



# LIBERAL VOICES 2019

*RESEARCH AND POLICY ANALYSIS BY THINK TANKS IN CEE IN  
RESPONSE TO EU LEGISLATIVE INITIATIVES AND PROPOSALS*



## About the publication

This publication is result of cooperation between independent think tanks in Central and Eastern Europe (CEE). The purpose of this cooperation is to increase awareness of upcoming legislative initiatives in the CEE countries, and to increase the presence of liberal opinions from the CEE countries in the EU decision making.

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## Position on the EC Proposal on Price Reporting in the Food Supply Chain

In May 2019 the European Commission presented a proposal to step up the collection of prices of agri-food products at different stages along the supply chain to see how prices are determined. This proposal is the third element of the initiative to improve fairness in the food supply chain after recently adopted new rules banning unfair trading practices and improving the conditions for producer cooperation.

The European Commission proposes an extension of price reporting for most agricultural products in all its variety for all economic actors of the value chain on weekly and monthly bases. According to the EC, this measure will address a lack of transparency and information asymmetry in the food supply chain and will strengthen farmers' position in the food supply chain by supplying farmers and producer organisations with accurate and timely market data. It is expected that greater transparency will allow different actors to make more informed choices and improve the understanding of price formation and the development of trends along the food chain.

The justification for an extended price reporting is misguided and weak. This proposed measure is unlikely to achieve the desired goal of strengthening farmers' position while triggering a number of unintended consequences.

### The proposal

The proposed price reporting will apply to the meat, dairy, wine, cereals, oilseeds and protein crops, fruit and vegetables, olive oil and sugar sectors. The collection of data will rely on systems and procedures already in place, used by operators and Member States to report market information to the Commission. Each Member State will be responsible for the collection of representative prices and market data. Member States will submit the data to the Commission, who will then make the information available on its agri-food data portal and EU market observatories.

A relatively high level of public information on producer prices and consumer prices, volumes of production and trade, etc. is already available from statistical offices in Member States. It is claimed, however, that there is little information available on markets that operate between

farmers and consumers such as food processing or retailing. It is further argued that this creates an asymmetry of information between farmers and other actors of the food supply chain and can put farmers at a significant disadvantage when doing business with others. Therefore an extension of price reporting is expected to address these information gaps, in particular where sectoral food supply chains are complex.

The measures are to be adopted by the Commission and are due to apply from 1 January 2021. Member States will be expected to describe the methodology for setting representative prices and to approximate their methodologies to ensure the best possible comparability of the data across Member States.

## The case against price reporting in the food supply chain

While farmers' position in the value chain is weak, a price database is also a weak background for strengthening that position. Agriculture operates on a different basis than the rest of business in the EU. It is supported, subsidized and treated in an exceptional manner. And yet, this secures neither high efficiency nor a strong position of the main actors in the sector. The present policy does not result in empowering farmers' businesses, and the proposed new measures are along the same lines of administrative interferences.

The agricultural market is already inefficient and the proposed measures will make it even less so. Market prices are permanently changing and a real product value resembling indicator, which registered, fixed and influenced by non-market forces distorts information along the value chain and results in diminishing efficiency and abstinence from innovation.

Product price formation is an essential part of business. It differs depending on the complexity of business, its stage of development, size, type, locality and other specifics of business as well as the current business environment: the market size, the level of competition, consumption patterns, and the situation in the economy (growth, stagnation or recession). Thus, price reporting will affect not only the price of the products, but overall business decisions. It will inevitably lead to different solutions as to what to produce.

If the price formation process becomes explicit and business confidentiality is abandoned, competition mechanisms cease to function properly. This is how cartels are formed and what private entities are heavily fined for. In this case a cartel would be formed by legislation.

As a further outcome of price formation disclosure, a risk of price regulations is likely to evolve. This is especially likely given that "fairness" is indicated among the goals of the proposal. Price control contradicts the fundamentals of the present economic set-up in the EU and would make the agri-food sector even more disadvantaged among investors and innovators.

