



European Union Politics

SESSION 12: EU AND THE MEMBER STATES

EU and the Member States

- ▶ Without its members --> there would be no EU
- ▶ MS are involved in (almost) **all aspects** of EU governance
- ▶ MS are engaged at **all levels** of policy-making, decision-making and the legislative process
- ▶ MS **create** the very framework of European integration – the treaties – the institutional space in which policies and decisions are made



What is the relationship between EU and its member states?

- ▶ Do the MS have reasons to complain and “blame the EU”?



Masters of the treaties

- ▶ MS are the “**masters of the treaties**” – they negotiate and ratify treaties
- ▶ Treaties = primary law = the **framework** in which EU **policies** unfold
- **MS make the treaties, define the policy areas and competences, and through representation in EU institutions, they make decisions within these policy areas**
- ▶ MS **dominate** EU institutions... X ...or institutional balance?
 - **European Council** = overall direction, highest level decisions
 - **Council of the EU** = legislative decisions in ALL policies
- X
- E. Parliament, E. Commission, European Court of Justice

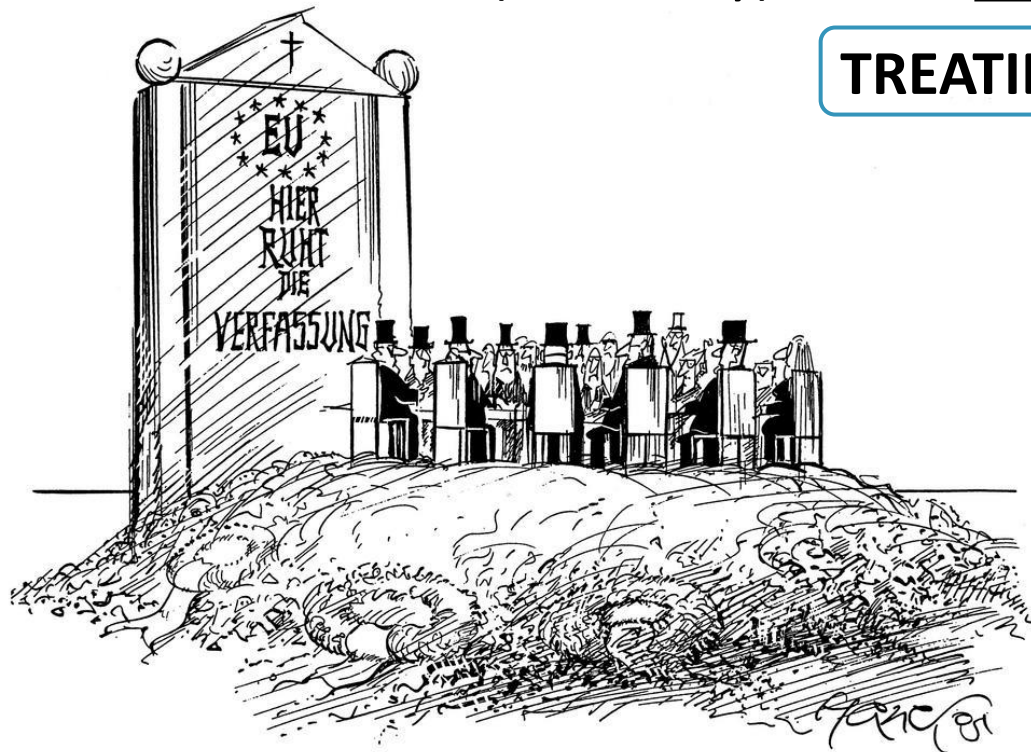


Negotiating the treaties: Intergovernmental conferences

- ▶ **Negotiations** among member states; **bargaining** between what's needed and desired (efficiency) ...and what could be defended in front of home constituencies

TREATIES define the political system of the European Union!

