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# Essays on legislative decision-making in the European Union

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# 1. Introduction

As of the conclusion of 2024, all mobile electronic devices such as mobiles, tablets and cameras sold in the European Union (EU) must utilize the same charging port, with this mandate extending to other devices such as laptops by the end of 2026. Proposed by the European Commission in 2021, this initiative gained approval and was signed into effect by the European Parliament and the Council of the EU in 2022. Regardless of the extent to which residents in the EU may appreciate this rule, it underscores how legislative decisions of the EU, as a supranational institution, can impact the daily lives of its residents. In this regard, the EU is sui generis, with no other supranational or intergovernmental institution or union possessing the authority to impact such details of citizens' daily lives.

Similarly, the legislative decision-making process in the EU, while sharing certain similarities, cannot be directly equated to the processes at the national level. The Council of the EU, representing the member states' governments, and the Parliament, comprised of members directly elected by EU citizens, possess the authority to amend and approve proposals initiated by the Commission, which functions as the executive body of the Union. EU legislations emerge from negotiations and bargaining within and between these institutions. For example, in the case of the common charger directive, the European Parliament proposed amendments to Commission's proposal, and these amendments were subsequently approved by the Council. Consequently, a legislative proposal in the EU may undergo changes throughout the decision-making process, as the main legislative bodies—Commission, Parliament, and Council—strive to reconcile their varying preferences and find common ground.

Each of these institutions consists of diverse actors with distinct preferences. Within the Council, for instance, Bulgaria did not support the common charger directive proposal, as

reflected in its decision to abstain from voting. The decisions of the Council result from dynamics among government members with differing ideologies, domestic agendas, election cycles, and preferences, all of which influence their voting behaviour within the Council.

This dissertation explores the intricacies of legislative decision-making in the EU, with a specific focus on the Council of the EU. The study explores how the preferences of actors, including the Commission, the Parliament, and member states within the Council, along with the procedural aspects of legislative decision-making, shape the outcomes of legislative decisions in the EU. Additionally, this research investigates how member states' voting behaviour in the Council correlates with various factors, including their policy positions and domestic sentiment towards the EU.

This thesis contains four chapters that examine legislative decision-making in the EU from different perspectives. In Chapter 2, I introduce a game theoretical formal model in which actors' decisions at the micro level determine the aggregate outcome of decisions in the EU. This model sheds light on informal norms and bargaining inside the Council in the realm of legislative procedures. In Chapter 3, I describe a dataset that includes a variety of information on legislative decisions in the EU, from member states' voting decisions and statements to other actors' decisions, and the dates of decisions. In this dataset, one can follow a legislative decision from the time it was introduced by the Commission until it becomes legislation. For each legislation, information such as its type and voting rule are recorded as well. This dataset is utilized in Chapters 4 and 5. In Chapter 4, I focus on member states' voting decisions to investigate the factors correlated with a member state's decision to contest a legislative proposal. This chapter shows how politicization defined as differences between the policy positions of member states and the average position of the Council are correlated with a higher likelihood of expressing

discontent with legislations. This discontent can be expressed by voting decisions such as 'no' votes and abstention or more subtle ways such as issuing negative statements along with 'yes' votes. In Chapter 5, I investigate member states' voting behaviour in relation to each other. Using a dyadic method, I show how differences in member states' policy positions explain the differences in their voting behaviour. Chapters 4 and 5 provide updated insights into voting behaviour in the Council and show how new methods, such as dyadic analysis, can improve our understanding of this institution. All chapters of this dissertation follow the same theme, which is understanding informal and formal dynamics in legislative decision-making in the EU. Each chapter can be read independently of the others as well.

## 1.2 The Consensus Model

I introduce the Consensus model in Chapter 2. This model predicts the outcomes of legislative decisions in the EU. For each legislative act, the inputs of the Consensus model are the preferences of the actors, their power, and the level of importance each actor attaches to that legislative act, and then the output of the model is the prediction for the outcome of that legislative act. The actors in the model are the Commission and the Parliament as unitary actors, and the member states in the Council. The outcome of each proposal is determined by the interaction between the EP and the member states. Each round of negotiations starts from an initial point and the negotiations continue to another round with a new initial point if at least one member state challenges the initial point of that round. The initial point of the first round is the Commission's ideal point as the Commission initiates the legislative proposals in the EU. Each member state decides separately if it wants to challenge the initial point of each round of negotiations, and the EP selects the initial point of the next round of negotiations among the points suggested by the challengers. Negotiations continue until there is no challenger. The initial

point of the last round of decision-making, in which there was no challenger, will be the outcome of the decision. That is why this model is called the Consensus model, because the negotiations continue until there is no challenger left and the consensus has been reached. The outcome of a collective decision, in the Consensus model, is determined by actors' behaviour on the micro level.

