NEGOTIATING EUROPEAN ISSUES

National Strategies and Priorities

A Comparative Analysis

OEUE PHASE I
Occasional Paper 0.2 – 11.03

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University College Dublin
Dublin European Institute

FIFTH FRAMEWORK PROGRAMME

Dublin European Institute
A Jean Monnet Centre of Excellence

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ORGANISING FOR EU ENLARGEMENT:

Challenge for the Member States and the Candidate Countries

The Dublin European Institute, University College Dublin,[1] was awarded, in 2001, a research contract under the EU's Fifth Framework Programme[2] to carry out a comparative study of the impact of the EU on the structures and processes of public policy in six small countries: **Ireland**, **Greece**, **Finland**, **Estonia**, **Hungary** and **Slovenia**. The Project's partnership, under the direction of Professor Brigid Laffan, Dublin European Institute, University College Dublin[3], includes: Professor Dr. Wolfgang Drechsler, University of Tartu; Professor Teija Tiilkainen, University of Helsinki; Professor Calliope Spanou, University of Athens; Professor Attila Ágh, Budapest University of Economic Sciences and Public Administration; and Professor Danica Fink-Hafner, University of Ljubljana.

The aim of the research project was to deepen our understanding of the processes of Europeanisation in a number of the existing member states and some of the candidate states.

The research project encompassed the following three objectives:

- The conduct of research which offers immediate policy relevance to key stakeholders in the enlarging Union;
- The conduct comparative, theoretical and empirical research on the management of EU public policy making in three existing member states – Ireland, Greece and Finland – and three candidate states – Estonia, Hungary and Slovenia;
- The shedding light on the capacity of smaller states to adjust and to adapt to the increasing demands of Europeanisation on their systems of public policy-making and thus to identify the barriers to effective, efficient and accountable management of EU business.

Research Strategy

The research design consisted of two phases and within each phase, two levels of analysis. **Phase I** analysed the management of EU business at the macro level of the core executive and was complemented by a micro case study of a recent policy negotiation using decision analysis. **Phase II** of the research broadened the analytical focus to encompass other levels of government – the EU and sub-state – through multi-levelled governance. Here attention was centred upon the emergence of policy networks and the interaction between public actors and the wider civil society in specific, discrete policy sectors.

[1] National University of Ireland, Dublin (University College Dublin).
[2] European Commission, Community Research Fifth Framework Programme (Socio-Economic Research).
[3] This project forms part of the Governance Research Programme, Institute for the Study of Social Change, University College Dublin, www.ucd.ie/issc/ and www.ucd.ie/govern/intex.htm.

Methodology

The study employed two specific methodologies: historical institutionalism and rational institutionalism in a new and innovative fashion. The use of combined perspectives provided a theoretically innovative and new approach to the study of the Europeanisation process. Both approaches could be used as they were applied to different elements of the empirical research.

Academic and Policy Implications

This study's findings provide insight into the manner in which diverse state traditions, institutions and political and administrative cultures influence national adaptation to EU governance and how the interface between national policy processes and the Brussels arena is managed. It is expected that these findings will assist those making and managing policy, thus facilitating adjustments to the changing European Union while also contributing to the growing academic debate on Europeanisation.

At various stages during the course of this project the research findings and analysis were presented to a range of stakeholders and academics to facilitate feedback and enhance the analytical process. Further details about the Organising for EU Enlargement (OEUE) project are available on the project web site www.oeue.net, along with i) the Project Report, ii) the OEUE Occasional Papers and iii) a selection of papers by the research partners which draw on various aspects their project research.

INTRODUCTION

Phase I Micro Case Study

This research begins from the assumption that institutional and policy adaptation are salient facets of Europeanisation. Nevertheless the problem remains as to how this adaptation takes place in the old and new member states. In particular, the micro cases studies for this research were guided by the following questions:

- How do the stakeholders at the core executive of the old and new member states organise themselves at the domestic and European levels to ensure effective own policy position preparation and subsequent negotiation?

- How do the stakeholders at the core executive of the old and new member states negotiate their policy positions at the domestic and European level?

With regard to the first of these research questions, the rationalist literature suggests there may be both formal and informal mechanisms for understanding the nature of policy co-ordination between policy actors in a policy network (Torenvlied and Akkerman, 2001, Raub, 1997). One mechanism is the existence of formal, institutionalised procedures for monitoring and sanctioning. A second mechanism is the existence of informal, cohesive policy networks of decision making. With regard to the second of these research questions, this research suggests that the key to understanding policy decision outcomes is to focus on the dynamics underlying the collective decision-making process. The policy process is perceived as a chain of collective decision-making processes around important issues. In such processes, outcomes are determined by the interplay of stakeholders with varying capabilities, preferences and levels of salience to shape the collective policy outcome. These stakeholders are willing to mobilise their capabilities, only if the issues are of sufficient interest to them and if their preferred outcome deviates from the one expected.

In the following discussion of the research findings of the case studies, we first briefly discuss the model guided approach to data collection, applied for this research. This is followed by a discussion of the main research findings for each of the two research questions identified above. In the first place we examine the results of this research with regard to the negotiations for the European Arrest Warrant. The analysis of the negotiations of the European Arrest Warrant (EAW) at the European level are presented, followed by the comparative analysis of the national level EAW negotiations in each of the three "old" or existing member states, Finland, Ireland and Greece, which have been selected as the case studies for this research. The next part of the paper focuses on the comparative analysis of the Accession negotiations at the national level in the three "new member states, Hungary, Slovenia and Estonia. The final section presents the broader comparative findings for all six member state case studies from this part of the research, which has been conducted as part of Phase 1 of the overall research project "Organising for Enlargement".

A SHARED RESEARCH DESIGN

Data Collection

A common research design was used in the six micro case studies undertaken. The examination of the nature of the negotiations at the European level and the national level in the old and new EU member states was facilitated by a model guided approach. Such an approach requires a careful selection of the main policy issues involved (Thomson et al. 2002) with each belonging to one and only one decision set. The policy issues are represented as one-dimensional continua on which both the outcomes and the policy preferences of the actors can be represented. Experts are used to identify the list of actors for whom these issues were salient and the list may include both public and private actors. This list includes actors who are well resourced to affect the outcome of the negotiations, that is the final decision(s) taken. The importance of an issue for an actor is denoted by the salience the actor attaches to it and the actors preferred outcome regarding that issues is denoted by the actor's policy position pertaining to it. In summary, salience refers to the relevance of the issue in question compared to other (perhaps unspecified) issues for the actor while the policy position refers to the actor's policy preference.

These elements, salience and policy position, are combined in a utility function for each actor. In order to do so, two auxiliary assumptions are necessary; i) that the policy position of an actor on an issue can be represented as a point on a one-dimensional continuum and ii) the preference of an actor is a single peaked function. The utility function specifies the value that the actor attaches to each feasible alternative outcome on the issue in question. The policy position denotes the point on the continuum that has greatest utility for the actor while the utilities of the alternatives are assumed to be a function of their distance from the actor's most preferred position, taking the salience into account (Bueno de Mesquita and Stokman 1994). Given a knowledge of the issue(s), their salience for the actors identified and the actors policy positions on the issues a third element is necessary to model the decision making process, that is the capability of the actors.

The actor's capability is defined as its ability to influence the negotiations in such a way that the final outcome will be as close as possible to its preferred position. This capability must reflect the actor's formal decisional power and informal weight in the decision-making process. The formal decisional power of all the actors involved can be derived from their relative weight given the formal decision-making procedure in combination with the specific decision rules in force, whereas their informal weight is determined by many factors. The most important of which include the extent of the actor's timely access to the decision-making and the various resources each actor can mobilise to effect that access (Mokken and Stokman 1976). Such facilitating resources include sources of exclusive or restricted information and the means to mobilize supportive forces to prevent certain outcomes.

In respect to each of the six case studies the negotiation issues and the actors were successfully identified along with the three elements pertaining to the actors' role in the decision making process, issues salience, policy positions and capability. The research findings were analysed

through a selection of bargaining models, the *compromise model*, the *exchange model* and the *non-cooperative conflict model*. On the basis of the accuracy of the model's forecasts of decision outcomes, inferences are drawn about the relevance of the influence strategies they posit.

The Modeling Approach

A number of procedural approaches or bargaining models exist to calculate the outcome of negotiating processes. The choice of method is influenced by type of negotiations under examination and the extent of information that each actor has about the policy positions, salience and power of the other actors involved. The models selected for use in respect to the six case studies in this research, the *compromise model*, the *exchange model* and the *non-cooperative conflict model* combine the formal and informal means by which actors exert influence, distinguishing them from other procedural approaches. Formal decision making rules still matter in terms of accounting for the capabilities of actors, i.e. the power of each actor to influence the outcome. However, actors can also use other more informal means to influence outcomes, such as the power to influence other actors by persuasion, bargaining skills, levels of information and trust between actors. All three models focus on how these capabilities are deployed through the particular modes of interaction between actors, that is, the use of exchanges or challenges, through which initial positions of stakeholders are transformed into voting positions in the final voting stage of the policy process.

