

Mode(I)s of Decision-Making in the Council of the European Union

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DEI Working Paper 09-6



UCD Dublin European Institute

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This paper should be cited as follows: Andreas Warntjen, Mode(l)s of Decision-Making in the Council of the European Union, UCD Dublin European Institute Working Paper 09-06, May 2009.

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Mode(s) of Decision-Making in the Council of the European Union

Andreas Warntjen

Abstract: The Council of the EU is a crucial actor in EU legislative decision-making. However, how it reaches decisions is subject to considerable debate. Constructivists argue that the dominant mode is norm-guided behaviour and deliberation, pointing to the informal ‘culture of consensus’. Scholars working in a rational choice tradition assume that member states strive to maximize their utility and move outcomes as close as possible to their ideal positions, either by using their power in bargaining or by arranging beneficial exchanges of votes. Several bargaining and exchange models have been advanced by this literature. This paper explores the logics underlying these different conceptualizations of negotiations in the Council of the EU. Furthermore, it discusses the interpretation of the existing empirical results and tasks for future research. Due to observational equivalence empirical findings are often inconclusive.

Keywords: Council of the European Union, constructivism, rational choice, modes of decision-making, culture of consensus, observational equivalence

1. Introduction

The Council of the European Union (EU) is a crucial actor in EU decision-making. Because it can be characterized as an international negotiation forum on the one hand and a supranational network on the other it is also a fascinating setting to study decision-making behavior. Several studies have addressed the question of how decisions are made in the Council. The discussion on how member states representatives interact in the Council has received a strong impetus from the debate between rational choice and constructivism (e.g. Lewis 2003). Furthermore, the possible effects of a deliberative mode of decision-making have been discussed (e.g., Joerges and Neyer 1997; Neyer 2003; 2004). This contribution presents a theoretical categorization of decision-making modes and evaluates the main body of evidence offered so far. Rather than presenting a detailed and comprehensive discussion of all previous studies, I will focus on the main types of evidence in the literature: socialization, consensual decision-making and the justification of positions. I also discuss the difficulties associated with identifying a particular mode and argue that due to observational equivalence some empirical findings can be used to support different conclusions. In particular, the well documented tendency in the Council not to use formal voting and outvote individual member states under qualified majority (Hayes-Renshaw, Wallace et al. 2006) can be explained by rational choice models of vote trading or exchange (Achen 2006; Mattila and Lane 2001) or by constructivist norm compliance with(in) a ‘culture of consensus’ (Heisenberg 2005; Neyer 2004).

Early studies on decision-making in the Council effectively put forward plausibility probes to show that certain modes seem to exist. More recently the literature has moved to more systematic tests contrasting the various decision-makings modes, although the lack of a generally agreed upon comprehensive typology still hampers these as a cumulative effort. More theoretical research is needed to clearly delineate the differences between the various decision-making modes and derive precise predictions from them (e.g., what is ‘consensus’?).

2. Categorizing Modes of Decision-Making

Several typologies have been put forward to capture the range of decision-making modes. Most prominently, March and Olsen (1989) distinguished between the (rational choice) 'logic of consequences' and the (constructivist) 'logic of appropriateness'. Risse (2000) argues for a distinction between arguing (or deliberation) and norm compliance within constructivism. Elster (2007: Ch. 25) lists arguing, bargaining and voting as mechanisms for collective decision-making. Scharpf (1997: 124-35) distinguishes between four modes of negotiations: 'spot contracts', 'distributive bargaining', 'problem solving', and 'positive coordination'.

Scholars working in the 'negotiation analysis' tradition have contributed to our knowledge of decision-making modes by distinguishing between distributive and integrative bargaining (Odell 2000: 31-38; Sebenius 2002: 239-243). Several bargaining and exchange models have been used to explain decision-making in the European Union (Bueno de Mesquita and Stokman 1994; Thomson, Stokman et al. 2006). Distributive bargaining focuses on the relative share an actor would receive from an agreement (Schelling 1960). In contrast, integrative bargaining aims at increasing the absolute value of the deal to benefit everyone as much as possible (Hopmann 1995). Arranging mutually beneficial exchanges for example through issue-linkage plays a prominent role in accounts of integrative bargaining (Sebenius 1983; 1984). Hopmann (1995) used the concept of 'problem-solving' to describe the cooperative element inherent in negotiations even among purely self-interested actors. This overlaps with the category of integrative bargaining in other typologies. Others have highlighted the relationship between a problem-solving orientation and arguing (Joerges and Neyer 1997; Scharpf 1997: 131).

