KKI
POLICY BRIEF

Future Prospects of EU Legislation

in a Post-Brexit Council

A brexit utáni Tanács uniós jogalkotási kilátásai

ATTILA KOVÁCS – LEVENTE KOCSIS

INSTITUTE FOR FOREIGN AFFAIRS AND TRADE

KKI Policy Brief

Series of the Institute for Foreign Affairs and Trade

Abstract: With the United Kingdom's departure from the European Union, the eventual change in the distribution of power with regards to the Council of the European Union and its analysis gains ever more importance. However, the effects of the UK's departure in case of qualified majority votes are ambiguous. On the one hand, Member States gain weight due to the adjustment of the population-based vote weights. This weight increase solely depends on the Member States' population, thus the Member States with already high population (and so vote weight) gain more, while smaller countries gain less. On the other, conditional on the degree of matching policy preferences with the United Kingdom, Member States might lose average weight on their favoured side, due to missing out on the backing votes of Britain. This study shows that every Member State would gain average vote weight backing their preferred outcome should the events from 2010 to 2019 have happened without the participation of the UK. However, once cases of opposition – abstentions or votes against during qualified majority votes – are taken, the results reveal that the average vote weight backing Member States' unfavourable view decreases apart from a few exceptions. Thus, the results suggest that legislation might be subject to fewer hindrances, working out blocking coalitions could very well get significantly more difficult.

Összefoglaló: *Az Egyesült Királyságnak az Európai Unióból való távozásával az EU jogalkotásában bekövetkező változások és azok vizsgálata egyre fontosabbá válik. Nagy-Britannia kilépésének a Tanácsban minősített többségi szavazással elfoga-dandó javaslatok esetében várható következményei azonban még átláthatatlanok. Egyrészt a tagállamok szavazati súlya növekedni fog a megváltozó népességarányok következtében. Ennek nagysága kizárólag a tagállamok népességének a függvénye, így a nagyobb lélekszámú tagországok súlya abszolút értelemben többet, a kisebbe-ké kevesebbet növekszik. Másrészt a tagállamok – attól függően, hogy a jogalkotási preferenciáik mennyiben hasonlítanak az Egyesült Királyságéhoz – az EK támogató voksai hiányában szavazati súlyt is veszíthetnek az általuk preferált oldalon. A jelen tanulmány arra világít rá, hogy minden tagállam átlagosan nagyobb súllyal tudta volna érvényesíteni az érdekeit, amennyiben a 2010 és 2019 közötti események az EK részvétele nélkül zajlottak volna le. Azonban ha azon eseteket vizsgáljuk, amikor egy tagállam nem támogat egy jogalkotási javaslatot – tartózkodik, vagy a minősí-tett többségi szavazások során ellene szavaz –, az eredményekből az derül ki, hogy jóval kisebb lett volna a kedvezőtlen vélemény pártfogóinak az aránya. Mindez azt sugallja, hogy az uniós jogalkotás kevesebb hátráltató tényezőbe ütközhet a jövő-ben, és ezzel párhuzamosan a blokkoló koalíciók kialakítása is nehezebbé válhat.*

INTRODUCTION

The departure of the United Kingdom from the European Union will bring about significant changes to the political landscape of the Union. Granted, the exact framework of future cooperation is still unknown, however, it is certain that the UK will no longer participate in the legislation of the EU. This study aims to formulate predictions for the future by quantifying the change of support for EU legislation from Member State specific perspectives, focusing on the Council of the European Union (hereinafter: Council).

In practice, this is done by setting up a policy preference profile (i.e. which proposals did a Member State support) for each Member State based on their representatives' past votes in the Council, then assigning a metric of prevalence to the said preference profiles. The difference of this metric calculated for a Union with and without the UK is revealing of the change of power backing Member State preference profiles.

