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Forum Section

Analysing the Process of EU Legislative Decision-Making

To Make a Long Story Short . . .

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Research on factors influencing the process of European Union (EU) legislative decision-making has made enormous progress in recent years. After an early study by Krislov et al. (1986) providing descriptive statistics on 472 EU decisions made between 1958 and 1981, Heiner Schulz and I introduced a theoretical model to derive hypotheses on institutional and preference-related factors influencing decision-making speed, i.e. on the application of qualified majority voting in the Council, on the participation of the European Parliament as an additional veto player, on the relevance of EU core policy areas as well as on the type of applied policy instrument (König and Schulz, 1997; Schulz and König, 2000). Using a data set on 5183 Commission proposals, which were processed in the period between 1984 and 1995, we tested these factors by applying both parametric and non-parametric event history analysis. We also rejected the use of Cox regression because the 'coefficients of the interaction variables were different from zero and highly significant, indicating a clear violation of the proportionality assumption' (Schulz and König, 2000: 662). We therefore presented our results of parametric log logistic analyses, plotting Q versus Log t to check the (linear) relationship, and found that institutional reform may have a substantial impact on decision-making efficiency.

Our study motivated and influenced Golub's research (1999, 2002, 2007). Using 1141 directives, he also began studying the decision-making process, defined as the time lag between the Commission's formal proposal and final adoption of the legislative act. He investigated, in a similar way to Schulz

and me, how a diverse set of factors influences this process; i.e. Council qualified majority voting (QMV) and parliamentary participation unsurprisingly remain the significant effects (Golub, 1999: 750). Golub (1999: 733) concluded that the 'impact of the Luxembourg Compromise has been greatly overestimated, that institutional reforms actually encumbered rather than eased the EC legislative process'. Using a Cox regression in 2002, Golub re-analysed his initial study with a slightly larger sample of 1669 directives and reports to confirm previous findings, even though the effects of three variables changed their direction. Most recently, Golub (2007) repeated this analysis on the 1669 directives, now agreeing with our original conclusion that there is a 'trade-off between efficiency and democratic inclusiveness'. The latest version by Golub and Steunenberg (2007) re-analyses these results and contradicts the previous findings on QMV after the Single European Act (SEA), QMV post Maastricht, co-decision and cooperation after Maastricht, and the Thatcher and backlog effects. Independently of this confusion, the conclusions on enlargement and Thatcher effects remain speculative, as the following analysis will show, owing to the lack of estimators for preferences.

In spite of some similarities in research design, Golub (2007: 156) attracts attention by sharply criticizing previous studies on the EU decision-making process as 'fundamentally suspect'. In 1999, Golub still acknowledged that 'the most sophisticated analysis to date of EC decision making comes from unpublished work by Thomas König and Heiner Schulz', but contended that, 'because the authors do not examine decision making prior to 1984, they are in no position to draw the types of comparative conclusions necessary to assess the impact of institutional reform' (Golub, 1999: 737; see also Golub, 2007: 161). This is very surprising because the intensely discussed reforms in Golub's analyses refer to the SEA and the Maastricht Treaty, which date from 1987 and 1993 respectively, and are thus clearly included in the period of our studies. On the other hand, Golub's widely discussed Luxembourg Compromise occurred in 1966, two years before his longest study begins. But Golub (1999: 737) continued his sharp criticism by stating that 'König and Schulz also lump together decisions, regulations, and directives at various points in their analysis'. My analysis will briefly show that it is better to control for different types of instrument than to assume that any specific type is both better suited for and more representative of the greater body of EU legislation in the analysis of the decision-making process.

More generally, my response attempts to settle some disagreements on scientific grounds by seriously assessing Golub's central and repeated presumptions and thereby concentrates on three aspects: the research design in terms of sample selection and period under study; the theoretical drawbacks in terms of the explanatory variables used; and the statistical method

applied, in particular the superiority of a Cox regression with inclusion of time-dependent variables. The results will reveal that Golub's claims are plainly incorrect. With regard to sample selection, the reader will see that the statement that only directives contain 'important, complex and controversial issues rather than merely operational decisions and administrative matters' is simply wrong (Golub, 2007: 166). Secondly, it will become apparent that a repeated econometric analysis and speculation about the nature of control variables, such as historical time or the Thatcher effect, can hardly advance the state of the discipline. Golub's major variable for the hypothesized effects of institutional reforms, enlargement rounds and Thatcher's government is implicitly based on member state preferences, but he fails to construct them explicitly over the years. Instead of concentrating on statistical error when using time-dependent variables, it is more advisable to provide a theoretical foundation (Zorn, 2007: 573). I will exemplify this by showing that the UK position does not reveal the 'Fontainebleau effect' suggested by Golub and Steunenberg (2007), and the inclusion of member state preferences may explain the curious findings on the effects of institutional variables, which change over time.

The Sample: Directives or all binding instruments

In spite of Golub's general criticism of previous work, a major advantage in this field is the similarity of the research design used by the different authors. All of us commonly use Commission proposals as the unit of analysis and address factors that influence decision-making. For the reader, this similarity facilitates a comparative evaluation of each study's contribution to the state of the discipline and helps in following the discussion. Regarding the unit of analysis, these studies commonly identify formal legislative acts and use the dates of the Commission's formal initiative and of adoption as the central indicators for the investigated process – in other words, the time lag between initiation and adoption. However, a relatively large number of initiatives remain pending because the EU's legislative process is not limited by legislative terms or dissolution (see König, 2007a).[1] Despite these similarities, the study designs differ in two important ways: our work includes the whole body of binding secondary EU legislation with directives, regulations and decisions since 1984, whereas Golub focuses only on Community directives and on the periods of the investigated time since 1974 and 1968, respectively.

