



# ***Bicameral Politics in the European Union***

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## Abstract

Quantitative research in the field of European Union (EU) politics has focused on the internal dynamics of either the Council of Ministers (the Council) or the European Parliament (the Parliament). Theoretical accounts of bicameralism in the EU have understood the Parliament as a unitary actor. As a result, little attention has been paid to the effect of different majority requirements in the Parliament on its institutional powers vis-à-vis the Council. This paper contributes to the empirical knowledge in the field by investigating bicameral political dynamics based on a combined data set covering legislators' behavior in both the Council and the Parliament. Theoretically, the analysis supplements the standard understanding of the formal relationship between the EU institutions. It shows that the Council has the upper hand in bicameral negotiations as it is harder for the Parliament to amend or reject the common position of the Council than it is to accept it. When disagreement is recorded in the Council, the institutional imbalance increases as the polarization along the left-right axis in the Parliament is strengthened. This challenges the unity of the Parliament against the Council's common position, making it less likely that the center-left and center-right can form sufficiently large coalitions for effectively defending the Parliament's position vis-à-vis the Council.

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## Introduction:

Research into the effect of different procedural rules on legislative behavior has recently proliferated due to the increased availability of roll-call data and developments in political science methodology (Clinton, Jackman and Rivers 2004; Poole 2005). The majority of this work has been conducted by researchers working on the US congress (Clinton and Meirowitz 2003; Cox and McCubbins 2005; McCarty, Poole and Rosenthal 2006; Krehbiel 1998). An important analytical contribution from this literature has been the presentation of how procedural powers can be generalized as either agenda-setting or veto power (McCarty 2000). By now, these considerations have been applied to a large variety of institutional settings (Tsebelis 2002) and have been further elaborated by, for example, analyses showing that when oversized majority requirements are used, it is of great importance what the requirement is for (Goodin and List 2006).

These insights from rational choice institutionalism have fundamentally changed our understanding of politics in the European Union (EU), shifting the debate from neo-functionalism (Haas 1958) versus intergovernmentalism (Hoffmann 1966) to a debate over preference configurations, sequence of moves and bargaining powers (Thomson, et al. 2006). The change means that politics within the two chambers, the Council of Ministers (the Council), which represents the states, and the European Parliament (the Parliament), which represents the populations, have enjoyed a surge in scholarly attention with a focus on preference aggregation mechanisms and ideal point estimation methods (Hix, Noury and Roland 2007, Mattila 2004). This paper contributes to this line of research by investigating the relationship between the distributions of ideal points in both institutions. Furthermore, it provides the first empirical investigation of bicameral political dynamics across the different stages in the legislative process in the European Union.<sup>1</sup>

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<sup>1</sup> See König, et al. (2007) for an excellent empirical analysis of bargaining in the conciliation committee. As will be explained below, the conciliation committee is the very last possibility for reaching agreement between the

Current theoretical accounts of bicameral politics in the EU consider the Parliament on equal terms with the Council in the main legislative procedure, the Co-decision procedure. In these theoretical models, the Parliament is commonly presented as a unitary actor, whereas the Council is defined as a collection of individual actors. While this paper does not object to the practice of modeling the Council as a collection of actors, it will here be argued that the Parliament's variation in majority requirements across the different legislative stages makes the unitary actor assumption inadequate also for this institution. The position of the absolute majority of all representatives in the Parliament is only unique and identical to the simple majority if all members show up to vote, or sufficiently many representatives have identical preferences. This hardly ever happens. Furthermore, considering also the fact that both institutions consist of party political representatives, it seems likely that interests may not be affiliated merely with institutional boundaries. Indeed, existing research on voting behavior in the Parliament suggests that coalitions form along the left-right dimension (Hix et al 2006). Party political cleavages have also been detected in the Council. However, the extent of left-right politics in the Council varies across policy areas (Hagemann 2006). In sum, this means that the Parliament's internal coherence and institutional power may be particularly challenged when the centrist parties are divided, as would be the case if left-right political differences are played out in both institutions.

The empirical investigation of these claims is carried out through the following steps. Combining two large data sets covering all Co-decision legislation passed in the Parliament and the Council from June 1999 to May 2004, it is first shown that disagreement in the Council is in this period associated with differences in positions captured by the standard left-right political dimension. These somewhat surprising results prevail on the basis of applying a one-dimensional ideal point model (Jackman 2000) to the data from the Council. A subsequent investigation of whether the finding

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Council and the Parliament if a decision has not been adopted by the two institutions in the preceding rounds of negotiations.

of left-right political dynamics in the Council has any effect on also the behavior in the Parliament demonstrate that the Parliament is less able to pass amendments by roll-call when the Council is divided rather than united in adopting its common position. Additionally, a further exploration of this result shows that increases in divisions in the Council strengthen the polarization along the left-right axis in the Parliament. Coalitions formed in the Parliament as a reaction to a united Council conversely fall within both the left-right political dimension and a second dimension, which we interpret to reflect the members' institutional interests. Yet, the conflict structures in this latter scenario do not show any significant cleavages between the larger party groups, and both the simple majority and absolute majority requirement can easily be met. But when negotiations are solely of a left-right political nature, the unity of the Parliament is challenged and, hence, the Council's position is strengthened while the Parliament is weakened.

The second section offers a short review of existing work in the area. It presents the logic of the Co-decision procedure, with a critical discussion of the current literature's disregard of the shifting majority requirement in the Parliament. The combined data set used to investigate the effect of the procedural rules on legislators' behavior in both institutions is presented in the third section. The fourth section discusses the empirical findings. Combined, the findings suggest that disagreement in the Council decreases the probability that the Parliament will amend the common position of the Council as well as the probability that a grand coalition between the largest party groups, European People's Party (EPP) and Party of European Socialists (PES), will form.

