Supranationalization through Socialization in the Council of the European Union

Jakob Lempp / Janko Altenschmidt

Abstract:
It is an academic truism that enlargement affected the functioning of the European Union and its institutions, and that effects of enlargement are especially noticeable in the Council and its sub-structures. Many researchers expected procedures in the Council to become more intergovernmental and decision-making to become more complicated. However, enlargement also contributed to institutional change in the Committee of Permanent Representatives in quite another—unexpected—way: it strengthened the influence of supranational and "quasi-supranational" actors within the Council, such as the Commission, the Presidency and the General Secretariat, and it made decision-making considerably easier in cases where profound national interests of the newcomers were not directly concerned. Four institutional mechanisms can be identified that contributed to this unexpected institutional evolution: The mechanism of socialization, the mechanism of specific and unspecific reciprocity, the mechanism of lack of interest and the mechanism of presidential impartiality. These mechanisms helped to overcome the cleavage between old and new as well as to uphold the strong and often cited esprit de corps within the Council and its preparatory bodies. The paper analyzes these processes and tries to answer the question: how did these mechanisms contribute to a kind of supranationalization of the Council and its substructures after the last rounds of enlargement? The analysis is based on 51 semi-structured, intensive interviews with experts from the Council General Secretariat and from member states' Permanent Representations.

Introduction: The Surprising Absence of Deadlock in the Council[1]

In May 2004 and in January 2007 twelve central, eastern and southern European countries joined the European Union. The process of integrating the new member

---

[1] This paper is based on a quantitative survey on the Council acts as well as on the number of votes against and abstention within the Council from 1999 to 2006. In addition 51 extensive qualitative interviews have been done with representatives from the Council secretariat, from permanent representations and from national administrations in the field of the coordination of the national instructions that are sent to the permanent representations in Brussels.

states considerably challenged the functionality of the European Union's institutions. Large-scale changes were expected to occur especially within the Council of the European Union and its preparatory bodies: the Committee of Permanent Representatives (Coreper) in its two manifestations, and the Council working groups: The total number of representatives in the Council almost doubled from 15 to 27 within less than three years. Several years before enlargement took place, it was feared that this biggest round of enlargement to date would severely affect the smooth running of decision-making processes in the EU. The then existing structure of the Union was universally perceived to be incapable of integrating the new member states; most scholars claimed, that the size of a group makes a difference and that 'the smaller the circle of participants the better.'[2] Many researchers feared, that the candid atmosphere, the feeling of mutual responsibility and the commitment to a higher—European—goal that has repeatedly been observed especially in Coreper would be in danger because of the expected greater cultural and linguistic diversity. Already in 2002, Jeffrey Lewis wondered, whether Coreper will "function the same in an EU of twenty-seven or more?" (Lewis 2002: 295). The common and widespread expectation was that without fundamental reforms of the existing institutional structure of the EU, deadlock and a general incapability to act would most certainly be the consequence.[3] International media also confirmed the perception that without changes in the voting weights of governments and the extent of majority voting, the decision-making machinery designed for the six founding members back in 1957 will collapse. And even Council and Coreper members expected that "no Committee works efficiently with more than 11 members" (int. 21, 4-5). Consequently, during the period prior to the Intergovernmental Conference in Nice in 2000, representatives from EU member and candidate countries, political scientists, and the public debate pointed to extensive and profound changes in the institutions, decision-making processes, and even some of the guiding principles of the European Union as the prerequisites for enlargement. The result was the signing of the Treaty of Nice on 8 December 2000. Only days later, however, the perception arose that Nice had been a failure, and that the Union was not yet fit for enlargement. Indeed, the then-president of the European Commission, Romani Prodi, feared that enlargement based on the Treaty of Nice would result in more frequent blockades in the Council ('Süddeutsche Zeitung' 13 December 2000), and most commentators agreed that 'rejoicing over securing enlargement … would be premature' ('Economist' 11 December 2000). The final expectation was that the functioning of most EU institutions—but especially the Council—would be severely affected by the accession of the ten new

---

[2] Puetter 2006: 24. See for Georg Simmels argument on groups size Simmel 1902 and Simmel 1908. For a more detailed analysis on how these changes affected the Coreper see Lempp 2007a.

[3] Deadlock, blockade or at least major problems with decision-making procedures in the Council have been predicted by many of scholars and practitioners; see e.g. Hayes-Renshaw / Wallace 2003: 8. See for a comprehensive analysis of the voting-behavior within the Council before and after enlargement Hayes-Renshaw et al. 2006. According to the German Foreign Affairs Minister at the time, Joschka Fischer, reform was even *necessary* to create the *institutional preconditions* for enlargement ('Frankfurter Rundschau' 1 December 2000).

member states in 2004. Despite the uncertainty of its ability to succeed, enlargement did proceed as outlined in the Treaty of Nice, and the European Union has been functioning with 25 member states for three years now and with 27 member states since January 2007 – time to look at the facts and figures and see whether the feared deadlock has emerged or not.

Within Coreper itself, actual voting occurs very rarely. However, the often quoted 'shadow of the vote' lies upon every QMV-dossier, i.e. every dossier that can be decided with a qualified majority of votes in the Council. Hence, the possibility of voting in the Council changes the way how Coreper and the Council working parties treat a particular dossier. Contrary to expectations new member states have not caused a blockade of the Council and the feared voting-chaos has not emerged. Although the number of pieces of legislation passed by the Council sank from an average of 93 legal acts per presidency in the years between 1999 and 2003 to an average of 67 per residency after enlargement,[4] all interviewees universally reported that this was due not to enlargement but rather to an altered policy of the Commission to introduce fewer initiatives to the Council in order to avoid over-regulation.

