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The patterns of voting in the Council of Ministers of the European Union

The Impact of 2004 enlargement

The idea of the article was to look closer at the voting patterns in the EU Council after the big bang enlargement of 2004. Has the informal culture of compromise seeking been endangered? Has the efficiency of the whole decision-making system been undermined? In order to answer these pertinent questions we have decided to look at the data concerning QMV voting. We are looking only at the very last adoption stage of the whole legislative process.

We are quite aware of the shortcomings of the approach, especially in the view of a general tendency of the Council deliberations - to prevent conscientious measures to even reach the Council level before there is consensus. As previous researchers¹ dealing with the data coming from the same source pointed out we lack the detailed insights from the initial stages of the decision-making process. We lack systematic, empirical data on failed decisions (i.e. proposals, which were dropped in the course of the process because there was no majority in their favour) and complete, unambiguous voting records from the sub-ministerial level where most of the decisions are pre-cooked. Roll call data provide us with information about the final decision to vote but they do not give us insight into actors' initial positions and the reasons and circum-

stances in which they were established.² Thus voting records do not tell us who really won and who lost.³

The biggest problem for this kind of research is to define the right data-set. The only hard, consistent and coherent evidence that we have are the actual records of the final vote taken in the Council. Although these records do not constitute the perfect source for drawing final conclusions concerning the motivation of member states they do offer an invaluable insight into the patterns according to which they behave.⁴

During the initial stage (in the working groups) the member states voice formal reservations concerning a given proposal because of different reasons. Sometimes the reservations are put forward to signal genuine problems to partners (or sometimes to domestic audience), sometimes the motivation is altogether different - member states treat them as a ploy in the bargaining tactics used to exert pressure or elicit a package deal. Quite often member states are difficult at the outset because they simply want to prolong the discussions, because they wait for definite instructions or because they are not happy with a given linguistic formulation. In short, on many occasions a veto or an abstention at the early stage of the procedure does not really signal the member states' willingness to overturn a given measure. It would be methodologically difficult to differentiate between different types of motivation. It seems that the reasons behind an abstention or veto are much at the last stage of the decision-making process are much more uniform in character and thus easier to gauge. Therefore, being aware of the shortcomings of such an approach, for the sake of coherence we have decided to use the data from the last legislative stage of the decision-making.

I. Decision-making in the Council

The decision making in the Council is remarkably consensual. On all levels, especially in the working groups and in COREPER, the deliberations have a cooperative and problem solving character⁵. In nearly 75% of the cases, the ministers endorse decisions by consensus even when they could resort to formal voting. It was the Single European Act (1987) which did away with the legacy of the Luxembourg compromise. Yet the consensus reflex prevailed ever since, as noticed by those who were writing about the EC decision-making immediately after the SEA's entry into force⁶. Paradoxically, in the past twenty years, sometimes it was easier for the Council to reach unanimous

decisions where deliberation is shorter and where member states can abstain without influencing the decision-making system than under qualified majority voting.⁷

The philosophy of consensus at almost any cost ⁸leads to a situation where QMV works more implicitly, rather than explicitly ⁹forcing member states to behave more constructively. The decisions are taken, so to say, “in the shadow” of the rules governing the distribution of power. That does not mean of course that the amount of votes allocated to a particular member state does not matter.¹⁰ At all the levels of the Council the officials calculate the votes at the back of their heads. Once it becomes clear that a proposal will not gain the support of the majority of states it is usually dropped. Once the qualified majority threshold is reached, however, no one pushes for an immediate vote. The consensus –seeking reflex prevails and the majority seek to accommodate the interests of the minority.¹¹ ‘The commitment to the goal of unanimity is not only a lip service. Voting down a minority rarely happens’.¹² There is no doubt that the EU decision-making is based on a truly unique culture. As claimed by the constructivists, dense normative environment induces acts of self-restraint and rules out certain non-acceptable behaviour even without the expectations of specific reciprocity. Besides the compromise-seeking instinct Lewis adds more normative features, which underpin the decision-making process: diffuse reciprocity, thick trust and mutual responsiveness¹³.

Moreover, as Matilla and Lane [2001] explain, member states act in the Council in a truly strategic manner. Decision making in the EU is not a “one-shot” game, but rather a stream of interconnected decisions. Ministers realise that they are not in the business of negotiating one single deal, but that they participate in a continuous process, in which they seek for synergies and opportunities to initiate successful ‘package deals’. With time they learn that if they are to defend their national interest and promote common European interest at the same time they have to engage in vote trading and log rolling.¹⁴ Therefore a concession in one area is often compensated with the gain in the other. Such decision-making mechanics, where trust building is most important, is in itself most propitious for consensual behaviour.

