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ISSUES CONCERNING VOTING ON THE VENUE FOR THE 2009 MINISTERIAL CONFERENCE OF THE BOLOGNA PROCESS

As discussed by the Bologna Board in Wien on June 13, voting on the venue of the 2009 Ministerial conference raises a number of issues that require clarification and, most likely, agreement in the BFUG before we proceed to the actual selection of the venue. What follows is an attempt to spell out these issues, without making a claim as to covering every possible issue.

Who votes?

The basic rule is that all member countries and the European Commission vote, whereas the consultative members do not. Until Montenegro is accepted as a member of the Bologna Process, Montenegro will be an observer and therefore will not vote.

Beyond that, however, there is an issue of who casts the vote on behalf of each country (and the Commission). Normally, this would be the member(s) of the BFUG, and it is up to each country (and the Commission) to decide who casts the vote on its behalf.

In this case, however, the BFUG will consider an issue on which the Ministers make the final decision through the London Communiqué. That raises issues that I will return to under the headlines “validity” and “procedure”, below.

How many votes per country?

The only precedent established here is that of the election of the Board, established by the BFUG in November 2003. Under these rules, each *country* as well as the European Commission has two votes. This is because some countries have more than one education system (Belgium) or more than one level of representation in the BFUG (Bosnia and Herzegovina, Germany) and that it would be unfortunate to oblige these countries to decide which community or level of representation casts the vote. Therefore, each community or level would be able to cast one vote, whereas countries with “unitary” representation would cast two votes. In this way, all countries will have the same number of votes, and account will be taken of the internal situation of some countries.

The BFUG should probably decide explicitly that these rules apply to all voting within the BFUG.

It should also decide what happens if only one of the entities described above is present at the vote (i.e. if e.g. only the representative of the German Länder but not of the Federation, only one of the two Communities of Belgium or only one representative of Bosnia and Herzegovina is present). Does the representative present in this case cast only the one vote that (s)he would normally cast, or does (s)he cast both votes on behalf of the country in question? Again, both options are possible, but it needs to be decided before the vote. One possibility is that the entity not present gives the other entity a proxy to vote on their behalf, but the question nevertheless remains of what should be done if no such proxy is given. The question may be of little practical relevance but it is not moot. Bosnia and Herzegovina has mostly been represented by only one representative¹, and Belgium is among the potential hosts in 2009. Should one of the Belgium representative be prevented from attending at the last minute, the issue will arise.

It should be noted that whereas the State Union of Serbia and Montenegro prior to the Declaration of Independence by Montenegro had two votes, one of which was cast by Serbia and one by Montenegro, both votes have now been transferred to Serbia. When Montenegro (re)joins the Process, Montenegro will also have two votes.

What majority?

There are no rules covering this issue, except that the three candidates with the highest number of votes are elected to the Board. This is of little help for the current issue, however, where we are faced with selecting one among three candidates. There are several possible options, in that selection may require:

- an absolute majority (50 % + 1 vote) of votes cast
- a qualified majority of votes cast, in which case there would also need to be agreement on what proportion of votes should constitute the qualified majority (2/3, 60 %, 55 %, ¾; any other number is also theoretically possible)
- a simple majority, i.e. whatever candidate receives the highest number of votes is selected, even if the candidate receives less than 50 % of votes:
- the first two alternatives can also be stipulated as requiring a simple or qualified majority not of votes cast, but of:
 - all *valid* votes (i.e. excluding blank and null votes);
 - all those entitled to vote (in which case an absolute majority would be 47 votes, since 45 countries and the EU (=46) each cast two votes (i.e. 92 votes), 50 % + 1 vote of which is 47)

¹ The case of Bosnia and Herzegovina is particularly complex because the Ministry of Civil Affairs has some competence in higher education, whereas some competence lies with the Republika Srpska and the Federation, respectively, and, within the Federation, with the 10 cantons.

