



# A Response to the European Commission The EU's Push to Abolish Unanimity on Tax Policy Should Be Rejected

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Over the first weeks of 2019, the European Commission has made a strong push to replace unanimity votes by member states on tax issues with qualified majority voting. We present six reasons why this would be a mistake.



## Reasons Why Abolishing Unanimity Votes on Tax Policy Would Be a Mistake

### ① A MAJOR INTRUSION ON SOVEREIGNTY

Determining one's own tax policy is a precondition for one's own fiscal and economic policies. Transferring these decisions to EU majorities would be a major intrusion on national sovereignty.

### ② A SINGLE MARKET AGAINST COMPETITION

The Single Market was created to enable competition and reduce barriers in cross-border trade. A Single Market on taxes would be, to the contrary, a battle cry against competition.

### ③ TAX HARMONIZATION THROUGH THE BACK DOOR

The Commission's plan sets out a path to have qualified majority votes on major tax issues. The goal could very well be the complete harmonization of all taxes across Europe.

### ④ LOSING OUT AGAINST GLOBAL COMPETITION

Fighting against low-tax regimes in the EU could lead to corporations and individuals moving away to countries with a friendlier environment which does not disincentivize success and innovation.

### ⑤ FURTHER CENTRALIZATION IN BRUSSELS

The Commission has noted that getting rid of unanimity on tax policy would enable new integration efforts on a broad range of policies, from the euro to security.

### ⑥ MISSING SUPPORT BY MEMBER STATES

Handing over tax policy to EU institutions and the will of the majority is highly unpopular among member states, especially in the North, who fear that this is just another power grab by Brussels.

[www.austriancenter.com/unanimity-on-tax-eu](http://www.austriancenter.com/unanimity-on-tax-eu)

Source of Background Picture: Pixabay, <https://pixabay.com/de/fahne-flagge-europa-europafahne-3370970/>

The necessity to have unanimity in the Council on so-called “sensitive” issues, including tax policy, has been controversial on the European level for many years. With plans to reform the EU and move forward on integration efforts, the European Commission has stated clearly ever since the Brexit vote that member states should think about giving up on the last remnants of unanimity votes. Instead, qualified majority voting (QMV), i.e. a support of 55 percent of the states, representing at least 65 percent of the EU population, should increasingly be used on all issues, even on those that are particularly controversial. This, says the Commission, is necessary to have “a Union that delivers.”<sup>1</sup>

Commission President Jean-Claude Juncker has made this clear in consecutive State of the European Union speeches, and the Commission’s work program for 2019 also added “more efficient decision-making in key fields of taxation and social policies” as an important issue that needs to be tackled.<sup>2</sup> But a recent push over Christmas and in January 2019 drove home that getting rid of unanimity votes on tax policy is indeed a priority for the Commission.

On December 20, it started an initiative for “more efficient EU law-making procedures,”<sup>3</sup> and followed this up on

January 15 with a 13-page Communication “Towards a more efficient and democratic decision making in EU tax policy.”<sup>4</sup> In both, the gradual abolishment of unanimity votes on tax issues was called for. In the latter document, a four-step path was put forward on how this would be politically feasible – by starting out with QMV in areas such as tax evasion and carbon or environmental taxation, and moving ever closer to the complete disbandment of unanimity.

This was coupled with an analysis published one day earlier claiming that “shifting to qualified majority voting has been shown to change negotiating dynamics in the EU,”<sup>5</sup> and therefore, QMV should be introduced in “areas such as Common Foreign and Security Policy, taxation or social policy, which are central to addressing today’s biggest societal challenges.”<sup>6</sup>

While it is understandable that EU institutions as well as some member states are tired of being held back by naysayers in their integration plans – a condemnation made consistently by the Commission – and while it is true that decision-making processes could be accelerated by abolishing unanimity votes (notwithstanding that speeding up those

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<sup>1</sup> European Political Strategy Centre (EPSC) (2019), *A Union that Delivers: Making Use of the Lisbon Treaty’s Passerelle Clauses*, [https://ec.europa.eu/epsc/sites/epsc/files/epsc\\_brief\\_passerelles\\_2.pdf](https://ec.europa.eu/epsc/sites/epsc/files/epsc_brief_passerelles_2.pdf)

