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procedure

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Abstract

There are broader democratic implications in whether legislative deals are concluded between the European Parliament and the Council of Ministers in the co-decision procedure at first reading, as the potential of different interests within the legislative bodies to affect the outcomes varies considerably between this and the later reading stages. This paper therefore examines the extent to which six different explanations can account for early agreement and uses a dataset with all procedures that had their first reading in the first five years after the entry into force of the Amsterdam Treaty. The key conclusion is that factors that the institutions themselves attached importance to before the Amsterdam Treaty entered into force, such as workload and the character of the file, do not have explanatory power, whereas others, such as how close a working relationship exists between the co-legislators, the size of the file negotiated, and whether it is a new act do. Moreover, the paper adds to existing evidence of the relevance of party politics within the institutions by demonstrating that party interests also play a role across them. The chance of early conclusion increases if the negotiators from the Council and the European Parliament come from the same party family.

Keywords

Co-decision, bicameral bargaining, early agreement, European Parliament, Council of Ministers, Presidency, rapporteur, party politics.

Early conclusion in the co-decision legislative procedure

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European institutions have gradually been delegated more and more responsibility since the European Community was established. This has increasingly led the European Union (EU) to function as a domestic political system that produces legislation that significantly impacts the daily lives of millions of Europeans. An important stage in this process was the introduction of the so-called co-decision legislative procedure. The current draft Treaty will further extend the scope of this procedure just as every new treaty has done since Maastricht and co-decision will become the “ordinary legislative procedure”, with significant but limited exceptions.

These developments have spawned EU literature on legislative politics which, despite providing important insights, still has gaps. Importantly, although the actual co-decision process may consist of several legislative readings, it is somewhat surprising that the vast majority of literature has examined it as though it were a one-shot affair. One of the principal reasons for this may be its heavy reliance on game-theory, by which the logic of backwards induction states that the stage at which conclusion is achieved is unimportant. The argument is that actors will never be willing to settle for less at an earlier stage than they could get if the process continued until the very end, which means that it is the rules at the final stage that count, whether or not this stage is actually arrived at in practice. In fact, conclusion at second and third reading is a somewhat puzzling outcome in the ambit of most of these game-theoretical models,

which do not envisage the policy process getting any further than the first reading. This, however, is based on an ideal situation with full information, no transaction costs of bargaining, fixed preferences etc., which rarely occurs in the real world of bargaining where a substantial share of negotiations are concluded at the second or third reading. The purpose of this study is therefore to examine the conditions under which early conclusion takes place in the co-decision procedure. This is not just an interesting study *per se*. Hence, recent literature has argued that the stage at which conclusion takes place is by no means a triviality, but instead has broader implications on democracy because the potential for different interests within the legislative bodies to affect the legislative outcomes varies considerably between the first reading to the other legislative stages (Farrell and Héritier 2004).

Here I scrutinize six different explanations of early conclusion and use data of all the files that had their first reading in the first five years after the entry into force of the Amsterdam Treaty, i.e. from 1 May 1999 to 30 April 2004. My key conclusion is that contrary to what the institutions themselves expected before the Amsterdam Treaty the point at which conclusion takes place is not primarily a question of the character of the file, nor is it related to the workload of the legislators. The main factors are instead how close a working relationship exists between the co-legislators, the size of the file negotiated, whether it is a new act and whether the negotiators from the Council and the European Parliament (EP) come from the same party family. In particular the latter is interesting. Independently of the other factors, therefore, it is easier for the co-legislators to reach agreement at first reading if there is political coherence between the key negotiators who reconcile the deals, i.e. the EP rapporteur and the Council presidency. This article thus adds to existing evidence of the relevance of party politics within the institutions by demonstrating that party interests also play a role across them. Party politics across the institutions can flourish at first reading, where the parliamentary rapporteur can take advantage of having a relatively broad scope to enter into compromises on behalf of the EP that fit his/her preferences, whereas his/her room for manoeuvre generally diminishes as the legislative process moves along. The Council presidency also has an incentive to take advantage of any political coherence between it and the EP rapporteur and conclude early to obtain a result within the relatively short duration of the six-month presidency.

