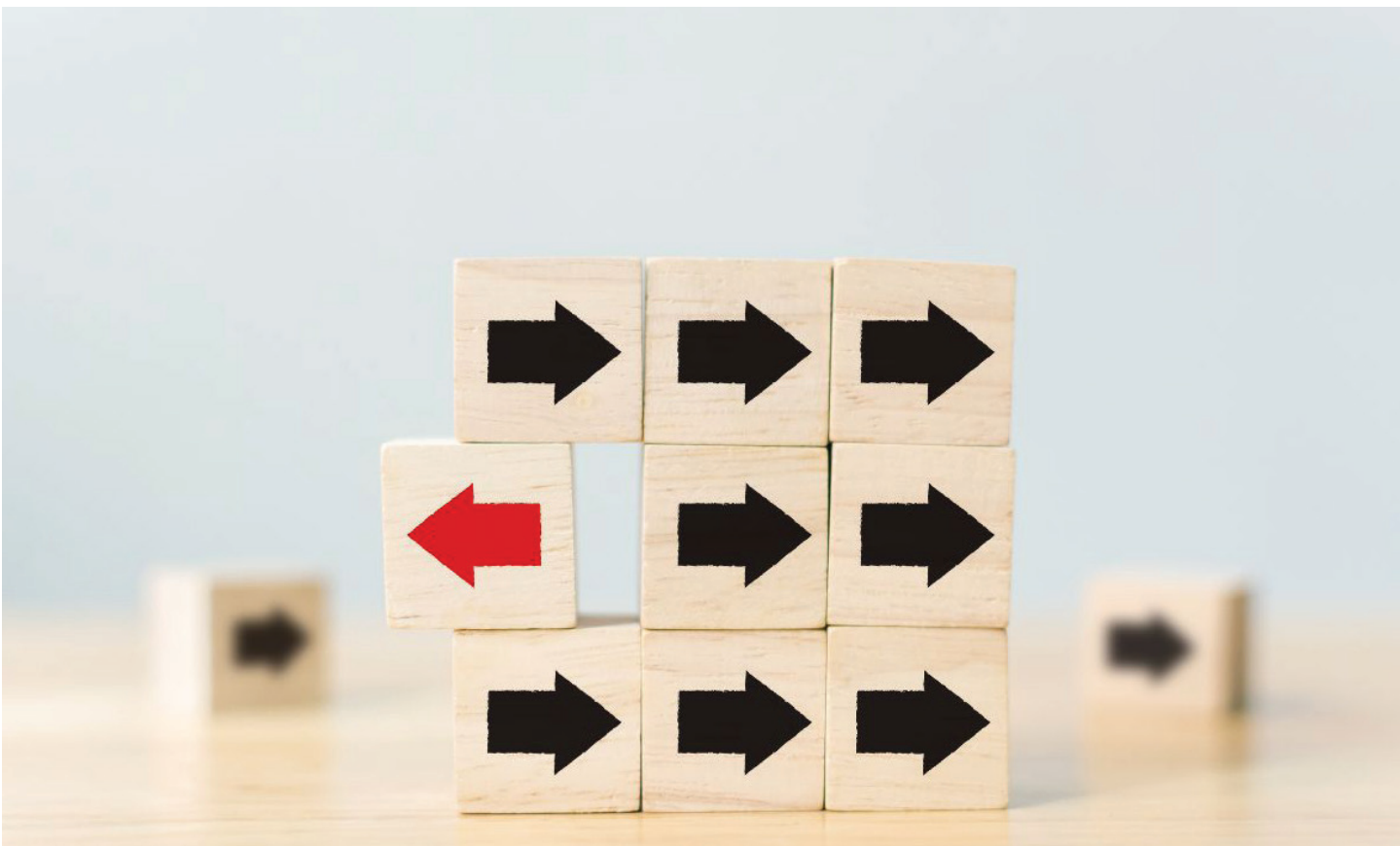


# Overcoming the ambition-unity dilemma

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Russia's invasion of Ukraine on 24 February 2022 has triggered a watershed moment for the European Union.<sup>1</sup> In reaction, the EU must now be bold and implement fundamental policy changes.<sup>2</sup> To do so, the Union must adapt its decision-making processes to the new circumstances, in particular regarding the unanimity

requirement in key policy areas profoundly affected by the *Zeitenwende*, including foreign and security policy, the EU budget, as well as enlargement.<sup>3</sup> The EU should introduce a super qualified majority in the (European) Council and, if that is not possible or ambitious enough, consider recourse to action via an 'intergovernmental avantgarde'.

## The need to upgrade the EU's decision-making capacity

The need to reform the Union's decision-making processes was clear even before the war in Ukraine. Since 2008, the multiple challenges resulting from the "permacrisis"<sup>4</sup> have demanded that the EU adjust its policymaking to constant crisis mode.<sup>5</sup> But the most recent turning point has dramatically increased the need to reform the Union. The main impetus for further developing the way the EU reaches decisions has been the stance adopted by Hungary regarding sanctions against Russia. The approach followed by the Budapest government has alienated other member states on issues Hungary considers to be in its national interest, such as the continuation of its energy dependency on Russia. The Hungarian government has also, more or less blatantly, tried to extract non-related concessions from EU institutions and member states for not using its veto powers.