<sup>2</sup> European Commission (2018), *Commission Work Programme 2019: Delivering what we promised and preparing for the future*, [https://ec.europa.eu/info/sites/info/files/cwp\\_2019\\_en.pdf](https://ec.europa.eu/info/sites/info/files/cwp_2019_en.pdf)

<sup>3</sup> European Commission (2018), *Taxation – more efficient EU law-making procedures*, [https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-6590013\\_en](https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-6590013_en)

<sup>4</sup> European Commission (2019), *Communication from the Commission to the European Parliament, the European Council and the Council: Towards a more efficient and democratic decision making in EU tax policy*, [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/15\\_01\\_2019\\_communication\\_towards\\_a\\_more\\_efficient\\_democratic\\_decision\\_making\\_eu\\_tax\\_policy\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/15_01_2019_communication_towards_a_more_efficient_democratic_decision_making_eu_tax_policy_en.pdf)

<sup>5</sup> EPSC (2019), *A Union that Delivers* (2019), [https://ec.europa.eu/epsc/sites/epsc/files/epsc\\_brief\\_passerelles\\_2.pdf](https://ec.europa.eu/epsc/sites/epsc/files/epsc_brief_passerelles_2.pdf)

<sup>6</sup> *ibid.*

processes would not make the decisions more correct by itself), the plans of the EU would still be highly detrimental. It is not by accident that tax policy (as well as the other fields the Commission is looking at) is considered a “sensitive”<sup>7</sup> matter.

Indeed, introducing QMV on taxation would include grave dangers and problems. In contrast to the Commission’s *6 reasons to transition to qualified majority voting decision-making at EU level*,<sup>8</sup> here are six reasons why abolishing unanimity votes on tax policy would be a mistake.

## 1. A Major Intrusion on Sovereignty

That a government can determine its own tax policy is a precondition for the state’s very sovereignty on fiscal and economic matters.<sup>9</sup> If it can’t set its own tax base and rates freely, it will have a difficult time implementing the policies it wants, since it will always be dependent on the decisions made by someone else – in the case of a full-throttled implementation of QMV on the European level, by the qualified majority of member states as well as the proposals made by the Commission and the discussions conducted by the European Parliament. Indeed, handing tax policy to the European level, even if only partially, would be a major intrusion on national sovereignty. And while internal limits like domestic tax limits might work if written in

a nation’s constitution, a third player intervening in domestic affairs or introducing its own taxes on the back of a country’s tax base is surely a different matter – and one that can be expected to cause major backlash.

In all of this, the Commission has a disturbing definition of what sovereignty even means. For them, “it is fair to ask whether a situation where one Member State can block initiatives wanted by the 27 other ones is beneficial to national sovereignty of all the 27 other ones.”<sup>10</sup> But sovereignty means that one can precisely do that: as the Cambridge Dictionary defines it, sovereignty is “the power of a country to control its own government,”<sup>11</sup> i.e. to have the supreme power on what to do regardless of what this means for outsiders. Of course, this can result in bad policy – and this is why issues such as tax policy need to be further decentralized as far as possible, so that those in charge are more incentivized to implement good policy. It certainly does not mean that other countries can force their sovereignty on another’s simply because it is in their interest.

## 2. A Single Market Against Competition

One additional curious statement made by the Commission is that introducing QMV on tax issues would help in bringing about

<sup>7</sup> European Council, *Unanimity*, <https://www.consilium.europa.eu/en/council-eu/voting-system/unanimity/>

<sup>8</sup> European Commission (2019), *How do we gradually improve decision-making in EU tax policy?*, [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/15\\_01\\_2019\\_qmv\\_factsheet\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/15_01_2019_qmv_factsheet_en.pdf)

<sup>9</sup> Ydstedt, Anders (2019), *Don’t give the EU Commission more power to introduce new taxes*, [https://www.values4europe.com/de/blog/don-t-give-](https://www.values4europe.com/de/blog/don-t-give-the-eu-commission-more-power-to-introduce-new-taxes/)

[the-eu-commission-more-power-to-introduce-new-taxes-169/](https://www.values4europe.com/de/blog/don-t-give-the-eu-commission-more-power-to-introduce-new-taxes-169/)

<sup>10</sup> European Commission (2019), *Communication*, [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/15\\_01\\_2019\\_communication\\_towards\\_a\\_more\\_efficient\\_democratic\\_decision\\_making\\_eu\\_tax\\_policy\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/15_01_2019_communication_towards_a_more_efficient_democratic_decision_making_eu_tax_policy_en.pdf)

