration process itself and the circumstances in the world in general brought up the question of the political fate of the developing EU, with the envisaged enlargement playing its own part therein. As a result, today hardly a month passes without some state representative expressing his view about the fate of the EU (e.g. Lionel Jospin, Tony Blair, Gerhard Schröder and so on). We do not know exactly in which direction the EU is heading or what it will look like - the form and the 'etiquette' are still unclear - but we do know from experience that one political dimension is indispensable when countries form an association - that is equality. What is implied is the equality of nations and peoples, but we will return to this issue later. At this point suffice it to say that equality is not a static category, but one that changes over time and space and thus should be continually re-defined. Most importantly, we should provide mechanisms which allow for the peaceful development of the contents of equality on the one hand, and adaptations of the form to match that development on the other.

However, the considerations mentioned above are not the subject of this study. It is concerned rather with the formal equality of Member States in the past, at present and in the event of enlargement (which is now almost certain). Today we know that the present-day EU of fifteen Member States will expand, sooner or later, to include an additional 8 to 10 new countries. But the EU of 15 states has already envisaged an enlargement that will add 12 countries altogether (this comprises the Luxembourg and Helsinki groups of candidate countries), meaning that it has already anticipated future relations that will prevail in an EU of 27 members. Accordingly, this study dutifully takes this into account. We can also hypothesize that at some time in the future Europe will expand further, because it faces a historical challenge to become peacefully united for the first time (owing to that, the expression “reunification of Europe” would not be true to life in this context, but would rather indicate excessive enthusiasm over the fall of the Berlin wall). Of course, each time Europe expands, new solutions will have to be found (even if that will mean insisting on old solutions), because of the enlargement itself, because of changed relationships in the process of integration (deepening of integration), and because of potential (inevitable) new global challenges. Moreover and more to the point, each time the EU expands to include less than 27 countries altogether, relations between Member States in the EU institutions will nevertheless have to be redefined, the same as later, when more new countries begin to compete for membership in an EU of 27 states (the accession of south-eastern countries alone will raise this number to 33, and even then not all of Europe will be united). The EU cannot be viewed either as a classic or a static category. Neither should we harbor illusions that the ultimate solution will be found in the near future. The evolution of the EU is a long-lasting social, eco-

conomic and political process. For any individual country the important fact is the difference between an opportunity to co-decide about the future organization of the EU as a Member State and exclusion from the decision-making process while still a candidate for membership, a position which limits participation to mere expression of opinion.

We have already said that this study is concerned with formal equality among EU members, but we should add that it is limited to a specific segment of this equality - the one pertaining to the voting methods in the three main EU institutions. The decision-making process as a whole is a complex issue, with the voting method being just its external manifestation. Even so this study will undoubtedly satisfy the needs of all readers who are interested in the formal side of the decision-taking process as an outward expression of sovereignty and identity of the members of this international community. Drawing on the experience of the former Yugoslav federation, we could say that it is precisely the convoluted chain of the responsibilities of institutions, bodies and other organs, their compositions and voting methods envisaged within the EU, that perhaps unintentionally call to the minds of some the image of a snake that has already bitten us.

The author looks into responsibilities, representation and voting methods in three main EU institutions: the European Commission, the Council of the EU and the European Parliament. He justifiably concludes that institutional changes will have to be extended to other institutions and bodies as well, for example the Court of First Instance and Court of the European Communities, the Court of Auditors, the Economic and Social Committee, the Committee of the Regions and so on. As long as the EU remains an association of countries, the issue of the composition of these institutions and bodies on the basis of national criteria will have

to be reconsidered, as will that of the potential new institutions and bodies, once they emerge, or rather, once the EU establishes them. The choice of institutions treated in this study is, however, adequate at the moment, because it is limited to the main existing institutions with legislative and executive powers that are an expression of the ruling powers within the EU and therefore arouse the most interest among the public.

The problem related to the composition of the main EU institutions arises from the fact that the founders of this international organization were sovereign states which, in accordance with international customs, want to preserve their equality and decisive roles. Yet these countries also initiated integration which, by way of the principles inherent in it, forces them to reduce their own roles. On top of that, apart from economic integration, they also induced political integration, whose inherent laws similarly tend not only to reduce the roles of individual countries, but also increasingly highlight the issue of the legitimacy of political decisions. The main EU institutions have evolved from these conflicting tendencies, so the question of whether the EU, such as it is, is a “Union of states” or a “Union of peoples” is ever more relevant. In other words, one could ask what exactly these countries had in mind when they wrote, in the Preamble to the *Treaty establishing the European Economic Community*, that it should be an ever closer union among the peoples of Europe.

The Council of the EU is an institution consisting of direct representatives (of executive powers) of the states that founded the EU or joined it later in the course of the 50 years of its development (1951–2001). Speaking generally, one could say that without such an institution, which ensures realization of the partial interests of Member States, the EC/EU would have never come into existence. Therefore, all countries should be represented in it and,

as a rule, decisions should be taken unanimously to reflect sovereignty and legal equality of all participants. Yet the endeavors towards increasingly closer cooperation, even integration within some areas, and towards maximum efficiency of decision-taking - when looked at from a general historical perspective - have generated an outvoting trend. It began with the veto right (the Luxembourg compromise) and evolved through a kind of suspending veto (the Ionannina compromise). But it is not a simple decision for a sovereign country to consent to the possibility of being outvoted, because it implies that its sovereignty is reduced within some kind of a supra-national organization. As a result, certain matters still have to be decided unanimously, others by simple, and still others by qualified majority (approx. 71% of votes) - a system complicated enough in itself. The introduction of an additional requirement, namely that certain matters additionally require the consent of two-thirds of the states (so called double majority), further stresses individual countries' fears of being outvoted. Such a solution was the effect of special consideration. As a matter of fact, the outvoting option prompted considerations of how to eliminate the resulting imbalance between legal equality of sovereign countries and their actual inequality, that is to say, inequality between large countries (e.g. France) and small ones (e.g. Luxembourg). In an association of proportionately developed countries, large countries are, as a rule, stronger and also (although not necessarily) richer. Their market is larger and, taken absolutely, also their buying power (Taken relatively, the GDP per capita or buying power may alter relations between large and small countries). Small countries are usually weaker (at least militarily), and often (though not necessarily) poorer. At any rate, their markets are smaller and, taken absolutely, their buying power is lower. In an association in which a decision may be

reached by outvoting, large countries would thus tend to attain a greater absolute power (weight) compared to small countries, while on the other hand, small countries would endeavor to preserve as much equality as possible, to yield to large countries as little as possible, or in other words, to preserve at least relatively greater strength (more weight) when voting. No country wants to join an association if it is clear beforehand that it may be outvoted. In order to strike the right balance between large and small countries, a compromise has been reached, so the votes of the countries are weighted in such a way that large countries have more votes than small ones, and small ones have proportionally more votes (with regard to their size) than large ones. This gave rise to another issue: how to determine the size of a country. Since certain criteria (such as reputation and influence) are difficult to evaluate, some are unacceptable or unjustified (e.g. military strength or affluence), and others irrelevant (e.g. size of the territory or population density), it has been agreed that size should be determined on the basis of population size. The problem with this criterion, which is otherwise attractive if we bear in mind the idea that the EU should be a union of peoples, is that it overlaps with the criterion observed in the European Parliament. At any rate, in an absolute sense, large countries obtained more votes than small ones, but in order to protect the interests of small countries, they have proportionally more votes than large countries if the population criterion is strictly taken into account. This study also presents the historical development of voting in the EU.

Today, in the EU-15, countries with large populations have 10 votes each, countries with less-than-large populations 8 votes each, medium-population countries have 5 votes, those with less-than-medium population 4 votes each, those with small populations 3 votes each, and the country with the smallest population

has two votes. Of course, relations were determined in an arbitrary political manner resulting in, for example, 10 votes in the Council for Germany, the most populous country with 82 million inhabitants, and two votes for Luxembourg, the least populous member with 400,000 people. Obviously the votes are not distributed in strict proportion to the population number but are disproportionate in favor of small countries. In the EU-15 the total number of votes in the Council amounts to 87. The threshold for qualified majority is thus 62 votes, leaving 26 votes as the blocking minority. However, if the blocking minority lies between 23 and 25 votes, the Ioannina compromise is applied and 65 votes are required to reach a decision in a repeated voting procedure.

Over time, and especially when the danger of an increase in the number of small countries in the EU became real, this method of distributing of votes raised concerns among large countries. So, when enlargement placed institutional reforms on the agenda, the Member States proposed certain corrections regarding voting methods. The *Treaty of Nice*, which envisages an enlargement to 27 Member States, raised the total number of votes in the Council to 345. The threshold for qualified majority is thus 258 votes or 74.8%. This means that the blocking minority would need 88 votes to impose a veto. However, for any draft for the Community legislation not proposed by the European Commission, two thirds of Member States would have to support the draft proposal if it were to be adopted (double majority). Any individual country will be entitled to require a confirmation that the countries that voted for the proposal represent 62% of the total EU population. The same treaty also includes a provision that the minority can attain a veto with 91 votes. This would mean that a decision could be taken with 255 positive votes, or 73.9%. This clearly shows that national and political interests have created a complicated voting

system that is hardly comprehensible by ordinary people, and of which even its authors seem to have difficulties. The fact that the Council only rarely decides by qualified majority is not comforting. Since in most cases the votes are counted at the preparatory stage according to the above-mentioned rules, the European Council may take just a “concluding decision” without formal voting. The voting method is thus implemented at the lower level comprising working and other bodies where support for a specific proposal is established. In addition, this system of vote weighting is also transferred to other bodies that adopt regulatory acts or implement decisions. It is also worth noting that it was the current Member States alone that decided how many votes they themselves will have in an enlarged union and how many votes will be given to future members. The future members, the present candidate countries, hence could only acknowledge the decision. There is another peculiarity that should be mentioned here. The Council is indeed composed of the representatives of states, the most conspicuous among these being foreign ministers, but when a decision referring to some specific area has to be taken, the ministers responsible for that area gather for a meeting. To paraphrase Henry Kissinger, the Council of the EU does not have its own phone number.

The second most important institution in the EU is undoubtedly the European Commission - an institution which, in contrast to the particular interests of Member States, represents the common will of all EU members. The Commission is generally regarded as an institution of integration that is independent of the Member States and consequently expresses its own interests which are occasionally different from those of the Member States. The responsibilities of the European Commission and its Commissioners, as well as the number of the latter, had changed over the history of

the EU. The total number of Commissioners increased over time, a change described in detail in the study. In today's EU-15, the European Commission consists of 20 Commissioners; the five largest countries have two Commissioners each; other countries have one each. Since this is an institution of the Union and the members of the Commission are formally and legally independent of their respective countries (because of this they enjoy immunity from the jurisdiction of their countries), these countries could just as well be indifferent to the nationality of individual Commissioners. What should be important is their skills and competences, rather than their citizenship (especially since the introduction of EU citizenship). But practice reveals a different picture. It is not so much the informal ties of individual Commissioners with their home countries that are important in this case (any country can make up for this through other nationals who perform international functions), or the fact that future career concerns lead Commissioners to observe particular national interests. Both these issues have little significance also because formal voting within the Commission envisages absolute majority. It seems that the most important aspects of the right to nominate a Commissioner are the prestige and reputation involved. This is the reason why in the past Member States did not want to renounce their right to nominate a Commissioner, why large countries requested two Commissioners to represent them in the Commission, and why candidate countries insist that they should have their own representative in the Commission. Perhaps this is also the reason why large countries (probably quite easily) gave up their right to nominate the second Commissioner in exchange for the greater weight of votes in the Council that was accorded to them under the *Treaty of Nice*.

After the enlargement each country should have one Commissioner until the total number amounts to 27. Since the first round

of accessions will add at least five countries (and since at the moment five countries have two Commissioners), we should not expect further bargaining over the second Commissioner. However, the problem of which the EU is quite well aware lies elsewhere. Despite formal provisions, the European Commission tends towards taking decisions by common consent, so an increase in the number of Commissioners tends to sharpen the issue of efficiency. Hence the provision that the total number of Commissioners should not exceed 27. But once this number is exceeded, it is highly probable that a rotation system based on national criteria will be introduced, once again in relation to population size. In other words, large countries would continue to have one Commissioner, while smaller countries would form an (electorate) group which would be represented by one candidate rotated according to a nationality criterion after each mandate. By its nature the European Commission tends towards becoming the real executive power, i.e. some kind of an EU government. This will give rise to ever new proposals for corresponding reorganizations of the structure, responsibilities and method of operation of the Commission in general and of its President in particular. But this is probably a remote likelihood and solutions will depend on the political readiness of countries to take an appropriate decision at a certain point in time and in given circumstances.

As regards decision-taking and implementation, the European Parliament is at present probably the least important of the three institutions treated in this study. Its formal significance lies in its symbolic value and the resulting prestige, since directly elected representatives supposedly have an important corrective role in the so called democratic deficit within the EU. It is therefore a symbol of the democratic organization of the EU. It is also true that we should not overlook its increasing role in the decision-

making process within the EU, which will definitely continue to grow with each future reform, although Member States are taking great care to prevent the Parliament from acquiring legislative functions.

Today the European Parliament consists of 626 directly elected members. As in traditional parliamentary democracies, members are elected on the basis of population size. The system observed in the European Parliament has been carefully elaborated though, so that the criterion is not the total number of the EU population, but the population of individual Member States. Once again a balance is observed, so large (populous) countries have a greater number of members in absolute terms, but the number of members with regard to population size is undoubtedly in favor of smaller (less populous) countries. For illustration purposes, let us mention one relation that will prevail after enlargement when the total number of parliamentarians, under the provisions of the *Treaty of Nice*, rises to 732. The author of the study draws attention to the fact that Slovenia will have one representative per 350,000 people, while Germany will have one representative per 1,207,000 people. The fact that members of the European Parliament will represent electoral districts so diverse in terms of size, has not much to do with traditional parliamentary democracy. Yet on the other hand, the European Parliament itself does not have traditional legislative functions.

Like other EU institutions, the European Parliament itself is the subject of political negotiations and bargains between Member States. Its modest role in the legislative process is obvious from the fact that, following the unification of Germany, the Member States agreed to raise Germany's quota of members in the Parliament, but rejected its request for a greater weight in the other two EU institutions which are studied in this paper. On the

other hand, its relative importance becomes apparent through the fact that for each of the two candidate countries (the Czech Republic and Hungary) the enlargement scheme agreed in Nice envisaged two fewer seats than the number of seats accorded to other Member States with similar population sizes. This reveals another reason why countries find it important to become EU members, as only membership can secure them at least greater influence on the decisions taken, given that they cannot decide independently either about their own or common matters. Since relations within the European Parliament are a result of political negotiations accompanying each institutional reform, the issue thus does not seem to be dramatic. During a new round of reforms the present relations will change again and new ones will take their place.

However, the problems of the European Parliament lie elsewhere. We have already mentioned that its members do not represent electoral districts with equal population sizes, but they do form so called national contingents in the Parliament. As a rule they form groups based on political beliefs rather than on nationality, but practice has shown more than once that they strive to promote their national interests (let us mention as examples the Italian and Austrian members, whose interests are obviously national, and who are very active within the Parliament when issues pertaining to Slovenia are discussed). After all, members are elected in their national environments on the basis of (very different) voting systems which stem from various political traditions. Both facts, varied electoral districts and national contingents raise the question of the legitimacy of legal representation of Europeans and influence the fact that the European Parliament is less suitable for genuine legislative function. On the other hand, the issue of legitimacy also relates to the question of

how many people one member should represent. The greater the number of people who elect a member, the more express is the issue of legitimacy, and conversely, the fewer the number of people, the greater the number of representatives in the Parliament. This latter necessarily brings up the question of the efficiency of decision-taking. Perhaps the principle of subsidiarity will have to take a completely new form. The idea that the Parliament should consist of two chambers, after the model of national parliamentary democracies, has been repeatedly entertained in various expert and political proposals, but these proposals are quite a long way apart on the issue of what or whom the second chamber should represent (countries, regions, or something other). Even less elaborated is the idea of how in such a case the Parliament should take decisions, i.e. what precisely would be the responsibilities of each chamber. Like many other issues this one too will be once, if ever, decided by political interests.

We have thus described the context of the present study, but let us now see what its special value is. There are at least four reasons why it has particular worth. First, the work will certainly prove interesting for a wider circle of readers who are interested in the position of Slovenia in the three main European institutions and want to know where that specific position originates. This issue is treated especially extensively. Second, the study analyzes in detail various proposals that were put forward before institutional changes were agreed under the *Treaty of Nice*. Of course, in reality problems still exist and the future will bring further changes. The study explains in detail individual proposals for institutional changes and the reader can observe how they are reflected by the current political solutions, both issues being interesting subjects for a study. Third, an even more important feature of this work seems to be the quantification of various pro-

posals and the presentation of the qualitative consequences each would have in practice. Indeed the nature of the subjects enables such an approach, but we can only hope that this type of analysis will become a part of the political analysis made by national analytical departments and a part of foreign policy decisions taken by Slovenia. Before we decide on one or another proposal, we must be aware of all its advantages and weaknesses. If not, others who have taken better care to learn about them, may turn it to their own advantage. Some might argue that this assertion may only become applicable in the future, when and if, Slovenia becomes a member of the EU. But this is true to a certain extent only. It is good if we can already show our partners that we understand the problem well, or perhaps that we are aware of a disadvantage of a certain solution for Slovenia. In this way we might be able to secure at least some beneficial pledges while we are still not allowed to co-decide. How such analysis will be used as a basis for political decisions (or, as far as Slovenia is concerned, we should rather say 'whether' they will be used at all), is another issue. But this work can at least serve as a kind of a model showing how this type of study should look. Finally, we know from other studies that EU Member States seek allies among candidate countries relying precisely on the issue of future organization. The more their viewpoints are akin, the more a Member State supports the accession of a specific candidate. The type of analysis presented here could facilitate communication between Slovenia and Member States.