At first glance, the longer period of study seems to support Golub's claim (2007: 161) that neither 'Schulz and König (2000) nor König (2007b) have anything to say about many issues that Golub addresses: EU enlargement,

the Luxembourg Compromise, the effects of institutional changes made by the SEA and Maastricht, formal rules versus informal norms, the effects of legislative backlog or the presence of extremist governments such as that of Thatcher'. During Golub's period of study, the Union experienced several enlargement rounds and treaty changes, but the Luxembourg Compromise in 1966, the Amsterdam (1999) and Nice (2003) treaties as well as Eastern enlargement (2004) remain outside the scope of his analyses. From Figure 1, it is easy to see that Golub's criticism is mistaken, because our original studies also cover the time before the Southern enlargement, SEA and Maastricht (1984 to 1994), and König (2007b) additionally includes the Northern enlargement in 1995, allowing us to control for the effect of institutional reforms and enlargement rounds. Note that these variables use dummies only to control for historical time in which several of these events took place. Whether these events, other events during these periods or other confounding variables influenced the decision-making process still remains an open question.

A second major difference between these studies concerns the type of legislative instruments examined. Although Golub analyses only directives, the titles of his publications make more general reference to EU decision-making. Golub (2007: 166) attempts to justify this generalization by stating that, '[t]o me, explaining variation in the adoption rate for the most significant and contentious laws constitutes a much more important task'. Our analyses include all binding secondary legislative instruments of the EU,

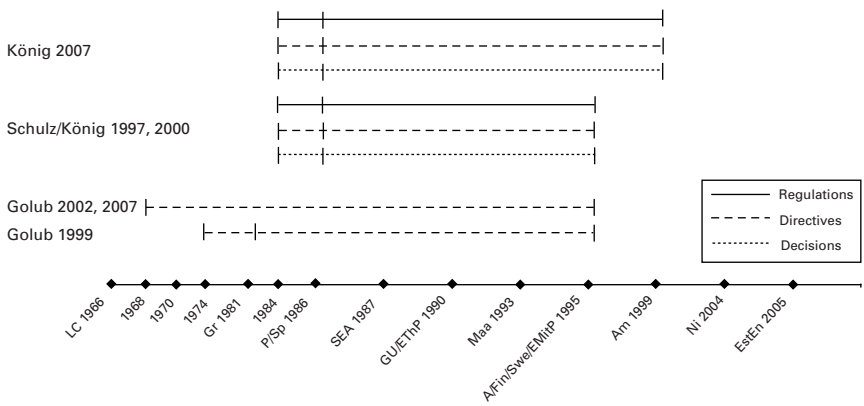

Figure 1 Study design of Golub (1999, 2002, 2007), König (2007b), König and Schulz (1997) and Schulz and König (2000).
Notes: LC = Luxembourg Compromise; Gr = Greece; P/Sp = Portugal and Spain; SEA = Single European Act; GU = German Unification; EThP = End of Thatcher's Period; Maa = Maastricht; A/Fin/Swe= Austria, Finland and Sweden; EMitP = End of Mitterand's Period; Am = Amsterdam; Ni = Nice; EstEn = Eastern Enlargement.

namely regulations, directives and decisions, and this comprehensive sample allows us explicitly to control for the type of legislative instrument used rather than forcing us to make heroic assumptions about their controversial nature. In this sense, it is also easy to check Golub's justification by using his own data source, the PreLex database, which documents the entry of Commission proposals as either A- or B-items on the Council agenda. This distinction provides a clear indicator for whether a Commission proposal raised controversy among member states: 'In practice, A-items are approved *en bloc* without prejudice to the provisions on the public nature of proceedings' (European Commission, 2005: 127). The B-items, on the other hand, indicate politically important decisions subject to continued discussion, even if general agreement among the member states is reached in advance.

A quick inspection of Tables 1(a) and 1(b) rejects Golub's second major claim. In absolute numbers, 1266 of the 8475 cases are classified as B-items in the period between 1 January 1984 and 1 February 2003. Even if we control for different periods, regulations raise far more controversies among member states, i.e. 133 regulations versus 20 directives between 1984 and 1986 (before the Southern enlargement), 362 regulations versus 129 directives between the coming into force of the SEA in 1987 and the Maastricht Treaty in 1993, and 159 regulations versus 22 directives after the Northern enlargement in 1995 until the coming into force of the Amsterdam Treaty in 1999. Even relatively speaking, about 17% of all regulations and directives before 1986, about 16% of regulations and 27% of directives between 1987 and 1993, and about 17% of regulations and 10% of directives between 1995 and 1999 do not provide evidence for the purportedly more controversial nature of directives. Unsurprisingly, only decisions are fewer in number and notably less controversial.

Tables 1(a) and 1(b) also point to a major shortcoming in analyses that use only directives for the study of the legislative process. Although the relative number of controversies remains almost stable over time, the absolute number of proposals and conflicts varies greatly across policy areas. These area-specific effects are lacking in Golub's studies, and the numbers for the agricultural sector reveal that most Commission initiatives come in the form of regulations and that almost half of all controversies are in this policy area. This is perhaps less surprising for those scholars familiar with the EU budget, from which about half is allocated to this area. Similarly, the fisheries sector shows a high potential for conflict, whereas the areas of trade and of customs union produce many initiatives but few conflicts. Directives obviously fail to account for this central aspect of EU legislative decision-making: some important sectors, such as fisheries, budget and trade (except for a single case), are not even regulated with directives. Others, such as industry or transport, have relied on directives in some periods, and opted exclusively for

Table 1(a) Percentage of Council controversies by instrument, policy area and period, 1984–1993