If anything more than a simple majority is required, the BFUG would also need to decide on what happens if the required majority is not achieved on the first ballot. Alternatives include:

- a new ballot in which all three candidates participate;
- a new ballot from which the candidate receiving the lowest number of votes in the previous ballot is excluded;
- a new ballot in which only the two candidates receiving the highest number of votes in the previous ballot are included (in this case, the last two alternatives would give the same result, but there would be a difference between the two if there were four or more candidates, and presumably the rules adopted would be valid beyond this one vote).

The BFUG would also need to decide what is to be done if two or more alternatives receive an equal number of votes (if two or more candidates or alternatives are tied for first place). Alternatives include:

- a new vote with all candidates still in the running. In this case, the tie will be broken only if at least one voter votes differently in the new ballot;
- a new vote among the candidates or alternatives that received an equal number of votes in the first round. In this case, those voting for the losing candidate(s) or alternative(s) would vote for one of the remaining candidate(s) or alternative(s). In this case, the BFUG would still need to decide what should be done if the remaining candidate(s) or alternative(s) receive an equal number of votes on the second ballot;
- the vote of the Chair of the BFUG breaks the tie. This alternative would in effect leave the decision to the Chair in a tie break, and the Chair may not be willing to take on this burden alone;
- drawing of lots, to be prepared by the Secretariat. The drawer of the lot must be designated; it could be the BFUG Chair or Vice Chair and should not be a representative of one of the candidates.

All of the procedures outlined above are possible, and it is important that the BFUG decide on the rules and procedures before it proceeds to a vote on content. If the results of the vote are known, they will inevitably influence deliberations on the procedure.

What quorum?

The quorum is the minimum number of votes – or the minimum proportion of votes – that need to be cast for the results to be valid. It is intended to prevent situations in which a decision is made on the basis of a low number of votes. Alternatives are:

- at least 50 % of those entitled to vote should do so
- any higher number, e.g. 2/3;

- stipulating the quorum in terms of valid votes rather than just “votes” (which would mean that if a high number of voters cast blank or invalid votes as a protest, this would invalidate the vote).

Again, several options are possible, and the BFUG needs to be clear about which one it chooses.

What procedure?

Voting may be by :

- written ballot in a meeting of the BFUG
- written vote submitted by mail
- electronic vote.

However, a postal ballot may not be practically feasible because ordinary mail is slow from some countries, so that the alternative to a vote at the meeting is a vote by electronic consultation, as is done in the case of Board elections. A secret vote is feasible only if it is conducted at the meeting, since electronic voting leaves traces.

What validity?

In essence, if it comes to a vote on the venue of the 2009 conference, the BFUG will be invited to make a decision that properly belongs to the Ministers. If there is agreement on the host, i.e. if there is only one candidate, this is a formality, in that Ministers formally approve the one remaining candidate through the Communiqué (in this case, the London Communiqué).

However, if there is more than one candidate, it must be ensured that the BFUG is mandated to make the decision on behalf of the Ministers, or that the Ministers can vote themselves (most likely through electronic voting).

If Ministers vote directly, e.g. through electronic voting, measures must be taken to verify that the votes are valid, i.e. cast by the Ministers. This required computer competence that I do not have.

If the BFUG is to vote, it must be ensured that BFUG members are empowered to vote. The safest way to ensure this is by written proxy from the Ministers. However, it could be argued that BFUG members – at least theoretically – always act on behalf of their Ministers. However, this is not an ordinary issue and the BFUG should consider what measures need to be taken to avoid a challenge from a Minister at the London conference.

In particular, it must be ensured that the Ministers of the potential host countries agree with the procedure and will accept that the decision made by BFUG will be binding. The most easily verifiable way of doing this is if all Ministers concerned submit a letter saying they will withdraw their invitation if it is not selected by the BFUG, so that Ministers in London will have only one invitation for the 2009 meeting. Again, this may be simpler in theory than in actual practice.

CONCLUSION

Asking the BFUG to vote on the venue of the 2009 meeting is a complex undertaking and should be avoided, if possible. If a vote is to be taken, the issues outlined in this note – and possibly others overlooked here – must be clarified. BFUG members must ensure that they vote on the instructions of their Ministers, and the issue of whether and how the BFUG can make a binding decision in what is in effect for the Ministers to decide must be addressed.