- EU institutions, their powers and competences
- 'Division of labour' between MS and EU
- Each treaty serves a purpose
- ▶ EU institutions are formally not IGC members
= they are NOT party to the treaties either #logically
- however, Commission **can** influence the agenda:
White Paper on Common Market; Delors Report on EMU



EU-Gipfeltreffen, 2005

Lisbon treaty: 'division of labour' between EU and MS

EU power



states power

Exclusive EU competence

- Customs union
- Competition rules in the internal market
- Monetary policy (Eurozone)
- Conservation of marine biological resources under common fisheries policy
- Common commercial policy (international trade on behalf of the MS)

Shared competences between EU and MS

- Internal market
- Social policy, for the aspects defined in this Treaty
- Economic, social and territorial cohesion
- Agriculture and fisheries, excluding the conservation of marine biological resources
- Environment
- Consumer protection
- Transport and trans-European networks
- Energy
- Area of freedom, security and justice
- Common safety concerns in public health matters, for the aspects defined in this Treaty

- Research
- Technology
- Space
- Development cooperation
- Humanitarian aid

- Economic
- Social
- Employment

Supporting, coordinating EU competences

- Protection and improvement of human health
- Industry
- Culture
- Tourism
- Education, vocational training, youth and sport
- Civil protection;
- Administrative cooperation

Negotiating the treaties: Intergovernmental conferences

- ▶ **Horse-trading** between countries with **priorities** on different aspects of reform
- ▶ Principles of conferral, subsidiarity and proportionality; common **values**

TRADE-OFFs

- ▶ **Common policy** = not *exactly* what we want
- ▶ **National policy** = *exactly* what we want x **27!!!**
- What is the nature of the task?
- What are the existing rules? Are they enough?
- What is the degree of preference divergence?
- How much information?





Treaty ratification

- ▶ **Treaty ratification needs unanimous agreement!**
- Are all member states equal if it takes just one veto?
- Vision or lowest common denominator deals?
- Big states steamroll the small states?
- Domestic constraints to reforms?
- Radicality of reform?



Are repeated national referenda on EU treaties legitimate?

Treaties ...in practice

- ▶ Wording of the treaty – to be tested in practice!
 - *Interpretation* of the ‘EU political system’ principles → case law
- ▶ Integration → can have **unintended consequences**
 - ‘**Spill over**’ of integration from one policy area to another
 - **European Court of Justice decisions**: *supremacy* of EU law over national one; *direct effect* of regulations
 - Difficulty to ‘**roll back**’ integration once it starts
 - Institutions – Commission and Parliament – find **wiggle room** to broaden their scope of powers



MS and supranational institutions:

Appointment of the European Commission

- ▶ **1 Commissioner per MS** (continued – result of Irish re-referendum on Lisbon)
- ▶ Commission “veterans” typically get **more important portfolios**
 - **Maroš Šefčovič** (3rd turn) – is a Commission VP with Interinstitutional Affairs portfolio
 - **Margrethe Vestager** (2nd turn) – Executive VP of the Commission and a ‘Europe Fit for the Digital Age’ portfolio
 - **Věra Jourová** (2nd turn) – VP and Commissioner for Values and Transparency
- ▶ Officially Commissioners “represent the Union interest”
 - ...nevertheless they often had or return to national political careers so they try **not to alienate** their nationals (not too much anyway; Šefčovič on Istanbul Convention and “gender ideology”)
- ▶ MS look for competence + politically agreeable profile (no radicals!)

Frans Timmermans ...and Ursula von der Leyen Commission



Frans Timmermans

– First VP in the 2014-2019 Juncker Commission and J.C. Juncker’s right hand/chief “fixer”

- ▶ ..but he was sidelined over Michel Barnier to negotiate the “Brexit deal”
- ▶ Negotiated a migration deal with Turkey, then got to address the **Polish rule of law issues**
- ▶ Nominated by the PES as a *Spitzenkandidat* for the 2019 EP elections
 - EPP came first with Manfred Weber, PES came second with Timmermans
- ▶ June 2019, European Council picks the Commission
 - MS dropped Weber for lack of international experience
 - The Polish (and Hungarians) fought against Timmermans tooth and nail
 - Eventually agreed on **Ursula von der Leyen** (EPP) to lead the new 2019-2024 European Commission

European Council(s)

