CEJISS

The Lisbon Treaty and the Future of EU Enlargement

Jana Hynková-Dvoranová[1]

Introduction

Due to asymmetry in competencies of the so-called institutional triangle formed by the European Parliament (EP), the Commission, and the Council of the European Union, the significance of the Council as the sole legislative institution and at the same time the sole institution based on the intergovernmental principle, is highly considerable. Stemming from this fact, the interest of each member state is to achieve the highest possible influence within this institution. Logically then, the behaviour of all relevant actors is subdued to this goal and these actors seek the optimal tools in order to achieve it (Spence 2004: 256–258).

Currently, there are three voting modalities for decision making in the Council – unanimous voting, simple majority voting and qualified majority voting (QMV). Due to the enlarging scope of issues where QMV applies, this modality is the most discussed one while reforming the functioning of the EU. As of the Rome Treaty, through the Single European Act until the (future) ratification of the Lisbon Treaty, the basic functioning of QMV has been that each member state possesses a certain, exactly defined number of votes. The weighing and (re-)distribution of these votes has been one of the hottest issues during each round of enlargement of the EU (Westlake and Galloway 2004: 190–192). The Lisbon Treaty, signed in December 2007, now under ratification in member states, changes this voting principle dramatically. The new rules, to be applied from 01 November 2014 or 01 April 2017, depending of the will of the member states, can be without exaggeration termed as a rupture.

[1] Jana Hynková-Dvoranová is a PhD Candiate in International Relations and European Studies at Masaryk University in Brno, Czech Republic. Additionally, Mrs. Hynková-Dvoranová works as a foreign policy analyst at the Office of Government of the Czech Republic, in the Section of the Prime Minister for Security, Defence and Foreign Policy. She may be reached at: hynkova.jana@vlada.cz.

The goal of this paper is to investigate the design of the decision making process in the Council as known in the present on one hand and the changes, brought for consideration in the Lisbon Treaty on the other hand in the context of the enlargement of the EU. As will be shown in this paper, change of the number of EU member states is an important trigger for changes of the internal decision-making processes.

In the first section of this paper, the analytical design of the decision-making process will be proposed and individual stages of setting (and/or reforming) any decision-making process identified. The rationale behind is to shed light on the causal relation between the design of the decision-making process and the conduct of foreign policies of both the EU and candidate countries, with a focus on two specific cases: Croatia and (to a less extent), Turkey.

The second part of the paper will analyse the current model and also of the model proposed in the Lisbon Treaty. In this context, methodological concepts of voting power and power indices will be presented according to the theoretical approach of voting power analysis. A voting power argument stood behind the heated discussions during the Nice Summit in 2000, where votes (and supposedly power in the Council) were distributed for the members-to-be from Central and Eastern Europe. At the same time, several important elements implied by a non-compliance with the logic of decision-making process of the current model and also of the future model (proposed by the Lisbon Treaty) will be singled out and brought to attention. The interpretation of the above inconsistencies will focus on linking the decision-making set-up and the insertion (for the very first time in EU primary law) of the so-called *exit clause* into the Lisbon Treaty, offering an explanation that the EU, while structurally reforming its institutions, prepares its institutions not only for increasing the number of its members through enlargement, but also for the possibility of decreasing the number of member states through institutionalisation and legal codification of withdrawal. In order to support this claim, the previously offered design of the decision-making process will be crucial.

Additionally, the effects of the Lisbon Treaty, effectively enabling the enlargement of the EU (previously challenged by an argument of the insufficient EU absorption capacity due to postponed institutional reform), on the behaviour of some candidate countries (with focus on Croatia and Turkey) will be shortly outlined to uphold the argument of the importance of voting power analysis concept.

The Logic of the Design of the Decision-making Process for QMV

Each institution entitled to decide by QMV has its decision-making principle tailor-made. The specific *set-up* is defined while forming (or re-forming) the given institution and it is determined by several factors. The latter may entail *the*

function of the institution, its *inner organisation* set-up, *statute*, etc. (March and Olsen 1989 and 1998). These factors are case-specific and their specification is relevant with regards to actual functioning of the decision-making process and its efficiency. As this paper does not aspire to focus on the *functioning* of a decision-making process in the Council *per se,* the above mentioned factors will not be further elaborated or scrutinized. Instead, attention will be paid to the identification of a general design by which a decision-making process is formed.