METHODOLOGY

Member State specific policy preferences are mapped by their representatives' votes in the Council of the European Union. Outcomes of voting sessions of the Council between 2010 and 2019 are from the [Union's Open Data service](). While most of the actual voting happens in preparatory bodies, no comprehensive database of their outcomes exists. Thus this dataset is incapable to describe the bargaining process and the change of positions during the legislative process. It should be pointed out that cases of opposition, i.e. votes against, are when Member State representatives are willing to vote against a legislative proposal despite the required majority being secured. In these cases representatives voted against an act to express their unfavourable view, to „leave a mark". In line with this reasoning, the votes are interpreted as Member States' preferences with regards to the proposals in question.

The metric of prevalence mentioned in the introduction is constructed as follows. First, the share vote weights on a given Member State's side are calculated for each voting session. Second, an average of these weights is taken over the voting sessions.

Third, the first and second points are repeated without the United Kingdom, while accounting for the changing weights. The resulting quantities and the difference thereof highlight the expected change of power backing Member States' policy preference profiles. A positive difference indicates that on average, the outcomes preferred by the Member State in question would have had greater support without the UK, while a negative difference is telling of the contrary. A notable advantage

Attila Kovács and Levente Kocsis

of this method is that it allows for cross-country comparisons, i.e. "winners" and "losers" of Brexit might be thus identified.

The difference can be attributed to three key factors. First, Member States gain individual weight (hereafter referred to as internal gain), thus backing behind their preferences, due to the total EU population shrinking (their population shares rising). This leads to the second – though similar – factor: dependent on the similarity to other Member States' preferences, the states might gain/lose support for their preferred outcomes. (This is a consequence of the changing vote weights of their partners.) Thirdly, the states lose out on the backing of the UK. The degree of this loss is dependent on the overlap between the UK and the said Member States' preferences (the sum of the latter two are hereafter referred to as external gain).

This procedure raises several questions. Vote weights changed on quite a few occasions: once in 2013 upon the accession of Croatia, then in 2014 when arbitrary weights were done away with. Since then, vote weights correspond to Member States' share of population (relative to the total EU populations), thus change dynamically over time. Hence, to somewhat simplify the calculations, constant 2019 weights were used (see Table 1). In addition, Croatia joined the EU in 2013, so observations before that date are unavailable in the case of Croatia. This limitation could be dismantled easily by limiting the sample to 2013–2019, but in the Authors' opinion the costs of losing 3 years of data decisively outweigh the benefits of more consistency. Nevertheless, results relying on Croatian data should be treated with a fair bit of scepticism.

RESULTS AND DISCUSSION

We begin our discussion of the results by presenting current and expected vote weights. Table 1 contains vote weights based on Eurostat population estimates of 2019 with and without the inclusion of the United Kingdom, as well as the difference between the two.

Apparently, the Member States with higher population gain more weight. Germany, France, Italy, Spain and Poland are the „winners", while the smallest Member States' gain, such as Cyprus, Luxemburg or Malta is negligible. Speaking in relative terms, however, the weight gain is uniform. (It can be shown using basic arithmetics that new weights correspond to pre-Brexit weights multiplied by a factor of 1.149, i.e. $100/(100-\text{WEIGHT}_{UK})$)

Table 1

Population Ratios in the European Union (with and without the United Kingdom)

Country	% of population with the UK	% of population without the UK	Difference
Germany	16.17	18.58	2.41
France	13.05	15.00	1.95
Italy	11.75	13.51	1.75
Spain	9.14	10.50	1.36
Poland	7.40	8.50	1.10
Romania	3.78	4.34	0.56
the Netherlands	3.37	3.87	0.50
Belgium	2.23	2.57	0.33
Greece	2.09	2.40	0.31
Czech Republic	2.07	2.38	0.31
Portugal	2.00	2.30	0.30
Hungary	1.99	2.29	0.30
Sweden	1.90	2.19	0.28
Austria	1.73	1.98	0.26
Bulgaria	1.36	1.57	0.20
Denmark	1.13	1.30	0.17
Finland	1.07	1.23	0.16
Slovenia	1.06	1.22	0.16
Ireland	0.96	1.10	0.14
Croatia	0.79	0.91	0.12
Lithuania	0.54	0.63	0.08
Slovakia	0.41	0.47	0.06
Latvia	0.37	0.43	0.06
Estonia	0.26	0.30	0.04
Cyprus	0.17	0.20	0.03
Luxemburg	0.12	0.14	0.02
Malta	0.10	0.11	0.01
United Kingdom	12.98		

