COMMENTARY

Will the EU move to Qualified Majority Voting in Foreign Policy?

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*This commentary was written by **Anna Nadibaidze** | 23 October 2020

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RUE DE LA SCIENCE 14B, 1040 BRUSSELS

TEL: +32 02 588 00 14

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Introduction

Decision-making rules in the EU's Common Foreign and Security Policy (CFSP) have been the subject of debates for many years. The unanimity requirement used in CFSP is seen by many as an obstacle to the EU's ability to respond to world events quickly and effectively, thus affecting Europe's credibility in its neighbourhood and beyond.

In order to address this issue, the European Commission under Jean-Claude Juncker's leadership formally proposed to move to Qualified Majority Voting (QMV) in specific CFSP areas, including sanctions. The current Commission President, Ursula von der Leyen, also supports the change.

Voting by unanimity means that any member state can block a foreign policy decision or statement, preventing the bloc to demonstrate its collective reaction to an external development. In September 2020, the delay in agreeing sanctions against Belarusian officials responsible for human rights violations due to the veto of one member state has revived the debate about using QMV in foreign affairs.[1]

However, a consensus on this issue is difficult to find. On the one hand, the Commission and some member states believe that moving to QMV will be an impetus for more "efficient and timely EU action" and prevent situations like the one with Belarus sanctions.[2] On the other hand, smaller member states feel anxious about being outnumbered in foreign policy votes and argue that QMV would affect the EU's legitimacy, which is based on its unity.

This paper provides an overview of the historical background of the debate, as well as the recent developments and possible future options.

Background

Overtime, the EU adopted QMV (which requires the approval of 55% of member states that together represent at least 65% of the EU population) instead of unanimity (which requires the consent of all member states) in many areas, including trade and justice and home affairs.

According to the European Commission, *"Member States have recognised that when a certain level of ambition is sought in particular policy area, there comes a moment when the unanimity rule slows down progress and in some cases prevents the EU from adjusting to changing realities. In this sense, every move towards qualified majority has been a major step forward for the EU."*[3]

QMV is now used for many decisions concerning foreign affairs, including trade, migration, and humanitarian aid. However, the CFSP remains a separate type of policy and requires member states to vote unanimously to implement a decision.

There are few exceptions to this rule:

- **Constructive Abstention**: Member states are allowed to abstain from a unanimous decision on CFSP if they justify their position, while recognising that the decision is binding.

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[1] https://euobserver.com/opinion/149538

[2] https://ec.europa.eu/commission/sites/beta-political/files/soteu2018-efficient-decision-making-cfsp-communication-647_en.pdf

[3] https://ec.europa.eu/commission/sites/beta-political/files/soteu2018-efficient-decision-making-cfsp-communication-647_en.pdf

- **'Enabling clause'**: According to Art. 31(2) of the Treaty on European Union (TEU)), the Council can vote by QMV on certain specific cases, for example for deciding upon the EU's strategic objectives in an area, appointing a special representative, or reacting to a proposal from the High Representative for Foreign Affairs.[4]

Suggestions to move to QMV in some areas of the CFSP are not new, but in recent years they have been articulated as concrete proposals. In 2017, European Commission President Jean-Claude Juncker suggested member states could "look at which foreign policy decisions could be moved from unanimity to qualified majority voting," adding, "We need qualified majority decisions in foreign policy if we are to work efficiently."[5]

In 2018, Juncker's Commission put forward the proposal to introduce QMV in three specific fields: EU sanctions, the decision to launch EU civilian missions, and international human rights issues. The European Parliament supported the proposal in a number of resolutions.[6]

The Commission pointed out that the TEU already allows using QMV in certain cases. In addition to the 'enabling clause', the TEU contains a 'passerelle clause' which gives the option for EU leaders to decide by QMV on some issues, if all member states unanimously agree to use this procedure. The clause would help changing rules without officially modifying the treaties. Moreover, the following two safeguards would apply:

- QMV vote does not apply to military and defence matters.
- Member states can object to a QMV decision if it affects its national interests, and request it to be a unanimous vote.

