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**The search for convergence of national policies
In the European Union: An impossible quest?**

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The search for convergence of national policies in the European Union:

An impossible quest?

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Abstract. This paper addresses the question of whether European integration results in convergence in the domestic politics of EU member states. Some recent studies claim that as a result of European integration the national policies of the member states are becoming more alike. The introduction of various exemptions and ‘flexibility’ arrangements in the Treaties of Maastricht and Amsterdam and ever growing problems with implementation seem to contradict this view. In this paper we offer a model based on insights from public choice, game theory and analytical politics, which aims to explain the conditions under which convergence may occur and the limitations to this process at the legislative and implementation stage of European policy making. At the legislative stage, our model highlights the difficulty for the Council, deciding by unanimity, in setting a uniform policy, particularly when current policies in the member states differ considerably. At the implementation stage, we account for implementation problems by focusing on the differences in view held by national political actors with regard to EU legislation. We conclude that convergence will occur only when the Union is able to set a common policy without any exemptions, which is then fully implemented by national political actors.

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1. Introduction

The Single European Act and the Treaties of Maastricht and Amsterdam have led to the addition of a broad range of new policies in which the European Union is partially or fully involved.¹ As the member states of the European Union continue to increase the scope of policies, which are at least partially transferred to the European level, the question arises whether their national policies are becoming more alike in these areas or whether divergence persists. This question has attracted the attention of a number of observers focusing on the effects of European integration on national policies.² There has been an expectation that the increase of the scope and depth of European integration will generate greater uniformity and convergence in the national policies of the EU member states. This seems to be the logical outcome of the actions of the supranational institutions of the European Union, which have, on the whole, sought to minimize variations in European policies implemented at the national level. In some areas, the increased policy making abilities of the Union have substantially reduced national government powers, which has the potential to lead to a convergence of national policy making arrangements. A striking example of this are the changes as part of EMU leading to uniform and Union-wide arrangement of monetary policy making. Such far-reaching changes have led observers such as Mény, Muller, and Quermonne (1996: 8) to note that no domain of public policy can any longer be isolated from the European political process, which '...has become an obligatory channel of influence for civil servants, political actors or representatives of interest groups'.

The argument for convergence is not, however, as straightforward as it seems. Throughout the history of the Community, European integration has aimed to produce some convergence of national policies, but at the same time the process of broadening the scope of integration has necessitated the creation, at the European level, of various mechanisms which accommodate diversity and divergence between national policies. Furthermore, implementation problems have been an issue even for the most pro-European membe

¹ See Nugent (1994: 293) for a list of policies indicating the extent of EU policy involvement before Amsterdam.

² See for example, Mény *et al.* (1996), Unger and Van Waarden (1995), Rometsch and Wessels (1996),

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states, such as Italy or Belgium. In fact, some observers have argued that delays in transposition could be considered part of national preferences or strategies (Guiliani, 1996: 14). Similarly, Mény, Muller, and Quermonne (1996: 7) have observed that 'national actors responsible for implementation may be tempted to claw back at the base what they lost at the summit.'

The supranational institutions of the European Union are designed to defeat this trend by monitoring the implementation of legislative measures (the Commission) and the uniform application of Community law (the European Court of Justice). The Commission and especially the Court have ensured that non-implementation incurs high costs for the member states. The European Commission, as part of its supervisory function, has the right to start infringement proceedings against a member state when it discovers non-implementation. Moreover, the Commission issues reports to the European Parliament and the Council concerning the application of Community law, which contain a scoreboard showing the progress by the member states in adopting Single Market legislation (European Commission, 1998). The European Court of Justice, in its turn, set an important precedent with its well-known decision in the Van Duyn case (Hartley, 1994: 211).³ Ever since the Van Duyn case, the Court has 'punished' member states for not implementing directives by treating these directives as directly effective and thus maintaining the individual citizen's right to rely on them as if they had been already transposed into the national legislation.

Given the activism of the Court and the Commission's duty to monitor implementation, the strategy of the member states is to try to avoid a situation in which they are induced to implement a policy they do not prefer. Thus it is still mostly at the legislative stage that national governments try to shape common policies

and Héritier *et al.* (1996). Some of these will be referred to in more detail in the next section.

³ Ms. van Duyn, a Dutch citizen, sought to enter the UK in order to take a position with the Church of Scientology, and was refused the right of freedom of movement and establishment on the basis of the public policy proviso of Article 48 EC. The refusal of the UK government to grant freedom of movement to Ms. van Duyn was based, at least partially, on the fact that the UK government had not implemented Directive 64/221. The Directive limits the discretion of the member states in applying the public policy proviso of Article 48 EC. Ms. van Duyn's right to enter the UK was derived, according to the decision of the Court, from Article 3 (1) of the Directive. Thus, as Hartley (1994: 211-213) has observed, the UK government denied the right of establishment on the basis of its own failure to implement the directive and was punished

in such a way that they satisfy their interests. More and more often, in cases when preferences differ dramatically, this means that the legislative outcome reached at the EU level allows for national variation in the application and implementation of a policy. The tendency towards differentiated integration and 'flexibility' arrangements in all the amendments of the treaties since the Single European Act and especially in the Amsterdam Treaty, suggests that member states have deliberately allowed for some variation in their national policies even when a policy has been set at the European level. The question arises, however, why these variations persist and how actors at the domestic level deal with the transposition and implementation of European legislation.

Our concern in this paper is the general trend for the member states to allow for and even seek variation both at the legislative and at the implementation stage, once a common policy has been adopted in principle. The question, which we ask, is, what is the source and explanation of such variations and why do differences at the national level persist? The existing studies of the effects of European integration on national policy making do not fully address this question. Moreover, these studies present divergent results in terms of the Union's impact. Based on existing empirical studies, it is not clear why the impact of the European Union on national policy making varies. Furthermore, the conditions under which national policy making is affected by the Union and becomes more uniform have not yet been clearly identified.

In this paper we attempt to identify the conditions and factors that may account for divergent developments at the national level. We start with a critical discussion of current work in this research area. However, since most of this work does not fully explain the actual developments at the national level, we focus on both the legislative process at the supranational level and the implementation process at the national level. Our modeling of these processes is based on insights from analytical politics and public choice and suggest that national public policies are shaped in a 'game' between political actors that have different preferences with regard to the outcome. We do not address here the reasons why policies are taken over by

by the Court.

the European Union, but start instead from the presumption that the member states have given the European Union the authority to decide on certain policy areas.⁴ We focus on the ways in which this authority is exercised in terms of common policy and how the member states' governments deal with common policy within their national context.

2. European integration and national policy making: the state of the art

Many of the specific case studies which have tried to provide a concrete answer to the question how and to what an extent a convergence of national policies occurs, deal with environmental policy. One well-known study has been carried out by Hérítier (1995), who looks at the process of influencing secondary legislation in the EU. She argues that member states seek to shape European policy making according to their interests and institutional traditions. Studying the roles of the UK and Germany in the process of shaping Community legislation on air pollution, she tested the hypothesis that member states try to have their regulatory styles adopted at the European level, thus minimizing the costs of institutional adaptations (1995: 278-279).

