The Power of Small States in the European Union: the Case of Finland and the Northern Dimension Policy

Mgr. Lucie Tunkrova, PhD., M.A.

Abstract: All EU Member States strive to use EU leverage in order to have their national and/or regional interests implemented in the international arena, but it is particularly important to small Member States, which observe the potential to increase their power internationally. The Northern Dimension Initiative (NDI) is a rather illustrative example of how small states can successfully utilise their coalition potential for pursuing a policy that they consider part of their key national interest. This paper discusses the process of the formation of the policy with special attention paid to the notable role that Finland, supported by the other Nordic countries, played in its institutionalisation and revitalisation in 2006. It concludes with a discussion of sub-regional cooperation as a means of increasing small state influence in an enlarged European Union arguing that Central European countries have a good potential for forming sub-regional cooperation in the future if several requirements are met.

Keywords: Northern dimension, European Union, Nordic countries, Finland, national interest, small states, sub-regional integration, V4

Introduction

All EU Member States strive to use EU leverage in order to have their national and/or regional interests implemented in the international arena, but it is particu-
larly important to small Member States, which observe the potential to increase their power internationally. Acting solely as independent states would leave them with a much smaller possibility of promoting their interests. The Nordic countries have repeatedly attempted to jointly pursue their foreign policy preferences in the EU. Their main objectives have been to influence the outcome of EU foreign policy in line with what is considered the Nordic common interest (Herolf 2000: 132). The Nordic countries represent a very successful example of sub-regional cooperation that “spilled-over” onto the EU level. Their level of collaboration inside and outside the EU could serve as an example to most EU Member States, mainly the newer members, which still struggle with identifying and promoting their national interests in the EU.

The Northern Dimension (ND) is a rather illustrative example of how small states can successfully utilise their coalition potential for pursuing a policy that they consider part of their key national interests. The Initiative was introduced at an international conference, The Barents Region Today, in Finnish Lapland in September 1997. The then Finnish Prime Minister Paavo Lipponen subsequently managed to establish the issue of European relations with its northern neighbours on the EU agenda. It was the first political initiative of Finland as a EU Member State. The policy was presented as an official EU policy in Cologne in June 1999. Finland held the EU presidency in the second half of 1999 and presided at the meeting of the EU and “partner” countries’ foreign ministers in Helsinki in November 1999. The European Commission requested there be an elaboration of an Action programme that was finished during the Portuguese presidency of the EU and presented to the Member States in June 2000.

The progress of events could indicate an example of a successful agenda-setting process at the EU level. However, a policy must not only be put on the EU agenda and adopted in its decision-making process but also implemented. The EU does not have an outstanding record of transforming its external policy decisions into tangible results. It often remains only on paper and unless further promoted by some Member States or EU institutions, its implementation falls far behind the proposed goals. The case of the Northern Dimension was no exception. Following its adoption in 1999, the implementation was rather cumbersome. Despite the lack of progress with the relations with the EU’s new northeast neighbours, the time might have come for a positive change. The issue at stake here, however, is not the success of the ND or its impact on the EU Neighbourhood policy. This paper is more concerned with the issues of sub-regional cooperation and its impact on the successful imposition of policy on the EU agenda and the applicability of this model for the Visegrad countries. The author discusses here the role of small states in the EU with the example of ND with special attention paid to the notable role that Finland, supported by the other Nordic countries, all considered small states, played in its institutionalisation
and revitalisation in 2006. The author concludes with a discussion of sub-regional cooperation in the enlarged European Union arguing that sub-regional cooperation is one of the possible solutions to the problems and challenges arising from the increasingly heterogeneous nature of the European Union.

Small States and European Integration

The role of the small states will steadily rise as the international system witnesses the growing pressure on the substance of sovereignty and big multilateral organisations such as the EU play an increasingly important role (Joenniemi 1998). The original research examining the small states in the process of European integration was concerned mainly with their foreign and security policies. In the 1990s the focus was redirected to the effects of Europeanisation on their public policies. As most EU Member States today are small states (19 out of the 27 Member States have population under 15 million), this body of research has grown in importance. However, with the growing number of small states, their heterogeneity also has increased posing new problems to researchers. Their relatively small population defines the small states in the EU given that the power of the state in the Council of the European Union is determined by the population size, e.g., Sweden and Finland qualify as small states.2

Moosung Lee presents a list of characteristics that define small states. They tend to be open economies due to their dependence on trade resulting from the comparatively small domestic markets. They are also often militarily dependent on others, which in turn generates a preference for civilian power policies and for collective security regimes. As their bargaining power is rather low, they are also more apt to build coalitions and act in a more “flexible, co-operative and informal way” (Lee 2004: 334). The research on coalitions in the Council has shown that large countries tend to be outliers during the voting procedure much more often than small countries. We can find a clear pattern of high level of cooperation among the Nordic countries but also the Netherlands and Austria, much higher than the UK, Germany or France display. This, however, is not caused only by the size of the countries but their domestic tradition of consensus building, even though size should be taken as an important factor here.

The small states have always played an important role since the early days of European integration3 and as their number rises, we need to understand better what their impact on EU policies is. It has often been accepted as a given fact that small states in the EU tend to support strong institutions that would counterbalance the more powerful states in the EU decision-making process. The European Commission has traditionally been viewed as the institution to which the smaller Member States turn.
(see for example Lee, Antola or Steinsdorff) but as the power of the European Parliament has grown, it has increasingly become another arena of intensive work of the small Member States.

Esko Antola asserts, “Institutions offer a reliable forum where small states can gain information on the actions and preferences of other states – large and small. Institutions also give small countries an opportunity to influence the compliance of powerful states to joint decisions and rules while emphasizing their own input in common projects” (Antola n.d.). Small states will have a stronger voice as long as they can present innovative initiatives that – which is crucial – will be presented as in the interest of all states/actors involved (Arter 1999). Thus, the Commission as the agenda-setter in the EU served as a natural target of small states’ attention. On the other hand, the growth of intergovernmentalism in recent years favours the Council in the decision-making process, which would also explain the fierce battle over the vote re-distribution during the Nice conference in 2000. As the importance of the Council grows, the negotiating abilities of the small states come to the forefront.

Apart from the skills of the diplomats, the size of the country allows them to have a selected and limited number of national interests that they then seek to defend. Silvia von Steinsdorff clearly illustrates it with the example of the Common Agricultural Policy. While for instance France should defend the interests of farmers from the Mediterranean to the north of France including the mountainous regions and her fishermen, “Denmark, for example, only cares about quotas for pork and milk, while Portugal pursues its own interests primarily in the fields of poultry farming, wine-growing and grain production” (Steinsdorff 2007). While small states take decisive positions on these selected issues, they are willing to compromise on others, which makes them good partners – the basic presumption here naturally is that the small states are able to identify their key national interests and are skillful negotiators.

All states have their peculiar characteristics and many of them differ immensely, which makes it difficult to provide a consistent theory of small state behaviour in the EU. Furthermore, it is also important to note that small states do not represent a coherent group in the EU – other variables have to be taken into account, such as their relative wealth, their position in the North-South divide that many scholars identify as one of the key factors in the coalition-building process in the Council, the ideological aspect (both the ideology of the current governments and the country’s position on the supranational-intergovernmental split). Conversely, it can be claimed that small states in the EU share certain features that determine their behaviour, perceptions and expectations on the European level. The relatively limited resources can constrain their potential to affect the EU policies but it does not need to be the case. As Neil Nugent argues, “it is helpful in building into our perceptions and understandings of small states the fact that a state that is small in resource terms may not necessarily be so in influence and power terms” (Nugent 2003).
The EU presidency could serve as an example: smaller EU states give a lot importance to EU presidency, which “helps them to maintain a visible and high profile not only in the every-day practice of the work of the EU, internationally but also domestically… They perform functions of ‘honest-broker’ and procedural leadership” (Antolán  n.d.: n.pag.). Similarly, Steinsdorff argues that the limited resources are to the advantage of the small states that can then participate in most decision-making as quiet witnesses while making advantage of the information they gain access to. If their crucial national interest is not being negotiated, when they are “not perceived as a danger to the interests of the main actors, the representatives of the small states often assume the important role of mediator between the conflicting positions of the large members in difficult situations” (Steinsdorff 2007: n.pag.). Such countries and their leaders then receive recognition and respect that they would not be able to receive in other forums.

Thus, their power multiplies greatly if they mobilize the resources and act as experienced negotiators. Pertti Joenniemi even argues that to be a successful negotiator in the EU, you must be a small state as he says that “small could indeed become a synonym for smart in the post-Cold War era” (Joenniemi, qtd. in Steinsdorff 2007: n.pag.). Even on the more general level, integration can give small states many benefits to enjoy powers they would be deprived of in the international system had they acted alone. Roderick Pace confirms this argument when saying, “small European states have a triple interest in strengthening the process of European integration. Participation in the process is materially beneficial to them, giving them greater weight in influencing policies and shaping events to their advantage and transforming them from otherwise ineffectual actors into potentially influential ones” (Pace 2002: 27). Potentially is the key word here. The Member States must actively seek to reap the benefits of integration.

Another important factor that small states also take into consideration is security concerns. We mentioned above that small states are often militarily dependent on others, which in turn generates preference for civilian power policies and for collective security regimes. This applies to both traditional (such as military attack) and non-traditional security (e.g. environmental hazards, international crime, terrorism) threats. The case of Finland and the Northern Dimension illustrates clearly how a small Member State might attempt to protect and increase its security from perceived future threats both traditional and non-traditional by creating a wider framework of security arrangement.
What is the Northern Dimension?

The beginning of the ND can be traced back to the attempts of the Nordic countries to redefine their position as a region in the new world order after the end of the Cold War. The dissolution of the Soviet Union gave them the possibility to become more actively engaged in the region (Bergman 2006). It was also related to the re-definition of Nordism. For example Ole Wæver proposed in 1992 a transformation of the Nordic region into a Baltic Sea region, which would overpass the East-West division in Cold War times Europe. Such region would compose of countries similar in small size. It would represent a new form of non-state cooperation as opposed to traditional intergovernmental cooperation that defined the Nordic model in the past (Wæver 1992: 98).

The Baltic countries expressed broad support to enhanced cooperation with the Nordic countries as their political and security situation was rather unstable in the early 1990s. They were looking for new definitions of foreign and security policies’ arrangements. Shared identity with the Nordic countries would boost up their identity as sovereign republics (Wæver 1992: 98). Furthermore, both the Nordic and Baltic countries shared the aspiration to reduce the danger of becoming European periphery.

The Nordic Council of Ministers (NMC) initiated the first official coordinated projects in the Baltic States in 1991, when it established information offices and information centres. The next step was the institutionalisation of regular meetings of ministers of Nordic and Baltic countries formerly known as 5+3 and later renamed to Nordic-Baltic 8 (NB8). The NCM also initiated various projects such as the Nordic Industrial Fund; Nordic Financial Group consisting of the Nordic Investment Bank (NIB), the Nordic Environmental Finance Corporation (NEFCO) and the Northern Development Fund (NDF) offering financial services, networking and know-how; the Nordic Project Fund (NPF) that co-finances studies on new market opportunities as part of the assistance to small and medium size enterprises and many more.

Annika Bergman contends that the relationship between the Nordic and Baltic countries was defined by a close connection between national interest and solidarity and that Nordic national interests were framed by cohesion and moral values (Bergman 2006). David Archer supports her arguments. He claims that the participation of Nordic countries in ensuring security of the Baltics was conditioned by a combination of strategic, economic but also ethical and ideological factors (Archer 1999). John O’Brien defines their relationship as a rational calculation of costs and benefits, where both material and security advantages could be expected (O’Brien, cited in Bergman 2006).
The effective rudiment of the ND at the European level was strongly related to the Finnish and Swedish entry into the EU in 1995. Their accession partially diverted the main focus of EU neighbourhood policy from the Mediterranean region (an interest of Spain, France and Italy) and Central Europe (of interest to Germany) to the North. The greatest credit should be paid to Finland whose government actively lobbied in favour of the ND. Concurrently, it could be interpreted as the common effort of the Nordic countries to place and keep Finland, Norway and Sweden on the map of Europe and in the minds of political representatives in the EU and her Member States. Related to the perceived need to make the North more visible in Europe, there was the need to strengthen the already commenced cooperation in providing aid to the Baltics, which was a vital interest of Finland, Norway and Sweden (Neumann 1996: 423, 424).

Some EU Member States first followed the institutionalisation of the EU relationship with its northern neighbours with suspicion, as they feared that it would lead to the transfer of European funds to the North and, thus, harm their interests. They perceived it as satisfaction of the needs of two new Member States and some other actors that had their interest in the North. Nevertheless, it gradually gained the reputation of a supplementary instrument for preparing the Baltics and Poland for EU membership and for further integration of Iceland, Norway and Russia into the wider European institutional architecture (Filtenborg et al. 2002: 397). The major change occurred during the Finnish, Swedish, and Danish EU presidencies in 1999, 2001 and 2002 respectively. The original idea, however, came from Finland, which perceived it as a regional project pursued at the EU level with the help of (not together with) its neighbours and other actors.6

The role of Finland for putting the ND on the EU agenda

The origins of the ND go back to the Cold War and the following sudden and substantial change in the structure of European security that led to significant geographical and economic alterations in the European continent. From the Finnish view, three major factors played a crucial role: the security arrangement in Northern Europe known as Nordic balance was shaken; Finnish membership in the EU gave the country sufficient assurance of its Western identity; and Finland became politically and economically peripheral country standing at the border between democratised and democratising countries in Europe, between affluent and impoverished Europe. Russia’s domestic developments and political and economic instabilities were not as urgent an issue for other EU Member States as for Finland.