The analysis proceeds in three stages. Firstly, I provide a little more background on the co-decision legislative procedure and existing literature. Secondly, I present six different explanations of early conclusion and, thirdly, I test these different explanations empirically after a discussion of data and methodology.

Co-decision and its key actors

As mentioned above, the co-decision legislative procedure was introduced with the Maastricht Treaty, and it effectively made the EP a co-legislator to the Council in a variety of legislative areas by requiring that the Council and the EP jointly agree on the legislative compromises. The Amsterdam Treaty made it possible for legislators to conclude as early as the first reading, meaning that today agreement can be reached at the first, second or third reading. Legislation is agreed at first reading if the Council accepts the Commission's original proposal with any amendments that the EP might have tabled. It is agreed at second reading if the Council accepts the EP's second reading amendments to its common position, or if the EP has not amended the common

position. Or, it is accepted at third reading if, after a successful conciliation between an equal number of representatives from the Council and the EP, the compromise text gets approved in both legislative bodies.

Table 1 shows data from the conciliation secretariat of the EP of all the completed files in the first five years after the entry into force of the Amsterdam Treaty in May 1999. It shows that both the EP and the Council have devoted considerable energy to concluding co-decision procedures as early as possible in the procedure. 28.54 per cent of the dossiers were concluded at first reading and 49.63 per cent at second reading. This only left 21.84 per cent of the files to be completed after conciliation. Moreover, there has been a clear increase over the years in the number of files concluded at first reading, whereas the number concluded at third reading has dropped.

Table 1. Conclusion stage of completed procedures

	Total co-decisions	Dossiers concluded at 1st reading		Dossiers concluded at 2nd reading		Dossiers concluded at 3rd reading	
		Number	Per cent	Number	Per cent	Number	Per cent
Entire period	403	115	28.54	200	49.63	88	21.84
1999-2000	68	13	19.12	39	57.35	16	23.53
2000-2001	67	19	28.36	28	41.79	20	29.85
2001-2002	76	18	23.68	37	48.68	21	27.63
2002-2003	87	24	27.59	48	55.17	15	17.24
2003-2004	105	41	39.05	48	45.71	16	15.24

Source: Conciliation secretariat of the Parliament

This means that shortly after the Amsterdam Treaty came into force, and despite Shackleton's prediction that "it is unlikely that the possibility provided under the new Treaty of reaching agreement at first reading without the Council having to adopt a common position will be used on a widespread basis" (2000: 341), almost as many pieces of legislation were being agreed at first reading as at second by the end of the 1999-2004 parliamentary term.

The most important negotiator in the Council at all stages of the legislative procedure is the presidency, the member state which for its given six-month term runs the Council meetings and represents it vis-à-vis third parties. Under co-decision, the most important figure within the EP is the so-called rapporteur, i.e. a member from the committee responsible for the piece of legislation who takes charge of negotiations both inside the EP and between the EP and the Council. He/she is in charge of drafting the EP's report at every stage of the procedure and is selected on the basis of a negotiating process inside the political groups and between the political group coordinators within the responsible standing committee.

Broadly speaking, the literature of co-decision can be divided into three main categories: the first looks at the functioning and development of the procedure (see for example Earnshaw and Judge 1995, Boyron 1996, Garman and Hilditch 1998, and Shackleton 2000). The second, and by far the largest group of studies, looks at the relative influence of the various EU institutions (EP, Council and Commission) in one or more legislative procedures, and consists of largely game-theoretical studies (see for example Steunenberg 1994, Tsebelis 1997; Moser 1997, Scully 1997, Tsebelis and Garrett 1997 and 2000; Crombez 1997 and 2001, and Napel and Widgren 2003) but also

some other studies (see for example Kreppel 2002, Rasmussen 2003, Burns 2004, 2005 and 2006, and König et al. 2007). Finally, a third group of studies adopts a broader focus by discussing, for example, democratic questions relating to the functioning of the procedure (Shackleton and Raunio 2003; Farrell and Heritier 2003a), how the procedure has served as a laboratory for future treaty changes (Farrell and Heritier 2003b), and the relative power in the procedure of actors within the legislative bodies such as EP rapporteurs, Council presidencies, and EP and Council conciliation delegates (see for example Farrell and Heritier 2004; Rasmussen 2005 and 2008). None of these, however, have set out to explain the conditions under which the Council and the EP conclude negotiations early. Farrell and Héritier (2004) have pointed out how the presidency and the rapporteur can benefit from making early agreements because they are less subject to control from their parent bodies and public scrutiny. However, as data shows, there is a variation as to when the files are concluded which cannot be explained merely by a general wish on the part of the key negotiators to conclude early. Hence, there is a need to examine the factors that enable these key negotiators to successfully conclude early.

