Bicameral Politics in the European Union

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Abstract

The literature on legislative decision-making and bargaining in the EU has reached a common conclusion that the European Parliament (Parliament) and the Council of the European Union (Council) are on an equal footing in the main legislative procedure, the co-decision procedure. We present theoretical and empirical evidence to suggest that this is not the case. First, our analysis of the formal rules reveals that the Council has conditional agenda-setting power due to a change in the majority thresholds for adopting legislation from the first to the second reading in the Parliament. This change has important implications for the internal dynamics of the Parliament and its institutional powers vis-à-vis the Council. Testing these analytical considerations of the formal decision rules against voting data on all co-decision legislation adopted in the two institutions between 1999 and 2004, our empirical findings show that: first, from 1999 to 2004 coalition formation in the Council fell predominantly along the traditional left–right political dimensions when negotiating co-decision proposals. Second, when disagreement over legislation is recorded in the Council, a strong divide can also be found in the Parliament. Third, when the Parliament is divided along party political lines, it is less likely to be able to meet the absolute majority requirement for amending the proposal adopted by the Council. Lastly, Parliament amendments are most likely to be adopted when a decision by voting is requested by a party group associated with the main ideological contingency in the Council.
Introduction

Insights from rational choice institutionalism have fundamentally changed the political science literature’s approach to politics in the European Union (EU). It has shifted the debate from a discussion between traditional neofunctionalist (Haas, 1958) and intergovernmentalist (Hoffmann, 1966) proponents to more nuanced models where preference configurations, sequence of moves and bargaining power are key ingredients (see amongst others Thomson et al., 2006; Tsebelis and Garrett, 2000; Steunenberg, 1994; Steunenberg et al., 1999; Tsebelis, 1994; König and Proksch, 2006; König and Poter, 2001; Moser, 1997; Crombez, 1997, 2001). These studies have also led to an increased interest in the development of theoretical models that capture decision-making inside the EU institutions, rather than merely of the inter-institutional setting. In parallel, a growing scholarly focus has emerged in empirical studies of formal and informal decision-making inside the Council (Mattila, 2004; Mattila and Lane, 2001; Hayes-Renshaw and Wallace, 2006; Hagemann, 2007, 2008; Hagemann and Høyland, 2008) as well as within the European Parliament, where access to information and data has by now made it an established field of research (Attina, 1990; Han, 2007; Hix, 2001, 2002; Hix et al., 2005, 2006; Noury, 2002).

Unfortunately, the bridge between the theoretical field and the findings from the respective empirical explorations of the Council’s and the Parliament’s internal dynamics is rather undeveloped, and it should be fair to say that these subfields of EU research have yet to fully benefit from each other’s insight. The aim of this article is to address this gap by applying a rational choice theoretical framework to the bicameral process of EU law-making and investigating the relationship between coalition formation in the Council and Parliament. In contrast to many contributions in the existing literature, we do not assume that Parliament employs the same majority requirement across all readings in the co-decision procedure. We show that the overlooked absolute majority threshold for amending or rejecting a Council’s proposal in the Parliament’s second reading gives the Council conditional agenda-setting power. The condition is dependent on turnout amongst Members of the European Parliament (MEPs), and since turnout is less than perfect and less than a perfect substitute for casting a negative vote on amendments introduced by the Council, we assume this condition to be of significance for the Parliament. In addition, we seek to analyse the effect of disagreement in the Council on Parliament’s ability to amend proposals. If the Parliament is restricted in its ability to turn over or amend proposals from the Council due to the high majority requirement, and if the two institutions do function as a proper bicameral political system with majorities having to be secured across
national and party political lines, then coalition building both within and across the institutional divide becomes essential. Our empirical material offers four key findings in this regard. First, coalition formation in the Council fell primarily along the left–right continuum when co-decision legislation was negotiated in the pre-2004 enlargement period. Second, the level of disagreement on co-decision legislation in the Council and Parliament is correlated, meaning that disagreement on a proposal in the Council significantly increases the chances of disagreement also occurring in the Parliament. Third, when the Parliament is divided along party political lines, it is less likely to be able to meet the absolute majority requirement for amending the Council’s proposal. Finally, the Parliament’s amendments are most likely to be adopted when a roll-call vote has been requested by the party group associated with the dominant ideological contingency in the Council. In sum, these findings suggest that the Council still has the upper hand in the co-decision procedure.

The rest of this article is structured as follows. The next section briefly discusses the standard Tsebelis and Garrett (2000) model of legislative politics in the European Union. It then presents the logic of the co-decision procedure and evaluates the effect of the (usually overlooked) shifting majority requirement in the Parliament. Section II presents the data sets used to investigate the effect of the procedural rules on legislators’ behaviour in both institutions. The data covers all co-decision legislation passed in the Parliament and the Council from January 1999 to May 2004. Section III presents the results. They demonstrate the need to revise the commonly held claim that the Council and Parliament are co-equal legislators in the co-decision procedure.

