



THE EFFECTS OF THE EASTERN ENLARGEMENT ON THE DECISION-MAKING CAPACITY OF THE EUROPEAN UNION

Dimiter Toshkov

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Abstract

This paper investigates the impact of the Eastern enlargement on the decision-making capacity of the European Union. On the basis of new data on the number and types of legal acts produced by the EU (1994-2014) and on the time between the proposal and adoption of legislative acts (1994-2012), the paper argues that enlargement has had a rather limited impact on legislative production and duration, and that it is extremely hard to disentangle this impact from other contemporaneous institutional and socio-economic developments. On the basis of analyses of expert-based country positions in EU negotiations and on voting data from the Council of Ministers of the EU, it is argued that enlargement has possibly added a new dimension of contestation in EU legislative decision-making, but one that concerns a relatively small share of all negotiations in few policy fields like environment. The paper also reviews secondary sources on the more visible influence of enlargement on the modes and culture of EU decision-making and its effects on the organizational aspects of the main EU institutions. Additionally, this paper presents a detailed qualitative overview of the major challenges and responses the EU has had in the period 2004-2013, but finds little indications that the accession of the post-communist countries has left a direct and significant imprint on the major developments that shaped the course of European integration since 2004. All in all, there is no evidence that the Eastern enlargement has led to the institutional gridlock, loss of problem-solving capacity and inability to manage that the public, many politicians, as well as some academics have feared.

The Author



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1. Introduction¹

The possibly crippling effects of the Eastern enlargement on the decision-making capacity of the European Union (EU) have been some of the most feared consequences of the accession process. The anticipation of such problems has motivated important institutional changes of the EU institutions and procedures and has played a major part in the public discourse on enlargement. Many national and European politicians and policymakers have expressed concerns about the likely effects of the addition of thirteen (as of 2014) new member states since 2004 on the effectiveness and efficiency of EU decision-making.² Commentators have frequently shared these concerns and even more importantly, the European publics also fear the impact that the Eastern enlargement has had on the decision-making capacity of the Union.³ Indeed, one of the major perceived negative effects of enlargement is precisely this one.⁴

But to what extent are these fears justified in light of the actual experiences of the EU decision-making institutions after the Eastern enlargement? Has the capacity of the EU really been crippled? Has the law-making machinery grounded to a halt? Has the decision-making process been radically transformed by the newcomers? Is there evidence that effectiveness and efficiency of EU decision-making have been compromised by enlargement?

A wealth of academic research has addressed these questions since the accession of the first wave of Central, Eastern and Southern European countries to the EU in 2004 (cf., for example, Avery et al. 2009; Hagemann/De Clerck-Sachsse 2009; Plechanovová 2011; Thomson 2009; Zimmer et al. 2005). Many of the studies have proposed strong conclusions about far-reaching effects of the Eastern enlargement on EU legislative output, decision-making duration, and conflict. Some of the academic works suggest a rather apocalyptic picture with titles like 'If things can only get worse' (Leuffen and Hertz 2010), 'Has the patient died' (Settembri 2007), 'From ever-growing to ever-slower' (König/Bräuninger 2002; König 2007), 'Too big to run' (Hertz/Leuffen 2011), and 'Breaking the camel's back' (Leuffen 2006). Hence, a cursory look at the academic literature would support the view that the expressed concerns of citizens and politicians have been justified.

1 The author would like to thank Martin Kröger, Bernard Steunenbergh, Antoaneta Dimitrova, Sara Hagemann, Asya Zhelyazkova, Moritz Knoll, Karen Anderson, Karolina Pomorska and the participants at the MAXCAP Kick-off Conference (Berlin, 1 June 2013) and the NIAS seminar 'Explaining European Union Decision-Making: Insights from the Natural and the Social Sciences' (Wassenaar, 16 December 2014) for useful comments and suggestions on earlier drafts of the paper and Sara Hagemann, Frank Häge, and Stefanie Bailer for responses to data inquiries and requests.

2 For just three prominent examples over the course of 20 years, see then-German Chancellor Gerhard Schröder in the *Financial Times* from 3 June 1999, WTO Director-General Pascal Lamy in the *BBC* from 27 March 2007, and EU Commissioner for Enlargement Oli Rehn at the Prague International Conference on 1 May 2009.

3 According to the 2009 Flash Eurobarometer survey, 65 percent of European citizens agreed with the statement that the integration of Central and Eastern European countries into the EU 'has made the European Union more difficult to manage'. On average, the percentage is even higher in the 'old' EU-15 – 69 percent, and reaches 78 percent for French and Austrian citizens (European Commission 2009: 30-32).

4 According to the same survey cited above, this is the perceived negative consequence of the Eastern enlargement that most people would agree with (number two, 'job losses', is at 56 percent agreement) (European Commission 2009: 30). Cf. also Toshkov et al. (2014).

On closer inspection, however, most of these claims about the negative effects of enlargement on the decision-making capacity of the EU appear exaggerated. Simply put, the empirical scope, the methodologies, and the data that these studies use cannot justify the confidence with which such strong conclusions have been advanced. It is not only that individual studies suffer from particular methodological shortcomings or data limitations; the general idea that the causal impact of enlargement on the EU's decision-making capacity can be so precisely identified via the statistical observational comparisons employed by most of the studies is suspect. At the same time, impressionistic accounts based on interviews with selected policymakers do not offer a viable alternative research strategy either. Over all, researchers must admit that it is altogether impossible to identify and estimate *with a high degree of precision and with reasonable confidence* how enlargement has affected the decision-making capacity of the EU.

What research can do, however, is narrow down the possible effects to *a range of plausible values* that are consistent with the observed fluctuations in the decision-making output of the EU before and after 2004. This range would by necessity remain wide, but it might still rule out effects of a certain magnitude and direction. Indeed, the analyses reported below lead to the conclusion that, while the precise effects remain uncertain, *it is highly unlikely that the Eastern enlargement has had a crippling impact on the decision-making capacity of the EU*. In other words, the various threads of empirical evidence presented in this paper *are not consistent with a hypothesis of a major negative effect* of accession on decision-making capacity.

The mode of decision-making has certainly changed, a new cleavage has possibly appeared in the Council of Ministers, and in few policy areas like Climate Change and (parts of) Foreign Policy the imprint of the new member states is clearly visible. But, by and large, the accession of thirteen new states over the course of ten years has had *very few observable direct effects on the capacity of the EU institutions and the effectiveness of the decision-making procedures*.

In addition to the lack of aggregate-level effects, few of the major challenges that the EU has had to face after 2004 can be traced directly to the Eastern enlargement. Moreover, the way in which the EU has or has not been able to react to these challenges seems mostly unrelated to accession effects.

The remainder of this paper brings diverse evidence to support these conclusions. I report analyses based on a mixture of research methods, including a critical literature review, original analyses of new aggregate data on the performance of the EU decision-making procedures and the conflict space of the institutions, and a qualitative investigation of the major challenges and responses that the EU had to face over the last ten years.

Decision-making capacity is a crucial component of policy-making capacity, which in its turn is a major aspect of *the internal dimension of the integration capacity of the EU* (Schimmelfennig 2014). Concerns about the likely impact of the accession of new member states on the decision-making capacity of the EU are important because, even if unfounded, they can still affect the accession process and outcomes. And such concerns are to a considerable extent informed by what the perceived effects of the Eastern enlargement have been. Therefore, it is critical that academic research helps policymakers and society reach

the appropriate conclusions on the way in which the accession of the Central and Eastern European (CEE) member states has affected the capacity of the EU to make decisions and solve problems.

2. The Problem

Let us first clarify the research task at hand. We need an evaluation of the effects (influence, impact) of the Eastern enlargement on the decision-making capacity of the EU. It is clearly highly unlikely that the addition of thirteen new member states has had no effect whatsoever on the thousands of decision-making processes the EU has been engaged in since 2004. No doubt, the outcomes of many, and perhaps most, decision-making processes would have been, at least to some extent, different had the new member states not joined the EU in 2004, 2007 and 2013. Such 'effects' on individual decisions, laws, or policies do not, in isolation, constitute a phenomenon that we are interested in. It is true, but trivially so, that when you add new actors to a negotiation, the outcome will most likely change (and sometimes, the process as well). Instead, what we are interested in are the *systematic effects and impact* of enlargement.

Systematic impact means that the effects on individual decision-making processes add up to *consistently and forcefully alter the decision-making outcomes in a certain direction*. This direction could be towards entrenchment of the status quo in the face of adjustment pressure (in other words, inability to make decisions or enact policy change). Or it could be towards the establishment and protection of a radically new status quo in a particular area, which would not have happened in the absence of the new member states.

In addition to such systematic effects on the *substantive outcomes* of EU decision-making and negotiations ('What has been decided?'), we are interested in systematic effects of enlargement on the decision-making processes themselves ('How has it been decided?'). Examples of *procedural features* of interest include the duration of the decision-making process, the level of open contestation during negotiations, the mode of decision-making (along dimensions such as transparency and formalization) and others.

Lastly, enlargement could have systematically affected the *organizational capacity* of the EU institutions, limiting or enhancing their ability to propose, coordinate, debate, agree on, or implement collective decisions.

While our focus on decision-making *capacity* suggests that procedural features and the potential for gridlock are of primary interest, in practice substantive and procedural effects are intertwined. The reason, as we shall see below, is that the capacity to make a decision is significantly dependent on the underlying constellation of substantive preferences of the decision-making actors. As a consequence, we examine both procedural and substantive systematic effects of enlargement on EU decision-making.

Having clarified the focus of the research question, let us turn towards defining precisely the comparisons of interest. An evaluation of the impact of enlargement on the decision-making capacity of the EU requires

a counterfactual. The simplest way to phrase the original question in counterfactual terms is: ‘What would have been the decision-making capacity of the EU had the Eastern enlargement not taken place?’ The causal impact of enlargement is the difference between what has happened in reality and what would have happened in the absence of enlargement. Because the counterfactual is unobservable by definition, it is impossible to identify and estimate *with certainty* this impact.⁵ However, we can get closer to the answer by approximating the counterfactual situation with data that *is* available.

In the years since the accession negotiations with the post-communist countries from CEE, many developments have occurred affecting the course of European integration. To mention just the most obvious: there has been a failed constitution, a major new treaty, a global war on terror, a new Commission president, economic recessions, financial crises, and a nose-dive in trust in the EU institutions. It is very hard, if not outright hopeless, to isolate the effect of enlargement in particular from the effects of all these and many other developments.

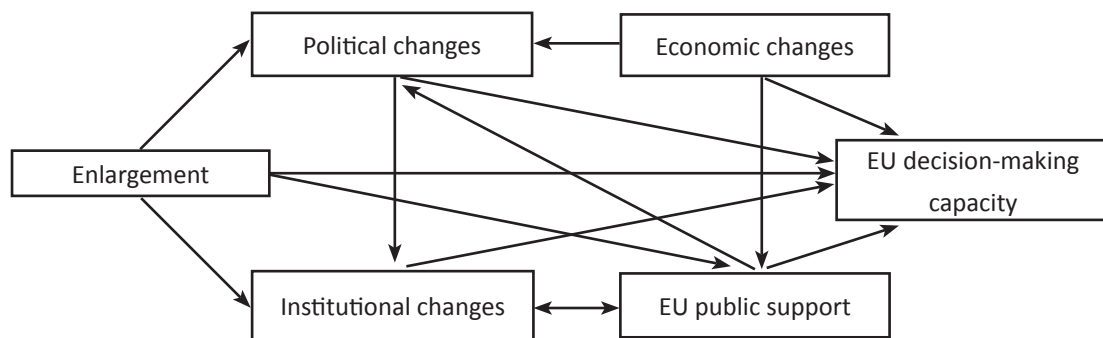
To make matters worse (for causal inference), some of these developments are at least partly related to the Eastern enlargement: for example, the Treaty of Lisbon. Some institutional changes have been made in anticipation; others have been made as adaptations. Some of these changes have an element of intentionality, others are best considered unintended side effects. Going back to the counterfactual, we encounter a dilemma: do we want to evaluate the effect on the EU decision-making capacity (1) of the Eastern enlargement *and* the institutional changes made in anticipation and adaptation, or (2) of the Eastern enlargement *if no* institutional changes had been made in anticipation and adaptation. The first option appears more straightforward but encounters the difficulty of separating the institutional changes that are strongly related to the enlargement from those which are only marginally so.⁶ The second option is no more attractive since it requires an answer to an *even more complex counterfactual*. Therefore, we stick to the first one.

Apart from institutional changes, which have moderated and transformed the potential impact of enlargement, the *indirect* effects of enlargement on EU decision-making, working through societal, political and economic changes, cannot be ignored.

5 To the uninitiated, the counterfactual definition of causality endorsed in this text might seem unsatisfactory or outright esoteric. Yet, counterfactuals are the foundation of the currently dominant philosophical view on the nature of explanation (Vayda/Walters 2007). Moreover, the counterfactual definition of causality is at the heart of contemporary statistical, econometric, social-scientific and computer-science approaches to identifying and estimating causal effects (Holland 1986; King et al. 1997; Pearl 2000).

6 For example, consider the increased use of first reading agreements in the co-decision procedure (trilogues) over the last years. Is this institutional development a direct or indirect effect of enlargement, or is it altogether unrelated? See the next section of this paper for some consideration of this particular issue, but the broader point remains.

Figure 1: A causal model of EU decision-making capacity



Source: Author.

For example, enlargement (even before accession) led to increased migration from East to West, immigration decreased support for European integration (Toshkov/Kortenska 2015) which in turn brought Eurosceptic national political parties into power which limited the potential for new EU policies and decisions. It is easy to imagine many more similar causal chains that capture possible indirect effects.

To illustrate further the difficulties involved in isolating the effect of enlargement, consider Figure 1, which represents a general and relatively simple causal model of ‘EU decision-making capacity’. Any possible impact of enlargement needs to be filtered from the effects of political and economic changes in the member states, changes in the institutional structure of the EU, and fluctuations in the public support for European integration, among others. Moreover, some of these additional causal factors – most obviously, institutional reforms, public support, and political changes – are at least partly affected by enlargement.

