EU Policy-Making: The Role of Council Working Parties

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July 2004

Description of Ph.D. research project (start: 1 January 2004), prepared for the "Governance in the European Union"-session of the NIG Annual Work Conference 2004, 29 October 2004, Rotterdam.

Summary

The Council of the European Union is commonly regarded as the main legislative institution in EU politics. It is regularly described as the EU's "decision-making centre" (Wessels 1991), its "main policy-maker" (Peterson & Shackleton 2002: 9), or even its "powerhouse" (Sherrington 2000: 1). Given the general acknowledgment of its overwhelming importance, it is rather surprising that relatively little systematic research has been conducted on the internal working of the Council[2]. In a legal sense, the term "Council of the European Union" refers only to the official meetings of Member State ministers in their different sectoral formations. But below this level of the ministers, there is a multitude of committees preparing the ministers' meetings. In fact, one can roughly distinguish between three layers in the Council hierarchy. Only ministerial meetings at the top have the formal authority to make legally binding decisions; the committee of permanent representatives (Coreper) forms the middle layer, preparing the agenda for ministerial meetings and coordinating the work of subordinated bodies; and finally, there are about 140 working parties at the bottom of the hierarchy, which deal with the day-to-day work of the Council and form the "backbone" (Westlake 1999: 311) of the organization. By focusing the analysis on these groups of experts, the study seeks to

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[2] For exceptions see Lewis (1998; 2000; 2003) on decision-making in the Committee of Permanent Representatives, and Beyers and Dierickx (1997; 1998) on communication networks of working parties.

contribute to a better understanding of the internal decision-making process in the Council.

Although all legislative acts have to be formally adopted by a ministerial Council formation, the so-called preparatory bodies decide de facto on a major part of issues entailed in a policy dossier. Varying by source, estimates of issues decided on working party level alone range from 35% (van den Bos 1991) to 85% (Hayes-Renshaw & Wallace 1997: 78)[3]. These figures make clear, even if the lower bound is assumed to be valid, that working parties are crucial decision-making fora within the Council structure. Considering the secretive nature of working party negotiations and taking into account that they consist exclusively of bureaucrats, a number of normative questions arise with regard to accountability, transparency and the legitimacy of Council decision-making in general. On the one hand, the relative insulation of working parties from public debates and political scrutiny could result in more efficient decision-making and more problem-adequate policy solutions, i.e. enhanced output legitimacy. On the other hand, input legitimacy might be severely hampered, since national officials are not directly accountable to domestic parliaments and supervision and guidance by their ministers is limited for practical reasons. The findings of the project will have important implications for a further evaluation of this trade-off.

The primary goal of the study is to explain decision-making in working parties. This process is generally described as one of negotiations between the Commission, the Presidency and the remaining Member States. Theories within the rational choice tradition, on the one hand, and the sociological institutionalist framework, on the other hand, stress very different factors as important for the conduct and outcome of negotiations. According to intergovernmentalist rational choice reasoning, committee members are strategically calculating actors who pursue the interests of the member state they represent (e.g. Moravcsik 1998), whereas sociological institutionalist arguments stress the influence of European institutions on norms, values, and even interests held by national representatives. In the latter view, delegates of member states are exposed to socialization processes; their properties and preferences change as a result of social interaction within EU institutions (Checkel 2001: 220-221). Based on a shared set of

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[3] The corresponding figures for Coreper are 18% and 10-15%, respectively.

European norms, negotiation among actors will be dominated by argumentative persuasion to reach a collectively best solution to a common problem (Joerges & Neyer 1997). In contrast, in intergovernmentalist accounts preferences are given exogenously and hard-headed bargaining occurs for the realization of national interests. The study will employ two models of negotiations, one from each theoretical framework, in order to reach a more complete picture of the negotiation process, but also to evaluate their relative performance in explaining negotiation behavior and outcomes.

For the empirical assessment, approximately 20 recent policy proposals will be selected for comparison. Data on the process and outcome of negotiations will be gathered through expert interviews. Additional information on the background of individual participants, important for sociological institutionalist arguments, will be collected through a short questionnaire sent by mail. The dependent variable of the study will be the influence an actor exerts on the final collective negotiation outcome, which could be labeled negotiation success. This negotiation success is operationalized as the inverse of the distance between the actor's initial policy position and the negotiation outcome in a one-dimensional policy space. Different independent variables and associated hypotheses about their influence on the degree of negotiation success will be derived from the two theoretical models. Finally, statistical methods will be employed for the evaluation of these hypotheses.

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