Key terms linked to QMV are the *allocation of votes* to individual actors and the *threshold* of minimal winning or minimal blocking coalition set up (Westlake and Galloway 2004: 234–236). The influence of individual actors depends on the method of how votes are allocated and the threshold that is set up. In other words, the design of the decision-making process directly influences its functioning and the actors‘ behaviour. The latter according to votes they dispose of enter the coalitions with the goal to overcome the threshold for minimal winning or blocking coalition (Riker 1982).

The votes‘ allocation and the set up of the threshold for minimally successful coalitions are two fundamental factors of the design of the decision-making process which are to some extent analogical in the sense of their definition. In either case, firstly the principle, secondly the criteria and thirdly the number (of votes) or level (of threshold) must be determined.

As outlined above, both parts of the design of the decision-making process (i.e. votes‘ allocation and the minimal successful coalition threshold setup) are in their logic similar. Still, for the sake of clarity, both will be dealt with separately.

The principle with regards of vote allocation expresses whether the allocation will be equal or unequal. According to an equal allocation, each actor would possess an identical number of votes (e.g. the case of national parliaments where each Member of Parliament possesses one vote). In the case of an unequal allocation, it is further possible to identify the principle of direct denomination (when it is directly identified how many votes each actor disposes of and the number can differ from actor to actor) and the proportionality principle, where votes are allocated according to certain criteria. Based on the principle chosen, the criteria-setting variable is identified accordingly. This variable defines the criteria of vote allocation. For the allocations using the equal principle and the one using the principle of direct denomination, the criteria is set up axiomatically, while allocation using the proportionality principle calls for a range of criteria setting variable choices. If the actor is a nation state, its economical performance (defined as GDP), population count, etc. can be brought into consideration. Finally, according to the principle and the variable (criterion) the votes are allocated.

As an example, let’s’ use a stockholders meeting of a company. The stockholders’ meeting decides by voting, where votes are weighted according to the number of stocks held. Design of the vote allocation is as follows: unequal

allocation applies (each stockholder disposes of a different number of stocks) using the principle of direct denomination (each stockholder decides how many stocks to purchase) based on the axiomatically defined criteria (the price of the stock and the capacity of the actor to purchase).

When setting up the threshold for minimal successful coalitions, the logic of the design is similar. When deciding upon the principle, it is either proportional according to certain variable (proportionality principle) or directly denominated (principle of direct denomination). As in the case of criteria setting variable for allocation, the options for this variable are wide (e.g. percentage of total count, percentage of present voters, percentage of population, etc. or axiomatically defined). Based on the principle and the criterion, the threshold for minimal successful coalition is set up.

The method of vote allocation and the way of establishing the threshold for minimal successful coalitions must adhere to the design outlined above, even though the two do not necessarily need to be in sync. Vote allocation can apply the proportionality principle according to a certain variable, while the threshold can be set up based on direct denomination principle. It is even possible to combine different criteria-setting variables while choosing the criteria (double-weighted majority) but these former ones must be compatible with the given principle. For instance, it is illogical to set up the variable as a ratio of population while applying the equal principle of allocation. It is equally important while reforming the decision-making process to keep the changing part of the process in sync with the rest, otherwise there is a logical lapse. The design outlined is summarised in the table below.

1. set up of votes allocation principle	ad1. proportionality, equality, direct denomination, ...
2. choice of criteria for votes allocation	ad2. variable (GDP, population count, axiomatically defined criterion, nominal value)
3. votes allocation	ad3. number of votes according to principle and variable applied
4. set up of threshold defining principle	ad4. proportionality, direct denomination ...
5. choice of criteria for threshold definition	ad5. variable (number of votes, population, axiomatically defined criterion, nominal value)
6. threshold of QMV set up	ad6. the value of threshold set up according to the principle and variable applied

Table 1: Logic of the decision-making process design

The above table will be applied to the decision-making process in the Council of the European Union. First, the current situation will be scrutinised, then

the changes brought about by the Lisbon Treaty will be analysed. Yet, before the voting power analysis approach will be outlined and some basic measurement methods mentioned, it is essential to complete the picture of actors' behaviour in the Council.

