

Who Pays? Who Gains? How do Costs and Benefits Shape the Policy Influence of the European Parliament?*

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Abstract

This article contributes to the burgeoning literature on the policy influence of the European Parliament (EP) by testing and further developing an analytical framework that investigates the links between EP influence and the costs and benefits delivered by different types of policy. A set of hypotheses is derived from the literature and tested empirically against four case studies. The key findings are that the EP is more able to exercise influence in the regulatory than the distributive policy field, but that in both cases the status and nature of the cost-payers and beneficiaries of EP amendments are key determinants of influence.

Introduction

Many factors shape the policy influence of a legislature. In the case of the European Parliament (EP) the key variables include the choice of decision-making rule, whether institutional conflict takes place along a dimension of ideology or integration (Tsebelis and Garrett, 2000), the degree of unity within the chamber (Kreppel, 2002), timing (Judge *et al.*, 1994), and the behaviour of the Commission and coalitions in the Council (Tsebelis *et al.*, 2001; Burns, 2004). However, there has been only limited work investigating the relationship between policy type and the costs and benefits delivered by legislation, and the EP's ability to exercise influence (Judge *et al.*, 1994; Shackleton, 2000).

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Yet studies of policy-making in the United States (US) show that the choice of policy type can shape the pattern of costs and benefits delivered by legislation, the nature of group mobilization and ultimately the ability of a legislature to shape policy in a significant way (Lowi, 1964, 1972; Wilson, 1974). Moreover, existing studies show us the benefits of applying the insights and methods of the American political science literature to the EU and, in particular, to the EP (see Hix *et al.*, 1999; Hix, 2001).

Hence this article builds on the existing, albeit limited, work analysing the relationship between EP influence, policy type, and the costs and benefits delivered by legislation, in order to determine if and how these variables shape the Parliament's legislative influence. The article reviews the key literature, and derives a set of hypotheses that are then tested against the findings of four case studies. The principal arguments are that analysis of policy type and, more specifically, of the patterns of costs and benefits associated with particular policies can shape the EP's legislative influence. In particular, the EP's ability to exercise influence is linked to the status and nature of the cost-payers and beneficiaries of its amendments. Given that, in the regulatory field, cost-payers will tend to be industrial actors, it is in this field of policy that the EP is able to exercise the most influence. As distributive regulation invariably involves concentrated costs being paid by net contributors to the EU's budget, the EP's ability to exercise influence in these areas is more circumscribed and is closely linked to the perceived legitimacy of the beneficiary groups.

I. Policy Type, Costs, Benefits and Institutional Influence

Theodore Lowi (1964) argued that the type of policy under consideration is often *the* key determinant of influence, as it shapes the political arena within which policy is debated, as well as the institutional rules of the game, and determines the actors who mobilize to mould legislation. In his classic typology Lowi identifies four policy types: constituent (procedural policies that set the rules of the game); regulatory (policies that constrain or encourage certain activities); distributive (policies that allocate resources to social groups); and redistributive (taking resources from one group and allocating them to another), and argues that for each of these types there exist different policy arenas and power structures (Lowi, 1964, 1972). Lowi's core thesis is that policy determines politics – it is the vehicle for the exercise of state power and the choice of policy type determines the structures through which that power is exercised (Lowi, 1964, pp. 689–90). Lowi's typology was developed specifically to explain the historical evolution of the distribution and exercise of state power in the US, which makes it difficult to apply his model directly to the EU. However, the central idea that types of policy can shape the distribution and exercise of

power seems promising as, within the Union, the type of policy often shapes the choice of decision-making rules and the relative power of the institutions (see, e.g., Wallace, 1983; Majone, 1994; Peterson, 1995).

For example, constituent policies are mostly dealt with by heads of government at intergovernmental conferences. There has been resistance to the extension of redistributive policies to the European level, as states remain keen to retain control of taxation, and welfare and social policies. Distributive programmes such as the common agriculture policy (CAP) are closely controlled by Member States and affected interests. It is in the field of regulatory policy that Member States have been most prepared to pool sovereignty and delegate policy-making functions to supranational institutions. For example, single market policies are adopted for the most part by qualified majority voting, using the co-decision procedure, with the favoured legislative tool being directives. It is in this field that supranational actors have the greatest scope to set and shape policy.

However, existing studies of the relationship between policy type and supranational policy influence have tended to focus on the Commission, and to a lesser degree the European Court of Justice (ECJ), whilst largely overlooking the European Parliament. For example, Majone (1994, p. 87) has argued that the Commission sought to expand its powers in the sphere of regulatory policy because, in this field, it could escape the budgetary and related political constraints it faced in distributive and redistributive policy arenas, as in the regulatory arena it is the firms being regulated rather than the Member States that bear the costs of regulation. Majone argues that the Commission has been supported in its endeavours by firms seeking to establish a level playing field at the supranational level (Majone, 1994, p. 87). This argument has received support in numerous pieces tracing the ways in which the Commission has sought to extend its policy competence in fields such as telecommunications (Fuchs, 1994; Thatcher, 2001), and competition policy (Bulmer, 1994; McGowan and Cini, 1999), and has 'technocratized' some areas via expert committees in order to extend its realm of influence (Pollack, 2003). Literature on the ECJ has highlighted the Court's landmark judgments that have opened the way for mutual recognition and harmonization, thereby facilitating spillover from the regulatory to constituent policy arena (see, *inter alia*, Burley and Mattli, 1993; Wincott, 1995; Pollack, 2003).

