

# **Qualified Majority Voting, Legislation Speed and The Treaty of Lisbon**

- A myth busted or a tale as true as time?

Master's Thesis by Agnes Bolling



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## **Abstract**

The question whether qualified majority voting (QMV) as a voting procedure actually leads to faster decision-making in the EU has been the subject of research for a long time. While many have argued that the voting procedure significantly increases the speed of the legislative process in comparison to unanimity, others have reached the conclusion that its ability to increase legislation speed has been greatly overstated. Furthermore, many scholars also seem to agree that the Treaty of Lisbon was a particularly important treaty regarding the use of QMV, as it extended as well as altered the use of the voting procedure. Because of this, many predicted that the treaty would bring about a more efficient and faster way of carrying out legislation in the EU. However, little contemporary research has arguably been carried out on the subject, which is why this study has aimed at testing these assumptions through a quantitative approach. This study's results in many ways contradict earlier findings, as it concludes that QMV is most probably not as related to legislation speed as others have believed, and that there is reason to believe that other factors are more influential. This consequently opens up for more questions to be answered regarding QMV's ability to increase legislation speed, as well as the Treaty of Lisbon's success in reaping the supposed benefits of the voting procedure.

**Keywords:** Qualified Majority Voting, QMV, EU legislation, EU, Treaty of Lisbon, Legislation Speed, Legislation Efficiency

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# 1. Introduction

In the autumn of 2020, the leaders of the European Union's (EU) member states sought to agree on imposing sanctions against the Belarusian authorities following a questionable election in the country earlier the same year. However, the third smallest member state of the EU in terms of population, Cyprus, prolonged this process by blocking the entire sanctions regime for a significant amount of time (The Economist, 2020). Cyprus, accounting for 0,2 % of the EU population (Eurostat, 2020), demanded that the EU agreed to similar sanctions against the Turkish regime for intruding on Cypriote waters before they agreed on sanctions against Belarus (The Economist, 2020). High Representative Josep Borrell declared that the dragged-out negotiations were undermining the Union's credibility (Ibid), as Cyprus was able to block the sanctions for a whole month (Emmott et. al., 2020) before an agreement was finally reached past midnight during an EU leaders' summit (The Economist, 2020). The event led to an intensified discussion on whether more use of Qualified Majority Voting (QMV) in the Council of the EU ("the Council"), rather than unanimity voting would lead to faster and more efficient decision-making in the area of the EU's Common Foreign and Security Policy (CFSP).

Notwithstanding the actual possibilities of increasing the use of QMV in the area of CFSP, the question whether QMV as a voting procedure actually leads to faster decision-making in the EU or not has been the subject of research for a long time. Ever since the extended use of QMV through the Single European Act (SEA) from 1986, the effects of QMV have been examined and measured in several studies. Most scholars seem to agree that legislation is adopted faster with QMV than with unanimity and that the voting procedure hence leads to faster legislation (Golud 1999, Schultz & König 2001, König 2007). Furthermore, several scholars have seen the Treaty of Lisbon as a particularly important treaty regarding EU legislative procedures and QMV, and believed that the treaty could increase the efficiency and speed of legislation in the EU (Vataman 2012, Honorius 2015, Fazekas 2011). Throughout the history of EU decision-making, more and more policy areas have become subject to the rule of QMV instead of unanimity, following amendments in the treaties (Europe: A Concise Encyclopedia 2004, p. 176). The Treaty of Lisbon brought issues relating to several policy areas, which before then were subject to the

unanimity rule, into the realm of QMV (Sieberson 2010, p. 947). Many have hence seen the Treaty of Lisbon as an important reform in the EU with its bestowed extended use of QMV. However, Jørgen Bølstad and James P. Cross concluded in their study from 2016 that the Treaty of Lisbon in fact did not lead to faster decision-making, which also led them to question whether QMV actually does lead to faster decision-making (Bølstad & Cross 2016, p. 806.).

Even before Bølstad and Cross conducted their study on the Treaty of Lisbon's impact on legislation speed, there were those questioning whether the mere extension of policy areas falling under the QMV rule would have any actual impact on legislation (Church & Phinnemore 2010, Hofmeister 2008, Kurpas 2007). Instead, these scholars saw the new formula for calculating what constitutes a qualified majority, also established through the Treaty of Lisbon, as a potential contributor to legislation efficiency. However, as this formula was not to be put into force until 2014, and the old formula was possible to invoke until 2017, these scholars argued that the effect of the new formula would not be visible until then. Be that as it may, it is now seven years since the new way of calculating a qualified majority entered into force, and very little is still known about the new QMV-formula's actual effects on legislation speed.

This study aims at contributing to this existing research, and seeks to gain further insight into QMV's ability to speed up legislation through the Treaty of Lisbon. There seems to be a common understanding amongst scholars (except perhaps Bølstad and Cross), that QMV leads to faster decision-making, and that the Treaty of Lisbon would bring about great improvements to the use of QMV and hence speed up legislation, if not merely by extending the voting procedure, then at least by changing the formula for what constitutes a qualified majority. There is hence a need to gain greater knowledge about these assumptions, which is why this study will investigate whether there is reason to believe that the common understanding amongst many scholars regarding the relationship between QMV, legislation speed and the Treaty of Lisbon is correct or not.

The disposition of the paper is as follows: Section two accounts for the research questions formulated for the study, section three then covers previous research and

literature on the subject. Section four further explains some of the most important aspects of the EU legislative process, voting rules and the Treaty of Lisbon. Section five accounts for the hypotheses submitted to test the research questions, and section six constitutes the extensive methodological section, including the entire research procedure. The results are then presented in section seven, and then discussed in section 8.

## 2. Research questions

The study will attempt to fulfil its aim by examining whether the Treaty of Lisbon did in fact led to an increased use of QMV, as well as if this supposed extended use of QMV and the new formula for QMV brought about by the treaty have sped up the decision-making process in the EU. In light of this, the research questions formulated for this study reads as follows:

- 1) Did the Treaty of Lisbon lead to a larger share of legislative acts being adopted by Qualified Majority Voting?*
- 2) Did the supposed extended use of Qualified Majority Voting and the new formula for what constitutes a Qualified Majority increase the speed of decision-making in the EU?*

By answering these questions, one can obtain greater knowledge about the supposed relationship between QMV and legislation speed, by assessing how well the changes to the legislative process brought about by the Treaty of Lisbon reflect this supposed relationship.

*NB1:* This study sees the term “efficiency” and “efficient” in relation to decision-making and legislation as equal to “legislation speed” and “speed of decision-making”. Although “efficient” can refer to other phenomena than speed, the vast majority of previous work as well as Union document’s referring to the term “efficiency” seem to agree. While this study will seek to consistently use the term “legislation speed” or “speed of decision-making”, the term “efficiency” will occasionally occur as this term is what other scholars and authors have used when referring to the speed of legislation.

*NB2:* This study also sees “legislation process” and “decision-making process” as the same phenomena. In this context, both terms relate to the process through which legislative acts are agreed on and adopted in the EU, where the Council plays a crucial or the only role as legislator.

## **3. Previous Research**

While the effects of using QMV rather than unanimity as voting rule in the Council is a relatively well-studied field of research, literature on whether the Treaty of Lisbon actually increased the use of QMV, and consequently sped up the process of legislation, is scarce. Nonetheless, there is a significant amount of literature produced before or shortly after the treaty entered into force that primarily discusses what could be expected of it. Hence, although this study seeks to evaluate the effects of QMV through the Treaty of Lisbon, a significant amount of the conclusions presented in this section derive from predictions and expectations following the extension of QMV as well as the new QMV-formula through the Treaty of Lisbon.

The section is divided into two subsections, where the first accounts for studies that have attempted to measure whether QMV increases the speed of decision-making, as well as why one would expect QMV to lead to faster decision-making. The second subsection accounts for what previous scholars have expected as well as found regarding the effects on decision-making speed following the extension of QMV and the new QMV-formula through the Treaty of Lisbon.

### **3.1 QMV and legislation speed**

This subsection presents a number of studies and literature addressing QMV's ability to increase the speed of decision-making. The subsection separates the studies that have reached the conclusion that QMV does lead to faster decision-making from the one concluding that it may not, and also includes a separate section on why one would expect QMV to increase the speed of legislation. None of the studies presented that have evaluated QMV's effect on legislation speed aim at only studying the voting procedure's effect on the speed of EU decision-making. Rather, they study QMV in relation to treaty change alongside other changes brought about with each treaty that might affect the speed of legislation. In other words, while they all include QMV as a potential contributing factor to faster decision-making in the EU, their overall research focus is on treaty change. However, for the purpose of this study, this subsection will only focus on accounting for what the studies have concluded regarding the impact of QMV.

### **3.1.1 QMV leads to faster decision making**

Over the years, many scholars have hypothesised as well as concluded that by using QMV instead of unanimity, the speed of legislation increases. In 1999, Jonathan Golub concluded that QMV seems to speed up the process of legislation compared to unanimity, and that, contrary to popular beliefs, the voting procedure was used long before the SEA of 1987 (Golub 1999, p. 749-751). In the year of 2000, Heiner Schulz and Thomas König set out to conduct a similar study in which they, too, reach the conclusion that QMV indeed increases the speed of legislation, and also that out of all factors measured in their study, voting rule (QMV or unanimity) had the single greatest impact on legislation speed by far (König & Schulz 2000, p. 663). König was able to further confirm this conclusion in his study from 2007, where QMV also proved to have a significant impact on the speed of legislation (König 2007, p. 432). Although all of these studies were carried out a relatively long time ago, they still hold great relevance in that they mark important steps in examining QMV's actual impact on the speed of EU decision-making. However, there seems to be a shortage of more contemporary studies on the subject.

In his 1999 study, Jonathan Golub seeks to challenge the widespread idea that the institutional reform following the Single European Act (SEA) from 1986 was a turning point for the use of QMV and the speed of decision-making. To question this claim, Golub sets out to test a number of hypotheses, distinguishing which factors he deems to have most impact on the speed of EU legislation, using history event analysis (Ibid., p. 734). The first of Golub's hypotheses aims at examining how QMV influences the speed of decision-making, and is formulated as “[f]ormal rules stipulating majority voting consistently yield faster decision-making than rules requiring unanimity” (Ibid., p. 743). The data in the study consists of a little more than 1300 directives proposed by the Commission between 1974-1995, a time period that includes the treaty changes of the SEA in 1986 as well as the Maastricht Treaty in 1992 (Ibid., p. 738). In order to assess each treaty's impact on legislation speed, both including an extension of policy areas subject to QMV, he divides the data into three time periods, namely proposals made before the SEA, after the SEA (but before the Maastricht Treaty) and after the Maastricht Treaty (Ibid., p. 748). Golub uses time lag, i.e. the number of days from proposal to adoption for each act, to measure the speed of legislation (Ibid., p. 739).