Why then in one quarter of instances the member states resort to voting, do they want the dissenting voice to be recorded at the end of the procedure. Usually the answer to that question is simple – member states want to send a clear signal to everyone that

they have a genuine problem with a given decision. Ministers utter a warning, quite often in anticipation of problems with compliance, demonstrating a future willingness to change a given policy. Sometimes the ministers give in to electoral concerns. In some instances they would be willing to support the majority but the domestic pressure is too considerable. Many of the dissenting voices are recorded because the minister did not receive clear instructions or the instructions are simply contradictory (that happens either in case of the fragmented decision making in federal states or with members which have poor coordination mechanisms). Last but not least, countries with tight parliamentary scrutiny arrangements (such as Denmark, Finland but also on occasion Sweden) do not easily adapt to changing negotiating environment.

Many researchers were suspecting that the “big bang” 2004 enlargement would be different.¹⁵ Most importantly because of its size, after all that was to be the biggest enlargement to date. Most spatial models predict that legislation is less likely to pass when Council size increases – put in other words - any increase in the number of veto players will enlarge the core and shrink the win-set. Most analysts also agreed that new enlargement would affect the ability to sustain logrolls, especially that the new entrants would have different legislative preferences from the rest. The new member states were supposedly different from the Fifteen in every respect – most of those states are in the middle of a traumatic transition from communism, they are above all much poorer, much more reliant on agriculture, much more to the East and (allegedly) have a very different political culture. The degree of divergence would mean, in spatial modelling parlance, that their preferences will not be easily absorbed. Hence, last but not least because of great differences in socioeconomic development, most pundits predicted that from May 2004 the interests in the enlarged Union were to be much less homogenous. Moreover, almost everyone agreed that it would take long time for the new member states to acculturate themselves to the Council’s peculiar norms of consensus. The calculations based on power indexes predicted doomsday. As a result of the dramatic reduction of the decision making’s effectiveness after enlargement the Council were to be heading towards paralysis.

Before each new round of enlargement the question was always asked whether the accession of new members would put into question not only the Council’s efficiency, but more importantly its decision-making culture. Golub [1999] successfully demonstrated, that neither the accession of Spain and Portugal, nor the enlargement of 1995 (Swe-

den, Austria and Finland) had any effect on decision-making speed and the culture of compromise. Golub [2007: 159-160] was also one of the few researchers to make a counter-intuitive claim that decision making speed was not drastically slowed down in recent years. His reasoning was based on two facts, first that under QMV only connected coalitions (those were governments are adjacent in the policy space) are formed – and second – that as the preferences of the new entrants are easily absorbed into the existing pattern of coalition building, therefore the proportion of connected winning coalitions remains fairly stable. Thus enlargement does not a priori slow down the decision-making process unless it brings with itself a great heterogeneity of preferences.

While predicting the behaviour of the new member states there were always two contradicting views. One was that the new member states would be more difficult at the beginning before they become accustomed to the Council's decision making culture. The other is that at the outset the "rookies" would behave more timidly, however, once they get to know the Council's machinery better they would become more assertive. In the case of the last enlargement neither of the theses got confirmed. The patterns of behaviour (contested votes) in the years 1996-2008 for the member states who were last to join the Union - Austria, Sweden and Finland were remarkably consistent. For the past ten years Sweden was one of the member states which contested QMV decisions most often. Austria was behaving like an average member state and Finland, in general, refrained from formally voicing its discontent.

In order to test the above mentioned hypotheses, as well as answer some pertinent questions concerning the behaviour of new member states, we have decided to look at the voting patterns in the enlarged Council. The basic idea was to compare the empirical data sets on explicitly contested voting at ministerial level in the Council roughly during the period of five years immediately preceding enlargement (from November 1999 until April 2004) with the period encompassing five years after enlargement (precisely from May 2004 until November 2008). Certain analyses of the first year after enlargement were conducted, however, the findings were criticized because the period was judged to be too short to be representative. Five years is a period of time in which certain trends and patterns of behaviour can be discerned with much greater clarity.

