

The EU debate on qualified majority voting in the Common Foreign and Security Policy. Reform and enlargement

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The Russian invasion of Ukraine and the discussion about possible EU enlargement have given new impetus to the EU debate on institutional reforms. It is mainly Germany which has been setting the tone in this debate. For the ruling SPD-Greens-FDP coalition, the federalisation of the EU was a defined foreign policy goal even before Russia's invasion of Ukraine. The need to adapt the decision-making process to an enlarged EU – which could possibly contain more than 30 members in the foreseeable future – is now an additional argument in favour of such reforms.

From Berlin's perspective the extension of qualified majority voting in the Common Foreign and Security Policy (CFSP) is the most pressing issue. In the short term, Germany wants to use the existing options within the EU treaties to achieve this goal. In the long term, however, Berlin is aiming for broader institutional reforms, and these will require treaty changes. The extension of qualified majority voting in the CFSP would be only one element of a whole range of broader adjustments.

France supports Germany's efforts to strengthen the CFSP, but at the same time it is trying to steer the discussion towards its own concept of a 'multi-speed Europe'. Paris has for years been in favour of tightening integration within a narrower circle of EU member states. The countries of Northern, Central and South-Eastern Europe are approaching the discussion of a wide-ranging EU reform with considerable scepticism. However, some of them may be open to a limited extension of qualified majority voting in the CFSP combined with enlargement of the EU, while looking for ways to safeguard their vital interests. They have also expressed doubts as to whether the reform will actually be a step towards the accession of new members and not an end in itself, and whether it will not lead to the process of enlargement being delayed or even stalled.

Germany: EU enlargement as a pretext for institutional reform

The demand for institutional reform of the EU is one of the projects Berlin has pushed most strongly in its European policy. Of all the proposals put forward by the SPD-Greens-FDP government on this issue, the priority is the extension of qualified majority voting (QMV) in the Council of the EU. This is



influenced by two factors. The first is the domestic consensus on the direction that the EU reform should take. In the coalition agreement of November 2021 the SPD, the Greens and the FDP advocated changes to the EU treaties in order to further develop a federal European state, to be decentralised and organised in accordance with the principles of subsidiarity and proportionality, and based on the EU Charter of Fundamental Rights.¹ In a special petition adopted in March 2023 in the Bundestag, the SPD, the Greens, the FDP and the CDU/CSU factions called on the government to campaign within the EU for the abolition of unanimity and the extension of qualified majority voting in the Council of the EU “to all matters”. The second factor which has given impetus to the discussion on the EU’s future was the Russian invasion of Ukraine and the decision to grant EU candidate status to Ukraine and Moldova in June 2022 and Bosnia and Herzegovina in December 2022. In a speech in Prague in August 2022, Chancellor Olaf Scholz explicitly linked further enlargement to demands for institutional reforms in the EU.

Given the lack of consensus among the member states on EU treaty changes, Berlin is seeking greater application of QMV in the CFSP through the use of existing legal

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possibilities in the short term. Human rights and sanctions policies – perceived as the least controversial – were mentioned as areas where QMV could be used in the first instance. In the long term, however, the aim is to change the EU treaties, not only to extend QMV to further areas, but also to move towards greater EU federalisation.

Since the beginning of 2023 Berlin has been bolstering the ranks of supporters of greater use of QMV in the CFSP. In January 2023, together with Paris, it set up a Franco-German working group of experts to develop recommendations for EU institutional reform. In May 2023, at the initiative of Germany, the Group of Friends on Qualified Majority Voting in the EU’s Common Foreign and Security Policy was established². It comprised Belgium, Finland, France, Italy, Luxembourg, the Netherlands, Slovenia and Spain (which were later joined by Romania, Sweden and Denmark). Its stated aim is to ‘foster QMV’ in the CFSP under the current treaties. As of autumn 2023 four major proposals on how to achieve this have been proposed by German policymakers:³ constructive abstentions, the passerelle clause for the CFSP, so-called flexible implementation, and the introduction of a ‘safety net’ mechanism based on Article 31 (2) TEU (see Appendix 1).

A much more extensive catalogue of proposals to broaden QMV – not just in the CFSP, but also with regard to other EU policies (such as enlargement policy and the rule of law and the fiscal and tax policy) – is contained in the report of the above-mentioned Franco-German working group presented in mid-September 2023 (see Appendix 2)⁴, which also contains proposals requiring changes to the treaties. Its authors have stressed that they do not represent the official position of France or Germany. However, the fact that the report was presented on the margins of a General Affairs Council meeting indicates that Berlin and Paris are leaning towards the ideas presented in the document or see them at least as additional leverage in the ongoing discussion.