Period	*1/1/1984 – 31/12/1986*						*1/1/1986 – 30/6/1987*						*1/7/1987 – 31/10/1993*					
Length of period	*36 months*						*18 months*						*76 months*					
Instrument	*Decision*		*Regulation*		*Directive*		*Decision*		*Regulation*		*Directive*		*Decision*		*Regulation*		*Directive*	
Council discussion item	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*
DG01 Trade	12.4	–	9.3	0.7	0.8	–	24.6	1.6	8.4	0.8	–	–	21.2	1.7	12.4	0.6	0.2	–
DG01A External Relations Europe	–	–	–	–	–	–	–	–	–	–	–	–	0.6	–	0.0	–	–	–
DG01B External Relations Middle East	–	–	–	–	–	–	–	–	–	–	–	–	0.1	–	0.0	–	–	–
DG02 Economic, Financial Affairs	2.2	–	0.3	–	–	–	1.6	–	–	–	1.2	–	2.9	0.7	0.0	0.0	0.6	–
DG03 Industry	1.1	0.6	0.4	0.3	21.0	2.5	0.8	–	0.2	–	18.8	14.1	2.9	–	0.9	0.3	18.4	7.4
DG04 Competition	0.6	–	0.1	–	0.8	–	–	–	–	–	–	1.2	–	–	0.3	0.0	0.4	–
DG05 Employment, Social Affairs	3.4	0.6	0.7	–	0.8	1.7	2.4	0.8	0.8	–	–	1.2	1.6	0.9	0.5	0.2	4.7	2.5
DG06 Agriculture	21.3	5.1	30.2	13.2	15.1	10.1	15.9	0.8	45.7	3.4	16.5	7.1	14.2	2.4	31.4	9.6	17.3	7.6
DG07 Transport	2.8	–	1.4	0.1	10.9	–	2.4	–	0.6	–	2.4	1.3	2.3	0.7	1.4	0.3	5.1	2.3
DG08 Development	6.2	–	1.0	0.1	–	–	6.3	–	1.9	–	–	–	2.3	–	0.6	–	–	–
DG09 Personnel-Administration	–	–	0.5	–	–	–	–	–	0.6	–	–	–	0.9	–	0.5	–	–	–
DG10 Information, Communication, Society	–	–	0.1	–	–	–	–	–	–	–	–	–	0.3	–	–	–	–	–
DG11 Environment	9.0	–	0.1	–	11.8	1.7	4.0	–	0.5	–	3.5	5.9	3.6	0.7	0.9	0.1	8.2	1.5
DG12 Research	12.9	–	–	0.1	–	–	4.8	2.4	–	–	–	–	9.9	2.3	0.0	–	–	–
DG13 Justice and Home Affairs	1.1	–	–	–	0.8	–	2.4	0.8	–	–	2.4	–	1.3	1.4	–	–	2.3	0.2
DG14 Fisheries	4.5	1.1	8.7	2.1	0.8	–	14.3	0.8	5.8	2.8	–	–	7.5	0.4	7.6	3.6	–	–
DG15 Internal Market	0.6	–	–	0.1	8.4	0.8	0.8	–	–	–	8.2	2.4	0.3	0.1	0.1	0.1	7.2	1.3
DG16 Regional Policy and Cohesion	–	–	0.8	–	–	–	0.8	–	0.3	–	–	–	–	–	–	0.1	–	–
DG17 Energy	1.1	–	0.8	–	–	–	3.2	–	–	–	–	–	1.3	–	0.1	0.0	1.9	0.8
DG18 Credit and Investments	–	–	–	–	–	–	–	–	–	–	–	–	0.1	–	–	–	–	–
DG19 Budget	1.7	–	0.1	–	–	–	–	–	0.2	–	–	–	0.9	–	0.8	0.0	–	–
DG20 Financial Control	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
DG21 Taxation and Customs Union	–	–	0.4	–	7.6	–	2.4	1.6	17.2	0.5	10.6	–	7.2	0.9	24.3	0.7	3.6	0.8
DG22 Education and Culture	–	–	–	–	–	–	–	–	–	–	–	–	–	–	0.3	–	–	–
DG23 Enterprise Policy, Tourism	–	–	–	–	–	–	–	–	–	–	–	–	0.4	0.3	0.1	–	0.2	0.2

Table 1(a) *Continued*

Period	*1/1/1984 – 31/12/1986*						*1/1/1986 – 30/6/1987*						*1/7/1987 – 31/10/1993*					
Length of period	*36 months*						*18 months*						*76 months*					
Instrument	*Decision*		*Regulation*		*Directive*		*Decision*		*Regulation*		*Directive*		*Decision*		*Regulation*		*Directive*	
Council discussion item	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*
DG24 Health, Consumer Protection	–	–	–	–	–	–	–	–	–	–	1.2	–	0.6	–	–	–	1.1	0.2
DG Enlargement	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Europaid	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Eurostat	0.6	–	0.5	–	–	–	–	–	0.6	–	2.4	–	2.2	0.1	0.9	0.0	1.5	0.2
Humanitarian Aid Office	–	–	–	–	4.2	–	–	–	–	–	–	–	–	–	–	–	–	–
Legal Service	–	–	–	–	–	–	–	–	0.2	–	–	–	–	–	0.2	–	–	–
OLAF (Anti-Fraud Office)	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Secretariat-General	0.6	–	–	–	–	–	–	–	–	–	–	–	0.6	0.4	0.3	0.5	–	2.1
Translation Service	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
GUD (Gas and Steam Energy)	7.9	–	27.1	0.5	–	–	–	–	0.3	–	–	–	–	–	–	–	–	–
Joint research center	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Task Force	1.7	1.1	–	–	–	–	–	–	–	–	–	–	1.3	0.4	–	–	–	–
SUD	–	–	–	–	–	–	2.4	1.6	8.4	0.6	–	–	–	–	–	–	–	–
Not available	–	–	–	0.1	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Total %[a]	**91.7**	**8.5**	**82.5**	**17.3**	**83.0**	**16.8**	**89.1**	**10.4**	**91.7**	**8.1**	**67.2**	**33.2**	**86.5**	**13.4**	**83.6**	**16.1**	**72.7**	**27.1**
Raw total (*N*)	**163**	**15**	**634**	**133**	**99**	**20**	**112**	**14**	**567**	**50**	**57**	**28**	**600**	**95**	**1854**	**362**	**344**	**129**

Notes: Raw sample total (1984–2003), $N = 8475$.
[a] Minor discrepancies are due to rounding.