In its efforts to put across the ND, Finland endeavoured to “denationalise” the platform by referring to the benefits for the entire Union brought by consolidation
of its external role. The Union would become a key actor in the region improving its image in Russia and strengthening the transatlantic dialogue. The Finnish Prime Minister, Paavo Lipponen, declared in September 1997 that the EU needed a coherent Northern dimension that would support the EU’s active role in the region. It would strengthen the security of its northern border and reduce the immense difference between the EU’s and post communist Russia’s standards of living (Lipponen, qtd. in Arter 2000: 685). The Finnish delegation to the EU also drew attention to the fact that the Northern dimension would support the EU accession process of Poland and the Baltics because it would focus on the support of the new and extension of existing accession programmes that would decrease the total costs of the Initiative (Ojanen 1999: 16–17).

The figure of Paavo Lipponen was crucial for the successful introduction of the Northern dimension onto the EU agenda. He referred to the positive experience with the Barcelona process, lobbied the European Commission, visited Moscow to discuss the issue emphasising the key role of Russia for the successful implementation of the Initiative, and visited USA in June 1997 in order to highlight the Euro Atlantic dimension of the ND. He also lobbied other Nordic countries accentuating the importance of Nordic cooperation for the built-up of the Baltic region as an area of cohesion and a model of growth and stability (Lipponen, qtd. in Arter 2000: 687).

In line with these activities, Paavo Lipponen stated at the Barents Region Today conference in Rovaniemi in 1997: “With the accession of Finland and Sweden, the European Union now extends from the Mediterranean to just a few kilometres from the Barents Sea. The Union has thus acquired a natural ‘northern dimension’. My thesis this morning is: we need a policy for this dimension, too” (Lipponen, qtd. in Dubois 2004: 2). According to Jeroen Dubois, he purposefully mentioned the Mediterranean region, as Lipponen believed that good relations with the countries in southern Europe would ensure the success of the Northern Dimension. He aimed at proving that Finland sheltered the interests of the entire Community and hoped the other Member States would do the same (Dubois 2004).

The Finnish president Martti Ahtisaari and Finnish MPs in the Nordic Council, European Parliament and Council of Regions were also actively employed in the lobbying of the representatives of the other Nordic countries. The Danish and Swedish representatives first perceived the Finnish activity negatively as they felt that Finland sidetracked them without sufficient consultations in the early days of the initiative setting. Sweden perceiving itself as a power in the Nordic region believed that the initiative should have been pre-discussed in the Nordic Council and only then presented to other countries (Arter 2000: 687–688).

Norway supported Finland from the very beginning, which could be attributed to the shared border with Russia. Norway pursued the policy of convincing Europe that it had needed an active policy for northwestern Russia ever since the break-up
of USSR but due to its non-membership in the EU it was restrained in its ability to push its ambitions through to the EU level. The Finnish activity allowed Norway to slowly see its interests promoted at the EU level and supported Finland in the remaining forums in order to provide it with greater leverage in the EU agenda setting process *vis-à-vis* the other actors.

The ND should have also served as the counterbalance but not competition to the Barcelona process for southern and south-eastern neighbours of the EU. Finland attempted to pinpoint that it would not be solely the Nordic countries benefiting from the ND but all Member States and the EU as a whole. Their argument stemmed from the assessment that the EU membership of the Baltic countries would form a potential to build up an economic centre supporting not only entrepreneurship but also political stability.

**The Finnish 2006 EU presidency: perfect timing for a new NDI impetus?**

The Northern Dimension became over time part of the EU neighbourhood policy. When Denmark presented its EU presidency programme in June 2002, the ND was described as part of the EU’s overall strategy towards its eastern neighbours. The Second Action plan for the years 2004 to 2006 referred to the changes related to the accession of the Baltics and EU enlargement in general. It articulated the need to redefine its goals and instruments so that they would reflect the new situation. The close relationship built between the Baltic and Nordic countries did not end with implementation of various common projects and regional cooperation in the Baltic Sea area. In December 2006, a new right-wing Swedish government under Fredrik Reinfeldt (liberal conservative Moderate party) expressed its will to see closer cooperation between Nordic and Baltic countries in the European Union as well. They saw the most natural sphere of cooperation in promoting shared interests regarding Russia but also the future “new” Northern Dimension (Close Nordic Baltic cooperation). This could possibly establish a more customary collaboration between the two in other areas too.

Unlike the Nordic-Baltic cooperation, one can assess the performance of the Second Action programme in strengthening relations with Russia as a limited success – rather very limited. Most was achieved in the area of environmental cooperation, which was established in 2002 and introduced new financial management of environmental issues. The social and health care policy, on the other hand, seemed to exist only on paper despite a secretariat established in Stockholm. The Nordic countries continued their talks on the future of the ND promoting the new and more sophisticated agenda in line with the EU’s Mediterranean policy and the neighbour-
hood policy in general. The EU ministerial meeting in November 2005 decided that the ND should be transformed into a common policy of the EU, Iceland, Norway and Russia. The time-restricted plans would be replaced by a more permanent framework document that should be prepared in the upcoming months under the Finnish presidency. The programme of the Norwegian presidency of the Nordic Council in 2006 also mentioned the ND as a central instrument in promoting collaboration with its closest neighbours. Norway committed itself to further expansion of the ND in 2006 – in cooperation with the Finnish EU presidency (Det Nye Norden 2005).

Finland held the EU presidency in the second half of the year 2006. Its major objective – together with the other Nordic countries – was to ensure an extensive revision of the ND at the brink of the anniversary of its launching 10 years ago and at the end of Second Action plan programme for 2003 to 2006. Finland put this activity in line with its effort to improve and strengthen the relations between Russia and the EU. During its previous – and first – presidency in 1999 it fought to prove that it belonged to the “European family” as a full time and valuable partner, which was reflected in Paavo Lipponen’s high support for European integration and Finland’s active role in the process. This time, however, the situation was different. Finland had a reputation of a small but wealthy and stable partner in the EU. Membership was not a new thing anymore and the Finnish PM Martti Vanhanen was no European visionary but rather a practical politician. The EU membership did not have high support among the Finnish public while the political and economic elites maintained their quite positive stance. The public accepted EU membership but showed more pragmatic than passionate support (Heikkila 2006). The programme of the presidency was equally realistic. Finland announced her will to revive the ND in light of preparing a new framework programme for the ND and EU-Russia relations. The ND programme and relations with Russia had a prominent place on the agenda. The timing was ideal. The question was whether the results would be equally perfect.

The Second Action programme did not include Russia as an equal partner of the ND, which the Finnish representation planned to change in the future. Successful cooperation on the environmental challenges represented one of the key areas to be accentuated in order to pursue this goal. The Finnish presidency was drawing on support from the Nordic Council office in Saint Petersburg, as Minna Hanhijärvi became its head as of September 2006 (New Head 2006). Apart from environmental protection, the Finnish presidency also declared its determination to promote higher levels of cooperation in the energy sector and economic cooperation. Finland’s final goal in the promotion of economic cooperation was a gradual establishment of a free trade area between the EU and Russia.

The first high priority meeting of EU foreign ministers on the issue took place in Lappeenranta in September 2006. In November 2006 during the EU-Russia
summit a separate meeting was organised by the Finnish presidency with leaders of the EU, Russia, Norway and Iceland. As a result of the meeting, the documents for the revised Northern Dimension were issued: the Political Declaration on the Northern Dimension Policy and Framework Document. The Political declaration evoked the guidelines adopted in 2005: it declared as basic principles good neighbourliness, equal partnership, common responsibility and transparency. It proposed the establishment of Northern Dimension Partnership on Transport and Logistics based on the positive experience with Northern Dimension Environmental Partnership (NDEP) and the Northern Dimension Partnership in Public Health and Social Well-being (NDPHS).

The most important resolution adopted was stated in the Framework Document: the ND should be a joint policy run on equal footing by the EU, Russia, Norway and Iceland and not solely an EU policy. This marked an important change in the Plan, which was not to be part of the EU external policies anymore but a common policy of these four equal partners. Not only the countries but also the various Councils, mainly the Baltic and Nordic Councils helped to formulate the policy and its objectives because cross-border cooperation of local and regional authorities was recognized as one of the most thriving tools of the policy. Their experience with grass roots projects provided valuable background for further development of the programme.

The Finnish Presidency could declare success in reforming the ND. It managed to form a permanent setting of the policy and included it into the wider EU-Russia cooperation framework with full participation of Norway and Iceland. In order to ensure continuity, a permanent steering group was set up and the declaration included tangible proposals for future extension of the activities (transport and logistics).

The Finnish initiative was to be further followed up by the Finnish presidency of the Nordic Council in 2007 under the leadership of Erkki Tuomioja as the new president of the Nordic Council. Finland was planning to utilise the situation to bind European integration and Nordic cooperation still more. Already in January 2007 the Finnish presidency organised in the framework of Northern Dimension a conference including the EU, Norway and Russia, where environmental issues and climate change stood high on the agenda. In the same month, Finland also hosted a seminar for the Border Regional Project Baltic Euro regional Network (BEN), which discussed the possibilities of the regions to turn the reformed NDI into reality. The BEN has recently been extended to BEN-EAST to include Russia and Belarus.

The reform of the NDI can be considered a success – on paper. Much remains to be seen how the proposals would be translated into real projects and how these projects would attain their goals. The two main documents remain rather vague. The inclusion of the regional Councils and the non-EU Member States in the decision-making and implementation processes highly increases the chances of success – compared to the original set-up of the policy.
Sub-regional integration: a new model for the future?

The example of the Northern Dimension and the cooperation of Nordic countries in promoting and implementing national interests on the sub-regional level show that small EU Member States can affect the agenda-setting process and the final outcome of European integration. Even a state with a relatively small number of votes in the Council can determine EU legislation. As European law is superior to national law, once adopted, the legislation is implemented in all EU Member States. The power of the state multiplies in this process. On the other hand, none of the EU Member States is protected from the opposite impact of integration.

The Nordic example is, however, specific. The countries have a decades-long tradition of cooperation where formal and informal links have been established and later “exported” to the European Union. Research has shown that in the Council and the Coreper, officials from these countries tend to contact their Nordic counterparts before the other Member States. The ND example also shows that there needs to be one country promoting the objective while securing the interests of the entire sub-region and support of the other countries in the area. Furthermore, it has to be a permanent factor of the national interest of all countries in the sub-region so that the policy can develop further and accommodate to the changes. A link of other formal and informal initiatives needs to be set up in order to provide for the grass-root experience and feedback.

With the accession of new states and the growing heterogeneity of the EU together with deepening economic and political integration, sub-regional cooperation gains more importance. Moving away from the concept of concentric circles, the model of the Olympic rings receives increasing attention. In this model, the sub-regions of the EU are seen as circles that are not based on the nation state basis but are all connected and partially overlapping like the five Olympic rings. The issue here is simple – if states in the EU learn to cooperate with other countries in promoting their national interests, the agenda setting and decision making processes could become more transparent and the countries could more easily promote their national interests in a heterogeneous EU of 27 Member States while securing the interests of the Community. For the countries of Central Europe such a notion is particularly appealing. Small Member States can successfully manage their roles in promoting their national interests and further integration if they focus on key issues and join existing blocs or form their own. Their relatively low political power forces them to actively seek practical and stable partnerships. During their learning process, they discover which countries share similar positions in individual policies. Then, they must develop sensitivity to compromise in key areas.

When looking at the case of Central European countries, we could easily see them as having a good potential for forming sub-regional cooperation modes in order to
multiply their power in the EU. They are approximately the same size (except for Poland), they entered the EU at the same time, share many economical, social and political challenges, and have a tradition of cooperation through the Visegrad group (V4). The potential can be unleashed only if several negative factors are eliminated or stabilised: the frequent changes in government and presence of political parties that aim at promoting their particular interests at any cost lower the chances of finding a working compromise. The lack of knowledge of how the EU environment works, partly caused by the short history of membership and to a degree by the frequent government changes that often lead to changes in ministerial posts and the bureaucracy, the tendency to use the EU arena for domestic political battles, thus, fail to build a reputation as trustworthy partners and mediators. The rather bad record of the sub-regional integration that was mostly forced on the countries by the EU and never found wide public or elite support, and the tendency of Poland to impose its leadership on the group keeps the V4 from achieving its full potential.

One possible policy where the cooperation could be tested is the Eastern dimension (ED) proposed by Poland and endorsed by all V4. There is, however, a long way from declarations to actions as we have witnessed many times before. Already during the accession negotiations the statements on V4 coordinated activities remained largely on paper and the countries were often trying to achieve their goals by climbing up their neighbours’ backs. Competition and suspicion have up until now defined their relations better than cooperation and trust not only in political terms but also economically as the Visegrad partners perceive each other as economic competition for FDI and EU assistance as well. The countries are ill with cynicism, lack of self-confidence and pessimism, which hinders the full development of their civil societies, and consequently, the sub-regional development of contacts and cooperation based on civil society dialogue.