Source: the Authors' own calculations based on population estimates from Eurostat.

Table 2 contains the introduced prevalence indexes with and without the UK. It tells us that the average weight on Member States' sides would have been greater without Great Britain in the period 2010–2019. This is largely attributed to the UK's preferences (low support rate). The difference in pre-Brexit/post-Brexit indexes shows little variance, Member State prevalence indexes are generally high, reinforcing the consensual nature of EU legislation. Nevertheless, that increase is not uniform among Member States: the difference is the smallest in the case of Denmark and Ireland, followed by the Netherlands and Sweden. The greatest „winners" would be Croatia and Germany. Though in the former case, results should be treated with care as the sample size for Croatia is significantly lower than for other

Attila Kovács and Levente Kocsis

countries. It should be noted that in the case of Denmark and Ireland, this is largely due to opt-outs or not participating in enhanced cooperations. This suggests these Member States might face greater pressure to terminate their opt-outs, possibly by the European Parliament.

Table 2
Expected Change of Average Weight (%) on Each Member State's Side:
Pre-Brexit, Post-Brexit and Difference

Country	Prevalence with the UK	Prevalence without the UK	Difference
Croatia	87.64	90.15	2.51
Germany	91.44	93.76	2.32
Spain	93.44	95.68	2.24
France	94.45	96.67	2.23
Luxemburg	93.45	95.65	2.20
Portugal	93.34	95.54	2.20
Bulgaria	92.92	95.11	2.20
Italy	93.78	95.97	2.19
Romania	93.77	95.96	2.19
Estonia	93.47	95.65	2.19
Cyprus	94.13	96.31	2.18
Poland	91.43	93.61	2.17
Belgium	92.85	94.99	2.14
Slovakia	93.54	95.69	2.14
Slovenia	93.16	95.30	2.14
Lithuania	94.14	96.28	2.14
Latvia	93.64	95.78	2.14
Finland	93.84	95.97	2.14
Greece	93.91	96.04	2.13
Malta	93.18	95.30	2.13
Austria	90.60	92.70	2.10
Czech Republic	92.01	94.09	2.08
Hungary	91.25	93.31	2.06
Sweden	92.73	94.56	1.83
the Netherlands	91.23	93.03	1.80
Ireland	89.28	90.15	0.87
Denmark	85.83	86.40	0.57
United Kingdom	80.59		

Source: the Authors' own calculations based on data from Eurostat and the EU's Open Data service.

Dissecting the difference between internal and external factors reveals valuable insight.