Measurement Methods of Voting Power

The scrutiny of the decision-making process design forms the core of an analytical approach of voting power indices when the voting power of individual actors in the given decision-making process is measured.

The aim of this approach is to demonstrate the paradoxical phenomenon when the design of a given decision-making process affects the actors' influence but only due to the fact that the latter believes it to be so. To put it differently, the actors' voting power is not determined by the design of the decision-making process per se, but it is determined by the fact that actors do behave if it were so. Reasons for this vicious cycle seems to lay in the lack of differentiation between *a priori voting power* and *the real voting power* (Dvoranova 2004). Voting power as such is expressed as the ability of an actor to be critical for the success of the coalition (Shapley and Shubik 1954: 788). Or, the pivotal (i.e. critical) actor is the one whose participation on a coalition guarantees the success in respect of over-passing the threshold.

The *a priori* voting power reflects only the number of votes allocated. Other variables, such as a political stance of a member state, qualitative influence of the decision-making body or agenda-setting power are ignored.

This stems from the assumption that due to great diversity of agenda of a given institution, the ideal position of an individual actor can not be predicted, as cannot be presumed the creation of any coalition due to the large thematic scope. Hence, while ignoring the preferences of actors, computing the *a priori* voting power is the only and useful guidance while deciding (Hosli 1995: 355).

Standard methods for computing a priori voting power are *Banzhaff* and *Shapley & Shubik indices*. The Shapley and Shubik index was originally designed for an a priori evaluation of the distribution of power among different legislative bodies in the committee system in the US Congress (Shapley & Shubik 1954: 787). The key feature of the Shapley & Shubik index is that stress is put on the consecutive accession of actors into a coalition. Meanwhile, as the a priori measurement of voting power does not reflect actors' preferences, the order of accession is considered random. To put it differently, the order in which actors enter the coalition is important with regards to their voting power; still, the order of accession does not result from their activity, but is rather based on randomness. Laruell and Widgren add that probabilistic measures of a priori voting power are useful tools to estimate the influence of an actor to

the collective decision-making and especially to model the output of individual policy cases (Laruell and Widgren 1998: 321).

Real voting power then defines the actor's influence reflecting other factors not taken into account in an a priori measurement. One of the options is to work with minimal relative successful coalitions as defined by Axelrod (1970). According to Axelrod's definition, in case it is possible to classify actors on a one-dimensional scale, only the neighbouring (relative) actors will enter the coalition. This approach curbs the number of possible coalitions and eliminates improbable ones. The setup in these conditions is measured by the *legislative index.*

The limiting element in the above mentioned measurement is the lack of information about the positioning of member states in the Council regarding the agenda; consequently this actually disables the creation of a one-dimensional, universally valid scale and the positioning of the member states accordingly.

Nevertheless, as Colomer and Hosli suggest, this limit can be mitigated by admitting a certain level of generalization and they demonstrate it by using the example of the left-right continuum (scale) of political parties on the national level, which is a common practice whilst this scale is not valid for all policies (Colomer and Hosli 2000: 87). In the case of the Council, it is for instance possible to classify the member states on a basis of their willingness to integrate further, scaling from the most integrationist to the least ones.

Thus, the difference between a priori and real voting power is cardinal – while the former deals with the element of randomness and uncertainty and is primarily designed for theoretical modulation of possible real situations, the latter already carries certain validity and information about real influence of a given actor (assuming that background data is available).

