Enlargements of 2004 and 2007 strengthened the political position of the European Union on international scene and influenced the model of decision making within the EU. There are many explanations of this process and its reasons. The first is a political reason equaled to an ‘export of stabilization’, the second is an economic reason relating to the expansion of patterns of free market economy aimed at creation of the biggest world player in this respect. The third is a cultural explanation referred to the ‘come back’ of some European countries to the mainstream. One of the perceptions could also be the concept of collective guilt. Decisions of the old Member States to enlarge are seen as a historical restitution for countries affected by the ‘black trinity’: the Munich Agreement, the Molotov–Ribbentrop Pact, and the Yalta–Potsdam Conferences. This specific background contributed to the urgency and geographical scope of the enlargement.

All those explanations are connected with the history while the real problem for today is an actual behavior of new Member States in the EU decision-making system. The main thesis of this paper is rooted in the view that Member States play a leading role in the EU system but newcomers have – both together and as single players – a moderate impact on creation of the most important decisions. At the same time they are becoming full EU members in terms of internal and external behavior (which is equaled to Europeanization) while this process meets some obstacles. The following elements will be discussed: the position of the Member State in the EU decision making system; the formal position of Member States from Central and Eastern Europe (CEE) in the Nice system and its limitations in the Lisbon system; the challenges

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1 All quotations are made in italic.
connected with the membership and Europeanization; and the evaluation of political significance of CEE Member States after first years of membership.

I. Member State in EU Decision-Making System

The system of decision-making in the European Union can be perceived with respect to the primary role of Member States. This element is strictly connected with the very reason of the European integration after the Second World War. This reason is the convergence of interests of states that creates the tendency of ever closer cooperation and defines stages of integration. The economic interest seems to be the most important element while current situations in internal policies of states influence solutions chosen. Evolutionary integration process leading to a political union as well as an active role of international secretariats and the EU courts should be seen as fulfilment of decisions made earlier by Member States. The conditions of international cooperation, its institutionalization and rules result from a relative bargaining power of states’ governments that do not give up the sovereignty but rather delegate its elements to the higher level in order to improve the efficiency of their actions. The delegation of monitoring and exercising of international agreements to international secretariats and courts is aimed at controlling of implementation of these agreements by other states. A primary role in the process of deepening and widening of integration is played by governments of the most important states and their cabinet members. The Union institutions and their officials are second-order participants of the game.

This state-centric approach means in no way the total acceptance of the realist theory of international relations. The liberal intergovernmentalism seems to offer a better explanation of the situation in the EU. This way of thinking is rooted in a liberal paradigm that incorporates internal connections between the state and the individual (or the society). State’s behavior in international politics is a direct result of interactions with internal and transnational social context. Ideas, interests and social institutions affect state’s actions by shaping its preferences and main social objectives, which in turn creates the basis for strategic calculations of the governments. The main thesis of liberal intergovernmentalism is the perception of integration as an outcome of international bargaining where the main actors are governments that have

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access to information and ideas. These governments initiate, mediate and mobilize negotiations that are naturally effective and deprived of big transactional costs\(^5\).

This explanation is based on three elements:

1) **issue-specific interdependence** clarifying national preferences;
2) bargaining process rooted in the asymmetric interdependence;
3) institutional choice depending on the need of **credible commitment**\(^6\).

The governments want to negotiate agreements that accomplish national preferences in a given area. This process results from pressures of internal *constituents* reacting on impulses of international politics. National preferences should not be instable and appear during negotiations (*garbage can* concept) or be rooted in ideological and geopolitical interests. They should rather reflect **issue-specific patterns of substantive interdependence**, i.e. depend on the very problem actually negotiated\(^7\). There are four empirical proofs of employment of this method. Firstly, the governments present different (not ideological) positions in different substantial areas. These positions refer to benefits expected from policy coordination compared to unilateral policy. Secondly, negotiators tend to obey instructions that they have received from the governments as a result of perception of interests. Thirdly, the positions of Member States are relatively stable. Possible flexibility is connected with the shape of the *final package*, positions of the most important states as well as a domestic debate. Fourthly, modifications appear if some structural changes in internal policy are foreseen\(^8\).

Another element is a relative bargaining power of Member States. The most important is trade interest: integration is an outcome of rational choices made by national leaders on the basis of economic factors. Interests of the biggest companies, macroeconomic preferences of governmental coalitions and the impact of world market play a huge role\(^9\). In the process of the building of a new regime the asymmetry of national economies must therefore be taken into account\(^10\).

The decisive role of national interests can be noticed also in shaping the institutional structure of the EU. In every phase of decision-making (initiative, mediation, mobilization) independent institutions play rather minor role: their competences result from the will of

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\(^7\) Ibidem, pp. 61-62.

\(^8\) Ibidem, pp. 62-69.


