

Change the Vote HowTo

On may 18 a political agreement on a common position was reached, not yet a common position itself. The vote cast on may 18 is a non-binding one¹, it can be changed unilaterally – without asking for a new vote. After that the votes have to be counted to see whether a qualified majority still exists. There are two possibilities.

- Possibility 1: B item

The formality (A item) can unilaterally be changed in a non-formality (B item), as Council's rules of procedure article 3.8 shows:

“However, an A item shall be withdrawn from the agenda, unless the Council decides otherwise, if a position on an A item might lead to further discussion thereof or if a member of the Council or the Commission so requests.”²

Now a statement can be made and the vote can be changed. After that the votes have to be counted to see whether a qualified majority still exists, Otherwise the common position is illegal.³

It is advisable to send a letter to the Presidency in advance, to ask for the directive to be handled as a B item and to state that the vote has changed. If the Council decides otherwise, the A item can not be changed to a B item. In that case, possibility 2 has to be followed.

- Possibility 2: A item

For this we take a look at Council's rules of procedure article 3.6:

“The provisional agenda shall be divided into Part A and Part B. Items for which approval by the Council is possible without discussion shall be included in Part A, but this does not exclude the possibility of any member of the Council or of the Commission expressing an opinion at the time of the approval of these items and having statements included in the minutes.”

It is possible to state the vote has changed. Care has to be that as soon as the Presidency asks whether the votes can be made final it is time to act and state the vote has changed. After that the votes have to be counted to see whether a qualified majority still exists, otherwise the common position is illegal.

An A item can be on the agenda of any Council. An other minister or state secretary can be the one to handle the case. All ministers and state secretaries have to be informed. It is better to use possibility 1.

¹ Lopez report page 15 point 2

http://fajardolopez.com/informes/Fajardolopez.com_18th-May-EU-Council-voting.pdf

² http://ue.eu.int/uedocs/cms_data/docs/2004/6/21/Councils%20rules%20of%20procedure.pdf

³ Lopez report page 15-16 point 4