QMV in the Council Prior to the Ratification of the Lisbon Treaty

The issue of the allocation of votes in the Council has always been a complicated one, but as Cziráky has put it, "it has for long been dwarfed by the issue of legislative and executive competencies of the Council delimitation" (Cziráky 1998: 14). If we look at QMV through the lens of the above outlined decision-making process design, since the Rome Treaty up until now, the proportionality principle was always applied, even though the votes allocation has been re-considered during each round of the enlargement. During all but last rounds, the problem of criteria setting variable was not that significant and was barely discussed. One possible explanation is that there was a correlation of GDP and population count in the old member states and the newly joining ones: the larger states contributed more to the joint GDP of EU. This setup was, according to Cziráky, a rather unique occurrence and cannot be considered

as a universally valid one (Cziráky 1998: 321). A clear confirmation of this statement are both Poland (joined in 2004) and Romania (joined 2007) ranking high regarding the population count but performing significantly below average GDP-wise. The direct correlation between the population count and the GDP has disappeared with the accession of Central and Eastern European countries in two consecutive rounds in 2004 and 2007 and the problem of criteria setting variable for proportional votes allocation became much more significant than anytime before. The Nice summit of 2000, with its intense discussions about the number of votes for each member state in light of the approaching eastern enlargement and its outcome clearly favouring the population as the criterion for the votes' allocation over GDP (Poland obtaining 27 votes, the same number as Spain, only two votes less then Germany or UK) has underlined the need for a more systematic and sustainable solution of votes allocation in the future.

This also applies for the threshold setting, although this problem has already arisen once during the previous rounds of enlargement, namely in 1995 (the so-called Northern enlargement), when three Nordic countries (Sweden, Norway and Finland), plus Austria, were to join the EU. Especially due to the accession of a rather coherent bloc of countries (where Austria was considered as a part of it due to its orientation on social and 'green' issues), the discussion over the influence of member states and blocs in the decision-making process broke open. Great Britain, traditionally a conservative member state vis-à-vis deeper integration, and Spain with its great share of fishing in the EU (and traditionally reluctant to deal with environmental issues), initiated the debate about the adjustment of the design of the decision-making process. Their stance was clear – the need for strengthening the position of large members in order to prevent the creation of uselessly large coalitions where the final outcome would be a lame compromise of all members involved. This initiative led to an informal agreement stipulating that, although the formally set up threshold for blocking minority remained at 30%, further negotiations were needed if the level of blocking minority reaches 25% or more. This arrangement became known as the Ioannina compromise, lowering the blocking threshold to 23 votes (25%). Its final value, however, had to be re-calculated after the negative referendum in Norway.

The redistribution of votes after the accession of the Central and Eastern Europe (CEE) countries is dealt with in the Treaty of Nice from December 2000. This treaty actually had to incorporate any possible combination of accessing countries as the exact dates of candidates' entry were not defined yet. This situation was solved in the paragraph 2 of the Declaration 20 (annexure of Treaty of Nice). The common position on this issue reads as follows:

> Insofar as all candidate countries listed in the Declaration on the enlargement of the EU have not yet acceded to the Union when the new vote weightings take effect (01 January 2005), the threshold for a qualified majority will move, according to the pace of accession, from a percentage below

> the current one to a maximum of 73.4%. When all the candidate countries mentioned above have acceded, the blocking minority, in the Union of 27, will be raised to 91 votes [i.e. the threshold for qualified majority will be set at the 73.91%, corresponding to 255 votes out of 345] and the qualified majority threshold resulting from the table given in the Declaration on enlargement of the EU will be automatically adjusted accordingly (Treaty of Nice 2000).

The issue regarding the threshold for a successful winning coalition (and by definition for blocking coalitions also) set-up stems from the following problematic formulation: "the threshold for a qualified majority will move, according to the pace of accession, from a percentage below the current one to maximum of 73.4%." As stated in the document called *Note from The Presidency ELARG 261* that deals with problems of interpretation of the paragraph quoted above, the question is whether this declaration means that during the first round of enlargement, regardless of the number of accessing countries, the threshold will be set up on the level lower than the current one (i.e. 71.26%) and will be increased with the accession of more countries, or whether the formulation "according to the pace of accession" with the threshold of 73.4% for EU-26 and 73.91% for EU-27 stresses the need for gradual increase that is implied by these two figures.