If the figure looks complex, it is communicating precisely the right point. Any claim of a strong and precise estimate of the effect of enlargement on capacity implies that all complexity in Figure 1 has been taken into account and that alternative and moderating causal effects have been measured or neutralized. The picture makes it clear that this is, to put it mildly, hard to achieve.⁷

Given these quite obvious problems of evaluation and causal inference, the literature has made some very bold claims about the effects enlargement has had on the speed and volume of legislation, as well as on the underlying conflict space and decision-making modes. What the discussion so far should have made clear is that we have to treat such claims with extreme caution and, generally, significantly discount the purported strength and precision of their conclusions.

⁷ Disappointingly, the sort of methodological difficulties discussed above cannot be solved by simply acquiring more data. Longer time series create additional challenges to single out the effect of enlargement from everything else the world throws at the EU decision-making system.

3. Theoretical Expectations

The bulk of this text presents the results of *empirical* evaluations of the impact of enlargement, but before we proceed to these, it is worth pausing for a moment to review the *theoretical* reasons why and how enlargement should affect decision-making capacity. In fact, there are plenty of theoretical arguments that would lead us to expect significant effects.

The currently dominant paradigms for analyzing legislative decision-making are the so-called ‘spatial model’ rooted in rational choice theory (Enelow/Hinich 1984; Shepsle/Bonchek 1997) and the closely related veto players theory (Tsebelis 2002). According to these paradigms, legislative decision-making outcomes result from the interplay of the preferences of the actors involved and the institutional setting (understood as the rules of the game). Hence, the addition of new actors (players) to the negotiation game per se does not affect the outcomes, but the changes in the constellation of preferences that they bring might significantly affect the outcomes of individual negotiations and systematically undermine the capacity of the decision-making system as a whole. If the addition of new actors increases the preference heterogeneity⁸ within the set of decision makers, under restrictive voting rules that would make departures from the status quo more difficult and at some point impossible. Hence, one likely effect of enlargement in theoretical terms is *increased policy stability* or, to put it in less positive terms, gridlock and inability to produce new and amend existing policies, *provided* that the accession of the new member states increases the preference heterogeneity in the EU along the relevant dimensions.

It is important to realize that the inclusion of new players *is not a sufficient condition for gridlock*. The preferences of new members can also be ‘absorbed’ so that the expected outcomes under the given preference configuration remain the same. Therefore, in order to examine empirically whether enlargement has had an impact on decision-making capacity, we need to investigate the changes it has brought to preference heterogeneity within the Council and to the underlying structure of the policy conflict space.

According to complete information versions of the spatial model, actors anticipate their reactions and act accordingly. One implication is that policy and *legislative proposals that would not be approved would not be made* in the first place. Therefore, the rate of rejected proposals is not necessarily a good indicator of reduced decision-making capacity⁹ (cf. also Häge/Toshkov 2011). Since the rejection or non-agreement rate is not very useful, the *amount* of policy and legislative proposals made and decisions and laws adopted over time would appear to be a better alternative to evaluate decision-making capacity. This, however, requires that we assume the *size of the systemic agenda*, or the set of issues that the EU should make policies and decisions about, remains constant over time.

8 Kelemen et al. depart from a different perspective, but reach a similar conclusion, according to which “the impact of widening on deepening [of EU integration] depends on the position of the enlargement states relative to the preference distributions of existing member states” (Kelemen et al. 2014: 647).

9 Note, however, that enlargement increased the rate at which government delegations in the Council of Ministers of the EU change and, as a consequence, possibly hampered the ability of the Commission, as an agenda-setter, to anticipate the positions of the other institutions and adjust its proposals accordingly.

Complete information spatial models of legislative decision-making also hold *no implications about the duration* of decision-making. Nevertheless, it is often assumed (for example Klüver/Sagarzazu 2013 or König 2007) that preference heterogeneity and distance between the actors increases the amount of time needed to reach a common decision even when one is possible.

Finally, note that within the spatial paradigm the effect of preferences is *conditional on the institutional rules* (about voting, agenda-setting and amending rights, sequence of moves, etc.).¹⁰ Therefore, under tight supermajoritarian voting requirements the effect of preference heterogeneity might be one of gridlock, as explained above. But under loose voting rules and open agenda setting, it can lead to the opposite outcome, namely frequent policy changes and decision reversals as coalitions can be easily constructed to defeat any status quo.

In addition to the hypothesized effect of enlargement that works mostly through the changing interests represented in the EU (which underpins the logic of the spatial models discussed above), sociological and social psychological theories suggest additional causal channels and mechanisms (for an overview, cf. Bailer et al. 2009; Kelemen et al. 2011). According to these theories, the mere number of participants matters a great deal because it affects communication patterns, consensus forming, the level of formalization and the mode of decision-making more generally. While certainly plausible, it is not entirely clear how such mechanisms would affect the decision-making capacity of the EU as such. For example, enlargement could have eroded the consensus culture in the Council but that could have actually increased the capacity to take decisions.

In summary, social science theories provide plenty of propositions on how enlargement could have affected decision-making in the EU. The plethora of plausible mechanisms make it easy to jump to the conclusion that because it *could have*, enlargement *has* affected the capacity of the EU to take decisions. But the empirical evidence points in a different direction.

4. What Does the Evidence Say? Aggregate-Level Patterns

In this section of the paper, I will review systematically the evidence about the impact of the Eastern enlargement on the decision-making capacity of the EU. The review will be based both on a critical analysis of secondary sources (published academic articles and policy papers), as well as primary data where appropriate. First, the review focuses on aggregate data and surveys regarding the possible effects on 1) legislative output, 2) legislative duration, 3) nature of the conflict space, preference heterogeneity and dissent, 4) communication patterns, decision-making modes and culture, and 5) organizational aspects. In the next section of the paper I examine in a qualitative fashion whether enlargement has had significant influence on the major challenges and initiatives of the EU over the past ten years.

10 Under a different, agent-based theoretical model of Council decision-making, the number of decision makers has very little effect on the rate of consensual proposals (hence, on the expressed dissent and negative votes), but changes in the voting threshold have a much more dramatic effect (Häge 2013).

4.1 Legislative Output

Legislative output, defined as the amount of binding legislative acts that the EU adopts, is a major indicator of its decision-making capacity. Effective political and policy-making systems need to be able to respond to societal problems by producing laws and regulations. The inability to do so, reflected in a diminishing legislative output, would be a major symptom of political paralysis and institutional gridlock.

Despite the obvious importance of legislative output as an indicator of capacity, several caveats are in order. First, a focus on the *number* of legislative acts adopted is less than ideal since it does not take into account the *importance* of the legal act. Second, the theoretically relevant concept is not legislative output as such, but the *ratio between the legislative output and the so-called 'systemic agenda'* (the pressing issues facing society and the economy which demand the attention of law- and policy makers). Unfortunately, neither the importance of individual legal acts nor the systemic agenda can be operationalized and measured, so we have to content ourselves with analyzing the number of legislative acts before and after the Eastern enlargement, but we should bear in mind the limitations that this choice implies.

Three existing studies suggest that the impact of enlargement on the EU's legislative output has been negative. Leuffen and Hertz (2010: 54) claim that "There is a clear increase in legislation, concentrated in the months before the accession of new Member States".¹¹ The increase is due to anticipation that decision-making will become much more difficult after enlargement. The authors find "evidence for lower legislative output in the time period after the accession of new Member States" (Leuffen/Hertz 2010: 69), but are careful not to necessarily attribute the trend to gridlock. In essence, this research finds that more than an average number of legal acts are adopted in the *month* preceding and relatively a lower number in the months immediately following accession. The authors argue that they have successfully removed from their data legal acts which technically adapt existing legislation to the addition of new member states,¹² but the procedure used leaves some doubt whether this is the case. In all likelihood, the number of 'strategic' adaptations (rather than mere technicalities) is exaggerated which would overestimate the difference in legislative output in the months before and after enlargement. Furthermore, the authors do not take into account the fact that the accession of ten countries from Central, Eastern, and Southern Europe almost coincided with the end of the term of the European Parliament (EP). It is known that the amount of legislation adopted is higher in the final months of an EP and lowest in the first months after the new one takes office, which is another reason why the pre-/post-enlargement difference in output found in this study overstates the possible impact of accession as such.

11 Also, by Leuffen and Hertz (2010: 66): "Whereas in the months before an enlargement more legislation than on average is produced, with a clear peak in the last month before an enlargement, there is a decline of legislation after the enlargements".

12 The study removes acts which have the terms 'enlargement', 'new Member State(s)' or 'accession' in the title or if the proposals originate from the Commission's DG Enlargement (Leuffen/Hertz 2010: 59). A quick search on Eurlex or Prelex can demonstrate that this still leaves plenty of technical adaptation acts which would not count as examples of 'strategic' adaptation. A random example of an act that is clearly enlargement-related but would not have been caught by the procedure is the Council Decision of 26 April 2004 granting Cyprus, Malta and Poland certain temporary derogations from Directive 2002/96/EC on waste electrical and electronic equipment, 2004/486/EC (Council of the European Union 2004).

Most importantly, however, the study does not look into any mid- or long-term effects of enlargement on legislative output, but focuses on the first few months after accession. For practical purposes, it is more relevant if enlargement has any effects that transcend this short period and carry over in the years to follow. This calls for a comparison over a longer time frame. Hagemann and De Clerck-Sachsse compare the 30 months before and after the 2004 enlargement and conclude that there is a corresponding 30 percent drop in legislative production (Hagemann/De Clerck-Sachsse 2007: 2).¹³ Finally, Plechanovová (2013) also notes that the number of co-decision/ordinary legislative procedures after the entry into force of the Treaty of Lisbon falls. Writing in 2014, ten years after accession, we are in a better position to assess any long-term effects. Let us take a closer look at the ups and downs of legislative output in the EU over time.

Table 1 shows the total number of legislative acts adopted over four periods, two before and two after the 2004 enlargement: mid-1994 to mid-1999, mid-1999 to mid-2004, mid-2004 to mid-2009, and mid-2009 to mid-2014. The periods have been defined as corresponding to the terms of the European Parliament, which, especially in recent years, influences the legislative production cycle significantly. Data are derived from the Eurlex legislative database. Where possible, the numbers exclude codifications and recasts.

The table shows that there is no clear trend when it comes to legislative output. The number of regulations adopted by the Council, or by the Council and the EP under the co-decision/ordinary legislative procedure, has been reduced from more than 1200 during the 1994-1999 period to around 850 afterwards. But the decline happens long before the Eastern enlargement, so cannot be attributed to its impact.

Table 1: Dynamics of EU legislative output over time

	Council or Council & EP			Commission		
	regulations	directives	decisions	regulations	directives	decisions
1 July 1994-30 June 1999	1275	247	856	11994	210	2623
1 July 1999-30 June 2004	827	276	1131	11667	246	2714
1 July 2004-30 June 2009	854	220	1340	7749	268	2213
1 July 2009-30 June 2014	876	206	1815	5696	267	1733

Source: Author.

The number of Council and Council/EP directives, which arguably represent many of the most important legislative acts that the EU adopts, has dropped slightly since mid-2004, but the decrease is relatively small (around 20 percent) and is accompanied by a corresponding increase in the number of Commission directives adopted.

¹³ The study only looks at acts adopted by the Council.

The nature of Commission legislation also changes over the observation period, with the introduction of delegating and implementing acts with the Treaty of Lisbon, so it is very hard to say whether the decrease in ‘regular’ directives is in a way compensated by the rise of implementing/delegated legislation, or whether the two phenomena are unrelated. As Commission legislation also adapts and updates regular legal acts to technical progress, it can be expected that its size will grow vis-à-vis the Council/Council and EP acts even if there is no substitution effect. Interestingly, when it comes to decisions, the trend is the opposite – while the number of Commission decisions drops over time, the number of Council/Council and EP ones increases.

Altogether, the numbers reported in Table 1 do not provide evidence for a strong negative effect of the Eastern enlargement on the capacity of the EU to produce legislation. What we observe are *fluctuations* in the productivity over time and a *changing mix* of the legislative output in terms of types of legal acts. But a major decrease in legislative output caused by enlargement seems to be ruled out by the data.

To reiterate the caveats this part of the paper started with, it could still be the case that given the amount and intensity of the challenges that the EU faced over the period since 2004, the size of legislative output is unsatisfactory (that is, the EU has, perhaps, legislated on a much smaller share of the issues it should have addressed after mid-2004). To examine this possibility, I conduct a qualitative overview of the challenges and accomplishments of the EU since 2004 in the next section of this text.

It could also be that the numbers do not tell the entire story and the EU has produced less consequential and more trivial legislation after accession compared to before. But given the objectives of the ‘Better Regulation’ program (European Commission 2007), which was implemented in the years after 2006, this seems unlikely. If anything, the program should have reduced the number of trivial and unnecessary regulations. One might suspect that one of the reasons for the initiation and continuous attention to the ‘Better Regulation’ program has been to justify an anticipated drop in legislative productivity due to other factors (cf. Dinan 2006). But this would only further support the interpretation about the minimal impact of enlargement endorsed here. In any case, given the message of Table 1, the onus of demonstrating a strong negative effect of enlargement on decision-making capacity is now on those who would advocate for such an effect.

4.2 Legislative Duration

But while the overall output of the EU might not have been affected, perhaps the duration of legislative decision-making has increased dramatically? As with justice, *regulation delayed is regulation denied*, and so legislative duration is a significant problem in its own right.

The existing academic literature offers conflicting accounts. Some studies argue that enlargement has slowed or would slow down decision-making (Hertz/Leuffen 2011; König 2007). On the other hand, Golub

(2007) finds no effect of enlargements (his data does not include the Eastern enlargement) and Klüver and Sagarzazu (2013) report no effect of the number of member states and a negative effect of within-Council ideological diversity on legislative duration. The purely descriptive analysis of Best et al. (2009) finds no effect of the Eastern enlargement either. Let us discuss some of these studies in more detail to distill a message from the literature and the data.