What explains whether conclusion takes place early? - Six possible explanations

To single out the factors, I use the existing literature of EU legislative politics and a number of remarks put forward in official documents prior to the entry into force of the Amsterdam Treaty regarding the conditions under which early conclusion might take place.

The increased tendency to conclude early in the legislative process might be the result of the increased workload after Amsterdam as a result of the expansion in the scope of the procedure and the consequent increase in co-decision files each year. On conciliation, a Commission report explains “Since Maastricht, this has led to a range of 10-20 conciliations per year. Under Amsterdam, this is likely to increase to at least 20-30 per year. Given that each conciliation procedure can generate anything from 10-60 meetings of all kinds... the increase in workload for all concerned will be considerable” (Commission 1999b: 6). Faced with such an increase of work, the legislators are likely to be more eager to conclude early in order to save as much time and energy as possible. For example, the EP report on the future changes in co-decision states “The possibility of conclusion at the first reading stage ...could have the significant advantages of reducing the number of second readings, saving time and effort in all the EU institutions, and generally accelerating and simplifying the EU legislative process” (1998: 11)¹. Indeed the institutions have even gone as far as to state in their joint declaration on the practical arrangement of the procedure that “the institutions shall cooperate in good faith with a view to reconciling their positions as far as possible so that whenever possible acts can be adopted at first reading” (Council et al. 1999). Finally, secondary literature also contains an expectation that early conclusion will take place to minimize workload. For example, Maurer explains how “Given the enlarged scope of the legal bases where co-decision applies, the possibility of conclusion after the first reading may lead to considerable time savings” (2003: 228). Moreover, Corbett et al. have explained that “The sheer volume of co-decision procedures under Amsterdam means that both institutions have an important interest in not allowing all disagreements to spill over into the conciliation process” (2005: 208). Hence, the higher the workload, the higher the chance that the EP and the Council conclude early.

¹ See also Commission 1999b, p. 13 / 8.

Moreover, the scope for conflict on a file might also help explain when conclusion is likely to be reached. First, the size of the file might matter. All other things being equal, there is greater scope for disagreement on a large file than on a small one. In addition, if the legislators are dealing with a very large file with many issues, it can be expected to take longer for them to reconcile the issues than if the file is smaller. Whether the legislators are discussing an amendment to an existing act or a completely new one is also likely to affect the scope of conflict. All things being equal the scope for disagreement might be greater in the latter case.

The character of a file, i.e. its degree of technicality and political salience might also have an effect on its early conclusion. Reaching a conclusion at first reading was originally intended to enable technical and relatively uncontroversial political files to get through the policy process quickly, the idea being that legislators would prefer to resolve technical files early on so as to dedicate more readings to other types. For example, the Commission stated that “a special effort to conclude at first reading is desirable for the more technical and non-conflictual or politically urgent dossiers” (Communication 1999b: 11). The distinction between technical and non-technical files is also reflected in the Commission’s own co-decision guide which states that “Commission representatives should be encouraged to use the possibility of concluding the procedure at first reading in the case of technical and non-contentious dossiers”, but also that “it is not advisable to pursue this objective without due consideration in the case of dossiers that are more sensitive (particularly in budgetary and institutional terms)” (1999a: 8-9)². This argumentation would lead to the expectation that technical files be concluded earlier than non-technical ones and that, conversely, politically salient files be concluded later than those which are not. I test the two dimensions separately because there is not necessarily a trade-off between technicality and political salience. For example, the major liberalization programmes adopted in conciliation have been both technical/regulatory and highly salient politically, which means that the distinction between technical and politically salient files, which is often put forward in documents from the institutions, may not hold in practice.