Despite the efforts of both countries to act as 'pace setters' together with the Commission, they still maintained important differences in policy preferences (1995: 300). On the whole, Hérítier found patterns of both convergence and divergence. She attributes convergence to a range of both EU-related and non-EU factors. She also finds persistence in policy differences, due to geographic and geopolitical conditions, as well as differences in institutional political structures and other factors (1995: 301-302). Thus, given that she finds evidence that both tendencies exist, it is impossible to draw further reaching conclusions from this study regarding the impact of European integration as a separate factor influencing the convergence of national policies.

⁴ We note that member states may hold expectations with regard to the functioning of the Union, which may differ from the actual outcomes of specific Union policy processes. On average member states may benefit from the Union, while in specific instances they might win or lose with regard to the outcomes they prefer. See Steunenberg and Dimitrova (1999), for an analysis of both processes in the context of the European Union.

As part of the same collection of studies on convergence and diversity edited by Unger and Van Waarden (1995), Kelemen (1995) discusses the differences in environmental regulation levels among the member states. He finds that with respect to environmental regulation, member states can be divided in three categories: those with high standards, such as the Netherlands, Germany, Denmark; those with less stringent regulations, such as Belgium, Italy or the UK; and Spain, Portugal and Greece, which maintain low standards (1995: 307). Kelemen investigates whether convergence in these standards will occur or whether differences will persist. His approach focuses on the role played by the pro-active Commission and the Court in the struggle with those member states reluctant to set higher environmental standards. He stresses the role of the Court and the recent change in direction in the ECJ's decisions. Remarkably, while the earlier case law maintained the right of some member states to keep higher standards even when a lower EU standard was adopted, the Court's recent decisions restrict member states from taking higher standards where EU ones already exist. Kelemen concludes that the Court is promoting convergence by not letting member states take higher standards than the existing EU ones. However, he also notes the weakness of the Commission in promoting implementation and concludes that convergence will proceed slowly, as recalcitrant member states have a number of opportunities to resist regulatory convergence. Among these, he especially notes 'the weakness of the Community's implementation monitoring and enforcement mechanisms, plus the possibility for temporary derogations from Community policies gained under Maastricht' (Kelemen, 1995: 327). This conclusion, although not the main thrust of his study, provides us with an interesting clue to be followed in our own attempt to explain diversity in national policies.

Another recent study which has tried to address the question whether European integration brings about a convergence of national policies was conducted by Haverland (1999), who studied the politics of packaging waste in the UK, Germany and the Netherlands. He finds a 'patchy picture of convergence and divergence' (1999: 18) and concludes that despite some convergence and policy learning, there is still diversity in the politics of packaging waste among the EU member states, although within a narrower range (1999: 276).

Haverland stresses the importance of cross-national diffusion of information and 'policy oriented learning' (1999: 287, 292), but does not offer a broader explanation for the alternation of convergence and divergence in policies after the application of the EU legislation on packaging waste.

Knill and Lenschow (1998: 595) have addressed the closely related issue of ineffective implementation effectiveness, which they define as 'the degree to which both the formal transposition and the practical application of supranational measures at the national level correspond to the objectives specified in the European legislation'. They tested the hypothesis, developed also by Héritier, that the effectiveness of the implementation of policy measures depends on the degree to which they correspond to the national administrative traditions and thus do not create costs of adaptation. Their study of the implementation of several pieces of European environmental legislation in Germany and Britain indicates that this hypothesis is insufficient to explain German and British implementation performance. They sought other explanations, such as contextual factors, institutional embeddedness and salience of the policy for the actors concerned (1998: 602-611). Their conclusions seem to indicate, among other things, the need for a better theoretical explanation of implementation problems.

Mény, Muller and Quermonne (1996) assess the impact of the Union on national institutions and public policy. According to these authors, the Europeanization of public policy leads to 'common norms of action', which influence the behavior of the national policy actors and finally lead to a convergence of policies. This process of convergence is claimed to occur at three levels (Mény *et al.* 1996: 8-9). In the first place, the process of national political agenda formation is transformed, because of the emergence of a European political agenda. The second point of convergence is the way in which interest groups are represented in the political process. Mény, Muller, and Quermonne argue that this process has become more open and competitive, challenging corporatist systems of representation at the national level. Finally, convergence is suggested to take place at the operational level of the policy making, affecting traditional 'modes of decision making' at the national level. Although this process may not lead to the disappearance of national policy

making 'styles' or arrangements, 'it amounts to the emergence of a common sphere of mediation at the European level'.

The features of the new mode of decision making according to Mény, Muller, and Quermonne are of some interest here. They claim that the European decision making process is characterized by uncertainty and the absence of a clearly defined locus of power, openness, and better access to decision making than at the national level and, finally, opacity, due to the fact that the rules of the game are not stabilized yet. All these are seen to differ from and challenge traditional modes of decision making at the national level (1996: 13-15). However, the emergence of these features does not necessarily mean that they cannot coexist 'peacefully' with or even reinforce traditional modes of decision making at the national level. Furthermore, although Mény, Muller, and Quermonne point at a convergence of national policies and policy making arrangements, the mechanisms behind these developments are less clear. Shifting the identification of policy problems to the European level does not necessarily lead to the adoption of Europe-wide and uniform policies. It can be argued that this choice ultimately rests with the member states, which determine the scope of the Union's jurisdiction and how the Union decides on these policies. More competition between interest groups may highlight differences in the demand for public policy, but this does not simply imply a convergence of policies or arrangements. Interest groups themselves may hold different views, including a preference for regional differentiation of common policy. Moreover, supply side factors could also affect the making of common policy (for example, the Commission and national bureaucracies).

Despite the fact that it contains a number of interesting hypotheses, the analysis by Mény, Muller, and Quermonne lacks a clear and consistent theoretical framework that can be used to assess the possible impact of European integration. Wessels (1996) tries to fill this gap by presenting a 'stage' or 'growth model' of institutional change and adaptation by national institutions as a result of their participation in decision making at the European level. The 'model' consists of three related hypotheses, each describing a stage in a process leading to convergence of the political and administrative arrangements of national governments in

Europe. The first stage consists of a shift of attention of all national policy makers and their increasing participation in the Union's decision making process. This change is called the *Europeanization hypothesis*, and Europeanization is said to occur as national actors push for participation in policy making at the European level. The next stage is the vertical and horizontal sharing of responsibilities between actors at the national level and in the EU arena and the increasing influence of the Union on the interactions between national and EU actors. This leads to a 'fusion' of national and EU institutions, which Wessels calls the *fusion hypothesis*. Finally, the institutional arrangements in both the Union and the member states become more alike. They will undertake similar innovations and adaptations, which lead towards one common model and the disappearance of differences between national governments. Thus the final stage of this model is complete *convergence* of the national arrangements of policy making. This result is labeled the *convergence hypothesis* (Wessels, 1996: 36).

These related hypotheses form the basis of detailed studies of the almost all EU member states in the collection edited by Rometsch and Wessels (1996). The result is revealing: 'The picture which we get from the national chapters is quite ambiguous, containing divergent but also convergent patterns of institutional activity' (1996: 328). Although the national political actors have become much more aware of the European Union (Europeanization hypothesis) and there is some evidence of mutual influence and interdependence (fusion hypothesis), clear convergence is absent. '[T]he trend towards institutions fusion is moulded and taking shape, without however leading to the convergence of the national constitutional settings towards one (state) model' (Wessels and Rometsch, 1996: 329). In other words, the simple convergence hypothesis, as suggested by Wessels, has not been confirmed. The actual developments within the member states are a much more complex pattern: '...decentralization, strong sectorization, high administrative coordination and low parliamentarization' (Wessels and Rometsch, 1996: 329).