\(^10\) D. J. Puchala, pp. 327-328.
Member States that delegate powers to the Union level only if they are not able to control observance of international obligations themselves. Member States delegate powers also in other situations: when future decisions are not sure, when benefits from the implementation of agreements by other partners are high and when the costs of delegation are acceptable. Institutional solutions create a kind of a hybrid system\textsuperscript{11}. The source of the power of EU law is the ratification of treaties connected with parliamentary assenting act. The European Union is becoming then the \textit{association} of states\textsuperscript{12}.

In this intergovernmental view the European Council and the Council remain the most important decision-making institutions. There are three sources of bargaining power in those bodies: state sources of power, institutional sources of power and individual sources of power. The state dimension is the most fundamental, whereas the institutional and individual dimensions play a secondary role and mainly mediate the impact of structural power asymmetries\textsuperscript{13}.

Another problem is a peer selection in the EU intergovernmental negotiations, elaborated by \textit{Saam} and \textit{Sumpter}. They find six mechanisms: peer selection based on ex ante co-ordination, preference, salience, power, neighborship or random processes. The first is connected with the accomplishment of national preference formation and economizing on transaction costs: \textit{EU Member States choose those governments as peers which they have already contacted during ex ante transnational co-ordination}. The second mechanism is based on the preference for the negotiation outcome. The reason for choosing a peer is very pragmatic and irrespective of other features: \textit{EU Member States choose those governments as peers which have a preference for the same or a similar negotiation outcome}. The third model relates to a high intensity of national preferences. The states with a high salience with respect to an issue are chosen as good peers. The fourth option refers to the powerful position of a government. Taking into account the right to veto a more cautious hypothesis can be proposed: \textit{EU Member States do not prefer more powerful governments rather than those which have a less powerful position}. The fifth mechanism is based on geographical neighborship. However, \textit{governments that produce negative externalities or benefit from positive externalities of neighbors have an incentive to free-ride on the domestic policies of their neighbors rather than co-ordinate}. In the sixth model the peers are selected at random but \textit{a completely random sampling network may be difficult to motivate in terms of the actions of governments}, since gov-

\textsuperscript{11} A. Moravcsik, K. Nicolaidis, pp. 69-73, 76-77.


ernments may well bias their peer selection in some manner. An alternative explanation is rooted in the hypothesis that decisions are made through some approximate knowledge of what positions are held on average by the governments. It has to be stressed that those idealistic models can be applied simultaneously or in an interfered way.\textsuperscript{14}

There are also other explanations of the very nature of the EU that do not seem to be far away from the state-centric concept while approaching to some federalist visions. This is exemplified in the works of Schmidt who suggests transforming (the perception of) the EU into a regional state, that is an entity with state-like qualities and powers in an ever-growing number of policy domains, with variable boundaries due to its ever-enlarging territorial reach as well as its Member States’ increasingly differentiated participation in policy ‘communities’ beyond the Single Market. It is a new perception of the well-known notion. Firstly, the ‘state’ in regional state speaks to the EU’s state-like qualities in areas such as international trade (...); in monetary policy (...); in competition policy (...); and in jurisprudence. Secondly, the ‘regional’ in regional state not only modifies the ‘state’, suggesting the many ways in which the EU is not a state akin to that of the nation-state, including the fact that its members are themselves nation-states in a regional union.\textsuperscript{15}

II. Formal position of new Member States in EU institutions

The formal position of Member States in the institutional system should create a basis for the building of coalitions enabling their participants to articulate own interests and achieving goals equaled to efficient decisions. Another problem is the ability and willingness of some Member States to influence rules, proceedings and decisions. All the EU institutions are discussed below with regard to the possible behavior of the newcomers.

The Council is the most important institution from the point of view of state’s influence. The majority of Council’s decisions in 2004-2010 were taken formally according to the qualified majority rule. The number of weighted votes and the threshold of majority were modified twice in this period. The first modification related to the entry into force of some institutional arrangements of the Treaty of Nice,\textsuperscript{16} the second to 2007 enlargement. Table 1 presents the


\textsuperscript{16} The analysis presented below takes into account the number of weighted votes only (as the most important element) and neglects two other majorities: majority of states and majority of population.
impact of Poland’s vote. In the first six months of membership Poland offered 6.5% of the total votes cast and 9.1% of those votes representing qualified majority. In the Nice system (from 1 November 2004) the figures grew up to 8.4% and 11.6%, respectively. They went down to 7.8% and 10.6% after 2007 enlargement.

Table 1. Poland’s vote in the Council before entry into force of the Treaty of Lisbon

<table>
<thead>
<tr>
<th>Time</th>
<th>Total number of votes</th>
<th>Qualified majority</th>
<th>Poland’s vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.05.2004-31.10.2004</td>
<td>124</td>
<td>88</td>
<td>8</td>
</tr>
<tr>
<td>1.01.2007-30.11.2009</td>
<td>345</td>
<td>255</td>
<td>27</td>
</tr>
</tbody>
</table>

Source: own analysis.