Table 1(b) Percentage of Council controversies by instrument, policy area and period, 1993–2003

Period summarized	*1/11/1993 – 31/12/1994*						*1/1/1995 – 30/4/1999*						*1/5/1999 – 1/2/2003*					
Length of period	*14 months*						*52 months*						*46 months*					
Instrument	*Decision*		*Regulation*		*Directive*		*Decision*		*Regulation*		*Directive*		*Decision*		*Regulation*		*Directive*	
Council discussion item	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*
DG01 Trade	14.3	2.9	20.1	2.2	1.5	–	8.9	–	18.1	0.1	0.5	–	14.3	–	33.0	0.5	–	–
DG01A External Relations Europe	2.9	1.4	0.6	–	–	–	14.0	–	3.6	0.1	–	–	8.2	–	8.4	1.6	–	–
DG01B External Relations Middle East	–	–	–	–	–	–	2.4	0.2	1.5	0.2	–	–	–	–	–	–	–	–
DG02 Economic, Financial Affairs	5.0	–	0.8	–	–	–	4.5	0.2	0.5	0.2	–	–	4.5	0.5	–	0.7	–	–
DG03 Industry	–	–	1.7	–	16.4	–	2.4	–	3.1	0.3	11.4	0.5	–	–	–	–	–	–
DG04 Competition	0.7	–	–	–	–	1.5	0.4	–	0.5	0.3	–	–	0.2	–	0.2	–	–	–
DG05 Employment, Social Affairs	2.9	2.1	0.6	–	3.0	1.5	3.7	0.4	0.7	0.2	6.2	1.4	1.2	1.4	0.2	0.2	2.2	4.4
DG06 Agriculture	10.0	1.4	24.8	3.3	13.4	4.5	7.7	0.6	25.3	6.2	16.2	1.0	4.2	0.2	12.3	5.9	–	–
DG07 Transport	0.7	–	1.7	–	16.4	–	0.6	–	1.1	0.3	11.0	1.9	0.2	–	–	–	–	–
DG08 Development	3.6	–	0.6	–	–	–	1.8	–	1.3	0.1	–	–	4.9	0.2	0.7	–	–	–
DG09 Personnel-Administration	–	–	1.1	–	–	–	–	–	1.6	–	–	–	–	–	1.8	–	–	–
DG10 Information, Communication, Society	1.4	–	–	–	–	–	1.6	–	–	–	0.5	–	0.5	0.5	0.2	0.2	4.4	–
DG11 Environment	2.9	1.4	0.3	–	7.5	–	5.9	0.4	0.6	–	7.6	0.5	6.3	0.9	0.2	–	10.0	1.1
DG12 Research	17.9	–	–	–	–	–	4.3	1.8	0.1	–	–	–	2.1	1.4	–	0.5	–	–
DG13 Justice and Home Affairs	0.7	–	–	–	3.0	–	1.6	0.2	–	–	4.3	0.5	2.6	1.2	0.5	0.9	3.3	6.7
DG14 Fisheries	9.3	0.7	13.4	7.2	–	–	8.9	0.2	12.6	7.7	–	–	6.1	0.7	9.3	2.5	–	–
DG15 Internal Market	4.3	–	0.6	–	7.5	1.5	1.6	–	–	–	11.9	0.5	0.5	–	0.5	0.7	7.8	5.6
DG16 Regional Policy and Cohesion	–	–	1.1	–	–	–	–	–	0.5	–	–	–	–	–	1.4	0.2	–	–
DG17 Energy	2.1	–	–	–	1.5	–	3.5	0.8	1.3	–	1.0	1.4	2.3	0.7	1.4	1.4	12.2	7.8
DG18 Credit and Investments	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
DG19 Budget	–	–	0.8	–	–	–	–	–	0.4	–	–	–	0.5	0.2	0.2	0.2	–	–
DG20 Financial Control	–	–	–	–	–	–	0.2	–	–	–	–	–	2.1	0.2	–	–	–	–
DG21 Taxation and Customs Union	6.4	–	16.2	0.3	10.4	–	13.6	–	7.0	0.7	5.2	1.0	10.0	0.2	9.6	–	3.3	–
DG22 Education and Culture	0.7	–	–	–	–	–	1.4	0.4	0.1	–	–	–	–	–	–	–	–	–
DG23 Enterprise Policy, Tourism	0.7	–	–	–	–	–	1.4	–	–	–	3.3	–	2.1	0.7	1.8		10.0	1.1

