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Abstract

When states engage in negotiations in the Council of the European Union, the position of actors relative to their negotiating partners has a substantial impact on outcomes. Those with extreme positions will experience difficulty in winning support, while those in the centre will find states more amenable to their perspective regardless of their actual negotiating power. The bulk of the literature on bargaining in the Council has tended to assume that this form of 'luck' will balance itself out across negotiations, but is this actually the case? Using the DEUII dataset I show that certain states consistently adopt 'luckier' positions than others and that this effect appears to benefit smaller states. The clear implication of this finding is that we require a better understanding of the preference formation stage if we are to capture fully the dynamics of EU decision-making.

Keywords

Bargaining; Council of the European Union; EU legislative process; Luck; Preference formation

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The distinction between 'luck' and 'power' is well established in the literature on political decision-making (Barry 1980). While the outcome of a negotiation may reflect the ability of individual actors to bring others around to their ideal position; it may also reward those who, by sheer quirk of circumstance, happened to support a position closer to the negotiated outcome from the outset. Assessing which actors are powerful, and which are merely fortunate, is consequently one of the key components in any analysis of bargaining success.

In the Council of the European Union, where national governments negotiate the content of EU legislation, this principle is of obvious relevance. Yet although luck has frequently been mentioned in the literature on bargaining in the Council (see in particular Arregui and Thomson 2009; Selck and Steunenberg 2004; Thomson 2011), the notion that it might persist across a large number of decision-making areas is controversial. For Arregui and Thomson (2009), the concept is essentially an element of structure which influences outcomes on an issue-specific basis, but evens itself out to the extent that there are no clear beneficiaries overall. Schneider, Finke and Bailer (2010: 89) take a comparable view, stating that it is 'highly unlikely that the luck of an actor persists across a large set of decision-making situations'. Cross (2013: 73) adopts a similar perspective, reasoning that luck 'should be randomly distributed across all actors and enter the bargaining success measure as random error'. In Selck and Steunenberg's (2004) study of the Parliament's role in legislative decisions, the thrust of the argument remains broadly comparable: that luck is a form of statistical noise which must be eliminated from an assessment of a state's genuine bargaining strength.

This paper subjects this assumption to empirical study. Based on the insights of Bailer (2004), it assesses whether luck, as defined in the literature, does indeed even itself out over time, or whether certain states consistently adopt 'luckier' positions than their negotiating partners. Taking inspiration from previous research which has highlighted the counter-intuitive success of smaller states in Council decision-making (see in particular Rodden 2002; but also Bunse, Magnette, and Nicolaidis 2005; Golub 2012), the study also examines whether the size of a state has any impact on the

frequency with which it adopts 'lucky' positions. The analysis finds that, contrary to the assumptions in the bulk of the existing literature, there are numerous cases in which the extremity of a state's position in relation to other states in the Council, the position of the European Commission, and the position of the European Parliament, does differ significantly from its negotiating partners across a large number of negotiations. Moreover, in every statistically significant case of a state deviating from one of its partners in the Council, the effect benefits the smaller state in the comparison. The key implication of this finding is that while there may be sound reasons for studies of bargaining success to regard the distribution of positions among states as a neutral process which is subject to a degree of random chance, the way states formulate their preferences is a more structured process than has commonly been recognised, and one worthy of further study in its own right.

The paper is structured as follows. The first section outlines some of the existing empirical work on the bargaining strength of states in the Council. The second section specifies the types of luck which are assumed to play a role in negotiations, noting that the distance of a state's position from the mean position in the Council, the position of the European Commission, and the position of the European Parliament are predicted to have the largest impact on outcomes. The third section elaborates on the research design before the fourth section presents the results of the analysis. The final section presents the implications of the findings for our understanding of Council decision-making, and suggests three potential avenues for future research.

BARGAINING SUCCESS IN THE COUNCIL OF THE EUROPEAN UNION

Over the past 15 years, a growing body of literature has emerged on bargaining within the Council of the European Union (Aksoy 2010; Arregui and Thomson 2009; Bailer 2004; Golub 2012; Schneider, Finke and Bailer 2010; Selck and Kuipers 2005; Thomson 2011). The importance of this area of study is self-evident, given that bargaining success determines not only the nature of EU legislation, but also the potential future direction of the integration project as a whole. Additionally, the prospect of Council negotiations producing clear 'winners' and 'losers' raises significant democratic questions, in view of the issues of national sovereignty which are at stake whenever the EU adopts a new piece of legislation (Heritier 1999: 275).

