Unanimity Rule: A Tool for EU Equity or a Recipe for Policy Paralysis?

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Why is the unanimity rule the EU's greatest obstacle and, at the same time, a mechanism for preserving collective security?

Russia's invasion of Ukraine has shed light on many cracks within EU foreign and security policy posing decisional and strategic implementation challenges, each of which determines the EU's long-term goals. One such challenge is the "EU unanimity rule", which forms the foundation for any decision-making implemented by the EU collectively in the foreign and security policy area. This means that every member state must vote the same way as the others before a proposed action can be taken forward; any member country's reluctance to proceed can halt the action altogether, thereby maintaining and respecting member states' collective equity. The rule does, however, have certain exemptions, replacing it with qualified majority voting, which applies when 55% of EU member states vote in favour, representing 65% of the EU's population.

Hungary’s role in vetoing Russian sanctions through the unanimity rule

The drawbacks of this rule have been demonstrated recently through conflicts with Hungary, where the latter vetoed aid provision for Ukraine in order to ensure a smooth transition of Russian energy through the Druzhba pipeline, which passes through Ukraine. This led to the official blockage of a €90 billion loan to Ukraine from the EU through Hungary’s veto power, reflecting how the precedence of national self-interest can take over EU collective goals. The pivotal reason for Hungary’s move turned out to be the 2026 elections, due on 12 April, with the veto serving as a national diversion. In the words of Finnish Prime Minister Petteri Orpo: “He’s using Ukraine as a weapon in his election campaigning, and it’s not good. We had a deal, and I think that he betrayed us,”

Calculus of consent and the costs of decision making

Such incidents highlight the drawbacks of the rule and provide grounds for further debate on its continuation, with theory helping us to understand it better. Calculus of consent by James M. Buchanan and Gordon Tullock argues that any rational constitutional framework operates by minimising two conflicting costs through the optimisation of any decision. The first of these is external decision costs, meaning costs imposed on third-party members in the form of financial burdens, trade hurdles and policy restrictions. As a decision-making model approaches complete unanimity, external costs drop to zero, owing to its ability to allow even a minority to decline any undesirable policy, thereby encouraging negotiations to reach an optimal decision.

Transaction costs: an endless loop for Council negotiations and security delays

Transaction costs are the second type, representing the costs involved in delayed decision-making in terms of time, effort and resources. These costs tend to move towards infinity as the unanimity rule approaches 100%, owing to factors such as the series of negotiations put forward by other member states, trade concessions, grants, and so on, in order to remove a veto. Due to Hungary’s blocking of $50 billion in aid to Ukraine, the EU had to push forward with leveraging €120 billion immobilised Russian assets to fund Ukraine’s defence, security and provisions on 26 July 2024. This came with costs in terms of interest rate uncertainty stemming from international deposit concerns. Legally, these funds remain protected under international law; instead, the EU designed a loophole mechanism whereby profits from the immobilised assets were used, amounting to €1.5 billion, thereby operating within the bounds of international sovereignty. However, other transaction costs could potentially arise, such as concerns over future deposits in the EU by other nations, such as China, regarding their funds being used – even if only the profits – for international defence purposes, which could lead to an erosion of trust in European markets.

Rent-seeking behavior through hostage politics also becomes transaction cost when one party holds leverage over the others, stemming from self-interests, and resulting in unequal resource provision rather than the equal collective improvement of the EU. This is evident through Hungary's action in demanding that Ukraine repair oil pipelines, using this as leverage against the implementation of Russian sanctions. Hungary employed the same tactic in 2023, vetoing aid for Ukraine in order to gain access to €10.2 billion from the EU for national and political self-interest. Given Hungary's long-standing record of misusing EU funds, critics argue that access to the frozen funds acted as a silent negotiating tactic to influence prime minister Victor Orbán into dropping his veto on aid. These factors together illustrate how the unanimity rule requirement generates transaction costs.

Why the continued hesitance towards qualified majority voting?

Despite these mounting costs, there remains friction around the move towards adopting qualified majority voting. With respect to EU Foreign and security policy, certain exemptions apply where a decision aligns with the interests of the Treaty on European union, allowing qualified majority voting to proceed; Russian sanctions fall under this category. However, many member states, including France, remain hesitant, owing to a slippery-slope concern – namely, the possibility that a member state could be excluded from policy implementation in a way that affects its national interests.

To balance both types of cost, a balance must be struck between qualified majority voting and the unanimity rule. Certain thresholds should be set for both transaction and external costs, such that exceeding them would trigger an emergency pivot. If external costs exceed the threshold – where minority member states face significant political or financial risk due to qualified majority voting on a given policy – further negotiations should lean more towards the unanimity rule. Conversely, if transaction costs exceed the threshold due to asymmetric state power and delayed decision-making, a shift towards qualified majority voting may be warranted.