## **Bicameral Politics in the Co-decision Procedure of the European Union**

Legislative political negotiations in the European Union can be characterized as a bicameral political process (Tsebelis and Money 1997), where the Council of Ministers is the upper house and the European Parliament the lower house (Hix 2005). Overall,

the Council is more powerful than the Parliament, as the Parliament does not have significant influence in all legislative procedures, while the Council does. Still, the Parliament has seen a steady increase in its possibilities for influencing legislation in the last decades, and the Co-decision procedure, in which the two institutions are commonly regarded to enjoy co-equal legislative powers, currently accounts for approximately 60% of the yearly adoption rates. The Co-decision procedure is briefly described and discussed in the next paragraphs in order to provide a general overview of the institutional framework within which the legislators act as bicameral negotiators.

The legislative process is formally initiated when the Commission presents the Parliament with a policy proposal. A number of 'readings' - or decision stages - then follow in a sequential manner, alternating between the two institutions. In the first reading the Parliament has to find a simple majority in favor of the proposal from the Commission in either the original or an amended form. The Commission then considers any such possible amendments and sends the (possibly) revised version to the Council. Since the implementation of the Amsterdam Treaty in 1999 it has been possible for the Council to adopt a proposal already at this point if a qualified majority of the governments accepts the policy proposal as well as any amendments from the Parliament. If not, the Council can amend the proposal, in which case a qualified majority is also needed. In the situation where the Council is unable to find a qualified majority in support of either adopting or amending the proposal from the Parliament the status quo continues. Put differently, the Council can at this point accept, amend or reject the proposal.

If the Council decides to amend in its first reading, the proposal is sent back to the Parliament. At this stage, the proposal becomes law *unless* an absolute majority of the members of the Parliament actively support further amendments or a rejection of the common position of the Council. If neither a suggestion to reject the policy proposal nor any amendment meets this absolute majority requirement, the common position of

the Council is adopted. Conversely, if the Parliament manages to find an absolute majority, the proposal is once again sent back to the Council. This triggers the convention of a conciliation committee between the two institutions, unless the Council at this point accepts all amendments from the Parliament. In the case where the Council would decide to adopt the amendments without taking the negotiations to the conciliation committee, unanimity is needed if the Commission has not supported these amendments. A qualified majority is required if the Council seeks to adopt amendments which have also been supported by the Commission. Though, if none of these scenarios are possible, the proposal is taken to the conciliation committee, which is the very last resort for reaching agreement<sup>2</sup> and operates as a joint bargaining forum along similar lines to the US conference committee where the parties are brought together to formulate a compromise decision. Here, a qualified majority is set as the voting threshold for the Council members, and a simple majority of MEPs must similarly accept the proposal in the Parliament. If no agreement is possible the status quo prevails.

A few observations should be highlighted from the above description of the Co-decision procedure. First, the majority requirement operating in the Council remains constant throughout the procedure, while the majority requirement in the Parliament changes over the course of the different legislative stages.<sup>3</sup> Second, the status quo continues unless a qualified majority in the Council agrees on a common position.

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<sup>2</sup> As explained, the Council needs a qualified majority to accept second reading amendments from the Parliament supported by the Commission, but unanimity to accept amendments opposed by the Commission. However, as neither the commission nor one government can prevent a qualified majority in the Council to meet with the Parliament in the Conciliation Committee, the possibility for the Council to adopt the Parliament's 2<sup>nd</sup> reading amendments immediately prior to the conciliation stage has only limited empirical relevance for anyone but the most impatient actor. We thank one of the reviewers for pointing this out to us.

<sup>3</sup> See above for an explanation of why the unanimity requirement in the Council for adopting 2<sup>nd</sup> reading amendments from the Parliament that are not supported by the Commission is a rule with only minor consequences for the bargaining.

However, the common position of the Council is adopted *unless* the Parliament can find an absolute majority in favor of amending it. These two features of the Co-decision procedure have been largely neglected in the literature and this paper argues that the result is an overestimation of the power of the Parliament. The following explains this criticism.

The standard model of EU legislative politics has been proposed by Tsebelis and Garrett (2000) and presents the negotiations over Co-decision legislation as a spatial bargaining model implicating 7 individual governments as well as two unitary actors, the Parliament and the Commission. The reason for a 7 member Council is that the model's calculation with a threshold of 5 out of 7 governments is a useful simplification of the Council's qualified majority requirement. The underlying dimension along which the actors are located is prescribed as the level of integration, with the Parliament and Commission situated as preference outliers preferring more integration than any of the governments. The status quo is located at the opposite extreme, and thus implies less integration than desired by any of the actors. Considering the qualified majority requirement in the Council and the distribution of all actors' preferences, the model predicts that the largest possible policy change is the point that makes the third least integrationist government indifferent between the new policy and the status quo.

While much criticism has been voiced with regard to the assumptions behind the above model's presentation of EU legislative politics,<sup>4</sup> the usefulness of the logic behind the model is widely recognised. The existing criticism is generally aimed at the model's restriction to an analysis of the final bargaining scenario<sup>5</sup> and the definition of an

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<sup>4</sup> For a review of the debate see (Hix 2005, 99-109).

<sup>5</sup> The reason Tsebelis and Garrett (2000) 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 payoff for the Council of Minister, and vice versa. The



'integration-no integration' conflict dimension.<sup>6</sup> Therefore, Tsebelis and Garrett's (2000) more recent analyses of the Co-decision procedure address the above criticism of assuming the nature of EU politics to be over preferences towards further integration and instead present a 'strong party scenario', where the political dimension is prescribed to be of the standard left-right political nature. In this scenario, the identity of the actors remains the same as in the 'integration/no-integration' model described above, however, the status quo cannot, in this case, be assumed to be located at an extreme position and also the location of actors has changed: Two pivots can be found in the Council - one is the pivotal government for a policy shift towards the left, and one is the pivot for a shift towards the right - and the Parliament is no longer positioned as an outlier. Instead, the Parliament finds itself centrally located between the two Council pivots, and also the Commission is to be found towards the centre of the model.