I. Bicameral Politics in the Co-Decision Procedure

The standard approach to analyse EU legislative bargaining is through the application of Tsebelis and Garrett’s (2000) model of EU decision-making. Their groundbreaking work suggests to represent the EU actors in a spatial model of the three legislative actors, the Council, the Commission and the Parliament. While the Council is presented according to its qualified majority requirement – with five to seven actors necessary to meet the threshold for passing legislation – the Commission and the Parliament are both regarded as unitary actors in their respective capacities. Assuming that the underlying dimension is the degree of EU integration preferred by each of the actors, the two unitary institutional actors are positioned at a higher level of integration than the fifth of the most integrationist government. The power of the model is on this basis that it allows for predictions of policy outcomes: the most
integrationist policy position that can be achieved is one that leaves the third least integrationist government indifferent between the new policy and the status quo.

Much criticism has been offered of this model, with the general arguments aimed at the model’s restriction to analyses of the final bargaining scenario (i.e. that it does not consider the sequence of moves in the decision process) and the definition of an ‘integration–no integration’ conflict dimension (for a review of the debate, see Hix, 2005, pp. 99–109).¹ However, Tsebelis and Garrett (2000) address this criticism and include other scenarios such as ‘strong party’ bargaining. Although the identity of the actors remains the same, the political dimension is here prescribed to be of the standard left–right political dimension. These considerations over the underlying political dimension mean that the status quo is now no longer assumed to be located at an extreme position and also the location of actors has changed: the Parliament and Commission are no longer placed as outliers in the model, but are now more centrally located. And in the Council there are now two relevant pivotal actors: one government is pivotal for a policy shift towards the left; another is pivotal for a change to the right.

The logic from this latter version of the Tsebelis–Garett model is very useful for developing and clarifying our theoretical argument. The starting point for our argument is that the formal rules for passing legislation in the Parliament have not been adequately considered in the models. The fact that the majority requirement in the Parliament changes from its first reading to its second reading where it can either accept, amend or reject the Council’s common position is an important detail which has so far been overlooked in the literature. The Amsterdam Treaty’s article 251 paragraph 2 reads:

within three months of receiving such communication (the common position), the Parliament:

(a) approves the common position or has not taken a decision, the act in question shall be deemed to have been adopted in accordance with the common position:

¹ The reason Tsebelis and Garrett limit the applicability of their model to the final stage of the game is due to their assumption of complete information. If the assumption of complete information holds for the whole procedure, they argue that legislation would be agreed at the first stage of the game. The Commission would make a pareto-optimal proposal to the European Parliament and the Council of Ministers. All actors would see that no alternative proposal could make the European Parliament better off without reducing the pay-off for the Council of Ministers, and vice versa. The initial proposal from the Commission would hence be accepted on the additional condition that it makes both the Council of Ministers and the European Parliament better off than any of them would be from continuing with the status quo policy. As it is not uncommon to see the initial proposal from the Commission being amended, Tsebelis and Garrett argue that it is not realistic to extend the complete information assumption to the whole procedure.
(b) rejects, by an absolute majority of its component members, the common position, the proposed act shall be deemed not to have been adopted:

(c) proposes amendments to the common position by an absolute majority of its component members, the amended text shall be forwarded to the Council and the Commission, which shall deliver an opinion on those amendments.

In other words, the article first of all stipulates that the Parliament’s decision rule is not consistent across the readings such as is generally assumed in the literature. Secondly, it specifies that the absolute majority requirement in the Parliament is not a super-majority requirement for passing EU legislation; it is a super-majority requirement for amending or rejecting the common position of the Council. In effect, failure to meet this threshold means that the Parliament accepts the common position of the Council. It does not imply a continuation of the status quo. This is important as one can then assume that if the Council does not accept the initial proposal from the Parliament’s first reading, the Council can be successful in getting its own counter-proposal accepted under the condition that the higher threshold in the second reading in the Parliament leaves it without an absolute majority in favour of amending or rejecting it.

Since the Parliament’s threshold in the second reading is based on the actual number of parliamentarians – and not merely on the ones present at the time of the vote – this would all depend on the turnout for the plenary sessions. In fact, it can on this basis be established that the difference between the simple majority that the Parliament uses in the first reading and the absolute majority of the second reading is identical only if all MEPs show up to vote. It will grow towards a unanimity requirement as attendance falls towards 50 per cent, and if absenteeism is even above 50 per cent, the common position of the Council will be adopted. Thus, under such conditions the Council enjoys agenda-setting powers under the co-decision procedure.