Price transparency does not necessarily imply trust. It can narrow and distort consumers choice. As inner processes of modern businesses are extremely complex (firstly, due to abundant regulations, both EU and local, and secondly, due to global competition), it is impossible for consumers or businesses to understand and estimate all costs and risks along the value chain. If consumers – both end users and intermediates – do not understand the costs, they cannot not appreciate price differences, and this may lead to an overemphasis on low prices. This especially harms innovative, organic, healthy and quality food and promotes cheaper food. As such, all this

contradicts the overarching goals of population health and chronic disease prevention as well as sustainable agriculture.

Price transparency does not necessary leads to better informed decisions. Given rather substantial price sensitivity to seasonality and yearly changes, a price database can also be a very misleading source of information. This is especially true for such consumption sensitive businesses as agro-business.

The amount of data and reporting frequency foreseen in the proposal are very extensive. That will lead to an increase in the administrative burden (even if organized in a highly efficient way, which is hardly likely in many cases) both for food market participants and administrative institutions. The efficiency of the whole sector will decrease and the costs will rise. Moreover, producers and retailers are also of different size and market power. All additional reporting requirements as well as price formation disclosure will unproportionally harm smaller farmers, producers and retailers in comparison with bigger ones.

The proposal envisages reporting only representative prices (such as prices from main markets and significant operators) so as to enable Member States to pursue a cost-effective approach for their reporting and contribute to keeping the administrative burden for small and medium-sized enterprises to a minimum. It should be noted that selecting representative prices is always an arbitrary action. For standardized products, it can better reflect the reality, but products that are the most natural and valuable in terms of population health are not standardized. A representative price system would force them to get standardized and lose a significant part of their value added.

There is a lot of data reported by business in general and agro-business in particular already. Different classifications are employed, administrative resources are used, it is not a rare practice that different things are compared as similar. Additional new data to be provided by a new system will increase both the burden and confusion because of contradicting and incomparable data.

Farmers' power can only increase if the production and retail markets are more competitive. In order to make the production and retail markets more competitive, favourable conditions for these businesses are needed, most importantly a lower administrative burden and less price distortion from interventional measures. This would lead to a higher market diversification in terms of quality and price and so to a greater consumer choice.

## Conclusion

The proposed measure of extending price reporting is misguided and is not likely to achieve the desired goal of strengthening farmers' position. In addition, it will entail a number of unintended consequences which will harm food value-chain participants and consumers alike and will put agriculture at a bigger disadvantage in terms of investment and innovation than it already is. While adopting this measure, Member States should take into account its limitations and likely repercussions beyond the expected objectives and should consider its implementation to the least extent possible.



## Position on Fitness Check of 2012 State Aid Modernisation Package, Railways Guidelines and short-term Export Credit Insurance

The European Commission launched a fitness check of State aid modernisation, the railways guidelines and the short-term export credit insurance communication to check whether the rules have actually worked in the way intended and are fit for their purposes.

The Lithuanian Free Market Institute (LFMI) welcomes the European Commission's (EC) fitness check of the 2012 State Aid Modernisation package and the in-depth analysis and evaluation of the state aid rules in an open dialogue with stakeholders.

State Aid Rules play an important role in ensuring competition in the internal market as they ensure a level playing field for all enterprises in the internal market, regardless their origin or place of establishment. Therefore, state aid must be transparent and justified. State aid rules provide the necessary framework to ensure efficient public resource spending as well as restricts public authorities from unjustifiably intervening into the market.

The EC's role is to ensure that efficient functioning of the EU internal market and fair competition would remain one of the core goals State aid rules aim at delivering. Given the peculiarities of market functioning and fair competition, it is key to maintain that State aid would be an exception rather than a common practice. In this sense, the fact that some Member States provide State aid to deliver EU policies is not sufficient to justify a wide application of State aid.

State aid modernisation is to be constructed in such a way as to prohibit or at least prevent Member States from unjustifiably financing enterprises owned and (or) controlled by the state.

In order to obtain the set goals of State aid modernisation the following principles should be met and promoted:

- market-based economy, promotion of private commercial activities;
- prohibiting public institutions establishing and pursuing commercial activities themselves;
- efficient public spending;
- prohibiting in-house transactions (transactions between state owned and controlled undertakings);
- transparent ex-ante and ex-post assessment of State aid compatibility;
- transparency of amounts of support given to any undertaking;
- stricter enforcement.

