

ALLOCATION OF POWER IN THE EUROPEAN UNION From National Decision-making to Influence on Supranational Decision-making

Nedžad S. BASIC*

Abstract

High degree conflict of interest of the EU member states and efforts of the EU institutions to increase their influential power in decision making, makes the process of allocation of power in the EU extremely complex process which is under permanent modifications and changes. Relations between the normative and political system in EU does not always lead to zero result in the strengthening of the European Community that necessarily leads to a proportional weakening position of the member states and "vice-versa". Balancing the system of political decision making and normative regulation makes paradigm of allocation of power in the EU ambiguous and challenging, that is under permanent strong scholar's criticism. For understanding institutionalized balancing between the political and normative system in the EU, is important to consider voting power balance within the EU institutions, interactive relationship between the EU institutions, and communications between EU institutions and national institutions of the EU member states, as well. These processes create the complex relationship between the powerful bureaucracy of the EU, which is developing in the EU institutions, and political elites of EU member states. This relationship has strong influence on the nature of the allocation of power within EU and nature of sovereignty of EU member states.

Keywords: *Decision Making, Balancing Normative Regulation, Voting Power, National Elites, Supranational Bureaucracy, Supranational-Intergovernmental System*

* Prof. Dr., University of Bihac, Faculty of Law, Human Rights Conflict Prevention Centre, e-mail: hrpc@yahoo.com

AVRUPA BİRLİĞİ'NDE GÜÇLER AYRILIĞI Ulusal Karar Alma Mekanizması'ndan Uluslararası Karar Alma Mekanizması'na Etkiler

Özet

AB'ne üye devletlerdeki yüksek orandaki çıkar çatışması ve AB kurumlarının karar almadaki etkili gücü artırma çabaları, kalıcı düzeltme ve değişiklikler altında AB'deki güçler ayrılığı sürecini karmaşıklaştırmaktadır. AB'deki normatif ve siyasi sistemdeki ilişkiler, mutlaka aday ülkelerin oransal olarak zayıflama durumuna yol açan Avrupa Komisyonu'nu güçlenmesinde, (ve tersinin) her zaman sıfır sonucuna varmamaktadır. Siyasi karar alma ve normative düzenleme sistemini dengeleme, kalıcı güçlü ekollerin eleştirisi altında, AB'de güçler ayrılığı paradigmasını belirsizleştirmekte ve zorlaştırmaktadır. AB'deki siyasi ve normative sistemde bulunan kurumsallaşmış dengelemeyi anlamak için AB kurumları içindeki oy güç dengesini, AB kurumları arasındaki interaktif ilişkileri ve AB üye devletlerinin ulusal kurumları ve AB kurumları arasındaki iletişimlerini de düşünmek önemlidir. Bu süreçler, AB kurumlarında ve AB üye devletlerin siyasi elitlerinde gelişen AB'deki güçlü bürokrasi içinde karmaşık bir ilişki yaratmaktadır. Bu ilişkinin, AB içindeki güçler ayrılığının doğasına ve AB üye devletlerin egemenlik yapısına yönelik güçlü etkileri vardır.

Anahtar Kelimeler: Karar Alma, Normative Düzenlemeleri Dengeleme, Oylama Gücü, Ulusal Elitler, Ulusüstü Bürokrasi, Ulusüstü-Hükümetlerarası Sistem

1. The nature of the EU power-voting system

Relations which arise in the sphere of EU integration are primarily determined by allocation of power voting in the EU institutions, by relationship between the EU institutions and by inequality in economic, political and democratic level of development of EU Member States. These differences are largely followed by sensitive relationship between political elites of EU member states and the EU bureaucracy. This relationship between national elites and the EU supranational bureaucracy is predominantly defined by level of development of EU member states. Some EU member states belong to circle of highly developed countries, in which the development of industrial economy increasingly become substituted by postindustrial informatical society with developed and stable system of democratic institutions. Political elites of these EU member states are significantly associated with the bureaucracy of EU institutions and global institutions which have a large capacity of economic and financial power, such as the ECB, World Bank, IMF,

WTO, etc. Another EU member states are still in the transformation from predominantly agrarian to an industrial model of development, as their links with the EU institutions and global institutions seems to be less important.

Differences in economic and financial power and institutional development among EU Member States, is not always followed by proper balance between their economic power and voting power in decision-making in EU institutions, that creates additional difficulties in the European integration process (Bertini, Gamberalli & Stach, 2005). Standard procedure of balancing political power in EU Parliament decision making is focused on national and ideological dimension, what economic performance measured by GDP in the EU member states leave out of the balancing power in the EU Parliament (Kaniowski & Mueller, 2011).

A similar situation exists in the EU Council (Council of Ministers), where the value (weight) vote of each EU Member State depends on the size of their own population and voting rules, what associate the voting power of EU member states directly to proportional of their population, that makes decision-making in the EU Council based on principle of parity of EU member states and equality of the citizens,¹ but not on performances measured by GDP. Voting power has inherent impact on the political responsibility of EU institutions, while economic responsibility of the EU member states remains bound to the designed common market performance, which are created through the collective decision making in the EU institutions, that makes "responsibility deficit" in relations to economic power of the individual EU member states (Murto, 2008).