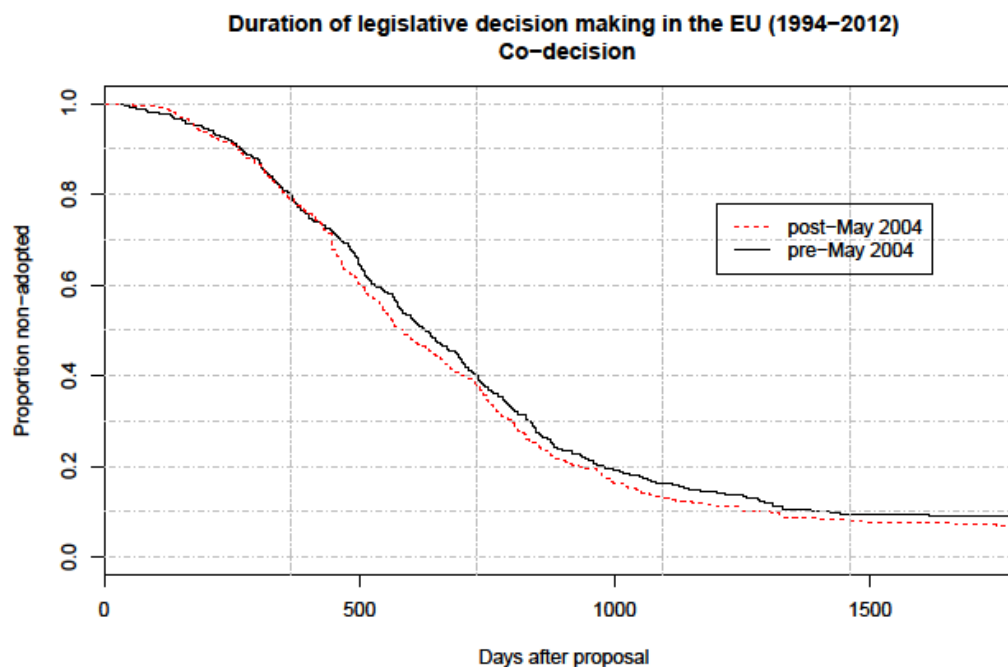
König (2007: 436-37) argues that “[i]f the accession of countries expands the core of the Member States, and if the EU is unable to reform the institutional framework, the EU’s legislative activities will be delayed”. According to this research, the effect of enlargement is contingent on increasing the preference distances in the Council, but this is to be expected with the addition of more than ten member states since 2004 (more on preference heterogeneity below). And with regard to institutions, the conclusion is that “the expansion of the codecision procedure with reducing the Council voting threshold seems to be an efficient solution for an enlarging EU” (König 2007: 437). So while this article does not evaluate retrospectively the effect of enlargement on decision-making duration, it strongly suggests that increasing preference distance increases duration and because enlargement increases preference distance “an ever-slowng European legislative decision-making” is very likely if not inevitable after enlargement.

Similarly, Hertz and Leuffen (2011: 193) argue that “an increase in group size indeed slows down EU law-making”¹⁴ on the basis of an analysis of the period 1976 to 2006. The theoretical mechanism they emphasize is that transaction costs increase with the size of the group of decision makers, which increases legislative duration and they find empirical support for this relationship in the history of EU integration prior to 2007. The empirical analysis is based on a complicated statistical procedure. However, without going into the technicalities, we can note that the conclusions hinge on legislative acts passed by an EC of nine members and on that they are entirely comparable to the EU acts passed by the EU-27, net of all control variables included in the statistical models (type of legal act, applicable decision-making procedure, and voting threshold). Rather obviously, the assumption of comparability is very hard to satisfy.¹⁵ Not only has the substance, technicality, and salience of the issues which are the subject of EU legislation changed dramatically since the 1970s, but also the institutional setting is constantly evolving above and beyond the most visible changes in applicable decision procedures, formal institutions involved, and voting thresholds. To mention but a few such relevant changes in the institutional setting, consider the increasing recourse to early (first reading) agreements in co-decisions/ordinary legislative procedures (trilogies) (Toshkov/Rasmussen 2012), the use of public consultations in the preparation of legal drafts (Rasmussen/Toshkov 2013), transparency initiatives in the Council (Lenz/Hagemann 2014), or the involvement of national parliaments via the scrutiny procedure (Hagemann et al. 2014).

14 Also, “On average over all enlargement rounds, an increase in group size has slowed down decision-making” (Hertz and Leuffen 2011: 208) and “enlargement rounds – including Eastern enlargement – have a negative effect on the speed with which the Union makes decisions” (Hertz/Leuffen 2011: 199).

15 An additional threat to the validity of such comparisons is their sensitivity to extreme values (very long legislative durations). Yet, such extreme values often result from technical mistakes in the EU legislative databases.

Figure 2: Duration of legislative decision-making in the EU (1994-2012). All legal acts under co-decision/ordinary legislative procedure



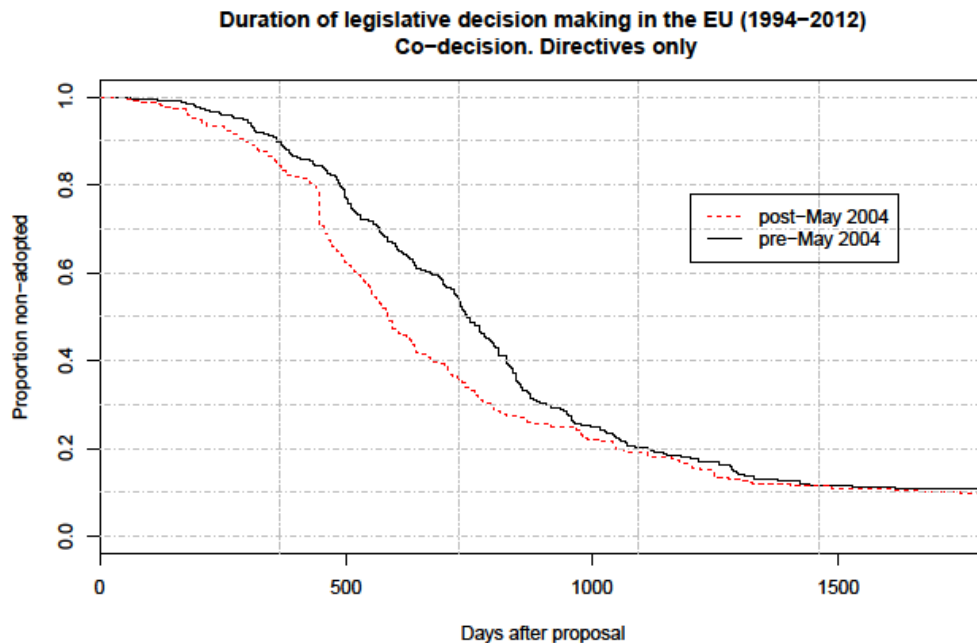
Source: Author.

With these remarks in mind, let us look at the duration of legislative decision-making before and after May 2004. Figure 2 plots the Kaplan-Meier survival curves for the time between Commission proposal and signature by the Council and EP for all legal acts¹⁶ proposed under co-decision/ordinary legislative procedure between July 1994 and the end of 2012. The two curves – one for acts proposed until 1 May 2004 and another for acts proposed afterwards – trace the proportion of non-adopted acts over time. We can see that there are no discernable differences in the ‘survival’ rate of pre- and post-enlargement proposals, meaning that the duration of decision-making remains very similar.

Zooming-in on directives only, Figure 3 shows the associated survival curves. We can see that, actually, post-2004 legislative decision-making concerning these very important types of EU legal acts is faster than before. For example, more than 60 percent of the post-enlargement directive proposals have been adopted by the two-year mark. The same holds for a little less than 50 percent of the pre-enlargement directive proposals.

¹⁶ This and the following figures are based on data extracted from Prelex and made available by Frank Häge in the EUPOL dataset (Häge 2011). Recasts and codifications are excluded.

Figure 3: Duration of legislative decision-making in the EU (1994-2012). Proposals for directives under co-decision/ordinary legislative procedure



Source: Author.

The difference is not huge, and is probably at least partly due to the increased use of early agreements after 2004, but is in a direction that does not suggest that enlargement slowed down inter-institutional decision-making in the EU significantly. In fact, the rise of early agreements since the mid-2000s is enough to invalidate any comparisons of legislative duration before and after enlargement if it is not taken into account. Toshkov and Rasmussen (2012) show that although early agreements increase the duration of the first reading stage of co-decisions, the overall duration of the legislative process is shorter vis-à-vis comparable files for which no first-reading agreement after a trilogue has been concluded. The increased use of early agreements might be a response to the perceived inability of the institutions to adopt legislation efficiently (under co-decision) after the 2004 accession, but there is no real evidence to suggest such an interpretation. In 2003 already, 15 percent of co-decision files were concluded after an early agreement (this number excludes trivial first-reading agreements where the EP had very few amendments to offer).

Altogether, it is unlikely that the effect of enlargement on legislative duration can be disentangled from the transformations of the social and political environments and the ever-changing institutional setting. What we *can* say is that the combined impact of enlargement and the other factors on legislative duration has been a small one, with some legal acts adopted faster than before (e.g. directives under the ordinary legislative procedure) while others perhaps slower. When we look at concrete examples of legislation passed after the Eastern enlargement, we can find cases of very fast adoption (e.g. the financial legislative package known as the 'six-pack'), even to the extent that some members of the EP have actually complained that

inter-institutional decision-making in the EU is too fast. At the very least, such examples show that, when pushed, the EU legislative machinery can react rapidly even after the addition of the member states from CEE.

4.3 The Nature of the Conflict Space, Preference Heterogeneity and Dissent

Many, though not all, theoretical expectations about the possible effects of enlargement on legislative output and duration are derivative from its hypothesized impact on the conflict space and preference heterogeneity within and between the EU institutions. That is, enlargement is expected to have an effect through changing the nature and dimensions of the conflict space and increasing preference differences between the member states. Hence, it is worth searching for influence of enlargement with regard to these two aspects of legislative decision-making. Since conflicts between the member states are played out primarily in the Council of Ministers, most of the attention of this part of the paper will be devoted to the analysis of that institution.

4.3.1 *Preferences Derived from Socio-Economic Fundamentals*

There is no direct way to observe, measure, and compare preference heterogeneity in the EU before and after the Eastern enlargement. To infer preference heterogeneity, we need a common scale on which preferences over concrete EU policies and policy proposals are measured. Such a scale and measures do not exist, but given certain assumptions we can apply different approaches to reconstruct a latent common conflict space and project member states' positions onto it.

Starting with the least satisfactory way, we can 'derive' member-states' preferences from national socio-economic fundamentals. In a much-cited paper Zimmer et al. (2005) conclude that:

"The increased bargaining complexity and heterogeneity that enlargement entails is regrettably still juxtaposed to an institutional framework that aggravates underlying tensions and promotes gridlock. In light of these forecasts, linking enlargement with internal reform of the EU seems to be a more urgent endeavour than ever, as it may mitigate the negative externalities brought on by the strengthened camp of subsidy hunters, protectionists, and advocates of excessive market regulation" (Zimmer et al. 2005: 418).

Note, however, that "increased heterogeneity" is inferred on the basis of two different non-overlapping methods: while the positions of the EU-15 come from expert surveys with regard to particular issues (DEU-I dataset, Thomson et al. 2006), the positions of the new member states are derived from general indicators like the percentage of those employed in agriculture, and are, strictly speaking, not comparable to the EU-15 ones as the estimates are based on different methodologies and scales. Hence, the conclusion about the level of heterogeneity itself is suspect, based on mixing apples and pears. Clearly, national socio-economic

fundamentals might be related to government policy positions and preferences, but the nature and intensity of the link cannot be taken for granted.

König and Bräuninger (2004) focus on the agricultural sector and argue for increased heterogeneity in preferences due to enlargement, but they similarly infer rather than measure the policy positions of the new member states. Such an exercise can be useful for theoretical purposes but it cannot be taken to imply that enlargement has increased heterogeneity of policy preferences, in contrast to the quite obvious heterogeneity of economic and social conditions in the EU.

4.3.2 *Preferences Derived from Party and Election Platforms*

A better approach is to focus squarely on the government preferences and ideological positions. If we are willing to assume an underlying common scale, we can use the ideological and policy positions of national governments derived from expert surveys or textual analysis of party election platforms to position governments in a common space and measure heterogeneity.

Veen (2011) reports such an analysis based on government positions from policy platforms (party platforms for EP elections from all European countries). These positions are later projected on a common multi-dimensional space. The author finds some evidence for an East-West cleavage but the conclusion is rather cautious:

“Although far from being perfect, this does hint towards the assumption that the EU Eastern enlargement resulted in a shift from a North–South to an East–West divide. In this respect, one may speculate that the CEE [countries] could have emancipated themselves over time from the old member states. At the very least, the tentative results illustrate that fuzzy geographical borders seem to have been replaced with a clearer division between East and West” (Veen 2011: 80).¹⁷

In addition to the difficulties of reconstructing a common space from national documents for the purposes of analyzing decision-making in the EU, this study has the limitation that it does not track government positions on concrete EU policies and policy proposals but rather relies on general and often purely rhetorical statements intended mostly for domestic political consumption.