These democratic concerns have provided an incentive for European decision-makers to ensure that no one state, or group of states, consistently achieves favourable or unfavourable outcomes in negotiations. Indeed, several studies of bargaining in the Council have indicated that this standard might be met in practice. Bailer's (2004) study of Council decision-making in the EU-15 finds a relatively narrow spread in overall bargaining success, leading to the conclusion that the EU's legislative system 'guarantees that all member states are occasionally winners and losers' (Bailer 2004: 113). Arregui and Thomson (2009), using data from both before and after the 2004 enlargement, also find that there are no clear winners and losers among the member states. Thomson (2011), using updated data, reaches a similar conclusion, noting that there is 'little variation among actors in terms of the aggregate distances between their demands and outcomes across a range of issues' (Thomson 2011: 231). In the latter two studies it should be emphasised that, while at the aggregate level there is little difference between the bargaining success of states, there is significant variation in the distance between demands and outcomes when negotiations are considered in isolation. These studies find evidence that individual negotiations do produce winners and losers, but that this success and failure is not maintained when a large number of negotiations are considered together.

The basic method adopted in these analyses has been to use positional data on the stance of national governments in the Council to calculate the average distance of a state's position from the

negotiated outcome in a given legislative discussion. Having calculated the average distance for each state, 95 per cent confidence intervals are then determined to give an indication of whether differences between states are statistically significant (Arregui and Thomson 2009: 668; Thomson 2011: 243). In almost all cases these intervals overlap, which has led to the conclusion that there are no (or few) significant differences in overall bargaining success between states. In the case of Thomson's (2011) study, for instance, there is only one example where confidence intervals do not overlap: Sweden being closer to the negotiated outcome, on average, than France (using pre-2004 data).

Yet as Golub (2012) notes, calculating confidence intervals around average distances in this way is likely to downplay the potential for discovering statistically significant differences between states. It is possible for the distance of state positions from negotiated outcomes to differ significantly even when confidence intervals overlap. Only by performing a t-test, or constructing confidence intervals around the difference of means (rather than simply each state's average distance from the outcome of negotiations), can the existence of 'winners and losers' be properly examined (Golub 2012: 1301-2). Using this adapted methodology, Golub illustrates that certain states do, indeed, find themselves closer or further away from outcomes in the Council than other states. Moreover, in contrast to what might be expected by a 'realist' account of intergovernmental negotiations, this effect seems to work actively against larger states, with France and Germany proving particularly unsuccessful in negotiations.

Although this is counter-intuitive, several other studies have noted that large states do not appear to gain any structural advantage from their size in negotiations. Both Arregui and Thomson (2009) and Thomson (2011) find little benefit from having a larger population in Council negotiations, despite larger states such as France, Germany and the UK receiving more votes under the Council's qualified majority voting rules. Other country-specific studies, such as Selck and Kuiper's (2005) analysis of Denmark, Finland and Sweden, have also demonstrated the success that small states can have in Council decision-making. As yet, the precise mechanism underlying this success/parity remains unexplained.

LUCK IN COUNCIL NEGOTIATIONS

As stated above, the potential that negotiations may reward states who, by chance, happened to support a position closer to the negotiated outcome from the outset, is a well-established problem in studies of bargaining power (Barry 1980). In the context of Council negotiations, this form of luck has typically been viewed in similar terms to bargaining success in the sense that most studies assume it will even itself out across a large number of negotiations. Nevertheless, at the level of *individual* negotiations, luck is assumed to play a large role in determining outcomes in both Arregui and Thomson's (2009) and Thomson's (2011) studies. This is consistent, in their view, because luck is not something which persists, but instead only appears in isolated cases, with no states proving consistently 'luckier' than others over time.

In terms of the factors which have the greatest effect on negotiations, Arregui and Thomson (2009: 669) provide a multivariate analysis to map the relative impact of several circumstantial elements on state bargaining success. As might be expected, they find that the extremity of a state's position in a negotiation has the largest effect: the more extreme a state's position is relative to the other states in the Council, the less likely the outcome is to match that state's wishes. In addition to the extremity of positions, however, they also find two other factors that are important.

