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Blocking Minorities

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Blocking Minorities¹

Networks and Meaning in the Opposition Against the Proposal for a Directive on Temporary Work in the Council of Ministers of the European Union

Abstract: This article contains a case study of the behavior of a blocking minority in the Council of Ministers. An important result is that the behavior of Member States cannot in this case be explained directly by domestic circumstances and interests as it is often done in the neoliberal literature. Instead, necessary variables offered in this article are tight networks and their ability to create meaning in being part of the blocking minority through an attractive story-line. If generalized, it means that the influence of story-lines created by discourse-coalitions has to be upgraded as explanations of the behavior in the Council of Ministers and that actors providing the network with hegemony can critically strengthen an issue network.

Key words: Temporary Agency Work, European Union, Blocking Minority, Policy Network, Argumentative Discourse Analysis.

1. Introduction

The literature on the voting behavior of Member States in the Council of Ministers of the European Union in cases of qualified majority can be divided into several groups. One of these groups analyzes the voting behavior leading to a decision, e.g. adoption of a directive, a programme, or a statement (e.g. Winkler, 1998; Burns, 2004). Another group normatively tries to judge the existing voting rules according to certain criteria (e.g. Johnston, 1995; Garrett, McLean & MacHover, 1995; Winkler, 1998; Hosli, 1995). Finally, there is a group of literature on how the voting behavior of the Member States is influenced by other actors such as the Commission and the European Parliament (e.g. Pollack 1997, Burns 2004).

At a more general level, the position that the Member States take in the negotiations in the Council of Ministers has been discussed as part of the Grand Debate in international relations theory on realism (or neorealism) versus neoliberalism. According to the realists, European decision-making is not the result of political pressures at the domestic level, but rather interests derived from European policy executives' perception of the European decision-making context (Rosamond, 2000: 135).

However, increasingly, within the last 20 years, neoliberal concerns with domestic factors have been brought into the analysis of European integration. For example, Bulmer (1983) has argued in favor of the domestic roots of the Member State's preferences in European decision-making. Moravscik (2001) did the same on the basis of a case study of the adoption of the Single European Act. Also Putnam (1988) belongs to this family of literature considering his idea of two-level games offers linkages between domestic politics and European integration where the Member State's executives play games in the two arenas simultaneously.

In this article, the behavior of a group of Member States will be analyzed in a case which for a number of years has not lead to any conclusion in spite of considerable of pressure from the majority of Member States and from the Commission. It will be analyzed how a blocking minority in a specific case is actually working and all the “behind the scene” machinery that is needed in order to keep it together.

An important result of the case study in this article is that the behavior of Member States cannot be explained directly with reference to domestic circumstances or national interests. Instead, the article argues that the construction of a network and a common frame of meaning (an attractive argumentative logic or a story-line) in such a network are necessary in order to create and sustain a blocking minority and that these variables thus explain the voting of Member States in this particular field. Of course, at the same time, national interests might be embedded in this common story-line, but what seems to be important, however, is that, at least in this case study, the constructed story-line is a necessary condition in order to uphold the blocking majority no matter what the national interests might be.

The pertinent non-decision making in the Council of Ministers due to the blocking minority has never been thoroughly analyzed even though this is an often seen phenomenon. Implicitly, among commentators and in the press, it has perhaps been assumed that a blocking minority of Member States is something that manifests itself more or less spontaneously at the Council meetings due to, for example, purely domestic considerations or convergence of national interests. This is, however, far from being the case, at least not in the case study of this paper and possibly not in other cases as well.

This article draws on two different theoretical approaches in the analysis of decision making processes in the Council of Ministers, namely network analysis and an argumentative discourse analysis. In general, the aim of the article is, as far as the European Union is concerned, also to contribute to a “decision-making theory which includes in its analysis the ways in which preferences, beliefs and desires are shaped by participation in the decision-making process itself” (as defined in Kerremans, 1996). The theoretical explanation offered in this article could, perhaps, be pronounced social constructivist realism, that is, a theory where the executive’s perceptions of European decision-making are constructed around a story-line or a line of argument which has been developed in a tight network.

The period that is analyzed covers a three year period from 2002 (when the proposal was published) and until the beginning of 2005. Even though the proposed directive will be adopted after this period, it is still interesting to investigate the functioning of the blocking minorities which was responsible for why it took so long, so much pressure, and so many admissions to reach a conclusion. In other words, the puzzle of this paper is the following: If it is accepted that blocking majorities do not manifest themselves spontaneously, what is actually needed to bind together a blocking minority of Member States, or, stated differently, what is the cement of the blocking minority in the case of the proposal for a directive on temporary agency work?

In section 2, the two “neighboring” theoretical approaches (policy network analysis and argumentative discourse analysis) are presented as the foundation for the analysis of the article. The factual background of the case analyzed in the article is put forward in section 3 whereas section 4 presents the policy network analysis of the selected case. Section 5 presents the argumentative discourse analysis of the case and section 6 contains the summary and the conclusion of the article.

