

Schengen and abuse of unanimity



REPER MEP Alin Mituță. Photo: Personal archive

Why did Austria block our access to Schengen? There are many explanations, but the simplest one sounds something like this - because he could. The unanimity rule in the Council allowed Austria to say no while all the other Schengen states, when the European Commission and the European Parliament said yes.

How did it get here?

The unanimity rule has existed since the beginning of the European project. There were then 6 states in the Union, with quasi-aligned interests, and unanimous votes were frequent and relatively easy to obtain. That is no longer true now that there are 27 states at the table, often with divergent views or interests. Meanwhile, the vast majority of European decisions have been removed from the unanimity rule and are taken by qualified majority voting (voting in which the majority is determined by 55% of the number of member states that must also represent at least 65) % of the EU population). Others, however, remained. Foreign policy decisions, for example, or in terms of Schengen enlargement.

Unanimous decisions are difficult, hence the Union's blockades on certain dossiers. And above all, they give far too much power to unscrupulous political leaders. Such as in the case of Austrian Chancellor Karl Nehammer or the case of Viktor Orban, the prime minister of Hungary, who, last week, committed a kind of blackmail at the European level using the rule of unanimity.

In the same week that unanimity was used against us by Austria, it was also used by Hungary to block a large aid package for Ukraine. Hungary was the only EU country to oppose that vital package and the aid was blocked. What is more egregious is the fact that Hungary did not necessarily oppose the aid given to Ukraine, but found the right moment to blackmail the European Commission into revoking its decision to freeze European funds for corruption in Budapest. Since it cannot exercise its veto power in the case of asset freezes, Hungary deemed it appropriate to take another "hostage" decision that had absolutely nothing to do with the main issue. Sound familiar? Similarly, Austria continued, holding us hostage, hoping to force the hand of the European Commission and other states on the migration file.

A voting rule used in this way has become a danger and weakness for European cohesion and should no longer exist if we want a functioning European Union. It is time to abandon this rule that no longer takes into account the reality of the Union. How can this be done? Amending the Treaties of the European Union.

Changing Treaties

The European Parliament decided in the summer of this year to initiate the process of changing the EU Treaties based on the proposals of the citizens of the Conference on the Future of Europe. In the trigger resolution, the Parliament specifically called for the abolition of the unanimity rule in most EU decisions. The ball is now in the Council's camp, which needs a simple majority to decide to trigger a treaty revision.

But opinion in the Council is divided and many member states are skeptical. Surprisingly, Romania is among them. In May this year, the Romanian government joined 12 other European states that felt it was premature to begin the revision process. Romania adopted the anti-reform momentum of the PSD-PNL government, placing itself in the camp of conservative states without many arguments for this decision, aside from a diffuse fear of what might happen if the Convention were activated.

Of course, there are also voices arguing against changing the unanimity rule. One argument relates to the fact that the smaller states in the EU are the reason that veto power still exists in some areas. In this thinking, veto power has an equalizing effect because it gives everyone the same power regardless of the size of the economy or population, protecting states that tend to fall into the category of those disadvantaged by larger states.

But reality tells us that such arguments do not hold up. Indeed, the veto turned out to be harmful rather than beneficial to states with less influence in Brussels. The example, of course, is the way some countries kept Romania and Bulgaria in the Schengen antichambre for years. Moreover, Romania has never used its veto power to ensure that its interests are respected. Instead, as I have shown above, governments like those of Hungary or Poland, which theoretically should have used the veto to defend themselves against possible abuses of power by the most powerful, have hijacked the European agenda and repeatedly use the veto to consolidate the European agenda. their power at home, pretending to stand up to an unjust Union.

Thus, unanimity has in practice proven to be an instrument that encourages the abuse of power rather than protecting against it. There is no longer an argument for us to continue in the current formula. Romania's opposition to amending the Treaties thus remains unfounded. It is downright irrational that a state that has not used the veto right at all and, moreover, has been the victim of the use of this right for many years, would support this arrangement.

Revising the treaties could bring many benefits to Romania. First, removing unanimity in EU decisions and replacing it with qualified majority would make voting in the EU Council, as the sixth largest state, more difficult.

Moreover, a key proposal of the Conference on the Future of Europe was to amend the Treaties to include health as one of the areas of EU competence. Currently, health is the responsibility of the member states and we see the effects on Romania on a daily basis. If it had powers, the EU could do much more to help Romania get its health system back on its feet, for example by imposing minimum quality standards for medical services and funds to achieve them.

Another important argument for amending the treaties and eliminating unanimity is related to the accession of the Republic of Moldova or Ukraine to the European Union. Moldova has been granted candidate status, but many member states, including Germany, have said there will be no EU enlargement until the way decisions are made in the Union changes. Therefore, reforming the EU decision-making process would also bring the Republic of Moldova closer to the EU, as well as Ukraine and the Western Balkan countries.

What do we do next?

Right now we are enjoying a great wave of sympathy. EU political leaders, as well as those of member states, have spoken out in favor of us. The German foreign minister said, "I would have liked not only a different decision today, where Bulgaria and especially Romania would also be included in the Schengen area, but it is a big disappointment." Migration and Home Affairs Commissioner Ylva Johansson also expressed her disappointment with yesterday's decision, while Austrian President Alexander Van der Bellen criticized his own government, saying, "I deeply regret the Austrian government's decision to block the Schengen accession of Romania and Bulgaria. It is true that Austria is in a difficult situation due to the very high number of asylum seekers. But the Schengen blockade does not contribute to a solution."

It is important to take advantage of this sympathy and use this support to try to overcome Austria's veto in the coming period, but also to get the issue of treaty change on the European agenda. In my opinion, the issues are clear. Unanimity puts Romania at a disadvantage and it is time for its political leaders to take ownership of this and act accordingly.

Our mess with Schengen shows once again why the unanimity rule should be abolished and the EU treaties changed. This time the demonstration was done on our skin. Was the injustice felt strongly enough in the corridors of government, just as it was felt for every citizen in Romania? If so, Romania should learn from this experience and be one of the member states that proactively demands EU reform and treaty amendment.