The Treaty of Lisbon has introduced institutional changes that changed the balance both among the institutions and the member states within the institutions. The application of some of these changes had to be delayed because of their extreme political sensitivity. Either from the beginning of the Treaty, as was the case of the decision-making rule in the Council applicable from 2014 with three more years available to recall the rule of Nice, or due to the opposition during the ratification process, such as the case of the reduction of the number of Commissioners below the number of member states as a consequence of the Irish “no” in 2008 referendum, postponed also to 2014. Trying to assess what are the effects of the Treaty of Lisbon in practice, i.e. in everyday legislative decision-making of the EU institutions, may seem premature undertaking then. Still, some of the changes had already taken place, namely introduction of the ordinary legislative procedure, i.e., the co-decision of the European Parliament and the Council of the EU, and the qualified majority voting in the Council, into a number of new policy areas. Also, we may assume that the actors and the institutions as collective bodies may have already adjusted their behavior in preparation for the moment when the entire new institutional set-up is going to be in place.

The policy brief aims to assess whether these particular institutional changes, which already affected the member states’ position in the EU, have influenced the behavior of the actors in the inter-institutional relations of the legislative process. It analyses the legislative process of all the co-decision files which were submitted by Barroso I and Barroso II Commissions during 2004 to mid-2011 period and reviews the level of resistance these files met in the European Parliament and the Council of the EU. The focus is on the national and political identity of the key actors of the process; the Commissioner primary responsible for the legislation, the rapporteur of the committee of the European Parliament and the presidency of the EU Council represented by the Prime Minister of the presiding member state. Does the national and/or political identity of these actors influence the level of resistance of the legislative institutions? Which patterns emerge and do we capture any signs of change after the Treaty of Lisbon is with us? The variation of the level of resistance is studied in relation to the constellation of the national and political identity of these actors. The results show that we perceive a difference between the periods before and after Lisbon, both in the content of the legislation and in the level of resistance it meets in the EU institutions. While in the period preceding the application of the Treaty of Lisbon we saw a clear, long term patterns of relations among the actors from particular groups of member states – be them the North-South (Mattila 2004) or North-South-East (Naurin 2008), payers-receivers (Zimmer, Schneider, and Dobbins 2005), Old-New (Thomson 2011) or core-periphery (Plechanovova 2011) patterns, in the most recent period a new pattern, where the party political relations play more significant role even in the interinstitutional dealings seems to be emerging.
The party political cleavage was already identified in individual EU institutions decision-making, in the European Parliament (Hix, Noury, and Roland 2007) and the Council (Hagemann and Hoyland 2008), but have not been really verified in the inter-institutional relations. As we also see significantly shortened mean period of adoption of the legislation and significantly lower level of resistance of the legislative bodies after the ToL came into force, our results indicate that the Treaty in this point might have already delivered what was expected: more expedient legislative process with noticeably bigger weight of the decision-making procedures compared to the previous periods. That would lead us to believe that the European Union is on its way to become a mature political system with standard behavior of the political actors.

Our question then is: Should we expect a change of the national strategies as a result of our findings? Looking at the results of our analysis in more detail, at the first sight, we are inclined to answer in positive. But there are more aspects to be considered before we reach conclusion. Let’s summarize our findings first. We have introduced two alternative models which we have run on the data on co-decision files initiated before and after the Lisbon Treaty. The first model is based on the results of analysis of EU legislative decision-making during 2004-2009 where core-periphery pattern was identified. The core group are the member states who are the most probable members of the winning coalition in the Council, based on the votes cast and the negative statements presented in the Council. The periphery are the member states who most probably end up on the losing side when the legislation is contested in the Council. Each actor is then identified as being either of the core or of the periphery. The second model assigns party political affiliation to each of the actors defined by the European Parliament groups. The level of resistance is measured by the number of readings in the European Parliament and the Council. The threshold chosen to split the data is not the date when the Treaty of Lisbon came into force, but the date after which all the actors involved could have expected that the legislation would fall under the moment when it reaches the floor of the European Parliament for the first reading decision.2 The analysis of variance is applied to compare both periods as regards the influence of the national and political identity of the actors.