2. Theoretical approaches

In this section the theoretical approaches used in the analyses are presented. First, the policy network approach is presented in order to serve as one of the analytical legs of the study. Second, an argumentative discourse theoretical approach is presented as the other analytical leg in order to investigate the argumentative structures used by members of the blocking minority.

Policy network analysis

According to Peterson (2004) networks can be defined as clusters of different kinds of actors who are linked together. There are at least three features of European decision-making and non-decision-making being to a large extent a question of policy network.

First, the European decision-making is based upon an extraordinary differentiated polity. It is generally recognized that the European Union is a unique, quasi-federal polity with no government or opposition and that European decision-making, therefore, has to rely on networks of expertise in the capitals of the Member States. Of course, the European Council is at the top of the European Union decision-making hierarchy, but this institution is, normally, either only decision-maker of the very last resort or a strategic decision-maker on behalf of the European Union. (In the case study of this article, the European Council tried to push forward the decision-making concerning the proposal for a directive on temporary work, however, without any success at all!).

Second, the EU decision-making is highly technical, and experts often seek to depoliticize and rationalize the decision-making process. A reason for this is, as pointed out above, the weak horizontal

institutions which make the technical and rational argumentative discourse much more important because of the few possibilities to appeal to a higher political level. This means that the features of European decision-making promote the construction of specific types of story-lines on the various policy areas of cooperation.

Third, the technical reasoning in the European Union is based upon a Byzantine labyrinth of working parties and committees. This group based decision-making involves mutuality and interdependence, where relationships between groups vary between policy areas, and where policy choices are shaped in bargaining between various actors before policies are decided upon by elected politicians. Examples of the networks in the labour market policy field of the European Union are the Working Party on Social Questions of the Council of Ministers secretariat, Coreper,² the Mertens group,³ the Employment Committee of the European Commission (EMCO), the Committee of General Directors of Industrial Relations, and, in the case of this article, a specific ad hoc group of Member States constituting a blocking minority in a particular case.

There are different definitions of the concept of political community which is the result of the various kinds of policy networks that exist. Networks can be placed on a spectrum from tightly, single-united policy networks to a broad universe of actors or potential actors such as issue networks (Peterson, 2004). The network established among the representatives from Member States of the blocking minority is, of course, an issue network, however, a more and more tightly organized one with (for some of the participants) common experiences stemming from other blocking-minority situations in the Council of Ministers. The network of actors constituting the blocking minority can thus be seen as a dynamic entity somewhere in between the tightly nit policy network and the more loose issue network.

This article argues that the policy network approach can successfully be supplemented by a argumentative discourse analytical approach which stresses the importance of meaning construction with regard to the attributes of the network and thus its ability to sustain itself and affect the voting behavior of the its members. Accordingly, the independent variable in the analysis is mainly the construction of meaning and its effects on the attributes of the network (i.e. its relative tightness and looseness) and thus its ability to sustain itself and to affect the dependent variable - voting behavior of the members.

Within the argumentative discourse analytical tradition it has been argued that it is the discursive practices which are the essential cement that creates communicative networks among actors with overlapping understandings (Hajer, 1995; Hajer, 2002; Roe, 1994; Stone, 1997). Therefore, also within the argumentative discourse analytical tradition, networks – or as they are often called: discourse-coalitions (Hajer, 1995) - are the prime vehicles of change.

Discourse analysis

According to Hajer (2002), argumentative discourse analysis is “based on three interrelated elements: discourse, practises and meaning. The allocation of meaning in a given context is thus analysed in terms of particular forms of discourse within the context of the particular practises in which the discourse is produced.”

At the same time, to understand the meaning of a discourse in an argumentative context, one should not examine merely the words within that discourse. One should also consider the positions which are

being criticized. Without these counter-positions, the argumentative meaning will be lost in the discourse analysis (Hajer, 1995; Hajer, 2002). In methodological terms, compared to traditional policy analysis, this means that the “material” of argumentative discourse analysis becomes considerable broader. Hence, analysing policy papers, newspapers, documents, press releases, statements, speeches, letters etc. becomes much more relevant even though they do not include “hard” proposals or legislation.

According to the argumentative discourse analytical tradition, politics is a struggle for discursive hegemony in which actors try to secure support for their definition of reality (Hajer 1995: 59). Hence, it is part of political life that a partial fixation of political meaning is constantly attempted because different argumentative discourses compete in a particular setting. In the case of the discussion on the proposal for a directive on temporary work, two so-called story-lines or lines of arguments can be identified (cf. section 4 and 5). These two story-lines play an important role in the creation of order and meaning in this particular domain for the two groups of Member States constituting the majority and the blocking minority respectively. Their persuasive power is essentially based on the idea that they “sound right” given the already existing argumentative discursive structures in the respective Member States and that they, therefore, attract certain member states (Hajer, 1995: 58-68).