Let's now turn to the dataset:

Table 1 - Decision making by QMV in the Council in the years 1999-2008

<i>Year</i>	Number of decisions	Contested decisions	% of contested decisions
<i>1999</i>	132	28	21%
<i>2000</i>	135	20	15%
<i>2001</i>	130	30	23%
<i>2002</i>	139	38	27%
<i>2003</i>	136	38	28%
<i>2004</i>	158	34	22%
<i>2005</i>	98	20	21%
<i>2006</i>	163	33	20%
<i>2007</i>	123	40	32%
<i>2008</i>	229	35	15%

During the period of roughly five years immediately preceding enlargement the Council took 682 qualified majority decisions concerning definitive legislative acts. 24% of those decisions (162) were contested at least by one state (voting against or abstaining). Throughout the period of roughly five years after the 2004 enlargement the Council took 664 qualified majority decisions. 21% of those decisions (137) were contested. Almost the same number of QMV decisions was taken in the period immediately before enlargement than in the period of almost five following it, however, when we look closer at individual years it turns out that the difference is somewhat misleading. In 2004, especially in the first four months, a great number of decisions (107) was taken as member states wanted to resolve the most conscientious problems before enlargement took place. In 2005 we can observe a significant slump in the number of decisions taken (98 as compared with an average of 130 decisions in the previous years)¹⁶. However, in the following years everything is back to normal,¹⁷ with member states taking as many as 163 QMV decisions in 2006 and as many as 229 decisions in 2008!¹⁸, 20%-40% more than in an average year preceding accession.¹⁹ The data confirms the findings of Jonathan Golub [2007], who claims that paradoxically

in the course of history of the EU integration the EU enlargements have increased decision-making speed.

The data confirms the earlier findings which are unanimous in claiming that the EU proves to be a flexible system “showing an extraordinary capacity of adapting to a new environment with increased membership”.²⁰ The Council machinery still produces almost identical amount of legislation and the process does not appear to be more contested or take dramatically longer time.²¹

II. Decision-making before enlargement

Let's look at the voting patterns in the Council in the years preceding enlargement. Which member states were the most recalcitrant ones? Can we observe certain pattern emerging? What is it based on? Size, wealth, populations' support for integration, government's political hue, the date of accession to the EC/EU?

Table 2 - Contested voting in the Council of Ministers five years immediately before the enlargement (09.1999-04.2004)

	Member state	No of contested votes	Against	Abstentions
1	Sweden	28	20	8
2	United Kingdom	27	10	17
3	Denmark	26	17	9
4	Germany	26	15	11
5	Belgium	24	8	16
6	Austria	22	12	10
7	France	21	10	11
8	Italy	20	12	8
9	Spain	18	11	7
10	Netherlands	15	12	3
11	Portugal	14	10	4
12	Luxembourg	13	9	4

13	Greece	8	7	1
14	Finland	8	4	4
15	Ireland	7	6	1
	Total	277	163	114

When we look at the data we can see that decisions are most often contested by large member states (especially Germany and the United Kingdom), as well as Sweden, Denmark and Belgium.²² It is not our intention to analyse the data in detail, that would require more qualitative research with a special stress on the EU policy coordinating mechanisms, managerial culture, domestic calculations and so on. Certain patterns can be, however deduced from the roll-call records. The only visible patterns concern the size of the member state and to a lesser extent the domestic considerations (namely, the public attitude towards European integration)²³. The preferences of the member states tend to be more the product of national interests and regulatory traditions than their general support for more or less integration. When we look at the data only two generalised conclusions can be made. Firstly, net-receivers (with a possible exception of Denmark) tend to oppose the majority much less readily than net-payers.²⁴ Secondly, bigger member states, in general, tend to contest Council decisions more often, if their interests are not accommodated.²⁵

The specificity of the German and Belgian case has been explained by many researchers.²⁶ The federal system has its implications. “Basically there is no single decision-making centre but different levels interact in the decision-making process and compete for access and participation.”²⁷ Its complex system of ‘interwovenness’ quite often leads to the policy which is incongruous and devoid of long-term planning. Because of its weak coordination system Germany quite often is unable to overcome the inborn weaknesses of a fragmented decision-making system. Faced with the lack of clear instructions, or worse with the conflicting ones, the federal ministers are quite often forced into abstaining or even voting against the majority in the Council.