Let us illustrate our argument in more detail. Consider the implications of the shifting majority requirement and the effect of absenteeism in Figure 1 below. It is clear that the area within which the Council can successfully propose a policy is increasing with an increase in absenteeism in the Parliament. This is the area between the solid and the dotted lines. On the other hand, if the Council adopts a common position outside this area, the Parliament will be able to amend. The bargaining will hence continue towards the final stage for finding agreement in the legislative process, the

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2 As well as after the conciliation committee, but this is not of equal relevance to the argument presented here.

3 This assumes that not all of the absentees would vote against the amendments if present.
Conciliation Committee. As a result, the best option for the Parliament is to make a proposal to the Council that can be accepted at the Council’s first reading. If this is not possible, the Parliament needs to ensure that it has the necessary support amongst its members to find an absolute majority willing to amend any counter-proposal from the Council that would make the Parliament worse off than the initial proposal. This means that the exact

4 The Council of Ministers needs unanimity to adopt second reading amendments from the European Parliament prior to the conciliation committee if these are not supported by the Commission. Second reading European Parliament amendments supported by the Commission only need a qualified majority in the Council to be adopted at this stage.

5 The position of the EP is prepared in the committees and decided in the plenary. The European Parliament has a highly specialized committee system. The key players in the Committees are the committee chairs, the party group co-ordinators and the rapporteur; Benedetto (2005), Bowler and Farrell (1995), McElroy (2006), Whitaker (2001) and Whitaker (2005). The rapporteur can be understood as the agenda-setting inside the European Parliament; Tsebelis (1995). However, the proposals are made under open rule both at the committee and plenary stage. While the right to act as a rapporteur is largely proportional in relation to national party and EP party group size, significant differences do exist; Mamadouh and Raunio (2003). The position of the Council of Ministers is prepared in working groups under the leadership of the six-monthly rotating Council presidency; Tallberg (2004).

Figure 1: Effect of Shifting Majority Requirements in the Parliament

Source: Authors’ own data.
Note: The figure shows how the area of possible policy outcomes is increasing in the direction of the ideal point of the Council as abstention in second reading votes in the European Parliament increases.
location of the optimal proposal may depend on the level of absenteeism in the Parliament’s second reading.

Figure 1 can be related to the standard bicameral model discussed above (e.g. Tsebelis and Money, 1997; Tsebelis, 2002). The area inside both of the solid circles (the winset) indicates the location of all proposals the qualified majority in the Council and a simple majority in the Parliament prefer to the current policy. The area inside the solid Council circle and the dotted Parliament circle indicates the location of the proposals a qualified majority in the Council prefers to the status quo and an absolute majority in the Parliament will not be able to amend given low abstenteeism in the Parliament. The difference between the dotted and the dashed lines illustrates the effect of increasing the level of absenteeism in the Parliament in second reading votes. The main insight from this figure is that absenteeism in the Parliament increases the winset, and hence the advantage, in the direction of the Council.

Coalition Building Across the Institutional Divide

The two dominant political dimensions in EU politics are commonly recognized as (1) an intergovernmental dimension capturing the Member States’ preferences over EU integration, i.e. an ‘integration/no-integration’ dimension, and (2) one of a left/right party political nature. As mentioned above, on the ‘integration/no-integration’ dimension, the Commission and the Parliament prefer more integration than the government representatives in the Council. The two former institutions have their own interests in increasing their competences, and hence always pursue power over policies in Europe. The latter set of actors has an alternative option of adopting legislation at the national level or in an intergovernmental scenario. However, all three institutions are populated by members of political parties. Therefore, politics within each institution may not merely be concerned with issues of integration but also with issues resembling traditional lines of political contestation. This is particularly the case in the European Parliament (Hix et al., 2007). But it is to some extent also apparent in the Council (Mattila, 2004; Hagemann and Høyland, 2008; Aspinwall, 2006).

When bargaining takes place both within and across the institutions, preferences on these different dimensions may be traded against each other, and vary across the different legislative stages (Kreppel, 1999; Kreppel and Hix, 2003). Institutional interests may unite the respective institutions against each other, whereas left–right politics may result in internal divisions according to party political interests. Following these assumptions, it will hence be hardest for the Parliament to find an absolute majority against the
Council’s position when the negotiations take place along the traditional left–right political axis.\textsuperscript{6} If the Council has been divided along party political lines, the ability of the Parliament to act as a unitary actor may even be further challenged as the governing parties of different party-group affiliations may not have similar preferences. In other words, it seems likely that the Parliament will be divided – and hence weakened as a unitary actor – if the common position has been adopted by a divided Council compared to when it is united. This can be captured by two testable claims:

- When disagreement is recorded in the Council, the Parliament will be divided along left–right political lines.
- When disagreement has been recorded in the Council, the Parliament will be less likely to pass second reading amendments, whereas a united Council would result in a united Parliament defending its institutional interests.