When considering granting state aid to selected market participants, it must be kept in mind, that private undertakings may be supported by horizontal or vertical measures. Horizontal measures imply the reduction of regulations. Such measures benefit all market participants as they reduce the costs of business activities and overall ensure the efficient functioning of the internal market and fair competition. Vertical measures, such as state aid, imply support granted on a discretionary basis using state finances. Such measures potentially distort competition and the functioning of the market as companies that have been granted state aid have a competitive advantage and do not take market risks. Moreover, the application of vertical measures may affect the incentives of engaging in economic activity.

Deregulation of the business environment would allow all entities to benefit from such support as their business costs would decrease. Thus in order to ensure the efficient functioning of the market, EU institutions should encourage Member States to use horizontal measures, rather than State aid to support businesses.

In-house transactions (transactions made between contracting organisations and companies controlled by contracting organisations without applying public procurement rules) must also be considered under State aid rules. In-house transactions intersect between internal market, competition and public procurement rules, and they potentially impede competition in the market and allow avoiding the assessment under the State aid rules.

Moreover, it is evident that many Member States are reluctant to notify state aid to the EC, and, so far, no culture of discipline to respect a ‘stand-still’ obligation could be claimed. In order to achieve a higher level of efficiency and transparency the EC should apply additional measures to monitor and sanction Member States for non-compliance of the prior notification rules.

Even when Member States pursue their public policy aims through state aid by justifying its necessity arguing that particular support is necessary to achieve EU policy objectives, such aid should be assessed comprehensively under state aid rules avoiding formalistic and declaratory decisions.

Many EU public policies (e.g. energy and climate change) put an obligation to Member States to act in a certain manner. This creates a paradoxical situation, where the Member States are incentivised to act themselves by interfering, rather than improving market conditions and removing barriers for private companies to contribute to the public policy objectives through market mechanisms. In order to ensure greater transparency and efficient functioning of the market, the EC should encourage Member States to propose more market-based measures to pursue EU or national public policy objectives when assessing the necessity and proportionality of state support.

Furthermore, the initiative to focus EC’s enforcement measures on the most problematic cases would imply broadening the range of aid measures that are exempt from the notification obligation. In such a way, economic nationalism will be programmed and will open ways to support state-owned and (or) state-controlled companies. In the long-term, this would increase legal and economic uncertainty for companies denied of state aid.



State aid grants selected market participants with economic advantages that distort competition. The modernisation of State aid rules should not compromise between the general prohibition of State aid and eagerness for prioritisation of aid control with the higher impact on internal market.

Full LFMI position on Fitness Check of 2012 State Aid Modernisation Package, Railways Guidelines and short-term Export Credit Insurance can be found [here](#).



## Position on Equal Pay for Equal Work

LFMI's position on the Evaluation of the relevant provisions of EU law implementing the Treaty principle on 'equal pay for equal work or work of equal value'

Under EU legislation, Member States are required to abolish any legal provisions contrary to the principle of equal treatment and have to introduce measures that would facilitate getting legal remedies in cases of alleged violations of equal treatment (including alleviating the burden of proof from the claimant to the defendant). Therefore, certain measures regarding pay transparency are to be introduced. The Lithuanian Free Market Institute argues that introducing more obligations and inducing the administrative burden to the employers will not benefit the implementation of the principle of equal pay.

In the majority of EU states the legal regulations are in line with the aforementioned goals and measures provided by EU law, including transparency measures, the definition of similar and equal work, etc. Moreover, if taken as examples, the new version of Lithuania's Labour Code introduced in 2017 has brought significant improvements in favour of employment flexibility. Regardless the proper legal background on equal treatment, Lithuania's statistical tendencies show that the gender pay gap is slightly increasing and in 2017 it was approximately 14 per cent, two points below the EU average.