Figure 1
The Effect of Internal and External Factors
of the Change of Prevalence Indexes and the Median Change
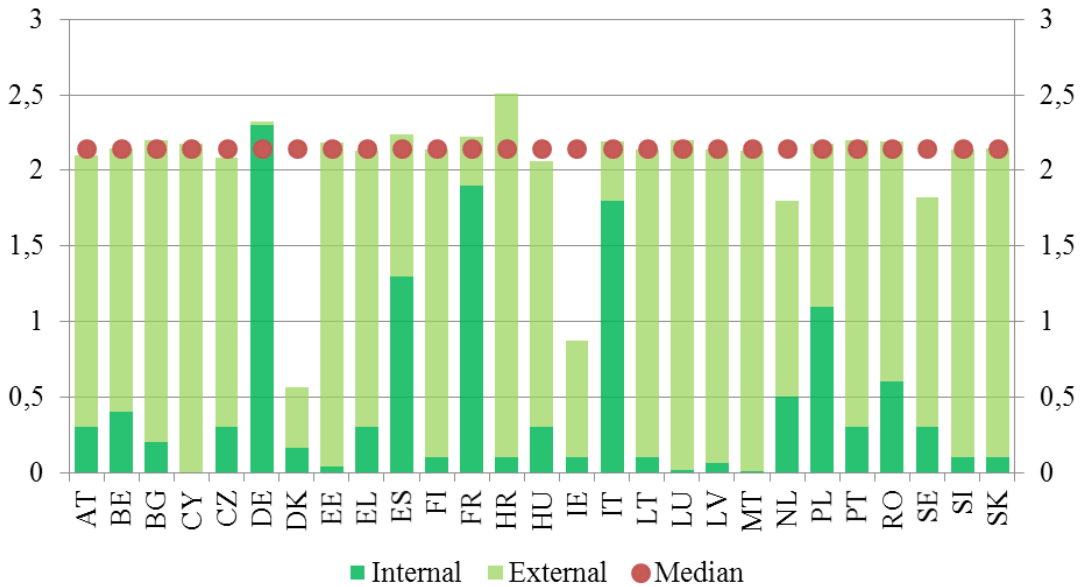
Source: the Authors' own calculations based on data from Eurostat and the EU's Open Data service.

Figure 1 indicates that in the net difference individual weight gains (internal factors) are dominant in big countries (notably Germany, France and Italy), while external factors explain the difference for less populous states, suggesting small countries are more incentivised to cooperate. (It is a direct consequence of the weight system. Member States with great share of the total population have less support (expressed in weights) to gain from their partners.)

Figure 2
Rate of Favour vs. Overall Gain
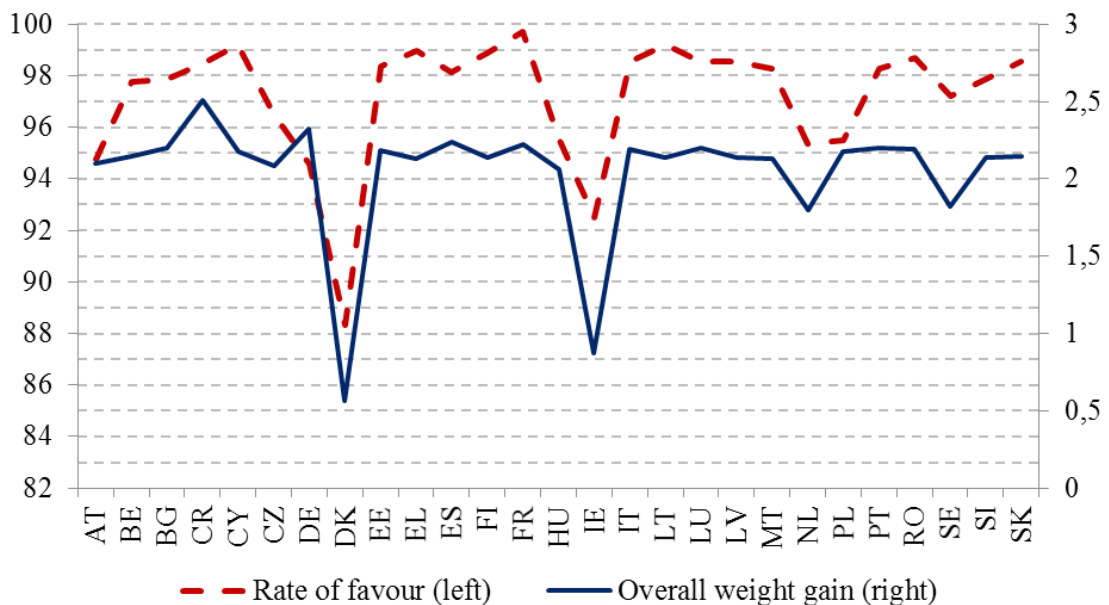
Source: the Authors' own calculations based on data from Eurostat and the EU's Open Data service.

