
INFORMATION NOTE

Functional Representation in Ireland, Slovenia and France

1. Introduction

1.1 The purpose of this paper is to examine how functional interests are represented in Ireland, Slovenia and France. Studies conducted in Ireland¹ and Slovenia² suggest that they may be the only examples of functional representation at the national level. Both countries have representatives of functional interests in the upper chamber of their respective legislatures. At the provincial level, the German State of Bavaria used to have a Senate with functional representation but the Senate was abolished in 1999.³ In France, various social and economic interests are represented in the Economic and Social Council, which is not part of the French legislature, but a consultative body with constitutional status.

2. Ireland: The Senate

Background

2.1 Ireland is a parliamentary democracy. Its National Parliament (Oireachtas) consists of the President of Ireland and two Houses: the House of Representatives (Dáil Éireann) and the Senate (Seanad Éireann). The functions and powers of Parliament are derived from the Constitution of Ireland enacted in 1937. The method of election to each House is different. The 166 Deputies of the House of Representatives are all directly elected by universal suffrage. The 60 Members of the Senate are either appointed or indirectly elected under a complicated electoral system. The functional interest groups whose interests are represented by the Senators have a right to nominate candidates but not the right to vote in the Senate election (See paragraph 2.12).

¹ Coakley and Laver (1996).

² Kristan (2002).

³ The former Senate of Bavaria had its 60 members elected by vocational groups corresponding to 10 functional areas. The functional areas were: agricultural and forestry (11 seats); industry and commerce (five seats); trades (five seats); trade unions (11 seats); liberal professions (four seats); cooperatives (five seats); religious communities (five seats); charitable organizations (five seats); universities (three seats); and local authorities (six seats).

2.2 The main business of the Senate is to revise legislation passed by the House of Representatives. The Senate itself can initiate and revise legislation but under the Constitution, its legislative role is restricted. It cannot initiate Money Bills, i.e. legislation dealing with taxation, public money, the raising of loans by the state and matters incidental to these subjects, and can only make recommendations but not amendments to such bills. Moreover, it cannot indefinitely delay legislation which has already been passed by the House of Representatives and cannot initiate bills to amend the Constitution.

Composition of the Senate

2.3 The Senate is composed of 60 members, with 11 appointed by the Prime Minister (Taoiseach), six elected by graduates of the two major universities in Ireland and 43 elected from five panels of candidates representing specified vocational interests. The five panels are:

- (a) Cultural and educational;
- (b) Agricultural;
- (c) Labour;
- (d) Industrial and commercial; and
- (e) Administrative.

2.4 Each panel is divided into two sub-panels, namely the nominating bodies sub-panel and the Parliamentary (Oireachtas) sub-panel. Only registered nominating bodies may nominate candidates for their corresponding nominating bodies sub-panels. In the Oireachtas sub-panels, only Deputies of the newly elected House of Representatives and Members of the outgoing Senate are eligible to nominate candidates.⁴ A specified minimum number of members must be elected from each sub-panel. The Seanad Electoral (Panel Members) Act 1947 stipulates the number of members to be elected from each of the panels and sub-panels (please see Table 1 on the following page).

⁴ The election of the House of Representatives is always held before that of the Senate.

Table 1 - Number of members to be elected from each panel and sub-panel

Panel	Members to be elected from the panel	Minimum number of members to be elected from each sub-panel	Maximum number of members to be elected from each sub-panel
Cultural and educational	5	2	3
Agricultural	11	4	7
Labour	11	4	7
Industrial and commercial	9	3	6
Administrative	7	3	4

Eligibility of candidates representing vocational interests

2.5 Every citizen of Ireland over 21 years of age who is not disqualified by the Constitution or by law is eligible to be elected to the Senate. Persons undergoing a prison sentence in excess of six months, undischarged bankrupts and persons of unsound mind are disqualified for election. Certain occupations are incompatible with membership of the Senate as well. For example, members of the Judiciary, senior officials of the institutions of the European Union, full-time members of the Defence Forces and the Police.

2.6 Each candidate must have knowledge and practical experience of one of the following interests and services, namely:

- (a) Cultural and educational: national language and culture, literature, art, education and such professional interests as may be defined by law. The Seanad Electoral (Panel Members) Act 1947 has defined professional interests as law and medicine⁵;
- (b) Agricultural: agricultural and related interests, and fisheries;
- (c) Labour;
- (d) Industry and commerce: banking, finance, accountancy, engineering and architecture; and
- (e) Administrative: public administration and social services, including voluntary social activities.

⁵ "Medicine" includes surgery, dentistry, veterinary medicine and pharmaceutical chemistry.

2.7 However, the Constitution does not specify how such knowledge and practical experience in the above areas should be gained.⁶

Eligibility of nominating bodies

2.8 The returning officer of the Senate election, i.e. the Clerk of the Senate, maintains a register of bodies entitled to nominate candidates. There were 91 bodies registered as nominating bodies for the five nominating bodies sub-panels in 2002. To be eligible for registration as a nominating body, an organization must be concerned mainly with and be a representative of the interests and services of one of the panels. A body cannot be registered in respect of more than one panel. Profit-making organizations are not eligible for registration.