This process is important because the story-lines binding together discursive-coalitions constantly have to be produced and reproduced at the European level as they are not assumed to be a direct function of domestic pressures and interests stemming from inside the Member States. On the contrary, according to the argumentative discourse analytical tradition, in the struggle for discursive hegemony, coalitions are formed among actors attracted to the same story-lines and not because they necessarily share a

number of so-called common objective interests. Accordingly, the case analysis at hand, indirectly shows that story-lines can attract Member States and create and sustain a tightly knit network even when they seem to have divergent interests in a narrow objective sense.

It is, furthermore, important that the argumentative discourse analytical approach emphasises the difficulty in keeping together a discursive-coalition (i.e. a blocking minority) stressing that it takes a constant (re)articulation of the story-line and the continuing convergence of the (re)articulations with the national argumentative discourses to do so.

The analysis, furthermore, shows the significance of the existence of a hegemony in articulating the story-line and the ability to achieve acceptance of a particular set of norms and views.

In short, as far as the two story-lines are concerned, the story-line supported by the majority of Member States' governments emphasizes protection of the increasing number of temporary agency workers already in jobs and the other story-line - supported by a minority of Member States' governments - emphasizes the possibilities of unemployed and others to get a permanent job through working as a temporary agent which does not have to involve all the benefits of a permanent job.

3. Background: the proposal for a directive on temporary work

The prehistory of the proposal for a directive on temporary work is the following: In 1996, the Commission consulted the social partners on the labour market at the European level (i.e. ETUC, CEEP, and Unice)⁴ on the question of flexibility in working time and security for workers in accordance with article 137 of the Treaty. In response to this consultation, the European social partners

concluded two agreements (on part-time work and on fixed-term work contracts). However, the third negotiation on temporary agency work did not succeed because of disagreement on how much should be included in the concept of “working conditions” in a framework agreement for temporary workers.

On March 25, 2002, the Commission published a proposal on a directive on temporary work⁵ and distributed it to the Council of Ministers and the European Parliament. To a certain extent, the content of this proposal reflected the agreement that already had been reached in the negotiations between the social partners. The overall aim was to implement the principle of non-discrimination and to put the temporary agency workers on equal footing with the permanent employees in the user companies concerning a wide range of working conditions like holidays, parental leaves, wages, resting periods and gender equality on the labour market (article 5 in the proposal for a directive) and, at the same time, reduce the number of restrictions in many Member States concerning the use of temporary workers in various job functions (article 4).

As far as the implementation of the principle of non-discrimination is concerned, however, there were two exceptions: First, in general, collective agreement between social partners within the Member States should overrule the regulations of the directive (at least if the working conditions here had a “satisfactory” level⁶). Second, there was a waiting period or a derogation of six weeks after the start of the job as temporary wage earner before the conditions in the directive should count.

4. Policy network analysis

After the publication by the Commission, not least the length of the waiting period became the turning point of much of the debate on the directive in the month and years that followed. This debate showed

that a minority of Member States wanted a longer waiting period while a majority was either satisfied with the six week or even wanted a shorter period.⁷ Already in April 2002, Danish officials (which were also members of the EMCO⁸, the Working Party on Social Questions, and the Committee of General Directors of Industrial Relations⁹) from the Ministry of Employment were in close contact with officials from the German ministry (which were also members of the same committees as mentioned above) concerning the proposal for a directive on temporary work. At this point of time, the United Kingdom had already signaled that she wanted a longer waiting period¹⁰, and the German officials made it clear that they supported the UK position.¹¹

The directive was scheduled to be debated for the first time at the Council of Ministers meeting in Luxembourg on June 3, 2002. Before this meeting officials in the Danish Ministry of Employment were in contact with their colleagues in the UK Department of Trade and Industry through the British embassy in Copenhagen. Here the UK representatives told that the UK position was that there was not a strong case for a directive but if other Member States wanted to have one, the UK would look for a compromise. At the same time, the UK announced that it was in close contact with the Irish Republic. So, already before the proposal for a directive on temporary work was debated in the Council of Ministers for the first time, a network – however, still, relatively loose – was established containing 10-15 actors from the four participating countries. At the same time, already at this very early stage, the UK officials were also the most active in creating the network and contributing with papers containing lines of arguments concerning the problems of the proposal from the Commission on temporary work.¹²

During the debate on the directive on temporary work at the first Council of Ministers meeting, the UK, Denmark, Germany and Ireland were the four Member States most skeptical vis-à-vis the proposal. In particular, the four Member States were critical concerning the six weeks waiting period which they wanted to be longer. In other words, there were also at this early point in time in the decision-making process, clear contours of what later on became a blocking minority based on a network of officials more and more tightly knitted together through a common attraction to the same story-line.¹³

The Working Party on Social Questions of the Council of Ministers met through-out June and July, 2002, in order to discuss the directive. Germany, Ireland and the UK were still skeptical, but they did not want to block a decision. However, the three Member States and Denmark wanted a longer waiting period. At the same time, Denmark kept a relatively low profile on the issue due to its role as president from July 1, 2002.¹⁴