Attila Kovács and Levente Kocsis

What is common in countries gaining the least weight is their high non-support rate. Figure 2 plots the average weight gain versus the countries' respective rate of favouring votes. (The overall distribution of votes across Member States is shown in Figure 4.)

While inspecting the graph, it is easily noticed that the two series exhibit a seemingly large degree of association. Indeed, measured by Pearson's correlation coefficient, the degree of association is 0.82. This indicates countries with lower favour rates tend to "benefit" less from the departure of the UK. It could be argued that Member States that tend to oppose EU legislation often would lose a significant partner in their efforts.

To expand upon the above, the change of prevalence is calculated in cases the Member States opposed certain legislative acts. Results are presented in Table 3.

Table 3
Prevalence Indexes of Member States While Opposing Legislation,
with and ithout the United Kingdom (only QMVs are accounted for)

Country	Average weight with the UK	Average weight without the UK	Difference
France	15.93	18.23	2.30
Romania	13.06	15.05	1.99
Estonia	13.00	14.86	1.86
Spain	16.79	18.38	1.58
Germany	20.27	21.52	1.25
Poland	13.30	14.16	0.86
Bulgaria	10.04	10.74	0.69
Cyprus	17.50	17.96	0.46
Slovakia	15.12	14.96	-0.16
Hungary	11.83	11.38	-0.45
Portugal	13.93	13.41	-0.52
Malta	8.21	7.69	-0.52
Luxemburg	10.24	9.66	-0.58
Italy	19.88	19.19	-0.68
Latvia	12.70	11.86	-0.84
Austria	12.57	11.60	-0.97
Lithuania	12.74	11.74	-1.00
Czech Republic	12.02	10.63	-1.39
Ireland	15.48	14.07	-1.41
Belgium	10.88	9.09	-1.80
Greek	11.05	9.01	-2.04
Slovenia	12.56	10.20	-2.36
Finland	12.99	10.47	-2.52
Croatia	12.06	8.98	-3.08
Denmark	13.37	9.76	-3.61
the Netherlands	14.80	9.70	-5.10
Sweden	15.86	8.88	-6.98
United Kingdom	15.60		

Source: the Authors' own calculations based on data from Eurostat and the EU's Open Data service.

Sweden and the Netherlands would have lost the most weight behind them without the UK, followed by Denmark. It is important to note that most Member States lose weight without the UK, thus we might conclude it will be harder to hinder legislation in the future. Also, the results indicate France, Romania, Estonia, Spain and Germany would gain the most while opposing, suggesting these countries were often opposing different acts than the UK.