• **pre-Lisbon period (November 2004-February 2008)**

The core-periphery model shows that it can explain significant amount of variance in the data, the identity of the Commissioner and the fact that some members of the periphery group contest the legislation in the Council are the decisive factors influencing the level of resistance. If the Commissioner was from the core group, the mean level of resistance of the EP and the Council was 2.7 times higher than with the Commissioner of the periphery group. If some of the periphery member states contested the legislation either by vote or by negative statement in the Council, the overall level of resistance of both institutions was 2.65 times higher than otherwise. The rapporteur to the committee as the main author of the draft resolution for the EP did not make major difference, being her from the core or the periphery country. Also the core-periphery location of the presidency of the Council at the moment of decision does not show significant influence on the level of resistance.

The party political model comes out with much weaker signs of division of the data (app. 14 percent). The model as a whole brings statistically significant results but the political affiliation of the actors seemed to have smaller influence on the level of resistance. The Commissioner from the European Socialist group had a chance that her legislative proposal met the least resistance in the legislative process while the proposal of the Commissioner of Liberals and Democrats met with 50 percent higher opposition. Political affiliation of the rapporteur and the presidency does not bring more variation in the level of resistance.

• **post-Lisbon period (February 2008-June 2011)**

After the ToL came into force, the results of both models changed. The core-periphery model ceased to explain any substantial variation in the data, barely reaching the threshold for the statistical significance. Dissent of the periphery group in the Council remains the only factor explaining why the resistance grows. On the other hand, the party political model brings more robust results extending beyond 20 percent explained variance. The factors contributing the most to the model are the dissent of the member states where the leading government parties are from the Conservatives and Reformist and from the Socialists and Democrats groups.

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1 The core as identified during 2004-2009 period were France, Spain, Romania, Greece, Czech Republic, Belgium, Hungary, Bulgaria, Slovakia, Denmark, Finland, Ireland, Lithuania, Latvia, Slovenia, Estonia and Cyprus. The periphery were Germany, United Kingdom, Italy, Poland, The Netherlands, Portugal, Sweden, Austria, Luxemburg and Malta.

2 As the ToL was supposed to be in force after 1 January 2009, we subtracted from this date the mean value of the time needed by the co-decision file to be decided upon in the first reading by the European Parliament; the resultant date is 7 February 2008.
Do these results help us to answer our question?

Yes, because we can discern a clear difference in the pattern of relations among the national and political identity of the actors and the level of resistance. We are inclined to conclude that the only relevant factor influencing the level of resistance of the EP and the Council is the party political identity of the governments of the member states. Growing expediency of the legislative process indicates that either the formal rules are gaining weight in EU decision-making or other, informal routes for interinstitutional bargaining are used to avoid a prolonged procedure (Rasmussen 2011). Both alternatives are highly plausible. Since trialogue meetings of the Commission, the EP and the Council became a norm with co-decision files since 2005 already (Kardasheva 2009), we can argue that the change after Lisbon can be credited to the politization of the interinstitutional relations in the EU.

But, we have to take into consideration also other factors, some of them quite unexpected or even striking. First of all, contrary to general expectations, we do not see any rise of the co-decision legislation that would match the additional 30 plus treaty bases introduced by the ToL under the ordinary legislative procedure; in fact we see a decline of co-decision files submitted by the Commission, both in absolute and relative terms. Second, the structure of the policy proposals has changed; partly due to the expansion of the co-decision into new policy areas (mainly trade and agriculture), but partly due to the significant drop in the number of proposals from policy areas which ranked among the most often contested in the previous period, e.g. energy, transport, telecommunications, statistics, employment and social policy. Part of the explanation is the change of the portfolios in the Commission in the second Barroso College with clear shift from substantive innovative agenda of Barroso I to the management of the internal market, common agricultural and commercial policies and the monetary policy in Barroso II. Last, but not least, the post-Lisbon period coincides with the global financial crisis which evidently has shifted the focus of the EU policy-making to the measures needed to face the challenges of the global economic environment and the crisis of the euro more recently. Therefore, we should most probably wait before we make the final judgment on the effects of the Treaty of Lisbon on EU legislative decision-making.
References