"Responsibility deficit" convey polarization between legal and political responsibility and economic responsibility that requires a new profile of voting power system in the EU institutions, and a new profile of relationship between EU institutions and the EU member states, in order to attain a suitable balance between normative and political system of EU.

In an environment where there are still different levels of economic, political, cultural and institutional development, social divergences and divisions within the EU have tendencies to create division on the center and periphery of EU. This division has significantly effect on the creation of a new balance between the interests of supranational bureaucracy of the EU and national political elites in the EU member states. In such environment the paradigm of allocation of power in the

¹ In accordance with the Treaty Nice the Council of EU take its legislation if EU member states vote in favor 73 % of the sum voting weight, if simple majority of EU member states vote in favor, and if EU member states voting represent at last 62% of EU population. The similar situation is also in Lisbon Treaty where Council takes its decision if at last 55% of EU member state vote in favor and if these member states comprise at last 65% of EU population.

EU includes consideration of the formal status and voting power of the EU institutions in the process of EU treaties changes, formal status and voting power of EU institutions in process of initiation legislative matter, and finally, consideration formal position and voting power of EU institutions in the process of implementing of law (Tsebelis & Garrett, 1996).

The paradigm of voting power system in EU inherently includes consideration of formal mutual relationship and influences among the EU institutions, that include consideration of the nature of mutual interest of supranational bureaucracy of EU institutions and political elites of the EU member states, as well. Furthermore, voting power system of EU relentlessly include interest of the citizens and interest of the sub-national entities in the EU member states, which can realize their interest on supranational level of EU easier than on national level of their own states.

Complex relationships between the voting power of EU institutions, different interests of supranational bureaucracy of the EU institutions and national elites of the EU Member States, and numerous different interests of EU citizens and sub-national business elites, does not give an accurate answer to who is responsible for decision making in the EU. "The Council, the Commission, the European Parliament (EP), the voters who selected the member of the EP or the voters who selected the members of their national governments, directly or via a parliament, the members of the national parliaments and their party peers who decide on government coalitions, the national governments that are represented in the Council, or the politicians, voters and bureaucrats who, in the past, designed the rules and defined the objects of today's decision making in the EU?" (Holler, 2011: 2).

Considering normative and political system of the EU, the issue of relationship between the legislative and executive authorities in the EU, relationship between the legislative system of the EU institutions and legislative system in EU Member States, is not just matter of a specific relationship between legislative and executive authorities in the EU. That is also issue of the relationship between national political elites in the EU member states, and supranational bureaucracy of the EU institutions and their relationship to the right of the EU citizens. The question of relations between citizens of the EU and the EU institutions, is not just a matter of dealings between individuals and supranational institutions, but is also the matter of the relationship between the national political elites of the EU member states and powerful supranational bureaucracy in the EU institutions and their posture to democracy.

Can and how political parties of the EU member states affect changes in EU policy options? How different social groups can exercise different capacities of political power and influence in processes of the EU integration? What are the

consequences of EU integration on the political, social and economic development of the EU Member States? How the institutions of the EU can act globally? These and similar questions, open a new dimensions of allocation of power in EU and social legitimacy and democratic deficit of the EU integrations (Majone, 1998).

To provide successfully monitoring allocation of power in processes of integration in the EU, is required to insert these processes in the interactive processes between a delicate relationship among economic, political, social, historical and cultural diverse interests of EU supranational bureaucracy, political elites and sub-national interest groups in EU member states, and the interests of the global foreign institutions which participate in the European integration.

Discussion on the allocation of power within the EU integrations lead reader primarily to the question where is located power in the EU integration processes. This question entails a host of other issues relating to the nature of the EU institutions, the nature of distribution of voting power in EU institutions, competences of the EU institutions, and the nature of communication between EU institutions and institutions of EU member states.

This simplified characterization of the institutional system of EU also require introduction of temporal locus of the changes in processes of allocation power in of EU integrations. By introducing temporal locus, a new dimension of the nature of the EU “structure of power” has been created in the divergent processes of “legal centralization” and “political decentralization” in EU integrations. The EU institutional “voting power system” which is located in the historical processes that led to the Rome Treaty, the Luxembourg compromise, the White Paper, Maastricht Treaty, Nice and the Lisbon Agenda, is difficult to objectively perceived in isolation from temporal locus in which the crucial changes in European integrations have emerged. Without time loci (the matrix of life), it is difficult to follow and to understand the architecture of the processes between centralization of legal system and decentralization of political and cultural standards in the EU system.

Relations between the EU institutions have a special role and significance in terms of “horizontal allocation of political power” in the EU. Interactive relationship among the EU institutions are primarily a reflection of the relationship between the national elites of the EU member states, supranational bureaucracy of the European institutions and sub-national bureaucracies and interest groups that fight for the realization of their own interests at the supranational EU level. These horizontal relationships of allocation of political power in the EU are primarily determined by “vertical allocation of voting power” in EU institutions. As the voting power in EU institutions is determined primarily by the size of the population of EU member states and a model of decision making in EU institutions,

the interests of national elites of the EU Member States and EU institutions supra-national bureaucracy, in its interactive relation of their interests, grow up into the main force of European integration.

Through parallel analysis of the allocation of voting power in EU institutions and the balance between the institutions of the EU it is not possible to get precise answers to where EU decision-making power is located, and who has more political influence on EU integrations. This question requires a much broader and more complex political, economic, social analysis of the relationship between the EU member states (Turnovac, 2008).