Figure 3
The Effect of Internal and External Factors of the Change of Prevalence Indexes and the Median Change (only cases of opposition are taken)
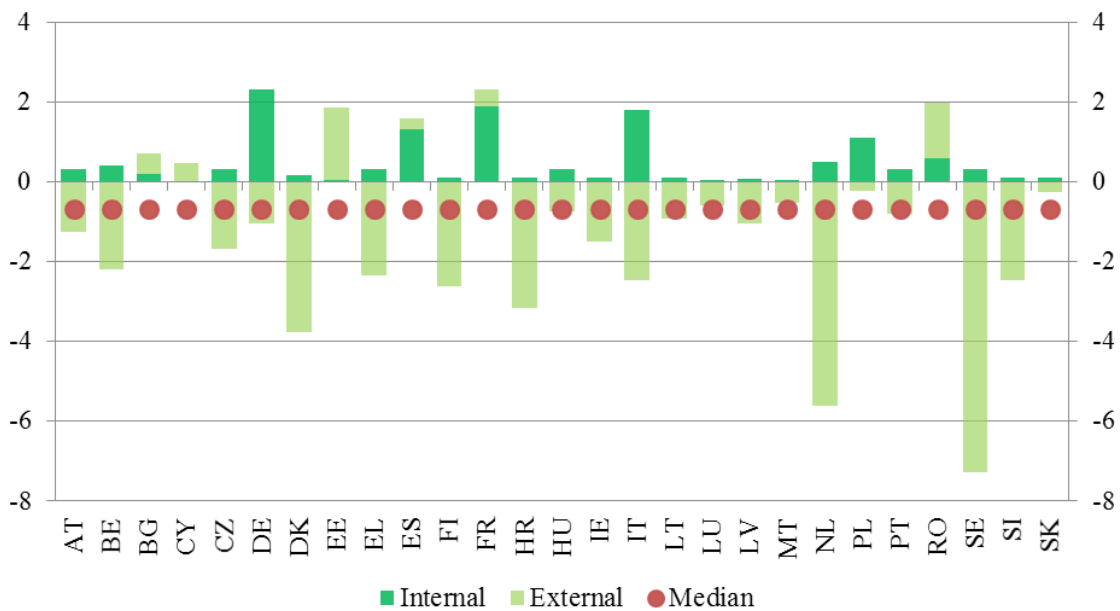
Source: Authors' own calculations based on data from Eurostat and the EU's Open Data service.

Dissecting the overall change into internal and external factors (see Figure 3) indicates that generally the smaller countries suffer greater loss due to external factors. From this observation, Italy seems to be the sole exception. This suggests that the less populous Member States were more likely to attempt preventing certain legislative acts in cooperation with the UK. Change due to external factors is generally negative, implying Britain was a partner in opposition for many Member States, but weighed more for smaller ones. States with an overall high rate of favour or with different preferences from that of the UK are the exceptions.

Attila Kovács and Levente Kocsis

CONCLUSION

The changes in the Council related elements of EU legislation brought about by the withdrawal of the United Kingdom are ambiguous. On the one hand, Member States gain vote weight during QMV votes due to changing population ratios. On the other hand, Member States might lose out on the backing votes of Britain.

Our results show that – based on their past policy preferences – every Member State would have had greater support for their preferred outcomes without the UK. The prevalence of Member State policy preferences is generally high, reinforcing the consensual nature of the EU level legislative process. Nevertheless, the changes from Member State perspectives are not uniform. Overall Ireland and Denmark, the Netherlands and Sweden are the Member States that benefit the least from the UK's withdrawal. In case of the former two, this is largely due to their opt-outs or reluctance to participate in enhanced co-operations. In the case of the Netherlands and Sweden, their relatively high share of mutual opposition with the UK is the root cause.

Additionally, the results suggest the increase of overall weight supporting the Member States' preferred outcome increases mostly due to different reasons for more and less populous countries. In the former case, the increase can be attributed to the individual weight gain of those countries, while in the latter the weight gain of their partners contributes more to this effect. This indicates that the smaller countries are more incentivised to cooperate. Moreover, it is shown that Member States with lower support for EU legislation might gain less from the UK's withdrawal.

In the case of oppositions to legislative proposals, most Member State's preferences would have been less prominent, i.e. their preferred outcomes would have secured fewer shares of the total votes on average. This suggests that forming blocking coalitions might be more difficult in the future. The results also reveal Britain was of more value to smaller countries in their efforts to prevent legislative proposals from being law.

The primary insight provided by this study is best summarised as follows. The support for EU legislation is generally very high across the board. In the times after Brexit, enacting legislative proposals might be subject to fewer hindrances, since the UK was overall the least supportive member of the Union. However, when it comes to preventing legislative proposals – based on past Member State preferences – the task at hand might become significantly more difficult.