The *compromise model* predicts the collective decision outcome as the mean of all actors' weighted positions, capability and salience. This model ignores the differences of utility between actors and of any exchanges in positions during negotiations (Stokman and Van den Bos 1992; Payne and Bennett 2003). The *exchange model* includes power and salience, as in the compromise model, but also considers the utility of each actor for different positions (Stokman and Van Oosten 1994). It seeks to model the outcome of exchanges that occur in policy positions as a result of the negotiating process. In the *conflict (expected utility) model*, actors must decide whether they will challenge other actors' policy or voting positions (Bueno de Mesquita 1994; Payne and Bennett 2003). This decision is based on an evaluation of the expected utilities of challenging or not challenging the position of the opponent. The model uses estimates of the expect utility of each actor challenging each other actor.

The selected models differ in the way the transformation process takes place. In the *non-cooperative conflict model*, actors' perceptions of the chances of success or failure of challenging the policy positions of opponents are modeled (Bueno de Mesquita 1994). Actors challenge opposing positions if they think this will result in utility gains for themselves. This repetitive process of evaluation, challenges and shifts of voting positions stops if a state of equilibrium is reached and a dominant outcome emerges. In the *exchange model*, actors try to positively influence the expected outcomes through the exchange of voting positions with opponents, under the condition that the exchange results in utility gains for both sectors. Realised exchanges between two actors on two issues at a time result in shifts of the voting positions of the two actors. As a result, the expected outcomes also shift, but not necessarily in the

expected direction because of the multilateral nature of the negotiation process. After the negotiation process, the outcome is determined as if a weighted voting procedure had taken place, i.e. the outcome is an average, weighted by the capability and salience of the voting positions.

THE CASE STUDIES

NEGOTIATIONS ON THE EUROPEAN ARREST WARRANT[4]

Until the entry into the force of the European Arrest Warrant in January 2004 extradition in the EU was governed the 1957 European Extradition Convention which had been complemented over the years by a series of protocols and conventions intended to speed up and simplify the procedures among the consenting member states[5]. However, the Conventions of 1995 and 1996 had only been ratified nine and eight member states respectively (European Commission 2001: 1).

The European Arrest Warrant Negotiations

Decision-making in Justice and Home Affairs was substantially reformed with the signature of the Treaty of Amsterdam (came into effect 1998). The Treaty of Amsterdam brought certain areas within the Community legal order (the First Pillar), namely policy on visas, asylum, immigration and other policies connected with the free movement of persons. The Treaty stipulated the measures to be taken by the Council with a view to the progressive establishment of an area of freedom, security and justice within five years of its entry into force. The Treaty of Amsterdam laid down that, for a transitional period of five years following its entry into force, the Council would in general act unanimously on a proposal from the Commission or on the initiative of a Member State and after consulting the European Parliament. After this period (end 2002), the Council could act on proposals from the Commission, which acquire the sole right of initiative. From this point onwards, decision making would also be by codecision and directives, regulations and decisions would replace common positions, joint actions and conventions. However, policies on police and judicial cooperation in criminal matters (including the European Arrest Warrant) continue to fall under the Treaty of European Union or Third Pillar's jurisdiction. According to the Amsterdam provisions on police and judicial cooperation in criminal matters, the Union's objective is to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the member states in the field of police, judicial cooperation and criminal matters and by preventing and combating racism and xenophobia. These objectives will be achieved in a number of ways: through closer

[4] The legal instrument is the Council Framework Decision on the European Arrest Warrant and the surrender procedures between the Member States for ease of reference the term European Arrest Warrant is used in this and associated papers in the series of OEUE Working Papers.

[5] European Extradition Convention of 13 December 1957; the Additional Protocol to Convention (15 October 1975); the Additional Protocol to Convention (17 March 1978); the European Convention of 27 January 1977 on the suppression of terrorism; the Convention on the simplified extradition procedures between Member States of the European Union (10 March 1995 and Convention on the extradition between the Member States of the European Union (27 September 1996).

cooperation between police forces and other authorities such as Europol, between judicial and other competent authorities and through the approximation, where necessary, of rules on criminal matters. Policy making in the third pillar is intergovernmental, i.e. decisions are taken unanimously by Council (Regan, 2000, 5). The legal instruments of the new Third Pillar (common positions, framework decisions and conventions) are also binding on member states but without direct effect.

Negotiation in the EU's Third Pillar normally takes place at four main levels, namely: approximately 25 Working Parties in the field of police, customs and judicial cooperation; the Article 36 Committee (also known by its French acronym CATS) composed of national senior officials from the 15 Ministries of Justice and Home Affairs, the Committee of Permanent Representatives (COREPER II), composed of Ambassadors or Permanent Representatives[6], and the JHA Council of Ministers. Although the European Council was involved in the negotiations at certain stages, European negotiations on the European Arrest Warrant took place at three levels: the Article 36 Committee, COREPER II and the Justice and Home Affairs Council of Ministers.

The European Arrest Warrant replaced existing extradition procedures on 1st January 2004 for all EU member states. The warrant is a judicial decision issued by a Member State with a view to the arrest and surrender by another Member State of a requested person, for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order. The immediate impetus for the European Arrest Warrant lay in the terrorist attacks on the United States on 11th September 2001. The terrorist attacks not only highlighted the importance of effective EU measures on internal security, but also put enormous pressure on the EU's justice and home affairs' decision making system to produce substantial legislative action in a very short period of time (Monar, 2002, 121). On 20th September 2001, the Justice and Home Affairs (JHA) Council announced its determination to reach agreement on the Terrorist package, which included the warrant, by 6th December 2001. This speed of decision making was unprecedented in JHA negotiations. This commitment also meant that a negotiated outcome had to be reached, no matter what.

Since the EU decision on the EAW was based on a Commission proposal and the adoption of the EAW required unanimity in the Council, it was decided that the list of actors should contain the fifteen member states and the Commission. The primary objective of the European Arrest Warrant is to harmonise the extradition procedures of all member states. All those interviewed on this negotiation emphasized the sui generis nature of these negotiations, the fact that an agreement had to be reached on an arrest warrant no matter what and the fact that the time to negotiate was extremely tight. Four key controversial issues were specified by the model guided

[6] COREPER I consists of Deputy Permanent Representatives or Ambassadors and primarily deals with first pillar issues.

research, as the most important for the EU level negotiations on the EAW[7]. The Exchange model generated very accurate predictions of the real decision outcomes, as well as providing model insights into the potential log-rolling opportunities for actors involved to reach concensus.

An analysis of the EAW Decision Making at the European Level

The primary objective of the European Arrest Warrant is to harmonise the extradition procedures of all member states. The agreement carries through the European Council conclusions of October 1999, in Tampere, which stated that "the formal extradition procedure should be abolished among the Member States as far as persons are concerned who are fleeing from justice after having been finally sentenced". Criminals like anybody else can take advantage of the free movement of persons. Up till now, extradition was the only instrument available to the judiciary of a member state to catch criminals beyond its national borders. This entailed a cumbersome and complex process. The attacks on the World Trade Center Twin Towers in New York and the desire to combat terrorism are the main political reasons behind the proposal. The Commission put forward the proposal on foot of member state executives' calls for action in response to this tragedy. At its first meeting after September 11th, the JHA Council also set itself a deadline for agreement on terrorist package, including the arrest warrant, by 6 December 2001. All those interviewed on this negotiation emphasized the sui generis nature of these negotiations, the fact that an agreement had to be reached on an arrest warrant no matter what and the fact that the time to negotiate was extremely tight.

Key issues

Issue specification at the European Level[8]

[7] Potential experts were identified and were asked would they be willing to be interviewed for the project. These included experts in the Office of the Attorney General, the Department of Justice, Equality and Law Reform, the EU Permanent Representation, the Department of Foreign Affairs and the Department of the Taoiseach and the former Attorney General. An interview also took place with Permanent Representative, and representatives from the Office of the Attorney General and the Department of Justice in the Permanent Representation. The Director General EU Division, was also interviewed. On foot of discussions with the Permanent Representative and her staff, letters requesting interviews for the EU level data were sent to, Council General Secretariat, DG JHA and the Belgian Federal Ministry of Justice (Article 36 Committee). Interviews were also arranged and conducted with the JHA DG of the Council Secretariat.

[8] The European Commission proposal of 25 September 2001 for a Council Framework Decision included the abolition of' the principle of double criminal liability, stating that '…. This removal arises logically from the mutual recognition princilple: the Decision of this judicial authority of another Member State is recognized in all its effects, ipso factor and without a priori review. It will hardly matter, therefore, if the offence for which the arrest warrant was issued does not exist, or that its components differ in the executing State Under this priciple each Member State not only recognizes the entire criminal law of the other Member States but also agrees to assist them in enforcing it. This mechanism will make it possible in particular to solve the difficulties connected with delays in amendment of the Member States' criminal law when new forms of crime emerge.' The European Commission's proposal provided for two restrictions to the complete abolition of the principle of double criminal liability. First under Article 27, each Member State could draw up a list of

In this section the key EAW issues negotiated at the European level and salience levels attached by the stakeholders to these issues is presented below. Three key issues were identified which included the principle of dual criminality (issue 1), the list of offences applicable under the proposed new EAW (issue 2) and the extradition of nationals (issue 3).

Figure 1: European Level Issue 1 Principle of Dual Criminality (Salience scores in parentheses)

Should the principle of dual criminality be removed?