¹ *Mehr Fortschritt Wagen. Bündnis für Freiheit, Gerechtigkeit und Nachhaltigkeit, Koalitionsvertrag 2021–2025 zwischen SPD, Bündnis 90/Die Grünen und FDP*, p.131, spd.de

² ‘Joint Statement of the Foreign Ministries on the Launch of the Group of Friends on Qualified Majority Voting in EU Common Foreign and Security Policy’, *Auswärtiges Amt*, 4 May 2023, [auswaertiges-amt.de](https://www.auswaertiges-amt.de).

³ A. Baerbock *et al*, ‘It’s time for more majority decision-making in EU foreign policy’, *Politico*, 12 June 2023, [politico.eu](https://www.politico.eu).

⁴ *Sailing on High Seas: Reforming and Enlarging the EU for the 21st Century*, Report of the Franco-German Working Group on EU Institutional Reform, *Auswärtiges Amt*, 18 September 2023, [auswaertiges-amt.de](https://www.auswaertiges-amt.de).

According to the proposals in the report from the Franco-German working group, QMV would be extended to the CFSP and other areas of EU policy by June 2024, on the basis of the passerelle clauses existing in the current treaties. The current and upcoming presidencies of the Council of the EU, held by Spain and Belgium respectively, may favour such attempts, as both countries belong to the Group of Friends on QMV created by Germany. On the other hand, between 2024 and 2029, i.e. the next term of the European Parliament, treaty changes are proposed that would include the extension of QMV to all EU policy areas and the rebalancing of the calculation of QMV voting shares (see Appendix 2), as well as a reform of the operation of the European Parliament and the European Commission.

France: towards a ‘multi-speed Europe’

Germany sees France as its key partner in reforming the EU. Paris supports the efforts to allow more coordination of EU foreign policy among the member states, as well as the greater use of QMV in the CFSP. It is also keen on maximum rapprochement with Berlin so they can present joint proposals. However, despite its support for a wider application of QMV, France has avoided giving too much emphasis to its position on this issue. A complete renunciation of the veto in CFSP could draw accusations from parts of the current French opposition (such as Marine Le Pen’s National Rally or the Gaullist Republicans) that President Emmanuel Macron is weakening state sovereignty.

A more important proposal coming from Paris, and one that would be more readily accepted by the French electorate (given its aversion to EU enlargement), is that of a ‘multi-speed Europe’. According

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to France closer integration in social, financial, industrial or defence areas by the most ambitious member states would constitute a vanguard which encourages other countries to join out of fear of being marginalised; hence the earlier French calls for a separate eurozone budget, or different formats for European Council and Council of the EU meetings. At the same time, Paris is promoting the idea of ‘strategic proximity’ with the EU neighbours by encouraging initiatives like the European Political Community. The French position on EU reforms has not been formulated in a single document and can only be inferred indirectly from statements by French politicians.

Until recently Paris maintained that there was an antagonism between deeper integration and enlargement. As recently as 2019, President Macron insisted that the accession of the Western Balkan states must be the final stage of EU enlargement, and that even this should not be taken for granted. After Russia’s full-scale invasion of Ukraine, France changed the tone of its rhetoric towards EU enlargement to a more favourable one. However, Paris’s support for further accessions is conditional on institutional reforms being implemented. This includes not only a broader use of the QMV, but also the concept of differentiated integration, i.e. the possibility for candidate countries to join selected EU policies gradually, and for groups of the most ambitious members to deepen their integration in specific areas. In May 2023 France also joined the Atlantic Group, set up at the initiative of Portugal (it also includes Spain, Ireland, Belgium, the Netherlands and Denmark); this is an informal group of EU countries which have expressed concern at the prospect of eastward enlargement, and which condition it on institutional and budgetary reform to the EU.

The French thinking on the future of the EU was reflected in the proposals made by the above-mentioned Franco-German working group. In its report it proposed four concentric circles: 1) the inner circle for members of the Eurozone and the Schengen Area, with additional ‘coalitions of the willing’ in a wider range of policy areas (climate, energy, taxation); 2) all current and future EU member states;

3) associated members (the first outer tier), where the core area of participation would be the single market, with speaking but no voting rights in the Council of the EU; 4) countries belonging to the European Political Community (the second outer tier) with geopolitical convergence and political cooperation in areas of mutual importance. The key criterion for belonging to and benefiting from the first three circles of integration would be the rule of law.

