*European Economic and Social Committee*

**ECO/491**
**Taxation – qualified majority voting**

# OPINION

European Economic and Social Committee
**Communication from the Commission to the European Parliament, the European Council and the Council - Towards a more efficient and democratic decision making in EU tax policy**
[COM(2019) 8 final]

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| Outcome of vote (for/against/abstentions) | 171/17/18 |

1. **Conclusions and recommendations**

1.1 The EESC supports the Commission's ambition to kick-start a necessary debate, given the sensitivities of Qualified Majority Voting (QMV) in tax matters.

1.2 In the past, the Committee has, in other opinions already, indicated of its support for changing the unanimity rule and that it is open to a qualified majority approach.

1.3 At the same time, the EESC considers that there are certain conditions that would need to be met for QMV to be successfully implemented.

1.4 The unanimity rule in taxation may increasingly appear as politically anachronistic, legally problematic and economically counterproductive.

1.5 Tax competition often brings rising pressure on public budgets; additionally, tight public budgets put pressure on competitiveness.

1.6 In the future, with an adoption of QMV, the European Parliament would play an important role in tax matters.

1.7 Unanimity in taxation has impacted on other wider EU policy priorities.

1.8 A gradual shift to QMV would help reach environmental objectives more effectively at a time when action on climate change is more urgent than ever.

1.9 The proposed Common Consolidated Corporate Tax Base (CCCTB), under discussion for the past 20 years, contains, if properly designed and introduced, significant benefits for businesses and citizens. An EU value-added tax (VAT) reform with adequate coordination at EU and Member States level is much needed because huge revenues are currently lost because of the fragmented system.

1.10 The EESC also considers that taxation policy in general and combating tax fraud in particular must remain a priority policy area for the upcoming European Commission. The Committee considers that the best results against cross-border tax fraud can be better achieved at European level and salutes the publication for the first time of the EU list of non-cooperative jurisdictions for tax purposes.

1.11 On the other hand, the EESC is aware that tax policy has always been closely linked to the sovereignty of Member States, as it is of utmost importance to them.

1.12 As a principle, the EU should be strong in matters of global importance. The EESC understands that tax competition for some EU Member States was a factor to solve financial problems in the past. The recent adoption of anti-tax avoidance measures has shown that Member States are willing to enhance transparent and fair tax competition.

1.13 In this respect, the EESC highlights – and welcomes – the progress made at EU level in the fight against aggressive tax planning and tax evasion, and in improving the value-added tax (VAT) system. At the same time the EESC would like to see progress in other areas.

1.14 Following in-depth economic, social and fiscal analysis, any new rule must be fit-for-purpose and all Member States must at all times have sufficient possibilities to participate in the decision-making process. Creating an advantageous outcome both at the EU level and at the level of the individual Member State should be the ultimate objective.

1.15 When decided, the four proposed steps should be implemented gradually and the European Commission should perform an evaluation after each implementation.

1.16 EESC underlines the need for a wider process to possibly progress towards a more effective QMV that will take time and be in sync with other policy initiatives. In that sense, the EESC points out the necessity of:

- A sufficiently strong EU budget.
- Better coordinated economic policy.
- A substantial analytical work assessing to what extent current tax measures have been insufficient.

## 2. Summary of the Commission proposal

2.1 Member States can adopt measures and directives at EU level aimed at putting in place common national tax rules for indirect taxes such as VAT or direct taxes such as corporate tax. However, the current EU legislative process for these issues has its downsides, according to the Commission, as it requires unanimous agreement amongst all Member States before action can be taken. This unanimity may not be achieved or may lead to sub-optimal policies.

2.2 Legislative proposals in the area of tax are governed by Articles 113 and 115 of the Treaty on the Functioning of the European Union (TFEU). Both articles provide for a special legislative procedure via which the Council votes unanimously on taxation issues and the European Parliament is merely consulted.

2.3 The Treaties also contain the necessary provisions to change the decision-making process from unanimity to Qualified Majority Voting (QMV) in the Council under certain circumstances.