In addition, the EP and the Council’s possibility of concluding early may depend on whether they are successful in creating a close working relationship that stimulates early agreements between them. Rational institutionalism tells us that formal and informal institutions might solve problems among decision-makers on collective action by creating a stable framework for their interaction (see e.g. Weingast and Marshall 1988). If the EU institutions managed to agree on some standard operating procedures by establishing a shared understanding of how the legislative reconciliation process should be addressed, one would expect a heightened possibility of early conclusion. A report from the EP makes this link clear by saying that “Contacts between Parliament and the Council now begin at an early stage, and application of the co-decision procedure as revised by the Treaty of Amsterdam, enabling it to be completed at first reading, will further encourage the process and affect the way the institutions behave” (1999: 12). Furthermore, a report from 2000 states “The Joint declaration goes on to express the desire that, wherever possible, acts are adopted at first reading. In order to achieve this, the institutions must establish appropriate contacts in order to monitor the progress of the work and analyze the degree of convergence” (2000: 12). Hence, the

² See also speech by Margot Walström at the co-decision seminar on 6/7 November 2000, and Commission 1999c, p. 28-29.

closer the working relationship between the legislative bodies, the more likely they are to conclude early in the legislative process.

Moreover, political coherence between the rapporteur and the presidency is likely to matter. As already mentioned, it is not the Council together with the EP as a whole that conducts negotiations in co-decision. Most negotiation is done informally by the Council presidency and the EP rapporteur. We know that even though the EU is a union of states, actors unite in partisan coalitions within the institutions along a left-right dimension. This is not just the case within the EP (Hix et al. 2007), but has also recently been shown within the Council (Hagemann 2007). Here, I wish to examine whether such partisan alignment can also be shown to matter across the institutions. Hence, whether the Council and the EP manage to find the necessary compromises is likely to depend on the level of mutual trust, political understanding etc. between their key negotiators, which might be higher if they come from the same party family. Moreover, if the success of a party depends on demonstrating results to the voters in line with party preferences, a presidency and EP rapporteur from similar parties are likely to take advantage of the political coherence between them at a given stage and conclude the file instead of keeping it in the deliberation process. Hence, one would expect a greater likelihood of concluding early if the rapporteur and the presidency come from the same party family. These key negotiators are not there to represent themselves, but the opinion of their bodies, which of course means that they have to take care to make deals that their legislative bodies will subsequently accept. At the same time, they still have a certain room for manoeuvre, especially at first reading where their work is subject to few institutional constraints. At this stage there are still no established institutional positions to defend, nor are there any restrictions on the types of amendments that the EP can introduce to the Commission's proposal. This is a difference in the second reading, where key negotiators have to defend the official positions of their institutions, and there is less scope for EP amendments³ which have to be adopted in the EP plenary with not just the simple majority required for the first reading but an absolute one (EU Treaty, article 251). It also different from the third reading, where the constraints are even more severe. The scope for negotiation is explicitly limited to the second reading amendment made to the Council's common position by the EP, and during the conciliation negotiations key negotiators regularly have to report back to and obtain mandates from their conciliation delegations (Rasmussen 2005).

Data and measurement

A summary of hypotheses, and how the variables were operationalized can be found in table 2. To test the hypotheses, I collected a dataset from information in the legislative observatory of the EP in the end of August 2007 with the 487 co-decision files which had had their first reading in the first five years after the entry into force of the Amsterdam Treaty, i.e. from 1 May 1999 to 30 April 2004⁴. The analysis is

³ The EP rules of procedure only allow amendments which seek wholly or in part to restore the position adopted by Parliament at first reading; or to reach a compromise between the Council and Parliament; or to amend a part of the common position, which was not included in – or differs from – the proposal submitted in first reading and which does not amount to a substantial change to take account of a new fact or legal situation since first reading.