Northern, Central and South-Eastern Europe: between scepticism and cautious support

Most of the EU member states from Northern, Central and South-East Europe oppose the proposals to change the treaties. Initially they were equally sceptical about German proposals to expand QMV in the CFSP without EU institutional reform. Their concerns are mainly related to the fact that smaller and medium-sized member states may lose influence over EU decision-making, and that the wider use of QMV will lead to the domination of the largest EU countries. However, while remaining sceptical about renegotiating the treaties, some countries have turned (and some may do so in the future) to a more favourable attitude regarding the use of the existing possibilities for extending QMV in the CFSP (see Appendix 3). For this reason, the Group of Friends on QMV initiated by Germany initially included only Slovenia and Finland among the countries of Northern, Central and South-Eastern Europe. After a few weeks Romania joined, followed by Sweden and Denmark (as an observer). The biggest opponents of the wider use of QMV in the CFSP are Hungary and Croatia, and potentially Bulgaria. These countries do not want to give up their right of veto, as they usually use it to put pressure on their non-EU neighbours with whom they have various disputes. One example of this is Hungary blocking certain decisions on Ukraine and making the withdrawal of the veto conditional on Kyiv meeting Budapest's demands. At the same time, this kind of policy only strengthens those voices in the EU who call for a departure from the principle of unanimity.

The positions of other countries of Northern, Central and South-Eastern Europe are only just being developed. The Czech Republic, Slovakia, Bulgaria and Lithuania,

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Latvia and Estonia have not taken an official position, or to varying degrees, they are still cautious about the German proposals. The final position of some of these countries will depend on the outcome of negotiations between coalition parties with different attitudes to these issues (as in the Czech Republic) or between different factions in the ruling coalition (as in Lithuania). Other countries will be influenced by the setup of the governing coalition (as in Slovakia). So far, one of the demands, which has also been formulated by advocates of the wider use of QMV in the CFSP (Romania and Slovenia, among others), is the introduction of safeguard clauses to protect vital national interests (it has not yet been clearly defined how this would be done). Meanwhile Estonia supports extending the use of constructive abstention. Some of the undecided states from Northern, Central and South-Eastern Europe may treat their position in a transactional manner and make their agreement to the use of QMV in the CFSP conditional on concessions from supporters of this solution in other EU policy areas. Their stance may therefore evolve towards supporting the greater use of the possibilities offered by the current treaties (see Appendix 1). Others, on the other hand, may favour the changes proposed by Germany and France out of a desire to remain in the mainstream of European integration, while also hoping to benefit from this in the future.

Advocates of reform in the aforementioned countries have first and foremost highlighted the need to prevent a situation in which a single member, motivated by its own particular interests, blocks or

delays EU decisions (Hungary's veto on issues regarding Russia, Ukraine and China is often cited in this context). This underlines that the EU should react more swiftly to an increasingly tense international situation, for which a change in decision-making is needed. Countries seeking EU enlargement further argue that a greater use of QMV in the CFSP is necessary to adapt institutions to accommodate new members, and that without some reform, the large member states will not accept any further accessions. Critics of the wider introduction of QMV in the CFSP argue that, especially for small states, a move away from unanimity will mean a loss of their influence over decisions on matters of key national interest. Consequently, the unanimity principle should, in their view, be retained for decisions on sensitive issues. Opponents also point out that there is an ongoing war in the EU's immediate neighbourhood, so now is not the right time to deal with internal reforms.

The candidate countries and the EU debate

The launch of a debate on EU reform has been welcomed by those countries aspiring to accession, as from their perspective it demonstrates the real willingness of EU countries to welcome new members. This is all the more important as there is a perception in the countries of the Western Balkans that, despite verbal declarations, the EU countries are not really interested in enlargement. On the other hand, Ukraine and Moldova are expecting confirmation that the offer of the prospect of membership was a declaration of a genuine desire to expand the EU eastwards, and not just a political gesture in the context of the ongoing war.

However, for EU candidate countries it is more important to introduce QMV in decisions taken on the enlargement process. This would prevent individual states from blocking progress on accession in order to force concessions from candidate countries in areas unrelated to the integration process (as was the case when Greece blocked the integration of North Macedonia for more than a decade due to a bilateral conflict over the name of the state). At the same time, the concept of the four circles of integration contained in the Franco-German document – which refers to the ideas of 'staged accession' that emerged in earlier expert discussions⁵ or the provision of access to the single market, but without membership and with some participation in the EU institutions – raises doubts in the candidate countries as to what conditions of accession will ultimately be offered to them.

It is becoming increasingly clear that the debate on internal reform of the EU is becoming the dominant theme and focus of attention in the member states. This in turn may become a pretext for postponing enlargement decisions for a longer period of time and for slowing down the progress of the integration process of individual candidate countries, especially as some of the EU member states pushing hardest for EU enlargement fear that their influence in shaping the CFSP will be reduced if the unanimity principle is curtailed.

⁵ M. Mihajlović, S. Blockmans, S. Subotić, M. Emerson, *Template 2.0 for Staged Accession to the EU*, CEPS, 28 August 2023, ceps.eu.