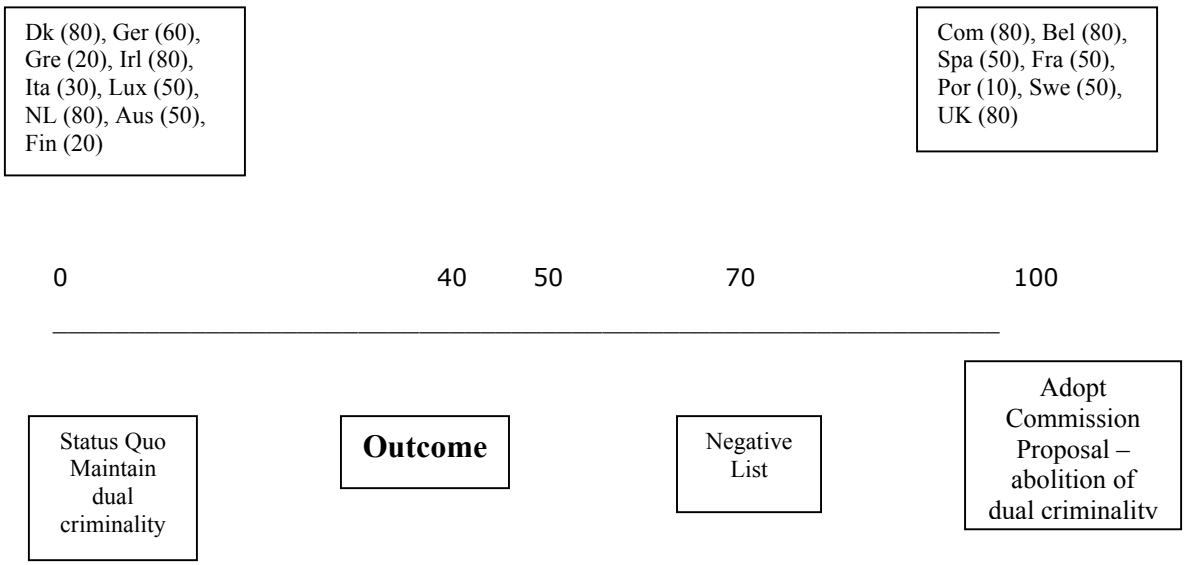
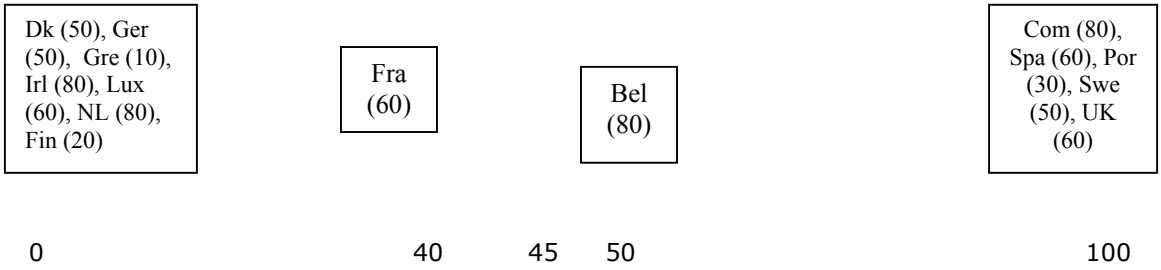


Figure 2: European Level Issue 2 List (Salience scores in parentheses)

How should the list of offences be constituted?



forms of conduct for which it declares in advance it will refuse to execute European arrest warrants ("negative list" system)

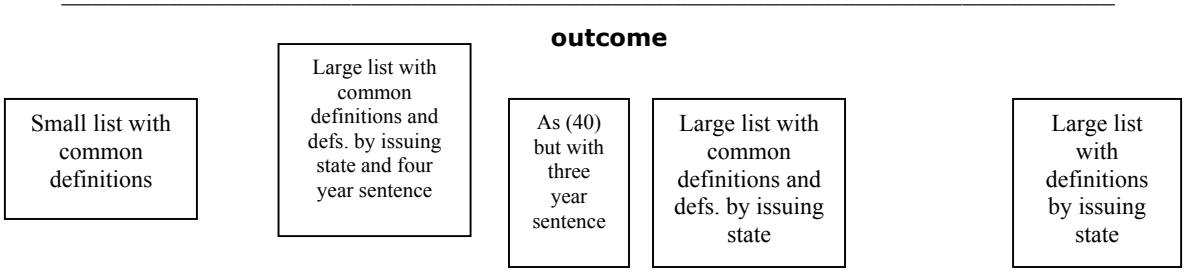

outcome
Small list with common definitions
Large list with common definitions and defs. by issuing state and four year sentence
As (40) but with three year sentence
Large list with common definitions and defs. by issuing state
Large list with definitions by issuing state

Figure 3: European Level Issue 3 Extradition of Nationals (Salience scores in parentheses)

Should nationals be extradited?

At the European level, Issues 1 and 2 were linked in that the compromise outcome of issue 1 (put forward by the Presidency) was to proceed and decide upon issue 2. It became clear to the Presidency by the middle of October 2001 that agreement on abolition of the principle of dual criminality was not possible and to continue on this line of negotiation was not useful. The dual criminality issue was finally settled in early November when the Belgian Presidency realised that the issue of the list (Issue 2 above), as a compromise, should be put to the November JHA Council. It is important to stress that these two linked issues were regarded by all those experts interviewed as the most contentious of the negotiation situation as a whole. The key focus of the negotiations was on the list and the technical discussions which followed were relatively less contentious. Because of the link with dual criminality, the speciality principle issue did not take up much discussion. Issue 3 (extradition of nationals) was regarded as particularly sensitive to two delegations (Austria and Greece). The Greeks came to this issue at the last moment of the negotiations with objections – at their national level, they had been trying to verify what it meant in the light of their constitutional requirements. The speed of the negotiations was very rapid given the desire to adhere to the negotiation timetable set out by the Council and there was an overall desire among all delegations that the negotiations be concluded at Council and not European Council level. There was also recognition that some kind of European Arrest Warrant would be produced by the Council deadline of 6 December because

of the political imperative. This produced a political momentum all of its own and meant that no agreement was not an option for any of the stakeholders. In addition, the normal process whereby the Commission sounds out national delegations of the shape of a proposal before it is submitted for consideration did not occur in this case given the unusual circumstances surrounding September 11th crisis and the need for the EU to respond to it in some way and show solidarity with the US.

At the Irish national level, issue 1 (principle of dual criminality) was the only controversial issue and a decision on this issue was taken early on in the negotiation schedule, i.e. in October 2001. From then on the Department of Justice, Equality and Law Reform led the negotiations, which took place primarily in the Article 36 committee. Information on negotiations in the Article 36 committee was filtered back to the Irish system through the Interdepartmental Committee on September 11th/JHA, which was chaired by the Department of the Taoiseach. The content of the original Commission proposal was discarded by the Presidency in late October 2001 when it became clear that it was not conducive to achieving agreement. The Presidency then proceeded with its own proposal (even though its own preferences were close to the Commission proposal) One expert interviewed for this research suggested that the Belgians are often the most integrationist on JHA matters as they look to the EU to help them solve their national difficulties.

The custodial sentence issue was suggested by Luxembourg as a compromise in the suppression of dual criminality issue negotiations. The entry into force of the EAW was not contentious and was agreed very rapidly. There was unanimity on the part of the member states on this as they said it was too difficult to put the warrant into national legislation in the timeframe specified by the Commission, i.e. from 31 December 2001. The retroactive nature of the application of the warrant (i.e. should it only apply to crimes committed after it comes into force) was not particularly controversial, and issues related the human rights were also not very contentious. The Italian delegation in particular objected to the suppression of the principle of dual criminality and objected to the final agreement by the other 14 member states at the JHA Council of 6/7 December 2001. They proposed an alternative of reducing the list to 12 offences where the principle of dual criminality would not apply and that the warrant would be valid for six of these offences by 1 January 2004 and the other 6 by 1 January 2008.

Stakeholders' Policy Position at the European Level

The issue of dual criminality was perhaps the most controversial issue of all the negotiations and was discussed right until the endgame negotiations on 6 December in the JHA Council. The Italian delegation appeared to have most objections to the Commission proposal and to the negotiations as they proceeded. All member states expressed support for the idea of a European arrest warrant in principle at the Council and European Council level given the political situation but in the Article 36 committee meetings a number of reservations became clear. The Italian objections throughout the whole negotiations were based on a number of factors,

principally the position of Prime Minister Berlusconi regarding charges of fraud and corruption in other member states and also the lack of coordination of policy at the national level in Italy between the different ministries that handle Justice and Security Affairs. The Italian negotiator in the Article 36 committee was very inexperienced compared with most of the other members of the Article 36 group. Indeed the Presidency wrote a letter to the Italians asking them not to send him again. This meant that the Italians had very little influence. The Portuguese also had difficulties with the idea of an arrest warrant as a whole because of constitutional issues. The Greeks and Austrians similarly had difficulties with the extradition of nationals and the Austrians were able to secure derogation on this issue (declaration attached to framework decision). On this issue and most other issues, member states divided into two camps, with the UK, Spain, Sweden, Belgium and the Commission most disposed to changing the status quo. Spain wanted a strong, immediate and effective measure and the situation with Basque terrorist group, ETA, was given as a possible reason for this. Spain argued vociferously for a change in the status quo regarding the principle of dual criminality and felt it was an issue of mutual trust of all member states. The UK position was surprising at the time (the UK and Ireland are often natural allies in JHA negotiations given their similar legal traditions) but most likely reflected the importance of strong relations with the US for Prime Minister Tony Blair. The Belgians, as holders of the EU Presidency, were conscious that agreement had to be achieved and that it had to be something more than the status quo (in other words the new legislation change could not be cosmetic).