⁴ The number of files is different from table 1, which included completed files within the period analyzed here irrespective of whether their first reading also fell within this period. In order to avoid selection bias,

conducted by performing a logistic regression, which examines the decision whether to conclude at first reading. The total number of files included in the analysis is 380. Hence, 30 files were excluded because it was not yet clear when they would be adopted or they had been withdrawn, and another 77 were excluded because they were reconfirmations of first readings in the previous EP term. Hence, the negotiations on the reconfirmed files were struck before the fifth EP term and so cannot be expected to be influenced by factors linked to this term⁵.

Table 2. Summary of hypotheses and definition of the variables

Hypotheses	Variable	Effect	Operational definition
1	Workload	The greater the amount of work the legislators are faced with, the more likely they are to conclude early	Number of co-decision files completed during presidency at first/second reading
2	Scope of conflict	The greater the scope of conflict on a file the less likely it is to be concluded early	Word length/1000 New act or not Ideological distance between the national parties of the rapporteur and presidency
3	Technicality	The more technical the file the more likely it is to be concluded early	Character of committee jurisdiction (regulatory, distributive, other)
4	Political salience	The more politically salient the file the less likely it is to be concluded early	Budget negotiations between the co-legislators Number of EP committees consulted
5	Working relationship	The closer the working relationship between the legislative bodies, the more likely they are to conclude early	Calendar year of first/second reading
6	Party politics	If the presidency and rapporteur come from the same party family, conclusion is likely to take place earlier	Is the main governing party in the country holding the presidency at first/second reading member of the EP party group of the rapporteur (yes/no)

The independent variables are measured in the following way. Firstly, the number of co-decision files concluded at the different legislative stages within the presidency when the first/second reading took place is seen as an indicator of the workload of the institutions. Hence each procedure puts a considerable amount of work on the institutions, and the more they have to get through the greater incentive they might have to conclude early to minimize workload. Secondly, the scope for conflict on a file is measured by three indicators. Word length accounts for size, the argument being that the longer a file is the more substance there is for legislators to negotiate about⁶. In

my sample instead includes all the files that had their first reading in the period irrespective of whether they were concluded or not within the period.

⁵ It should be noted, however, that even if these reconfirmed files are included, the results are largely identical and the final model would be the same.

⁶ Word length is divided by 1000 because it is not each individual word that decreases the likelihood of concluding at either first or second reading compared to moving on to the next stage, but rather a certain amount of words that make the difference.

addition, I check whether the co-legislators are debating a whole new file or merely amending an existing one, arguing that the scope for conflict is likely to be higher in the former case rather than in the latter. Moreover, I use another measure of the scope for conflict, i.e. the numerical ideological distance between the rapporteur and the main governing party of the country holding the presidency. Hence, as mentioned these are the key people negotiating the file on behalf of the Council and EP and, all other things being equal, the scope for conflict should be higher if they are at opposite ends of an ideological scale. To measure their policy positions, I use the ideological position of their national party on a left/right policy scale from a expert survey conducted by Benoit and Laver (forthcoming) in collaboration with specialists on the politics of the country concerned⁷.

Thirdly, to measure technicality I look at whether the jurisdiction of the responsible committee of the EP was regulatory, distributive or neither of the two. Hence, following Broscheid and Coen (2006), I argue that regulatory policy areas possess certain characteristics that make them more technical than distributive. Files originating from the EP committees on agriculture, budgets, culture, development, employment, fisheries and regional policy are coded as distributive, those from the committees on economics and monetary affairs, the environment, industry, legal affairs and women's rights as regulatory, and those from citizens freedoms and rights, constitutional affairs, budgetary control, foreign affairs and petitions as other. Fourthly, political salience is measured by two indicators, the first being whether the file in question involved budget negotiations – budgetary files often attract a considerable degree of political attention. I have coded them as budgetary if the first and second reading amendments of the Parliament contained changes to euro figures. Moreover, the more EP committees that are involved - apart from the one responsible - the more politically salient the file is deemed as being. Hence, files on which several committees are consulted often involve a range of different issue interests and attract considerable political attention.