The logic from this latter definition of the Tsebelis-Garett model is very useful for developing and clarifying the argument presented in this paper. The implications of the shifting majority rule in the Parliament may at first seem rather insignificant in the institutional procedures for adopting legislation. However, consider the possibility that the absolute majority requirement in the Parliament's second reading is not a requirement for adopting legislation, but for amending the common position of the Council, as the treaty article 251 paragraph 2 implies that:

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

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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.

<sup>6</sup> See Thomson, et al. (2006) for a thorough evaluation of the performance of formal models in EU politics. It provides empirical estimates of the location of involved governments and the EP (as a unitary actor) on a large selection of controversial issues.

*(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:*

*(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 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. Failure to meet this threshold means that Parliament accepts the common position of the Council. It does not imply a continuation of the status quo.

The result is that if the Council does not accept the initial proposal from the Parliament, it will get its counter-proposal accepted under the condition that there is no absolute majority in favor of amending it. As described, the absolute majority threshold is rather high, and since the requirement is based on the actual number of parliamentarians and not on the ones present at the time of the vote, much depends on the turnout for the plenary sessions. In fact, it can be established that the difference between the simple majority that the Parliament uses in the first reading (as well as after the conciliation committee) and the absolute majority of the second reading is identical only if all Members of the Parliament (MEPs) show up to vote. It will grow towards a unanimity requirement as attendance falls towards 50%. This means that if absenteeism is above 50%, the common position of the Council will be adopted. Thus, under such conditions the Council enjoys agenda-setting powers under the Co-decision procedure.

Considering the implications of the shifting majority requirement as well as the effect of absenteeism in more detail, it is obvious that the area within which Council can

successfully propose a policy is increasing with an increase in absenteeism in the Parliament.<sup>7</sup> This is the area between the solid and the dotted lines in Figure 1 below. On the other hand, if the Council adopts a common position outside this area, the Parliament will be able to amend, and the bargaining will hence continue to the conciliation committee.<sup>8</sup> 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 which could make the Parliament worse off than the initial proposal.<sup>9</sup> This means that the exact location of the optimal proposal may depend on the level of absenteeism in the Parliament's second reading. Figure 1 illustrates.

Figure 1 is similar to a standard bicameral model (e.g. Tsebelis & 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 absenteeism in the Parliament. The difference between the dotted and the dashed lines illustrates the effect of increasing the level of absenteeism in

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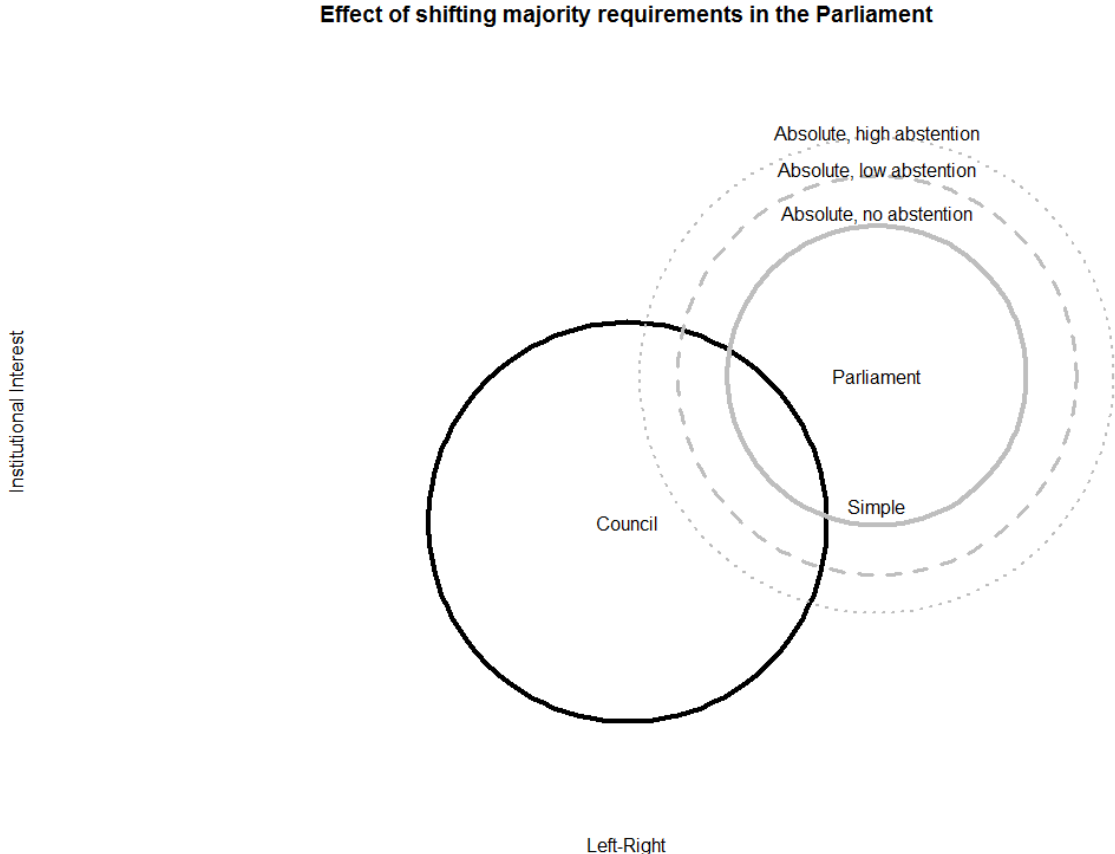
<sup>7</sup> This assumes that not all of the absentees would vote against the amendments if present.

<sup>8</sup> 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.