It was planned that the directive should be on the agenda of the meeting in the Council of Ministers on October 8, 2002. However, close to October 8, 2002, it was decided to remove the point from the agenda. The judgment was that a debate about the directive already on October 8, 2002, would be counter-productive because it would put pressure on certain Member States to express “hard” views on the directive at a time when – as it was explained - the negotiations in the Working Party on Social Questions had not come very far. Instead, the Danish president made an oral briefing about the directive on the Council meeting on October 8, 2002. Here he underlined that no political debate was planned. This debate should take place on December 3, 2002.¹⁵

The Danish delegation met with the UK delegation in connection with the Council meeting on October 8, 2002. The UK hope for a compromise on the temporary agency directive – including a longer waiting period – had dwindled since the Council meeting on June 3, 2002. One reason for this was the new report from the European Parliament on the temporary agency work directive.¹⁶ In this report the six weeks waiting period was eliminated. Instead, the Parliament proposed that there should be a possibility for a longer period of implementation. However, at the end of the day, if the proposal of the Parliament was followed, the result would be a zero weeks waiting period, i.e. that the non-discriminatory principle should apply from the first day when the temporary agency worker was in employment. In other words, the European Parliament had accepted a radicalized version – focusing purely on protection of already employed temporary workers - of the story-line concerning the proposal for a directive on temporary work that was supported by the majority of Member States and the Commission.

After the meeting in the Council of Ministers, the UK uttered certainty concerning her ability to sustain a blocking minority with support of Ireland, Denmark and possibly Germany.¹⁷ The UK openly saw herself – and was seen as such by the other Member States of the network – as an actor providing the blocking minority with hegemony and argumentative cement in the Gramscian sense.

On November 19, 2002, the Danish Presidency send a note to all members of the Council of Ministers concerning, among other things, the temporary agency work directive with a number of questions concerning the directive and about the handling of the directive on the meeting in the Council of Ministers on December 3, 2002. The directive on temporary agency work was on the Council of Ministers meeting on December 3, 2002, to an “orientation debate on elements of a compromise.” After

the meeting it was concluded that: “The Presidency believes that the debate in the Council lead to further crystallizing a solid basis for a political agreement under the Greek Presidency.”¹⁸ This was a polite statement telling that status quo was upheld between the blocking minority and the rest of the Council of Ministers. Also some of the coming Member States from Eastern and central Europe that were present at the meeting as observers, and some of them later expressed their doubt concerning the proposal on temporary agency work and whether the European Union should regulate this field at all.¹⁹ This last fact clearly inspired the blocking minority to tighten their cooperation.

On February 7, 2003, the blocking minority network also held a meeting in London in order to discuss the situation and to confirm the “one-for-all-and all-for one” attitude of the network.²⁰ Also in February 2003, rumors began to flourish in Brussels that the Greek presidency worked for at political agreement about the directive on the forthcoming meeting in the Council of Ministers. However, the UK were very much against this and they argued that the negotiations had still not matured enough and that they would bring this point of view forward at the forthcoming Mertens meeting. As a consequence, the planned point about the temporary workers directive on the Council of Ministers agenda on March 6, 2003, was withdrawn.²¹

Instead the temporary agency work directive became an issue – however, a very small one – on the European Council meeting on March 20, 2003. In the written conclusions from this meeting there was a strong recommendation to the ministers in the Social and Labour Market Council to agree on a directive on temporary agency work before the end of 2003.²² Especially the “majority Member States” used the recommendation from the European Council in the following month, however, without much

impact vis-à-vis the now well established smoothly functioning network of the officials of the blocking minority headed by the UK.

On March 21, 2003, officials from the blocking minority countries met again in Dublin in order to discuss the issue. At the meeting it was decided that Ireland should try to arrange a meeting with the Greek Presidency in Brussels on March 25, 2003, in order to explain the situation on a bilateral basis.²³ At the same time, the UK suggested to produce a non-paper on possible compromises on the directive to the presidency on behalf of the blocking minority. This non-paper was a response to the new situation after the recommendation concerning the temporary work directive was adopted by the European Council on March 20, 2003.

On May 16, 2003, the presidency published a new proposal for a compromise where they had accommodated some of the criticism made by the blocking minority. Now, however, the blocking minority stood firm on its opposition. As a “counter-attack”, the UK officials wrote a new position paper on behalf of the blocking minority. On May 21, 2003, the blocking minority distributed their common position paper at the Coreper I meeting. On the issue of the waiting period, it was now a non-negotiable demand that the waiting period should be of a length of at least six month concerning all “non-discriminatory” working conditions (wages, parental leave, pensions, holidays etc.).²⁴

The Council of Ministers on June 3, 2003, confirmed the now well known positions of the Member States. The Greek presidency took notice of the fact that the Member States had divergent views without immediate possibilities for a compromise.²⁵ However, the Italian Presidency that took over on July 1, 2003, felt an obligation – because of the conclusions from the European Council meeting in

March – to bring the issue further. The position of neither the majority nor of the blocking minority did change in the following month, however, so the issue was not on the table of the meeting in the Council of Ministers in October, 2003.