The reforms relating to the Council introduced by the Treaty of Lisbon will enter into force in a few phases (Table 2). In the first phase, till 31 October 2014, the Nice system will apply as the only one. On Member State’s demand this model will be continued till 31 March 2017. However, the new double majority system will be introduced on 1 November 2014, replacing the old one totally on 1 April 2017.

Table 2. Poland’s vote in the Council after entry into force of the Treaty of Lisbon

<table>
<thead>
<tr>
<th>Time</th>
<th>Total number of votes</th>
<th>Qualified majority</th>
<th>Poland’s vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.11.2014-31.03.2017</td>
<td>499,7 (345)</td>
<td>324,8 (255)</td>
<td>38,1 (27)</td>
</tr>
<tr>
<td>1.04.2017-</td>
<td>499,7</td>
<td>324,8</td>
<td>38,1</td>
</tr>
</tbody>
</table>


The absolute power of Poland’s vote in the double majority system is equaled to 7.6% of the total votes cast and 11.7% of the qualified majority threshold. The relative power reflects, however, a significant reduction (Table 3) in comparison to five biggest EU members. In the Nice system Poland and Spain have the same vote, equaled to 93.1% of a vote of four bigger Member States. In the new system Poland’s vote represents only 46.5% of German and 83.2% of Spanish vote.

Table 3. Comparison of formal decision-making potentials of six biggest EU Member States

<table>
<thead>
<tr>
<th>State</th>
<th>Vote power in the Nice system</th>
<th>Vote power in the Lisbon system</th>
</tr>
</thead>
<tbody>
<tr>
<td>Germany</td>
<td>29</td>
<td>82.0</td>
</tr>
<tr>
<td>France</td>
<td>29</td>
<td>64.4</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>29</td>
<td>61.6</td>
</tr>
<tr>
<td>Italy</td>
<td>29</td>
<td>60.0</td>
</tr>
</tbody>
</table>

Some parts of the analysis consist of data referred to EU10 or EU12 (including Cyprus and Malta after 2004 enlargement) while some relate only to Poland as the biggest newcomer.

The double majority system is based on majority of population and majority of Member States (Art. 16 TEU, Art. 238 TFEU). The analysis presented below neglects the latter as a second-order element.
Spain | 27 | 45.8
Poland | 27 | 38.1


A blocking minority is another very important element of the decision-making in the Council. Table 4 presents figures relating to pre-Lisbon state of the art. In the first six months after 2004 enlargement the blocking minority was equaled to 29.8% of the total votes cast, while all new Member States taken together (EU10) represented exactly that power. In the Nice system the blocking minority threshold went down to 28% but all new members gathered only 93.3% of this value. After 2007 enlargement the blocking minority went down once again to 26.4%, while new members (EU12) have at their disposal 118.7% of this minority.

Table 4. Blocking minorities in the Council before entry into force of the Treaty of Lisbon

<table>
<thead>
<tr>
<th>Time</th>
<th>Total number of votes</th>
<th>Blocking minority</th>
<th>Number of votes EU10/12</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.05.2004-31.10.2004</td>
<td>124</td>
<td>37</td>
<td>37</td>
</tr>
<tr>
<td>1.01.2007-30.11.2009</td>
<td>345</td>
<td>91</td>
<td>108</td>
</tr>
</tbody>
</table>

Source: own analysis.

The respective thresholds are modified, when the new double majority system is applied (Table 5). The blocking minority is equaled to 35% of the total EU population and at least four Member States. New Member States (EU12) represent 20.7% of the total population and hardly 59.1% of the blocking minority.

Table 5. Blocking minorities in the Council after entry into force of the Treaty of Lisbon

<table>
<thead>
<tr>
<th>Time</th>
<th>Total number of votes</th>
<th>Blocking minority</th>
<th>Number of votes EU12</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.11.2014-31.03.2017</td>
<td>499.7</td>
<td>174.9</td>
<td>103.3</td>
</tr>
<tr>
<td>(345)</td>
<td>(91)</td>
<td></td>
<td>(108)</td>
</tr>
<tr>
<td>1.04.2017</td>
<td>499.7</td>
<td>174.9</td>
<td>103.3</td>
</tr>
</tbody>
</table>


In order to strengthen the position of Member States belonging to the minority the new Ioannina compromise has been introduced. This mechanism predicts the postponement of a decision. Table 6 presents the rules of the compromise during the transitional period and thereafter. If the double majority system applies before 1 April 2017, the states representing three quarters of the blocking minority (26.25% of the total EU population) may indicate their opposition to the Council adopting an act by a qualified majority and – as a result – the Council shall discuss the issue again. New Member States’ power is equaled to 78.7% of the votes
required. A new variant will be introduced on 1 April 2017: the threshold goes down to 55% of the blocking minority (19,25% of the total population), while new Member States have 107,4% of this value.