Table 1(b) *Continued*

Period summarized	*1/11/1993 – 31/12/1994*						*1/1/1995 – 30/4/1999*						*1/5/1999 – 1/2/2003*					
Length of period	*14 months*						*52 months*						*46 months*					
Instrument	*Decision*		*Regulation*		*Directive*		*Decision*		*Regulation*		*Directive*		*Decision*		*Regulation*		*Directive*	
Council discussion item	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*	*A*	*B*
DG24 Health, Consumer Protection	0.7	–	–	–	3.0	–	0.8	–	–	–	3.3	1.4	2.6	0.7	0.5	0.5	7.8	6.7
DG Enlargement	–	–	–	–	–	–	1.4	–	0.3	–	–	–	11.0	–	0.2	–	–	–
Europaid	–	–	–	–	–	–	–	–	–	–	–	–	0.5	–	–	–	–	–
Eurostat	0.7	–	1.1	–	1.5	–	1.2	–	1.9	–	1.4	0.5	0.9	–	1.4	–	1.1	–
Humanitarian Aid Office	–	–	–	–	–	–	–	–	0.1	–	–	–	–	–	–	–	–	–
Legal Service	–	–	–	–	6.0	–	–	–	0.4	–	5.7	–	–	–	–	–	3.3	–
OLAF (Anti-Fraud Office)	–	–	–	–	–	–	–	–	–	–	–	–	1.2	–	–	–	1.1	–
Secretariat-General	–	–	0.6	–	–	–	0.8	0.2	0.5	–	–	–	0.2	0.2	–	0.2	–	–
Translation Service	–	–	–	–	–	–	–	–	0.1	–	–	–	–	–	–	–	–	–
GUD (Gas and Steam Energy)	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Joint research center	–	–	–	–	–	–	–	–	–	–	–	–	0.2	–	–	–	–	–
Task Force	1.4	0.7	0.6	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
SUD	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Not available	–	–	0.6	–	–	–	–	–	–	–	–	–	0.2	–	–	–	–	–
Total %[a]	**89.3**	**10.6**	**87.3**	**13.0**	**91.1**	**9.0**	**94.6**	**5.4**	**83.2**	**16.4**	**89.5**	**10.6**	**89.6**	**9.9**	**83.8**	**16.2**	**66.5**	**33.4**
Raw total (*N*)	**125**	**15**	**312**	**47**	**61**	**6**	**481**	**27**	**801**	**159**	**188**	**22**	**383**	**43**	**368**	**71**	**60**	**30**

Notes: Raw sample total (1984–2003), $N = 8475$.
[a] Minor discrepancies are due to rounding.

regulations and decisions in other periods. This is evidence that using only directives will provide a biased picture of the legislative process in the EU.

The policy area-specific development is an important characteristic of European integration history, which had already been documented in Ernst Haas' early monographs (1958, 1964). In the literature, several explanations exist for this area-specific development but, from an institutionalist perspective, this would require the study of the configuration of member state preferences. Do member states generally differ in their preference profiles, or do these preference profiles vary across areas and over time? Regarding this area-specific effect, we provided a theoretical model in our original analysis and found a significant impact of the Union's core domains of agriculture, common rules, the internal market and trade on the duration of the legislative process (Schulz and König, 2000: 663). Later, the impact of member states' area-specific preferences was more rigorously tested and confirmed the predictions of the original model (König, 2007b). This leads to the second aspect of my reply to Golub, namely the theoretical contribution made by each study.

The explanatory variables: History and content

In addition to their common research question, the studies on decision-making duration also share some independent variables. In principle, the research designs of all studies are suggestive of the institutionalist school of thought, which focuses on the impact of institutional variables, such as a given procedure or voting rule, as well as actors' preferences, such as the size of the conflict between the actors involved. Even though the studies differ in their level of theoretical sophistication, the conventional assumption is that the size of the core, or the extent of the actors' mutual conflict, determines the length of the process by interacting with the particular institutional settings. This view can be motivated with insights from veto player theory, which stresses the interaction between the distribution of actors' preferences and the particular institutional provisions: the more veto players with diverging preferences, the less likely is a policy change (Tsebelis, 2002). Note that further assumptions are necessary for applying veto player theory to the analysis of process time.[2]

König and Schulz (1997) and Schulz and König (2000) offer a theoretical foundation for the derivation of their hypotheses, whereas Golub lists several relationships, which are sometimes motivated by common wisdom, sometimes related to conventional veto player theory and sometimes a confusing mix of both. For example, Golub (1999: 743) hypothesizes that 'formal rules stipulating majority voting yield faster decision making', but a subsequent

hypothesis states that 'the underlying distribution of member state preferences mediates, and potentially negates, the institutional determinants of EC decision making' (1999: 746). Furthermore, by expecting that 'enlargement slows both majority and unanimous decision making', it turns out that Golub's hypotheses (1999: 744) are based on additional assumptions about member states' preferences: only if the magnitude of conflict among member states increases might one expect slower decision-making, and this clearly requires careful measurement of the preferences at stake.[3]

On closer inspection, these studies also differ in the accuracy with which they operationalize their hypotheses. Golub surprisingly draws conclusions from events, such as the Luxembourg Compromise (1966), that are outside the scope of the period under study (1968–98). By using several control variables for historical time, such as Thatcher or the Greek or other enlargement rounds, Golub controls for some potential omitted variable bias. However, whether the change in EU legislative decision-making in 1990 resulted from the change in the UK government, from German unification or from any other event cannot be satisfactorily answered by such a research design. A major drawback of using only control variables can be identified in Golub and Steunenberg (2007), showing that the institutional variables themselves are the object of change over time. In other words, why should the application of QMV have a different impact on EU decision-making process before and after 1990?

In our original analyses, we had already theorized about the answer and controlled for policy area. The most recent analysis makes progress by presenting area-specific estimators for the preferences of the member states, controlling for interaction effects in the relevant policy areas (König, 2007b). Using the programmatic positions of member state governments, it is now possible to identify the relative importance of institutions and preferences for the process of EU legislative decision-making in a quantitative manner. Moreover, this analysis refutes another of Golub's criticisms of other duration studies, namely their failure to contribute to the discussion of norms. With regard to the ongoing controversy between constructivists and proponents of the theory of spatial voting about the converging or diverging effect of member state positions, the findings reveal that divergence of member state positions significantly determines the duration of the legislative process, particularly in the key domains of EU integration: the greater the distance between the member states' positions, the longer the EU decision-making process takes.

