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Editors

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Editorial

Resilient Institutions: The Impact of Rule Change on Policy Outputs in European Union Decision-Making Processes

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Abstract
The evolution of the inter-institutional balance of powers has been a constant feature of the European integration process. Therefore, this thematic issue reopens these theoretical and empirical discussions by looking at an underexploited angle of research, namely the impact of rule change on policy outputs. We offer a discussion on how to theorise rule change, actors' behaviour, and their impact on policy outputs. We also examine the links between theory and methods, noting the strengths and weaknesses of different methods for the study of institutional and policy change. We draw on the contributions of this thematic issue to delineate further paths to push forward the current frontiers in EU decision-making research.

Keywords
decision-making; EU institutions; European Union; policy analysis; policy change; rule change

Issue
This editorial is part of the issue "Resilient Institutions: The Impact of Rule Change on Policy Outputs in European Union Decision-Making Processes" edited by Ariadna Ripoll Servent (University of Salzburg, Austria) and Angela Tacea (Vrije Universiteit Brussel, Belgium).

1. Introduction

The evolution of the inter-institutional balance of powers has been a constant feature of the European integration process. The debate on 'who wins, who loses' is now at a crossroads: On the one hand, the EU supranational institutions (the Commission, the European Parliament [EP], and the European Court of Justice) have been reinforced in successive constitutional treaties (Dehousse, 2011); on the other hand, the successive crises, which have affected policy areas close to the sovereignty of member states, have reinforced the role of executives and favoured non-legislative forms of decision-making (Puetter, 2014).

Therefore, this thematic issue reopens the theoretical and empirical discussions about inter-institutional power dynamics in EU decision-making by looking at an underexploited angle of research, namely the impact of rule change on policy outputs. While numerous studies have assessed the consequences of rule change for the inter-institutional balance of power (e.g., Farrell & Héritier, 2003; Kreppel, 2018), the question of how rule change affects policy outputs has barely been touched upon. Existing research has focused on a limited pool of policy areas and concentrated on the role of the EP (Bressanelli & Chelotti, 2018; Burns et al., 2013; Ripoll Servent, 2015) and the rising powers of the European Council (Bickerton et al., 2015).

This extensive literature points to inconclusive and often contradictory conclusions on the effects that rule change has on the power of EU institutional actors and policy outputs. Therefore, this introduction reflects on how we theorise rule change, actors' behaviour, and their impact on policy outputs. We also discuss the links between theory and methods, noting the strengths and weaknesses of different methods for the study of institutional and policy change. We draw on the contributions of this thematic issue to delineate further paths

to push forward the current frontiers in EU decision-making research.

2. Understanding Rule and Policy Change in EU Decision-Making

We consider that rule change cannot have an independent impact on policy outputs; its influence is mediated by the interpretations and use that actors make of these new rules (Figure 1). In addition, we are interested in understanding both positive and negative instances of policy change.

We consider three main sources of rule change. First, formal changes equate to treaty reforms and inter-institutional agreements. The introduction of co-decision in the Treaty of Maastricht and its subsequent modification and expansion in Amsterdam and Lisbon is a central instance of formal rule change. However, 'interstitial' processes emerging from informal practices in-between treaty changes (Farrell & Héritier, 2007) have often had more pervasive effects than formal changes. A good example is the increase in early agreements and the use of trilogues in co-decision (Brandsma et al., 2021). Informal changes have also been the product of crises that have empowered executive organs such as the European Council, the Commission, the European Central Bank, and EU agencies.

Rule change may have different types of effects: First, it might introduce new actors into the field, as we have seen with the gradual empowerment of the EP as a co-legislator. Second, it might modify formal competences: The last treaty reforms saw a crucial shift from regulatory competences to EU involvement in core state powers, such as economic and monetary policies as well as justice and home affairs (Genschel & Jachtenfuchs, 2016). Finally, rule change can also act as a window of opportunity, notably when coupled with crises and uncertainty.

On the other hand, the study of policy change is often unsystematic, making it difficult to compare findings. We invite researchers to ask themselves: First, what is the status quo? Is it previous EU legislation? What was the status quo before any EU legislation was in place? What is the actual implementation on the ground once EU legislation has been adopted? Second, to what extent has the content of the policies changed (quantity)? Third, how deep does this change go (quality)?

Finally, we need to assess whether these (non-)changes can actually be attributed to the (strategic) use of rule change by specific actors since not all policy changes will have their source in the rule change. Indeed, rule change is a necessary but not sufficient condition for policy change; therefore, in order to explain outcomes, we need to pay particular attention to the mechanisms of policy change. Policy entrepreneurs might mobilise different types of mechanisms based on actor-centred strategies (e.g., purposefully including or excluding certain actors), ideas (framing solutions, linking issues), and processes (shifting venues, using norms to legitimise certain decisions).

3. Studying Rule and Policy Change in EU Decision-Making

Explaining the linkage between rule and policy change requires a broad methodological toolbox. In the past, the effects of changes in formal and informal rules have been dominated by formal modelling and quantitative methods which have provided general explanations about decision-making but often failed to account for the mechanisms leading to policy change. On the other hand, qualitative studies have remained compartmentalised and often failed to describe the general picture across policy fields.

The study of rule and policy change in EU decision-making has been dominated by game-theoretical and spatial models. These models consider that, taken together, actors' preferences, the location of the status quo, and the EU procedures determine policies (Crombez & Vangerven, 2014, p. 290). Formal models contributed greatly to the understanding of the different EU legislative procedures, the power of the EU institutions, and the degree of gridlock. However, they often failed to take the increased informalisation of EU legislative procedures into account and have tended to treat EU institutions as homogenous actors (Thomson et al., 2006).

Some of these caveats have been addressed by bargaining models which use expert interviews, voting behaviour, or EP election manifestos to locate actors' positions on specific policy issues (e.g., Hix et al., 2007; Thomson et al., 2006). However, one of the main difficulties in using quantitative methods to study rule and policy change comes from the availability and quality of data. Indeed, formal powers, partisan ideologies, and parliamentary amendments provide only an approximation of influence and policy positions, as they do not capture, for example, informal negotiations, and they often measure only the revealed/strategic preferences of actors.

These details can be captured with qualitative methods which focus on the role of actors and the

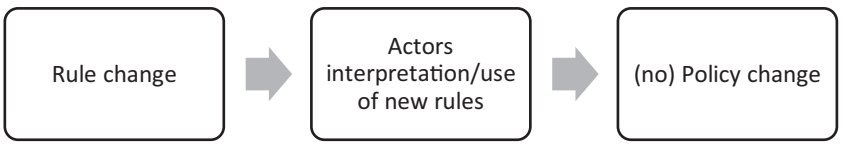

Figure 1. How rule change affects policy change.

understanding of their functions and power. A sizeable body of work has analysed the impact of rule and institutional change on the substance of European policies, such as agriculture (Greer, 2005), macroeconomic policies (Hodson, 2011), environment (Burns & Carter, 2010), justice and home affairs (Tacea, 2018; Trauner & Ripoll Servent, 2015), and social policies (Falkner et al., 2005). These studies offer in-depth analyses of the conditions and mechanisms in different policy areas. However, most of them are case studies examining very salient EU proposals and focusing on new areas of EU activity, which limits their generalisability beyond their policy field.

4. Contributions of This Thematic Issue

The contributions of this thematic issue offer significant insights on the effects of rules change on policy change by combining quantitative and qualitative perspectives. Most contributions depart from Lisbon as the most significant turning point for the EU's architecture in the last decades. The expansion of co-decision and consent have made a significant difference, both in formal and informal terms (Gravey & Buzogány, 2021; Laloux & Panning, 2021; Peffenköver & Adriaensen, 2021; Piquet, 2021; Tacea, 2021). Zeilinger (2021) underlines how, despite its limited role in labour market and social policies, the Commission acts as a policy entrepreneur in these areas through Country-Specific-Recommendations. However, we also see that crises have served as crucial windows of opportunity, especially for the Commission, which has often used them to redefine its powers in areas where it did not have strong competences (Vaagland, 2021; Zeilinger, 2021).

When it comes to the mechanisms of change, we see how rule changes have indeed led to new forms of competition that force us to assess winners and losers beyond the traditional institutional triangle. Several contributions show that the Commission is now more dependent on the EP, which has led to new forms of early consultation and cooperation in formal procedures (Gravey & Buzogány, 2021; Peffenköver & Adriaensen, 2021). However, this dependency has also pushed the Commission to strategically increase the use of non-legislative procedures in order to circumvent the legislative powers of the EP (Tacea, 2021; Vaagland, 2021). Indeed, in a context of higher politicisation and conflict, Commission actors have been particularly effective in re-framing proposals or linking them to other issues to expand their chances of success (or block alternative understandings). Laloux and Panning (2021) show the importance of anticipating conflicts to explain the success of individual Commissioners, which often involves re-framing and issue-linkage to mobilise epistemic communities around an idea (Vaagland, 2021; Zeilinger, 2021). Finally, we see how politicisation has become crucial to explain the role of actors in proactively using the decision-making process to bias or block policy change. This is particularly visible in a highly fragmented European Parliament, which makes it easier for particularistic interests and those happy with the status quo to win (Gravey & Buzogány, 2021; Vinciguerra, 2021). Piquet (2021) and Peffenköver and Adriaensen (2021) also show the crucial role that inter-actor communication plays in understanding how gridlock and unwanted policy change can be prevented.

By using quantitative, qualitative, and text-mining techniques, this thematic issue bridges the gap between empirical case studies and large-N analyses. Indeed, various contributions show the advantages of using process-tracing and structured (theory-led) comparisons to uncover the mechanisms linking rule and policy change (Peffenköver & Adriaensen, 2021; Vaagland, 2021; Vinciguerra, 2021; Zeilinger, 2021). Piquet (2021), Gravey and Buzogány (2021), and Vinciguerra (2021) demonstrate the importance of mixed methods to explore mechanisms and explain patterns of rule and policy change. Finally, Laloux and Panning (2021) and Tacea (2021) use text mining to capture how much change an actor introduces during the legislative process and explain their success/failure. Therefore, the thematic issue demonstrates the need to strengthen the dialogue between institutionalists and policy analysts but also between formal modellers, quantitative, and qualitative researchers in order to gain a better understanding of the patterns and mechanisms of change and stability in EU decision-making.

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Conflict of Interests

The authors declare no conflict of interests.

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Article

A New Research Agenda: How European Institutions Influence Law-Making in Justice and Home Affairs

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Abstract
The article presents a dataset on the legislative procedure in European Justice and Home Affairs (JHA) and a new method of data processing. The dataset contains information on 529 procedures proposed between January 1998 and December 2017. For each of the legislative proposals, the dataset identifies the main elements of the legislative procedure (e.g., dates, types of procedure, directory codes and subcodes, actors, voting results, amendments, legal basis, etc.) and the changes introduced at each step of the legislative process from the text proposed by the European Commission to the final version published in the *Official Journal of the European Union*. This information has been gathered using text mining techniques. The dataset is relevant for a broad range of research questions regarding the EU decision-making process in JHA related to the balance of powers between European institutional actors and their capacity to influence the legislative outputs.

Keywords
dataset; justice and home affairs; legislative procedure; text mining

Issue
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1. Introduction

How do EU institutional actors participate in and exercise influence on the law-making process? How did formal rule changes introduced by the successive EU treaties modify the capacity of institutional actors to determine legislative outputs? The academic literature answered these questions using mainly two methodological approaches. On the one hand, inspired by rational choice institutionalism, most studies used spatial models to understand how actors' preferences are transformed into decision outcomes. On the other hand, constructivist approaches to the EU decision-making process focused on single or comparative case studies. However, both methodological approaches bear important limitations for the understanding of the actual distribution of power in the EU decision-making process. This article presents a new research agenda to study the balance of power between EU institutional actors in the context of law-making procedures, by presenting a dataset on the legislative procedure in Justice and Home Affairs (JHA) and introducing a new text-mining method.

JHA has been often regarded as a specific EU policy field in the EU decision-making process due to its intergovernmental origins and to the longstanding disputes between Member States on institutional matters, which kept this policy field out of the traditional 'regulatory' mode of EU policymaking for a long time. However, starting with the Amsterdam Treaty, successive reforms of EU formal rules normalised the decision-making process in this field. Because of the evolution of the basic legal framework, but also because of the actors' conflicting perceptions in terms of substantive law, the area of JHA offers an ideal test case for assessing the role of institutional actors and their influence on the legislative outputs. The role of the European Parliament (EP) in JHA issues has increased significantly over time. When the third intergovernmental pillar was introduced by the

Maastricht Treaty, the Council of the European Union (hereafter referred simply as the Council) enjoyed a quasi-monopoly on decision-making and the EP had only a consultative role through its right to issue non-binding opinions. The EP was excluded from exerting any sort of influence on the legislative output (Crombez, 1996; Ripoll Servent, 2018a; Steunenberg, 1994). With the progressive communitarisation of JHA issues and the generalisation of the ordinary legislative procedure between 2005 and 2009, the role of the EP increased to the point that it now enjoys equal legislative rights with the Council. Consultation of the EP still applies for the adoption of measures on administrative cooperation in the fields of policing and criminal law and unanimity has been retained for issues relating to passports, family law, the European public prosecutor (with the EP having a power of consent) and operational police cooperation. Despite those specificities, the generalisation of the ordinary legislative procedure could reasonably be interpreted as the EP exerting an influence equal to that of the Council on the legislative outputs.