<sup>9</sup> 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 coordinators and the *rapporteur* (Bowler og Farrell 1995, McElroy 2006, Benedetto 2005, Whitaker 2005). The *rapporteur* can be understood as the agenda-setting inside the European Parliament (Tsebelis 1995), although 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 exists (Mamadouh og Raunio 2003). The position of the Council of Ministers is prepared in working groups under the leadership of the 6-monthly rotating Council presidency (Tallberg 2004).

the Parliament in second reading votes. The main insight from this figure is hence that absenteeism in the Parliament increases the winset in the direction of the Council.

**Figure 1**



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.

*An empirical example*

A recent situation in the 6<sup>th</sup> European Parliament provides an example illustrating the relevance of the above argument: On the 18<sup>th</sup> of January 2007, the Parliament voted on a number of amendments to a directive on the liberalization of national railway

networks.<sup>10</sup> The Council had not been able to support the first reading proposal from the Parliament, and the policy 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 explicitly 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 to the Parliament's second reading the German rapporteur George Jarzembowski from the center-right European People's Party – European Democrats (EPP-ED) party group had managed to secure a large compromise between the social democrats and the center-right in the Parliament's working committee (with 30 committee members in favor of the compromise, 10 against and 5 abstaining).

The agreement in the committee was to re-propose amendments that would bring the proposal 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. Some delegations blamed the bad weather. 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 favor market shares over citizens' interests".<sup>11</sup> As a result, the party groups in the Parliament were

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<sup>10</sup> Railway transport of passengers: opening to international competition, Rail Market Access proposal (amend. direct. 91/440/EEC, direct. 2001/14/CE). 3rd package.

<sup>11</sup> European Observer 19.01.2007 "MEP no-show scuppers liberalised railway package".

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 argument reflected in Figure 1. The common position of the Council was located between closer to the Council than 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 all together different – most aspects of the common position of the Council survived the second reading amendments. There high absenteeism meant that the area covered by the dotted lines was included in the winset and, hence, an absolute majority could not be mobilized in favor of an alternative proposal; the recorded position of the Parliament was closer to the position of the Council than would have been the case with a lower abstention rate.

### *Implications for EU bicameral politics*

The two dominating political dimensions in EU politics are commonly recognized as being an intergovernmental dimension capturing the member states' preferences over EU integration, i.e. an 'integration/no-integration' dimension, and another being of a left/right party political nature. On the 'integration/no-integration' dimension, the Commission and the European Parliament would like more integration than the government representatives in the Council, as the latter have an outside option of deciding the policy themselves at the national level, or via intergovernmental bargaining without involving the former two institutions. However, all three institutions are populated by members of political parties. Therefore, politics within each institution may hence be less concerned with level of integration than more traditional lines of political contestation. This is particular the case in the European Parliament (Hix et al 2007), and perhaps to a lesser extent in the Council (Mattila 2004.

When the 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; Hix and Kreppel 2003). Since institutional interests will unite the respective institutions against each other and left-right politics will result in internal divisions according to party political interests, it will be harder 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.<sup>12</sup> If the Council has been divided along party political lines, it can be assumed that the ability of the Parliament to act as a unitary actor is even further challenged as the governing parties represented in both institutions may not have similar preferences. In other words, it seems likely that the Parliament will also 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.

The intuition behind this argument has earlier been suggested by Kreppel and Tsebelis (1999). While their study covers an earlier time period, a different legislative procedure, and is limited to coalition formation in the European Parliament, this paper extends the investigation to also include the Council as well as the interaction between these two institutions.

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<sup>12</sup> See also Kasack (2004) for an empirical evaluation of EP success-rate under the revised version of the codecision procedure.

## *Data*

The investigation of the above argument is undertaken by combining two large data sets covering legislators' recorded behavior in both the Parliament and the Council. The data sets contain information from every decision stage on all legislation adopted by the EU between January 1999 and May 2004. For the purpose of the present analysis, the decisions analyzed here are limited to legislation that was adopted either at or post to the Parliament's second reading. Thus, proposals which were initiated but not adopted within this period have been disregarded as have 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. Many researchers have voiced their frustrations with the availability of information on the governments' positions as explicit voting situations are much less frequently recorded than, for example, in the Parliament. However, 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 refrain from opposing through voting for domestic political reasons. Therefore, the data from the Council used in this analysis considers abstentions,<sup>13</sup> 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 favor of the common position. The

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<sup>13</sup> 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.



data from the Council is collected through the Council's webpage, the inter-institutional data-base PreLex and from the Council's General Secretariat<sup>14</sup>.

The information from the Council is combined with an extended data set of the roll-call data from the Parliament (Hix, Noury and Roland 2005). Again, since the purpose is to investigate the effect of decision-making in the Council's first reading on behavior in the Parliament's second reading, the information used from this data set is limited to the Parliament's second reading amendment votes. One should, however, bear in mind that it is uncertain whether the sample is in fact representative of all votes taken on Co-decision legislation (Carrubba et al 2006). Though, such generalizations are rarely necessary either. In this paper 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 behavior on these specific votes, where the actors know that their behavior is public information.

A choice had to be made with regard to the organization of the data in the section below analyzing the effect of disagreement in the Council on behavior in the Parliament. Where common positions were adopted in the Council against opposition from at least two governments, these decisions have been coded as contentious. Common Positions adopted against the opposition from only one government is coded as a consensual common position. This is done in order to ensure that the results are not driven by instances of opposition concentrated within one member state only. The subsequent analysis of patterns of disagreement in the Council expands to include

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<sup>14</sup> The data from the Council of Ministers was obtained from the following sources:

The Council of Ministers' data base: [http://europa.eu/documents/eu.council/index\\_en.htm](http://europa.eu/documents/eu.council/index_en.htm)

The PreLex data base: <http://ec.europa.eu/prelex.apcnet.cfm?CL=en>

Documents not available online or only upon request were obtained from the General Secretariat: [access@consilium.eu.int](mailto:access@consilium.eu.int)

information on these oppositions from individual governments as well. Nevertheless, although this threshold for a category of contentious legislation may appear extremely low compared to the dynamics in other legislatures, it should be stressed that the data actually underreports disagreement as there is no record of the deliberations over the legislation which failed to be supported by a qualified majority in the Council. This hence introduces a bias in the data towards not identifying disagreement in the Council even if a disagreement is in fact present. The result of the analysis is presented in the next section.