While there is no general agreement on a comprehensive typology of decision-making modes two distinctions stand out. The first one is the difference in emphasis between creating and distributing value (Sebenius 2002). This separates, for example, rationalist accounts of distributive bargaining from rationalist theories of cooperative exchange. The second one is the underlying characterization of

human behaviour as goal-oriented (logic of consequences) or norm-oriented (logic of appropriateness). Rational choice theories assume that political actors are goal-driven (utility-maximizing) and have consistent (transitive) preferences. Actors make choices based on their preferences over outcomes. When outcomes are determined not just by their own behavior they take this strategic interaction into account ('logic of consequences'). The preferences of actors are typically treated as exogenous and fixed. In contrast, constructivist theories posit that the behavior of actors is shaped by their identities and social norms and thus follows a 'logic of appropriateness'. Both rational choice and constructivism are 'thin theories' which only yield concrete expectations if substantive assumptions are made. If the welfare of others is postulated as part of the utility function, then rational choice will predict altruism. If hedonism is assumed to be the prevalent norm, then constructivism will predict egoistic behavior. Rather than being competing theories, they to some degree simply have a different focus, not least in terms of their time horizon. Humans might act strategically within the constraints of social norms and according to preferences which are constituted in a process of identity formation (Fearon and Wendt 2002; Jupille, Caporaso et al. 2003). Problem-solving fits into both rational choice and constructivism, either as following a specific norm or as an attempt to increase the value of an agreement (and hence also the individual share an actor receives). More specifically, it can be thought of as part of setting up a cooperative exchange, norm-guided behavior or deliberation. Consequently, I will distinguish between distributive bargaining, cooperative exchange, problem-solving, norm-guided behaviour and deliberation (Table 1). This categorization of decision-making modes draws on the distinctions made in the existing literature. However, it is not my ambition to provide a comprehensive typology with mutually exclusive categories. This remains to be a task for future research. As I argue in section 3, linking analytically distinct modes to different empirical observations will be another challenge in this context.

Distributive Bargaining

In this mode, actors aim to elicit as many concessions from their negotiation partners as possible while making as few as possible themselves. Thus, actors strive to maximize their share of the prospective gains (Schelling 1960: 21-22). An actor only accepts an offer if it makes him better off than the best alternative to the agreement (e.g., unilateral action or the status quo). Thus, bargaining under unanimity leads to the lowest-common-denominator (Odell 2000: Ch. 2; Scharpf 1997: Ch. 6).

The distributive consequences of agreements are affected by the relative power of the bargaining partners. Actors derive power from situational and institutional factors (Schelling 1960; Warntjen 2010). An actor who is less eager to reach agreement is more powerful because he has to make fewer (or no) concessions. Situational factors affect how eager an actor is to strike a deal. The ability to hold out for a better offer could be due to the relative level of satisfaction with the current situation, attractive alternatives, or a longer time horizon (Muthoo 1999; 2000). Institutional factors also affect the outcome. For example, larger voting power should, *ceteris paribus*, give more influence to bigger member states when qualified majority voting applies (Bailer 2008; Felsenthal and Machover 1988). Furthermore, the member state holding the Council Presidency arguably benefits from its prerogative of making the first proposal (Tallberg 2003; Warntjen 2008; 2008). Member states can also employ bargaining tactics to strengthen their position and derive disproportionate benefits from a deal. For example, member states can misrepresent their preferences, or make threats and promises to gain concessions. The effect of both threats and promises depends on their credibility. Making them publicly and linking them to your reputation enhances their credibility (Schelling 1960: 35-46). Under some circumstances, member states can also effectively limit the available outcomes in their favour by ‘tying their hands’, for example through a mandate from their national parliament (Bailer and Schneider 2006; Martin 2000; Schelling 1960).

Cooperative Exchange

Rather than focusing on their share of a prospective deal, rational actors could also attempt to increase the value of the deal itself or explore how joint action can be mutually beneficial (Hopmann 1995: 31-2; 1998: Ch. 6; Sebenius 1984: 114-7). Actors share control over the outcome of negotiations but they often differ in the value they accord to different aspects of an outcome. By setting up an exchange, actors can exploit these differences to their mutual benefit (Sebenius 1984: Ch. 5) Actors can directly trade votes on a limited set of issues (specific reciprocity), set up a mechanism by which control over certain areas is exchanged (institutionalized reciprocity) or apply an informal rule which allows mutual concessions for mutual benefit in long-standing relationships (diffuse reciprocity).