2.4 Article 48(7) of the Treaty on European Union (TEU), the so-called "passarelle clause", allows Member States to move from unanimity to QMV or from the special legislative procedure to the ordinary legislative procedure in areas that are otherwise subject to unanimity.

2.5 With its Communication, the Commission aims to open a debate on how to reform decision-making in EU taxation policy. It makes the case for a **gradual transition in four steps** to QMV under the ordinary legislative procedure in certain areas of shared EU taxation policy.

2.5.1 In **Step 1**, Member States should agree to move to QMV for measures that improve cooperation and mutual assistance in fighting tax fraud, tax evasion, as well as for administrative initiatives for EU businesses, e.g. harmonised reporting obligations.

2.5.2 **Step 2** would introduce QMV as a useful tool to progress measures in which taxation supports other policy goals, e.g. fighting climate change, protecting the environment or improving public health.

2.5.3 The use of QMV under **Step 3** would help to modernise already harmonised EU rules such as those for VAT and excise duty.

2.5.4 **Step 4** would allow a shift to QMV for major tax projects, such as the Common Consolidated Corporate Tax Base (CCCTB) and a new system for the taxation of the digital economy.

2.6 The Communication suggests that Member States should quickly come to an agreement to develop Steps 1 and 2 and should consider developing Steps 3 and 4 by the end of 2025.

2.7 The Commission claims to tackle herewith the following problems with the current decision-making process on taxation policy:

2.7.1 The need for unanimous agreement makes it more difficult to reach any compromise at all, because the opposition of just one Member State is sufficient to prevent agreement. Member States often hold back from seriously negotiating solutions in the Council, as they know that they can simply veto any result that they do not like.

2.7.2 Even when agreement in the tax field is reached unanimously, it tends to be at the level of the lowest common denominator, thus limiting the positive impact for businesses and consumers or making implementation more cumbersome.

2.7.3 Some Member States may use important tax proposals as a bargaining chip against other demands they may have on completely separate files, or to put pressure on the Commission to make legislative proposals in other areas.

2.7.4 Decisions taken unanimously can only be reversed or changed unanimously. This tends to make Member States overly cautious, dampening ambitions and weakening the final outcome.

2.8 Giving the European Parliament equal weight in deciding the final shape of EU tax policy initiatives would allow it to make a full contribution to shaping EU tax policy.

2.9 No new competence would be given to the EU, nor would the competences of Member States be reduced. The Commission also argues that this would not affect the rights of Member States to set personal or corporate tax rates as they see fit.

2.10 The cost of non-action in tax policy at EU level is, according to the Commission, high. Cost of the slow progress on the VAT definitive regime, the CCCTB, the Financial Transactions Tax and the Digital Services Tax is estimated at around EUR 292 billion across these four areas[1].

## 3. General and specific comments

3.1 **The EESC supports the Commission's ambition to kick-start a necessary debate, given the sensitivities of QMV in tax matters.** In the 21st century, a successful tax policy must allow the EU to tackle economic and financial challenges that can and will arise in the future. The unanimity rule in taxation made sense in the 1950s, with six Member States; now, however, it increasingly may appear as politically anachronistic, legally problematic and economically counterproductive.

3.2 The Committee, in **other previous opinions**, has indicated to be in favour of changing the unanimity rule and to be open for a qualified majority approach[2]. The EESC issues the present opinion taking into account this background and considering its role as a body wishing to advance the European Project.

3.3 At the same time, the EESC considers that, under current circumstances, there are certain **conditions** related to a wider context that would need to be met for QMV to be successfully implemented.

3.4 The EESC is of the opinion that, when decided, the **implementation of the four proposed steps should be gradual** and the European Commission should perform a thorough and comprehensive evaluation after each implementation.

3.5 **Unanimity in taxation has impacted other, wider EU policy priorities.** Taxation is also essential for many of the EU's most ambitious projects, including the Economic and Monetary Union (EMU), the Capital Markets Union (CMU), the Digital Single Market, the 2030 Climate and Energy Framework and the Circular Economy. The Commission's proposal to revise the Energy Tax Directive is another example.