The British and especially the Swedish behaviour can be explained by the domestic considerations – most importantly the electorate’s lukewarm attitude towards integration (according to Eurobarometer Swedes are the most Eurosceptic of all EU citizens)

and government's decidedly intergovernmental reflexes.²⁸ "Swedish officials have had difficulties adjusting to being a 'small state among others', frequently exhibiting old Swedish tendencies of exceptionalism with a "large state" mentality, trying to exert influence above their means.²⁹ Sweden and Denmark quite often vote together. The hesitant Europeans³⁰ have similar preferences and coordinate their actions on numerous occasions. Danish specificity is well-known. In this case the parliamentary scrutiny mechanisms seem to be even more important than the attitudes of the public opinion. The Danish government cannot change the details of the negotiating mandate without the assent of the parliamentary committee. The Folketing exercises more control over European policy than any other national parliament in the EU.

As we can see from the data Matilla's [2004] predictions concerning the party cleavages (right wing parties voting more often against the majority) were not confirmed. His assertion that member states which stand to benefit financially from the EU are less likely to vote against the Council majority than net contributors, however, seems to be much more plausible. For our considerations it is more important that the date of accession (compare, say, Finland with Sweden) does not have much influence over the voting patterns.

III. Decision –making after enlargement

Have the above-mentioned trends changed after enlargement? Let's look at the records:

Table 3 – Contested voting in the Council of Ministers after enlargement (05.2004– 12.2008)

	Member state	No of contested votes	Against	Abstentions
1	United Kingdom	20	9	11
2	Sweden	19	12	7
3	Denmark	18	15	3
4	Germany	18	7	11
5	Greece	17	10	7
6	Poland	15	9	6

7	Italy	15	8	7
8	Austria	13	6	7
9	Portugal	12	8	4
10	Malta	12	7	5
11	Belgium	12	4	8
12	Lithuania	11	8	3
13	France	10	4	6
14	Ireland	10	3	7
15	Hungary	9	3	6
16	Luxembourg	9	1	8
17	Netherlands	8	5	3
19	Cyprus	8	4	4
19	Czech Republic	8	4	4
20	Slovakia	7	5	2
21	Latvia	7	3	4
22	Finland	7	3	4
23	Spain	7	3	4
24	Estonia	6	2	4
25	Bulgaria	4	1	3
26	Romania	3	0	3
27	Slovenia	0	0	0
	Total	285	145	140

Just as before enlargement ministers still endorse decisions by consensus, nearly half the roll calls dissent is expressed by a member state acting on his own. While comparing the actual number of situations in which any member state voted against a deci-

sion taken by QMV the proportion from both periods - before and after enlargement - is virtually identical. Within the five years preceding enlargement 682 QMV decisions were taken and 277 individual votes against them were recorded. Within five years after enlargement 664 QMV decisions were taken, recording an almost identical number [285] of individual votes against them. Contrary to certain predictions the voting in the Council is as rare as it used to be before enlargement. In both periods only in the case of one of out of four QMV decisions the dissenting voice was recorded.

The patterns of contestation do not change much after enlargement. It is still the large countries³¹ and Northern countries which contest the decisions most often.³² What about the behaviour of the new member states? Do they contest decisions more often than the 'old guard'? If we assume that, on average, members states contested decisions 10 times since the day of enlargement, only Poland have done so more frequently, and only just. Since the larger states are prone to do so more often anyhow, we should not be surprised. Most importantly, new member states do not contest decisions more often than the old ones. Out of 285 contested votes against QMV decisions 90 (less than 31%) were submitted by the new member states, which constitute more than 40% of the number of all the member states and dispose of 30% of the sum of the weighted votes in the Council. More importantly out of 136 contested decisions only in 17 cases the new member states were voting against a decision without the support of at least one old member states. In other words, even if enlargement did not take place 119 out of 136 decisions (90%) would have been contested anyhow.

When it comes to new member states the decision to record a lone dissenting voice from a new member state (or a coalition of new member states) was extremely rare. It happened only on few occasions: for example Hungary protested against a decision to introduce visas to some of the third country nationals, Malta abstained from a decision concerning the control of ports, Estonia voted alone against the rules concerning the herring stock in the Bay of Riga, the Czech Republic was not entirely happy with its hemp quota and thus abstained when the vote was taken.