Fifthly, the working relationship between the Council and the EP is measured by the year when the first/second reading took place. Empirical evidence suggests that the working relationship between the Council and the EP has gradually improved over the years. For example, a Council official involved in the coordination of co-decision writes, “since July 1999, a gradual and steady improvement has been observed in the spirit of cooperation between the main participants and in the methods of reaching agreement between the European Parliament and the Council” (Cortes 2000: 2). Numerous other sources explain how an increasingly closer working relationship has developed over the years between the Council and the EP, often to the disadvantage of the Commission (see e.g. Shackleton 2004). The year is a challenging variable to include in an equation since it captures everything that has developed over time. However, the official sources give strong indications that one of the key developments over time has in fact been the deeper working relationship between the institutions. Alternatively, the working relationship between the institutions could be measured using data on the contacts between them concerning a file, or using data on how the key actors involved perceived their relationship to the other institution. However, such data only exists in anecdotal form and for specific cases.

⁷ The typical expert in the survey was an academic specializing in political parties and electoral politics of his or her country. In the survey, the respondents were asked to do the following: Please locate each party on a general left-right dimension, taking all aspects of party politics into account. Left (1) Right (20).

Finally, the political coherence between the EP rapporteur and the Council presidency is measured by whether the main governing party of the country holding the presidency at the first reading stage belongs to the same EP party group as the EP rapporteur. For example, during the Danish presidency, the main governing party was Venstre, which belonged to the ELDR group in the EP. If a file was at first/second reading during the Danish presidency, the file would thus score “1” if the rapporteur was from the ELDR group and “0” if not.

First reading conclusion

The results of the logistic regression are shown in table 3. Workload has the expected sign. Each additional co-decision procedure that was completed within the half year that the first reading took place in multiplies the odds of concluding at this stage by 1.009. However, the relationship is not significant. So, even if there are numerous sources that indicate how each co-decision procedure puts a considerable workload on the co-legislators by being very time-consuming, there is no straightforward relationship between the number of completed procedures in a given half year and when conclusion takes place.

The size of a file is, instead, significant below the level of 0.05. The larger the final act, the less likely it was to be concluded at first reading. Moreover, the issue of whether the legislators were negotiating a new act or modifying an existing one has an effect on their chances of concluding at the first reading stage. There is a very clear trend that makes them less likely to conclude early if they are negotiating a new act. By contrast, the third measure regarding scope for conflict that was included did not show the expected effect, i.e. contrary to what would be expected, as the ideological distance between the rapporteur and presidency increased, so did their chance of concluding early, albeit with an insignificant effect. One reason for the absence of a straightforward relationship between the ideological distance in the policy positions of the national parties of the rapporteur and the presidency might be that it is not necessarily correlated with the policy distances between the positions of the EP and the Council as a whole. It would therefore be perfectly feasible for there to be many disagreements between the EP and the Council, even in a case where the policy positions of the parties of the rapporteur and main governing party of the presidency are identical.

As regards the character of the files, technicality does not matter; whether a file originates from a regulatory or distributive policy area seems to have less bearing on when it is concluded. Neither is what emerges on political salience in line with expectations. Firstly, it can be seen that files which involved budget negotiations are in fact less likely to be concluded at first reading than the remaining files, but the effect is not significant. Instead the second indicator of political salience, i.e. how many EP committees were consulted, is significant but the relationship is the opposite of what would be expected. Indeed, what emerges is that with each additional EP committee consulted on a given file, the chance of concluding at the first reading stage increases. In short, none of the indicators measuring technicality and political salience have explanatory power except one, and its effect was the opposite of what was expected.