The joint control of outcomes is often conceptualized using the notion of resources of control (Coleman 1990). The resources (or capabilities) of EU member states are usually operationalized by reference to its voting power in the Council (Arregui, Stokman et al. 2004; Thomson et al. 2006; van den Bos 1991). However, in principle other sources of influence on the final outcome could be incorporated as well. An actor may exchange his votes on one issue for someone else's votes on another issue that is of more importance to him (Sebenius 1983; Stratmann 1997). Through this process of vote trading (or log-rolling) a decision on a number of issues can be reached even if there is not a sufficient majority for each individual solution. At the aggregate level, vote trading results in larger majorities than expected as actors are voting against their preferences on individual issues (Groseclose and Snyder 1996; Tollison and Willett 1979). Rather than thinking about votes for or against a proposal, one can also think about an exchange of influence with regard to the details of a single decision. This is the basis of the compromise model (Achen 2006; van den Bos 1991). The compromise model predicts that the outcome on each individual issue will reflect the preferences of the actors weighted by their (voting) power and salience. Thus, actors would refrain from using their power in the case of issues in which

they are not interested. And they would grant other actors more influence if those attach more importance to a given issue.

Institutionalized reciprocity refers to situations in which a mechanism is in place that ensures that one side has more influence in one area in exchange for having less in another one. For example, this could explain the procedural privileges of legislative committees (Marshall and Weingast 1988). Jonas Tallberg (2003: 16) has made a similar argument with regard to the rotating Council Presidency: member states grant disproportionate influence to the member state holding the Presidency during their term in office as they will benefit from this once they are at the helm (but see Warntjen 2008b: 206).

In contrast to specific reciprocity in the form of vote trading or log-rolling, diffuse reciprocity does not entail an exchange that is clearly specified in terms of the actions and actors. Rather than making a concession to one negotiation partner in one area conditional on a specific equivalent concession in another area by the same partner, a concession is made in the expectation that there will be a roughly equivalent action to one's benefit by one of the negotiation partners sometime in the future (Keohane 1986: 4; cf. Lepgold and Shambaugh 2002). Diffuse reciprocity allows more mutually beneficial deals being struck than reliance on specific reciprocity alone because it is not constrained by the number of issues being considered at (more or less) the same time. Thus, it can be in the self-interests of states to engage in diffuse reciprocity – even if it implies making sacrifices in the short run - because it is beneficial to all of them individually in the long run (Keohane 1982: 342-3; Keohane 1986: 21-2).¹ Because of the risk of states making concessions which are not being 're-paid' later due to the lack of hierarchy in world politics, diffuse reciprocity is difficult to achieve. It would only occur 'within cooperative international regimes with extensive shared interests' like the European Union (Keohane 1986: 23; see also Achen 2006: 101-3). Specific (or direct) reciprocity can be maintained in repeated interactions because actors can punish deviations from agreements (e.g., to make extra concessions to a government facing domestic pressures) directly. In contrast, diffuse reciprocity relies on an indirect enforcement of agreements. Even utility-maximizing actors can maintain general cooperative

agreements going beyond bilateral deals, however, as long as they have some information about past behavior of other actors and the ‘shadow of the future’ is sufficiently long (Kandori 1992). Reputations are an important mechanism to sustain cooperation. If an actor values future exchanges sufficiently, he will forgo immediate advantages from exploiting a situation (e.g., pressing your position, renegeing on a deal) to keep a positive reputation. Other actors can use the reputation of an actor to infer whether or not they can trust his commitments (Bowles 2004: 238-49; Keohane 1984: 103-6; Kreps 1990: 100-108; Mailath and Samuelson 2006).