Kreppel and Tsebelis (1999) make a somewhat similar argument. However, their study does not cover the co-decision procedure which is by now the dominant decision procedure in the EU. Also, their results are furthermore limited to coalition formation in the Parliament alone. Nevertheless, the investigation undertaken in this article could be said to be an ‘extension’ of their considerations and findings in that it covers the Council as well as the interaction between the two institutions.

\textit{An Empirical Example}

An interesting situation in the sixth European Parliament provides an illustration of our argument. On 18 January 2007, the Parliament voted on a number of amendments to a directive on the liberalization of national railway networks.\textsuperscript{7} The Council did not support the first reading proposal from the Parliament, and the proposal was therefore sent back to the Parliament with the Council’s amendments. Yet, the Council had not been able to accommodate all governments’ preferences when adopting its common position, and hence a number of governments voiced their disagreement with the proposal. Most explicit were the requests by Portugal and Lithuania to have formal statements recorded in the Council’s decision records against some aspects of the common position. Still, in preparation

\textsuperscript{6} See also Kasack (2004) for an empirical evaluation of EP success-rate under the revised version of the co-decision procedure.
\textsuperscript{7} Railway transport of passengers: opening to international competition, Rail Market Access proposal (amend. direct. 91/440/EEC, direct. 2001/14/CE). 3rd package.
for the Parliament’s second reading the German rapporteur George Jarzembowski from the centre-right European People’s Party – European Democrats (EPP-ED) party group had managed to secure a large compromise between the social democrats and the centre-right in the Parliament’s working committee (with 30 committee members in favour of the compromise, ten against and five abstaining).

The agreement in the committee was to react to the Council position by re-proposing amendments that would bring the content back to the Parliament’s original first reading proposal. If this committee proposal was adopted as the Parliament’s position, the result would have been the convention of a conciliation committee and a bargaining scenario where the two institutions would have to find a compromise agreement on the basis of shared decision-making power. Yet, when the vote took place in the plenary, the proposed amendments failed to meet the absolute majority threshold due to low turnout. Although 358 MEPs supported the proposal and only 195 MEPs voted against, it fell short of the 393 votes required for an absolute majority. The proposal hence fell in the second reading although it had been the preferred outcome by a convincing majority in the Parliament during the first reading negotiations. Some delegations blamed the bad weather, causing some MEPs to leave Brussels before the end of the plenary session; others found similarly ‘valid’ reasons for why the proposal fell. Nevertheless, Mr Jarzembowski explained that the failure to support the compromise was due to the fact that ‘some member states are afraid to welcome competition in ten years from now’, adding that, ‘[many socialists from] France and the Netherlands protect their state-owned operators and favour market shares over citizens’ interests’.

As a result, the party groups in the Parliament were split, and together with the lower than expected turnout, this meant that the position of the Parliament from the first reading could not be defended at its second reading stage.

This case corresponds with the logic in Figure 1. The common position of the Council was located closer to the Parliament than any point on the dashed circle. The Parliament’s rapporteur had negotiated a large coalition behind a compromise amendment designed to bring the new proposal between the dashed and the solid circles. However, due to the high abstention rate in the Parliament – because of bad weather, pressure from national governments or something altogether different – most aspects of the common position of the Council survived the second reading amendments simply because the default position at this reading is the Council’s proposal.


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II. Data

In order to investigate systematically the effect of the absolute majority requirement in Parliament’s second reading we combine data from Council minutes with roll-call data from the Parliament. The data set contains information from every decision stage on all co-decision legislation adopted by the two institutions between January 1999 and May 2004. For the purpose of the present analysis, the decisions analysed here are limited to legislation that was adopted either at or post to the Parliament’s second reading, and which were passed by a roll-call vote in the Parliament. Thus, proposals which were initiated but not adopted within this period have been disregarded as has also legislation adopted at the Council’s first reading. This leads to a sum of 67 pieces of legislation adopted by the Council at its first reading and 380 amendments voted on in the Parliament’s second reading.

The data from the Council consists of each government’s position at the first reading stage as recorded in the official minutes after Council meetings. The focus is here not on whether the governments actually vote, but rather on evidence of disagreement. For this purpose, the Council minutes increasingly include information on individual governments’ positions in the form of formal statements. Formal statements are requested to be included in the minutes in cases where a delegation has either serious concerns with or directly opposes the common position, yet may nevertheless refrain from opposing a proposal through voting. Therefore, the data from the Council used in this analysis considers abstentions,9 negative votes and formal statements made against the common position as negative positions. Governments that have not opposed through either of these alternatives are coded as being in favour of the common position. The data from the Council are collected through the Council’s webpage, the inter-institutional database PreLex and from the Council’s General Secretariat.10