### *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 which holds that the two institutions are on equal terms.

The analysis is carried out by applying the following methodology: 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 platform 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 analyzing the relationship between a decision adopted by a united (/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' behavior on Co-decision amendments. It compares the coalitions that forms 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 estimated. The model is identified by normalizing it to mean zero and standard deviation of one (Jackman 2001, Rivers 2003). The model was estimated in R (2006) using the pscl library (Jackman 2006).<sup>15</sup> The mean location of each government and the 95% credibility interval is presented in figure 2. These estimated should not be understood as the governments “true” preferences. Instead, they should be seen as a summary of the recorded voting behavior and coalition pattern on Co-decision legislation in the Council.

Figure 2 reveals some ideological tendency in the data. Most of the governments of social democratic origin are located towards lower end on the spectrum. The estimates are fairly precise for most governments. However, the estimates are rather imprecise for those government that only participated in a few votes.<sup>16</sup> However, what is important is that the rank order largely fits with the ideological party group affiliation of their parties in the Parliament. The lower part of the figure is dominated by governments’ from the PES (Group of the Party of European Socialists). The center of the figure is dominated by governments represented in ELDR (European Liberal, Democratic and Reformist Group), while the upper end of the figure is dominated by governments from the EPP. There are some notable exceptions to this picture. Starting at the top of the figure, it is found that the Portuguese and the Dutch socialist government are located at the opposite at the extreme end next the second Italian

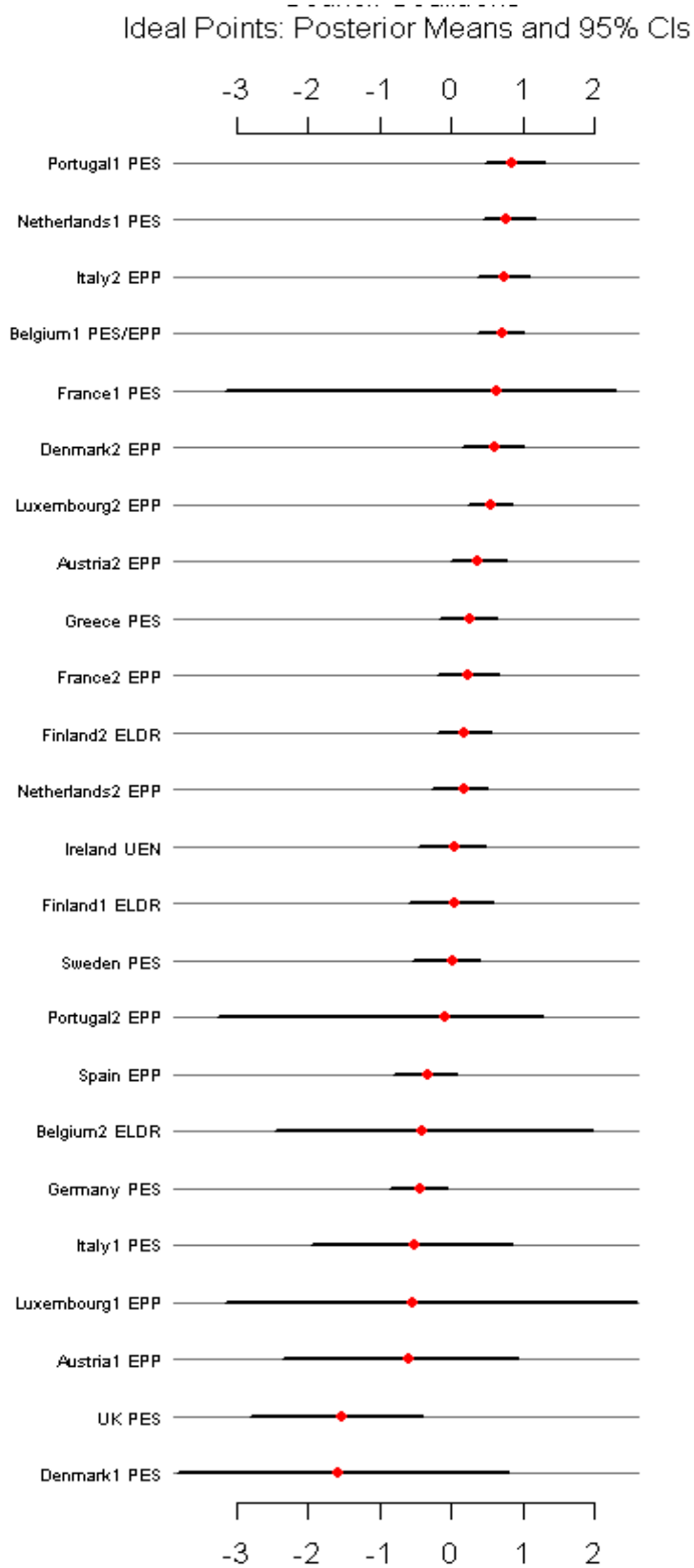
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<sup>15</sup> The gibb sampler ran for 1 million iterations. The first 100,000 iterations were discarded. The results of each subsequent 1000 iteration were kept. This gave us 900 samples. Convergence tests suggest that the model has converged.

<sup>16</sup> The full list of government changes is given in the appendix.

government of Berlusconi. The socialist French government is also placed amongst the EPP. However, the uncertainty around this estimate spans the whole scale. This is due 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 Luxembourgish government are misplaced. However, as with the French government, the uncertainty estimates overlaps the location of most other governments. It is certainly a better fit with left-right ideology than pro-anti integration or geography. The next question is whether disagreements in the Council matters for Parliament's ability to pass amendments.