- ▶ **Highest Union leadership:** “summits” of MS heads of state and government
- Sets long-term priorities & solve highest political emergencies!
- Decides on the **multiannual budget**, general **macroeconomic direction**, **big foreign policy problems**
- Secretive: only about 100 people in the room **to keep confidence**, room to **make deals without prying eyes of the media**
- Talks on the side-lines (often late night)



Council of the EU Presidency

- ▶ 6 month rotating presidency
- ▶ Opportunity of the presiding state to steer negotiations
- European priorities + emphasis on national priorities
- Preparation of Council meetings agenda
- Charing the Council meetings – deal brokers



Allows the presiding member states to influence results, attract investment, get political credit and promote national preferences in the broader European policy framework

Council of the EU



- ▶ Decides on each and **EVERY** piece of EU legislation!
 - by qualified majority voting (QMV)
 - or by unanimity
- ▶ Since 1994 in paper (2006 online) – results of QMV are publicly available
 - also some prep material
 - final press releases now
 - the decision-making process itself is left obscured (or left to lower ranks of COREPER)
- ▶ Take a virtual tour:

Council of the European Union

LEGISLATIVE ROLE

- ▶ **Ordinary legislative procedure/Qualified majority** on proposals coming from the Commission or HR
- ▶ **55% of member states (15 out of 27) + 65% of population**
- ▶ **Blocking minority:** at least 4 MS representing at least 35% of population
- ▶ Formally applies to about **80% of legislation**

Voting calculator: [here](#)

- ▶ **Unanimity** on sensitive matters:

- Foreign, security and defence policy, own resources (EU budget), new members, taxation, social security, provisions of JHA, EU citizen's rights

- ▶ **Simple majority vote** is used for procedural issues

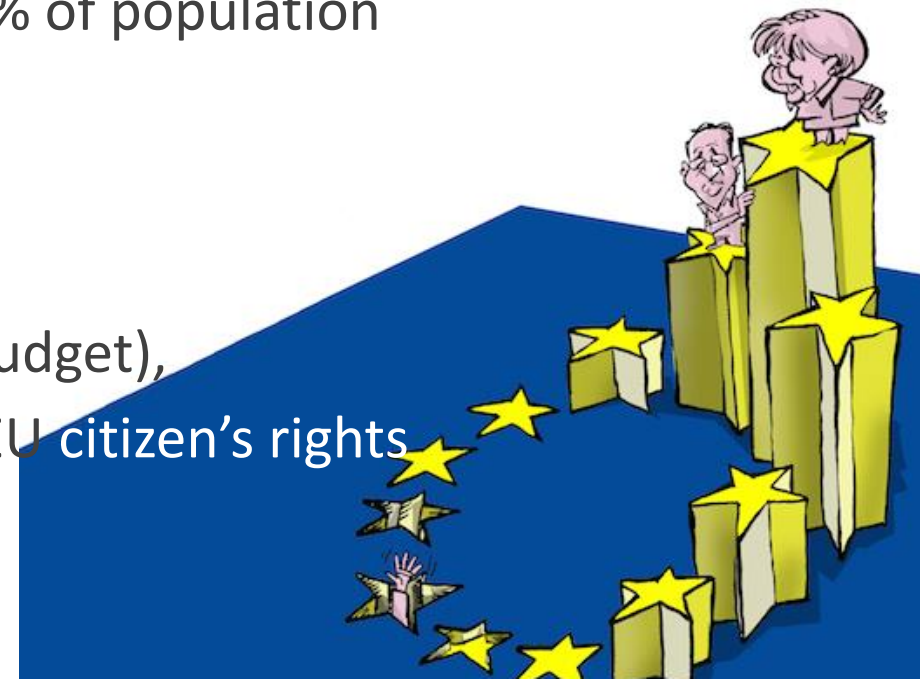


Table 1: Voting power of EU Member States in the Council of the EU with and without the United Kingdom as EU Member State (Banzhaf Indices, calculated by the author).