IV. The Polish case study

The Polish case is especially interesting. Whereas there was a growing perception that the previous Polish government of Law and Justice was one of the most difficult and unpredictable partners in the EU, such claim was not reflected in the Council QMV voting partners. Warsaw blocked certain unanimous decisions – on VAT tax and the opening of the negotiations concerning new partnership agreement with Russia. It was a difficult partner during the debate concerning the future of the constitutional treaty (especially when it come to the question of weighing of votes). It also did not support the idea to set up a European day against death penalty. Such behaviour tended to support the widespread thesis that large countries are more likely to oppose the majority than the small ones. Undoubtedly, throughout the first years of membership, Poland was a difficult partner on such delicate issues as sugar reform or definition of vodka, more difficult than older member states [Best & Settembri 2008, p.49-50]. Warsaw, however, quickly learned that rotund opposition to a well established majority is rarely effective. The data shows that, contrary to widely held beliefs, Poland, even under the previous government, has been a quite constructive member in the process of day to day decision-making in the Council. Harsh rhetoric was not always followed by obstreperous behaviour.

According to many practitioners, after the change of government to a pro-European Civic Platform led coalition³³ the climate and the way of doing business changed enormously. Poland started to behave in a much more constructive way, building proactive coalitions and playing a pivotal role in its part of Europe on such difficult dossiers as climate package or financial crisis. In the mundane Council business, however, the new Polish government was behaving similarly to its predecessor – whenever objective Polish interests were at stake Donald Tusk's government contested such decisions, and, as in the case of the climate package, even threatened with a veto. Out of 15 decisions, which Poland contested after enlargement, 2 were contested under the socialist government (May 2004-September 2005), 7 under Law and Justice government and so far 6 under the PO government.

After enlargement Poland contested legislative decisions on its own only on four occasions: against a decision concerning fishing quotas for cod in the Baltic Sea, as the reduction of the quota would lead to the deterioration of socio-economic situation of

most of the Polish fishermen who rely on cod much more than the fishermen from other member states,³⁴ against changes in an external customs tariff, against mobilisation of a flexibility instrument and against the tariff suspension for the producers of LDC screens.³⁵ A long period of tariff suspension for imports of LDC screens (5 years) is, in the opinion of the Polish government, harmful to the producers of such modules. Poland agrees the philosophy of tariff suspension, but only concerning semi-processed components which are not manufactured in the EU. Since two of the biggest producers (SHARP and Phillips) are located in Poland, the government decided to abstain from the decision.

On other occasions Poland found supporters of its dissent. Along with Latvia, Warsaw opposed a relief customs duty, as it would complicate EU's external customs tariff even more; and together with the Czech Republic it objected to a visa reciprocity mechanism concerning the visa-free arrangements for third country nationals. Warsaw also abstained (while Lithuania voted against) from a decision on potato starch quota, which were to remain constant for new member states, regardless of the fact that it had been underused for years. In other eight instances, when Warsaw chose to contest decisions, Poland found allies among old member states. For example (along with Latvia and Greece) expressing its dissatisfaction with the sugar quota.

V. New ways of voicing dissent – statements

The voting records are accompanied by the statements made by member states.³⁶ Some of them simply state the reasons for voting against or abstaining in case of a given decision, in others member states explain their reservations, even if they were not serious enough to prompt them to register a formal vote of dissent. The readiness of a given state to issue such declaration also offers additional evidence of behaviour in the Council. Hagemann and De Clerck-Sachsee [2007], in a somewhat exaggerated manner, treat it almost on par with contestation. Anyhow, even if one does not go as far, one has to admit that such declarations may signal future problems with decision making.

Table 4 - Statements of the member states accompanying the voting records (legislative acts) - after accession (2004-2008)

	Member state	No of statements
1	Great Britain	65
2	Germany	59
3	France	48
4	Spain	36
5	Sweden	35
6	Poland	34
7	Denmark	31
8	Netherlands	30
9	Belgium	26
10	Portugal	23
11	Malta	21
12	Italy	19
13	Ireland	18
13	Greece	18
13	Austria	18
16	Lithuania	15
17	Cyprus	14
18	Czech Rep	13
18	Latvia	13
20	Luxembourg	12
21	Finland	11
22	Hungary	10
23	Estonia	9

24	Slovakia	8
25	Slovenia	7
26	Bulgaria	4
26	Romania	4
	Total	604

Within the period of roughly five years after enlargement 604 statements by individual member states³⁷ were lodged with the Council Secretariat. On average every member state voiced its reservations 21 times. Again, as the table clearly points out, the overall trend has been confirmed - it is the big "old" member states, along with Sweden, Denmark and the Netherlands which recorded their dissenting voice most often. Out of the new member states only Poland submitted more than the average number of statements -34.³⁸

VII. Case study: anti- dumping measures

The data available in the monthly reports by the Council Secretariat in its monthly reports besides the roll calls concerning legislative acts also record certain votes taken in non-legislative fields (common positions, decisions). In the period between May 2004 until April 2007, the results of 91 votes on non-legislative measures were made public by the Council. We have decided to look at one, coherent category of those votes, namely the decisions concerning trade policy (mostly Council regulations concerning anti-dumping measures and countervailing duties). In the said period the Council made public the voting on 51 of such occasions.