Furthermore, it is not the case that after the May 2004 enlargement voting in the Council has become more divisive. Even though only 29% of the legislation passed by the Council formally requires a unanimous vote, about 90% is passed as such (2004: 89.1%; 2005: 90.2%; 2006: 89.9%). Consequently, the hypothesis that the new members would cause more dissent within the Council can clearly be disproved for the years 2004, 2005, and 2006. In addition, the percentage of legislation passed with abstention votes for 2004, 2005, and 2006 (8.3%, 9.8%, and 8.8% of all acts, respectively) was also lower than that before enlargement. Legislation passed with both abstention and dissenting votes from 2001 to 2003 was more than 16%; this figure was clearly under 16% in the years 2004 and 2005 and only 16.9% in 2006 (see Figure 1).

---

[4] These figures are based on the Monthly Summaries of Council Acts, which are publicly available: http://consilium.europa.eu/cms3_fo/showPage.asp?id=551&lang=en (5.5.2007).

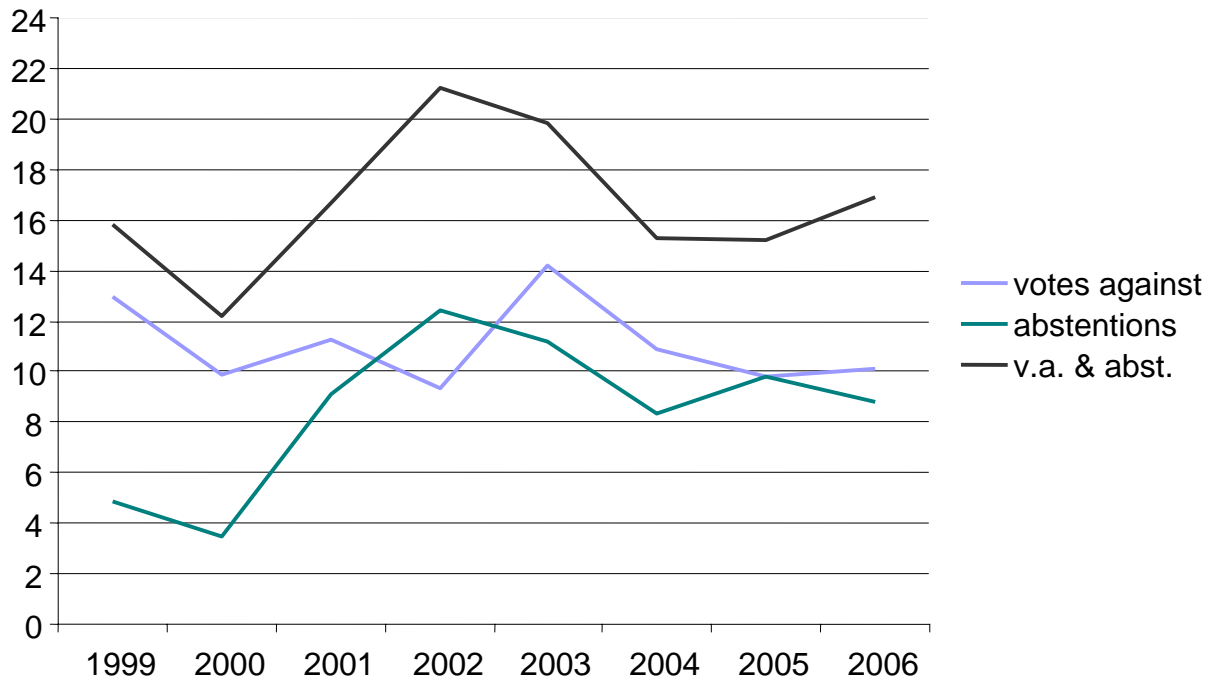**Votes Against and Abstentions in the Council**

Figure 1: The percentage of votes against and abstentions of all legislation passed in the Council from 1999 to 2006.

Obviously the often cited 'consensus reflex' is still working in the Council (Hayes-Renshaw et al 2006: 183). And obviously the new member states' ability to learn and to accept socialization pressures was surprisingly effective. Until November 2006, only 20 times a new member state has voted against a decision that was passed (see figure 2).

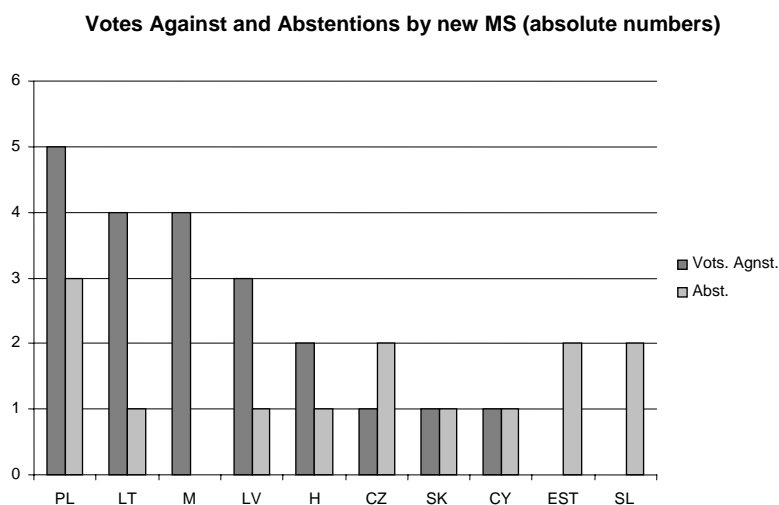**Votes Against and Abstentions by new MS (absolute numbers)**

Figure 2: The number of votes against and abstentions by new member states from May 2004 to December 2006.