The general impression from our brief review of some of the literature concerning the impact of the EU on national policy making in the member states is that no clear and unambiguous trend towards convergence

due to the influence of European integration can be confirmed. Most authors seem to find that convergence and persistence in policy differences coexist. Furthermore, there have been few successful attempts to explain the pattern of convergence in a systematic way. In the following sections, we try to address this shortcoming by presenting two models that link the arrangements allowing for diversity at the legislative and implementation stages and attempt to explain the limits of convergence created by the constraints under which actors operate at the European and national levels.

3. Diversity in European legislation in view of current national policies

The possibility for variations at the national level has been incorporated in European legislation from the very beginning. The original treaties created the directive as a legislative instrument, which gives the member states some flexibility in implementing common policies. Later, the Single European Act introduced the concept of diversified integration into the treaty in the areas of the internal market and environmental protection (Louis, 1998: 107). The doctrine of mutual recognition of standards, adopted by the Union as a result of the recommendations of the Sutherland report, and the decisions of the ECJ, served as a way of coping with and accepting diversity at the national level while implementing the internal market program. But it was especially in Maastricht and Amsterdam, as Louis (1998: 107) has pointed out, that differentiated integration became a serious part of the legislative process at European level, by providing for derogations (Articles 109k to 122 EC) and exemptions.⁵ The Amsterdam Treaty introduced the concept of flexibility, or enhanced cooperation, at the constitutional level and enabled member states who would like to develop policies further to do so, albeit under restrictive conditions.

A permanent source of diversity in the national execution of common European policies is the possibility, under Community law, for member states to set different standards or to employ different ways to implement

⁵ The cases Louis refers to here are the well-known UK exemption from the Social Chapter, which as a result of the UK reluctance to sign it became the Social Protocol annexed to the Treaty of Maastricht and the UK and Danish protocols on EMU in the same treaty (ibid.).

a policy. These differences can be exemptions from a more general line set by the Union, or the fact that common policies only specify minimum requirements that need to be satisfied by national policy. The question then arises why the Union allows for these differences. Why are the member states able to obtain 'temporary' derogations in implementing some Community legislation or to maintain higher standards than the ones agreed upon by the Union?

An explanation for this can be based on some key characteristics of policy areas that were controlled by national governments for many years. Each country has established a current state of affairs that is based on the institutions that had historically developed as norms and rules and shaped the preferences of the national political actors. This implies that the status quo, which forms the starting point for the European decision making process, is not a homogeneous and unified entity. Instead, the current state of affairs consists of many different and divergent points that represent the various current policies at the national level. All formal analyses of European decision making ignore this fact and presume that all member states face the same and uniform status quo.⁶ However, the important problem concerning the setting of common policy is that national policies differ, so that the member states often hesitate to change their national policy into a policy that will be set at the European level.

The insight that national status quo points may differ also has an important implication for the techniques used by formal modelers. To identify proposals that are preferred by a majority (or unanimity) of member states in the Council, it is customary to use the concept of *win set*. A win set is defined as the set of points that are preferred by a majority of member states given some reference point. Particularly in the case of legislative policy making, this reference point is set to the status quo, which is presumed to be a *unique* point. However, if more than one status quo point exists, which is the case for at least some instances of European policy making, a win set can no longer be defined.

⁶ See, for instance, Tsebelis (1994), Steunenberg (1994), Crombez (1996), and Moser (1997).

In this paper we will use a different technique, which forms the basis for the concept of a win set. This is the concept of a *preference set*, that is, the set of points a player prefers to another point. A preference set is defined at the level of *individual* preferences and not *collective* preferences, and is thus capable of handling the differences in status quo points in a satisfactory way. However, to determine whether the member states prefer to change their national policies into a common policy depends on whether they all prefer (when unanimity rule has to be employed) some policy to their *individual* status quo points. This implies, using the concept of preference sets, that the member states only agree on change when the intersection of their preference sets is not an empty set, that is, proposals exist that satisfy the condition that they are preferred by all members to their status quo points. Formally, $P_i(q_i)$ is defined as the preference set of member state i with regard to status quo point q_i . Then, a change from national policy towards a common policy only occurs when $\bigcap P_i(q_i) \neq \emptyset$. If this condition is not satisfied, there exists no agreement between the member states to set a uniform, Europe-wide common policy.

To appreciate the difficulty of European policy making, we need to know the conditions under which the member states are able to agree on common policy. Here we disregard some of the institutional characteristics of European policy process and focus solely on the decision making between the member states under unanimity rule. In our view this setup best reflects the setting in which decisions about a movement of a policy area to Brussels and the negotiations about possible exceptions take place.⁷ We assume that the member states have to decide unanimously on common policy, including the question whether they want to set a common policy that replaces or constrains their national policies. Each member state—or national government as represented in the Council—has a most preferred position, which is called an ideal point and denoted as N_i .⁸ Moreover, a member state's preference for an alternative policy depends

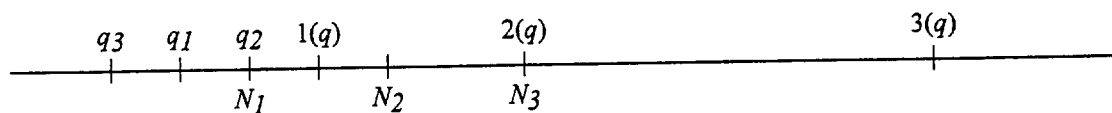
⁷ We are aware of the complexity of the legislative procedures in the Union. See, for instance, the spatial analyses of these procedures by Tsebelis (1994), Steunenberg (1994), and Crombez (1996). Our argument in this paper does not focus on these features.

⁸ It is important to note that the formation of the member states' preferences is a complex process in which a number of national political actors take part. We explore some aspects of this process in our model

on the distance from its ideal point. The farther away an alternative policy is from a member state's ideal point, the less preferred this policy is.⁹ Finally, we focus on a one-dimensional outcome space, which represents the key feature of a policy area. Based on these preferences, each member state holds a *point of indifference* to the status quo, which will be denoted as $i(q)$ for member state i . As an illustration we present a preference configuration for three member states in Diagram 1. Based on their national status quo point, each member state has an individual point of indifference, which in utility terms is similar to the status quo.

To keep our argument as simple as possible, we assume, for the moment, that status quo points are located to the left of the ideal points of the member states.¹⁰ This assumption does not affect our argument since status quo points and their indifference points are interchangeable at the individual level. Then, the condition for changing national policies into a uniform common policy is that *all individual status quo points have to be found to the left of any of the individual points of indifference*. In that case, the member states share some policy positions that they prefer to their current national policies, so that they have an incentive to move away from these policies towards a uniform common policy. In all other instances, in which this condition is not satisfied, at least one member state will object to a proposal. No movement will be possible, leaving the current implementation of national policies undisturbed.

Diagram 1.