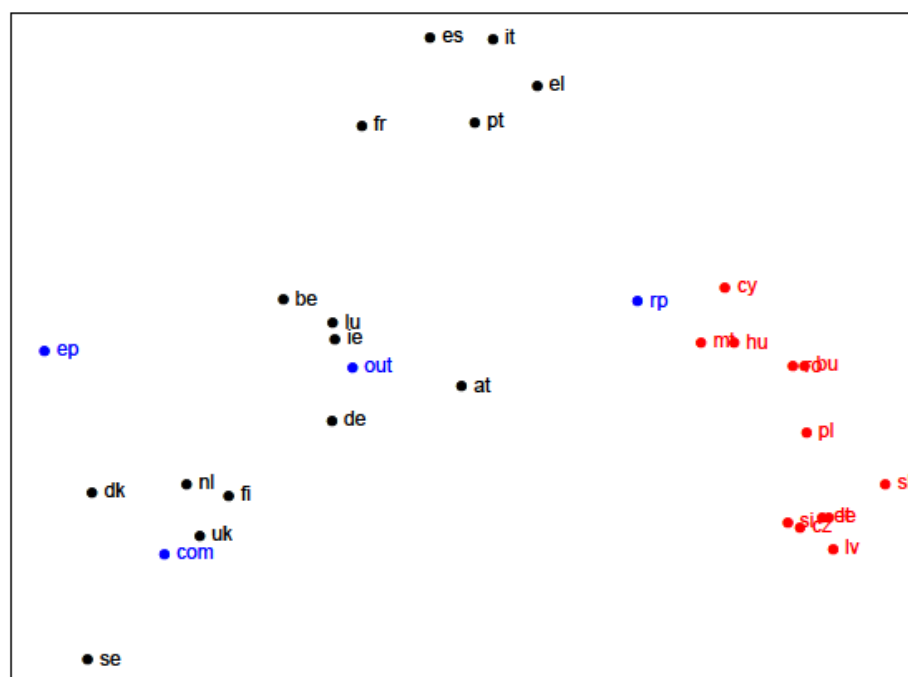
4.3.3 *Preferences Derived from Expert-Based Surveys of Policy Positions*

A large-scale international research project *has* attempted to measure the positions of national government delegations on a large number of EU proposals, and individual issues embedded in the legislative

17 On closer inspection, the 2007 results are rather strange. On a dimension labelled ‘Strong European Governance’, the UK and the Czech Republic are on the two extremes, although these two countries are often the two most vocal critics of further integration. Most of the new member states are close together on the second dimension, labelled ‘Environmental protection’, but the fact that France is at the other extreme makes the interpretation of this dimension dubious (see the plots on page 81).

proposals (DEU-II, Thomson et al. 2012). For each issue, national positions, the positions of the Commission and the EP, and the reference point (most often the status quo policy) are measured on a common scale (ranging between 0 and 100). These measures can be used to reconstruct a common conflict space and project positions onto it, but because the extremes of each scale are fixed in advance, they are less suited for obtaining a measure of the absolute level of preference heterogeneity in the Council. Nevertheless, a detailed analysis of the post-2004 conflict space reconstructed with these expert-based policy positions is well justified in order to gain an insight into where the new member states fit.

Figure 4: Post-2004 member states alignments in the Council of Ministers (DEU-II data). Two-dimensional scaling solution (RP=reference point; OUT=outcome)



Source: Author.

Thomson (2009) reports such an analysis of an early version of the DEU-II data and finds evidence that the post-2004 member states contribute to a new East-West cleavage related to a relatively small proportion of all issues.¹⁸

18 The multi-dimensional scaling analysis summarized in Figure 3 (Thomson 2009: 767) has the new member states grouped closely together, somewhat separate from the remaining member states on one of the two dimensions, and, in fact, quite close to the eventual outcome of the negotiations. But as the author notes “the actor alignments identified by the MDS analyses occur in a substantial minority of controversial issues” (Thomson 2009: 767). The old-new divide in particular is found for only 21, or 30 percent of all issues studied, hence, cannot be taken to characterize a big part of the post-enlargement negotiations in the Council. When looking at specific types of issue, an old-new member states separation is visible in harmonization issues, with the new member states being closer to the existing status quo than the old member states, with many of the Nordic countries favoring most harmonization (this last point certainly raises some doubts as to the generalizability of these results

I apply a similar multidimensional scaling analysis as the one in Thomson (2009) and find a similar, but even stronger pattern using the full set of post-2004 proposals in the DEU-II dataset (Thomson et al. 2012).¹⁹ The new member states are all clustered at one end of the horizontal axis (first dimension) with most of the Northern member states and the EU institutions at the other end. The second dimension posits the Southern member states vs. the Northern ones plus some of the new member states and the Commission. It is quite striking how apart the new member states are set, but it should be kept in mind that this dimension accounts for a small amount of the overall variation in positions on individual issues.

Table 2: Configurations of the policy issue positions of the new (post-2004) member states, the Commission, and the outcome (DEU-II data)

	Number of policy issues	Final outcome close to NMS	Final outcome not close to NMS
New member states (NMS) split	48	-	-
New member states together and close to the Commission	21	10	11
New member states together and away from the Commission	40	15	25

Source: Author.

We can in fact examine how the CEE member states are positioned on the individual proposals included in the DEU-II dataset with regard to two crucial questions – do they cluster together, and do they influence significantly the difference between the Commission’s position and the eventual outcome. From 109 policy issues on which there are more than seven (out of 12) positions of new member states and an outcome recorded, on 48 issues the new member states show no differences, on another 19 issues there are only very small differences (one of the states having a slightly different position), and on 48 issues there are some moderate to significant differences within the group.²⁰ If the member states are together and closer to the Commission (21 cases) there is an even chance that the eventual outcome will be close as well. But if the member states are grouped together and distant from the Commission, in 25 of the 40 cases the outcome will be away from the new member states’ positions. Interestingly, from the 15 cases in which the new member states end up close to the outcome despite their differences with the Commission, in five cases the status quo is protected and in three cases the outcome is moved closer to their position despite the Commission being satisfied with the status quo. Altogether, the conclusion is that on more than half of the

given the opt-outs of many Nordic countries from several areas of EU policy harmonization). For issues concerning levels of financial subsidies, the average new member state favors more than the average old member state, but there is nothing in the position data to cluster the new member states separately. For example, Poland is no more ‘extreme’ than Italy.

19 A total of 134 issues and 52 proposals are used. Replication of the analysis in Figure 4 based on a weighting of the national positions by their salience, and on a different form of scaling – Sammon’s Non-Linear Mapping – yield very similar results.

20 The thresholds used are as follows: positions are considered close if they are within 20 points on a 100-points scale. The states are considered clustered together if the standard deviation of the group is less than 20.

issues the member states are grouped close together (note that this includes issues which might have had little salience to these member states). On these, they often find themselves opposed to the Commission, and more often than not end up on the losing side of the conflict.

4.3.4 *Preferences Derived from Voting Data*

An alternative way to derive the preferences of the member states is by looking at roll-call voting data²¹ in the Council of Ministers. The advantage of voting data is that it is available for more proposals. But there are disadvantages as well.²² First, even if we assume that member states ‘naively’ record their disagreement with the final text of a legal act through a negative vote or an abstention that still only indicates whether they prefer the status quo (or some other references point) to the negotiation outcome. The expert-derived policy positions analyzed above allow for more nuances in measuring the preferences. Second, and more importantly, the assumption of sincere voting is hard to sustain as member states governments cater also to national publics during EU-level negotiations. Hence, a recorded negative vote might as well express disagreement with the substance of the proposal as signaling a position to the national publics. It is also not entirely clear from a strategic point of view why member states should record their opposition to a legal text given that they know by the time a vote is taken that they will be on the losing side.²³

Despite these complications, roll-call voting data has a long tradition of being used to infer the political conflict space in the Council of Ministers of the EU. The existing literature, however, offers conflicting results with respect to the influence of the Eastern enlargement. While Plechanovová (2011) argues that no fundamental change has occurred,²⁴ Matilla (2009)²⁵ claims that a new, enlargement-related cleavage is discernable in the voting data.

The studies discussed above are based on data that covers only a few years after the first wave of CEE

21 Hosli et al. (2011) find evidence that there are different determinants of dissent for the old and the new member states based on data on voting in the Council. Variables like the budget positions, the number of votes a country has, and EU support have different effects on the predicted dissent in Council voting for the EU-15 and the CEE newcomers.

22 Cf. Høyland and Hansen (2014) for an analysis of how the expert-based policy positions and the voting data are related. In short, preference distance from the outcome is probabilistically related to expressing dissent.

23 But note that the DEU-II dataset also reflects national positions being taken and officially expressed, which of course can be strategic, rather than ‘naive’ preferences over policy issues (Thomson et al. 2012: 611).

24 Plechanovová (2011) reports three analyses, based on different methods, of the voting patterns in the Council for the period (2004-2006). The cluster analysis does not group the new member states in a separate cluster. The factor analyses identify two major dimensions, the first one “loosely indicates positions towards the EU budget” (Plechanovová 2011: 98) while the second is the familiar North-South divide. The two-dimensional Markov Chain Monte Carlo (MCMC) solution suggests that the new member states are split almost equally into two of the three major clusters identified.

25 The first dimension of the one-dimensional MCMC solution that Matilla (2009) presents is not related to enlargement, as it has Poland towards one end of the spectrum and Estonia towards the other, with most of the remaining new member states in the middle. According to the two-dimensional solution, “one can find the third group of countries, which is made up mostly of new Member States (Poland, Lithuania, the Czech Republic, Slovakia)” (Matilla 2009: 851). But the group also has the UK as a member, excludes Latvia, Estonia, Latvia and Cyprus and overlaps significantly with the old member states. Hence, it can hardly constitute evidence for an enlargement-related dimension of contestation in the Council.

member states joined in 2004. Writing in 2014, there is more data available on dissent in the Council and we can use it to make a more valid inference about the underlying conflict space in the Council of Ministers. The analyses reported below are based on all negative votes and abstentions²⁶ recorded and made publicly available by the Council of Ministers of the EU between January 2007 (the accession of Bulgaria and Romania) and May 2014 (the latest available data at the time of writing).²⁷ Altogether, there are 351 dossiers for which at least one contestation is recorded (a negative vote or an abstention) which include 163 dossiers for which more than one national delegation expressed dissent.

As is clear from the literature overview, there are different methods in which the voting data can be analyzed to infer the underlying conflict space and the patterns of connections between the national positions. The investigation below reports the results of several techniques, which provide complementary perspectives on these problems.

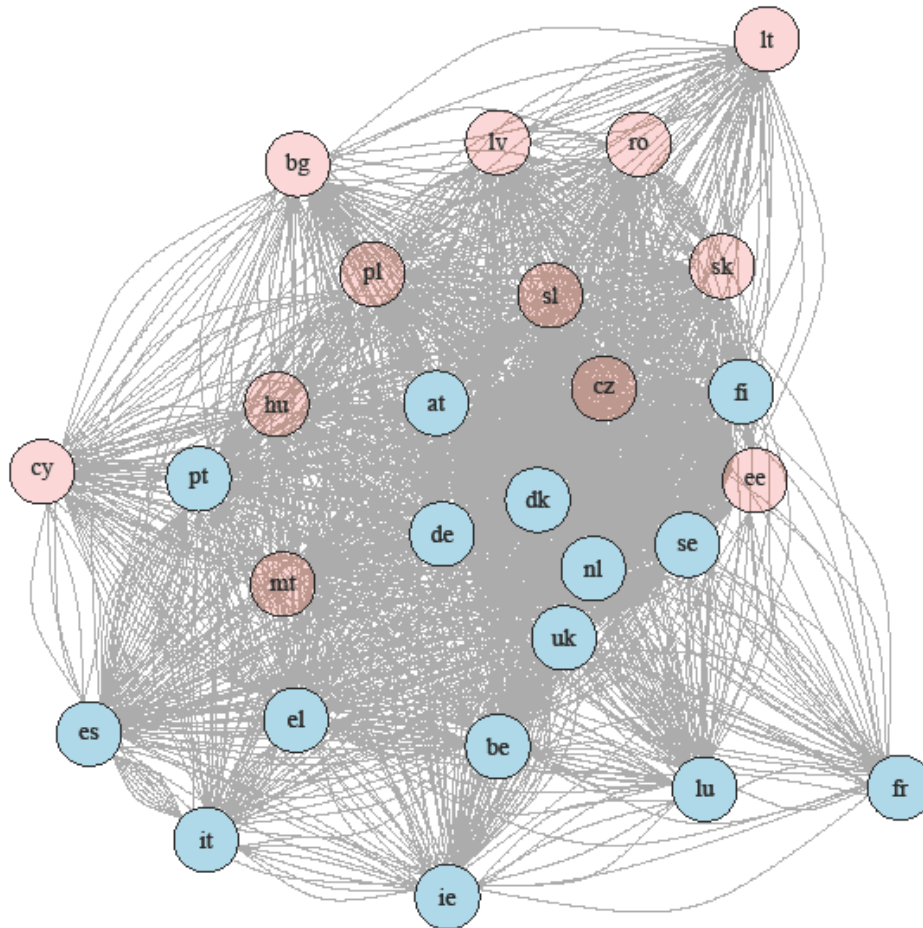
First, let us consider how 'close' together different national positions are and whether the CEE member states form a distinct group of delegations that often votes similarly and that differs as a group from the 'old' member states.

Network analysis provides one method to analyze and visualize the linkages between countries hidden in the voting records. Figure 5 shows the resulting network when each common dissent on a vote between two countries is treated as network edge. The grey lines (edges) represent each common expression of dissent connecting two member states (nodes). Countries that dissent together more often are closer together, and countries that dissent with a more diverse set of partners have a more central position in the network.

26 Negative votes and abstentions are combined together in the analysis, although clearly these two expressions of dissent have quite different legal consequences for the adoption or non-adoption of an act. Nevertheless, by combining them, as usual in the literature, we get more information from which to infer the underlying conflict space. Relying on negative votes only provides too little and too sparse information. Conceptually, negative votes and abstentions can be considered manifestations of a common concept (dissent) which differ in degree.

27 The data is collected from the Monthly Summaries of Council Acts, available online at: www.consilium.europa.eu/documents/legislative-transparency/monthly-summaries-of-council-acts. This source lists negative votes, abstentions and declarations made for all legislative acts, and sometimes for non-legislative acts as well. In general, the source can be considered reliable and complete. Note, however, that votes on Council Common Positions are treated inconsistently: sometimes voting outcomes on Common Positions would be available, but at other times not. The analyses below include votes on final legislative acts, and on Common positions and non-legislative acts, when available.