We should not omit to say that the voting issues present only one among the challenges faced by the EU. It is precisely these issues that tell us that the development of the EU should not be viewed as the traditional evolution of a state. In the case of Europe it is rather a supranational organization that has been develop-

ing, one in which it will be necessary to continually reconsider the questions of what should be the Union's responsibilities and what should stay beyond its purview. The actors involved in the decision-taking process are directly related to it, as are the methods of decision-taking directly related to them. It is obvious that today the EU is an association of countries *sui generis*. If we recapitulate the issues discussed here in general and summarily, we could say that in the past the EU had to address the issues of the relations between large and small countries, and between their more and less developed areas. The first problem was resolved by means of a complicated voting system and decision-making process, and the second with the help of Regional Development Funds. Parallel with this was the growing trend to deepen integration. The single market was introduced successfully, traditional industries were restructured along with specific regions that were lagging behind in terms of development, and co-operation within scientific and research fields was strengthened. The deepening of integration raised the issue of democracy on the one hand, and of subsidiarity on the other. The external manifestations were direct election of members to the European Parliament, and over time, also the representation of sub-national territorial units introduced through the Committee of the Regions. Of course, not all problems could be solved. Perhaps the most important among those that remain unresolved is agricultural policy, which up to this day weighs most heavily on the common budget. Expansion towards the south sharpened the differences between more and less developed countries and gave rise to the initiative to expand the Cohesion Fund. Yet the policy of integration deepening was nevertheless continued and the logical consequence was the decision to introduce a common currency. In the meanwhile the world as a whole had changed and posed new challenges. After the fall of the

Berlin wall the issue of expansion towards the east and south-east, which itself involves difficulties that are not easy to solve, had to be dealt with. It will increase the number of less developed countries and the question of a growing gap between developed and underdeveloped countries will become more acute. A number of endeavors towards integration show that economic differences have a centrifugal impact on integration trends. At the same time the number of small countries will increase out of proportion with regard to the number of large countries, which will reopen the issue of equality. Global circumstances too are changing constantly. Environmental protection and protection of human rights are among the processes which integration policies had to address in the past and to which they will have to return in the future. First the war in Bosnia-Herzegovina and now the terrorist threat and fight against terrorism have encouraged closer cooperation and common policies in some new areas. The deepening of integration and its expansion will sharpen these issues. We hope that this will not assume proportions which could jeopardize ratification of the *Treaty of Nice*. In the meanwhile yet another question has come up, namely whether the expansion towards the east will shift the center of gravity of integration policies and in which direction. The expansion towards the south and inclusion of some less affluent countries has in the past exasperated the policy of regional development. The last enlargement, by which countries with a welfare state tradition were added, shifted focus to the issues of employment, the environment and human rights. And what priorities will be set by the candidate countries belonging to eastern and central Europe once they become EU Member States? Will potentially new focal points of various policies allow for the required common functioning of all states, or will they operate centrifugally? Difficulties similar to those that pester the

areas of decision-making and voting can also be expected in the process of deepening integration following the enlargement. Until now, the decisive role in the decision-making process has been played by individual countries and the European Commission, with the participation of the representatives of people (members of the Parliament) and to a smaller extent of the representatives of sub-national (regional and local) entities. The latter will no doubt strive to strengthen their part in co-deciding. At the same time, actors that are not yet included in the decision-making process will generate new issues to be dealt with. Here we have in mind primarily those nations which do not have their own states, and numerous ethnic, national, linguistic, religious and other minorities. Classic parliamentary democracy that originated in the nation-states of the 19<sup>th</sup> century is today hardly a suitable framework for the democratic needs of the multinational states of the 21<sup>st</sup> century like the EU. We can hardly expect that the development of respect for human rights and protection of minorities will be such as to satisfy the justified demands of most various actors - those that will originate with the actors themselves and those that will stem from the complex issues generated by the developing globalized world. The question of whether Europe will just put up a common house or create a common home for all peoples, therefore continues to pose a challenge. Slovenia will have to participate in this decision.

This book is definitely just one piece in a mosaic of understandings of modern reality that is necessary for us if we want to make choices and reach political decisions. We wish it the widest readership possible.

PROF. DR. BOJKO BUČAR  
NOVEMBER 2001



## 1 INSTITUTIONAL REFORMS IN THE EU

The reformation of the EU institutions is currently one of the central area of activities of the fifteen EU Member States. The changes in their structure and operation are linked to two processes that have been going on ever since the establishment of the European Economic Community in 1957. One is the strengthening of cooperation between the EU Member States and expansion of the fields of their cooperation. The other is the enlargement of the EU - the factor that contributed most to the latest acceleration of institutional reform. The goal of the institutional reform is to create such a structure and methods of operation of the EU bodies that would preclude potential blockades by individual (new) Member States in an enlarged EU, as this could render them inefficient. The reorganized structure should be acceptable for all (current) Member States. At the same time the reforms reflect a tendency towards change in the formal relations between Member States in a future, enlarged EU. The question that arises from this process is how much each individual Member State within these institutions will be "worth." Consequently, the restructuring and changes in the voting structure of the EU institutions have great significance for nation-states affected by the reforms. Particular importance is placed on those institutions which have a crucial role in the decision-making - the European

Commission, the Council of Ministers and the European Parliament (hereafter referred to as the Commission, the Council and the Parliament respectively).

The following questions are brought up in connection with these processes:

- Which formal objections to the structure of the said bodies are expected to be resolved by reforms and whether the reforms in fact lead to their resolution?
- Which particular relations between Member States should be changed by proposed reforms?
- How does support expressed for the proposed change differ with regard to specific characteristics of individual states?
- Will reformed institutions in an enlarged EU evince a greater formal difference between individual Member States than if reform was not carried out?
- What consequences could these changes have for applicant countries?
- How does the agreement reached in Nice relate to the proposals? This raises a further question of the potential difficulties that could accompany the implementation of the changes already agreed upon.

We begin our analysis with the description of the fundamental responsibilities of the three principal bodies in the EU (Chapter 2). We proceed by defining the principal areas affected by institutional reform and then establish their hierarchy with regard to the political significance they have for the fifteen Member States (Chapter 3). The definition of the principal areas and politically most pressing issues of institutional reforms is followed by the analysis of the future composition i.e. the voting structure in the Council, Commission and Parliament. Chapter 4 is dedicated to the analysis of the history of these central institutions. We first

examine the factors that were taken into account when shaping EU institutions in the past, then assume what the structure of an enlarged EU would be if no reform was carried out (by extrapolating from the current organization to an enlarged EU). On the basis of these conclusions we formulate basic objections to the arrangements hitherto which are corroborated by our analysis of the viewpoints expressed by Member States. Chapter 5 concentrates on the analysis of the proposals for the reformation of the Council, Commission and the Parliament preceding the Intergovernmental Conference. These proposals are compared having in mind the principles that were observed in the past when allocating seats and votes within these institutions. The results of this comparison enable us to establish what new dimensions have been introduced by individual proposals. These conclusions are compared with the situation that would prevail if the current organizational structure should be carried forward into an enlarged EU (extrapolation). The results of the comparison bring to light basic differences between interests of individual Member States regarding reforms and formal changes in their relations within an enlarged EU. We further analyze the positions of various countries that determine their support for proposed changes in individual institutions i.e. we establish how their expressed support varies with regard to certain characteristics. We further attempt to establish the factors in the background that led individual countries to support a specific proposal. In Chapter 6 we compare proposals and support expressed by individual members with the results of the Intergovernmental Conference. In Chapter 7 we concentrate on various dimensions of the debate on institutional reforms and their solutions, and assess their significance for Slovenia as a candidate country. Chapters 8 and 9 explain which principles and relations between the Member

States, according to our assessment, have prevailed and served as the starting point for the future development of the EU, which objections to institutional reform were thus resolved and which issues remain unresolved.

## 2 THE PRINCIPAL INSTITUTIONS INVOLVED IN THE SHAPING OF THE EU LEGISLATION AND POLICIES

Before we proceed to analyze the Intergovernmental Conference, we shall give a brief overview of the responsibilities of the European Commission, the Council of Ministers and the European Parliament. This should contribute to the understanding of the political significance of their reformation, and will indirectly justify our focusing on these three institutions.

The Commission is an independent, expert institution. Its role within the EU system is to defend the interests of the EU as a whole. The Commission drafts proposals for legislation and at the same time it has an executive function as it monitors the application of the Community law. Its other tasks include monitoring the implementation of the budgetary policy and the representation of the EU in international affairs. It also represents a kind of EU “conscience” – together with the European Court of Justice it is a guardian of the Treaties. Finally, it should be understood as an administrative body of the EU as well, with the main administrative role being performed by Directorates-General and their departments (EU Commission 1999, 3). At present the Commission is composed of 20 Commissioners (*The Consolidated Treaty Establishing the European Community*, hereafter referred to as *TEC*, Article 213/1). The twenty members of the Commission are nominated by Member States with their nomination being

subject to the approval by the European Parliament (*TEC*, Article 214/2). The members of the Commission may not seek or take instructions from their respective governments but must act in the general interest of the Community (*TEC*, Article 213/2). This is the main reason that the Commission is considered a supra-national institution. The members of the Commission may be forced to resign as a body if the European Parliament carries a motion of censure by a two-thirds majority of the votes (*TEC*, Article 201).

Despite the fact that the Commission is responsible for a wide range of activities within the EU operation, it is not considered the principal institution of the EU. This status has been reserved for the Council of Ministers ever since the earliest stages of European integration. In addition to being a key institution in the process of adopting Community legislation, it also plays an important role in determining the tasks and composition of other EU institutions (European Commission 1991, 1). The Council is composed of the ministers of Member States (*TEC*, Article 203) who are responsible for the area that is being dealt with at a specific meeting. In contrast to the Commission, the Council members represent the interests of individual Member States. Even though the Council has been sharing its legislative power with the European Parliament since the date of the *Maastricht Treaty*, the representatives of national governments have the final and decisive word in the majority of decision-making areas.<sup>1</sup> In addition to legislative tasks, the Council concludes international treaties and contracts prepared by the Commission (*TEC*, Articles 300–311) meaning that formally it oversees the Commission's foreign affairs operation. The Member States directly harmonize their economic policies within the Council. The Council takes decisions using three voting methods, namely a qualified majority vote

(QMV) which amounts to 71% of all votes, a simple majority, or a unanimous vote. When acting by a qualified majority, the votes of the Member States are weighted differently (*TEC*, Article 205). The history of European integration shows that matters involving the strongest national interests were invariably resolved by unanimous vote. As a matter of fact, a unanimous vote means that every member has a right of veto so that any Member State can prevent the adoption of any resolution.

The European Parliament evolved into a legislative institution from a consultative body of the European Community (European Commission 1999, 2). Its legislative power, co-shared with the Council, pertains to approximately 35 areas. Even though this number has been increasing, in many areas the Parliament still has a consultative function. The Parliament itself is authorized to approve non-compulsory budgetary expenditures prepared by the EU Commission. The members of the Parliament (MEPs) are elected by direct universal suffrage at the so-called European elections in individual Member States (*TEC*, Article 190). At the moment, the Parliament has 626 seats unevenly distributed among the Member States. MEPs usually do not form associations on a national basis but rather on their political affiliations. In addition to the plenary sessions held in Strasbourg, the Parliament comprises 20 parliamentary committees that are based in Brussels. The decisions at the plenary sessions are taken by a simple majority (such an example would be the adoption of the Rules of Procedure; *TEC*, Article 199), or by one of the forms of qualified majority voting (e.g. a two-thirds majority vote in the case of the budget; *TEC*, article 272).

The three institutions delineated above therefore have key roles in taking and implementing EU decisions. The predominant role of the Council is obvious. Consequently it is possible to assert that

the main weight of decision in the EU lies with the governments of individual Member States, even though the recent transfer of responsibilities from the Member States to the EU assigns to the Union an increasingly important role independent from the national interests of the fifteen Members States.

### 3 INSTITUTIONAL REFORM AND INTERGOVERNMENTAL CONFERENCE

Most of the changes in the EU institutions, which were the subject of reform in 2000, call for amendments of pertinent parts of the Treaties. In accordance with Article 48 of the *Treaty on European Union* (hereafter *TEU*), any change in the content of the treaties must be preceded by a conference of representatives of the governments of the Member States. The agreements reached at these conferences must be ratified by authorized bodies in the Member States. The convening of an intergovernmental conference on institutional reforms was laid down by the *Protocol on the Institutions*<sup>1</sup> annexed to the *Amsterdam Treaty* in 1997. The *Protocol* envisages a two-stage institutional reform. The main factor that should stimulate the reforms is the enlargement of the Union. In accordance with this, the *Protocol* specifies that:

*At the date of entry into force of the first enlargement of the Union [...] the Commission shall comprise one national of each of the Member States, provided that, by that date, the weighting of the votes in the Council has been modified (Article 1).*

*At least one year before the membership of the European Union exceeds twenty, a conference of representatives of the governments of the Member States shall be convened in order to carry out a comprehensive review of the provisions of the Treaties on the composition and functioning of the institutions (Article 2).*

The final documents of the Cologne European Council and Helsinki European Council – both preceding the Intergovernmental Conference – reaffirmed the interdependence of enlargement and institutional reform. Accession negotiations with the Luxembourg group, which comprises Cyprus, Czech Republic, Estonia, Hungary, Poland and Slovenia, brought the provisions of the *Amsterdam Protocol* and obligation to convene the Intergovernmental Conference to prominence. The first wave of accessions, if carried out within a short span of time, will increase the Union’s membership from its current 15 to 21 members, thus exceeding the limit of 20.

### 3.1 THE AREAS AFFECTED BY INSTITUTIONAL REFORM

Institutional reform is not restricted to the areas laid down in Article 1 of the *Amsterdam Protocol*. The Cologne Council, the Helsinki Council, the meeting of representatives of governments of March 2000 and Feira Council<sup>2</sup> all approved the inclusion of some additional issues of institutional reform. To the three original issues, the so called “Amsterdam leftovers” – a change in the number of Commissioners, the weighting of votes in the EU Council, and expansion of the areas on which the EU Council takes decisions by QMV – were added issues pertaining to other areas (CONFER 4790/00):

- The composition of the European Parliament (particularly the balance of representation of the Member States given the ceiling of 700 members set by the *Amsterdam Treaty*).
- The issue of closer cooperation (particularly in terms of simplifying the conditions for the initial consent on the closer cooperation) which would enable interested Member States to estab-

lish cooperation in certain areas without participation of other Member States.

- The composition of other institutions, namely the Economic and Social Committee, the Committee of the Regions, and the Court of Auditors (particularly with regard to the number of representatives of Member States in these bodies and, in the case of the Court of Auditors, the duration of mandates).
- The composition of the Court of First Instance and the European Court of Justice and the conditions of reviewing the Statute and the Rules of Procedure of the Court of Justice (the distribution of work between the two institutions, the duration of the mandate of their members, their composition and manner of plenary sitting, the setting up of specialized chambers for the settlement of staff-related disputes, and facilitation of the revision of the Statute and Rules of Procedure of the Court of Justice – to be approved by the Council, the former by unanimous vote, and the latter by a qualified majority vote).
- The simplification of the legislative procedure in the European Parliament (a more precise definition of the term “legislative act” – in terms of the systematization of the current arrangement and division into administrative and executive acts) and the expansion of the areas on which the European Parliament and the Council co-decide.
- Revision of Article 7 of the *TEU* stipulating the suspension of the rights of a Member State in the event of a breach of the fundamental principles on which the EU is based (freedom, democracy, respect for human rights, the rule of law and order). Decisions on suspension by QMV and two-thirds of the votes in the Council instead of by a unanimous vote.

Despite the fact that reforms are debated at intergovernmental conferences, it is obvious that the majority of issues could be resolved without amending the treaty.<sup>3</sup> “No one is going to risk questioning a system which [...] has now been working for more than 40 years ... [The reforms implies] changes in the system ... but not the establishment of a completely new system.” (Stubb and Gray 2000, 1).

The fact that various areas of institutional reforms are assigned a different significance at intergovernmental conferences does not diminish the importance of any one among them. It is true that the amount of effort invested by principal decision-makers – Member States or rather their representatives – in the resolution of particular issues varies. The areas that sparked most debate were, in addition to the so-called “Amsterdam leftovers,” closer cooperation and the distribution of seats in the European Parliament (see for example Benschop 2000, 21; Dorr 2000, 34–37; Stubb and Gray 2000, 1, 3; Best, Gray and Stubb 2000, 8–10). At the Intergovernmental Conference 2000 these issues found a place in the majority of official documents of the Portuguese and French Presidencies.<sup>4</sup> Other issues that were the subject of intergovernmental negotiations were treated as being of a predominantly technical nature, meaning that the Member States delegated their resolution to the specialized groups of experts in individual areas.<sup>5</sup> Among them are the composition of the Economic and Social Committee, the Committee of the Regions and the Court of Auditors (Stubb and Gray 2000, 2), and changes in the operation of the Court of First Instance and the Court of Justice which were the topics considered by the group known as the “Friends of the Presidency” (CONFER 4747/00).

### 3.2 THE CENTRAL AREAS OF DEBATE ON INSTITUTIONAL REFORMS

The size of the Commission, the weighting of votes in the Council, the extension of QMV, the composition of the European Parliament and closer cooperation therefore make the group of concerns to which the Member States devoted most attention. The main participants in the negotiations obviously drew a clear demarcation line between the issues which they assessed as having the highest priority and those positioned lower on their priority list.<sup>6</sup>

The participants in intergovernmental negotiations divided reforms into two thematic sets – one focusing on the question of *power*, that is, *representation* and *appointment*, and the other on the *efficiency* of the central EU institutions.<sup>7</sup> The first set, which comprises the future representation within the Commission, the weight of individual votes in the Council and the distribution of seats in the European Parliament, primarily affects the future formal status of Member States within the given system of the decision-making process. The second set, which includes the issues of closer cooperation and extension of QMV, applies to the operating methods, or rather the decision-making processes within the Council as the most important (intergovernmental) institution of the EU.

The issue of representation, or to be more precise the appointment of Commissioners, undoubtedly affects the status of individual Member States in the central institutions of the Union more directly than issues pertaining to the efficiency of these institutions. The attitudes of the Member States at the intergovernmental conference regarding representation and appointment give sufficient grounds for the following conclusions about at least two dimensions of this process:

- The composition and the weighting of votes in the central EU institutions are politically delicate issues as they directly determine the potential influence of the Member States in the decision-making process. On the other hand, the politicians have to justify solutions which directly affect their countries within the internal political system of their respective countries (Stubb and Gray 2000, 1).<sup>8</sup>

- Due to the sensitivity of these issues, the composition and the voting structure in the central institutions were the core around which the debates, negotiations, and bargaining over institutional reform revolved (Petite 2000, 64–65). These negotiations at the same time clearly indicated how Member States envisaged future relations in the (main) EU institutions and European Union as a whole.

In spite of the hierarchy of the main areas of negotiations, we find it necessary to draw attention to their interconnectedness. Firstly, the resolution of each central issue of institutional reform delimited negotiations pertaining to other issues (At two in the morning 2000, 24). Secondly, the weighting of votes by itself (determining the worth of individual states in the voting system) determines more precisely potential consequences of improved efficiency of the voting process for the Member States (Westlake 2000, 18). Thirdly, the number of members in a future Commission (the issue of appointment) is indirectly connected with the efficiency of the decision-making process in this institution (Cendón 2000, 82).