All member states that had joined the Union in 2004 have at least once voted against or abstained; however, at least three old member states have voted against much more often, especially Denmark (10 votes against), Sweden (7) and Greece (6). So, it is not the case that new member states do vote against or abstain more often than old member states. In truth, criticism of voting behaviour of the new member states could actually be directed toward that of old member states shortly before the enlargement. Statistics show that a striking amount of legislation was passed right before enlargement took place - assumingly because the decisions would have been harder to take once the new members were admitted. Between 1999 and 2006, the month of April shows the Council passing an average of 12.3 pieces of legislation.[5] In April 2004—the month before enlargement—it passed 63—significantly more legislation than in any single month from 1999 until now. By contrast, the month of May from 1999 to 2006 shows the Council passing an average of 16.4 pieces of legislation, and in May 2004—the month the new members arrived—only one (see Figure 3).
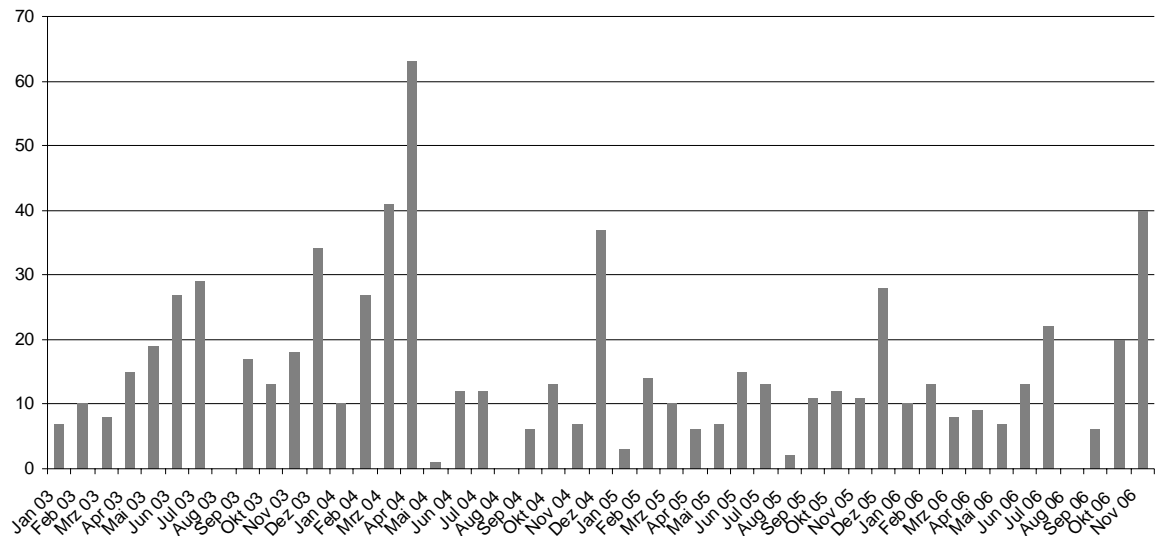
---

[5] Without April 2004.

Figure 3: The number Council acts per month from 2003 to 2006.

New members could not help but notice this as they had had observer status leading up to their entrance. The Antici of a new member state expressed it this way: 'Implicitly, a certain stigmatization can still be felt. For example, old member states made arrangements before the enlargement that can hardly be changed now' (int. 40, 30-32). However, due to specific mechanisms of socialization these fears of the old member states proved wrong and the overall conclusion is quite clear: "they have come in quiet smoothly" (int. 26, 57-58), as an ambassador from an old member state said, and consequently there was „no collapse of the Council system" (int. 12, 45-46; int. 46, 69-72). Therefore the question arises: Why is there no deadlock in the Council in general and in its preparatory bodies in particular?

The answer that this paper suggests is that the Council functions differently from the Council of Ministers in any other International Organization. It functions more as a quasi-supranational body than as a purely intergouvernmental forum. This again is surprising, because the Council is generally perceived as the intergouvernmental body of the Union par excellence and represents the governments of the member states. Much is pointing to the fact that this latter *idée directrice* (or basic orientation) of the Council was intended by the founders of the ECSC back in 1950 who wanted the Council to be an intergovernmental body to check against the supranationally oriented High Authority. However, a clear application of the term "intergovernmental" to the Council does not seem to fit anymore. Jeffrey Lewis argues that work in the Council and especially in the Council working parties and Coreper can be characterized by a strong trend to be community-focused. Today the Council is as much a supranational body as it is a intergovernmental institution. "While the Council may be intergovernmental in

inspiration and formal design, in practice it has developed an extensive supranational character through the largely overlooked dimension of informal integration" (Lewis 2003a: 1014f). How can this change – which was obviously not intended by the Union's founders – be explained?

Four institutional mechanisms[6] seem to be responsible for this process of supranationalization of the Council and therefore for its unexpectedly smooth running: the mechanism of socialization (i.e. a certain convergence of the *idée directrice* and of the preferences of Council members and officials in the permanent representations), the mechanism of the impartial Council Presidency, the mechanism of specific and unspecific reciprocity and the mechanism of lack of interest (i.e. the fact that member states that are not directly concerned by a decision tend to vote for the compromise proposed by the Presidency, the Commission or simply the majority of states). All four mechanisms will be presented in the following chapters.

Mechanisms of Supranationalization in the Council

What Supranationalization Is

The term "supranational" is widely used in EU literature. However, it is not always used with the same meaning. Sometimes it is used as a specific "mode of governance" (e.g. Beate Kohler-Koch), sometimes it is interpreted as a property that is used for describing a specific type of interests of actors in the sense that "supranational interests" or "supranational preferences" take into account the common good for entities transcending the nation state, whereas "national interests" aim at the good for specific states. In law-literature the term "supranational" describes European legal acts that are superior to national law and – as in the case of European regulations – have direct effects on the national level. In addition, institutions are sometimes called "supranational" and thereby contrasted with "intergouvernmental" bodies, in case of the European Union in particular the Council. So the question is: Which type of units can be "supranational" or "intergouvernmental", institutions, interests, legal acts or the basic principles (*idées directrices*) of institutions themselves? In this article the term supranational shall describe a quality of institutions. "Supranational" institutions are institutions that can take decisions which are relevant and binding for at least two different states. In addition supranational institutions are characterized by three distinguishing marks:

1. they possess the quality of an actor (instead of being merely a forum for national governments),
2. they can act (more or less) independently from the states they represent (instead of possessing only an imperative mandate)[7] and

---

[6]An institutional mechanism is a trinity of positions, rules and interests within an institution. Individual persons have specific interests and try to enforce them within the framework of the existing rules and positions (Patzelt 2003: 66ff). Thereby institutional mechanisms create reliable and predictable patterns of interaction.

[7] See for this conceptualization of the principle of representation Pitkin 1967.