Problem-Solving

A problem-solving mode of decision-making refers to a ‘search for better, mutually beneficial solutions to problems that satisfy the needs, identities, and interests of all parties.’ (Hopmann 1995: 542) The focus is not on the distributive consequences of a negotiation, but rather on the creation of value to be distributed (Scharpf 1997: 130-2). Problem-solving can refer to the political problem of finding agreements which are acceptable to all (e.g., Hopmann 1995: 30) or to the technical problem of finding the (in the view of the participants) optimal policy (Scharpf 1997: 130). Problem-solving is assumed to be more likely when interests and/or distributional consequences are uncertain or already settled, actors are engaged in a long-standing relationship and share an understanding of the problem (Scharpf 1997: 252; Joerges and Neyer 1997: 619) A problem-solving mode can be explained by the self-interest of actors in expanding the gains from coordination/cooperation (Hopmann 1998: 88-91) or by reference to deliberative norms (Joerges and Neyer 1997: 620). Rather than perceiving of problem-solving as a separate mode, one can also subsume it under cooperative exchange, norm-guided behavior or deliberation.

Norm-guided Behaviour

Through a process of socialization actors internalize norms which are part of their identity and prescribe appropriate behaviour for certain types of situation. Although norms are socially constructed, actors usually encounter them as a given. Rather than highlighting (strategic) choice as the basis of individual action, norm-guided behaviour points to compliance with social expectations that are taken for granted (Berger and Luckmann 1966; Wendt 1999). Socialization in repeated interaction changes how actors perceive themselves and subsequently they adapt their behaviour to their modified identity. It has often been argued that civil servants in Brussels 'go native' as they interact over a long period of time trying to find solutions acceptable to all (Checkel 2003).

'During the course of this collaboration, delegates not only learn to reduce differences between national legal provisions but also to develop converging definitions of problems and philosophies for their solution. They slowly proceed from being representatives of national interest to being representatives of a Europeanized inter-administrative discourse characterized by mutual learning and an understanding of each other's difficulties in the implementation of specific solutions.' (Joerges and Neyer 1997: 620).

Thus, rather than pushing for the national positions actors in the Council they would try to reconcile different positions to accommodate a common European interest after they have shifted towards a European identity. On a theoretical level we can distinguish between a socialization which affects the identity and subsequently interests of actors and socialization to comply with certain norms of behaviour. Thus, actors might become socialized to defend the common European interest vis-à-vis 'narrow' national interests or to accommodate heterogeneous interests in a process of consensus-building. If actors are being socialized there should be a relationship between the strength of the

(compliance to a) norm and the intensity of interaction (Beyers 2005: 900). Furthermore, actors should adopt norms gradually.

A more nuanced theoretical position than the 'going native' hypothesis postulates multiple layers of identities, which might create conflicting demands on an actor's behaviour. National delegates might feel obliged towards both their colleagues at home and in Brussels (Beyers 2005). Separate norms would be relevant for the member state holding the Council Presidency (Niemann and Mak 2008).

Deliberation

Whereas norm-guided behaviour leads actors to follow norms without making a conscious choice, deliberation establishes through truth-seeking discourse what 'the right thing to do' would be. Actors engaging in deliberation argue about the facts of the case and about which norms are applicable and what they prescribe.

'Arguing implies that actors try to challenge the validity claims inherent in any causal or normative statement and to seek a communicative consensus about their understanding of a situation as well as justifications for the principles and norms guiding their action.' (Risse 2000: 7)

They try to reach a 'reasoned consensus' (Risse 2000: 9) and might change their interests and identities in the process. The power of political clout or bargaining advantages is replaced by the power of the better argument in this mode of decision-making. To be persuasive, arguments cannot be perfectly aligned with one's (perceived) self-interest (imperfection constraint). Furthermore, once made an actor cannot deviate from an impartial argument (consistency constrain) without losing credibility (Elster 1998: 102-4). The literature on deliberative democracy has postulated that arguing elicits a stronger

concern for the common good than pure interest-aggregation achieved through bargaining, although these two are not necessarily linked in practice (Naurin 2007: 13-19).

Drawing upon work in social psychology, Checkel (2003) argues that persuasion is more likely to occur with a novel member of the group who does not have deeply ingrained beliefs running against a new position. Furthermore, persuasion is more effective if arguments are made in a genuine discursive manner by an authoritative member of the group in 'less politicized and more insulated, in-camera settings' (Checkel 2003: 213).