Central Europe could become one of the EU Olympic rings if, as Ferenc Miszlivetz argues, it is (re)invented. The efforts to “invent” Central Europe should include more than the cooperation of the elites, it should be built of cooperation between “cities, open institutions, universities and research centers” (Miszlivetz 2006) and the success of these efforts would help to promote the final transition from post-communist states to modern democracies. This cooperation already exists but must be reinforced and dynamically promoted on political, economic, social and cultural levels. The general public should see it not only as a continuation of the path initiated in the 1990s but also as a material and strategic benefit of stronger economic ties and security advantages. Defining the set of shared values to be promoted in the EU but also outside of it could provide the building bloc for the redefined – or “reinvented” Central Europe in the enlarged EU and the globalising world.

The countries of Central and Eastern Europe have a prospective to create a framework similar to that of the Nordic countries even though on quite a different basis.
They lack the history of cooperation and the network of collaboration settings, but they could provide information peculiar to the region and use EU institutional opportunities to put their needs on the table. If they learn how to act strategically, they can create an advantage for themselves that the large states do not have. For that the key step is to formulate the vital issues to promote – both on the national and sub-regional basis and revitalise sub-regional cooperation that is fundamental for undertaking most of the grass-roots activities. We cannot, however, expect a robust development in any near future. There are still too many legacies of distrust, images of old enemies, bad habits, language barriers and “opposing interests of their operating authorities, […] derelict infrastructure and the backwardness characteristic of peripheries” (Miszlivetz). The countries must overcome the negative past and formulate – or should we say construct – some shared values as a basis of solidarity and their identity. The experience with membership could provide sufficient memory to seek partners and to realise that our very neighbour can quite often be our best friend. More than simply perceived as value added, strengthened cooperation among the Visegrad countries should be viewed as a must if the countries are to fully enjoy the benefits of EU membership. Andrey Makarychev notes that sub-regional cooperation starts with the presentation of ideas and a public debate, which allows for the emergence of common values (Makarychev 2004: 301). The next step is then the formulation of the goals and their active promotion by the concerned actors. The example of the round of seminars on the V4 and the ED commenced in 2006 shows that the first steps have been taken. Hopefully, more will follow in the foreseeable future.

Conclusion

The ND is an example of a successful agenda setting activity and active building of coalition in the EU. The Nordic countries have played a key role in the process of establishment and implementation of the EU Northern dimension. They have substantially contributed to its development and attempt to outline clear directions for its future shape. All Nordic countries that are members of the EU realise that they can better pursue their goals together and with the EU than as individual countries or even exclusively as the Nordic bloc. That is particularly valid for their relations with Russia (Antola 1998: 159, 163).

The country that has mostly contributed to the introduction of the ND on the EU agenda was Finland. Finland’s strategy proved to be beneficial as Finnish representatives actively lobbied both member and non-member states of the EU and regularly accentuated the importance of the Northern Dimension for the future of European integration and its connection to other EU policies. After receiving sup-
port of the Nordics, the group jointly followed with previous Finnish activities and cooperated in putting the proposal through during Council negotiations, in gaining support for its adoption and for its subsequent implementation including sufficient financing for its individual goals.

Despite its successful adoption, one has to look at its prospects of further development in the future as its potential will be materialised only if there is continuous support of and cooperation with EU institutions and Member States to continue in its implementation. The EU decision-making process is – despite the efforts to rationalise it – rather slow machinery that in the implementation of laid-out objectives often falls behind the official rhetoric. It is characterised rather by empty declarations on the “successful pursuit of the policy despite some setbacks that would be targeted in the future” than concrete steps ensuring its meaningful endurance.

We have seen that European integration might expand the power of small states if certain conditions are met. The small Member States should not only have a limited set of key national interests but also sufficient negotiating skills and understanding of the political environment in the EU. One of the possible ways to increase their power is through building coalitions with other EU Member States. Especially new EU Member States generally look for partners first among countries, with which they share some history of cooperation from the past. Thus, despite some original claims, European integration does not necessarily destroy sub-regional cooperation; it can on the contrary revive it by providing new issues and arenas. Sub-regional cooperation should not lead to building permanent inflexible coalitions and voting blocs in the EU. Its main objectives should provide easier orientation in the broad network of structures and processes of European integration, make its operation more transparent for the national governments and their citizens at the time when the number of Member States has grown substantially and as a result also the heterogeneity of interests in the EU. Its much desired side-effect could then be a reduction in the democratic deficit led from the bottom-up. The small Nordic countries managed in the case of the Northern Dimension to promote their national interest but also to redefine their position in regional affairs and strengthen their identity in the globalising world.

Notes
(Endnotes)

1 As the process of European integration is known as one of regional cooperation, the collaboration of groups of Member States will be referred to in this paper as “sub-region”.

2 Alternatively, the literature on small states in international relations also examines the area and gross domestic product. A state can be small in population but large in area and wealth such as Norway (has total area slightly
larger than Germany and second highest GDP per capita among OECD countries, 65% higher than the average) or small in area and population but economically strong, for example Luxembourg (wealthiest of all OECD countries).

Already the nucleus of European integration could be traced back to the Benelux customs union and understood as “the attempt to protect the relatively small neighbouring neighbouring states from a possible new quest for hegemony by the relatively large Federal Republic of Germany” (Steinsdorff 2007).

NDI became part of a research study called Alternatives of Finnish Nordic Policy for the years 1996–1999 elaborated by the Arctic Centre of Lapland under the supervision of Lasse Heininen. The research question was: “How active does Finland want to be in forming the EU policies?” One example of such successful implementation of new financial management was the construction of a sewage plant in Saimaa Petersburg in autumn 2005 that represented a substantial relief for the Baltic Sea region (Heikkila 2006).

References


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History in Europeanisation Studies: Lessons from Switzerland

Tamara Ehs

Abstract: The Swiss experience with Europeanisation is still often ignored, though it could be helpful in conceptualising this quite new field of study. A more open definition permitting scrutiny of the antecedents of the EU and a functional approach leaving aside questions of formal membership will contribute to a better understanding of differentiated integration, a trend that will continue. The Swiss example supports the case for the inclusion of historical aspects in Europeanisation analysis since it reminds us that Europeanisation is not merely a contemporary, Brussels-based phenomenon and that we should not neglect non-member states or the pre-membership history of current member states. Given the uncertain future of further EU-enlargement there may be more states Europeanised on a functional level without participating in the institutions – as is already the case in Switzerland.

Key words: Switzerland – Europeanisation – History – Functionalism – Differentiated Integration

Introduction

Europeanisation did not start with the European Union. Numerous rapprochements and organisations pre-dated the Treaty of Maastricht, yet many visions of a European order dating back to 1952 or even earlier included countries that are still
not EU members and probably never will be, e.g., Turkey or Russia. In particular, the tentative involvement of one country in the early days of European integration, its reasons for rejecting formal participation in the ongoing process and its current incremental way back to the European mainstream offer insights into the hegemonic power of European unification: The example of Switzerland sheds light on the manifold paths to European integration (including differentiated integration and functional Europeanisation) and on the impact the choices made at each crossroads had and has for the countries of Europe. Switzerland today may be in the slow lane but is still effected by what happens on the European highway.

In the author’s following defence of the inclusion of the Swiss decades-long experience in Europeanisation studies the author primarily refers to O’Leary (1987) and Featherstone (1998). In their respective studies they used ‘Europeanisation’ as a functional term to describe the process of modernisation caused by a unifying Europe. Europeanisation is equated with bringing countries (back) into the European mainstream, with assimilation (which also connects to the horizontal pattern of Europeanisation) and normalisation.

Still an Overlooked Case?

Political Science has finally extended its scope beyond the dynamics of the European institution-building process and is now analysing the impact of European integration on the political processes of the individual member states by adapting Gourevitch’s (1978) famous call to conduct more research on how the international system affects domestic politics (‘second image reversed’-approach). Nevertheless, the concentration on formal institutional aspects of member positions meant that the bigger picture was obscured when just dealing with the single member states and their adaptation to the European Union. Therefore a broader conceptualisation of Europeanisation now allows for the inclusion of non-member states (if they are at least candidate states). Nonetheless, researchers still restrict themselves to contemporary developments and changes at the national level when describing an “…incremental process re-orienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organisational logic of national politics and policy-making” (Ladrech 1994: 69). More exhaustive studies explicitly concerned with establishing a general research agenda for relating Europeanisation to domestic politics, policies and polities, for the most part, analyse the EU-related re-orientation of institutions and structures (Kohler-Koch 1998; Green Cowles et al. 2000). Similarly, Radaelli (2000: 27), in his promising attempt to re-define Europeanisation for political scientists overlooked the fact that Europeanisation is not merely a Brussels-based phenomenon. Recently, Lehmkuhl (2007: 349) highlighted...
some outstanding questions for future research and even came out in support of a broader perspective, while at the same time stating that “Europeanisation has not – yet? – accomplished the move from conceptual issue to theory” and that theoretically richer related concepts would have analytical advantages. Buller and Gamble (2002), however, advocated a definition of Europeanisation as a living concept that evolves over time and allows for alterations – which may imply some openness to functional as well as historical approaches in the ongoing theorisation process.

In sum, although there is some discussion on the geographical limits of Europeanisation, the aspect of functional Europeanisation in a historical context has, so far, largely been ignored. But in order to understand the European project and the extent of Europeanisation when facing a future of even more differentiated integration, one has to take into account that EU-related decisions taken at the national level by member states and non-member states are also shaped by historical experiences with unifying Europe and by domestic legacies. This idea was initially propounded by Olsen (1992) and taken up again by Gstöhl (2002) who offered perceptive insights into Swiss-EU relations across five decades as did Dupont and Sciarini (2001) who outlined the historical background, while not dealing explicitly with the concept of Europeanisation. Most recently Church (2007) also took historical aspects into consideration, but only as background information rather than analysing the long tradition of Swiss functional Europeanisation, as this article seeks to do.

Kux (1998) analysed first that it is domestic institutional logic rather than formal membership, which are conducive to processes of adaptation in Switzerland and thereby challenged the importance of formal membership within Europeanisation studies with a lasting effect. If “the adjustments made at the national level […] in order to accommodate new situations” (Hanf and Soetendorp 1998: 2) were taken as the main criterion to define the process, Switzerland was at least subsumed under the term “indirect Europeanisation” (ibid: 5). Yet, pigeonholing Switzerland as only indirectly Europeanised overlooks the fact that direct Europeanisation also affects the country as a result of straightforward transmission mechanisms deriving from bilateral contracts between Switzerland and the EU, as pointed out by Fischer, Nicolet and Sciarini (2004).

Although it is largely recognised by now that Switzerland is very much subject to Europeanisation, when leaving behind the until recently prevailing mainstream definition to restrict the notion of Europeanisation to changes in the relations of the union to its member states (or even the “de jure transfer of sovereignty to the EU level” [Lawton 1999: 91]), the historical aspects of Europeanisation have thus far been ignored. But the example of Switzerland should make us think of reviving more open concepts as elaborated for instance by Olsen (1992) or Featherstone (1998), who called for the geographical and historical extension of Europeanisation.
studies already in the early years of this field of research respectively still argue for keeping definitions parsimonious (Olsen 2002). Because among the European non-EU members there are indeed many intermediate stages and patterns of integration, which proves that the concept of membership is no more a clear-cut issue than the concept of Europeanisation itself: Switzerland in particular displays an unexpectedly high level of adjustment to EU-regulations, almost approaching that of member states (Mach et al. 2003). In some aspects the country is even more “EUropean” than official members, because Switzerland has signed the Schengen/Dublin Agreement that will be operative at the end of 2008 while ‘true’ EU-member states like the UK or Ireland do not fully take part. Generally, the country has to come to terms with an evolving polity that is re-defining its political activity and already imposing constraints on the cherished and proverbial ‘Swiss liberty,’ i.e. independence, that is a significant component of Swiss identity. Bern eagerly sought to harmonise national legislation to bring it into line with the *acquis communautaire* and therefore negotiated a set of bilateral agreements, because – contrary to the idealised picture painted by EU-opponents – Switzerland was not faring so well outside the European Union. The country faced recession, rising unemployment, and a growing distrust of authority and institutions in the same way as did its neighbours (Church 1996).