It was planned that the issue should have been on the agenda of the Council of Ministers in December 2003.²⁶ At a very late stage, however, it was removed from the agenda after a meeting in Coreper that confirmed that there were no changes in the positions of the Member States of the blocking minority.²⁷

In autumn of 2003 and in the winter of 2003 and 2004, the UK department of Trade and Industry had several contacts with representatives from the new Member States in Eastern and Central Europe. In this connection they were also consulted concerning their position on the temporary agency directive.²⁸ These contacts confirmed the impression from the Council of Ministers meetings (where the new Member States had been observers for some time, even though they only became full members after May 1, 2004) that several of them accepted the story-line of the blocking minority and were just as skeptical vis-à-vis the directive. Among the most skeptical Member States were, for example, Poland, the Slovak Republic, Malta, and Lithuania. This meant that there would still be a blocking minority after the enlargement of the European Union on May 1, 2004.²⁹ At this point in time, the network of the blocking minority countries entered a new phase as the stable core of the new and extended network.

Hence, after the debate during the lunch of the Council meeting in October 2004, the Dutch president concluded that there was still a blocking minority vis-à-vis the directive on temporary agency work. The point on the agenda about the directive was also removed from the agenda at the Council of Ministers meeting in December, 2004. In other words, the new and extended network manifested itself

during the second half of 2004 where it managed to keep the issue of the agenda of the Council of Ministers in spite of attempts by the presidency to move forwards in direction of an adoption of the directive.³⁰

5. Argumentative Discourse Analysis

According to the discourse-coalition consisting of a majority of Member States (as well as many trade union representatives³¹) the story-line concerning the possible regulation of temporary agency work in the European Union goes as follows: There is an rapid increase in the number of wage earners working as temporary agency workers in most Member States and, often, with few rights and relatively bad working conditions. They need regulated protection from the European Union as did, for example, the part-time workers and workers on fixed-term contracts. Without this protection there is a danger that they will become the new underclass of the European labour market which will put part of the European social model and social cohesion in jeopardy, and eventually, this situation will gradually increase the pressure on the rest of the labour market. At the same time, without common European legislation there is a danger that there might be a sort of so-called social dumping between the Member States in this particular field.³²

According to the discourse-coalition consisting of a minority of Member States (as well as many representatives of the employers³³), however, the story-line about the same issue goes as follows: “Yes”, there is an increase (however, not as rapid as postulated by the other side) in the number of wages earners working as temporary agency workers in most Member States, and, “yes”, they sometimes (but far from always) have few rights and bad working conditions. However, according to this argumentative logic which is also the basis of neo-classical economic theory, to take a job as an

agency worker is often the most efficient way of getting an ordinary job. The reason that a person can get a job as agency worker but not an ordinary job is that in the last situation the person costs too much. In other words, if the EU decided to regulate this area, the first period as agency worker should be regarded as a waiting period where the person gets the necessary qualifications which could after a number of month lead to a job under exactly the same working conditions as for anybody else with the same job functions. On the other hand, if a very short waiting period is introduced on a European scale it certainly hurt the inclusion into the labour market of marginalized persons and, therefore, result in higher unemployment in general – everything else being equal.³⁴

From the very beginning, the UK position on the proposal for the directive on temporary agency work reflected this last story-line of the discourse-coalition of the blocking minority. The fundamental reason given by the UK government is that the employment as temporary agency worker is an important element in creating and upholding a flexible labour market.

The position by the blocking minority governments was under no circumstances a simple reflection of the number of wage earners working as temporary agency workers in the European Union. According to the report about “Temporary Agency Work in the European Union” from 2002 published by the European Foundation for Improvement of Living and Working Conditions, the number of temporary agency workers are highest – as their share of total employment – in the Netherlands, Luxembourg, France and the United Kingdom. The agency business is relatively least important in Finland, Ireland, Italy and Greece. Germany and Denmark are in the middle of the spectrum (Storie, 2002). This seems to indicate that there is no correlation between the number of agency workers on the Member States’ labour markets and the position of the Member States vis-à-vis the two story-lines. In other words,

domestic circumstances and interests – as far as this important and relevant labour market characteristics is concerned - do not seem to be the direct explanation of the behavior of the Member States in the Council of Ministers.

As far as Ireland is concerned, and even though she has few temporary agency workers, the Irish labour market structure and a labour market philosophy which is very much similar to the labour market philosophy of the UK when stressing the largest possible flexibility at the company level as far as fixation of working conditions is concerned. The British line of argumentation concerning the temporary agency work, therefore, had affinity in the Irish government.