Table 6. Variants of Ioannina compromise after entry into force of the Treaty of Lisbon

<table>
<thead>
<tr>
<th>Time</th>
<th>Blocking minority</th>
<th>Ioannina minority</th>
<th>Number of votes EU12</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.11.2014-31.03.2017</td>
<td>174,9</td>
<td>131,2</td>
<td>103,3</td>
</tr>
<tr>
<td>1.04.2017</td>
<td>174,9</td>
<td>96,2</td>
<td>103,3</td>
</tr>
</tbody>
</table>


The position of Member States in other EU institutions is worth analyzing as well. Table 7 presents the situation in the European Parliament. The following time-frames are distinguished: 2004 enlargement, 2007 enlargement, 2009 EP elections (held under the Nice system), supplementing of the EP by new MEPs (after entry into force of the Treaty of Lisbon, possibly in 2010) and the final number of MEPs introduced by the provisions of the new treaty19. It has to be underlined, however, that the European Parliament is composed of representatives of the people instead of states.

Table 7. Number of MEPs from six biggest Member States

<table>
<thead>
<tr>
<th>Time</th>
<th>Germany</th>
<th>France</th>
<th>UK</th>
<th>Italy</th>
<th>Spain</th>
<th>Poland</th>
<th>EP</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004-2006</td>
<td>99</td>
<td>78</td>
<td>78</td>
<td>78</td>
<td>54</td>
<td>54</td>
<td>732</td>
</tr>
<tr>
<td>2007-2009</td>
<td>99</td>
<td>78</td>
<td>78</td>
<td>78</td>
<td>54</td>
<td>54</td>
<td>785</td>
</tr>
<tr>
<td>2009 Nice</td>
<td>99</td>
<td>72</td>
<td>72</td>
<td>72</td>
<td>50</td>
<td>50</td>
<td>736</td>
</tr>
<tr>
<td>2010 Lisbon</td>
<td>99</td>
<td>74</td>
<td>73</td>
<td>73</td>
<td>54</td>
<td>51</td>
<td>754</td>
</tr>
<tr>
<td>Lisbon</td>
<td>96</td>
<td>74</td>
<td>73</td>
<td>73</td>
<td>54</td>
<td>51</td>
<td>751</td>
</tr>
</tbody>
</table>

Source: own analysis.

The data relating to the biggest Member States and other institutions (before Lisbon) are presented in Table 8. Five Member States did not participate in the rotation system applied to advocates-general in the Court of Justice. With this exception, the members of these three institutions were recruited on an equality basis.

Table 8. Position of six biggest Member States (Treaty of Nice)

<table>
<thead>
<tr>
<th>Institution</th>
<th>Germany</th>
<th>France</th>
<th>UK</th>
<th>Italy</th>
<th>Spain</th>
<th>Poland</th>
<th>Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commission</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>27</td>
</tr>
<tr>
<td>Court of Justice</td>
<td>1+1</td>
<td>1+1</td>
<td>1+1</td>
<td>1+1</td>
<td>1+1</td>
<td>1</td>
<td>27+8</td>
</tr>
<tr>
<td>Court of Auditors</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>27</td>
</tr>
</tbody>
</table>

Source: own analysis.

Table 9 consists of the final modifications of the Treaty of Lisbon to be introduced in some phases. The principle of equality is applied in the European Council\textsuperscript{20} and the Commission\textsuperscript{21} and the Court of Auditors. In case of the Court of Justice of the European Union only data relating to its highest instance (sensu stricto Court of Justice) are presented: six biggest Member States will be excluded from the rotation system, while the total number of advocates-general will increase to eleven. As for the European Central Bank, only the Governing Council is analyzed (composed of six members of the Executive Board and the presidents of central banks of those Member States whose currency is the euro). The United Kingdom and Poland, not belonging to the euro-zone, do not have their representatives in this body.

Table 9. Position of six biggest Member States (Treaty of Lisbon)

<table>
<thead>
<tr>
<th>Institution</th>
<th>Germany</th>
<th>France</th>
<th>UK</th>
<th>Italy</th>
<th>Spain</th>
<th>Poland</th>
<th>Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>European Council</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>27 (29)</td>
</tr>
<tr>
<td>Commission</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>27</td>
</tr>
<tr>
<td>Court of Justice</td>
<td>1+1</td>
<td>1+1</td>
<td>1+1</td>
<td>1+1</td>
<td>1+1</td>
<td>1</td>
<td>27+11</td>
</tr>
<tr>
<td>Eur. Central Bank</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>16+6</td>
</tr>
<tr>
<td>Court of Auditors</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>27</td>
</tr>
</tbody>
</table>

Source: own analysis.

The analysis of the formal position of new Member States in the main EU bodies is a starting point to further research. Being the precondition of states’ behavior, the voting power can serve as an important tool of negotiations with other partners (inside and outside the system). The more detailed findings are discussed in the conclusions.