**Figure 2**  
Coalition pattern in the Council of Ministers



### *Pass rates and disagreement in the Council*

The data allows for a direct comparison of the (perhaps surprising) 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. 60.5% of the amendments were taken on common positions adopted unanimously by the Council. On average, 39% of the amendments voted on passed. If there is disagreement in the Council, only 34% of the amendments voted on by roll call votes passes. This compares to 43% for amendments to unanimously adopted common positions. The Parliament is hence more likely to amend if the Council is united than if it is divided. 65% of the amendments that passes were taken on unanimously passed common positions. This compares to 57% of the failed amendments. In sum, these results suggest that more roll-calls 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). This pattern suggests that the Council benefits collectively from being divided. 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 vary by amendment, while level of consensus in the Council vary by each piece of legislation.<sup>17</sup> 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**  
Hierarchical probit of amending passing as a function of who requested a roll call vote

	mean	sd	2.5%	25%	50%	75%	97.5%
$\beta$ Intercept (EPP)	.6	.3	.0	.4	.6	.8	1.1
$\beta$ Request Others	-1.1	.3	-1.6	-1.3	-1.1	-.9	-.5
$\beta$ Request PES	-.2	.4	-1.0	-.5	-.2	.1	.7
$\beta$ Negative votes in Council	-1.6	.7	-3.	-2.1	-1.6	-1.1	-.3
$\beta$ Negative votes * Others	1.4	.7	.1	.9	1.4	1.8	2.7
$\beta$ Negative Votes * PES	2.0	.9	.2	1.4	2.0	2.6	3.9
$\sigma$ Legno (In)	1.0	.2	.7	.9	1.0	1.1	1.3
Amendments:	380						
Common Positions:	67						

The model was estimated using the lmer function via the library arm in R, 5 chains, each with 5000 iterations (first 500 discarded). This meant that the inferences are summarize from 22,500 samples from the posterior distribution. The R-hat measure is one for all parameters. This suggests that the model has converged.

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<sup>17</sup> The model uses 5 separate chains for 5000 iterations. The first 500 iterations were discarded to ensure that the estimates were not driven by starting values. The summaries are from 22,500 draws from the posterior distribution. The model was estimated in R via the arm package (Gelman, et al. 2007, Gelman & Hill 2007). The priors are non-informative. The R-hat measures are 1 for all parameters of interest. This suggests that the model has converged.

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.

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 hence more likely to be opposed to the common position. Their MEPs then used roll call votes in the EP either prevent amendments that would change the position further away from their preferences, make their opposition to the common position known, or if the amendment should pass, move the policy towards their ideal point. 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 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 Behavior on second reading amendments*

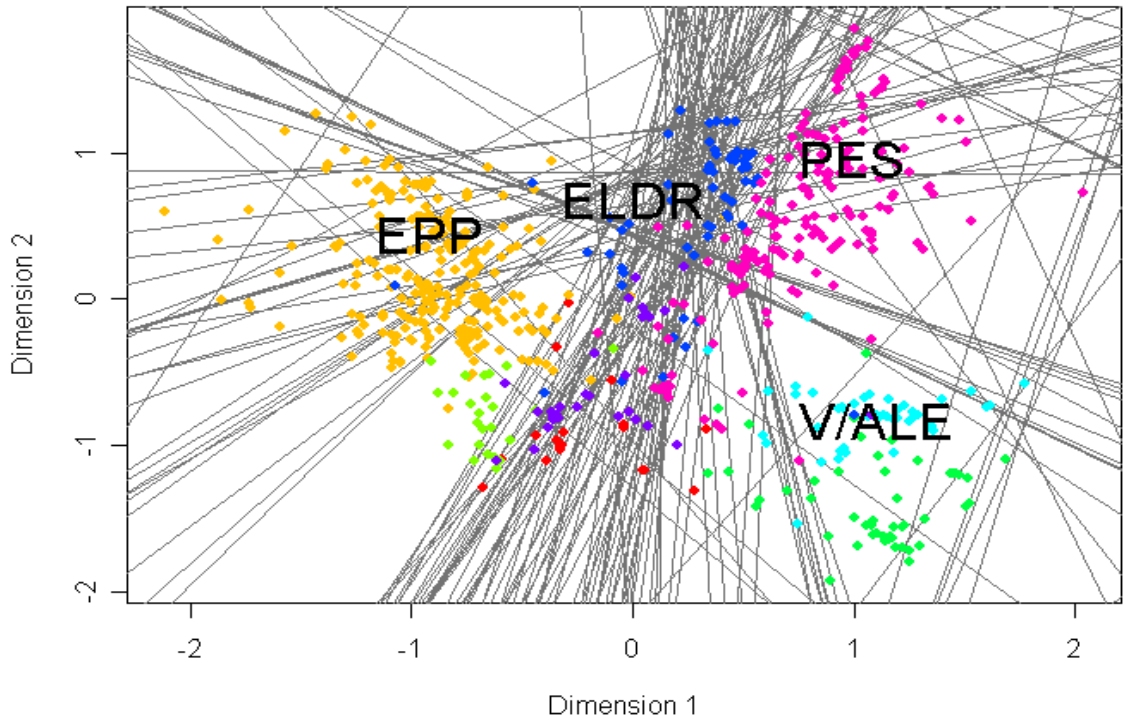
As it is clear that there are some systematic effects of disagreement in the Council of the probability of Parliament passing amendments by roll-call vote, a next step in the investigation is to analyze to what extent disagreement also influences individual MEP's voting behavior. Two separate two-dimensional 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.<sup>18</sup> Unlike most studies that employ these models, the main purpose here is not to estimate the position of individual 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.

