

EVOLVING ROLE OF THE EUROPEAN PARLIAMENT IN EU POLICY MAKING

1- Introduction

Inter-governmental and supra-national characteristics of the European Union (EU) make it a unique international organization and attract many scholars' attentions. Its sui-generis structure shaped by diverse preferences of various stakeholders results in a complex policy making process. Analyzing the strategic behaviors of the EU actors in EU policy making process is one of the hot issues in public choice literature about the EU. In this study, I will evaluate the role and power of the European Parliament (EP) in the EU decision making process, mainly by the help of institutional model. Complexity of the EU and diverse preferences of the involving actors have not deeply hampered the effectiveness of the EU decision making mechanism (Hix, 2002). From the Rome Treaty to the present, essential adaptations are made in the decision making to overcome the emerging difficulties of the EU. Evolution of the role of the EP has taken a major place in this process. Importance of the EP has increased steadily in two mediums throughout the EU integration history. Firstly, the role of the EP has increased like the other supranational institutions as a result of general trend of the EU centralization. Secondly, the EP's importance has increased more compared to other actors in the EU policy making process. Despite the EP's improved role, it is not as strong as the Council in the EU decision making mechanism. Legitimacy and democracy requirement of the EU integration is the main reason behind the changing role of the EP.

2- Public Choice Theories and the Role of the EP

Upper-tier centralization of the EU is not an accidental process. Various social and institutional forces have produced this outcome. As stated by Frey (1997), there is no comprehensive specific public choice theory to analyse international organizations. However, general theories of public choice can be used for studying the international organizations. Thereby, existing public choice theories provide essential means to analyse the EU centralization process and more specifically the roles of the

supranational institutions in EU policy making. However, as Dunleavy (1997) states that EU integration is a multi-causal process with many players and their diverse interests, analysing the EU policy making necessitates the assists of different theories and approaches. In this manner, functionalist theory claims that institutional design of the EU is shaped by preferences of the principals, uncertainty level and anticipated outcomes of delegated functions. The functionalist theory and the principal-agent model help to explain mainly delegation to the European Commission and the European Court of Justice. However, they fail to explain delegation to the EP (Pollack, 1997). Budgetary and legislative functions of the EP are not related to any of the predicted functions of the rational choice model. On the other hand some normative approaches such as constructivist theory of international relations claims that normative structure is as important as material formation (Reus-Smith, 2004). I argue that the EP balances the EU's rationalist and realist integration and works as a source of legitimacy and democracy, and represents normative values of European people. Thus, contrary to rational choice expectations, the role of the EP in decision making process has enlarged in line with the deepening of the EU integration. But this does not necessarily mean that rational choice theories are totally useless for explaining the role and power of the EP. Institutional model points out that how entrepreneurial capacity and autonomy of the EP provide opportunities to increase its policy making power despite the intentions of member states (Pollack, 1995). Rule 78 is a good example of the EP's initiative to shape formal power of decision making. However, as Dunleavy (2007) indicates, it is hard to attach exact weight to the power of institutional design in shaping centralization of the EU. Lastly, the EP's capability to solve legitimacy problems of the EU is beyond the scope of this paper.

3- EU Policy Making Actors and the EP

There are three main actors in EU policy making process. Each represents different stakeholders' interest: The Council represents the "states" and national governments. The Commission works as the executive body of Union and represents the interest of the EU as whole. The EP represents the "citizens" of the member states in general. Functions of the EP can be classified in three categories; legislative function, budgetary function and supervision function. All these roles give the EP some power to direct the EU policies. On the other hand, EU countries have delegated mainly the

regulation function in particular policy fields to supranational bodies. Budgetary functions are not extensive and crucial as directly delegated regulatory functions (Dunleavy, 1997). Hence, supranational institutions' policy making powers mainly originate from their role in regulatory functions, so in legislative process. Thus, concerning the volume of this paper, I will focus the EP's formal legislative power in decision making procedure in the following pages. However, someone should not ignore the EP's contribution to the EU budget process and its executive control over the Commission.

In legislative system of the EU, each actor decides in different majority under different decision making rules. Decision making procedures in subsequent treaties have shaped the formal power of the actors. According to the bureaucratic theories of public choice, supranational institutions have exploited differing preferences among the member states and other actors for their self interests (Dunleavy, 1997). So, in line with the bureaucratic theories, the Council and the EP have developed sophisticated internal rules to improve their power against the other players (Hix, 2002). They rationally forecast the winset of their principals and other players to avoid moving beyond it. Tsebelis (2002) examines in detail how the decision-making process works and to what extent EU institutions can achieve movement from the status quo to their desired level. This section can be summarized as the agenda-setting power and the veto power change among the actors either with the treaty amendments or tactics of the actors.