Nomination of candidates representing vocational interests

Nominating bodies sub-panels

2.9 The maximum number of persons that each nominating body may nominate is fixed⁷ as follows:

Table 2 - Number of candidates each nominating body was entitled to nominate in each sub-panel in the 2002 election

Panels	Number of bodies registered in 2002	Number of persons each body entitled to nominate	Maximum number of persons to be nominated in each sub-panel
Cultural and educational	31	1	31
Agricultural	11	2	22
Labour	2	7	14
Industrial and commercial	36	1	36
Administrative	11	1	11
Total	91	-	114

⁶ Coakley and Laver (1996).

⁷ Number of persons each body entitled to nominate
 = $\frac{2 \times \text{maximum number of members who may be elected from a sub-panel}}{\text{The number of nominating bodies registered for the particular panel}}$
 The answer is rounded up to the nearest whole number.

Oireachtas sub-panels

2.10 Any four members of the newly elected House of Representatives or the outgoing Senate may nominate one candidate for any Oireachtas sub-panel but each member may join in only one sub-panel for the purpose of nomination. As the number of incoming Deputies of the House of Representatives and outgoing Senators is fixed, so is the maximum number of candidates who could be nominated by the Oireachtas sub-panels (54 for the 2002 election).

Nomination by the Prime Minister

2.11 If the number of candidates of any sub-panel does not exceed the maximum number of members permitted to be elected in each sub-panel by at least two, the Prime Minister is required to nominate additional candidates so that the number of candidates will exceed the number of vacancies by two. This occurred in the Cultural and Educational Oireachtas Sub-Panel and the Agricultural Oireachtas Sub-Panel in the 2002 election.

Electorate of the vocational interests constituencies

2.12 Nominating bodies in the nominating bodies sub-panels are not electors and do not have a right to vote in the Senate election. The electorate consists of members of the newly elected House of Representatives, the outgoing Senate and every council of a county⁸ or of a county borough⁹ only. The name of each eligible elector can be entered only once on the electorate roll. Each elector has only one vote in respect of each panel (i.e. five votes for the five panels) even if he/she is qualified in more than one respect. For example, a newly elected member of the House of Representatives may be at the same time an outgoing Senator and/or a member of a county or county borough council. The size of the electorate for electing Senators representing vocational interests always amounts to around 1 000 and that for the 2002 election was 971.

University constituencies

2.13 The university constituencies are the National University of Ireland and the University of Dublin.¹⁰ Each elects three members of the Senate. Other universities and institutions of higher education are not represented in the Senate.

⁸ County Councils are the local government in the 29 administrative counties.

⁹ Councils of the County Boroughs are the local government in the five cities of Dublin, Cork, Galway, Limerick and Waterford.

¹⁰ One of the primary reasons for the maintenance of the university seats in the 1937 Constitution was to ensure that the protestant minority had a voice in national affairs through the Senators of the University of Dublin and the university seats also reflected a contemporary practice in Great Britain and Northern Ireland.

Eligibility of candidates for the university constituencies

2.14 There is no requirement that a candidate must be a graduate of the university concerned or be connected to it in any way. However, a candidate of the university constituency has to meet the general requirement for being a Senator.¹¹

Electorate of the university constituencies

2.15 Every citizen of Ireland who has reached the age of 18 and received a degree from one of the universities concerned is entitled to be registered as an elector. The electorate of the National University of Ireland amounted to 101 952 whilst that of the University of Dublin amounted to 38 488 in 2002. The electoral roll is maintained by the universities concerned.

Nomination of candidates for the university constituencies

2.16 Every candidate must be nominated by two registered electors as proposer and seconder respectively. Eight other registered electors must assent to the nomination.

Timing and method of election of the Senate

2.17 A general election to the Senate must take place not later than 90 days after the dissolution of the House of Representatives¹². The dates for the various stages of the election, for instance, the dates for nomination and polling, are appointed by order of the Minister for the Environment, who is responsible for election matters.

2.18 The election is held according to the system of proportional representation by means of single transferable vote and by secret postal ballot. The single transferable vote allows the voter to give his/her preference for the candidates in order. The vote can be transferred to the next choice of candidate in order when a prior choice has been elected or eliminated. However, the voter is not required to indicate his/her preference or choice for all vacancies of a panel.

2.19 For vocational interests constituencies, each voter receives five ballot papers by registered post, i.e. one paper for each of the five panels. The voter, after completing a declaration of identity in the presence of an authorized person, marks on the ballot papers the order of his/her choice of candidates. All ballot papers, marked or not, must be returned by registered post to the returning officer.

¹¹ See paragraph 2.5.

¹² The maximum life of the House of Representatives is limited to five years by law. The House of Representatives may be dissolved at any time by the President on the advice of the Prime Minister. A general election must be held within 30 days after the dissolution of the House of Representatives.

2.20 For university constituencies, each voter receives a ballot paper by post. The elector completes a form of declaration of identity, marks the ballot paper and returns the form and the ballot paper by post to the returning officer.