Table 5 - Contested voting in the Council of Ministers three years immediately after the enlargement - (05.2004-04.2007) - 51 non legislative trade measures (roll-calls made public)

	Member state	No of contested decisions	Against	Abstentions
1	Sweden	25	22	3
2	Denmark	24	18	6
2	Netherlands	24	18	6

4	Finland	21	14	7
5	Estonia	20	12	8
6	Great Britain	18	12	6
7	Latvia	13	9	4
8	Poland	13	4	9
9	Czech Republic	12	3	9
10	Italy	10	4	6
11	Lithuania	9	7	2
12	Greece	9	4	5
13	Germany	9	3	6
14	Portugal	8	5	3
15	Slovenia	7	2	5
16	Spain	6	4	2
17	France	6	3	3
18	Slovakia	6	2	4
19	Belgium	4	4	0
20	Austria	4	1	3
21	Hungary	3	1	2
22	Malta	3	0	3
23	Ireland	2	1	1
24	Cyprus	1	0	1
25	Luxembourg	0	0	0
	Total	256	153	103

The table shows that on average every member state voted against the trade decisions concerning the imposition or lifting of the anti-dumping measures and countervailing

duties 6 times. The patterns of voting concerning trade measures differ somewhat from the legislative decisions. The majority of those decisions concern the imposition of anti-dumping duties on third countries. In general the more free-market friendly member states tend to vote against them, or abstain, hence the order of the list. The member states which are generally against protectionism – the Scandinavian countries, the Baltic States, UK, the Netherlands usually vote together against the imposition of duties on countries such as China, Korea or Japan.³⁹ Such group is usually supported by Poland when it comes to anti-dumping duties concerning Russia, Belarus or Ukraine. As we can see the division here is clearly political and has little to do with enlargement. Out of the new member states only the Baltic States vote against the majority more often than average.

VII. Qualitative characteristic of decision making after enlargement

Even if the effectiveness of the decision-making process is similar in qualitative terms and the contestation remains constant does that mean that there enlargement has not influenced the dynamics of the Council? Of course it has. Meetings have become more difficult, more complex and time consuming. Member states have less knowledge about each others' positions. Almost all observers agree that formal decision-making is more bureaucratized and enjoys less political input, as ministerial meetings lose relevance⁴⁰ and more and more issues are decided on an expert level.⁴¹ At the same time more and more business is conducted in an informal way – in the hallways or between the sessions or outside of the Council premises. Many important decisions have to be pre-cooked in other settings – sometimes even being back-shifted to capitals or bi and multilateral settings. The panoply of informal meetings, casual gatherings and pre-summits is ever increasing. “In short while enlargement has contributed to a formalization of the official meetings, it has also contributed to an informalization of the decision-making process as a whole”.⁴²

In this context we also have to face the problem of legislative quality. As more diverse interests have to be accommodated legislation tends to be longer⁴³ more complicated and less ambitious. After enlargement, in the co-decision procedure more and more dossiers are concluded in the first reading. Package deals hastily amalgamating amendments from both the European Parliament and the Council are hardly condu-

cive to great quality, let alone clarity, of adopted legislation. Some researchers go as far as to claim that after enlargement EU tends to increasingly decide on marginal issues.

Paradoxically and somewhat counterintuitively, enlargement did not lead to strengthening of the intergovernmental streak in the Council. The greater number of new, inexperienced member states which quite often lack confidence leads to the greater empowerment of the supranational actors – the Commission and the Council Secretariat. The officials from new member states, who quite often lack clear instructions from home tend to follow the compromise prepared by the Commission or negotiated by the Presidency more often than the others. All in all, after few initial hick-ups, the officials from new member states very rarely endanger the consensus reflex, even in such conscientious fields as CFSP or budgetary negotiations. They do present their instructions in a less aggressive and consistent manner and show a great degree of pragmatism when they negotiate⁴⁴.