As mentioned earlier, it became very clear to the Presidency by the middle of October that agreement on the abolition of the principle of dual criminality was not possible. The dual criminality issue was finally settled in early November when the Belgian Presidency decided that the issue of the list, as a compromise, should be put to the November JHA Council. The discussion on dual criminality now continued under the umbrella of the discussion of the list. With regard to the list of offences, the list consisted of crimes that were already subject to instruments such as joint actions and conventions at the European level. Offences were added and taken out as negotiations proceeded but not in a systematic way. Once there was agreement in principle to establish a list, all delegations and the Presidency looked at EU instruments already in force to determine what should be included on the list. There were no real arguments over the size of the list, apart from Italian objections. The Irish delegation had a problem with the weak definitions of fraud/swindling (in French escroquerie) and the idea that racism and xenophobia on their own constituted crimes. The Irish delegation agreed to the list of 32 offences with stronger definitions of two crimes. The debate on the list was not about numbers but about definitions. Ireland was in agreement with the Netherlands and Denmark in particular on this. The different national delegations went through the list (on foot of suggestions from Presidency and Commission – working hand in hand together) looking at definitions of offences to ensure correlation. Those member states that favoured the maintenance of dual criminality were in favour of the list comprising of harmonised definitions of offences. At the other end of the continuum, those member state delegations in favour of changing the status quo favoured the position whereby offences would be defined by the

requesting state. At one stage a debate took place as to the content of the list in that many offences included on the list were not related to terrorist crimes. However, they were included because of the existence of previous conventions on these crimes and because one can relate most of the definitions to terrorism in some way or another. This enabled the Presidency and the Commission to say that the list and warrant wasn't just about terrorism.

Stakeholders' Salience at the European Level

In Figures 4-6, the stakeholders' salience levels are presented for each of the three key issues at the European level. Looking across the three figures, the relative salience level suggest that for a majority of the member states the issue of dual criminality was the most important issue and indeed as the analysis of the issue specification and stakeholders's policy positions suggested, agreement of a compromise to this issues was central to the overall negotiation for the European Arrest Warrant legislation.

As the second of the three issues, the selection of the list of offences applicable for extradition, formed the core of this compromise for the principle of dual criminality issue, it is perhaps not surprising that the salience levels across the various stakeholders is nearly as high as the spread across stakeholders for issue 1.

Figure 4: European Level Salience Issue 1

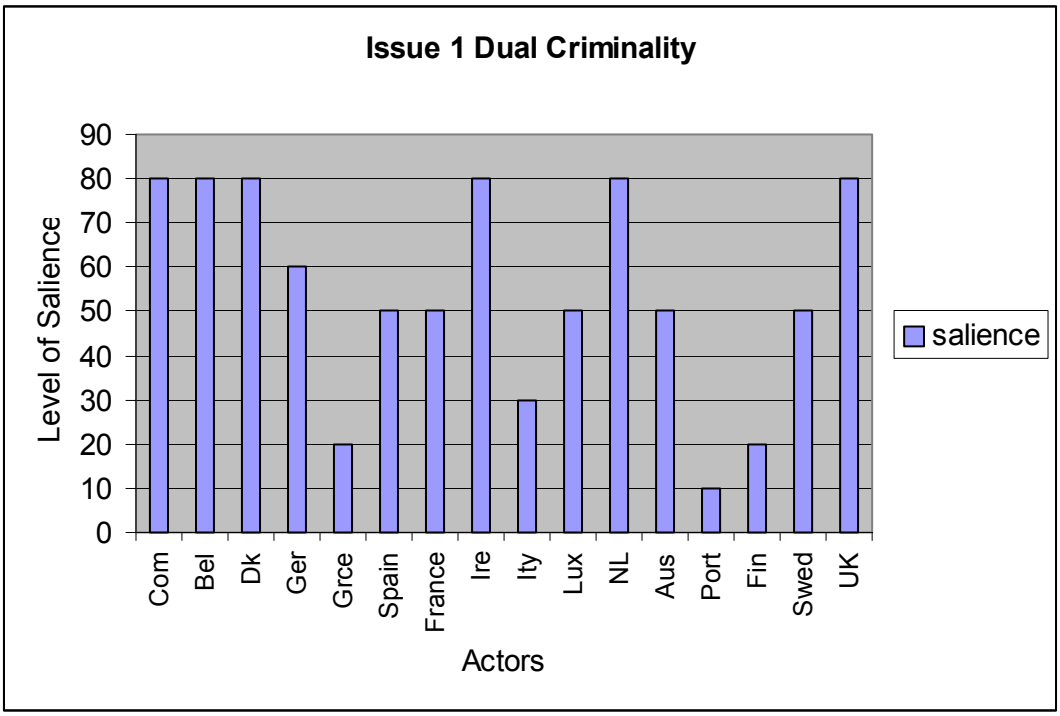


Figure 5: European Level Salience Issue 2

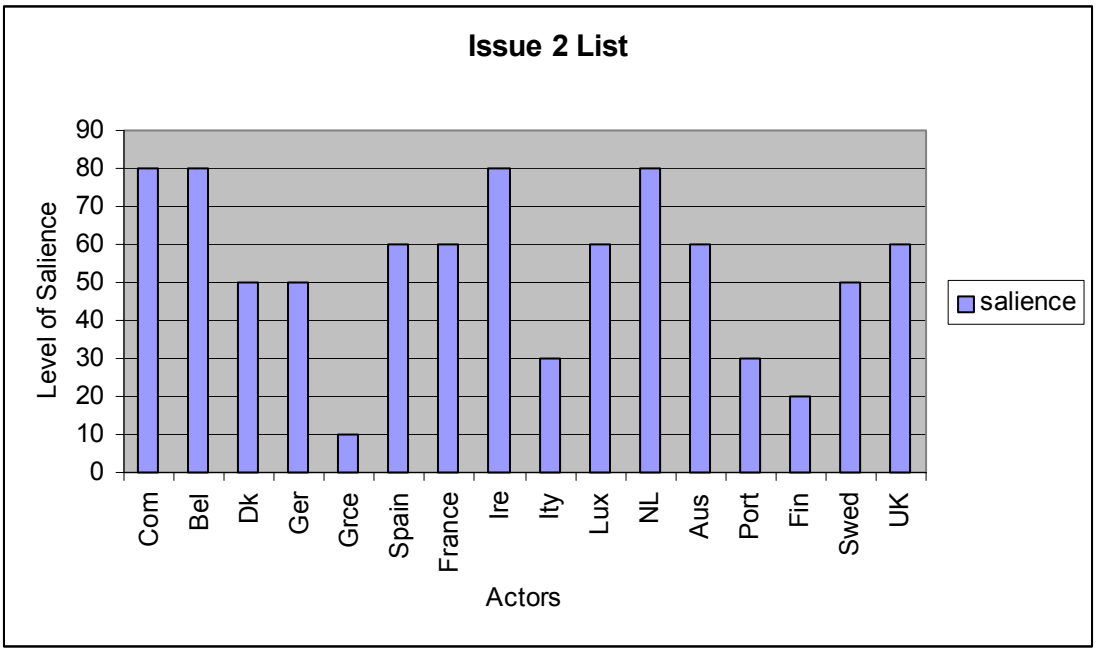
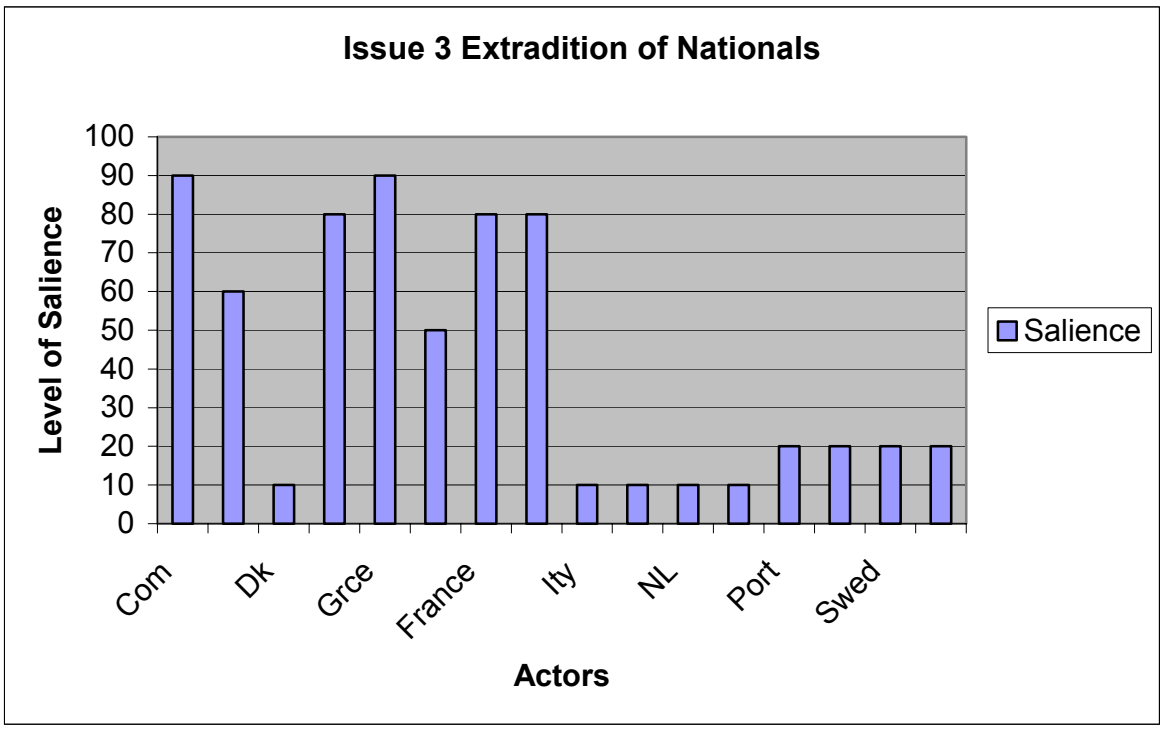