3. they can reach decisions by majority voting (and are not bound by the intergouvernmental principle of unanimous decision making).[8]

The opposite of a supranational institution is then an intergovernmental institution for which the Councils of Ministers in most international organizations are good examples. An often described problem for purely intergouvernmental bodies in international relations is the fact that unanimity in combination with an imperative mandate of the negotiator often leads to a inability to reach decisions, especially if there are many actors – and thus many veto players. Consequently, it is easier to reach decisions in supranational institutions than in intergouvernmental institutions. However supranationality necessarily implies at least a partial transfer of sovereignty from the level of the state to the level of the supranational body.

In the case of the Council of the European Union it is not quite clear, whether it is a supranational or an intergouvernmental body. In some areas it clearly acts as an actor, in others it is hardly more than a forum for the representatives of the member states' governments. Sometimes the decision rule is unanimity, sometimes it is qualified majority voting and sometimes the General secretariat or even the representatives from the permanent representations are really able to negotiate independently from capitals, although in theory, permanent representations always have to follow the instructions sent to them from their capitals. This dual nature of the Council, committed at the same time to two different – and conflicting – *idées directrices* was also expressed by Jean Monnet already in the early 1950s: "The Council of the European Union is the institution which represents the member states of the European Union. It provides a forum where representatives of Member State governments put forward their own national interests and seek to reach compromises. National viewpoints are aired at Council meetings, but the Council is also the institution responsible for identifying the general interests of the Community and translating them into acts."[9]

The Mechanism of Socialization

„There is no general theory of socialization explaining how institutional settings shape elite views about politics and society" (Hooghe, 1999, 439). However, in the context of the new wave of institutionalisms, three variants of neo-institutionalism deal specifically with socialization processes within institutional frameworks, sociological,[10] historical[11] and – more recently – evolutionary institutionalism.[12]

---

[8] One could add that they strife for a common (i.e. "supranational") good, the welfare of the Union as a whole instead of a good position of their state within the Union (or whatever body they belong to).

[9] Speech by Jean Monnet, 8 December 1952, in: http://www.ena.lu/europe/european-union/speech-jean-monnet-1952.htm (2 May 2007). See also for the conceptualization of the "dual nature" of the Council as a half supranational and half intergouvernmental body Lewis 1998.

[10] Sociological institutionalism goes back to Emile Durkheim (1988 [1902]), Ferdinand Tönnies (1972 [1867]), Max Weber (1985 [1922]) and Talcott Parsons (1968 [1937]) and Ralf Dahrendorfs conception of the "homo sociologicus" (1964). Also neofunctionalists emphasize the role of socialization for the step-by-step process of the supranationalization of the Union (c.f. Beyers, 1998, 4; here: further explanations and authors). This view is shared by many authors, like e.g. Hayes-Renshaw/Lequesne/Mayor-Lopez, 1989; Wessels, 1991; Westlake/Galloway, 2004. The widely

This paper bases on the theoretical assumptions of those approaches. In particular it presupposes that preferences of individual actors are at least partly shaped by institutional settings (sociological institutionalism), that institutional mechanisms and *niche turbulences* can influence the basic foundations of institutions (evolutionary institutionalism), that incremental institutional change can still be fundamental and dramatic (historical institutionalism) and that institutions are always based on a "*idée directrice*", which defines the fundamental purpose of an institution and, by it, legitimates the existence of the institution (institutional analysis).[13] Until now, theory-based approaches to the question of the surprising functionality of the enlarged Union with a specific focus on the Council and its sub-structures are extremely rare.

Knill and Lehmkuhl define three mechanisms of europeanization, one of them being the "europeanization through a cognitive re-conceptualization of national preferences" (see Holzinger/Knill/Peters/Rittberger, 2002b p. 158). This is exactly what can be described as the institutional mechanism of socialization within the Council.[14] This mechanism can be shortly described as follows: certain patterns of interaction – especially frequent interaction in a group that is characterized by mutual trust, a deliberative atmosphere and a feeling of togetherness (or "*esprit-de-corps*") – lead to changes in the role perceptions and to a diversification of loyalties among the group members. This might also influence the actual behaviour of those group members.

In 1967 Emile Noël hypothesized that whoever worked in council working parties would think more positively about European integration at the end of his term than at the beginning. He called it "the natural consequence of the dynamism of the institutions" (Noël 1967: 225). Soon after the foundation of the ECCS Jean Monnet already observed: "The phenomenon that surprised me most was the change in attitude and preferences of the men around me. Every day I could see the appeal of the idea of the Community and its effects on people's minds!" He goes on to say: "It was the European spirit […]. This European spirit turned upside down the way how people think" (Monnet 1988, 422, see also Hallstein, 1969, 66). Patterns of socializations could thus already be observed in the early days of European Integration. This was indeed empirically proved by a great variety of empirical research that finds the effectiveness of this mechanism in the Council working

---

accepted hypothesis is that the mechanisms of socialization make national delegates more "European-minded" than they were before (especially those from the permanent representations, less those that take part in Council working group sessions directly from their national ministries).

[11] Thelen 2004; Mahoney/Rueschemeyer, 2003.

[12] Patzelt, 2007; Lempp, 2007b.

[13] Göhler 1997, Patzelt, 2002; Patzelt 2003.