When focusing on the Swiss case in this article, the author will argue in favour of not restricting the notion ‘Europeanisation’ to the structures and the timeframe of the European Union. Taking into account Harmens’s and Wilson’s (2000: 20) remark that “Europeanisation reminds us of the need for sustaining the study of the EU as an integral part of a broader, interdisciplinary European Studies, which is as interested in the issues of culture and identity as it is in economic integration and political union,” This paper will extend the notion to the historical process of European integration and look back at the antecedents of 1992. The author intends to show that, concerning Europeanisation, Switzerland is overall less distinctive than commonly assumed. The country has a long history of affecting and being affected by the idea and later by the fact of European integration. Switzerland and the history of its evolving relationship with the project of European unification exemplify the historical and present-day relations every European country has with the EU – even if not a member. Or in Church’s words, “(L)ike it or hate it, relations with the European Union are an unavoidable issue for all European countries. Whether members or not, this is one of the key elements in their political agenda” (1996: 17). The Swiss case highlights the fact that Europeanisation neither was nor is a one-way process but a history of “upload” and “download” (Börzel 2002). Initial consideration of participation in European integration and the country’s subsequent retraction not only impacted on Switzerland but also on the EC and shaped both their structures and policies. Today it seems as if Switzerland’s adaptation is only a reaction, “adjusting to European rules without being able to share in making them” (Church 2000b:
But Switzerland’s refusal to join the union shapes some of the most important EU policies as responses to this refusal, for instance the trans-European transport networks. Consequently, the bilateral agreements of recent years do not only represent Switzerland’s interests and reflect the need to access European markets. Good relations are also vital to the interests of the EU – notwithstanding the EU’s better bargaining position (Gstöhl 2007).  

**Europeanisation: A Decades-long Experience without Membership**

The very phrase *United States of Europe* was first publicly used in 1848, and the idea of European integration leading to a federal state, with the USA or Switzerland as the role model, was seriously aired thereafter. Although sometimes not very thoroughly studied but rather idealised – as is also the case today – multilingual and bi-confessional Switzerland served as an example for people thinking about a better, peaceful Europe, like Victor Hugo in the 19th or Winston Churchill in the 20th century. Swiss politicians exploited this appreciation from outside to strengthen domestic cohesion among those who were not entirely happy with the new, increasingly centralising Swiss state. They built on a romantic sense of a mission and established a collective national sentiment, supported by the fact that Switzerland had won a reputation as “the country of liberty.” As a consequence, the role of model was gladly accepted, and constitutional proposals for European unification were drafted by Swiss scholars and politicians. After the Franco-Prussian War, Switzerland, an ideal neutral location for meetings, began to open up by hosting international conferences and providing Good Offices in European conflicts. This marked the beginning of the country’s commitment to European affairs. Herren (2000) analysed Swiss internationalism as a way for Switzerland to gain access to power via the backdoor and pointed out the Swiss strategy of ensuring domestic cohesion among linguistic and confessional groups by protecting economic interests without provoking conflict with the big players on its borders. This accounted for the Swiss government’s reluctance to play a more active part in European affairs. These first tentative international initiatives at governmental level and the proposals from prominent actors in politics and civil society – no matter how vague and unworkable they were – are the earliest evidence of the European issue’s impact in Switzerland and herald adjustments at the national level, first and foremost regarding Swiss foreign policy in the 1920s and the redefinition of neutrality towards warring nations.

As the country was situated in a region of belligerents, strict neutrality was the key to survival (Ehs 2005a). Once the League of Nations was established, however, neutrality became less important. So, in 1920 the country’s foreign policy came up
with differential neutrality as a further step towards integrating into the international system. Nevertheless, practice disproved theory: The League failed to prevent war and a return to strict neutrality was the Swiss result. Since then “neutrality has moved from being a tool of policy to a defining and untouchable virtue linked [...] to national cohesion as well as to independence” (Church 2004b: 278). Though official Switzerland regarded the Sonderfall as the only viable way forward, the brushes with the European issue had left their mark: a sense of a Euro-mission and the interests of business people and intellectuals who remained committed to ongoing internationalisation or “Europeanisation.” Already in June 1934, the Europa-Union had been founded in Basle with the aim of promoting the United States of Europe by giving the idea Euro-wide organisational structures. Henceforth, the Swiss engagement in European integration was in the hands of civil society. The country became the hub for intellectuals from all over Europe and many conferences prior to the important Hague Congress of 1948 took place in Switzerland (Ehs 2009).

In spite of the fact that movements like the Europa-Union only promoted vague programmes of European unification, they had a concrete though temporary impact on the Swiss system, accounting for a new trend in civil society. Traditionally, direct democracy offers many opportunities for political involvement, but since the inter-war years, more and more clubs and societies had emerged which were also active on the international stage. They developed para-party structures, which challenged the official, reluctant European policy of Switzerland. Despite such promising activities on the part of the Swiss intellectual elite, the majority of the Swiss populace could not be won over for the idea with a lasting effect. As strict neutrality and steering clear of trouble had proved successful international relations strategies there was no willingness to abandon them for a promising, but still unsettled united Europe. Moreover, the institutionalisation of Europe as started in the 1950s was not federal, not bottom-up, not direct democratic: not Swiss-style. Though contemporary pro-EU movements like the New European Movement Switzerland now draw on the structures and international relations of those inter-war and immediate post-war societies, these groupings had no lasting impact on the Europeanisation of Switzerland at the time. They could not bring about any adjustments to the West European mainstream in times when Sonderfall-thinking became dominant in Swiss foreign policy, and the years from 1920 to 1938 were seen as an abortive attempt to normalise. In fact, the Europeanisation of Switzerland went another way, a very “EUropean” way: economic integration.

Switzerland, a trade-dependent country, integrated into the Western economic system with ease although it continued to subscribe to strict neutrality. From the very beginning it participated in the European Recovery Programme (1947) and in the Organisation for European Economic Co-operation (1948). Economic integration without political participation became the feature of Swiss-European relations...
in the second half of the 20\textsuperscript{th} century (Tanner 1990), which can be seen as the visible expression "of a wider Swiss creed of disengagement from international political involvement" (Church 2004b: 269). Since the European Coal and Steel Community and even more so the European Economic Community were regarded as instruments of political integration and therefore incompatible with neutrality, Switzerland along with six other countries founded the European Free Trade Association as an alternative that would not, in contrast to a customs union, create problems for its three institutional cornerstones: neutrality, direct democracy and federalism. According to the Swiss Federal Council (1960), EFTA membership would not lead to foreign judges\textsuperscript{14} and would leave Swiss independence completely intact – an analysis applicable to formal Europeanisation via EFTA but overlooking functional, indirect Europeanisation. Despite Switzerland’s staying outside, the political momentum of the European Communities caused the country to adapt in various ways, for example the creation of the Integration Office\textsuperscript{15} in connection with the policy shift of the Swiss government in pursuance of an association treaty with the EC\textsuperscript{16} in 1961, and the Free Trade Agreement (FTA) of 1972.

The phenomenon of functional Europeanisation was first drawn to public attention in 1971 by the Swiss Federal Council, which recognised that Switzerland’s interests went beyond trade because of 'the fact that we would be affected to a considerable extent in many other areas by the decisions and developments in the EEC even if we were not to participate in the integration efforts' (Swiss Federal Council 1971: 103). This was confirmed by the Swiss Federation of Commerce and Industry, 'Switzerland’s foreign trade is very heavily dependent on the European markets, which make numerous commentators say that our country was, already, one of the most integrated in Europe' (Junod 1971: 31).

For years economic relations between Bern and Brussels were based on the FTA, amended by several other agreements, so that by 1992 the Swiss had about 190 mainly economic and technical agreements with the EC. Switzerland was drawn into the European issue via the backdoor through her economic relations because the country had to open up to Europe in order to sustain economic growth and prosperity at home. In pursuit of her economic interests Switzerland was forced to adapt directly and indirectly one-step at a time. Even without contractual obligation, the Swiss unilaterally adopted EC-regulations as far as they concerned the market. Furthermore, the Federal Council decided in 1988 that every new law had to be vetted for EC-compatibility and declared:

\ldots the renunciation of accession to the EC has an institutional price, which today undoubtedly carries more weight than in 1972: Switzerland is thereby excluded from the formal EC decision making process, a process by which, on the other hand, it is more and more affected as a result of the EC enlargements and the extension of EC competencies (Swiss Federal Council 1988: 131).
Taking into account the extent of Europeanisation, the fact that Switzerland faced recession and rising unemployment, and that European integration had become more Swiss-style by introducing the subsidiarity principle, the government decided to accede to the European Economic Area (EEA) and in September 1991 even switched to membership as the priority solution in Swiss-EU relations, thereby corroborating Mattli’s (1999) statement that a country applies for membership after one or more years of growth rates below the average of the member states. But after an emotional campaign the EEA agreement was rejected by public referendum in December 1992, and the EU-application was put on hold.

Since then the Swiss government’s aim has been to obtain equivalent access to the internal market through the negotiation of bilateral sectoral agreements. Access to a market as huge and powerful as the EU has its price, however: the bilateral agreements not only cover additional economic interests but also extend cooperation to the fields of internal security, asylum and other issues that highlight just how far Europeanisation has progressed in Switzerland. Moreover, Europeanisation continues, as is shown by the next areas up for negotiation: In March 2008, the Federal Council adopted a negotiating mandate on free trade in the agricultural and food sector as well as on health care. Additionally, four other areas (emission trading, Galileo, cooperation with EDA and peace keeping operations) are on the agenda.

How Europe Is Instrumental In Bringing About Change (Again)

The present Swiss way of negotiating bilateral sectoral agreements and avoiding formal integration is nothing new in Swiss-European relations. It is the pre-1992 strategy adapted to changed requirements. Switzerland has been concluding sectoral, intergovernmental agreements with unifying Europe since contracting with the ECSC regarding supplies in 1956. Current relations resemble Switzerland’s aborted 1961 attempt “for a form of association with the EEC that would leave neutrality, federalism and direct democracy untouched” (Swiss Federal Council 1962: 281; Zbinden 1992) and the middle course between accession and isolation agreed in 1972. But since the EU has changed from a mere economic area to a political entity, its relations with Switzerland have had to change, too. The gradual intensification of European integration represented a challenge to the political experience of Switzerland since policy areas that had been exclusively in the cantonal domain became subject to European integration, “(f)or the first time in the history of the Swiss federation, non-central governments became involved in international negotiations, which previously had been a prerogative of the central government” (Kux 1998: 169). New layers of politics evolved and upset the federal balance. Moreover, since a constitutional amendment in 1977 which gave people the final say in important for-
eign policy decisions, Swiss EU policy is subject to direct democracy (Kreis 1995) – an aspect of Swiss-EU relations that cannot be overestimated as the European issue is largely responsible for political divisions, especially concerning the rise of the Swiss People's Party (SVP) that is politicising against EU-membership and constantly calling for referenda on EU-issues.

Given its geographical position, Switzerland is deeply enmeshed in EU policies and, due to the country’s extremely export-oriented economy, is quite easily convinced (or, to put it bluntly, blackmailed) by the EU to adapt to its norms. With European integration on the political agenda (again), extra-parliamentary movements, once an active element in the political system, have re-emerged. Resurrecting the Europa-Union, the New European Movement Switzerland was constituted in 1998 by merging a number of pro-European movements. What is different is that most of the newly-established campaigning organisations do not support but oppose EU entry, most strikingly the AUNS, which does not mince its words, exploits emotive issues like the loss of Swiss liberty and portrays itself as the defender of Swiss identity. EU-philes and EU-phobes alike, and to a certain extent also middle-of-the-road EU-sceptics, exploit the European Union in handling Swiss domestic political and cultural conflicts. According to Kux (1998: 179) “the emergence of these para-party structures means that political conflicts can no longer be resolved within the traditional institutions, but are decided at the ballot”, entailing a shift from representative to direct democratic decision-making in European affairs as well as keener competition among the parties and a general polarisation of politics – a decrease in consensus that has meanwhile affected the composition of the magic formula. Europeanisation is exploited by domestic politicians and interest groups to further their goals and thereby accounts for a changed empowerment of actors and a redistribution of power (Green-Cowles 2000: 11) as Switzerland experienced with the SVP’s Christoph Blocher and the afore-mentioned change in the magic formula. As in every other European country – EU member or not – the process of European integration leads to political mobilisation (Sciarini et al. 2002). To avoid further strife among linguistic groups (French cantons are mainly pro EU, German ones oppose it) the government recently withdrew completely from being committed to full EU membership as a long-term objective.

Having withdrawn from a first tentative, transnational movement-based, direct and active involvement in European unification in the 1940s, the Swiss had only sought economic cooperation thereafter, “a very satisfactory relationship with Europe” because “(t)his gave them the economic benefits they needed without demanding clear political commitment” (Church, 1996: 13). Accordingly, the Swiss Integration Office is still under the control of the Departments of Foreign Affairs and of Economic Affairs, which may mirror the wish of the majority to go it alone in all areas except the economy, but which makes life difficult for the government in the
light of advances in European integration. Rapprochements to the EU are sometimes seen as an institutional phasing-in, as integration by stealth, which accounts for the ongoing alienation of the classe politique and the people. Indeed, the European issue has become the crucial divisive factor in Swiss politics and is central to people’s voting decisions in national parliamentary elections as SELECTS (Swiss electoral studies) show. Some already see Swiss social integration at risk. Such alienation is evidence of Europeanisation seen as modernisation or assimilation, as “a process whereby national political elites began to re-conceive of national interests relative to a broader European framework. Europeanisation […] emerged as a modernisation process spearheaded by national political and bureaucratic elites” (Harmsen and Wilson 2000: 21), which only much later percolates down more generally into Swiss society.