Member State	with the UK (2019)	without the UK (2019)	Δ ↓
Germany	10,293	12,055	1,762
France	8,430	9,982	1,552
Spain	6,194	7,611	1,417
Poland	5,062	6,459	1,397
Italy	7,754	9,058	1,304
Romania	3,721	3,984	0,263
Netherlands	3,481	3,714	0,233
Belgium	2,902	3,035	0,133
Greece	2,836	2,957	0,121
Czechia	2,824	2,941	0,117
Portugal	2,791	2,903	0,112
Sweden	2,775	2,883	0,108
Hungary	2,741	2,843	0,102
Austria	2,645	2,729	0,084
Bulgaria	2,469	2,517	0,048
Denmark	2,342	2,365	0,023
Finland	2,315	2,333	0,018
Slovakia	2,308	2,324	0,016
Ireland	2,247	2,251	0,004
Croatia	2,174	2,164	-0,010
Lithuania	2,044	2,008	-0,036
Slovenia	1,969	1,918	-0,051
Latvia	1,956	1,902	-0,054
Estonia	1,894	1,827	-0,067
Cyprus	1,848	1,772	-0,076
Luxembourg	1,821	1,740	-0,081
Malta	1,809	1,725	-0,084
United Kingdom	8,356	0,000	-8,356