Figure 6 presents the salience levels of the stakeholders for the third issue, the extradition of nationals. It is quite surprising that the despite the strong reservations about this issue expressed by countries such as Portugal, Greece and Austria during the negotiations, it is only really the member state of Greece which attaches a very high level of salience to issue, compared with these other two countries. Unlike the first two issues, there are a considerable number of the member states who do not consider this issue particularly important.

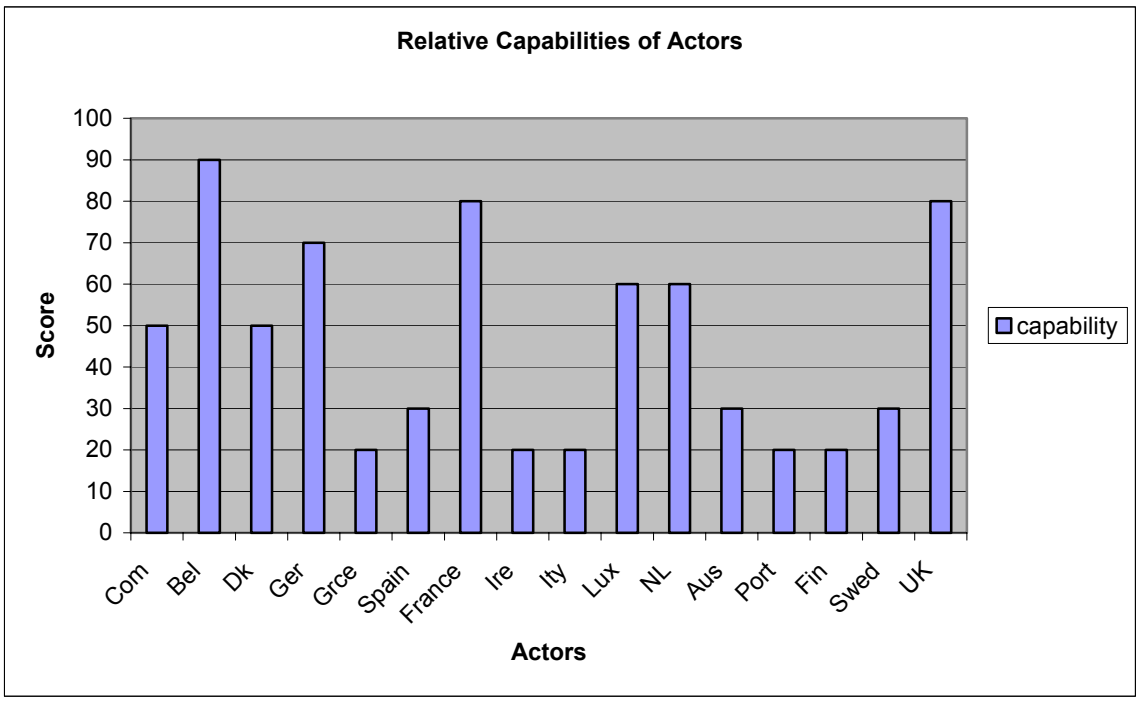
Figure 6: European Level Salience Issue 3



Stakeholders' Capability (Power) at the European Level

A stakeholder's capability is the level of potential power it has to influence other stakeholders involved in the negotiations. In Figure 7 below the overall capability of each stakeholder involved in these EAW negotiations is presented. The capability is a measure of the actor's formal voting power in the Council of Ministers, but also a measure of the actor's informal power, such as their skill at bargaining, their perceived level of trustworthiness by the other stakeholders and the kind of specialized information they might have about issues being negotiated. In our analysis, the most capable stakeholders included, perhaps not surprisingly, the larger member states. However actors such as Belgium were also rated as highly capable. This reflects the key role of Presidency that this member state held during these negotiations and indeed the effectiveness with which it discharged its role, in particular its ability to reach a compromise across the member states under severe time pressure. However there are also some member states who we might have expected to be more powerful. For example Spain was particularly vociferous in the negotiations but is rated quite low in terms of its level of potential capability.

Figure 7: European Level Stakeholder Capability



Likewise the capability score for Italy is also very low and this reflects the fact that their negotiators were very poor and quite inexperienced compared with the other members of the Article 36 committee. On the other hand Denmark is rated relatively highly, given its size and formal power. Again this high rating reflected their key ability and skill for bargaining during these particular negotiations. We also might have expected that a country such as Finland might have scored higher in terms of the capability, but in fact they were generally perceived as rather inflexible during the negotiations. The Commission's low score reflects the Commission's lack of astuteness in these third pillar negotiations. The Commission's negotiators primarily had experience in dealing with first pillar issues and did not understand the difficulties which changes to fundamental constitutional concepts posed for the national negotiators. In addition, the Commission has less formal power in these third pillar negotiations, where it did not have the right to withdraw a proposal.

Accuracy of the Model Predictions for the European level negotiations

In our analysis of the European level negotiations, we applied the Compromise and Exchange models to test the argument that these negotiations reflected a log-rolling process where the stakeholders reached a final compromise by bargaining across the issues. The results of the analysis are presented in Table 1 below. The model accuracy is measured in terms of the average absolute error and the average error squared

Table 1: Model Predictions, real outcomes and Error

Decision Making Process Decision Outcomes	***Compromise Model (error term in parenthesis)***	***Exchange Model (error term in parenthesis)***	***Real Outcome***
Issue 1 (Dual Criminality)	59 (19)	54 (14)	40
Issue 2 (List)	42 (3)	46 (1)	45
Issue 3 (Extradition of nations)	82 (7)	72 (3)	75
Model Accuracy			
Average (Absolute) Error	9.6	6	
Average Error Squared	139.6	68.6	

In both error measurements, the Exchange model is shown to produce the most accurate predictions across the various three issues. These results confirm the earlier findings presented and in particular the key importance of reaching agreement on a compromise issue to the most controversial debate around the principle of dual criminality. However it is also the case that the negotiating member states were working under the overriding premise that a compromise had to be found to the disagreements arising. The conditions for successful exchange negotiations were apparent in our analysis. While there were strongly held opposing views on the issues, not all stakeholders were highly salient on all three issues. Indeed some stakeholders attached quite different levels of salience to the different issues. In this kind of negotiating situation, actors have opportunities to trade across the issues, defending those positions that are most important to them and compromising on issues of less importance.

European Arrest Warrant: Comparative analysis at the National level This section presents a cross-national comparative analysis of the negotiations at the national level for the European Arrest Warrant. The three member states examined with regard to the EAW negotiations were Finland, Ireland and Greece. The research findings are examined and presented first in terms of our analysis of the formal and informal mechanisms for policy co-ordination at the national level and second, with regard model insights to the conditions for alternate strategies of negotiation.

Formal and Informal Mechanisms for Policy Co-ordination

By far the most formalized of the three member states examined here, the Finnish process is characterized by strong institutional norms guiding the steps involved in the policy preparation and co-ordination of the domestic position for EU negotiations. Unlike either of the other two case studies, the Finnish analysis revealed the potential for a wide range of stakeholders, both private and public to be involved in the national debate around EU legislations. The main characteristics of the Finnish mechanism for policy co-ordination are the institutionalized representation of a wide range of the relevant policy interests and a formalized structure for policy debate. Despite the rapidity of the EAW negotiations, these characteristics of the Finnish style of policy co-ordination, at the national level, are well illustrated by this case study of the EAW. Preparation of the Finnish position began with a consultation process within the Ministry of Justice, followed by broader, horizontal and formal consultation meetings with civil servants regularly concerned with EU business. Moreover these meetings were attended by the EU secretariat, which was responsible for the overall co-ordination of EU affairs on a national level in Finland. The relevant private sector interests could also attend these meetings. In the Finnish EAW negotiations, this did not happen at this juncture but was afforded by the parallel role of the committee structure within the Eduskunta (Finnish parliament). Unlike either of the other two case studies, this research showed that a considerable amount of legislative work was conducted in the Eduskunta (parliamentary) committees and this committee deliberation was a mandatory part of the Finnish legislative process preceding the plenary stage. The EAW created a debate in the Law Committee and, subsequently, in the Grand Committee of the Eduskunta.