However, the academic literature offers contrasting findings when it comes to assessing the impact of rule change on the capacity of institutions to determine the legislative outputs. On the one hand, spatial models suffer from a misinterpretation and misrepresentation of the EU legislative procedures (Crombez & Vangerven, 2014). Due to the equivocal nature of formal rules, the relative power of the Council, the European Commission and the EP has been an element of intense debate, even among scholars adopting very similar theoretical and methodological approaches (Thomson & Hosli, 2006). For example, while most formal studies argued that the power of the EP increased with the generalisation of the co-decision procedure (Mcelroy, 2006; Steunenberg, 2000; Thomson, 2011), some scholars claimed that the legislature has been weakened by this constitutional change because the EP has lost its ability to act as a conditional agenda setter (Tsebelis & Garrett, 2000). In addition, formal models are based on a close reading of the EU treaties to precisely specify the hypothesised policy process or form of the game. They view institutional environments as static and institutional preferences as stable. Or research has shown that institutional arrangements are inherently dynamic, and actors might not behave according to the formal rules (Kleine, 2013). They engage in informal practices to avoid deadlock situations (Farrell & Héritier, 2003). On the other hand, case studies on the JHA proposals suggest that the formal empowerment of the EP did not materialise in practice, because formal rule changes did not result in substantive policy change (Trauner & Ripoll Servent, 2015). After the generalisation of the co-decision procedure, the EP, which has been known for its extreme positions, tended to be more moderate and to favour positions at the centre of the political spectrum (Ripoll Servent, 2018). Contrary to what has been suggested by Tsebelis and Garrett (2000), the influence of the EP on legislative outputs is limited and the Council still dominates the legislative procedure and policy positions made jointly by member states generally matter more than the policy positions of the EP (Laloux & Delreux, 2018; Thomson, 2011).

To overcome these different and sometimes contradictory findings, there is a need to connect case studies focusing only on a few salient JHA proposals to the wider literature on the role and influence of EU institutional actors in each type of legislative procedure, overcoming the fragmentation and overspecialisation of studies of the EU individual policy areas. The dataset presented in this article contains information on the degree of change JHA proposals undergo during the legislative procedure. It is innovative as it examines the role of the main institutional actors in determining the legislative output, while capturing the specificities of a particular EU policy field. First, the dataset maps the whole law-making process in JHA and the actors involved. Second, it identifies the changes JHA proposals undergo at each step of the legislative process from the text proposed by the European Commission to the final version published in the *Official Journal of the European Union*. Since the dataset includes information on the legislative process in JHA from 1998 to 2017, it can be placed in the broader context of the impact of formal rule change on substantive democratic governance in the EU. Indeed, the time frame starts with the Treaty of Amsterdam, which marked an important steppingstone for the EP by shifting some of the third pillar measures (immigration, asylum, border controls, visa and civil law cooperation, with the exception of family law) to the first pillar and subjecting them to co-decision; the time span ends in 2017, seven years after the entry into force of the Lisbon Treaty, which confirmed the EP as a full co-legislator in JHA. Subsequently, the article introduces an innovative method to study the EU legislative procedure. Though this study is not the first to apply text mining techniques to the EU decision-making process (see, among others, Casas et al., 2020; Cross & Hermansson, 2017; Gava et al., 2020), its contribution to this developing literature is two-fold. First, it is the first study to apply this method to all actors involved in the law-making process and at all stages of it. Second, unlike other studies, it follows the open data movement and data is made publicly available. Such a method combines flexibility with accuracy and replicability and offers a more fine-grained measure of legislative change than the number of amendments or the number of words changed. The next section describes the dataset. The article then presents a new research agenda on the balance of power in JHA by discussing several research questions that can be answered using the dataset and illustrate them with some examples. The final section addresses the limitations of the dataset.

2. The Dataset

This section offers a description of the dataset developed in the framework of the AFSJ-Pol-Lex-Track research

project and of the methodology used to assemble it. The dataset contains two types of information: (1) quantitative information related to each legislative procedure and (2) qualitative text data about each step of the legislative procedure.

The first component of the dataset contains general information about the legal act (legal basis, title of the legislative act, inter-institutional code, CELEX number, type of procedure, type of act, directory codes and subcodes, total duration of the procedure in number of days, etc.), as well as information about the procedure in each institution (EP votes, names and party affiliation of the rapporteurs and of the rapporteurs for opinion, EP position at 1st reading, 2nd reading, 3rd reading, dates of the Council's political agreement, Council position at 1st reading, 2nd reading, 3rd reading, number of points A and B on the agenda of the Council, position of the European Commission on EP amendments at each reading, etc.). The main source to extract the data is the European Commission's website (EUR-Lex), which contains all documents printed in the *Official Journal of the European Union*. Though EUR-Lex provides the stages of the legislative procedure, an accurate picture can be obtained only by corroborating all the available sources. Thus, data extracted from EUR-Lex is complemented by data extracted from the EP Legislative Observatory (OEIL) and the Council's Document Register, using the inter-institutional code (e.g., 2016/0412/COD) as the common reference number for all European institutions. Between 1998 and 2017, EU institutions adopted 746 legal acts and 101 international agreements in JHA. From those 847 normative acts, I removed all non-binding legal acts (resolutions, opinions) and other instruments (EU institutions' internal regulations, EU action programmes, etc.) and codification procedures, which are processes of bringing together a legal act (or several related acts) and all its amendments into a single new act. I was thus left with N = 536 procedures. Table 1 in the Supplementary File 1 offers an overview of the information the dataset provides about the legislative procedure in JHA (the dataset and the detailed codebook are available on a GitLab repository: https://gitlab.com/shoricitza/afsj-pol-lex-track-quantitative-dataset). Table 1 offers some descriptive statistics about the first component of the dataset.

The second component of the dataset contains text data about each step of the legislative procedure. Text data (PDF/HTML/XML) is also extracted from EUR-Lex, OEIL, and the Council's Document Register. PDF/HTML/XML files extracted were converted to plain text and pre-processed to make them comparable. The text is structured following the standard legislative structure (see Supplementary File 2). Several documents, mostly those related to the informal trilogue negotiations, are not publicly available. Individual requests for documents have been submitted to the EP and the Council. To understand which stages and text of the legislative procedures to include in the analysis, I conducted six exploratory interviews with senior officials from the EP directorate for legislative acts, the EP unit for reception and referral of official documents, the Council's legal service—quality of legislation—legislative acts/planning, the legal data processing group of the Council, the Council's information services and the Directorate-General (DG) for European Parliamentary Research Services. Following these interviews, I included in the dataset four main types of legislative steps: the European Commission (amended) proposal, the EP committee and plenary reports, the Council's negotiation mandate and/or common position, and the final act signed by the Presidents of the EP and of the Council. Legal linguists sometimes make substantial changes to

Table 1. Descriptive statistics for the legislative procedure in JHA.

	Status of the procedure			Number of readings			Average procedure duration (days)	Number of points A/B on the agenda of the Council	
Type of procedure	Adopted	Withdrawn	Pending	1	2	3		A	B
Assent (APP)	4	1					853,75	2	0
Assent (AVC)	3						211,33	3	0
Consultation	199	23	1				439,26	202	181
Co-decision	55	6		42	18	1	773,29	63	69
Non legislative procedure	74		20				474,64	16	2
Ordinary legislative procedure	85	3	22	99	11		687,03	22	56
Special legislative procedure	5	2					382,8	1	4

the act signed by the Presidents of the EP and the Council, which biases the analysis of the modifications institutional actors introduce to the legislative proposal and the political negotiations between the three institutional actors involved in the legislative process. For this reason, the final act published in the Official Journal has been excluded from the analysis. For those procedures where trilogues took place, I included an additional step represented by the four-column documents of the trilogues and the COREPER letter confirming agreement.

3. Measuring the Degree of Change the JHA Proposals Undergo during the Legislative Procedure Using Text Mining

Past studies have relied on different types of data and various methodologies to assess the balance of power between EU institutional actors. Datasets have been established using the evaluation of experienced practitioners of EU policies in these institutions (Neuhold & Dobbels, 2015; Thomson, 2011, 2015) or the quantification of the EP amendments (Kreppel, 2002; Tsebelis et al., 2001). Different methodological approaches have also been used to analyse these data, ranging from formal modelling (Costello & Thomson, 2013; Selck, 2006) to inferential statistics (König, 2008; Kreppel, 2002). While these studies shed light on the distribution of power among the EU institutions, they all bear important empirical limitations: (1) practitioners may not have the same understanding of power as academics, (2) parliamentary amendments do not reflect the informal negotiations among actors and do not distinguish between formal and substantive changes, and (3) formal models and trilogue studies do not capture all the stages of the legislation-making process. In addition, they tend to focus only on one institution, with most of the studies analysing the EP (Kreppel, 2002) or the Council (Thomson, 2011, 2015), or only on certain stages of the legislative procedure, either the formal or the informal negotiations (for some exceptions see Laloux & Delreux, 2020; Thomson, 2015).

To overcome the empirical limitation of past studies, I use a new machine-learning based approach to analyse texts. Text mining techniques have the advantage of capturing both quantitative information, such as the length of laws in words or the number of amendments/modifications. But also, the substantive content of legislation can be analysed, which would otherwise require extensive human input that is not viable for large quantities of legislative text. At the same time, compared to other methodologies, text mining techniques can be easily replicated and applied in a variety of contexts. Recent studies have used text analysis methods to evaluate the impact of formal institutional settings on amendment capabilities. For example, Cross and Hermansson (2017) use minimum edit distances to show that there are significantly more successful amendments to a European Commission proposal under co-decision compared to the consultation procedure. Gava et al. (2020) use a dissimilarity index to assess the capacity of the Swiss parliament to amend bills. Peterson employs vector word embeddings to analyse Congressional modification of legislation (Peterson, 2017). Laloux and Delreux (2020) compute the percentage of words that appear at each phase of the legislative process to trace the origin of EU legislation.

In line with these studies, I rely on text reuse methods to assess the degree of change the JHA proposals undergo at each legislative step and the extent to which the changes proposed by actors are included in the final adopted text. The approach of text reuse methods is based on the idea that similarity between texts can be assessed by looking at how much text is common to two versions of the proposal. Accordingly, I compared the full texts adopted at the different stages of the legislative proposal with the final adopted version. The comparisons are done in pairs, two at a time. More precisely, I compare the proposal of the European Commission with the final adopted text; I then compare the report of the EP with the final adopted text etc. I use the FuzzyWuzzy Package in Python to assess the extent to which institutional actors modify the text. I calculate a similarity index between an actor's position at different times in the legislative process and the final legislative output. A detailed presentation of the FuzzyWuzzy Package is provided in the Supplementary File 1. The similarity index varies between 0 percent and 100 percent, where 0 means that the text adopted by a specific actor is totally different from the final adopted text, and 100 indicates that the text is exactly the same as the final adopted text. The index can be interpreted as the rate of change between an actor's position and the final legislative output and is calculated for each component of the legislative proposal (preambles, articles, annexes).

To visualise the evolution of JHA legislative procedures, I developed a web application (https://shoricitza.gitlab.io/afsjlexpol). For each legislative procedure, the web application provides a visualisation of the text adopted at each stage of the legislative procedure (e.g., the text proposed by the European Commission, the positions of the EP at each reading, trilogues four column documents, the positions adopted by the Council at each reading, etc.) and the similarity index between the text adopted at each step of the legislative procedure and the final adopted one. All the similarity indexes can be freely downloaded in .csv format from the web application for each legislative proposal.

4. Research Questions That Can Be Answered Using the Dataset

In this section, I discuss some of the research questions to which the dataset is relevant, by providing some examples, and identify some questions that could be further developed. The dataset can be used to address the discrepancy between formal and substantive democratic governance by examining the link between actors' formal

power and their influence on legislative outputs. It does so by offering a broad understanding of the legislative procedure, without losing the specificities of the JHA policy area.

4.1. Do Actors Make Use of Their Formal Prerogatives or Not?

At the aggregate level, similar to both formal models and JHA case studies literature, the dataset suggests a limited role of the EP in the consultation procedure. On the one hand, between 1998 and 2017, the EP rejected 15 percent of the proposals initiated under consultation—most of them being member states' initiatives. The Council completely ignored the opinion of the Parliament and adopted the texts. Nonetheless, contrary to the conclusions of the literature on JHA, the EP position in consultation is not radically different to that of the Council. As shown in Table 2, the average similarity index between the final adopted text and the text adopted by the EP is 88.5 percent.

