Multiple Voting Rights: What to Do With Nessie in Our Bed?

In this article, I discuss the implications of the Multiple Voting Rights Directive of 23 October 2024, which requires EU Member States to permit multiple voting structures for companies listing on multilateral trading facilities. I reflect on the abandonment of the one-share-one-vote principle, assess the risks of excessive flexibility in shareholder rights, and highlight the challenges of effective minority protection and market liquidity. Finally, I question the assumption that legal reform alone will significantly enhance the attractiveness of EU capital markets.

Keywords: Multiple voting rights, MVS Directive, shareholder equality, market regulation, company law harmonization, minority protection.

1. The Multiple Voting Rights Directive adopted on 23 October 2024[1] (the 'MVS Directive') requires Member States of the EU to allow companies seeking a listing of their shares on a multilateral trading facility (MTF) to adopt a multiple voting structure:

> *to reinforce the attractiveness of listing on trading venues primarily targeted by small and medium-sized enterprises (SMEs), such as SME growth markets and other multilateral trading facilities (MTFs), thereby increasing their ability to raise funds on MTFs, and to reduce inequalities for companies seeking admission to trading in the internal market*

as preamble (1) sets out.

At the Annual Jean-Pierre Blumberg Conference at the University of Antwerp, held on 15 May 2025, it appeared that most Member States and the UK already allow multiple voting rights, in some or all (non) listed companies, in some or all markets, including the prime market. It also appeared that most countries make use of various minority protective measures, among which those included in the MVS Directive. And finally, many – though not all – speakers confirmed that the success in their country was meagre, and that the impact on the attractiveness of markets was, to say the least, doubtful.

2. Anyhow, the spirit is out of the bottle, or, as one of the speakers said: Nessie[2] is already drinking your beer. I am tempted to add: next time you may find her sleeping in your bed. So, we'd better continue to proactively consider this matter.

Once a legal system abandons logical principles translating common sense, there are no boundaries to the imagination of legal minds. Two of those principles used to be to grant (1) voting rights to a shareholder in proportion to the risk he or she is running – i.e., shares having the same economic value[3] have equal voting rights ('one share one vote' or '1S1V'), and (2) profit sharing rights in accordance with the same criterion. In most countries, the second principle has since a long time been a default rule only, with ample possibilities to deviate from it and create preferential profit rights.[4]

In most countries it took a longer time to also abandon the first principle, and now Europe imposes this on those Members States that have not yet (fully) done so. Generally, Member States will most probably seize the occasion to reconsider voting rights more broadly than the MVS Directive imposes them to do. For one, some of them are, in spite of all harmonization intentions and achievements, strongly competing to offer attractive company law and financial markets; also, one would hope that MTF listed companies will evolve into companies mature for the regulated market and it would be strange to have more restrictive voting rights at that moment.

3. A few thoughts on multiple voting rights in view of this seemingly unstoppable evolution towards less mandatory and more adaptable law – that is, by the way, also discernable in other domains of the law[5]:

- The (absolute or even relative) freedom to determine rights in a given situation will always need boundaries. At a certain point, giving more rights to shareholders who economically carry the same risks as other shareholders becomes problematic, not to say obscene.[6] Believers in the markets may say that the market will take care and sanction unequal rights that stretch too far, yet those who

1 Directive (EU) 2024/2810 of the European Parliament and of the Council of 23 Oct. 2024 on multiple-vote share structures in companies that seek admission to trading of their shares on a multilateral trading facility.

2 https://en.wikipedia.org/wiki/Loch_Ness_Monster/ (accessed 11 Jun. 2025).

3 I deliberately avoid 'contribution', because legal systems can deal very differently in determining how contributions are translated into capital or equity representation. One may validly assume that shares bought for the same price (at the stock market or privately) will normally have the same rights, though the valuation of certain preference rights (e.g., nomination rights) is a delicate matter.

4 To the best of my knowledge, this does not seem to be a sensitive topic in doctrine nor case law.

5 Such as, e.g., contract law, family and family estate law, property law.

6 Is a multiplicator of 20:1 reasonable? And of 50:1? 100:1? 1000:1?

'Multiple Voting Rights: What to Do With Nessie in Our Bed?'. *European Company Law Journal* 22, no. 3 (2025): 56–57.

believe less in the self-regulatory power of markets – and I am one of them – may want the legislator to set the limits. For multiple voting rights, the European legislature has opted for the latter,[7] and it seems that most national legislatures also do. But it clearly is not an easy task to find a reasonable balance, as too high, too many, too complicated or too limited protective measures may result in practice staying away from multiple voting rights.

– Well defining the default rule is of crucial importance. It, firstly, determines the law for the many companies that do not make use of the freedom to design rules proper to them. Also, it presents the users of company law, including the judiciary, with the essence of what is 'normal', against which abnormalities can be measured.
– The importance of general standards such as good faith, fairness and reasonableness,[8] equal treatment of shareholders and classes of shareholders, fiduciary duties and the like will grow. We all know that that comes with the requirement of reasonable enforceability: for minority shareholders it must be doable and affordable to have their criticism brought to able judges who decide within a reasonable timeframe. Next to those standards, specific and often mandatory measures against the risk of abuse of control, such as RPT rules or stronger independent directors, may also (continue to) develop.
– Shares with different voting rights necessarily form classes. Listed companies will need separate listing lines per class. A major obstacle is therefore the limited liquidity European listed companies are already struggling with when there is only one class.

4. At the Conference, the focus was very clearly on listed companies. That is still a minority of the company population in Europe, even if they are often large, visible, and important companies. Therefore, we also need to continue considering the issue of multiple voting rights for privately held companies, as it the developments for listed companies can be expected to affect those for non-listed companies. I am not saying that the rules for both should be identical, nor that they should be different: they should be compatible and based on consistent reasoning.

5. Finally, a word about the motives behind the MVS Directive: it was very illuminating to learn from the different speakers about why allowing multiple voting rights. However, we also learned that those legislative aspirations do not necessarily change reality. Legislation can only achieve what it can achieve. If the EU hopes that multiple voting rights on MTFs will result in those MTFs becoming much more popular, or if national legislators hope to create their own Big Techs, they may be disappointed. Copying what worked elsewhere in the past is not a guaranty for success.

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7 Article 6 MVS Directive provides for at least a qualified majority to introduce multiple voting shares, and, at the option of the Member States, one or more of a maximum voting ratio and reinforced majority requirements. To that, Member States can add transfer-, time- and / or event based sunset clauses.
8 Borrowed from the Netherlands, *see* Art. 2.8 Civil Code.