Including a historical view in Europeanisation studies allows us to see that Switzerland is not that special concerning Europeanisation, indeed is overall less distinctive than commonly thought. It is the narrowness of the mainstream concept focused on the membership criteria, neglecting a historical and functional approach that makes Switzerland look like an exception when it comes to Europeanisation. But the changes Switzerland is undergoing today are not new; in many respects they are a return to former attempts at adaptation and normalisation in European affairs. The establishment of an Integration Office in 1961 meant reforming the machinery of government as did the opening of a Delegation of the European Commission in 2007, the most recent evidence of normalisation by Europeanisation. Moreover, elite socialisation in European affairs, i.e., elite Europeanisation, is not only furthered by re-orientating the diplomatic service or by new objectives for the army (Ehs 2005b), but also by business people who have to be familiar with Community rules, by Swiss lawyers who now have to be trained in EC law, and by students and academics Europeanised through Switzerland’s participation in European higher education.

Like any other country, Switzerland carries out its domestic adaptation “with national colours” (Green-Cowles et al. 2000: 1): incrementally, deliberately, with special regard for domestic cohesion. Broad consensus takes precedence over accelerated progress in EU relations in order to forestall a referendum challenge. If we maintain that “Swiss ways are not always very open and competitive” as does Church (2002b: 142), “Europeanisation is a way of revitalising them” we might well add and of normalising them, too. The bottom line is that the adjustments made at the Swiss national level in order to accommodate to new situations were and are for the most part directly linked to the advancement of European projects, thus proving the hegemonic power of European unification as it exerts passive pressure to adapt. This has been observed – and exaggerated as well as exploited – by many EU-phobes and contributes to deep-rooted EU-scepticism among the Swiss. It is very likely
that such pressures on Switzerland to Europeanise will become more frequent as the European Union expands and integrates further, which makes Church (2004a: 223) think it feasible that Switzerland “could get sucked in by Europeanisation.”

Moreover, the hegemonic pressure causes the government to adopt a very cautious communication strategy as regards EU-issues, as can be observed at present in the controversy on company-tax breaks:25 Hans-Rudolf Merz, minister of finance, said from the start of this dispute that it would be dishonourable for a sovereign state like Switzerland to negotiate with the EU on tax rules, but promptly announced an autonomous fiscal reform ‘that would fulfil the EU’s requirements’ (NZZ 28/29 April 2007: 33). How ‘autonomous’ is a reform linked to a demand by the European Union, which has the power to suspend negotiations for cooperation in other desired areas? Is it not actually a reform in response to Europeanisation? Or take the in 2009 upcoming voting decision concerning the continuation of the agreement concerning the free movement of persons:26 Practically, the Swiss cannot say ‘No’ since the EU reserves the right to trigger the ‘guillotine clause’, thus putting an end to the whole Bilateral Agreement I (liberalisation and market opening) as its accords are legally linked – a horror vision for Swiss economy.

Conclusion

The Swiss case helps us conceptualise Europeanisation. If we are interested in “whether and how the ongoing process of European integration has changed nation-states, their domestic institutions, and their political cultures” (Green Cowles et al. 2000: 1), we must not neglect non-member states or the pre-membership history of current member states. The depth and structure of Switzerland’s relationship with the unified Europe may be new but the Europeanisation of Switzerland itself is not. The country’s current incremental way back to the European mainstream offers insights into the hegemonic power of European unification. Moreover, the example of Switzerland sheds light on the manifold paths to European integration and on the impact the choices made at each crossroads had and has for the countries of Europe.

Permitting scrutiny of the antecedents of the European Union and a functional approach leaving aside questions of formal membership will also contribute to a better understanding of differentiated integration, a trend that will continue in the future. On the one hand, enlargement has already increased the EU’s heterogeneity and will increase it further, thereby affecting its effectiveness and its very character (Gstähl 2002: 223). On the other hand, there will be more states Europeanised on a functional level – as is already the case in Switzerland – without participating in institutions, Turkey would be a case in point here. Although we have to be methodologically careful concerning the selection of control cases (Haverland 2005) the
Swiss example may remind us “that integration in Europe is a broader and less formal process than some EU specialists assume” (Church 2002a: 15). Being inextricably linked to unified Europe, Switzerland has little alternative but to adapt to Community rules, whereby adaptation is and will be determined by the pace of incremental change in the Swiss system.

Notes
(Endnotes)

1 An earlier version of this article was presented at the EUSA 10th Biennial Conference in Montréal in May 2007, where I received most helpful comments from Jonathan Davidson and Melvin R. Schlein. I am also very grateful to all who commented on this paper, in particular I thank Thomas Brückner and two anonymous reviewers. Moreover, I thank the Austrian Federal Ministry for Science and Research (BMWF) and the Austrian Political Science Association (AUPSA) for their support.

2 Such a perspective only seemed ripe for investigation in recent years. We can now observe a growing number of studies dedicated to the impact of European integration at the national level and a race to theorise Europeanisation; see e.g. Börzel (2001), Knill (2001) and Graziano and Vink (2007).

3 Cf. to studies concerned with Europeanisation in post-communist countries (Henderson 1999; Schimmelfennig and Sedelmeier 2005; Mansfeldová, Sparschuh and Wenninger 2005).

4 This is a problem concerning the developing research agenda that is also pointed out by Graziano and Vink (2007: 11) in their comprehensive overview of Europeanisation research, deploring that ‘it seems that the concept of Europeanization is monopolized by scholars of the unification process between the member states of the European Union, and concentrates on adaptations to Brussels.’ – That’s why Radaelli (2003: 27) preferred to speak of ‘EU-isation’ and Kohler-Koch (2000: 21) used the term ‘EU-Europäisierung’ when the general notion ‘European’ became subject to change and was appropriated by the EU. Vink (2003: 65) points out that politically unified Europe does not just consist of the EU but also of institutions such as the OSCE, EFTA or the Council of Europe.

5 See e.g. Lavenex (2004, 2007) who is most explicit in her call for attention to be paid to the extra-territorial impact of European integration.

6 The expression ‘indirect Europeanisation’ was coined by Radaelli (1997) to describe what he later (2000) called ‘policy isomorphism’ but unfortunately restricted to EU member states: policy areas where (member) states have begun to emulate one another regarding particular policy choices or regulatory frameworks. The expression ‘horizontal Europeanisation’ is also used as a synonym for ‘indirect Europeanisation’.

7 As first noted by Steppacher (1992) and later thoroughly analysed by Kux (1998), Church (2000a), Fischer (2005), and most recently in a volume edited by Church (2007).

8 Despite the fact that Europeanisation runs in both directions and both are under-researched in the case of Switzerland, I chose to focus on the dominant one, downward causation, given that space is limited here.

9 For further details see e.g. Jílek (1990) and Ehs (2005a, 2006).

10 On the issue of neutrality and the army as identity-related elements see also Haltiner (2002).
See e.g. Federal President Etter’s speech ‘Die Europäische Sendung der Schweiz’ (Switzerland’s European mission) in January 1939 for the purpose of *Geistige Landesverteidigung* (spiritual national defence).

For further details on the years 1947 till 1960 see e.g. Maurhofer (2001) and in general Gstöhl (2002) and Gabriel and Fischer (2003).

This guideline on neutrality was issued by the Swiss Foreign Ministry in 1954 in reaction to the ECSC, stating that, ‘an economic neutrality exists only in so far as the permanently neutral state may not conclude a customs or economic union with another state, since this would mean that the neutral state would more or less renounce its independence in political matters as well’ (Swiss Ministry of Foreign Affairs 1954: 11).

The term ‘foreign judges’ features in a somewhat populist equation of European integration with the time when Switzerland was under Habsburg rule.

Its main task was and is to improve co-operation among different ministries concerned with EU-issues, to monitor the European integration process and to analyse and assess its likely consequences for Switzerland.

This policy line never materialised at the external level since France’s veto on the British membership application put relations with all EFTA members on hold (Dupont and Sciarini 2001: 215).

Access to organisations for collective security (e.g. UN) and to supranational communities (e.g. the EC) was made subject to mandatory referendum.

A fact obviously ignored by Flood (2002) who thinks of Switzerland not being in need of a campaigning anti-EU force because for him the country has an anti-European consensus.


On this tripartite distinction see Church (2004: 270).

The *magic formula* guaranteed all four main parties power in a grand coalition by sharing the posts in a way that mirrored the linguistic and political landscape. It is commonly held that the old formula, in place from 1959 to 2004, had brought Switzerland stability and prosperity. Before December 2003, two Federal Counsellors were elected each from the Christian Democrats, the Social Democrats, and the Free Democrats and one from the Swiss People’s Party. Under the new *magic formula* starting in January 2004, the new party composition of the cabinet changed to: 1 Christian Democrat, 2 Social Democrats, 2 Free Democrats, and 2 representatives of the Swiss People’s Party.

On the origins of Euro-scepticism in German-speaking Switzerland see Theiler (2004).

The Swiss army has been providing assistance in the Balkans within the framework of ESDP since the Federal Council adopted a new strategy ‘Security through cooperation’ and placed civilian police officers at the disposal of the EU Peace Mission in Bosnia and Herzegovina and in Macedonia.

Perceived passive pressure by the EU even led AUNS-president Schwander (2007: 5) to accuse the EU of ‘colonialism’ and ‘Euro-imperialism’.

In February 2007, the European Commission accused Switzerland of offering unfair company-tax advantages that violate the FTA, a complaint rejected by the Swiss. To date the dispute is still not settled.

The agreement, which was negotiated for an initial period of seven years, has been in force since 1 June 2002. Switzerland must inform the EU in writing by 31 May 2009 at the latest on whether it agrees to continue it.
References


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Swiss Europe Report 2006


Expressing Disagreement in the Council of the European Union

Robert Zbíral

Abstract: The Council of the European Union is the most important legislative body of the Union, which decides on the acceptance of legislation according to the rules prescribed in the Founding Treaties. As insiders and published data show, the majority of the legislation is approved by consensus. This paper deals with the infrequent cases when a country expresses its dissatisfaction with the final agreement. The author discusses the ways of expressing dissatisfaction, the frequency of its use, and the reasons leading countries to this behaviour. On the basis of this review, in the conclusion several recommendations are offered for increasing the transparency of Council’s proceedings without disturbing the balance of the decision-making process.

Keywords: Council of the European Union, decision-making, expression of disagreement, voting, statements, reserves

1 Introduction

The Council of the European Union is the most important legislative organ of the Union; it represents the member countries, which on its floor enforce their national interests. Due to its special character, the Council is also called an “institutional chameleon” (Wallace 2002) because besides the predominant intergovernmental tendencies it also contains some supranational ones. Negotiating and decision-making
in the Council is much different from organs of classical international organizations as there are many elements that are more common for domestic political institutions (see in detail Hayes-Renshaw and Wallace 2006: especially 298–320, Westlake and Galloway 2004: 223–276). In one point, however, there is no difference from bodies of international organizations, namely the attempt to secure the widest possible agreement on the negotiated proposals. The practice was labelled “culture of consensus” in the Council. This paper does not aim at analysing the reasons for this conduct, which has the effect that even countries that dislike the proposal for various reasons support it. The intention of the present article is quite the reverse – to concentrate on the situations when the respective countries decide to speak against the adopted measures and express their true negative stance.

The reasons for breaching the rule of consensus can be a set deadline (negotiations could not be prolonged), the increased expense of continuing negotiations or simply the impossibility of further concessions to the opposing country without depriving the proposal of its true sense. In such cases the Council resorts to voting, the procedure foreseen by the Founding Treaties. This study will discuss the phenomenon of disagreement in greater detail, namely it aims to reveal how often countries vote against, what countries vote against the most and why, in what circumstances the disagreement occurs most often, and whether the accessible data can be analysed at all. The disagreement is however expressed not only by the procedure of voting but in other ways during or after the negotiations as well, so these possibilities will be analysed as well. However, it is necessary to say beforehand that most of the data used are of a preliminary character, as research of decision-making in the Council suffers from a lack of transparency of the negotiations and frequently changing conditions.

The present analysis is based mainly on the voting records of member countries in the Council when adopting legislative acts. Since the mid-1990s, the General Secretariat of the Council has each month been issuing a Summary of Council Acts, including the names of the countries voting against the proposal or abstaining from the vote. These raw data were processed into datasets by other researchers. The author worked with datasets established by Mika Mattila (1994–2000, 2004–2006), Fiona Hayes-Renshaw and Hellen Wallace (1994–2004) and Sarah Hagemann (1999–2006), as it would be unnecessary to shadow their work and create exactly the same dataset. It is true that the datasets slightly differ not only in period covered, but also in the scope and character of contained decisions. On the other hand, the quantitative data does not form the core of the analysis in our text, but only supports the qualitative arguments and therefore the differences are not damaging. Other very important sources of information are secondary sources and results of contemporary research projects; in certain aspects the article’s objective is to serve as the literature review and show the reader how little agreement exists in the academic community on the nature of the Council’s decision-making.
A serious problem for any research on the Council is the limitation of the available empirical data. Only the accepted proposals are registered, while those unsupported by the required majority are not submitted for a vote and negotiations on them continue on various levels of the Council or the Commission might occasionally prefer to withdraw them. The number of withdrawn proposals is somewhere around 10 percent. This is not always a definitive withdrawal, usually the proposal is only redrafted by the Commission in order to accommodate the preferences of more member states. Purely theoretically it is possible to imagine for instance that in the Prelex database all Commission proposals could be found out which so far have not been adopted and than to seek those in which there are long periods of time between submitting the proposal and any recorded activity. Subsequently, by an analysis of the Council documents (if they are available), through media coverage of events or leaks of information from insiders it could be estimated whether the delay in the adoption of the proposal is due to the absence of the necessary majority or whether there are other reasons.