<sup>11</sup> Cambridge Dictionary, *Sovereignty*, <https://dictionary.cambridge.org/de/worterbuch/englisch/sovereignty>

a “Single Market in Taxation.”<sup>12</sup> Harmonizing tax rules would finally create a fair tax system across the Continent. “National tax policies can have important effects on other Member States and Union policies,” and member states are currently constrained “in their capacity to raise revenues to finance expenditure programmes in line with their national preferences.”<sup>13</sup> Setting the same rules and levels would merely add another component to the Single Market then.

While this argument may still be made in streamlining tax laws *per se*, especially in the way they are being raised, which would make declaring taxes easier for international corporations, it would hurt the common market if it means actually harmonizing tax rates or introducing new taxes, such as a digital tax. The Single Market was created to ease trade across borders and reduce or eliminate barriers, not to introduce taxes and create new barriers for European citizens and businesses to do business.

### 3. Tax Harmonization Through the Back Door

The concern that abolishing unanimity would open the door for tax harmonization across the line, including personal income and corporate taxes, and thus, eliminating tax competition in Europe, has always existed. Undoubtedly, countries like

Ireland, Estonia, and Latvia have profited from their competitive tax systems<sup>14</sup> – systems, they fear, they would have to give up for some more akin to high-tax countries like France and Germany.

The Commission writes in its documents that this is not a goal: “Nor does it aim to shift towards a system of harmonized personal and corporate tax rates across the EU.”<sup>15</sup> Nonetheless, other parts of the documents show a different picture. For instance, the Commission states that moving to QMV would make it possible to avert “harmful tax competition and aggressive tax planning,”<sup>16</sup> and bemoans the fact that “as the tax base becomes more mobile, Member States are increasingly constrained in the execution of their fiscal sovereignty.”<sup>17</sup> Of course, the goal to establish a “Single Market in Taxation” leads to a similar conclusion.

The four-step plan the Commission has published goes in the same direction. QMV should, at first, be introduced on issues like tax fraud and evasion (step 1) and tax measures to fight climate change and improving public health (step 2), i.e. steps that for many it will be hard to say no to. In step 3 harmonization is already in play on reforms of the already harmonized VAT system. Finally, “step 4 would allow a shift to QMV for major tax projects,” which will include a Common Consolidated Corporate Tax Base and the introduction of a digital

<sup>12</sup> European Commission (2018), *Taxation – more efficient EU law-making procedures*, [https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-6590013\\_en](https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-6590013_en)

<sup>13</sup> *ibid.*

<sup>14</sup> Bunn, D., Pomerleau, K. & Hodge, S. (2018), *2018 International Tax Competitiveness Index*, <https://taxfoundation.org/publications/international-tax-competitiveness-index/>

<sup>15</sup> European Commission (2019), *Communication*, [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/15\\_01\\_2019\\_communication\\_towards\\_a\\_more\\_efficient\\_democratic\\_decision\\_making\\_eu\\_tax\\_policy\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/15_01_2019_communication_towards_a_more_efficient_democratic_decision_making_eu_tax_policy_en.pdf)

<sup>16</sup> *ibid.*

<sup>17</sup> EPSC (2019), *A Union that Delivers*, [https://ec.europa.eu/epsc/sites/epsc/files/epsc\\_brief\\_passerelles\\_2.pdf](https://ec.europa.eu/epsc/sites/epsc/files/epsc_brief_passerelles_2.pdf)

tax, but could go much further.<sup>18</sup> Who is to say the EU is stopping here, with unanimity already being broken down, especially with aforementioned signs that a harmonization of taxes might be the eventual goal?

#### 4. Losing Out Against Global Competition

The European Commission thinks that a common tax system would make Europe “a global leader” in tax decisions and would create “a fairer tax environment for all.”<sup>19</sup> Instead, by levying its own resources such as digital taxes and harmonizing tax rates, Europe would further<sup>20</sup> lose out against global competition. If all member states in Europe would have tax rates such as France or Germany, both corporations as well as individuals would move away from the Continent in ever-increasing numbers, and instead choose new homes with a business-friendly environment and a place where success in one’s career is not disincentivized.