A few exceptions should be mentioned, such as the Council Directive relating to the conditions in which third-country nationals shall have the freedom to travel in the territory of the member states for periods not exceeding three months (2001/0155/CNS) or the Blue Card directive. However, these examples tend rather to be exceptions. The dataset offers the possibility to go beyond a general overview of the legislative proposal and understand the influence of actors, article by article, thus offering a more nuanced picture of actors' behaviour. The legislative proposal on giving temporary protection in the event of a mass influx of displaced persons offers an interesting example. On a general level, the positions of the three actors are rather similar with a similarity index of 86.63 percent between the proposal of the European Commission and the final text adopted by the Council and of 85.82 percent between the text adopted by Parliament and the final text adopted by the Council. However, at the individual level of the articles, the picture is more nuanced. On the one hand, the EP introduced several substantive amendments that were completely ignored by the Council. For example, it introduced a new paragraph in article 8 granting persons enjoying temporary protection access to their territory and amended article 13 to better protect the right to family reunification, neither of which was included in the final text. As can be seen, the similarity index between the position of the EP, both at the committee and at the plenary level, and the final text adopted by the Council, is only 53 percent, showing a limited influence of the EP on the final text:

Article 13: Similarity index and article size

sim_ Commission's proposal: 86%

article_size_ Commission's proposal: 2833

sim_ EP committee report: 53%

article_size_ EP committee report: 1030

sim_ EP position at 1st reading: 53%

article_size_ EPs position at 1st reading: 1032

article_size_ Adoption by Council: 1045

On the other hand, there are instances where the Council partially retained the amendments proposed by the EP. For example, the EP substantially modified article 18, which affirmed the incompatibility of temporary protection with the status of asylum, to offer more guarantees to asylum seekers. Here, however, the Council partially included the modifications suggested by the EP in the final adopted text. The similarity index between the EP position and the final adopted text is 86 percent:

Article 18: Similarity index and article size

sim_ Commission's proposal: 59%

article_size_ Commission's proposal: 472

sim_ EP committee report: 86%

article_size_ EP committee report: 662

sim_ EP's position at 1st reading: 86%

article_ size_EP's position at 1st reading: 658

article_size_ Adoption by Council: 363

Table 2. Descriptive statistics consultation procedure (%).

	COM proposal	EP committee report	EP plenary	Adoption by the Council
Min	57	57	57	100
Max	100	100	100	100
Average	87.76	87.35	88.58	100
St dev	6.47	6.85	7.04	110
N	248	248	248	248

4.2. Did the Generalisation of the Co-Decision Procedure Result in an Increased Influence of the EP?

When it comes to the co-decision procedure, the dataset suggests that the distribution of power between the three institutional actors is more balanced compared to the consultation procedure. In this sense, the dataset tends to support the conclusions of the empirical studies on JHA, which argue that the EP favoured compromise with the Council, even when this went against its own preferences, and only occasionally used its new prerogatives to impact on the development of JHA policies (Lopatin, 2011; Ripoll Servent, 2013; Trauner & Ripoll Servent, 2015).

Table 3 gives an overview of the co-decision procedure before the entry into force of the Lisbon Treaty. Table 4 does the same for the time period after the Lisbon Treaty.

Two preliminary findings can be drawn from the tables below. First, after the Lisbon Treaty, both the EP and the European Commission proposed texts that were not extremely different from the final adopted text, showing thus a more pragmatic negotiation strategy. Second, as pointed out by the JHA literature, the EP tended to compromise more with the Council after the entry into force of the Lisbon Treaty, compared to the period before. However, this does not mean that the influence of the EP is limited, substantive parliamentary amendments being incorporated in the final text. The legislative proposal on combating fraud and counterfeiting of non-cash means of payment (2017/0226/COD), which was randomly selected from the dataset, offers a case in point. The proposal aimed to update the Council Framework Decision 2001/413/JHA on combating fraud and counterfeiting of non-cash means of payment in order to adapt it to the new challenges and technological developments such as virtual currencies and mobile payments. In this sense, it sought to establish a framework to deal effectively with non-cash payment fraud. At the aggregate level of the proposal, all three institutions entered the legislative procedure with positions that were rather different compared to the final adopted act. Though important differences can be noticed on each article, an agreement on the text was reached only during the third and last trilogue negotiation.

4.3. How Do Formal Rules and Informal Practices Affect the Distribution of Power?

The data shows the importance of informal negotiations. Indeed, neither the Council, nor the EP, nor the European Commission had a clear determinant role in the final output in the above-mentioned example. For example, while the final adopted article 19 is similar to the position of the Council in the third trilogue, article 20 reflects rather the position of the EP. The aggregate similarity indexes confirm the same trend, and the average similarity index of the EP position passes at 99.71 percent after trilogue negotiations. By providing information on all stages of the legislative procedures, the dataset integrates informal practices into the study of EU legislative process. Existing research stressed that the informalisation of the legislative procedure has become particularly prominent in co-decision/ordinary legislative procedure (Brandsma, 2019; Reh et al., 2013; Roederer-Rynning & Greenwood, 2015). Trilogues have become the main mechanism for inter-institutional legislative negotiations, and they can persistently and systematically depart from formal rules (Brandsma, 2019; Farrell & Héritier, 2003; Kleine, 2013; Reh et al., 2013; Thomson, 2015). However, despite an increased academic interest in informal practices since their emergence in the early

Table 3. Descriptive statistics co-decision procedure before Lisbon (%).

	COM proposal	EP committee report 1st reading	EP plenary 1st reading	Council position	COM amended proposal	EP committee report 2nd reading	EP plenary 2nd reading	SIGN EP-Council
Min	35	30.22	46.53	57.73	45.58	57.73	51.52	100
Max	90.84	94.15	97.65	99.47	92.15	99.61	99.53	100
Average	84.60	85.41	86.93	77.54	74.89	82.26	86.47	100
St dev	13.44	13.11	12	20.83	21.29	19.95	19.05	0
N	61	61	61	19	19	19	19	61

Table 4. Descriptive statistics co-decision procedure after Lisbon (%).

	COM proposal	EP committee report	EP plenary	General approach	SIGN EP-Council
Min	75.48	75.29	99.7	87.70	100
Max	93.93	100	100	96.86	100
Average	92.74	95.81	99.71	94.05	100
St dev	5.08	6.54	1.16	6.3	0
N	110	110	110	110	110

2000s, with very few exceptions (Laloux & Delreux, 2020; Thomson, 2015) research into trilogues focused on each institution, with most of the studies analysing the EP, failing to integrate informal practices into the whole EU legislative decision-making process. This is mainly due to the lack of data. Using the dataset, future research might examine to what extent and in which direction actors modify their position during the informal negotiations.

The data also shows a surprising phenomenon. Though the Lisbon Treaty increased the formal powers of the EP by making it a full co-legislator in JHA issues, its role is limited by the spectacular increase in non-legislative procedures (NLP) which can be noticed in this area after the entry into force of the Lisbon Treaty. From 2010 until 2017, 86 NLPs, representing 40 percent of the adopted JHA acts, have been initiated compared to only 10 before 2010. Most of those NLPs concern the negotiation and conclusion of formal agreements with third countries, measures in the domain of family law, measures in the field of criminal procedural law not already foreseen by the Treaty, as well as EU/Schengen common policy on visas. The Lisbon Treaty massively strengthened the role of the EP in the external dimension of the AFSJ, allowing it to ratify international agreements in internal security with co-decision or consent being required for almost all acts. However, in practice the NLPs initiated between 2010 and 2017 required only consultation with the EP. Those procedures were adopted either on the basis of the Treaty on the Functioning of the European Union (TFEU; Art *81*(3)), such as proposals authorising different EU member states to accept the accession of third countries to the 1980 Hague Convention on the Civil Aspects of International Child Abduction, or on Art *78*(3) TFEU, which provides a specific legal basis to deal with emergency situations at the external borders. This high increase of NLPs proves that formal rules provide critical openings for agency and the European Commission choses strategically an institutional rule that limits the scope of the legislative powers the EP gained with the extension of the co-decision to the JHA.

4.4. Which Factors Explain the Influence of Institutional Actors on Legislative Outputs?

There is nonetheless scope for further inquiry into the causes of actors' success in influencing the final legislative output. For example, the dataset can be used to understand how much the EP has a voice and why. The dataset suggests that formal institutional change did not have much impact on the capacity of the EP to influence legislative output. Other variables might be at play. As such, indicators measuring both actors' formal resources (e.g., types of procedure, member states' voting weights in the Council, voting rules in the Council and the Parliament, legal nature of the acts, etc.) as well as their informal weight in the decision-making process (e.g., technical expertise of the rapporteur, congruence between the rapporteur and presidency of the Council, policy expertise of the DGs, etc.) could be used. At the same time, the potential to influence legislative outputs might be related to the incentives actors face to mobilise their power. Those incentives are determined by policy attributes (e.g., degree of Europeanisation, technical complexity of the proposal, salience of the policy for public opinion, degree of conflict/consensus, level of unanimity in the EP and/or the Council), as well as by the relations between actors in the context of the legislative proposal (share of policy core beliefs).

4.5. Going beyond the Traditional Methodological Approaches

Lastly, the dataset offers a test case for the relevance of text reuse methods to study the EU law-making and decision-making processes more broadly. Identifying substantive differences in the legislative proposals, beyond that of simply counting the number of words or amendments, gives us more insights into the nature of modifications introduced by each institutional actor. Consider for example the activity of the EP's committee compared to that of the plenary. The basic logic is that if the final version of the adopted text is similar to the plenary version and different from the committee one, the plenary is influential. In other words, the fact that an actor makes significant changes to the legislative proposal may be considered at first sight as evidence of that actor's influence on the final legislative output. However, the fact that the plenary version is more similar to the final adopted act than the committee version could mean that the EP modified the proposal to ensure that the proposal is adopted at first reading. In co-decision, most of the time, the text the EP adopts in the plenary is the text that results from the informal trilogue negotiations. By analysing the evolution of the legislative proposal during the legislative process, we can clearly indicate which actor is responsible for the bulk of textual modifications of the legislative act and at which stage (formal or informal). Contrary to formal modelling which interprets and models the power of institutional actors mainly based on their formal treaty prerogatives, text mining offers an accurate empirical measure of the influence of actors on legislative outputs. At the same time, contrary to small-N case studies, which generalise their conclusions from a very limited number of cases, text mining techniques allow the study of very large numbers of legislative texts. Moreover, by comparing one version of the text to another, such methods provide insights into whether the changes made by one organ of an institution reverse the modifications introduced by another organ of the same institution. For example, if the plenary of the EP reverses the changes introduced by the committee, or if the COREPER reverses the changes introduced by the Council's working groups. Thus, applying text mining techniques to EU law-making provides an understanding not only on the balance of power

between the institutions, but also on the distribution of power between different organs of the same institution. There is however scope for further inquiry into matching the content of actors' modifications and the content of the final adopted act. For example, research on different ASFJ policy areas has shown that contrary to scholarly expectations, despite the empowerment of the EP, the rationale of providing 'security'—in all its expressions—remains dominant (Trauner & Lavenex, 2015, p. 220). Or as previously mentioned this research is based on case studies of salient EU proposals, thus it is still unknown if this conclusion holds true for more 'routinised' legislation. One way of filling this gap is to use 'active learning' which is a supervised learning approach, to match actors' substantive modifications with the final adopted act (Casas et al., 2020). The logic behind 'active learning' is to identify a small number of cases where the positions of the Parliament, the Council and the European Commission match the final adopted act and identify the policy core beliefs (e.g., protection of human rights vs security, data protection vs data processing, border control vs integration, etc.) and then assign these different dimensions to each paragraph of the legislative text. A trained classifier can be used to predict the share of actors' substantive modifications in the adopted legislative proposal for the whole text corpus.

Thus, the dataset and the use of text mining techniques provide a valuable source for scholars interested in EU legislative procedures in general, as well as intra-institutional negotiations in different policy fields and the formal and de facto legislative influence of the European Commission and the EP in particular. Nonetheless, as with any kind of dataset and method, it also has limitations.

5. Limitations of the Dataset

In this section I address two main criticisms that can be directed to the dataset, which are linked to its limitations. I also draw attention to the problems scholars might face when working with EU text data.