Appendix 1

Proposals for extending QMV in CFSP under the current treaties⁶

Constructive abstention. According to Article 31(1) TEU, the abstaining state may make a formal declaration. It is then not obliged to apply the decision but accepts that it binds the Union. Such a country must also refrain from any action likely to conflict with or impede Union action taken on the basis of that decision.

The passerelle clause in the CFSP. According to Article 31(3) TEU, the Council of the EU may act by QMV in foreign policy matters after the European Council adopts a decision stipulating the same. Decisions with military or defence implications are excluded from this procedure.

So-called flexible implementation. Article 31(2) TEU distinguishes cases where the Council of the EU may resort to a qualified majority in the area of foreign policy. This includes the adoption of a decision defining a Union action or position relating to the Union's strategic interests and objectives on the basis of a decision by the European Council. In such a case, the High Representative for Foreign Affairs and Security Policy will, in close consultation with the Member State, search for an acceptable solution. If no such solution is found, the Council of the EU may, acting by qualified majority, request that the matter be referred to the European Council for a decision by unanimous decision.

Introduction of a 'safety net' mechanism. This would be an additional safeguard in addition to the existing emergency brake in EU regulations. The current regulations (Article 31(2) TEU) state that a vote by QMV does not take place if a member state announces its intention to oppose a decision by qualified majority for 'vital and stated reasons of national policy'.

Appendix 2

The Franco-German Working Group Report: proposals for a wider use of QMV in CFSP and other EU policies

The preferred option of the report's authors for generalising QMV in the EU is to use the passerelle clauses that currently exist in the EU treaties, which would not require a change of the treaties. The aim is to transfer all decisions in areas not covered by the QMV mechanism to this mode (not only in CFSP) before the next enlargement. To ensure democratic legitimacy, the European Parliament should be involved in decision-making under the ordinary legislative procedure.⁷ The CFSP would be excluded from this mode. However, decisions that are constitutional for the EU, such as changing the EU treaties, accepting new members or adapting the EU institutions to the enlarged EU, should continue to be taken unanimously.

If a quick decision by member states to extend the use of QMV through the use of passerelle clauses is not possible, negotiations are proposed for the gradual introduction of QMV in three areas simultaneously: 1) EU enlargement and the rule of law, 2) foreign policy and defence, and 3) fiscal and tax policy. The authors of the report assume that different groups of member states want faster decisions and the introduction of QMV in some areas, but not all (e.g. Germany in foreign policy, France in fiscal policy, other countries in enlargement policy). A package solution would advance the discussion on QMV based on this compromise in all three cases.

⁶ Consolidated version of the Treaty on European Union. Article 31, *Official Journal of the European Union* C326, 26 October 2012, pp. 33–34, eur-lex.europa.eu.

⁷ 'The ordinary legislative procedure' (updated 1 August 2023), Council of the EU, consilium.europa.eu/en.

In the CFSP, the authors of the report additionally advocate the introduction of QMV when deciding on the use of the European Peace Facility (EPF) or the European Defence Fund (EDF) using a super-majority, although this would require an ordinary treaty change.⁸ Such a solution would help, for example, to outvote Hungary in deciding on the financing of military aid to Ukraine under the EPF.

The report also outlines three proposals for protecting the national interests of member states regarding QMV:

A ‘sovereignty safety net’, modelled after Article 31(2) TEU, to be introduced through a passerelle clause or as part of a treaty revision. In the event of QMV being extended to new EU policies, a member state which considers that its vital interests are at stake can make a formal declaration. The Council of the EU, acting by qualified majority, may then request that the matter be referred to the European Council for a decision by consensus.

Rebalancing the calculation of QMV voting shares (treaty revision required). The authors propose that the current majority of 55% of member states representing 65% of the EU population be changed to a majority based on 60% of member states representing 60% of the population. For the most critical policy decisions relevant to the sovereignty of a member state, the requirement of a ‘super-majority’ corresponding to ‘unanimity minus one’ would be introduced. This would require changes to the treaties and the identification of specific policy areas covered by this mechanism. However, this would not relate to constitutional decisions in the EU.

Possibility for member states to use opt-outs of policy areas transferred to QMV (treaty revision required).

Appendix 3

Simplified scheme of positions on wider application of QMV in the CFSP on the basis of the current treaties

	Strongly in favour	Rather in favour (of limited changes)	Undecided / lack of consensus	Rather against	Strongly against
Central European countries					
Czech Republic				X	
Slovakia			X		
Hungary					X
Countries of South-Eastern Europe					
Romania		X			
Bulgaria			X		
Croatia				X	
Slovenia	X				
Baltic states					
Lithuania			X		
Latvia				X	
Estonia				X	
Nordic countries					
Denmark		X			
Finland		X			
Sweden		X			

⁸ ‘Revision of EU treaties’ (updated 14 October 2022), EUR-Lex, eur-lex.europa.eu/en.