Council voting weights after Brexit

Consensual politics despite QMV

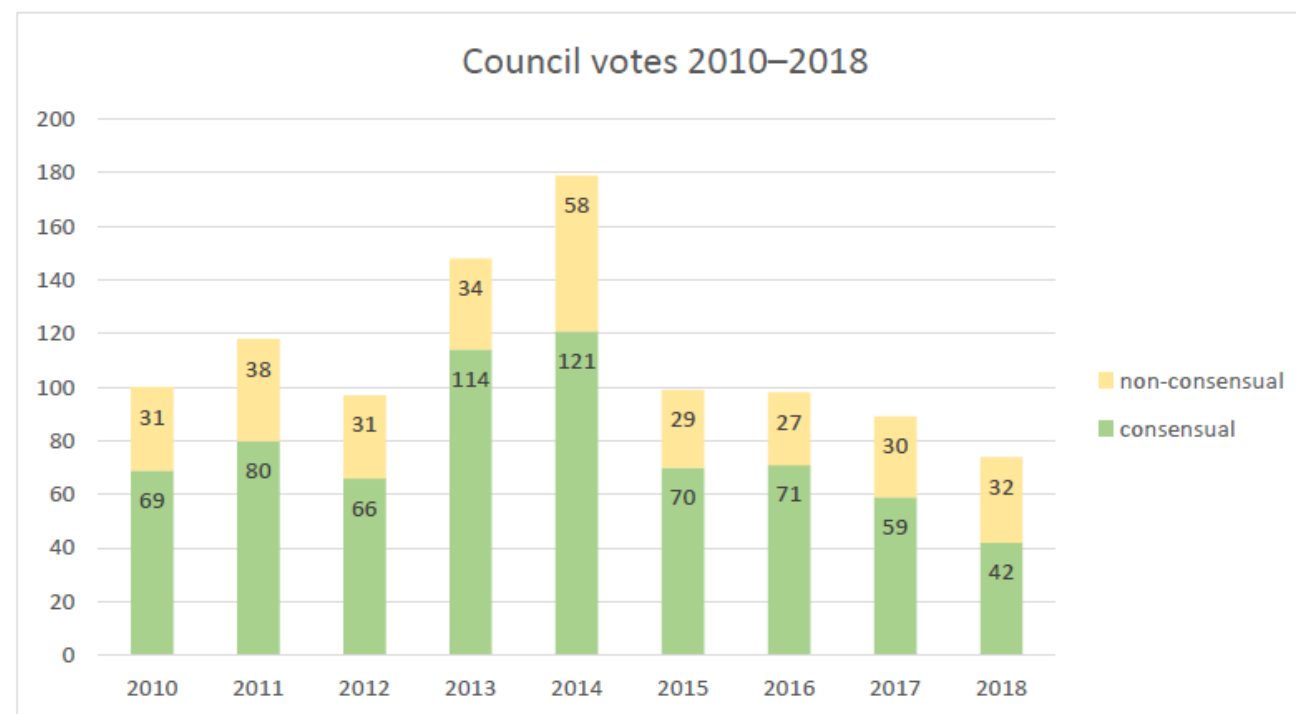


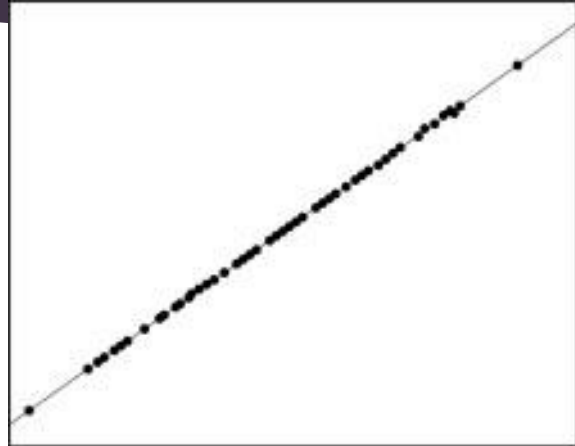
Figure 6: Consensual and non-consensual adoption of proposals in the Council 2010- (Nov) 2018; the numbers are absolute numbers of decisions, non-consensual comprising both votes against and abstentions, based on data on Council website¹⁶.

2007 data

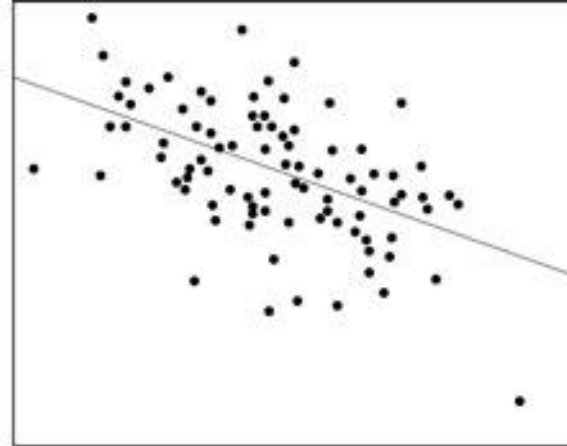
Table 2.4 Uncontested votes, negative votes and abstentions by member state (per cent of all decisions)

	Legislative acts			Other acts		
	Uncontested	Negative votes	Abstentions	Uncontested	Negative votes	Abstentions
Sweden	96.4	2.2	1.4	96.8	2.2	1.0
Denmark	97.4	2.4	0.2	97.6	1.9	0.5
Poland	97.8	1.2	1.0	98.2	0.7	1.1
Lithuania	97.8	1.7	0.5	98.5	0.6	0.8
Portugal	97.8	1.0	1.2	98.5	0.5	1.0
Germany	97.8	0.5	1.7	98.8	0.4	0.7
Greece	97.8	1.0	1.2	99.3	0.3	0.4
UK	98.1	0.7	1.2	97.9	1.2	1.0
Italy	98.1	1.0	1.0	98.5	0.6	0.8
Netherlands	98.3	1.0	0.7	97.6	2.0	0.4
Malta	98.6	1.4	0.0	99.3	0.2	0.5
Czech Rep.	99.0	0.5	0.5	98.7	0.2	1.1
Belgium	99.0	0.2	0.7	98.9	0.5	0.5
Austria	99.0	0.7	0.2	99.5	0.3	0.2
France	99.0	0.2	0.7	99.5	0.2	0.3
Slovakia	99.0	0.7	0.2	99.5	0.2	0.3
Cyprus	99.3	0.2	0.5	99.7	0.2	0.1
Luxembourg	99.3	0.0	0.7	99.8	0.0	0.2
Finland	99.5	0.2	0.2	97.8	1.5	0.7
Estonia	99.5	0.0	0.5	98.0	1.4	0.6
Spain	99.5	0.0	0.5	98.6	0.8	0.5
Latvia	99.5	0.2	0.2	98.8	1.1	0.1
Slovenia	99.5	0.2	0.2	99.0	0.4	0.5
Hungary	99.5	0.2	0.2	99.4	0.2	0.4
Ireland	99.5	0.2	0.2	99.6	0.2	0.2
All countries	98.6	0.7	0.6	98.7	0.7	0.6
EU-15	98.5	0.7	0.8	98.6	0.8	0.6
New member states	98.9	0.7	0.4	98.9	0.6	0.6

