

Making Policy in the European Union: The Council Recommendation on the Drinking of Alcohol by Young People

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On 5 June 2001, the Health Ministers in European Union (EU) adopted a Council recommendation on the drinking of alcohol by young people (Council of Ministers, 2001a). The member states are here invited to take common action to address the problem of under-age drinking through education and information, and to strengthen the enforcement of rules on alcohol sales. Further, the recommendation calls on alcohol producers and retailers to communicate in a responsible way and to enforce self-regulatory rules on advertising. Towards this aim, national governments and the Industry are encouraged to ensure that alcoholic beverages are not designed or promoted to appeal to youngsters.

The adoption of this recommendation may seem puzzling to many observers. The primary EU project has been considered to be one of market building and economic integration, while the area of public health and the issue of alcohol control in particular, traditionally have played restricted roles on the EU policy agenda (Holland and Mossialos, 1999; Ugland, 2000; 2002). In this context, the present article aims at increasing the understanding of *why* and *how* it was adopted, as well as *what* the policy implications of this recommendation are for the member states.

More specifically, this article first elaborates on why the issue of young people and alcohol has been singled out as an area of activity that requires common action among the EU member states. Second, the decision-making process that led to the adoption of this recommendation is outlined in greater detail. The roles and relationships between the various institutions, as well as the formal decision-making procedures in the EU will here be sketched out. Third, the legal and political status of Council recommendations within the area of public health is discussed in relation to this specific recommendation on the drinking of alcohol by young people.

The study carried out in this article adheres to the category of “decision analysis” (Parsons, 1995), where decision-making falls between policy-formation and implementation (Etzioni, 1968: 203). Based on a descriptive framework, the main focus here is on the policy and decision-making process that took place between the first official proposal for a recommendation on young people and alcohol was presented by the European Commission until the final text was adopted by the Council. Some thoughts on the prospects of implementation in the various member states will however also be outlined. Due to the decision-making procedures in the EU, this process is well documented. Official documents from the various EU institutions therefore constitute the main source of information in this study. In their article,

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Sutton and Nylander (1999) discuss the earlier and more informal stages in this prolonged and multi-faceted process.

A Council recommendation on the drinking of alcohol by young people

The story of alcohol and the EU has predominantly been one of how the alcohol control policies in certain countries have become challenged through negative reforms or indirect pressure (Ugland, 2000; see also Leibfried and Pierson, 1996). Through these Court and market driven processes, the Nordic state alcohol monopoly systems have been deregulated and liberalised, and the price levels on alcoholic beverages have been lowered and are currently under pressure for further reductions. The attempts at positive activist reforms, i.e. the adoption of common EU alcohol control policy legislation, have been scarce. There exist severe obstacles against these processes, as policy making in the EU depends upon agreement between the national governments in the Council of Ministers. In this light, the Council recommendation on the drinking of alcohol by young people can be considered as path-breaking.

However, in order to elaborate on the *why*, *how* and *what* questions presented above, it seems necessary to introduce the main issues addressed, as well as the nature of the measures recommended by the Council in this document. The document recommends a common approach across the Community with regard to young people and consumption of alcohol. It deals broadly with two main issues: promotion of research, education and information; and promotion of responsible marketing and retailing of alcoholic beverages. Altogether, 16 more or less concrete recommendations are presented in relation to these two issues.

It is emphasised that the member states can approach the various recommendations based on the legal, regulatory, or self-regulatory environments in the individual countries. This implies that the recommendations can be viewed as common principles, and that it is up to the various member states to find the appropriate way of approaching them. An example may be pertinent; instead of recommending a minimum legal drinking age, the Council recommends that the member states “take action as a matter of priority against the illegal sale of alcohol to under-age consumers and, *where appropriate*, requires a proof of age” (my italics) (Council, 2001a).

All in all, the Council is in this document inviting the member states to address the issue of young people and alcohol in a common approach across the Community. The various recommendations do in this context serve as common guidelines, which are intended to take account of past and current measures implemented in the member states. This particular style is likely to generate the greatest possible support needed for a successful adoption and implementation at the EU-level, and this aspect provides an important background for the subsequent discussions on *why* and *how* this Council recommendation was adopted, as well as for the deliberations on *what* the policy implications are for the member states.

Establishing policy priorities at the EU-level: Why a Council recommendation on the drinking of alcohol by young people?

The EU competencies in public health are less developed than those in other areas (see Holland and Mossialos, 1999). Under the principle of subsidiarity and given the

limitations of the Treaties, the development of comprehensive health policies is primarily the responsibility of the member states. In fact, because of the sensitivity of health matters, the member states have been unwilling to permit the EU a wider role in public health.