The Consensus model is a contribution to the literature on formal models in EU decision-making that includes models introduced in works such as Bueno de Mesquita and Stokman (1994) and Thomson et al. (2006). The Consensus model is categorized as a mix of bargaining and procedural models since it includes rational utility maximizer actors that interact and bargain within the institutional procedure of the model, simulating the process of legislative decision-making in the EU. While the bargaining models focus on the informal bargaining among the member states (Achen 2006), the procedural models discuss how the institutional setup and voting procedures can shape the final outcome (Steunenberg and Selck 2006). In mixed models, the informal bargaining takes places before the voting stage (Schneider, Steunenberg, and Widgrén 2006). The contribution of the model to the literature on spatial formal models of EU legislative decisions lies in its consideration of the Culture of Consensus in the Council as an informal norm that impacts the decision-making process in the EU.

To test the Consensus model, I use the Decision-making in the European Union (DEU-III) dataset (Arregui and Perarnaud 2022; Thomson et al. 2012). The DEU dataset includes the ideal points of the Commission, the EP, and the Council for 364 legislative decisions in the EU. For each policy issue, the final outcome and each actor's salience are available in the DEU dataset. By applying this dataset, I am able to compare the prediction of the Consensus model for each proposal issue and the actual outcome of that issue. The mean absolute error of the

Consensus model is better than two models that predict random outcomes for the decisions. The Consensus model's performance, in term of the prediction power, is as good as bargaining models that are known as the models with lowest errors. This shows that procedural models, in which formal rules and informal norms are considered, can provide more accurate predictions, and improve our understanding of legislative decision-making in the EU.

### 1.3 A new dataset on EU legislative decision-making

In chapter 3, I introduce the new dataset on legislative decision-making in the EU. This dataset, called 'Council Voting Data and Records,' includes 1,154 legislative decisions made in the Council of the EU between 2010 and 2021. This dataset was put together from different official EU sources. For each legislative decision, the Council Voting Data and Records dataset includes a variety of information including legislative procedure, voting rule, and act type, which helps us to understand the legal framework under which each decision was made. To categorize the proposals based on their topic, the dataset contains policy area, Council configuration, and EuroVoc Thesaurus of the proposals. I record the dates on which each proposal was sent from the Commission to the Council and the EP. The decisions made by the Council and the EP on each proposal, along with the dates of the decisions, are available in the dataset as well. Thus, we can measure the duration it took for each decision to be concluded and follow the interactions between the European institutions during the process of legislative decision-making, particularly for ordinary legislative procedures (OLP) for which a proposal might be concluded in the second or third round of reading. For each decision, the other EU institutions whose opinions were solicited are also recorded. These institutions include the Court of Auditors, European Data Protection Supervisor, European Central Bank, and advisory bodies such as the Economic and

Social Committee and the Committee of the Regions. The number of discussions held in the Council until each proposal was concluded is also available in the dataset.

To follow member states' voting behaviour in the Council, we record all voting decisions made by the member states and also official statements published by them alongside their votes. The votes that are recorded as "yes", "no", and abstention shed light on the contestation in the Council, which is examined in chapter 4. Applying a sentiment analysis method for the statements helps us to have a better understanding about more subtle contestation in the Council, an institution in which the culture of consensus plays a major role in decision-making. Out of 31,583 (excluding non-participation) votes in the Council Voting Data and Records dataset, 2.52 percent of votes are contesting or not supporting votes. Similarly, 33.8 percent of legislative decisions in the EU between 2010 and 2021 were contested by at least one member state. In chapter 3, I describe how contestation rate in the Council has changed over time, how it is different based on the legal framework under which the decision was made (by legislative procedure, voting rule, and act type), and how the contestation rate can differ based on the round of readings in decisions under OLP. Furthermore, I discuss the variations in contestation rates among different policy areas and Council configurations, implying that in some areas there is more disagreement among the member states, or the member states are willing to express discontent more freely in those areas. Then, I describe member states' voting behaviour. In Chapter 3, we observe that the United Kingdom, not surprisingly, has the highest contestation rate among the member states between 2010 and 2021, as 12.8 percent of its votes are not supportive, while the contestation rates of some member states such as Finland, Greece, and France are below 1 percent, implying that in more than 99 percent of the decisions they support the outcome of the collective decision in the Council.

While in Chapter 3, I focus on describing this dataset, in Chapter 4, I analyze the variables that might be associated with member states' voting behaviour. The member states can express discontent with the outcome of legislative decision in the EU by contestation or issuing a negative statement. In Chapter 3, I also introduce a dyadic dataset built upon the Council Voting Data and Records dataset. In this dyadic dataset each dyad is a pair of member states for each decision. This dyadic method helps us to compare voting behaviour of the member states with each other and measure voting alignment between each two member states. The lowest voting alignment is between the UK and Germany as these two member states made the same voting decisions in 76 percent of decisions, while the highest voting alignment between Lithuania and Romania is 99 percent. I use this dyadic dataset in Chapter 5 to investigate voting alignments between the member states.