The first criticism is that the dataset treats EU institutions as homogenous actors, leaving no room for tracing the political games inside each institution and the internal political dynamics, all of which might have important consequences for inter-institutional relations. Related to this, another criticism is that official documents measure only the revealed/strategic preferences of actors. In response, I first point out that the qualitative dataset offers different proxies for the identification of politicisation inside the institutions. For the EP, the dataset contains information on the political affiliation of rapporteurs and shadow rapporteurs, the degree of unanimity in the EP (votes for, against, and abstentions), the number of parliamentary amendments and the position of the European Commission on each parliamentary amendment. For the Council of Ministers, the dataset provides the number of items A (proposals for which an agreement has been reached at the COREPER level) and B (proposals for which no agreement has been reached or politically sensitive issues) on the agenda of the Council, which reflect the degree of consensus/conflict a particular proposal raises (Novak et al., 2020). The dataset also provides information on the nature of the legislative proposal. For example, the controversial/uncontroversial nature of a legislative proposal can be deduced from the timespan between the European Commission's proposal and the EP committee report/Council's position, or the number of readings. The technical complexity of a policy can be measured by the number of DGs involved (see Laloux, 2021; Senninger et al., 2020).

However, the text data does not allow identification of member states' positions within the Council, nor the origin of parliamentary compromise amendments. The reason why I disaggregated this text data is the lack of systematisation of information provided by the EU institutions. If the Council's outcomes of proceedings provide the position of member states on certain issues in the footnotes, it does not do so in a systematic manner. Sometimes these positions are completely lacking, other times they are concealed due to the sensitive nature of the issues discussed. Moreover, as shown by Brandsma et al. (2021, p. 19), the shift towards bilateral forms of mandating and the change in Council's practice in 2014 resulted in no mention of the member states' positions in the footnotes. Thus, it becomes impossible to trace this information using an automated text data extraction. Tracing the origin of parliamentary compromise amendments is even more problematic than that of member states' positions in the Council. All senior officials of the EP who were interviewed pointed out the private nature of the political negotiations and the difficulty of assessing how much of the amendment has been incorporated into the final compromise amendment. Though some researchers (Ripoll Servent & Panning, 2021) have tried to estimate the level of incorporation of EP amendments into the final agreement, their measure is rather crude. Obviously, this limitation makes the dataset of little relevance for researchers interested in understanding the ideological battles inside the EU institutions and the left-right, pro/anti-integration or the GAL-TAN cleavages. More qualitative methods, susch as interviews with the relevant actors, can be used to capture those dynamics.

Another criticism is that in co-decision/ordinary legislative procedure, the positions of the Council and of the EP before trilogue negotiations refer to different types of documents and, therefore, cannot be compared, at least not in the same way. For example, while for some legislative proposals, the general approach is retained as the Council's position before negotiations, for others the compromise text of the Presidency or the political agreement are used. While the compromise text reflects agreement in the Council Working Parties, the general approach is the preliminary agreement on the text, as agreed at ministerial level. The same can be said about

the EP, where different documents such as committee draft reports and negotiation mandates, are used.

The first response to this criticism is that the different terminologies used do not necessary reflect different types of documents. Before January 2012 and the publication of the Council note on the *Terminology to be used in Council and COREPER agendas for legislative items under the Ordinary Legislative Procedure* (5084/12), the terms were not used consistently by the different organs of the Council. As acknowledged by one of the senior officials in the Council's legal service—quality of legislation—legislative acts/planning, this not only created confusion, but also had unplanned procedural consequences as the wrong files were sometimes used during the interinstitutional negotiations. To overcome this difficulty, all files were manually checked to verify that they were reflecting the agreement of the Council on the legislative proposal pending the EP vote. After 2012, the Council made an effort to clarify and systematise the terminology used. In the EP, though the annex XXI of the *Code of Conduct for Negotiating in the Context of the Ordinary Legislative Procedures of the EP's Rules of Procedure* adopted in 2009, established some general principles regarding the preparation of trilogue negotiations, there was no clear procedure when it came to the document used by the negotiation team. The mandate could have been the committee legislative report, or the amendments adopted in plenary for first-reading negotiations. Eventually, this system was reformed in 2012 and the EP mandate is based either on a report adopted in committee or the position adopted in Plenary and clearly identified as negotiation mandate (as in Art. 71 of the *Rules of Procedure of the European Parliament*). As in the case of the Council's position, all parliamentary documents have been manually checked.

The second response to this criticism regarding comparability of the documents is that the positions are comparable in that they are used by the institutions themselves as negotiation mandates. Independently of the typology or of the level at which the documents were adopted (committee vs plenary; working groups vs ministers), I used the documents as designated by each institution as its position before entering the interinstitutional negotiations. Using this information, it is possible to identify patterns of legislative change. For example, in consultation, the vast majority of parliamentary positions are very similar to that of the European Commission (average similarity index = 95 percent). These results might suggest that the European Commission and the Parliament act together as integration-minded actors in JHA, contrary to member states, which favour a more intergovernmental approach to JHA.

Lastly, scholars who use automated data collection and text mining methods to analyse EU text data must be aware of the poor quality of the data provided by the EU institutions. First, there are discrepancies between the data repositories/web services of each institution. Though each institution provides the legislative procedure stages, an accurate picture can be obtained only by corroborating all the available sources. Indeed, data contained on EUR-Lex is reliable and complete only for what concerns the European Commission. The same is true for the OEIL and for the Council's document register. In addition, data provided by the Council is unstructured, which means that different methods have to be used to extract the data. I used web scrapping and corroborated the results with the open data provided by the Council. Second, several documents for the EP and the Council, for the time period 1999–2003 (approx. 150 procedures), correspond in practice to other procedures than those indicated. For example, for the proposal 2000/0304(CNS) *Fight against Organised Crime: Financial Support, Programme for the Prevention (Hippocrates)*, the link of the EP committee on OEIL refers to a completely different proposal. Thus, data should be manually validated to ensure its validity. Third, text data is not similarly structured for each institution. For example, while the European Commission provides the full (amended) text, the EP only provides a list of amendments for the position adopted at the committee level and, sometimes, though not systematically, the consolidated text for the position adopted by the plenary. The Council provides the whole text modified using bold, strikethrough or underlining. Those discrepancies require important pre-processing efforts because to be comparable the text should have the same structure.

6. Conclusion

Despite these different limitations of the dataset and challenges raised by automatic text analysis of EU data, the AFSJ-Pol-Lex-Track dataset offers a valuable source of information for assessing the interplay between actors' formal power and policy outcomes. In this sense, it becomes possible to identify and study the law-making patterns, dynamics and issues within the JHA law-making procedure, across time and across policy sub-fields. It does so by combining in a single enhanced environment, the ability to gather, analyse and relate different stages of the law-making process, the different texts proposed and the negotiations between the European Commission, the EP and the Council. By individualising the text versions adopted at each legislative stage, the visualisation application and the similarity indexes enable the identification of each institutional actor involved in the legislative process and of the legislative modifications it introduces to the text: Which part of the final text originates from the European Commission? Which part originates from the EP and which from the Council? Who is at the origin of the modifications that change the draft legislative proposal substantially?

The similarity indexes offer a more quantitative longitudinal measure of the capacity of actors to determine policy outputs. There is scope for further inquiry into the nature of modifications introduced during the legislative process. For this reason, active learning (supervised or

unsupervised) techniques can be used to match actors' substantive modifications with the final adopted act and to identify the policy ideas (e.g., protection of human rights vs security, data protection vs data processing) that are incorporated into the final adopted text. Beyond the JHA policy area, the methods presented in this article to collect data on the EU legislative procedure and to analyse it can be applied to any EU policy field, thus providing a new perspective in EU legal and political science studies.

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Conflict of Interests

The author declares no conflict of interests.

Supplementary Material

Supplementary material for this article is available online in the format provided by the author (unedited).

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Article

For Farmers or the Environment? The European Parliament in the 2013 CAP Reform

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Abstract
The Common Agricultural Policy (CAP) was the last policy field to be placed under the Ordinary Legislative Procedure and its 2013 reform was the first to be decided under this rule. This article analyses how rule changes following the Lisbon Treaty have shaped policy outcomes related to 'greening,' i.e., making agricultural policy more environmentally friendly. Measuring the policy ambitions of amendments during the different phases of the legislative process (the processing phase within the Parliament and the negotiating phase during trilogues), we find that the European Parliament weakened the Commission's greening proposals—but did so to support an alternative greening agenda built on different policy instruments. This means that rule change has altered the power balance between the institutions, making the Commission more dependent on the European Parliament. In the 2013 reform, this new balance of power came at the cost of greening the CAP.

Keywords
Common Agricultural Policy; European Parliament; environment; greening; Lisbon Treaty; policy ambition

Issue
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1. Introduction

After the Lisbon Treaty, inter-institutional power dynamics of the EU have been marked by two contrary developments: The empowerment of the European Parliament (EP) through the extension of both budgetary and legislative powers and the crisis-induced activism of the EU Council, which was often seen to limit the manoeuvring space available for supranational institutions (Bickerton et al., 2015). While the intra-institutional power dynamics that results from these two contrary developments have attracted much academic interest (see Bressanelli & Chelotti, 2019; Roederer-Rynning, 2019a), less attention has been given to the policy effects these changes have had. We address this by turning to the EU's largest redistributive policy: the Common Agricultural Policy (CAP), which was under strict intergovernmental control before the rule changes imposed by the Lisbon Treaty. The CAP is the EU's oldest and most expensive policy, representing approximately 40% of the overall budget (Swinnen & Knops, 2012). A rich literature discusses the 'exceptionalism' of EU agricultural policy (Daugbjerg & Feindt, 2017; Roederer-Rynning, 2019b) and agrees that it is marked by "fundamental value disagreement about the purposes and nature of agricultural policy" (Greer & Hind, 2012, p. 333). This disagreement is particularly marked during major reforms in which both the CAP budget and its instruments can be profoundly changed (Daugbjerg & Swinbank, 2011).

This article investigates the 2013 reform of the CAP where the EP acted as co-legislator for the first time. As the last policy domain to be placed under co-decision

after decades of an 'exceptionalist' policy regime characterised by intergovernmental consensus, the CAP is a particularly hard case for parliamentarisation, which we understand as the increasing role of the EP in EU decision-making (see Roederer-Rynning, 2019a). By focusing on environmental ambitions related to the CAP, we consider the impact of rule change, in this case parliamentarisation, through the different phases of the 2013 reform's life cycle. While the existing literature on CAP reform has mainly focused on inter-institutional development (see, e.g., contributions in Swinnen, 2015) we complement this with a novel assessment of the policy content that allows us to study the reform process in more detail.

Our fine-grained analysis of changes to the three 'greening' policy instruments—the green payment (GP), Cross-Compliance (CC) and agri-environment-climate measures (AECM)—contributes to two on-going debates about the EP's autonomy as a full-fledged co-legislator and its policy ambitions. The first debate concerns whether the EP is able to exercise its new-found powers as well as the effects of intra-institutional dynamics following the Lisbon Treaty and the serial crises that occurred in the decade that followed (Bressanelli & Chelotti, 2019; Roederer-Rynning, 2019a). Our findings highlight that the EP has become a more important actor which needs to be taken into account in decision-making on the CAP, developing its own distinct policy agenda and favouring different policy instruments than the Council or Commission.

This has consequences for the second debate about whether increased EP powers have weakened its progressive credentials (Alons, 2017; Burns et al., 2013, p. 935; Ripoll Servent, 2015). Agricultural policy is an outlier: The EP's Committee on Agriculture and Rural Development (AGRI) has long been a bastion for the status quo, as reluctant, if not more, than the Council on CAP reform. This is in sharp contrast with issues such as data protection or the environment, where the EP had long been more radical than the Council yet tempered its radicalism when gaining greater power (Burns, 2019; Ripoll Servent, 2015). This created a dilemma for the EP Plenary: Would it endorse AGRI's position despite its lack of representativeness, or would it risk undermining its standing as 'responsible' and 'reasonable' in its first CAP reform as a co-legislator by rejecting its Committee's position? We find that the Plenary attempted to reject the Committee's position on the flagship GPs but failed due to polarisation, while it was able to adopt more ambitious positions than AGRI on the other two instruments.

The next section introduces the theoretical expectations found in the literature concerning the effects of rule change on intra-institutional (within the EP), inter-institutional (between Commission, EP and Council) and sectoral dynamics (agriculture specific). Section 3 provides background information for CAP-related policy making before the 2013 reform. Section 4 details our empirical approach on how the legislative amendments were analysed. The empirical section, Section 5, studies the legislative changes made within the EP, focusing on the policy positions of both AGRI and the Plenary and discusses the outcomes of the 2013 trilogues. This shows that the EP played a key role, together with the Council, in weakening the European Commission's original greening proposals. Yet this should not be read as the EP rejecting further CAP greening (Swinnen, 2015, p. 14). Instead, the EP followed its own alternative greening agenda, focusing on and strengthening other instruments such as voluntary AECMs. We close by highlighting the need for closer coordination between the European Commission and EP in order to unlock more fundamental CAP reforms.