Review on the composition of the Senate

Partisan nature of Senators and their electorate

2.21 One of the reasons for giving a voice to functional groupings in the Senate is to make its representative character different from that of the House of Representatives, so as to justify the existence of a second chamber.¹³ Functional representation was also presented as the apt means of bringing into the Senate expertise and specialist knowledge.

2.22 However, the Constitution Review Group,¹⁴ established by the Irish government, was of the view that because of the composition of the electorate, party politics affect both the nomination of candidates and their election.¹⁵ This was the case during the 2002 general election. In 2002, the two parties¹⁶ which have formed the current ruling government won 54% of the seats in the House of Representatives and subsequently obtained 56% of the seats in the Senate. The Constitution Review Group in its 1996 Report concluded that "*the current system of Seanad representation is in theory vocational*" but "*in practice is not*". The 1996 Report recommended further consideration of the membership of the Senate in the light of its representation.¹⁷

Review by the All-Party Oireachtas Committee on the Constitution

2.23 The All-Party Oireachtas Committee on the Constitution (All-Party Committee) consisting of both Deputies of the House of Representatives and Senators of various parties, was established in July 1996 to undertake a full review of the Constitution.

¹³ Constitution Review Group (1996).

¹⁴ The Constitution Review Group was established on 27 April 1995. Its purpose was to establish those areas where constitutional changes might be desirable or necessary, with a view to assisting the All-Party Oireachtas Committee on the Constitution, to be established by the Parliament, in its work.

¹⁵ Constitution Review Group (1996).

¹⁶ The two parties are Fianna Fáil (the Republican Party) and the Progressive Democrats.

¹⁷ The Constitution Review Group considered that the composition and other issues of the Senate were too wide and complex within its time frame, and thus it did not make any substantial recommendation on the composition of the Senate. Instead, it recommended a separate and comprehensive examination of all issues relating to the Senate.

2.24 The All-Party Committee issued a report in 1997¹⁸, proposing a reduction of the number of indirectly elected Senators from 43 to 28 while maintaining the total number of Senators as 60. However, it did not make any recommendation on whether the 28 seats should be representing vocational interests. The 1997 Report recommended that half of the 28 Senators to be elected by Deputies of the House of Representatives, and the other half by members of county councils and county borough councils. The remaining 32 Senate seats would be allocated as follows: 15 seats directly elected, six seats elected by Irish graduates of all tertiary institutions and 11 seats appointed by the Prime Minister.

2.25 The All-Party Committee in 2002¹⁹ revisited the issues related to the reform of the Senate and agreed with its 1997 report that the vocational element of the present arrangements had in practice become "quite meaningless".²⁰ The All-Party Committee did not support any attempt to revive the vocational element in a modernized form. It took the view that "*interest groups already have ample opportunity to make their views known in other fora and in direct dialogue with the government*". Furthermore, it considered that it was virtually impossible to define fair and objective criteria for the selection of those groups and organizations which might be entitled to nominate representatives to an elected Senate.

2.26 The Seventh Progress Report of the All-Party Committee in 2002 proposed to have the 60 members of the Senate elected or appointed as follows:

- (a) Forty-eight Senators be elected, on the same day as the election to the House of Representatives, by proportional representation on a national list system²¹;
- (b) Eight be appointed by the Prime Minister; and
- (c) Four be appointed by the Prime Minister to represent citizens resident in Northern Ireland.²²

¹⁸ The All-Party Oireachtas Committee on the Constitution (1997).

¹⁹ The members of the All-Party Oireachtas Committee on the Constitution in 2002 were different from those in 1997.

²⁰ The All-Party Oireachtas Committee on the Constitution (2002).

²¹ The nation as a whole forms a single constituency. The electors vote for a list of candidates and the number of seats won is in proportion to the votes the list gets.

²² Residents of Northern Ireland born in Northern Ireland may claim Irish citizenship.

2.27 Although its 2002 proposal banished the concept of functional representation, the All-Party Committee believed that a national list system (by which candidates could secure a seat by winning a low percentage of vote) would still bring in candidates with special expertise who might not have a strong local base. It believed that this would to some extent balance those candidates who emerged from the highly competitive multi-seat constituency system in the election of the House of Representatives²³.

2.28 In addition, the All-Party Committee was of the opinion that the election of Senators on a national list system would give them the direct electoral mandate and democratic legitimacy which they lacked, and the system would be sufficiently different from that used for the House of Representatives.²⁴ The All-Party Committee also agreed that the Prime Minister should be able to maintain an overall government majority in the Senate through his continued right to appoint 12 Senators.²⁵ So far, the Irish government has not responded to the recommendations of the All-Party Committee.

²³ The members of the House of Representatives are elected by single transferable vote. There are 41 constituencies and each has no less than three seats.

²⁴ The All-Party Oireachtas Committee on the Constitution. (2002).

²⁵ Ibid.