Juncker's objective was to "make visible progress" on this issue at the informal meeting of EU leaders in Sibiu, Romania, in May 2019.[7] However, no decision was taken upon that matter.

In July 2019, the new European Commission President, Ursula von der Leyen, pledged to "push for qualified majority voting to become the rule" in foreign policy, arguing that "to be a global leader, the EU needs to be able to act fast."[8] In her first State of the Union speech, von der Leyen urged member states to adopt QMV "at least on human rights and sanctions implementation."[9] She also mandated the new High Representative for Foreign Affairs, Josep Borrell, to "seek to use the clauses in the Treaties that allow certain decisions on the common foreign and security policy to be adopted by qualified majority voting".[10] Since then, however, no progress has been made on this issue.

Current Debates

Recent global and regional developments have increased the intensity of debates about the need to make EU foreign policy more effective. The UK's decision to leave the bloc encouraged the EU27 to rethink its post-Brexit strategic direction and *raison d'être*. As the UK has historically been one of

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[4] https://www.cer.eu/publications/archive/policy-brief/2019/should-eu-make-foreign-policy-decisions-majority-voting
[5] https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_17_3165
[6] https://www.europarl.europa.eu/legislative-train/theme-europe-as-a-stronger-global-actor/file-more-efficient-decision-making-in-cfsp
[7] https://ec.europa.eu/commission/sites/beta-political/files/soteu2018-speech_en_0.pdf
[8] https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission_en.pdf
[9] https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1657
[10] https://ec.europa.eu/commission/sites/beta-political/files/mission-letter-josep-borrell-2019_en.pdf

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the key member states expressing reluctance to further integrate in foreign and security policy, its departure was expected by some to encourage greater European integration.[11]

Global developments including the election of US President Donald Trump and his critique of multilateralism, the war in Ukraine, and tensions with China and Turkey, have given the EU an impetus to become a more self-reliant global actor. Many in the EU believe that it is time for the bloc to respond to the growing geopolitical competition learn to engage with challenges on its own.[12]

Against this background, the new Commission has been promoting a discourse of a more geopolitically assertive EU. Von der Leyen declared her ambition to lead a "Geopolitical Commission" and build a "stronger Europe in the world", while Borrell argued that "Europe has to develop an appetite for power".[13]

However, the COVID-19 pandemic has shifted priorities into issues such as health and economic recovery, exposing the lack of progress made on the foreign policy front. Be it in Turkey, Libya, Belarus or Nagorno-Karabakh, the EU is often either reluctant to engage, or takes a long time to respond.

Part of the problem lies in voting rules. Unanimity means that any member state has a viable option to block a foreign policy decision in order to promote its own national interest. For example, Cyprus 'linked' sanctions against Belarus to another set of sanctions against Turkey to promote its own national interests (see Box 1).

Moreover, external actors such as Russia and China are aware of the meaning of unanimity rules and have the opportunity of finding a 'Trojan horse' within the EU to try and block or water down the statements. For instance, in 2017 Greece vetoed an EU statement on China's human rights record.[14]

However, the unanimity rule is only part of the issue. Divisions and disputes among member states, based on different interpretations of external events, different histories, identities or conflicting national interests, play an important role too.[15] Hungary has been active in blocking EU condemnation of US policies in the Israeli-Palestinian conflict several times. In 2019, it vetoed a joint statement condemning the decision of the US to no longer consider Israeli settlements as illegal.[16]

Overall, the EU's goal of increasing its 'strategic autonomy' and geopolitical actorness continues to be affected by its inability to respond to events quickly and efficiently.[17] However, whether member states agree with the Commission that time has come to change something in voting rules is far from being decided. Ultimately, introducing QMV on sanctions or human rights would not mend the crucial divisions among member states that affect the unity of the bloc.

