

After Lisbon: A More Political European Union

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Abstract

This article argues that with the full implementation of the Lisbon Treaty -a process due to unfold over the next decade- the EU will become more politically integrated. It develops a model to determine degrees of EU political integration, asserting that the degree of integration is determined by the amount of individual member-state control in the decision-making process. It concerns policy areas of a political character with control being defined as the ability of individual member states to alter the outcome of the decision-making process. For the purpose of gauging control, the developed model outlines three 'decision-making settings', which this article then uses to demonstrate that it is through the introduction of institutional changes that the fully implemented Lisbon Treaty increases EU political integration.

Introduction

Traditionally, the European Union has been regarded as a much more economically integrated entity, than a politically integrated one. However, this article argues that with the full implementation of the Lisbon Treaty—a process due to unfold over the next decade—the EU will become more politically integrated in nature. Drawing on definitions of political integration provided by Ernst Haas (1958) and Leon Lindberg (1963) this article develops a model to determine degrees of EU political integration, asserting that the degree of integration is determined by the amount of individual member-state control in the decision-making process, concerning policy areas of a political character; control being defined as the ability of individual member states to alter the outcome of the decision-making process. In using this model, this article demonstrates that it is through the introduction of institutional changes that the fully implemented Lisbon Treaty creates a more politically integrated European Union. This, it is argued, is due to the fact that these changes decrease the amount of individual member-state control in the areas of asylum and immigration policy, internal customs policy, external border control policy, as well as police and judicial cooperation policy—policy areas of a political nature.

This article will first develop a model of EU political integration, as previously mentioned. It will then outline the two major institutional changes introduced by the fully implemented Lisbon Treaty—the dissolution of the pillar system and the identification of the 'ordinary legislative procedure' as the adoption of acts by means of co-decision, with qualified majority voting (QMV) being used in the Council—and show why these changes diminish member-state control in the previously-stated policy areas.

EU Political Integration: A Model

In his book *The Uniting of Europe* (1958: 16), Ernst Haas refers to political integration as a process whereby states shift their 'political activities toward a new centre, whose institutions possess or demand jurisdiction' over them. Leon Lindberg, on the other hand, although not defining political integration specifically in his book *The Political Dynamics of European Economic Integration* (1963: 5-6), presents a definition of integration, in general, that can easily

be applied to economic or political integration; this definition being that (political) integration is the employment of decision-making processes that involve ‘means other than autonomous action by national governments’. This article draws on these two definitions to develop its own model of political integration, which it uses to argue its thesis on EU political integration.

The model developed here asserts that the amount of political integration in the European Union is determined by the degree of individual member-state control in the decision-making process, concerning policy areas of a political nature. Political integration is regarded as increasing as member-state control decreases; control being defined as the ability of individual member states to alter the outcome of the decision-making process. This article will now outline the means by which this model measures member-state control, as well as the logic behind its categorisation of asylum and immigration policy, internal customs policy, external border control policy and police and judicial cooperation policy; as ‘policy areas of a political character’.

Decision-making settings

In order to gauge control, this model outlines three decision-making settings¹: one, where the control of individual member states over the decision-making process is the strongest—the inter-governmental setting, one, where individual member-state control is the weakest—the supranational setting, and one that falls in between these two poles—the semi-supranational setting. This model also identifies three factors that differentiate these settings: the holder(s) of policy initiating authority, the holder(s) of legislative authority and the voting system of the holder(s) of legislative authority.

In the inter-governmental decision-making setting there are two actors that hold the authority to initiate policy: the Commission and the member states (Europa, 2008). The power of initiation provides the holder with agenda-setting authority, meaning the holder has the ability to choose the moment for initiating action, as well as the power to choose the form the initiating action takes; as a result, individual member states—along with the Commission—have the ability to decide what is received, and how, by the legislative body for the purpose of adoption (Hay and Menon, 2007: 171).

The holder of legislative authority in the inter-governmental setting is the Council of the European Union (Europa, 2008); an institution composed of representatives of each member state ‘who may commit the government of the member state in question and cast its vote’ (Article 16(2) of TEU). This means that in order for a proposed policy (from the Commission or member state) to be adopted, the Council must pass it; and because the Council is composed of the representatives of each member state, individual member states have a degree of control over which acts are adopted, and which are not. The amount of control is determined by the voting system employed. The European Parliament, on the other hand, does not have legislative authority in this decision-making setting. It is limited to being, at best, a consultative and information sharing entity (Nugent, 2006: 192).