The interconnectedness of these areas by no means reduces the significance of the fact that some states attached the highest priority to the issues of representation and weighting of votes in the Council, and to the appointment of the Commissioners. Some (Petite 2000, 63) even described the Intergovernmental Confer-

ence 2000 and institutional reforms as the processes primarily determining a future right of Member States to nominate Commissioners, and their future representation within these two institutions. In addition, the compositions of the Commission and the Council influenced the issue of representation within the European Parliament.



## 4 THE NOMINATION AND REPRESENTATION WITHIN THE CENTRAL EU INSTITUTIONS PRIOR TO REFORM

The representational structure, which remains in force until the ratification of the agreements reached in Nice, has not changed much in the course of the 40-year history of these institutions. Even though some of the present fifteen Member States are not pleased with some of its aspects, particularly in light of the future enlargement, it remains legitimate for all Member States (Petite 2000, 61).

### 4.1 THE EUROPEAN COMMISSION

The representation within the Commission, whose main task is to make proposals for new legislation and policies of the EU,<sup>1</sup> is linked to the distribution of rights to nominate Commissioners more than to the composition of Directorates-General or Commissioner's cabinets.<sup>2</sup>

The early treaties leading to the establishment of the EU did not define precisely the methods of nominating members of the Commission. The Commissions of the European Coal and Steel Community (ECSC), the European Community (EC) and the European Atomic Energy Community (Euratom) thus were different in size.<sup>3</sup> The unification of organizational structure was only achieved with the *Merger Treaty* in 1965. This was the starting point for the currently valid system of the distribution of seats (Nugent 1994, 49). The *Merger Treaty* stipulated that the uniform Commission had to be composed of at least one but no more than

two nationals of the Member States (Cendón 2000, 80). The provision of this treaty giving each country the right to nominate Commissioners has become one element of the institutional structure that has acquired great symbolic significance (Spence 2000, 40–45). Consequently it became one of the biggest stumbling blocks in the process of reforms despite the fact that in accordance with Article 213 /2 of *TEC* the Commissioners should not act in the interest of their respective countries. The appointment of Commissioners obviously has become a significant political issue.

The right to nominate Commissioners was thus granted to every Member State, similar to the provision still in place under Article 213/1 of *TEC*. However, under the original arrangements there was no upper limit set on the number of Commissioners. Table 1 clearly illustrates the evolution of the right of appointment.

The rule that countries with a larger population had a right to appoint a second Commissioner (European Commission 2000a, 11) gained recognition over the course of time even though it was not directly laid down by any Treaty. The number of Commissioners (and areas of their work)<sup>4</sup> increased with the enlargement of the Union. Along with it the number of vice-presidents of the Commission, which until 1992 expanded each time a more populous country joined the Union, increased. The *Maastricht Treaty* (*TEC*, Article 157) eventually limited the number of vice-presidents to two. Similarly, under the same article the total number of Commissioners became limited to 17, and under Article 213 of the *Amsterdam Treaty* to 20. Both treaties simply recapitulated the state of affairs at the time. The upper limit on the number of Commissioners does not imply that every change in this number exceeding 20 requires a revision of the Treaty according to Article 48 of the *TEU*. Flexibility is ensured by the provision that the number of Commissioners may be altered by the Council acting unan-

TABLE 1  
THE NUMBER OF THE COMMISSIONERS AND VICE-PRESIDENTS IN EUROPEAN COMMISSIONS IN THE PAST

Year	1958	1967	1973	1981	1986	1993	1995
No. of member states	6	6	9	10	12	12	15
No. of Commissioners	9*	9**	13	14	17	17	20
	1 Commissioner: B, L, NL	1: B, L, NL	1: B, L, NL, DK, IRL	1: B, L, NL, DK, IRL, GR	1: B, L, NL, DK, IRL, GR, P	1: B, L, NL, DK, IRL, GR, P	1: B, L, NL, DK, IRL, GR, P, A, FIN, S
	2 Commissioners: D, F, I	2: D, F, I	2: D, F, I, GB	2: D, F, I, GB	2: D, F, I, GB, E	2: D, F, I, GB, E	2: D, F, I, GB, E
No. of vice-presidents	2	2	5	5	6	2	2

Source: Cendón 2000, 81.

\* At this time the Commission of the ESCS had only 5 members.

\*\* During the transition period following the *Merger Treaty* and comprising the period from 1967 to 1970, the number of commissioners was exceptionally increased to 14.

A - Austria, B - Belgium, D - Germany, DK - Denmark, E - Spain, F - France, FIN - Finland, GB - Great Britain, GR - Greece, I - Italy, IRL - Ireland, L - Luxembourg, NL - Netherlands, P - Portugal, S - Sweden.

imously (*TEC*, Article 213/1). The significance attributed to the number of Commissioners is actually related to the decision-making process within the College of Commissioners. Even though the

*TEC* stipulates that the Commission takes decisions by absolute majority, practical experience shows that this institution took decisions by consensus whenever it was possible (Donnelly and Ritchie 1994, 36). A bigger number of Commissioners would make this practice not only more complicated but would also slow down the process. The issue of a systematic restriction on the number of Commissioners was put forward in an annex to the *Maastricht Treaty* (Cendón 2000, 77) but the process of reform was not set in motion by the date provided in this annex, that is, the end of 1992.<sup>5</sup> The problem remained unresolved during the Intergovernmental Conference 1996–1997 preceding the summit in Amsterdam, and because of that the basic concerns of the fifteen Member States remained unsettled (Spense 2000, 40). The situation would become even more disquieting if the way in which Commissioners are nominated remains unchanged after the first wave of accessions (European Commission 2000, 11) or when the number of Member States rises to 27 (EU 27). In the first case the size of the Commission would increase from the current 20 to 27 members, and to 34 in the second case. The concerns regarding potentially too high a number of Commissioners in the future are thus understandable.

By the same token, also understandable is the first provision of the *Amsterdam Protocol* proposing that more populous Member States should relinquish their right to appoint a second Commissioner in return for suitable compensations in other areas, particularly more influence within the Council.<sup>6</sup> The distribution of seats in the extended Commission is hence dependent on the significance that will be attached to the demographic factor. In view of the supra-national character of the European Commission, which should be independent from national interests, some attempts towards a higher efficiency of the Commission envisaged the reduction in the number of Commissioners even below

the limit of one representative per Member State (CONFER 4744/00; 4757/00; 4762/00).

## **4.2 THE COUNCIL OF MINISTERS**

The representation within the Council as a central legislative body of the EU is linked to the decision making by QMV. Even though Article 205/1 of *TEC* stipulates that “Save as otherwise provided in this Treaty, the Council shall act by a majority of its members,” whereby each member has one vote, the evolution of this institution contributed to the establishment of two other methods of decision taking, namely qualified majority and unanimous vote (Šabič 1999, 283; Golub 1999, 733). After 1986, the number of areas in which the Council takes decisions by QMV (which enables outvoting) extended along with the efforts to reinforce the supranational character of the EU (Factsheets 2000a).<sup>7</sup> Qualified majority voting today represents the prevalent form in this institution, but before the reforms got underway decisions on as many as 50 legislative and policy issues were not taken by QMV.<sup>8</sup> QMV actually rests on the weight assigned to each Member State. According to the official data of the EU information services, the weighting of votes is shaped on the basis of the “size of [a country’s] population, with an adjustment which leads to relative over-representation of the countries with a small population” (Glossary 2000).

The present form of representation and voting in the Council originated in the system first used by the European Economic Community in 1957. According to the agreement at that time, Member States had different numbers of votes but inequality was less than if only the size of the country’s population was taken as the starting point. Under the Treaty of Rome the largest states, namely Germany, France and Italy, had four votes each, Belgium

and the Netherlands had two votes, and Luxembourg one. The threshold required to take a decision was set at 70.6% of the total weight, which made up somewhat less than 68% of the total population of the community. This system enabled a setup in which a consensus of three large states had greater weight than the consensus of small states, while two large states could outvote other members only if joined by two medium-size countries, namely Belgium and the Netherlands. To block a decision, at least one large country in a group composed of any three members or any two large countries had to vote against (Midgaard 1999, 4).

Further changes in the representation within the Council were implemented more or less by “extrapolating from the original arrangement between the six founding states” (Šabič 1999, 302).<sup>9</sup> Until 1986 the concerns of the governments regarding the differences in the representation and formal power when deciding by QMV were not so deep thanks to the so-called Luxembourg Compromise dating from 1966.<sup>10</sup> The Member States, which had taken decisions predominantly unanimously (“veto culture”), undertook the reform of the weighting of votes in a piecemeal fashion and only following each successive enlargement of the Union (Preston 1995, 451). With each enlargement of the Union the share of votes and indirectly of their weight decreased persistently. “The process affected larger states in particular” (Šabič 1999, 304) because they were losing their representational and voting weight at a relatively greater rate than smaller states. The political will needed to revise the weighting of votes was a bone of contention between the Member States even after 1986.<sup>11</sup>

As a result, the relations between the individual groups of states were changed radically compared to the original situation. With the last enlargement, when Austria, Finland and Sweden joined the Union, the formal voting power of the group of small states

further increased.<sup>12</sup> At the moment, the four large states in the group of fifteen must be joined by at least Spain and three other medium-size states if they wish to achieve the threshold for qualified majority. If just two of the largest states want to reach the threshold, they must form a coalition with Spain and all four of the countries having five votes, both of the countries having four votes, and two out of three countries with three votes. The so-called Ionannina Compromise<sup>13</sup> gives rise to some exceptional situations in which at least Luxembourg's votes must be added to the first combination described above. A decision may be blocked by two of the countries with five votes, if joined by two members with four votes and two with three votes. However, a decision cannot be blocked by two of the largest states alone as they must be backed up by at least another country with three votes. The effects of the past changes in the weighting of votes are clearly illustrated by table 2 showing correlations between the percentage of population and thresholds for qualified majority set after each enlargement of the Union.

While the QMV quota in the Council remained more or less unchanged (between 70% and 73%), it is obvious that the percentage of population, represented by members with a sufficient number of votes, continually decreased. At the moment, qualified majority can be obtained by the states whose population makes up just a little over 58% of the total population of the EU. More importantly, a decision may be blocked by states whose total population accounts for only 12% of the total population of the Union (in 1957 this share was 44%). Since the enlargement brought into the Union more states with a relatively small population, whose number of votes was out of proportion to the size of their population, it is obvious that the relative significance of the largest states reduces at a greater rate than that of the other states.<sup>14</sup>

TABLE 2

## THE EVOLUTION OF QMV

a	b	c	d	e	f	g	h
1958	6	17	12 (70.59%)	3	67.70%	2	43.83%
1973	9	58	42 (72.41%)	5	70.62%	2	12.31%
1981	10	63	45 (71.43%)	5	70.13%	2	13.85%
1986	12	76	54 (71.05%)	7	63.29%	3	12.12%
1995	15	87	62 (71.26%)	8	58.16%	3	12.05%

Source: European Commission 2000a, 29.

a - Year; b - Number of Member States in the EEC/EU; c - Total number of votes; d - QMV: votes (share of votes); e - The minimum number of countries needed to achieve a qualified majority; f - The minimum share of the EU's population representing a qualified majority; g - The minimum number of states needed to block a decision (blocking minority); h - The minimum share of the population represented by a blocking minority.

Another conspicuous discrepancy is the difference in the size of population of the states having the same number of votes. Despite unification, Germany still has the same number of votes as France, Italy and Great Britain, even though its population now exceeds that of the largest other state with the same number of votes (10) by approximately 40%. The weighting of Germany's votes brought up the issue of inequalities in the size of population within other groups with the same number of votes (Best 2000, 111). The biggest discrepancy within such a group is that between Belgium and the Netherlands, with the Netherlands' population being larger by as much as a half of Belgium's. The weighting of Spain's votes could be added to the same set of issues.<sup>15</sup>

Applicant countries whose accession provides one of the main impetuses for institutional reform should have the size of their population taken into account too. The Luxembourg group mostly comprises less populated countries. Their accession, if the pres-

ent model of allocation remains in place, would additionally reduce the weight of votes of the largest countries in the Council. Potential further enlargement that would add six more countries belonging to the so-called Helsinki group (Romania, Slovakia, Lithuania, Latvia, Bulgaria and Malta) would only reinforce this trend. Should the present model be retained in a Union of 27 members, a qualified majority could be achieved by states representing just little over a 50% of the total population of the Union (Factsheets 2000b). The largest four Member States would have to make a coalition with at least ten other countries. Similarly, three of the largest Member States could not prevent taking of a decision on their own. In a Union of 27 states, a decision could be blocked by just the new members.

These facts thus explain why most expectations concerning the reform of the Council were linked to the changes in the voting balance based on the demographic factor (Best 2000, 109–112). This is also the context within which we should look for the explanation of the objections concerning the distribution of votes between Member States, the definition of conditions under which a decision may be taken or rejected, and the division of Member States into groups with the same number of votes (CONFER 4801, 2–5).

### **4.3 THE EUROPEAN PARLIAMENT**

The fact that representation within the European Parliament was overshadowed by other debates should be attributed to its still evolving significance within the EU structure, even though some of its powers were reinforced in the past (Jacobs 2000, 70). In contrast to national parliaments, the European Parliament is not a central legislative body. Within the EU system this role belongs to the Council in the first place, with the European Parliament co-deciding only in certain areas.<sup>16</sup>

Among the three institutions analyzed here, the European Parliament is the only one for which the basic principle of the distribution of seats has been specified in the *TEC*. The seats are distributed on the basis of the demographic factor (CONFER 4743/00, 7), this being rather loosely stipulated by Article 190/2 of the *TEC*. However, the distribution key does not correspond precisely to the population of the Member States – less populated states are relatively better represented than large ones, the same as in other EU institutions. The number of seats allocated to individual states ranges from 6 (Luxembourg) to 99 (Germany). The method of allocating seats is based on a regressive proportionality principle. To the minimum quota of 6 seats allocated to each country is added one additional seat for each band of 500,000 citizens between 1 and 25 million. Further seats are allocated to the countries with a population exceeding 25 million, namely one seat for each band of million citizens between 25 and 60 million, and another one for each band of 2 million citizens over a population of 60 million (Factsheets 2000c). This distribution method was agreed at the Edinburgh European Council in 1992, which approved changes proposed by the European Parliament that were prompted by the unification of Germany and the enlargement of the Union in 1995 (*ibid.*). Today the European Parliament has 626 members.

Unsuitability of the present method of seat allocations would become obvious particularly if it remained unchanged in the future (Jacobs 2000, 71; Corbett, Jacobs and Schackleton 1995, 26; 2000, 22). The number of members of the European Parliament would radically increase, and with it the complexity of its operation. This explains the provision laid down by the *Treaty of Amsterdam* which sets the upper limit of members at 700 (*TEC*,

Article 189). Unless the present method is changed, this ceiling will be exceeded with the inclusion of Poland and Hungary alone (Corbett, Jacobs and Schackleton 2000, 22). It is therefore understandable that the envisaged enlargement of the Union has led to the proposals to reduce national quotas even before the accession of the candidate countries (CONFER 4743, 1).<sup>17</sup>

#### **4.4 THE MAIN CHARACTERISTICS OF THE OBJECTIONS TO THE CURRENT ARRANGEMENTS**

The analysis shows that so far the composition and allocation of votes within the three main institutions of the EU has been linked to demographic factors with the stress placed on equal treatment of the Member States.<sup>18</sup> In line with this, the official positions of the Member States on the structure and operation of these institutions were linked to the same factor. The recapitulation of the objections put forward by the Member States before the Intergovernmental Conference gives the following picture of the state of affairs:<sup>19</sup>

- The voting structure within the Council and nomination of Commissioners are in the forefront of all official positions.<sup>20</sup>
- In their objections the Member States mentioned the need to restrict the expansion of the Commission in the future, that is, keep the number of Commissioners below the level that would result from the present rule applied to a Union of 27 members.
- The objections relating to the Council composition mainly mentioned an insufficient weight of votes for larger countries in an enlarged Union. The points at issue were primarily the determination of an adequate balance of votes and formal conditions needed to take or block a decision, and division of the Member States into groups on the basis of the number of votes, given

that the populations of individual members within such groups are only approximately equal.

- If official stances included clearly expressed objections to the structure of the European Parliament, they were similar to those concerning the Council and the Commission.
- The issues pertaining to the composition and voting structure in these institutions were linked to the future importance of the demographic criterion and principle of equal treatment of Member States as regards representation and voting structure.
- All Member States agreed on the necessity of institutional reform.
- The Member States tied the reform of the Commission and votes in the Council to the *quid pro quo* principle.<sup>21</sup>
- The restructuring of the Council and the Commission was linked to the question of the structure of representation within the European Parliament (CONFER 4750/00).
- Despite these similarities, the Member States could not agree on any specific solution, so their proposals differed.

## S THE PROPOSALS FOR REFORMS OF THE COUNCIL, COMMISSION AND EUROPEAN PARLIAMENT

To get a more complete picture of the content of the efforts invested in institutional reform, we should examine specific proposals. They provide answers to the questions posed at the beginning of this essay, and enable us to assess all aspects of the results from Nice.

### S.1 THE POPULATION DIMENSION

As mentioned earlier, so far the allocation of seats and votes in the EU institutions has been based on the population criterion and equality of sovereign partners. These factors form the framework of the following analysis of the Intergovernmental Conference 2000. Since the reform is expected to affect the balance of power of Member States in these institutions, we will also be interested in the effect this could have on the balance of the two criteria. The principle of equal treatment implies that all Member States have the same rights and duties. The differences, however, come to light when the population factor is taken into account, so it should be taken into account when systematizing the Member States and applicant countries.

The present fifteen Member States differ considerably with regard to the size of their populations, as do potential new members of an EU of 21 or 27 states. Germany is the largest state with the population of 82 million accounting for nearly as much as 22% of the current 375-million population of the EU. At the other end is

Luxembourg, the smallest Member State with 430,000 citizens which accounts for just a fraction over one tenth of a per cent of the population (EIU 1999a-o).<sup>1</sup> The practice of dividing Member States into groups of large and small countries has gained recognition over the course of time (see e.g. Šabič 1999, 353; Midgaard 1999, 17; Spence 2000, 34; Westlake 2000, 18; Wallace 2000, 210; Christophersen 1996, 39). Yet such a division greatly simplifies the demographic picture of the Union. The Member States with the largest number of votes, that is, France, Italy, Germany and Great Britain are considered large countries. Due to the distribution of the Commissioners, some authors tend to add Spain to this group (e.g. Sidjanski 1999, 60–61). Despite demographic differences between other Member States, various authors usually classify other countries as small on the grounds of a massive difference in population between them and the large states.<sup>2</sup> Even though the differences within the group of large countries are considerable<sup>3</sup> in this analysis we will adhere to the division according to which the five largest countries form one group and all other countries another. We also use the demographic criterion to classify applicant countries. Among these, only Poland exceeds the average size of 25 million inhabitants, so it is considered a large country, while all other applicant countries belong to the group of small ones. However, when considering institutional reform the applicant countries cannot be equated with Member States. They cannot directly influence the proposed changes in the composition and voting structure within the EU institutions. Since these changes are planned to be implemented before their accession (CONFER 4797/00, 2), applicant states will only be able to accept or reject the solutions agreed upon by the Member States at the time of the ratification of the accession agreement (*TEU*, Article 49). The negotiating power of the candidate countries is hence insignificant in comparison with that of the present Member States.