3.6 A gradual shift to QMV would help **reach environmental objectives** more effectively at a time when action on climate change is more urgent than ever. Data from Eurostat suggests that, on average, EU countries acquire only around 6% of their total tax revenues from environmental taxes. The vast majority of this is from energy and transport related taxes, with minimal revenue from taxes on pollution or resource use (less than 0.1%)[3].

3.7 Under discussion for the past 20 years, the **proposed Common Consolidated Corporate Tax Base (CCCTB),** if properly designed and introduced, contains significant benefits for

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1 COM(2019) 8 final, p. 4.

2 EESC Opinion OJ C 230, 14.7.2015, p. 24; EESC Opinion OJ C 434, 15.12.2017, p. 18; EESC Opinion OJ C 271, 19.9.2013, p. 23; EESC Opinion OJ C 332, 8.10.2015, p. 8.

3 Euractiv - Time to get rid of EU's unanimity rule on green fiscal matters.

businesses and citizens. There will be a reduction in compliance costs and complexity for larger businesses (and those opting in) that trade across the EU. The CCCTB can play a key role in combating aggressive tax planning and help to restore faith in the tax system on the part of citizens[4].

3.8 **The EESC supports an EU value-added tax (VAT) reform.** In the absence of an agreement on this issue, EUR 147 billion in VAT is not collected each year due to tax evasion, tax avoidance and poor revenue collection by Member States. The current system is highly fragmented and complex and subsequently reduces and distorts trade and investment by creating unnecessary and extensive administrative burdens and trade barriers for businesses[5]. VAT fraud currently costs public budgets around EUR 50 billion per year.

3.9 **The divergent tax policies that have arisen in the Single Market have negative effects.** Fragmentation weakens the unity of the Single Market and generates higher costs for tax bases such as labour, income and consumption. In essence, workers and consumers all over Europe are paying for the lack of consensus among Member States. Furthermore, diverging tax systems are an obstacle for SMEs attempting to trade on the Single Market.

3.10 The EESC is aware that tax policy has always been closely linked to the **sovereignty** of the Member States as it is of utmost importance to some of them.

3.11 The OECD's **Base Erosion and Profit Shifting (BEPS)** Project[6] identified that the scale of BEPS, before any measures combating fraud were introduced, amounted globally to USD 100-240 bn[7]. The European Parliamentary Research Service has calculated the relevant figures for the EU to be in the range of EUR 50-70 bn[8]. This is equivalent to 0.35% of the EU GDP.

3.12 Currently **the European Parliament's political role in tax matters** is merely consultative when it comes to tax policy responses. Should a switch be adopted from unanimity to QMV concerning taxation, the European Parliament could play an important role in tax matters.

3.13 **The Commission aims to open a debate on how to best reform the way the EU exercises its pre-allocated competencies in the field of taxation.** The progressive transition towards the full application of QMV is proposed to happen in specific policy areas of special interest for all Member States. With its Communication, the Commission does not seek to create any new competencies for the EU. Nor does it aim to shift towards a system of harmonised personal and corporate tax rates across the EU.

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4 EESC Opinion OJ C 434, 15.12.2017, p. 58.

5 EESC Opinion OJ C 237, 6.7.2018, p. 40.

6 https://www.oecd.org/tax/beps/

7 http://www.oecd.org/ctp/oecd-presents-outputs-of-oecd-g20-beps-project-for-discussion-at-g20-finance-ministers-meeting.htm

8 http://europa.eu/rapid/press-release_MEMO-16-160_en.htm

3.14 **Tax competition** often brings a rising pressure on public budgets. If this happens, it will not only deepen the widespread distributional imbalances but also weaken the demand side, therefore becoming harmful to economic development. In the context of the eurocrises, because of budgetary constraints, stringent austerity policies have been put into place.

3.15 **Competitiveness and budgetary stability**. Additionally, tight public budgets often put pressure on competitiveness because of the lack of opportunities to finance future investments in, for example, infrastructure, digitalisation or research and development. Finally there are also interdependencies between budgetary stability and financial market stability.

3.16 **Anti-tax avoidance measures.** The EESC believes that the role of the European Union is vital on matters of global importance. Although, in the past, some Member States have used tax competition to solve some internal financial problems, the recent adoption of anti-tax avoidance measures has shown an openness and willingness to enhance transparent and fair tax competition.