Table 2 summarizes the studies on the legislative process by Golub (1999, 2002, 2007), König (2007b), and Schulz & König (2000). All studies find that qualified majority voting in the Council (*QMV*, *Rule*) speeds up decision-making, and that participation by the European Parliament slows down the

Table 2 Study design and results on decision-making process: Variables, models and findings

Golub 1999		*Golub 2002*		*Golub 2007*		*Schulz/König 2000*		*König 2007b*	
Variables	*Sign of coefficient*	*Variables*	*Sign of coefficient*	*Variables*	*Sign of coefficient*	*Variables*	*Sign of coefficient*	*Variables*	*Sign of coefficient*
QMV	–	QMV	+	QMV	+	Rule	+	Rule	+
POSTSEA*QMV	–	QMVPOSTSEA	+	QMVPOSTSEA	+	Parliament	–	Parliament	–
POSTTEU*QMV	+	QMVPOSTTEU	+	QMVPOSTTEU	+	Instrument	–	Preference (others)	+
Cooperation	+	Cooperation	–	Cooperation	–	Agriculture	+	Preference (Agriculture)	–
Codecision	+	Codecision	–	Codecision	–	Common Rules	+	Preference (Trade)	–
POSTSEA	+	EU9	+	EU9	+	Internal Market	+	Preference (Internal Market)	–
POSTTEU	–	EU10	+	EU10	+	Trade	+	Preference (Common Rules)	+
EC12	+	EU12	+	EU12	+	1985	–		
EC12*QMV	–	EU15	+	EU15	+	1986	+		
Thatcher	+	Thatcher	+	Thatcher	–	1987	–		
Agenda	+	Agenda	+	Agenda	+	1988	+		
Pressure	–	Pressure	+	Pressure	+	1989	–		
Thatcher*QMV	+			QMV*ln(t)	–	1990	–		
Greece	+			QMVSEA*ln(t)	–	1991	–		

Table 2 *Continued*

Golub 1999		*Golub 2002*		*Golub 2007*		*Schulz/König 2000*		*König 2007b*	
Variables	*Sign of coefficient*	*Variables*	*Sign of coefficient*	*Variables*	*Sign of coefficient*	*Variables*	*Sign of coefficient*	*Variables*	*Sign of coefficient*
Greece*QMV	–			Cooperation*ln(*t*)	+	1992	–		
				Codecision*ln(*t*)	+	1993	–		
				Thatcher*ln(*t*)	+	1994	–		
				Pressure*ln(*t*)	–				
N	1141		1669		1669		5183		9131
Distribution	Log-logistic		Cox		Cox		Log-logistic		Log-logistic
	Log-normal								
	Gamma								
Direction of effects	Negative Increase speed		Negative Decrease speed		Negative Decrease speed		Negative Decrease speed		Negative Decrease speed
Period	1974–1995		1968–1998		1968–1998		1984–1994		1984–1999

process (*Cooperation*, *Codecision*, *Parliament*). Note that Schulz and I refrained from distinguishing between the cooperation and co-decision procedures for statistical reasons (only about 18% of the cases indicated any parliamentary participation). Golub almost exclusively uses dummy variables to control for historical time as defined by periods – such as before and after enlargement, treaty changes, *Thatcher* while prime minister and *Agenda* (coded as 1 for policy area added by the SEA or Maastricht), whereas Schulz and I controlled for policy areas as well as for each year in our original study (König and Schulz, 1997: 9; Schulz & König, 2000: 658, 664). On closer inspection of the findings on Golub's control variables, the mixed results suggest that the conclusions are biased by periodical selection and omitted variables: the sign of coefficients changes for important variables such as *QMV* or *Thatcher*.

Careful analysis of the interaction effects between policy areas and member state preferences reveals that the magnitude of conflict significantly affects the decision-making process in the expected direction (König, 2007b). Except for the area of Common Rules, which is close to zero, member state conflict slows the pace of legislative decision-making, and the effects for qualified majority voting and parliamentary participation confirm our previous results. The most recent study also expands the period under study and painstakingly describes the data-gathering, storing and coding process (for cross-validation of these data, see König et al., 2006). This guarantees the reliability of the data and findings, which brings me to the final aspect of my reply to Golub: the choice of an appropriate statistical model. In Golub's (2007) sweeping words, 'prior studies derive their findings from flawed methods'.

The method: Tests and testing

A third commonality among all studies is the application of (new) techniques of event history analysis, which have become a prominent tool for the study of political processes (for an overview, see Box-Steffensmeier and Jones, 2004; Zorn, 2007). When assessing Golub's most recent focus on statistical innovation, one has to bear in mind that these studies differ in their data sampling, theoretical foundations and identification of the model. It is well known that such differences may have important implications for drawing inferences from empirical research. Most obviously, Golub's data include only directives, whereas our data comprise all binding legislative instruments. Furthermore, the analyses differ in their period of study and their sample of covariates. Although Golub (2007) argues for using a specific statistical method and design, the more general question is whether the tests and findings are determined by their different samples or by the applied statistical method.[4]

Another general (methodological) problem concerns the completeness of the data; we highly recommend that any user of EU legislative documentation should report the data-gathering process and discuss the (in)completeness of the source of information. For example, because CELEX's official manual states that data are incomplete prior to 1984, we limited our period of study to this date, and only cross-validation with different data sources promises a reduction in problems related to missing data.[5] In this respect, Golub (2007: 161) indicates only that 'extensive use of COM documents and the *Official Journal* was essential for the pre-1974 period'. Still, a number of conceptual decisions are necessary for preparing these data for statistical purposes. For example, some proposals list more than one reference to the legal basis in the treaty, which means that it might belong to several policy areas and allow for the application of different rules (i.e. qualified or unanimous Council voting). Several proposals can also be collapsed into a single document during the legislative process, whereas others are split into several legislative acts.

All of these conceptual design choices can affect the composition of the resulting sample and thus the selection of the appropriate statistical method. Nevertheless, Golub (2007: 156) generally states that previous research has 'employed [survival analysis] in methodologically inappropriate ways that render their conclusions fundamentally suspect'. Two decisions seem to be of importance to him: the choice of the baseline hazard and the coding of covariates with regard to time dependency. Regarding the choice of the baseline hazard, Golub (2007: 165) strongly advocates using Cox regression because it does not restrict the shape of the baseline and allows 'reliable identification of proportionality violations and readily accommodates non-proportional effects of covariates by incorporating time-interactive terms of the sort $B^*g(t)$ where $g(t)$ is some function of survival time (usually $\ln(t)$).' In my view, however, the decisive question is whether this approach of including the interaction with the specific function of time $\ln(t)$ remedies a violation of the proportionality assumption.

