

Stranger than fiction: The voting rules in the Reform Treaty are a victory for Poland

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Delaying the Constitution's voting rules for 10 years is a nice way of saying they won't be adopted. Either the current voting rules will produce Thatcher-sized blockages and have to be revised in the meantime, or the EU27+ will learn to work with them, in which case no one will want to switch in 2017.

The EU Summit was long and ill-tempered, but in the end a bargain was struck. The Heads of State and Government described the deal in the German Presidency Conclusions. These delineate what is to be called the Reform Treaty, and call for an Intergovernmental Conference to fill in the details.

A profound analysis of the bargain is not possible from what is in the Conclusions. The devil, as they say, is in the details. And these devilish details won't be known until the Intergovernmental Conference finishes its work (supposedly by the end of the 2007).

One thing is clear, however. Poland won on the voting rules. That was not the headline result. It is, however, obvious with a bit of reflection and some historical perspective. Background first; logic second.

Simplifying history to clarify the logic, the prime motive driving the Constitutional Treaty (may it rest in peace) was to ensure that the enlarged EU maintains its ability to act effectively and legitimately. That was necessary since the 2001 Nice Treaty – the last Treaty aimed at reforming EU institutions – bungled the reform. Especially the critical Council-of-Ministers voting rules. The bungle was so bad that EU leaders set about reforming the Nice Treaty voting rules even before they had been tried. The result of this effort was the voting rules in the draft Constitution, rules that were rejected by EU leaders in December 2003 (then it was Spain objecting to the double-majority system). The details of the draft Constitution's voting rules were renegotiated in 2004, only to be rejected by the democratic machinations of France and the Netherlands.¹

This background is important since it tells us that the key reform – the thing that really needed to be fixed – was Council voting rules. The German President wanted to save the Constitution's double-majority scheme; Poland wanted to switch to a square root rule. This weekend's Conclusions make no mention of the Polish proposal, so one might assume that Poland lost. That's wrong. Poland won. The compromise was to keep the Nice Treaty voting rules until 2017 (actually it is to 2014 but one of those strange Summit-talk provisions effectively extends them to 2017).² Now for the logic.

Delaying the switch to the Constitution's double-majority system for 10 years is a nice way of saying that they are unlikely to be adopted. Using the Nice Treaty rules for 10 more years will result in one of two outcomes.

a) The Nice rules will fail miserably and obviously in the coming years and have to be revised before 2017;

or

b) The EU of 27+ members will figure out how to work around the Nice rules, in which case no one will want to switch to the double-majority system in 2017.

By 2017, Turkey will have joined or will be about to join. Being the most populous European nation by that date (according to standard population forecasts), switching to the double-majority system would make Turkey the most powerful EU member. And that is a prospect that would either prevent Turkey's entrance, or lead the then-EU leaders to revisit what will – in 2017 – look like a hasty and short-signed compromise made for reasons that only experts will remember by leaders who will have by then faded into the mists of history.

It is impossible to know which of the two will come to pass. My money is on option (a), but I would insist on almost even money. The presumption that the Nice rules cannot work is just that – a presumption. There is some evidence that decision-making has been harder than usual since the enlargement and implementation of the Nice rules. But there has been no Thatcher-sized decision-making train wreck since they went into effect in November 2004.

Only time will tell whether the EU leaders fixed up the Nice Treaty's screw up, or put in place a new screw up for their successors to fix up. In any event, the Polish leadership should open the champagne.

¹ For more detail on this view, see my series of four columns posted last week on VoxEU.org.

² Here is the exact wording: "The double majority voting system, as agreed in the 2004 IGC, will take effect on 1 November 2014, until which date the present qualified majority system [Nice Treaty rules] will continue to apply. After that, during a transitional period until 31 March 2017, when a decision is to be adopted by qualified majority, a member of the Council may request that the decision be taken in accordance with the qualified majority as defined in [Nice Treaty rules] of the present TEC."

This is like saying your son gets his allowance only up to 2014, unless he asks for it in which case he can have it up to 2017.

I substituted [Nice Treaty rules] for the legalistic reference to the particular Article in the amended Treaty of Rome (formally called the Treaty establishing the European Community). Note that this 2014-2017 'handbrake' was first mooted on VoxEU.org last week by Daniel Gros, Sebastian Kurpas and Mika Widgren.