[14] Others define socialization as a "process by which social interaction leads novices to endorse expected ways of thinking, feeling and acting" (Johnston, 2001: 493) or as the "adaptation of certain rules of behaviour, 'ways of doing things', stemming from interaction with members of the same group" (Juncos/Pomorska 2007) or „a social process through which agent properties and preferences change as a result of interaction" (Checkel, 2003, 211, see also Beyers, 1998, 5).

groups, in Coreper and even in the Council itself.[15]

Up until today this mechanism contributed to the often cited "*esprit de corps*" that characterizes the atmosphere within the different structures of the Council and helps to prevent institutional deadlock even under the conditions of an enlarged Union. This *esprit de corps* among representatives to the Council and its preparatory bodies arises from a variety of supporting factors. Niemann summarizes them as follows: "A strongly shared 'lifeworld' amongst negotiators, uncertainty and lack of knowledge, technical or cognitively complex issues, the presence of persuasive individuals and low levels of politicization" (2004, 379). The factor that is most often cited by scholars and practitioners is the "strongly shared lifeworld". Being embedded in EU level structures, separated in time and space from the primary institutional affiliations back home EU officials adapt to their surroundings in Brussels (Egeberg, 1999). Most representatives know each other for many years, call each other by their first names and even take trips together as for example the Antici-group at the beginning of each new Presidency. They have a large number of formal and informal meetings, be it in offices, meeting rooms or in the corridors and cafeterias of the Justus-Lipsius-building; they are in constant contact through phone and email.[16] Some of them also meet during free time doing sports or attending cultural events and their children go to the same school. As a consequence, friendships develop among the members of the 27 permanent representations in Brussels, which helps to understand views and perspectives of the others and to learn about specific cultural backgrounds of certain issues in the other's country. Even marriages among council civil servants have occurred (Westlake/Galloway 2004: 227). In addition, the adoption of the termini tecnici of daily working life in the Council's surrounding leading to a certain "eurospeak" distinguishes the Brussels based representatives from other civil servants and contributes to the development of a specific group identity as in a "club of friends" (int. 14, 7-7). As a consequence, officials from the permanent representations "have a special feeling of responsibility for the EU. If we cannot find the solution, usually it is not possible for ministers in their limited time either" – as an ambassador from a new member states reported (int. 43). In short a Mertens-Counsellor summarizes this process as follows: "Of course, after some years your attitudes change" (int. 37, 54-56).

This altogether results in Council representatives being adequately described as "an epistemic community with shared values based on commonly-held knowledge and expertise" (Christiansen 2001: 24).[17] Both researchers and practitioners speak of a

---

[15] Lewis 1998; 2000; 2002, and 2005; Egeberg/Schäfer/Trondal, 2003; Morisse-Schilbach 2006; Haibach, 2000.

[16] For socialization through meetings, norms and the reproduction of role perceptions see also Lewis 1998; Beyers/Dierickx 1998; Pag 1987; Kerremans 1996.

[17] Thomas Christiansen emphasizes the role of common allegiances to the EU and common loyalties of all EU officials, a common bureaucratic culture and the role of epistemic communities in highly technical policy areas and he argues that common views on the EU are shared by officials in the Commission and in the Council although commonly one is being seen as the defender of European interests and the other is seen as the intergouvernmental defender of the national interests of the member states (Christiansen, 2001, 23).

"club mentality" (Hayes-Renshaw 1997: 90; Johnson 1998: 43; Niemann 2004: 390) and "thick trust" between representatives especially in the Coreper (vgl. Lewis 2000), true empathy, a deliberative atmosphere and a shift of loyalty from the national to the supranational level (Beyers, 1998, 7; Kerremans, 1996; Laffan, 1998).[18] Thus, negotiations at all levels in the Council exceed purely strategic action and analytical concepts such as "bargaining" or "strategic action" more and more fail to describe decision-making processes in the Council. An example of the effectiveness of this mechanism of socialization is the voting behaviour of the Swedish delegation after Swedish accession to the Union. In the first year after accession Swedish ministers in the Council voted against decisions very frequently. Hayes-Renshaw, van Aken and Wallace give a plausible explanation: "Swedish ministers were carrying over voting behaviour from the UN context. As reported to us by one insider, 'they soon learned the difference'" (2006, 183).

A very pressing question was whether this mechanism of socialization and – as a consequence – European-minded consensus among officials from the permanent representations could be maintained after the rounds of enlargement in 2004 and 2007 in the course of which all Council bodies almost doubled their size. But socialization of the new member states began long before enlargement actually took place in May 2004. Already one year before, the candidate countries' representatives were integrated in the regular Council decision-making processes, the only difference to the member states being that their votes were not counted.

A member of the German delegation summarizes this mechanism of socialization as follows: "The Council working groups have their own dynamic of socialization. If you are member of such a working group, this dynamic of socialization captures you. […] Nobody can evade this dynamic" (int. 33, 36-38).

The Mechanism of Reciprocity

The second mechanism that may help to explain both the striking absence of deadlock in the enlarged Council and the partial and latent supranationalization of this body is the mechanism of reciprocity. This mechanism exists in two modes: specific and unspecific. Specific reciprocity means the negotiation of package-deals. One delegation accepts concessions to another delegation in one dossier but expects the other delegation to accommodate its wishes in another. This can be the case on the level of the working groups, but it is more widely practised in those units within the Council structure that possess broad horizontal competences, in particular the Coreper, the Council for General Affairs or the European Council. A representative from the Swedish permanent representation said: "Sometimes […] I call Stockholm and say: 'Maybe if we give up on that, we might gain here. Perhaps we should see the larger picture; perhaps if we help the French here, maybe they will help us on that'" (int. 10, 49-60). Specific reciprocity is commonplace in many

---

[18] Others observe a „club mentality" (int. 44, 35-35), a „corporate culture" (Ruggie, 1993) or a certain "crew-geist" (int. 56, 6-6) in the Council that is due to socialization processes. However, "one can say, that people from the permanent representations have developed a stronger 'teamgeist' than people from the capitals. Everything runs faster, more professionally, more smoothly, less cumbersome" (int. 53, 18-19).