The Council’s voting records register failed votes only in exceptional cases. A well-known example is the Ecofin session of 25 November 2003, when there was a vote on the imposition of sanctions against Germany and France due to their breach of the rules prescribed by the Growth and Stability Pact. The press release of the Council enumerates all countries, which voted in favour of the sanctions, although the needed majority was not achieved (Press release from 2546th Council meeting: 13–21). Another example, this time covered by unanimity, is the approval of the proposal made by the Commission for the Joint European Patent (COM (2000) 412). It was submitted by the Commission as early as 2000. Between 2001 and 2004, the proposal was placed nine times on the agenda of the Council meeting as point B. The Irish Presidency of the Council referred the last version of the compromise to a vote in June 2004. The record from the meeting openly registers the rejection of proposal by France, Germany, Portugal and Spain, so that the compromise was not approved and the whole question was forwarded to the European Council (Draft Minutes 2583rd Council Meeting: 8).

The cases cited in the preceding paragraph are however only exceptions. On the other hand, it is customary that governments for tactical or utilitarian reasons hide their real interests and vote in favour of the proposal even when they do not agree with it. This means that data on disagreement is limited to the situations when a representative of a country in the Council does not vote actively for the adoption of the proposal, while the proposal nonetheless still secures the necessary majority (see however, below, the issue of reservations). In other words member states most probably agree in general with the proposals under discussion in the Council less often than the officially published data on voting suggests. This situation unfortunately could only be taken into account when considering the arguments presented below.
3 Unanimous voting and use of the veto

Unanimity is a voting procedure in which the expression of disagreement is of the utmost importance as each subject has the veto power and only proposals supported by all the parties are adopted. Standard views of negotiations demonstrate that the veto is a strong tool in negotiation, and formally as long as the delegations stand firm behind their positions, they must be complied with. According to the theory of rational choice, unanimity is the best mechanism for voting in the assembly or committee, as no minority views are disregarded and the result of decision, if all actors behave rationally, is frequently very close to the Pareto frontier (see Buchanan and Tullock 1962). When there are too many actors, however, the advantage of unanimity decreases because of the low effectiveness of decision-making, also because the position closest to the status quo usually wins, any progress could be inhibited. In general it holds that compared to bilateral negotiations, in a multilateral environment the veto is a protective mechanism rather than a strategy applicable in the negotiations (Dupont 1994: 154–155, also Habeeb 1988). Reflecting this, the use of veto in the Union is limited by informal rules, and it is for example very difficult for only one country to stand against a compromise achieved by the rest of the member states. A frequent use of the veto by any country would lead to the loss of trust and isolation of the given state, so in fact it is better to continue the negotiations and gain concessions by entertaining tools such as “logrolling” or “package deal.” In most cases the use of the veto is additionally conditioned by the necessity to have a strategy prepared as to how to proceed further and at the same time it is advisable to support one’s position with forcible arguments, such as that valid important national interest are affected (a sort of shadow of the Luxemburg Compromise, even though it is not directly mentioned).

Considering the character of decision-making in the Council, when voting takes place only if the proposal secures the required majority and only adopted acts are registered, the frequency of veto’s use in unanimity cases is actually impossible to record. Similarly we do not know precisely what countries have the veto (or threat by veto) most often in the inventory of their negotiating tools. A certain indicator is provided by the interest of countries in the preservation of unanimity in particular areas during the Intergovernmental Conferences (usually by each amendment of the Founding Treaties the number of legal bases covered by qualified majority increases). If a member state rejects such a move, it can be assumed that it is in an area in which it has strong interests and at the same time the country fears that it could become outvoted. Another factor on which the disagreement could be estimated are the recorded abstentions from the vote. Naturally according to formal rules abstention does not prevent adoption of the proposal but indicates a lower degree of assent. The problem is that for instance out of the 97 legislative proposals adopted unanimously
between May 2004 and December 2006, only in three of them a country abstained from voting (Mattila 2007: 8). The most probable explanation for this behaviour is that in case of unanimity a real effort is made to find an integrating solution, which could be actively supported by all subjects.

4 Disagreement in case of qualified majority voting

A more revealing picture is uncovered by the analysis of voting in sectors covered by a qualified majority, as here the official records register negative votes and therefore certain data are available for further examination. Even registered votes against the proposal of course as mentioned do not have any impact on the adoption of the final decision (for exceptions see above). In the qualified majority voting procedure the option of abstention is available but its effect is identical with the negative vote (the quorum is not decreased), so both a vote against and an abstention have similar value. The difference between the two alternatives is formal rather than real. Representatives of states are probably conscious of it but further research is needed in order to establish whether the distinction is of any real importance or whether it is purely symbolic. It should be emphasized that in qualified majority voting the abstention mostly cannot be interpreted as an indicator of lack of interest or of indifference to the outcome as the position towards the proposal is negative. Moreover, the logic of repeated negotiations in the Council assumes that in the case of indifference to a certain issue one’s “correct” position is to support the decision reached by the rest, so that next time one could demand the same from indifferent parties in cases of major importance for oneself, i.e., “logrolling.”

Firstly it is necessary to answer the question why member states vote against or abstain when their attitude does not prevent the proposal from being adopted. The argument already presented points out that it should be better for them to continue in the negotiations and maximize the concessions or, as a last resort, agree to an even unfavourable decision and ask for the same attitude when the time comes, perhaps in a different sector. Similarly conclusions will be provided by the application of a constructivist research agenda: any expressed disagreement disturbs the expected standard of conduct (culture of consensus) and compromises the validity of the theory of socialization and behaviour of delegates according to the logic of appropriateness.

In the author’s opinion the main reason behind negative votes or abstention is to publicly distance oneself from the result of the decision (act). The motive for such conduct could easily be the dissatisfaction of a certain state with the final agreement. Negotiating tools such as logrolling are not always available, other countries for example notice the isolation of the sole dissenter and reject any further concessions, which might make the initial objective of the proposal worthless. Sometimes the
member state is forced to say no to a compromise it helped to develop, because it has to satisfy national public opinion or pressure groups opposed to the proposal. For instance, Luxembourg and the Netherlands in the case of the so-called second railway directive voted against the final agreement in spite of having heavily cooperated on the compromise (Bal 2004: 130). In member states where the activity of its representatives in the Council is subject to intensive parliamentary control (e.g. Denmark) or must comply with the wishes of lower territorial units (federal systems such as Germany), the logic of two-level games applies. These countries have less space for manoeuvring and cannot react flexibly enough to use (some would say exploit) all opportunities offered by other parties in the frame of negotiation. Often they find themselves in a position to vote against although in case of support they could have gained additional concessions (Hayes-Renshaw et al.: 171; also Westlake and Galloway 2004: 267–269; more general on domestic influences Kassim (ed) 2001). If any state has a record of frequent disagreement in a particular area, it could function as a public declaration of the country’s policy towards some principal issues for the future. Dorothee Heisenberg compares such a step to the dissenting opinions used by judges in some legal systems (Heisenberg 2005: 73).

The total number of proposals falling under qualified majority rule, in which disagreement is expressed, fully corresponds to the prevailing culture of consensus in the Council, and therefore only a minority of decisions is subject to the negative vote and/or abstention. Recorded data on disagreement per member states between 2002 and 2006 is displayed in Table 1. It is obvious that there are significant differences among the states: Prior to the 2004 enlargement, the most frequent opponents were Germany, Britain, Sweden and Denmark, on the other hand Finland, Greece and Luxembourg were on the other side of the spectrum. In an enlarged Union the culture of consensus became quite surprisingly even more profound (at least in the beginning) and disagreement has been limited. Sweden and Denmark remain as the leaders in expression of disagreement, while Latvia, Estonia and Spain are the most reluctant ones to vote against or abstain. It must be pointed out that the results would be somewhat different if the other than final legal acts are included in the database.

Table 1: Number of cases member states voted against the proposal or abstained when deciding on final legal acts falling under qualified majority voting

<table>
<thead>
<tr>
<th>Year</th>
<th>2002</th>
<th>2003</th>
<th>2004 (1-4)</th>
<th>2004 (5-12)</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belgium</td>
<td>1</td>
<td>3</td>
<td>9</td>
<td>1</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>0</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Country</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>--------------</td>
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<td>----</td>
<td>----</td>
<td>----</td>
<td>----</td>
<td>----</td>
</tr>
<tr>
<td>Denmark</td>
<td>6</td>
<td>8</td>
<td>5</td>
<td>2</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Estonia</td>
<td></td>
<td></td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Finland</td>
<td>4</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>France</td>
<td>6</td>
<td>4</td>
<td>6</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Ireland</td>
<td>0</td>
<td>4</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Italy</td>
<td>2</td>
<td>5</td>
<td>3</td>
<td>2</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Cyprus</td>
<td></td>
<td></td>
<td>0</td>
<td>1</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Lithuania</td>
<td></td>
<td></td>
<td>3</td>
<td>2</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Latvia</td>
<td></td>
<td></td>
<td>1</td>
<td>0</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Luxemburg</td>
<td>2</td>
<td>4</td>
<td>0</td>
<td>2</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Hungary</td>
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<td>0</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Malta</td>
<td></td>
<td></td>
<td>0</td>
<td>3</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Germany</td>
<td>5</td>
<td>6</td>
<td>0</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Netherlands</td>
<td>6</td>
<td>1</td>
<td>6</td>
<td>0</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td>Poland</td>
<td></td>
<td></td>
<td>2</td>
<td>2</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Portugal</td>
<td>4</td>
<td>6</td>
<td>1</td>
<td>1</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>Austria</td>
<td>1</td>
<td>7</td>
<td>7</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Greece</td>
<td>2</td>
<td>3</td>
<td>0</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Slovakia</td>
<td></td>
<td></td>
<td>0</td>
<td>1</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Slovenia</td>
<td></td>
<td></td>
<td>0</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>United Kingdom</td>
<td>5</td>
<td>8</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Spain</td>
<td>2</td>
<td>7</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Sweden</td>
<td>11</td>
<td>8</td>
<td>3</td>
<td>2</td>
<td>6</td>
<td>7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>57</td>
<td>75</td>
<td>48</td>
<td>27</td>
<td>46</td>
<td>67</td>
</tr>
</tbody>
</table>


Note: Although two datasets are not directly comparable, by extracting information only on final legal acts there shall be no issue with comparison.

Is it possible to generalize the presented data in any way and are we able to determine any objective reasons why certain member states vote against or abstain more often than other countries? Several research endeavours proposed hypotheses in this respect and tested concrete hypotheses by using qualitative and mainly quantitative methods. Especially the effect of the following factors has been examined:

...
• **Size of the country.** Big countries should vote against more often because they do not have to worry so much about the eventual impact of such an unwelcome step on their reputation and generally are less afraid to stand up against the majority. On the other hand, big countries have more resources to use during negotiations and thus a better position to enforce their position, so theoretically the final outcome should correspond more often with their interests. In practice the first proposition prevails, as from the purely numerical point of view the five largest countries in EU-15 covered 46% of negative votes and 54% of abstention, which is a higher share than their arithmetic representation in the group (Heisenberg 2005: 74–75). The predominance of large countries in expression of disagreement has been confirmed by quantitative models (Mattila and Lane 2001: 43, Mattila 2004: 43, Hosli 2007: 15), new research, however points out that after the enlargement this link becomes less obvious and negative votes more likely come from medium-sized countries (Hagemann and de Clerck-Sachsse 2007: 16, 18–19).

• **Government’s party affiliation.** The conduct of ministers who represent the country in the Council could be influenced by the ideological background of the government they are members of. Analyses of electoral manifestos suggest that right-wing oriented governments support integration less enthusiastically than left-wing governments (Hooghe et al. 2002, Hix 1999, Marks and Wilson 2000). The same results were confirmed by the research on European political parties during European Parliament’s elections (Gabel and Hix 2004). There is another claim, namely that the more extremist is the party (both the right or to the left from the centre), the more it dislikes integration (Marks and Wilson 2000: 452). If the governments reflect the positions of the parties represented in it, the hypothesis should hold that governments with prevailing left wing, non-extremist parties vote against or abstain less often than right-wing governments or those hosting radical parties. Here the sources cope with the methodological problem of how to measure the ideological bias of governments, moreover when there are usually coalitions of parties with differing ideological roots. These might be reasons why the available findings are so divergent. Some research projects have confirmed that left-wing oriented governments are less likely to vote negatively (Mattila 2004: 42–45, Hagemann 2007: 19–20, Hosli 2007: 16, partly also Aspinwall 2006: 105), for others the hypothesis has not hold (Zimmer et al. 2005: 413–414, Hayes-Renshaw et al. 2006: 177).