3. Slovenia: The National Council

Background

3.1 Slovenia²⁶ is a parliamentary democracy. It has a bicameral parliament consisting of the National Assembly (Državni Zbor), which is the highest legislative authority in Slovenia, and the National Council (Državni Svet) which is "*the representative body for social, economic, professional and local interests*"²⁷. The 90 Deputies of the National Assembly are directly elected by universal suffrage. The 40 Councillors of the National Council are indirectly elected.

3.2 The National Council may propose laws and give opinions on legislative proposals made by the National Assembly but cannot amend these legislative proposals. The National Council may adopt a legislative proposal in its entirety or submit a "suspensory" veto and demand the National Assembly to reconsider a law prior to its proclamation.²⁸ It may also require the calling of a referendum relating to legislation and the commissioning of a parliamentary inquiry into matters of public importance.²⁹ The National Council is entitled to demand the Constitutional Court to initiate a procedure for the assessment of the constitutionality and legality of regulations and general acts. However, the National Council does not have any influence over the adoption of the national budget and has no right of veto over the budget.

Composition

3.3 The National Council comprises 40 members. According to the Constitution³⁰, 18 of them represent functional interests and the remaining 22 represent local interests. They are indirectly elected by an electoral college formed in each of the functional interest constituencies and local interest constituencies.³¹

²⁶ Slovenia has become an independent state since 1991 after the break up of the former Yugoslavia.

²⁷ Although it is not expressly stated in the Slovenian Constitution that the National Council is the upper house of the Parliament, the National Council itself has concluded that it is performing the function of a second chamber in Slovenia.

²⁸ When the National Council has exercised its veto, the National Assembly can either agree with it, or overrule the veto and adopt the law. It cannot, however, amend the law in accordance with the National Council's recommendations. In most cases, the "suspensory" veto was overruled by the National Assembly. Zajc (1998a).

²⁹ The National Assembly must call a referendum or start a parliamentary inquiry when demanded by the National Council.

³⁰ Article 96 of the Constitution.

³¹ Hrovat (2002).

3.4 The 18 seats for functional interests are further distributed as follows:

Table 3 - Number of seats for each functional constituency

Functional constituency	Eligible organizations involved in the election	Number of seats
Employers	Chambers of commerce and employers' associations	4
Employees	Unions and associations or confederations of unions	4
Farmers, small businesses and independent professions	Professional farmers' organizations	2
	Professional organizations of small businesses	1
	Professional organizations of independent professions including, inter alia, chamber of lawyers, chamber of engineers and chamber of translators	1
Non-commercial activities	Universities and institutions of higher education	1
	Professional teachers' organization	1
	Professional researchers' organization	1
	Professional organization of cultural and sport workers	1
	Professional organization of medical workers and associates	1
	Professional social workers' organization	1
Total:		18

Eligibility of the electorate and candidates of functional interests

3.5 To be eligible as an elector and/or a candidate of functional interests, one must perform the corresponding activity of the particular interest group or employed in the particular functional area. In addition, he or she must have reached the age of 18 years on the day of the ballot and must not be subject to any legal incapacity to vote.³²

³² Article 2 of the Constitution.

3.6 Foreigners who are performing the activities specified in Table 3 or employed in Slovenia also have a voting right to elect National Council members, if they satisfy the same conditions as those applicable to the citizens of Slovenia.³³ However, they cannot stand for the National Council election.

Election of electors

3.7 Each interest group of a particular functional interest may elect one or more electors to the electoral college of that functional interest according to its own internal rules.³⁴ The number of electors each interest group may elect depends on the size of its membership. Each interest group may at least elect one elector into the electoral college of the particular functional interest and an additional elector may be elected depending on the number of members that the interest group has.³⁵

Table 4 - The number of electors for each functional interest for the 2002 election

Functional interests	Number of electors
Employers	71
Employees	100
Farmers	197
Small businesses	98
Independent professions	16
Universities and higher education	37
Education	35
Research activities	32
Medical workers and associates	247
Culture and sport	32
Social Welfare	39

³³ Article 43 of the Constitution.

³⁴ The National Council of Slovenia: <http://www.ds-rs.si/en/definition/index.htm> [Accessed 27 April 2004].

³⁵ For example, each interest group in the area of the employers' interest may elect at least one elector into the electoral college of the employers' functional interest constituency and it may elect an additional elector for every 10 000 workers its members employ. Each interests group in the employees' functional interest constituency may also elect an additional elector for every 10 000 members it has. Each organization in the small businesses' functional interest may elect an additional elector for every 500 members it has while the number of members which allows for an additional elector for the functional interests of the independent professions and non-profit-making organizations is 100. However, each university and institution of higher education may only elect one elector alone.

3.8 There are 22 local interest constituencies and each of them may elect one Councillor to the National Council. Each of the 22 representatives is elected by an electoral college formed by elected electors of the municipal councils in their respective local interest constituency. The number of electors of each municipal council is in proportion to the number of inhabitants of the community. The electors of the local interest constituencies must permanently reside in the constituency.

Election method

3.9 The Constitution does not provide for the manner of the election. It only requires that the election of the National Council to be regulated by laws passed by a majority of no less than two-thirds of all Deputies of the National Assembly.³⁶

3.10 The election of the National Council is called by the President of the National Assembly. The general election, where all members of the National Council are elected, is to be carried out no sooner than two months and no later than fifteen days prior to the end of the five-year term of office.