If the first interpretation applied, after the accession of 10 countries, the threshold would be set to the level closest to the current one and lower at the same time (i.e. 71.03% or 228 votes out of 321 for a winning coalition and 94 votes for blocking coalition). In case of the second interpretation being the valid one, the threshold after 10 countries accessing would be 72.27% (which is less than 73.4% set-up for EU-26), meaning 232 votes out of 321 for winning and 90 votes for blocking coalitions). The third possible interpretation offers fixing the threshold at the level 91 votes for blocking coalitions and leaving it even for EU-27.

The situation during the northern and SEE enlargements demonstrates the same blunder in regards of adhering to the design of the decision-making process, more specifically in the aspect of choosing the correct criteria for setting up the threshold for minimal successful coalitions. The Ioannina compromise incorporated the criteria of direct denomination while *de jure* the proportionality principle remained in place, which are two characteristics logically not in sync. The Nice treaty is correct in this respect (using the proportionality principle for setting the threshold of the number of votes and its percentage expression as a variable), but shows another flaw of denoting the ratio as the total of votes was not known in the period so while having a dependent variable (ratio of votes for setting the threshold level), there is no independent variable known (the total number of votes as the basis). Moreover, while denoting the specific value for different situations according to the number of candidates

joining, it combines a percentage expression for minimal winning coalitions for one situation and a direct denomination for minimal blocking coalitions in the second situation. Logically, this should not be problematic as one figure can be computed from another, assuming they are mutually exclusive. Still, this approach is not consistent and provides room for different interpretations.

Regarding the current design of the decision-making process in the Council, another problem pops up: intuitive judgement made by actors themselves. As mentioned earlier, the design of the decision-making process has a direct influence on its functioning, as the allocation of votes and the threshold set-up influences the actors' behaviour as they are seeking to maximize their power during decision-making. Here, it is important to emphasize that the consequences of the design of the process can primarily be found at the level of actors' belief system and not at the empirical level.

Design of the Decision-making Process According to the Lisbon Treaty

The current design of the decision-making process in the Council is radically amended by the Lisbon Treaty which is currently being ratified by EU-27 member states (as of March 2008). For the first time, both the allocation and the threshold set-up, the two key parts of QMV, are modified. Until recently, all changes still preserved the main parts of the existing model, and simply adjusted it to the new conditions of an EU with more members.

Changes brought about by the Lisbon Treaty are fundamental and wide-sweeping. The first important change is the fact that the principle of vote allocation itself has been modified. The current unequal proportionality principle is discarded and new allocation, as of 2014 (2017) will be adopted according to the equality principle, with each member state disposing of one vote. The reasoning behind such an application of equality seems best explained by the realist and neorealist theories of international relations based on the idea of state sovereignty, hence parity (Waltz 1979, Morgenthau 1949). This solution also leaves behind the problem of choosing the correct criteria setting variable which would be fair and non-discriminatory for all members, including ascension states.

Another change, which is extremely complex, is the threshold for minimal successful coalitions' set-up. QMV is dealt with in Article 16, Par 4:, Treaty of the EU amended by the Lisbon Treaty, which reads as follows:

> As from 01 November 2014, a qualified majority shall be defined as at least 55% of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65% of the population of the Union. A blocking minority must include at least four Council members, failing which the qualified majority shall be deemed attained (The Treaty on European Union amended by the Lisbon Treaty 2007).

Looking at the above from the perspective of its design, one is confronted with a combination of principles and criteria. The set-up of the threshold for a qualified majority is the combination of the proportionality principle and the principle of direct denomination, while further on, the proportionality principle combines two criteria setting variables (population count and the number of members).