Despite this, the EU has been granted formal competencies in public health over the course of the time. The Treaty on the European Union in 1992 formalized the first real powers with respect to public health, and it gave the Community concrete legal competencies through two provisions. First, Article 3(o) empowered the Community to “contribute to the attainment of a high level of health protection” for its citizens. Second, and towards achieving this objective, Article 129 delineated a rudimentary framework whereby the Community would meet this obligation. It would do so by encouraging co-operation between member states and, if necessary, lending support to their action. The Amsterdam Treaty from 1997 revised Article 129, and several new provisions were added. Article 129 was in this connection renamed to Article 152.

Based on this, Community actions within the area of public health can be justified with reference to the Treaties. The question is however, which criteria justify such action? There is a lack on clarity with regard to this question within the EU, and no precise definitions have been given. A closer look at the justification of the Council Recommendation on the drinking of alcohol by young people may shed light on this issue. The Commission’s proposal that was presented on 27 November 2000 deals directly with the question of why the issue of young people and alcohol not only should remain the preserve of the member states (Commission, 2000). The Commission’s justification of Community action in this specific case is based on three arguments, and the drinking of alcohol by young people is presented as:

- a problem with important health implications;
- a problem of international character; and finally
- a problem which requires coordination.

To the first point, supported by references to relevant research, the Commission states that alcohol is one of the most important risk factors for human health, not only for the member states, but also at the European Union level. Secondly, the Commission argues that Community action is called for due to the increasingly international character of youth culture, and the decreasing significance of national borders with regard to the transmission of this culture and products associated with it. Thirdly, the Commission claims that all member states pursue measures in order to reduce alcohol related harm among young people, but it is also observed that the approaches and strategies differ substantially. According to the Commission, there are lessons to be learned from these differences, and the Community is in a good position to promote a coherent overall strategy to combat alcohol related harm. It is further argued that Community action will improve data collection on a consistent basis, and to facilitate the exchange of information regarding best practices in health education and other preventive strategies.

These three arguments are applied to illustrate the Community dimension of the issue of young people and alcohol, and they are further backed up with references to Article 152 of the Amsterdam Treaty which legitimise common actions in the area of public health. Holland, Mossialos and Permanand (1999: 36) has identified and singled out

the arguments used here as central in connection with the urgent task of reaching at a more precise definition of where the EU can act in public health matters.

In sum, the Commission is in this proposal aiming at illustrating the added value of common action compared with letting the issue of young people and alcohol fully remain the preserve of the individual member states. The fate of this proposal in the next steps of the EU decision-making process is to a large degree depending upon whether the Commission managed to communicate the Community dimension in a clear and convincing manner.

With relevance to the further treatment by the Council and the European Parliament, it should be mentioned that both institutions had at an early point paid great interests in this particular subject matter. In a meeting held in connection with the Finnish presidency on 8 June 1999, the Council of Ministers of Health discussed the need for addressing the issue of young people and alcohol through a Council recommendation (Finnish Presidency of the EU, 1999). Further, in 1997, more than 200 members of the European Parliament gave their backing to a campaign to clamp down on “alcopops”, the sweet-tasting alcoholic drinks which from the second half of the 1990s became increasingly popular among very young persons in the European countries (European Voice, 1997; see also Sutton and Nylander, 1999).

The EU decision-making process: How the Council recommendation on the drinking of alcohol by young people was adopted

On 28 November 2000, the 15 pages long proposal for a Council recommendation called “Drinking of alcohol by children and adolescents” was forwarded to the Council, which is the principal decision-making body within the EU, with both executive and legislative powers. The Council of the European Union represents the interests of the member states in the EU, and is formed by representatives of the national governments, normally at ministerial level. However, the Council is dependent upon the relationships with other European institutions, and the Council shares legislative power with the European Parliament. By a letter of 16 January 2001, the Council asked for the opinion of the European Parliament on the proposal from the Commission under the consultation procedure (see Figure 1).

The Treaties gives the European Parliament the right to be consulted on all political important measures. The consultation procedure is the simplest form of one-stage consultation between the Council and the European Parliament. As the power of the European Parliament has increased over time, this procedure has become less used compared with the assent, cooperation and the co-decision procedures which give the Parliament a wider and more important role (see Hayes-Renshaw and Wallace, 1997). Apart from in connection with Council recommendations, the cooperation procedure is used in the area of public health in the EU (Merkel and Hübel, 1999).

Proposals for Council recommendations is forwarded to the President of the European Parliament, which in turn decides which will be the responsible Committee in the Parliament. The outcome of the Committee’s deliberation is then set out in a report, which in turn will be discussed in plenary session of the Parliament. The alternatives of the Parliament at this stage in the process are to accept or reject the proposal or to

propose amendments. The opinion of the Parliament carry political weight, but it is not binding for the Council that will take the final decision.