2. Rule Change in the EP: Intra-Institutional, Inter-Institutional and Sectoral Dynamics

Rule change in the field of agricultural policy is part of a broader effort to normalise agriculture policy away from exceptionalism. Exceptionalism, i.e., "the special treatment of a sector by governments and international organisations and the belief system that provides cognitive justification and political legitimation" is not just about agriculture policy ideas or interests, but also institutions, and who gets to decide on the CAP (Daugbjerg & Feindt, 2017, p. 1568). As the EU's only directly elected institution, strengthening the EP holds wide-ranging democratic implications and can affect the content and shape of policies. Parliamentarising the CAP may offer an opportunity for policy change away from the exceptionalist status quo which has long favoured the interests of farmers. Conversely, it may offer an opportunity to re-legitimise an amended status quo, bolstering 'post-exceptionalism,' i.e.:

> A less compartmentalised policy arena (institutions and interests) with an updated set of policy ideas that retain at its core claims that a policy sector is special, albeit with updated arguments that relate to the problems on the evolving policy agenda and which trigger novel policy instruments. (Daugbjerg & Feindt, 2017, p. 1574)

This article analyses whether the strengthened EP can foster, or hinder meaningful CAP reform, i.e., reform which goes further than just providing new justifications to the status quo. We address this question by considering the EP's actions during the first CAP reform under the Ordinary Legislative Procedure, the 2013 reform. We study the respective positions of the Commission, Council and EP (both Plenary and AGRI) on one of the central planks of the 2013 reform: greening. In doing so, the contribution aims to understand how Lisbon Treaty-related changes in rules have led to shifts in intra- and inter-institutional power dynamics and how these, in turn, affect policy outputs. More concretely, we focus on how a certain rule change (the extension of codecision to agricultural policy), have affected relations between

i) EP's AGRI committee and the Commission, ii) AGRI and the EP's Plenary, and iii) the EP's Plenary and the Council. Overall, we assess what this rule change means for the possibility of a meaningful CAP reform. Studies of EP legislative organisation usually highlight three perspectives on the role of EP committees (see Yordanova, 2009). From an 'informational' perspective, EP committees serve the Plenary's informational needs. According to the 'partisan' perspective, committees are arenas of party leaders to enhance group cohesion. The 'distributional' perspective underlines the role of committees as serving special interests. The last perspective is often seen to fit the EP's AGRI Committee which has traditionally attracted a large share of representants of farming interests, such as agricultural landholders or members of farmer associations (Roederer-Rynning, 2015). This is not likely to change with the Lisbon Treaty, which placed the policy under codecision. Thus, it remains doubtful whether the EP gaining power would change the course of EU agricultural policy due to AGRI's strong support for the status quo (Knops & Swinnen, 2015) and the EP's comparative lack of administrative resources (Swinnen & Knops, 2012). We thus expect the AGRI committee to remain more closely aligned with agricultural interests than the Commission and thus adopt fewer green proposals (H1).

Regarding intra-institutional dynamics within the EP, the literature assumes that despite different national and party lines, the EP will usually favour a high degree of internal cohesion in order to strengthen its position in inter-institutional bargaining (Bressanelli & Chelotti, 2019, p. 268). While there are cases of long-standing conflicts between the different committees, such as AGRI and the environment committee (Burns, 2006), conflicts between the Plenary and the committees are mostly seen to be mediated through similar power distribution (Yordanova, 2009), the foresight of expert MEPs steering the policy process in the committees with the whole Plenary in mind (Roger & Winzen, 2015), and through partisan and national linkages between committee members and their respective party groups (Ringe, 2010). However, there is also evidence that for some EP committees, such as Civil Liberties, an increase in power has tempered their more radical 'liberal' or 'green' positions (Burns, 2019; Ripoll Servent, 2019)—with committees feeling "compelled to behave responsibly—for the 'good' of the Union, or because they were hard-pressed by national leaders" (Bressanelli & Chelotti, 2019, p 267). But as AGRI defends the status quo and is closely aligned with the Council, the pressure to 'behave responsibly' will be felt particularly by the Plenary, not the committee. Following Swinnen (2015, p. 8), we expect that the Plenary will be more radical than AGRI—and yet, that it will prioritise institutional gains (being seen as responsible) over policy gains (a greener CAP; H2).

Fabbrini (2019) argues that the Lisbon Treaty installed a dual regime of a supranational and an intergovernmental constitution in which the EP has gained an equal say when it comes to regulatory policy under the supranational constitution, but the intergovernmental constitution remains in force for policies that impose high economic and political costs on member states. Agriculture is under the intergovernmental constitution: An area known for 'entrenched intergovernmentalism' where "member-states have always been jealous of their prerogatives" (Roederer-Rynning & Schimmelfennig, 2012, p. 952). As such, we can expect that the EP is likely to play a 'subordinate role' on CAP reform despite its formally equal institutional power (Fabbrini, 2019, p. 420). This assumption is reinforced by capacity shortcomings and the introduction of trilogues. The Commission and the Council "have built up working relationships since the inception of the CAP" and both have access to a depth of in-house expertise on farm policy and experience of past CAP reforms which the EP lacks (Bureau, 2012, p. 339). Trilogues have also made the EP more responsible through inter-institutional socialisation effects (Ripoll Servent, 2015). Thus, we expect EP to be in a weaker position and for the final text to be closer to Council than EP preferences due to either lack of EP expertise on this issue or unwillingness of the EP to go head-to-head with the Council in an area of high political salience (H3).

3. Greening the CAP? The 2013 Reform in Context

The CAP has been reformed multiple times since the early 1960s, but until the 2009 Lisbon Treaty these reforms were agreed between the Commission and the Member States—the EP was only consulted (Greer & Hind, 2012). In addition to extending the Ordinary Legislative Procedure to agriculture, the Lisbon Treaty changed how the EU's multi-annual financial framework is decided by extending the EP's power to CAP funding. The 2013 Cioloş CAP reform thus saw a major "reshuffling" of the "rules of the game" (Knops & Swinnen, 2014, p. 13).

Which institutions decide has long been considered central to reform outcomes. For example, Daugbjerg and Swinbank (2007) found that reforms agreed in the European Council (such as the 1999 CAP reform) were less ambitious than reforms agreed in the Council in 1992 and 2003. Within the EP's own system of labour division, AGRI has been mainly in charge of dealing with reforms of the CAP (Greer & Hind, 2012). AGRI traditionally attracts MEPs with a professional background in agriculture. According to Yordanova (2009, p. 272): "Members with farming group ties [have] a 34.3% higher probability of joining the Committee on Agriculture and Rural Development" and the committee has been often considered to be an extension of national corporatist relations to the EU-level (Ripoll Servent & Roederer-Rynning, 2018). Thus, agricultural policy analysts were doubtful as to whether the EP's empowerment would really change the course of EU agricultural policy towards post-exceptionalism or even deeper reform due to the strong influence from agricultural interest groups in the AGRI

committee (Knops & Swinnen, 2014; Roederer-Rynning, 2015). Our focus in this article is on how rule changes contributed to a different policy outcome by focusing on 'greening' of agricultural policy, a core part of the 2013 reform. Greening the CAP is an old idea which was pushed by environmental NGOs since the early 1990s (Lumbroso & Gravey, 2013). Over the last 20 years, different policy instruments were developed (Feindt, 2010), aiming either at raising the standard for all European farmers (such as compulsory CC) or at facilitating deeper greening for a minority of farmers (such as voluntary agri-environment measures). While greening has been much discussed in CAP reforms (Erjavec et al., 2015), the degree to which past reforms yielded a paradigm shift toward a more environmentally friendly model of agricultural policy remained unclear (Daugbjerg & Swinbank, 2011). While policy instruments were often justified on environmental grounds (Feindt, 2010), instruments whose main purpose is environmental represented less than 10% of the CAP budget by the start of the 2013 reform, while direct payments to farmers were about 70% (Lumbroso & Gravey, 2013).

Greening gained particular prominence in the 2013 reform as one of the three buzzwords of the Commission's legislative proposals, alongside capping subsidies and convergence of support levels between the East and the West (Greer & Hind, 2012). CAP greening, understood as a way to deliver on the idea of 'public money for public goods,' was considered a given in most reform papers produced in 2008–2010 by NGOs, farm lobbies or national governments (Gravey, 2011). This impression became further strengthened by the parallel negotiations on CAP reform and the next multi-annual financial framework which were leveraged by pro-reform actors to demand further greening (Knops & Swinnen, 2014, pp. 83–84). The Commission tried to establish a quid pro quo between greening and maintaining a sizable budget for the CAP (Matthews, 2013b). But whereas greening as an idea remained a core concept, scholars of EU agricultural policy have argued that greening was used merely to "legitimize the continuation of farm support" (Daugbjerg & Swinbank, 2016, p. 275) and that the proposals were subsequently watered-down (Alons, 2017; Knops & Swinnen, 2014).

4. Empirical Approach

We analyse this "gradual erosion of the Commission's proposal" (Matthews, 2013b, p. 5) by coding amendments to all three greening policy instruments on a novel greening scale which we adapt from Schaffrin et al. (2015) and Gravey and Jordan (2016). Our focus is on the two central phases of the legislative process: the 'processing phase' within the EP and the subsequent 'negotiating phase' between the three institutions (Knops & Swinnen, 2014). The processing phase, from October 2011 to April 2013, saw the EP debate on the proposals, decide on which Committees should work on the files and agree on its negotiating mandate in preparation for the trilogues. The negotiating phase, from April to September 2013, saw 50 trilogues between the three institutions, with a key political agreement obtained in June, at the end of the Irish Council Presidency (Knops & Swinnen, 2014, p. 31).

Our analysis is based on information about the origin, content and success of legislative amendments related to the 2013 reform. Origin and success are common in large-scale amendment analysis (Fertő & Kovács, 2015). But while this type of analysis draws a picture of the respective bargaining success of the three institutions, it remains silent on the content of policy change. In our case, analysing the content of amendments allows us to assess which amendments were in favour of more environmentally ambitious policy and to reflect the multidimensionality of policy change.

To analyse the content of the amendments, a novel coding scheme was developed which combines the multidimensional characteristics of the Index of Policy Activity by Schaffrin et al. (2015), and the comparative coding of different policy stages adapted from Gravey and Jordan (2016). Schaffrin et al.'s (2015) Index contains six policy intensity (or ambition) measures, four of which (budget, scope, implementation and objectives) are relevant to this specific case. The remaining two (integration and monitoring) were either not relevant for studying greening amendments, or not relevant for the specific legislative phase of decision-making. Our first stage of coding identified which dimensions of the different policy instruments had been debated during the CAP reform process through an analysis of academic and press coverage of the reform and how these have mapped on the different parts of the index. As shown in Table 1, 14 relevant dimensions were identified—most of which concern the new GPs and its three components (crop diversification, permanent pastures, ecological focus areas, or EFA).

In the second stage of coding, changing positions on these 14 indicators during the legislative process were summarised (see Table 1a, in the Supplementary File) and coded as more or less ambitious in terms of greening based on a thorough review of academic, media and stakeholders' analyses of the debates (notably Hart, 2015; Knops & Swinnen, 2014; Matthews, 2013a, 2013b). The Commission's proposal was coded as 0, while amendments were coded on a scale reaching from −3 to 3 with higher scores used for greater ambition. As the GP was a brand-new instrument, we could not compare its ambition with results of the previous 2008 CAP reform. But the two other instruments, CC and agri-environment schemes, were first introduced in the 1990s and repeatedly reformed since. After a report from the European Court of Auditors (2008) branded CC as too complex to be effective, the Commission reduced the scope of CC by removing a number of rules (European Court of Auditors, 2016), although it strengthened its water and soil protection components (Matthews, 2013b). As such, the proposed greening ambition for CC in the 2013 reform can

Table 1. 14 policy indicators of greening ambition in 2013 CAP reform.

Code	Description	Example
GP1	Overall scope of GP	Whether all farmers are entitled to receive it
GP2	Overall objective of GP	Proportion of overall direct payment envelope devoted to GPs
GP3	Implementation	Whether GPs are compulsory or not
GP4	Scope: crop diversification	Minimum area required
GP5	Objectives: crop diversification	Number of crops required
GP6	Scope: permanent pasture	Type of permanent land use concerned
GP7	Objectives: permanent pasture	Whether this is implemented at the farm or regional/national level
GP8	Scope: EFA	Minimum area required
GP9	Objectives: EFA	Number of practices allowed to count as EFA
AECM1	Budget: flexibility	Whether rural development funding can be used to supplement direct payments
AECM2	Budget: earmarking	Proportion of rural development funds earmarked for environmental action
AECM3	Objectives: double funding	Whether farmers can be paid twice for the same level of environmental service
CCP1	Scope: Statutory Mandatory Requirement (SMR)	Number of requirements
CCP2	Scope: Good Agricultural and Environmental conditions	Number of conditions

be understood as being at best equal to, if not lower than, pre-existing CAP 2008 levels. For agri-environment measures, the 2013 reform prioritised climate change (hence their new name, agri-environment-climate measures, AECM) but the Commission proposal opened the door to a severe drop in budget. Not only was the Second Pillar cut more sharply than the First Pillar in the EU budget, but the guaranteed 25% from the Second Pillar to be spent on AECM was moved to the preamble of the regulation (Matthews, 2013b). Thus, as with CC, our starting point for the 2013 reform (the Commission proposal) has arguably lower greening ambition than the CAP 2008 status quo.