Golub's decision to only include directives in his study was later criticised in Heiner Schulz and Thomas König's study, who argue that Golub's sample was not representative of EU legislation, as directives made up less than 20 % of legislative output in the EU at the time (König & Schulz 2000, p. 654). Schulz and König's study is rather similar to Golub's but, according to them, improved. They analyse "[...] whether institutional reform has enabled the European Union (EU) to deal efficiently with an expanding legislative agenda" (Schulz and König 2000, p. 653). Their study also uses event history analysis to test its hypotheses, one being that "[...] the use of qualified majority rule decreases the proposal-decision time lag" (König & Schulz 2000, p. 657). Hence, they also use time lag to measure legislation speed. Their data includes all binding EU legislative acts made between 1984-1994 (Ibid., p. 653).

In a third study, also using event history analysis, Thomas König expands his and Schulz study by also including the level of conflict between member states as a potential contributor to legislation speed. Yet again, time lag, "time between Commission initiative and Council adoption" (König 2007, p. 418), is used in order to measure how much conflict between the actors involved affects the speed of legislation. Although the study is primarily focused on member states positions, QMV is measured and included in the analysis. Based on his previous findings with Schulz, he expects QMV to speed up the process of legislation (Ibid., p. 422). The data in König's study comprises almost 9500 legislative acts between 1984 to 1999, including all types of legislative acts (Ibid., p. 419).

All three studies are able to confirm their hypotheses on QMV's impact on legislation speed, as they reach the conclusion that adopting legislation with QMV, rather than with unanimity, significantly increases the speed of legislation. Golub concludes that QMV was a large statistically significant contributor to the speed of legislation during all time periods examined, and also that QMV was used long before the introduction of the SEA, contrary to popular beliefs (Golub 1999, p. 751). The results from Schulz and König's study concur; whether a proposal was subjected to the voting rule of QMV or unanimity was the factor with the highest impact on legislation speed out of all the factors they included in their analysis. Their results suggest that changing the explanatory variable from majority voting to unanimity changes the time lag with

about 383 % (König & Schulz 2000, p. 663), indicating that QMV is substantially more efficient than unanimity. They hence conclude that QMV seems to constitute “[...] an effective institutional response to an expanding legislative agenda” (Ibid., p. 664). König further confirms the significant role of QMV in EU legislation speed, stating that “[q]ualified majority voting greatly facilitates decision-making” (König 2007, p. 432).

### **3.1.2 The idea that QMV leads to faster decision-making**

Following the conclusions drawn by the scholars presented above, it is important to elaborate on why one would assume that QMV leads to faster decision-making to begin with. This idea can arguably be derived from the alleged inefficiency of unanimity. While some would perhaps argue that unanimity is the most democratic way of adopting legislative acts, as it protects each member state from being forced into implementing provisions contrary to their interests (Føllesdal 2004, p. 63), the rule has a flaw in that one single actor (member state) can block an entire proposal (Sieberson 2010, p. 932). A proposal must hence be to every member states’ liking - an endeavour hard enough to achieve - which in turn might inhibit the purpose of the proposal (Ibid.). Furthermore, the unanimity requirement can “[...] easily lead to stagnation, preventing common action even when required.” (Føllesdal 2004, p. 63). It is also said by some that member states at times abuse this rule in order to gain unfair national advantages from cooperation based on unanimity (Ibid.).

The QMV rule can instead be seen as a way of pooling sovereignty in the EU, meaning that although no EU institution enjoys autonomy in decision-making under QMV, the member states have agreed upon passing future decisions without the consent of all members (Moravcsik 1998, p. 67). QMV is, according to the Commission, “[...] based on a culture of compromise and allows for outcomes that reflect the interests of the Union as a whole” (European Commission, 2019) and “[...] can be a powerful catalyst to engage Member States in finding a positive outcome that is acceptable to all” (Ibid.). Given that most treaties have continuously moved more and more policy areas into the realm of QMV instead of unanimity, most European leaders seem to agree with this notion, and there seems to be a common understanding that further EU integration requires an increased use of QMV in the Council (Sieberson 2010, p. 935).

Although all parties do not necessarily have to agree in order for a legislative act to be approved under QMV, many acts under the voting rule still appear to be adopted unanimously, meaning that no member state votes against the proposal (Novak 2019, p. 85). Stéphanie Novak argues that one must therefore distinguish between “qualified majority” and “voting” when it comes to QMV, noting that “[i]n the Council, the search for qualified majority is the driving factor in the decision-making process, but it operates without voting” (Ibid., p. 86). In other words, although acts under QMV are often adopted without opposition (and without an actual vote), negotiations still take place before an official vote would be cast. Novak further argues that there is a norm of joining the majority at the last second when the Council negotiates under the rule of QMV as “[i]f an opponent does not join the majority when a measure is adopted, his resistance might be judged offensive by the Presidency and the Commission members.” (Ibid., p. 92). Consequently, QMV may in practice be seen as facilitating agreement between all member states. Once the member states opposing a proposal realise they are in a minority position and that the proposal is backed by a qualified majority, it is more favourable to join the “winning side” in the negotiations, even if the member states do not necessarily agree with all of the provisions of the proposal at hand (Ibid., p. 91).

Conclusively, the notion that agreement should be reached, and hence legislative acts adopted, faster with QMV than with unanimity can be said to lie in the heightened stakes that come with the procedure. When no member state alone can veto a legislative act, the interest to compromise should increase which in turn should lead to less stalemate and dead-locks in negotiations. The fact that any member state can find themselves in a (non-blocking) minority in negotiations should theoretically be a catalyst for keeping negotiations going, and hence reaching an agreement faster than if the same proposal was negotiated under the rule of unanimity. The norms and culture surrounding QMV in the Council, as studied by Novak, indicate that these heightened stakes actually have some effect on EU decision-making.

### **3.1.3 QMV does not lead to faster decision-making**

As previously mentioned, Jørgen Bølstad and James P. Cross found themselves questioning QMV’s ability to increase the speed of legislation, following their 2016

study of three subsequent treaties, including the Treaty of Lisbon. As they conclude that the Treaty of Lisbon did not seem to have had a significant impact on EU decision-making speed, they also argue that the idea that QMV leads to faster decision-making may have been greatly overstated (Bølstad & Cross 2016, p. 806). They base this argument on another widespread idea presented in this paper, namely that the Treaty of Lisbon significantly extended the use of QMV (Ibid.). Bølstad and Cross, like the other scholars mentioned so far, also concentrate on the relationship between treaty reform and legislation speed in their study, but through an interrupted time series approach. They include all directives, regulations and decisions (Ibid., p. 798) during the time period 1995-2013, covering the treaties of Amsterdam, Nice and Lisbon (Ibid., p. 793) in their analysis. QMV is not measured as an independent variable in this study, as the authors only seek to measure the overall effects of each treaty (Ibid., p. 805). However, as they theorise on what their conclusions might tell us about QMV's effects on decision-making speed (Ibid., p. 806), it still holds a place in this section of the paper.

Bølstad and Cross use an interrupted time series approach to analyse the changes brought about in each treaty, meaning “[...] to model the dependent variable before and after the ‘treatment’ occurs (i.e. a treaty entering into force) and estimating the effect of treatment as the discontinuity at the time of treatment” (Bølstad & Cross 2016, p. 797). By doing this, the authors argue that they avoid the challenge of endogeneity by doing this, which they mean that earlier studies had failed to address (Ibid. p. 795). By ‘avoiding endogeneity’, they mean that the possibility that measures such as QMV is strategically introduced in policy areas where agreement is already fairly easy to reach does not obscure their results (Ibid.). They construct the dependent variable in their model as the number of days between a proposal and agreement (Ibid., p. 798), similar to the time lag approach used by previous authors. The study puts emphasis on the fact that it does not seek to isolate the effects of a specific institutional reform (such as the effect of QMV). Bølstad and Cross claim that there did not exist any dataset covering all relevant proposals with the information needed for drawing such conclusions at the time of their study, and hence only draw conclusions regarding the overall speed-effects of each treaty (Ibid., p. 805). However, they found that the Treaty of Lisbon had no clear effect on legislation speed despite the extension of QMV in the Council (Ibid., p. 806). This could in turn

indicate that the increased use of QMV did not lead to a notable increase in decision-making speed. Consequently, the voting rule's ability to shorten the length of negotiations may hence not be as evident as previously thought (Ibid.).

### **3.2 QMV and legislation speed through the Treaty of Lisbon**

As already noted several times in this paper, the Treaty of Lisbon has often been considered as an important treaty that brought about several changes to, especially, the decision-making process in the EU. However, there seems to be a shortage of studies following up on these assumptions and expectations. This subsection will account for the ways in which scholars believed the Treaty of Lisbon as capable of affecting the legislation process as well as how two studies since then have been able to test these expectations.

#### **3.2.1 Expectations**

The changes in the legislative process brought about by the Treaty of Lisbon were, at least shortly before and after the treaty entered into force, expected to facilitate as well as speed up the process of legislation. In a 2012 paper highlighting certain features of EU decision-making following the Treaty of Lisbon, Dan Vataman concludes that “[...] following the reforms introduced by the Lisbon Treaty, the decision making process has become faster and more efficient thus speeding up the decision-making procedures of the European Union” (Vataman 2012, p. 10). He, like many others, attribute this to the increased number of areas subjected to the QMV rule as well as the new formula for what constitutes a qualified majority introduced by the treaty (Ibid.). A study by Judit Fazekas from 2011, examines how the decision-making procedures in the EU were altered through the Treaty of Lisbon and if the EU has progressed due to these alterations (Fazekas 2011, p. 45). She, similarly to Vataman, concludes that although it was too early at the time to without a doubt answer whether the treaty reform would increase the effectiveness and speed of legislation, there was “[...] reasonable ground to believe that a significant amount of the quantitative changes can turn to a qualitative changes” (Fazekas 2011, p. 60).