The relative neglect of the European Parliament in such analyses is no doubt partly explained by the fact that, until the 1990s, the EP's formal powers remained relatively limited. Indeed, even today the EP has little scope to exercise influence directly and formally in the fields of constituent and redistributive policies, as their concomitant political arenas, as noted above,

remain dominated by the Member States.¹ However, in the fields of distributive and regulatory policy the Parliament has considerable scope to exercise influence via its budgetary and legislative powers. For example, the Parliament has consistently used its budgetary powers to attempt to allocate spending to distributive programmes on social affairs and education (Corbett *et al.*, 2000, pp. 233–4). In the legislative sphere, the EP's scope to exercise influence over both regulatory and distributive policy has increased substantially since the introduction of the co-decision procedure in 1993. Co-decision, which affords the EP the role of co-legislator with the Council with the right to face-to-face negotiations and a power of rejection, now applies to 43 areas of policy including all single market legislation and a range of distributive programmes covering, *inter alia*, environmental policy, education and research and development (European Parliament, 2004).

Moreover, the introduction of co-decision has opened up the policy-making process as the debates surrounding the adoption of legislation are rehearsed more publicly than is usual under other procedures of decision-making. Under co-decision, the EP has been able to press the Council to give explicit justifications for the adoption of policy positions, and Council members are now routinely engaged in contacts with EP officials and parliamentarians. In the conciliation committees and informal meetings held between the Council and Parliament to negotiate compromise texts, both sides have to air their positions, so, as Shackleton notes, it has become possible to 'identify conditions specific to distributive and regulatory policies which are important in determining whether the Parliament can have an impact' (Shackleton, 2000, p. 338).

Hence, the EP now has more scope to comment on and shape regulatory and distributive policies. This increase in power has led to greater lobbying of the Parliament by affected businesses and third sector groups, with consequent implications for our understanding of patterns of group mobilization at the European level (see, e.g., Earnshaw and Judge, 2002). So, by studying the ways in which the EP deals with regulatory and distributive policies, it may be possible to understand more fully how and why the EP can exercise influence in these policy areas. In the following section the existing studies of the link between EP influence and policy type are analysed, and are used as a departure point to develop a set of hypotheses that are then tested against four case studies.

¹ The EP has shown considerable skill in developing informal norms that have gained formal recognition in the treaties (see Hix, 2002; Farrell and Héritier, 2003). However, in the fields of constituent and redistributive policy, Member State governments are still most influential and, of the supranational institutions, it is the Commission that enjoys the greatest potential to exercise influence.

II. Determining EP Influence?

There have been two principal studies that have engaged with the issues surrounding the link between policy type and the EP's influence. Judge *et al.* (1994) argued that policy type is one of many important variables shaping the EP's influence and suggested that it is in the field of regulatory policy that the EP, like the US Congress, has most scope for exercising influence. Overall, Judge *et al.* suggest that the EP's influence is contingent and contextual, shaped by policy type, timing and, most importantly, the pattern of costs and benefits that regulatory legislation delivers. Specifically, the authors draw on Wilson's (1974) typology of costs and benefits arising from legislation and the patterns of mobilization attached to each combination. As shown in Table 1, Wilson identifies four combinations of costs and benefits: diffuse costs/diffuse benefits; diffuse costs/concentrated benefits; concentrated costs/diffuse benefits; and concentrated costs/concentrated benefits. Judge *et al.* (1994, p. 43) suggest that the EP's Environment Committee has been influential because it deals with regulatory policies that impose concentrated costs whilst delivering diffuse benefits; a pattern of costs and benefits that can, according to Wilson, allow scope for legislative activism and entrepreneurship (see Table 1). However, Judge *et al.* restrict their comments to this observation without testing their hypothesis in any detail.²

The second study, by Shackleton (2000), takes their work a step further; his core argument is that distributive and regulatory policies have specific conditions that can determine the level of EP influence. He argues that for distributive policies, which he defines as those that allocate 'public resources

Table 1: Costs, Benefits and Group Mobilization

<i>Costs and Benefits</i>	<i>Mobilization</i>
Diffuse costs, diffuse benefits	Legislation easily institutionalized
Diffuse costs, concentrated benefits	Receives support of benefited group and no opposition
Concentrated costs, diffuse benefits	Mobilization of cost bearers and loose temporary coalition of advocates for benefits, likelihood of legislature activism and scope for policy entrepreneurship
Concentrated costs, concentrated benefits	Group conflict

Source: Wilson (1974, pp. 332–7).