2. Divergence in the EU institutional “voting of power”

Changes in Eastern Europe and the dissolution of the Soviet Union have had a significant impact on the balance between EU institutions and the "voting power" in the EU institutions. Admission of new member states from Eastern Europe into the EU, the reintegration of Germany and the introduction of the Council of Europe in the EU institutional network, seek a new institutional reform that lead to reform of decision-making in the EU institutions.

The new balance of political power in the EU seeks a new relationship between the EU Commission, EU Council and EU Parliament. New relationship between institutions of EU needs a new and more effective decision-making in the new political environment. The Amsterdam Treaty and Treaty of Nice have extended decision-making with qualified majority voting in the EU Council that makes decision-making in EU more effective.

In the Nice Treaty (2001) the scale of weighted votes of the EU Member States in EU Council has been changed, (from a minimum of 2 to 3, maximum from 10 to 29 votes per member state). The new distribution votes for the four largest EU Member States (Germany, United Kingdom, Italy, and France) play a stronger influence on a new "voting power" in EU Council, although it remains a mismatch between the population and the value of the “package votes” between them. In this balance of "voting power", to make decisions with qualified majority of votes in the EU Council (27 Member States and 345 votes) was required at least 255 votes (73.9% of the total votes), at least 14 EU Member States (simple majority), and at least 62% of the total EU population (Leech, 2002: 434-437).

The discrepancy that appears between the "voting power" and the size of the population of EU Member States, violating the principle of "one person one vote" that creates a "democratic deficit" and causes difficulties in balancing the "voting

power" in the EU Council.² In order to avoid this difficulty Lisbon Treaty (2007) introduces "dual-majority voting rules," instead of the "triple majority voting rules," in the EU Council. "Dual majority voting rules," asking for the decision to vote cumulative at least 55% of the EU member states with at least 65% of the population and EU. Blocking minority has been established at the level of 35% of the EU population and plus one the EU Member States.

However, even with these new voting rules will dispose of is not optimal, "voting power" balance, will continue to create political tensions in the EU, especially between Germany and France (Baldwin and Widgren, 2004)

This voting system, which was conceived on the principle of representation of the EU's population and of the EU Member States, had a tendency to solve problems of legitimacy and democratic deficit of the EU. However, at this stage of EU integration appears first conceptual difficulty in understanding of the EU democratic legitimacy. EU democratic legitimacy is split between supranational level of EU and national levels of the EU Member States, which always leads to an imbalance between individual voter's "voting power" in the EU Member States and power of influence of the individual EU Member States in EU decision-making. It means that weight of vote really does not correspond with the size of the population of the EU Member States in the EU decision-making process. This deviation has a great influence on the deepening problem of the EU democratic deficit (Schmidh, 2010: 26). By this paradox the issue of "democratic deficit" in European integrations appears as complex and sensible legal and political issue.

With the aim to reinforce the democratic legitimacy and reduce the democratic deficit of the EU, the Lisbon Treaty has particularly paid attention on strengthening of the role of EU Parliament in decision-making process and strengthen the position of EU Member States in the process of decision-making on the supra-national level, that have been realized through the introduction of the Council of Europe in the EU institutional structure. Strengthening the position of EU Parliament, the role of the EU Commission has been substantially limited. Lisbon Treaty gets the right to EU Parliament to launch an independent law initiative, and the right to make changes in Part III of TFEU.

To preserves the sovereignty of EU Member States, by introducing Council of Europe, and simultaneously prevent the potential high centralization of the EU normative system, it was necessary legislative functions distributed between the EU Parliament, EU Council, and occasionally with EU Commission. By assigning the

² Germany and Italy have equal voting weights, with discrepancy in populations 82.5 millions in Germany and 57.7 millions in Italy. (Felsenthal, D., & Machover, M. (2001), *The Treaty of Nice and Qualified Majority Voting, Social Choice and Welfare* 18, 431-464)

legislative functions to these EU institutions was the best guarantee that the normative and political system of the EU will grow up into a high integrated process between interest of the supranational bureaucracy of the EU and national political elite of the EU Member States.

By introducing ordinary procedures (earlier known as "co-decisive procedures") in relations between the EU Parliament and EU Council, and by introducing "dual qualified majority voting" in the EU Council, this risk is partially removed. By introducing "co-decisive procedure" the EU Parliament and EU Council grow up into the decisive force of EU integration. By these changes integration of the EU has been shifted from the administrative-bureaucratic supranational integration, as it was pushed by the EU Commission, to the functional institutional integration, that is based on interests of national elites of EU Member States and citizens of EU. With this modification of the relations between the EU Parliament and EU Council, and the modification of the process of decision making in the EU Council, the ambitions of the EU Commission has been amended, which reflects on the relationship between political and law decision making in the European integration process (Napel and Widgren, 2006).

EU Council is the main legislative body of the EU, while the Commission is the main executive body of the EU. Therefore it is particular concern of their relationship. The significance of this relationship comes first and foremost because close connections of the legislative and executive authority in the EU. EU Council should be active and close cooperate with the EU Commission that could successfully perform the functions of the legislative authority in the EU, and others its functions in the general European interest. The EU Commission is necessary to cooperate with the EU Council to successfully motivate EU Member States to implement all laws adopted by the EU Council.