• **Support for integration.** The classification of countries (governments, populations) into Euro-optimistic and Euro-sceptical is one of the most traditional ones. In general the more integration-prone countries should vote against proposals scarcely because these states share the similar interests with the traditionally pro-integrationalist Commission. As this institution holds the monopoly of legisla-
tive initiation and its proposals structure significantly the outcome of Council’s negotiations,\textsuperscript{15} from a purely logical viewpoint those government supporting integration should have fewer problems with accepting the proposal and final decision. As in the preceding case, there are difficulties with methodology, the authors usually measure the support for integration from Eurobarometer data, unfortunately the government needs not always reflect popular opinion and there is cross-influence with left/right ideology. Thus it is no surprise that the findings differ and studies on the whole have evenly backed (Hosli 2007: 16, Mattila 2004: 46, here the support of integration as a factor prevails over the right/left line), but also refuted the hypothesis (Hagemann 2007: 21, Zimmer et al. 2005: 413–414; Aspinwall 2006: 106).

- **Contributions and receipts from Union’s (Community’s) budget.** Countries classified as net receivers should vote negatively less often because they are anxious to disrupt the integration process and infl ow of money. Funds could also come in form of side payments used to buy the assent of reluctant states, thus further decreasing the opposition of these countries (see the discussion in Carrubba 1997). Conversely, the contributors to the budget might believe that they have bought the right to express their disagreement freely with no consequences. In this case the difficulty is to exactly define what country is a net receiver and net contributor and to what extent. Usually researchers start with the data provided by the Commission,\textsuperscript{16} but this does not reflect the situation in its complexity.\textsuperscript{17} Some analyses have confirmed the hypotheses and identified a strong link between the amount of funds gained or paid and amount of opposition (Aspinwall 2006: 105–106, Zimmer et al. 2005: 411–412, Hosli 2007: 15–16), whereas others arrived at the opposite conclusion (Mattila 2004: 39, Hagemann 2007: 21).

- **Length of membership.** While the previous points were based predominantly on rationalist grounds, the next two draw on constructivism. They start from the idea that the longer the specific Council’s environment and the consensus culture have influenced the subjects, the more they will “learn” the norms and start to behave accordingly, which also means fewer votes against or abstentions. An example is provided by Sweden, which due to a misunderstanding of the Council’s operational milieu voted regularly against proposals in its first year of membership, but soon it realized the mistake and after some time the amount of disagreement dropped to the acceptable level (in greater detail Lewis 2007: 16–19). Echoing this, one could often hear the insiders fearing the “inexperience” of the new members affecting negatively the functioning of the Council (Lewis 2002: 295). The available data however points out that those suspicions were false (Hagemann and de Clerck-Sachsse 2007: 19). There are still no consistent results available on the effect of the variable length of membership on the amount of disagreement.\textsuperscript{18}
• **Presidency.** When the state is holding the Presidency, it is first expected not to enforce its will and work as a consensus builder, but at the same time it has many tools at his disposal to structure the agenda and influence the outcome of negotiations (see discussion below and also Tallberg 2004). Therefore, the country holding the Presidency should be voting against proposals much less often that other states, which is indeed the case according to the existing research (Mattila 2004: 43, Hosli 2007: 16). For the future, another hypothesis might be checked, namely whether the countries that have just finished their Presidency behave in an accommodating manner as they have a fresh experience as to how difficult it is to reach a consensus.

What information does one obtain if one looks at the structure of opposing groups? Surprisingly, before the 2004 enlargement in 47 % of the proposals affected by disagreement one country decided to dissent (the so-called singleton), in 19 % two states voted against or abstained, in 18 % three, and only in the remaining share was the opposition formed by more countries (Hayes-Renshaw et al. 2006: 169). With ten new countries we should record a move from singletons to more numerous groups and indeed the presumption has been confirmed as since May 2004 the share of a single country disagreement has decreased to 34 % of affected proposals, in 33 % of cases there have been two or three countries and in 33 % more than three (Mattila 2007: 14).

Several researchers have analysed situations when disagreement is expressed by more than one country simultaneously and used the data to explore the question of coalition formation in the Council. They start with the idea that if certain countries vote or abstain together regularly, they probably share the same interests and may develop something similar to a coalition. The issue of coalitions in the Council is however outside the scope of this paper (but see Elgström et al. 2001, Tunkrová 2005, Naurin 2007). A number of tentative divisions have been suggested, and in many ways they overlap with the above-given reasons explaining the frequency of member states’ disagreement. By applying a statistical analysis of voting data, two-dimensional space diagrams could be drawn which illustrate the behaviour of member states: the closer they are to one another in the diagram, the more similar their voting pattern should be and vice versa.

How much do the data on disagreement reveal of the attitudes of the member countries and their governments? The presented review of sources demonstrates that with rare exceptions (Presidency) the available analyses do not provide a clear answer to the question of what factors contribute to a higher probability of the member state to vote against a proposal or abstain. We receive similar inconclusive results with analysis of disagreeing coalitions. By visual comparison of two-dimensional
diagrams from two sources (Mattila 2007, Hagemann and de Clerck-Sachsse 2007) we see completely different pictures, even though both of them should display the same issue (voting patterns) in the same time period (May 2004 and December 2006). The discrepancies may be partly justified by the application of divergent statistical methods by the researchers, but a more likely explanation is that there is simply a very loose (if any) connection between the inherent characteristic of the country or its government and their behaviour in the Council (similarly Thomson et al. 2004: 257, Hayes-Renshaw et al. 2006: 177). In fact, the whole concept of using frequency of disagreement and its distribution among the countries as an instrument for research is somewhat artificial as even the most often opposing states vote against or abstain from only a very small share of total amount of proposals (around 2 %). Statistical samples are thus only of limited size and value, and moreover are usually unnaturally extracted from the larger datasets (for example, the analysis only involves negative votes and/or abstention). The other option is to use larger datasets, but then any statistical analysis will be influenced by the fact that the disagreement will be lost in the sea of decisions adopted by consensus.

Comparatively more useful is information in which substantive sectors of disagreement occur most frequently. Before 2004, it was widespread in the areas of the Common Agricultural Policy and Common Fisheries Policy, and the trend has partly continued after enlargement as well (see in detail Hagemann and de Clerck-Sachsse 2007: 28–33; Hayes-Renshaw et al. 2006: 170–175, Mattila 2007: 10). Agriculture and fisheries are followed from a considerable distance by the sectors of internal market, e.g., state subsidies, transportation and the environment. This chart based on the absolute number of proposals affected by disagreement however should always be compared with the number of proposals adopted in each sector, as the legislative activity differs profoundly. For instance in agriculture, 48 proposals recorded at least one negative vote or abstention out of the total of 330 (14,5 %) proposals adopted between May 2004 and December 2006, whereas in transportation and telecommunications 14 proposals out of 62 (18,3 %) were affected (Mattila 2007: 10).

Additionally the negative votes or abstention are more common in issues with a looming deadline or when there is a financial loss caused by non-decision. In these cases the decision must be taken and there is no time for prolonged negotiation and satisfaction of everyone’s interests. Similarly it holds in areas with well-organized national lobbies and high public interest, where member states (governments) could either satisfy the concerns of these groups or must save face and show how they fought to the bitter end. On the other hand in cases which would move integration considerably forward, for instance when adopting a decision transferring a certain issue to the responsibility of Union, disagreement almost never occurs and consensus is preferred (see Heisenberg 2005: 77–78). Exceptions to this general framework are the budget issues, in which time and financial constraints are present but disa-
agreement is hardly ever registered. This might be explained by the strict limits the budget is framed by the long-term financial perspective as well as by the preceding indicative votes in the budget related Council’s working groups. It is also desirable to reach consensus between the contributors and receivers. Likewise, in the area of external trade policy the consensus is always reached. This may again be due to the important influence of the lower levels of the Council on negotiations (here Art. 133 Committee), the member states in this sector also find it advantageous to reach an unanimous agreement in order to guarantee the unity and stronger negotiating position of the Union vis a vis its trade partners or on the floor of World Trade Organization (Molyneaux 1999).

Cross analysis between data on negative votes and abstentions in sectors and by countries reveals that certain states express their disagreement only in one or very few (e.g. Spain and Sweden in agriculture), but no state opposes in all sectors, so the claims labelling some countries as generally euro-sceptic (e.g. Britain, Poland) are unsubstantiated, at least from the Council voting data. Taking in account the spread of negative votes and abstention among the states and sectors, and comparing it to the total amount of unopposed adopted legislation, we can firmly conclude that no absolute winner or loser can be found in any sector and that no country becomes systematically outvoted. The absence of a clear boundary between the majority and minority may be one of the cornerstones of the integration’s success.

5 Other instruments for expressing disagreement

A negative vote in the case of unanimity prevents the adoption of the proposal and because of that its use is quite limited in the Union. We also noticed that to cast a negative vote under qualified majority voting is not a widespread practice either as the actors are, for various reasons, reluctant to disrupt the culture of consensus. But countries have other tools at their disposal to express their displeasure with the proposal, tools that are more sophisticated and nuanced than just to say no. By utilizing these instruments the states could satisfy their interests in a much more efficient way, either before the adoption of the proposal (reservations), with the adoption of it (statements) or even after the adoption (legal means). All of them are discussed in turn.

Each proposal is hotly negotiated in the lower levels of the Council’s hierarchy (relevant working groups, Coreper) and it is logical that during discussions the delegates representing the member states state and pursue their preferences, including disagreement with the whole proposal or certain parts of it. This could be done behind the scenes (corridor bargaining), but more often the delegates openly express their disagreement to other delegations. For this purpose a special system of reserva-
tions (réserves) has been developed. If the position of a delegation to a particular point of the proposal is negative or unclear, it places a reservation towards this point. No formal classification of reservations is available; in general they are divided into two categories: procedural and substantive (see also Westlake and Galloway 2004: 226, Kiljunen 2002: 1–4). Among the former belong the linguistic reservation—when a delegation is waiting for the translation of a proposal into their language or for an interpretation of some parts by linguistic experts and also the scrutiny (or review) reservation. In this case the delegation demands more time for examining the proposal, but it agrees with the general content of it. Especially the review reservations are often used but do not significantly hinder the negotiation, which usually proceeds without major delays. These reservations are removed as soon as the reason for their use expires.

A special kind of procedural reservation is the parliamentary scrutiny reservation, which is used by some member countries to indicate that their position demands sanction from their parliament. Denmark and the United Kingdom exercise them most often, but it is not uncommon for other states as well. This reservation again is considered to be technical; the negotiations continue and even the political agreement on the proposal could be reached. Such agreement is de facto binding for the member state, but formally the proposal is adopted only after the reservation of parliamentary scrutiny is raised. Procedural reservations could be employed also as strategic or delaying instruments but that scarcely delivers any major success.

Delegations often attach reservations regarding financial costs of implementing the proposal and require explaining the source of funds to cover them. Such reservations are usually swiftly removed. The most serious is the general substantive reservation, which is applied if a delegation disagrees with the whole proposal or its important part because of its content. In this case a change of the proposal is necessary or the state withdraws under pressure from others, either at the level where the reservation was placed or the solution is found at higher levels of the Council. A second option is the adoption of the proposal by the required majority and without any concessions to the objecting state, than formal reservation is typically transformed into negative vote.

Another legitimate method to articulate disagreement with the proposal is the delaying tactic, which becomes useful particularly when a member country is unable to change the proposal according to its interests. However, delegations have only a limited number of instruments at their disposal to radically delay the negotiations, they can (in addition to the above-referred reservations) point out a breach of the subsidiary principle or the wrongly-selected legal basis of the proposal, but unless their position is supported by relevant arguments (and other delegations), they will not be successful. The Presidency holds wider opportunities in this respect, as it can use its agenda-setting and agenda-structuring powers to postpone the negotiations.
of the particular point it dislikes (in greater detail Tallberg 2003: 11–13). The space for manoeuvring by chairpersons from the Presidency who head all meetings is partly counterbalanced by the requirement that the Presidency should behave neutrally during its mandate. Still the Presidency is usually at least able to delay the decision it disagrees with, unless it is a question on which a quick decision is needed. It is very difficult to empirically prove the use of the delaying tactic as a sign for expression of disagreement as the result is inactivity. Such a situation might be, however, caused by other reasons as well, e.g., by exogenous changes.

An interesting element in Council decision-making is the institute of statements (déclarations). It is a text in which member state(s) or Union’s institution(s) (Council, Committee, and Parliament) might explain in detail their attitude towards the adopted legal act or its parts. The statements are attached to the publicly available Council minutes (see Art. 9 of the Council’s Rules of Procedure), the legal basis for their existence is to be found in Art. 13 Para 1 of the Council’s Rules of Procedure. The statements are however not legally binding and are not published in the Official Journal. The statements are a very useful tool when explaining disagreement in the case of negative votes or abstention as the member states sometimes justify why they resorted to so “drastic” a step. An example of such an explanatory statement is found in Box 1.

**Box 1: Statement by the Polish delegation on the approved Council Regulation fixing the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in the Baltic Sea for 2007**

Poland does not agree with the reduced TAC, which has been adopted for the Eastern cod stock, which will not bring any added value in terms of cod conservation; it will primarily hit honest fishermen, giving rise to justifiable protest and making cooperation with the administrative authorities and with scientists more difficult. This reduction will cause a further deterioration in the difficult socio-economic situation facing Polish fishermen, who are already suffering from the decommissioning of almost 50% of the cod-fishing fleet, and this in regions with high structural unemployment, in excess of 30%. Poland is grateful to the Presidency and the Commission for their efforts to find a compromise.