From our general result, two different implications can be derived. The first implication deals with the area where a common policy will be set the moment the member states are able to move on and change their individual status quo policies. This area will be found between the *rightmost individual status quo point* and

developed in Section 5.

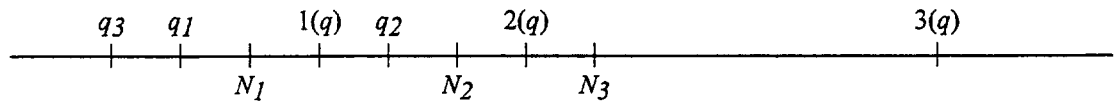
⁹ Technically, we assume single peaked Euclidean preferences.

¹⁰ See the Appendix for a more general result that is not based on this assumption.

the *leftmost individual indifference point* under the assumptions introduced here.¹¹ In the case of the configuration presented in Diagram, a common policy will be set in the interval between q_2 , which is member state 2's status quo point, and $l(q)$, which is member state 1's point of indifference to its status quo. Policies outside this interval are not feasible since at least one member will object and thus vote against a proposal to approve it. We label this implication the *smallest denominator principle*, since the common policy will be determined by those member states that allow for the least change. The fact that member state 3 in Diagram prefers a huge range of alternatives to its own current policy does not matter with regard to Council decision making. Only those member states that are most restrictive in either their own current policy or the alternative that is valued as being similar to this policy, determine the range from which the Council as a collective voting body may choose.

The smallest denominator principle as we define it significantly differs from some approaches in the European politics literature. In our view this principle indicates a rather limited range of possible options, which are clustered near some of the most extreme Council members. This principle does not indicate that the most extreme member determines the final outcome and that the outcome will be equivalent to this member's ideal point. As indicated, the principle suggest a range of possibilities from which the Council may make its choice based on various additional considerations, such as the position of the Presidency and the Commission. We will not go further into these matters, since we only want to stress that it is not necessarily the most extreme Council member that will get its way.

Diagram 2.



The second implication of our general result focuses on the instances when the Council is not able to approve a uniform common policy. Although different configurations of individual status quo points exist

¹¹ Again the reader is referred to the Appendix for a more general result.

that do not allow for a policy change, one configuration takes a rather special position since the impossibility of making a decision does not depend on the location of the status quo points of the other member states. If and only if one member state holds a status quo point that is equal to its ideal point, that is, the current policy corresponds to this member state's preference, *the Council is not able to move to a uniform common policy*. In that case, an indifference point does not exist, and the status quo point and the ideal point of the member state are the same. We provide an illustration of such a configuration in Diagram 2, where the status quo point for member state 2 is equal to its ideal point. This configuration does not satisfy the general condition for change, since not all individual status quo points are found to the left of the indifference points. Moreover, member state 2 will block any proposal for change, so the Council will not be able to successfully approve a uniform common policy. We label this implication the *negative subsidiarity principle*, since it expresses each member state's potential to avoid an unfavorable change of its national policy.

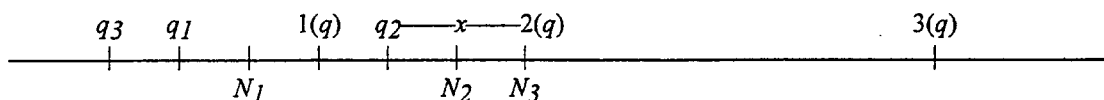
Our general result and both implications that can be inferred from it, indicate the difficulty of the Council to set a uniform policy in view of national differences. If national governments are highly successful in adapting their national policies to their wishes, it is very unlikely that the Council will approve a uniform common policy, since at least one of the states will object (*negative subsidiarity principle*). If national governments are less successful in adapting their policies and are thus faced with current national policies that are found at some distance from their most preferred position, a common policy may not lead to a substantial improvement (*smallest denominator principle*). The analysis so far suggests that the Council may need to allow for some national diversity in common policy in order to have these policies approved by the member states. Thus, diversity in national policies might not be an effect of divergent interests at the implementation stage, but a condition for legislative approval of common policy.

4. Legislative arrangements allowing for diversity

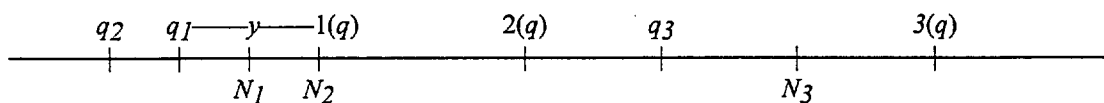
Based on preference configurations like the one presented in Diagram 2, the only way support for a common policy can be created is by granting exemptions to some member states. This can be done in at least three different ways that have been developed in the context of the Union.

Diagram 3.

a. 'opt out' arrangement



b. 'opt up' arrangement



The first arrangement is the setting of high standard, while at the same time the Union grants exemptions to those members who do not (yet) satisfy these standards. This arrangement is likely to be used in those instances where most member states agree on a high standard, while some disagree. An example of this is presented in Diagram 3a, where member states 2 and 3 agree to a policy from the interval between q_2 and $2(q)$, as indicated by x . Member state 1 does not prefer this common policy, and it will veto the proposal when member states 2 and 3 insist on implementing a uniform, Union-wide standard. A way to avoid a veto by member 1 is to grant it an exemption in the sense that member state 1 is allowed to pursue its own policy in this area.¹² This arrangement, where some member states do not need to comply with common policy, can be called an 'opt out' arrangement. It allows some member states to maintain their national standards even when there are higher European Union standards. An example of this arrangement can be found in Article 130s(5) EC, which allows the Council to grant 'temporary derogations' to some member states in the case of

¹² An alternative solution might be 'logrolling' when member states have to decide on different issues for which the intensity of their preferences substantially differs. However, 'logrolling' creates a credibility problem, which is extensively discussed by Mueller (1989: 82-86). We will not discuss this possibility

environmental policy. The 'opt out' arrangement seems to be based on the presumption that exemptions are temporary and that the exempted member states will catch up within a certain period of time. The Treaties contain a number of examples when a member state is allowed a temporary exemption from a policy if it finds itself in 'serious difficulties'.¹³

The second arrangement is the setting of a *minimum* standard, which allows some member states to maintain their higher standards. This arrangement is likely to be used in those instances where most member states agree on a relatively low standard, while some disagree in the sense that they prefer to maintain higher standards. An example of such a configuration is presented in Diagram 3b, where member states 1 and 2 agree to a policy from the interval between q_1 and $l(q)$, as indicated by y . Member 3 will object to this policy as it prefers a much higher standard. Only when y has been set as the minimum level, will member state 3 agree. This solution to the diversity of interests at the national level can be called the 'opt up' arrangement (see, for instance, Haverland, 1999: 195), which allows front-runners the possibility to implement and maintain higher standards.

The 'opt up' arrangement seems to be based on the presumption that maintaining a higher standard will not be disadvantageous to the member states that accept the minimum level. Moreover, the implementation of a higher level may be more costly in the sense that this member state potentially faces a disadvantage that is based on a preference to do so. However, Kelemen's work which we referred to earlier (1995: 327), seems to indicate that the European Court of Justice via its recent decisions is trying to prevent member states from setting standards higher than the existing EU-wide ones. The member states, in turn, have tried to restrict the activity of the Court in some areas or to provide for some loopholes such as general safeguard clauses.