While the combination of two criteria within one principle is rather standard (and typical for a double-weighted majority), the combination of two principles is rather problematic, especially in light of the figures mentioned previously. In the current set-up (EU-27) 55% of votes equal to 14.85, hence 15 votes. The double-defined principle (55% and 15 states) seems redundant and does not have a *raison d'etre* as it is automatically achieved in the EU-27. A logical question emerges: Is such a definition a blunder or intentional? Both interpretations are possible – firstly, this definition is copied directly from the failed Constitution, drafted back in 2003 and 2004, when the EU was composed of 15, and later of 25 members. Therefore, it can be simple neglect, a remnant of the "Constitutional" past. On the other hand, it is hard (though not impossible) to believe that in a document under such scrutiny from many different sides, neglect of this magnitude would go unnoticed. Another possible explanation could be that the EU expects to *lessen* the number of its members in the future, assuming that some members will *withdraw from the* EU. This claim may seem provocative and unlikely, but such an interpretation is supported by the fact of the insertion of the so-called exit clause into the Lisbon Treaty, enabling, for the first time, a member state to quit the EU the institutional way. The existence of such an article (namely Article 50 Treaty of EU amended by the Lisbon Treaty) for the first time in EU primary law is of increased significance in this respect, more so in the cumulative effect of the two above mentioned aspects. Had it only been the exit clause, the withdrawal of a member state would be, in reality, complicated by the institutional set-up (especially so in the current model of QMV, where the exact numbers of votes and threshold levels are defined with increased difficulties) – to recall the complicated re-calculation of the Ioannina compromise and all institutional changes in structures after the negative referendum in Norway. Also, if there were only the threshold delimitation as noted above, it would be easily qualified as neglect, automatically copied from the Constitution without further recalculations. Having both of these measures implemented in the Lisbon Treaty, the interpretation of opening a possibility for a member state to withdraw from the EU gains credibility.

Another major change in the QMV definition centres on the issue of a blocking minority. In all previous cases, a blocking minority and a qualified majority were mutually exclusive (i.e. where one could be achieved, the other was automatically impossible) – hence the aforementioned possibility, in the Nice Treaty, to compute the level of a qualified majority based on the denomination of a blocking minority. The only exception, already dealt with above, was

the Ioannina (direct enumeration of a blocking minority threshold, defined lower than the exclusivity characteristic would suggest). Still, the Ioannina was the product of a unique political agreement, or an informal pact, in order to sustain previously existing power patterns. The Lisbon Treaty, quoted above, contains, contrary to all previously known situations, the simultaneous definition of a qualified majority and a blocking minority in a way that enables the creation of both simultaneously. A blocking minority is defined by the principle of direct denomination at the level of 4 votes. As the member count in the current EU numbers 27 and a qualified majority is set-up on the level of 15, it is very easy to attain both of them. Neither of the criterion of the population ratio solves this situation as the sum of population ratios of any given 4 members (with the exception of the 3 largest members: Germany; Great Britain; and France, hence the need for 4 members) is below the 35% per cent requirement, thus not preventing a qualified majority from obtaining the 65% noted above.

This radical lowering of the blocking minority threshold is unparalleled in the history of QMV in the Council – if one expresses the 4 votes in the EU-27 as a percentage, one arrives at the figure of 14.81% of votes. Contrary to this, at all times in the past, the blocking minority threshold oscillated around the level of 30%, with the exception of Ioannina (reducing it to approximately 25%). Moreover, as the whole institutional reform of the EU was undertaken in order to enable further enlargement of the Union, and as the new QMV does not allocate votes but is designed to accommodate more members without the need to change existing decision-making process, a 4-votes blocking minority will further decrease in percentage value (from the current 14.81%) as compared to a higher total of member states in future (after other enlargements). Is the radical rupture with the past in the respect of QMV – the complete change of the design of the decision-making process, inclusion of the exit-clause into EU primary law and significant reduction of the blocking minority requirements in any case related to the enlargement or EU foreign policy?

The Design of the Decision-making Process as a Prerequisite for EU Foreign Policy Vis-à-vis Enlargement

After it became clear that Central and Eastern European countries would accede to the EU, questions regarding social cohesion, economic growth and performance, and stability (to name a few) abounded within, outside the EU. If ever the decision-making in the Council came into the centre of discussion, it has only been in the perspective of possible strong blocs of countries (new ones vs. old ones, large ones vs. small ones). Prior to the actual summit in Nice, the design of the decision-making process was a non-issue. As mentioned above, the vote allocation, previously based on a "common sense" criterion, has never

been a serious issue due to the unique balance of the GDP and the population size of the old member states. Surely, there have been deviations from this rule, but compared to the CEE countries which were about to join, these were rather marginal. It was not until the Nice Summit (2000) that a need for urgent structural institutional reform and revision of the design of the decision-making process was identified.