III. Europeanization challenges

The membership in the European Union is not the final stage of the game. On the contrary, this is the beginning of a very demanding phase of state’s activities. With regard to the new Member States four main challenges connected with four main spheres of problems should be identified. The first is the decision-making challenge addressed to the perception of the EU system as a tool of achieving national goals. The second is the post-conditionality challenge relating to continuation of reforms implied by the process of membership negotiations. The third is the compliance challenge referred to problems that arise from the transposition, implementation and application of EU decisions. The fourth challenge is linked to the

\textsuperscript{20} The President of the European Council does not represent any Member State formally and does not have voting rights (Art. 15 TUE, Art. 235 TFUE). The same applies to the President of the Commission while sitting in the European Council.

\textsuperscript{21} After the decision of the European Council (Art. 17 TEU).
perception of the position of EU legal norms in the internal legal systems of the new Member States.

**Decision-making challenge**

The decision-making in the EU is a very complicated phenomenon. For the newcomers it creates the challenge with regard to (social) learning and ability to act within the system in a functional and efficient way. Copsey and Haughton suggest analyzing of four hypotheses on national preference formation in the new Member States. The first is rooted in the view that states will prioritize those particular areas of European policy that are perceived to compensate for their particular shortcomings. The actual behavior seems to support this view. All the CEE newcomers are relatively active if, for instance, the questions of structural policy or the budget are on the agenda. The second hypothesis relates to the economic situation: as some of the new Member States become richer and hence become net contributors rather than net beneficiaries they will become less keen on distributive politics. This is also supported by the existence of clashes in the sphere of agricultural policy: some CEE states are not interested in big reforms while some others perceive this whole policy as an obstacle to economic progress. The reason is of course the economical structure of those states as well. The third hypothesis is focused on the future and states that regardless of the government in power new Member States will consistently advocate further enlargement of the Union to geographically proximate countries. This attitude can be explained by geographical position and historical experience of CEE states. They are interested in an ‘eastward export of stabilization’ and their shift to the very core of the EU. The fourth hypothesis refers to social transition: where organized labor is weak and the business lobby is powerful, preferences on socio-economic questions will be shaped by the interests of business. This remark is connected with the liberal pattern of reforms undertaken in CEE states. Moreover, those authors argue that first of all smaller states can shift their economic preferences as they become net contributors to the EU budget. They predict a growing divergence in the positions of new Member States in other spheres as well.

In their case-study Dür and Mateo assert that at least in negotiations of the EU Financial Perspective 2007-2013 there were no big differences in behavior of old and new Member

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23 Ibidem, pp. 284.
States. The authors cautiously find this conclusion actual also in other areas\textsuperscript{24}. They propose analyzing of some hypotheses relating to the attitudes of Member States: (1) large member countries, which dispose of more power resources, rely more on hard bargaining tactics than smaller member countries; (2) the bigger the net contribution to the EU budget of a country, the more it relies on hard bargaining tactics; (3) governments of countries with populations that are Eurosceptic rely more on hard bargaining tactics in EU negotiations than governments with pro-European populations; (4) new Member States are more likely to resort to hard bargaining tactics than old Member States in EU negotiations\textsuperscript{25}.

Rant and Mrak confirm those views even further. The empirical exploration of negotiations on the EU Financial Perspective 2007-2013 – comparing hypothetical coalitions based on quantified national interests (partial net budgetary balances) and the actual coalitions – shows that the national interests were the driving force behind this process. The main issue was a confrontation between net contributors and net recipients over the cohesion policy issue\textsuperscript{26}. New Member States, with Poland on the top, participated very actively in that clash-like process.

**Post-conditionality challenge**

Pridham, limiting his research to two new states, discusses the problem of political conditionality during the process of EU eastern enlargement and its continuation in the membership phase. He presents four hypotheses. The first relates to Routinization and Status Quo Bias, where continuity established through habit extends beyond EU entry and favors the possible durability of political conditionality. The second is called Pressures for Reversal. In this view Europeanization has its own limitations and risks, since (...) the top-down political conditionality of Brussels during accession left little space and for that matter little time for value commitment to emerge. The third hypothesis is focused on Post-Accession External Pressures. The continuity may come from a more diffuse and less coercive situation, while other pressures than direct monitoring of the political conditions assume an importance following EU entry (for instance the procedure of Art. 7 TEU). The external impact may also operate informally through peer group pressure from other Member States or through exposure such

\textsuperscript{25} Ibidem, pp. 565-567.
as by the media. The fourth hypothesis is called Social Learning. Norms and beliefs are being created and a shift from instrumental to conviction-based behavior on the part of the political elites can be noticed. Participating in European policy networks plays also crucial role in this respect\(^{27}\).