Figure 5: Network representation of common dissent (negative votes and abstentions) in the Council of Ministers (2007-2014)

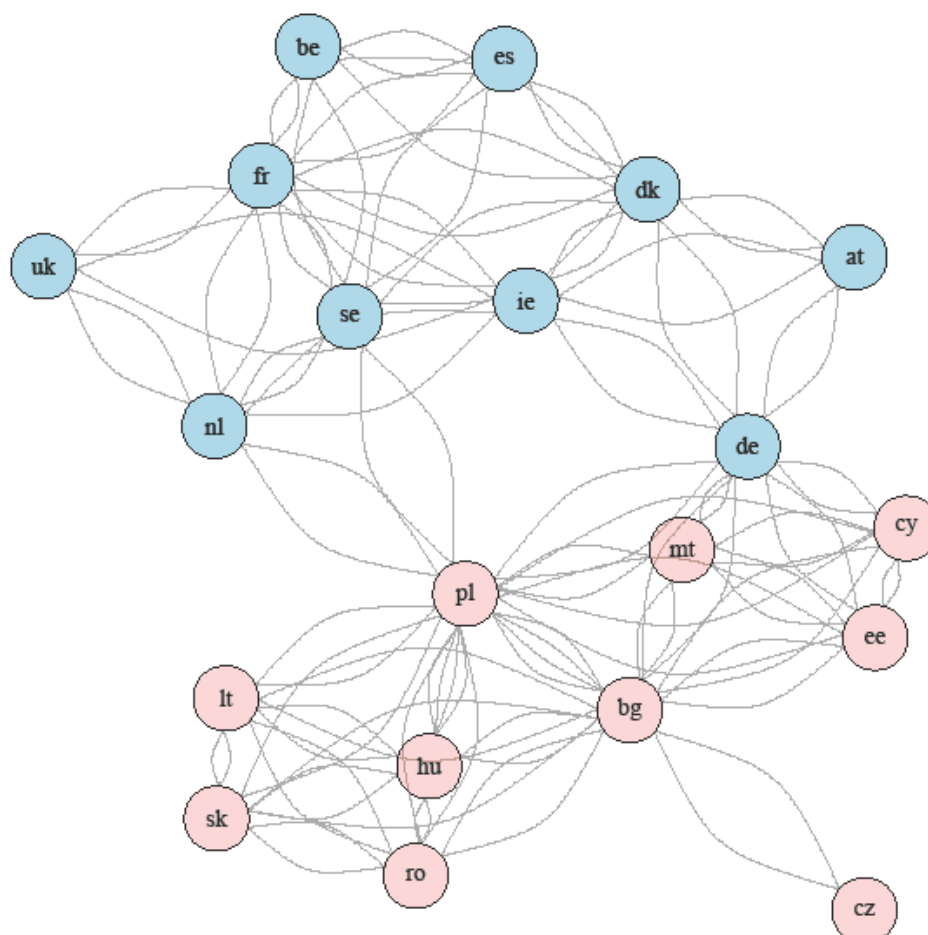


Source: Author.

The main thing to note from the network graph is that it is a rather well-connected one, meaning that almost all member states have rather diverse and balanced sets of partners with which they have opposed acts at one time or another. There are no visible clusters as such. Most of the countries at the center of the network are those that have overall high levels of dissent (UK [106], Denmark [49], Austria [55], Germany [62], The Netherlands [47]).²⁸ France and Italy are set a bit further apart from the center of the network, as they have on average lower overall levels of contestations than the other big member states (12 and 24 respectively).

28 The network is built with the Large Graph Layout (*lgf*) as implemented in the *igraph* package for the R statistical program. Layouts based on different algorithms, like *Kamada-Kawai* or *Fruchterman-Reingold*, produce graphs which lack clustering to an even greater extent.

Figure 6: Network representation of common dissent (negative votes and abstentions) in the Council of Ministers (2007-2014). Dossiers related to Environment



Source: Author.

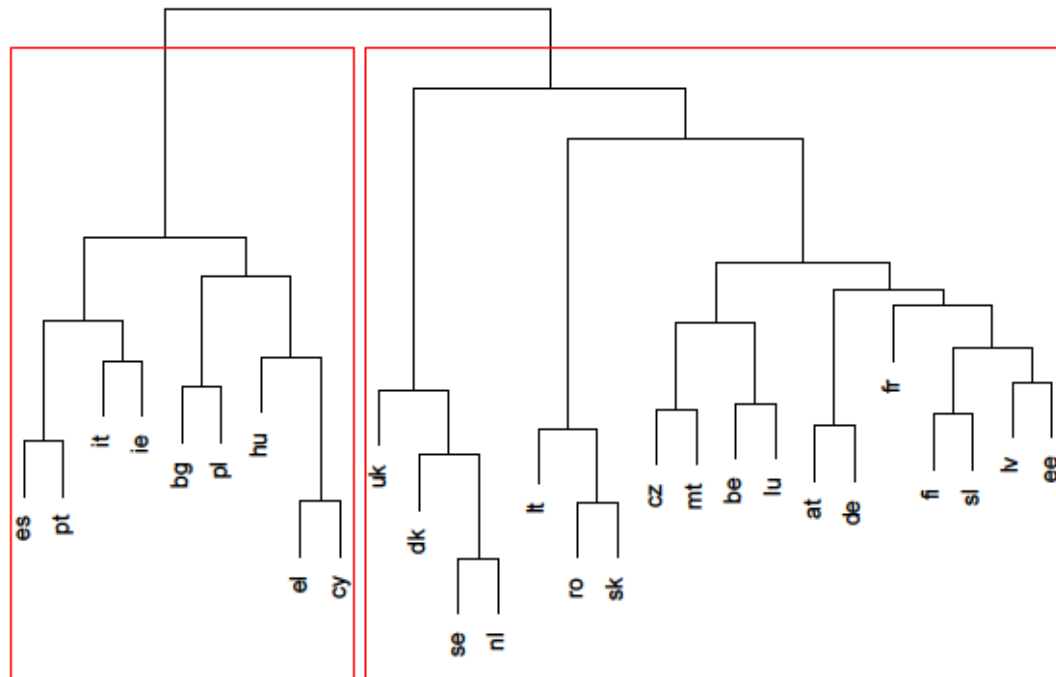
The network represented in Figure 5 is based on all dossiers (votes), so it leaves open the possibility that in particular policy areas networks of different shape and modularity exist. To explore this possibility we can graph the networks based on policy-specific subsets of all votes. For ten broadly defined areas,²⁹ only in the case of Environment, and to a more limited extent in the field of Social Affairs and Health can we find evidence for clustering of the CEE member states into a relatively separated group of the total network (see Figure 6).

The network graphs indicate that, except for a small number of particular policy areas, the new member states do not often find themselves grouped together and opposed to a group of the 'old' member states. Cluster analysis is a method that can tackle more directly the question what kind of clusters can be inferred

29 Agriculture, Budget and Administration, Environment, Finance, Fisheries, Foreign Affairs and Trade, Internal Market, Justice and Home Affairs, Social Affairs and Health, and Transport.

from the data, even if it is already clear that these clusters would characterize only a small part of all dossiers.

Figure 7: Hierarchical cluster analysis of voting patterns in the Council of Ministers (2007-2014)



Source: Author.

Figure 7 shows the results of a hierarchical clustering³⁰ solution based on the entire set of Council dissent (all policy areas). The two main clusters are further indicated with red lines. The left cluster covers Spain, Portugal, Italy, Ireland, Bulgaria, Poland, Hungary, Greece, and Cyprus. It includes some but not all of the post-2004 member states (the Czech Republic, Slovenia, Latvia, Estonia, Romania, Slovakia and Malta are not in) and some Southern European states. If anything, the cluster represents *a part of the European periphery*. Other methods of cluster analysis separate a Northern core (UK, Denmark, Sweden, and The Netherlands) from the rest of the EU.

The methods used so far provided a clue about the groupings and clustering of the member states, but not of the dimensions of the underlying conflict space as such. To derive ideal points of the member states in the latent conflict space, we can rely on the model³¹ developed by Clinton et al. (2004) and Jackman (2009). This approach is similar to the popular NOMINATE multidimensional scaling method (Poole et al. 2007; Poole/Rosenthal 1997) but is generally more flexible (Clinton/Jackman 2009, for a discussion in the context of EU decision-making, cf. Hagemann 2007). The model's output based on a two-dimensional solution is

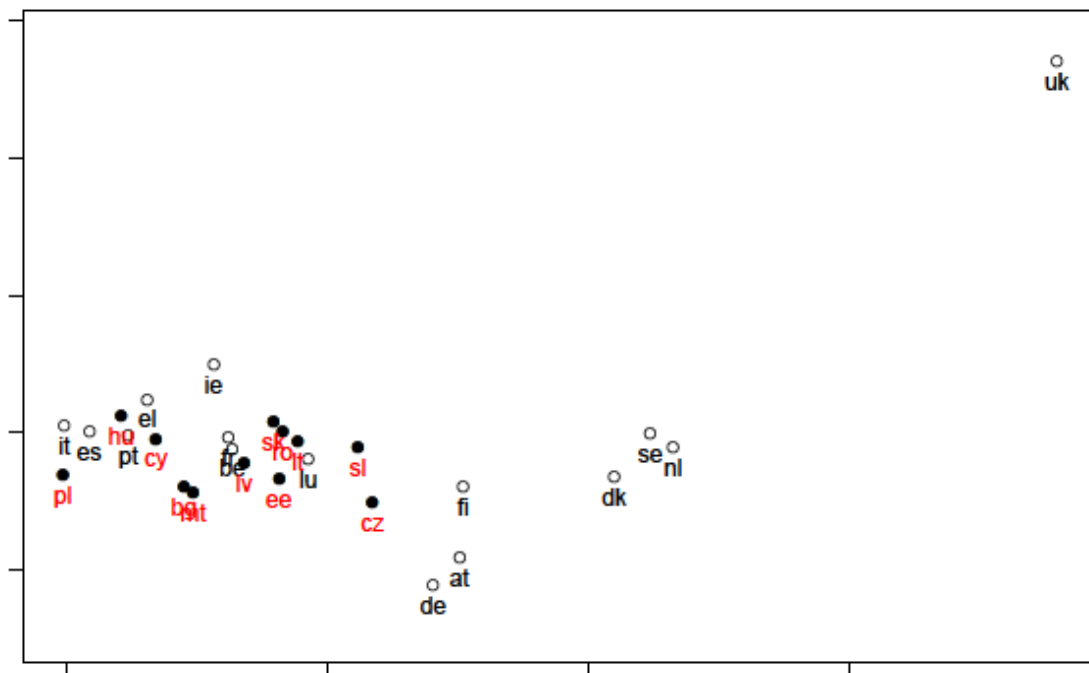
30 The distance measure used is the so-called 'Jaccard scores' which is appropriate for the binary data at hand. The Ward method for hierarchical clustering is used.

31 The model is a quadratic normal two-parameter item-response model for a MCMC algorithm.

plotted in Figure 8. The outlier on both dimensions is the UK, which makes sense given its much higher degree of contestation of Council decisions. While the first dimension (plotted on the horizontal axis) seems to correspond roughly to net contributors to the EU budget (right side) vs. net beneficiaries (left side), the second one is essentially the UK versus everyone else. The CEE states are clustered towards the left side of the graph, but there is a lot of variation within the group (Poland on the very left side to the Czech Republic in the middle) and the entirety of Southern member states, Belgium and Luxembourg are interspersed in this cluster as well.

If we take the country scores on the first dimension and compare them to the net contribution or benefit the country gets from the EU budget,³² we can find moderately strong correlation (-0.51). A linear regression of the ideal points on the net contributions has a good fit, and shows the outlying position of France, Italy, and Germany (see Figure 9). The determinants of dissent in the Council are explored in more detail in Bailer et al. (2014), Hagemann and Høyland (2008) and Hosli et al. (2011).

Figure 8: Inferred ideal points of the member states in the Council of Ministers (2007-2014). First two dimensions



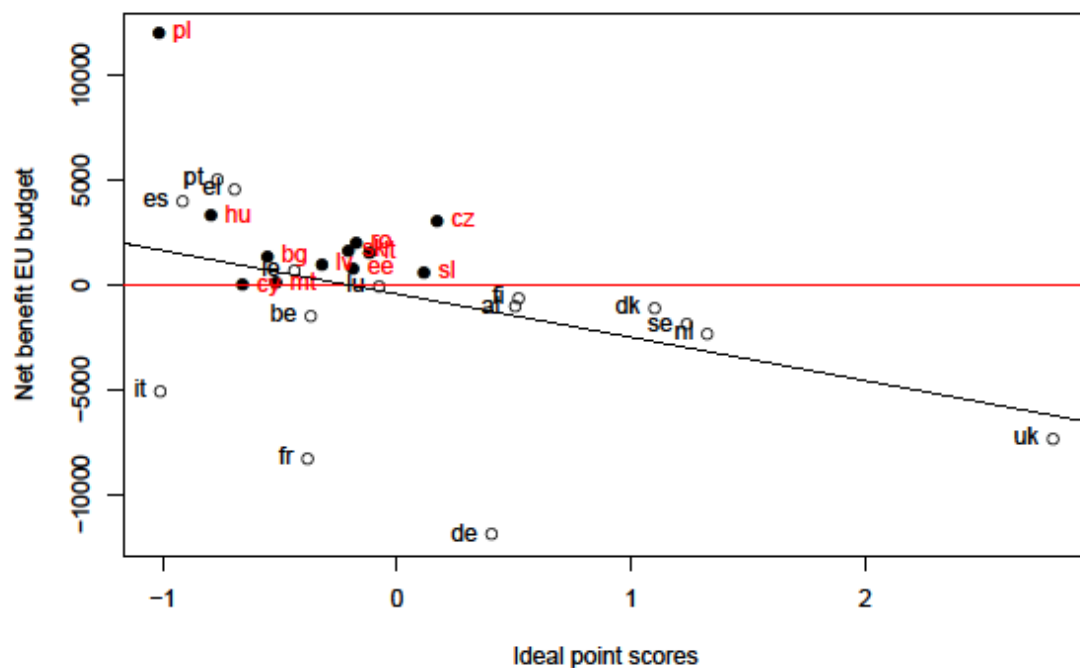
Source: Author.

³² Data on net contributions to the EU budget is for 2012 and is taken from the site of the EU Information Centre in Denmark (www.eu-oplysningen.dk/euo_en/spsv/all/79/).

The analysis of the evolution of the conflict space of the Council of Ministers of the EU after 2004 on the basis of different data and analytical techniques reveals a rather complex set of results. Overall, the general picture that emerges is that it is possible that the accession to the East transformed one of the dimensions of Council contestation and that the new member states help define a new axis of conflict. But given the uncertainty of results, it is certainly possible that this dimension is not related to enlargement per se, but to broader core vs. periphery, net budget contributors vs. net beneficiaries, or North/West vs. South/East conflict axes.

However, even if the underlying dimension is one that pits old vs. new member states, a big disclaimer is in order since this new conflict dimension characterizes only a small part of all issues the Council has had to deal with. As the network analyses demonstrated clustering of old vs. new member states can only be unambiguously found with regard to the policy field of Environment. Due to the fact that there is *altogether not much structure* in Council conflicts, even if it refers to a small set of issues, this new dimension can be detected in the aggregated data.