² Judge and Earnshaw (2003) review the arguments of Judge *et al.* (1994), but do not test or significantly develop them.

for the achievement of specified objectives by private individuals or groups' (2000, p. 337), the 'variable to consider is the *level of legitimacy accorded to EU action* by the Council members: the lower that level, the less chance the EP has of having an impact' (Shackleton, 2000, p. 338, emphasis in the original). For regulatory policies, which he defines as 'rules which seek to act against activities that are seen as harmful (for example, the consumption of tobacco) or to promote activities that are seen as beneficial (such as the provision of guarantees for consumers when they purchase goods)' (p. 337), Shackleton selects a similar approach to Judge *et al.* by suggesting that the key variable shaping EP influence is '*the degree of concentration of the costs* arising from the position of the Parliament: the less concentrated they are the more likely it is that the Parliament can affect the outcome' (Shackleton, 2000, p. 338, emphasis in the original).

Hence both studies of the relationship between policy type and EP influence point to the importance of costs and/or benefits in determining the EP's ability to exercise influence. However, these studies, whilst providing an initial analysis of the relationship between institutional influence, policy type and the costs and benefits of legislation, nevertheless remain relatively under-developed. Neither discusses the relationship between costs and benefits and group mobilization in any detail, indeed Shackleton (2000) discusses only the cost of legislation, overlooking the benefits side completely. Moreover, both articles tend to concentrate on the costs of regulatory policy rather than extending the cost–benefit typology to include distributive legislation. Yet one of Wilson's key contributions to Lowi's model was to encourage analysts to move beyond and between the boundaries imposed by the policy typology, as the policy types can be difficult to define and tend to blur into one another (Wilson, 1974, p. 330; see also Spitzner, 1987). Focusing on the distribution of costs and benefits delivered by legislation allows additional analytical leverage when considering the behaviour of political organizations. Moreover, given that the allocation of costs and benefits under distributive policy can, as in the field of regulatory policy, lead to conflict, any analysis of distributive policy also needs to take the cost–benefit dimension into account.

Therefore this article develops the analytical framework supplied by Judge *et al.* (1994) and Shackleton (2000) by drawing on their work and that of Wilson (1974) and Majone (1994). Specifically, it seeks to determine how the distribution of costs and benefits affects key groups and how, in turn, the behaviour and status of those groups (whether they be governments, industries or third sector groups) shape the behaviour and likely influence of the European Parliament. The assumption underpinning this analysis is that, when examining the costs of legislation, the EP's success will be contingent not only on the concentration of those costs, but also on the actors who have to pick up the bill. Drawing

on Majone's (1994) analysis of the Commission (see above), it seems reasonable to hypothesize that the EP's scope for influence is greatest where costs are imposed on industrial actors rather than on Member State governments. So we would expect the EP's influence to be greatest when its amendments impose diffuse rather than concentrated costs and where costs are absorbed by industrial actors rather than by the Member States.

On the issue of concentrated benefits, again the nature of the actors receiving benefits is of the utmost importance. If benefits are concentrated on a minority group regarded sympathetically by policy-makers, and which has achieved necessary political recognition for aid to be uncontroversial – e.g. sufferers of certain conditions or diseases – any EP amendments supporting such a group are likely to be successful. Similarly, EP amendments affecting concentrated benefits delivered to a group that has close or privileged relations with Member States and/or the Commission under neo-corporatist arrangements (e.g. farmers under the CAP) are likely to be successful if sympathetic to such groups and less successful if unsympathetic or antagonistic. Here Shackleton's (2000, p. 338) argument that the Parliament's success under distributive legislation is likely to depend on the perceived legitimacy of EU action in the eyes of the Council, seems particularly apposite. However, rather than confining this hypothesis to a discussion of distributive legislation, it is more helpful to move beyond the constraints of policy typology in order to test the hypothesis against cost–benefit combinations involving concentrated benefits (e.g. diffuse costs/concentrated benefits and concentrated costs/concentrated benefits). It is important to note here that any cost–benefit combination involving concentrated benefits is more likely to be relevant to distributive or redistributive policy types. However, this relationship is by no means necessary. For example, deregulatory policies that seek to weaken environmental controls, such as pollution emissions, can impose diffuse social and environmental costs, whilst offering concentrated benefits to a narrow range of industrial interests.

As well as moving beyond the confines of policy typology to investigate costs and benefits, it is also necessary to restate Shackleton's hypothesis. An unspoken assumption underlying Shackleton's wording is that the EP will always try to increase the funding for distributive programmes and that its success depends on the Council's perception of that programme's legitimacy (Shackleton, 2000, p. 338). Whilst this may be a reasonable assumption, because this discussion is concerned with costs and benefits, and specifically the category of concentrated benefits, it is necessary to relate expectations about the EP's likely success to the perceived legitimacy of any beneficiary group in the eyes of both the Council and Commission, and other potential cost-payers. In short, where the EP's amendments deliver concentrated benefits,

its success will be contingent on the status and perceived legitimacy of the beneficiaries.