What is particularly significant is that that through this relationship between EU Council and EU Commission can be only successfully established balance in collaboration between EU Member States and supra-national institutions of EU, taking into account that none of these processes must not lead to absolute political decentralization or to absolute legislative centralization of the EU, that could have dramatic negative consequences for the further process of European integration (Gomez & Peterson, 2001).

In the balancing between the process of legislative centralization and process of political decentralization in the EU, European Court of Justice (ECJ) has an essential role. The ECJ has no power to overthrow or rebuff national legislation of the EU Member States. The ECJ has legal power to make a judgment to determine that some EU Member State has failed to comply with law of the EU. This decision is an important foundation on which to establish the legal and political

harmonization of the interests of EU Member States and EU institutions. Maastricht treaty provides for the possibility that if the EU Member State fails to comply with the decision of the ECJ, the European Commission may sue that state to the ECJ that can impose fines against the EU Member State for failure to comply with the ECJ decision.³ It is also very important highlight that the Lisbon Treaty provides the ECJ jurisdiction over decisions of the Council of Europe (Article 263 TFEU). By this power of the ECJ, process of harmonization of the relationship between normative centralization and political decentralization in EU has been finally established.

3. The Institutional balance of Power in EU

The institutional balance of power in EU stems from a specific institutionalized relationship between the legislative and executive authority within the EU. This EU institutional balance is conditioned by an interactive relationship among the EU Council (Council of Ministers, make it a member of the executive body, or ministers of EU member states), and the EU Parliament (consisting of elected delegates of political parties from the EU member states, which are directly elected by the citizens of EU). Relationship between these institutions, reflect the bipolar structure of the EU, consisting of the EU Member States and EU citizens. In this relationship controversial concept of supranational/intergovernmental institutional sovereignty of the EU has finally entered into academic debate. The institutional bipolar structure of the EU becomes more complex by introducing the Council of Europe (heads of states or governments of the EU member states) into the official EU institutional network, by entering in force of Lisbon Treaty (Article 13(1) TEU).

EU Council discusses and adopts law on the initiative of the EU Commission. The EU Council also makes suggestion to EU Commission to initiate law and consider law amendments proposed by EU Parliament, with a powerful influence on the "synchronization" of the activities of the EU Commission and EU Parliament. Through adoption of Single European Act, the Treaty of Maastricht, the Treaty of Amsterdam and the Treaty of Nice, legislative power was permanently strengthened in the hand of this institutional triumvirate. Particularly, after introduction co-decision procedure, the balance of legislative power in EU has been reinforced by making equal position of the EU Parliament and the EU Council in legislative procedure and constitutional change in regards criminal justice domain (Article 82(2)d, TFEU). The EU Council has also right to recommend strategic objectives and priorities in the domain of CFSP to the Council of Europe.

³ In July 2000, The Court has ordered Greece to pay daily fine of € 20,000 until it acts in accordance with the opinion of the Court from 1992., according to which Greece has failed to implement EC directives pertaining to environmental protection.

In accordance with Article 48(2) TEU, EU Parliament has independent right to submit formal initiative and proposal for amendment of the Treaties to the EU Council, and to launch a legislative initiative before the EU Commission. The EU Commission is now forced to give an explanation if not launch the legislative initiative (Article 225 TFEU), that significantly changes the relationship between the EU Parliament and the EU Commission. The strengthening position of the EU Parliament has been done by right to give consent to the European Council to authorize the EU Council to apply the method of qualified majority voting instead of unanimity voting, and use the ordinary legislative procedure (co-decision procedure) instead of the special legislative procedures in the domain of CFSP (Article 48(7) TEU).⁴ Important role in strengthening of the lawmaking functions of the EU Parliament include so called. "regular dialogue" between President of the EU Parliament and the President of the EU Commission on the major legislative proposals, and the participation of the President of the EU Parliament in the EU Commission meetings.

New position of the EU Parliament is perceptible through giving approval to the EU Council on decision concerning the change in criminal procedure. By introducing "subsidiary principles" (Christoph, 2002: 366) in accordance with which the EU Commission's proposal have to be sent to the EU Parliament, EU Council and the Parliaments of EU Member States, the EU Parliament is getting an equal position with the EU Council in this matter. Taking active role in the nomination of the President of the EU Commission and the HR/VP (Article 17/7 TEU) and providing consent on international contracts of EU, the role of the EU Parliament towards to EU Commission has been fortified .

By including the Council of Europe in the legislative process in the area of "freedom, security and justice" (Article 68 TFEU), the institutional balance between the EU institutions has been substantially changed. Now the position of the Council of Europe together with the already existing position of the EU Council, as representatives of EU Member States, considerably weakened the position of the EU Commission in the institutional structure of power in the EU. With the introduction of new combined position of "High Representative of the Union for Foreign Affairs and Security Policy" and Vice-President of the EU Commission (HR / VP), whose task is put into effect a common foreign and security policy and represent the EU in the CFSP, process of institutional balance in the EU is becoming more complex.