Meanwhile, there are also some papers arguing that the reforms' ability to fundamentally change and impact the legislative process has been overestimated and questionable. In 2010, Stephen C. Sieberson extensively reviewed the ways in which

the Treaty of Lisbon extended the rule of QMV. Although he notes that the Treaty of Lisbon “offers [...] logical and carefully contained development that is intended to make the Union more effective” (Siebersson 2010, p. 995), he also concludes that most of the areas moved from unanimity to the realm of QMV, as well as the new areas for which QMV applies through the treaty, are mostly of a technical character and that “[...] they do not alter the Union's basic identity” (Siebersson 2010, p. 995). Clive H. Church and David Phinnemore, who argue that some scholars had overstated the degree of change possible within the EU legislative process following the Treaty of Lisbon, made similar remarks (Church & Phinnemore 2010, p. 18). Much in accordance with Siebersson’s notions on the “technical” nature of the extension of QMV, Church and Phinnemore argue that the shift to QMV through the Treaty of Lisbon generally concerns areas where agreement amongst member states already is easy to achieve, and that due to the norm of consensus in the Council, the extension of areas under the rule of QMV itself is unlikely to trigger any actual change in legislation efficiency and speed (Ibid.).

In 2008, before the treaty had entered into force, Hannes H. Hofmeister set out to examine whether the Treaty of Lisbon (referred to as the “Reform Treaty” in the paper) would make the EU more “democratic, efficient and transparent” (Hofmeister 2008, p. 150). In reference to the treaty’s abilities to influence the efficiency of the legislation process, he points to the new formula for QMV introduced by the treaty (Ibid., p. 151f.). He notes that, although some claim that the new formula is unlikely to have much of an impact due to the fact that the Council rarely holds votes anyway, the mere possibility of a formal vote might contribute to a willingness to compromise and search for consensus and that one should thus not underestimate the importance of the changes (Ibid., p. 153). However, as this new formula was not to be introduced until 2014, Hofmeister did not foresee any actual increase in efficiency and speed in the legislation process until then (Ibid., p. 164). Similarly, Church and Phinnemore do not disregard the possibility that an impact on decision-making efficiency and speed would be visible after 2014 following the new formula for QMV (Church & Phinnemore 2010, p. 19).

The argument that the new formula for QMV introduced by the Treaty of Lisbon could be what actually speeds up the decision-making process much derives from its

simplicity and that it lowers the decision threshold, compared to the old formula (Kurpas et. al. 2007, p. 66). In other words, the new formula could, from a purely mathematical perspective, increase the probability of reaching agreement faster. The new formula could also be expected to affect the negotiation dynamics within the Council, as “[...] the lowering of the decision threshold will alter also the informal negotiations, putting a pressure on the governments to “comply” more easily with the expected majority position as they can otherwise risk to be isolated in a losing minority without influence” (Ibid.). Yet, in spite of this, the possibilities for the new formula to affect the speed of decision-making would arguably also depend on the member state’s willingness to implement the so-called “Ioannina compromise”, also present in the treaty provisions (Ibid., p. 67). This compromise could be said to work as a safeguard, making it possible for member states opposing a proposal to prolong negotiations under the rule of QMV and demand that an agreement with greater support is found. This compromise was possible to invoke until March 2017 (Ibid., p. 62). Hence, although the Ioannina compromise does not explicitly lead to a blocking of decision-making, it could “[...] lead to a slower decision-making process in the Council due to a need for more bargaining between the Member States” (Ibid., p. 67). For this reason, scholars discussing the new formula’s ability to influence the speed of decision-making have argued that one would have to wait until at least 2014 or even 2017 before one could draw any conclusions on the matter (Ibid.).

### **3.2.2 Evaluations**

Although already mentioned, it is relevant to yet again address Jørgen Bølstad and James P. Cross’s study from 2016. Since these authors are the only ones presented in this paper that have actually evaluated the Treaty of Lisbon’s effects on legislation speed, their study constitutes an important addition to this subsection as well. Their study estimates how successful the three subsequent treaties of Amsterdam, Nice and Lisbon were in affecting the speed of the decision-making process in the EU, one of the rationales behind the treaties (Bølstad & Cross 2016, p. 793). Regarding the Treaty of Lisbon they note that “[...] the increased use of co-decision may have increased the length of legislative negotiations somewhat, while the considerable extension of QMV should have reduced it” (Ibid., p. 797). Based on previous research they do expect the effect of QMV to be stronger, and they form the hypothesis that the

Treaty of Lisbon should have increased the speed of legislation, thus making it faster (Ibid.).

While Bølstad and Cross ultimately find that the Treaty of Amsterdam had a large impact on legislation speed, and indeed increased the speed of legislation significantly, they found no evidence that the treaties of Nice and Lisbon did (Bølstad & Cross 2016., p. 806). As pointed out earlier, this leads Bølstad and Cross to conclude that an extension of QMV might not automatically increase the speed of legislation. Similar to Church and Phinnemore, they argue “[t]he fact that states during treaty negotiations are negotiating over which rules to apply, and that different rules are indeed used in different policy areas, suggests that these rules are far from randomly distributed across different areas” (Ibid., p. 795). They hence point out that the reason behind their results could be that QMV is often introduced in areas where agreement is already easy to reach. Furthermore, in accordance with what Hofmeister notes, another reason could be that the Council generally tends to seek unanimous agreements during QMV anyway (Ibid., p. 806).

Adam Kirpsza conducted the last study accounted for in this paper, and it investigates whether the Treaty of Lisbon increased the EU legislative “productivity”. This is the only study found relating more to the first of the research questions posed in this study, namely the supposed increased use of QMV after the Treaty of Lisbon. Kirpsza posits his hypothesis, that the Treaty of Lisbon increased the number of proposals submitted under the Ordinary Legislative Procedure (OLP) by the Commission, from a rational choice institutionalism perspective (Kirpsza 2018, p. 232). In other words, Kirpsza does not explicitly seek to see whether the treaty led to an increased use of QMV, but whether it led to more proposals being submitted under the OLP. However, as the OLP almost always implies that the legislative act is adopted with QMV in the Council, its results are also arguably relevant in light of the first question posed in this paper. Kirpsza bases his hypothesis on two main assumptions, the first being that “[...] an increase in the number of provisions envisaging OLP should strengthen the Commission’s ability to submit much more proposals under this procedure.” (Ibid.). Secondly, the fact that the Treaty of Lisbon “[...] extended to 29 new cases the number of treaty bases envisaging the adoption of an OLP act by a qualified majority rule in the Council” (Ibid.), should in accordance with rational choice institutionalism

“[...] make it easier for the Commission to submit more proposals under co-decision.” (Ibid.). Kirpsza furthermore notes that QMV should accelerate the Commission’s ability to put forward more sensitive proposals, where the lines of contestation are greater, compared to under the rule of unanimity (Ibid.).

The numbers of proposals submitted under the OLP by the Commission can hence, according to Kirpsza, measure the “legislative productivity” in the EU. In order to test his hypothesis, he creates a dataset consisting of all regulations, directives, decisions and framework decisions proposed by the Commission under the OLP between the first of December 2004 and the 30th of November 2014 (Kirpsza 2018, p. 232). The dependent variable in the analysis, legislative productivity, measures the number of proposals submitted by the Commission under the OLP during a given month. Ultimately, Kirpsza ends up rejecting his hypothesis. Although the dependent variable had an expected positive direction in all his models, it is not statistically significant (Ibid., p. 235).

## **4. The EU legislative process, QMV and The Treaty of Lisbon**

Before this study goes on to articulate its own hypotheses, it will elaborate more in depth on some of the phenomena, terminology and dynamics presented in the section above, in order to paint a fuller picture of the context surrounding the study. This section will thus give a basic account of the EU legislative process, the history of QMV as well as elaborate on some of the changes to the legislative process brought about by the Treaty of Lisbon.

### **4.1 EU legislation**

The decision-making process in the EU usually involves three institutions: the Commission, the Council and the European Parliament (EP). The Commission has the sole right and responsibility for proposing new legislation that the Council and (usually) the EP then jointly adopt, whereupon the Commission and the member states ensure that the legislation is implemented (Europa.eu, 2021[a]). Today, most legislative proposals are adopted through the so-called "Ordinary Legislative Procedure" (OLP). During the OLP, the Commission puts forward a proposal that must be approved by both the Council and the EP before the proposed legislation can be adopted (Europa.eu, 2021[b]). Certain delicate policy areas, such as the CFSP still generally remain under the rule of unanimity, and without the influence of the EP (EUR-Lex, 2015).

There are five types of legislative acts in the EU: regulations, directives, decisions, recommendations and opinions. While regulations, directives and decisions all are binding in some way, recommendations and opinions are not (Europa.eu, 2020[a]). While regulations are binding in their entirety, i.e. all member states must fully implement all provisions in the act, directives and decisions do not necessarily have to be implemented in the same way by each member state. (Ibid.). Directives set out goals that all member states must fully achieve, but it is up to each member state to determine how these goals should be reached in accordance with the state's laws. They are hence binding, but do not explicitly set out how the provisions in the act must be implemented (Ibid.). Decisions are binding legal acts for those whom they

concern. In other words, a decision can be addressed to only one or a few member states or a company, and must therefore only be implemented by those addressed in the decision (Ibid.). Recommendations and opinions are not legally binding, and are rather self-explanatory. A recommendation allows the Commission to come with suggestions, and make their view on a certain issue known (Ibid.), and an opinion is similarly a way for the institutions (also including the Council, EP and others) to make statements with no legal implications. Opinions are usually made in relation to a law being legislated (Ibid.).

Furthermore, it is worth mentioning that legislation taken within the field of Justice and Home Affairs (JHA) before the treaty of Lisbon was made up of so-called "framework decisions" (EU Monitor, N.d [a]). This type of legislative act is however no longer used. Framework decisions established common objectives for the member states to fulfil, although they were free to implement these objectives in any way they saw fit (Ibid.). These framework decisions were always taken unanimously in the Council (Treaty of Nice, 2001). This is important for the methodology of this study, which will become clear below.