The second largest impact stems from the salience states attach to individual issues, with states' negotiating positions more likely to be closer to the final outcome of discussions if they attach a high

level of salience to the issue at stake. Although we would expect states to drive a harder bargain on issues that are particularly important to them, the size of this effect is smaller in magnitude than that for the extremity of their position. Salience is not generally considered a type of luck, but is rather viewed as a factor that will influence how a state chooses to negotiate (Leuffen, Malang and Wörle 2014). One interesting factor that has not typically been considered in previous analyses, however, is that the distribution of salience across issues could itself be regarded as a form of luck. The salience of an issue for a given state might be determined via domestic interests over which the state's government has little control; yet a state may be considered 'lucky' if they attach a high level of salience to an issue few other states view as important, thereby increasing their chances of negotiating a successful outcome. Given previous studies have not typically viewed the distribution of salience in this way as a form of 'luck' comparable to the extremity of a state's position, salience is not included in the calculations set out below. Nevertheless, it is important to recognise that definitions of luck can be extended beyond the distribution of state positions relative to other actors.

Finally, a third factor is the relation of a state's position to the other key institutions involved in the EU legislative process: the European Commission and the European Parliament. Arregui and Thomson's (2009) analysis shows that states have an advantage in negotiations if their position is closer to that of the Commission and Parliament, although this effect depends to a significant extent on the type of legislative procedure used. In decisions made under the consultation procedure, where member states in the Council are not bound by the position of the Parliament, only the location of a state's preference relative to that of the Commission has a statistically significant impact on their bargaining success (Arregui and Thomson 2009: 666-7). In contrast, in decisions made under the EU's 'ordinary legislative procedure' (previously referred to as the 'co-decision procedure'), the Parliament has a direct role in decision-making. In these areas, only the location of a state's preference relative to that of the Parliament has been shown to have a statistically significant impact on bargaining success (Arregui and Thomson 2009: 666-7). In both cases, the magnitude of this effect is much smaller than for the distance of a state's position from the mean position in the Council (Arregui and Thomson 2009: 669), but higher than other structural factors.

RESEARCH DESIGN: TESTING THE PERSISTENCE OF LUCK

To test whether previous studies have been correct to assume that luck, as defined in the literature, will not persist from issue to issue, I assess how the extremity of a state's position and the distance of a state's position from that of the European Commission and European Parliament varies over a large number of negotiations. Two distinct hypotheses can be put forward, based on the above review. First, given the consensus in the literature on the random nature of these three factors, we should expect that no state will *consistently* find itself closer to the mean position of the Council, the position of the Commission, or the position of the Parliament. The first hypothesis is therefore:

H1 There should be no statistically significant variation in the location of states' starting positions relative to the mean position in the Council, the starting position of the Commission and the starting position of the European Parliament.

To go a step beyond this first hypothesis, a second hypothesis can be proposed. If the distance of state positions from the mean position in the Council, the position of the Commission or the position of the Parliament does differ significantly, then we would not expect this to have any structural pattern as 'luck', by its very nature, should be distributed randomly. One test of this would be to mirror the approach of previous studies (notably Golub 2012; also Arregui and Thomson 2009) which have structured analyses of bargaining strength around the distinction between small states and

large states, and assess whether this distinction has any expression in the distribution of luck. As the literature suggests that it should not, the second hypothesis therefore states that:

H2 Small states should not have a statistically significant advantage over larger states in terms of the location of their starting position relative to the mean position in the Council, the starting position of the Commission and the starting position of the European Parliament.

Clearly if H1 is proven to be true, then H2 will necessarily be true as well. It should also be noted that the intention in adopting H2 is not to test whether *all* of the bargaining success which small states have displayed in previous studies is simply the result of luck. The analysis does not aim to rule out the possibility that small states may also possess genuine bargaining power relative to larger states, rather it functions as a test of whether the assumptions previous studies have made about luck stand up to empirical study.

DATASET AND METHOD

To test these hypotheses, the most natural resource to draw on is the updated European Union Decides (DEUII) dataset (Thomson, Arregui, Leuffen, Costello et al. 2012). The DEUII dataset uses responses from semi-structured interviews to assign a value from 0 to 100 for the position of every state, the European Commission and the European Parliament on 331 controversial issues relating to 125 legislative proposals which passed through the Council between 1996 and 2008. Although the EU has changed a great deal since the mid-1990s, the DEUII data, along with the earlier 'DEU' dataset which it is built on, has been used in the bulk of the research on bargaining in the Council (Arregui and Thomson 2009; Thomson 2011; Golub 2012). Given this widespread usage it offers not only a robust source to carry out the analysis, but ensures that any break in my analysis from previous studies cannot be explained by inconsistencies between different datasets.

It should be noted, however, that the DEU/DEUII data is not without its critics. The most detailed critique offered thus far is arguably that put forward by Slapin (2014), which draws attention to the presence of potential measurement errors in the collection of the data on the preferences of actors. Measurement errors are a problem likely to be encountered by any study of this nature. Clearly, the aim of providing an accurate numerical representation of every state's position on a given legislative issue has always been extremely ambitious. Yet this is the nature of all social science research and there is nothing in Slapin's critique to suggest that fear of measurement errors should prohibit future studies from using the DEU/DEUII data for specific purposes, as Slapin acknowledges, so long as they carefully consider measurement errors when interpreting their results (2014: 37-8).