⁴ For further development of relations between EU Parliament and EU Commission see in European Parliament Document B7-0091/2010

Supported by active participation of the EU Parliament (Article 17/7 TEU), the Council of Europe appoints HR /VP (Article 18 (1) TEU), which is mandated by the EU Council (Article 18/2 TEUs). Although losing the right to legislative initiative in the field of CFSP (Article 30(1) TEU), which is now in the jurisdiction of the HR/VP with support of the EU Commission, President of the EU Commission can dismissed HR/VP, whereby the EU Commission have influence in the field of CFSP. However, bearing in mind that the President of the EU Commission is appointed by the EU Parliament at the proposal of the Council of Europe with a qualified majority, it is evident that the power of the EU Commission substantially weakened in institutional structure of the EU. By this changes of the legislative balance of power in decision making in EU has been dramatically altered, again (Steunenberg, 2001).

4. From National Decision-making to Influence on Supranational Decision-making

What makes the political system of EU as specific compared with the classical state political system? Balancing "voting power" in the EU institutions and balancing power between the EU institutions makes key specificity of the political system of the EU.

This twofold balance generates stability of interests between national political elites of the EU member states and bureaucracy of the EU institutions. This balance in the EU has been established as coordinated process more than super-ordinate political process. It means the political system the EU has the meaning of existence of clearly defined rules of decision-making in EU institutions and clearly defined rules in the relationship between EU institutions, which arises in a specific process of the ongoing relations between EU Member States and EU institutions.

Developed system of EU institutions and a wide network of the Treaties, directives and decisions, together with roles of decision-making in these institutions, make the legal and political system of the EU strictly defined system. Within such a defined network of the supranational institutions and decisions of the institutions, distribution of economic and social resources between individuals and different social groups, has been provided through the participation on parliamentary elections on national level.

Developed system of the EU institutions and developed network of the Treaties, directives and decisions, precisely define the relationships between these institutions and institutions of the EU Member States. Processes of decision making within these institutions, the significance of the impact of decisions of the EU institutions on the distribution of economic resources and the allocation of social and political values within the EU, makes political system of EU highly developed and sensitive system of political decision-making. Growing number of groups

(corporations, business, trade associations, environmental groups, and so on), their mutual influence, and their influence on decision-making in EU institutions, makes the process of allocation of power in the EU extremely complex and delicate issue, that cannot be understood outside the process of balancing "voting power" within the EU institutions and the balancing power in the relations between the EU Member States and the EU institutions. The complexity of the allocation of power within the EU becomes more complex if one bears in mind that the EU has no central government that could have a monopoly on political decisions and economic resources in the process of decision making, as it is in the classical concept of state political system.

Versus to national government, as the main center of political and economic power in state political system, the main political power in EU is located in the complex processes of the tripartite relationship among the EU institution bureaucracy, political elites of the EU member states and leadership of public and of private organizations and groups, that are compete with each other in the process of creating their own influence on decision making in the EU institutions.⁵

In these processes of mutual competing for influence on decision-making in EU institutions, numerous collective, individual, professional, social, ecological, and many other interests has been created at sub-national, national, and supranational level. These different interests necessarily requires the creation of complex system of EU rules to establish control and regulation the processes and relationships in the public policy, social policy, policy of regional development, research policy, market policy, in policy of production, in policy of distribution of goods, in the politics of consumption and services, in health policy and in the other areas and activities of the EU.

Relations between these different interests and their roles in processes of the EU integration, represents a specific processes of influence on decision-making process at the supranational level, rather than decision-making at the national level (Justin Greenwood, 1997: 27). Here is a very important to perceive distinction between "the influence on decision-making at the supranational level", and "decision making at the national level". To recognize "the influence on decision making" at the supranational EU level, is important to analyze the organization of business interests in certain sectors, and interrelate influence of public policy at the national and supranational level (Justin Greenwood , 1997: 5). This is especially important if

⁵ According to estimates of the EU Commission in Brussels, as the EU administration center, over 3,000, interest groups, more than 500 European and international federations, and over 10,000 individuals now working on advocacy and promotion of different interests trying to influence the process of decision making in the EU institutions.

one takes into consideration that the network of the EU institutions, in the specified procedures, adopted or approved by nearly 80 per cent of all legal or business rules that govern these relations in the EU.

Legal policy and business regulations at the EU level has a strong influence on tax policy, migration, and on the foreign and defense policies of the EU member states, which significantly affects the distribution of power between the EU member states and the regulatory allocation of values within EU Member States, which largely determines who gets what, when and how, with which the EU institutions are creating their own powerful impact not only on relations between different social and political groups and individuals inside the EU institutions, but also within each EU Member State, making the EU more affective to determine allocation of power within the EU Member States. Consequently the EU Member States show a growing interest to move their influence from national-level of decision-making to their own influence on decision-making at the EU supranational level.

This shift from “decision making” at the national level to “influence on decision-making” at supranational level, makes political system of the EU as a specific process of coordinating interests of the supranational bureaucracy and national elites.

Increased importance of "influence on decision-making process on supranational level" with regard to "the decision making at the national level", there is no meaning of the decline interest of national political parties and national elites to control the national institutions of power. On the contrary. Through the control of national institutions, national political parties and national elites concentrate power in its own hands to make strong influence on decision making at the EU supranational institutions, that reinforces the interest of the EU supranational bureaucracy in control of which political party will dominated at the domestic political scene at the EU Member States. It creates a powerful alliance between the ruling national political elites and EU supranational bureaucracy, what makes the process of European integration as specific, and not always democratic and easily understood.