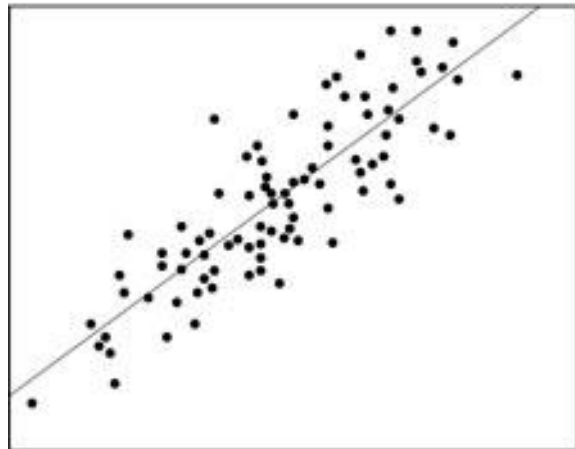
What Council presidency is trying to do, is to find best fit among varying national positions



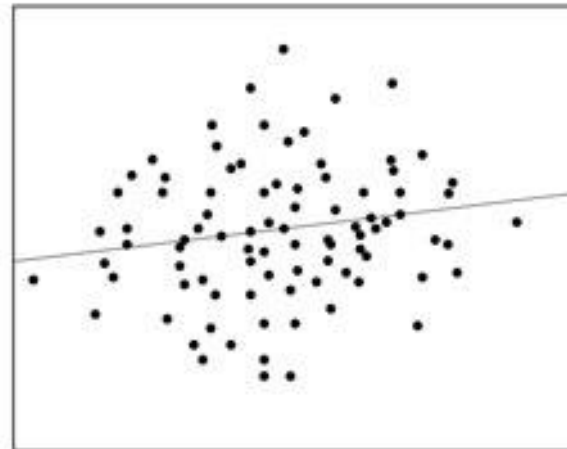
a



b



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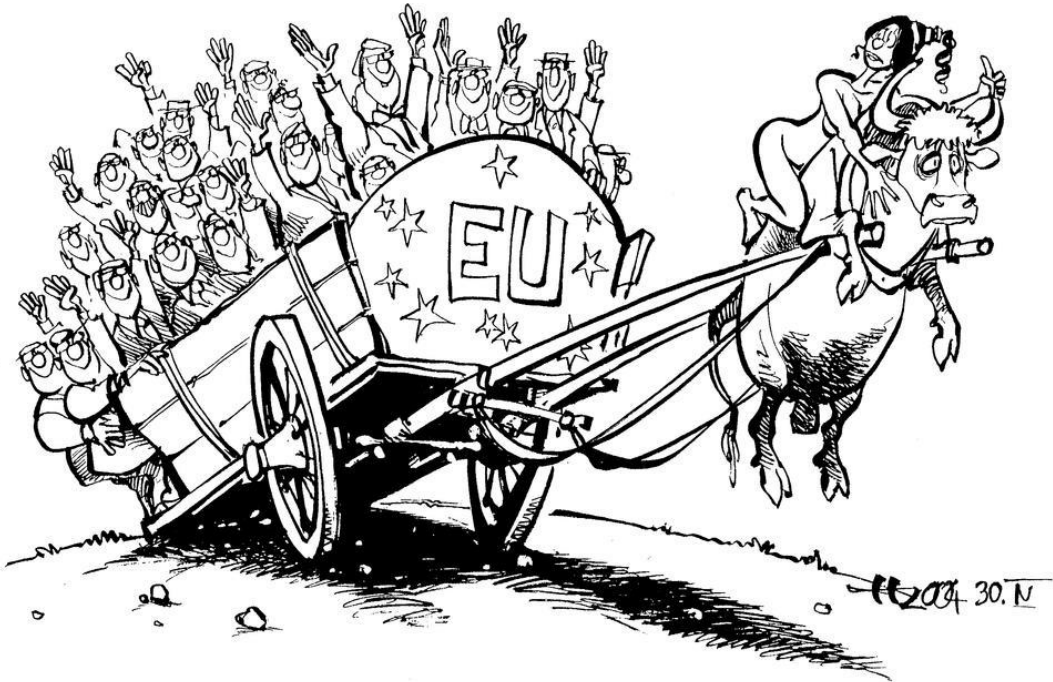
Table 2.3 Contested acts by Council (absolute number of acts in parentheses)

