

# Decisions made by consensus in the Council of the European Union are often far more contentious than the voting record would suggest

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08/01/2014

*Even when decisions in the Council of the European Union take place under qualified majority voting procedures, there is a tendency for votes to be unanimous among all EU member states.*

**Stéphanie Novak** writes that while this feature of Council decision-making has often been regarded as proof of a 'climate of consensus' among EU states, it partly reflects the desire of governments to avoid blame for losing out in negotiations. Rather than lodging a formal vote against a proposal, ministers generally anticipate when they are in a losing position and refrain from making their opposition public.



Existing studies often argue that when the [Council of the European Union](#) must decide by qualified majority, it often decides "by consensus" because, according to public voting records, about 80 per cent of measures that could be passed over opposing votes are adopted by unanimous agreement.

Scholars have put forward [different explanations](#) of this phenomenon. In a [recent article](#), I argue that this high rate of apparent consensus does not mean that actors do not use the qualified majority rule during the negotiation process. As a matter of fact, empirical research reveals that the search for a qualified majority is the driving force in the legislative process. However, national representatives do not necessarily translate their dissatisfaction with an adopted measure into a public vote in the negative or an abstention: ministers often avoid making their opposition public because they expect that the media and their domestic constituencies will interpret said opposition to adopted measures as a failure in the negotiation process. Strategies of blame-avoidance partly explain the high rate of measures adopted by "unanimous vote".

It cannot be argued that a systematic, informal search for consensus replaces qualified majority voting because in the former case, the presidency would usually satisfy each national delegation's preferences. When a minister claims that a proposed measure would

jeopardise her country's vital interest, or when a big member state strongly opposes a measure, the presidency usually attempts to take these requests into consideration even if a qualified majority has already been reached.

But most of the time, the Council presidency attempts to be as efficient as possible and, for this reason, aims for a qualified majority and not general agreement. The extension of [co-decision](#) between the European Parliament and the Council has created an additional incentive for the presidency to aim for a majority and not unanimity, since the co-decision procedure entails deadlines that do not allow the search for general agreements between member states.



Council meeting room, Credit: Ines Saralva (CC-BY-SA-3.0)

In order to extract concessions from the presidency and/or the Commission, the national representatives build blocking minorities that the presidency and the Commission then attempt to undo. However, when unsatisfied delegations see that they cannot prevent the adoption of a measure, they often choose not to publicise their opposition and to remain silent. Of course, the opposite behaviour is possible: ministers [may register](#) negative votes or abstentions to send a signal at home – for instance to lobbies. However, this behaviour is rather exceptional, exhibited by only a few countries (in particular, Denmark, Germany or the UK). Representatives of most countries avoid making their opposition public by voting against an adopted measure.

Such behaviour is facilitated by the lack of systematic control by national parliaments over their representatives. To the political incentives for joining the majority rather than appearing as opposed to passed legislation, must be added the sociological context of the Committee of Permanent Representatives who represent their government in Brussels and negotiate the bulk of legislative measures: Permanent Representatives of member states do not like to marginalise themselves, usually believing that over the long term, the best negotiating strategy is to be seen on the side of the majority.

Therefore, public voting records tend to underestimate the actual level of disagreement with passed legislation. This result corroborates [Hagemann and De Clerck-Sachsse's](#) finding on formal statements: member states sometimes voice their disagreement with adopted legislative acts in formal statements rather than via public votes.

Strategies of blame-avoidance already existed at the end of the 1980s and have survived over the years, independent of different institutional reforms – the most important of which have been the Council's progressive opening, the extension of co-decision between the European Parliament and the Council and adaptations of the qualified majority rule made necessary by the different enlargements of the EU.

In this context, what can we expect from the [forthcoming change](#) to the voting rule? As of November 2014, a double majority rule should replace qualified majority vote. While historically, member states were allocated voting weights as a function of their population, with the majority threshold set at about 70 per cent of votes, the new system will consist of a double majority of states and citizens: to be adopted, a text will have to be supported by at least 55 per cent of member states – comprising at least 15 of them – representing at least 65 per cent of the EU population. A blocking minority should comprise at least four member states.

In fact, we can assume that the presidency will lead the negotiations much as it previously did: aiming for a majority – and not at general agreement – to make the legislative process more efficient. We can expect that national representatives will continue to negotiate by building blocking minorities in order to extract concessions from the presidency and the Commission. Furthermore, it should not lead actors to give up two fundamental unwritten rules: first, that even if a qualified majority of member states supports a given measure, the presidency will take into account member states who argue that the measure threatens their vital interest; secondly, the presidency will not outvote a big member state against its will.

As for blame avoidance itself, there is no reason to think that the change to the voting rule will put an end to this behaviour. The reform of the rule alone should not lead to a pronounced increase in public opposition by member states. However, the fact that the crisis has diminished the reluctance to be seen in dissent might lead to an increase in public opposition to passed legislation.

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*Note: This article gives the views of the author, and not the position of EUROPP – European Politics and Policy, nor of the London School of Economics.*

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