The new studies⁴⁵ also show that the new member states are slowly becoming desirable coalition partners, aligning themselves with the old Fifteen. Naurin and Lindahl after conducting interviews with representatives of member states working in Council working groups reached interesting conclusions. Their research clearly demonstrates that Poland (ranked 10th), but also Czech Republic (11), Estonia (12), Hungary (13), Lithuania (14) Slovakia (16) and Latvia (17) have more networking capital (in other words, are assessed as more desirable coalition partners) than some of the older member states of pivotal importance such as Belgium (19) or Austria (20). Contrary to many predictions, Naurin and Lindahl also prove that the new member states tend to cooperate more often with the richer Northern member states than with the poorer -Southern ones.

When it comes to predicting the future two trends should be mentioned. Firstly, all of the spatial analyses of coalition formation point out that the North-South divide is the only cleavage which is repeatedly manifested in the Council. The Northerners tend to oppose the solutions which have an excessively regulatory flavour to them and support the market-based orientations. Most new member states would fall into this category (with possible exceptions of Malta and Cyprus)⁴⁶ and could be expected to be against too much regulation.⁴⁷ The number of ‘free-marketers’ in the enlarged Union,

however, is such that it seems they will no longer be relegated to small minority forced to abstain or vote against decisions. Secondly, the roll-call data seems to suggest that net-receivers are in general less likely to contest the majority.

VIII. Conclusions

The question was asked whether the 'big bang' enlargement of 2004 would have a serious impact on the Council decision-making system. Most importantly, whether the effectiveness of the whole system would be impaired? It was also unclear whether the accession of the new member states would change the consensus-seeking nature of Council deliberations. The last five years brought a negative answer to both questions. After enlargement the EU legislates roughly with the same pace which shows that decision-making has not become more difficult.⁴⁸ The voting patterns remain very similar and it seems that the new member states are not predisposed to change the way in which business is conducted in the EU.

The key thing is that contrary to widely held beliefs, as proved by the most recent studies, the existing decision-making system has worked without any major disruptions. Both observers and practitioners generally agree that any possible problems related to decision making in the enlargement context are caused by the sheer number of member states rather than by the peculiarity of the new member states or the Nice system of weighted votes.⁴⁹ Some of those who take part in the Council meetings even say that, paradoxically, after the enlargement it is easier to make decisions – it is because member states often tend to give up giving long and fruitless presentations of their positions for the sake of finding real solutions to problems.

Regardless of objective differences the new member states do not contest Council decision-making more often than the old ones⁵⁰. After enlargement there is no systematic evidence of old and new member states voting together, just as there is no clear behavioural distinction between older and newer member states.⁵¹ The voting behaviour may of course change, however, with the passing time, through the process of socialisation, the new member states are bound to be progressively more and more acculturated to the norms of Council decision-making. Even though the ability to do effective package-deals comes with time, it seems that the new member states are quickly learning the rules of the game. Even if not everything is perfect and the qual-

ity of the legislative output has been somewhat impaired by the last enlargement, it still remains the fact that the EU decision-making system has proved a remarkable ability to adjust itself to changing circumstances.

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¹ Hayes-Renshaw, Van Aken, Wallace 2006.

² In order to establish the policy alternative initially favoured by decision-makers expert interviews seem to be the most reliable method.

³ See Sullivan & Selck, 2007: 1152.

⁴ Some researchers say that it would be more revealing to analyse also the earlier legislative stages, some of which are accessible through PreLex database [see Hagemann 2007]. There are problems, however, with PreLex and CELEX. Both databases are missing information for some important variables, such as the voting rule, the legislative procedure or most often the voting records. Moreover, PreLex and CELEX sometimes miss the most conscientious data. Quite often the Council Secretariat staff does not allow for the results of the vote on the most difficult issues to be recorded for the fear that it would have a negative impact on the final decision. Sometimes even the unresolved questions are marked as A items in order to exert pressure on the most recalcitrant states [interviews with the Council Secretariat officials, May 2007]. What is most often classified - is precisely the agendas of these Council meetings which cover the most difficult issues.

⁵ See for example: Lewis, 1998; Sannerstedt, 2005.

⁶ See for example: Kirchner, 1992: 5-6; Wessels, 1991: 145-148.

⁷ See: Sherrington, 2000:65-66.

⁸ Peterson & Bomberg, 1999:58.

⁹ Hayes-Renshaw & Wallace, 1997:55.

¹⁰ See: for example Hosli, 1999b:372.