Figure 9: Relationship between the countries' first dimension ideal point scores and net benefit from the EU budget



Source: Author.

4.3.5 *Enhanced Cooperation*

Further evidence for fundamental and systematic differences between the ‘old’ and the ‘new’ member states, and an indication of their potential to block policy initiative would have been cases of enhanced cooperation without the participation of the CEE states. But in the case of the Financial Transaction Tax (not finalized yet), three out of the eleven participating states have been from CEE (Estonia, Slovenia, and Slovakia). In the case of Divorce Law, Bulgaria, Hungary, Latvia, Romania, and Slovenia were part of the original ‘enhanced cooperation’, and Lithuania joined later. The Unitary Patent excludes only Italy and Spain. Therefore, the enhanced cooperation procedure does not provide evidence that the new member states are brought together and separated from the rest, or that they block policy proposals.

4.3.6 *Levels of Contestation*

With respect to the sheer volume of contestations in the Council, there is some disagreement in the literature as well. But in this case, the discrepancy might be due simply to the different samples scholars work with: the most recent study by Plechanová (2011) finds some evidence for a small increase in open dissent, while the earlier studies of Best et al. (2009) and Hagemann and De Clerck-Sachsse (2007) find no change or even slightly less recorded dissent.³³

4.3.7 *Conflict Space in Other Institutions*

The studies discussed so far focus predominantly on the Council. Research on the European Parliament has not detected a major transformation of the underlying conflict space due to the addition of MEPs from the new member states (Hix/Noury 2006; Voeten 2009). One possible effect is that ‘an East-West split has occurred within the Socialist party group (PES) on “new politics” (values) issues’ (Voeten 2009: 94).

In a rare case study (of trade policy) Elsig (2010) concludes that the addition of the new member states has strengthened the protectionist camp in the EU but does not allude that accession has changed the conflict space as such.

4.4 **Communication Patterns, Decision-Making Modes and Culture**

While the impact of enlargement on dissent, preference heterogeneity, and the nature of the conflict space remains contested, academic observers and practitioners seem to agree enlargement has brought changes to the mode of decision-making (again, especially in the Council).

Based on qualitative data, it has been suggested that the accession of the new member states has led to

³³ For the amount of contestations and differences between countries in the period 2004-2009, cf. Bailer et al. (2014) which however does not present an overview of the changes over time.

bureaucratization and formalization in the Council (Best et al. 2009; Hagemann/De Clerck-Sachsse 2007), increased pre-cooking of decisions (Best et al. 2009; Hagemann/De Clerck-Sachsse 2007), and more work (Hagemann and De Clerck-Sachsse 2007). The major shift seems to be that the meetings of the Council are less about genuine discussion and negotiation of proposals while the real deal-making has moved outside the official meeting halls. (For evidence about a shifting mode of decision-making which actually increases decision-making capacity in the field of common foreign and security policy, cf. Juncos and Pomorska 2006).

Recently, there has been an increase in the share of decisions effectively taken by civil servants in the working groups and COREPER rather than the ministers in the Council, but the trend precedes enlargement to the East and is not necessarily related to it (Häge 2010).

How have the officials from CEE themselves adapted to the EU institutions (a question of some relevance for decision-making capacity)? Naurin and Lindahl (2007) find that in the Council they are not very much sought after based on analysis of communication patterns (cf. also Thomson et al. 2012). For the EP, Kaeding and Hurka (2010) find that MEPs from CEE get fewer rapporteurships but this seems to have changed more recently and is probably an artifact of the different level of experience MEPs have rather than an accession effect per se. It appears that the recruits from the new member states have not affected significantly the organizational culture and managerial styles in the European Commission but have rather been absorbed in the already existing setting (Ban 2013).

4.5 Organizational Effects

The organizational effects of the Eastern enlargement have been most visible with respect to the Commission. In 2004 and 2005 the Commission had to incorporate thousands of officials in its ranks (Dinan 2006). It appears, however, that the absorption has been relatedly fast and successful, seeing that since 2005 there have been no reports of troubles and tensions at the Commission in this regard (see the post-2006 annual reviews of developments in the EU published by the Journal of Common Market Studies (JCMS) and also Ban 2013). The effect of enlargement on the number and responsibilities of Commissioners' portfolios are certainly more lasting and perhaps some of the most significant as well. Since each member state has to have a Commissioner, this has led to a dramatic increase in the number of available portfolios, some of which had to be carved out of existing domains. The negative consequences of this organizational disintegration for policy coordination and sectoral policy capacity are easy to imagine although hard to demonstrate.

In-depth research on the Commission has demonstrated that, while significant, the impact of the nationality has been less important in accommodating the new recruits post-2004 and their blending into the typical profile of a European civil servant (Ban 2013). At the same time, enlargement has affected other organizational aspects of work in the Commission, like gender balance, for example (Ban 2013).

A recent study of the EP (Bressanelli 2014) argues that the political groups at the EP have managed to absorb organizationally the newcomers from Central and Eastern Europe and, through deep organizational reform triggered by enlargement, to provide the necessary coordination to maintain the necessary within-party cohesion.

Altogether, the organizational effects of enlargement are visible but the EU institutions seem to have adapted successfully.³⁴ As a result, the decision-making capacity, which is our main focus, has not been compromised by the organizational challenges in the post-2004 era. Nevertheless, it should be emphasized that we have more evidence that enlargement has affected (although not fundamentally) how decisions are taken in the EU, but not the effectiveness and efficiency of the process as such.

5. What Does the Qualitative Evidence Say? Overview of Challenges and Responses

So far I surveyed in detail the changes in the legislative output, legislative duration, conflict space, decision-making modes, and organizational aspects induced by the Eastern enlargement. With the exception of the nature of the conflict space, the mode of decision-making in the Council, and the structure of the Commission, there is little in the aggregate data to suggest a major impact of enlargement. But perhaps the aggregate patterns presented above cannot reveal the influence we seek even if it was there. As explained, variation in the aggregate output of the EU stems from multiple sources, which might mask the effects of enlargement. Statistical results might fail to register the impact we seek for due to measurement inadequacies or model misspecifications so the possibility remains that a focus on individual cases rather than general system-level indicators can reveal a systematic impact of enlargement. To explore this possibility, I conduct a qualitative overview of the major challenges, initiatives, and responses of the EU over the last ten years and try to establish which of these can be connected to the direct or indirect impact of enlargement.

The qualitative analysis is based on a systematic overview of secondary sources, which include both academic and journalistic work. The main sources used are the Annual Reviews of the EU published each year by the JCMS.³⁵ The second academic source used is the volume edited by Gerda Falkner on the 'joint

34 It is worth noting that one of the greatest organizational challenges of EU decision-making – the rotating Presidencies of the European Council – have been handled quite successfully by the new member states, like Slovenia in 2008, Poland in 2011 and Lithuania in 2013, and satisfactorily by the Czech Republic (2009) and Hungary (2011).

35 While JCMS is an established high-ranking academic outlet for scholarly research, the annual reviews have broader audience and are focused on surveying the most important developments in the EU over the previous year. The articles of the annual review cover different aspects of European integration – institutional but also policy-specific developments and feature an editorial which discusses the most-important challenges and responses of the EU and a couple of invited articles on particular problems of European integration. My overview uses the editorial and the regular articles, but not the invited ones since they reflect the priorities of the editors to a large extent, and not necessarily the salience of real-world events that happened over the previous year.

decision traps' in the European Union³⁶ (Falkner 2011). Lastly, I consulted the four-part assessment³⁷ of Barroso's term as a Commission president published by European Voice.

The results of the overview are summarized in Table 3 (to be found at the end of this paper) which lists the main socio-political and economic developments affecting the EU during the year, the major institutional developments, the most important policy developments, and the most salient conflicts, as well as the possibility of a link to enlargement for all of these. For example, in 2005 the main socio-political development with relevance to the EU was the defeat of the Constitutional Treaty by referenda in France and The Netherlands, the major institutional transformation was the adjustment of the Commission to the accession of ten member states the previous year, the main policy initiatives were the launch of the neighborhood policy, better regulation, and the financial perspective for the period 2007-2013, which also constitute the most salient conflicts. From these, the enlargement can be said to have had a partial and indirect effect on the defeat of the Constitutional Treaty;³⁸ a direct one on the development of the new neighborhood policy,³⁹ no effect on the 'Better Regulation' initiative, and a weak and partial effect on the negotiation of the new financial perspective.⁴⁰

When we take a bird's eye view on the major socio-political and economic challenges that have engulfed the EU over the last ten years, it is quite significant that so few of them can be traced directly to the Eastern enlargement. Two sets of challenges defined the decade for the EU. Firstly, there has been the torturous process of treaty reform which included the failure of the Constitutional Treaty, the preparation of the Treaty of Lisbon, the initial rejection of that treaty by the Irish citizens, and its eventual acceptance and ratification, all happening while public support for European integration declined across the board, and Eurosceptic parties rose to prominence in several of the 'old' member states. The second set of challenges is of course the financial and economic crises that pre-occupied the EU since 2009.

36 The book features a series of analyses of (the EU's inability to) change in particular policies in recent times. The book is ideally suited for our purpose as it focuses on the capacity of the EU to make decisions, adopt policies, and carry out reforms by in-depth studies of individual policy sectors. However, the possible impact of EU enlargement does not play a central role in the theoretical and conceptual frameworks of the book, so it is brought into the analysis *only if* the authors were faced with clear and direct evidence that enlargement mattered for the (lack of) changes in the particular policy field they study. In other words, unlike other work which is designed around finding an impact of enlargement, this book is designed around explaining the 'joint decision trap' and will only reference 'enlargement' if needed for the analysis.

37 This assessment presents an overview of the achievements and shortcomings of the Barroso Commissions. Since it does not explicitly seek to evaluate the impact of enlargement, but would mention it, if it considered it a major impediment to the plans of the Commissions, it constitutes a useful perspective from outside academic onto the issue. The individual articles are references under King (2014), Gardner (2014) and Keating (2014a, 2014b).

38 While fear of the consequences from the Eastern big-bang enlargement certainly have played a role in the rejection of the Constitution by the citizens in France and The Netherlands, many other factors affected the outcome, and in more significant ways. For academic studies of the reasons for the defeat, cf. Hobolt and Brouard (2011).

39 The European neighborhood policy was developed in response to a changed geo-political context after the Eastern enlargement.

40 Inevitably, the new financial perspective had to take into account the fact that the EU had ten new members. But the political conflicts during the discussions did not reveal an 'old' vs. 'new' member states cleavage. Moreover, the main issues of the negotiations were not the amount of money that would go to the East, but the UK rebate and the common agricultural policy.

The treaty reform certainly has part of its origins in the need to adapt the EU to functioning after the accession of the CEE states. But it should not be forgotten that, technically speaking, the already ratified Treaty of Nice had provided the minimum of necessary institutional adaptations, and that the Constitutional Treaty and the Treaty of Lisbon went much further than technical adaptation related to enlargement and, especially the former, attempted to achieve a radical deepening of European integration and a new symbolic fundament for the Union at the same time. As a result, only part of the reluctance of citizens and some governments to swallow the treaty reforms can be blamed on enlargement. Unwillingness to commit to further integration and to accept the EU as a quasi-state with its own constitution, charter of fundamental rights, and deeper prerogatives certainly had their roles to play. So it was not enlargement per se, but the ambitious treaty reform triggered by, but not derivative from, it that created such a massive challenge for the EU.

It is very difficult to find any connections between the financial and economic crises that descended upon the EU after 2008 and enlargement. With the exception of the bail-out for Cyprus, the crises, the threats they presented to European integration and the common currency, the often heated political discussions they spurred, and the policy responses and institutional innovation they eventually produced have very little to nothing to do with the accession of the CEE states in 2004, 2007, and 2013. Some occasional pronouncements of CEE leaders in support for reforms in the countries in need of bail-outs⁴¹ and the Czech decision to stay out of the Fiscal Compact notwithstanding, the economic and financial crises and the capacity of the EU to respond to them have been largely unrelated and unconstrained by the Eastern enlargement.

Several of the institutional developments over the last ten years in the EU can be traced at least indirectly via the treaty reforms to enlargement, but there are also others that cannot. For example, the 'summitization' of EU decision-making with ever more frequent meetings of the European Council during 2012 and the meetings of subsets of the European Council in 2009 and 2011 (restricted to Euro members) cannot be attributed to the accession of ten new states because the main topics of most of these meetings were responses to the financial crises and the threats to the survival of the Euro. Table 3 has further examples of such institutional developments, like the initiative for increased transparency in the Council and the declining power and standing of the Commission president in inter-institutional relations.

With regard to particular policy achievements, it is again quite remarkable how little imprint the new member states have left on the initiatives that have been adopted, and on those that have been blocked. There is little evidence that the rather far-reaching new policies in financial regulation, asylum and immigration, fisheries, consumer protection and security prepared and adopted by the EU institutions over the last ten years have been significantly affected by the new member states. There are two major exceptions to this pattern. The first is the environment (cf. Holzinger 2011), and climate policy in particular, where mainly Poland, but some other CEE member states as well, have been vocal critiques of the ambitious Commission's proposals, and have definitely affected the final outcome of the policy (although not blocking it completely).⁴²

41 For example, the Slovak prime minister Iveta Radicova's threat not to support the rescue package for Greece in 2011.

42 Apparently, climate legislation is considered the most important achievement of his second term by Barroso

The second one is the neighborhood policy⁴³ and relations with Russia. Due to their history and geographical position, the new member states have different stakes and often interests of different intensity if not different kind with respect to these issues. While the effect accession has had in this field, both in terms of setting priorities and shaping strategies, is undeniable, it is less clear what EU policy towards Russia and the Eastern neighborhood would have been in the absence of accession. And it is certainly not the case that the capacity of the EU to make decisions in this area has been crippled. In some cases, like the Ukrainian–Russian gas row from 2009, mediation provided by CEE states has actually had a positive impact. In others, accession has increased interest heterogeneity in the EU. The support of many CEE states for the ‘South Stream’ gas project and their opposition to tough sanctions on Russia in the aftermath of the 2014 crisis in Ukraine are often brought in to support this view, but it should not be forgotten that ‘old’ member states, like Austria, Italy, and Greece have diverging opinions from the rest of the EU on these issues as well.