## S.2 PROPOSALS FOR CHANGES - DEFINING ACCEPTABLE FUTURE RELATIONS

### S.2.1 THE EUROPEAN COMMISSION

As stressed before, the composition of the Commission, which Member States see as being pivotal to the reform (Factsheets 2000d), is directly linked to the right to nominate Commissioners. The results of the changes in this area will have significant impact on the institutional relations between small and large countries, particularly because the Member States tie the balance of power within the Commission to that within the Council and indirectly to that within the European Parliament. The question of whether existing differentiation between Member States should be carried on into an expanded Union ceased to be controversial even before the conclusion of the Intergovernmental Conference. The large states clearly stated before the conference that they were ready to give up their right to appoint a second Commissioner in return for adequate modifications in the Council (Spence 2000, 41). During the Intergovernmental Conference the scenarios proposing possible solutions mostly revolved around the dilemma of whether each Member State should retain its right to nominate one Commissioner in each consecutive College or not. The reports of the Portuguese and then French Presidency point to the dilemmas surrounding the question of how much and in whose favour should a future Commission depart from the current arrangements (CONFER 4750, 48). Diverse positions led to the formulation of three scenarios regarding the number of Commissioners in an EU of 21 and 27 members. Certain proposals remain the subject of debate even after Nice.

The first scenario: A College made up of one national from each Member State.<sup>4</sup> The formulation of this official proposal confirms that considerations of how to preserve equality of Member States are not necessarily dependent on the equality of their representatives in the organizational structure of the College. The scenario actually includes two options. According to the first one, the structure of the College would not be changed. This means that apart from the current restriction on the number of vice-presidents (*TEC*, Article 213), the Treaty would not expressly stipulate internal relations within the Commission. To put it differently, under this agreement all Commissioners appointed by Member States (save for the President and two Vice-Presidents, who already have some additional formal and informal powers in comparison with other members) would have equal formal status. All Member States, whether large or small, new or long-time members, would have equal rights to appoint Commissioners. The second option, however, envisages differences between Commissioners. Even though the Presidency avoided the use of the term “hierarchy” in the official documents (CONFER 4744/00) it was obvious that the second option proposes precisely the institutionalization of the hierarchy of Commissioners. This could lead to a differentiation based on size (large/small), prosperity (more/less prosperous), or perhaps time factor (old/new members). This option includes two variants. According to the first one, a certain number of Commissioners (more than two) would be appointed Vice-Presidents with formal powers to coordinate and supervise the functioning of the Commission as a whole (in contrast to the current provisions under Article 217 of *TEC*). The second variant envisaged Commissioners without portfolio for which the distribution of tasks would be left to the President. This model of hierarchy in the internal structure of the College could

as well be interpreted as introducing distinction between senior and junior (subordinate) Commissioners (Spence 2000, 40). Yet this proposal does not mention whether all Commissioners would retain their right to vote within the College (Cendón 2000, 89).

The second option in particular would essentially affect the essence of the right to appoint Commissioners now granted to each country. Furthermore, the second variant of this option does not live up to the argument according to which the hierarchy in the College would facilitate the work of certain Member States (e.g. small or new members) by reducing their load of organizational responsibilities within the Commission (Spence 2000, 41). Therefore it seems appropriate to ask whether such a hierarchy is not aimed at recognizing officially the existing formal inequality among Commissioners and through it the difference in the essence of rights presently granted to all Member States. The responsibilities and organizational needs envisaged by the second variant are comparable to the ones existing under present arrangement. The workload of organizational tasks conferred upon Commissioners – those not charged with coordination – would be the same as at present, but they would not have the same formal status as coordinators. The second question brought up by potential differentiations between rights and duties of Commissioners is according to which criterion these varying powers will be assigned. The proposals do not mention this directly.

The second scenario: A College made up of a fixed number of Commissioners whatever the number of Member States. The number of Commissioners would be laid down by the Treaty (without prejudice to the provision that the Council can alter this number acting unanimously). To a certain extent this arrangement would be similar to the existing one (the upper limit of Commissioners set at 20, *TEC*, Article 213), the difference being in that a fixed limit

proposed by this scenario would apply irrespective of the number of Member States. This means that the right to nominate Commissioners would be somewhat modified. It is true that the scenario mentions the need to “ensure equal treatment between Member States” (CONFER 4744/00, 3), but it could not possibly be secured for all Member States over the same period of time because of the principle of rotation. This would be sensible if the difference between the number of Member States and the upper limit of Commissioners were big enough (CONFER 4797/00, 3). Two alternative options were proposed on how to implement this principle. According to the first, the Treaty would include a provision specifying which Member States could nominate Commissioners simultaneously. The second was based on two principles of rotation, according to which each Member State could nominate a Commissioner over a period of two successive terms of office of the Commission but the difference between the total number of mandates held by a national of any given pair of Member States may not be more than one.

The second option would secure for all Member States equal rights to nominate Commissioners over a longer period of time, regardless of the size of a state or the length of its membership. Yet this proposal still does not provide direct answers to certain dilemmas. Firstly, what would be an appropriate number of Commissioners to be fixed in advance in the Treaty, and how large should the difference be between the pre-set number of Commissioners and number of Member States to be justifiably considered “large enough”? Secondly, how should situations be resolved where the difference mentioned is smaller? Thirdly, what criteria would be used by Member States to select pairs that would nominate Commissioners simultaneously and to determine the order of nomination? Fourthly, would some Member States be

entitled to nominate their Commissioners to each College? Another dilemma arising in connection with this is how a functional need for a change in the number of Commissioners in the College would affect the principle of rotation in the long run. It would be particularly interesting to consider the last mentioned dilemma in connection with the question of how to achieve unanimity of the Council which approves the alteration in the number of Commissioners.

Third scenario: A College composed of a pre-set maximum number of Commissioners which would ensure one national per one Member States at the time of the next enlargement; the settlement of this issue in the event of further enlargement would be postponed. According to this scenario, the composition of the Commission would be decided on at the time it becomes relevant. To be more precise, the initial maximum number would provide for equal treatment of all Member States after the first foreseen enlargement, but the final settlement of the issue would be postponed until the time of the next enlargement. With the maximum number pre-set like this, future expansions would either leave Member States without equal rights to nominate Commissioners (over the same period of time), or the provision prescribing the number of Commissioners could be changed in a way that it would be increased and equated with the number of Member States. The decision would be taken at the time of each successive expansion.

As long as the principle of equal treatment would be upheld, this proposal would be the same as the first scenario. When, or rather if, this principle ceased to be sustainable, the size of the Commission would be arranged in accordance with the second scenario. Given the fact that in this way the equal treatment principle would be maintained at least during the first stage and the number of Commissioners would not be reduced, the question

arises of whether those countries who stressed the need to reduce the number of Commissioners even in the Union of fifteen members would find this solution acceptable. Similarly, it is not clear whether this solution introduces differences in the powers conferred upon Commissioners. If it does, this proposal would be automatically equated with the second variant of the first scenario. Another ambiguity of this proposal is whether it would be possible to strike a suitable balance between surrender of the right to nominate a second Commissioner and changes in the voting structure within the Council, which is precisely the condition set by the large states if they are to relinquish the said right.

H O W   D O   T H E S E   S C E N A R I O S  
A F F E C T   T H E   B A L A N C E   O F   P O W E R  
B E T W E E N   M E M B E R   S T A T E S ?

In spite of the described ambiguities, all proposals, if introduced before the first planned expansion of the EU, would at least partially resolve the most pressing objections to the existing arrangement of the College. Besides, the number of Commissioners would not increase as much as if the existing system of nomination remained in place. According to all the proposals mentioned all members would formally retain the right to nominate Commissioners. The essence of this right, however, would vary depending on the scenario. In other words, it would oscillate between two options – one ensuring formally equal roles to all Commissioners, as is the case now, either simultaneously or over a certain period of time, and the other allowing (some) states to nominate Commissioners with a smaller scope of powers and duties (responsibilities).

It is by no means insignificant which states would have their right somewhat reduced. Even though none of the proposals or official positions mentioned directly any categorization of states

in this respect, some participants in intergovernmental negotiations explicitly stressed that such a reduced right to appoint Commissioners (resulting from a more hierarchical structure for the Commission and/or the principle of different frequencies of appointing Commissioners) would affect primarily the smaller states (Stubb and Gray 2000, 2). This came to light as early as 1996, when during the negotiations the issue of enlargement was first linked to institutional reform. Germany, for example, was not willing to accept a principle of rotation that would apply equally to large and small states. Moreover, Germany and Italy argued that, in a system not based on rotation, small countries should relinquish their right to nominate Commissioners. Great Britain clearly advocated hierarchy depending on the size of the Commissioners' respective countries (Spence 2000, 42-44). Even in 2000 some positions by these countries favoured a non-egalitarian principle of nomination.<sup>5</sup> Larger Member States justified their insistence on a permanent right to appoint at least one Commissioner with full powers by their readiness to relinquish the current right of appointing two Commissioners.<sup>6</sup>

It is understandable that the small states were in favour of different solutions. Similar to large states, in their official positions they did not expressly support any particular proposal. But they did clearly stress which principles of a future arrangement of the Commission were in harmony with their interests. Accordingly, all small states endeavoured to preserve the right of every state to nominate Commissioners. Those countries who formally handed in their official positions regarding the reform of the Commission (Austria, Benelux countries, Denmark, Finland and Greece) clearly stressed the need for equal status of all Commissioners. By and large it can be said that the smaller states, in contrast to the large ones, were against a formal hierarchy of Commissioners, that is, against the second variant of the first scenario. The large states did not stress this explicitly. Some

among them (e.g. Italy) indeed mentioned the need to maintain one representative per Member State, but they did not take a standpoint regarding the essence of this right (CONFER 4746/00). Even though some smaller countries stated that “it is not the size of the Commission that determines its capacity to act” (CONFER 4712/00, 5), the principles they favoured show that even if they supported the restrictions on the number of Commissioners (e.g. Austria) they advocated equal rules to be applied to all Member States. For the smaller states acceptable options were the first variant of the first scenario (equal status of Commissioners nominated by all states), and the second scenario (setting up the upper limit on the number of Commissioners) yet only under the condition that the principles of rotation are unambiguously defined and non-discriminatory. The smaller states thus supported the principle of equal treatment more fervently than the large ones. Some of them regarded that it was necessary for the small states to have an equal right to appoint a Commissioner simultaneously with all other states, and that all Commissioners have equal status within the College, because the institutional reform would deprive small countries of a part of their formal voting weight in other institutions, particularly the Council. Accordingly, these countries have especial “interest in seeing the Commission remain a strong and independent institution” (ibid., 5).

T H E   S I G N I F I C A N C E   O F   T H E   R I G H T  
O F   N O M I N A T I O N   W I T H   R E G A R D  
T O   T H E   B A L A N C E   B E T W E E N  
L A R G E / S M A L L   S T A T E S

Here we encounter a paradox which indicates how politically significant the right to nominate Commissioners is. Even though according to *TEC* the Commission should operate independently from national interests, direct contacts via Commissioners nom-

inated by Member States are of great significance for both the Member States and the Commission itself. To be more precise, what is important are informal connections between Commissioners and their home countries. The Commissioners usually recruit most of their cabinet members from their home environment. They often call attention to the effects a specific proposal or a decision would have on their own country. Another important link here is the one between a Commissioner and political parties and government of a Commissioner's home country (Donnelly and Ritchie 1994, 35). After all, once their mandate is over, Commissioners may continue a politically active life within their home countries and use their political reputation to influence public opinion. Even though Commissioners may not follow instructions by their national governments, they cannot be regarded as completely independent from their home countries.

These arguments make the endeavours of smaller Member States to preserve the right to nominate Commissioners more readily understandable, and also throw some light upon their claim that representatives appointed by national governments enable the College to be more impartial. This is also the context within which we should look for an explanation of their arguments that one Commissioner per Member State and equal status within the College would ensure a higher degree of *legitimacy*<sup>7</sup> for the Commission (CONFER 4719/00, 4; 4723/00, 8; 4712/00, 5), although the legitimacy of institutional structures is based formally on a unanimous adoption of the changes to the establishment treaties and their subsequent ratification by all Member States (*TEU*, Article 48). This, however, does not make the opposite arguments less understandable – disregarding the above-suggested connections between the Member States and appointed Commissioners, the large states justify the need to restrict the

number of Commissioners by stressing the demand that the Commission should be independent from national interests. Therefore the question of whether the right to appoint Commissioners will be retained by all Member States remains open.

C O N C L U S I O N S   R E L A T I N G   T O   T H E  
D I L E M M A S   A B O U T   T H E   F U T U R E  
S I Z E   O F   T H E   E U R O P E A N  
C O M M I S S I O N

The proposed methods of regulating the size of the Commission in the future indicate that changes suggested in these proposals are linked to a future demographic balance between Member States. They also reveal a conflict between the tendency to respect the sovereign equality of states in their right to appoint Commissioners and endeavours to ensure optimal efficiency of the Commission.<sup>8</sup> The support expressed for different options of the solution was determined primarily by the population size of the state in question. The reasons that led all countries to advocate one Commissioner per one state do not have only symbolic significance, but stem from the nature of the relationships between the Commission and the Member States.

The reluctance of the Member States to commit themselves to any specific proposal could be explained in two ways. Firstly, the official positions of the Member States were shaped and announced at an early stage of the Intergovernmental Conference and institutional reform, that is, at the time when the debate about institutional reform was not so strained. Secondly, commitment to any specific option would limit their negotiating positions and hence forestall chances of manoeuvring during the negotiation process which is at any rate carried out behind closed doors (e.g. Nicholson [1939] 1988, 46).

Institutional positions of the candidate countries are affected differently by these proposals. Their right to appoint Commissioners would be limited if discriminatory principles of rotation or a formal hierarchy of the Commissioners were introduced. If the demographic factor is strictly observed only Poland, whose 39 million population places it next to Spain, could be left out from this conclusion. But other candidate countries, the same as any other smaller Member State, would temporarily lose touch with the supreme bureaucratic structures in the Commission if either of these two variations were introduced. Such a solution would strengthen – within the framework suggested above – the institutional influence of the largest members of the Union. Therefore it is understandable that the candidates belonging to the Luxembourg group advocated equal right of nomination for all Member States (CONFER/VAR 3951/00; 3952/00; 3956/00; 3958/00; 3959/00; 3967/00).<sup>9</sup> Nevertheless, only some of them (Cyprus, Hungary) stressed explicitly the need to retain the formal equal status of Commissioners. Similar to Member States, candidate countries did not commit themselves to any proposal. Finally, they did not have any formal influence on the outcome.

### S. 2.2 THE COUNCIL

The size of a future Commission is linked to the solution of the issue of QMV within the Council. This link was mentioned in the *Amsterdam Protocol* and stressed by national delegations at the Intergovernmental Conference 2000 (CONFER 4750/00). A consideration of the two sets of issues jointly should enable faster settlement of both, and would facilitate “bargaining” with opposing national interests. As mentioned earlier, the official objections to the current system of voting in the Council were related to the demographic factor. The arguments mostly pertained to an im-

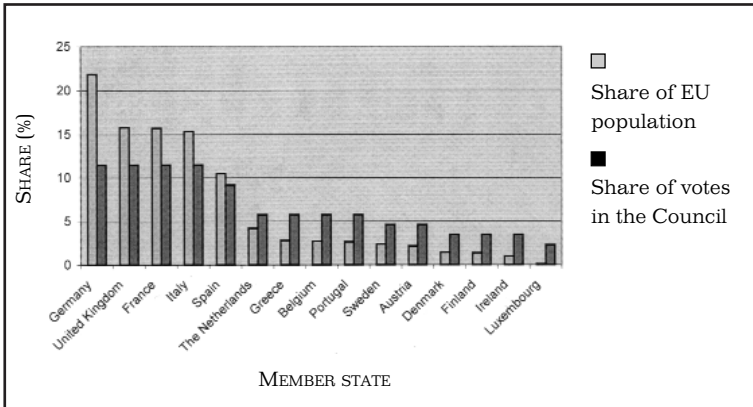
balance between the weights of votes of large and small states, which grew over the course of time because the threshold for qualified majority was maintained at about 71%. The demographic changes in the membership of the EU brought up the question of the suitability of allocating votes by groups vaguely based on the size of population (chart 1). Germany and the Netherlands stand out in this respect with their population being considerably larger than that of other members in the same group, that is, states with the same number of votes. Germany has been until now equated with the largest Member States, and the Netherlands with Belgium. A special status has been enjoyed by Spain. The re-weighting of votes is particularly important with a view to the first wave of accessions that will add mostly smaller countries.

With regard to their size, the large members of the Union are at present relatively more weakly represented in the structure of votes in the Council than the smaller countries. This points to the importance of observing sovereign equality of the Member States when allocating votes.

Before the conclusion of intergovernmental negotiations Member States shaped five proposals for achieving the desired balance of power between the members within the Council, and indirectly within the Union as a whole. The proposals could be divided into two groups – one suggesting a dual majority system and the other a re-weighting of votes by adjusting the present system (CONFER 4796/00, 1-2). The dual majority system proposals characteristically included two separate systems of vote weighting with one being based directly on the population factor. On the other hand, a (simple) re-weighting system combines votes to form a single table whereby the votes are distributed mainly on the basis of the population criterion.

CHART 1

REPRESENTATION IN THE COUNCIL COMPARED TO THE POPULATION SIZE



Source: EIU 1999a-o.

A divergence that came to light through these proposals correspond to the objections regarding the use of the present system in an enlarged Union. Accordingly, the proposals mostly focused on the three central issues. The first is the balance of voting power between large and smaller members and allocation of a different number of votes to states with different population sizes. The second is the question of whether Member States should be allocated votes by groups that are based on a loose approximation of their population size. The third is the question of the threshold needed to take or reject a Council decision (CONFER 4750/00, 18). The threshold of votes and the distribution of weighted votes are the two factors that jointly determine a formal voting power i.e. the weight of a state. This is best illustrated by the so-called population threshold needed to take or block a Council decision. This threshold specifies the percentage of the total population of the EU that must be rep-

resented by a coalition of the states that want to take or block a decision. The underlying rule is: the higher the threshold, the lower the voting weight of individual voters. Yet it is precisely the capacity of smaller states to influence a decision-making process on their own, without a back up by some larger state, that is diminished relatively more with the raising of the threshold. In the case of the EU this particularly holds true for the population threshold needed to block a Council decision. Until 1973 the threshold was such that neither small nor large countries could take a decision on their own. The reduction of the population threshold needed to block a decision favours smaller states taken both individually and as a group, but only up to a limit which enables individual larger states to impose a veto. By contrast, the larger states taken as a group (and when compared to the smaller) would benefit more from a higher threshold because it would prevent smaller states from blocking a decision independently of the larger states' wish.