¹¹ Sometimes for years, see the example of the 1993 working time directive, described by Lewis [2003: 115-120], where even though there was a clear majority in favour of the decision as early as 1991 the negotiations continued for nearly another 2 years to accommodate the British reservations.

¹² Sannerstedt, 2005:103.

¹³ Lewis [2000: 261.

¹⁴ This phenomenon is sometimes even captured in formal modelling, see: de Mesquita & Stockman, 1994: 105-127.

¹⁵ See for example: Heisenberg, 2005: 69; Zimmer& Schneider & Dobbins, 2005:418, Hosli,1999b:372.

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- ¹⁶ Including the years 1996-2000 as researched by D.Heisenberg (2005).
- ¹⁷ Even though at the beginning of the Nineties the Council was taking much more decisions, for example in 1994 - 261decisions were taken, out of which roughly 15% were contested (Hosli, 1999).
- ¹⁸ The largest number of decisions taken with the smallest percentage of decisions contested.
- ¹⁹ Progressively co-decision is also being introduced in a completely new area, namely Justice and Home Affairs, where the legislative activity is more and more robust (15 new J&HA measures in 2006).
- ²⁰ Settembri 2007:21.
- ²¹ Best & Settembri 2007:20, Hagemann & De Clerck-Sachsse: 34-35.
- ²² The data concerning the negative votes from the years 1993- 1999 confirms these findings – with Sweden, Germany, UK, Italy, Netherlands and Denmark most often voting against legislative decisions [Hosli, 1999; Mattilla & Lane 2001].
- ²³ Although here the case of Italy presents us with an anomaly.
- ²⁴ Also compare: Zimmer& Schneider & Dobbins [2005:414].
- ²⁵ The behaviour in the Council also seems to be positively correlated with the EU law implementation record.
- ²⁶ See for example: Hayes Renshaw & Van Aken & Wallace, 2006: 171.
- ²⁷ Maurer, 2003: 117.
- ²⁸ The Dutch specificity is best described by Hosli (1999a).
- ²⁹ Eliasson, 2006:254. However, recent studies [Lewis 2008: 176-178] prove that even the Swedish government was progressively socialized by the European context.
- ³⁰ Term coined by Selck & Kuipers, 2005.
- ³¹ With an exception of Spain, after the change of government the Socialists started conducting a completely different European policy.
- ³² Only Greece has moved to the top of the table.
- ³³ With the Peasant Party (PSL) as a minority coalition partner.
- ³⁴ Signalling a problem which has resurfaced again as one of the bones of contention between Poland and the EU in September/October 2007.
- ³⁵ A long period of tariff suspension for imports of LDC screens (5 years) is, in the opinion of the Polish government, harmful to the producers of such modules. Poland agrees the philosophy of tariff suspension, but only concerning semi-processed components which are not manufactured in the EU. Since two of the biggest producers (SHARP and Phillips) are located in Poland, the government decided to abstain from the decision.
- ³⁶ A great majority of those statements are of negative nature, statements voicing support for a given measure have been excluded from the table.
- ³⁷ The number of actual statements is less than 200, because some of them were signed jointly by 2,3 or even more member states.
- ³⁸ Although it should be pointed out that as time progresses Poland is submitting its reservations more often, 12 out of 17 in 2006 alone.
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- ³⁹ In most such casus there are 10 to 13 member states voting against or abstaining.
- ⁴⁰ Although that is disputable, F.Hage [2008] claims that, contrary to common wisdom, more decisions are taken on the ministerial than on a technical level.
- ⁴¹ After enlargement there has been a visible trend to have more recourse to comitology.
- ⁴² Lempp 2007: 44.
- ⁴³ Sometimes even 70% longer, Settembri 2007:21.
- ⁴⁴ Juncos & Pomorska 2007: 19, Puia 2007:26-27.
- ⁴⁵ See: Naurin & Lindahl 2007, 2008.
- ⁴⁶ Although there will be a significant difference between, say, Hungary and Estonia.
- ⁴⁷ See also Matilla (2008: 32) and Naurin & Lindahl (2008:77)
- ⁴⁸ Although one has to admit that after Nice treaty entered into force a larger amount of decisions it taken by QMV.
- ⁴⁹ Which was introduced 6 months after enlargement.
- ⁵⁰ See also: Hagemann & De Clerck-Sachse 2007, Best & Settembri 2007, Settembri 2007, Matilla, 2008, Hagemann 2008.
- ⁵¹ Just as predicted by Hayes-Renshaw & Wallace, 2006: 58.

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