Where EP amendments impose diffuse costs because actors share the burden of legislation, the EP's influence is likely to be higher regardless of the type of actors involved, particularly as the EP has no tax-raising powers and still remains relatively insulated from domestic political processes. However, it seems likely that the EP's ability to be successful when proposing amendments that impose diffuse costs may be limited by the pattern of benefits and the actors to whom such benefits are delivered (see the discussion above). Similarly, where EP amendments deliver diffuse benefits, it seems likely that its ability to be successful will depend largely on the concentration of costs and the groups on which they are imposed. In short, concentrated costs or benefits are likely to be more highly politicized and lead to conflict than diffuse costs and benefits. Therefore the EP's success in imposing diffuse costs is likely to be highly contingent on the concentration of benefits, and similarly its success in delivering diffuse benefits will be contingent on the concentration of costs (see Table 2).

The discussion thus far leads to the following three hypotheses:

1. The EP's success will be contingent on who pays the costs or receives the benefits delivered by EP amendments.
2. The EP will be more successful when its amendments impose costs on industrial actors rather than Member States.

Table 2: Projected Impact of Patterns of Costs and Benefits on EP Influence

<i>Costs and Benefits</i>	<i>Expectations of EP Influence</i>
Diffuse costs, diffuse benefits	Costs and benefits shared, therefore EP is likely therefore EP is likely to be successful
Diffuse costs, concentrated benefits	Perceived legitimacy of beneficiary group and of benefits crucial. EP likely to be successful
Concentrated costs, diffuse benefits	EP successful when costs imposed on industry, unsuccessful when imposed on Member State governments. Likely to attract vigorous lobbying
Concentrated costs, concentrated benefits	EP success determined by status and nature of cost-payers and beneficiaries and their ability to mobilize. But more likely to be successful if industry pays costs and beneficiaries are perceived as legitimate/worthy

Sources: Author framework extrapolated from Wilson (1974); Judge *et al.* (1994); Majone (1994); Shackleton (2000).

3. Diffuse costs and benefits will be less controversial than concentrated costs and benefits.

Therefore, by extension, the EP will be most successful under a diffuse costs/diffuse benefits configuration, and least successful under a concentrated costs/concentrated benefits configuration. Under a diffuse costs/concentrated benefits combination the EP's success will be contingent on the perceived legitimacy of the beneficiary group in the eyes of the Council and/or other cost-payers. Under a concentrated costs/diffuse benefits combination the EP's success will be contingent on the nature of the cost-payers: it will be more successful where its amendments impose costs on industrial groups (see Table 2). Consequently the EP will probably be more successful in the field of regulatory policy.

These expectations are tested below against four case studies: the 1999 decision implementing the second phase of the Socrates programme; the 1997 novel foods regulation; the rejected 1988 proposal for a directive on the legal protection of biotechnological inventions; and the re-proposed and successfully adopted 1998 directive on the same matter. The cases cover one piece of distributive legislation (Socrates) and three of regulatory legislation, taking in all four cost-benefit combinations. The analysis excludes redistributive and constituent policy areas because, as noted above, the EP is still limited in its capacity to comment on these policy types, which also still tend to have closed political arenas. By contrast, regulatory and distributive policies are largely dealt with by co-decision which, as a relatively transparent procedure of decision-making, therefore affords the opportunity for closer analysis of policy-making. Consequently, only cases adopted under the co-decision procedure were selected for analysis.³ Three went to conciliation, and analysis of those cases concentrates on the amendments that were discussed in the conciliation meetings, as there is more information available on those amendments. The second proposal on the legal protection of biotechnological inventions was agreed at second reading, but the key issues of dispute were the same as those discussed during the conciliation on the first proposal. For the purposes of this article, influence is taken to refer to the European Parliament's success in seeing its amendments successfully incorporated into legislation. However, although this definition is relatively limited, it is not without complexity; some amendments may be trivial and their adoption may indicate little more than that the institutions agree. Alternatively, important amendments may be only partially incorporated into legislation. These factors are accounted for by employing the typologies (summarized in Tables 3 and 4) devised by Tsebelis

³ The Socrates conciliation negotiations and adoption were conducted under the post-1997 co-decision rules, but this shift does not appear to have benefited the EP (see Burns, forthcoming, for details).