Figure 4
Vote Distribution of EU Member States
(decreasing by % of votes in favour, 2010−2019)
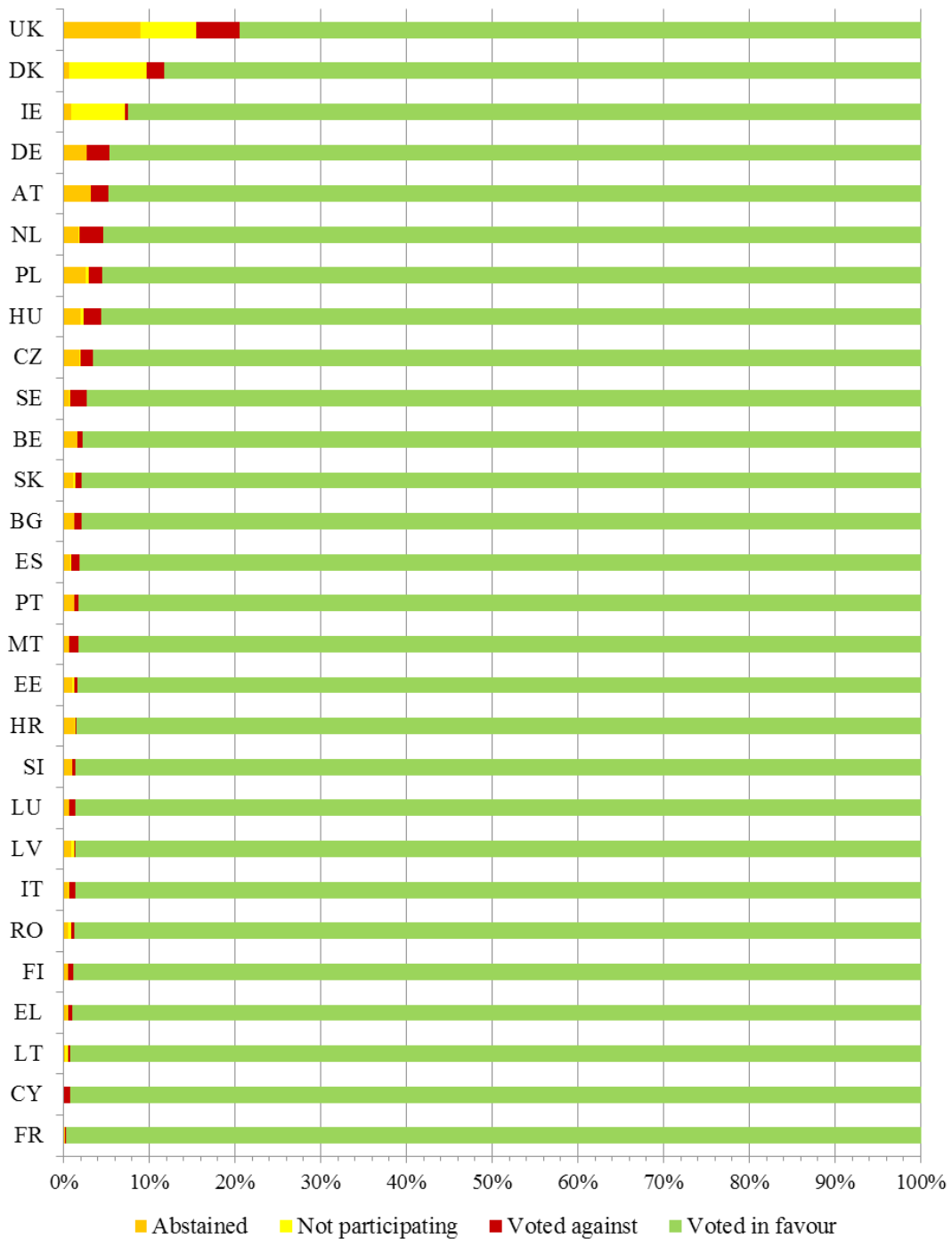
Source: the Authors' own calculations based on data from the EU's Open Data service.

Attila Kovács and Levente Kocsis