Finally, looking at the last column of Table 3, we can see that most of the salient conflicts in the EU in the period 2004–2013 have not been directly ignited by the Eastern enlargement. Instead, it is all too often the UK versus other member states or EU institutions (during the negotiations of the multi-annual financial framework and the common agricultural policy in 2005, the working time directive in 2006, the debates about the Treaty of Lisbon in 2007, financial regulation in 2010 and 2011, the Fiscal Compact in 2011, the energy efficiency reforms in 2012, the hassles around the promise of a referendum on UK’s membership of the EU since 2013, the insistence to renegotiate the fundamental freedom of movement in the EU in 2013 and 2014, and the initial refusal to pay its updated contribution to the EU budget in 2014). When new member states have been openly engaged in the major conflicts, they have often found themselves on opposite sides (for example, Poland and the Czech Republic during the debates on the Treaty of Lisbon in 2009).

6. Conclusion and Discussion

This paper set out to assess the systematic effects of the Eastern enlargement on the decision-making capacity of the EU in the period since the accession of the first wave of CEE states in 2004 until 2014. I find little evidence for strong and systematic effects. But, as I argue in the paper, the conclusions have to remain by necessity cautious and open-ended, because of the counterfactual nature of such a retrospective causal analysis. Nevertheless, given the scope and variety of evidence presented in this paper, we can be pretty confident that accession has not had a major negative effect on the decision-making capacity of the EU.

Theoretically, there are many possible mechanisms through which enlargement could have exercised a major impact on the capability of the EU to make new decisions and amend old policies. These mechanisms range from increased heterogeneity of national policy preferences to the all too easy to imagine practical difficulties of bargaining with more than 25 actors around the negotiation table. Perhaps due to the apparent plausibility of such theoretical mechanisms, many politicians, commentators, and some scholars have

himself and, according to his own assessment, represents “the most ambitious climate-protection programme in the world” (Keating 2014a).

43 For a study of the contribution of Poland to the development of the Eastern Partnership, cf. Copsey and Pomorska (2014).

jumped to the conclusion that in reality enlargement has actually had the strong theoretically predicted impact.

The wide range of empirical evidence surveyed in this paper, however, leads to a different conclusion. An analysis of the aggregate patterns of legislative production and decision-making duration before and after 2004 revealed that there are no clear trends that can be attributed to the accession of the new member states. The EU now adopts on average fewer legal acts of a certain type (e.g. regulations), but also more of other types than before (e.g. Commission directives). Legislative duration is now shorter for acts under the ordinary legislative procedure, but not much different for others. Moreover, so many other institutional changes have affected the legislative capacity of the EU in the time since 2004 that no separate causal effect can be unambiguously attributed to any of them in isolation. What is clear, however, is that there is no major breakdown of the decision-making machinery and that its capacity has not been compromised.

Enlargement appears to have been more consequential when it comes to reshaping the conflict dimensions in the Council of Ministers of the EU. The detailed analyses of expert-based national policy positions and voting data all brought evidence that a new cleavage has possibly appeared in the Council placing a group of the new member states (often together with a varying group of other 'old' member states) versus the rest. But this new dimension of contestation, even if it proves stable and enlargement-, rather than spending- or core/periphery-related, characterizes only a small proportion of all policy contestation in the Council. It is discernable in few policy areas of legislative decision-making, like Environment, but not in the majority of cases. Moreover, even when together and opposed to the other member states, the CEE countries have found themselves more often on the losing side of the negotiations. There is no evidence that they have managed to block any major policy initiatives.⁴⁴

The most visible direct effects of enlargement have been procedural (affecting the decision-making modes) and organizational. But these effects have also been counteracted quite rapidly and successfully through organizational reforms and, some problems like the high number of Commissioners' portfolios notwithstanding, the EU has absorbed the newcomers without much pain.

Looking beyond aggregate-level patterns and system-level indicators, this paper also examined qualitatively the individual challenges, responses, and conflicts that have pre-occupied the EU over the last ten years. Again, little evidence was found that many of these can be traced back to the accession of CEE states. The institutional transformations which dominated the first part of the evaluation period can only partly and indirectly be linked to the Eastern enlargement; the economic and financial troubles that dominated the second half, even less so. If anything, it is quite surprising how little imprint the new member states have left on the history of European integration since 2004 and how few of the challenges facing the EU at the moment have to do with the absorption of the post-communist member states.

44 In some areas, like tax harmonization, social policy, and reform of the common agricultural policy, however, the arrival of the new member states may have cemented pre-existing blockages.

To sum up the results from the various analytical threads: enlargement has not grounded to a halt the decision-making machinery, it has not crippled the potential to come up with new policies, and it has not imploded the conflict-solving capacity of the Union.

We can only speculate why the breakdown has not occurred, despite what many theories led us to expect, what many commentators anticipated, and what the public feared and likely still believes. Part of the answer surely lies with the extensive preparation of the CEE states for participating in the EU's institutions and procedures and in the socialization of their elites and publics into the dominant ideas, and policy paradigms of European integration and market liberalism.

In addition, even if the 2004 accession and its follow-ups in 2007 and 2013 represent the biggest expansion of the EU, the weight of the new members has not been enough to significantly disrupt the balance of interests and policy preferences in the EU,⁴⁵ let alone create permanent gridlock. And the new member states have, somewhat surprisingly to the West, turned out to often have different interests and to take different positions with respect to many issues, from the general course of the European project and relations with Russia to financial integration and market liberalization.

Yet another part of the answer might lie in the economic and financial nature of the challenges that descended on the EU after 2007. The underlying philosophy of the EU's policy response to the economic and financial crises had already been accepted by many of the post-Communist states long before accession in the course of their painful transitions to market economy (and by the time the crises hit, not all of the new members were fully integrated into monetary union). It is still possible that challenges of a different nature might bring the post-2004 members closer together and at the same time drive them far apart from the rest of the EU, although it is difficult to imagine what these would be.

While the direct effects of enlargement on decision-making capacity appear isolated, transient and small, the indirect ones have been more significant. In particular, the saga around the treaty reform has absorbed a lot of energy and featured many regretful episodes. But the torturous process of treaty reform after Nice cannot be entirely blamed on enlargement, as the provisions of the new treaties went much further than anything that accession immediately and directly demanded. Perhaps the lesson here is that radical institutional reforms made in anticipation of enlargement can take a life of their own and lead to more undesirable consequences than the problems they have been designed to solve. After all, in the years between mid-2004 and the entry into force of the Treaty of Lisbon in 2009, the EU managed to function sufficiently well to produce some truly important legislation, like the Services directive, REACH and a record number of texts in the field of justice and home affairs. Institutions might be more adaptable and resilient than assumed even in the absence of formal reform, which often opens a Pandora box of problems.⁴⁶

45 Cf. also Copeland (2014) who traces the (lack of) influence of CEE states with respect to two salient EU initiatives – the Services directives and the Financial Crisis Rescue Plan.

46 Like the renegotiation of national voting weights, the biggest effect of which is probably the increase in acrimonious sentiments between states, rather than anything of substance.

The actual effects of enlargement on the decision-making capacity of the EU might be minor, but it is the *perceived* effects that might prove to be more consequential in the long run. Decision-making capacity is only one aspect of the internal dimension of the integration capacity of the EU (Schimmelfennig 2014), but its perceived inadequacy can undermine the entire construct. As mentioned in the introduction of this paper, the impression that accession has compromised the EU's manageability is widely shared by European citizens and has been echoed by many commentators⁴⁷ as well. It has been easy to blame the arrival of the new member states for any decision-making outcome in the EU that has or has not happened, be that longer Council meetings, a more activist Commission, more ambitious climate policy goals, stronger social protection, or less interventionist agricultural policy. But sporadic substantive influence is not the same as systematic institutional impact.

Some academics have, perhaps too hastily, also joined the tune on a number of occasions, although now, with the benefit of hindsight, their research findings appear too preliminary and narrow to justify the strength and certainty of the claims about the negative effects of enlargement being made. More than ten years after the big-bang accession of the post-communist states, we are in a better position to appreciate that the EU has, all in all, successfully adapted its decision-making machinery to the challenges of enlargement and still has sufficient capacity to agree on common laws and policies. Post-2004, EU decision-making is not easy, but it has also never been.

47 But not all of them. It is interesting to see that already in 2006, when the British House of Lords produced a report on the impact of previous EU enlargements, the opinions of the summoned experts about the nature and scale of these effects were rather divided (House of Lords 2006). In 2014, the problem is mostly absent from the public sphere but commentators seem to agree that there has not been much of an effect. For a recent statement, cf. Blockmans (2014).

7. References

- Avery, G.; Faber, A. and Schmidt, A. (eds) (2009) *Enlarging the European Union: Effects on the New Member States and the EU*, Brussels: Trans European Policy Studies Association.
- Bailer, S.; Hertz, R. and Leuffen, D. (2009) 'Oligarchization, Formalization, Adaptation? Linking Sociological Theory and EU Enlargement Research', *Journal of European Public Policy* 16(1): 162-174.
- Bailer, S.; Mattila, M.; and Schneider, G. (2014) 'Money Makes the EU Go Round: The Objective Foundations of Conflict in the Council of Ministers', *Journal of Common Market Studies*.
- Ban, C. (2013) *Management and Culture in an Enlarged European Commission*, Basingstoke: Palgrave Macmillan.
- Best, E.; Christensen, T.; Settembri P. and Neuhold C. (2009) 'Effects of Enlargement on the EU's Institutions & Decision-Making – The EU Institutions after Enlargement: Not Quite Business as Usual', in G. Avery; A. Faber and A. Schmidt (eds), *Enlarging the European Union: Effects on the New Member States and the EU*, Brussels: Trans European Policy Studies Association, pp. 112-124.
- Blockmans, S. (2014) Impact of the 'Big Bang' Enlargement on EU Foreign Policy – 10 Years On', *CEPS Commentaries*, Brussels: Centre for European Policy Studies.
- Bressanelli, E. (2014) 'Necessary Deepening? How Political Groups in the European Parliament Adapt to Enlargement', *Journal of European Public Policy* 21(5): 776-792.
- Burns, C.; Carter, N. and Worsfold N. (2012) 'Enlargement and the Environment: The Changing Behaviour of the European Parliament', *Journal of Common Market Studies* 50(1): 54-70.
- Clinton, J. and Jackman, S. (2009) 'To Simulate or NOMINATE?', *Legislative Studies Quarterly* 34(4): 593-621.
- Clinton, J.; Jackman, S. and Rivers, D. (2004) 'The Statistical Analysis of Roll Call Data', *American Political Science Review* 98(2): 355-370.
- Copeland, P. (2014) 'Central and Eastern Europe: Negotiating Influence in an Enlarged European Union', *Europe-Asia Studies* 66(3): 467-487.
- Copsey, N. and Pomorska, K. (2014) 'The Influence of Newer Member States in the European Union: The Case of Poland and the Eastern Partnership', *Europe-Asia Studies* 66(3): 421-443.
- Council of the European Union (2004) 'Council Decision of 26 April 2004 Granting Cyprus, Malta and Poland Certain Temporary Derogations from Directive 2002/96/EC on Waste Electrical and Electronic Equipment', *Council Document No. 2004/486/EC*.
- Dinan, D. (2006) 'Governance and Institutional Developments: In the Shadow of the Constitutional Treaty', *JCMS – Journal of Common Market Studies* 44(S1): 63-80.

- Elsig, M. (2010) 'European Union Trade Policy after Enlargement: Larger Crowds, Shifting Priorities and Informal Decision-Making', *Journal of European Public Policy* 17(6): 781-798.
- Enelow, J. and Hinich, M. (1984) *The Spatial Theory of Voting: An Introduction*, Cambridge: Cambridge University Press.
- European Commission (2007) 'Action Programme for Reducing Administrative Burdens in the European Union', *COM(2007) 23 final*.
- European Commission (2009) 'Views on European Union Enlargement', *Flash Eurobarometer 257*, February 2009.
- Falkner, G. (ed.) (2011) *The EU's Decision Traps. Comparing Policies*, Oxford: Oxford University Press.
- Gardner, A. (2014) 'Barroso's Legacy Part IV: Foreign Policy and Trade', *European Voice*, 6 November 2014.
- Golub, J. (2007) 'Survival Analysis and European Union Decision-Making', *European Union Politics* 8(2): 155-179.
- Häge, F. M. (2010) 'Politicising Council Decision-Making: The Effect of European Parliament Empowerment', *West European Politics* 34(1): 18-47.
- Häge, F. M. (2011) 'The European Union Policy-Making Dataset', *European Union Politics* 12(3): 455-477.
- Häge, F. M. (2013) 'Coalition-Building and Consensus in the Council of the European Union', *British Journal of Political Science* 43(3): 481-504.
- Häge, F. M. and Toshkov, D. (2011) 'Anticipating Resistance: The Effect of Member State Preferences on the European Commission's Agenda-Setting Activity', *Limerick Papers in Politics and Public Administration 2011 No. 1*, Limerick: University of Limerick.
- Hagemann, S. (2007) 'Applying Ideal Point Estimation Methods to the Council of Ministers', *European Union Politics* 8(2): 279-296.
- Hagemann, S.; Bailer, S. and Herzog, A. (2014) 'Signals to their Parliaments. Governments' Strategic Use of Votes and Policy Statements in the EU Council', Paper presented at the *FRIAS Workshop "Foreign Policy Changes and International Norms. Examining Internal and External Determinants"*, University of Freiburg, 23-24 October.
- Hagemann, S. and De Clerck-Sachsse, J. (2007) 'Decision-Making in the Enlarged Council of Ministers: Evaluating the Facts', *CEPS Policy Brief No. 119*, Brussels: Centre for European Policy Studies.
- Hagemann, S. and Høyland, B. (2008) 'Parties in the Council?', *Journal of European Public Policy* 15(8): 1205-1221.
- Heidenreich, M. (2004) 'The Decision-Making Capacity of the European Union after the Fifth Enlargement', *Bamberger Centrum für Europäische Studien Discussion Paper No. 1*, Bamberg: Otto-Friedrich Universität Bamberg.