If the EU truly wants to clamp down on tax fraud and evasion, it would do well to not force its own member states to implement damaging and distortive taxes, while preventing them from having low tax rates. The best medicine against tax evasion is to have a tax system which is bearable for taxpayers.

Tax competition is a global business today. It is easier than ever to move from one

place to another, especially for companies. Europe should try to create an environment which opens the door for economic growth and wealth accumulation, rather than alienating everyone in the world while losing its own success stories to countries abroad.

#### 5. Further Centralization in Brussels

Getting rid of unanimity in taxation would not only have effects on tax policy, but could also lead to further, possibly for member states unintended, integration. As the Commission writes in its Communication from January 15,

Unanimity in taxation has also had a detrimental effect on the EU’s wider policy priorities. Taxation is also essential for many of the EU’s most ambitious projects, including the Economic and Monetary Union, the Capital Markets Union, the Digital Single Market, the 2030 Climate and Energy Framework or the Circular Economy.<sup>21</sup>

Thus, further reforms on the eurozone as well as fiscal policies could only be in the waiting. Furthermore, as the document from January 14 makes clear, Brussels also wants to abolish unanimity on other “sensitive” matters such as foreign and security policy as well as social policy.<sup>22</sup> While any decisions would still need a QMV

<sup>18</sup> European Commission (2019), *How do we gradually improve decision-making in EU tax policy?*, [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/15\\_01\\_2019\\_qmv\\_factsheet\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/15_01_2019_qmv_factsheet_en.pdf)

<sup>19</sup> *ibid.*

<sup>20</sup> Weiss, Kai (2018), *Europe Is Bringing Itself Down*, <https://www.aier.org/article/europe-bringing-itself-down>

<sup>21</sup> European Commission (2019), *Communication*, [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/15\\_01\\_2019\\_communication\\_towards\\_a\\_more\\_efficient\\_democratic\\_decision\\_making\\_eu\\_tax\\_policy\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/15_01_2019_communication_towards_a_more_efficient_democratic_decision_making_eu_tax_policy_en.pdf)

<sup>22</sup> EPSC (2019), *A Union that Delivers*, [https://ec.europa.eu/epsc/sites/epsc/files/epsc\\_brief\\_passerelles\\_2.pdf](https://ec.europa.eu/epsc/sites/epsc/files/epsc_brief_passerelles_2.pdf)

by member states, there is little doubt that these measures would increase the capabilities for Commission and Parliament to implement their own agenda.

## 6. Missing Support by Member States

Many critics of the Commission's strong early-year push have pointed out that the support for the introduction of QMV on taxes is rather miniscule. While the general population may be in favor of European-wide measures against tax evasion, it is a wholly different matter when it comes to handing over tax policy altogether to the whim of the (qualified) majority and EU institutions. Complaints that too many decisions are made in Brussels would surely not decrease.

In the Council, only a handful of countries have come out in favor of it,<sup>23</sup> while a significant amount has rejected this push, especially Ireland as well as Nordic and Baltic countries. Since a move to abolish unanimity would need unanimity itself – including the use of the “passerelle clause” from the Lisbon Treaty, as the Commission suggested – introducing QMV in the near future seems like a distant possibility. Indeed, as long as at least one country, regardless of how small, submits a veto, little can happen.<sup>24</sup>

Nonetheless, the Commission's determined new-year's attempt to abolish unanimity on a wide range of issues, including taxation, is a sign that Brussels has not given up in any way. It is of the utmost importance to reject any such attempts.

*“For the Commission, the question is no longer whether there is a need to move away from unanimity in taxation, but rather how and when to do it.”*

*European Commission*

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*The views expressed in this work are not necessarily those of the Austrian Economics Center, nor of any of its members other than the author.*

<sup>23</sup> Smith-Meyer, Bjarke (2019), *Brussels' bid to kill tax veto faces uphill battle*, <https://www.politico.eu/pro/brussels-bid-to-kill-tax-veto-faces-uphill-battle/>

<sup>24</sup> Hammarstedt, Claes (2019), *The Nordic countries need to block EU assault on tax veto*, [https://www.svensktnaringsliv.se/english/the-nordic-countries-need-to-block-eu-assault-on-tax-veto\\_728452.html](https://www.svensktnaringsliv.se/english/the-nordic-countries-need-to-block-eu-assault-on-tax-veto_728452.html)



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