The first scenario for reforming the voting structure in the Council – a simple dual majority system (Appendix A-a) is based on the dual distribution of votes. Each Member State would have one basic vote which would be combined with votes based on the population criterion yielding the total weight of votes. The population criterion is a percentage of the EU's population represented by a Member State. Therefore, according to this scenario, the Member States would have, apart from one basic vote, different numbers of additional votes ranging from 1 to 170. Slovenia would have four votes in this system. Such a demographic scale would contribute to the increase in the share of votes of larger countries. Compared to the model extrapolated from the present arrangement, Germany, Great Britain, France, Italy, Spain, Poland and Romania would be the only countries whose share of votes would increase.

This proposal, formulated by the Commission, includes a change in the threshold for both taking and blocking a Council decision, that is, a qualified majority and a blocking minority. As a result, a group of at least half of the Member States would be required to take a decision. According to the population table, this group would have 501 votes altogether meaning they would represent more than half of the EU's population. In an EU of 27 members, this would mean that fourteen states would have to unite to pass a resolution. Smaller states would not be able to act completely independently due to the smaller total of votes allocated according to the population criterion (there would be 21 of them with the population-based votes totaling 303) so they would be compelled to form a coalition with larger countries (14 of them altogether with the total of population votes amounting to 901). The fourteen smallest states with only 117 votes according to the population criterion would be enough for a blocking minority in an EU of 27 states, even though the same could be achieved by the four largest states (they would have 535 votes allocated by the population scale).

The introduction of this scenario would change the share of the population required to take a decision. It would decrease from the current 58% to approximately 50%. In terms of population size and number of countries, such a threshold would rather represent a simple majority than qualified majority. The percentage of the EU population represented by a blocking minority would also decrease from the current 12% to a little over 11.5%. Low population thresholds for a qualified majority and a blocking minority would reduce the relative weight of larger states compared to the present situation. If we make a comparison by extrapolating from the present system, this proposal would increase the population threshold for a blocking minority by as

much as 1%, while the population threshold for a qualified majority would be decreased by only 0.1%. This would increase the cumulative weight of larger countries compared to the arrangement extrapolated from the current system. A group of new member states alone (now candidate countries), 12 of them altogether, would not be able to block a decision as this would require 14 basic votes. This scenario, in contrast to the current system, envisages qualitative differentiation between the four largest countries arising from their total weight allocated on the basis of the population criterion. Similarly, this proposal would remove the discrepancy between the population size of Germany and the Netherlands and number of votes held by them, as well as all the other discrepancies originating from the current distribution of votes by groups of countries based on approximate population size. In other words, this would remove the present loose grouping of the Member States.

The basic dilemma related to this proposal is the same as the one accompanying all other proposals based on the population scale, namely how to define the population criterion. The proposal does not offer a clear answer to the question of which population should be taken into consideration (CONFER 4796/00, 2). It is equally unclear how often Member States would have to adjust values in the population table to reflect changes in the population. Notwithstanding these ambiguities, the criteria in this proposal have been assessed as clear and transparent (*ibid.*, 3).

The second scenario proposes a weighted dual majority (Appendix A-b). It is a compromise between an extrapolation from the present voting system in the Council and the population criterion proposed by the first scenario. According to the basic table the votes would be distributed by groups, the same as they are distributed now (CONFER 4750/00, 17). Slovenia would have

three votes. In this respect this scenario does not introduce anything new in comparison with the extrapolation from the current arrangement. Therefore an additional population table had been included, which is identical to the population table used in the first scenario. This would lead to a system which would take into account, in addition to the present system, the so-called population safety net (CONFER 4796/00, 1). While the relative shares of countries' votes according to the first table would remain unchanged compared to the extrapolated system, meaning a set-up favourable to smaller countries, the population table would add extra voting weight primarily to the larger countries.

This proposal envisages the maintenance of the current threshold of 71% of votes according to the first (basic) table, and proposes a 58% threshold according to the second (population table). The 58% limit arises from the population threshold observed at present and it would not be changed with future enlargements of the Union. In order to take a decision, 96 votes would be needed (this number would change with future enlargements, but expressed in percentages it would average around 71%). These 96 votes would represent 58% of the EU's population (a minimum of 14 countries with the total number of votes in the population table amounting to 901, and a maximum of 24 states with population votes totalling 585). A decision could be blocked by the four largest states representing more than 50% of the population (the total of 535 votes by the population table). Thanks to the votes distributed according to the basic table, a blocking minority could be formed by, say, 14 of the smallest states (their votes totalling 42, more than the 38 needed).

If compared to the arrangement extrapolated from the current system and the first scenario, this proposal suggests stricter demographic conditions (the population threshold for a qualified majority higher by as much as 8%). At the same time the popula-

tion threshold for a blocking minority is the same as that obtained by extrapolation (10.5%) and lower than the one observed at present (12%). It is also lower than the blocking minority suggested by the first scenario (11.6%) by more than 1%. The high population threshold for a qualified majority would attach greater formal weight to larger states than the first or the extrapolated scenario. A comparably low threshold for a blocking minority would be favourable for both large and smaller states, but relatively more favourable for smaller states. With regard to this particular element, this proposal is more in favour of smaller members in an EU of 27 states than the first scenario or the current system. According to this scenario the taking of a decision in an enlarged Union could be prevented by countries currently negotiating accession (their total number of votes would be 47).

The second scenario, comparable to the first one, envisages the weighting of votes on the basis of the demographic criterion, but is somewhat adjusted in favour of smaller states. This arises in the first place from the sovereign equality principle observed in the basic weighting of votes which is maintained at the present level. The basic table shows that the equality of the four largest states would be maintained, while Spain and Poland would be excluded from this group. The votes of the Netherlands and Belgium, who make the pair now displaying the greatest discrepancy in the size of population within any group, would remain level. The distribution of votes by groups loosely based on the population size would therefore be preserved in part, but in most cases the votes allocated by the population table would produce differences in the total share of votes of individual members within such groups.

It is unclear whether the pegging of the threshold at about 71% according to the basic table (even with the population table taken into account) throughout future enlargements would satisfy the na-

tional interests of all Member States. This dilemma remains unresolved because the share of votes allocated to the smaller states through the basic table, which should serve as the basis for re-setting the threshold, would be greater than their population size would justify, while enlargements would lead to an increase primarily in the number of smaller countries. Similar questions may be posed in connection with the scenarios proposing the weighting of votes according to the single table described later in the text.

The third scenario, which proposes limited re-weighting taking into account the population safety net (Appendix A-c), is based on a simple change in the weighting system. The original version of this model, first presented at the Feira European Council (CONFER 4750/00, 70), included the so-called moderate change in the weighting of votes, with the population scale being added only later by the Portuguese Presidency (CONFER 4796/00, 6). The main difference between this model and a simple or weighted dual majority lies in the weighting of basic votes. The scenario envisages the doubling of the present number of votes with an addition of extra five votes granted to each of the six largest states. Future members would therefore have double the votes they would obtain by extrapolation from the present model (Slovenia would have 6 votes). As regards the basic table, the number of votes of the four largest states plus that of Poland and Spain would increase compared to all other described models. The number of votes of other states would decrease. The same as in other models based on dual majority, the population scale, if compared to extrapolated results, would lead to an increase in the share of votes of larger Member States and a decrease in the share of others.

The threshold for a qualified majority in this model is 214 votes according to the basic table, combined with votes ranging between 580 and 600 according to the population table. This trans-

lates into approximately a 71% threshold according to the first criterion, and a 58% to 60% share of the population according to the second. The threshold required to block a decision would be either 28.5% of the votes according to the first criterion or between 40% and 42% of the votes according to the second. A decision could be blocked by a minimum of the 15 smallest states (not 14 as in the other models described or an extrapolated model) having 90 votes on the basic scale, or by the 3 or 4 largest states (depending on the population threshold that would be adopted). It would not be possible to take a decision without support of at least one of the largest states, similar as in other models.

Such a combination of allocated votes and thresholds for taking or blocking a decision would lead to high population thresholds (58% or 60% to take a decision and 11.85% to block it). This is comparable to the present arrangement, but greater than proposed by other models. The formal weight of the largest Member States in the decision process would be greater than according to the first scenario (population threshold 50.1%), the second scenario (58%), and the model extrapolated from the present arrangement (50.2%). This would in turn lead to a greater blocking minority, that is, 11.85% compared to the 11.6% in the first scenario, and 10.5% in the second scenario and the extrapolated model. In spite of this (due to the greater voting weight of Poland), a decision could be blocked by new Member States alone as they would have 97 votes altogether (the same as in other scenarios).

This model of distribution is also dominated by the demographic factor. Yet a special method of weighting votes of the largest states according to the basic table results in the demographic factor being somewhat more apparent in this scenario than in others. On the other hand, it is precisely this feature that gives a relatively greater weight to the smaller states than they would have in

a model strictly observing the population factor. The distribution of votes in this model therefore observes the sovereign equality principle in addition to the demographic criterion.

As in the second scenario and the present arrangement, the distribution of votes by the basic table implies a division of states into groups loosely based on population size. The basic table would allocate an equal number of votes to the largest four states. Spain and Poland would not be in this group. The Netherlands and Belgium would remain in the same group. As in the first two scenarios, the population table reduces discrepancies caused by the grouping of variously populated states.

The fourth scenario suggests substantial re-weighting of votes (Appendix A-d). This proposal, also known as “3 to 33” model, was presented by the Italian delegation and it is composed of a single weighting table. The scenario is favourable particularly for the largest Member States. The number of basic votes according to this model would increase the difference between large states and other members in comparison to the formula hitherto (and its extrapolation). According to the present arrangement, a country with the most votes had five times more votes than a country with the smallest number of votes. The fourth scenario, however, extends this range to eleven times the smallest number of votes, making the span wider than that arising from the basic tables of the first three scenarios. The bigger span is a result of an uneven increase in the number of individual state’s votes based on their population size. The number of votes of the smallest states would increase by one third (from 2 to 3), that of somewhat larger ones by a half (from 3 to 6), and the same would apply to the two groups of still larger states (from 4 to 8 and from 5 to 10). The largest states would be divided into three groups, the first getting more than twice their present number of votes (14 compared to 6), and the

upper two groups more than three times their present number (26 compared to 8, and 33 compared to 10). Compared to the extrapolated model this would increase the share of votes of all the larger countries including Romania and the Netherlands, while the share of other states' votes would decrease. Compared to the basic tables of the first three scenarios, only the share of votes of the six largest countries would increase. Slovenia would have 3 votes.

This proposal would also change the conditions required to take or block a Council decision. The thresholds would be the same as in the present arrangement i.e. 71% and 29% of the votes, but a coalition needed to take a decision would have to include at least two of the largest Member States (264 votes altogether, 234 needed), or at least 11 members with all the largest states included (238 votes, 234 needed). This means that according to the fourth scenario the number of states needed to take a decision is smallest (but a group must include larger Member States). On the other hand, a decision could be blocked by a minimum of 17 smallest states (102 votes, 97 needed). The same could be achieved by a group of the three of the largest countries (with 99 votes).

Such a distribution of votes, combined with the given thresholds for a qualified majority and a blocking minority, would give to the larger countries the biggest voting weight compared to all other models and extrapolation. The population threshold for taking or blocking a decision would be the highest compared to all other proposals (the population threshold for taking a decision would be 61.3%, while the population threshold for blocking a decision would be 17.9%, that is, higher by 4.5% than the next highest threshold). Under such conditions the new Member States in an EU of 27 members would not be able to block a decision on their own, as they would have only 95 votes.

The Italian scenario takes into account the population characteristics of the Member States much more consistently than the

present model, its extrapolation or the basic tables suggested by the first three scenarios. Yet at the same time the population factor is less proportionate than in other scenarios. Less obvious is the distribution of votes based on the sovereign equality principle, but this principle is not ignored. For example, Germany's population (expressed in millions) would still be higher by 2.5 times than the share of its votes, Italy's population would be higher by 1.75 times, while Luxembourg which accounts for only 0.1% of the EU population would have 1% of votes, and Bulgaria with its 1.7% of the EU's population would have 2.4% of votes. This proposal maintains the leveling of votes by the present approximate grouping of countries, but the composition of these groups is somewhat changed in the case of small countries compared to the extrapolated model. The four largest states would remain in the same group, as would Belgium and the Netherlands. The group of countries whose size ranges between that of Slovakia and that of Estonia would not have the same number of votes. The states whose size ranges between that of Lithuania and that of Estonia (including Slovenia) would have only half the number of votes belonging to the countries in the previously mentioned group, and the same number as the smallest countries, for example Cyprus, Luxembourg and Malta. In this way the joint voting power of smaller countries would be equated with that of the smallest ones, which only confirms our conclusion that this model brings advantages to larger states.

The fifth scenario proposed by Swedish government suggests a generalized re-weighting system. This is a purely arithmetical approach to the distribution of votes based on the single weighting table. It gives each member a number of votes equal to double the square root of its population expressed in millions rounded off to the nearest figure (CONFER 4796/00, 16). This would remove the grouping of countries by loose approximation of the

population size. Nevertheless, groups with the same formal weight of votes would still exist. The number of votes would range between 1 and 18. In this sense the proposal surpasses all other described (basic) tables and extrapolated model. In an absolute sense, the adoption of this solution would cause the reduction in the number of votes of the smallest states, while the votes of other states would be maintained at the same level or incremented by between 1 and 8 votes depending on the population size. Slovenia would have 3 votes. Compared to the extrapolated model, larger states, more precisely the Netherlands and Romania, would gain more weight (between 3 and 8 extra votes in absolute numbers) as would smaller countries whose population falls within the range between Sweden and Finland (2 extra votes). The share of votes of other small countries would decrease.

The Swedish proposals sets the threshold for a qualified majority at 134 votes out of the total 188 (71%), while the threshold for a blocking minority is 55 votes (29%). As in the scenarios described above, a coalition needed to take a decision would have to include just one of the largest states (their total would be 140 votes, 134 needed), while 6 larger states would have to unite with 7 other countries to form a qualified majority (total number of votes 135). Therefore, a decision could be taken by only 13 out of 27 Member States, while the blocking of a decision could be achieved by a coalition of the 15 smallest states (59 votes, 55 needed) or four of the largest states (63 votes).

As for the population threshold, the proposal introduces certain changes. To take a decision, a group of countries representing just 56% of the EU population, instead of the present 58%, would suffice. The population threshold needed to block a decision would increase by approximately 1%, this being approximately 4 and a half million people of an EU with 27 members. The compar-

ably low population threshold needed to take a decision would contribute to a relatively lower assertive significance of the larger states in the decision-making process compared to the second, third and fourth (Italian) scenario (with this threshold being lower in the first scenario and the model extrapolated from the current arrangement). However, due to the higher population threshold for a blocking minority (12.9%) the weight of votes of smaller states would be lower too compared to the extrapolated model, the first, second and third scenario, but not compared to the fourth, Italian scenario, which sets the population threshold at an even higher value. The formal weight of the votes of smaller countries taken collectively would be lower compared to the extrapolated and the first model. Present candidate countries would be able to block a Council decision – similar to the second and third scenario and extrapolation (they would have 59 votes). On the other hand, present candidate countries alone would not be able to take a decision as they would need 134 votes.

The basic principle of weighting of votes according to this proposal is demographic. The arithmetic laws of the square root function make it clear that the proportionality of the distributed votes decreases with the increase in population size. This means that the principle of the sovereign equality of states is only partially observed. Despite this, due to great differences in the population factor, the share of small countries in the total number of votes is small, actually smaller than at present and according to the basic tables of other scenarios.

The Swedish proposal introduces certain changes as regards the grouping of countries by the number of votes. The most conspicuous is a difference that would be introduced between four of the largest states, especially Germany and others. Similarly, the Netherlands would not remain in the group it belongs to at the

moment. The states between Greece and Austria in terms of their population size would have the same number of votes even though their population differs by up to 2.5 million.

THE BASIC DIVERGENCE REGARDING  
THE VOTING STRUCTURE IN THE EU  
COUNCIL AND POSITIONS  
OF MEMBER STATES

Compared to the extrapolated model, all proposals increase the weight of larger countries. All but one proposal eliminate the present grouping based on the number of votes, meaning that the equivalence of the largest Member States is removed as is that of some other countries with different sizes of population e.g. Belgium and the Netherlands. The proposed changes affecting the balance of voting power between larger and smaller states are more diverse. As a matter of fact, a formal weight of individual countries in a voting system is determined by the thresholds for taking or blocking a decision. The proposed systems went to two extremes. At the one end is the simple dual majority system which strengthens the role of the smaller states more than any other proposal or the present arrangement. At the other is the Italian model of votes re-weighting which strengthens the role of the larger countries more than any other system and at the same time levels the votes of all large states. Other proposals may be classified somewhere between these two extremes.<sup>10</sup>

Because of the lower population thresholds needed to block a decision, the smaller states in an EU of 27 members would benefit more from the dual majority systems than from other models. We should again stress at this point that a lower threshold for a blocking minority would be beneficial for both small and larger states. Yet the rule “the lower the threshold, the higher the cap-

acity of the smaller states to block a decision on their own,” without help from larger countries, still holds. On the other hand, all the proposed thresholds would require the inclusion of at least one or two of the larger states in a coalition of smaller countries wanting to take or block a decision, while larger states on their own would not be able to take a decision either. The simple dual majority system is somewhat outstanding in this respect as it proposes the threshold for taking a decision which is more than 6% lower than the next lowest proposed threshold (6% of the EU population corresponds to approximately 28.9 million people). Nevertheless, it is possible to conclude that regardless of how low the threshold needed to take a decision is, the formal relations between states are primarily determined by the blocking minority threshold i.e. the threshold needed to block a decision. Following the acknowledgement of QMV during the 1980s, the blocking minority began to be associated with national interests and to have a much higher profile in the process of shaping the voting structure in the Council (see e.g. Šabič 1999, 302).

This is the context in which we should look for the explanation of official standpoints expressed in the course of negotiations. It is true that the Member States, save for those who shaped their own proposals, did not clearly support any particular scenario apart from expressing some support for this or that population threshold.<sup>11</sup> Yet their conduct enables us to derive some general conclusions regarding their preferences. Their attitude differs depending on the size of their population, similar to what could be observed in their viewpoints on the restructuring of the Commission.