For the log-logistic model, Golub (2007: 167) uses the Grambsch/Therneau test in order to reject the proportionality assumption for his data on directives. This violation of the proportionality assumption by an application of the log-logistic model to his data on directives means that a Cox regression is neither the solution for remedying this effect nor the appropriate model for analysing the entire set of legislative instruments. Unfortunately, Golub does not present the statistical proof and adds only the 'usual' functional form of duration time by $\ln(t)$ to his analysis, which leaves open the question of whether $\ln(t)$ or any other functional form of $g(t)$ can indeed solve the proportionality problem. The more general problem concerns the specification of $g(t)$, which needs either theoretical foundation or empirical evidence. Both are missing in Golub's analysis.

On closer inspection, Golub and Steunenberg (2007) questions almost all previous findings by Golub on QMV post SEA, QMV post Maastricht, co-decision and cooperation after Maastricht, and Thatcher and backlog effects. The authors find that using time-interaction variables reveals a more complicated picture than Golub's previous analyses suggested: 'While some covariates may have a positive impact on the hazard rate at some moment in time, leading to a speeding-up of decision-making, this impact may change into a negative one later on. In addition, the combined coefficient for each covariate is insignificant for some period in time' (Golub and Steunenberg, 2007: 559). In contrast to Golub (2007), they find that the 'effects of QMV pre- and post-SEA are indistinguishable for all values of time' (2007: 561); 'the drag from cooperation overwhelms QMV for the first 8 months (not 12), then neutralizes it for the next 8 months, but the QMV effect outweighs the co-operation effect after 16 months'; 'the unanimity norm is even weaker than Golub thought, [. . .] the effect of QMV after the Maastricht treaty [. . .] is not time dependent' (2007: 562); 'the effects of cooperation and codecision are indistinguishable for all values of *t*' (2007: 563), 'a large backlog spurs the Council to dispose of new proposals but does not expedite passage of the most controversial pieces of legislation' (2007: 564), and the Thatcher effect was slightly less than this and, more interestingly, it reversed direction and significantly speeded up the adoption of legislation. The authors finally provide a somewhat curious explanation for one of Golub's most important original findings on the Thatcher effect, namely 'Thatcher's new views' on proposals made after the European Council summit at Fontainebleau in June 1984 (Golub and Steunenberg, 2007: 563).[6]

This impressionistic account of Thatcher's preference change and the UK position – which does not consider the time-dependence change of other variables over time – and the troubling results of the re-analysis draw attention to Zorn's (2007) recommendation on the theoretical foundation for using time-interaction variables. On closer inspection of the UK position, Figure 2 illustrates the governmental positions of the member states in selected core areas as well as on the left/right and EU dimensions over time to provide a more reliable picture on Thatcher's preference change, two aspects are relevant here: (i) whether the UK position did change radically in 1984, and (ii) whether the UK position defines the core of the member states.

The pictures reveal an area-specific development of preferences, according to which the UK position significantly changed on the left/right dimension as well as in the areas of the internal market and agricultural politics when Margaret Thatcher became prime minister in 1979. However, there is hardly any significant change in 1984. Clearly, the most drastic change in the UK position took place in 1997, when Tony Blair entered office. The pictures