In terms of method, I take inspiration from Golub's (2012) adapted methodology for calculating the statistical significance of differences in the average distance between state starting positions and outcomes in negotiations. As noted above, Golub (2012: 1301) argues that simply calculating confidence intervals around mean distances for each state is liable to downplay the significance of differences between countries. Instead, it is necessary to compare differences between states issue by issue using a paired t-test. If this is true for testing differences between state bargaining success, however, then it should also be true for testing the significance of differences between states in terms of the distance of their positions from the mean position in the Council, the position of the Commission and the position of the European Parliament.

I therefore adopt a slightly modified version of Golub's method, testing differences in the three types of luck identified above. For the first type of luck – the extremity of a state's position relative to the other states in the Council – I calculate the mean position for every state in the Council for every individual issue under negotiation. The DEUII dataset contains several missing values and there

is a long-standing debate over whether such cases should be excluded from analyses or whether 'imputed' values should be substituted instead. I opt to follow the advice of Thomson (2011) in excluding missing cases, including from the calculation of the mean values in the Council. Having calculated this mean value, I then use the distance of each state's starting position from this mean value (rather than the distance of a state's starting position from the outcome of the negotiation). This provides a measure of how 'extreme' each state's position is relative to its negotiating partners on a given issue. With the other two types of luck, the calculation is more straightforward as the DEUII dataset contains the positions of the European Commission and European Parliament on each issue.

The DEUII dataset also contains a measure of the salience attached to each issue by individual states. However, while weighting the distance between a state's position and the outcome of a negotiation might make sense in calculations of bargaining success, there is no anticipated value in using salience-weighting to assess the luck of states. For salience to have an effect on luck there would have to be a degree of conscious strategy involved on the part of a state. States would have to pick their position relative to other actors intentionally in anticipation that this provides a strategic advantage in negotiations. If we take these factors as luck, as previous studies have done, then salience should not have an impact on this calculation – if luck is randomly determined then it should make little difference whether an issue is deemed particularly important to certain states or otherwise. For this reason, I do not use salience to weight the distance between state positions and the mean position in the Council or the positions of the Commission and Parliament.

With regard to time period, the dataset contains negotiations from 1996 to 2008, with fewer negotiations available which include all of the states that joined the European Union during or after the 2004 enlargement. The primary intention of the analysis is to test whether previous studies have been correct to assume that 'luck', as defined in the literature, will even itself out across a large number of negotiations. I have therefore followed the approach of previous studies, notably Golub's (2012) analysis on which my method is based, by focusing only on those states (the EU-15) that were already members prior to the 2004 enlargement, excluding the possibility that any deviations in my findings are simply the result of selecting different states in the analysis.

Broadly, there are two options available in terms of using the post-2004 data. One approach would be to consider all the issues contained in the dataset as a single set, with those states that joined after 2004 removed from the calculation. The drawback with this approach is that decision-making before and after the enlargement could be considered to be qualitatively different. For instance, even if we only assess EU-15 countries, the mean position in the Council after 2004 also has to be calculated using the starting positions of the accession states. It might be the case, therefore, that while a given state was 'lucky' relative to the positions of other EU-15 states, it might be less lucky after 2004 if its positions are more extreme in comparison to the enlargement states.

Nevertheless, there are also downsides associated with only considering negotiations prior to 2004. By drastically cutting the number of negotiations which can be assessed, the power of any statistical test is also reduced. This is also largely unnecessary in the case of comparing the distance of state positions from those of the Commission and the Parliament. For this reason, I choose to treat all of the negotiations as a single dataset, but also to test whether there is a significant difference between pre-2004 and post-2004 results for the case of the extremity of a state's position. Including the post-2004 results does not significantly alter the conclusion outlined below for the extremity of state positions.

Finally, with respect to the calculations involving the Commission and the Parliament, there could be an argument for separating these negotiations into two separate groups corresponding to those using the consultation and ordinary legislative procedures. However, if states are more prone to

having positions closer to the Commission or the Parliament, this should be true regardless of the legislative procedure being used. Separating the negotiations on the basis of the decision-making procedure is important if we are assessing bargaining success, but as an assessment of luck it is likely simply to reduce the number of observations available.