Given the fact that smaller countries strived to prevent “too great a shift of influence away from the smaller States” (CONFER 4712/00, 6), or rather to preserve the “balance” (even though un-

defined) between the votes of larger and smaller states (see e.g. CONFER 4721/00, 3; 4722/00; 4723/00, 9), it is understandable that the majority of them supported the dual majority proposals (the first two scenarios). The states of Benelux allowed for the simple re-weighting of votes in addition to the dual majority, but they did not provide any precise explanation. Among the group of smaller countries only Sweden and Finland advocated the system of the simple weighting of votes. It should be stressed though that the Swedish model of the simple re-weighting of votes differed from the one proposed by Italy as regards the status of small countries as a group. Taking into account the conclusions arising from our analysis, we find surprising the statement of the Swedish government that it is “sceptical about the dual majority system [...because] it is necessary to take into account the interests of smaller states” (SVEZ 2000, 22). In fact, the Swedish proposal decreases the relative weight of the votes of the smallest and most other small states save for those belonging to the group to which Sweden itself and Finland belong. Yet the Swedish suggestion had no impact on the fact that, during the initial stages of the negotiations at least, other smaller states did not oppose the first two models of dual majority. Indeed these two scenarios, by setting rather low population thresholds for a blocking minority, reduce the weight of their votes less than other proposals.

The larger states, on the other hand, held a different opinion both during the Intergovernmental Conference 1996 and at the beginning of the Intergovernmental Conference 2000 (CONFER 4717/00; 4733/00; Cm 4595; Best 2000, 111; Šabič 1999, 326). None of them expressed decisive support for the introduction of the dual majority system. Germany, France, Great Britain and Spain, later

joined by Italy, ranked the limited re-weighting of votes most highly, that is, a system which observes the domination by population of the larger states taken as a group more consistently than the present one. The Italian proposal in particular was close to their visions. It is understandable that the larger states chose to support a system such as the Italian one as some of them, for example Spain and France, demanded that the votes of the larger Member States should be kept level (CONFER 4750/00, 17; Deger 2000, 4). Among the group of proposals that suggested a simple re-weighting of votes, only the Italian scenario would maintain the votes of the four largest states on a par with each other. Even though all of the larger states stressed the need to increase their share of the votes as a group, their views on which solution would strike a desired voting balance between them were diverse. Germany, for example, allowed for the possibility of supporting the dual weighting system in addition to the simple re-weighting model. All systems of this kind envisage a differentiation between more populous states which would result in the largest state in the Union having many more votes than other larger states. Germany explicitly stressed that, if it were to support a dual majority system, it would be necessary to establish a dual weighting table with the population threshold set at a 60% minimum (CONFER 4733/00, 5). This system of distribution would most resemble the third scenario described. In this way Germany indirectly rejected the proposals for simple and weighted dual majority, but it nonetheless did not express preference for any other model of dual majority. Therefore, the German official position leads us to the conclusion that Germany too would find the simple re-weighting of votes most suitable, that is, one which would ascribe the highest possible weight to the group of the larger states with its own share of votes being greater than that of the other three largest countries.

We find it necessary to draw attention to the fact that in some proposals (especially the third scenario) the threshold of votes was defined approximately, meaning that the final value was to be decided through negotiations. Therefore it is understandable that during the concluding stage of intergovernmental negotiations some differences between the proposals for dual majority and simple re-weighting were blurred which caused the structure of support by countries of various population sizes to become unclear too (Stubb and Gray 2000, 2; CONFER 4801/00, 1). Even so we can conclude that the smaller Member States supported the principle of the sovereign equality within the Council more than the large Member States.

T H E   S I G N I F I C A N C E   O F  
T H E   W E I G H T   O F   V O T E S  
I N   T H E   C O U N C I L

The study by the analysts of the European Commission showed that none of the proposed changes in the distribution of votes within the Council would have altered any of the decisions taken by this institution in the period of the three years preceding the Amsterdam European Council in 1997. This study, which was conducted in 1997, admittedly did not include all of the described models,<sup>12</sup> yet some authors think that it was not the characteristics of the specific models that led to such a result, but the entirety of issues pertaining to the weighting of votes (Petite 2000, 64; Stubb and Gray 2000, 2). Whatever the findings of a potential detailed analysis of all described models might be, it is possible to assert that in practice countries never form coalitions on the basis of their size (Petite 2000, 65) although the system of the distribution of votes observes precisely this aspect. The Member States more often unite around specific areas of interests, for

example, the states promoting environmental awareness vs. those where this awareness is low, those advocating free market vs. those opposing it, olive oil producers vs. non-producers, net contributors to the budget vs. those receiving funds from the budget etc. (ibid., 64–65). Another characteristic of the Council is that the representatives of governments only rarely take part in the voting in some of the sectoral councils, such as the General Council and the Council for Agricultural Policy, while an entirely opposite conclusion applies to the Budget Council (Westlake 1995, 170; Šabić 1999, 332–335).

The arguments described still do not explain the enormous attention devoted to the distribution of votes. As a matter of fact, its significance for the Member States is a long-term one. It determines the formal balance between the voting influence of individual Member States which forms the qualitative basis of every debate on the extension of QMV (Westlake 2000, 18). Regardless of the current prevailing form of voting within the Council, the weight of votes as laid down by the treaties provides the formal basis of the future voting process. Perhaps the extension of QMV to new areas and/or potential political changes in the future relationships of the members will establish the principle of decision-making by QMV as the prevailing form. It is of course not possible to assess with any certainty the likelihood of such a development, yet despite uncertainty the significance of the formalization of the weight of votes is obvious, and a balance between larger and smaller states is an integral part of it.<sup>13</sup> We should not overlook that even though the voting in the Council only takes place from time to time, the formal weights of the votes of Member States are always implicitly present in negotiations (ibid., 19). One dimension that is particularly important is the future enlargement of the Union. The inclusion of new members might

introduce unforeseen changes not only into the decision-making process, but it could give rise to new divisions among members too. The members of the Council represent their national governments and hence the national interests of the Member States, so the palette of interests will enlarge along with the Union. Given the characteristics of the candidate countries, greater divisions in the future are likely to arise as a result of the level of economic development (Šabič 1999, 338). Furthermore, one should not forget the fact that the majority of less developed candidate countries are small countries.

C O N C L U S I O N : T H E I N S T I T U T I O N A L  
R E L A T I O N S W I T H I N T H E C O U N C I L  
O F A N E N L A R G E D U N I O N A S S E E N  
F R O M T H E P E R S P E C T I V E O F  
C A N D I D A T E C O U N T R I E S

Taking into account the characteristics of the proposals for the re-weighting of votes in the Council, it is possible to conclude that the present fifteen Member States envisaged the distribution of votes on the basis of the demographic factor (Union of Peoples). All the proposed scenarios grant more votes to smaller states than their population size would justify. It is therefore possible to assert that the proposals additionally stress the principle of the sovereign equality of the Member States (Union of States). Compared to the absence of changes, all the proposals would increase the weight of the votes of the larger states. However if we compare the proposals with the present model, we must conclude that according to some of them the total voting weight of the larger states would be smaller than at present, especially according to the simple dual majority scenario. Different degrees of support

expressed for dual majority proposals and simple re-weighting of votes were not dependent exclusively on the size of the state, although it is true that the smaller states showed more preferences for the dual majority scenarios. The difference could be attributed in the first place to the low threshold required to block a decision in dual majority scenarios, and a conspicuously low threshold for taking a decision in the simple dual majority model.

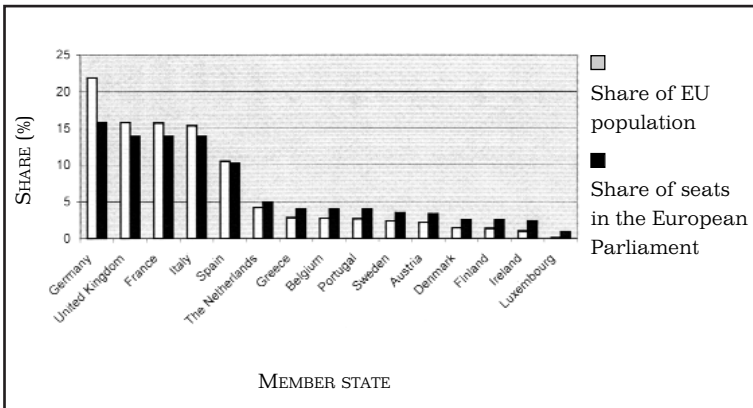
In general the proposed changes would decrease the share of votes of the candidate countries compared to the model extrapolated from the current arrangement. Yet even the positions of the candidates belonging to the Luxembourg group reveal differences between the larger and smaller countries. Poland advocated strict observation of the demographic principle as the reforms should lead to the smaller disproportion between formal voting weight of the large and small countries (CONFER/VAR 3967/00, 12). Cyprus advocated the dual majority system (CONFER/VAR 3951, 3), while other countries stressed the need to maintain the relatively greater formal weight of votes of small countries compared to large ones (see e.g. CONFER/VAR 3952/00, 3), or they emphasized the need to achieve a “balanced” solution (see e.g. CONFER/VAR 3959/00, 3). Slovenia stressed that the interests of the smaller countries should be taken into consideration (CONFER/VAR 3956/00, 2). Czech Republic did not express any preference in its official position documents. It is obvious that the candidate countries themselves (particularly those belonging to the Luxembourg group), who cannot influence the outcome of the negotiations, see the issue of the distribution of votes as a problem in the relations between the large and small states.<sup>14</sup>

### S.2.3 THE EUROPEAN PARLIAMENT

Since allocating more seats to the smaller states in the Parliament (meaning more than they would get on the basis of their population size) would be a way of compensating for the lower weight of their votes in the Council and for a curtailed right to appoint Commissioners, it is of special importance to establish how proposals for the changes in the Parliament affect the small countries. Before the summit in Nice, there was a broad consensus among the Member States that the ceiling of 700 seats should be maintained (CONFER 47500/00, 18).

CHART 2

REPRESENTATION IN THE EUROPEAN PARLIAMENT COMPARED TO THE POPULATION SIZE



Source: EIU 1999a-o.

Another question is to what a degree the future model should depart from the proportionality and population factor observed at present. Two scenarios were formulated.

The first scenario proposes a linear reduction in the number of seats (Appendix B-a), meaning that the present principle of allocating seats would be preserved (chart 2). The number of seats held by each Member State would be reduced linearly so that the total number would remain within the limit of 700.<sup>15</sup> Compared to the model extrapolated from the current arrangement, this scenario would reduce the share of the seven largest states most, while the share of the smaller countries would not change, or would even increase. The minimum quota would still be 6 seats, while the largest country, Germany, would have 77 (CONFER 4740/00, 7; 4750/00, 92). The rise in the representation of the smaller states would not essentially increase their formal voting power though. Assuming that all MEPs of one nation would vote alike, the six largest states could be regarded as having more than half of all the seats, which is the same as in the extrapolated model. They would have 55% of the votes (56% by extrapolation). This means that all the present Member States would be able to retain more than two thirds of the seats (499) securing them not only a simple majority, but also various forms of a qualified majority. The significance of this is most obvious in areas where the Parliament and the Council co-decide, for example, on the budget of the EU (*TEC*, Article 272).

Although national governments have an important influence on the outcome of the voting in the Parliament (Hix 1997, 9), divisions on a national basis are not as frequent in the Parliament as they are in the decision-making processes in the Council.<sup>16</sup> Yet the assumption about the national consensus when voting in the Parliament carries information about the highest possible formal

voting influence of representatives of individual states within this institution. Since the first scenario does not envisage changes in the distribution of seats, the structure of the Parliament would remain in harmony with the demographic factor (as laid down by the *TEC*), while adjustments aimed at remedying the under-representation of smaller states show that the stress is on the sovereign equality of the states.

The second scenario has been proposed by the Parliament itself (the present arrangement is based on the Parliament's proposal too). It suggests that the basic quota of seats to be allocated to the small states should be reduced to 4 seats (Appendix B-b). Further seats would be distributed in accordance with the principle of direct proportionality to the size of the population of a Member State. In this way the balance between the Member States would be tipped in favour of the largest states. Compared to the extrapolated model, only the share of the six largest states would increase. The share of other smaller states would remain the same or decrease. Malta would have fewest representatives, 4 in all, and Germany would have most i.e. 104. Compared to the first scenario, the disparity between the large and small states would increase (CONFER 4740/00, 7). Starting from the assumption that all of the representatives from one country would vote alike, the five largest states would be able to muster more than half of all of the votes in the Parliament (CONFER 4750/00, 93). A coalition of the six largest states would have more than 62% of votes. As in the previous scenario, the present Member States would be able to achieve a two thirds majority, as they would have 470 votes altogether. Given the distribution of the seats it is obvious that the scenario is shaped on the basis of the population factor, yet compared to the previous one, with a smaller adjustment as compensation to the smaller states.

T H E   S T A N D P O I N T S  
O F   M E M B E R   S T A T E S

Both proposals would provide solutions to the main objections regarding potentially too high a number of MEPs in the future. According to the interim report of the Portuguese Presidency after the Feira Council, the Member States diverged primarily regarding the question of how, and if at all, the decrease in the relative representation of the larger countries in a future Union should be prevented (CONFER 4750/00, 34). In their official statements Member States did not dedicate much attention to the reformation of the Parliament's structure.<sup>17</sup> Those which did (see e.g. CONFER 4712/00, 9; 4722/00, 4; 4723/00, 11-12) advocated a simple proportional reduction preserving the current distribution system. As is obvious from the described proposals, such a solution (in our example it is close to the first scenario) would give more weight to the smaller countries than a distribution based on a direct proportion to the population size. The smaller states hence expressed support for the model that places stress on the sovereign equality of states.

T H E   P R O P O S A L S   S E E N   I N   T H E  
C O N T E N T   O F   O T H E R   C H A N G E S

Since the distribution of the seats in the Parliament should reflect the compensations granted to the smaller countries for their reduced shares in the Council, and potentially in the Commission, the analysis of the proposed options clearly shows that only the first proposal would be acceptable. If the future allocation of seats in this institution would tend towards the second model, and the shares of votes of the smaller countries in the Council and the Commission were reduced, the formal relations within all three of the mentioned institutions would be shifted in favour of the larger countries.



## 6 AGREEMENTS REACHED IN NICE

The agreements reached at the Nice<sup>1</sup> European Council should be considered in the context of the proposals described and balance of interests of the Member States. Despite the outcome at the Nice Council, the proposals analyzed here have not lost any of their currency. The agreements reached in Nice are to come into force in 2005,<sup>2</sup> while the next Intergovernmental Conference is planned in 2004. It is evident that some concessions have been made in Nice aimed at striking a correct balance between the large and small states, and moreover, the agreements point to the significance of bargaining over the voting shares as they determine the role of individual members within the structure of these institutions (At two in the morning 2000, 23–26). Despite this, or indeed because of this, the Nice agreement does not introduce radical changes into the formal relations between Member States, particularly when compared to some proposals for the reforms.

The changes in the composition of the Commission are particularly modest. The present arrangement will remain in force until 2005. After that, in accordance with the *Protocol on the Institutions*, the number of Commissioners will correspond to the number of Member States up to the limit of 27. This means that the principle of sovereign equality will be observed until the accession of the last candidate country. Since the reform does not explicitly envisage any significant hierarchy within the Commis-

sion (for example, there are no Commissioners without portfolios),<sup>3</sup> it is obvious that the interests of the smaller Member States were taken into account. After the accession of the 27th member the principle of rotation will be introduced subject to the unanimous approval by the Council. What the limit set upon the number of Commissioners in each successive College will be, how detailed the definition of the groups of countries that will appoint Commissioners simultaneously will be, and what the order of succession will be, is not known at the moment. Therefore, certain issues and options regarding the reform of the Commission remain open.

The bargaining at the intergovernmental negotiations left the smaller countries with a smaller share of votes in the Council compared to the share they would have if the present model remained in place, on account of the concessions in the arrangement of the Commission in their favour (see Appendix A-f). The larger states were compensated for their surrender of a second Commissioner by a greater weight assigned to them in the Council. The Netherlands is also among those who gained as it will have more votes than Belgium. The individual states will have from 3 to 20 votes in the Council. The differences between individual countries in terms of the number of votes are hence smaller than if the Swedish or Italian scenarios were adopted. Even though the share of votes of the smaller states is smaller than that accorded by the extrapolated model, they will still have more votes than the size of their population justifies. The significance of forming coalitions with small countries is reinforced by the stipulation that at least half of the Member States – meaning at least 8 smaller states in addition to all of the large states – must support the decision (this was proposed by the Commission). In this respect the agreement of Nice is not the worst possible option for

the smaller states, particularly when compared to some other proposals.

Yet the voting weight of the smaller states is not as high as it would be if the dual majority system were adopted. Notwithstanding the condition that fourteen states are needed to support a decision, with the population threshold for a qualified majority set at 62% the agreed solution assigns greater voting power to the larger states than any other proposal. The position of the smaller states is somewhat better with regard to their power to block a decision. In an EU of 27 members any fourteen countries will be able to block a decision which means that a blocking minority could represent as little as 11.6% of the EU's population. In other words, the smallest fourteen states would be able to form a blocking minority even though they would have 88 votes out of 91 needed. The formal voting power of the smaller countries to block a decision would thus be greater than accorded by the Swedish and Italian scenarios, or the model proposing limited re-weighting with a population safety net. It would be the same as proposed by the simple majority scenario, yet smaller compared to the weighted dual majority scenario and extrapolation. The decisions could be blocked by four of the largest states (166 votes in all). The same could be achieved by the present candidate countries (total number 108 votes, 91 needed) but not without Poland. If the balance of power between the old and new members proves to be a line of division in the process of voting, we may expect that Poland will become an important coalition partner in a future EU.

The arrangement of the voting system in the Council agreed in Nice could be classified as a simple re-weighting system. Even though based on the single table, as much as three values of each country's votes will have to be taken into account. It makes this arrangement somewhat similar to dual majority proposals. To

take a decision in a future EU of 27 members at least fourteen countries representing a minimum of 62% of the EU's population need to support it (with the number of votes needed being 255).<sup>4</sup> The votes are distributed in accordance with the demographic factor (the population table plus a 62% population threshold as a safety valve) with obvious stress being placed on the sovereign equality of the Member States (at least half of the Member States and a greater formal share of the smaller states than would result from their population size).

The Nice agreement adheres to grouping those with an equal number of votes. It is true that it removes the equivalence of the Netherlands with Belgium, and grants extra votes to Spain and Poland, but the present equal voting power of the four largest states is reinforced as openly advocated by France. The demographic predominance of Germany is acknowledged by setting the population threshold at 62%. This population criterion, which is to be taken into account only if a Member State explicitly requests so, would somewhat temper the imbalance between the votes and demographic structure of the EU.