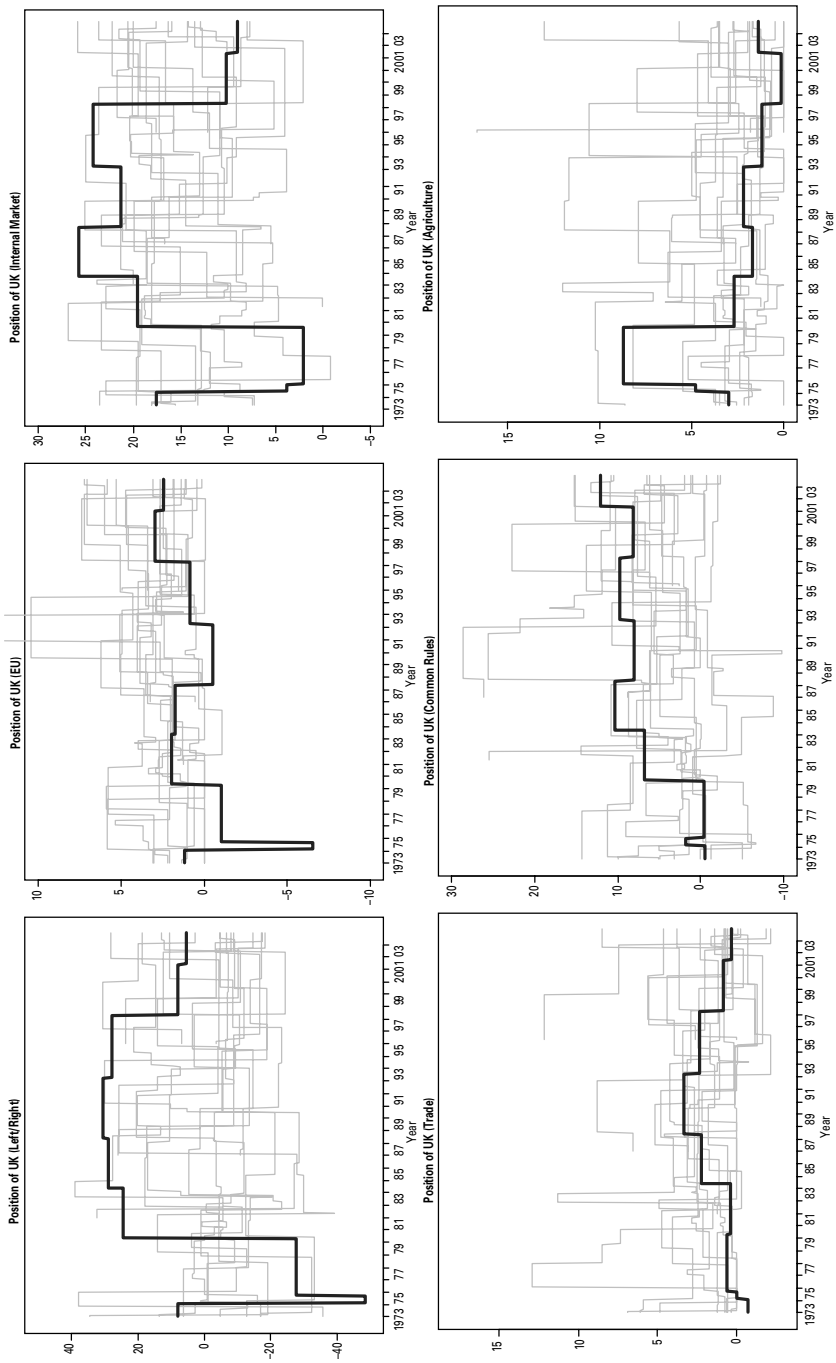

Figure 2 Position of UK government between 1973 and 2003.

also reveal that the UK position does not always define the core of member states. Even in EU matters, Margaret Thatcher's government was more moderate most of the time than the narratives suggested. Except for the internal market and the left/right dimension, the UK position has rarely been located at an extreme in trade, common rules or agricultural politics. In accordance with decision-making theories, we find that these preferences change over time as a result of national or European events, such as changes in party government, in the preferences of the political parties themselves or in the size of EU membership in the course of enlargements.

Conclusion: Pitfalls and challenges in research on the EU's legislative process

The study of the EU's legislative process is a challenging task that creates certain methodological problems and threatens several pitfalls. These pitfalls involve data gathering, storage and preparation for the statistical analyses, the identification and construction of the explanatory variables as well as the selection of the appropriate statistical method. Perhaps one of the more general conclusions is that scholars of the legislative process should be less presumptuous and too convinced that a particular approach is superior to other scholars' work. As originally admitted by Golub (1999), our work was the first to use event history analysis and to perform any sort of diagnostic, and the overview over the past 10 years of duration analyses has demonstrated that our conclusions remain consistent. Finally, we invite any scholar interested in this debate to download the data and run additional analyses to evaluate the respective claims and findings.[7]

On closer inspection of studies on the EU's decision-making process, the analysis of controversial legislation shows that directives are a particular instrument that is hardly generalizable to the greater body of EU legislative decision-making. Furthermore, a quick inspection of the periods under study reveals that all studies account for institutional reform and enlargement. On the other hand, it remains an open question whether particular explanatory variables can account for the hypothesized effects. A dummy variable on the period during which Margaret Thatcher was UK prime minister can control only for potentially omitted variables; it is much more labour intensive to specify and construct indicators that help to test for the presumed effects. In my view, this is especially important because the non-proportional effects found in Golub's analyses could very well be due to an omitted variable bias.

Instead of conducting another analysis on directives, the data-gathering process needs documentation and the data have to be cross-validated and

published. For any student of the legislative process it would then be easy to cross-check the data and to identify conceptual decisions on censoring, double coding and handling missing values of directives. In recent years, we have carefully improved our method of extracting information from official databases and provided the reader with the necessary information to improve the reliability of the procedural data (see König et al., 2006). Furthermore, it has been possible to construct an indicator for the 'missing link' in testing hypotheses derived from the institutional school of thought, namely the area-specific preferences of the member states, which vary over time and across sectors. Nevertheless, such labour-intensive work requires more collaborative efforts because the preference component has been a major source of error in previous studies on EU legislative decision-making (Junge and König, 2007). My hope is that such improvements will not only help scholars to test rival approaches and understand the factors influencing the decision-making process, but also motivate them to invest more time in the provision of reliable data and measures.

Notes

1 For the analysis of process, this poses a methodological problem because pending initiatives might be censored by the date of the researcher's data gathering and thus differ in their likelihood of adoption. In order to cope with this problem, we decided to limit our sample to those initiatives having a similar likelihood of adoption, i.e. by excluding those initiatives that remain pending longer than the median time lag.

2 Although the simple model predicts that the status quo will prevail, member states favouring policy change have an incentive to win over a blocking member state or to offer a compromise on another policy issue in return for the blocking member state's vote. Side-payments and linkage across issues and time are strategies to promote policy change that usually demand more time to resolve differences and to strike a bargain. By contrast, if there is broad agreement, there is no need for such time-consuming strategies, including side-payments and package deals, and this should greatly speed up decision-making (Schulz and König, 2000: 657).

3 Additional assumptions are needed about the expectation of a slowing down of speed owing to either backlog effects or the expansion of the EC agenda.

4 Quite apart from (in)correctness, Golub's assumption about the controversial nature of directives has important ramifications because neither the trend for directives nor the trend for controversial legislation can be identical with the trend of the total sample.

5 Comparing the number of directives from cross-validated data sources suggests that Golub's 1141 and 1669 cases are a 'subsample' of the overall sample of directives.

6 Golub and Steunenberg (2007: 563) finally stress a change in Margaret Thatcher's preferences in explaining the observed change: 'Thatcher became Prime Minister in 1979 and was highly antagonistic for nearly five years until [. . .] an agreement at the June 1984 European Council summit at Fontainebleau.'

7 See http://www.sowi.uni-mannheim.de/lehrstuehle/lspol2/main.html. The data from the Schulz and König analyses can be ordered from heiner.schulz@sas.upenn.edu.

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