Table 3: Classifying EP Amendments

<i>Classification</i>	<i>Criteria</i>
Insignificant	Clarification; no substantive legal implications; no new provisions
Significant	Substantive change but little alteration to scope of proposal
Highly significant	Substantive change, whilst little alteration to scope of proposal
Important	Alteration of legislative scope or changes with serious consequences
Highly important	Considerable alteration of legislative scope

Source: Tsebelis and Kalandrakis (1999, pp. 130–2)

Table 4: Classifying Adoption of EP Amendments

<i>Classification</i>	<i>Meaning</i>
Adopted	Adopted word for word
Largely adopted	Adopted with minor modifications
Partially adopted	Less than 50 per cent adopted
Text modified	Text is modified but not as EP wanted
Not adopted	Rejected

Source: Tsebelis and Kalandrakis (1999, p. 128).

and Kalandrakis (1999) to classify amendments to reflect their importance, and the extent to which they are incorporated into legislation.

Although the number of cases is small, they were not chosen to be representative, but rather for the purposes of analytical generalization. There are also clear advantages to choosing a small number: determining the costs and benefits delivered by legislation and identifying the actors who gain or lose from EP amendments requires a relatively detailed level of analysis that is more easily attainable through qualitative analysis of a limited sample. So although this study is limited to a small number, its findings can still facilitate analytical precision and theory development in determining when and how the EP exercises influence.

III. The Case Studies

Socrates

Socrates is the EU's flagship education programme that aims to develop a European dimension in education by encouraging co-operation and contact between institutions in different states, mobility amongst students and

professionals, and greater language-learning. The first phase of the programme ran from 1994 to 1999, and was regarded as a great success (Commission, 1998). Consequently, the EU's institutions were all in favour of the programme and wished to be associated with its success (FinnRep Official, interview 20 March 2000). The proposal for the second phase of the programme (to run from 2000 to 2006) was brought forward in 1998, but there was a dispute in the conciliation negotiations over funding. The dispute centred on the Council's belief that insufficient funds were available within the EU budget to meet what it viewed as the EP's unreasonable demands (Council Secretariat-General Official, interview 19 November 1999).

According to Shackleton (2000, p. 338), when dealing with distributive legislation, if the Council favours EU action one would expect the EP to be successful in conciliation. However, in this case, even though the Council clearly viewed the programme as legitimate, the EP moved further from its preferred position than the Council. The Parliament faced a Council unwilling to shift its position until the last minute (MEP, interview 7 March 2000) and even then the increase in the budget that the EP secured fell far short of the conciliation delegation's request: at its second reading the EP had asked for an increase of €1,000 million in the programme's budget, but secured an increase of only €350 million (European Parliament, 1999a, b). The EP's budgetary amendments to the programme have therefore been classified as resulting in a modification of the text (see Table 4). A key factor that weakened the conciliation delegation's position was the fact that the Council position was supported by the EP's own Budgets Committee, which recommended a lower figure for running the programme than that endorsed by the Conciliation Committee (MEP, interview 7 March 2000).

In addition, and importantly for this analysis, the case fell into the concentrated costs/concentrated benefits category. The costs of the programme were largely borne by the small group of net contributors to the EU's budget. The benefits of the budgetary increase were to be delivered to students attending institutions able to participate in the programme. Hence the costs were concentrated on a small number of states and the benefits delivered to a small and relatively privileged social cohort. Consequently, the EP's likelihood of success was reduced because the group that it was seeking to benefit was too narrow. In addition, there was little or no lobbying of either the Parliament or Council over the Socrates programme (FinnRep Official, interview 20 March 2000; MEP, interview 7 March 2000). As education remains a key preserve of the Member States, advocacy tends to remain confined to the national level and to focus on national education strategies rather than European funding programmes such as Socrates that can deliver benefits to only a minority of students and schools.

By contrast, in other negotiations on distributive policy, but covering health programmes on the prevention of cancer, AIDs and promoting health education, the EP's amendments were regarded as legitimate and desirable by the Council, which acceded to all the EP's budgetary demands in conciliation (European Parliament, 1999c, p. 26). It seems reasonable to hypothesize that the fact that the health programmes deliver wide social benefits in the form of improved health care and research made it more likely that the Council would support the conciliation delegation's request for increased funding. Moreover health professionals are more likely to be organized to advance the case for funding EU-wide medical programmes due to the informational benefits to be gained by, for example, gathering comparative cross-national statistics. Hence moving beyond a focus on the legitimacy of distributive legislation *per se*, in order to concentrate on the perceived legitimacy of the beneficiary group appears to offer greater analytical precision when determining when, how and why the EP will be successful. Where the costs of legislation are concentrated, particularly as in the instance of all EU distributive programmes, on a few net contributing Member States, the nature and legitimacy of the beneficiary group becomes all important.

Novel Foods

The aim of the proposal for the regulation on novel foods was to introduce Community-wide safety assessment and notification procedures for the marketing of foods with no established history of use, genetically modified (GM) foods, or foods that had been produced by processes that had changed their composition or nutritional value (Commission, 1992). Although the aim of the regulation was to provide assessment procedures for all new food products, because many of them would be based on biotechnology the policy debate surrounding the proposal concentrated on the issue of labelling GM foods and became the focus of conflict between the Parliament, Commission and Council in conciliation (see Burns, 2004). The key point of dispute concerned which foods should be labelled as genetically modified. The Parliament adopted amendments under which foods with an altered genetic structure that remained indistinguishable from conventional foodstuffs would have to be labelled, as would foods with genetically-modified agricultural characteristics (i.e. foods that had been made resistant to certain pests) (European Parliament, 1996).

