



Towards a more efficient and democratic decision making in EU tax policy

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Brief Summary

The BAK welcomes the proposal of the European Commission to turn away from the principle of unanimity in decision-making in EU tax policy and instead to introduce a qualified majority and involvement of the European Parliament.

The current system of unanimity in EU tax policy has led to competition between Member States for the lowest tax rates, the cost of which is ultimately borne by employees and consumers. Tax deficits due to a lack of reform of EU tax policy are enormous and pose a threat to welfare systems in Europe.

The BAK has long called for reforms in tax policy matters such as the introduction of a financial transaction tax, a digital services tax and a common consolidated corporate tax base, which should also result in setting a minimum corporate tax rate.

The BAK therefore welcomes the application of the general “passerelle” clause of Article 48, para. 7 TEU on the introduction of decision-making based on a qualified majority with the inclusion of the European Parliament as part of the ordinary legislative procedure. We also support the implementation of the reform in four stages. However, the BAK considers the proposal to implement the project by the end of 2025 as lacking in commitment and calls on the heads of state and government responsible to complete the implementation of qualified majority voting in EU tax policy by the end of 2022 at the latest.

The AK's position in detail

The European Commission has published a Communication with the intention of reforming the rules for decision-making on EU tax policy. Currently decision-making in EU fiscal legislation is based on unanimity within a special legislative procedure. Therefore, the European Parliament has no voting rights on taxation matters. This means that to date individual Member States have de facto a right of veto which can block urgently-needed decisions in the field of EU taxation.

The proposal of the Commission for simpler and more democratic decision-making in legislative proposals on EU tax policy through a qualified majority and including the European Parliament is, therefore, expressly welcomed by the BAK. Changed conditions make it necessary for the tax policy of the European Union to be able to respond rapidly to changes.

Sovereignty of Member States

The requirement of unanimity on fiscal legislation is regularly justified by claiming that Member States must not lose their sovereignty on such a key issue as taxation. However, things look different in reality. Globalisation and digitisation have resulted in mobile factors (capital) being able to elude taxation relatively easily because tax legislation is a matter for the Member States and hence no harmonisation has taken place between Member States in many areas. On the contrary, some EU countries have consciously adapted their tax systems so that the tax base is attracted from other (Member) States to the detriment of those states, whether through particularly low corporate or capital gains tax rates, through special preferential treatment in corporate taxation (such as patent boxes, for example), or advantageous double taxation agreement with tax havens (no withholding tax, etc.) which is advantageous for companies and the super-rich. Such preferential treatment is consciously made full use of, in particular by multinationals and the rich.

This trend has ultimately also led to a situation where the sovereignty of Member States is only to be found

on paper. The actual room for manoeuvre when taxing international companies or capital taxation in general has, in the meantime, become so narrow that we must speak of a loss of sovereignty in these areas. Ultimately Member States will waive part of their sovereignty in turning away from the principle of unanimity; however, this waiver will actually lead to a gain in sovereignty overall.

Principle of unanimity in tax policy harms employees and consumers

Numerous tax scandals have come to light in recent years. Confidential documents on the tax dodges of companies and the super-rich, such as LuxLeaks, the Panama Papers and Paradise Papers, show the dimensions that tax evasion and tax fraud have already assumed. According to the calculations of the economist Gabriel Zucman, tax dodges by multinationals lose EU countries around one fifth of the possible tax yield each year from taxes on earnings. Furthermore, a study commissioned by the European Parliament has shown that, in the case of the Panama tax haven alone, up to 237 bn euros have been smuggled past the tax authorities of EU Member States.

The unanimity rule means that important projects in the field of tax policy are blocked or severely delayed at the EU level. This is linked to high costs caused by tax deficits, which in the end have to be borne by the public. This also means that funding is lacking for social policy projects and the pursuit of other socio-political goals.

The BAK has long called for reforms in tax matters such as the introduction of a financial transaction tax, a digital services tax, and a common consolidated corporate tax base, which should also result in setting a minimum corporate tax rate. Although negotiations have been ongoing on these three taxation measures for many years, so far no agreement has been reached at the EU level. The European Commission estimates annual costs for the, as yet unmaterialised, financial

transaction tax alone at 57 bn euros, and at least 5 bn euros for the digital services tax. Regarding corporate tax, the Commission notes that the Common Consolidated Corporate Tax Base (CCCTB) could bring about a hike in economic growth by up to 1.2 percent of GDP or 180 bn euros. Furthermore, the damage caused by a lack of reform of the common VAT system is enormously high. Currently there is an annual VAT hole of 147 bn euros which cannot be closed without reform. The state misses out on a further 50 bn euros through VAT fraud.

The BAK is surprised at the attitude of the European Commission which, despite the portrayal of the negative effects of competition between EU Member States for the lowest corporate tax rates, has not brought itself to condemn the competition around taxes. The BAK emphatically rejects tax competition because in the end this primarily endangers the achievements of welfare states.

The next steps in the transition to decision-making with a qualified majority

The European Commission proposes to implement qualified majority voting in legislative proposals in the field of EU taxation in four stages:

- First, the decision-making process with qualified majority voting is to be applied where it does not have any effect on taxation laws, tax bases, or tax rates of Member States, but will be used for measures aimed at tax fraud and tax avoidance. This includes relevant international agreements with third countries in order to facilitate action against tax abuse. It also covers harmonised reporting obligations for companies.
- The second step covers measures which are largely of a fiscal nature and are intended to support other political aims such as fighting climate change, improving public health, or transport policy.
- In a third phase qualified majority voting is to be extended to areas which are already largely harmonised. This includes in particular the VAT tax system, planned 40 years ago and scarcely modified since and which in the meantime has become correspondingly out of date and open to fraud. Other consumer taxes are also covered in this phase.
- As the last stage measures regarding tax policy

will be taken to ensure a fair tax system in the EU. As an example, the Commission has named the Common Consolidated Corporate Tax Base (CCCTB).

A key role will be played by the general “passerelle” clause of Article 48, para. 7 TEU, the application of which would enable decision-making based on a qualified majority, with the inclusion of the European Parliament as part of the ordinary legislative procedure, in the planned four stages in tax policy.

The BAK expressly welcomes this proposal of the European Commission. The heads of state and government of the EU are called on to implement this roadmap since they are responsible for the application of the general “passerelle” clause in the field of taxation. However, the BAK considers the implementation of the four steps proposed by the Commission by the end of 2025 as not committed enough. From the point of view of the BAK this project must be given urgent priority by the next president of the EU Commission. Furthermore, the BAK calls on the heads of state and government to complete implementation of the qualified majority in EU tax policy by the end of 2022 at the latest.



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About us

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