Note: Poland voted against the proposal.
The statements are also used by the member states for other purposes than to explain their voting. Even when the delegation votes in favour of the proposal, it could still indicate in the statement that there is something in the final text it does not support, thus expressing some sort of a milder intensity of disagreement. Example of such a statement is presented in Box 2.

Box 2: Statement by the United Kingdom delegation (supported by the Danish, Netherlands and Swedish delegations) on the approved Regulation of the European Parliament and of the Council establishing the European Globalisation Adjustment Fund

> Whilst supportive of the European Globalisation Adjustment Fund, the United Kingdom has doubts about the effectiveness of some of the eligible actions of the fund and how well it ensures added value from EU level spending. In order to maximise the efficiency of expenditure in this area and ensure the fund adds value above and beyond national action, the eligible actions of the fund should explicitly concentrate on measures to increase the employability of individuals and to improve their transition from redundancy into sustainable employment through active labour market policies.


Note: The United Kingdom, Denmark, the Netherlands and Sweden voted in favour of the proposal.

According to some views, the frequency of statements as a sign of disagreement has increased since the 2004 enlargement at the expense of negative votes and abstentions (see Table 2). The trend could be explained by the argument that while it much more difficult to accommodate the interests of so many parties into one proposal, member states do not wish (at least publicly) to undermine the traditional culture of consensus. Statements than allow them to signal their view even without resorting to the much more visible negative vote (Hagemann and de Clerck-Sachsse 2007: 14).

Table 2: Number of acts to which a statement was attached as an expression of disagreement

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<tbody>
<tr>
<td>Total of acts adopted</td>
<td>164</td>
<td>163</td>
<td>139</td>
<td>86</td>
<td>121</td>
<td>153</td>
</tr>
<tr>
<td>Declaration attached in %</td>
<td>14.6</td>
<td>20.2</td>
<td>25.2</td>
<td>11.6</td>
<td>32.2</td>
<td>22.9</td>
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Statements are very controversial instruments. If they contain a detailed explanation of the country's voting, the decision-making process and its outcome become more transparent (see the example of Poland above). On the other hand, in cases when a member state actively supports the proposal and simultaneously voices its disagreement with the substance of proposal in the statement, it finds itself in a sort of schizophrenic position, which is hardly understandable for the general public (see Box 2). The problem also has its legal dimension. The statements often include a country's interpretation of selected part(s) of the proposal. Subsequently two roads are open. Either the statement has no legal value (a more frequent opinion) but then the interpretation becomes merely a political proclamation, or there is some limited legal relevance and then the space is open for *de facto* flexible interpretation of legal acts by member states. In both alternatives the statements could still create legitimate expectations in citizens or legal entities from the country, which made the declaration, while in reality such expectations could be hardly met. Similar apprehensions were expressed by the Legal Service of the Council in its report in 1995, the final verdict on the liability and impact of the statements can only be made by the Court of Justice; it has so far never dealt with such a case.

As soon as the proposal is formally adopted by the Council and published properly in the Official Journal, it becomes legally binding. The member countries that opposed the act usually acknowledge defeat and begin to comply or implement the act. In exceptional cases the states might continue in their resistance outside the Council framework. These means are represented by legal instruments provided by the Founding Treaties, in particular the action for annulment. In this procedure the member states belong to privileged applicants and can contest any act adopted by the Council (see Art. 230 TEC). Usually they justify their action with arguments that an incorrect legal basis of the act was used, the proper procedural rules of adoption were not heeded or that the principles of subsidiarity and proportionality were breached. Statistics reveal that there are only a few actions of this type annually, and that the Court of Justice rejects most of them, though reversed verdicts have occasionally occurred as well.

When a member state is ready to dispute the political decision with legal instruments in such a consensual system as the Union, it is likely that the state believes its arguments are valid and the act in its opinion suffers from legal flaws. If the actions for annulment become an acceptable continuation of politics by other means and countries would decide to start legal proceedings against each decision they disagreed with, the stability of the whole system could be in danger.
6 Conclusion

The Council of the European Union is an institution in which disagreement, at least in an empirically noticeable manner, is expressed less often than an uninitiated observer would expect from valid formal rules. Still, when member countries defend their interests it is obvious that they cannot always succeed. The subsequent concealment of disagreement decreases the transparency of the decision-making and the whole process becomes incomprehensible for the common public and high democratic standards are not met. That is why many specialists believe that in the next phase of integration the members need to accentuate political competition in the Council and to offer more transparent programmes and solutions based on left- and right-wing ideology. It is only natural that there should be not only winners, but also losers in the Council. Of course it does not mean that there will be a fixed line between both camps, rather the division will correspond to the strength of the groups at a particular moment and in a particular situation (see e.g. Hix 2006). One way to achieve this goal is to replace the culture of the consensus with a systematic application of qualified majority voting as provided in the Founding Treaties. Such a step was incidentally promoted by major figures of the Union policy in the past (see Prodi 2001).

Of equal value, however, are the objections to why the more frequent expression of disagreement should be avoided. Integration continues to be predominantly a project of sovereign states and if any states find themselves regularly in the minority with none of its interests recognized, the very principles and substance of integration could be endangered. These countries might start to defer acts not respecting their interests, in an extreme case they might decide to withdraw from the Union. It is well known that if there is a high level of cohesion and solidarity among the territorial units they are willing to subordinate to the majority will. The recent difficulties with ratification of primary law changes have proved that there is indeed hardly any consensus on “common European framework” both among politicians and the public.

Finding an acceptable compromise between two requirements becomes weighing upon an apothecary’s scales. The analysis revealed that researchers are not able to agree on the reasons or attributes of the country, which cause more frequent disagreement. Moreover, even the most enthusiastic dissenters vote against or abstain from a vote only several times a year. The same results were extracted from an examination of opposition per policy sectors. The objection that contradicting findings emanate from the missing methodological uniformity is only partly valid. In our view the ambiguity reflects the real behaviour of the countries, which has an ad hoc character according to the momentary situation and interests and lack any pattern. But at the same time we think it is still possible, on the basis of existing research reviewed in this text, to arrive at several recommendations which might make the expression of
disagreement more efficient and transparent without affecting the necessary prerequisites discussed above:

- Statements should be used only for explanation of disagreement of a member country (negative vote, abstention), not as an instrument for saying yes and no at the same moment or for legal interpretation of the proposal.
- It is necessary to draw a clear line between voting against and abstention, they shall not function as different shades of the same thing.
- Disagreement should reflect only the situation when the state is really unhappy with the result. It should not be used as an instrument of negotiation strategy or a face saving measure to domestic groups.
- For each legislative proposal, which has not been approved for a prolonged period (for instance two years) since it was submitted, the reason for such situation should be openly stated in the Prelex database, even if it is due to an insufficient agreement in the Council. It is essential to systematically publish all documents related to the proposals also from the lower levels of the Council (working groups, Coreper).
- If there is an indicative vote organized at any level of the Council, the results shall in principle be published.

Implementation of these recommendations will require either zero or minimal costs, legally it will not be necessary to undergo difficult changes to primary law, an amendment of the Council’s Rules of Procedure is sufficient in our view. The expected benefits would certainly outweigh the negatives, the result being that expression of disagreement becomes constrained under a clearer framework and that the decision-making in the Council becomes more transparent for the citizens.

Notes

1 The paper was written under the National Plan of Research II (Project no. 2D06016: Czech Republic in the European Union. Position and Enforcement of National Interests). The author owes his thanks to the Ministry of Education for its financial support.

2 According to an estimate, between 1974 and 1995 only 10 % of the proposed acts were withdrawn by the Commission (Golub 1999: 738). Golub included in his research only the directives; from January 2001 to October 2007, 170 proposals of legal acts were withdrawn by the Commission (data from the Prelex database).

3 In its fight against excessive regulation, the Commission in 2004 and 2005 withdrew a relatively high number of proposals.

4 Prelex database contains all the information on the pre-adoption phase of the legislative process and covers the involvement of all institutions in it. It could be accessed at http://ec.europa.eu/prelex/apcnet.cfm?CL=en (visited 1 July 2008).
5 Here the previous view is confirmed that from prolonged negotiations in the Council the presence of a sufficient blocking coalition could be indirectly deduced.

6 In light of this Hayes-Renshaw and Wallace are not correct, when they claim that the vote on sanctions within the Growth and Stability Pact was the sole case of publicly-acknowledged non-adoption of the proposal (Hayes-Renshaw and Wallace 2006: 290).

7 For discussion on the use of the veto in the European Council including the quotation of statements by many representatives of the member states see Tallberg 2007: 19–21 (arguments mentioned there can be applied to the Council as well).

8 Similar arguments are to a certain extent valid also for abstention in a case of unanimity and all other sorts of disagreement discussed in part four of the article.

9 For example selected member states (e.g. Finland, Sweden or the Netherlands) consistently vote against decisions in matters related to Council’s proceedings transparency, as they would like to make more documents publicly available.

10 We believe that the institution of the statement (see below) is a more suitable tool for expression of one’s country’s view on the future development than the negative vote or abstention.


12 The overall number of negative votes and abstentions will naturally grow; the sequence of the most often disagreeing countries will shift as well, see Mattila 2007: 11.

13 The hypotheses proposed below were extracted by the author from the literature cited below. The presented results, for the most part, reflect the situation prior to the 2004 enlargement. Again it should be stressed that not all researchers used the same corpus of data.

14 The size is meant as the function of power, derived especially from the number of votes in the Council, number of inhabitants and the absolute size of GDP (France, Italy, Germany, and the United Kingdom are regarded as big countries, sometimes followed by Poland and Spain).

15 This idea is based on spatial models of decision-making emphasizing the position of the agenda-setter (Commission). See Tsebelis and Kreppel 1998.

16 For the calculations of member states’ contributions and revenues to the EU budget between 2000 and 2007 see European Commission 2008.

17 There is other direct financial impact of a membership of the state in the Union than simple transfers of money from and to the Union’s budget.

18 An exception is Heisenberg 2005: 76, who found no link (her hypothesis was however reversed and not based on socialization: long-lasting members are not so anxious to express their true position and vote against more often than new members).

19 Romania and Bulgaria have so far not been included in the analysis because the 2007 data are still incomplete.

20 In eight cases the number of disagreeing countries was higher than seven, which is a fairly large minority.

21 The discussed list on the causes of disagreement however also contains data on the cases of singletons, which is of course not applicable in the case of coalitions.

22 For such diagrams see Mattila and Lane 2001: 45 (for EU-15, using MDS method); Hagemann and de Clerck-Sachsse 2007: 23 (for EU-25, using NOMINATE method), Mattila 2007: 16 (for EU-25, using MDS method).
Other findings are derived from the bivariate correlation, still others from the multivariate regression, even within a single set of data; as we said several times before, the results are not directly comparable, one reason being that each author used a somewhat different dataset.

Again it should be also emphasized that the available data contain only information on positively adopted proposals, thus the level of disagreement is *a priori* manipulated downwards.

Some sources extract the information to which sector a proposal belongs from the Council configuration adopting it. This is however not a reliable method as in many cases one Council formation formally adopts proposals on which an agreement in principle was already reached by other Council configuration. E.g. after political agreement about a proposal on olive oil subsidies reached by the Council for Agriculture the proposal is checked by legal experts and subsequently formally adopted as an A-point on the closest Council session no matter of what configuration (see General Secretariat of the Council 2000: 8–9).

Here the hypothesis of the culture of consensus (and the shadow of the Luxembourg compromise) is confirmed and it is shown that outvoting is only possible when a strong interest of a member country is not threatened and when a policy had long been developed jointly; for more on the legacy of the Luxembourg compromise and its effect upon present-day decision-making see Zbíral 2008: 782–787.

The proposals without necessary consensus are sent from the working group to Coreper as points I, from Coreper to the Council as B-points.

Despite the officially demanded neutral role of the Presidency, some sources confirm that it can efficiently use its powers to enforce its interests, see Selck and Steunenberg 2004: 36–37.


See Study of Council practice regarding statements for the minutes in connection with openness. Doc. no. 6879/95; author tried to obtain the document but his application was turned down by the General Secretariat of the Council and so was his appeal against the decision (Document SGS7/17394). At this point (July 2008) the application is reconsidered in light of the judgment of the Court of Justice in Turco given on 1 July 2008 (Joined Cases C-39/05 P and C-52/05 P. Sweden and Turco v Council and Others. Not yet reported in the register).

At least in the case of regulations, directives, decisions and international treaties.

Of course they could also use the standard legislative process and try to persuade others either to repeal the act or renegotiate (amend) it.

To assess the strategy the member countries use in order to defend their interests at the Court of Justice, see Granger 2004.

In 2007 only eight actions of this type were filed at the Court of Justice, some of them were submitted by the Commission or the Parliament (Court of Justice 2007: 89).


The negative effects of this strategy are witnessed in the present-day situation of the Czech Republic, where numerous acts are attacked at the Constitutional Court as unconstitutional by the opposition political parties.
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