A negotiation can be driven by different modes of decision-making (Hopmann 1998: 93-4). We can conceptualize this as a sequence of negotiation stages, characterized by different decision-making modes. For example, a pre-negotiation stage of cooperative exchange can be followed by distributive bargaining. Deliberation might take place when discussing issues of implementation in a post-negotiation stage. Alternatively, different modes might be at work depending on the context (Lewis 2008). '[A]rguing gives expression to the belief of an actor that he or she can advance his or her interest sufficiently well by justifying, explaining and persuading so as to be able to abstain from the use of threats or promises.' (Neyer 2003: 693) For example, different modes might be at work in different (institutional) settings (Lewis 2008; McKibben 2008; Risse and Kleine 2008). In the context of the Council of the European Union, civil servants meeting in working groups or the group of permanent representatives (COREPER) might engage in cooperative exchange or deliberation whereas ministers might engage in bargaining. We might also observe the logics behind the various modes working at different levels. If deliberation leads to more efficient and effective negotiations (Neyer 2004), then it would be rational to adopt this decision-making mode. Behaviour that seems irrational at some level might be quite rational overall (Tsebelis 1990). Similarly, a rational actor would (at least superficially) adopt a deliberative mode if he would expect an advantage in negotiations from doing so. 'Members internalize the group-community standards because it is a source of social influence in a

process of deliberation – to get what you want you have to play by the rules of the club.’ (Lewis 2008: 178) The interpretation of behaviour as following a ‘logic of consequences’ or a ‘logic of appropriateness’ thus would change according to the level of the analysis.

3. Interpreting the evidence

Despite increased transparency, studies of the Council are still impaired by a lack of data. The first empirical studies de facto put forward probability probes when arguing that a particular mode was relevant for decision-making in the Council (Joerges and Neyer 1997; Lewis 2000). More recently, the literature has developed towards more systematic studies including alternative explanations (Lewis 2003; Lewis 2008; Naurin forthcoming) .

Studies identifying the decision-making mode in the Council face several obstacles. A decision-making mode cannot be observed directly. Studies utilizing interviews of participants have to be aware that statements might be misleading artifacts of the interview situation and have to be carefully interpreted in light of their context and the motivation of the interviewees to avoid drawing wrong conclusions (Berry 2002). Similarly, documents detailing strategic cost-benefit-calculations could suggest rational or rationalizing behaviour. The absence of such documents would not prove the absence of rational behaviour (cf. Lewis 2008: 169). Using several sources of data (‘triangulation’) can partially remedy this situation.

The various models of decision-making have to be further substantiated (‘thickened’) to derive testable hypotheses. For example, studying habitual norm compliance requires hypothesizing a specific norm. Norms can relate to identity and interest of the negotiation partners (e.g., national delegate), the conduct of negotiations (e.g., inclusiveness and equality), the goal of negotiations (e.g., sustainable policy) or properties of the negotiation outcomes (e.g., fairness). Several norms might be relevant, potentially pushing behaviour and outcomes in different directions.

Finally, different modes might predict the same or very similar results (observational equivalence). Hence the same evidence could be used in support of different models (Lewis 2008: 168; Moravcsik 2001). For example, figure 1 depicts a situation in which member states have different views on a topic which can be represented in a unidimensional policy space (e.g., in terms of more-less regulation or more-less Europe). For simplicity's sake, assume that there are seven member states (1... 7) with equal voting power that decide by simple majority. Furthermore, assume that they all prefer outcomes in the depicted range to the status quo. The numbers below the unidimensional model refer to the importance each actor attaches to the issue (salience). There are three groups of member states: a majority (2, 3, 4, and 5) has a relatively moderate position, two member states have more extremist views (6, 7), and one member state occupies an isolated position. The moderate group forms a majority and could decide by themselves. However, member state 1 has a much stronger interest in the topic than all the other member states. In this example, the rational choice compromise model (explained above) would predict that the outcome lies between the moderate group and member state 1 at CM. But this could also be interpreted as the outcome due to the 'culture of consensus' in a constructivist vein. Rather than simply outvoting member state 1, the other member states take its position into account. However, the same could be said for an outcome where the moderate majority accommodates the interests of the more extremist member states to the right (e.g., an outcome between member states 5 and 6). Similarly, an outcome at the ideal point of member state 2 is already more accommodating to the views of member state 1 than an outcome in the middle of the moderate group. To test whether decision outcomes in the Council are due to compliance with a norm or in line with rationalist exchange models we need to specify which norm is relevant and what it would predict. Furthermore, a test might be inconclusive due to observational equivalence. To overcome the latter issue we could increase the number of observable implications (cf. King, Keohane et al. 1994: Ch. 6) by studying both the decision outcome and the process leading to it (e.g. Lewis 2003).