The distribution of costs and benefits in this case varied according to actor perception. The Commission and a majority in the Council were concerned about the costs that would be imposed on farmers, producers, food manufacturers and US exporters if stringent labelling rules were adopted (Commission, 1996; Commission Official, interview 16 March 2000). Thus, although the EP's amendments would not impose concentrated costs on one state, they would

impose them on particular industries. However, perhaps the most compelling argument concerned trade. The Commission in particular was anxious that the adoption of strict labelling rules would prompt a trade dispute with the US, which would be potentially very costly for the EU as a whole (Commission, 1996). Thus the EP's amendments would have imposed concentrated costs on a certain set of industrial actors, and threatened the prospect of diffuse and potentially high costs on all states and industries through a trade dispute. For its part, the EP wanted stricter labelling rules in order to provide information for consumers (PE Debates 13 September 1993 No. 3-434, p. 5). Its amendments therefore offered diffuse benefits, and failure to adopt them would impose diffuse costs. The EP's position was supported by some states⁴ in the Council, who were aware that growing public awareness and disquiet about the use of genetically-modified organisms in food meant that their position on the legislation might be closely scrutinized at home. Consequently, these governments regarded the adoption of the EP's amendments as beneficial and saw the rejection of the amendments as potentially costly. Thus, the pattern of costs and benefits arising from the EP's proposed amendments affected the actors in different ways.

The conciliation negotiations concentrated on six amendments, which were all relatively important. Four of the amendments were fully adopted. However, the amendments with potential trade implications, classified as highly important, were only partially adopted. These findings suggest that another variable – the level of the costs – should be considered. This observation may seem banal, but it is nevertheless important. The case implies that, when the EP suggests amendments that impose potentially high and diffuse costs that will be levied within a short time frame on all the Member States (i.e. trade conflict), the Parliament's influence will be limited. But when the EP's amendments levy costs on industries (e.g. the labelling amendments), but offer diffuse benefits for consumers and concentrated benefits for a number of governments, it is more likely to be successful. Consequently, the case fits with the expectations outlined above that the EP's ability to exercise influence is greatest when its amendments impose concentrated costs on industries, whilst offering diffuse benefits to consumers (see Table 2). It also provides an example of the EP's influence under a configuration of diffuse costs and diffuse benefits; however, it suggests that the EP will be less successful than expected. It was argued above that EP amendments falling into this category are likely to be successful because they will be less politicized (see Table 2). However, in the novel foods case the amendments were strongly opposed because they imposed disproportionately high costs.

⁴ Austria, Denmark, Germany, the Netherlands and Sweden.

Patenting Biotechnology

The final two cases concentrate on the proposals for a directive on the legal protection of biotechnological inventions; the first proposal for the directive was rejected in 1995, but a second proposal was accepted in 1998 (Earnshaw and Wood, 1999). The aim of the legislation was to put in place a harmonized system for granting patents to biotechnological inventions. The proposal attracted criticism from the Parliament because it failed to include any reference to the ethical issues raised by biotechnological inventions. Throughout the passage of the first directive, and particularly during and immediately after conciliation, some MEPs raised concerns about the fact that the human germ-gene line might remain patentable, and that the proposal failed to specify sufficiently clearly the difference between a discovery and an invention, which might in turn lead to parts of the human body being patented (PE Debates 1 March 1995 No. 4-458, pp. 35–46). Members of the Parliament and those opposed to the directive were consequently concerned that the directive's passage would impose diffuse costs on humankind via the sale of human life, and exploitation of genetic heritage. On the other side of the debate were the pharmaceutical and biotechnology companies that stood to gain from the directive by using the patent system to protect their investment in the development of new products such as medicines and plants.

Hence the debate surrounding the first proposal was cast in the following terms: the proposal's acceptance would impose diffuse, ethical costs affecting humankind, whilst delivering concentrated benefits to pharmaceutical and biotechnology companies. Although the EP and Council reached a compromise in conciliation, the EP could not persuade the Council to adopt fully a crucial amendment relating to germ-gene line therapy. Consequently, several Member States and a majority of MEPs felt that the key ethical issues were insufficiently addressed in the compromise text. Luxembourg and Spain both stated that they would abstain and it was reported that the Austrian and Danish Parliaments had instructed their governments to vote against the joint text (*Financial Times*, 1 March 1995). The Parliament rejected the proposed directive by 240 votes to 188 during its third reading (PE Minutes of Sitting 11–15 May 1998, OJC 167 1 June 1998).⁵

Hence the EP was initially unsuccessful in amending the legislation to take into account the diffuse ethical costs that the directive might impose. The failure to secure the inclusion of the amendments in the joint text led MEPs to use the most powerful weapon available to them – their veto – in order to prevent the legislation being adopted. The case seems to fit with the expectation outlined in Table 2 that, when legislation appears to offer diffuse costs and concentrated

⁵ Only a simple majority vote is needed to reject a joint text.

benefits, the status of the beneficiary group is important, particularly when, as in this case, the diffuse costs are perceived as ethical and imposing unwarranted and high costs on wider society.