international and national institutions, though, and by no means specific for the Council. What is specific for the preparatory bodies of the Council – and at the same time much less typical for international institutions in general – is the broad acceptance of unspecific (or diffuse) reciprocity. Jeffrey Lewis describes this mechanism as follows: „If you help someone they will remember. There is an institutional memory within the possibilities available" (Lewis, 2000, 268). On the basis of the high level of mutual understanding and trust that has been described above, national delegations expect that if they negotiate in a compromising and friendly way, the other delegations would do the same. Many interviewees confirmed the existence and the effectiveness of this mechanism: A representative from the Austrian permanent representation said: "It is impossible to present yourself as uncompromising in the Council, as someone who rigorously goes his own way. Sometimes you have to compromise, sometimes you have to do things a little bit against your preferences in order to get support from the others in areas, that are more important to you. The Council is a much more flexible and dynamic body than other international organizations" (int. 9, 80-80) This view is shared by a member of the Slovak permanent representation: "Permanent Representatives have a special feeling of responsibility for the EU. […] We do our best and we always look for compromise and solutions. So there clearly is a willingness to compromise" (int. 43 69-84). All interviewees agreed in the point that without diffuse reciprocity and a generally compromising way of negotiation decision-making in the Council would hardly be possible. The "club identity" especially in the Coreper but also in Council working groups and the Council itself is a necessary condition for this mechanism of unspecific reciprocity because it ensures that a delegation might get something in return at a later point in time (Wallace, 2002, 333). Surprisingly most member states that joined the Union in 2004 or in 2007 very quickly adapted to this approach of reciprocity, the only exception to date possibly being Poland which has taken a tougher stance in the Council according to many interviewees.

The Mechanism of Lack of Interest

Before the last two rounds of enlargement in 2004 and 2007 most researchers and most practitioners agreed in their view that the more participants the Council has, the more difficult it would be for the presidency to reach a consensus or even a qualified majority, the underlying assumption being that the more members a group has, the more heterogeneous would be the interests and preferences, that are present within this group. This assumed correlation between the degree of intra-group heterogeneity and the probability of institutional deadlock, however, obviously does not exist in the enlarged Council. It has not been true because of the mechanism of lack of interest. In short, this mechanism can be described as follows: With enlargement in 2004 many small states joined the European Union. The probability that a small member state is directly concerned by a specific dossier in the Council is comparatively low. Estonia has little national interests in dossiers concerning transfer routes through the Alps or EU subsidies for oranges and bananas from

Réunion or Gouadeloupe.[19] Moreover, it is often observed that member states that do not have specific interests in a dossier or that are not affected by a decision in the Council tend to support the position of the presidency and generally vote for the position of the majority of states (or for the original Commission initiative in the very early stages of negotiations in the Council working parties). Consequently, if the relative number of small states within the EU rises, the number of delegations without specific interests in any particular dossier increases and – as a consequence – the number of delegations that are ready to accept proposals from the Presidency. Therefore it becomes easier for the Presidency to reach a qualified majority, which is exactly the opposite of what was expected before enlargement. This, again, strengthens the position of the Presidency as a quasi-supranational actor within the Council. So the statement stays true: "the more member states, the more powerful is the presidency" (int. 2, 5-9).

A member of the German Federal Ministry of Foreign Affairs who is responsible for formulating instructions to the permanent representation in Brussels describes this mechanism as follows: „Basically, there is only a limited number of member states who are really engaged in any particular topic. And there are relatively many member states – after enlargement even more – that are only interested in a small number of dossiers. So if you have a proposal on Cyprus, you can be quite sure that the Greek will have to say something. But if we are talking about milk quota for Nordic countries you won't hear anything from the Greek. Here the Finn will make himself heard. However, the Finn will not be actively involved in discussions concerning Mediterranean sheep. On the other hand, the German delegation is interested in almost every dossier. Usually, there are four or five, sometimes six delegation that follow a dossier with some enthusiasm. The others simply communicate that they can live with any compromise" (int. 30, 13-14).

Such behaviour is often observed not only with small member states but also with new member states. An Austrian delegate reports that "the majority of the new member states acts very cautious in most dossiers" (int. 47, 87-88). And she continues that they very often do not take the floor, simply because they are not directly concerned by a dossier. In these cases they refrain from arguing and simply show their readiness to accept any compromise reached by the Presidency.

The Mechanism of Presidential Impartiality

In the center of the mechanism of Presidential impartiality stands the observation that when a member state holds the Couhncil Presidency, it is at the same time very powerful and very much committed to a higher European goal and not to its national preferences. The informal *idée directrice* is those of the impartial Presidency. Consequently, the Presidency is powerful but cannot use its power for its national preferences (int. 57). "In every seminar on the Presidency, delegates are

---

[19] The bigger member states are in a different position here. Firstly they are directly envolved in most of the dossiers, secondly dossiers most of the time have an impact on net-payers and thirdly – as a member of the German permanent representation points out – bigger members are expected to take a stance on issues: „They want to know how the biggest member sees a certain issue; they want to know what Germany is at" (int. 24, 13-13).

told that during the Presidency the national interests of their country must step back because the Presidency should be neutral, and should push the institutional interest of the Council and at least a notion of European interest" (int. 3, 165-166). In short the mechanism of presidential impartiality works as follows:

1. The Presidency is a very powerful actor within the Council.[20] It possesses a great variety of procedural powers such as the competence to shape the agenda within the Council working groups and to steer the decision-making processes within the Council as well as the interaction between Council, Commission, European Parliament and individual member states. More important, it "determines *how* dossiers are handled and when to refer it to a higher level. This is the most effective resource of power of the presidency" (int. 29, 10-20 vgl. also int. 27, 34-38).

2. Every Presidency wants to be perceived as a "good" Presidency. If it uses the procedural power of the Presidency to push its national interests, it is commonly evaluated as a "bad Presidency" whereas "European-minded" Presidencies are generally perceived as "good presidencies." Although there is no official evaluation programme for Presidencies neither by the Council secretariat or the Commission nor by any other body, there is a lot of informal talking. You "talk to your colleague, your Dutch colleague or your German colleague. When you talk about the Austrians you say: 'Do you think it was good, do you think it was bad?' It is very informal" (int. 10, 20-20). An Austrian delegate explains: "A Presidency that tries to use its role as president for pushing specific national interests will not be a successful Presidency" (int. 9, 69-76). And he continues that the main criterion for the evaluation of a Presidency is whether it "brought things forward".

3. Therefore the Presidency has strong incentives to rather use its Presidential powers for pushing European interests – however this might be defined. Generally the quantity of decisions reached under a Presidency has for a long time been the most important criteria for evaluation. Today it is more about the number of *important* or *difficult* dossiers that a Presidency brings to a decision.