In the following, I discuss the evidence put forward in studies of the decision-making mode in the Council and its interpretation (see also Elgström and Jönsson 2000; Hayes-Renshaw and Wallace 2006: Ch. 11; Lewis 2003; Lewis 2008). I will argue that the evidence is often ultimately inconclusive and can be interpreted in different ways.

Socialization

Socialization can be identified indirectly by its effect on actors' behaviour or (more) directly through a process of norm internalization. Socialization into a norm of consensus-seeking should lead to a prominence of deliberative decision styles.

Socialization should be observed as new-comers start adopting their behaviour to the group's norms. For example, Sweden initially voted very often against proposals in the Council although explicit 'no' votes are rare in the Council. Its move to a less 'obstructionist' voting behaviour later can be interpreted as a process of learning and internalization of the Council's 'culture of consensus' (Lewis 2008: 176-8). Alternatively, it could potentially be explained by domestic factors. Furthermore, Sweden's change of behaviour is the exception (Mattila and Lane 2001) although a socialization effect should be relevant for all newcomers (cf. Mattila 2008: 28). Indeed, the new member states after the 2004 enlargement did change their behaviour in terms of contesting Council decisions. However, the pattern is opposite to the one exhibited by Sweden as they started to contest more rather than less decisions in their second and third year of EU membership (Hagemann and De Clerck-Sachsse 2007: 4).

Interviews of Swedish civil servants who participate in Council negotiations point to the presence of both bargaining and problem-solving decision styles in the Council (Elgström and Jönsson 2000: 689). This indicates that there is no strong socialization into a norm of consensus-seeking but also refutes a characterization of Council negotiations as pure intergovernmental bargaining. A study of Belgian civil servants also points towards national representatives subscribing to views in line with a role as

governmental delegates ('intergovernmental role-playing') and a European consensus-seeker ('supranational role-playing'). However, there is no clear association between more involvement or a higher level of contacts and a stronger supranational orientation (Beyers 2005). For COREPER, participants report a strong informal rule of 'diffuse reciprocity' (Lewis 2000: 268). This can be interpreted either as an effect of European socialization or as an expression of a general mechanism of exchange in EU decision-making which is adopted by rational actors (cf. Lewis 2008: 169).

Consensual decision-making

Decision-making in the Council is characterized by the lack of formal decision-making and negative votes (Hagemann 2008; Hayes-Renshaw et al. 2006; Heisenberg 2005; Mattila 2008; Mattila and Lane 2001). The voting behaviour of ministers in the Council cannot always be explained by their preferences on the issue(s) at hand (König and Junge 2008: 93). Case studies and (former) practitioners report that civil servants in the Council try to accommodate the interests of other member states (Bostock 2002; Elgström and Jönsson 2000; Lewis 2005). Consensual decision-making can be explained through a norm prescribing consensual/ deliberative behaviour or as a consequence of a rational use of exchange mechanisms like the compromise model, as shown in the example above. Actors would also vote against their (immediate) preferences if they engage in vote trading which would explain the absence of negative votes despite heterogeneous preferences (Mattila and Lane 2001). Oversized majorities and the search for consensus can also be explained by the repeated interaction of rational actors in a pattern of generalized exchange. 'For purely instrumental reasons, it makes sense not to simply outvote isolated or minority positions when you could find yourself in the same position next week.' (Lewis 2003: 108). Similarly, we would expect oversized majorities if the member states have a vested interest in policy coordination at the EU level (Achen 2006). The interpretation of the lack of negative votes also depends on assumptions with regard to the Commission's proposal and the distribution of preferences in the Council (König and Junge 2008).

Explanation and justification of positions

Models of deliberation would predict that actors argue over factual claims and the applicability of shared norms and hence would justify their positions. Indeed, this behaviour has been reported as characterizing decision-making in the Council (Lewis 2000, 2003; Bostock 2002). A rational actor with a limited time horizon would only lay out his position in order to build a sufficient majority. If engaged in a long-standing relationship however, a rational actor might justify his position to increase his reputation and/or to provide information relevant for future negotiations (cf. Lewis 2008: 174-6). An explanation of a position can also serve to signal commitment and the salience associated with an issue and thus is not necessarily part of an arguing mode (Naurin forthcoming). Public position-taking can also be employed as a tactic in distributive bargaining (Schelling 1960: 36-7).