Despite the EP's opposition to the proposal the Commission argued that there was still a need for the legislation and brought forward a new draft six months after the first proposal was rejected. The new draft addressed some of the key ethical issues relating to the patenting of the human germ-gene line (Commission, 1995), thereby removing the main issue of concern relating to the diffuse costs that the directive might have imposed. In addition, the debate surrounding the second proposal was conducted in a very different way. The industrial lobby realized that it had lost the public relations battle during the negotiation of the first proposal by allowing those opposed to the directive to argue that the benefits accruing from the legislation would be concentrated in the hands of industrial interests. During the passage of the second proposal, the pharmaceuticals sector took the lead in representing the industry position and sought to emphasize both the specific and diffuse benefits that the legislation would deliver if adopted (see Earnshaw and Wood, 1999).

The industrial lobby went on the offensive by recruiting to its cause patient groups representing sufferers of genetic and other diseases, some of which had associated themselves with the anti-lobby during the first proposal's passage. The pro-lobby now argued that, without legal protection for their inventions, the pharmaceutical industry would be unable to afford to invest in research and development that could deliver advances in the fields of cancer, heart disease and HIV. Thus, the debate about costs and benefits shifted its emphasis away from the concentrated benefits that would accrue to industrial interests on to the diffuse benefits that new pharmaceuticals could deliver. This argument was also backed by patient groups staging appearances at key votes. On the other side of the debate, those who were opposed to the directive were weakened because the new proposal addressed the issue of patenting the human germ-gene line, which had caused most concern during the passage of the first proposal.

After unprecedented lobbying the directive was adopted without conciliation in 1998. The Parliament's first-reading amendments were mostly largely adopted, but many were insignificant and no amendments were adopted at second reading (PE Minutes of Sitting 11–15 May 1998 OJC 167 1 June 1998). The case suggests that, where legislation may impose diffuse ethical costs with only concentrated benefits for industrial interests, the EP is likely to insist on its rights and exercise influence. Indeed, in this instance the Parliament's rejection led not only to the key ethical concerns being directly addressed in the second proposal, it led also to the debate being recast by the industrial lobby in order to emphasize the diffuse benefits that the legislation could deliver. This move

by the industrial lobby suggests its awareness that the EP was more likely to favour legislation that offered diffuse benefits and, conversely, to seek to amend legislation that failed to offer such benefits. Again the case shows that the costs and benefits of legislation are viewed in different ways by the various actors, and also that the perception of those costs and benefits can change.

IV. Analysis

The aim of the case studies was to test the following hypotheses against empirical data:

- The EP's success will be contingent on who pays the costs or receives the benefits delivered by EP amendments.
- The EP will be more successful when its amendments impose costs on industrial actors rather than Member States.
- Diffuse costs and benefits will be less controversial than concentrated costs and benefits.

The case studies can also be used to test the following expectations:

- The EP will be most successful under a diffuse costs/diffuse benefits configuration.
- The EP will be least successful under a concentrated costs/concentrated benefits configuration.
- The EP's success under a diffuse costs/concentrated benefits combination will be contingent on the perceived legitimacy of the beneficiary group in the eyes of the Council and/or other cost-payers.
- The EP's success under a concentrated costs/diffuse benefits combination will be contingent on the nature of the cost-payers: it will be more successful when its amendments impose costs on industrial groups (see Table 2).

Broadly speaking, the cases offer some evidence to confirm these hypotheses and expectations. For example, the Socrates case seemed to support the expectation that the perceived legitimacy of the group receiving concentrated benefits was important in determining the cost-payers' attitudes and ultimately their willingness to agree to the EP's request for increased funding for the programme. As the EP was not particularly successful in achieving its goals, the case also offers limited support for the assumption that, where the EP's amendments fall within the concentrated costs/concentrated benefits configuration, it is less likely to be successful. In other distributive cases, such as the health programmes where the increased funding proposed by the EP was to result

in diffuse social and healthcare benefits, Member States were more willing to support the EP's amendments.