- Hertz, R. and Leuffen, D. (2011) 'Too Big to Run? Analysing the Impact of Enlargement on the Speed of EU Decision-Making', *European Union Politics* 12(2): 193-215.
- Hix, S.; Noury, A. and Roland, G. (2006) 'Dimensions of Politics in the European Parliament', *American Journal of Political Science* 50(2): 494-520.
- Hobolt, S. and Brouard, S. (2011) 'Contesting the European Union? Why the Dutch and the French Rejected the European Constitution', *Political Research Quarterly* 64(2): 309-322.
- Holland, P. (1986) 'Statistics and Causal Inference', *Journal of the American Statistical Association* 81(396): 945-960.
- Holzinger, K. (2011) 'Environmental Policy in the Joint-Decision Trap? The Critical Balance between "Market Making" and "Market Correcting"', in G. Falkner (ed.), *The EU's Decision Traps. Comparing Policies*, Oxford: Oxford University Press, pp. 110-127.
- Hosli, M. O.; Mattila, M. and Uriot, M. (2011) 'Voting in the Council of the European Union after the 2004 Enlargement: A Comparison of Old and New Member States', *Journal of Common Market Studies* 49(6): 1249-1270.
- House of Lords (2006) 'Select Committee on European Union - Fifty-Third Report', available at www.publications.parliament.uk/pa/ld200506/ldselect/ldcom/273/27303.htm, accessed 20 February 2015.
- Høyland, B. and Hansen, V. (2014) 'Issue-Specific Policy-Positions and Voting in the Council', *European Union Politics* 15(1): 59-81.
- Jackman, S. (2009) Estimating Ideal Points: the 110th U.S. Senate, available at <http://jackman.stanford.edu/classes/eitm/s110.pdf>, accessed 20 February 2015.
- Juncos, A. and Pomorska, K. (2006) 'Playing the Brussels Game: Strategic Socialisation in the CFSP Council Working Groups', *European Integration online Papers* (EIoP) 10.
- Kaeding, M. and Hurka, S. (2010) 'Where Are the MEPs from the Accession Countries? Rapporteurship Assignments in the European Parliament after Enlargement', *EIPAScope* 2010(2): 19-24.
- Keating, D. (2014a) 'The Barroso II Legacy – an Appraisal: Part I', *European Voice*, 1 November 2014.
- Keating, D. (2014b) 'Barroso's Legacy Part III: Domestic Issues', *European Voice*, 5 November 2014.
- Kelemen, D.; Menon, A. and Slapin, J. (2014) 'Wider and Deeper? Enlargement and Integration in the European Union', *Journal of European Public Policy* 21(5): 647-663.
- King, T. (2014) 'Barroso's Legacy Part II: Small-scale Reforms', *European Voice*, 2 November 2014.
- King, G.; Keohane, R. and Verba, S. (1994) *Designing Social Inquiry. Scientific Inference in Qualitative Research*, Princeton: Princeton University Press.

- Klüver, H. and Sagarzazu, I. (2013) 'Ideological Congruency and Decision-Making Speed: The Effect of Partisanship across EU Institutions', *European Union Politics* 14(3): 388-407.
- König, T. (2007) 'Divergence or Convergence? From Ever-Growing to Ever-Slowing European Legislative Decision Making', *European Journal of Political Research* 46(3): 417-444.
- König, T. and Bräuninger, T. (2002) 'From an Ever-Growing towards an Ever-Slower Union?', in M. Hosli, A. van Deemen and M. Widgrén (eds), *Institutional Challenges in the EU*, London: Routledge, pp. 243-259.
- König, T. and Bräuninger, T. (2004) 'Accession and Reform of the European Union – A Game-Theoretical Analysis of Eastern Enlargement and the Constitutional Reform', *European Union Politics* 5(4): 419-439.
- König, T. and Luig, B. (2012) 'Party Ideology and Legislative Agendas: Estimating Contextual Policy Positions for the Study of EU Decision-Making', *European Union Politics* 13(4): 604-625.
- Lenz, H. and Hagemann, S. (2014) 'Transparency vs. Efficiency? A Study of Negotiations in the Council of the European Union', Paper presented at the *2014 Annual Meeting of the American Political Science Association*, Washington, DC, 28 - 31 August.
- Leuffen, D. (2006) 'Breaking the Camel's Back? Eastern Enlargement and EU Governance', Paper presented at the *ECPR's Third Pan-European Conference on European Politics*, Istanbul, 21-23 September.
- Leuffen, D. and Hertz, R. (2010) 'If Things Can Only Get Worse: Anticipation of Enlargement in European Union Legislative Politics', *European Journal of Political Research* 49(1): 53-74.
- Mattila, M. (2009) 'Roll Call Analysis of Voting in the European Union Council of Ministers after the 2004 Enlargement', *European Journal of Political Research* 48(6): 840-857.
- Naurin, D. and Lindahl, R. (2007) 'Network Capital and Cooperation Patterns in the Working Groups of the Council of the EU', *RSCAS Working Paper No. 14*, Florence: Robert Schuman Centre for Advanced Studies.
- Naurin, D. and Lindahl, R. (2010) 'Out in the Cold? Flexible Integration and the Political Status of Euro Opt-Outs', *European Union Politics* 11(4): 485-509.
- Pearl, D. (2000) *Causality: Models, Reasoning, and Inference*, Cambridge: Cambridge University Press.
- Plechanovová, B. (2011) 'The EU Council Enlarged: North-South-East or Core-Periphery?', *European Union Politics* 12(1): 87-106.
- Plechanovová, B. (2013) 'National Actors in the Post-Lisbon EU: Should We Expect a Change of National Strategies?', *West European Politics* 36(6): 1199-1220.
- Poole, K. (2005) *Spatial Models of Parliamentary Voting*, New York: Cambridge University Press.
- Poole, K.; Lewis, J.; Lo, J. and Carroll, R. (2007) *WNOMINATE Roll Call Analysis Software*, R package version 0.93.

Poole, K. and Rosenthal, H. (1997) *Congress: A Political-Economic History of Roll Call Voting*, New York: Oxford University Press.

Rasmussen, A. and Toshkov, D. (2013) 'The Effect of Stakeholder Involvement: Consultation of External Actors and Legislative Duration in the European Union', *European Union Politics* 16(3): 366-387.

Schimmelfennig, F. (2014) 'Enlargement and Integration Capacity – A Framework for Analysis', *MAXCAP Working Paper No. 1*, "Maximizing the integration capacity of the European Union: Lessons of and prospects for enlargement and beyond" (MAXCAP), Berlin: Freie Universität.

Settembri, P. (2007) 'The Surgery Succeeded. Has the Patient Died? The Impact of Enlargement on the European Union', *Jean Monnet Working Paper 04/07*, New York, N.Y.: New York University School of Law.

Shepsle, K. and Bonchek, M. (1997) *Analyzing Politics: Rationality, Behavior, and Institutions*, New York and London: W.W. Norton & Company.

Thomson, R.; Stokman, F.; Achen, C. and König, T. (eds) (2006) *The European Union Decides*, Cambridge: Cambridge University Press.

Thomson, R. (2009) 'Actor Alignments in the European Union before and after Enlargement', *European Journal of Political Research* 48(6): 756-781.

Thomson, R.; Arregui, J.; Leuffen, D.; Costello, R.; Cross, J.; Hertz, R. and Jensen, T. (2012) 'A New Dataset on Decision-Making in the European Union before and after the 2004 and 2007 Enlargements (DEUII)', *Journal of European Public Policy* 19(4): 604-622.

Thomson, R.; Naurin, D. and Smolen, M. (2012) 'The Evolution of Political Networks: Evidence from the European Union', *CERGU Working Paper Series 2012 No. 5*, Gothenburg: Centre for European Research.

Tsebelis, G. (2002) *Veto Players: How Political Institutions Work*, Princeton: Princeton University Press.

Toshkov, D. and Kortenska, E. (2015) 'Does Immigration Undermine Public Support for Integration in the European Union?', *Journal of Common Market Studies*.

Toshkov, D.; Kortenska, E.; Dimitrova, A. and Fagan, A. (2014) 'The 'Old' and the 'New' Europeans: Analyses of Public Opinion on EU Enlargement in Review', *MAXCAP Working Paper No. 2*, "Maximizing the integration capacity of the European Union: Lessons of and prospects for enlargement and beyond" (MAXCAP), Berlin: Freie Universität.

Toshkov, D. and Rasmussen, A. (2012) 'Time to Decide: The Effect of Early Agreements on Legislative Duration in the EU', *European Integration online Papers* 16(11).

Vayda, A. and Walters, B. (eds) (2011) *Causal Explanation for Social Scientists: A Reader*, Lanham, MD: AltaMira Press.

Veen, T. (2011) 'The Dimensionality and Nature of Conflict in European Union Politics: On the Characteristics of Intergovernmental Decision-Making', *European Union Politics* 12(1): 65-86.

Voeten, E. (2009) 'Enlargement and the 'Normal' European Parliament', in J. J. Thomassen (ed.), *The Legitimacy of the European Union after Enlargement*, Oxford: Oxford University Press, pp. 93–114.

Zimmer, C.; Schneider, G. and Dobbins, M. (2005) 'The Contested Council: Conflict Dimensions of an Inter-governmental EU Institution', *Political Studies* 53(2): 403-422.

Annex

Table 3. Overview of major developments and conflicts in the EU (2004-2014)

YEAR	Socio-eco. & pol. developments	Link to enlargement	Institutional developments	Link to enlargement	Major policy developments	Impact of new MS	Major conflicts in the EU	Link to New MS
2004	EP elections	No	Accession of 10 new MS	Yes	Expansion of CFSP commitments	No	New voting rules in the Const. Treaty	Partly (PL, SP)
			Agreement on the Constitutional Treaty	Indirect				
			New Commission (Barroso I)	No				
2005	Defeat of Constitutional Treaty	Partial and indirect	Commission adjusting to enlarg.	Yes	Neighborhood policy	Yes	Fin. perspective 2007-2013	Weak (UK rebate, CAP)
					Better regulation	No		
					Fin. perspective 2007-2013	Weak		
2006			Reform of Comitology	No	REACH	No	Verheugen vs. civil servants in the Com	No
			Transparency in the Council	No	Services directive	No	Working time directive	No (UK, FR)
			New portfolios in the Commission	Yes				
					Mutual recognition principle to civil and criminal law	No		

YEAR	Socio-eco. & pol. developments	<i>Link to enlargement</i>	Institutional developments	<i>Link to enlargement</i>	Major policy developments	<i>Impact of new MS</i>	Major conflicts in the EU	<i>Link to New MS</i>
2007			Accession of 10 new MS	Yes	Record number of texts in JHA	No	Treaty debates	Partly, but opp. sides (CZ, PL)
			Treaty of Lisbon preparation and sign.	Indirect	Consumer protection	No	University quotas special provision	No (AU, DE)
			Troika system for EU presidencies	Partly	Climate change targets	Some		
2008	Irish 'No' on Lisbon Treaty	Partial and indirect	First EU presidency for new MS (SLV)	Yes, success	Legislative package on gas and electr.	No	Legislative package on gas and electr.	Partly (PL, IT)
	Russia-Georgia conflict	No						
2009	Ratification and entry into force of the Lisbon Treaty	Partial	President of the European Council	Indirect	Reduced rates of VAT legislation	Yes, pos.	Lisbon Treaty ratification	Partly (CZ, DE)
	Economic crisis	No	HRCFSP	No	Ukrainian–Russian gas row mediation	Yes, pos.	Free Trade Agreement with Canada	Partly (visas, CZ)
			New Commission (Barroso II) and EP	No				
			Subsets of the European Council meeting	Partly				

YEAR	Socio-eco. & pol. developments	<i>Link to enlargement</i>	Institutional developments	<i>Link to enlargement</i>	Major policy developments	<i>Impact of new MS</i>	Major conflicts in the EU	<i>Link to New MS</i>
2010	Sovereign debt crisis	No	Comitology (EP)	No	Three European supervisory authorities	No	Discussion of the bailouts	Weak (SK)
	Bail-outs for Greece and Ireland	No	Declining influence of Com. President (Van Rompuy Task Force)	No	Directive on alternative investment fund managers	No	Directive on alternative investment fund managers	No (UK, FR)
					Road use charges for heavy goods vehicles	No		
					Other financial regulations	No		
2011	Economic stagnation	No	Meetings of the euro-17	No	Six Pack of reforms	No	Fiscal compact proposed	Partly (UK, CZ)
					European Market Infrastructure Regulation	No	Reverse majority rule	No (DE, FR, Benelux)
							Financial regulation	No (DE, UK)
2012	Ongoing Eurozone crisis	No	European Stability Mechanism and the Fiscal Compact	No	Plans for a fully fledged banking union	No	Energy efficiency reforms	Partly (PL, DE, UK)

YEAR	Socio-eco. & pol. developments	<i>Link to enlargement</i>	Institutional developments	<i>Link to enlargement</i>	Major policy developments	<i>Impact of new MS</i>	Major conflicts in the EU	<i>Link to New MS</i>
			'Summitization' of ever more frequent meetings of the European Council	No	Two Pack (fin. surveillance mechanisms)	No	Multi-annual Financial Framework (2014–20)	Partly
			EP rules on Inter-institutional negotiations in legislative procedures	No			Reform of tobacco regulation	No (MT, lobbying)
2013	Croatia accession	Yes	European Council rules for the organization of the proceedings of the Euro Summits	No	MFF 2014–20	No	Calls for renegotiating the freedom of movement	Indirect (UK)
	Cyprus bail-out, Ireland exit bail-out	Yes for CY			Progress on banking union	No	Breaking up railway operators	No (DE, FR)
	Promise of a referendum on UK's membership of the EU	Partial and indirect			Posting of workers	Yes		
	Russia torpedoing the EU's flagship Eastern Partnership	Partial			Common asylum system	No		

Sources: see Text.



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The ‘big bang enlargement’ of the European Union (EU) has nurtured vivid debates among both academics and practitioners about the consequences of ‘an ever larger Union’ for the EU’s integration capacity. The research project MAXCAP will start with a critical analysis of the effects of the 2004-2007 enlargement on stability, democracy and prosperity of candidate countries, on the one hand, and the EU’s institutions, on the other. We will then investigate how the EU can maximize its integration capacity for current and future enlargements. Featuring a nine-partner consortium of academic, policy, dissemination and management excellence, MAXCAP will create new and strengthen existing links within and between the academic and the policy world on matters relating to the current and future enlargement of the EU.