Thanks to this process of migration decision making from national level to influence on decision-making at the EU supranational level, territorial-political concept of the EU Member State sovereignty has been slowly moved to concept of intermingling supranational/intergovernmental functional sovereignty of EU.

This process of disaggregation of the nation-state sovereignty has changed a relationship between the interests of the EU Member States and the EU institutions, that promote a new political system of EU that is being created in several specific ways. Through this process of disaggregation of the legal and political sovereignty

of the EU Member States, common EU regulatory policy (in the field of free movement of goods, services, capital, policy harmonization of national standards, environmental and social policies, a common competition policy, a policy of equal regional development, a common agrarian policy, policy development and research, common macroeconomic policy, common standards of economic, political and social rights of citizens of EU member states, a common immigration policy and common policy of judicial cooperation and European citizenship), has been finally created (Slaughter, 2004).

The central issue that arises from these processes in the EU is the question who controls these legal and political processes, or who manages migration processes of decision-making from “decision making on national level” to “influence on decision making on supranational level” in the EU? In political environment where there is no central institution which could be defined as the central government, in a highly diversified and complex decision making process, which involved numerous interactive processes between supranational, national and sub-national institutions, interest groups and individuals, this issue is too complex. The most authors agree that it is undisputed that the EU is a “system of governance without statehood” (Wallace, Wallace and Pollack, 2005: 491) or “system of governance without a government” (Bomberg and Stubb, 2003: 148). However, the central question who manages the EU remains without a clear answer.

For better understanding of this matter it is important to highlight tri-dimensional aspect of EU decision-making, and strong competitions that takes place at the supranational level (moving decision-making power from national to supranational institutions), intergovernmental level (cooperation between the governments of EU member states in decision-making process) and the national level (member states retain decision making process under their jurisdiction).

In the process of decision-making at the supranational EU level, the main role of the EU Commission is to initiate legislative in “co-decision” procedure that takes place in relationship between the EU Parliament and the EU Council, where the EU Council takes decisions by “dual qualified majority”. In this procedure EU Parliament formally shared responsibility with the EU Council in legislative matter. In accordance with this procedure, the EU Council and EU Parliament enter into direct negotiations if they have different views about the proposed law. If they fail in their negotiations and don’t adopt a common position, the proposed law should be withdrawn from the procedure. Formally, the EU Parliament has the “veto right” to any proposed law to be adopted under this procedure. That is important that EU Parliament in practice do not use this “veto right”. The EU Parliament use “veto right” only to motivate the EU Commission and EU Council to enter into mutual discussions with the EU Parliament in regards of the proposed law. On this way relationship between EU Parliament and EU Council grow up into partnerships with

higher levels of mutual cooperation between EU member states and EU citizens (Bomberg and Stubb, 2003: 59).

When it comes to the introduction of dual qualified majority decision-making in the EU Council, each EU member state has a corresponding number of votes in proportion to the size of its population, as percentage of total population of EU community.

By expanding of this vote model in the field of ecology, social policy, common currency, with the introduction of the autonomy of the European Central Bank (ECB), in the drafting of a common platform of national cooperation between police forces and national judicial system of EU Member States, as well as by establishing a platform of a common foreign policy, means permanent enlargement of the EU supranational/intergovernmental institutional sovereignty. If we take into account the permanent enlargement of EU membership, the growth of EU institutional jurisdiction is getting a territorial dimension, as well.

The introduction of co-decision-making models in relations between the EU Council and the EU Parliament, and introducing Council of Europe in institutional network of the EU, the EU Commission is faced with an increasing decline of its influence both in the field of legislation and in the field of foreign policy, after the creation of HR/VP, which is under the mandate of the EU Council. Trying to avoid excessive influence of the Council of Europe, the EU Commission inclines to cooperation with the EU Parliament through the so-called "regular dialogue". The inclination of the EU Commission to extensive cooperation with the EU Parliament opens wider space for national political parties to get more influence in the EU. This new relations between EU Parliament and the EU Commission, makes a new opportunity for confrontation between the EU Parliament and EU Council, which is now supported by the Council of Europe, as well as representatives of EU member states. Potential confrontation between interest of EU citizens and the governments of the EU Member States (EU Parliament vs the EU Council) makes the question of who has control over EU integrations processes, or in other words, where is located power in EU, extremely complex.

Intensive confrontation and expansion of co-decision making at the EU supranational level, is not the result of autochthonous strengthening of EU supranational institutions, as institution of the supranational government. The supranational confrontation and expansion of co-decision making at supranational level is more a result of controversial economic interests of political elites and many stakeholders at sub-national level. The EU Member States have interest to reinforce their own interests which might be effectively achieved at the supranational than at national level. It is obvious that the main source of EU supranational institutional sovereignty lies in the relationships between

intermingling interest of national elites and supranational bureaucracy of the EU Institutions. These interests in this relationship are defined by "voting power" in the EU institutions and by institutional balance of power between the EU institutions.