Table 3. Logistic regression first reading

		Model 1		Model 2		Model 3	
		<i>B (SE)</i>	<i>exp b</i>	<i>B (SE)</i>	<i>exp b</i>	<i>B (SE)</i>	<i>exp b</i>
Workload	Completed procedures half year	0.009 (0.014)	1.009				
Scope of conflict	Word length	-0.053*** (0.020)	0.949	-0.061*** (0.020)	0.941	-0.046** (0.018)	0.955
	New act	-1.034*** (0.322)	0.356	-0.767*** (0.271)	0.464	-0.564** (0.258)	0.569
	Ideological distance between rapporteur and presidency	0.052 (0.058)	1.053				
Technicality	EP committee area (ref. regulatory)						
	Distributive	-0.346 (0.331)	0.708				
	Other	0.189 (0.783)	1.208				
Political salience	Budget negotiations	-0.365 (0.433)	0.694				
	Number of consulted committees	0.492*** (0.135)	1.636	0.417*** (0.105)	1.517		
Working relationship	Calendar year	0.509*** (0.193)	1.664	0.493*** (0.096)	1.638	0.479*** (0.092)	1.614
Party politics	Main party presidency						
	0=no coherence						
	1=political coherence	0.706* (0.393)	2.026	0.771*** (0.291)	2.162	0.677** (0.284)	1.967
Constant		-3.493*** (0.773)		-2.814*** (0.479)		-2.251*** (0.433)	
Cox and Snell R ²		0.208		0.170		0.128	
Nagelkerke R ²		0.287		0.234		0.176	
Model Chi-square		63.622***		63.540***		46.729***	
N		273		342		342	

Significance levels: *=0.10, **=0.05, ***=0.01

These findings might in part be due to the difficulty in measuring political salience and technicality. For example, I use the character of the policy domain to assess technicality, but there is always the possibility of doubt, even within a policy domain, as to whether files are regulatory or distributive. However, neither do other sources from the period enable a prediction to be made as to when a file will be concluded based on

its character. A report from the EP states “As regards, more particularly, agreements at first reading, the lists of such agreements includes many technical dossiers or procedures relating to consolidation. However, there are also other cases, which have definite political significance” and concludes later “An analysis of cases in the past year indicates that there is no guiding principle which leads in a foreseeable way to the conciliteion stage.” (EP 2000: 9/15). Moreover, Farrell and H eritier explain that “originally, the early agreement procedure was intended for noncontroversial dossiers, where there was little likelihood of substantial disagreement between Parliament and Council....However, it has increasingly been expanded to non-technical and politically salient dossiers which have some degree of urgency” (2003: 24)⁸. Working relationship is significant below the 0.05 level, and the sign is as expected. As the working relationship has become increasingly closer over the years, the tendency to conclude at first reading has increased. Finally, party politics matter. As expected, political coherence between the rapporteur and the presidency increases the likelihood that conclusion occurs at first reading. The effect is quite strong even if the variable is only significant below a 0.10 level.

To increase efficiency, I now rerun the regression with the five predictors, which were significant below the 0.10 level in a second step. In model two, they all become significant below a 0.01 significance level and have similar effects to those already discussed. Moreover, the R2 parameters (Cox and Snell and Nagelkerke) do not drop much. However, the number of consultative committees still has the opposite effect to that originally expected and for each additional committee consulted the odds of concluding at first reading increase. So higher political salience is not necessarily a hindrance for first reading conclusion. Because of the unexpected effect I drop this variable in the third and final version of the model, which shows that the best factors for predicting whether a file is likely to be concluded early are whether the rapporteur and the presidency come from the same party family, how large the file in question is, whether it is a new act, and how close the working relationship is between the co-legislators. As the latter has improved over the years, so have the chances of concluding early. As mentioned, one has to be careful using the calendar year as an indicator because it basically captures everything that has developed over time. However, as mentioned, there is a strong indication in literature that an intensification of the working relationship between the EP and the Council is one of the key developments that have occurred in the period examined. Moreover, that the development of an increasingly closer working relationship between the EP and the Council over the years has had a major effect on the chances of early conclusion is borne out in official sources from the institutions themselves. A report from the EP’s conciliation secretariat explains how “there is a tendency to conclude the legislative process at first or second reading, above all as a result of a willingness on the part of the institutions concerned to intensify their dialogue and their contacts during the legislative procedure” (EP 2003: 37). In addition, the EP states in its own conciliation guide “This evolution [towards earlier conclusion] demonstrates the flexibility of the procedure itself and more importantly, a greater degree of trust and willingness to cooperate on the part of the institutions” (EP 2004b: 7). Finally, a press statement from a joint conference on co-decision between all the institutions also makes it clear how early conclusion is linked to a closer working relationship by saying “Compared with the period prior to the entry into force of the

⁸ See also Farrell and H eritier 2004, p. 1197.