RESULTS

Following Golub's (2012) approach, I performed paired t-tests for each of the three types of luck. I separated these, as Golub does, between large and small states: with the five largest EU states by population, France, Germany, Italy, Spain and the UK, being taken as 'large states'. I also performed a simple linear regression using each state's distance from the mean position in the Council as the dependent variable and size as a dummy variable (large states and small states). This indicated that there was a statistically significant difference[1] between the two groups, with the positions of large states more likely to be further away from the mean position in the Council.

Table 1 shows the results of the 50 pairwise comparisons for the average distance of a state's starting position from the mean position in the Council. If this were to even itself out over time, as is assumed in the bulk of the existing literature, we would expect there to be no cases in which one state is closer or further away from the mean position in the Council to a statistically significant degree. Each cell contains the average difference between a small state's distance from the mean position in the Council and the paired large state's distance from the mean. A positive value indicates that the small state on the vertical axis was closer to the mean position than the large state on the horizontal axis. The actual value indicates the distance: for instance, France was on average 5.04 points on the 0-100 DEUII scale further away from the mean position than Austria. For each comparison, p-values are shown in brackets, with significance indicators using the standard Bonferroni correction for multiple comparisons. As the Bonferroni method is a conservative approach, the more powerful Holm-Bonferroni method is also included. Previous studies have generally used $p < 0.1$ as the threshold for significance, but I also show results using $p < 0.05$ and $p < 0.01$ where appropriate.

Taken together, these results clearly illustrate that the distance of a state's position from the mean position in the Council does not even itself out over time. If $p < 0.05$ is taken as the threshold of significance, then even using the conservative Bonferroni correction there are 14 statistically significant instances of states being closer/further away from the mean position in the Council than their larger counterpart. If the Holm-Bonferroni method is adopted with a significance threshold of $p < 0.1$, this figure rises to 22 statistically significant comparisons. Moreover, in every statistically significant case the larger state is further away from the mean than the smaller state it is paired with. In the cases of Belgium and Ireland, all of the comparisons with large states are statistically significant. We can conclusively reject the first hypothesis and state that contrary to the assumptions in existing studies, certain states are consistently closer to the mean position in the Council than others.

With only three of the comparisons showing a small state further away from the mean than its larger partner (Sweden-France, Netherlands-Italy, and Sweden-Italy, respectively), and none of these comparisons being statistically significant, there is also some strong evidence that the distribution of this effect privileges small states over their larger rivals. An illustrative figure can be provided to this observation, however, by subjecting the data to a further calculation. The simplest method for doing this is to create a new set of combined figures of average distances for each of the two groups: that is, the group of five large states and the second group of ten small states. By compiling the mean distance for each of these groups from the mean position in the Council, two new columns of data

can be created (one for large states and one for small states) which can be analysed using the same method as above.

Table 1. Pairwise comparisons for the mean distance of state positions from the mean position in the Council using the DEUI dataset

	France	Germany	Italy	Spain	UK
Austria	5.04* (0.0015)	5.57*** (0.0000)	3.17 (0.0329)	5.06* (0.0015)	6.82*** (0.0000)
Belgium	5.44*** (0.0001)	6.29*** (0.0000)	4.36** (0.0007)	6.75*** (0.0000)	6.52*** (0.0000)
Denmark	1.85 (0.2395)	2.72 (0.0879)	0.09 (0.9481)	2.57 (0.1012)	2.38 (0.0915)
Finland	3.68 (0.0121)	4.41[hh] (0.0029)	2.08 (0.1405)	4.23 (0.0038)	4.53* (0.0012)
Greece	1.42 (0.3498)	2.50 (0.1318)	0.15 (0.9167)	2.65 (0.0534)	2.41 (0.1463)
Ireland	5.54*** (0.0000)	6.53*** (0.0000)	4.18[hh] (0.0028)	6.10*** (0.0000)	6.33*** (0.0000)
Luxembourg	4.74[hh] (0.0034)	5.06** (0.0009)	3.47 (0.0178)	5.18** (0.0007)	5.88*** (0.0000)
Netherlands	0.64 (0.6795)	1.62 (0.2487)	-1.44 (0.3486)	0.93 (0.5656)	0.49 (0.7194)
Portugal	3.25 (0.0227)	4.55[hh] (0.0024)	2.03 (0.0995)	3.75* (0.0010)	4.12 (0.0043)
Sweden	-0.59 (0.7218)	0.85 (0.5855)	-1.84 (0.2391)	0.37 (0.8202)	0.24 (0.8720)

Note. Each cell value is the result of subtracting the mean value (average distance from the mean in the Council) of the small state in the vertical axis from the mean value for the paired large state in the horizontal axis. A positive value indicates that small states were closer to the mean position in the Council on average than the paired large state. For each comparison p-values are given in brackets. ***Bonferroni $p < 0.01$; ** Bonferroni $p < 0.05$; * Bonferroni $p < 0.1$; [hh] Holm-Bonferroni $p < 0.1$.