Many observers have pointed out that, while the behaviour of the Orbán government has been problematic, the EU has still been able to reach unanimous decisions on, by now, eight sanction packages, thereby demonstrating its ability to overcome unanimity requirements. Given the war in Ukraine, unity among the EU27 is clearly a necessity and a politically important and powerful signal at home and abroad. But this is not the whole story. To strike compromises, the EU had to offer concessions and make exceptions, not only to Hungary but also towards other member states. On crucial issues, we have witnessed the postponement of decisions and actions to ensure that all EU27 would be on board. And in many cases, coercive measures against Moscow did not go as far as they should have if individual governments had not threatened to veto additional sanctions packages against Russia.

## Tackling the rhetoric-actions gap

And here lies the crux of the matter: the Union is experiencing an increasing **ambition-unity dilemma** at the heart of its decision-making processes. To be able to move forward in contentious areas, the EU has to sacrifice ambition to keep all member states on board. This is not necessarily always a bad thing: reaching European compromises has been about finding a way for all EU countries to buy into a package deal, even if not all governments were, at the end of the day, fully satisfied with the outcome. Often, this is the only way to move forward, enabling common decisions even when underlying policy stances differ among member states. On many occasions, it is also a way to protect national interests that at times deviate from the common European interest.

But we now live in a new era, where more difficult and much more ambitious decisions will have to be taken and where there is a clear need to act together at EU level to address profound transnational challenges. We no longer have the luxury of time: fundamental decisions must be taken to counter Russia's war against Ukraine and to ensure that the EU27 are able to deal with the

medium- to longer-term consequences of the crisis. We must overcome the '**rhetoric-actions gap**' between the deep challenges of the watershed/*Zeitenwende* identified in 'Sunday speeches' and the inadequate implementation of indispensable policy actions in different areas. These include issues related not 'only' to spending, enlargement, sanctions or foreign and security policy, but also to areas like energy, industrial policy, economic resilience and security, migration, as well as technology.<sup>6</sup>

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Decisions taken in the initial phases of the war were difficult. But in the future even more challenging questions will have to be faced, where reaching a consensus among the EU27 will become even tougher.

Unless the Union finds ways to upgrade its decision-making capacity, ambition will suffer, and the EU will not be able to defend its values and protect its interests in Europe and beyond.

## No time to waste

So, what must be done? Leaving things as they stand is clearly no option. On the contrary, concrete proposals need to be put on the table and the Prague speech of Chancellor Scholz,<sup>7</sup> which included an indication that Germany would be ready to accept a move towards Qualified Majority Voting (QMV) in foreign and security policy, is a starting point. Applying the general and specific *passarelle* clauses included in the EU treaties, which allow governments to take a unanimous decision to move from unanimity to QMV in the Council, is a potential way forward. And if more ambitious reforms of the EU's primary law are required, the Union will have to initiate a Convention to draw up and implement concrete changes to existing EU treaties in the context of the ordinary revision procedure (Art. 48.3 Treaty on European Union (TEU)).

But the suggestions that are now on the table face two major hurdles: unanimity and timing. Making progress takes time and will require the assent of all EU member states. In this process, it is not only the Hungarian government that is blocking a move towards more QMV in the Council. A good number of other smaller EU countries also fear that the loss of their veto powers would result in larger member states dominating the Union. Conversely, some of the larger EU countries do not see the need to constrain their room for manoeuvre by being bound by decisions taken in Brussels.

It would be preferable if voting reforms could be introduced as swiftly as possible within the framework of the current EU treaties. However, given the above-mentioned concerns among the EU27 it seems more likely that we will not witness a substantial reform in the immediate future, but rather end up in a dragged-out process with an uncertain end. While there is nothing wrong with opening the discussion on how to structurally overcome potential vetoes, the EU can no longer afford to waste time or end up with minor cosmetic changes that would, ultimately, lead nowhere.

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## Super qualified majority and intergovernmental avantgarde

Ambitious decisions cannot be postponed. The question is how can the Union overcome potential vetoes in the (European) Council as quickly as possible. Two options could move things forward: the introduction of a super-qualified majority and/or the possibility for the 'willing and able' to progress – if need be – outside the EU treaty framework in an intergovernmental avantgarde, based on clearly defined principles.

► **Super-qualified majority:** moving from unanimity to some form of qualified majority voting in the (European) Council would become more likely if the fears of smaller countries are taken into account. To progress in this direction, the EU27 could come to an agreement that QMV would only be used to outvote a country in a situation of 'unanimity minus one', i.e.

when one EU government is blocking a decision in the (European) Council. This innovation could assure smaller member states that the possibility of being outvoted in particularly sensitive areas is limited. At the same time, it would add pressure on EU governments to find a compromise in the (European) Council, given that they could expect to be side-lined if they continued to obstruct a collective decision among the EU27.