Verification of those hypotheses gives rise to some interesting conclusions and further research. The Status Quo Bias hypothesis earns high ranks, since new structures and agencies created to satisfy Brussels during accession have largely remained in place and, depending on their actual performance, they may provide a framework and pressure point for further action on the conditions. This is also true of the legislation carried out for the same purpose. On the other hand, the Pressures for Reversal hypothesis has not been supported: there have been only some ad hoc examples so far where domestic pressures have enjoyed more political space after EU entry. The third one, Diffuse External Pressures hypothesis, is also disputed. The out-of-EU actors are not able to monitor the situation effectively and the peer pressure is hardly present. The last option, Social Learning, could serve as a relatively good description of post-accession situation. However, social learning at a deeper level than that of elites is probably necessary to complete the process of change. In conclusion, the post-accession situation in terms of conditionality is very complex\(^{28}\).

In another contribution Dimitrova seeks to explain the consequences of conditionality in different respects. She identifies issue-specific veto players and non-state actors linked to them as the key actors that will affect the outcome of the post-enlargement round of bargaining over the new rules\(^{29}\). In the post-communist context the opposition between a weak state and strong actors seem to be the decisive factor of political decision-making: the process of state building may be conceptualized as a competition over institutions between post-communist elites (...); this process or reconstruction of public authority has as a consequence a weakened ability to implement policy visions and regulate society (...); when state institutions are weak, informal networks emerge to take over some of their functions (...); non-state actors have considerable influence on the further course of reforms and the state\(^{30}\).

Three possible outcomes of this situation with regard to the EU rules are predicted: reversal of the new rules; institutionalization (formal and informal rules align); ‘empty shells’ (actors ignore the new rules, parallel informal rules are used). Some hypotheses based on the

\(^{30}\) Ibidem (quoting other authors), pp. 143-144.
above are also discussed: (1) when adopted formal rules are part of the EU acquis, the most likely outcomes are institutionalization or empty shells; (1A) when formal rules are part of the acquis, but the veto players’ preferences are against the new rules, two sets of rules will be established as parallel structures, leading to an ‘empty shells’ outcome; (2) when adopted formal rules are not part of the EU acquis reversal or institutionalization are equally possible based on the configuration of preferences of veto players; (2A) when adopted non-acquis rules are opposed by veto players, they will be reversed; (3) when veto players’ preferences are configured in such a way that the new rules are preferable to the status quo, the old and new rules would align and there would be institutionalization\textsuperscript{31}.

Another problem is explored by Rohrschneider and Whitefield. They present the partisan context of conditionality in the post-accession phase, analyzing party stances towards European integration between 2003 and 2007. They are sure that parties in the new Member States are quite effective in meeting the minimal requirements (...) identified as preconditions for effective party representation, while the mechanism of presentation through parties is emerging in CEE democracies\textsuperscript{32}.

On the other hand, Vaduchova presents the results of a broad research on corruption in CEE member and candidate states. She underlines that while the EU’s handling of epic levels of corruption in Bulgaria and Romania was certainly timid right through the pre-accession process, it was shocked into more dramatic action beginning in 2006. In the candidate or possibly candidate states (Croatia, Serbia, Montenegro, Macedonia, Albania, Bosnia-Herzegovina and Kosovo) the challenges of tackling corruption and organized crime while building an efficient state administration and an independent judiciary are even greater than in Bulgaria and Romania. The consequences of 2007 accession show that post-accession pressure yields only modest results. In order to be effective, EU leverage must be applied well before accession. Moreover, the domestic pressure is an important element as well: the media, the electorate and civic society have proven to be the most effective promoters of anti-corrupt politics, while the state administration and the judiciary have been the main laggards in this respect\textsuperscript{33}.

Epstein and Sedelmeier analyze another element of the post-accession continuity. They assume that conditionality has been particularly effective when the EU offered a credible

\textsuperscript{31} Ibidem, pp. 146.
membership incentive and when incumbent governments did not consider the domestic costs of compliance threatening to their hold on power but after the EU’s eastern enlargement the influence of international institutions could then be expected to decrease. The reality shows, however, that the influence of the EU does not necessarily end with the 2004 and 2007 enlargements. The new Member States’ compliance has been surprisingly durable, especially with the acquis communautaire, but also to some extent in areas of political conditionality.

Compliance challenge

Falkner and Treib analyze the problem of compliance in the old and new Member States. They try to use their earlier studies on old Member States, in which they identified three worlds of compliance. The main question is connected with an expectation that the new Member States might behave according to their own specific logic, such as significantly decreasing their compliance efforts after accession in order to take ‘revenge’ for the strong pressure of conditionality. This expectation is not, however, supported by their study.