The general safeguard clauses are a third possibility that is different from the 'opt up' and 'opt out' arrangements discussed above. The *general safeguard clause* helps avoid a situation when the implementing

further.

¹³ See, for example, Article 17(4) EC: 'If the Commission finds that substitution for any customs duty of a fiscal nature meets with serious difficulties in a member state, it shall authorize that state to retain the duty

of a measure leads to disproportionate costs in other areas of member states' interest. This arrangement, which recognizes that different policy areas can be linked, provides member states with the possibility to limit the impact of common policy at the national level. Contrary to both preceding arrangements, which aim to cope with a diversity of interests between member states concerning the issue at stake, a general safeguard clause seems to deal with a diversity of interests concerning another related issue. For example, with regard to the four freedoms of movement, the well known safeguards of Article 48(3) EC and Article 56(1) EC provide the member states with some flexibility in applying these freedoms. Matters of national public policy, public security, or public health may constitute grounds to restrict the freedoms of movement, although these restrictions have been regarded as controversial and have been limited by Directive 64/221.

In addition, a number of articles in the treaties allow for broader interpretations by stating the requirement to take into account 'national specifics' or economic circumstances, such as Article 78 EC (transport policy).¹⁴ Such variations of the general safeguard clause seem to be devised by the member states as a way to protect themselves from the interpretations and activism of the Court which has played a strong pro-integrative role in the last few decades (see Weiler, 1994). Kelemen (1995: 319) characterizes such clauses as 'escape mechanisms' which allow the member states a defense against the Court's judicial activism. Similarly, general safeguard clauses provide a loophole when policies with broad and controversial implications are set, but it is difficult to estimate their effects when they are applied in practice. An example is Article F of the Treaty of Maastricht as amended by the Treaty of Amsterdam. After stating in Article F, para (1) that 'The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the member states', the member states have found it necessary to introduce the vague safeguard in Article F (3): 'The Union shall respect the national identities of its member states.'

on condition that it shall abolish it no later than six years after the entry into force of this Treaty.'

¹⁴ 'Any measures taken within the framework of this Treaty in respect of transport rates and conditions shall take account of the economic circumstances of the carriers.'

The 'opt out' and 'opt up' arrangements as well as the general safeguard clauses make common policy possible in the sense that some policy can be approved as part of the treaties, directives, or regulations. On the other hand, all of these arrangements allow the member states to pursue national objectives and maintain the diversity in the implementation of common policy. Thus as part of the legislative process, member states are able to shape common policy in such a way that it does not impose Europe-wide, uniform standards.

Implementing legislation: national incentives

The degree to which common policies are implemented in a uniform way is a source of diversity no less important than diversity at the legislative stage. As Olsen (1997:158) has argued, '[a] focus on the degree to which member states actually implement agreed upon policies may illuminate both European impacts on states and the ability and willingness of states to act together.' Thus we focus in this section on diversity arising through implementation.

As we have shown earlier, even if the member states agree to some Europe-wide, uniform standards in certain areas, this does not imply that these standards will be implemented in the same way. Since the existing policies in the EU member states can and have varied considerably, most major advances in the introduction of new common policies have generated some difficulties of adaptation. Thus diversity also exists in the implementation process, which takes place at the national level. We specifically focus here on problems involving the transposition and implementation of directives.¹⁵ In recent years, the Commission has noted that some member states have strongly objected to what they have seen as a conscious reluctance of other member states to implement certain directives.

Directives, as defined in Art 189 EC, are binding 'as to the result to be achieved, upon each member state which they are addressed...(but) leave to the national authorities the choice of form and method'. Regulations, on the other hand, are binding and directly applicable in their entirety in all member states. Regulations leave much less scope for diversity at the national level and thus are of less interest to us here.

At the stage of transposition and implementation (in the case of directives), the role of the national governments is to adopt the measures in such a way that the national policies are changed. The nature of directives and the fact that under Community law they do not, in most cases, have direct effect (in contrast to regulations) means that member states wanted to leave themselves some freedom as to the implementing measures they would adopt and some variation in national policy. However, as indicated earlier, the decisions of the European Court of Justice have ensured that some directives also have direct effect or that in any case member states are punished for their non-implementation.

The question is to which extent the member states' governments can have a free hand in the implementation of directives and the form in which they are adopted in the national legislative systems. This would determine what differences might occur as part of the process of implementation. National differences in the process of transposition and implementation add to the diversity that already exists in the legislative arrangements introducing more and more 'flexibility' in the EU system.

To analyze the process of implementation we extend the number of actors at the national level. While we focused on the member states—or the national governments—in the previous sections, we now distinguish between different groups of national actors each having their own interests. In light of the recent tendency of national parliaments to demand more influence on decision making in Union affairs and to see the implementation of directives by governments alone as a form of the 'democratic deficit', we have included a number of national political actors in our model. Besides the government, these actors can be the political parties or fractions which support government, parliamentary committees, and even regional and local governments since the latter are often responsible for actual implementation.¹⁶ An important feature of implementation is that all these actors need to cooperate to transpose European legislation and to implement it. Consequently, decision making in this context has to be based on consensus among the participating groups. Consensus could also be reached at the earlier policy preparation stage, at least for member states

¹⁶ See, for instance, Rhodes (1986), who stresses the importance of subcentral governments for the

h as Denmark which have parliamentary mechanisms controlling the formulation of the national position
ore European legislation is passed. In these circumstances, national actors would have to support the
ition taken by the government in Council negotiations, which may reduce the possibility of
compliance. The need to reach consensus at the legislative or the implementation stage can be
esented in terms of a veto for each actor (see Tsebelis, 1995). If one participant disagrees, they can block
transposition or refuse to implement the policy. ¹⁷

Based on these 'informal' vetoes, we approach implementation as a process in which at least two political
ups need to approve the transposition of a directive into national legislation. Both groups have most
ferred positions, or ideal points, which we label G_i for group i . The ideal point of the government is
esented by N . Since the government relies on the support of both political groups, we assume that the
ernment's ideal point depends on the preferences of these groups and thus has an intermediate value.¹⁸
se preferences are illustrated in Diagram 4.

As indicated, implementation is monitored by the European Commission, which may challenge a member
or not transposing a directive into national legislation. However, monitoring and enforcing the
ementation of directives is costly. We assume that these enforcement costs, which we label as c , are
d, which may depend on the contents of the directive involved. The Commission will challenge a
onal government when the difference between the original directive and national legislation is such that it
eds the costs of enforcement.¹⁹ The Commission, as the 'guardian of the Treaties', is presumed to have
eal point that corresponds to the contents of the directive. Of course, this assumption can be dropped,

ementation of common policy.

or the role played by parliaments and actors such as trade unions in the process of transposition of
atives, see the recent case of the French debate over the implementation of the EU's electricity directive
ance. The directive calls for liberalization of the electricity market for major power consumers inside
EU and has been the subject of vigorous debates in the *Assemblée Nationale* and a campaign against it
nized by trade unions from the state owned electricity and gas companies (Coss, 1999: 22).