4. Since decisions against the Commission generally require a unanimous vote (Art. 250(1) TEC), the Presidency has a strong incentive to cooperate closely with the Commission and to support Commission initiatives. The Presidency and the Commission often share the same interest, namely: closing dossiers (int. 12, 63-64). This, again, strengthens the position of the Commission within the Council and its substructures.

The mechanism of presidential impartiality not only helps to prevent deadlock in the Council because the most powerful actors within the Council have strong incentives to reach a compromise, but also leads to supranational commitments of the Presidency. Consequently, the Presidency can be adequately described as a "quasi-supranational actor" within the Council. If, however, the most powerful actors within the Council, namely the Presidency, the Commission and the General

---

[20] See especially Tallberg 2000; 2003 and 2004 as well as int. 58, 14-18.

secretariat are clearly supranational in its basic orientation, the picture of the Council as a purely intergovernmental body goes wrong. The impact of the mechanism of presidential impartiality brings the Council more towards the *idée directrice* of supranationality. It leads to a higher "actor quality" of the Council in relation to the member states, it helps both the general acceptance and the actual functioning of majority decisions and it leads to more autonomy of the delegates within the Council from their respective capitals. Sometimes member states completely refrain from giving instructions to their delegations during the Presidency. "It is good form, that member states do not hijack the power of the Presidency for their national agenda" (int. 47, 12-18).

As a consequence of this mechanism, the Presidency always votes in favour of a compromise reached. From 1999 to 2006 there were only 11 cases where the Presidency has voted against a decision that was still adopted.[21] Since March 2004 it has never happened that the Presidency voted against a decision that was finally adopted by the Council. The Presidency therefore can be considered as an actor who promotes not national interests, but rather the institutional interest of the Council and thereby also a kind of "European interest" – however this might be defined (int. 3 7-7; int. 39, 118-125).

Summary

In this paper we argued that the often predicted and widely feared deadlock did not occur within the Council after the two rounds of enlargement in 2004 and 2007. Moreover, the expectation that procedures within the Council would become more intergouvernmental and – as a consequence – decision-making would become more complicated did not come true. The feared uncompromising behaviour of the new member states did not occur; a representative from the Danish permanent representation even argues: "If you ask me whether [enlargement] gives rise to any particular difficulties or problems in terms of efficiency of the Council, my answer is: no. In the Council and the Coreper sometimes we have difficulties in agreeing on certain dossiers or in advancing in certain fields. This, however, is not due to the new member states - it is normally due to old member states. It's the old member states, and mostly, it's the big, old member states who block in cases where something cannot be advanced" (int. 49, 38-38). New member states have come in "smoothly" and enlargement happened "surprisingly well" (int. 42, 34-35).

Why was that the case? We argue that four institutional mechanisms contribute to the smooth running of Council, Coreper and Working groups even with 27 delegations: Through *socialization* new members quickly get familiarized with Council working practice and thus pick up the existing "esprit de corps" which is a prerequisite for the smooth and efficient decision-making in the Council. Thick trust, willingness to compromise, and a deliberate atmosphere contribute to work habits that make it possible to handle even delicate issues surprisingly well. The mechanism of *specific and unspecific reciprocity* is based on dense socialization

---

[21] Irland twice in 2004, Greece twice in 2003, Belgium twice in 2001, Italy, Spain, Sweden, France and Germany once each in 2003, 2002, 2001, 2000 and 1999.

and is a system of mutual help that from time to time even implies the readiness of national delegations to step back from own national preferences. The mechanism of the *Lack of interest* helps to proceed on topics where a significant number of member states are not involved. Member states without any position on a certain topic can use their voice and offer it to one of the shifting coalitions for reciprocity (and later get support on a topic that they are engaged in) or simply follow the position of the Presidency or the Commission. The mechanism of *presidential impartiality* contributes to a strong quasi-supranational agent within the Council who strives to get important dossiers done for the reward of being considered "a good Presidency".

The combination of these mechanisms contributes to a slight but remarkable shift towards a supranational *idée directrice* and helps to overcome the danger of institutional deadlock. Officials do not try to push their national interest no matter what but also feel a responsibility for the EU as a whole. "The argument: 'we do not like that because we do not like that', is not a European argument; people here do not accept this" (int. 42, 33-33). National delegations have to adapt their negotiation strategies to this newly emerging *quasi-supranational idée directrice* of the Council of the European Union.

Bibliography

Beyers, Jan (1998): Where does supranationalism come from? Ideas floating through the working groups of the Council of the European Union, in: http://olymp.wu-wien.ac.at/eiop/texte/1998-009.htm (18.06. 2004).

Beyers, Jan/Dierickx, Guido (1998): The Working Groups of the Council of the European Union: Supranational or Intergovernmental Negotiations?, in: Journal of Common Market Studies 36, 3, 289-317.

Checkel, Jeffrey (2003): Going native in Europe: Theorizing Social Interaction in European Institutions, in: Comparative Political Studies 36, 1 / 2, 209-231.

Christiansen, Thomas (2001): Relations between the European Commission and the council secretariat: the administrative complex of european governance, in: Politique Européenne 5, 11-26.

Dahrendorf, Ralf, 1964: Homo Sociologicus – Ein Versuch zur Geschichte, Bedeutung und Kritik der Kategorie der sozialen Rolle, Köln.

Durkheim, Emile (1988 [1902]): Les règles de la méthode sociologice, Paris.

Egeberg, Morten (1999): Transcending intergouvernmentalism? Identity and role perceptions of national officiala in EU decision-making, in: Journal of European Public Policy 6, 3, 456-74.

Egeberg, Morten / Schaefer, Günther / Trondal, Jarle (2003): The Many Faces of EU Committee Governance, West European Politics 26, 3, 19-40.

Göhler, Gerhard (1997): Die Eigenart der Institutionen, Baden-Baden.

Hall, Peter/Taylor, Rosemary (1996): Political Science and the Three New Institutionalisms, in: Political Studies 44, 936-957.

Hallstein, Walter (1969): Der unvollendete Bundesstaat, Düsseldorf.