The first model of compliance, typical for Denmark, Finland and Sweden, is called the world of law observance, where the compliance goal typically overrides domestic concerns, transposition of EU Directives is usually both in time and correct. Further application and enforcement of the national implementation laws is also characteristically successful, as the transposition laws tend to be well considered and well adapted to the specific circumstances. The second type, the world of domestic politics, is characteristic for Austria, Belgium, Germany, the Netherlands, Spain and the UK. Its main element is the domination of domestic concerns in case of a conflict of interests. Transposition is likely to be timely and correct where no domestic concerns dominate but in cases of a manifest clash between EU requirements and domestic interest politics, non-compliance is the likely outcome. Moreover, application and enforcement of transposition laws are not a major problem in this world – the main obstacle to compliance is political resistance at the transposition stage. The third model (France, Greece, Luxembourg and Portugal) is equaled to the world of transposition neglect: (...) at least as long as there is no powerful action by supranational actors, transposition obligations are often not recognized at all (...), negligence at the transposition stage is the cru-

cial factor. In some cases literal translation of EU Directives takes place at the expense of careful adaptation to domestic conditions but shortcomings in enforcement and application are a frequent phenomenon\textsuperscript{37}.

In case of some Member States the authors suggest creation of the fourth category: the ‘world of dead letters’. A typical behavior is then the transposition of EU Directives in a compliant manner, depending on the prevalent political constellation among domestic actors, but then there is noncompliance at the later stage of monitoring and enforcement. The most important shortcomings can be found in the court systems, the labor inspections and civil society systems. Ireland, Italy and four new Member States (Czech Republic, Hungary, Slovakia, Slovenia) belong to this group\textsuperscript{38}.

\textit{Steunenberg} and \textit{Toshkov} present the results of their research on transposition performance in all 27 Member States. They find that the new Member States from Central and Eastern Europe are not doing any worse than the rest of the EU in terms of transposition timeliness\textsuperscript{39}. Quite the opposite, new Member States do better than many of the more experienced and older Member States. The authors underline, however, that transposition does not equal actual implementation\textsuperscript{40}.

\textit{Sedelmeier}, also pointing at the problem of compliance, starts from the assumption that hypothetically post-accession compliance with EU law will deteriorate. He concludes, however, that the actual data on infringements suggest that, far from constituting an ‘eastern problem’, virtually all of the new Member States outperformed virtually all of the old members during the first four years of membership. This relates to the experience of pre-accession conditionality: a greater susceptibility of the new Member States to shaming and an institutional investment in legislative capacity\textsuperscript{41}.

The first element explaining good compliance is the threat of post-accession sanctions like financial penalties or safeguard clauses but empirical evidence shows that they do not create any special danger. The second element, offering a better explanation, is connected with the legacy of conditionality: legislative capacity and socialization. New Member States made an institutional investment to increase the effectiveness of national arrangements for the adoption of EU law, which allowed them to transpose a massive amount of acquis into na-

\textsuperscript{37} Ibidem, pp. 296-298.
\textsuperscript{38} Ibidem, pp. 308-309.
\textsuperscript{40} Ibidem, p. 966.
tional legislation within a very short period of time. This was a result of special emergency-like procedures focused on the executive bodies and abandoning long parliamentary discussions. On the other hand, an overemphasis on formal compliance indicators may well mask – or even generate – problems of (undetected) non-compliance with regard to practical application and enforcement. Socialization, another conditionality consequence, relates to perceiving good compliance as appropriate behavior for good community members. The elites remain sensitive to criticism and are generally more susceptible to the shaming strategies that are built into the EU’s compliance system.\(^{42}\)

**Primacy challenge**

Sadurski seeks to analyze another element of the activity of new Member States: the behavior of their constitutional courts. Many of them questioned the principle of supremacy of EU law over national constitutional systems, on the basis of their being the guardians of national standards of protection of human rights and of democratic principles according to the legal reasoning framework used earlier in the ‘Solange doctrine’ of the German BVG. A very important argument is an paradox: while accession to the EU was supposed to be the most stable guarantee for human rights and democracy in post-communist states (...) the supremacy of EU law is now resisted on these very grounds.\(^{43}\) The outcome of such a behavior is really far-reaching: the overall balance in the national/European legal equilibrium in Europe has shifted even further towards the national side because a number of new entrants have added their weight to the claims of the courts in older Europe, according to which supremacy cannot mean trumping national constitutional rules and principles. On the other hand, looking for an explanation of this behavior, it is stressed that it reflects the uncertainty, hesitations and genuine lack of confidence, on the part of constitutional judges of the new Member States, as to how to cope with the new situation.\(^{44}\)

In another contribution Albi discusses the human rights protection issue. He points at a rather unexpected irony thrown up by the accession of these countries. The constitutional courts, after many years of pre-accession strategy aimed at vigorous protection of fundamen-
tal rights after the fall of the Communist regime, started to downgrade the protection standards after accession, due to the new constraints of supremacy of EC law.\textsuperscript{45}