5. Findings

Figure 1 summarises the coding of the policy ambition. Each of the three instruments' grading is obtained by averaging the different dimensions of change for the relevant instrument (GP1–9 for GP, AECM 1–3 for AECMs and CCP1–2 for CC). The x-axis shows the temporal dimension of the legislative process starting with the Commission proposal. We plot the ambition on the y-axis, where higher scores show more, i.e., greener, policy ambition. When considering averages, one instrument decreased in ambition (GP) and two stayed the same (CC, AECM). In what follows we consider each indicator separately through two different phases: The processing phase which focuses on positions formulated within the EP, and the negotiation phase which includes inter-institutional bargaining. We discuss the temporal development of each involved actor's policy ambition and how, out of 14 greening indicators in the 2013 reform, only three indicators increased in ambition during the legislative process, while nine saw reduced ambition.

5.1. The Processing Phase

Policy proposals do not always fit easily within the remit of a single parliamentary committee. When different committees wish to work on a given proposal, the EP can choose to follow one of two distinct procedures. First, the default procedure foresees the appointment of a lead committee with other committees relegated to the role of opinion-givers. Second, the recent "reinforced or associated cooperation procedure," which allows "more than one committee involved in drafting the Parliament's legislative report," with "personnel from more than one committee…involved in negotiations with the Council" (Burns, 2013, p. 991). Unsurprisingly, the EP's Environment Committee, ENVI, which has a long history of trying to influence agriculture discussions in the EP (Roederer-Rynning, 2003) contested the decision made by the EP's Conference of Presidents to appoint AGRI as lead committee under the default procedure (Knops & Swinnen, 2014, p. 52). ENVI eventually withdrew its complaint in exchange for the inclusion of ENVI rapporteurs in AGRI shadow rapporteur's meetings (Roederer-Rynning, 2015, p. 336).

Within AGRI, a second key choice was made during the appointment of rapporteurs. These rapporteurs were chosen from the two main political groups within the EP, and from three different countries: The Portuguese socio-democrat (S&D) MEP, Capoulas Santos—a former

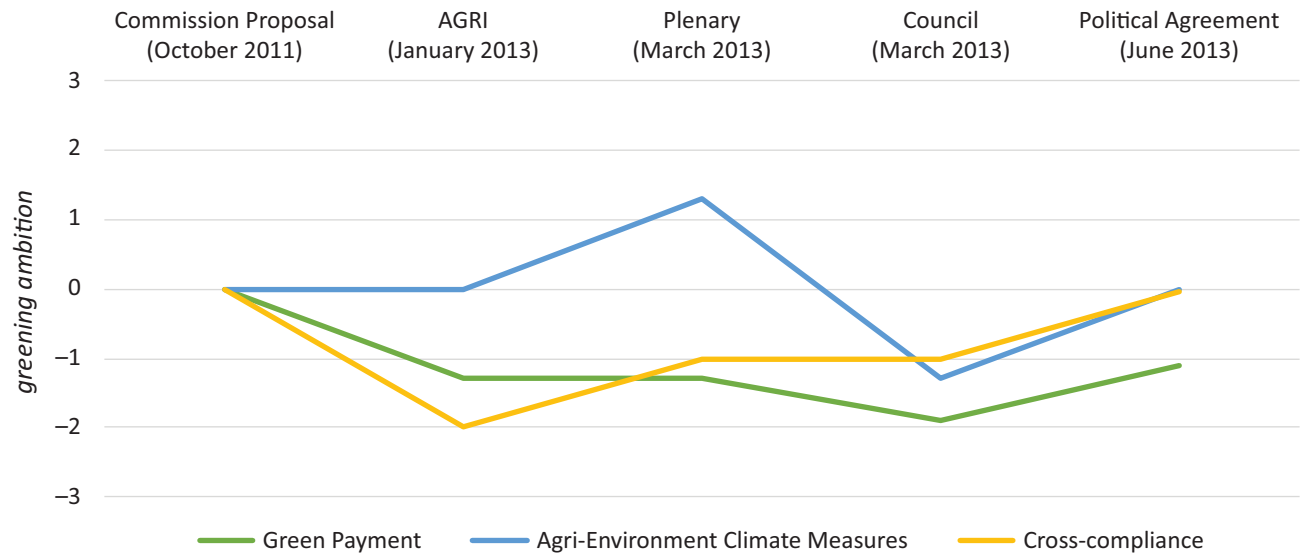


Figure 1. Greening ambition during legislative process compared to Commission proposal (averages). Source: Own coding.

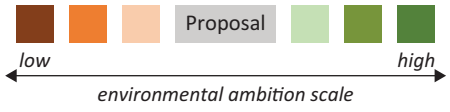
Minister for Agriculture—took charge of the two main regulations for greening (direct payments and rural development) while the French MEP Dantin from the European People's Party (EPP) was in charge of the Single Common Market Organisation regulation and the Italian EPP MEP Giovanni La Via was in charge of the Horizontal Regulation. This choice of rapporteurs by the EP's Grand Coalition effectively side-lined the smaller parties within the Committee. A similar pattern was found in the opinion-giving committees, and in total 16 out of 21 rapporteurships were shared between EPP (13) and S&D (3), the large number of rapporteurs being due to the three CAP regulations being negotiated in parallel (Roederer-Rynning, 2015, p. 338).

Tensions between AGRI and other committees resurfaced in January 2013, once AGRI had voted its compromise amendments. The compromise amendments were to be used as a negotiating mandate with the Council, but a new internal procedure (rule 70a, now 74) introduced in 2012 allowed other MEPs to contest this. The committee appointment had been made under this new rule which stipulated that the Committee vote "may receive, if the Committee decides so, the blessing of the full Parliament (the Plenary)" (Knops & Swinnen, 2014, p. 53). Under pressure from other committees and civil society (Spence, 2013), and the threat to veto the multi-annual financial framework if the Plenary was not offered a chance to vote (Erjavec et al., 2015, p. 237), AGRI had to accept this additional step. This resulted in 350 amendments being tabled within the Plenary.

Due to the decision to obtain Plenary support for the negotiating mandate there are two sets of EP positions which we compare in Table 2. AGRI's position, based on the January 2013 votes on compromise amendments, and the EP's position as whole, reflected in the Plenary vote of March 2013 (Knops & Swinnen, 2014, p. 56). Table 2 reveals how the EP, both in AGRI and in the Plenary, has systematically weakened the GP. Seven out of nine indicators see worsened ambition in the EP and only one remained the same (GP2, on compulsory payments). The only change towards further greening was made in the Permanent Pasture instrument (GP6), where the scope was broadened due to AGRI's compromise amendments in January 2013. However, while AGRI amendments supported a greater scope, they supported weaker objectives (GP7): The rule was to be applied at

Table 2. Comparison of AGRI and Plenary greening ambition.

	GP 1	GP 2	GP 3	GP 4	GP 5	GP 6	GP 7	GP 8	GP 9	AECM 1	AECM 2	AECM 3	CC 1	CC 2
AGRI	–2	0	–2	–2	–2	1	–2	–2	–2	1	1	–2	–2	–2
Plenary	–2	0	–2	–2	–2	1	–2	–2	–2	1	1	2	–1	–1



Source: Own coding.

national, regional or sub-regional level instead of the more constraining farm-level.

This apparent consensus between Plenary and AGRI masks profound controversies surrounding the GP. AGRI's changes to the GP scope (GP1) were highly controversial, as environmental NGOs argued that about 90% of European farmers would not have to change their practices following the new regulation (Brunner & Robijns, 2014). But intense political divisions within the Plenary meant that no Plenary amendments succeeded, with different political parties each presenting their own version and voting down any other versions by default. This preserved AGRI's compromise amendments (Knops & Swinnen, 2014, p. 86) on 'green by definition.'

While changes to the GP showed both AGRI and the Plenary weakening the Commission's proposal (see top half of Figure 2) and indeed the Plenary 'rubber-stamping' AGRI's position (Ripoll Servent & Roederer-Rynning, 2018), a different picture emerges when looking at AECMs (see bottom half of Figure 2). Discussions on AECMs and the CAP's second pillar more broadly took place under the shadow of the parallel negotiations on the multi-annual financial agreement. The CAP's second pillar suffered greater cuts than the first pillar in the multi-annual financial agreement for 2014–2020: 18%, compared with a 13% cut for the first pillar (Little et al., 2013, p. 64).

The outcome of this financial agreement was thus to increase the share of income support in the overall CAP—a step back from CAP reforms since 1992 which had steadily increased the share of Rural Development and instruments such as AECMs (Lumbroso & Gravey, 2013). Concerning AECM, AGRI supported greening amendments in two out of three dimensions (AECM 1 and 2), opposing reverse flexibility, which would see Member States take funding away from the more 'multifunctional' Pillar II to support the more 'productivist' direct payments under Pillar I (Erjavec et al., 2015). As expected, the Plenary moved against AGRI to oppose double funding (Knops & Swinnen, 2014). This meant all three debated dimensions of AECMs were made more ambitious within the EP.

Finally, concerning CC, AGRI made severe cuts to its scope in its January 2013 vote. These cuts are especially

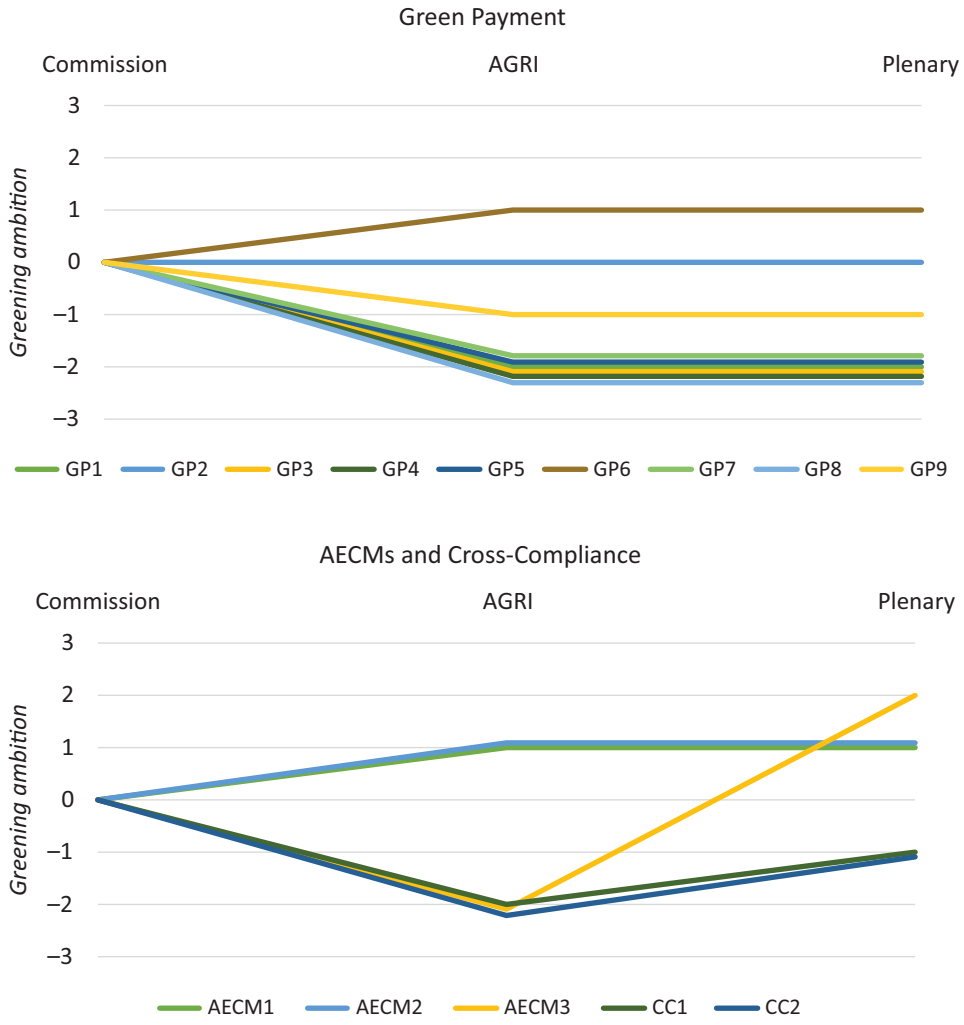


Figure 2. Changes to greening ambition during the processing phase: Comparing GP, CC and AECM (14 indicators). Source: Own coding.

striking as they went much further than those suggested by the Rapporteur, MEP Giovanni La Via (2012). They further show deep divisions within AGRI, as its compromise amendments propose both cutting seven statutory mandatory requirements and being more ambitious than the Commission by reinstating a number of articles of the Birds and Habitats directives (EP, 2013, amendments 182–183). These cuts were then partially overturned by the Plenary.