On account of its demographic predominance Germany is allocated more seats in the Parliament than it has at the moment (Appendix B-c), to make up for equating its votes in the Council with those of other three largest states. The seats allocated to Germany reduce the number of MEPs of other larger states, namely Great Britain, France, Italy, Spain, and Poland, which are in turn compensated by being allocated greater shares in the Council. The share of Romania is somewhat smaller than it would be according to both proposals. Most of the smaller states fall short of their shares in the Parliament in comparison to the first scenario, and gain in comparison to the second, with the exception of Belgium which has an advantage in comparison to both

scenarios. The greater share allocated to Belgium is a compensation for it no longer being on a par with the Netherlands in the Council. Also the shares of Greece and Portugal, who demanded to be on a par with Belgium, are increased compared to the other proposals. This means that some new members would not have the same number of votes as some present Member States even though of the same size. Despite their greater share of votes in comparison to the second scenario, the collective influence of the smaller states in the Parliament will not be as great as it would be if the present system was carried on, and it will be smaller than according to the first scenario. The first scenario would be the most convenient for the smaller states, so during negotiations it was considered an appropriate compensation for the loss of their shares in the Council.

In contrast to the standpoints expressed prior to the Intergovernmental Conference, the Member States supported an increase in the total number of seats in the Parliament to 732. The collective share of national quotas of the larger states in an EU of 27 members thus amounts to 56.7%. If they achieve national consensus in the voting process, the present Member States with 535 votes altogether will have 73% of the votes, meaning more than a two thirds majority.<sup>5</sup> The demographic criterion thus remains the basis for the distribution of seats in the Parliament with some adjustments in favour of the smaller states.<sup>6</sup> Greece, Belgium, and Portugal have two votes more than the Czech Republic and Hungary even though of the same size. This is an example of differentiation between the present members and candidates belonging to the same demographic groups. This was not suggested by any scenario.

Compared to the extrapolated scenario, the Nice agreement attaches greater institutional weight to the larger Member States.

It is possible to conclude that the price for the retention of the right to appoint Commissioners paid by the smaller states is their smaller share of votes in the Council and the Parliament. If the agreement reached in Nice is ratified, the role of the population factor compared to that of the sovereign equality of the states would be greater than if the reforms were not carried out.

## 7 SLOVENIA AND ITS STATUS IN THE MAIN EU INSTITUTIONS

Starting from the assumption that Slovenia's interest is to increase its representation in the EU institutions and bodies, the most favourable arrangement of the Commission would be the one envisaging an equal right of all Member States to appoint Commissioners with no upper limit set on their number. This solution enables permanent links between the state and the Commission. Another question is whether it would be sensible to adhere to a permanent right to appoint Commissioners if that would imply a formal inequality among the Commissioners. What the advantages of the rotation model which proposes equal powers for all Commissioners would be over the one based on formal inequality, is not possible to conclude due to the absence of any previous experience. At any rate, the Nice agreement is harmonious with the Slovene interests at least until the accession of the 27th Member State.

Table 3 shows the share of Slovenia's votes in the thresholds for a qualified majority and blocking minority in the Council, which was our starting point when assessing the favourableness for Slovenia of the various proposals for the reform of the Council.<sup>1</sup>

If the Nice agreement comes into force, Slovenia's share in the threshold of votes for taking a decision would be comparably high, and even higher in the one needed to block a decision. Yet

the most favourable models for Slovenia would be the simple dual majority system or extrapolation from the present arrangement.

TABLE 3  
FORMAL SHARE OF SLOVENIA'S VOTES ACCORDING TO VARIOUS PROPOSALS FOR THE RE-WEIGHTING OF VOTES IN THE COUNCIL

Proposal	Slovenia's share in the threshold of votes needed to take a decision (%)	Slovenia's share in the threshold of votes needed to block a decision (%)
Extrapolation from the present arrangement	3.16	7.69
Simple dual majority	3.97	7.14 (0.8) <sup>2</sup>
Weighted dual majority	1.91	7.69 (0.95)
Limited re-weighting with a population safety net	1.74	7.1 (1)
Italian model	1.28	3.1
Swedish model	2.24	5.45
Nice agreement	3.12	7.14

Source: Author's calculations on the basis of CONFER 4796/00, 2–11.

If the Nice agreement comes into force, Slovenia's share in the threshold of votes for taking a decision would be comparably high, and even higher in the one needed to block a decision. Yet the most favourable models for Slovenia would be the simple dual majority system or extrapolation from the present arrangement.

As regards the Parliament, Slovenia would be most highly represented according to the first scenario. The second scenario allocates to Slovenia just 86% of the seats suggested by the first scenario. Despite this, both scenarios would leave Slovenia with fewer seats in the Parliament than it would get on the basis of the extrapolated model. The Nice agreement assigns a smaller share to Slovenia than the first scenario, and greater than the second scenario.

## B ENVISIONING THE FUTURE

### BALANCE OF POWER IN THE UNION

The fact that the agreement reached in Nice implies changes that are less radical than those put forward in certain proposals by no means implies that some questions raised by these proposals will not be discussed in the future. The history of the EU corroborates this assertion in many ways.<sup>1</sup> Moreover, we cannot be sure that the Nice agreements will be put into practice – at least not as long as the Treaty is not ratified by all the national parliaments. Until that time all speculations about future arrangements should be regarded as conditional. The analysis of the proposed reforms and agreements enable us to give answers to the questions posed at the beginning of this essay.

1. The basic objections to the present composition of the Commission, the Council and the Parliament were related to the demographic factor which remains the basic criterion observed in the shaping of these institutions. The principle of the sovereign equality of the Member States, which yields proportionally greater representation of the less populous countries – meaning greater than their population size would justify – remains an important factor as well. This principle proved particularly important in the debate on the appointment of the Commissioners. The balance between these two factors is treated differently in different proposals for the reform.

2. All proposals for changes in the Commission structure suggested the reduction in the highest number of Commissioners per a Member State. The proposal which suggested a number of Commissioners below that of the Member States did not envisage any hierarchy within the College. By contrast, the proposal which did not suggest the setting of an upper limit on the number of Commissioners revealed tendencies to institute a hierarchy within the College of Commissioners. All the proposals for the changes in the Council would bring a greater share of votes to the larger states (particularly the four largest states) compared to the extrapolated model. Moreover, the proposed voting thresholds would strengthen their formal voting power. On the other hand, according to all the proposals for changes in the Council, less populated countries would have more votes than they would be allocated if only the demographic criterion was observed. In addition, the proposals envisaged changes in the present grouping of countries based on their population size. As regards the distribution of seats in the Parliament, the proposals suggested the maintenance of the present ceiling of 700 seats. Compared to the extrapolated model, the first proposal accorded more seats to the smaller countries taken as a group, while the second was in favour of the larger states.

3. The differences between the larger and smaller states could be described generally as follows. The smaller states are in favour of minimal changes in the structure of the Commission, that is, simultaneous nomination of Commissioners for all Member States and low hierarchy of the College. In their view the weighting of votes in the Council should lead to the balance between Member States regardless of their population size, while at the same time the thresholds for a qualified majority and blocking minority should be low. The minimum quota of seats in the Parliament should be high, that is, at least the same as in the extrapolated model. The larger states, on the other hand, envisage the reduction in the number of Commissioners below the number of the Member

States, while their appointed Commissioners would have a different function than those appointed by the smaller states, if the latter were to retain the right to appoint them at all. They are in favour of a weighting of votes in the Council based to the greatest extent possible purely on a demographic principle. The population threshold required to take a decision should be more than 60% of the EU's population. Finally, the seats in the Parliament should be distributed more in proportion to the demographic factor.

4. All the proposals envisage the institutional status of the larger states strengthened in a future EU. This tendency comes to light particularly in the proposals for the re-weighting of votes in the Council. The proposed re-weighting of votes would result in the smaller states losing some of their weight in the Council, which would be compensated for by allocating them additional seats in the Parliament. Yet because of the different role of these two institutions in the EU, such a compensation cannot be regarded as being on even terms. It is true that the position of the Parliament has been reinforced recently, but as shown earlier in this study, its scope of powers is narrower than that of the Council. As for the right to appoint Commissioners, all proposals suggest at least equalization of all Member States regardless of their size, or accord greater rights to the large states, and the same holds true for the scope of responsibilities of the Commissioners. We may therefore conclude that the purpose of the institutional reform was to reinforce the formal role of the larger states in the EU's three main institutions.

5. By and large, the candidate countries, save for Poland and partly Romania, share the fate of the smaller states. Several proposals for change are unfavorable to the smaller states and hence to virtually all the candidate countries. These proposals would lead to the following general consequences: the collective voting power of the new members would not suffice to block a decision in the Council; smaller countries would lose their right to appoint

a Commissioner regularly; the number of their representatives in the Parliament would reduce.

6. Among the changes introduced by the *Treaty of Nice*, the most conspicuous is the raising of the ceiling on the number of seats in the Parliament. Other institutional changes proposed in this Treaty are smaller in scope than suggested by some proposals. Such an example is the arrangement of the Commission which would be based on the principle of sovereign equality of the states until the number of Member States rises to 27. Despite this, the *Treaty of Nice* envisages greater institutional weight for the larger states. The share and weight of votes of the smaller states both in the Council and in the Parliament would be smaller than if the reforms were not carried out. It is true that new members of an EU of 27 states would be able to impose a collective veto on Council decisions, and similarly, all smaller countries would benefit from the comparably low threshold for a blocking minority. Yet on the other hand, the high threshold for a qualified majority is less favourable for the small countries. In addition, the *Treaty of Nice* does not grant any additional votes in the Parliament to the smaller states collectively in return for the smaller voting shares in the Council. Instead Germany has been granted additional seats in return for the equalisation of its votes in the Council with those of the other three largest states. Similarly, Belgium has been granted additional seats in return for the new differentiation between it and the Netherlands in the Council. The greater representation of Belgium in the Parliament increases the representation of Greece and Portugal but not that of the Czech Republic and Hungary. The latter could be regarded as an example (the first of its kind) of the differentiation between present and future Member States.

9 NEW QUESTIONS AND  
UNCERTAINTIES, VARIOUS  
ASPECTS AND LIMITATIONS  
OF THE CONCLUSIONS

The proposals for the reform and agreements reached in Nice give us sufficient grounds for certain conclusions about the overall principles that governed the debate on the institutional structure of the future EU. All the proposals for the institutional reforms gave most prominence to the demographic criterion with an adjustment in favour of the smaller states, the same as in the past. The *Treaty of Nice*, the same as some of the proposals, stipulates the equal right of all states to appoint Commissioners during the first stage of implementation. In general, all the proposals would increase the formal institutional weight of the larger countries. The support expressed for particular proposals depended on the country's size among other things. Most of our conclusions about the proposed scenarios could be applied to the Nice agreement as well. The only new elements introduced at the Nice summit were the change in the ceiling of 700 seats in the Parliament and an agreement to convene another Intergovernmental Conference before the implementation of the reforms. The eventual definition of the role of the Member States within the three institutions depends on the success of the enlargement process and ratification of the *Treaty of Nice* by the legal institutions of the Member States.

The questions arising in connection with this could be regarded as limitations of this study. The first group relates to the characteristics of the study as such, and the second to the contents of the institutional reform. The proposals formulated by the present Member States, on which this analysis is based, consider institutional relations in an EU of 27 members. However, the rate at which the EU will expand is not determined in advance and it depends on the readiness for accession of individual candidate countries (The European Commission 2000b, 32). As a consequence, the characteristics of the reforms after the first accessions may not correspond to these projections. It is particularly uncertain which institutional relations between Member States (particularly in the Council and Parliament) will be observed during the transition period and whether the ultimate changes will be as planned at the moment. This depends on when the agreements will come into force and when individual candidate countries will join the EU. Nevertheless, it is clear that the maximum foreseen number of members (27) will bring the issue of the balance between Member States within the given demographic structure to a critical point. In addition to other dimensions, our study of the proposals includes an analysis of (a simple) formal voting structure in the EU institutions without accounting for any possible informal influence of individual Member States on the voting of others. If this factor were taken into account, conclusions might prove to be different, yet all forecasts about the voting patterns in an enlarged Union would be pure speculation. This is the reason that our study is based on a non-preferential analysis implying an equal probability of any possible coalition between the Member States in the future.<sup>1</sup>

In addition to the limitations of this study, there are some other dilemmas regarding the future institutional reform. Firstly, it is

not clear how the Member States are going to resolve the issues postponed until some later point in time. Among them the issue of the ultimate composition of the Commission is outstanding, particularly the question of how to achieve equality in the rotation of Commissioners. Secondly, even though it was agreed that only one Intergovernmental Conference will be held before the enlargement i.e. the IGC 2000, the convening of an additional conference is already decided. And depending on the political situation and new knowledge gained in the process of enlargement, any intergovernmental conference may re-open issues of institutional reform even if already settled. Thirdly, the *Treaty of Nice* must be ratified, according to the *TEU*, by authorized legal institutions of the Member States, and it is not possible to exclude the possibility of delays during the ratification procedures in individual countries, as has already been seen in the past (Nugent 1994, 63-64). However, regardless of which solution will be in force when new Member States join the Union, it is clear, on the basis of proposals and agreements reached in Nice, that the distribution of seats in all three institutions will continue to be based on quotas allocated to individual states. The same applies to the Commission even though the national interests should not interfere with its operation. The distribution confirms that the reforms remain within the present framework. At the same time it points to the fact that the EU, even though including some features of supranational decision-making and policy shaping methods, should primarily be understood as an international organization whose foundation was based on the political will and interests of the sovereign states whatever the formal differences between them.



## APPENDIX A

THE DISTRIBUTION OF VOTES WITHIN THE COUNCIL IN AN ENLARGED UNION

State	Population (millions)	Present arrangement	Extrapolation	Simple dual majority (a)	Weighted dual majority (b)	Limited re-weighting incl. population safety net (c)	Italian model (d)	Swedish model (e)	Nice agreement (f)
Germany	82	10	10	1	10	25	33	18	29
Great Britain	59.2	10	10	1	10	25	33	15	29
France	59	10	10	1	10	25	33	15	29
Italy	57.6	10	10	1	10	25	33	15	29
Spain	39.4	8	8	1	8	21	26	13	27
Poland	38.7		8	1	8	21	26	12	27
Romania	22.5		6	1	6	10	14	9	14
The Netherlands	15.8	5	5	1	5	10	10	8	13
Greece	10.5	5	5	1	5	10	10	6	12
Czech Republic	10.3		5	1	5	10	10	6	12
Belgium	10.2		5	1	5	10	10	6	12
Hungary	10.1		5	1	5	10	10	6	12
Portugal	10	5	5	1	5	10	10	6	12

## APPENDIX A [CONTINUED]

State	Population (millions)	Present arrangement	Extra-polation	Simple dual majority (a)		Weighted dual majority (b)		Limited re-weighting incl. population safety net (c)		Italian model (d)	Swedish model (e)	Nice agreement (f)
				1	18	4	18	8	18			
Sweden	8.8	4	4	1	18	4	18	8	18	8	6	10
Bulgaria	8.2		4	1	17	4	17	8	17	8	6	10
Austria	8.1	4	4	1	17	4	17	8	17	8	6	10
Slovakia	5.4		3	1	11	3	11	6	11	6	5	7
Denmark	5.3	3	3	1	11	3	11	6	11	6	5	7
Finland	5.2	3	3	1	11	3	11	6	11	6	5	7
Lithuania	3.7		3	1	8	3	8	6	8	6	4	7
Ireland	3.7	3	3	1	8	3	8	6	8	6	4	7
Latvia	2.4		3	1	5	3	5	6	5	3	3	4
Slovenia	2		3	1	4	3	4	6	4	3	3	4
Estonia	1.4		3	1	3	3	3	6	3	3	2	4
Cyprus	0.8		2	1	2	2	2	4	2	3	2	4
Luxembourg	0.4	2	2	1	1	2	1	4	1	3	1	4
Malta	0.4		2	1	1	2	1	4	1	3	1	3
Total EU 15	315.2	87										
Total EU 27	481.1		134	27	1000	134	1000	298	1000	330	188	345
Qualified majority		62	96	14 and 501	96 and 580	214 and 580	214 and 600			234	134	255*

## APPENDIX A [CONTINUED]

State	Population (millions)	Present arrangement	Extrapopulation	Simple dual majority (a)	Weighted dual majority (b)	Limited re-weighting incl. population safety net (c)	Italian model (d)	Swedish model (e)	Nice agreement (f)
Blockandg minority		26 (23)	39	14 or 500	39 or 421	85 or 421 85 or 401	97	55	91 or half of the members
I		58.2%	50.2%	50.1%	58%	58% or 60%	61.3%	56.2%	62%
II		12.05%	10.5%	11.6%	10.5%	11.9%	17.4%	12.9%	11.6%
III		8/3	14/4	14/4	14/4	15/4	17/3	15/4	14/4
IV		1	1	1	1	1	1	2	1

Source: CONFER 4796/00; Best 2000, 125; The *Treaty of Nice* and own calculations.

- I – Population share needed to take a decision
  - II – Population share needed to block a decision
  - III – Maximum/minimum number of states needed to block a decision
  - IV – Minimum number of larger states needed to take a decision
- \* Until the accession of the 27th Member State the threshold for a qualified majority would be 258 votes, and 88 votes for a blocking minority.

## APPENDIX B

### OPTIONAL DISTRIBUTION OF SEATS IN THE PARLIAMENT

State	Population (millions)	Extrapolation (share of votes)	First scenario (a) (share of votes)	Second scenario (b) (share of votes)	Nice agreement (c)
Germany	82	99 (11.3)	77 (11)	104 (14.8)	99 (13.52)
Great Britain	59.2	87 (9.95)	69 (9.86)	77 (11)	72 (9.84)
France	59	87 (9.95)	69 (9.86)	77 (11)	72 (9.84)
Italy	57.6	87 (9.95)	69 (9.86)	75 (10.7)	72 (9.84)
Spain	39.4	64 (7.32)	51 (7.28)	52 (7.43)	50 (6.83)
Poland	38.7	64 (7.32)	51 (7.28)	51 (7.28)	50 (6.83)
Romania	22.5	44 (5.03)	35 (5)	32 (4.57)	33 (4.51)
The Netherlands	15.8	31 (3.55)	25 (3.57)	23 (3.29)	25 (3.42)
Greece	10.5	25 (2.86)	20 (2.86)	17 (2.43)	22 (3.01)
Czech Republic	10.3	25 (2.86)	20 (2.86)	17 (2.43)	20 (2.73)
Belgium	10.2	25 (2.86)	20 (2.86)	17 (2.43)	22 (3.01)
Hungary	10.1	25 (2.86)	20 (2.86)	16 (2.29)	20 (2.73)
Portugal	10	25 (2.86)	20 (2.86)	16 (2.29)	22 (3.01)
Sweden	8.8	22 (2.52)	18 (2.57)	15 (2.14)	18 (2.46)
Bulgaria	8.2	21 (2.4)	17 (2.43)	14 (2)	17 (2.32)
Austria	8.1	21 (2.4)	17 (2.43)	14 (2)	17 (2.32)
Slovakia	5.4	16 (1.83)	13 (1.86)	11 (1.57)	13 (1.78)

## APPENDIX B (CONTINUED)

State	Population (millions)	Extrapolation (share of votes)	First scenario (a) (share of votes)	Second scenario (b) (share of votes)	Nice agreement (c)
Denmark	5.3	16 (1.83)	13 (1.86)	11 (1.57)	13 (1.78)
Finland	5.2	16 (1.83)	13 (1.86)	10 (1.43)	13 (1.78)
Lithuania	3.7	15 (1.72)	12 (1.71)	9 (1.29)	12 (1.64)
Ireland	3.7	15 (1.72)	12 (1.71)	9 (1.29)	12 (1.64)
Latvia	2.4	10 (1.14)	8 (1.14)	7 (1)	8 (1.1)
Slovenia	2	9 (1.03)	7 (1)	6 (0.86)	7 (0.96)
Estonia	1.4	7 (0.8)	6 (0.86)	6 (0.86)	6 (0.82)
Cyprus	0.8	6 (0.7)	6 (0.86)	5 (0.71)	6 (0.82)
Luxembourg	0.4	6 (0.7)	6 (0.86)	5 (0.71)	6 (0.82)
Malta	0.4	6 (0.7)	6 (0.86)	4 (0.57)	5 (0.68)
EU 15	315.2				
EU 27	481.1	874 (100)	700 (100)	700 (100)	732 (100)

Source: CONFER 4740/00; 4750/00.