In the Council, where the heads of state and the ministers of government meet in different constellations, there are three ways in which a legislative act can be adopted: by simple majority, qualified majority (QMV) or unanimity. A simple majority is currently attained if 14 member states vote in favour of a proposal (European Council, 2020[a]), as there are a total of 27 member states in the EU after Brexit. Qualified majority allocates the votes in the Council according to the population of each member state (Europe: A Concise Encyclopedia 2004, p. 175). A qualified majority is attained in the Council if 55 % of the member states, representing at least 65 % of the EU's total population, votes in favour of a proposal issued by the Commission or the High Representative (European Council, 2020[b]). This is the formula for what constitutes a qualified majority that was introduced through the Treaty of Lisbon. However, under the QMV rule, a minority of member states can also block a legislative act. A so-called blocking minority is attained if at least four member states, representing at least 35 % of the EU's population oppose the act (Ibid.). Legislative acts adopted under the rule of unanimity require that all member states in the Council vote in favour of the proposal. Nowadays, legislative acts adopted in accordance with

the OLP are practically always adopted with QMV in the Council. In other words, the QMV rule almost always applies during the OLP (EUR-Lex, 2015).

## **4.2 Qualified Majority Voting Throughout the History of the EU**

Throughout the history of the EU, more and more issues and areas have gone from being subjected to the rule of unanimity to the rule of QMV (Europe: A Concise Encyclopedia 2004, p. 176). When the Treaty of Rome was signed in 1957, the rule of QMV was already in place, designed to be the principal method of adopting legislation in the Council (Ibid., p. 175). However, the French president at the time saw the voting procedure as an invasion on the member states sovereignty, perhaps mostly so on France's, and France consequently boycotted EU (then "EC") business in 1965 as a protest against QMV. This resulted in the so-called "Luxembourg Compromise", which supposedly led to a significant decrease in the use of QMV until the early 1980's (Ibid., p. 176).

Although the Luxembourg Compromise's actual impact on the use of QMV has later been questioned (Golub, 1999), the Single European Act (SEA) of 1986 has been widely seen as an important step towards increasing the use of QMV, as the SEA extended the voting procedure across the single market programme (Europe: A Concise Encyclopedia 2004, p. 176). Through the Treaty of Maastricht in 1992, the Treaty of Amsterdam in 1997 and the Treaty of Nice in 2001, QMV was further extended into a number of other policy areas, practically only leaving the adoption of legislative acts within the areas of CFSP, taxation and Justice and Home Affairs (JHA) under the rule of unanimity (Ibid.). At this point, QMV had come to be seen as a vital instrument in making the internal market function as effectively as possible. The voting procedure had also become a comfortable way of streamlining the decision-making process in the EU (Ibid.).

## **4.3 The Treaty of Lisbon**

On the first of December 2009, the Treaty of Lisbon entered into force. The treaty was inspired by the (failed) so-called Constitutional Treaty of 2004 (Church & Phinnemore 2010, p. 5), which was rejected by France and the Netherlands in 2005 (Ibid., p. 8). While the failed Constitutional Treaty was widely criticised for being, unsurprisingly, a constitution, fact is that the Treaty of Lisbon includes about 80-90 %

of the achievements of the Constitutional Treaty (Fazekas 2011, p. 46). This has led some to argue that the Treaty of Lisbon is also in fact too constitutional, transferring powers from member states to Brussels and undermining the member states' sovereignty (Church & Phinnemore 2010, p. 8). On the other hand, there are those who claim that the treaty rather failed those supporting greater European integration, arguing that the Treaty of Lisbon strengthens the role of member states (Ibid., p. 6). All in all, a majority of opinions still seem to view the Treaty of Lisbon as a major breakthrough and a very significant document (Ibid., p. 7), some even calling it “[...] the most ambitious amendment of the founding Treaties, since the establishment of the Communities” (Honorius 2015, p. 189).

The Treaty of Lisbon can be seen as generally aiming to contribute to the objectives set up by the Union in the so-called Laeken Declaration from 2001 (Hofmeister 2008, p. 150), namely to “[...] become more democratic, more transparent and more efficient” (Laeken Declaration 2001, p. 21). Many argue that the treaty brought about some significant institutional as well as legal changes to the Union. The treaty ends the existence of the “European Community” making the “European Union” the sole organisation of the Union. It also introduces the Charter of Fundamental Rights of the EU as a compulsory charter, as well as further defines the relation between member state and Union competences. Furthermore, the treaty innovates the field of CFSP by creating the post of High Representative/Vice President (HRVP) and the European External Action Service (EEAS) in order to strengthen and unite the member states within the field of CFSP (Honorius 2015, p. 390f.). Perhaps most notably however, the Treaty of Lisbon changes the EU decision-making process (Honorius 2015, p. 391, Calapod & Matei 2015, p. 189), and the treaty explicitly “[...] aims at modernising and improving the decision-making process of the European Union (EU) in an EU enlarged to 28 countries” (EUR-Lex, 2015). For the purpose of this study, only changes relating to the decision-making process (foremost the extension of and alterations to the QMV procedure) and its ability to increase legislation speed (referred to as “efficiency” in most works) will be further elaborated in this section.

The idea that the Treaty of Lisbon could increase legislation speed and hence make EU legislation more efficient is largely understood as deriving from the treaty's changes to the decision-making process. One of the biggest changes in this regard was

arguably the abolition of the so-called “pillar system”. Before the Treaty of Lisbon, through the Treaty of Maastricht, the Union’s (or “Community” as it was referred to then) certain powers were divided into three “pillars”. The first pillar consisted of areas in which the member states had transferred sovereignty to the Union’s institutions, the second consisted of the CFSP and the third consisted of cooperation in the field of JHA (European Parliament 2021, p. 1). It was within this third pillar the so-called framework decisions, mentioned earlier, were used. When this system was abolished through the Treaty of Lisbon, the first and third “pillars” were merged together (Sieberson 2010, p. 922), consequently increasing the number of areas under the OLP (previously known as the co-decision procedure), from 44 to 85 (Calapod & Matei 2015, p. 189). As the OLP generally requires QMV in the Council, the number of areas subjected to the QMV rule also increased significantly. Perhaps most importantly, issues relating to the area of freedom, security and justice (AFSJ), which before the Treaty of Lisbon fell within the third pillar and generally were subject to the unanimity rule, instead would come to fall under the OLP and hence the QMV rule after the treaty (Fazekas 2011, p. 56, Estetürk 2009, p. 11). Many deem this extended use of QMV and the significantly strengthened role of the EP through the OLP, arguably designed to enhance the Union’s efficiency as well as democratic legitimacy (Church & Phinnemore 2010, p. 18), as particularly important in the Treaty of Lisbon (Calapod & Matei 2015, p. 189, Honorius 2015, p. 391f., Fazekas 2011, p. 55),

Other than the increased number of areas subjected to the rule of QMV, the Treaty of Lisbon also introduced a new formula for what constitutes a qualified majority. This new formula has, perhaps even more so than the mere extension of areas subject to the QMV rule, been pointed out as a significant change in the decision-making process through the treaty (Calapod & Matei 2015, p. 190, Estetürk 2009, p. 11, Honorius 2015, p. 393). The old formula was considered complicated and could be described as a “triple majority” system (Varela & Prado-Dominguez 2012, p. 107). According to the old formula, a qualified majority required that 255 votes out of total 345, representing a minimum of half the member states voted in favour of a proposal (Fazekas 2011, p. 55). Through the Treaty of Lisbon, the current formula for what constitutes a qualified majority was introduced, i.e. 55 % of member states, representing 65 % of the EU population. This new formula is arguably easier to grasp

and understand (Esterürk 2009, p. 11), although some claim that it leaves all member states worse off in terms of voting power (Varela & Prado-Dominguez 2012, p. 108).

However, as mentioned earlier, the new formula for calculating a qualified majority did not enter into force until the first of November 2014, and for as long as until March of 2017 the member states could continue with the previous “triple majority” system, following that Poland during the negotiations of the treaty insisted that further safeguards were necessary (Church & Phinnemore 2010, p. 19). These provisions are what is usually referred to as the “Ioannina compromise”, which was included in the treaty provisions after a deadlock in the negotiations of the treaty. The actual Ioannina compromise was invented already in 1994 after questions were raised regarding QMV in an enlarged EU with 16 (ultimately 15) member states. It stated that if member states who together had between 23 votes (the then former blocking minority threshold) and 26 votes (the new threshold at the time) votes opposed a proposal, “[...] the Council would do all within its power, within a reasonable space of time, to reach a satisfactory solution [...]” (EUR-Lex, N.d). The revival of this compromise through the Treaty of Lisbon instead states that a group of member states, representing either three quarters of the EU population or three quarters of the number of EU member states required to constitute a blocking minority, can request that the Council continue to seek an agreement with broader support (Kurpas et. al., 2007, p. 62). In other words, the compromise allowed for the member states to rely on the old blocking minority-threshold until 2017.

## 5. Hypotheses

Based on the research questions posed in the beginning of this study and on the previous research, this study submits five hypotheses. These can also be seen as a basis for the actual execution of the study, as they further narrow down the research questions into more testable claims. The first two hypotheses derive from, and aim at answering, the first research question, while the last three derive from, and aim at answering, the second research question.

First of all, the share of acts adopted with QMV should have increased following that the Treaty of Lisbon entered into force. This idea is based on the many accounts on how important and significant the treaty was in extending the voting procedure, although surprisingly enough, no study seems to have investigated whether this is actually true. This study hence argues that due to the great extension of areas falling under the rule of QMV instead of unanimity through the Treaty of Lisbon, the share of acts adopted with QMV should have increased. Note that this does not necessarily contradict the results presented by Kirpsza, as he measured the total *number of proposals* submitted by the Commission under the OLP before and after the Treaty of Lisbon, while this study instead suggests that the *share* of Council acts *adopted* with QMV should have increased. Although the OLP usually implies that legislative acts are adopted with QMV in the Council, this study does not seek to take the OLP as a procedure or the number of proposals from the Commission into account. Thus, the first hypothesis is *H1: The share of acts adopted with QMV increased during the first years (2011-2014) following that the Treaty of Lisbon entered into force.*

Secondly, most changes in the legislative procedures regarding QMV that were introduced by the Treaty of Lisbon stem from the merger of what was previously known as the first and third pillars. In other words, most changes were arguably made in the area of JHA, and more specifically within the area of freedom, security and justice (AFSJ). Hence, one could expect the biggest difference in the share of acts adopted with QMV after the Treaty of Lisbon to be visible within this area, why the second hypothesis is *H2: The share of acts adopted with QMV especially increased within the area of freedom, security and justice during the first years (2011-2014) following that the Treaty of Lisbon entered into force.*