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[11] https://rusi.org/sites/default/files/201704_08_rusi-fes_brexit_defence_and_security_lain_and_nouwens.pdf
[12] https://securityconference.org/assets/user_upload/MunichSecurityReport2020.pdf
[13] https://www.reuters.com/article/us-germany-security-europe/eu-must-develop-appetite-for-power-borrell-says-idUSKBN20A0BX
[14] https://www.reuters.com/article/us-eu-un-rights/greece-blocks-eu-statement-on-china-human-rights-at-u-n-idUSKBN1990FP
[15] https://www.economist.com/europe/2020/10/10/scrapping-vetoes-wont-help-european-foreign-policy
[16] https://www.timesofisrael.com/budapest-blocks-joint-eu-statement-condemning-us-shift-on-settlements/
[17] https://www.swp-berlin.org/10.18449/2019RP04/

Box 1. Case study: EU sanctions against Belarus in September 2020

Official results of the presidential election on 9 August attributed over 80% of the vote to President Alexander Lukashenko – an outcome that the EU does not recognise. Following the vote, protests erupted all over Belarus to demand a free and transparent election. The authorities reacted violently, with detentions, torture and kidnappings of protesters and opposition activists.

At an online EU Council summit on 19 August 2020, EU leaders declared that sanctions "against a substantial number of individuals responsible for violence, repression and the falsification of election results" would be imposed soon.[18]

While detentions and violence continued, the process of agreeing a legal text on sanctions took weeks. Cyprus has been blocking the Belarus sanctions until other member states agreed to impose sanctions against Turkey as well.[19] The deadlock only ended during the special European Council summit held on 1-2 October, when leaders finally agreed on imposing sanctions against 40 Belarusian officials.[20]

The delay in taking action against human rights violations has been interpreted in a negative light by many in the EU and abroad. Josep Borrell admitted that this deadlock affected the EU's credibility.[21]

Divisions and Challenges

Some EU governments have expressed support for the Commission's proposals. For instance, France and Germany noted in their Meseberg Declaration of 2018, "We should also explore possibilities of using majority vote in the field of the Common Foreign and Security Policy in the framework of a broader debate on majority vote regarding EU policies."[22] Dutch Prime Minister Mark Rutte also seemed open to the idea,[23] while Spanish Prime Minister Pedro Sanchez called for abandoning unanimity in foreign affairs.[24]

The proponents of the idea argue that more flexibility would allow the EU to implement decisions more quickly and efficiently and be a stronger global actor in an increasingly instable international environment.

Another argument is that unanimity encourages member states to take the lead and form 'coalitions of the willing' in order to act upon some issues that they consider important, but which are blocked by other member states' vetoes. This encourages the use of other formats, for instance the E3 (France, Germany, and the UK) and could undermine the unity, legitimacy and cohesion of the whole Union. Moreover, it often means that the EU can only adopt decisions based on a lowest common denominator, making its reaction to some global events weaker and easier to undermine.[25]

However, most member states are not open to the idea. According to previous studies, approximately seven member states would be in favour of moving to QMV in certain foreign policy areas, while ten are undecided and ten are opposed.[26]

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[18] https://www.consilium.europa.eu/en/press/press-releases/2020/08/19/conclusions-by-the-president-of-the-european-council-following-the-video-conference-of-the-members-of-the-european-council-on-19-august-2020/

[19] https://www.theguardian.com/world/2020/sep/21/eu-fails-agree-belarus-sanctions-cyprus-blocks-plan

[20] https://www.consilium.europa.eu/en/press/press-releases/2020/10/02/belarus-eu-imposes-sanctions-for-repression-and-election-falsification/

[21] https://www.euronews.com/2020/09/21/eu-s-credibility-at-stake-warning-as-cyprus-prevents-belarus-sanctions

[22] https://www.diplomatie.gouv.fr/en/country-files/germany/events/article/europe-franco-german-declaration-19-06-18

[23] https://www.politico.eu/article/dutch-pm-rutte-eu-must-get-tough-on-sanctions/

[24] https://www.europarl.europa.eu/RegData/etudes/IDAN/2019/637948/EPRS_IDA(2019)637948_EN.pdf

[25] https://carnegieeurope.eu/strategiceurope/82724

[26] https://hertieschool-f4e6.kxcdn.com/fileadmin/user_upload/20200210_Policy_Brief_QMV_Koenig.pdf

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The arguments against the Commission's proposal form a long list.