Also Germany found attraction in the labour market discourse expressed in the story-line of the blocking minority. The dominant argumentative discourse on employment policy in Germany had become unstable and politicized by the end of the 1990's due to the failure of integrating the East German länder into the "normality" of labour market policy of the former West Germany. Thus Germany was experiencing a fundamental policy failure and was searching for a new way of fixating meaning in the employment policy.³⁵ The reason for the rising unemployment was finally constructed in terms of lack of flexibility in the labour market and gave rise to the Hartz reform process initiated in 2002. The argumentative structure embedded in the story-line articulated by the UK (i.e. that the directive was a threat to labour market flexibility) thus converged with the basic (though unstable) argumentative discourse on labour policy in Germany articulated in the Hartz reforms. Therefore, it made sense for Germany to take part in the blocking minority.³⁶

In November rumors began to flourish that Germany was thinking of leaving the blocking minority. However, no one in the German ministry could confirm these rumors and no one knew where they came from. Some rumors said that the rumors came from the Commission, but they were never confirmed. None the less, the rumors lead to fear in the three other capitals of the blocking minority. Later in February, an article in Financial Times suggested that Germany and the UK had struck a deal in November, 2002: Germany should continue to stay in the blocking minority vis-à-vis the directive on temporary agency work.³⁷ As a kind of repayment, the UK would support Germany and join a blocking minority vis-à-vis the adoption of the so-called take-over directive that would limit banks ownership of big industrial companies (which is a very well-known phenomenon in Germany).

However, at the same time, from the very beginning Germany had subscribed to the story-line of the blocking minority in its own governments' domestic labour market policies where the promotion of an increased labour market flexibility was the *raison d'être* for the Hartz reform process in which also German agency companies got a minor role.³⁸ The fact that Germany remained a part of the blocking minority is, therefore, also consistent with how the German government and German officials perceived labour market policies and the possible solutions to domestic labour market problems. In short, the basis of Germany being part of the blocking minority was that she saw herself as part of the same discourse-coalition as the other three Member States. If horse-trading between Germany and the UK did in fact take place, it could be interpreted as an additional benefit for Germany but not the decisive reason for remaining in the blocking minority.

Denmark – with relatively few temporary agency workers and a flexible labour market – could probably have lived easily with a directive in the field,³⁹ simply because most agency workers in

Denmark have better and not worse working conditions compared with permanent employed wage earners in the same job functions.⁴⁰ Never-the-less, Denmark chose to join the minority discourse-coalition because she was convinced by the story-line that sounded right and converged with the government's basic discourse on both labour market policy.

The basic elements in the Danish argumentative discourse on labour market policy places the main responsibility for the working conditions like wages, holidays, parental leave etc. in the hands of the actors in the social partners in the employment field thus illegitimizing government intervention in deals made by these.⁴¹ Furthermore, the argumentative discourse on the European Union affairs in Denmark is characterized by a scepticism towards the EU regulations on labour market policy, which often results in initiatives made by the EU being constructed as illegitimate interventions in the autonomy of the Danish labour market model.⁴² The storyline articulated by the UK (in both ways incorporating a "hands off" approach to labour market rights) thus converged with the Danish discourse on employment policy, however, in a very different way than seen in Ireland and the UK where the story-line was given meaning in terms of labour market flexibility at the company level. In short, the basic affinity in Denmark and Germany was based on national "macro" discourses whereas in the UK and Ireland they were founded in national "micro" discourses.

At the meetings that followed in the Social Working Party, in Coreper, and in the Council of Ministers, the Member States of the blocking minority continued to claim that they could not accept the proposal by the presidency because of the transitional nature of the exemption. The discourse-coalition of the four Member States continued to seek a permanent exemption to the principle of equal treatment for all working conditions with a qualifying period of at least six month. This was an implication of the story-

line which all four Member States supported and found attractive. Later on – with the UK in the leadership position – they managed to convince a number of new Member States about the meaningfulness of the story-line of the blocking minority. This meant that the blocking minority was able to keep the issue of the agenda of the Council of Ministers because the presidencies was not able either break down or to build a bridge between the story-line of the majority of Member States and the story-line of the blocking minority.

6. Conclusion

This article contains a case study of the behavior of a blocking minority of the Council of Ministers of the European Union. The case is the proposal for a directive on temporary work from the spring of 2002. Since then, and at least until the beginning of 2005, the adoption of this proposal was blocked by the UK, Germany, Ireland and Denmark with a supplement of new Member States since May 1, 2004.

In neoliberal theory, it has been argued that the voting behavior of Member States in the Council of Ministers is primarily due to domestic considerations. However, at least in this case study, there seems to be a need to broaden the perspective on what determines the voting behavior of Member States in the Council of Ministers.

The focus of this article is the influence of networks and meaning in the construction of blocking minorities. This involves two different theoretical approaches: network analysis and argumentative discourse analysis of the Member States' political and bureaucratic representatives. In other words, the article has investigated both the particular setting that has served as medium of the blocking minority

and the story-lines created in order to establish a common ground of meaning of the discourse-coalition of the blocking minority.