Thirdly, based on the extensive literature on the supposed relationship between the Treaty of Lisbon, QMV and the speed of legislation, one could expect the Treaty of Lisbon to have increased the speed of legislation shortly after the treaty entered into force. This is based on the assumption that the first hypothesis seems to be true, and that QMV generally speeds up the legislative process. However, Bølstad and Cross's study from 2016 did not find that the treaty increased the speed of legislation. Despite this, this study still expects the speed of legislation to have increased following the Treaty of Lisbon, as it has constructed its own data set from other sources, which unlike Bølstad and Cross' excludes the year of 2010 and includes 2014. The third hypothesis is hence *H3: The speed of legislation increased during the first years (2011-2014) following that the Treaty of Lisbon entered into force.*

Fourthly, one could expect the increase in legislation speed to be even greater within the AFSJ. Assuming that the share of acts adopted taken with QMV especially increased within this area and, again, that QMV increases the speed of legislation, one could expect the speed of legislation to increase especially within the AFSJ. The fourth hypothesis is hence formulated as *H4: The speed of legislation especially increased within the area of freedom, security and justice during the first years (2011-2014) following that the Treaty of Lisbon entered into force.*

Finally, and in order to test what many scholars have theorised but arguably never properly tested, the fifth hypothesis targets the claim that the new formula for calculating what constitutes a qualified majority leads to faster decision-making. Although some scholars were sceptical towards the idea that the mere extension of policy areas subject to QMV through the Treaty of Lisbon would increase the speed of legislation, most seem to have agreed that the new for calculating a qualified majority formula could. In other words, this study expects the years following the introduction of the new formula for QMV to show an increase in the speed of legislation. The fifth hypothesis is hence formulated as *H5: The speed of legislation increased for acts adopted with QMV following that the new formula for what constitutes a qualified majority entered into force in November of 2014.*

## **6. Methodology**

In this extensive section, the various methodological considerations and procedures made in the study will be accounted for and described in detail. The section starts off by outlining some other potential factors affecting legislation speed apart from voting rules, as brought up by previous scholars, and how these relate to this study. Thereafter, the section lays out the general research approach, the data and the procedures that constitute the method for testing the study's hypotheses and conducting the study.

### **6.1 Other Influencing Factors**

Some of the studies presented in this paper list and test a number of other factors, apart from the use of QMV, which can possibly affect the speed of legislation in the EU. These notions hold great relevance for this study too as they constitute a good foundation to what this study should seek to take into account. This subsection will therefore account for which other factors previous scholars have seen as possibly contributing to the speed of legislation in the EU, as well as shortly address how these relate to the study at hand.

#### **6.1.1 Involvement of the European Parliament**

While both Golub's as well as Schulz and König's studies concluded that whether a proposal was subjected to the QMV rule or the rule of unanimity had the greatest impact on legislation speed, both studies also stress that the involvement of the EP significantly affects the legislative process as well. Opposite QMV however, both studies hypothesise that parliamentary involvement decreases the speed of legislation, meaning that it slows the process down (Golub 1999 p. 744, Schulz & König 2001 p. 657). There are several reasons why this could be the case. Just like the use of QMV has arguably increased with each treaty, the role of the EP has subsequently been enhanced (Golub 1999, p. 743). As the EP has gotten more involved in the legislation process, and ultimately become co-legislator with the Council on many issues, the process has arguably lengthened (Ibid.). The fact that the EP is more and more involved in the decision-making process, as well as the fact that the EP generally holds a different position than the Council on many issues, can lead to stagnation in the speed of legislation (Schulz and König 2001, p. 657). According to Schulz and

König, the EP has “[...] consistently called for policies that are far more "integrationist" than those advocated by member state governments” (Ibid.), which would suggest that the EP generally tends to vote against the beliefs of the Council.

Controlling for the influence that the EP might have on the legislative process alongside the influence of the use of QMV is arguably very hard. Almost all areas where the voting rule changed from unanimity to QMV through the Treaty of Lisbon did so by being subjected to the OLP (Fazekas 2011, p. 56, Estetürk 2009, p. 11). In other words, almost all areas that changed voting rule from unanimity to QMV were also subjected to co-decision with the EP through the Treaty of Lisbon. This means that the Council had the sole right to adopt legislative acts within these areas before the Treaty of Lisbon, whereas afterwards, after the treaty entered into force, the Council and the EP jointly have to agree on a proposal before the legislative act can be adopted. For this study, this means that the effect of the EP’s involvement could potentially obscure the effect of QMV. Put differently, if the results show an increase in the speed of legislation following the Treaty of Lisbon, there is reason to believe that QMV has a significant effect on legislation speed, as that the effect of QMV hence has transcended the potential decreasing effect of the EP’s involvement. Meanwhile, if the results show that the Treaty of Lisbon did not have an effect on legislation speed, this will not necessarily mean that QMV as a voting rule does not lead to faster decision-making, as its effect might have been obscured by the decreasing effect of the EP’s involvement.

### **6.1.2 Policy Area**

As already briefly mentioned in this paper, Bølstad and Cross saw that earlier scholars had missed to address endogeneity, i.e. “[...] the possibility that the use of particular decision-making rules depends on the expected duration of proposals’ legislative processing” (Bølstad and Cross 2018, p. 795), in their studies. According to Bølstad and Cross it is hence likely that the choice of a certain voting rule varies depending on how difficult it is for member states to agree within a given policy area (Ibid.). Thus, measures such as QMV, aimed at speeding up the process, are arguably introduced in policy areas where the lines of contestation between member states are rather limited, which makes it hard to identify the actual effect of the measure (Ibid., 795-796).

To study the actual effects of QMV over time, hence requires that one control for within which policy area the acts were adopted, is hence not as easy as it seems. Bølstad and Cross put it as follows: “[i]n short, procedures intended to speed up the legislative process, such as QMV, tend to be introduced in areas where decision-making would be relatively swift even without them – creating a major challenge for proper identification of their actual effects” (Ibid., p. 796). Thus, while for example Schulz and König did in fact include “policy area” as a potential contributing factor in their analysis, as well as found that some policy areas tend to be characterised by faster legislation than others (Schulz & König 2000, p. 664), they did not address whether these were also the policy areas subjected to the rule of QMV.

Taking into account that policy area could influence the speed of legislation is arguably easier than controlling for the EP’s involvement. Previous literature on the subject has pointed out the area of freedom, security and justice as especially affected by the Treaty of Lisbon and its extension of QMV. This study therefore singles out acts adopted within this area before and after the treaty entered into force, and tests the same hypothesis on the wider data set as well as on this smaller data set. In order to avoid that the effect of QMV is skewed in the final results, the second and fourth hypotheses laid out above are both formulated in order to counteract any misinterpretation of the final results that could arise if policy area was not controlled for. This could also be seen as a way to seek to further isolate the effect of QMV and test whether earlier scholars have been right in arguing that the voting procedure tends to be introduced in areas where agreement is already easy to reach. Hence, if no increase in legislation speed is evident for acts adopted in the AFSJ, but the an increase in the share of acts adopted with QMV in the AFSJ is evident, there is all the more reason to believe that QMV is in fact introduced in strategic policy areas where member states’ preferences are relatively homogenous.

### **6.1.3 Enlargement**

There might also be reason to believe that an enlargement of the EU, i.e. an increase in the number of member states in the Union, could affect the speed of legislation, in legislative acts adopted with unanimity as well as with QMV (Golub 1999, p. 744). Under the rule of unanimity, the mere increased number of veto players could slow down the process of legislation. Under QMV, an agreement could be harder to reach

due to the potentially increased heterogeneity of member states' preferences after an enlargement, as well as due to the fact that the enlargement would decrease the proportion of any winning coalition of member states in the Council. In other words, more member states could potentially be required in order to reach a qualified majority (Ibid.).

Despite this, Jonathan Golub was not able to conclude that the accession of the three member states (Greece, Spain and Portugal) during his time period (1974-1995) had any significant effect on the speed of legislation (Golub 1999, p. 751 f.). He therefore concluded that the potential impact of an enlargement on legislation speed is not as evident as one could suspect. The data set composed for this study covers the years 2006-2009 and 2011-2018. This means that two enlargements took place during the time period covered, namely when Romania and Bulgaria joined the Union in 2007 and when Croatia joined in 2013 (Europa.eu, 2020[b]). Based on that Golub found the effect of enlargement to be insignificant on legislation speed, this study will not seek to control for this variable, other than mentioning that these two enlargements took place within the period of time chosen for this study.

#### **6.1.4 The “Lisbon Shock”**

When a great change such as the Treaty of Lisbon takes place, which alters the procedures and ways of the decision-making in the EU, the process itself could experience what Adam Kirpsza refers to as the “Lisbon shock”. By this, he means that the actors involved in the legislative process “[...] were not immediately prepared to negotiate and adopt more proposals according to new rules” (Kirpsza 2018, p. 236). Due to the fact that the Treaty of Lisbon has been seen as such a fundamentally important treaty, especially with regard to its innovations in the legislative process, actors could arguably require time in order to learn and get accustomed to the new procedures (Ibid.). Hence, one could expect the time shortly after the treaty entered into force to show less improvement in legislation speed. This study seeks to avoid this issue by avoiding the year of 2010 in the data set altogether, given that this year according to the argument above would portray less improvement in the speed of legislation.

### **6.1.5 External Factors**

Finally, one must also take into account that external factors, referring to unforeseen world events and such, might affect the speed of legislation. The European Union is arguably constantly affected by what is happening in the world surrounding it, as well as what happens within it, but some events could be expected to affect the Union's legislative work more than others. As pointed out by Kirpsza (who looked at the time period 2004-2014 in his study), the period of 2009-2014 in the Union was marked by a financial crisis, rising Euro scepticism and a forthcoming migration crisis (Kirpsza 2018, p. 236). This in turn led to "[...] an increase in heterogeneity of member states' preferences in 2009 - 2014" (Ibid.), as member states' interest in many questions diverged. Consequently, as member states' preferences become more diverse, it becomes harder to propose legislation acceptable to all member states as well as to form coalitions of member states forming a qualified majority.

Taking into account that this study will cover the time period after 2014 as well, the migration crisis can only be expected to affect the legislative process more than what Kirpsza expected it would up until 2014. This study does not attempt to avoid any external factor's potential influence on legislation speed, other than to note that foremost the migration crisis from 2014 and onwards may have decreased the speed of legislation during this period. However, it is worth mentioning that although it would have been possible to include acts adopted as late as this year, 2021, the data set only consists of acts adopted until 2018. This decision was made partly in order to balance the data in each time period (elaborated further below), but also to avoid the influence of the current external crisis in the EU - the Covid-19 pandemic.