Council	Uncontested	Negative votes	Abstentions (no negative votes)	Total
Written procedure	78.6% (55)	15.7% (11)	5.7% (4)	100% (70)
Transport, Telecommunication and Energy	81.6% (62)	9.2% (7)	9.2% (7)	100% (76)
Competitiveness	83.5% (71)	11.8% (10)	4.7% (4)	100% (85)
Agriculture and Fisheries	85.5% (282)	9.0% (30)	5.5% (18)	100% (330)
Environment	86.0% (74)	8.1% (7)	5.8% (5)	100% (86)
Employment, Social, Health and Consumer Affairs	89.4% (42)	8.5% (4)	2.1% (1)	100% (47)
Education / Youth / Culture	92.6% (63)	5.9% (4)	1.5% (1)	100% (68)
Justice and Home Affairs	93.1% (95)	4.9% (5)	2.0% (2)	100% (102)
Economic and Financial Affairs	95.1% (173)	4.4% (8)	0.5% (1)	100% (182)
General Affairs and External Relations	95.5% (298)	2.9% (9)	1.6% (5)	100% (312)

Table 2.6 Most active country pairs dissenting with the majority

Country pair	Share of first state's all contestations	Share of second state's all contestations
Sweden – Denmark (25)	Sweden (56%)	Denmark (74%)
Sweden – Netherlands (20)	Sweden (44%)	Netherlands (67%)
Sweden – Finland (17)	Sweden (38%)	Finland (74%)
Sweden – Estonia (16)	Sweden (36%)	Estonia (76%)
Finland – Denmark (15)	Finland (65%)	Denmark (44%)
Netherlands – Denmark (15)	Netherlands (44%)	Denmark (44%)
Finland – Estonia (13)	Finland (56%)	Estonia (62%)
Finland – Netherlands (12)	Finland (52%)	Netherlands (40%)
Estonia – Denmark (12)	Estonia (35%)	Denmark (35%)
Sweden – UK (12)	Sweden (27%)	UK (43%)

MS and Commission “double executive”



»Hurra, wir sind 25 Mann stark!«

Issue: **implementing measures** of EU legislation – how to?

- Committees – composed of national civil servants (also interest groups or tech experts) - under the Council
- Advisory procedure (competition policy), management procedure (CAP), regulatory procedure, regulatory procedure with scrutiny (involving also the EP) (food health and safety, transport, enviro)
- ▶ End result: Commission consults with the Council on how to implement
- Removed from public scrutiny
- executive “fusion” rather than executive/legislative separation

EU legislation

Regulations and directives

- ▶ **Regulations** – unified policy,
 - SAME binding law for all MS
- ▶ **Directives** – set minimum requirements (MS can do more, unless it's discriminatory to other MS)
 - Binding legislation
 - It “directs” the MS what they should do
 - But it is up to the MS how they reach the requirement – how they **transpose** the directive into their **national legislation!**

Commission haunts the MS with

- Deadlines
- (weak) oversight
- Possible infringement

Brexit



- ▶ Long term UK was at odds with the rest of the EC/EU
 - UK accession 1961-1973; BBQ; Maastricht and the euro; Lisbon Charter of fundamental rights
- ▶ Aggressive tabloids
 - EU “federalism”, “ever closer union”, “faceless bureaucracy”, “red tape”, “wasting money”, “unaccountable”, “undemocratic” tyranny in libertarian interpretations
- ▶ Very little information among citizens “how the EU works”
- ▶ General frustration with “globalization” and the inequalities it gives rise to – EU as a lightning rod of elite/public frustration cleavage
- ▶ D. Cameron promised a referendum on the Lisbon treaty – that never happened...
 - “if you vote Conservative, we’ll renegotiate terms we have with the EU and have a referendum”
...Tories takin on UKIP
- ▶ June 2016: *Should the United Kingdom remain a member of the European Union or leave the European Union?* **51.89% LEAVE**