The voting system of the legislative body in the inter-governmental setting (the Council) is one of unanimity, which means that in order for an act to be adopted it must be agreed upon by all member states (Nugent, 2006: 211). This provides the individual member states with a significant amount of control. Since unanimity is needed, by voting against an act, a member state can block its adoption; thereby deciding, individually, what is adopted and what is not.

The inter-governmental decision-making setting provides the individual member states with a significant amount of power to affect the result of the decision-making process. It thus represents the lowest amount of political integration in this model.

The semi-supranational setting provides less control to the individual member states, than does the inter-governmental setting. The holder of policy initiating authority is solely the Commission (Hay and Menon, 2007: 171); an institution composed of 27 commissioners (one from each member state) who, in carrying out their responsibilities, are ‘completely independent’ of their national governments (Article 17(3) of TEU). Thus, within the semi-supranational setting the individual member states do not have the power of agenda setting, which eliminates their ability to control the policy initiation stage—ability provided them by the inter-governmental setting.

The holder of legislative authority, and its voting system, in this setting is the same as in the inter-governmental setting; the European Parliament plays only a consultative and information sharing role (Bache and George, 2006: 242). Therefore, within the semi-supranational setting the individual member states have the same degree of control over what is adopted, and what is not, as they do in the inter-governmental setting.

Although the semi-supranational decision-making setting provides the individual member states with the same degree of control in the adoption stage of the decision-making process, as does the inter-governmental setting; it reduces their control in the policy initiation stage—thereby diminishing their overall control in the decision-making process. The semi-supranational setting, therefore, represents the medium amount of political integration in this model.

The supranational decision-making setting provides the member states with the lowest amount of control over the outcome of the decision-making process; and thus, represents the highest amount of political integration in this model. The holder of policy initiating authority is, as in the semi-supranational setting, solely the Commission (Hay and Menon, 2007: 171). Therefore, also as in the semi-supranational setting, the member states do not have the ability to decide what is received, and how, by the legislative body for the purpose of adoption.

Legislative authority, in this decision-making setting, is held by two institutions: the Council and the European Parliament (Hay and Menon, 2007: 182); the European parliament being an institution composed of 750 directly elected ‘representatives of the Union’s citizens’ (Article 14(2) of TEU). Whereas in the inter-governmental and semi-supranational settings acts are adopted by Council approval alone, in the supranational setting acts must be approved by both the Council and the European Parliament (Bache and George, 2006: 243-45). Consequently, the fate of an act is not only determined by representatives of each member state—those directly controlled by national governments—but also by the 750 representatives of EU citizens—those not directly controlled by national governments. As a result, individual member-state control is reduced.

The amount of individual member-state control is further reduced by the voting system employed by the Council in the supranational decision-making setting—that of qualified majority voting.² Since it means individual member states can be outvoted, and that they have no veto, the use of QMV in the Council significantly decreases the control of individual member states (Hay and Menon, 2007: 177).

In sum, the decision making setting that represents the lowest degree of political integration in this model is the inter-governmental setting; the one that represents the medium degree of political integration in this model is the semi-supranational setting; and the one that represents the highest degree of political integration in this model is the supranational setting.

Policy areas

The policy areas identified by this model as being of ‘a political character’ are: asylum and immigration, internal customs, external border control and police and judicial cooperation.³ The categorisation of these four policy areas as such, is not the result of a random process. Rather, this categorisation is due to the fact that, when the 12 member states of the, then, European Economic Community decided to establish a “political union” they incorporated, into this union, the previously mentioned policy areas; all of which were placed in the “Justice and Home Affairs” pillar of the newly formed—by the Maastricht Treaty—“European Union” (Nugent, 2006: 84-91).⁴

A More Political EU: the Effect of Lisbon’s Institutional Changes

This section will first provide some essential background information regarding the EU structure in the pre- and post-Amsterdam and Nice periods. It will then discuss the two institutional changes introduced by the fully implemented Lisbon Treaty and their effect on the political integration of the EU. In so doing, it will demonstrate that the reason these changes reduce individual member-state control in the policy areas concerned, and in turn increase EU political integration, is because they shift these policy areas from the inter-governmental and semi-supranational decision-making settings to the supranational setting.