The design of decision-making in the Council, as defined in the Lisbon Treaty (or, more precisely, in the Constitution and transferred into the Lisbon Treaty without change), enables the preservation of the same QMV rules, regardless of the actual number of members in the EU, seemingly as a *never-again-Nice* set-up. This being the case, the possibility of enlargement and the preparation of the structural terrain for accession of other candidate countries triggered unparalleled internal institutional changes to the Council. The streamlining of the design of decision-making in the Council can also be linked to the enlargement in another aspect, though a much more controversial one. It can be argued that the enlargement, spreading south- and eastwards, is directed towards countries in which Europeanism is contested, with some existing members worried about the future of the EU, and consequentially opting for the inclusion of "safety precautions" should some of current or potential candidates join the EU, regardless of the political unwillingness of a few.

The inclusion of the exit-clause, the implementation of the design of the decision-making model enabling a withdrawal without further complications, lowering the threshold for a blocking minority in the Council with the prospect of its further relative reduction, are all measures supporting the proposed idea. The argument can further advanced by maintaining that the decision was taken back in 2003 and 2004, i.e. before the eastern enlargement, when the Constitution was drafted and it hence reflected the old EU-15 political stance and its (limited) will to enlarge any further than beyond the expected CEE countries. And, as highlighted earlier, the design of the decision-making process is subordinated by the Lisbon Treaty from the original Constitution without changes. In this context, postponing the implementation of the new decision-making process until 2014 (or 2017, depending on the will of the member states) does not seem surprising – as membership for candidate countries (current or any future ones) regarded as a threat to the security and values of the EU, is still distant, be it Turkey or Georgia. On the other hand, countries such as states in the Western Balkans, particularly Croatia, are encouraged by the Lisbon Treaty, as the time frame of 2014/2017 is beyond the date of their expected entry into the EU.

Croatia, the leading reformer in the Western Balkans, represents an excellent example of the Lisbon Treaty's function as a foreign policy tool. Back in late 2006, with no bright prospects for EU entry – as the structural institutional reform came to a halt after the rejection of the Constitutional Treaty by France and the Netherlands – Croatia proceeded with the activation of the ZERP (Ecological fishing zone lining its coast) from 01 January 2008, regardless of its

commitments to the contrary, as pledged back in June 2004, when acquiring candidate status. Under modified circumstances, in late 2007, i.e. the Lisbon Treaty, that enables further enlargement, the discussion of ZERP, sensitive to Slovenia and Italy, entered the spotlight, not least due to the Slovenian Presidency of the Council in the first half of 2008. After Slovenia escalated the originally bi (or tri-) lateral issue to the European level, linking it to the enlargement policy of the EU, Croatia attempted to find a solution to the pressing problem. After the parliamentary election in January 2008, the incumbent Croatian Prime Minister, Ivo Sanader, chose the Czech Republic as the destination for his first foreign visit. The reason behind it was purely political, owing to the Czech Presidency in the Council in the first half of 2009. Soon after, the Croatian Parliament withheld the application of ZERP, reopening its path to the EU.

Conclusion

The QMV model in the Council of the EU has overcome many challenges since its inauguration under the Rome Treaty and its resurrection in the Single European Act. Still, the original form based on the different vote allocations for the member states has been preserved until now, with the threshold levels modification upon accession of new members and votes reallocation being the only change. During the accession of CEE countries, the problem of votes' allocation criteria emerged as the original convergence between the population and the share of GDP disappeared. The vote allocation was long discussed, being brought to an end during the Nice Summit of 2000. One of the reasons for heated discussions over the vote allocation was the fact that national political elites believed that the design of the decision-making processes directly influenced their power in this process. As this assumption shaped the behaviour of these actors in the long term, the analytical approach of voting power analysis attempts to clarify the relation between the influence (power) of the actor and the design of the decision-making process.