## **6.2 General Research Approach**

In order to answer the research questions posed and to test the five hypotheses submitted, this study has conducted a quantitative temporal comparison of legal acts adopted by the Council before and after the Treaty of Lisbon entered into force. The overall research approach is quantitative in that the study has formulated narrow hypotheses and identified variables to be tested statistically by numeric data (Creswell & Creswell 2018, p. 17). This study can also be said to seek to test two causal (Ibid., p. 49f.) claims, namely that QMV as a voting procedure, and the new formula for QMV, lead to faster decision-making, leads to faster decision-making. Furthermore,

the research design is best described as experimental as the study seeks to isolate how a “manipulation” (the use of QMV) affects an “outcome” (the speed of legislation) (Ibid., p. 147), but the research design will be described in more detail below.

The following sections consist of extensive walkthroughs of the data and variables included in the study, as well as how this data was collected and then tested in order to produce analysable results. By doing this, the study seeks to increase the level of transparency and replicability of the methodological process. Furthermore, by increasing the study’s replicability and transparency, the study also seeks to strengthen its reliability (Bryman 2011, p. 49).

### **6.3 The Data**

As this study aims at gaining greater knowledge about the potential causal interplay between QMV and legislation speed through the Treaty of Lisbon, the data collected for this study aims at reflecting that. In order to evaluate legislation speed, the number of days from proposal to adoption of a legislative act, the only reasonable material to use is arguably adopted legislative acts. Acts that have not been adopted or have been cancelled have thus not been included in the data set. As QMV is a voting procedure used by the Council, the data furthermore consists of legislative acts adopted by the Council. The data covers the years shortly before as well as several years after the Treaty of Lisbon entered into force so that comparisons over time have been possible to make. As there was no existing data set that covered the necessary years and included the necessary information, all data has been collected and entered into the statistical software (SPSS) manually. The final data set consists of all available acts adopted by the Council between the 1st of January 2006 - 31st of November 2009 as well as the 1st of January 2011-31st of December 2018, which resulted in a total of 1075 adopted acts.

#### **6.3.1 Variables**

Before collecting the data, it is important to know what one is looking for in the material, i.e. what information needs to be collected from each legislative act. This information in turn constitutes the variables that have been statistically tested and compared, and they have been chosen based on the study’s hypotheses. The following

section will describe what information (which variables) was collected from each unit.

Due to the fact that the hypotheses formulated refer to different periods of time, three separate time periods were distinguished in advance. Each act was hence assigned a time period based on when the act was adopted. This was done in order to make it easier to structure the data as well as to be able to make easier comparisons over time:

- Time period 1 includes all available legislative acts adopted by the Council between the 1st of January 2006 and 30th of November 2009. This time period constitutes the time before the Treaty of Lisbon entered into force.
- Time period 2 includes all available legislative acts adopted by the Council between the 1st of January 2011 and 31st of October 2014. This time period constitutes the time after the Treaty of Lisbon entered into force, but before the new formula for what constitutes as a qualified majority entered into force.
- Time period 3 includes all available legislative acts adopted by the Council between the 1st of November 2014 and 31st of December 2018. This period constitutes the time after the new formula for what constitutes as a qualified majority entered into force.

The time periods have been constructed in a manner that reflects the formulated hypotheses. As stated above, time period 1 consists of all available acts adopted *before* the Treaty of Lisbon entered into force. Time period 2 and 3 are then constructed in a manner that divides the acts into those adopted during “*the first years following that the Treaty of Lisbon entered into force*” and those adopted “*following that the new formula for what constitutes a qualified majority entered into force in November of 2014*”. The year 2010 was, as mentioned earlier, strategically left out from the data set in order to avoid the potential of a “Lisbon Shock” affecting the results. Furthermore, by leaving out the year of 2010, each time period ultimately consists of approximately the same amount of time. Now, there is reason to address why time period 1 only dates back to 2006. As this study seeks to evaluate QMV’s effect on legislation speed through the Treaty of Lisbon, one could have gone even

further back as the preceding treaty (the Treaty of Nice) entered into force already in 2003 (Europa.eu, N.d). However, as the main data source used for this study did not include any acts adopted earlier than 2006, the years covered in this study do not date back any further.

In order to then be able to compare the speed of legislation between acts adopted during the different time periods, the date of proposal as well as the date of adoption was collected from each act. Although the dates of proposal and adoption do not constitute variables needed for the comparisons themselves, they were needed in order to calculate the number of days between proposal and adoption. The number of days between proposal and adoption for an act will hereon be referred to as “time lag”, the same term used as several earlier scholars. Thus, a time lag variable was later calculated for each act in the statistical software. As two hypotheses also specifically address the share of QMV as well as the time lag for acts adopted within the AFSJ, it was important to distinguish the acts adopted within this area from the others. Hence, information about whether the adopted act fell under the AFSJ or not was collected for each unit. Finally, the study also had to collect information about under which voting rule each act was adopted. This information was needed in order to test the supposed increased use of QMV following the Treaty of Lisbon as well as the time lag for acts adopted before and after the new formula for what constitutes a qualified majority was introduced.

To summarise, the necessary information (variables) collected from each act was: 1) Time period 2) Date of proposal 3) Date of adoption 4) Time lag (although this variable was calculated in the statistical software based on the date of proposal and adoption) 5) Whether the act fell under the AFSJ or not 6) Whether the act was adopted by QMV or not.

### **6.3.2 Data Sources and Data Collection**

As already mentioned, the final data set consists of 1075 legislative acts adopted by the Council between 2006-2009 and 2011-2018. This number was not deliberately chosen from the beginning, but is the result of all data that was available. The task to collect the necessary data with all the information needed for the study was harder than first expected. As there was no pre-existing data set available, the data had to be

collected and constructed manually by the author. To find all the relevant acts as well as necessary information in order to construct the variables proved rather difficult. This section will therefore describe in detail from where and how the data was collected, as well as account for the struggles and issues that arose during this process.

The data was collected from three separate sources, due to the fact that not all relevant material and the necessary information to construct the variables were available in any single source. However, as the point of departure for the data in this study is legislative acts adopted by the Council, the first and primary source consisted of the “Results of Public Votes” found on the Council’s webpage. This site contains all public voting results from the Council between 2006-2021, including the information on which voting rule had been used. The public votes results hence worked as a guide to which acts the Council had voted on during all three time periods. A total of 1064 acts found on this source were entered into the data set. However, it was not always clear whether each respective vote had resulted in an adopted legislative act. Moreover, this source did not contain any information on when the proposal had been made or when the final act had been adopted. Neither was it clear under which area a certain act fell, as only the Council figuration was stated. As the Council acts as a single legal entity, basically meaning that any Council figuration can vote on any issue (European Council, 2021[c]), the Council figuration was of little help. Hence, another source was needed to retrieve the other necessary information for each legislative act.

All other necessary information for these 1064 acts was found for each act on the European Parliament’s Legislative Observatory, which is a database monitoring EU decision-making. Each voting result found on the Council’s site for public votes had a reference to a so called interinstitutional file, which could be entered into the Legislative Observatory in order to find the entire legislative process for each legislative act. On the Legislative Observatory, it is possible to see the whole process from the Commission proposal to when an act was ultimately finalised and published. Hence, it was also evident from this source whether a proposal had actually been adopted in the end. The Legislative Observatory also indicated under which area each act fell, as it stated which Parliament committee had been responsible for each act.

Unfortunately, there is no committee specifically referring to the AFSJ. However, the Committee on Civil Liberties, Justice and Home Affairs deals to the greatest extent with issues relating to the AFSJ (EU Monitor, N.d [b], European Parliament, 2020), why this was considered a good indicator to whether each act fell within the AFSJ or not.

However, during the data collection of acts adopted during 2006-2009, it became evident that most acts falling under the AFSJ were not available through the Council's results on public votes. In fact, no act adopted before the treaty found through the Council's webpage was taken unanimously, indicating that all so-called framework decisions were missing from the source. In order to be able to compare the share of acts adopted with QMV before and after the Treaty of Lisbon within the AFSJ, it was therefore important to find the framework decisions adopted unanimously within this area during time period 1 elsewhere. The source that was able to provide this information turned out to be EUR-Lex, an "online gateway to EU Law" run by the Publications Office of the European Union. By searching within law making procedures for acts including "framework decision" in the title, relating to the AFSJ, an additional 13 relevant framework decisions became available and entered into the data set. These acts also included an interinstitutional file number, which then could be entered into the Legislative Observatory in order to find the remaining necessary information for each act.

Furthermore, all information collected for each legislative act found on the Council's page for public votes results, as well as the framework decisions found on EUR-Lex, were entered into the data set created in the statistical program SPSS. How this programme was used will be further elaborated below. All acts were given an ID-number, which were additionally entered into an excel file in order to keep track of which act (interinstitutional file) held which ID-number in SPSS. As the results found on the Council's page for public votes results at times proved to be doublets, this was also necessary in order to make sure no act was put into the data set twice.

Below the process of collecting the necessary information from each legislative act found on the Council's page for public votes is portrayed step by step. This process was followed for all acts available between 2006-2009 and for 2011-2018.

- 1) The interinstitutional file for each available act was found
- 2) The interinstitutional file number was checked against the excel register in order to make sure that the procedure had not already been entered into SPSS
- 3) The corresponding legislative procedure on the Legislative Observatory was found
- 4) The date of proposal, date of adoption and whether the act fell within the AFSJ or not, found on the Legislative Observatory, was entered into SPSS
- 5) Whether the act was subjected to QMV or unanimity, found in the act's document on the Council's page for public votes, was entered into SPSS.

The process of asserting which framework decisions found were relevant for the study, as well as of collecting the necessary information from these decisions, was similar to the one described above with some minor differences. As the search itself establishes that each framework decision fell under the AFSJ, and that all framework decisions were taken unanimously, less information was needed from the sources. The process looked as follows:

- 1) It was made sure the framework decision was adopted between 2006-2009 (as decisions adopted before would fall outside the scope of this study), and had not been withdrawn due to that the Treaty of Lisbon entered into force.
- 2) The interinstitutional file for each available act was found
- 3) The interinstitutional file number was checked against the excel register in order to make sure that the procedure had not already been entered into SPSS
- 4) The date of proposal and date of adoption, found on the Legislative Observatory, was entered into SPSS.