As already alluded to in the previous section, the Maastricht Treaty, which came into effect in November 1993 and transformed the EEC into the EU, organised the newly formed EU into three pillars: the European Communities (EC) pillar, the Common Foreign and Security Policy (CFSP) pillar⁵ and the Justice and Home Affairs (JHA) pillar (Yesilada and Wood, 2010: 49-50). With regards to the three ‘decision-making settings’ outlined in the previous section, the EC pillar can be categorised as both semi-supranational and supranational; the reason being that within the EC pillar different decision-making processes are used depending on the policy issue. For some issues the process reflects a semi-supranational decision-making setting—the Commission initiates policies and the Council adopts them voting by unanimity—for others the process reflects a supranational setting—the Commission initiates policies and both the European Parliament and the Council adopt them; the Council voting by QMV (Bache and George, 2006: 243-45; Europa, 2008; Hay and Menon, 2007: 171, 177, 182; Nugent, 2006: 87-89, 211). The JHA pillar, on the other hand, can be categorised as inter-governmental; the reason being that within the JHA pillar the decision-making process follows an inter-governmental line—both the Commission and the member states initiate policies and the Council adopts them voting by unanimity (Europa, 2008; Nugent, 2006: 211).

Under the pre-Amsterdam framework, the EC pillar dealt first and foremost with the economic policy areas of the EU, including: monetary union, competition policy, development aid policy, research and technological development and environmental policy (Nugent, 2006: 89). The JHA pillar, in contrast, dealt with all of the policy areas under consideration in this article: asylum and immigration policy, internal customs policy, external border control policy and police and judicial cooperation policy (Nugent, 2006: 91). Therefore, prior to the Amsterdam Treaty, all four policy areas concerned in this article were dealt with within an inter-governmental decision-making setting. However, with the coming into effect of Amsterdam in 1999, this situation changed (Sbragia and Stolfi, 2010: 424).

The Amsterdam Treaty, a reform treaty of the Maastricht Treaty, transferred some of the JHA-pillar policy areas—asylum and immigration policy and judicial cooperation in civil matters (part of the police and judicial cooperation policy area)—into the EC pillar (Nugent, 2006: 97).

As a result, the post-Amsterdam organisation of the policy areas concerned in this article—as it relates to the three ‘decision-making settings’—was as follows: asylum and immigration policy, as well as judicial cooperation in civil matters, were within a semi-supranational setting; while internal customs policy, external border control policy, and the remainder of the police and judicial cooperation policy area, remained within an inter-governmental decision-making setting. With the entering into force of another Maastricht reform treaty, the Treaty of Nice, in 2003 the situation changed slightly once again.

The Treaty of Nice further decreased individual member-state control in one of the policy areas transferred from the JHA pillar to the EC pillar by the Amsterdam Treaty—judicial cooperation in civil matters. In the post-Nice period, this policy area was dealt with within a supranational decision-making setting—the Commission initiates and the Council and EP adopt, the Council voting by QMV (Europa, 2007).

In sum, during the post-Nice and pre-Lisbon period, the asylum and immigration policy area was dealt with within the semi-supranational decision-making setting of the EC pillar; judicial cooperation in civil matters was dealt with within the supranational setting of the EC pillar; and the internal customs policy area, the external border control policy area and the remainder of the police and judicial cooperation policy area remained within the inter-governmental setting of the JHA pillar. This article will now outline the two institutional changes introduced by the fully implemented Lisbon treaty, and demonstrate how they shift the policy areas concerned from the semi-supranational and inter-governmental decision-making settings to the supranational setting, thereby increasing the political integration of the EU.

Dissolution of pillar system

The Lisbon Treaty entered into force on 1 December 2009 (BBC News, 2010), and with its full implementation—a process due to occur over the next decade—two main institutional changes will be introduced. One of these changes is the dissolution of the pillar system created by the Maastricht Treaty (Reh, 2009: 635), a change that shifts the remaining policy areas of the JHA pillar to the EC pillar—the EC pillar becoming the only “pillar” of the EU (Sbragia and Stolfi, 2010: 425).⁶ As a result, those policy areas of the JHA pillar unaffected by the Amsterdam or Nice treaties—internal customs policy, external border control policy and the remainder of the police and judicial cooperation policy area—are transferred to the EC pillar, and are no longer dealt with within an inter-governmental decision-making setting; the policy areas previously relocated to the EC pillar from the JHA pillar by the Amsterdam Treaty are unaffected by this institutional change.