Hayes-Renshaw, Fiona / Lequesne, Christian / Mayor Lopez, Pedro (1989): The Permanent Representations of the Member States to the European Communities, in: Journal of Common Market Studies 28, 2,119-37.

Hayes-Renshaw, Fiona/Wallace, Helen (1997): The Council of Ministers, Houndmills.

Hayes-Renshaw, Fiona/Wallace, Helen (2003): Reforming the Council, Stockholm.

Hayes-Renshaw, Fiona/Aken, Wim van/Wallace Helen (2006): When and why the EU Council of Ministers Votes Explicitly, in: Journal of Common Market Studies, 44, 1, 161-194.

Haibach, Georg (2000): Governance by Committee – The Role of Committees in European Policy Making and Policy Implementation, in: EIPAscope 2, 38-41.

Holzinger, Katharina/Knill, Christoph/Peters, Dirk/Rittberger, Berthold/Schimmelfennig, Frank/Wagner, Wolfgang, (2005): Die Europäische Union. Theorien und Analysekonzepte. Paderborn.

Hooghe, Liesbet (1999): Supranational Activists or Intergovernmental Agents? Explaining the Orientations of Senior Commission Official Toward European Integration, in: Comparative Political Studies 32, 4, 435-463.

Johnson, Michael (1998): European Community Trade Policy and the Article 113 Committee, The Royal Insitute of International Affairs, International Economic Programme, London.

Johnston, Alastair (2001): Treating International Institutions as Social Environments, in: International Studies Quarterly, 45, 487-515.

Juncos, Ana/Pomorska, Karolina (2007): Playing the Brussels game – Strategic socialisation in the CFSP Council Working Groups, Paper presented ant the EUSA Conference in Montreal 2007.

Kerremans, Bart (1996): Do Institutions make a Difference?, in: Governance 2, 217-41.

Laffan, Brigid (1998): The European Union: a distinctive model of internationalization, in: Journal of European Policy 5, 2, 235-53.

Lempp, Jakob (2007a): Coreper enlarged, in: European Political Economy Review, 6, 31-52.

Lempp, Jakob (2007b): Evolutionäre Institutionentheorie, in: Patzelt, Werner (Ed.): Evolutorischer Institutionalismus, Würzburg, 375-414.

Lewis, Jeffrey (1998a): The Institutional Problem-Solving Capacities of the Council: The Committee of Permanent Representatives and the Methods of Community, in: MPIfG Discussion Paper 1, 1-49.

Lewis, Jeffrey (1998b): Wearing a Janus-Face: The Permanent Representatives of the European Union, University of Wisconsin-Madison.

Lewis, Jeffrey (2000): The methods of community in EU decision-making and administrative rivalry in the Council's infrastructure, in: Journal of European Public Policy, 261-89.

Lewis, Jeffrey (2003): Informal integration and the supranational construction of the Council, in: Journal of European Public Policy 10, 6, 996-1019.

Mahoney, James/Rueschemeyer, Dietrich (Ed.), (2003): Comparative Historical Analysis in the Social Sciences, Cambridge.

Monnet, Jean (1988): Erinnerungen eines Europäers, Baden-Baden.

Morisse-Schilbach, Melanie, 2006: Diplomatie und Europäische Außenpolitik: Europäisierungseffekte im Kontext von Intergouvernementalismus am Beispiel von Frankreich und Großbritannien, Baden-Baden.

Niemann, Arne (2004): Between communicative action and strategic: the Article 113 Committee and the negotiations on the WTO Basic Telecommunications Services Agreement, in: JEPP 11,3, 379-407.

Noël, Emile (1967): The Committee of Permanent Representatives, in: Journal of Common Market Studies 5, 3, 219-251.

Parsons, Talcott (1968 [1937]): The Structure of Social Action, New York.

Patzelt, Werner J. (2002): Finanzierungsantrag Sonderforschungsbereich 537

„Institutionalität und Geschichtlichkeit", Dresden.

Patzelt, Werner J. (Ed.), (2003): Parlamente und ihre Funktionen. Institutionelle Meschanismen und institutionelles Lernen im Vergleich, Wiesbaden.

Patzelt, Werner J. (2007): Evolutorischer Institutionalismus. Theorie und exemplarische Studien zu Evolution, Institutionalität und Geschichtlichkeit, Würzburg.

Pitkin, Hanna (1967): The Concept of Representation.

Puetter, Uwe (2006): The Eurogroup, Manchester.

Ruggie, John, 1993: Territoriality and Beyond – Problematizing Modernity in International Relations, in: International Organization, 47, 1, 139-174.

Simmel, Georg (1908): Die quantitative Bestimmtheit der Gruppe, in: Simmel, Georg (Ed.): Soziologie, Berlin.

Tallberg, Jonas (2000): The Anatomy of Autonomy: An Institutional Account of Variation in Supranational Influence, in: Journal of Common Market Studies 38, 5, 843-64.

Tallberg, Jonas (2003): The agenda-shaping powers of the EU Council Presidency, in: Journal of European Public Policy 10, 1, 1-19.

Tallberg, Jonas (2004): The Power off the Presidency: Brokerage, Efficiency and Distribution in EU Negotiations, in: Journal of Common Market Studies, 42, 5, 999-1022.

Thelen, Kathleen (2004): How Institutions Evolve. The Political Economy of Skills in Germany, Britain, the United States, and Japan, Cambridge.

Tönnies, Ferdinand (1972 [1887]): Gemeinschaft und Gesellschaft.

Wallace, Helen (2002): The Council: An Institutional Chameleon?, in: Governance: An International Journal of Policy, Administration, and Institutions 15, 3, 325-44.

Weber, Max (1985 [1922]): Wirtschaft und Gesellschaft.

Wessels, Wolfgang (1991): The EC Council: The Community´s Decisionmaking Center, in: Hoffmann, Stanley/Keohane, Robert O. (Ed.): The New European Community, Decisionmaking and instiutional Change, 133-54.

Westlake, Martin/Galloway, David (2004): The Council of the European Union,

London.