The important role of the EU Member State is demonstrated in the decision making process which requires coordinated actions among EU member states (intergovernmental level). In this process the European Council and the EU Council have the key role. In decision-making on this level the role of the EU Commission is greatly reduced (in this procedure, the EU Commission has no right to take law initiative). The role of the EU Parliament is also reduced to the right to be consulted by the EU Council. The role of the ECJ in the control of the legality of these acts is too reduced.⁶

In the process of decision making at the national level, EU Member States have a monopoly in determining their own policy and in decision-making process. Only the EU Member States have the legitimate power to change the EU Treaties. Only the EU Member States can decide whether and when to accept international standards. This is their original right which arrives from the power that was verified through direct elections of the government of the EU Member States. Hence the rule follows a high degree of marginalization of the EU institutions in the process of policy of decision-making at the intergovernmental conference (Bomberg and Stubb, 2003: 150).

In the context of relations between these three segments (levels) decision making (supranational, national and intergovernmental), the process of EU decision making remains squeezed between the demands of the EU Member States to continue to hold absolute power on decision making at the national level and their interest in mutual cooperation and compromise at the supranational level, in other words, to get more influence on decision making at the EU supranational level.

⁶ "The EU is a source of networked governance when it employs the coordination method. The increased use of this method encourages us to be somewhat agnostic about how far European integration has transformed or will transform European politics. To be sure, the EU's policy process reflects underlying changes in political and economic relationship across Europe, particularly ones arising from globalization and increasing interdependence between states, and between national and EU policies. But national and EU policy processes and institutions remain formally distinct from one another (if they are very much linked in practice. The point is that, arguably, there exists no inexorable trend to more and more supranational governance. On this reading, new kinds of policy network are emerging which link together different kinds of actor: administrative and political, national and supranational, public and private. These networks act as bridges between national, EU, and international institutions, and policies made at each of these levels". (Elizabeth Bomberg and Aleksander Stubb (2003), *The European Union: How Does it Work?*, Oxford University Press, New York, p148-150)

Because this double interest of EU Member States, that is important to note when it comes to the issue of allocation of power to the EU, that political institutions have much greater role in policy making at EU supranational level than at the national level, where mainly dominate interests of the national elite, the national bureaucracy, voters, and interest of group's leadership.

Concluding remarks

As the most significant regulatory rules at the EU level taken by qualified majority, which is usually preceded through complex consultations and harmonization of interests of the participants in decision-making in EU institutions, these decisions many authors consider as a result of synchronized interests of the EU Member States rather than as an independent decisions of the EU supranational institutions (Moravcsik, 1994).

However, bearing in mind that once decisions taken by qualified majority in EU Council cannot be changed without the absolute consent of all the EU Member States, and that Council of Europe mainly makes its decisions by qualified majority, and that the Court of Justice has jurisdiction over European Council, it is difficult to challenge the power of independency of supranational institution versus the EU Member States.

By addressing the issue of macroeconomic policy at the supranational level, many issues which remain in the responsibility of national governments of EU Member States have become directly dependent on the solution of these issues on supranational EU level. For example the national social welfare policy at the national level of the EU Member States have to follow a policy of equal growth in taxes and fees at the EU level, with which the EU Member States are forced to harmonize fiscal and social policy in line with the monetary policy of the EU. Also through the common currency EURO, EU significantly affects the inflationary effect of the national economies.

Due to the economic-financial and monetary macroeconomic impact, the EU Member States increasingly seek to convey their interests to the level of EU. The EU Member States have transferred not only economic aspects of their sovereignty to the supranational EU level, but also those ones that are exclusively of political nature, such as the judiciary, internal, foreign and defense policy. This specific form of disaggregation of sovereignty of the EU Member States from national to supranational-institutional level, creates a new specific intermingling supranational/intergovernmental concept of sovereignty of the EU, which is increasingly manifested as a process of institutional coordination interests between political elites of EU Member States and supranational bureaucracy of the EU institutions (Defuyt, 2008).

This a new concept of intermingling supranational/intergovernmental functional system arising from the process of coordination and synchronization of interest of the national elites EU Member States and the interest of the bureaucracy of the EU supranational institutions, and interests of citizens of the European Union, appears as a model of disaggregation of national monetary, economic and legal systems of the EU Member States.⁷

Unlike the traditional state political system with clear division among the legislative, judicial and executive authorities, in the EU political system this order is completely different. While in classic state system the executive power exclusively belongs to government, in the EU political system executive power is divided between the EU Commission, which can be regarded as an appropriate supranational government in the political system of the EU⁸, and the national government of EU Member States. Through long-term political agenda through the EU Commission and EU Council, the EU Member States undertake many different initiatives on the supranational EU level. The EU Member States also retain the possibility that through the voting unanimity system, and through the reform of the EU Treaties at the intergovernmental conferences, keep under the control the migration sovereignty from national to the supranational level and keep under control the moving power between the institutions of the EU (Goetz and Hix, 2000: 6).

The same happens in the process of implementation of the EU law where the EU Member States through the EU Commission accept responsibility for transferring EU laws into national legal systems of EU Member States, which thus became the supranational EU law.