The research showed that the Irish core executive is not constrained by formal, institutionalised patterns of policy co-ordination allowing substantial flexibility in the manner of policy co-ordination at the national level. The Irish core executive consists of the Prime Minister (Taoiseach), the Government, ministries known as departments (corresponding to all main areas of policy), and the civil or administrative service. In response to the urgency of the EAW negotiations, an ad hoc interdepartmental committee was established within the Irish core executive. While the Department of Justice was the lead department on this issue at the EU level of negotiations, the Committee was chaired and serviced by the EU and International Division of the Department of the Taoiseach. Once the European Arrest Warrant negotiations were concluded, this committee became the Interdepartmental Committee on Justice and Home Affairs and generally meets before every Justice and Home Affairs Council meeting. This committee also included officials from the Departments of Foreign Affairs, Finance, Justice and the Attorney General's office. However, the negotiation of the arrest warrant at the Irish level was characterised by a lack of civil society involvement (unlike in Finland) and the Irish Parliamentary committees cannot also not be considered important actors in the national level negotiations.

This research showed that while the Greek politico-administrative structure is officially highly centralised, it operates in a decentralised or even fragmented manner. There are very few institutional constraints which might require co-ordination of various different types of public and/or private representation and so the whole process is characterized by minimal obligations

for information and co-ordination, limited mainly at the decision stage of the EU policy process. Formally, the domestic management of co-operation in the fields of Justice and Home Affairs (JHA) falls under the competence of the Ministry of Justice and -when police co-operation is required- the ministry of Public Order, with the ministry of Foreign Affairs acting as co-ordinator. In practice, due to their insufficient staffing and expertise, both of the above-mentioned Ministries generally rely on the support of the ministry of Foreign Affairs (and especially its C-Directorate on JHA) and/or the support of the Permanent Representation. In addition, the responsibility for the preparation, the representation and the promotion of Greek positions at the EU level is usually delegated to ministerial advisers, who are political appointees. If formality is the key characteristic of the Finnish system, then informal networks are certainly one of the most important mechanisms for the Greek system of policy co-ordination. When important issues are at stake, the agents in charge of a particular policy dossier tend to seek the counsel of outside experts; the latter are selected according to personal criteria and/or affiliations, whereas the relevant consultations take place through purely informal channels. The Greek case study of the EAW provides an excellent example of this national style of policy co-ordination. The overall competence for the preparation and the negotiations on the European Arrest Warrant belonged to the Ministry of Justice. A first position paper had been completed in October 2001 under the responsibility of an adviser to the Minister of Justice. Following this advisor's retirement, a second advisor or political appointee to the Ministry of Justice, was given this responsibility. In this case study research, no issue was ranked as controversial at the Greek national level because in all cases the negotiations were handled exclusively by one actor: the political leadership of the Ministry of Justice. At the national level, it was not feasible to locate any actor apart from the Ministry of Justice. Initially, it had been assumed that the Ministry of Foreign Affairs and the Ministry of Public Order might have had an input in the national decision making process. However, the research interviews demonstrated that the role of the Ministry of Foreign Affairs was limited in monitoring developments at the Council, and that the Ministry of Public Order had no role at all. On the other hand, it was discovered that the Prime Minister did intervene in the process[9]; nevertheless, this intervention never took a structured form and was justified by the peculiar circumstances of the decision context[10]; besides, no difference of preferences between the Prime Minister and the Ministry of Justice was noted.

Model insights to the Conditions for Alternate Strategies of Negotiation

For the Finnish case study, the model guided analysis of the negotiations within the Law committee showed that both the Compromise and Exchange models generated much better predictions of the Committee's decision outcomes than the Conflict model. Moreover, looking at the in-depth Exchange model analysis suggested while the model outcomes over iterations move in the right direction, the final predicted outcomes are quite unstable. This accurately

[9] It has been confirmed that the Prime Minister instructed the Minister of Justice to defend the principle of speciality in the Article 36 Committee negotiations.

[10] It should be reminded that the Fifteen were committed to reach a decision on the EAW as soon as possible, and that this commitment was confirmed in two extraordinary European Councils.

reflects the real scenario where one of the key actors in the Law committee, the National Coalition, was very unhappy with the committee's conclusions, despite the other actors involved having reached a concensus. Such conditions are not particularly favourable to a stable exchange outcome, as the results of the Exchange model suggest. Moreover, the outcomes of the Law Committee contradicted the view of the Government who wished to find a negotiating position that was acceptable at home but which would also provide the Finnish representation with some room for flexibility at the EU level. The central concern at the highest level of the Finnish government was political pragmatism and the need for solidarity with the other EU member states. At the Grand Committee stage, the aim was to find a compromise position between various views expressed. As far the model predictions were concerned, the Compromise model is the most accurate. The Conflict model insights are also interesting and instructive, particularly the importance of the role of the Government (veto player in the Conflict model). Absence of the Government actor produces a model generated outcome, which is very different to the real outcome. The inclusion of the Government actor in the simulation process moves the model predicted outcome much closer to the real outcome, reflecting the importance of the Government view at this final stage of the Finnish national level negotiations. This model analysis predicted that the negotiations evolved into a controversial set of discussions at the Finnish national level and the more qualitative interview material collected supports this model insight.

All national experts interviewed for the Irish case study agreed that the only issue that was discussed extensively at the national level was that of maintaining or removing the principle of dual criminality. The model guided results for the Irish case study indicated that the Compromise model generated the most accurate prediction of the real decision outcome at the national level. This model finding illustrates the combined effectiveness of the Department of Foreign Affairs and the Taoiseach's desire to reach a negotiating position that was flexible at the EU level. These central departments also sought a compromise position at the national level which would "save face" to some extent given the very differing views expressed by the two actors most concerned with the EAW negotiations. The Department of Justice sought a more extreme position throughout the national level negotiations but nevertheless was quite happy with this outcome. The detail of the conflict model simulation output suggested that after a number of iterative rounds, all of the actors, except the Attorney General Office moved to a similar position as that of the Department of Justice. This suggests that the process was highly unsatisfactory for the Attorney General Office and that to some extent this actor's position was increasingly left aside, during the national level co-ordination of the Irish position of the EAW.

The inability to locate more than one actor at the domestic level meant that it was not possible to apply the model-guided analysis at the national level for the Greek case study. This research rejects the argument that this is the result of the particular negotiations selected for these case studies. The Greek cases study confirmed that the adoption of the EAW did have important constitutional and political implications. As a consequence, one cannot but deduce that the presence of one actor must be the result of systemic factors. The earlier macro analysis of

Greece, undertaken in the framework of the present research does offer the key for interpreting the scarcity of domestic actors in the case of the EAW. The macro study showed that Greek decision making tends to be fragmented, that the official co-ordinating role of the Ministry of Foreign Affairs is largely symbolic, and that this fragmentation is even greater when sectoral (i.e. non-horizontal) issues are addressed. Rather than build up the internal capacity of the Greek administrative system, there is instead a considerable reliance across all Greek ministries on the expertise of outside experts, who bear the burden of formulating national positions and defending them at the European level and who use extensively informal contacts and networks. Finally the research demonstrated that, when highly important issues are at stake, the Prime Minister often intervenes, though not in a formal way. All these phenomena are indeed observed in the present case study.

The Accession negotiations: Comparative analysis at the National level

The accession negotiations consisted of two phases: a preparatory phase, where the candidate states, hereafter referred as the new member states, gained an overview of the Community acquis, and a second phase, the actual negotiations. The preparatory phase contained the so-called "acquis screening". During the screening process the negotiating parties studied the 29 chapters of the Community acquis to gain an overview of the regulations on multilateral basis. Then the EU delegation discussed the chapters with each new member state separately on a bilateral basis, when the state expressed its opinion on the given fields of the acquis. In the case where there were no comments on the side of the new member state or the EU, no further talks were needed and the chapter was provisionally closed. However, the new member state or the EU could also find the adoption of a chapter (or a part of a chapter) problematic and could request a transitional period (temporary exemption from implementation). In general such a request from the candidate member state was regarded as "acceptable", "acceptable for later negotiations" or "unacceptable" to the EU. If the request was acceptable the candidate was given a transitional period. A request could also be regarded as unacceptable because it severely violated the Community acquis. In this case the EU called on the candidate to revise its position. It was only with the "acceptable for later negotiations" requests, where the "problematic parts" were dealt with by actual, real negotiations. When the parties during the negotiations had reached a point where the problem could not be solved at the actual level of the negotiations, the chapter was set aside for later discussion, and they continued with the next chapter (this was called the "set-aside negotiating technique").