The information from the Council is combined with an extended data set of the roll-call data from the Parliament (Hix et al., 2005). Again, since the purpose is to investigate the effect of decision-making in the Council’s first reading on behaviour in the Parliament’s second reading, the information used from this data set is limited to the Parliament’s second reading amendment

9 Abstentions are *de facto* negative votes, as the qualified majority requirement implies active support from a sufficiently large share of the weighted votes distributed amongst the Council members.
10 The data from the Council of Ministers were obtained from the following sources: The Council of Ministers’ database, available at «http://europa.eu/documents/eu.council/index_en.htm».
   Documents not available online or only upon request were obtained from the General Secretariat, available at: «access@consilium.eu.int».
votes. One should bear in mind that it is not certain that these roll-call votes are representative of all votes taken on co-decision legislation (Carrubba et al., 2006). In this article, the roll-calls are merely used to investigate whether disagreement in the Council has the predicted effect on Members of the European Parliaments’ (MEPs) voting behaviour on these specific votes, where the actors know that their behaviour is public information.

A choice has had to be made with regard to the organization of the data in the section which analyses the effect of disagreement in the Council on behaviour in the Parliament. The choice is related to when a legislation passed from the Council to the Parliament could be categorized as ‘contentious’. Our decision has been to code common positions adopted in the Council with the opposition from at least two governments as contentious, whereas common positions adopted with the opposition from only one government is coded as a consensual. This distinction is done in order to ensure that the results are not driven by a large number of instances of opposition concentrated within one Member State only. However, in the section preceding this bicameral analysis – where we have a narrow focus on the patterns of disagreement in the Council – our data set expands to include information on these oppositions from individual governments as well. The methods for each step of our analysis are made explicit in the respective empirical sections as well.

III. Empirical Results

This section investigates whether disagreement in the Council affects the ability of the Parliament to meet the absolute majority requirement in its second reading. If an absolute majority cannot be mobilized to amend the common position of the Council, the Council’s position is adopted. This would mean that the Council has the upper hand in the co-decision procedure. If so, it would question the consensus in the literature that the two institutions are on equal terms.

The analysis is carried out as follows. First, a one-dimensional item-response model is applied to the Council data in order to establish the dimensionality of decision-making inside the Council. The results from this model form a basis for the subsequent investigations as it illustrates the dominant coalition pattern in the Council in the 1999–2004 period. Second, an investigation is undertaken into the effect of disagreement in the Council on the Parliament’s amendment pass rates. This is done by analysing the relationship between a decision adopted by either a united or a divided Council and the ability of the Parliament to defend its position from the first
reading. Third, a Bayesian hierarchical probit model is employed to investigate whether disagreement in the Council influences the probability that a roll-call vote will meet the absolute majority requirement. The final step compares the estimates from two two-dimensional item response models of MEPs’ behaviour on co-decision amendments. It compares the coalitions that form on amendments to unanimously adopted common positions with those that form on amendments to common positions adopted against the formal opposition from at least two governments.

Disagreement in the Council

Following the approach of Clinton et al. (2004), a Bayesian version of the two-parameter item response model with non-informative priors is fitted to our data from the Council. The results from this model are present in Figure 2 and show the mean location of each government and the 95 per cent credibility interval. As the figure is a placement of the governments in office, and not only of the 15 Member States, the governments are named by country name but in some instances followed by a 1 or a 2 depending on whether it is the first or second government in office in the 1999–2004 period.

Figure 2 reveals some distinct patterns in the data. However, before concluding on the findings it should be noted that the results cannot be understood as a mapping of the governments’ ‘true’ preferences. They are simply a summary of the recorded voting behaviour and coalition pattern on co-decision legislation adopted in the Council from 1999 to 2004. The interpretation of the results should hence take into account both this limitation as well as a possible distinction between revealed behaviour and unrecorded policy preferences. Nevertheless, having highlighted these two restrictions, it is clear from the figure that the governments must behave according to some underlying political dimension when recording their positions. Most of the governments of centre-left origin are located towards the left or centre-left at the lower end of the spectrum, whereas governments from a pronounced centre-right background are dominant and right-leaning in the upper end of the figure. This rank order largely fits with the governments’ party group affiliation in the Parliament. On this basis, the lower part of the figure is dominated by governments from the PES (Group of the Party of European

11 The model is identified by normalizing it to mean zero and standard deviation of one (Jackman, 2001). The model was estimated in R R Development Core Team (2008) using the pscl library (Jackman, 2006). We ran 1 million iterations. The first 100,000 iterations were discarded. The results of each subsequent 1,000th iteration were kept, which then gave us 900 samples. Convergence tests suggest that the model has converged.
Socialists), while governments represented in ELDR (European Liberal, Democratic and Reformist Group) are more clustered around the middle and governments from the EPP are predominantly located towards the top end of the figure. Some notable exceptions stand out. On the top, we see that the Portuguese and the Dutch socialist government are located at the opposite end of what one could expect if there had been a clear left/right political division in the voting behaviour. That these two governments are closer to the second Italian government of Berlusconi than to any of the social democratic governments in the bottom does not correspond with a party political division. Also the socialist French government is placed amongst the EPP, but here the large uncertainty intervals indicate that the location of this French government cannot be granted too much importance. The high uncertainty level is in this case directly related to the low number of votes this government participated in.