One of the major findings is that intensive networking is needed in-between the Council meetings and that these efforts involve the continued articulation and rearticulation of the meaning in remaining a part of the blocking minority. The overall aim by proposing a directive on temporary agency work was to implement the principle of non-discrimination for temporary agency workers. However, there was an exemption to this general rule: the waiting period of six weeks after the start of the job as a temporary wage earner before the conditions of the directive should count. First and foremost, it was the length of the waiting period that became the turning point of the debate on the directive in the month that followed.

Already before the first Council meeting where the agency work directive was on the political agenda, the four Member States that wanted a longer waiting period was in close contacts. In the years that followed they met at political as well as bureaucratic level at many occasions.

However, the issue network of the blocking minority consisted of 10-15 bureaucrats which also met in other committees. At the same time, some of the members of the issue network knew each other from earlier on when they were part of a bureaucratic network behind the blocking minority concerning other directives.

As a result, the bureaucratic issue network backing the ministers in the blocking minority of the Council of Ministers, gradually, became still more closely knitted network within the network of

officials from all Member States dealing with the directive on temporary agency work, thereby, demonstrating that an issue network might not have to be loosely organized. At the same time, the work within the blocking minority went on very smoothly as the UK provided it with leadership through argumentative papers etc. This might be a contribution to the network theory, that is, if one of the participants of a network are willing to play a Gramscian hegemonic role, it strengthen the network, which means that a, normally, loosely organized issue network can act in a much more coordinated and organized way.

In close connection to the development of the issue network on temporary work, the network behind the blocking minority in the Council of Ministers developed a story-line or an argumentative logic creating meaning in why the four Member States should remain in the blocking minority reflecting the story-lines at the national level in the four Member States. This story-line emphasized the possibilities of unemployed and others to get a permanent job through a temporary agency job that did not necessarily involve all the benefits of a permanent job. This story-line was constructed in contrast to the story-line of the discourse-coalition supported by the majority of Member States' governments which emphasized the need for protection of the increasing number of temporary agency workers already in job. The attraction of the story-line seems to be a better explanation of the voting behavior of members of the blocking minority than certain relevant labour market characteristics.

In short, this case study seems to suggest that the story-line concerning the cases on the political agenda of the Council of Ministers seems to play a much larger role for the decision-making that has been recognized earlier on. One reason for this might be that neoliberal and rational choice inspired analysis of European decision-making normally analyses European integration cases where strongly organized

interests groups are involved like agricultural interests or industrial interests. This means that, if the results of this case study can in any way be generalized, the influence of direct domestic interests has to be downplayed and that the influence of story-lines created by discourse-coalitions (where domestic interests might be embedded) have to be upgraded as explanations of the voting behavior in the Council of Ministers. At the same time, this case study also seems to indicate that hegemony within the blocking minority is an advantage in order to provide the network with the necessary argumentative cement.

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² Coreper is an abbreviation for "Comité des Représentatives Permanentes" where the 25 heads of the Member States' representations in Brussels meet in order to prepare the meetings in the Council of Ministers.

³ The Mertens group prepare the meetings in Coreper as far as labour market policy is concerned.

⁴ ETUC is an acronym for the European Trade union Congress (the most representative of the pan-European labour market organizations on the employee side), CEEP is an acronym for "Centre Européen de l'entreprise publique" (public employers) and Unice which an acronym for "Union des Industries de la Communauté Européenne" (private employers).

⁵ The original name was "Directive on Working Conditions for Temporary Workers", but the name was changed in October, 2002.

⁶ This led to a worry in, for example, Denmark and Sweden: What was meant by a "satisfactory level", and how would the Court interpret this concept?

⁷ Cf. Bulletin Quotidien Europe, December 5, 2002.

⁸ The Employment Committee of the European Commission which prepare most of the proposals within the open method of coordination before they are placed on the agenda of the Council of Ministers.

⁹ A committee set up by the Commission in order to discuss (at an early stage in the decision-making process) proposals for new EU legislation concerning labour law in a broad interpretation.

¹⁰ Cf. Financial Times, March 21, 2002.

¹¹ Information from officials of the Danish Ministry of Employment.

¹² Later on characterized as "the UK-coordinated blocking minority," cf. TUC: Press Release of November 21, 2003, cited in EU Business (June 3, 2003)

¹³ The four Member States had already successfully cooperated earlier on when they made up the blocking minority concerning the directive on information and consultation in companies in cases of mass redundancies. The positive experience from remaining as a blocking minority in this case was now exploited in the case of temporary work. In other words, certain element of path dependency was involved.

¹⁴ See also the views expressed in Bulletin Quotidien Europe. December 5, 2002.

¹⁵ Press briefing on October 8, 2002, after the meeting in the Council of Ministers; see also Speech delivered by the Danish Minister of Employment (Claus Hjort Frederiksen, 2002).