4- Institutional Model and EU Legislative Politics

Institutional model is based on rational choice and non-cooperative game theories. In institutional model, legislative power is used as the *agenda setter and the veto player*. *Agenda setting* reflects the ability to control policies that replace the status quo. Policies are mostly closer to agenda setter's ideal position. Agenda setting power is stronger than *veto power*, in which legislative actors can only accept or reject the proposals but not amend them in favor of their preferred positions (Tsebelis, 2002, Matilla & Lane, 2001). Tsebelis (2002) argues that bicameralism and qualified majority increases the number of veto players. Hence, decision making becomes more difficult and political stability is high in a bicameral qualified majority institutions.

Shorty, institutional models focus on formal procedural rules of decision making and preferences of actors to determine the legislative powers of the actors.

On the other hand, some assumptions and predictions of institution model are not able to capture all realities of actual situation. For instance, institutional model assumes that the Commission and the EP are monolithic bodies which are represented by their respective median voters. Moreover, institutional models do not consider the regulatory substance of the issue to be decided and the degree of conflict generated by a decision and assumes each legislative initiative as one-shot game (Heisenberg, 2005; Sullivan & Selck, 2007; Hörl & Wonka, 2005). However, empirical findings indicate that informal procedures are as important as formal decision making structure and assumptions of rational choice are not valid in all cases. On average from 1994 to 2002, 81 per cent of all decisions were made by consensus in the Council without voting (Heisenberg, 2005). Institutional model provides powerful tools for analyzing the EU decision-making process; however, there are undoubtedly places for other models such as informal bargaining theory. More empirical findings about the EU decision making process are required to test accuracy of the predictions and assumptions of the institutional model (Hörl & Wonka, 2005).

5- Formal Decision Making Procedures and the EP

In this part, the EP's role in different decision making procedures will be analyzed with the help of institutional model. Power of the EP varies in each decision making procedure depending on the other institutions' preferences and spatial positions:

The Rome Treaty (1957) establishes the EP as the consulting assembly for the community and the “*consultation*” is determined as the major decision making procedure. The Commission makes the proposal, the EP presents its *unbinding opinion* to the Council and the Council finally decides either qualified majority or unanimity depending whether it accepts or amends the Commission proposal. In 1979, the first direct election for the EP was held and the role of the EP has started to change. One year later, European Court of Justice's famous ‘*Isoclucose*’ decision is first fundamental improvement for the EP. In ‘*Isoclucose*’ case, the Court annulled legislation, since the Council did not request the EP's consultation opinion which is

required by the treaty (Hix, 2002). Treaty articles do not restrict the EP's consultation opinion in a limited time frame, so the EP obtains "*power of delay*" with this decision.

The Single European Act (1987) makes the major difference in legislative power of the EP by introducing the "*cooperation*" procedure. In this procedure, two readings of the EP are required. After the first reading, the Council adopt a common position and the second reading begins. However, in the second reading the EP should vote with *absolute majority*. Moreover, the EP is restricted with the Council's modification in the amendments introduced in first readings (Hix, 2002). Absolute majority requirement (meaning de-facto qualified majority), and restriction for proposing new amendments in second reading weaken the amendment power of the EP in the cooperative procedure. After the second reading, the Council decides with unanimity or qualified majority depending on the Commission's position. If the Commission accepts the EP's amendment, the Council can only overrule it with the unanimity. In summary, the EP has gained the *conditional agenda setting power* with the cooperative procedure (Tsebelis, 2002). The Single European Act also presents another decision making procedure; "*assent*" procedure. This procedure requires the approval of EP for the international agreements such as association agreements or agreeing the accession of new member states (Hix, 2002). Assent procedure gives a clear *veto power* to the EP in a limited policy area.

With the Maastricht Treaty (1993), "*co-decision-I*" has been introduced. It adds some additional stages to the cooperation procedure. If the EP and the Council do not agree on proposal after the second reading, a "*conciliation committee*" with the equal members from each the EP and the Council should be established. If the conciliation committee reach a conclusion, both institutions approve the agreed paper separately. However, if the conciliation committee stage fails, the Council can present its initial position with a qualified majority. The EP may reject the Council's final offer with an absolute majority in third stage. In short, the EP gains the *absolute veto power*, but no more makes the final offer to the Council. The Council can submit the 'take it or leave it' proposal to the EP. Tsebelis (2002) argues that the EP makes an unprofitable trade by accepting veto power in return for losing agenda setting control in cooperation procedure. However, there are conflicting empirical evidences about Tsebelis's claim.

According to the EP figures, the EP is more successful under the co-decision procedure than under the cooperation procedure (Hix, 2002: p 107). On the other hand, as displayed in the following table, Tsebelis's own research provides some opposite evidences.

| Commission's Decision (Amendment of the EP) | Council's Decision (Cooperation) | Council's Decision (Co-decision-I) |
|---|----------------------------------|------------------------------------|
| Accept | 83 % prob. to accept | 73 % prob. to accept |
| Reject | 88 % prob. to reject | 67 % prob. to reject |

Source: Tsebelis, 2001.