3.11 The Councillors of the National Council are indirectly elected by the electoral college formed in each of the functional interest constituencies and local interest constituencies.³⁷ For the functional constituencies, each interest group may nominate one or more members for the National Council election in compliance with its internal rules. For the local interest constituencies, each local interest constituency covers more than one municipal council and each of the municipal councils may only nominate one candidate. The candidate with a simple majority vote wins the seat. If two or more candidates receive the same number of votes, a draw is used to settle the outcome.

³⁶ Article 98 of the Constitution.

³⁷ Hrovat (2002).

4. France: The Economic and Social Council

Background

4.1 The Conseil Économique et Social (Economic and Social Council) is a consultative assembly in France with constitutional status. Articles 69-71 of the 1958 Constitution of France establish the official status of the Economic and Social Council (hereafter referred to as the Council)³⁸. It is composed of representatives of various economic and social interests. The Council issues recommendations to the French authorities and also gives its opinion on bills to be submitted for approval in the French Parliament on its own initiative or at the request of the government.

4.2 Functional representation is only found in the consultative Council but not in the two Chambers of the French Parliament. General Charles de Gaulle (de Gaulle) tried to have functional interests represented in the second Chamber of the Parliament but failed in his attempt right after the Second World War. De Gaulle advocated the inclusion of "*representatives of the economic organizations, family associations and scholarly societies*" into a second Chamber of the legislature when he spoke of the requirements of a constitution for France as early as in 1946³⁹. He believed the representation of functional interests in that way would have "*the voices of the principal interests of the country*" heard within the state institutions. In 1969, de Gaulle, as President of France⁴⁰, put forward a reform of functional representation in the second Chamber of the Parliament for a referendum but was again defeated.

Role of the Economic and Social Council

4.3 The Council regards its role as threefold:

- (a) making recommendations to the government and thus being instrumental in deciding the country's economic and social policies;
- (b) encouraging a fruitful dialogue between the various socio-economic groups; and
- (c) providing information to France's political assemblies.

³⁸ A predecessor of the Economic and Social Council can be traced back to 1925. A decree passed on 16 January 1925 established the 47-member Conseil National Économique (National Economic Council). The Conseil Économique (Economic Council) was established under Chapter III, Article 25 of the 1946 Constitution (Fourth Republic). The 1958 Constitution (Fifth Republic) founded the Conseil Économique et Social which replaced the Economic Council.

³⁹ Stevens (2003).

⁴⁰ He was President from 1959 to 1969.

Composition

4.4 Among the 231 Councillors of the Council, 163 of them are designated by socio-economic bodies, and the remaining 68 are appointed by the government. They hold office for a five-year term. In addition to the 231 Councillors, there are 72 "department members" appointed by the Prime Minister for a term of two years. These department members act as expert advisors to the nine departments (i.e. committees) of the Council (See paragraph 4.19), which prepare reports and recommendations and conduct studies as requested by the Board of the Council.

4.5 More than two-thirds of the Councillors (163 out of 231) are designated directly by the organizations to which they belong:

- (a) Sixty-nine Councillors come from trade unions representing salaried staff from both the private and public sectors;
- (b) Sixty-five Councillors come from socio-economic groups representing private enterprises, industries, trades, arts and crafts, agriculture and professionals;
- (c) Nineteen Councillors come from co-operatives and mutual benefit societies; and
- (d) Ten Councillors come from family associations.

4.6 Sixty-eight Councillors are appointed by the government on the advice of various organizations:

- (a) Seventeen Councillors are designated by advisory bodies representing state-owned companies, community groups and French nationals living abroad;
- (b) Nine Councillors are designated by those trade associations deemed representative of overseas French territories;
- (c) Two Councillors are appointed by decree to represent the savings and housing industries; and
- (d) Forty qualified individuals specialized in economic, social, scientific or cultural affairs are designated by decree at a meeting of the Council of Ministers⁴¹.

⁴¹ The cabinet of the French government.

4.7 Despite their membership with the Council, all members continue to carry out their professional duties and/or act as a trade union representative. They receive an allowance equal to one-third of the amount paid to Members of the French Parliament, plus an expenditure allowance. They are not granted parliamentary immunity.

Recommendations, reports and studies

4.8 The Councillors are divided into "groups" corresponding to the specific organizations or business sectors, and "departments" for the purpose of examining various issues. The Council is composed of 18 representative groups and nine departments.

4.9 The Council must be consulted on any plan or bill relating to the economic or social programmes of the state⁴², including bills concerning public expenditure⁴³. It may be consulted by the government on any bill and subsidiary legislation submitted by the government as well⁴⁴. The Council is expected to issue a recommendation on the country's economy twice a year.

4.10 Every year, the Council publishes around 20 reports, recommendations and studies across a wide range of subjects, which must be put to the vote and approved by Councillors in the Council. After they have been approved, the Chairman of the Council transmits them to the President of the Republic, the Prime Minister and the Parliament. The government is required to inform the Council of its follow-up actions on the recommendations.