## NOTES

### C H A P T E R 2

- <sup>1</sup> For a detailed description of the co-decision process in the Council and the Parliament see endnote 16 in chapter 4.

### C H A P T E R 3

- <sup>1</sup> See *Protocol on the Institutions with the Prospect of Enlargement of the European Union*.
- <sup>2</sup> For more on this see <[http://europa.eu.int/comm/igc2000/geninfo/index\\_en.htm](http://europa.eu.int/comm/igc2000/geninfo/index_en.htm)> (accessed on 20 September 2000).
- <sup>3</sup> Such an example would be issues relating to the Commission's internal organization of work. See also note 2 in chapter 4.
- <sup>4</sup> See also <[http://europa.eu.int/comm/igc2000/geninfo/index\\_en.htm](http://europa.eu.int/comm/igc2000/geninfo/index_en.htm)> (accessed on 20 September 2000).
- <sup>5</sup> The systematic set of the official standpoints of the Member States; see <[http://europa.eu.int/comm/igc2000/offdoc/memberstates/index\\_en.htm](http://europa.eu.int/comm/igc2000/offdoc/memberstates/index_en.htm)> (accessed on 11 November 2000).
- <sup>6</sup> Ibid.
- <sup>7</sup> Our division is based on the one used by the representatives of the Commission during the Intergovernmental Conference.
- <sup>8</sup> This does not imply that the issue of extension of QMV is not related to the politics. We would only like to stress that longer political negotiations about representation and the voting system are more easily understood if the direct influence of these processes on the (formal) influence of individual Member States in the institution is taken into account.

## C H A P T E R 4

- <sup>1</sup> The role of the Commission is smaller in the areas of cooperation not covered by the *TEC*.
- <sup>2</sup> The reform of the Commission includes several other issues. Apart from the number of Commissioners, the most outstanding is the issue of the status of the President of the Commission. The President should be assigned greater power within the College (e.g. distribution and re-distribution of functions, including a provision in the Treaty stipulating that the President may require the resignation of individual Commissioners) and should be authorized to request a vote of confidence from the Council. As for other reform issues, at least two assertions hold true: firstly, their currency is linked to the size of a future Commission, and secondly, resolutions of some issues do not necessarily entail the revision of the Treaty, so these issues need not be debated at the Intergovernmental Conference. Examples include certain issues of internal organization, such as the choice of areas of work of the Commissioners and Vice-Presidents, and the reorganization of the administration (Cendón 2000, 78).
- <sup>3</sup> The High Authority of the ECSC was composed of nine Commissioners and one President, the Commission of the EEC had the same number of Commissioners and two Vice-Presidents, the Euratom Commission had five Commissioners and one President. The Treaties did not stipulate one Commissioner from each country, but the Commissioners had to be nationals of the Member States.
- <sup>4</sup> Undoubtedly this expansion is linked to the enlargement of the Union and a simultaneous deepening of the cooperation within the EU. The enlargement created conditions that led to the opening of new areas of work of the Commission which in turn called for an increase in the number of Commissioners.
- <sup>5</sup> See *TEU*, Declaration No 15.
- <sup>6</sup> See the *Protocol on the Institutions* annexed to the *Treaty of Amsterdam*.
- <sup>7</sup> For a detailed study of supra-national character of the EU, see Dias-Teixeira (1993, 183–196).
- <sup>8</sup> Foreign economic relations of the Union, structural funds, taxation and social policies (CONFER 4790/00, 7–10).

- <sup>9</sup> The only significant exception which, however, had no effects on the decision-making process, was an agreement reached before the accession of Denmark, Ireland, and Great Britain in 1973. The original 1–4 scale of assigned votes was extended to the 2–10 scale. The votes of all previous Member States save for Luxembourg were increased by 2.5 times, while Luxembourg’s votes were doubled.
- <sup>10</sup> The Luxembourg Compromise was an informal agreement that the Member States could block a voting process in the Council regardless of the method of decision-making if the adoption of a decision was regarded as seriously threatening their national interests. The “initiator” of the “veto culture” which prevailed in the wake of this agreement was France. The Compromise restrained the process of extension of (supra-national) QMV and reinforced the unanimous vote in the Council (for more see Peterson and Bomberg 1999, 49; Šabič 1999, 285–292; Moravcsik 1991, 20).
- <sup>11</sup> For more see *Final Report of the Reflection Group Set Up to Prepare the Intergovernmental Conference, Part One: A Strategy for Europe*, <<http://europa.eu.int/en/agenda/igc-home/eu-doc/reflect/final.html#0.1>> (accessed on 3 May 2000).
- <sup>12</sup> The present distribution of votes by groups of Member States is as follows: *large countries* Germany, Italy, France and Great Britain, 10 votes each; *less large country* Spain, 8 votes; *medium-size countries*: Belgium, the Netherlands, Portugal and Greece, 5 votes each; *smaller medium-size countries* Sweden and Austria, 4 votes each; *small countries* Denmark, Ireland and Finland, 3 votes each. The *smallest country* Luxembourg has 2 votes (classification taken from Midgaard 1999, 17–19). The ratio of population factor to the number of votes is in favour of the smaller countries: Germany, which before 1989 had approximately one vote per 5 million people, has approximately 1 vote per 8 million people after the unification, meaning that it is more weakly represented than Luxembourg which has 1 vote per 200,000 people.
- <sup>13</sup> The Ioannina Compromise was a result of an unsuccessful persistence of Great Britain that, after the last enlargement, the conditions for blocking a decision in the Council should be maintained at the level observed before the enlargement, that is 23 votes. So the compromise provided that “if members of the Council representing a total of 23 to 25 votes indicate their attention to oppose the adop-

tion by the Council of a decision by qualified majority, the Council will do all within its power to reach [...] a satisfactory solution that can be adopted by at least 65 votes” (Peterson and Bomberg 1999, 52). The existence of this informal solution is a unique indicator of the political weight of the formal voting shares of Member States in the process of QMV.

<sup>14</sup>The imbalance in the demographic representation is evident from the fact that at the moment Germany, Great Britain and the Netherlands, which together represent 42% of the total EU’s population, cannot collectively block a decision in the process of QMV. On the other hand, a blocking minority may be formed by Greece, Belgium, Portugal, Denmark, Finland, Ireland, and Luxembourg whose population just about exceeds 12% of the EU’s population.

<sup>15</sup>The Declaration No. 50 annexed to the *Treaty of Amsterdam* determines that the Ionnanina Compromise should remain in force “until the entry into force of the next enlargement and that, by that date, a solution would be found for the special case of Spain” (CONFER 4750/00, 17). Spain has asked on previous occasions for equalization of its votes with the votes granted to the largest four states.

<sup>16</sup>The provisions regulating the co-decision process (*TEC*, Article 251) empower the European Parliament to propose amendments or reject a proposed legislative act by the Commission regardless of the decision brought by the Council. The co-decision process in the legislative matters of the EU is still not the only standardized method of including the Parliament into the decision-making process. Various areas are still subject to the “consultation process” (*TEC*, several articles) where the Parliament may only give its opinion on the legislative act proposed by the Commission, but the act is adopted or rejected by the Council. In addition there is the method that implies an assent by the Parliament whereby a decision may be adopted if the Parliament gives its assent, but it has no right to propose amendments. A special process is applied when deciding on budgetary issues (*TEC*, Article 272) where the Parliament shares power with the Council depending on the type of the budgetary expenditures. The Parliament has right to reject the draft budget as a whole. The reinforcement of the Parliament’s role should be attributed to the gradual extension of the areas in which the Parliament and the Council co-decide about legislative acts

proposed by the Commission. At the same time its role has been strengthened due to the powers it has in the process of approving and dissolving the Commission (*TEC*, Articles 201 and 214).

<sup>17</sup>If the current distribution system were carried on, the Parliament would have 874 seats in an EU of 27 members.

<sup>18</sup>In the Council and the Parliament the principle of sovereign equality is stressed by assigning a greater weight to the less populated countries than would result from their population size. This principle is also reflected in the rule that each Member State has the right to appoint Commissioners to the College.

<sup>19</sup>The official positions of ten Member States were analyzed directly. Information on the priorities of other countries were obtained indirectly (SVEZ 2000, 22-22). The reports analyzed were: CONFER 4712/00 (Austria), CONFER 4721/00 (Belgium, the Netherlands, Luxembourg), CONFER 4722/00 (Denmark), CONFER 4723/00 (Finland), CONFER 4719/00 Greece), CONFER 4717/00 (Italy), CONFER 4733/00 (Germany), and Cm 4595 (Great Britain). The standpoints of these countries are also evident from the Presidency report to the Feira European Council.

<sup>20</sup>A similar conclusion can be drawn on the basis of the official standpoints of the candidate countries which appear very harmonious. Even though not participating in the negotiations some of them clearly stated their viewpoints on certain issues. Similar to other countries, candidate countries gave the highest priority to the issues of Commissioners' appointment and weighting of votes in the Council. See for example CONFER/VAR: 3951/00 (Cyprus), CONFER/VAR: 3958/00 (Czech Republic), CONFER/VAR: 3967/00 (Poland), CONFER/VAR: 3956/00 (Slovenia), CONFER/VAR: 3952/00 (Hungary) and CONFER/VAR: 3959/00 (Estonia).

<sup>21</sup>While *all* Member States have stated the need to resolve the composition of the Council and the Commission, their *quid pro quo* approach to these two issues can only be identified on the basis of the wording of their standpoints, that is, the original documents submitted. As regards the data obtained indirectly, it is not possible to conclude whether these issues were directly linked (except in the case of Ireland), so our assumptions are based on the the secondary sources (Stubb and Gray 2000, 1-3; SVEZ 2000, 20-21). One such

case in the past, which is only indirectly related to the current institutional reform, was that of Spain. While Spain has fewer votes in the Council than the other largest countries, this inequality is compensated for by the right to appoint a second Commissioner, that is, the same as the other largest states.

## C H A P T E R S

- <sup>1</sup> If not stated otherwise, the data about the demographic structure of the Member States and candidate countries are taken from the statistics published by The Economist Intelligence Unit, 1999a-z, ii-iii.
- <sup>2</sup> With its 39.4 million people Spain is 2.5 times larger than the Netherlands whose population is 15.8 million.
- <sup>3</sup> Germany has a population of 82 million which is more than twice that of Spain whose population is 39.4 million. Consequently, Spain could be regarded as a medium-size country. Yet on the other hand, the difference between Spain and other larger countries (e.g. Italy) is much smaller than that between Spain and the next less populous country i.e. the Netherlands (Spain has 70% of Italy's population, while the Netherlands has less than 40% of the Spain's population). These relations are the basis for our simplified division.
- <sup>4</sup> All data on the past alternative options are taken from the document by the French Presidency prior to the conclusion of the Intergovernmental Conference (CONFER 4744/00; 4797/00).
- <sup>5</sup> See for example the official standpoint of Great Britain (Cm 4594, 17).
- <sup>6</sup> Before the *Protocol on the Institutions* annexed to the *Treaty of Amsterdam* came into force, some larger Member States pointed out the potential difficulties in the internal political processes when harmonizing viewpoints on the right to appoint Commissioners using it as an argument in support of maintaining the right to appoint a second Commissioner.
- <sup>7</sup> Legitimacy is a term used by the Member States. We understand it primarily as being in the service of the direct contacts between the national governments and their representatives in the Commission.

- <sup>8</sup> The complexity of the Commission's operation will be much greater in the future due to the enlargement both as regards language issues and due to the more diverse political affiliations of Commissioners. Despite changes in the College, the Commissioners will not be appointed on the basis of any predetermined, collective (political) platforms (Cendon 2000, 83).
- <sup>9</sup> Within the Helsinki group of candidate countries, only Malta expressed the same view, and was also the only country which touched upon the issue of the Commission before the Intergovernmental Conference (House of Commons 2000).
- <sup>10</sup> The simple dual majority model, here described as an extreme option, suggests a threshold for a blocking minority which is somewhat higher than in the weighted dual majority model, but it is regarded an extreme option due to the low population threshold needed to take a decision.
- <sup>11</sup> Here they placed stress on the population threshold for taking a decision in the Council, which ranged from 50% to over 60% depending on the model. It is not known from the official documents which concrete proposals were supported by individual countries. Accordingly, their standpoints regarding the threshold for a blocking minority are not known.
- <sup>12</sup> The analysis included two groups of proposals put forward at the Amsterdam Intergovernmental Conference. These were dual majority and a simple re-weighting of votes. The dual majority group included two alternative options that are roughly comparable to the first two scenarios described, except the population threshold was set at 60%. The simple re-weighting model was virtually identical to the basic table of the third scenario described here (Midgaard 1999, 7-8).
- <sup>13</sup> Some authors (Petite 2000, 65) assert that the probability of polarization of small and large countries in the voting process would increase if the QMV were extended to the foreign policy issues, even though it is not necessarily this precise model of decision-making that would become established in this area (Šabič 1999).
- <sup>14</sup> Candidate countries from the Helsinki group have not expressed detailed views on these issues, save for Malta which advocated the interests of the smaller countries in the Council (House of Commons 2000).

<sup>15</sup>In addition to the reduction in the number of seats of the smallest countries, the seats of all other members would also be reduced by one third compared to the extrapolated model. On the other hand, each Member State with a population over 3 million would be allocated up to 5 seats extra in proportion to its demographic size.

<sup>16</sup>The author stresses that in practice the capacity of MEPs to realize their political objectives depends on their harmonious operation with European political groups. Yet the members of the Parliament are elected by their respective states and their chance of being re-elected closely depends on how harmonious their operation is with the standpoints of national parties. The loyalty of a member of the Parliament is hence determined by both national and supranational factors (Hix 1997, 7).

<sup>17</sup>If the issue was considered, they clearly supported the maintenance of the ceiling of 700 members.

## C H A P T E R 6

<sup>1</sup> See the *Treaty of Nice* and *La Tribune* 2000.

<sup>2</sup> The Parliament is an exception as the reforms should be implemented in 2004, at the first direct election following.

<sup>3</sup> If the *Treaty of Nice* comes into force, the President of the Commission, who has been previously approved by a qualified majority in the Council, will have the right to dismiss individual Commissioners (such a decision should be supported by the College). In order to ensure that Commissioners' actions are coherent, efficient and carried out under collective responsibility, the President will have the authority to decide on its internal structure including the distribution of responsibilities (*The Treaty of Nice*, Article 2(24)).

<sup>4</sup> The same population factor would be observed during the period of transition until the accession of all 27 applicant countries. According to the agreement, during the transition period which extends from 2005 to the date the last applicant country accedes to the Union, the threshold for adopting a decision would be defined on a case-by-case basis but should not exceed 73.4% of votes. Similarly, the number of votes needed to block a Council decision

in the transition period would be 87, i.e. different than in an EU of 27 states where this number will be 91 (*The Treaty of Nice*, Declaration No. 21). Until the enlargement process begins, the threshold for a qualified majority would be somewhat more than 71% (*The Treaty of Nice*, Protocol A, Article 3(1))

<sup>5</sup> The same principles of seat distribution and the same balance of power in the Parliament would be applicable to the transition period between 2004 and the date of the accession of the last candidate country. The only difference would be a difference in the proportion of the seats allocated to individual countries compared to the one stipulated by the *Treaty of Nice* and applying to an EU of 27 states (see Appendix B-c). In this way the number of MEPs would approach 732 even in the Union of less than 27 members (*The Treaty of Nice*, Protocol A, Article 283).

<sup>6</sup> Slovenia would thus have one representative per 350,000 people, and Germany would have one per 1,207,000 people.

## C H A P T E R 7

<sup>1</sup> The methodology we used is as follows: (1.)  $g/G * 100$  - for extrapolation and re-weighting of votes;  $((g1+g2)/2 / (G1+G2)/2) * 100$  - for dual majority models. In this formula,  $g$  (i.e.  $g1$  and  $g2$ ) represents the number of votes of Slovenia accorded by individual tables included in the proposal.  $G$  (i.e.  $G1$  and  $G2$ ) is a threshold for adopting a Council decision. The same formulae were used to calculate Slovenia's share of votes in the blocking threshold, only in this case just one table was taken into account, namely that by which Slovenia would have a greater share of the votes. (2.)  $g/GB * 100$  - for extrapolation and limited weighting of votes, i.e.  $g/GBu * 100$  - for other models.  $GB$  represents the voting threshold needed to block a decision in the council, and  $GBu$  the most favourable of all thresholds needed to block a decision in dual majority models.

<sup>2</sup> Slovenia's share of a blocking minority group in a dual majority scenario if a blocking minority is based on the demographic factor and coalition made up of the largest countries only.

## C H A P T E R 8

<sup>1</sup> History of the EU reveals many examples of unsettled issues returning to the agenda. One such example is Werner's plan which failed in the 1970s so its principles were only included into the structure of the Union with the introduction of the European Monetary Union. A similar fate befell Spinelli's draft of the Treaty establishing the EU dating from 1984 - it was realized in a modified form only in 1992 with the *Maastricht Treaty* (see Arah 1995). The efforts to radically restrict the number of Commissioners may also be added to the same group, as they originated in the beginning of the 1990s and still wait to be realized.

## C H A P T E R 9

<sup>1</sup> For more see e.g. Hosli (1996, 268).

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