Firstly, many smaller member states consider that they will have less chances of representing their national interests and could be outvoted by bigger member states such as France and Germany. For instance, Cyprus would have no chance of insisting on the situation with Turkey, which it considers a matter of national security, if QMV were used for sanctions. In 2019, the President of Cyprus, Nicos Anastasiades, argued against moving to QMV.[27]

Secondly, it could affect the EU's legitimacy, which is interpreted as being based on its unity. If small member states are often outvoted on foreign policy decisions, it would undermine the image of the EU as acting collectively. This would be damaging especially at a time when it is seeking to be more strategic and more autonomous.[28] In September 2020, the European Council President Charles Michel stated that while the unanimity requirement "slows down and sometimes even prevents a decision," it also forces member states to engage with each other to find a common position, adding, "European unity is our strength".[29]

Thirdly, as mentioned above, moving to QMV would not necessarily improve the effectiveness of decision-making. As seen in other areas, including budgetary affairs, member states have developed a tendency of forming groups representing their own interests (the Visegrad 4, the Frugal Four, etc.), resulting in an even more complex negotiation process. The Baltic countries and Poland were the most active proponents of sanctions and have formed such a group pushing for faster European reaction to human rights violations in Belarus.

Finally, it could put some member states in a difficult position domestically. On the one hand, if a member state is constantly outvoted on a foreign policy issue that is considered a matter of national interest, it could lead to a domestic political backlash. On the other hand, voting along with the consensus to maintain the image of EU unity (as it often happens in QMV voting) is also challenging to justify to the domestic audience. This could lead to the member state simply ignoring the decision, or using the safeguards and pulling the emergency brake.

The divisions among member states show that political conditions to move to QMV on sanctions or human rights issues are not yet ripe. As the EU reconsiders the strategic direction of its foreign and security policy after Brexit and with the pandemic and the changing international context, this will be one of the key questions to address.

What are the Ways Forward?

The proponents of moving to QMV face important challenges in convincing others of the merits of abandoning unanimity in some areas. The Commission could encourage member states to abstain from unanimous decisions, as already allowed by the TEU (see 'constructive abstention' above). Borrell recently suggested that it could be possible to "issue a quick statement at 25 with good substance than wait for several days and come with a lowest common denominator statement at 27".[30] However, this would not help when countries have national interests which they consider important to defend in relation to some cases, as it was the case with Cyprus and sanctions against Turkey.

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[27] https://www.europarl.europa.eu/RegData/etudes/IDAN/2019/637948/EPRS_IDA(2019)637948_EN.pdf
[28] https://warontherocks.com/2020/10/washington-should-push-for-a-stronger-e-u-foreign-policy/
[29] https://www.rtl.be/info/monde/europe/ue-charles-michel-doute-de-l-interet-d-abandonner-l-unanimite-en-politique-etrangere-1247681.aspx
[30] https://eeas.europa.eu/headquarters/headquarters-homepage/86276/when-member-states-are-divided-how-do-we-ensure-europe-able-act_en

Another scenario would be to try and convince member states to start in limited areas, for example human rights, which in theory should not be a matter of controversial debate. Smaller member states should be reassured by the Commission that they can always use the emergency brakes when they consider the issue a matter of national security. Meanwhile, France and Germany could reassure that they would not engage in consultations and not take advantage of QMV to impose their will.

At the same time, changing decision-making rules is unlikely to reduce the political and strategic divisions among member states and will not automatically improve the effectiveness of the CFSP. As Borrell argued, QMV is no "silver bullet" to the EU's foreign policy issues. Building a common strategic outlook is a crucial part, which the Commission hopes to address with the upcoming Strategic Compass defining the bloc's security and defence goals.[31]

In order to tackle the challenges that it faces, the EU should build a stronger foreign policy and reconsider its global strategy. However, political conditions are not ripe for voting via QMV in foreign policy, and even if the change was made, it would not be enough for member states to put their differences aside.

Therefore, the Commission and other proponents of changing decision-making rules should also consider other paths forward to encourage cohesion, coherence and alignment among member states and eventually strengthening the common foreign policy and strategic outlook for its global relations.

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[31] https://eeas.europa.eu/headquarters/headquarters-homepage/86276/when-member-states-are-divided-how-do-we-ensure-europe-able-act_en

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