4.11 The consultation procedure of the Council is as follows:

- (a) The Prime Minister refers the matter to the Chairman of the Council;
- (b) A department of the Council prepares a draft recommendation;
- (c) The Council votes on the draft recommendation presented by the department at a plenary session attended by the minister(s) concerned;
- (d) The Council sends its recommendation to the President of the Republic and his Cabinet as well as to the Parliament;
- (e) In the case of a draft bill, it is put to the vote in the Council of Ministers. It may then be sent to the Parliament;
- (f) The National Assembly⁴⁵ hears the rapporteur from the Council at a plenary meeting; and
- (g) The Senate hears the rapporteur from the Council. The hearing is followed by a debate.

⁴² Article 70 of the 1958 Constitution.

⁴³ The Economic and Social Council: <http://www.conseil-economique-et-social.fr/home.asp> [Accessed 18 July 2004].

⁴⁴ Article 69 of the 1958 Constitution.

⁴⁵ It is the lower house of the Parliament.

Organizational structure and operation

The Chairman

4.12 The 231 Councillors elect the Chairman and the other members of the Board. The Chairman is responsible for the smooth running of the Council in consultation with the other members of the Board and the Secretary-General⁴⁶. The Chairman convenes the Board, draws up the agenda and chairs meetings. Additionally, he/she summons plenary sessions and presides over debates.

4.13 The Chairman receives referrals from the government to consult the Council on economic or social issues or on bills. The Council's recommendations, reports and studies on these issues and bills are transmitted by the Chairman to the French government. He/she represents the Council before the French authorities and liaises with the government, in particular the Prime Minister.

The Board

4.14 The Board consists of 18 members, including the Chairman, four Vice-Chairmen, two questeurs (administrative and financial officers) and four secretaries. The composition of the Board must reflect the composition of the Council as closely as possible. Members of the Board are elected by secret ballot to serve a term of two and a half years.

4.15 The Board is in charge of running the Council. On the proposals of groups or departments, the Board selects the items to be discussed by the Council when it meets. It draws up the agenda for plenary sessions of the Council, allocates referrals to the various departments and decides the composition of the departments at the suggestion of the groups.

Nine departments

4.16 The Council consists of nine committees which are known as "departments" whose duty is to examine questions submitted by the Board. They are at the heart of the Council's activity. They prepare reports and recommendations, and conduct studies as requested by the Board.

⁴⁶ The Secretary-General is the chief executive of the Council.

4.17 The nine departments are:

- (a) Social affairs;
- (b) Labour;
- (c) Regional development and town and country planning;
- (d) Living environment;
- (e) Finance;
- (f) External affairs;
- (g) Production, research and technology;
- (h) Food and agriculture; and
- (i) Economic affairs.

4.18 Each Councillor belongs to one or two departments, which usually meet once a week. For each item on the agenda of a particular department, the department appoints a rapporteur who is in charge of writing a report, presenting it on behalf of the department and submitting the draft recommendation at a plenary session of the Council.

4.19 The government may appoint one or two individuals selected on the basis of their expertise to sit on each department of the Council for a period of two years. These "department members" are entitled to take part in the deliberations conducted by the respective departments but they are not empowered to elect the Chairman and Vice-Chairmen. They may be designated as rapporteurs for the studies that are submitted to the departments for approval. However, they may not vote on the reports and draft recommendations debated during plenary sessions.

Plenary sessions

4.20 As a general rule, the Council holds plenary sessions twice a month. One or two draft recommendations may be examined at each session. The President, the Prime Minister, and the heads of the Senate and the National Assembly are notified of these meetings and receive copies of the agenda along with the documents to be discussed. Ministers are informed of the reports concerning them, and they attend the relevant plenary session and take part in the general deliberations.

Assessment of the role of the Council

4.21 The Council believes that its collaboration has proved invaluable to the French government and the Parliament for two reasons:⁴⁷

- (a) the high standard and impartiality of the documents prepared by its members, who display remarkable expertise across a wide range of occupational sectors. The French authorities receive proposals approved by a majority vote in the Council and are thus aware of the views expressed by all representative parties concerned; and
- (b) the mutual understanding generated between the various socio-economic groups represented in the Council. Labour and management representatives are able to express and compare their respective viewpoints during plenary meetings, department meetings and informal discussions. These discussions lead to a fruitful dialogue which frequently paves the way for industrial agreements.

4.22 However, there are opinions that the Council is a marginal body⁴⁸ and has difficulties in getting its voice heard⁴⁹ as it was consulted only 200 times from 1958 to 2000⁵⁰ and not many of their studies have been used by either the government or other authorities.

Prepared by Kitty LAM
20 July 2004
Tel: 2869 8343

Information notes are compiled for Members and Committees of the Legislative Council. They are not legal or other professional advice and shall not be relied on as such. Information notes are subject to copyright owned by the Legislative Council Commission (the Commission). The Commission permits accurate reproduction of the information notes for non-commercial use in a manner not adversely affecting the Legislative Council, provided that acknowledgement is made stating the Research and Library Services Division of the Legislative Council Secretariat as the source and one copy of the reproduction is sent to the Legislative Council Library.