When this calculation is made, we find that the group of large states is on average 3.17 points further away from the mean position in the Council than the group of small states ($p < 0.01$). In addition to rejecting the first hypothesis, we can also therefore reject the second hypothesis. The analysis indicates that small states are on average consistently closer to the mean position in the Council than large states. This result is consistent when using random selections of five small states in the comparison: given that there is potentially an in-built bias toward a larger group of states when comparing distance from a mean value (i.e. it might be expected that as the ten small states make up a larger proportion of the total states in the Council, they would naturally be closer to the mean than a group of five states).

DISTANCE FROM THE EUROPEAN PARLIAMENT

Following the same approach as above, Table 2 shows the results of the 50 pairwise comparisons for the average distance of a state's starting position from that of the European Parliament.

Table 2. Pairwise comparisons for the mean distance of state positions from the position of the European Parliament using the DEUII dataset

	France	Germany	Italy	Spain	UK
Austria	-4.12 (0.1875)	3.17 (0.1677)	-7.46 (0.0157)	-4.22 (0.1674)	-0.16 (0.9607)
Belgium	6.76 (0.0054)	13.17*** (0.0000)	4.06 (0.0936)	6.87 (0.0093)	8.34 (0.0052)
Denmark	4.16 (0.1826)	9.99*** (0.0002)	0.80 (0.7952)	2.94 (0.3625)	7.02 (0.0055)
Finland	2.61 (0.3966)	9.80** (0.0004)	-0.32 (0.9200)	2.41 (0.4470)	4.91 (0.0686)
Greece	-0.34 (0.8923)	6.78 (0.0387)	-2.83 (0.2312)	-0.78 (0.7582)	3.68 (0.2780)
Ireland	0.71 (0.7943)	6.25 (0.0421)	-3.64 (0.1980)	0.06 (0.9849)	3.55 (0.1401)
Luxembourg	-2.14 (0.4600)	7.13 (0.0188)	-4.98 (0.0785)	-1.98 (0.4975)	3.17 (0.2864)
Netherlands	-0.91 (0.7465)	6.44 (0.0172)	-3.62 (0.2365)	-0.37 (0.9108)	1.51 (0.5037)
Portugal	1.16 (0.6388)	8.82 (0.0065)	-2.18 (0.3546)	-0.19 (0.9301)	3.47 (0.2325)
Sweden	4.67 (0.1553)	11.08*** (0.0001)	1.68 (0.6152)	3.20 (0.3550)	6.40 (0.0102)

Note. Each cell value is the result of subtracting the mean value (average distance from the position of the Parliament) of the small state in the vertical axis from the mean value for the paired large state in the horizontal axis. A positive value indicates that the small state was closer to the position of the Parliament on average than the paired large state. Significance values are given in brackets. ***Bonferroni $p < 0.01$; ** Bonferroni $p < 0.05$; * Bonferroni $p < 0.1$; [hh] Holm-Bonferroni $p < 0.1$.

Here, the results are less striking than with regard to the mean position in the Council, but there are nevertheless three statistically significant cases if $p < 0.01$ is taken as the threshold for significance and four if $p < 0.05$ is used. All of these cases relate to Germany, with the country on average significantly further away from the Parliament's position than Belgium, Denmark, Finland and Sweden.

DISTANCE FROM THE EUROPEAN COMMISSION

Finally, Table 3 shows the last set of results for the distance of a state's position from that of the European Commission.

Table 3. Pairwise comparisons for the mean distance of state positions from the position of the European Commission using the DEUII dataset