The gender pay gap concerns salaried labour. Therefore, it is not an indicator of overall inequality. As noted by Statistics Lithuania, the gender pay gap is influenced by socio-economic rather than legal factors, including different working patterns of men and women, the number of men and women working in a specific economic area, their profession, education, age, working time, etc. For example, last year the highest gender pay gap of 38 per cent was recorded in finance and insurance sector followed by information and communication technology sector (28 per cent) and healthcare and social work sector (28 per cent). Given that the gender pay gap is determined by socio-economic factors, it may be asserted that the gender pay gap is the result of different choices made by individual workers rather than the result of prejudices of employers or faulty regulations as the latter confirmed by Statistics Lithuania.

Having established the latter, it would seem most beneficial to introduce a more flexible legal framework to better accommodate the developing needs of both the employees and employers in order to ensure more equal opportunities. Participation and entrance to the labour market would be best facilitated by introducing more measures aimed at ensuring employment flexibility. The lack of employment flexibility remains one of the key issues that needs to be tackled. Eurofund

research suggests that one fifth of women and one fifth of men deem that the inability to reconcile family and work commitments causes problems and preconditions their decisions on taking on work. The flexibility or rigidity of labour markets (hiring and firing conditions) have a significant impact on women's desire or ability to enter the workforce. Therefore, introducing more flexible working time regulations and flexible alternative employment contracts would increase labour market participation and show positive results in pay distribution among genders.

Given the latter, increasing obligatory measures would not help in ensuring equal pay as the underlying issues are related to socio-economic factors.. On the contrary, obligatory measures would significantly increase the administrative burden and costs for both employers and public authorities. In addition, they would result in higher wage demand and labour costs while disclosure of pay information could lead to hostility in the work environment and limit the freedom to negotiate wages of both the employees and employers. It should also be noted that employees are entitled not only to base salaries but also to premiums and other financial benefits that would fall under the definition of a salary. Such additional financial benefits may be awarded to a group of employees for their particular accomplishments, yet premiums may also be awarded legitimately based on individual characteristics of an employee (e.g. concrete tasks, additional efforts, etc.)



## More efficient law-making in the field of taxation: identification of areas for a move to qualified majority voting

The European Commission (EC) has prepared a Roadmap for more efficient law-making in the field of taxation: identification of areas for a move to qualified majority voting. The aim of the proposal is to explore possibilities for removing the need for unanimous agreement by all countries and moving to qualified majority voting in taxation, i.e. deciding on tax matters by a weighted system ("qualified majority voting") where measures can be carried if supported by a minimum number of EU countries, representing a minimum share of the EU population.

There are a number of reasons to suggest that moving to qualified majority voting in taxation will undermine the competitiveness of the European Union and bring negative consequences for economic, societal and technological development.

The authors of the proposal for moving to qualified majority voting in taxation claim that this will:

- increase Member States capacity to raise revenues to finance expenditures programmes in line with their national preference,
- remove part of the obstacles to effective Single Market in taxation and allow the EU to keep pace with rapid economic, societal and technological development.

There are multiple reasons to suggest though that moving to qualified majority voting in taxation is not the best tool to achieve these objectives.

Moving to qualified majority voting in taxation would eliminate tax competition among countries, and this would have adverse effects on economic, societal and technological development.

National sovereignty over tax matters is a fundamental principle of the European Union that enable the existence of tax competition. A diversity of tax systems is not a roadblock for the Single Market or free trade. Quite the opposite, differences in the tax regimes might serve as a stimulus to trade. Taxes constitute a significant share of costs and a large share of the price of factors of production, labour in particular. It is tax diversity, which is usually determined by the necessity to accommodate to local conditions and traditions, that frequently makes it possible to produce cheaper goods and services and to offer them on the international market, thus increasing the economic, societal and technological development of the whole EU.

Countries have always competed using their exogenous factors (e.g. the amount of land, population, proximity to waterways, etc.) as well as endogenous ones (e.g. the level of

corruption, political stability, the level of bureaucracy and taxation). Tax competition is no different from competing for investment by cutting red tape, lowering bureaucracy and other factors that depend on national governments. Further tax harmonization, which would be facilitated if qualified majority voting in taxation were established, would reduce the pressure on national authorities to maintain an efficient and competitive tax policy. Member 2 States would become more dependent on the EU to impose EU-wide rules and regulations in the field of taxation.