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- ¹⁶ The European Parliament, Proposal for amendment to the proposal on Temporary Agency Workers of September 11, 2002. Final adoption on September 30, 2002.
- ¹⁷ Financial Times, November 22, 2002.
- ¹⁸ Bulletin Quotidien Europe, December 2-3, 2002.
- ¹⁹ Cf. Newsletter of 7-8 October, 2004 from the Danish TUC (2004).
- ²⁰ Information from the Danish Ministry of Employment. That this attitude was established as far as Denmark is concerned, is confirmed by the speech notes of the Danish minister from the meeting in the European Committee of the Danish Parliament of May 28, 2003, concerning the meeting in the Council of Ministers on June 2-3, 2003 (see Claus Hjort Frederiksen, 2003)
- ²¹ Cf. Folketingets Europaudvalg (2003).
- ²² “Presidency conclusions” (2003: 21) from the Meeting in the European Council, March 20-21, 2003.
- ²³ Information from officials from the Danish Ministry of Employment.
- ²⁴ Information from officials from the Danish Ministry of Employment.
- ²⁵ Note from Danish ministry of foreign affairs (2003); see also written conclusions from the meeting in the Council of Employment, Social policy, Health and Consumer affairs on June 2. and 3, 2003.
- ²⁶ Cf. Written conclusions from the Council meeting of Employment, Social policy, Health and Consumer affairs on October 8, 2003.
- ²⁷ Press release from the British TUC of November 21, 2003, where Brendan Barber, TUC’s General Secretary, criticizes that “The UK are keeping this issue of the table...” (NorthantsOnline, November 21, 2003).
- ²⁸ According to officials from the UK department of Trade and Industry.
- ²⁹ Cf. Newsletter of October 7-8, 2004 from the Danish TUC (2004).
- ³⁰ Information from officials from the Danish Ministry of Employment.
- ³¹ There are also trade union representatives who see no need for EU legislation in this particular field.
- ³² For example articulated by Dutch green, Theodorus Bouwman: “temporary agency workers has an urgent need for this directive in order to benefit from more protection rebalancing the flexibility that exclusively benefits the agencies and hiring companies” (Bulletin Quotidien Europe, November 23, 2002). This line of argument is used and supported by, among others, the following actors: European Economic and Social Committee (cf. Bulletin Quotidien Europe, September 26,

2002), and the van den Burg Report of the European Parliament (cf. Bulletin Quotidien Europe, November 4.-5, 2002) which is supported by the European Parliament. The argument is also advanced by the Commission as well as by France and Luxembourg (Bulletin Quotidien Europe, December 5, 2002.).

³³ This does not mean that Member States in the minority group have specific links to the employers' side whereas the majority group has specific links to the trade union side. On the contrary, the UK in the minority group has close links to the trade union whereas the French government in the majority group has close links to the employer's side.

³⁴ This line of argument is for example used by British Conservative Phillip Bushill-Mathews: "neither the United Kingdom nor the EU needed such a directive. Europe should promote flexibility so that companies could better respond to market conditions, rather than imposing new restrictions and costs on the bosses" (cf. Bulletin Quotidien Europe, November 23, 2002): and by Britain, Germany, Ireland (cf. Bulletin Quotidien Europe, December 5, 2002) and by Denmark (cf. Danish ministers speech notes at the meeting in the European Committee of the Danish Parliament of May 28, 2003, concerning the meeting in the Council of Ministers on June 2-3, 2003 (Claus Hjort Frederiksen, 2003).

³⁵ During the end of the 1990's and in the beginning of the 2000's, Germany sought inspiration abroad and not least in Danish labour market philosophy through a large number of fact-finding missions from the social partners, politicians from the Bundestag and several "Länder".

³⁶ The politicized discursive environment in Germany explains why Germany almost forfeited the blocking minority in November 2002. The newly founded discourse on employment policy in Germany was not sediment but debated and thoroughly criticized by the general public and was thus still unstable. It is a tough balancing act to (re-)articulates the story-line so that is kept in synchronic with the sometimes divergent national discourses – especially if the national discourses themselves are unstable.

³⁷ Financial Times, February 4, 2003.

³⁸ Until the spring of 2005, the Hartz reform process consists of four reform packages: Hartz I, Hartz II, Hartz III and Hartz IV. The reform process was named after Peter Hartz, director of human resource management of the Volkswagen car company. He was made head of a commission in 2002 that should propose reforms for the German labour market (cf. Der Deutsche Gewerkschaftsbund, 2005). The Hartz reform process has been highly controversial in Germany.

³⁹ Cf. published notes from the Danish Ministry of Employment (2003)

⁴⁰ A large part of agency workers in Denmark are nurses and doctors with better – and not worse – working conditions than those with a permanent job working in the same professions.

⁴¹ This basic discourse on Danish employment policy is usually understood as founded in the September Compromise of 1899, cf. Due & Madsen (1994: 80-95).

⁴² See for example the statement of the Danish position in the notes from the Danish Ministry of Employment (2003)