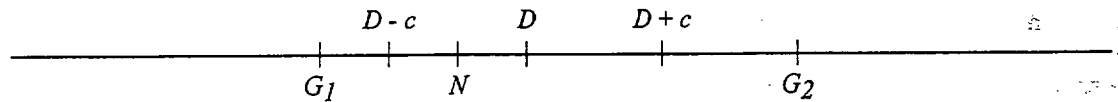
ormally, $G_1 \leq N \leq G_2$.

he Commission's utility function can be represented as follows: (i) $-|D - x|$ for no Commission action,
(ii) $-|D - x| - c$ for challenging a national government, where D is the contents of the directive along a

which would then allow us to analyze cases in which the Commission can exercise political review of the implementation of directives by the member states. In this paper, however, we focus only on the divergence of national policy due to the behavior of the member states.

National governments as well as the national political groups are well aware of the Commission's behavior. Moreover, both the government and the political groups want to avoid being challenged by the Commission. If the Commission challenges them, they will lose face domestically as well as internationally, and the Commission will reverse their decision and impose the introduction of the directive. This means that there are some costs involved when decisions will be reversed by the Commission, which reduces the payoffs to these actors. We can now define a set of proposals that will not be challenged by the Commission, which we call the *set of sustainable proposals*.²⁰ This set includes all points between $(D - c)$ and $(D + c)$ in Diagram 4, with D as the policy as embedded in the directive.

Diagram 4.



Based on the set of sustainable proposals, the government will make a proposal about how to include the directive in national legislation, which is subjected to a veto by the two political groups. For national governments, the directive has to be regarded as the status quo, since this policy has been set at the Union's level and will be imposed on the member state when the Commission detects noncompliance. The national government is not able to deviate from the directive when both political groups prefer a change of the directive in opposite directions. In other words, neither of the two groups shares any other policies that they prefer to the directive. The condition for *full implementation* of the directive is that *its content is found between the ideal points of the leftmost and the rightmost national political group*.²¹ In that case, the

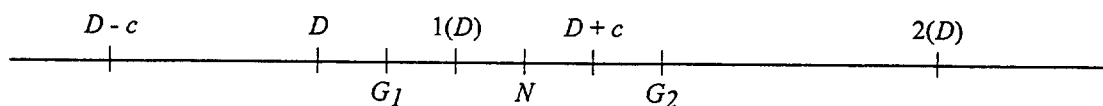
policy dimension and c the costs imposed on the Commission.

²⁰ This set can be defined as $S = \{x \mid (D - c) \leq x \leq (D + c), \text{ for } x \in X\}$.

²¹ See the Appendix for a more general result that is not based on only two political groups.

Common policy as set by the Council will be implemented without any deviation. In all other circumstances, where national political groups do not oppose each other, full implementation of the directive is not rejected. This result is illustrated in Diagram 4 where the ideal points of the national political groups are found to the left and to the right of the directive. Since both groups do not agree on any change, the government is induced to implement D .

Diagram 5.



An implication of this general result is that full implementation will not occur if national political groups have preferences that do allow for some change. So, when these groups share some alternative policies that they prefer to the contents of the directive, full implementation will not occur and the government has an incentive to implement a more or less divergent proposal. The condition for *partial implementation* is that the ideal points of all national political groups have to be found to the left or right of the directive. The preference configuration in Diagram 5 illustrates this condition. Both national groups are now found to the left of the directive, D . However, political group 1 will resist any change further to the right than its preference point $1(D)$. If government would propose a policy that is equivalent to its own ideal point, this group would issue a veto. Political group 2 finds a much wider range of policies acceptable, which includes policies up to $2(D)$. Based on the preferences of both groups, only policies within the interval $[D, 1(D)]$ will not be vetoed. Furthermore, the interval $[D - c, D + c]$ contains all sustainable policies, which will not be challenged by the Commission. Government now selects its best policy given that this policy is *sustainable veto proof*. This will be the policy that equals point $1(D)$ in the diagram, which differs from the directive

See the Appendix for a more general description of outcomes for other preference configurations.

The potential deviation from the directive available to the government in case of partial implementation is limited. As indicated, a government's choice is restricted by the fact that the policy has to be sustainable and veto proof. Consequently, a new policy as result of partial implementation will be found within the range of policies that will not trigger a response from the Commission and are acceptable to the national political groups involved. Furthermore, partial implementation is a result of political incentives existing at the national level, which have not fully been taken into account in the Union's decision making process. If the member states would have set a uniform common policy that was closer to the preferences of the national government, the condition for full implementation might have been satisfied. In this way, partial implementation can be regarded as a mechanism that allows national governments to tailor common policy to 'local' preferences. This may increase the legitimacy of the Union policy process and contribute to the actual implementation of the policy at stake.

6. Conclusion

In this paper we focused on two different processes that affect the extent to which variation may occur in the actual implementation of common policy. The first process is the *legislative process* at the European level. There are numerous examples in the history of treaty negotiations and the setting of common policies when the Council (or the European Council) experiences great difficulty in setting a uniform policy in view of the national differences in preferences and status quo positions. To accommodate these differences, the Council may decide to employ different arrangements, such as the 'opt out' and 'opt up' arrangements, or the general safeguard clauses. Consequently, the Council has allowed for some national diversity at the legislative stage as a way to obtain the consent of the member states. Diversity in national policies, which are assigned to the jurisdiction of the European Union, can be best understood as a condition for legislative approval of common policy. This conclusion runs along similar lines with Olsen's hypothesis (1997: 180) that a possible

ponse to the diversity of preferences in an enlarged EU would be to 'legitimize certain types of variations',²³

The second process is the *implementation process* by the national governments. Alongside with the role of the Commission, we focused on the different interests that may exist at the national level which need to be taken into account in understanding the way in which common policy would be implemented. Our analysis reveals that member states may only partially implement a common policy when all national political groups that are involved in the implementation process prefer another policy to the directive. The extent to which partial implementation will occur depends on the control exercised by the Commission and the political incentives existing at the national and even local levels. The latter concern the preferences of other political groups in the national arena, which have not fully been taken into account in the Union's decision making process. Partial implementation, therefore, which creates some diversity between the member states in implementing common policy, can be regarded as a mechanism that allows national governments to tailor common policy to local preferences. This process, which allows for some national diversity in the Union, may increase the legitimacy of common policies and of the EU in the eyes of local and national actors by allowing them to have a say over policies adopted by their own governments but not always coordinated before they are decided in the Council of Ministers. In contrast to Olsen (1997: 170), who sees weak grounds for legitimacy of the EU institutions due to the lack of common cultural and social bonds between the member states, we argue that the mechanism of partial implementation may increase legitimacy for local actors by allowing them to 'plug in' in the decision making process at a stage when they can deal with their own national government inside the democratic national polity. This could also be interpreted as a mechanism which has evolved as a national response to the aspects of the democratic deficit, which arise from implementation and

The other two possible responses suggested by Olsen (1997: 180) are, first, limiting the common agenda (road not taken by the member states) or, secondly, reducing differences in the rates of implementation. Member states and the Commission seem to have opted for the 'legitimising of differences' approach on one hand and for the 'reduction of differences of rates in implementation' on the other.

the tendency of some member states (but not others) to give their governments a *carte blanche* in implementing legislation.