At the lower end of the scale, both the first Austrian government and the first Luxembourg government are misplaced according to a left/right party
political divide. However, as with the French government, the uncertainty estimate overlaps the location of most other governments, which is also the case for most of the other ‘misplaced’ cases. Nevertheless, the placement of all the governments certainly has a better fit with the traditional left–right political dimension than either pro-anti EU integration attitudes, geographical location or market models such as have otherwise been suggested in the literature on decision-making in the Council.

Pass Rates and Disagreement in the Council

The data allow for a direct comparison of the finding of left–right divisions over co-decision in the Council with the distribution of voting positions in the Parliament. However, before turning to such analysis, it is of great relevance to pay attention to a possible effect of disagreement in the Council on pass rates of amendments in the Parliament. Sixty per cent of the amendments were taken on common positions adopted unanimously by the Council. On average, 39 per cent of the amendments voted on passed. If there is disagreement in the Council, only 34 per cent of the amendments voted on by roll-call votes passes. This compares to 43 per cent for amendments to unanimously adopted common positions. The Parliament hence seems more likely to amend if the Council is united than if it is divided. Sixty-five per cent of the amendments that passed were taken on unanimously passed common positions. This compares to 57 per cent of the failed amendments. In sum, these results therefore suggest that more roll-call votes are taken by the Parliament on amendments to common positions that have been unanimously adopted in the Council than amendments adopted by a divided Council. These amendments are also more likely to meet the majority threshold. It is well-known that the Parliament benefits from presenting a united front against the Council (Kreppel, 1999). Division in the Council may make it easier for Council representatives to persuade MEPs not to amend the Council negotiations. Divisions in the Council may also encourage party groups in the Parliament to request roll-calls on symbolic amendments in order to embarrass other groups, or to signal to outside observers that they did their best to change the common position. These incentives may differ by party groups and, hence, the relationship between party groups’ roll-call requests and divisions in the Council is the focus of the next step in the analysis.

Roll-Call Requests and Disagreement in the Council

In order to investigate the relationship between division in the Council and the party requesting a roll-call vote on the probability of an amendment
passing, a Bayesian hierarchical probit model is employed. The model estimates separate intercepts for each piece of legislation in order to take into account the fact that the roll-call requesting party varies by amendment, while level of consensus in the Council varies by each piece of legislation. In order not to overestimate the effect of disagreement in the Council, only legislation where at least two governments voted against the common position was classified as contentious. As national governments during the period under investigation were either dominated by PES or EPP, a distinction is made between roll-call requests made by either of these two groups and all other roll-call requests. An interaction effect between these categorical variables is included in order to capture the effect of disagreement in the Council on the probability of adoption for roll-call votes requested by the different party groups.

Table 1 shows the results. The intercept is positive, which suggests that amendments to ‘consensual’ common Council positions on which the EPP requested roll-call votes were more likely to pass than fail. As the credibility interval of $\beta$ for PES clearly overlaps zero, there is no evidence to suggest that it makes a difference for the probability that the amendment will pass if the request for a roll-call is made by the PES rather than the EPP. However, the negative $\beta$ for the other party groups suggests that the amendments where these party groups have requested roll-calls are less likely to pass.

Table 1: Hierarchical Probit of Amending Passing as a Function of Who Requested a Roll-Call Vote