The specific proposal for a Council recommendation on the drinking of alcohol by children and adolescents was referred to the Committee on the Environment, Public Health and Consumer Policy on 18 January 2001. This Committee considered the proposal and drafted its report at two different meeting in March and April 2001. At the latter meeting, the draft report was unanimously adopted (European Parliament, 2001a). The Committee's report contained not less than 52 amendments, all presented with a short justifying text. However, the main conclusion was that the Committee: "warmly welcomes the draft Council Recommendation" (European Parliament, 2001a: 32). The Rapporteur of the Committee on the Environment, Public Health and Consumer Policy in turn recommended that the Parliament approved the proposal with the modifications proposed. On 16 May 2001, the European Parliament in a plenary session approved the report by 445 votes for, 63 against and 21 abstentions. Despite a large number of amendments, the European Parliament welcomed the proposal for a Council recommendation with wide margins (European Parliament, 2002).

It is difficult to make a general comment on the contents of the amendments proposed by the European Parliament. Most amendments can be seen as terminological clarifications and precisions. In its own words, the European Parliament claimed that the proposed amendments were intended to "beef up the draft" (European Parliament, 2001b: 2).

Two weeks after the European Parliament had approved the recommendation, the European Commission presented an amended proposal (Commission, 2001). In all, the Commissioner responsible for Health and Consumer Protection David Byrne accepted 24, in full or in part, of the amendments adopted by the Parliament. Only four days later, the Health Ministers in European Union (EU) adopted the Council Recommendation on the drinking of alcohol by young people unanimously at a meeting in Luxembourg on 5 June 2001 (Council, 2001a). This marks the end of the process under the consultation procedure, and Figure 2 sums up the key events in this process.

All in all, the Council recommendation on the drinking of alcohol by young people was adopted after a relatively rapid and easy process. It took about 6 months from the first official proposal was presented until it was formally adopted as EU legislation. The relationship between the European Commission, the European parliament and the Council was marked by agreement and accord, and it is now up to the member states to implement the recommended measures.

Council recommendations: What are the policy implications of the Council recommendation on drinking of alcohol by young people?

The European Commission has the responsibility of both initiating and implementing the provisions of the Treaty. The Commission fulfils this role by proposing, and later adopting, proposals for Regulations, Directives, Decisions, Recommendations and Opinions. The former three are all legally binding for the member states, while the latter two are non-binding. According to Article 152 of the Treaty of Amsterdam, the Council can adopt recommendations for the purpose of improving public health, preventing human illnesses and diseases, and obviating sources of danger to human health.

Council recommendations enable the Community institutions to express a particular view to the various member states, but they are as mentioned not binding instruments. This implies that the party to whom a recommendation is addressed is placed under no legal obligation to behave in a particular way. The significance of these recommendations is therefore not legal, but they may carry political and moral weights. Borchardt explains the rationale behind non-binding measures in the following manner: “In providing for legal acts of this kind, the draftsmen of the Treaties anticipated that, given the prestige of the Community institutions and their broader view and wide knowledge of conditions beyond the narrower national framework, those concerned would voluntarily comply with recommendations addressed to them and would react appropriately to the Community institutions’ assessment of a particular situation” (2000: 72). In practice, the draftsmen of the Treaties are often proved wrong in their anticipations, and even legally binding regulations, directives and decisions are often ignored or delayed by the member states with respect to their implementation (Wallace and Wallace, 1996).

The fact that the Council recommendation on the drinking of alcohol by young people was adopted unanimously by the Council and by a wide majority in the European Parliament may stimulate the member states in dealing with this issue on the domestic arena. However, in order for a Council recommendation to have policy implications for the member states, what happens after adoption seems to be of particular importance. The Council recommendation on drinking of alcohol by young people does elaborate on this aspect. For instance, according to the final text, the member states are obliged to report upon request to the Commission on the implementation of the recommended measures. The Commission shall according to a given time-schedule report to the Council on the implementation of the recommendation within 2005. This element of follow-up may act as further stimuli in addition to the moral incentives for adopting the recommended measures.

Further, it is also true that recommendations often are used as a basis for the introduction of subsequent mandatory measures. In this specific case, the Council invited the Commission to put forward a proposal for a more comprehensive Community strategy aimed at reducing alcohol-related harm which “shall complement national policies and set out a time table for the different actions” (Council, 2001a: 2001b). It is too early to say what the outcome of this process will be, but the work on the Council recommendation on the drinking of alcohol by young people played an important role in connection with the launch of this new project.