In conclusion, while the Plenary voted against AGRI on a few issues—such as double funding, and radical cuts to CC—it did not disavow its Committee and supported most of its negotiation mandate. When focusing on the flagship GPs this confirms the perception of AGRI as a pro-status quo actor (H1). It casts doubts on the Plenary's ability to keep its Committees in check (H2); polarisation, not calls for 'responsibility,' prevented the Plenary from adopting an alternative position. Once we take into account AECMs and CC, we see both the Plenary and AGRI developing their own alternative greening agenda (H3), with a strengthening of AECMs and reluctance towards CC. For these two less-politicised instruments, the Plenary managed to either support AGRI's greater ambition, or improve on AGRI's position.

5.2. The Negotiating Phase

Once the EP had adopted its negotiating mandate, the negotiating phase began—an intense succession of 50 trilogue meetings between April and September 2013 (Knops & Swinnen, 2014), with a key political agreement obtained at the end of the Irish Council Presidency in June 2013. Knops and Swinnen (2014, p. 88) contend that "on most issues, both the EP and the Council proposed less stringent environmental requirements than the EC, but the Council (and Heads of State) went further than the EP in differing from the Commission proposals." While both co-legislators tended to put forward amendments weakening the European Commission's greening plans, they followed different approaches.

Hence, the Council favoured the option to keep the GP mandatory and agreed that penalties for non-compliance with greening requirements could go beyond the greening payment itself (Council of the EU, 2013b, p. 9)—supporting thus a stricter approach than the EP (Table 3, GP3). This is the only indicator where the Council was more ambitious than the Plenary, and as ambitious as the Commission. The Council's main approach to changing the GP was to increase the number of 'equivalent practices' allowed to meet the conditions for receiving greening payments, and to make it easier for farmers to meet the Commission's original three conditions (Council of the EU, 2013a). For example, the Council advocated a menu option of 13 equivalent practices instead of the Commission's five practices for establishing EFAs (Table 3, GP9).

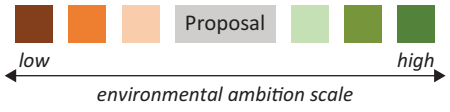
Regarding AECM, the Council focused on funding and flexibility (AECM1, AECM2). Member States have long had the possibility to move a share of their First Pillar funding to the greener Second Pillar (Falconer & Ward, 2000). But the Council argued that cuts in the overall CAP budget meant that reverse flexibility, from the Second Pillar to the First, should also be possible—up to 15% of Second Pillar funding for all Member States, increased to 25% for the 12 Member States with direct payments below 90% of the EU average (Little et al., 2013, p. 54). Finally, the Council supported the EP's position on CC.

With regard to greening, the trilogues needed to iron out an agreement on six divisive issues. First, on GPs: the level of penalties for non-compliance (GP3), a menu option for EFAs (GP9) and the inclusion of non-grassland in permanent pastures (GP6). Second, on AECM: the possibility for double funding, of earmarking and reverse flexibility (AECM 1–3). Conversely there were no apparent divisions between the co-legislators CC.

On GPs, the Council obtained its menu approach for the EFAs, but with a reduced number of options (10 instead of 13). This should not be seen as a real defeat for the EP as Knops and Swinnen (2014, p. 85)

Table 3. Comparison of Plenary, Council and final agreement greening ambitions.

	GP 1	GP 2	GP 3	GP 4	GP 5	GP 6	GP 7	GP 8	GP 9	AECM 1	AECM 2	AECM 3	CC 1	CC 2
Plenary	–2	0	–2	–2	–2	1	–2	–2	–1	1	1	2	–1	–1
Council	–3	0	0	–2	–2	–2	–2	–3	–3	–2	0	–2	–1	–1
Political Agreement	–1	0	–1	–2	–2	1	–2	–1	–2	–2	1	1	0	–1



Source: Own coding.

contend that while the rapporteur MEP Capoulas Santos shied away from including a menu approach in its report "as it would have put the EP in direct opposition to the EC from the very beginning," this approach had great support within the Parliament. The Plenary's proposal for including non-grassland pastures in the permanent pasture element was accepted by the Council. Crucially, the Council's position on penalties—greener than the EP's—was included in the final text. In fact, GP1 (the GP's scope, i.e., which farmers were entitled to the payment and considered green by default) finished slightly more ambitious in the Political Agreement than at the Plenary or Council stage. This could be read as the Commission influencing trilogue discussion—but is more likely due to the reduction in ambition of other dimensions of the GP. Making it much easier for farmers to qualify for GPs (GP4–9) reduced the significance of being exempted from following GP rules. The European Court of Auditors (2017) thus found that 65% of EU farmers were able to qualify for the GPs without changing how they farmed. On AECM (see Figure 3) both co-legislators gave in to the other's demands: The final text contains earmarking, a much higher level of reverse flexibility as well as rules against double funding.

But what about policy success of the involved institutions? If we compare the final results to the different institution's positions, the EP's success is clear (see Figure 4). In six out of 14 greening indicators, the Plenary's position was included in the final text. In a further five cases, the final outcome was a compromise between the Council and Plenary positions (two), and with Council and Commission (three). Comparatively, the ambition levels of the proposals were only maintained for two out of 14 indicators—demonstrating how thoroughly the co-legislators rewrote the Commission's greening plans. The Council did better than the Commission, but in four out of the five instances where the Council's position was found in the final text, it had previously copied the Plenary's position. Critically, the co-legislators' rewriting of greening saw reduced ambition in nine out of 14 dimensions. But the only three instances in which ambition improved were cases where the Plenary's position (or, for AECM3, a watering down of it) was included in the final text.

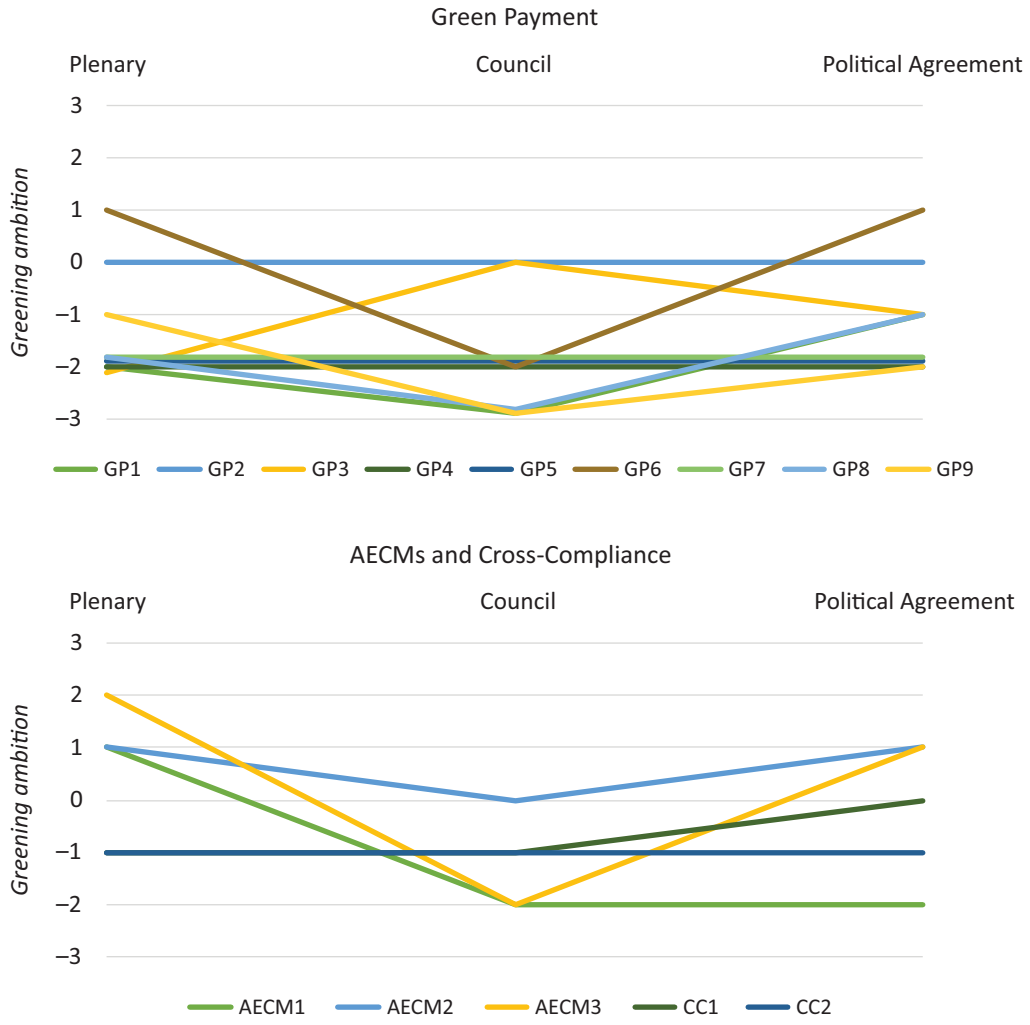


Figure 3. Changes to greening ambition during the negotiating phase: Comparing GP, CC and AECM (14 indicators). Source: Own coding.

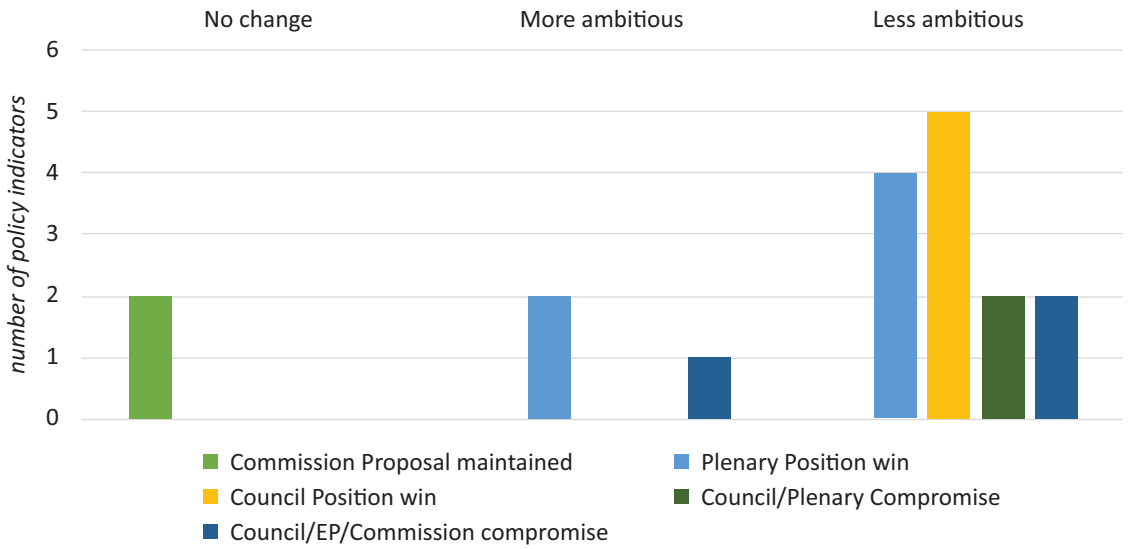


Figure 4. The final agreement in perspective. Source: Own coding.

6. Conclusions

The 2013 reform was the first CAP reform under the Ordinary Legislative Procedure. We identified three main obstacles to the EP supporting radical CAP reform. First, the strong alignment between its AGRI committee and conventional farming interest. Second, despite a reputation as a 'green' institution, the Plenary would be reluctant to disavow AGRI and prefers instead a united front ahead of inter-institutional negotiation. Third, lack of expertise and experience, as well as unwillingness to go against Member States' interests in a policy area of high political salience, prevented the EP from developing its own policy alternatives.

We tracked changes made to the three greening policy instruments of the CAP using a coding scheme for policy activity adapted from Schaffrin et al. (2015) and Gravey and Jordan (2016). We categorised the 14 main greening policy proposals debated during this CAP reform. The different institutional positions—European Commission proposals, Council position and two sets of EP's amendments—were then coded for environmental ambition relative to one another for each of these issues.