⁴⁷ The Economic and Social Council: <http://www.conseil-economique-et-social.fr/home.asp> [Accessed 29 March 2004].

⁴⁸ Stevens (2003).

⁴⁹ European Industrial Relations Observatory On-line (1999). European Industrial Relations Observatory On-line is a project of the European Council under the European Union, and offers news and analysis on European industrial relations.

⁵⁰ Stevens (2003).

Table 5 - Comparison of the representation of functional interests in Ireland, Slovenia and France

	Senate of Ireland	National Council of Slovenia	Economic and Social Council of France
Composition	<ul style="list-style-type: none"> • 43 members elected from five panels of candidates representing vocational interests: <ul style="list-style-type: none"> Cultural and educational: 5 Agricultural: 11 Labour: 11 Industrial and commercial: 9 Administrative: 7 • 6 members elected by graduates of the two major universities • 11 members appointed by the Prime Minister 	<ul style="list-style-type: none"> • 18 members representing functional interests: <ul style="list-style-type: none"> 4 representing employers 4 representing employees 2 representing farmers 1 representing small businesses 1 representing independent professions 6 representing (i) Universities and institutions of higher education; (ii) Teaching; (iii) Research; (iv) Culture and sports; (v) Medicine; and (vi) Social welfare respectively • 22 members representing local interests 	<ul style="list-style-type: none"> • 163 members designated by their organizations: <ul style="list-style-type: none"> 69 from trade unions representing salaried staff 65 from socio-economic groups representing private enterprises, industries, trades, arts and crafts, agriculture and professionals 19 from co-operatives and mutual benefit societies 10 from family associations • 68 members appointed by the government on advice of various organizations: <ul style="list-style-type: none"> 17 designated by the appropriate advisory bodies to represent state-owned companies, community groups and French nationals living abroad 9 designated in conjunction with those trade associations deemed representative of overseas French territories 2 appointed by decree to represent the savings and housing industries 40 qualified individuals specialized in economic, social, scientific and cultural affairs designated by decree at a meeting of the Council of Ministers
	Total: 60 members	Total: 40 members	Total: 231 members

Table 5 - Comparison of the representation of functional interests in Ireland, Slovenia and France (cont'd)

	Senate of Ireland	National Council of Slovenia	Economic and Social Council of France
Nomination of candidates	<ul style="list-style-type: none"> For the 5 panels of vocational interests (43 members): Each panel is divided into a "nominating bodies sub-panel" and an "Oircheatas sub-panel"; Only registered bodies can nominate candidates for the "nominating bodies sub-panels"; and For the "Oireachtas sub-panels", 4 Deputies of the newly elected House of Representatives or outgoing Senators may nominate one candidate for any one Oireachtas sub-panel For the 2 university constituencies (6 members): Every candidate for the university constituencies has to be nominated by two registered electors as proposer and seconder. Eight other registered electors must assent to the nomination 11 members appointed by the Prime Minister 	<ul style="list-style-type: none"> For functional interests (18 members): One or more candidates can be nominated by the interest organizations in accordance with their internal rules For local interests (22 members): Each constituency covers more than one municipal council and each of the municipal councils may nominate only one candidate. The municipal council takes a vote to decide on whom they are going to nominate 	<ul style="list-style-type: none"> For socio-economic groups (163 members): Information not available 68 members appointed by the government

Table 5 - Comparison of the representation of functional interests in Ireland, Slovenia and France (cont'd)

	Senate of Ireland	National Council of Slovenia	Economic and Social Council of France
Eligibility of candidates	<ul style="list-style-type: none"> • General requirements: Citizens of Ireland over 21 years of age; Persons undergoing a prison sentence in excess of six months, undischarged bankrupts and persons of unsound mind are disqualified for election; and Certain occupations, e.g. members of the Judiciary, senior officials of the institutions of European Union and full-time members of the Defence Forces and the Police, are not qualified • For candidates representing vocational interests: Each candidate must have knowledge and practical experience of the respective vocational interest he/she wishes to represent • For candidates representing the university constituencies: No requirement that a candidate has to be a graduate of the university concerned or be connected to it in any way 	<ul style="list-style-type: none"> • General requirements: Candidates must be a citizen of Slovenia who reaches the age of 18 years on the day of the ballot; and Candidates must not be subject to any legal incapacity to vote • For functional interests: Candidates must perform a corresponding activity of the respective interest groups or be employed in those particular functional interests 	<ul style="list-style-type: none"> • For the 163 seats in the socio-economic groups, candidates have to be members of the corresponding socio-economic groups • For the 68 appointed seats, the members are appointed by the government on the advice of the socio-economic groups. However, information is not available on the eligibility of these designated members

Table 5 - Comparison of the representation of functional interests in Ireland, Slovenia and France (cont'd)