For each of the final 1075 acts in the data set, the following information was entered into SPSS. The variable name in SPSS has been written with quotation marks:

- An ID-number, "Act ID"
- The date of proposal, "Date of Proposal"
- The date of adoption, "Date of Adoption"
- By using the SPSS "Datediff" function, the number of days between the proposal and adoption dates was calculated, creating the variable for legislation speed: Time lag, "Time lag"
- Time Period, "Time Period"
- Whether the act fell under the AFSJ or not, "AFSJ or not"

- Whether the act was adopted with QMV or not, “Voting Rule”

The measurement level and coding for each variable was the following:

- Act ID: Nominal
- Date of Proposal: Scale
- Date of Adoption: Scale
- Time lag: Scale
- Time Period: Nominal
- AFSJ or not: Nominal
- Voting Rule: Nominal

While the first four of the variables above simply contained a number, a date or a number of days for each act, the last three were coded in the following way:

- Time Period: 1 = Time period 1, 2 = Time period 2, 3 = Time Period 3
- AFSJ or not: 1= Yes, 2= No
- Voting Rule: 1 = QMV, 2= Unanimity

## **6.4 Research Procedure**

Once the data set was completed, five tests were conducted in accordance with each corresponding hypothesis, i.e. of the following:

- 1) The percentage of all acts adopted with QMV shortly before (time period 1) and shortly after the treaty (time period 2)
- 2) The percentage of the acts adopted with QMV within the AFSJ shortly before (time period 1) and shortly after the treaty (time period 2)
- 3) The means of the time lag for all acts adopted shortly before (time period 1) and shortly after the treaty (time period 2)
- 4) The means of the time lag for acts adopted within the AFSJ shortly before (time period 1) and shortly after the treaty (time period 2)
- 5) The means of the time lag for all acts adopted with QMV before (time period 2) and after the new formula for QMV entered into force (time period 3).

However, in order to be able to conduct these tests and draw statistical inferences from the data, as well as bring a bit more structure to the execution of the tests, the data set needed to be divided into a number of smaller sets. Hence, to test H1 and H3,

a data set consisting only of the acts from time period 1 and 2 was created. Moreover, to test H2 and H4, a data set consisting only of the acts from time period 1 and 2 within the AFSJ was created. Finally, H5 was tested in a data set consisting of all acts adopted with QMV (as any act adopted with unanimity is irrelevant for the hypotheses) from time period 2 and 3. In the end, the following four data sets had been created:

- Data set 1) Containing all 1075 acts
- Data set 2) Containing all acts from time period 1 and 2 (768 acts)
- Data set 3) Consisting of the acts from time period 1 and 2 belonging to the AFSJ (80 acts)
- Data set 4) Consisting of all acts from time period 2 and 3 adopted with QMV (680 acts)

Below follows a more detailed description of how the tests were conducted, as well as how they relate to the hypotheses and research questions in this study. The description has been divided into two sections, based on which research question each test relates to.

#### **6.4.1 The Use of QMV**

The first research question posed in this study is “*Did the Treaty of Lisbon lead to a larger share of legislative acts being adopted by Qualified Majority Voting?*”. If the Treaty of Lisbon did in fact extend the use of QMV as much as many claim, one would expect the share of acts adopted taken with QMV to have increased, while the share taken with unanimity would have decreased. To answer this question, a comparison of the share of acts adopted with QMV for time period 1 and 2 was conducted within Data Set 2. This also tests whether there seems to be evidence for H1. Then, in order to test H2, a comparison of the share of acts adopted with QMV for time period 1 and 2 within the AFSJ was conducted within Data Set 3.

More specifically, the data sets were first split into groups based on the variable time period, so that the output was organised based on this variable. Then, the descriptive statistics for the variable voting rule for each group was produced, showing the percentage of acts adopted with QMV and unanimity for the acts in both time periods. In order to test whether the potential difference in share between the time periods was

statistically significant, a Chi-Square test was conducted in both data sets. The Chi-Square test is suitable for assessing the difference between two nominal variables, and helps in evaluating whether a relationship between two variables (in this case time period and voting rule) is likely to have appeared due to chance (Djurfeldt et. al. 2010, p. 214). In other words, if the Chi-Square tests show that the relationship between the variables time period and voting rule is statistically significant, it indicates that any difference in the share of acts adopted with QMV between the time periods is statistically significant. A  $p$ -value less than 0.05 was considered statistically significant.

#### **6.4.2 The Speed of Legislation**

The second research question posed in this study is “*Did the supposed extended use of Qualified Majority Voting and the new formula for what constitutes a Qualified Majority increase the speed of decision-making in the EU?*”. H3, H4 and H5 have all been formulated to attempt to answer this question. This study has taken an approach similar to earlier studies when investigating legislation speed, and has used time lag to measure speed. Hence, the basis to answer this question and test these hypotheses is to compare the means of time lag for the acts in each time period. To test H3, a comparison of the time lag for the acts from time period 1 and 2 was conducted within Data Set 2. Then, to test H4, a comparison of time lag for the legislative acts within the AFSJ during time period 1 and 2 was conducted within Data Set 3. Finally, H5 was tested by comparing the time lag means for the acts from time period 2 and 3 within Data Set 4.

First, a comparison of means for the dependent variable time lag for the independent variable time period was conducted in each data set in order to obtain an initial perception of how the time lag mean differs between the time periods. Then, an independent t-test was conducted in each data set, controlling for whether the differences in time lag means were statistically significant or not. T-tests are used for testing the relationship between a nominal or ordinal variable with a scale variable. In this case, the test assesses whether a difference in time lag mean between the two time periods could have appeared due to chance or could be considered to be statistically significant (Djurfeldt et. al. 2010, p. 229). In each t-test, the time lag variable was put

as the test variable and the time period variable as the grouping variable, and a  $p$ -value less than 0.05 was considered statistically significant.

## **6.5 Validity**

Finally, it is also of relevance to give a short account on the validity of this study. First of all, by accounting for the reasoning behind each methodological decision above, in other words, the operationalisation of the study's hypotheses and research questions, the concept validity of the study is arguably strengthened as this type of validity refers to whether a study measures what it actually claims to measure (Djurfeldt et. al. 2010, p. 104). External validity on the other hand, refers to whether a researcher can generalise the results from its study to an entire population (Creswell & Creswell, p. 171). In other words, the external validity of this study lies in whether the results can be said to reflect the EU legislation process, and how QMV affects this process in general. Although this study has included all *available* data found, there is still reason to believe that data from other sources might have worked just as well, or even better, in evaluating how the use of QMV affects legislation speed, as well as how the entering into force of the Treaty of Lisbon reflects this. With that being said, this study does not claim to give a generalisable answer to the research questions, but rather gives answers to what the data constituting the basis for this particular study indicates in relation to these questions. In other words, it constitutes one further step towards a possible generalisable answer.

## 7. Results

Following the research procedure above, the results section is structured in accordance with the two research questions and their associated hypotheses.

### 7.1 The Use of QMV

The first hypothesis tested in this study is *H1: The share of acts adopted with QMV increased during the first years (2011-2014) following that the Treaty of Lisbon entered g into force*. Table 1 shows the descriptive statistics for the variable voting rule for all acts belonging to time period 1. Table 2 shows the same for time period 2.

**Table 1: Voting Rule Time Period 1**

|           | Frequency | Percent |
|-----------|-----------|---------|
| QMV       | 327       | 92.9    |
| Unanimity | 25        | 7.1     |
| Total     | 352       | 100.0   |

**Table 2: Voting Rule Time Period 2**

|           | Frequency | Percent |
|-----------|-----------|---------|
| QMV       | 393       | 94.5    |
| Unanimity | 23        | 5.5     |
| Total     | 416       | 100.0   |

The share of acts adopted with QMV seems to have increased slightly following that the Treaty of Lisbon entered into force, as 92,9 % were taken with this voting rule in time period 1, compared with 94,5 % in time period 2. However, the increase is seemingly very slight. Table 3 shows the result of the Chi-square test conducted in data set 2, assessing whether the variable voting rule is dependent on the variable time

period. In other words, it assesses whether the slight difference in percentage (share) of acts adopted with both voting rules is statistically significant or not.

**Table 3: Chi-Square Test: Voting Rule, Time Period 1 and 2**

|                    | Test score        | df | P-value |
|--------------------|-------------------|----|---------|
| Pearson Chi-Square | .806 <sup>a</sup> | 1  | .369    |
| N of Valid Cases   | 768               |    |         |

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 22.00.

As the *P*-value (0.369) is a lot bigger than the limit of 0.05 required in order to claim statistical significance, the results are not statistically significant. Although there seems to have been a slight increase in the share of acts adopted with QMV in time period 2, the difference in share between the time periods is not statistically significant. Hence, this study was not able to find any indication that the share of acts adopted with QMV increased during the first years (2011-2014) following that the Treaty of Lisbon entered into force.

The second hypothesis tested is *H2: The share of acts adopted with QMV especially increased within the area of freedom, security and justice during the first years (2011-2014) following that the Treaty of Lisbon entered into force.* Table 4 shows the descriptive statistics for the variable voting rule for all acts within the AFSJ for time period 1, and Table 5 for time period 2.

**Table 4: Voting Rule Time Period 1 (AFSJ)**

|           | Frequency | Percent |
|-----------|-----------|---------|
| QMV       | 22        | 62.9    |
| Unanimity | 13        | 37.1    |
| Total     | 35        | 100.0   |

**Table 5: Voting Rule Time Period 2 (AFSJ)**

|           | Frequency | Percent |
|-----------|-----------|---------|
| QMV       | 43        | 95.6    |
| Unanimity | 2         | 4.4     |
| Total     | 45        | 100.0   |

Unlike the increase in the overall share of acts adopted with QMV during time period 1 and 2, there seems to have been a much greater increase in the share of acts adopted with QMV within the AFSJ. 62.9 % of the acts within the AFSJ were adopted with QMV during time period 1, which then increased to 95.6 % in time period 2. Table 6 shows the result of the Chi-square test conducted in Data Set 3, assessing whether the variable voting rule is dependent on the variable time period for the acts falling under the AFSJ from time period 1 and 2.

**Table 6: Chi-Square Tests: Voting Rule, Time Period 1 and 2 (AFSJ)**

|                    | Test score          | df | P-value |
|--------------------|---------------------|----|---------|
| Pearson Chi-Square | 13.817 <sup>a</sup> | 1  | .000    |
| N of Valid Cases   | 80                  |    |         |

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 6.56.