The novel foods case offers support to the assumption that, under a concentrated costs/diffuse benefits configuration where the costs are imposed on industries, the EP is able to be successful. However, the case fails to support the assumption that, under the diffuse costs/diffuse benefits scenario, the EP will be most successful. In this case the amendments imposing such a pattern of costs and benefits appear to have been unsuccessful because of the nature and level of the costs imposed. The biotechnology patenting case offers support for the assumption that, under a diffuse benefits/concentrated costs scenario, the perception of the beneficiaries becomes all important: the EP and a minority in the Council were not prepared to support amendments that were perceived as imposing diffuse ethical costs whilst delivering concentrated industrial benefits. Indeed, the issue of perception was so important that, when the proposed directive was discussed for a second time, the industrial lobby represented the costs and benefits as falling within the diffuse/diffuse category, a tactic that seems to have been successful in persuading MEPs and Council Members alike to shift position. Hence, in this case, the presentation of costs and benefits as falling within the diffuse/diffuse category constituted a deliberate attempt to depoliticize the issue area and make the industry position more acceptable to legislators. Consequently, the biotechnology case offers some limited support to the assumption that a diffuse/diffuse pattern of costs and benefits can be less controversial.

Overall, the cases seem to support the assumption that the EP's influence is contingent on who pays the costs and receives the benefits imposed by its amendments and that, like the Commission, the EP is more likely to be successful when its amendments impose costs on industrial actors rather than Member States. By extension, therefore, we would expect the EP, like the Commission, to be more successful in the field of regulatory policy. The cases therefore confirm the untested supposition of Judge *et al.* (1994, p. 43). However, the cases do not support the idea that diffuse costs and benefits are intrinsically less controversial than concentrated costs and benefits. Indeed, the cases highlight two important issues. First, the level and proportionality of costs matter: even if costs are to be shared across all the Member States and industrial actors, if those costs are deemed to be too high, then EP amendments imposing such costs will not be successful. Second, the nature of the costs is important: amendments or legislation imposing diffuse ethical and social costs can attract strong opposition. It is important to note here that, in the biotechnology patenting case, opponents of the legislation were very well organized and were therefore able to mobilize support within the Parliament and Council. By the second time round, however, the industrial lobby was equally well organized

and made a deliberate and concerted effort to sway opinion within the Parliament. Certainly it is conceivable that, in other cases where diffuse costs are imposed, divisions between affected groups/industries may weaken opposition to those costs, or the costs will be spread so widely across such a disparate range of actors that no focal point for opposition will emerge at all. Similarly, where diffuse benefits are to be delivered, it may be difficult for beneficiaries to arrange an effective advocacy campaign as, for example, in the Socrates case. Here it is important to return to Lowi (1964, 1972), however, in order to point out that Socrates was a distributive educational policy that fell within a distinctive political arena that remains dominated by the Member States, with little or no advocacy conducted at the European level.

The article also points to a key factor determining EP success, namely the balance of opinion in the Council. The cases indicate that the EP can still be successful even if the majority of the Council is opposed to it, *if* a handful of states will gain some kind of benefit from the EP's amendments, or *if* they face political costs if the amendments are not adopted. In the novel foods and biotechnology patenting cases, the fact that a small group of states shared the EP's views and faced domestic political costs if they did not support the EP position was crucial in strengthening the Parliament's case. Conversely, in the Socrates case, although only a small group of states faced the costs of legislation, the fact that those states were the major contributors to the EU's budget placed them in a powerful position, and unsurprisingly there was no strong support for the EP within the Council.

Overall, the cases suggest that, in the regulatory field, particularly given the EP's capacity to inflict costs on industrial actors, the Parliament will attract widespread lobbying and lobbyists will seek to present their arguments in ways designed to appeal to the Parliament. Consequently, in the field of regulatory policy pluralist patterns of interest representation will be the norm. However, in the field of distributive policy, even where the EP has the potential to exercise influence under co-decision because cost–benefit configurations are more likely to impose concentrated costs on net contributors within the Council, the EP's scope for influence is limited. Additionally, albeit unsurprisingly, lobbying activity at the European level in such cases is likely to be more muted as most lobbying is targeted at the national level.

Conclusions

In conclusion, the article suggests that analysing the distribution of costs and benefits delivered by legislation and the EP's amendments can offer greater precision in determining the EP's likely influence and in explaining its successes and failures. By developing the work of Judge *et al.* (1994) and Shackleton

(2000) and borrowing insights from Majone (1994) and Wilson (1974), the article has developed a more nuanced and complex set of hypotheses about the links between policy type, cost and benefits, and EP influence. Crucially, those hypotheses have been tested against empirical cases, which have by and large supported the hypotheses, although they have also flagged up additional variables for consideration: specifically, the importance of the level and nature of costs in determining Council and EP attitudes to legislation. Whilst the formula offered here is more complex than those put forward by Judge *et al.* (1994) and Shackleton (2000), it is simple enough to offer analytical and predictive leverage to academics and practitioners alike. Certainly the findings indicate that, when dealing with distributive and regulatory policy under co-decision, if the EP takes into account the pattern of costs and benefits delivered by its amendments it will be able to select with some degree of precision which amendments are worth concentrating on in order to maximize its chances of success.

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