Amsterdam treaty, when the possibility of concluding dossiers at first reading did not exist, there is a tendency to conclude the legislative process at first or second reading, above all as a result of a willingness on the part of the institutions concerned to intensify their dialogue and their contacts during the legislative procedure” (2002).

The model parameters (Cox and Snell and Nagelkerke) are quite good for social science where we rarely see very high levels of explained variance. At the same time, there is still quite a lot of unexplained variance as to whether conclusion is reached early. It is possible that additional variables contribute to explaining this more, but it is also likely that the possibility of early conclusion is not fully predictable based on a limited set of factors. Hence, despite the EU policy process being highly institutionalized, it still allows for quite a lot of case-by-case decision-making that does not always follow a fully predictable pattern.

Conclusion

My study has shown that it is wrong to study co-decision as a one-shot game despite the tendency in literature to do so because clearly that is not what it is. Since we do not live in an ideal world with full information, no transaction costs of bargaining or fixed preferences etc., actors do not always just make a deal in the beginning of the process based on what they expect they would get if the process went to the very end. Since the possibility of early conclusion affects the potential of different interests within the legislative bodies to sway legislative outcomes, it is important to examine the conditions under which it occurs, which is exactly what I have done here.

The study shows that whether conclusion takes place early is a complex issue; it probably cannot be explained by one factor alone, but instead requires a range of them to be taken into account. Moreover, it shows that some of those, which in official EU institution documents were predicted as being important before the Amsterdam provisions entered into force, perform very badly. Interestingly, the character of the file (technical versus political) could not be shown to have a systematic effect. Only one of my measures relating to the character of the file had a significant effect, but in the opposite direction than was expected. In addition, the explanation that the higher the number of co-decision files that were completed within a given half year, the greater the likelihood of legislators to conclude early to minimize their workload did not work, nor did the explanation that the scope of conflict defined as the ideological distance between the national parties of the rapporteur and presidency matter. Other explanations performed better instead.

Firstly, the working relationship between co-legislators was a strong predictor. There was evidence that the tendency to conclude earlier in the period examined was a result of the development of an increasingly closer working relationship between the Council and the EP. Standard operating procedures and a shared understanding how the legislative reconciliation process should take place have evolved between the co-legislators, and made it easier for them to reach early agreements. Secondly, it mattered whether the institutions were trying to reconcile a whole new act or simply amending or consolidating an existing one. In the case of a new act, they were considerably less likely to manage to conclude early. Thirdly, the size of the file also had some effect on whether or not it could be concluded at first reading. Because the legislative bodies have not necessarily had a lot of time to examine a file at this stage, there was a greater likelihood of being able to conclude at first reading when the file was shorter. Finally, a fourth, and previously neglected explanation was shown to have some effect on whether

conclusion takes place at first reading, i.e. early agreement was more likely to be reached if the Council presidency came from the same party family as the EP rapporteur. We saw that the coherence of the policy positions of the national parties of these key negotiators cannot predict whether they conclude early, but that there is a tendency for those from the same party family to be better able to reconcile issues early irrespective of whether there are differences in the policy positions of their national parties. Being from the same party family involves more than just having similar policy positions on different issues; it is also likely to involve higher levels of mutual trust, political understanding etc. between their key negotiators. At first reading, key negotiators from the same party family can take advantage of having a relatively broad scope for action, whereas they are much more constrained if the file moves on in the policy process.

This explanation complements previous research on EU legislative politics demonstrating the role of party politics in day-to-day decision-making. However, whereas such research has focused on the role of parties for decision-making within the institutions, I demonstrate how such partisan alignments may also occur between them and have consequences for when legislative conclusion takes place and most likely also (despite this not being the purpose of this paper) for the character of the legislative outcomes. The EU construction has been widely presented as a special one with a unique institutional balance between the three institutions, each of which represents different interests, the Council representing the member states, the Commission the interests of Europe, and the EP the people more broadly. However, despite these constituency differences, there is one thing that binds these institutions together, i.e. parties, because ultimately Commissioners, MEPs and the governments in the Council ultimately come from the same national parties. Hence, the partisan effect found here definitely provides ground for future research on how members of the institutions from similar parties unite to influence procedural and substantive aspects of EU legislative politics.

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