	France	Germany	Italy	Spain	UK
Austria	5.19 (0.0902)	1.80 (0.4248)	4.23 (0.1590)	7.60 (0.0111)	-5.07 (0.0894)
Belgium	8.26** (0.0009)	4.98 (0.0817)	5.65 (0.0183)	8.56* (0.0012)	-1.60 (0.5783)
Denmark	4.85 (0.1109)	1.61 (0.5397)	3.20 (0.3082)	6.07 (0.0540)	-3.77 (0.1081)
Finland	8.98 (0.0037)	5.92 (0.0319)	6.42 (0.0404)	9.58* (0.0020)	-0.84 (0.7346)
Greece	0.09 (0.9731)	-2.99 (0.3628)	-1.36 (0.5515)	0.78 (0.7550)	-7.95 (0.0224)
Ireland	6.70 (0.0138)	2.08 (0.4807)	3.91 (0.1787)	7.78 (0.0050)	-3.71 (0.1122)
Luxembourg	6.00 (0.0417)	4.71 (0.1185)	5.57 (0.0550)	8.55 (0.0035)	-3.68 (0.2055)
Netherlands	6.04 (0.0389)	3.98 (0.1434)	4.44 (0.1558)	8.35 (0.0111)	-2.27 (0.2927)
Portugal	6.15 (0.0127)	2.62 (0.3978)	3.14 (0.1623)	6.76* (0.0018)	-4.56 (0.1270)
Sweden	7.18 (0.0261)	3.99 (0.1374)	4.31 (0.1981)	8.90 (0.0084)	-3.47 (0.1319)

Note. Each cell value is the result of subtracting the mean value (average distance from the position of the Commission) of the small state in the vertical axis from the mean value for the paired large state in the horizontal axis. A positive value indicates that the small state was closer to the position of the Commission on average than the paired large state. Significance values are given in brackets. ***Bonferroni $p < 0.01$; ** Bonferroni $p < 0.05$; * Bonferroni $p < 0.1$; [hh] Holm-Bonferroni $p < 0.1$.

Although almost all of the comparisons, except those for the UK, show the larger state further away from the Commission's position than the smaller state it is paired with, only one of these comparisons – France and Belgium – is statistically significant at $p < 0.05$. If $p < 0.1$ is taken as the threshold of significance then this rises to four comparisons: with the addition of Spain being further from the Commission's position than Belgium, Finland and Portugal.

IMPLICATIONS OF THE FINDINGS: DOES LUCK MATTER?

The findings indicate that we should reject the two hypotheses. Contrary to what we would expect from the literature, some states do consistently find themselves in positions that are closer to the mean position in the Council, the position of the Commission and the position of the European Parliament than others. This also appears to be uniquely true of smaller states in relation to their larger partners.

How should we interpret these results? First, an important distinction must be made between a *significant* finding and a *substantive* effect. While it may be the case that certain states consistently adopt positions closer to the average position in the Council (or the position of the Commission or the European Parliament), the net effect of this in negotiations may not be enough to alter the outcomes of discussions substantively. Most of the average differences identified in Table 1, for instance, are around 5-6 points on the DEUII dataset's 0-100 scale, although in the other tables the average differences are as large as 13 points, in the case of Belgium's proximity to the European Parliament relative to Germany.

A rough indication of the size of the effect can be provided by using Arregui and Thomson's (2009: 669) figures, which indicate that for every one unit increase in the extremity of a state's position, the decision outcome will be 0.57 points further away from their articulated viewpoint. This would equate to around a 3 point 'disadvantage' for most of the differences in extremity identified in Table 1, although this is obviously only an illustrative figure given the measurement error that can be assumed to play a role in any analysis using the DEUII dataset. Clearly this effect alone is not enough to invalidate the conclusions of previous studies on Council negotiations, far less to claim that all of the success experienced by small states is derived from luck.

The more important implication of the analysis lies in what the results suggest about the way states adopt their preferences prior to negotiations. The term 'luck' implies that the distribution of positions between states prior to a negotiation is subject to random chance. By its very nature, this type of luck should not persist across a large number of negotiations. If the distribution of positions between states were the result of random chance, it would be impossible to identify persistent patterns like those found in the analysis above. It is therefore questionable whether this effect should really be labelled 'luck' at all. It is far more probable that what has been uncovered in the analysis above is the result of meaningful, structured elements present in the preference formation process that occurs prior to a negotiation. States adopt positions closer to the average position in the Council not because they are 'lucky', but because of the structured way in which they formulate their preferences. By asserting that all positions are distributed among states in a neutral fashion and that any deviation from a normal distribution is simply the product of 'luck' or 'chance', we are at risk of obscuring the impact that preference formation can have on outcomes. The key implication of this study is therefore that we must improve our understanding of how states formulate their preferences if we are to capture the EU decision-making process fully.

There are at least three potential avenues for future research that show particular promise for explaining the findings in this sense. First, while studies of bargaining success in the Council have tended to view states' positions as something approximating 'ideal positions' which are determined free from structural interference, it may be the case that states adopt their positions strategically. Previous research conducted by Schneider and Cederman (1994) has shown that states have attempted to use extreme positions as a method for influencing negotiations which take place under unanimous voting. The basic principle is that by appearing to drive a hard bargain, they can hope to bring other states round to a more amenable position by threatening the use of a veto. The use of strategic positioning of this nature in decisions made using qualified-majority voting is perhaps more problematic in principle but would offer one explanation for certain states consistently adopting positions closer to the mean position in the Council.