**Table 1. European policy at the national level:
expected effects of formulation and implementation**

implementation: common policy:	national incentives: disagreement on change	national incentives: agreement on change
no exemptions	<i>convergence</i> uniform	<i>partial convergence</i> non-uniform
exemptions	<i>partial convergence</i> non-uniform	<i>non-convergence</i> non-uniform

Considering these mechanisms, we need to address again the initial question whether national policies in the European Union will become more alike. Table 1 presents an overview of possible effects based on both the Union's legislative process and the implementation process. With regard to EU legislation we distinguish between common policy with and without exemptions. With regard to the implementation process, we distinguish between the two possible situations, that is, between agreement and disagreement on implementing the common policy. National political actors will fully implement the directive, when they disagree on changing the policy. The overall effects of both mechanisms are differentiated in terms of the process of convergence and the possible end-state of convergence based on uniform policies.

The only situation in which we expect a process of convergence leading to a uniform, Europe-wide policy is when two conditions are satisfied. First, the Council is able to agree on a uniform policy at the legislative stage, which does not include exemptions for any member state. Second, all national governments need to fully implement a directive and do not face any national incentives to deviate from this policy. Only when these two conditions are fulfilled, will there be a tendency towards a uniform policy in Europe. We further

differentiate between cases when full convergence does not occur. In the first place, when there has been an agreement at the legislative stage involving exemptions for some member states, even if there are no differences in implementation, convergence will be only partial, since the differences are already codified in the legislation. On the other hand, when there have been no exemptions granted at the legislative stage, but implementation varies, we have again a case of partial convergence, since policies will be restricted to sustainable alternatives determined by Commission enforcement. Finally, in the one remaining case when both exemptions are granted and implementation is weak, diversity remains and there are no reasons to expect that policies in the member states will become more alike due to the impact of the Union.

Both conditions identified in Table 1 contribute to the actual development of public policies at the national level in Europe. The legislative process of the Union allows for different arrangements in the setting of common policy (such as temporary exemptions, variation in standard and arrangements for 'flexibility' or enhanced cooperation), which have been noted by, for instance, Louis (1998), and Haverland (1999). Since member states hold different policy preferences, which may not allow for agreement, diversity is sometimes allowed already at the legislative stage as the only way to get approval for a common policy. A well-known example of this trend is the arrangement, which took the Social Chapter out of the Maastricht Treaty and into a separate Social protocol, binding eleven member states but not the United Kingdom.

Similarly, we explain the difficulties in the implementation process by focusing on interactions between national political actors. We follow, to some extent, the line of argument advanced by Mény, Muller and Quermonne (1996: 7), who see the national actors responsible for implementation almost as policy makers in their own right. Therefore, in contrast to Héritier (1995) and Knill and Lenschow (1998), we do not focus on the differences in national administrative traditions and practices and the costs of institutional adaptation, but rather we look at the differences in preferences of actors. We also take into account the enforcement costs for the Commission, which, if too high, limit the ability of the Commission to monitor implementation, a trend noted in the study by Kelemen (1995).

Our main conclusion is that European Union involvement in a given policy area does not necessarily lead to a kind of convergence whereby the organization and contents of public policy become more alike. This contrasts with the 'institutional fusion' hypothesis developed by Wessels, which suggests a somewhat deterministic and uniform process in which national policies in Europe become similar. On the other hand, it is consistent with the results of studies such as that by Haverland (1999), that finds trends towards both convergence and divergence in national policies. In this paper, we demonstrated possible mechanisms underlying the process leading to convergence or divergence of policies in the European Union from a theoretical rather than a policy perspective.

References

- Coss, S. (1999) France escapes swift action on energy law. *The European Voice*, 8-14 April 1999, 5:14.
- Crombez, C. (1996) Legislative procedures in the European Community. *British Journal of Political Science* 26: 199-228.
- European Commission (1998) Update on the Single Market. <http://europe.eu.int/comm/dg15/en/update/score/score3.htm>, 3 November 1998.
- Guiliani, M. (1996) Italy. In: D. Rometsch and W. Wessels (eds.) *The European Union and member states: Towards institutional fusion?* Manchester: Manchester University Press.
- Hartley, T. C. (1994) *The foundations of European Community Law* (3rd ed.) Oxford: Clarendon Press.
- Haverland, M. (1999) *National autonomy, European integration, and the politics of packaging waste*. Amsterdam: Thela Thesis.
- Héritier, A. (1995) 'Leaders' and 'laggards' in European clean air policy. In: B. Unger and F. van Waarden (eds) *Convergence or diversity: Internationalization and economic policy response*. Aldershot: Avebury, 278-306.
- Héritier, A., C. Knill, and S. Mingers (1996) *Ringing the changes in Europe: Regulatory competition and the transformation of the State. Britain, France, Germany*. Berlin: Walter de Gruyter.
- Kelemen, R. D. (1995) Environmental Policy in the European Union: The struggle between Court, Commission and Council. In: B. Unger and F. van Waarden (eds) *Convergence or diversity: Internationalization and economic policy response*. Aldershot: Avebury. 306-333.
- Knill, C. and A. Lenschow (1998) Coping with Europe: the impact of British and German administrations on the implementation of EU environmental policy. *Journal of European Public Policy* 5: 595 -615.
- Laursen, F. and S.A. Pappas (eds) (1995) *The changing role of parliaments in the European Union*. Maastricht: European Institute of Public Administration.

- Louis, J-V. (1998) The rule of law. In: M. Westlake (ed.) *The European Union beyond Amsterdam: New concepts of European integration*. London and New York: Routledge. 99-115.
- Marks, G., F.W. Scharpf, P.C. Schmitter, and W. Streeck (1996) *Governance in the European Union*. London: Sage.
- Mény, Y., P. Muller, and J.-L. Quermonne (eds) (1996) *Adjusting to Europe: The impact of the European Union on national institutions and policies*. London: Routledge.
- Moser, P. (1997) A Theory of the Conditional Influence of the European Parliament in the Cooperation Procedure. *Public Choice* 91: 333-350.
- Mueller, D.C. (1989) *Public choice II: A revised edition of Public Choice*. Cambridge: Cambridge University Press.
- Nugent, N. (1994). *The Government and Politics of the European Union*. London: Macmillan.
- Olsen, J. P. (1997) European challenges to the nation state. In: Steunenberg, B. and F. van Vught (eds) *Political institutions and public policy: Perspectives on European decision making*. Dordrecht: Kluwer. 157-188.
- Page, E.C. and L. Wouters (1995) The Europeanization of the national bureaucracies? In: J. Pierre (ed.) *Bureaucracy in the modern state*. Aldershot: Edward Elgar. 185-204.
- Rhodes, R.A.W. (1986) *European policy-making implementation and subcentral governments: A survey*. Maastricht: European Institute of Public Administration.
- Rometsch, D. and W. Wessels (eds) (1996) *The European Union and member states: Towards institutional fusion?* Manchester: Manchester University Press.
- Steunenberg, B. (1994) Decision making under different institutional arrangements: Legislation by the European Community. *Journal of Theoretical and Institutional Economics* 150: 642-669.
- Steunenberg, B. and A. Dimitrova (1999) *Interests, legitimacy, and constitutional choice: The extension of the codecision procedure in Amsterdam*. Enschede: University of Twente. mimeo.