In this respect, the differentiation between the logic of the design and the logic of actors seems to be crucial. While the former addresses how the model in general is to be set up, the logic of actors focuses on the maximization of their power in this process. Even though the design of the decision-making process influences the voting power of individual actors, the character of this influence differs from actors' own beliefs.

The Lisbon Treaty for Europe which is currently in the process of ratification among EU members radically changes the design of the decision-making process in the Council. While QMV remains in place, its character and settings change dramatically for the first time. Not only is the allocation of vote principle modified, but also the threshold set-up principle is changed from simple to double-weighted majority. The change in design is itself not a severe problem, but the critical failure to adhere to the design may potentially sharpen many

controversies, especially taking in account that political will and capacity for institutional reform in the EU is for the foreseeable future off the negotiating table. Nonetheless, critics of further EU enlargement tend to forget that the original idea behind the establishment of the European Coal and Steel Community in 1950 was primarily to stabilize Europe and to ensure peace by constricting war capabilities in France and Germany through the intractable interconnection of key industries in those countries. Presently, when enlargement could once again serve as a tool for promoting stability further east and south, some of the original beneficiaries seem preoccupied with securing the possibility of an exit strategy by the inclusion of the exit clause.

Bibliography

Axelrod, Robert 1970. Conflict of Interest. Chicago: Markham Pub. Co

Bilal, Sanoussi and Hosli, Margaret O. 1999. Connected Coalition Formation and Voting Power in the Council of The European Union: An Endogenous Approach. European Institute of Public Administration, Working Paper 99/W/05

Colomer, Joseph M. a Hosli, Margaret O. 2000. Decision-Making in the European Union: The Power of Political Parties. In Kirchgässner, Gebhard, Moser, Peter a Schneider, Gerald (eds.). Decision rules in the European Union: A Rational Choice Perspective. London: Palgrave Macmillan

Cziráky, Dario 1998. Allocation of Votes in the Council of the European Union – Equity, Equality, Proportionality?. Prague: Karolinum Press

Dvoranová, Jana 2004. Intuitívna logika a motivácia správania aktérov v Rade Európskej únie (English title: Intuitive Logic and the Motivation of the actors' behaviour in the Council of the EU), School of Social Science, Brno: Master Thesis

Hosli, Margaret O. 1995. The Balance Between Small and Large: Effects of a Double-Majority System on Voting Power in the European Union. International Studies Quarterly No. 39, pp. 351–370

Laruelle, Anik and Widgrén, Mika 1998. Is the Allocation of Power among EU States Fair? Public Choice No. 4, pp. 317–339

March, James G. and Olsen, Johan P. 1989. Rediscovering Institutions. New York: The Free Press

March, James G. and Olsen, Johan P. 1998. The Institutional Dynamics of International Political Orders. International Organisation, Volume 52, Number 4 (Autumn), pp. 943 – 969.

Morgenthau Hans J. 1948. Politics Among Nations. New York: Alfred Knopf

Riker, W. H. 1962. The Theory of Political Coalitions. New Haven. Yale

Spence, David 2004. Negotiations, coalitions and the Resolution of interstate conflicts. In Westlake, Martin and Galloway, David (eds.) 2004. The Council of the European Union. Third Edition. London: John Harper Publishing

Shapley, L. S. 1954. A Value for N-person Games. Kuhn, H. W. a Tucker, A. W. (eds.) 1953. Contributions to the Theory of Games. Princeton

Waltz Kenneth N. 1979. The Theory of International Politics. New York: McGraw-Hill.

Westlake, Martin and Galloway, David (eds.) 2004. The Council of the European Union. Third Edition. London: John Harper Publishing

Note from Presidency to Permanent Representative Committee –ELARG 261, POLGEN 34.

OECD Yearbook 2002.

Traité de Nice modifiant le Traité sur l'Union Européenne, les traités instituant les Communautés Européennes et certains actes connexes.

Treaty of Nice Amending the Treaty on EU, the Treaties Establishing the European Communities and Certain Related Acts.
Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007.