A similar explanation could be that preferences are formed using incomplete information. Most EU legislation which passes through the Council is of a technical nature. It is natural that the position adopted by a state prior to negotiations might subsequently change through the course of a discussion with their negotiating partners. Moreover, given the vastly different levels of resources available to smaller and larger member states, it would not be greatly surprising if this emerged in a structured way, potentially accounting for the kind of results uncovered in Table 1.

A second possible explanation would be that, rather than reflecting conscious strategy or incomplete information, the preference formation stage could itself be subject to differing levels of influence by some states over others. A hypothetical example illustrates the point. If we were to subscribe to the notion that the 'big three' states (France, Germany and the UK, prior to its 2016 referendum on EU membership) have dominated EU decision-making, then it is possible this could provide strategic incentives for smaller states to locate themselves closer to consensus positions. For instance, if these three states were just as powerful as each other and rarely collaborated, they might each 'win' negotiations a third of the time. Smaller states, in contrast, would presumably have little incentive in this situation to pursue an independent line. If every piece of legislation reflected the French, German or UK position, then the best strategy for smaller states would simply be to adopt one of these three models as their own and argue for it accordingly. Their position would essentially be entirely dependent on the largest three states, but smaller countries would nevertheless appear to get their way more often in discussions if they regularly picked the 'winning' model.

It has long been recognised that EU states have an incentive to 'upload' their domestic policies to the European level (Börzel 2002). While this might be credible for a large state such as France, Germany or the UK, the chances of a small state such as Luxembourg 'uploading' its policies and having them accepted by the rest of the Council may be less likely. Moreover, a smaller state's domestic policies might already be heavily influenced by its larger neighbours. One might envisage that if a particular approach to regulation in a given field emerges in Germany, for instance, it may find a willing audience more readily among smaller states than it would among larger rivals such as the UK or France. A state's structural weakness might therefore have the counter-intuitive effect of making it more likely to be in tune with prevailing regulatory trends than those states which are large enough to have a credible alternative.

A final explanation could stem from the existence of consistent policy dimensions in the Council. If there were a stable structure of preferences then certain states might consistently articulate positions which are more extreme within this framework – in the same way that an extreme-right or extreme-left politician in a national parliament will consistently find themselves on the outside of negotiations. There are problems with mapping such consistent policy dimensions to the Council, not least because the composition of national governments changes with the electoral cycle. However, in popular discourse, the belief that certain states are consistently on the outside of EU discussions is widespread: the kind of disruptive reputation cultivated by states such as the Czech Republic during the Presidency of Václav Klaus, Hungary under Viktor Orbán or the UK prior to its EU referendum are examples. Alternatively, we could cite interview responses such as those in Bailer's (2004) study, which characterise Luxembourg, for example, as 'often kind of neutral', while noting that they 'mostly support the Commission' and that 'they have basically no influence' (Bailer 2004: 111). This form of persistent preference structure would go some way toward explaining why some states appear to adopt more/less extreme positions than others over time.

All three of these approaches have the potential to offer an explanation for the findings above. What is clear, however, is that the preference formation process should be viewed as a potentially fruitful object of study in its own right. By recognising that the distribution of positions in the Council is not simply the product of circumstance, but rather the result of a structured process, it is possible not only to account for the paradoxical finding of 'luck' persisting for states over time, but also to develop a more comprehensive understanding of how outcomes emerge from EU decision-making.

CONCLUSION

The intention of this paper has been to assess whether previous studies of bargaining success in the Council of the European Union have been correct to conclude that 'luck', as defined in the literature, does not persist across negotiations. The results of the analysis show conclusively that three of the most common definitions of 'luck' cited in the literature – the distance of a state's position from the centre position in the Council, the position of the European Commission, and the position of the European Parliament – do persist for certain states across negotiations, and that this appears to be uniquely true of smaller states in comparison to their larger rivals.

The question of why some states appear to adopt 'lucky' positions more frequently than their rivals raises fundamental questions not only about how we define 'luck', but about the way states formulate their preferences prior to negotiations. Future research may shed light on precisely how this preference formation stage leads states to adopt the positions they do prior to a negotiation and the impact this process has on the dynamics of Council decision-making.

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ENDNOTE

[1] Full results are available from the author: $r^2 = 0.46$, $F < 0.01$, size coefficient = 3.43 ($p < 0.01$).

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