	Senate of Ireland	National Council of Slovenia	Economic and Social Council of France
Eligibility of voters	<ul style="list-style-type: none"> • Only members of the newly elected House of Representatives, the outgoing Senate and every council of a county or a county borough are eligible to vote for candidates of the five panels of vocational interests • Every citizen who has reached the age of 18 and who has received a degree from the National University of Ireland or the University of Dublin is eligible to register as an elector to vote for candidates for the university constituencies 	<ul style="list-style-type: none"> • For voters electing the 18 members representing functional interests: Each interest group may elect one or more electors to the electoral college of that functional interest, depending on the size of its membership • For voters electing the 22 members representing local interests: Each constituency has an electoral college composed of electors elected by the municipal councils of that constituency. The number of electors each municipal council may elect into the electoral college depends on the number of inhabitants 	<ul style="list-style-type: none"> • Not available
Method of election	<ul style="list-style-type: none"> • Single transferable vote by secret postal ballot 	<ul style="list-style-type: none"> • Simple majority 	<ul style="list-style-type: none"> • Not available

References

Books and articles

Ireland

1. Casey, James. (1992) *Constitutional Law in Ireland*. London, Sweet & Maxwell.
2. Chubb, Basil. (1992) *The Government and Politics of Ireland*. 3rd ed. London, Longman.
3. Coakley, John and Laver, Michael. (1996) *Options for the Future of Senand Éireann*. Cited in: The All-Party Oireachtas Committee on the Constitution. (1997) *Second Progress Report: Senand Éireann*. Dublin, Stationery Office.
4. Constitution Review Group. (1996) *Report of the Constitution Review Group*. Dublin, Stationery Office. Cited in: The All-Party Oireachtas Committee on the Constitution. (2002) *Seventh Progress Report: Parliament*. Dublin, Stationery Office.
5. Crotty, William and Schmitt, David (ed.) *Ireland and the Politics of Change*. London, Longman.
6. Department of the Environment and Local Government. (1994) *How the Senand is Elected*. Available from: <http://www.enviro.ie> [Accessed 27 April 2004].
7. *Facts about Ireland*. (1995) Dublin, Department of Foreign Affairs.
8. Murphy, Tim and Twomey, Patrick (ed.) (1998) *Ireland's Evolving Constitution, 1937-97: Collected Essays*. Oxford, Hart Publishing.
9. O' Leary, Don. (2000) *Vocationalism and Social Catholicism in Twentieth-Century Ireland: The Search for a Christian Social Order*. Dublin, Irish Academic Press.
10. Senate Returning Officer. (2003) *Senand General Election, July 2002*. Available from: <http://www.irlgov.ie/oireachtas/frame.htm> [Accessed 27 April 2004].
11. The All-Party Oireachtas Committee on the Constitution. (1997) *Second Progress Report: Senand Éireann*. Dublin, Stationery Office.
12. The All-Party Oireachtas Committee on the Constitution. (2002) *Seventh Progress Report: Parliament*. Dublin, Stationery Office.

Slovenia

1. *Constitution of the Republic of Slovenia*. (2001) Available from: http://www.gov.si/dz/en/aktualno/spremljanje_zakonodaje/ustava/ustava_ang.pdf [Accessed 23 April 2004].
2. Hrovat, Tone. President of the National Council of Slovenia. (2002) In: Proceedings of the Meeting of the Association of European Senates: Bicameralism, Democracy and the Role of the Civic Society. 28 June, 2002. Ljubljana. Available from: <http://www.ds-rs.si/en/news/index.htm> [Accessed 13 April 2004].
3. Kristan, Ivan. (2002) *Bicameralism and Democracy*. In: Proceedings of the Meeting of the Association of European Senates: Bicameralism, Democracy and the Role of the Civic Society. 28 June, 2002. Ljubljana. Available from: http://www.ds-rs.si/en/texts/research_senates.pdf [Accessed 13 April 2004].
4. Zajc, Drago. (1998a) *Slovenia*. Cited in: Berglund, Sten et al (ed.) (1998) *The Handbook of Political Change in Eastern Europe*. Cheltenham, Edward Elgar Publishing.
5. Zajc, D. and Longley, L. (eds.) (1998b) *The New Democratic Parliaments: The First Years*. The United States, Appleton.

France

1. Dadomo, Christian and Farran, Susan. (1996) *The French Legal System*. 2nd ed. London, Sweet and Maxwell.
2. European Industrial Relations Observatory On-line. (1999) *Economic and Social Council renewed*. Available from: <http://www.eiro.eurofound.ie/print/1999/10/inbrief/fr9910115n.html> [Accessed 29 March 2004].
3. Stevens, Anne. (2003) *Government and Politics of France*. 3rd ed. London, Palgrave Macmillan.

Websites

Ireland

1. Houses of Oireachtas. (2004) Available from:
<http://www.irlgov.ie/oireachtas/frame.htm> [Accessed 27 April 2004].

Slovenia

2. National Council of Slovenia. (2004) Available from:
<http://www.gov.si/dsvet/en/news/index.htm> [Accessed 27 April 2004].

France

3. The Economic and Social Council: <http://www.conseil-economique-et-social.fr/home.asp> [Accessed 29 March 2004].