Negotiations on a chapter took place only after the screening of the chapter concerned had been completed. After completion of the screening process the candidate member state prepared and submitted a "position paper" first, and then this was followed by a "common position" of the existing member states as a response. This common position was drawn up by the Commission. It was an important aspect of the negotiations that all the fifteen existing member states had to agree upon and approve of the common negotiating position. The negotiations were mainly conducted in written form, through the negotiating positions of the parties involved. These documents were not made public according to EU rules. When there were no more open

questions between the parties, the given chapter was considered "provisionally closed", which meant that the EU still reserved the right to reopen the negotiations at any point of the negotiation process. Negotiating chapters were finally and completely closed only at the time of signing the accession treaty. Also, the screening did not stop at the time of provisional closure either, since the candidate country was obliged to implement any new legislation of already closed chapters (this process was called "pipeline acquis").

It is important to see the differences between the screening phase and the phase of real negotiations. The screening process was conducted by the Screening Committee of the European Commission with the government of the given candidate country, and was only a preparatory phase leading to the real negotiating phase. However, the actual accession negotiations between a candidate country and the European Union took place in the framework of an Intergovernmental Conference where the parties are the governments of the fifteen member states of the European Union and the government of the given candidate country. The negotiations were conducted on two levels. On the level of the Council the Ministers of Foreign Affairs participated. On the level of the COREPER, the heads of the permanent representations of the EU-15 and the "chief negotiator" or the deputy of the Minister of Foreign Affairs took part. The aim of the accession strategy was to help each candidate member state in becoming a full member of the Union. Alongside the adoption of the acquis communautaire, the new member states engaged in a range of institutional adaptations which were necessary because neither the acquis communautaire nor the particular negotiating chapters were organised in the same way as a candidate member state's own political systems (Fink, Hafner and Lajh, 2002). The wider research shows for this project[11] shows that the new member states have differently organised their national structures and processes for handling EU affairs, established diverse reconciliation and decision-making bodies and committees and assigned to different policy players (both public and private) various responsibilities and tasks in the negotiating process (Hanf and Soetendorp, 1998),

Formal and Informal Mechanisms for Policy Co-ordination

In the presentation of the research findings across the various case studies on the Accession negotiations, we begin with the Hungarian case study, which took the most centralised, hierarchical approach to the accession negotiation and preparation at the national level. This is followed by the analysis of the Slovenian case, which although highly formalized, also access to a relatively wide array of stakeholders to participate in the negotiations. The Estonian case study shows a candidate member state with policy co-ordination mechanisms which are generally flexible, decentralized and relatively informal but where there is also a strong overview from the central government which does not allow the Estonian stakeholders to stray from the key objective of successfully negotiating Estonian membership of the EU.

[11] See Laffan, 2004 at www.oeue.net

The Hungarian research for this project showed that the EU accession management was centralised from the beginning into the Ministry of Foreign Affairs (MFA), unlike in other the new member states, where it was usually placed in the Prime Minister's Office (PMO). Even within the MFA, the management of the accession process was completely separated from other foreign policy fields. The European Integration Secretariat (EIS) oversaw this process and was responsible for day to day management and coordination of EU integration. Furthermore the Hungarian Mission to Brussels (towards the EU) and the Inter-ministerial Committee for EU Integration (towards domestic actors), who were responsible to the EIS, were responsible for the co-ordination of accession business. Furthermore there was an official body, the Inter-ministerial Committee for EU Integration (ICEI), which was established by the EIS and which had responsibility for the coordination of the work between ministries. This body was also chaired by the Administrative Secretary of the EIS, where the heads of EU departments of each ministry discussed all issues regarding EU accession management. Each chapter had a specific working group, established by the ICEI. The Hungarian negotiations were highly centralised with very limited or zero involvement of outside parties or interest groups in the preparation of the proposal for the position paper.

The Slovenian case study revealed a political process that was considerably more formalized in its approach to the accession negotiations, although in general the research also suggests that the Slovenian negotiations were relatively straight forward and did not generate huge controversy at the national level As a result the selection of a representative and so-called typical set of negotiations where there was real controversy was quite difficult, as these instances tended to the exception rather than the rule. The Slovenian case study focuses on the negotiations leading to the abolition of duty-free shops. This problem was formally on the 'negotiating agenda' for almost five years and it had attracted the widespread attention of the mass media. The Slovenian case study is also somewhat unusual because unlike the other candidate member states, the negotiations included a wide range of stakeholders.

There were two levels to the decision making for Slovenian case study of the duty-free shops. Initially objections were raised by Slovenia's neighbours, Austria and Italy, to the existence of the duty free shops along the Slovenian border. The problem was discussed as part of the Slovenian-EU negotiating process, with the Commission representing the EU interests. The main Slovenian actors at EU level were three governmental ministries that also form the Slovenian core executive on EU affairs: the Government Office for European Affairs, the Ministry of Finance and the Ministry of Foreign Affairs. Given the requirements for parity of competition across the EU, the Commission was opposed to any transition period for the Slovenia's duty free shops. While this was the decision taken by the Commission, in fact the real difficulty arose at the domestic level, at the stage of implementation (i.e see "pipeline acquis" above), when the realization was made by the key national stakeholders, particularly those directly affected by the Commission decision During this second phase of negotiations EU actors still constantly exerted (informal) pressure on the Slovenian governmental actors (official policy) and on civil-society actors. The relative breadth of stakeholders involved in the national level Slovenian

negotiations was unique in comparison to the other case study findings. While the Slovenian government had fought hard to defend the Slovenian interests on duty free shops at the European level, the controversial national level negotiation presented the Slovenia government with a dilemma. The key national interest was the successful negotiation of Slovenian membership of the EU and this took precedence over any particular set of negotiations within the accession package. In this respect, the Slovenian government found themselves in the difficult position of ensuring the Commission decision was implemented, otherwise the entire accession negotiations for Slovenia could be jeopardized. On the other hand the Slovenian National Assembly and the National Council effectively defended the wider Slovenian societal interests in favour of a transition period for the Slovenian duty free shops. Not surprising the societal interests opposed to the Commission's decision were the key business interest including the owners of duty-free shops, associated in the 'Duty-free shops section at the Chamber of Commerce and Industry', the various border local communities, and the trade unions, who represented the interests of those people who would potentially lose their jobs as a result of abolishing duty-free shops.

The Estonian case study of the Taxation chapter (chapter 10 of the Estonian accession negotiations) showed very clearly the way Estonia handled the negotiation process. Estonia's key characteristics in terms of its management of the EU policy process were a combination of scarce administrative resources and flexibility which facilitated a pragmatic informality. As Estonia became more confident and adept in the negotiations, we see that the Estonian position changed and adapted and it added new requirements for transition periods or exceptions, as time progressed. As we might expect, given the very limited size of its administration and resources, there were relatively few stakeholders identified as involved in the negotiations. These included the Government, Ministry of Finance, Ministry of Foreign Affairs, Ministry of Transport and Communications, some private sector business interests and European Union, represented by the European Commission. However the research also showed that at the national level there were in fact just three key stakeholders centrally involved in negotiating and influencing the decisions in the taxation chapter: government, and the Ministries of Foreign Affairs and of Finance.

Model insights to the Conditions for Alternate Strategies of Negotiation

The model results for the Hungarian case study were based on the application of three decision models: the Compromise model, the Exchange model and the Conflict model. The most inaccurate results were produced by the Conflict model simulations. Some of the issues analysed were dichotomous issues and the conflict model is not particularly well developed to handle this kind of decision situation. The Compromise model also produced very inaccurate predictions for the outcome of the Hungarian negotiations. This probably reflected this model's static approach to modeling actor negotiation strategy, as well as its incapacity to handle situations where the actual negotiating process is lengthy and complex and where the initial positions of the actors changed significantly in the course of the negotiations. The Exchange model simulated the negotiating process successfully because according to its underlying

assumptions about the negotiation process, compromise is achieved where there is the opportunity available to the stakeholders for the possible exchange of positions across the various interests. The time period of decision making in the Hungarian accession negotiations was usually quite long except for the very final stage of negotiations. A basis characteristic of the Hungarian negotiations for this case study was the exchanges of positions and therefore their inclusion was of crucial importance. The model also handled well the situation when there were stakeholders with high salience but very little power as well as powerful actors with only average salience, which applied in this Hungarian case study.

In the Slovenian case study, the Compromise and the Conflict models were tested. The Conflict model was the least successful of the two applications and this result applied to both levels of decision making. However, the predictions of the Compromise model were almost totally correct and in accordance with the real outcomes of the negotiations at both the European and national levels. In general, the Compromise model works well if the controversies as reflected in the issues with a variety of positions occur in a setting in which there are strong common interests to find a common solution. This was certainly the case in the negotiations at the European level between Slovenia and the EU, as both parties had a high stake in arriving at a common position. What is surprising is the correct prediction at the national level, where expert interviews suggested there were very few strong common interests among governmental and civil-society actors to find a common solution. What may have been underestimated in the analysis was the capacity of the Commission to impress upon the national level the consequences of continuing to reject the Commission position and thereby force the underlying rationale for the Slovenian accession negotiations to come to the fore.