## 1.4 Politicization and Contestation

Chapter 4 examines how politicization in the EU can be reflected in member states' voting behaviour in the Council. This chapter follows several studies from Mattila (2004) to Pircher and Farjam (2021) in which roll call data is used to investigate member states voting behaviour in the Council. I rank voting decisions as the outcome variable, from the most supportive to the least supportive. Votes in favour are coded as most supportive, followed by votes in favour along with negative statement, abstention, and votes against. I use a sentiment analysis method to distinguish negative statements.

To capture politicization in the Council, I utilize the ParlGov dataset to assess each government's positions on four policy dimensions including ideology, economy, political culture, and EU integration based on policy positions and relative weights of the parties that form each government. The explanatory variable is the distance between each member state's policy

position and the average policy position of the Council. Utilizing a panel dataset with more than 25,000 voting decisions cast in the Council from 2010 to 2021, I apply random effects ordered logistic models to examine the correlation between the distance of a member state's government's policy position from the Council's average position and the voting decision of that member state. I also control for the type of legislative act, legislative procedure, voting rule, policy area, round of reading in the Council for decisions under ordinary legislative procedure (OLP). At country level, I also control for voting power, holding presidency, net contribution to the EU budget, and domestic public opinion on EU integration.

The results show that a member state's distance from the Council's average position on a state-market dimension is positively correlated with the level of contestation in the voting decision of that member states. These results align with the expectation that higher politicization in the EU is associated with more contestation in the Council. The results also imply that the likelihood of observing a higher level of contestation is higher for regulations compared to directives. As anticipated, the expected levels of contestation for decisions under OLP and qualified majority voting rule are higher than decisions under consultation procedure and unanimity voting rule. Round of the reading in OLP decisions is positively correlated with the level of contestation, implying that reaching consensus in the Council becomes more difficult in the second reading when the Council needs to adjust its position in regard to the EP. Our results show that holding the Presidency of the Council is positively correlated with the level of support a member state expresses for a legislative proposal. The results of this chapter show that voting power, and domestic public opinion on EU integration are not correlated with member states' voting decisions.

In this chapter, I show how being further away from the Council's average position on state-market dimension is associated with the level of contestation a member state expresses in the Council of the EU. Despite the low contestation rate in the Council, observed contestations can be explained partly by policy positions. This chapter helps us to understand the implications of politicization in the European Union and its decision-making institutions, especially given the relative success of more extreme parties in recent national elections in Europe.

## 1.5 Voting alignment in the Council

In Chapter 5, I continue the investigation on how rising politicization in the EU and specifically controversies driven by political parties can be reflected in member states' voting behaviour in the Council. While the focus of the studies on voting behaviour in the Council is on contestation votes, in this chapter, I focus on member states' voting behaviour in relation to each other to examine the factors that explain voting alignment between each pair of member states.

I apply a dyadic method approach for which I build a dyadic dataset that contains more than 400,000 paired decisions based on my dataset that includes voting decisions in the Council from 2010 to 2021. To assess voting decision similarity between each pair of member states for each legislative decision, I use two methods of categorizations. First, I utilize a binary variable that checks if voting decisions of the member states in each dyad are the same or not (both supportive or both not supportive). Then, I sort voting decisions to four categories from the most supportive to the least supportive and measure the distance between the voting decisions of each two member states in each pair. To assess the politicization in the Council, I use the ParlGov dataset on parties' policy positions to measure governments' policy positions on four dimensions: ideology, political culture, and EU integration. Thus, for each pair of governments in each dyad,

I compute the Euclidean distance between their policy positions in a three-dimensional policy space.

I use random effects logistic models to examine the correlation between voting alignment and policy positions' distance. I control for the difference (distance) in domestic public opinion on the EU and voting power between each two member states in each dyad. Furthermore, I control whether the member states in the dyad have the same EU budgetary position (both contributors or both beneficiaries), and whether, in terms of EU membership, they are both old members or both new members. The results show that the larger the distance between two governments policy positions, the higher the probability of making different voting decisions. Similarly, larger distance between policy positions is positively correlated with the distance between voting decisions. When I considered the policy dimensions separately, similar results are observed for EU-integration policy position. Using a dyadic method to investigate member states' voting alignment in the Council is a new approach to demonstrate the extent to which voting similarity can be explained by differences between member states, and which differences are more associated with voting alignment. It also gives new insights into the literature on coalition formation in the Council developed by studies such as Elgstrom et al. (2001), Hagemann and Hoyland (2008), Hagemann (2008), and Häge (2013).