As I mentioned in previous paragraphs, institutions' individual manoeuvre can change the formal legislative power. EP adopts the *Rule 78* to compensate its inferior position in co-decision-I (Hix, 2002). With this rule the EP declares that unless the conciliation committee reach a conclusion, the EP will reject the final offer of the Council without considering whatever it contains. De-facto elimination of third reading makes the conciliation committee final stage of the legislation process and enables the EP to obtain agenda shaping power.

The situation created by Rule 78 is accepted as a formal treaty rule in '*co-decision-II*' with the Amsterdam Treaty (1999) and confusion about the exact power of the EP abolished. The EP becomes the genuine co-legislature with the Council. Amsterdam Treaty extends this power to the new policy areas. Lastly, the Nice Treaty (2003) does not present a new legislative procedure, but introduced triple majority requirement for the Council and increases the QMV threshold. This amendment can be understood as more difficult decision making for the EU. According to spatial model, increased number of veto players as result of increased QMV threshold in a bicameral legislative structure shrinks the winset of the status quo and enlarges the legislative core (Tsebelis, 2002). Hence, the legislative bodies in the EU have weakened against the executive and judiciary institutions.

6- Internal Structure of the EP and Its Legislative Power

As in the case of the Rule 78, internal arrangements of the institutions directly affect their actual legislative power. The EP has three main organizational structures to foster its agenda control power. First, the *political leaders and committee chairmen* are facilitators in coalition formation and decision making. Second, specialized *committee structure* of the EP makes the legislation more technical and mechanic, and facilitate logrolling behaviour of the MEPs. Lastly, decentralized and fragmented *parliamentary groups* represent party structure of the EP (Hix, 2002). There are no permanent coalitions. However, absolute majority or simple majority requirement shapes the coalition formation. Two major groups' (European Democrats and the Party of European Socialists) support is crucial in coalition formation, especially when absolute majority is required. Informal grand coalition of the European Democrats and the Party of European Socialists is crucial for the spatial position of the EP against the other legislative players (ibid.)

On the other hand, the EP's 785 members are selected with nationally customized PR systems and national parties effective in the EP elections. They nominate candidates and pursue election campaigns. Since, there is no direct relation between MEPs re-selection chance and their performance in the EP, the supranational structure of the EP and direct link to the national political dynamics creates a dilemma for the MEPs, whether to follow their national parties' interest or close to their groups or committees in the EP. But, proponents of the institutional model assume the EP as "unitary" institution with a uniform preference (Hagemann, 2007). Fragmented structures and importance of national interests indicate that the EP is not a homogeneous legislative body. Influence of the national parties and their leaders over MEPs makes national interests pivotal in determination of the EP's position. If the legislative process is perceived a bargaining game among the EU institutions, fragmented structure weakens the EP's position against the Council. But, perceiving the legislative process only as a non-cooperative bargaining game among institutions shows one side of the coin. It may cause some short term difficulties in decision making, however it supports a balanced, long-lasting EU for the future. Representation of both the national and union-wide interests in the EP enhances the overall legitimacy and sustainability of the EU.

7- Conclusion

In the complex and volatile legislative structure of the EU, the EP has steadily increased its role with subsequent treaty amendments and individual tactics. In final situation, the EP has become co-legislature with the Council in most of the policy fields. Moreover, the EP also has a significant role in the approval and scrutiny of EU budget and executive oversight of the Commission. Nevertheless, the EP is not as strong as the Council in decision making process due to at least two reasons: First, the EP is not involved in policy making as a legislative body in the second and the third pillars of the EU, in which the EU works as an intergovernmental organization. Second, even the EP is co-legislator in most of the policy fields in the first pillar; there are some areas where ‘co-decision II’ is not used. In current situation, bicameral legislative structure and increased qualified majority requirement have increased the number of veto players, so cause a shrinking winset of the status quo and larger legislative core. This will result in higher policy stability and more roles for the Commission and the ECJ in the future.

Different approaches and theories complement each others to capture the all complexity of multi-causal process of the EU integration. Functionalist theories in general explain why high level of delegation to the supranational institutions has been achieved. On the other hand, normative approaches are helpful to explain why the EP is one of the delegated institutions. The institutional model analyzes the formal policy making in the EU. However, unitary assumption of the EP does not reflect different faces of legislative process. The EP has a fragmented structure which includes many different interest groups. So, the internal dynamics of the EP should also be taken into account while evaluating its legislative power. Lastly, informal models of EU decision making are also helpful to explain sui generis structure of the EU.

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