Moving to qualified majority voting in taxation would be unfair to countries that have sound fiscal policies.

The Roadmap states that “unanimity in taxation is an obstacle to efficient decision-making” and that unanimity was easier to achieve “at a time when there were fewer Member States”. This shows a worrying attitude of EU decision makers, not only towards the new Member States (which are seen as an obstacle to the Single Market), but towards the decision-making process itself. Even if it was easier to achieve the unanimity on common tax policy in the past, there is no evidence that it was solely due to a lower number of Member States. Certain issues might actually have been more important for EU citizens. They might have advanced the Single Market or alleviated the tax burden for the EU taxpayers, therefore receiving a broad-based support from the public in all EU Member States. In other words, the fact that it is harder to achieve a unanimous vote does not call for changes of the procedure. It calls for better policies that would reflect the values, expectations and needs of the citizens of the EU.

The abolition of the unanimity rule, which is targeted at direct taxation or the taxation of profits and income and goes directly against tax competition, presents a big threat to those Member States that have been effective in advancing their competitiveness and attracting foreign investment due to their favourable tax regimes. The abolition of the unanimity rule would allow the countries which are not tax competitive due to their flawed fiscal policies to impose rules on countries that are fiscally sound and can offer better tax conditions for workers and companies.

Moving to qualified majority voting in taxation may increase the tax burden for a significant share of the EU taxpayers.

The Roadmap claims that “[o]ther recent achievements, such as tax transparency measures and anti-abuse rules, were largely fueled by the public and political reaction to high-profile tax scandals, rather than by a common vision on how EU tax policy should advance.” This statement, however, is not supported by evidence. Negative public and political reactions to certain developments in the area of taxation might stem from different expectations regarding fiscal policy developments of Member States and the EU.

Moreover, claims that EU citizens demand these proposed changes would be insincere. Many EU citizens are outraged at the existing high levels of taxation, yet no initiatives at the EU level have been proposed to reduce the tax burden. Even more, given the common discontent

against Brussels-centric decisionmaking, one could argue that the proposal for moving towards qualified majority voting comes at a very unfavorable time.

EU lawmakers might see certain developments, such as CCCTB, ATA or even traditional EU tax policies, such as VAT base rules or minimum rates on excise products, as positive developments. However, such policies also involve negative consequences. For example, some recent proposals, such as CCTB, would create considerable compliance costs in the transition period, especially for SMEs operating within the 3 market of only one Member State, as in case of Lithuania. It must be admitted that many developments regarding common tax policy in the EU are inflating the tax burden or increasing it by setting the threshold for certain tax rates, which might be unfavorable for certain Member States given their level of economic development or other individual characteristics.

It is argued that unanimity in taxation is partially to be blamed for the situation in which Member States are increasingly constrained in their capacity to raise revenues to finance expenditures programmes in line with their national preferences. It seems that one of the aims of moving to qualified majority voting in taxation is to ease such constraints, thus allowing Member States to finance expenditure programmes more generously.

EU citizens and politicians are opposing such skillfully disguised plans to increase the tax burden in certain EU Member States and these attitudes should not be ignored but must be respected while making political decisions.

## Conclusions

- Moving to qualified majority voting in taxation would not only fail to attain the desired goals but would also inflict a number of negative consequences:
- It would be incompatible with national sovereignty over tax matters which is a fundamental principle of the EU.
- By easing the pressure on national authorities to have an efficient and competitive tax policy, it would undermine the competitiveness of the entire EU economy.
- It might increase the already high tax burden for a large share of EU taxpayers.

## Recommendations

- The European Commission should work to preserve the highest degree of tax competition between Member States that allows countries to create the best conditions for its citizens and businesses to work and enterprise. The initiative of moving to
- Qualified majority voting in taxation poses the threat of fundamentally hindering this vital feature of the internal market and should therefore be reconsidered.
- High-tax EU Member States advocating tax harmonisation through moving to qualified majority voting should take practical steps towards improving their tax systems via aligning them with those tax regimes that are the most conducive to economic growth.