In the Estonian case study the Exchange model predictions are the most accurate compared with the other two models tested. The model simulation results suggest that the issues most salient to the EU were successfully defended by this stakeholder and likewise the issues most important for stakeholders at the national level were also defended by this level. However, while an overall level of compromise across the four issues was attained for the stakeholders, it did not involve strong shifts in the policy positions of the actors involved. In particular the EU Commission would not agree to any transition periods whatsoever on those issues which were the most important for this stakeholder. Effectively the domestic stakeholders had to agree to bow to the EU position in order that the overall accession negotiations would proceed. The Conflict model predictions were the most inaccurate overall across the three models tested. The conflict model predictions were so inaccurate that it suggests that the level of veto-power assigned to the Estonian government was inappropriate. It is clear that the overriding objective underlying the Estonian accession negotiations was the goal of joining the EU and no stakeholder at the domestic Estonian level was prepared to jeopardize this opportunity for any particular issue being negotiated, including the issues in the Taxation chapter.

CONCLUSION

An Overview of the Cross-national Comparative analysis

Overall, the most successful models for predicting the decision outcomes at the national level were the simple Compromise and Exchange models. The Conflict model discussed was less accurate in its predictions but often generated interesting insights into the negotiating process which seem to often reflect the descriptions given of the process offered by experts during the research interviews. In the case of the EAW negotiations, it is interesting to note that the model predictions of Exchange model are the most accurate at the European level. At the European level, actual legislative and binding decision were being taken, suggesting an endpoint to the decision game. At the national level, the analysis focused on the preparatory phase. Each of the national systems have put in place an accepted modus operandus for preparing their national positions. However in fact it is also the case that the role of the national level is never really finalised as such, as the negotiations evolve at the European level.

A key aspect of the EAW negotiations was the speed of the negotiations and concerted, huge push given by the central governments actors to push the agreement. Nevertheless the cases all suggest that the way in which the national level preparations proceeded reflects the broader systematic patterns of handing core executive business identified for each of the member states discussed here and examined more widely at the macro level in the broader research project[12]. In the Finnish case, for instance, the handling of the EAW on the national level displays nicely many of the findings of the macro level study. For instance, the case study pointed to the lack of political guidance and the significance of the Eduskunta in the formulation of the Finnish position. The Greek case-study for the analysis of the EAW showed the particular idiosyncratic fashion in which this administration handles cases of great political importance such as the EAW. The Greek response is at once highly centralised and, at the same time, informal. The system is one of remarkable reliance on outside experts who are not civil servants, rather than building and enhancing the expertise and resources internal to the Greek administration. Effectively the case study confirmed that the Greek co-ordination process evolves across informal channels and involves persons with no official competence to handle the issue and depends on the personal policy style of the Minister(s) involved.

With regard to the accession negotiations, it should be remembered that these negotiations were a unique type of negotiations – one might even suggest that there was not policy-making in question, but policy-taking. However the analysis presented here would not go so far as some writers who have previously argued that the accession process can be understood largely as one based on conditionality and essentially hierarchical in nature[13]. This type of argumentation is heavily influenced by a Intergovernmental/Realist conception of the actors involved. The EU, and in particular the European Commission, use the mechanism of conditionality to pressurise

[12] See various occasional papers at www.oeue.net

[13] Grabbe, H (1999) "A Partnership for Accession? The Implications of EU Conditionality for the Central and east European Applicants" Robert Schuman Centre Working Paper 12/99, European University Institute, Florence.
Spendzharova, A (2003) "Bringing Europe In? The Impact of EU Conditionality on Bulgarian and Romanian Politics" , Southeast European Politics Vol.IV, No 2-3, pp 141-156.

domestic elites to adopt the acquis and to speed up the required economic, political and legal reforms. Others also correctly point out that it is not just the power of the Commission in the negotiations but also the *weak nature* of the candidate states, who are undergoing transition from authoritarian regimes with centralised planning economies into liberal democracies with market economies. These writers are correct to stress the huge imbalance of power between the Commission and the negotiating states. However the realist approach has limited flexibility and tends towards a rather "broad-stroke" analysis of the accession negotiation process for the new member states. In particular, no distinction is raised between the new member states or their domestic interests. Moreover realists mistakenly suggest or assume that new member state public authorities are united in their pursuit of the national interest and share a common set of political goals. The results of the case studies presented here suggest otherwise.

Looking across the results for all of our six case studies, we recognise that in practice the old and new member states are not unitary actors. The Pluralist model emphasises that in an open democratic system, negotiations between agents and government should allow all agents and interests to be represented (Bennett and Payne, 2000, 2003)[14]. The advocacy of each interest should be able to act as a check or "countervaling power" on other agents and all trade-offs should be resolved as a political bargaining process. In the process agents will maximise their resources and efforts given their assessment of the effectiveness they can achieve. With regard to the research presented here, Fink-Hafner and Lajh[15] suggest that "despite the fact that the accession countries are still not full members, there are some features in the development of the accession agreements which are similar to what has already been described to the Europeanisation literature" (2004). In the Europeanisation literature, the pluralist model has been used by researchers to explore the ability of national interest groups to influence the political processes of collective decision making and implementation of EU policy (Mazey and Richardson, 2002)[16]. The pluralist approach also lends itself to the analysis of the impact of *informal networks* of communication and influence in the EU policy making processes (Heinelt and Smith, 1996, Borzel, 1997, Rhodes et al, 1996, Payne, 1999)[17]. However this research

[14] *Local and Regional Economic Development: Renegotiating power under Labour*. Aldershot: Ashgate Publishing Ltd, 2000
Re-negotiating Regional economic Development in England- who has "Joined-up? in: A. Deffner, D. Konstadakopulos, and Y. Psycharis (eds) *Culture and Regional Economic Development: Cultural, Political and Social Perspectives*, University of Thessaly Press, Volos, Greece, 2003
"Regional Development Agencies in the United Kingdom-Labour's flagship sailing at half-mast?", *Rationality and Society,* Vol 15, No. 1 pp 44-63, 2003
[15] Fink-Hafner, D and D, Lajh (2004) "Lessons from managing conflict situations in the EU Accession negotiations. The Case of Abolishing Duty-Free Shops in Slovenia" Paper distributed at the final OEUE conference in Dublin (www.oeue.net).
[16] Mazey, S and J. Richardson (2002) "EU policy-making: a Garbage can or an anticipatory and Consensual Policy Style? In Y. Meny and J. Quermonne (eds) *Adjusting to Europe. The Impact of the European Union on national institutions and policies* (London and New York: Routledge)
[17] Heinelt, H and R. Smith (eds) (1996) *Policy Networks and European Structural Funds*. Aldershot: Avebury.
Borzel, A.T. (1997) "What's so special about policy networks? An exploration of the concept and the usefulness in studying European Governance" *European Integration Online Papers* (EioP), 1 (16).

recognises that the pluralistic network approach is also limited in so far as much of the academic literature on policy networks has discounted the ability of government and public administration to act autonomously to coerce or police networks, instead focusing exclusively on voluntary structures, social means of exchange, mutual trust and embeddedness (Atkinson and Coleman, 1992, Bennett and Payne 2000)[18].

In this research we have also paid attention to the importance of the domestic institutional structures. The institutional model emphasises the laws and traditions within which agents must operate. As a stakeholders becomes more enmeshed in negotiations with other stakeholder in order to pursue its interests, it has to adapt its approach and views, even if this runs against the interests of its members or senior management. These mechanisms of adjustement can be formal or informal (Bennett and Payne, 2000). In the Europeanisation literature and in particular those researchers working within the historical institutionalist approach, one of the central questions is what are the characteristics of the domestic institutional structures which facilitate or block successful adaptation to EU policies and practices? (Heritier et al, 2001, Fink-Hafner and Lajh, 2004).[19] Existing research on the accession process indicate that the accession countries "of Central and Eastern Europe have developed quite different institutional arrangements in response to the negotiation task posed by the EU" (Brusis and Emmanouilidis , 2000)[20]. At the macro level of this research, Laffan's cross-national findings across the six member states studied here suggests that the variation across the accession countries "can be mapped on the basis of these variables, the degree of institutionalisation, the relationship between the formal and the informal and the co-ordination ambition" (Laffan, 2003)[21]. For example, earlier work in this field suggested that "it is particularly interesting to note how strongly the countries vary in the extent to which Government considers the preparation and the conduct of the negotiations a public issue" (Brusis and Emmanouilidis, 2000).

In this research, we have adopted an encompassing theoretical approach that can combine the different strengths of the existing theories outlined above and link these macro and micro level approaches in an analysis of the accession negotiations. For example, the insights offered by macro level approaches, such as historical institutionalism, suggest that there is an inequality of opportunity of resources and ability open to different groups to represent their interests and that the variable strengths of each bargaining partner is path dependent. However historical

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[21] See www.oeue.net

institutionalism offers an explanation, which remains at the macro level of analysis. There is no clue given as to how we might understand the behaviour of individual actors. As regards the micro level theories, these suggest that while policy outcomes may be "politically efficient", they are unlikely to be "optimal" for any particular agent or for all agents as a whole. They represent only the results of tradeoffs each agent makes over the period in which the negotiations took place. For these theorists, their discussion remains at the level of the actor and ignores the institutional and normative constraints under which these actors must make collective policy decisions. The most recent and useful analytical studies of collective policy making apply models of behaviour, which allow this research to incorporate the most important insights from both actor, micro-level and systemic macro-level theories. This paper has identified the key insights that have been generated by the modelling approach used in the research. This application of this type of analytical approach has lent itself easily to an identification of the main characteristic member state institutional level processes and actors level strategies, which generate opportunities and difficulties for the member state for EU policy negotiations and implementation.

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