The ‘ordinary legislative procedure’

In addition to the dissolution of the pillar system, the fully implemented Lisbon Treaty also identifies the ‘ordinary legislative procedure’ as being the adoption of acts by means of co-decision, with qualified majority voting (QMV) being used in the Council of the EU (General Secretariat of the Council of the EU, 2009). QMV is a voting system that, under the Lisbon framework, requires a double majority; that is, an act must be approved by at least 55 % of the EU member states (i.e. 15 member states) that contain at least 65 % of the EU’s population (General Secretariat of the Council of the EU, 2009). Co-decision, on the other hand, is the legislative procedure whereby both the European Parliament and the Council of the EU are required to approve an act in order for it to be adopted; that is, the European Parliament acts as a ‘co-decider’ with the Council (Bache and George, 2006: 243-45).

Identifying the combination of QMV and co-decision as the ‘ordinary legislative procedure’, leads to the employment of this combination in the decision-making process concerning the majority of policy areas; the four policy areas discussed in this article—asylum and immigration policy, internal customs policy, external border control policy and police and judicial cooperation policy—being members of this majority (Article 77 of TFEU; Article 78 of TFEU; Article 79 of TFEU; Article 81 of TFEU; Article 82 of TFEU; Article 83 of TFEU; Article 84 TFEU; Article 87 of TFEU).

In sum, the dissolution of the pillar system transfers the remaining policy areas of the JHA pillar into the EC pillar, establishing the Commission as the sole policy initiator when dealing with these policy areas. Furthermore, the recognition of the QMV/co-decision combination as the ‘ordinary legislative procedure’ means that, when dealing with the newly transferred policies of the JHA pillar, as well as the policies transferred previously by the Amsterdam Treaty, the holders of legislative authority are the EP and the Council—the voting system of the Council being QMV. Therefore, the institutional changes of the fully implemented treaty shift the four policy areas discussed in this article from the inter-governmental and semi-supranational decision-making settings to the supranational setting; thereby decreasing individual member-state control in these policy areas and, in turn, increasing the political integration of the EU.

Conclusion

This article has argued that with the full implementation of the Lisbon Treaty the European Union will become more politically integrated in nature. In order to prove this thesis, this article has developed a model to determine degrees of EU political integration, asserting that the degree of integration is determined by the amount of individual member-state control in the decision-making process concerning policy areas of a political nature; control being defined as the ability of individual member states to alter the outcome of the decision-making process. For the purpose of gauging control, the developed model has outlined three ‘decision-making settings’—the inter-governmental setting (lowest level of political integration), the semi-supranational setting (medium level of political integration) and the supranational setting (highest level of political integration). This article has then used these decision-making settings to demonstrate that it is through the introduction of institutional changes that the fully implemented Lisbon Treaty increases EU political integration; these institutional changes shifting the four policy areas categorised as ‘political in character’ from the inter-governmental and semi-supranational decision-making settings to the supranational setting.

This article has only focused on the decision-making process within the EU as a means of measuring EU political integration. However, the decision-making process is only one facet of the EU machinery. In a more comprehensive study, the implementation process should also be included, the amount of individual member-state control in the implementation process being another valuable measure of EU political integration. Furthermore, in a larger project the CFSP pillar and its policy areas should also be included, in order to obtain a more complete picture.

¹ These ‘decision-making settings’ are based on the different decision-making processes used when dealing with the four policy areas identified by this model as ‘political in nature’; both in the pre- and post-Lisbon periods.

² The voting system of the parliament is not relevant here since it is never unanimity, and since it does not affect individual member-state control over the outcome of the decision-making process. The significant point is that the EP is a co-legislator with the Council.

³ This policy area is comprised of judicial cooperation in civil matters, judicial cooperation in criminal matters and police cooperation. The Lisbon Treaty does not weaken individual member-state control in 'judicial cooperation in civil matters'.

⁴ They also included in the political union the areas of foreign and security policy, which were placed in the Common Foreign and Security Policy (CFSP) pillar of the EU. This model does not incorporate these policy areas due to the limited size of this project, and the resultant inability to deal with the complexities involved with doing so.

⁵ The CFSP pillar will not be discussed.

⁶ CFSP was not placed within the EC pillar; it remains separate.

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