- Steunenberg, B. and F. A. van Vught (eds) (1997) *Political institutions and public policy: Perspectives on European decision making*. Dordrecht: Kluwer.
- Isebelis, G. (1994) The power of the European Parliament as a conditional agenda setter. *American Political Science Review* 88: 128-142
- Isebelis, G. (1995) Decision making in political systems: Veto players in presidentialism, parliamentarism, multicameralism and multipartism. *British Journal of Political Science* 25: 289-325.
- Unger, B. and F. van Waarden (eds) (1995) *Convergence or diversity: Internationalization and economic policy response*. Aldershot: Avebury.
- Weiler, J.H.H. (1994) A quiet revolution: The European Court of Justice and its interlocutors. *Comparative Political Studies* 26: 510-534.
- Wessels, W. (1996) Institutions of the EU system: models of explanation. In: D. Rometsch and W. Wessels (eds.) *The European Union and member states: Towards institutional fusion?* Manchester: Manchester University Press. 20-36.
- Wessels, W. and D. Rometsch (1996) Conclusion: European Union and national institutions. In: D. Rometsch and W. Wessels (eds.) *The European Union and member states: Towards institutional fusion?* Manchester: Manchester University Press. 328-365.
- Westlake, M. (ed.) (1998) *The European Union beyond Amsterdam: New concepts of European integration*. London and New York: Routledge.

Appendix

European legislation

A more general result for policy change in view of different individual status quo points can be derived as follows: label q_i and $i(q)$ to the left of member state i 's ideal point a_i , and label the points to the right of member state i 's ideal point b_i , $i \in N$.

Proposition: *The condition for substituting national policy with a uniform common policy is:*

- (i) $\forall a_i < \min b_i$, or, alternatively,
- (ii) $\forall b_i > \max a_i$.

Under this condition, points exist that are preferred by all member states to their individual status quo points, that is, $\cap P_i(q_i) \neq \emptyset$. Let's focus only on condition (i), since it is the mirror image of condition (ii).

Let's first prove that condition (i) is sufficient. Note that each member state i prefers the points between a_i and b_i to the status quo, where, by definition, $a_i < b_i$ when the status quo is not equal to the member state's ideal point. If all member states have to agree, a change is only possible when a proposal is selected from the points between a_i and b_i for each member state. Consequently, the largest a -value for some member state must be found to the left of the smallest b -value for the same or another member state, otherwise no agreement is possible. Thus, in order to allow for change, all a -values must be smaller than the smallest b -value.

Let's also prove that condition (i) is necessary. Assume that for at least one of the member state i it holds that $a_i \geq b_j$, $i \neq j$, $j \in N$. Note that member state i prefers the points between a_i and b_i , while member state j prefers the points between a_j and b_j . When $a_i \geq b_j$, both member states cannot agree on a policy that both (strictly) prefer to their individual status quo point. Consequently, they will not agree on a common policy, which contradicts the proposition that a common policy will be set.

Based on this proposition, we point at two direct implications:

1. *smallest denominator principle:* the member states will select a policy to which they all agree. Based on the proposition, those policies are found between $\max a_i$ and $\min b_i$, when $\max a_i < \min b_i$. If $\max a_i \geq \min b_i$, condition (i) is not satisfied, so no uniform common policy can be set.
2. *negative subsidiarity principle:* assume that for some member j , q_j is equal to member j 's ideal point. Then, $j(q)$ equals q_j , or $a_j = b_j$. Consequently, the condition $\forall a_i < \min b_i$ is not satisfied, so no uniform common policy will be set.

Implementation

Define G_l as the ideal point of the leftmost political group in a member state, and G_r as the ideal point of the rightmost political group. Furthermore, assume $G_l \leq N \leq G_r$, with N the ideal point of the national government. Define the preference set of a political group i with regard to the directive D as $P_i(D)$, $i \in N$. Finally, the set of sustainable policies is $S = \{x \mid (D - c) \leq x \leq (D + c), \text{ for } x \in X\}$, with c as the enforcement costs to the Commission.

Proposition: *In a member state full implementation occurs when the contents of the directive, D , is found between G_l and G_r .*

In that case, no points exist that are preferred by all political groups to the directive, that is, $\cap P_i(D) = \emptyset$. Political groups thus do not prefer a movement away from D .

Let's prove that the condition $G_l \leq D \leq G_r$ is sufficient. Note that the leftmost group only prefers points to the left of D , while the rightmost group only prefers points to the right of D . The preference sets of these groups do not have any point in common, so at least one political group will block a proposal that changes D . Let's prove that the condition is necessary. Assume $D < G_l \leq G_r$. Now, all political groups prefer points to the right of D , which are found in the open interval $(D, l(D))$. Consequently, for $c > 0$, the government

will select a new policy y , $y \neq D$, which will be approved by the political groups. This contradicts that full implementation will take place, i.e. D will not be changed.

With regard to the outcome of implementation, we can state the following result:

Proposition: *For $G_l > D$ the national government will select as part of the implementation process a new policy equal to $\min\{N, l(D), (D + c)\}$.*

This result is based on government's best choice given both S and $\cap P_i(D)$. Note that for $G_l > D$, both sets exist. Their rightmost boundary values are $(D + c)$ and $l(D)$, respectively. For $N > l(D)$ and $(D + c) > l(D)$, government is induced to select $l(D)$, otherwise its proposal will be vetoed. For $N > (D + c)$ and $l(D) > (D + c)$, government is induced to select $(D + c)$, otherwise government will be challenged by the Commission. For $N \leq (D + c)$ and $N \leq l(D)$, government may select its ideal point, since this point is sustainable as well as veto proof.

Network on Enlargement and new Membership of the European Union

NEMEU

NEMEU is a European research network on enlargement and new membership of the European Union. The research objective of the network is twofold. First, the network aims to contribute to the literature in economics and political science by focusing on the role of institutions in political decision making. Recent studies have presented a static view, where institutions are regarded as constraints on decision making processes. This network is seeking to analyze alternative institutional arrangements concerning European integration in a comparative way and, in addition, to focus on institutional change. Second, the project aims to enhance our understanding of the enlargement of the EU and the extent to which enlargement and new entry will induce change.

The program proposed by this network is designed to deepen our understanding of the process of European integration. Within a political-economic framework, we focus on the following research questions:

- (1) What are the main economic and/or political benefits of enlargement of the EU and new memberships to both new applicants and current member countries?
- (2) What institutional changes will entry induce in new member countries?
- (3) What effects will enlargement have on the functioning of the European Union and which institutional changes will it induce?
- (4) To what extent is it possible to overcome disadvantages of enlargement by introducing other institutional arrangements in the Union?

Scholars from the following universities participate in NEMEU:

- Center for the Study of Law and Economics, University of Saarland (Germany),
- Centre for Economic Research and Graduate Education, Charles University, Prague (Czech Republic),
- Département de Science Politique, Université de Genève, (Switzerland),
- Department of Economics, Johannes Kepler University of Linz (Austria),
- Department of Economics, University of Transylvania at Brasov (Romania),

- Department of Government, London School of Economics and Political Science (United Kingdom),
- Department of Statistics, University of Lund (Sweden),
- Dipartimento di Teoria Economica e Metodi Quantitativi per le Scelte Politiche, University of Rome 'La Sapienza' (Italy),
- Faculty of Public Administration and Public Policy, University of Twente (the Netherlands),
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