In this table, the P-value is 0.000, meaning that the increase in the share of acts adopted with QMV in time period 2 within the AFSJ is statistically significant. This indicates that the share of acts adopted with QMV did increase within the area of freedom, security and justice during the first years (2011-2014) following that the Treaty of Lisbon entered into force.

## 7.2 The Treaty of Lisbon and legislation speed

The third hypothesis tested in this study is *H3: The speed of legislation increased during the first years (2011-2014) following that the Treaty of Lisbon entered into force*. Table 7 shows the time lag means for all acts belonging to time period 1 and 2.

**Table 7: Means of Time lag for Time Period 1 and 2**

| Time Period   | Mean   | N   | Std. Deviation |
|---------------|--------|-----|----------------|
| Time period 1 | 666.15 | 352 | 425.562        |
| Time period 2 | 595.29 | 416 | 368.538        |
| Total         | 627.77 | 768 | 397.006        |

The results indicate that acts were adopted faster during time period 2 than during time period 1. The mean for the variable time lag was approximately 666 (days) for time period 1, and approximately 595 (days) for time period two. In other words, it seems as if legislative acts were indeed adopted faster after the Treaty of Lisbon entered into force. Table 8 shows the result of the t-test including these variables, determining whether this difference is statistically significant or not.

**Table 8: Independent Samples T-Test: Time lag means for Time Period 1 and 2**

|          |                             | t-test for Equality of Means |         |         |                 |                       |   |         |
|----------|-----------------------------|------------------------------|---------|---------|-----------------|-----------------------|---|---------|
|          |                             | Test score                   | df      | P-value | Mean Difference | Std. Error Difference | 95% Confidence Interval of the Difference |         |
|          |                             |                              |         |         |                 |                       | Lower                                     | Upper   |
| Time lag | Equal variances assumed     | 2.473                        | 766     | .014    | 70.857          | 28.656                | 14.603                                    | 127.111 |
|          | Equal variances not assumed | 2.443                        | 699.558 | .015    | 70.857          | 29.000                | 13.920                                    | 127.794 |

The independent samples t-test shows that the difference in time lag means is statistically significant, as the *P*-value is under 0.05, namely 0.014. This furthermore indicates that this study was able to find any indication that the speed for legislation did increase during the first years (2011-2014) following that the Treaty of Lisbon entered into force.

The fourth hypothesis tested in this study is *H4: The speed of legislation especially increased within the area of freedom, security and justice during the first years (2011-2014) following that the Treaty of Lisbon entered into force.* Table 9 shows the time lag means for all acts falling within the AFSJ belonging to time period 1 and 2.

**Table 9: Means of Time lag for Time Period 1 and 2 (AFSJ)**

| Time Period   | Mean   | N  | Std. Deviation |
|---------------|--------|----|----------------|
| Time period 1 | 822.74 | 35 | 513.510        |
| Time period 2 | 762.89 | 45 | 430.126        |
| Total         | 789.08 | 80 | 466.287        |

It seems as if acts within the AFSJ, too, were adopted faster during time period 2 than time period 1, as the mean for acts adopted during time period 1 was approximately 823 (days), and approximately 763 (days) for time period 2. Table 10 shows the result of the t-test determining whether the difference in means for acts adopted within the AFSJ during time period 1 and 2 is statistically significant

**Table 10: Independent Samples T-Test: Time lag means for Time Period 1 and 2 (AFSJ)**

|          |                             | t-test for Equality of Means |        |         |                 |                       |   |         |
|----------|-----------------------------|------------------------------|--------|---------|-----------------|-----------------------|---|---------|
|          |                             | Test score                   | df     | P-value | Mean Difference | Std. Error Difference | 95% Confidence Interval of the Difference |         |
|          |                             |                              |        |         |                 |                       | Lower                                     | Upper   |
| Time lag | Equal variances assumed     | .567                         | 78     | .572    | 59.854          | 105.543               | -150.266                                  | 269.974 |
|          | Equal variances not assumed | .555                         | 66.037 | .581    | 59.854          | 107.914               | -155.600                                  | 275.308 |

The difference in time lag means for the AFSJ acts from time period 1 and 2 is not statistically significant. The *P*-value is 0.572, meaning that this study was not able to find any indication that the speed of legislation increased within the AFSJ during the first years (2011-2014) following that the Treaty of Lisbon entered into force.

Finally, the last hypothesis tested in this study is *H5: The speed of legislation increased for acts adopted with QMV following that the new formula for what constitutes a qualified majority entered into force in November of 2014*. Table 11 shows the time lag means for all acts taken with QMV belonging to time period 2 and 3.

**Table 11: Means of Time lag for Time Period 2 and 3 (QMV)**

| Time Period   | Mean   | N   | Std. Deviation |
|---------------|--------|-----|----------------|
| Time period 2 | 589.95 | 393 | 353.855        |
| Time period 3 | 634.29 | 287 | 404.433        |
| Total         | 608.66 | 680 | 376.383        |

Contrary to *H5*, acts adopted with QMV seem to have been adopted faster during time period 2 than during time period 3. The mean for acts adopted with QMV during time period 2 is approximately 590 (days), while the mean for acts adopted with QMV during time period 3 is approximately 634 (days). Table 12 shows the result of the t-test including the time lag means for all acts adopted with QMV during time period 2 and 3.

**Table 12: Independent Samples T-Test: Time lag means for Time Period 2 and 3 (QMV)**

|          |                             | t-test for Equality of Means |         |         |                 |                       |   |        |
|----------|-----------------------------|------------------------------|---------|---------|-----------------|-----------------------|---|--------|
|          |                             | Test score                   | df      | P-value | Mean Difference | Std. Error Difference | 95% Confidence Interval of the Difference |        |
|          |                             |                              |         |         |                 |                       | Lower                                     | Upper  |
| Time lag | Equal variances assumed     | -1.519                       | 678     | .129    | -44.344         | 29.196                | -101.670                                  | 12.983 |
|          | Equal variances not assumed | -1.488                       | 566.081 | .137    | -44.344         | 29.808                | -102.892                                  | 14.205 |

The difference in means for the time lag variable for acts adopted with QMV during time period 2 and 3 was not statistically significant, as the *P*-value is 0.129 and hence higher than the required 0.05. This means that this study was not able to find any indication that there is a statistical significant difference between the time lag means for the two time periods, which furthermore means that the study was not able to find any indication that the speed of legislation increased for acts adopted with QMV following that the new formula for what constitutes a qualified majority entered into force in November of 2014.

## 8. Discussion and concluding remarks

Out of five hypotheses, based on two research questions, this study only found indication for two. These results are interesting for several reasons, as it contradicts much of what has been widely assumed about the relationship between QMV, legislation speed and the Treaty of Lisbon, as well as contradicts some of the previous research on the subject. First of all, the fact that the results found indications for H2 was but not for H4 is arguably especially interesting, as it indicates that although the share of decisions adopted with QMV increased significantly within the AFSJ, the speed of legislation did not. This in turn indicates that QMV's ability to increase the speed of legislation has perhaps been, in accordance with Bølstad and Cross' findings but contrary to the findings of Golub, König and Schulz. Moreover, it indicates that the voting procedure tends to be introduced in policy areas where agreement is already easy to reach. In other words, the fact that a significant increase in the use of QMV within a specific policy area did not lead to a significant increase in its legislation speed, suggests that QMV does not automatically lead to faster decision-making, and that it possibly tends to be introduced in strategic policy areas.

The plot thickens when considering that the results found indications for H3 but not for H1. This indicates that although the overall share of decisions adopted with QMV did not significantly increase, the speed of legislation did. This too suggests that QMV's ability to increase the speed of legislation has been overestimated and overstated in the past, but also that there might be other factors contributing more to the speed of legislation than voting rule. Contrary to the findings of Bølstad and Cross in this regard, the speed of legislation seems to have increased following that the Treaty of Lisbon entered into force. However, this was not because of an increased share in acts being adopted by QMV. This also indicates that the speed of legislation increased despite an increased involvement of the EP, which many have suggested would slow down the process of decision-making.

That the study did not find any indication for the final hypothesis, H5, is also quite remarkable, given how much emphasis scholars have put on the new formula for what constitutes a qualified majority. Not only was there no indication for the hypothesis, the preliminary findings also pointed in the opposite direction, indicating that the

speed of legislation seems to have decreased after October 2014 (although this was ultimately not proven to be statistically significant). There are several explanations to these results, as presented earlier in this paper. First of all, there is the possibility that member states have not been afraid to invoke the so-called Ioannina Compromise, i.e. the safeguard put in the treaty provisions to protect the member states. Another explanation could indeed be the fact that several external factors may have affected the speed of legislation, perhaps most notably the migration crisis. Be that as it may, this indicates that there is reason to question whether the formula for calculating a qualified majority introduced in October of 2014 actually is effective in making the decision-making process faster.

Recalling the research questions posed in this study, it is obvious that neither of them can be given an affirmative answer. However, this study has arguably not provided enough evidence to suggest dissenting answers either. Regarding the first research question, asking whether the Treaty of Lisbon led to a larger share of acts being adopted with QMV, the study was not able to confirm that it did. Although the share increased significantly within the AFSJ, the overall share of decisions being adopted with QMV did not prove to have significantly increased. This consequently also results in that the study could not prove that this supposed extended use of QMV increased the speed of legislation, as it was unable to prove that the use of QMV had in fact increased. Neither was the study able to prove that the speed of legislation had increased following the introduction of the new formula for what constitutes a qualified majority. The study was therefore also unable to give an affirmative answer to the second research question, asking whether the supposed extended use of QMV and the new formula for what constitutes a qualified majority increased the speed of legislation in the EU.

In light of the above, it is important to recall the notions on validity and the generalisability of the results presented in this study. This study does not claim to have given generalisable answers to the research questions posed, and the results should be seen rather as an indication that there is more to be found within this field of research. However, as laid out above, the findings in this study indicate that there may be some inconsistencies to the assumptions regarding QMV's ability to increase legislation speed as well as how much the Treaty of Lisbon extended and altered use

of the voting procedure. It is hence a good idea for future research to dig deeper into the subject, and to aim at further isolating the effect of QMV while also addressing what other factors could affect the speed of decision-making in the EU. There also seems to be a need to further investigate why the speed of legislation did not increase during 2014-2018 following that the new formula for QMV was introduced, compared with the years 2011-2014 shortly after the Treaty of Lisbon entered into force.

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The complete SPSS data set as well as the excel file containing the register over which ID-number corresponds with which interinstitutional file can be handed over upon request.

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