IV. Conclusions

All the elements of the position of the Member State in the EU decision-making system are up-to-date after the reforms introduced by the Treaty of Lisbon. The EU is still a hybrid legal and political system where Member States dominate. The strong intergovernmental elements of the Lisbon system can be found in eight phenomena. Firstly, the primacy of EU law is still rooted only in case law of the European Court of Justice, which makes the dispute between European and national constitutional courts remain actual. Secondly, decisions made in the area of Common Foreign and Security Policy have non-legislative nature. The discussion on the character and obligations for Member States arising from that policy is therefore not finished. Thirdly, the unanimity is still the main principle in decision-making in the CFSP area. The role of the new High Representative is in this case diminished. Fourthly, there are still many blocking tools in the qualified majority voting in the Council. Some new methods are appearing, with Ioannina on the top. This makes the whole process more intransparent and strengthens the most powerful states. Fifthly, every Member State is still represented in every main institution. The only exception was to be the Commission after 2014 but Member States, formally the European Council, decided otherwise and maintained the old solution. Sixthly, the principles of conferral and the presumption of Member States’ competence are strengthened, while there is still no clear definition of shared competences. The tensions between the EU and national levels are expected. Seventhly, the self-conferral (Art. 352 TFEU) is more difficult than in the Nice system. The consent of the European Parliament is needed and special exceptions for Common Foreign and Security Policy are predicted. Eighthly, the President of the European Council has rather symbolic powers. The clarification of accountability issues is still the task for the years to come.\textsuperscript{46}

With regard to the formal position of new Member States in EU institutions six conclusions can be outlined. Firstly, Poland – as the biggest newcomer – represents, both in the Nice and the Lisbon system, a big absolute voting power in the Council. Secondly, in the Nice sys-


tem the relative power of Poland is also big but the situation will change after the introduction of the double majority principle. Thirdly, all the new Member States taken together (EU12) have at their disposal the number of votes that allows them to block decisions made by the qualified majority. The double majority method will marginalize that group, giving it the voting power very distant from the blocking minority threshold. Fourthly, the second variant of the Ioannina compromise can be the right tool for new Member States to suspend some decisions. On the other hand, the experience from 1995-2004 showed no real power of this mechanism, which was applied rarely. Fifthly, distribution of places in almost all other institutions is based on the principle of equality. The main exception is the European Parliament and – as a result of economical situation or political choice – the European Central Bank. Some preferences to bigger member states can be seen in the Court of Justice as well. It has to be added, however, that some of those institutions act according to supranational logic.

An overall analysis of the Europeanization challenges that the Member States have (had) to face results in four conclusions. Firstly, new Member States cannot be perceived as a monolith group, though the majority of them have post-communist heritage, a similar geographical position, historical experience and economic situation. Secondly, there is no undisputed leader in this group, with Poland as (formally) best prepared to this role as a country belonging to six biggest EU members. The opportunity is Polish presidency in the Council (2011) that – even after diminishing the role of the presidency in the new state of the art – does still constitute an important instrument of the ‘European policy’ of the state. On the other hand, the Slovenian and the Czech presidencies have not reflected that rule. Thirdly, the reforms introduced by the Treaty of Lisbon have great impact on the activities of all EU members. Apart from technical and administrative modifications the new treaty can create the ground for the great change of the logic of EU functioning in some areas. Fourthly, the successes and failures of the newcomers in their first years of membership must be further analyzed.

Summarizing the problems discussed above the following elements can be perceived as successful: (a) a moderately smooth inclusion in the decision-making process (e.g. Financial Perspective 2007-2013, Eastern Partnership); (b) a good continuation of reforms initiated by the conditionality rule; (c) high ranks in transposition of EU law. The following phenomena are rather failures: (a) a limited impact on the shape of many decisions (e.g. Services Directive); (b) the existence of continuous problems (e.g. corruption, weak administration); (c)
problems with the application of EU law. The ambivalent element is the climate change policy.

The experience of Member States from Central and Eastern Europe can serve as the background of instructions for future enlargements. Some analysts assume, however, that there are many differences between CEE and other states in this respect. Freyburg and Richter point, for example, at the fact that political developments in South Eastern Europe raise serious doubts about the prospects for the effectiveness of the European Union’s external democracy promotion via political conditionality and thus they make it questionable whether the EU can repeat its success story as it is widely acknowledged in Central Eastern Europe. If national identity cannot find a single way with democratic requirements, the compliance is blocked. Democratic change is only possible after the identity change. Epstein and Sedelmeier add that in current candidate countries, and especially in those countries for whom membership is not currently on the EU’s agenda, the incentives that the EU has to offer are less powerful because of a combination of higher domestic costs and fewer sizeable and/or credible rewards. In these cases the EU cannot expect simply to reproduce the policies that were deemed successful in eastern enlargement. The EU either needs to rethink how to use the incentives at its disposal more effectively and/or how to go ‘beyond conditionality’ – through different mechanisms of influence and different modes of external governance.

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