Furthermore, the legislative system in EU is divided between the government of the EU Member States, on one side, and the EU Parliament and the EU Council, on

⁷ “In the area of justice and interior affairs, the EU is committed to removing internal borders and developing common policies towards the movement of persons across the EU’s external borders (such as immigration, refugee and asylum policies, and common rights for third-country nationals in the Europe) and to co-operation in tackling cross-border crime. In time, the direct impact of these policies will be considerable, as they will redefine what it means to be citizen of one of the EU member states. At the present time, however, these policies have only affected domestic policy choice at the margins. Similarly, in the area of common foreign and defense policies, the EU has begun to co-ordinate member states’ foreign policy agendas and strategies. However, more than any other EU policy competence, foreign policy co-operation remains the preserve of national sovereignty, where all the key decisions are made unanimously and the powers of the supranational institutions are severally curtailed”. (Klaus H. Goetz and Simon Hix (2000), *European Integration and National Political Systems*, West European Politics, vol. 23. no. 4, October 2000, p6)

⁸ In accordance with the changes introduced by the Lisbon agreement, each member state in EU is represented by one Commissioner, the EU Commission is increasingly inclined to be represent of the interests of the EU member states rather than representative of supranational body of EU. .

other side. Single European Act (SEA), Maastricht and Amsterdam Treaty has considerably strengthened position of the EU Parliament, not just in the field of legislature but also in economic and social policy, that have the meaning of establishing double legitimacy of the EU citizens and the EU Member States.

Considering co-decisive procedure that takes place in the active relationship between the EU Parliament and EU Council, and that the EU Council decides by qualified majority vote, which means that the number of votes of each EU Member State in the EU Council is determined in accordance with the size of its population, thus making balance between EU member states and the EU as a community of citizens. That is how exclusive political system of EU has been established. This a new type of political system created through dual institutional equilibrium, that has been achieved through the institutional network, that interacts different interests at sub-national, national and supranational level, makes special balance between normative and political system of EU, that produce a unique intermingling supranational/intergovernmental system of the EU.

References:

- Baldwin, R. and Widgren M., (2004). 'Winners and Losers Under Various Dual Majority Rules for the EU's Council of Ministers', *Center for European Policy Studies*, CEPS POLICY BRIEF NO. 50.
- Bertini, C., Gamberalli, G. & Stach, I. (2005). 'Apportionment Strategies for the European Parliament'. *Homo Economicus*, 22(4), 589-604.
- Bomberg E. and Aleksander Stubb (2003), *The European Union: How Does It Work?*. Oxford University Press, New York.
- Defuyst, Y. (2008). The European Union's Institutional Balance After the Treaty of Lisbon: "Community Method" and "Democratic Deficit", *Georgetown Journal of International Law*, (39)2, 235-247.
- Felsenthal, D., & Machover, M. (2001). The Treaty of Nice and Qualified Majority Voting, *Social Choice and Welfare*, 18(3), 431-464.
- Goetz, K.H. and Hix, S. (2000). European Integration and National Political Systems, *West European Politics*, 23(4), 6.
- Gomez, R. & Peterson, J. (2001). 'The EU's Impossibly Busy Foreign Ministers: 'No One is in Control''. *European Foreign Affairs Review*, 6(1), 53-74.
- Greenwood, J. (1997). *Representing Interests in the European Union*. New York: St. Martin Press.
- Henkel C. (2002), Allocation of Powers in the European Union: A Closer Look at the Principle of Subsidiarity, *Berkeley Journal of Int'l Law*. Vol. 20, Issue 2, 366.
- Kaniovski S. & Mueller, D.C. (2011). How Representative is the European Union Parliament? *European Journal of Political Economy* 27(1), 61-74.
- Leech, D. (2002). Designing the Voting System for the Council of the European Union, *Public Choice*, Vol. 113 no. 3-4, 434-437.
- Majone, G. (1998). Europe's Democratic Deficit: The Question of Standards. *European Law Journal*, 4(1), 5-28
- Manfred J. H. (2011). EU Decision-making and the Allocation of Responsibility, *Institute of Socio-Economics, IAW*. Hamburg: University of Hamburg.
- Moravcsik, A. (1994). 'Why the European Community Strengthens the State: International Cooperation and Domestic Politic', *Center for European Studies, Working Papers Series 52*, Cambridge MA: Harvard University.
- Murto, T. (2008). *Political Responsibility and the European Union*. Manchester: Manchester University Press.

-
- Napel, S. & Widgren, M. (2006). The Inter-institutional Distribution of Power in EU Co-decision. *Social Choice and Welfare*, 27 (1), 129-154.
- Slaughter, A.M. (2004). *A New World Order*. Princeton: Princeton University Press.
- Steunenberg B. (2005). Enlargement and Institutional Reform in the European Union: Separate or Connected Issues? *Constitutional Political Economy*, 12(4), 351-370.
- Tsebelis G. & Garrett G. (1996). Agenda Settings Power, Power Indices, and Decision Making in the European Union. *International Review of Law and Economics*, 16(3), 345-361.
- Turnovac, F. (2008). National, Political and Institutional Influence in European Union Decision Making. *AUCO, Czech Economic Review*, 2(2), 154-173.
- Schmidh, V. (2010). 'Democracy and Legitimacy in the European Union Revisited, KFG The Transformative Power of Europe', *KFG Working Paper Series*, No. 21. Berlin: Freie Universität Berlin.
- Wallace, H., Wallace, W. & Pollack, M.A. (2005). *Policy-Making in the European Union*. Oxford, New York: Oxford University Press.