3.17 **EU's Fiscal Policy.** The EESC strongly believes that the European project is based on the condition that all the Member States must at all times have sufficient possibilities to take part in the decision-making process. The main objective is to create an advantageous environment, both for the EU and the individual Member States.

3.18 **Tax planning and tax evasion**

3.18.1 **The EESC highlights – and welcomes – the progress made at EU level in the fight against aggressive tax planning and tax evasion, and in improving the value-added tax (VAT) system.** During the current mandate of the Commission, some 14 proposals in the tax area have been adopted, more than in the previous 20 years[9]. Transparency rules have been strengthened to include much more information sharing between Member States on the cross-border tax affairs of citizens and large businesses. VAT collection has been improved with new rules for online sales of goods and services, as well as new cross-border cooperation tools to tackle VAT fraud[10].

3.18.2 **Lack of progress in some areas.** The EESC must point out that no major progress at European level has been achieved on reforming corporate taxation, mainly due to lack of political will in the Council. Also, important proposals on the taxation of digital services and tax avoidance have been blocked due to the unanimity voting system.

3.18.3 **The EESC considers that taxation policy in general and combating tax fraud must remain a priority policy area for the upcoming Commission.** Bearing in mind the numerous tax haven scandals (LuxLeaks, Panama Papers, Paradise Papers etc.) and with reference to the

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9 Commissioner Moscovici, tweet on 13 February 2019.

10 EESC Opinions: OJ C 237, 6.7.2018, p. 40; OJ C 283, 10.8.2018, p. 35.

latest estimates of tax evasion within the EU, which point to a figure of approximately EUR 825 billion per year[11], the EESC pleads for a tight time frame.

3.18.4 **The best results against cross border tax fraud can be achieved at European level.** The EESC is critical of the fact that important legislative proposals on this issue have been blocked by the Council. A recent Eurobarometer survey shows that three quarters of EU citizens believe that fighting tax abuse should be a European priority[12].

3.18.5 **Non-cooperative jurisdictions**. The EESC salutes the publication for the first time of the EU list of non-cooperative jurisdictions for tax purposes, in December 2017 and its revision ever since[13]. The "Black List" and the "Grey List" method introduced by the European Commission is fully supported by the EESC[14]. In the light of the "Panama" and "Paradise" Papers scandals, the EESC has already urged Member States to close loopholes for aggressive tax planning[15]. Non-cooperative jurisdictions are a threat to the EU's internal market[16].

3.19 **The EESC underlines the need for a wider process** to possibly progress towards QMV that will take time and should be synchronised with other policy initiatives.

3.19.1 **A sufficiently strong EU budget** would allow for financial transfers as compensation for shocks or comparative disadvantages. In this regard, the High Level Group on Own Resources established to examine "how the revenue side of the EU budget can be made more simple, transparent, fair and democratically accountable", highlights the importance of an European fiscal policy[17].

3.19.2 **Better coordinated economic policy** could remove the need for counterbalancing uncoordinated national tax rules. The EU economy will be more effective in a context of structural reforms, targeted investment, fair taxation, fair trade agreements, restored leadership in innovation and the completion of the Single Market.

3.19.3 **It is however also of vital importance that the Single Market is realised.** The rules regarding non-discrimination and the four freedoms guaranteed by the Treaty should already ensure the fulfilment of the conditions for a Single Market. Developments in the area of state aid and the number of infringement cases have also shown that the Commission has means for correcting such distortions. There would be a need for substantial analytical work assessing to what extent current tax measures have been insufficient.

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11 European Parliament - Report on financial crimes, tax evasion and tax avoidance.

12 European Parliament News: Tax fraud.

13 https://www.consilium.europa.eu/media/31945/st15429en17.pdf

14 https://www.oxfam.org/en/even-it/full-disclosure-eus-blacklist-tax-havens

15 https://www.eesc.europa.eu/es/node/56888

16 EESC Opinion OJ C 229, 31.07.2012, p. 7.

17 Future Financing of the EU ("Monti Report"). December 2016.

Brussels, 17 July 2019

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