



The Impact of Brexit on EU Council Voting

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The withdrawal of the United Kingdom from the EU will undermine the existing balance of power in the EU Council. The resulting imbalance will be reflected in Council votes, decided by qualified majority. The absence of the United Kingdom will strengthen the position of the biggest players, particularly Germany and France. It will reduce the influence of smaller Member States on the process of adoption of EU legislation. It will also increase the risk of marginalisation of EU countries outside the Eurozone.

The Treaty of Lisbon makes qualified majority voting the basic decision-making method in the Council. This method applies when the Council adopts legal acts together with the European Parliament under the ordinary legislative procedure. Currently, about 80% of EU legislation is adopted in this way, covering matters such as freedoms of establishment or employment, energy, transport and immigration issues.

The withdrawal of the UK from the EU, which was originally scheduled to take place on 29 March, and has been temporarily postponed until 12 April (with the possibility of further postponement), changes the balance of power in the Council. This will affect the results of votes held in accordance with this procedure, leading to important consequences for the entire European integration process.

Qualified Majority Voting Rules. Pursuant to the Treaty of Lisbon, a qualified majority in the Council has, since November 2014, been defined using the double majority system. Any legislative proposal of the European Commission (EC) must, in principle, be supported by at least 55% of EU countries representing 65% of the population. In order to oppose adoption, a blocking minority must be created by at least four states representing over 35% of the EU population. In order to mitigate the negative effects of this solution for smaller countries, which may find it difficult to meet the requirement of 35% of the population, EU legislation provides for a mechanism called the modified Ioannina compromise. This allows members of the Council representing at least 55% of the population or 55% of the Council members necessary to establish a blocking minority to object to a legal act adopted by the Council by qualified majority. The Council is then obliged to enter into negotiations with a view to achieving a “satisfactory solution,” “within a reasonable time.”

Voting by Qualified Majority after Brexit. After the UK’s withdrawal from the EU, meeting the criterion of 55% of EU countries will require 15, not 16 countries. This will facilitate the adoption of EC proposals. However, the effects of Brexit on demographic thresholds will be much more serious. There will be a further strengthening of the already strong position of the most populous countries, especially Germany and France. Their populations will constitute a clearly larger percentage of the total population of the EU (in total, over 33.5% instead of around 29%). Because of this, it will be easier for them to build coalitions for the adoption of EC proposals, but above all it will be easy for them to create small coalitions of four to six countries in order to block EC initiatives.

For example, Germany, which is now able to form a blocking coalition composed of four countries only in eight configurations, will have a choice of 323 options, France will be able to choose from 201 instead of

five, and Italy from 125 instead of one. In practice, acceptance of an EC proposal over the objections of France and Germany will require the creation of a coalition by at least 20 countries (and thus almost 75% of EU members). If the blocking coalition is created by France, Germany, one country of any size and one state with a population of more than seven million, all other members of the Council (about 93% of EU countries) will have to ally to support a given project. Spain or Poland alone will not be able to create a blocking coalition with eight or nine medium-sized countries with around 2–5% of the EU population. However, Italy will have this option. Moreover, it will be more difficult for all states with fewer than 35 million inhabitants to form blocking coalitions composed of seven or eight countries. For example, Romania will have 2,057 options after Brexit and not 2,717.

This will mean that proposing legislative solutions for the EC will have to take into account the position of France and Germany, and perhaps also Italy, to a much greater extent. Otherwise, the chances of gaining support for EC initiatives will be slim. This will make it easier for these states to promote solutions beneficial for them..

Brexit and the Interests of Smaller States in the Council. The United Kingdom, as the third largest Member State (12.9% of the population of the EU), and the second largest EU economy, had a large impact on decisions made in the Council. The UK was the main representative of non-Eurozone countries, helping the group to form coalitions that blocked decisions unfavourable for them. With Brexit, the risk of marginalisation of countries outside the Eurozone will increase. The euro area will cover 70% of EU countries with 75% of the EU population.

Brexit also means the loss of the main advocate of liberalisation of the common market, including the services market. Fearing increased protectionism after Brexit, in February this year a group of countries including Belgium, Croatia, the Czech Republic, Denmark, Estonia, Finland, the Netherlands, Ireland, Lithuania, Luxembourg, Latvia, Malta, Poland, Portugal, Slovenia, Slovakia and Sweden addressed a letter to Donald Tusk, President of the European Council, calling for protection of the common market and the development of digital policy. The coalition will be able to block projects restricting competition in the single market, but it will not be strong enough to pass its own alternatives.

The UK has been an important player in common foreign and security policy, supporting the development of enlargement and neighbourhood policy (for example, in relation to the Balkans) and presenting a tough stance towards Russia (including sanctions). The United Kingdom was also particular about preserving NATO's role in the development of EU defence policy. Although the majority of common foreign and security policy matters are currently subject to the rule of unanimity, Germany and France are seeking to extend qualified majority voting in this area. The consequences of Brexit for qualified majority voting explain why smaller countries are reluctant to accept these proposals.

Conclusions and Recommendations. The system of double majority in the Council is already favourable for the largest Member States, and the strength of their vote will increase further after Brexit. This will limit the room for manoeuvre for small and medium-sized countries (although in matters in which the positions of the largest states are divergent, their voices will have an impact). If even small coalitions are formed with the participation of large states (especially Germany and France) for a given legislative project, other countries will have little chance of blocking it. This may encourage them to reach for the loannina compromise mechanism. However, this will in practice only slow down the introduction of unfavourable solutions, rather than blocking them completely.

The new balance of power in the Council calls into question the inclusiveness of the decision-making process in the EU. It can be perceived by smaller states as unfair and undermining the legitimacy of the Union. This raises concerns about growing tensions between large and small countries, and an increase in anti-EU sentiment.

The solution could be a revision of the treaties, including the introduction of alterations to the voting system, for example by lowering the demographic threshold and/or increasing the threshold of the number of countries required for a blocking minority. However, given the lack of political agreement on the reform of the EU Treaty revealed during the debate on the future of the EU, such a scenario is unlikely.

In this situation, the challenge for the largest states will be to abstain from abusing their privileged position so that smaller countries retain their influence on decisions taken in the EU. Instead of subjecting controversial projects to voting, the largest countries should strive to build the broadest possible agreement around their final shape. In the absence of such an agreement, enhanced cooperation will remain an option.

Should the largest states refrain from competing for top jobs in the EU, this could be taken as a sign of such self-imposed restraint. Wider representation of smaller states, especially in key European Commission positions and in the role of President of the European Council, would partially offset the disproportions in the balance of power in the EU.