

# Dealing with the twists and turns of the EU negotiation process - Part 1 of 2

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Blog 3, part 1 of 2, of the series 'Possible impacts of the current pandemic on international negotiation processes'.

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Nice to see you! Welcome back to our series on the impact of the Covid pandemic on international negotiation processes. After linking international relations theories and negotiation practices in our previous blog post, in this edition we are going down the rabbit hole to take a closer look at the peculiarities of EU negotiations.

In order to explain the specificities of the EU decision-making process, we are going to focus on a case study. The aim is to illustrate the features you need to be aware of before you dive head first into an EU negotiation. The EU has hosted and taken part in many complex negotiations over the last few months (e.g. Br\*xit). However, one of the most interesting issues on the EU agenda in recent times was the negotiations surrounding the Multiannual Financial Framework (MFF) for the 2021–2027 financial period.

Before jumping into the MFF negotiations, let's first have a look at how the EU decision-making processes work. There are many adjectives we could use to describe the European Union. The most commonly used expression is *the EU is a sui generis organisation*. The number of stakeholders from different countries and the degree of influence they can wield over the

decision-making process is unprecedented in comparison to any other multicultural and multilateral organisation. The EU has created its own class of political civil servants, with their own objectives, working to facilitate the decision-making process alongside Member State and civil society representatives.

## The magic triangle

The EU decision-making process itself can be illustrated in a nutshell by a triangle. In one corner we have the European Commission. It is the executive branch of the EU, and responsible for proposing legislation. It is made up of 27 independent commissioners, one from each Member State, and supported by its own internal civil servants. This is important to note as it highlights where the interest of the institution and its representatives lie in any negotiation.

The Commission sends its formal proposal to the European Parliament and the Council of the European Union. They are two co-legislators in the decision-making process with two very different constitutions. The Parliament is made up of Members of the European Parliament (MEPs) who are directly elected by the European citizens and assisted by internal EU civil servants. To give you an idea of how diverse this institution is, it is the largest transnational election in the world. MEPs are elected via elections in Member States, but once inside the Parliament different dynamics come into action. Within the European Parliament MEPs can sit with one of the different political groups, made up of national political parties, which are oriented on the political spectrum.

Meanwhile, the Council is the intergovernmental corner of our triangle. At the upper levels, Member States are represented by their ministers or ambassadors. Below this, national civil servants are involved (in contrast to the Commission which has its own *European administration*). The Council is governed by a rotating presidency whereby the Member States

each take turns chairing the Council for six months before passing it on to the next country.

Both the Council and the Parliament must give their consent in order for legislation to be adopted in the EU. Each corner of this triangle represents a different political being. In one corner we have the Commission and the EU-centric approach, then on one side the representative branch of the EU – the Parliament with its directly elected MEPs and the intergovernmental Council on the other, representing the interests of the Member States. As you can imagine, each policymaker has its own interests, aims and objectives it hopes to secure during the decision-making process. On top of all of this the European Council, made up of the heads of state or government from each country, gives political direction to the decision-making process.

### So what about the MFF then?

Moving then to our case study – the MFF, the EU's financing structure. The long-term budget, the MFF, provides an outline for the spending priorities for a period of seven years. Within this long-term budget, the annual budgets are then decided. The MFF is significant as it determines the level of financial support available to the EU's projects (including Erasmus+, the European Social Fund and the European Regional Development Fund).

The Commission proposes the MFF, the European Council provides political direction where needed, the Council assesses and debates it, the European Parliament must give consent to it, and the Council must adopt it unanimously.

This budget must go through a complicated procedure in order to be ratified, involving the European Commission, the European Council, the European Parliament and the Council of the European Union. Various stakeholders discussing large numbers of interests – the perfect snapshot into what to watch out for in EU negotiations processes.