Conclusions

The awareness about alcohol related problems has increased in most EU member states (Karlsson and Österberg, 2001), as well as at the EU level over the last decade. The story presented here is one about positive activist reform in relation to alcohol control in the EU (see Ugland, 2002), and this article has traced the formal policy and decision-making process that led to the adoption of the Council recommendation on the drinking of alcohol by young people in 2001. By going into details on the various stages in this process it was possible to increase the understanding of why and how it was adopted.

However, the story that has been told here can be interpreted differently. On one account, the adoption of the Council recommendation may indicate that alcohol to an increasing degree is regarded as an international issue with important health implications which requires coordination among the various EU member states. This in turn may explain why this recommendation was so widely accepted by the member states and the various Community institutions. On the other account, the broad support may also be seen as a result of the general and indefinite nature of the measures recommended, as well as of the fact that Council recommendations are non-binding legal instruments that do not oblige the member states to take actions in this field.

The relevance of these two interpretations is to a large degree influenced by how this recommendation is followed up at the EU-level. Two factors are here central. First of all, the member states have accepted to report to the European Commission on the follow-up on this recommendation. Secondly, the member states have already decided that this particular recommendation constitutes a “first step” in the development towards a more comprehensive alcohol strategy to reduce alcohol-related harm in the EU (Council, 2001b). In sum, both of these factors may add to the political significance of the Council recommendation on the drinking of alcohol by young people, despite its legal shortcomings.

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Annex

Figure 1. Decision-making in the European Union under the consultation procedure

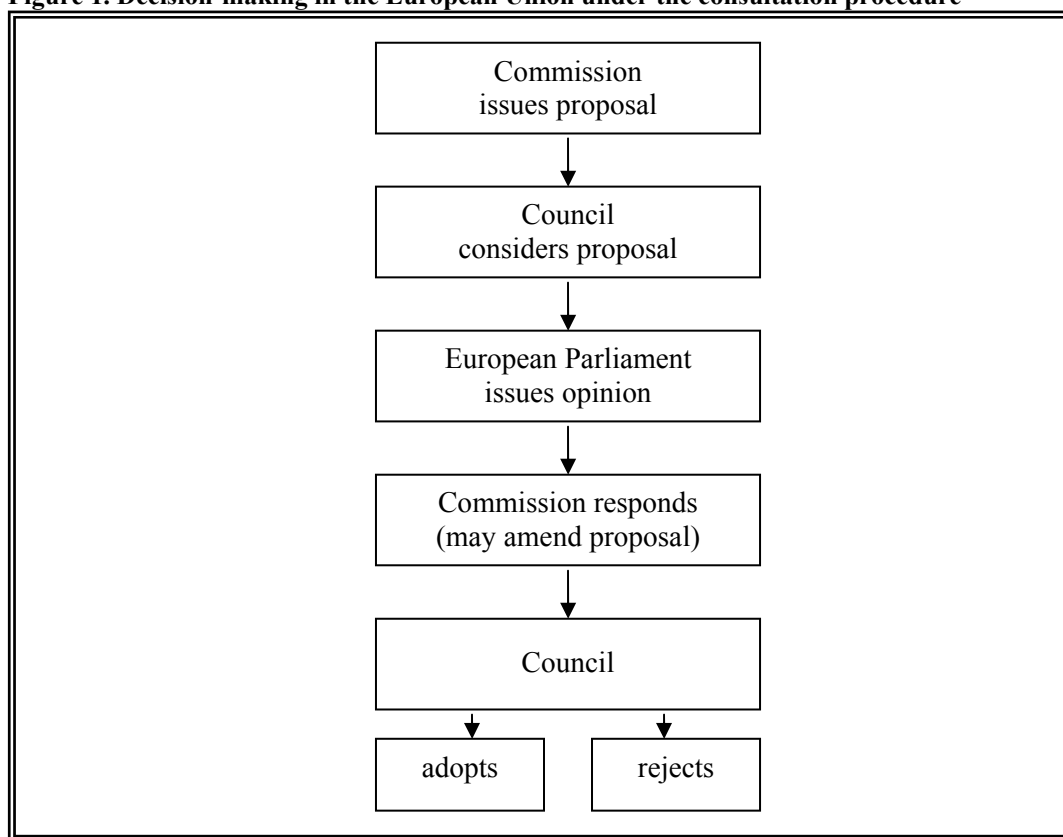


Figure 2. European Union decision-making in the case of the Council Recommendation on the drinking of alcohol by young people

27 November 2001:	European Commission adopts proposal
28 November 2001:	Proposal forwarded to the Council and the European Parliament
16 May 2002:	European Parliament issues opinion
1 June 2002:	European Commission adopts amended proposal
1 June 2002:	Amended proposal forwarded to the Council and the European Parliament
6 June 2002:	Recommendation adopted by the Council