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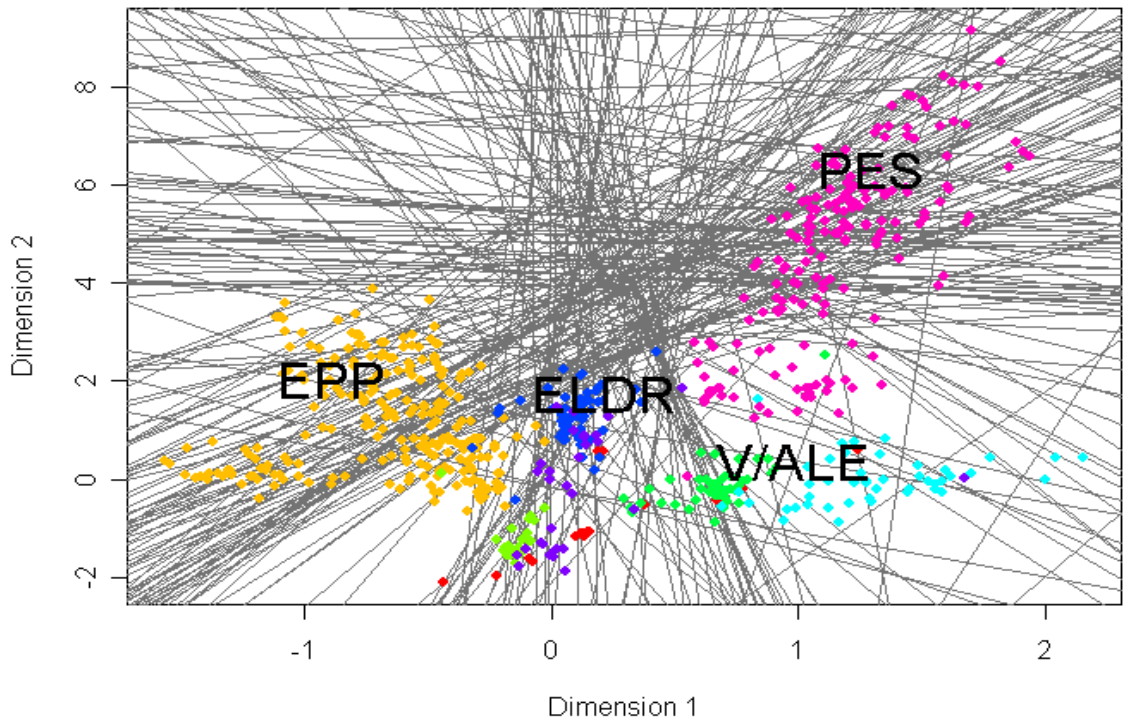
<sup>18</sup> The model used non-informative priors and ran 1 million iterations, discarding the first 100,000, keeping only every subsequent 1000 iterations to ensure that the chain has converged, the results are not driven by starting values and to minimize the risk of autocorrelation between the iterations.

**Figure 3**  
Effect of disagreement in the Council on coalitions in the EP

**Non-unanimous Common Position  
Ideal Points: Posterior Means**



**Unanimous Common Position  
Ideal Points: Posterior Means**



The upper part of Figure 3 shows the ideal points and amendment 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. In contrast, the amendments to unanimous common positions see many votes where the PES is isolated against EPP, ELDR and V/ALE (Greens /European Free Alliance). The more significant finding is, however, that there are many amendments that are supported by the “grand-coalition” of EPP and PES against both ELDR and V/ALE. In total, this strongly suggests that the Parliament is more likely to unite against the Council's common position if the Council is united than if it is divided. Divisions in the Council hence 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.<sup>19</sup>

## Conclusion

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.

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<sup>19</sup> 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.

Until now, most studies have focused on politics inside individual institutions (Hix et al 2007, Mattila 2004) 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 paper takes a different approach. Rather than focusing on policy outcome, it investigates legislative behavior. The focus is on the effect of disagreement in the Council on MEPs' behavior 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 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. It is therefore argued here 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).<sup>20</sup> The paper finds that disagreement in the Council decreases the ability of the Parliament to meet the absolute majority requirement in roll-call votes. The reason is that some MEPs are more likely to be subject to attention from government officials on contentious issues than non-contentious issues. This attention may for example be in the form of information about the difficulties of agreeing on a common position in the Council, and an associated request of only supporting amendments if it is strictly necessary. Alternatively, it may be in the form of a request to display public support of a position. If

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<sup>20</sup> The condition is that some absenteeism amongst MEPs located closer than the simple majority pivot in the Parliament to the position of the Council.

some MEPs let their behavior be influenced by this type of information, it is thus natural to expect the Parliament to pass fewer amendments by roll-call votes than on legislation where the Council is united. To the extent that disagreement in the Council is party-political, there is sharper party-political divisions on amendments to common positions when some disagreement in the Council is present than on amendments to common positions adopted unanimously.

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## Appendix:

Country	1999	2000	2001	2002	2003	2004	Change
<b>Germany</b>	SPD + Die Grünen (PES)	SPD + Die Grünen (PES)	SPD + Die Grünen (PES)	SPD + Die Grünen (PES)	SPD + Die Grünen (PES)	SPD + Die Grünen (PES)	None
<b>France</b>	PS+PCF+PRS+MDC+Verts (PES)	PS+PCF+PRS+MDC+Verts (PES)	PS+PCF+PRS+MDC+Verts (PES)	PS+PCF+PRS+MDC+Verts	UMP+UDF+ind.s (EPP-ED)	UMP+UDF+ind.s (EPP-ED)	05/05/2002
<b>UK</b>	LP (PES)	LP (PES)	LP (PES)	LP (PES)	LP (PES)	LP (PES)	None
<b>Italy</b>	DS+PPI+RI+UDR+PDCI+FV+SDI (PES)	DS+PPI+RI+PDCI+FV+D+ Udeur (PES)	DS+PPI+RI+PDCI+FV+D+ Udeur (PES)	FI+AN+LN+CCD+CDU (EPP-ED)	FI+AN+LN+CCD+CDU (EPP-ED)	FI+AN+LN+CD+CDU (EPP-ED)	13/05/2001
<b>Spain</b>	PP (EPP-ED)	PP (EPP-ED)	PP (EPP-ED)	PP (EPP-ED)	PP (EPP-ED)	PP (EPP-ED)	None
<b>Netherlands</b>	PvdA+VVD+D66 (PES)	PvdA+VVD+D66 (PES)	PvdA+VVD+D66 (PES)	PvdA+VVD+D66 (PES)	CDA+VVD+LPF (EPP-ED)	CDA+VVD+LPF (EPP-ED)	22/01/2003
<b>Greece</b>	PASOK (PES)	PASOK (PES)	PASOK (PES)	PASOK (PES)	PASOK (PES)	PASOK (PES)	None
<b>Belgium</b>	CVP+PSC+SP+ PS (PES/EPP-ED)	VLD+PRL/FDF+SP+S+ Ecolo+Agalev (ELDR)	VLD+PRL/FDF+SP+PS+ Ecolo+Agalev (ELDR)	VLD+PRL/FDF+SP+PS+ Ecolo+Agalev (ELDR)	VLD+PRL/FDF+SP+PS+ Ecolo+Agalev (ELDR)	VLD+PRL/FDF+SP+PS+ Ecolo+Agalev (ELDR)	13/06/1999
<b>Portugal</b>	PS (PES)	PS (PES)	PS (PES)	PS (PES)	PSD+CDS+PP (EPP-ED)	PSD+CDS+PP (EPP-ED)	17/03/2002
<b>Sweden</b>	SAP (PES)	SAP (PES)	SAP (PES)	SAP (PES)	SAP (PES)	SAP (PES)	None
<b>Austria</b>	SPÖ+ÖVP (EPP-ED)	SPÖ+ÖVP (EPP-ED)	ÖVP+FPÖ (EPP-ED)	ÖVP+FPÖ (EPP-ED)	ÖVP+FPÖ (EPP-ED)	ÖVP+FPÖ (EPP-ED)	05/02/2000
<b>Denmark</b>	SD+RV (PES)	SD+RV (PES)	SD+RV (PES)	V+KF (EPP-ED)	V+KF (EPP-ED)	V+KF (EPP-ED)	20/11/2001
<b>Finland</b>	SDP+KOK+SFP+VAS+VIHR (ELDR)	SDP+KOK+SFP+VAS+VIHR (ELDR)	SDP+KOK+SFP+V AS+VIHR (ELDR)	SDP+KOK+SFP+V AS+VIHR (ELDR)	SDP+KOK+SFP+V AS+VIHR (ELDR)	KESP+SDP+SFP (ELDR)	16/03/2003
<b>Ireland</b>	FF+PD (UEN)	FF+PD (UEN)	FF+PD (UEN)	FF+PD (UEN)	FF+PD (UEN)	FF+PD (UEN)	None
<b>Luxembourg</b>	CSV+LSAP (EPP-ED)	CSV+DP (EPP-ED)	CSV+DP (EPP-ED)	CSV+DP (EPP-ED)	CSV+DP (EPP-ED)	CSV+DP (EPP-ED)	13/06/1999

Austria SPÖ: **Social Democratic Party of Austria**; ÖVP: **Austrian People's Party**; FPÖ: **Freedom Party of Austria** Belgium Agalev: **(Flemish) ecologists**; CVP: **(Flemish) Christian People's Party**; Ecolo: **(Walloon) ecologists**; FDF: **(Brussels) Democratic Front of Francophones**; PRL: **(Walloon) Liberal Reformist Party**; PS: **(Walloon) Socialist Party**; SP: **(Flemish) Socialist Party (from 2001, SP.A)**; VLD: **Flemish Liberals and Democrats**; Denmark KF: **Conservative People's Party**; V: **Venstre, 'Left', or Liberal Party**; RV: **Radical (Left-Social) Liberal Party**; SD: **Social Democracy in Denmark**; Germany SPD: **Social Democratic Party**; Die Grünen: **The Greens** Finland KOK: **national Coalition Party**; SDP: **Finnish Social Democratic Party**; SFP: **Swedish People's Party in Finland**; VAS: **Left-Wing Alliance**; VIHR: **Green League** France PS: **Socialist Party**; UDF: **Union for the French Democracy (confederation to 1998; then single party)**; RPR: **Rally for the Republic (disbanded 21 Sep 2002)**; PCF: **French Communist Party**; PRS: **Radical Socialist Party (then PRG)**; PRG: **Radical Party of the Left**; MDC: **Citizens Movement**; DL: **Liberal Democracy**; les Verts: **The Greens**; Greece PASOK: **Panhellenic Socialist Movement** Ireland FF: **Fianna Fáil**; PD: **Progressive Democrats**; Italy DC: **Christian Democracy**; FI: **Forward (Forza) Italy**; LN: **Northern League**; AN: **National Alliance**; CCD: **Christian Democratic Center**; CDU: **United Christian Democrats**; PPI: **Italian People's Party**; RI: **Italian Renewal**; UDR: **Democratic Union for the Republic**; FV: **Federation of Greens**; PDCI: **Party of the Italian Communists**; SDI: **Italian Democratic Socialists**; Udeur: **Union of the Democratic European Reformers**; Luxembourg CSV: **Christian Social People's Party**; LSAP: **Luxembourg Socialist Workers' Party**; DP:

**Democratic Party** Netherlands CDA: **Christian Democratic Appeal**; PvdA: **Labour Party**; VVD: **People's Party for Freedom and Democracy**; D66: **Democrats 66**; LPF: **List Pim Fortuyn** Portugal PSD: **Social Democratic Party**; PS: **Socialist Party**; CDS-PP: **Social Democratic Center-Popular Party** Spain PP: **Partido Popular** Sweden SAP: **Social Democratic Labour Party** United Kingdom LP: **Labour Party**. ( ) indicates affiliation with EP party group.

## Endnotes:

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