<table>
<thead>
<tr>
<th></th>
<th>mean</th>
<th>sd</th>
<th>2.5%</th>
<th>25%</th>
<th>50%</th>
<th>75%</th>
<th>97.5%</th>
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<tr>
<td>Intercept (EPP)</td>
<td>.6</td>
<td>.3</td>
<td>.0</td>
<td>.4</td>
<td>.6</td>
<td>.8</td>
<td>1.1</td>
</tr>
<tr>
<td>Request Others</td>
<td>-1.1</td>
<td>.3</td>
<td>-1.6</td>
<td>-1.3</td>
<td>-1.1</td>
<td>-1.9</td>
<td>-5</td>
</tr>
<tr>
<td>Request PES</td>
<td>-2</td>
<td>.4</td>
<td>-1.0</td>
<td>-5</td>
<td>-2</td>
<td>.1</td>
<td>.7</td>
</tr>
<tr>
<td>Negative votes in Council</td>
<td>-1.6</td>
<td>.7</td>
<td>-3</td>
<td>-2.1</td>
<td>-1.6</td>
<td>-1.1</td>
<td>-3</td>
</tr>
<tr>
<td>Negative votes * Others</td>
<td>1.4</td>
<td>.7</td>
<td>.1</td>
<td>.9</td>
<td>1.4</td>
<td>1.8</td>
<td>2.7</td>
</tr>
<tr>
<td>Negative Votes * PES</td>
<td>2</td>
<td>.9</td>
<td>.2</td>
<td>1.4</td>
<td>2.0</td>
<td>2.6</td>
<td>3.9</td>
</tr>
<tr>
<td>$\sigma$ Legno (In)</td>
<td>1.0</td>
<td>.2</td>
<td>.7</td>
<td>.9</td>
<td>1.0</td>
<td>1.1</td>
<td>1.3</td>
</tr>
</tbody>
</table>

Amendments: 380  
Common Positions: 67

Source: Authors’ own data.
Notes: The model was estimated using the lmer function via the library arm in R, five chains, each with 5,000 iterations (first 500 discarded). This meant that the inferences are summarized from 22,500 samples from the posterior distribution. The R-hat measure is one for all parameters. This suggests that the model has converged.
Negative votes in the Council substantively lower the probability that amendments where the EPP requests roll-calls will pass the absolute majority requirement. The $\beta$ for the effect of disagreement in the case of PES is positive and slightly larger for the PES. This suggests that when PES requests roll-calls on these types of votes, they are slightly more likely to pass than when the PES requests roll-calls on consensually adopted common positions. The $\beta$ for the other party groups is almost identical to the effect for EPP, but in the opposite direction. This suggests that disagreement in the Council has no impact on the outcome of these roll-call votes. The success rate of the amendments requested by the EPP is hence not influenced by disagreement in the Council. This may be because the EPP was in the minority in the Council during the period under investigation. Governments from the EPP were therefore more likely to be opposed to the common position. Their MEPs may have used roll-call votes in the EP either to prevent amendments that would change the position further away from their preferences, to make their opposition to the common position known, or if the amendment should pass, move the policy towards their ideal point. Conversely, the success rate of the PES is clearly influenced by the existence of disagreement in the Council. The interpretation of the higher success-rate for PES-sponsored roll-call votes is that these amendments build on the coalition in the Council, moving the policy further in the direction of the PES. A supplementary interpretation is that the PES can propose credible compromise amendments, saving both the Parliament and the Council time and resources by concluding the bargaining prior to the Conciliation Committee.

MEPs’ Voting Behaviour on Second Reading Amendments

As it is clear that there are some systematic effects of disagreement in the Council on Parliament’s probability of passing amendments by roll-call vote, a next step in the investigation is to analyse to what extent disagreement also influences individual MEP’s voting behaviour. Two separate two-dimensional ideal point models are fitted, similarly as to what was applied to the data from the Council. The first model estimates MEPs’ ideal points on amendments to unanimously adopted common positions. The second model estimates MEPs’ ideal points on amendments to common positions adopted by a divided Council. The model used non-informative priors and ran 1 million iterations, discarding the first 100,000, keeping only every subsequent 1,000 iterations to ensure that the chain converges, the results are not driven by starting values and to minimize the risk of autocorrelation between the iterations.
legislators. Instead, the focus is on the cutting lines which are the lines that separate the different coalition on each vote. The density and location of cutting lines indicate the structure of conflict between the legislators as recorded in the roll-call records. Figure 3 shows the results from the Parliament data.

The upper part of Figure 3 shows the ideal points and cutting lines estimated from amendments to common positions adopted when the Council was divided over the common position. The lower part shows the MEPs’ location and cutting lines on amendments to position adopted by consensus in the Council. The patterns in the cutting lines are clearly different in the two plots. Most of the cutting lines on amendments to non-unanimous Council positions divide the European Parliament on the left–right political axis, with the ELDR supporting EPP on the majority of the votes against PES and V/ALE (Greens/European Free Alliance). In contrast, the amendments to unanimous common positions see many votes where the PES is isolated against EPP, ELDR and V/ALE. The more significant finding is, however, that there are many amendments that are supported by the ‘grand coalition’ of EPP and PES without necessarily including ELDR and often leaving out V/ALE. In total, this strongly suggests that the Parliament is less able to unite against the Council’s common position if the Council has also been divided. Divisions in the Council can – perhaps ironically – hence be seen to strengthen the Council in its bargaining with the Parliament. To the extent that these divisions correspond to ideological differences that tend to fall along the left–right dimension of politics, they make it more likely that the Parliament will also split along this ideological dimension, at least in the publicly available roll-call votes.13

Conclusions

Our article offers five new findings. Our first finding qualifies a key theoretical result in the literature. The other four findings are empirical. They support our theoretical finding. Before concluding, it may be useful to summarize the results.