### The forum is also a stakeholder

It is not just the number of stakeholders involved in the MFF negotiations that make them curious, but *who* is involved. The Commission, the Parliament, the European Council and the Council of the European Union are all key actors in the production of the budget. While it is a team effort to get the MFF adopted, each institution brings their own preferences and priorities to the negotiations. This is an *interesting* facet of EU negotiations. For example, the Member States may have their own priorities which they seek to defend in both the Council of the European Union – also named the 'Council' – and the European Council. But these institutions have their own priorities to manage too. Think of the rotating Presidency of the Council or the impact of upcoming national elections at home on the way EU negotiations are approached.

This is not a unique situation. In EU negotiations, the forum is also a stakeholder. The institution of the Commission will have its own set of priorities, but the individual commissioners or heads of cabinets who make up the Commission may have diverging interests in terms of the portfolio they represent. This means that at any EU negotiation, there may be an extra *ghost* stakeholder at the table. They may not be directly involved in the discussion but their preferences still matter.

The MFF is adopted under the special legislative procedure. The Commission presents a proposal, before the current MFF expires, which is then used as a basis for negotiations within the Council. Heads of State then meet in the European Council and offer political guidance on the main characteristics of the long-term budget. The Council must receive the consent of the European Parliament before adopting the MFF. The Parliament can either approve or reject what is on the table, but they cannot amend it.

The way in which the MFF is adopted exacerbates the potential conflict between the institutions as each wants to leave their mark on this important piece of legislation. This was evident in the disagreements between the European Parliament and the European Council in the first half of 2020. The MFF negotiations were already proving challenging prior to the arrival of Covid-19. At the European Council in April, European leaders called for a recovery fund to help support Member States in the post-Covid world. Germany and France put forward a proposal for a €500 billion recovery fund. The Commission supported the idea and amended their original budget proposal to include a separate recovery instrument (the recovery and resilience package).

While the Parliament was supportive of the recovery fund, it maintained that it should not take away from the EU's long-term budget. The Heads of State in the European Council disagreed. When the European Council agreed to reduce the financing available for flagship programmes under the MFF in the Commission's May 2020 proposal, the Parliament voted in favour of a resolution, stating it would not support a budget that lack adequate funding for these programmes.

The EU institutions themselves then create a unique set of challenges for negotiators. Their evolution over time has resulted in a complex structure of codes and rules of procedure, which can not only be tricky to navigate, but can also constrain the other stakeholders involved in the negotiation. The institutions themselves have adopted both formal and informal rules of procedure or codes of conduct but in addition to this, the different elements of the institutions – such as the working parties within the Council – can also adopt their own informal rules and codes. Other examples of such rules include the

written procedure and qualified majority voting (QMV). This is in addition to the previously mentioned preferences of the institutions themselves, which can directly impede the negotiation process and hamper efforts to reach a consensus, even before the Member States have voiced their own opinions. Those stakeholders who are acutely familiar with the decision-making processes know how to use these rules or constraints to further their own negotiating position.

Looking at the MFF, the Parliament's ability to only accept or reject the Council's work, as per the Treaties, can stall if not undo the progress made up until this stage. At one point during the 2020 negotiations, the Parliament's negotiating team even walked out of a meeting with the Council Presidency team, in protest against the Council's position on the raising of the MFF ceilings. The fact that the Parliament must formally approve the MFF means they can engage in such a strategy to make their point heard and effectively stall the negotiations. These examples illustrate how institutional priorities can impact the negotiation process.

*We hope you're enjoying our discussion so far. We'll leave it here for now but fear not, our exploration of EU negotiations will continue in the next blog. Read part 3.2 where we head further down the rabbit hole of EU negotiations and illustrate some of the other characteristics unique to Brussels negotiations ...*

**Read the first and second blog of the series 'Possible impacts of the current pandemic on international negotiation processes' by the Negotiation Team.**

**Do you have questions? Contact the Negotiation Team [negotiationteam@eipa.eu](mailto:negotiationteam@eipa.eu).**

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