4. Conclusion

The general literature on decision-making and negotiation analysis has put forward several typologies of decision-making modes. The debate can be grounded in the theoretical frameworks of rational choice and constructivism. We can theoretically distinguish between distributive bargaining, cooperative exchange, norm-guided behaviour and deliberation. Several empirical studies have scrutinized decision-making at various levels in the Council (working groups, COREPER, ministerial meetings) using interviews, case studies and statistical data on roll-call votes. They suggest that both deliberative discourse and an integrative or problem-solving style are present at the meetings of civil servants, but also point to the occurrence of distributive bargaining. The lack of formal and negative votes has been interpreted as compliance to a norm of consensus. However, it could also be a consequence of a generalized cooperative exchange. Thus, the empirical literature is so far inconclusive. Indeed, several modes of decision-making can be in effect at various stages or in different

settings of the decision-making procedure. Furthermore, in terms of the general debate between rational choice and constructivism, studies of EU decision-making might remain inconclusive because the interpretation depends on the perspective and level of the analysis. When an actor's strategic behaviour (e.g., pressing for his own position) is greeted with outrage and/or subsequent isolation, the analyst can point to the working of a norm (e.g., consensual decision-making) in a constructivist vein or the enforcement of informal rules through sanctions and the calculated risk of norm violation in a rational choice vein. Furthermore, behaviour that seems irrational (i.e., not based on specific cost-benefit calculations) at one level might be rational at another (e.g., taking a longer time horizon). To advance the study of decision-making modes in the Council we will need to be more specific with regard to the differences between the various modes by increasing the number of observable implications (e.g., studying both outcome and process) and developing more specific predictions (e.g., what does 'consensus' imply for decision outcomes?). Furthermore, on a theoretical level we need to develop theories on how the different modes might interact in various settings. Empirically, we need to move from plausibility probes to comprehensive tests of competing hypotheses and utilize a wider range of sources to cross-validate findings.

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Acknowledgement:

Previous versions have been presented at the workshop ‘Negotiation Theory and the EU: The State of the Art’ at University College Dublin in November 2008 and at the 11th Biennial Conference of the European Union Studies Association, Los Angeles, April 2009. I am grateful for helpful comments by the editors, Diana Panke, Henk van der Kolk, Rory Costello, conference participants and two anonymous reviewers.

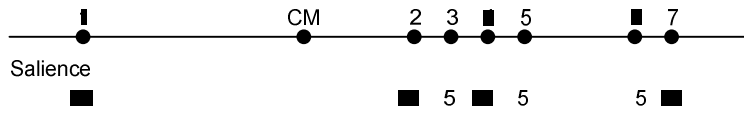
Notes

¹Keohane (1986) is referring to both rationalist and non-rationalist explanations of diffuse reciprocity in the literature on social exchange. In this section, I am only relying on the rationalist arguments put forward by him.

Table 1: Modes of Decision-Making in the Council of the European Union

	Bargaining	Exchange	Problem-solving	Norm-guided Behavior	Deliberation
Theoretical Framework (Standard) Assumptions	Rational Choice	Rational Choice	Rational Choice or Constructivism	Constructivism	Constructivism
Actor motivation	Utility maximization Exogenous preferences	Utility maximization Exogenous preferences	Utility maximization or norm compliance	Norm compliance Endogenous preferences	Norm compliance Endogenous preferences
Setting	(Typically) one-shot game	Repeated interaction			
Mechanism(s)	‘Power politics’ Threats/Promises	Specific reciprocity (Issue-linkage/vote trading) Institutionalized exchange Diffuse reciprocity/ generalized exchange	Search for alternatives that are better for all negotiation partners	Socialization	Arguing/Persuasion
Predictions					
Process	‘Power politics’ Threats/Promises	Search for issue-linkages and feasible package deals Taking relative salience of issues into account	Search for alternatives that are mutually bene- ficial beyond current proposals	Internationalization of group norms Compliance with group norms	Attempts of convincing other members References to shared norms
Outcomes	Coalition building (depends on utility functions) Reflects preferences distribution Lowest-common denominator Reflecting power of member states	Reflecting preferences and salience Oversized majorities possible	Extension of bargaining space	Reflect shared norms and common understanding of situation	Reflect shared norms and common understanding of situation

█: Observational equivalence – █
█



█, █, █ = █; CM = █

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