Summary of Findings

Theoretically, we show that the commonly held belief that Parliament and Council are co-equal legislators in the post-Amsterdam version of the

13 It should be noted that the evidence from roll-call votes may not fully generalize to all votes. See Carrubba et al. (2006) for a critical evaluation of the representativeness of roll-call votes in the context of the European Parliament.
Figure 3: Effect of Disagreement in the Council on Coalitions in the European Parliament

Source: Authors’ own data.
co-decision procedure does not hold. This is due to the fact that one must take into account that the Parliament’s absolute majority requirement for amending the common position of the Council in the second reading represents a higher threshold for amending/rejecting the position of the Council than simply accepting it (failure to act). The higher threshold in the Parliament’s second reading leaves the Council with conditional agenda-setting powers in the co-decision procedure as it imposes a great pressure on the Parliament’s ability to ensure a high attendance rate as well as mobilize a sufficient majority against the Council’s position.

Exploring our theoretical conclusion further, we also present four empirical findings. First, our analysis of disagreement in the Council demonstrates that disagreement, at least to some extent, follows the left–right dimension common in national-level European politics and in the European Parliament. Second, disagreement in the Council spills over into disagreement inside the Parliament. Due to the absolute majority requirement, disagreement inside the Parliament reduces the Parliament’s ability to pass second reading amendments. Contested common positions are hence more likely to be adopted than unanimous positions. Third, the probability that an amendment would be adopted was higher when a roll-call vote was requested by the PES than when it was requested by any other party groups. When the EPP requested a roll-call vote on a second reading amendment, it was more likely that it would fail than if another party requested the roll-call. Hence, while the party group represented in the majority of the governments used roll-call requests to increase the likelihood of passing amendments to the Council position, the party group in the minority seemed to use roll-call requests to prevent amendments from passing. This, perhaps counter-intuitive, finding is a result of the oversized majority requirement in the Council. Fourth, Parliament is divided along left–right lines when voting over amendments to the common position adopted by a divided Council. On these votes, we tend to see the PES on one side of the cutting line and EPP on the other. In contrast, the coalition pattern in the Parliament is less clear on unanimously adopted common positions. On amendments to these common positions it was not uncommon to find the PES and the EPP on the same side of the cutting line.

The politics of the European Union is of interest to political scientists as it is a great laboratory for testing general theories of legislative politics. Several legislative procedures operate alongside each other and renegotiations over the rules and scope of these procedures occur frequently. This provides scholars interested in the relationship between institutional design and the day-to-day operating of legislative politics with unique empirical opportunities for testing and advancing political science theories.
Until now, most studies have focused on politics inside individual institutions (Mattila, 2004; Hix et al., 2007) or developed and tested competing theories of legislative politics by identifying the initial positions of actors and compared it to the policy outcome via sophisticated game theory and quantitative analysis of data obtained from structured interviews with involved decision-makers (Thomson et al., 2006). This article takes a different approach. The focus is on the effect of disagreement in the Council on MEPs’ behaviour in the co-decision procedure. The starting point of the analysis is the observation that much of the existing literature has disregarded the fact that the majority requirement in the Parliament for amending or rejecting the common position of the Council is higher than the requirement to both adopt a proposal in the initial stage of the procedure and to accept the agreement at the final stage of the procedure. The existing literature also seems to ignore the fact that while the qualified majority requirement in the Council is for making a proposal, the absolute majority requirement in the Parliament is for amending the proposal made by the Council. If the Council fails to meet the qualified majority requirement, the status quo continues. If the Parliament fails to meet the absolute majority requirement, the proposal from the Council is adopted. This article therefore argues that the Council possesses conditional agenda-setting powers. It is easier for the Parliament to accept the proposal (simple majority or failure to act) from the Council than to amend or reject it (absolute majority).14

The results furthermore show that disagreement in the Council decreases the ability of the Parliament to meet the absolute majority requirement in roll-call votes. The reason is probably that MEPs are more likely to be more closely linked to their governments on contentious issues than on non-contentious issues. Governments may, for example, put greater pressure on MEPs when there have been severe difficulties in reaching agreement in the Council request for ‘like-minded’ MEPs to only support Parliament’s amendments if strictly necessary. Conversely, governments may also ask for their alliances in the Parliament to display public support of a given position. If some MEPs let their behaviour be influenced by this type of information and coalition building across the institutional divide, it is thus natural to expect the Parliament to pass fewer amendments by roll-call votes than on legislation where the Council is united.

14 The condition is that some absenteeism amongst MEPs is located closer than the simple majority pivot in the Parliament to the position of the Council.
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