However, this would require the agreement of all EU countries. To arrive at that point, the member states that recognise the need for reform would need to use intense political pressure, jointly investing political capital to achieve such a change and using *Realpolitik* means, such as funding and pressure from powerful allies, such as the US, to sway the more reluctant

countries. But even then, it might not be possible to change the rules of the game in this way. Furthermore, it might not be sufficient in all areas where the EU needs to take more ambitious decisions and where more than one country could block progress. In certain situations, it would be necessary to move beyond the existing decision-making processes, as described below.

- **Intergovernmental avantgarde:** in theory, it is possible to move forward with a smaller group of countries by using the mechanisms of differentiated integration available in the Lisbon Treaty, including the instrument of enhanced cooperation (Article 20 TEU). However, experience has shown that member states are reluctant to use the existing mechanisms/instruments, given that their application is rather complex in practice and on many occasions also reaches legal limits, especially if they touch on areas where EU legal norms apply to all member states, for example on Single Market issues.

So if agreement cannot be found within the EU framework, an alternative route needs to be explored, allowing the ‘willing and able’ to cooperate outside the EU treaties, as was done in the case of the European Stability Mechanism (ESM) or the Fiscal Compact (enshrined in the “Treaty on Stability, Coordination and Governance in the Economic and Monetary Union”), which excludes those member states that choose not to participate or support a common approach.<sup>8</sup> Cooperating on an intergovernmental basis outside the EU can be effective, especially if funding is

involved, but it is not an ideal solution and should thus only be conceived as a last-resort option.

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Yet, the possible downsides of an intergovernmental avantgarde can be reduced if such forms of cooperation are: (1) in principle open to all member states willing to join; (2) involve or even strengthen the role of EU institutions in the differentiated areas; (3) keep non-participating member states constantly informed; (4) refrain from setting up new parallel institutional structures outside the Union; and (5) integrate the legal norms adopted and the cooperation initiated outside the EU into the Union’s treaty framework as soon as possible.<sup>9</sup>

If the ‘willing and able’ adhere to these core principles, they would not only be able to move forward, but they could also do so in a way that would strengthen rather than undermine the community method.

## Delivering change

Moving in this direction will not solve all the problems faced by the European Union. If there are fundamental disagreements between member states about the best way forward, especially if this includes countries that are the motors of European integration, no technical fix will allow the Union to advance.

In situations like the one we are currently witnessing, involving disagreements between France and Germany, a political solution – a European compromise, is needed. But in cases where the resistance of one or a small number of member states hinders ambition, the technical fixes proposed here could be a way forward.

We live in a world of second best, where achieving a positive outcome – unity – might well result in a negative consequence – a lack of ambition. But this ambition-unity dilemma must be overcome. To deal with the challenges in this new era, the Union needs to find ways to take ambitious decisions quickly, and if that comes at the expense of unity, we have to accept this as the price to pay and find ways of moving forward without, at times, the unanimous buy-in from all member states. The alternative is that we fail to make the decisions that are necessary, portraying a unified façade that hides a lack of necessary ambition.

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- <sup>1</sup> See Zuleeg, Fabian, "[A watershed moment in European history: Decision time for the EU](#)", *EPC Commentary*, 24 February 2022.
  - <sup>2</sup> See Zuleeg, Fabian, and Emmanouilidis, Janis A., "[Europe's moment of truth – united by adversity?](#)", *EPC Discussion Paper*, July 2022.
  - <sup>3</sup> See Pornschlegel, Sophie, and Toygür, Ilke, "[After Russia's invasion of Ukraine: Unity is good, but ambition is better](#)", *EPC Discussion Paper*, June 2022.
  - <sup>4</sup> See Zuleeg, Fabian, Emmanouilidis, Janis A. and Borges de Castro, Ricardo, "[Europe in the age of permacrisis](#)", *EPC Commentary*, 11 March 2021.
  - <sup>5</sup> See Greubel, Johannes and Zuleeg, Fabian (2021), "[Towards a win-win package deal and more effective decision-making in a union faced with disruptive change](#)", in Damro, Chad, Heins, Elke, and Scott, Drew (eds.), *European Futures: Challenges and Crossroads for the European Union of 2050*, Routledge, London.
  - <sup>6</sup> For a more detailed list of key areas and fundamental questions that need to be addressed as a consequence of the watershed/*Zeitenwende* see: Zuleeg, Fabian and Emmanouilidis, Janis A., "[Europe's moment of truth: United by adversity?](#)", *EPC Discussion Paper*, July 2022.
  - <sup>7</sup> [Speech](#) by Federal Chancellor Olaf Scholz at the Charles University in Prague on 29 August 2022.
  - <sup>8</sup> See Emmanouilidis, Janis A. (2012), "[Which Lessons to Draw from the Past and Current Use of Differentiated Integration?](#)", in *European Parliament, DG Internal Policies (ed.), Challenges of Multi-Tier Governance in the European Union – Effectiveness, Efficiency and Legitimacy*, May, pp. 62-77; here pp. 68-70 & 74.
  - <sup>9</sup> See Emmanouilidis, Janis A. (2021), "[Differentiated EUrope 2035: Elaboration and Evaluation of Five Potential Scenarios](#)", *EUIDEA Policy Papers*, No. 16, p. 25.



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