Comparing the three greening policy instruments using this policy activity index reveals the profound changes made to the Commission proposals. Both the GP and CC proposals were weakened during the legislative process—echoing concerns in the literature about the lack of environmental ambition of the 2013 reform (e.g., Alons, 2017; Knops & Swinnen, 2014). But the diverging fates of the three instruments confirms the need to look beyond flagship measures such as the GP to evaluate the CAP's environmental ambition. H1 is overall confirmed in that AGRI overwhelmingly weakened all three instruments (only three out of 14 indicators improved). H2 is not confirmed. While the Plenary followed AGRI on the GP, it did so by default due to polarisation between political groups, with no alternative amendments succeeding. Furthermore, it diverged on CC and AECMs. This shows that there is no uniform policy-specific pattern of committee-plenary conflict in the EP but variation is contingent on both politics and policy design. Our case shows that the Plenary failed to keep its committee in check on an instrument that was both new and highly politicised—but managed to do so on pre-existing instruments which were less politicised.

This article drew a fine-grained picture of parliamentarisation in the EU by analysing the EP's role as a co-legislator in the 2013 reform. Hence, despite its divisions and its lacking resources, the EP cannot be dismissed either as a simple "status quo influence" (Knops & Swinnen, 2015, p. 424), or as an automatic ally of the Council—disproving thus H3. While the EP sided with the Council against the GP, this does not necessarily mean that the EP (both AGRI and the Plenary) are de facto opponents of CAP greening. Nor is the EP an automatic supporter of the Commission. The EP (even pro-environment forces within it) was not convinced of the environmental value of the GPs, nor of the value or need for CC. Instead, the EP—both Plenary and AGRI—supported AECM, and fought successfully to strengthen these elements of the reform. Recent reports from the European Court of Auditors criticising both CC and GPs confirmed that the EP was right to be wary of these instruments (European Court of Auditors, 2016, 2017).

Writing on the EP's green credentials, Burns et al. (2013, p. 952) have argued that "if actors in the EP wish to be successful, they should be assiduous in courting the Commission as the Commission's opinion on EP amendments is crucial." This article has shown that when it comes to greening the CAP, the Commission needs to be more assiduous in courting the EP, convincing the EP, most notably the Plenary, not to pursue an alternative greening agenda. The extension of co-decision to the CAP has deeply changed the power balance between the institutions, so that if the Commission is intent on

further greening the CAP it now needs to change its reform strategy and invest more work to convince the EP of the effectiveness of its proposed policy instruments. The ongoing 2021 reform—proposed under the Juncker Commission, continued under the von der Leyen Commission despite its blatant incoherence with the European Green Deal—shows a similar pattern: The Plenary endorsed AGRI views, and together with the Council weakened the (anyhow limited) environmental ambition of the Commission's proposal. This casts further doubt on the EP's ability to be 'for the environment' when it comes to agriculture—and on the ability of the Commission to keep control of the reform process after the Lisbon rule changes.

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Conflict of Interests

The authors declare no conflict of interests.

Supplementary Material

Supplementary material for this article is available online in the format provided by the author (unedited).

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Article

Punching Below Its Weight: The Role of the European Parliament in Politicised Consultation Procedures

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Abstract
With Lisbon, the European Parliament formally acquired an equal standing to that of the Council of the EU in the making of policies in the AFSJ (area of freedom, security and justice). However, the growing political salience of policy issues at stake and bottom-up politicisation in the AFSJ has had the unintended effect of undermining the European Parliament's internal unity even under consultation procedures. To show how this played out in practice during Europe's migration and refugee crisis, this article analyses the European Parliament's role, preferences, and bargaining position in the making of two Refugee Relocation Decisions (Council Decisions 2015/1523 and 2015/1601) under consultation procedure. To do so, this article exploits Putnam's two-level framework (*level I* and *II* politics throughout the policy-making process) to explore early agenda-setting attempts and groups' positions on issues of refugee relocation and burden-sharing, as they were formally stated in their position papers and expressed at the LIBE Committee and at plenary. This article shows that the high domestic salience and politicization of the issues at stake left MEPs torn between competing principals at home and within their European Parliament political groups and had the effect of weakening overall unity on the issue of refugee relocation.

Keywords
area of freedom, security and justice; consultation procedure; European institutions; European Parliament; governance; migration crisis; policy-making; power; preference formation; two-level game

Issue
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1. Introduction

It is undeniable that, over time, and particularly after the adoption of the Lisbon Treaty, the European Parliament (EP) has seen its power and influence as co-legislator grow remarkably in the AFSJ (area of freedom, security and justice; see Hampshire, 2016; Hix & Høiland, 2011; Trauner & Ripoll Servent, 2016). While growing used to behave more consensually under co-decision, members of the European Parliament (MEPs) remain portrayed as being comparatively more confrontational under consultation procedures, pushing forward 'Christmas wish lists' with 'left-wing, liberty-oriented positions' in justice and home affairs (JHA; Ripoll Servent, 2012, p. 67; see also Ripoll Servent, 2015).

In many ways, the entry into force of the Treaty of Lisbon and the gradual move away from consultation provided the EP with a timely opportunity of institutional adaptation (Ripoll Servent, 2012): That is, to close the gap between these two 'schizophrenic' behaviours in co-decision vis-à-vis consultation procedures (Ripoll Servent, 2012, p. 68). Nevertheless, more recent policy developments in the AFSJ—most notably, the use of consultation for formulating key policy responses to the migration crisis (i.e., the Refugee Relocation Decisions under Council Decisions 2015/1523 and 2015/1601 and the EU-Turkey Statement) and the political impasse reached under various co-decision procedures (e.g., the so-called Dublin Regulation Recast and the Asylum Procedure Regulation)—have suggested that

member states 'remain privileged policy entrepreneurs in the AFSJ' (Trauner & Ripoll Servent, 2016, p. 1429). The missed change for the EP to transform the Treaty of Lisbon into an opportunity for institutional change became all the more visible in the shaping of emergency responses to the migration and refugee crisis, particularly the two Refugee Relocation Decisions (Council Decision (EU) 2015/1523 of 14 September 2015, 2015; Council Decision (EU) 2015/1601 of 22 September 2015, 2015), adopted under a special consultation procedure as provided by Article *78*(3) of the Treaty on the Functioning of the European Union. Soon after the two Refugee Relocation Decisions were adopted, former EP President Schulz criticized member states for being responsible of unambitious policy responses to the crisis:

> The European supranational institutions have shown their readiness to act. The European Parliament has supported the European Commission—the EU's executive—in its courageous push for a binding system to help the countries most exposed to the refugee crisis. On the other hand, EU member states often preach solidarity when it suits them and resist it when it does not….It is not the European Union—or Brussels—that is broken. It is the intergovernmental decision-making process jealously guarded by national capitals that has once again proven its ineffectiveness. (Schulz, 2015)

It is indeed true that under consultation and faced by conditions of structurally limited power and influence in the legislative procedure, the EP could only 'lobby' other institutions (Hix & Noury, 2009, p. 19) and try to demand radical change in a united manner to be somewhat influential (see, for instance, Kardasheva, 2009; Varela, 2009). At the same time, in view of the heated intergovernmental debate and impasse found at the Council on the refugee relocation decisions (Barigazzi & de La Baume, 2015), this article explores whether the highly salient 'nature of the problem and the absence of a shared "common bad" ' (Ripoll Servent, 2019, p. 307) were reflected in a less united, thereby even less influential EP. In other words, the article analyses whether the high political stakes and domestic salience on the issues at stake cast "the shadow of intergovernmentalism" on intra-EP dynamics too, in such a way that they prevented the EP from pushing forward an ambitious, maximalist agenda on these issues, and undermined any chance for the institution to act united in the formulation of these two refugee relocation decisions.

In order to study this, the article analyses the role, bargaining position and preference formation of the EP in the formulation of the refugee relocation decisions. The article argues that the EP initially tried to strengthen its odds in influencing the negotiations by gathering broad support across political groups and crafting a Report in full respect of the existing competing interests on the issues of irregular migration and asylum. As shown in this article, between 2013 and early 2015 the EP was arguably successful in its efforts as a whole, pushing for policy change on the issues of refugee relocation and intra-European solidarity. However, as media salience on the issues at stake increased in the Spring of 2015, so did public attention on these matters. Increased salience made MEPs more likely to defect, that is to vote against their EP political group's line when a conflict between their national party and their EP group arose. Bottom-up politicization, much alike the one that undermined consensus in the Council (Barigazzi & de La Baume, 2015), pre-empted the EP from being influential in the formulation of the two Refugee Relocation Decisions. This finding is consistent with existing literature on defection and abstentions in the EP, according to which MEPs are more likely to defect or abstain from their EP group's position 'on specific questions that are of particular importance to them, but not on a general basis (Faas, 2003, p. 860; see also Hix, 2002; Klüver & Spoon, 2015; Koop et al., 2018), particularly when these questions coincide with crucial interests of an MEP's national party which need to be respected in order to stand for re-election (Mühlböck, 2017, p. 60).

In this article, Section 2 presents the methodology and theoretical framework in use. Section 3 reviews the EP's attempts of agenda-setting as from 2013. Section 4 analyses the various EP groups' positions on refugee relocation at the outbreak of the migration and refugee crisis, so as to serve as the basis for comparison between early political objectives in the unfolding of the crisis and the ultimate policy-making outcome. Sections 5 and 6 analyse *level I* and *level II* coalition-building efforts and power dynamics within the EP.

2. Theory and Methods

Seeing as the main preoccupation of this article is to understand whether, and if so in what ways, the entanglement between domestic and international politics played out in undermining the intra-EP unity under consultation, some theories of European integration could be seen as the best fitting theoretical framework. However, rather than linking the findings of this article to a specific theory of integration, this article will critically contribute to the wider debate on European integration by showing how to explain the growing internal divide in the EP in making policies in the AFSJ, even under consultation. This methodological choice was considered most appropriate in view of the inherent weaknesses of existing theories of European integration to explain EU bargaining dynamics. According to Putnam himself, neo-functionalist theories have the crucial shortcoming of disregarding the impact of domestic politics in favour of a more transnational, interdependence-based approach, using as dependent variable 'the hypothesized evolution of new supranational institutions, rather than specific policy developments' in such a way that whenever 'European integration stalled, so

did this literature' (Putnam, 1988, p. 431). Even state-centric theories of integration, such as Liberal and new Intergovernmentalism, are too static and narrow to account for the longer 'time horizon preferences' and *issue-linkages* (Moravcsik, 2018, p. 1667) which usually drive the behaviour of policy actors in the AFSJ. While post-functionalism could be somewhat useful to account for the centrality of exclusive identity in shaping MEPs' voting behaviour and ultimate decision to defect (Hooghe & Marks, 2009), as well as the influence of national parties on the EP, it does not tell us much regarding interactions at the EU level of governance other than noting that domestic politics influences the constraints of decision-makers (Schmidt, 2019, p. 1025).

In an attempt to deconstruct political incentives coming from the domestic and the supranational arenas, the article's analytical approach follows Putnam's (1988) two-level game theory. This analytical framework was deemed most suitable for the purposes of this study as it allows for the study of simultaneous interactions, pressures and influences between the EU (*level I*) and domestic (*level II*) levels of governance, while keeping a focus on EU politics. Under Putnam's two-level framework, chief EU negotiators respond to, and interact with, different pressures, interests, and diplomatic strategies that contribute to, or ostracize, a tentative agreement among the parties at stake. For the purposes of this article, different EU policy actors on *level I* (different EP political groups, national delegations and MEPs) are seen as responding to various domestic pressures originating from *level II* (domestic constituencies, parties, or governments in place).

This article is mainly preoccupied with the definition of *win-sets* or of 'all possible Level I agreements that would "win," that is gain the necessary majority among the [domestic] constituents, when simply voted up or down' at the EP (Putnam, 1988, p. 437). By providing the right analytical tools for breaking down the *win-sets* of different EP political groups on the basis of their stated position and internal debate on a mechanism for refugee relocation, as well as for studying how domestic politics influenced MEPs' voting behaviour and the degree of intra-group cohesion and intra-EP overall unity, the two-level game framework constitutes the most suitable model for analysing how *levels I* and *II* competing political interests influence policy outcomes at the EP.

As shown in Figure 1, Putnam's two-level game defines clear mechanisms based on which multi-party negotiations take place. In situations of high politicisation at *level II*, we would expect negotiations at *level I* to be politicised as well, ultimately rendering the size of the political groups' *win-sets* smaller across the political spectrum (*shrinkage of win-sets* or *tie-hands*). The more EP political groups are united and internally cohesive on the issue at stake, the more we would expect chief negotiators in EP political groups (i.e., rapporteurs and shadow rapporteurs) to try and restructure the Commission's proposal by: a) pushing forward an ambitious wish list of amendments in the EP Report on the second Refugee Relocation Decision (European Parliament, 2015c); and b) demanding more concessions or *tying its own hands* by pretending that there is no room for manoeuvre at the domestic level. Vice versa, the more decentralized the governance of a political group is, the higher the likelihood will be for MEPs to escape their mandate originating from *level II* (Ripoll Servent, 2014, p. 372) and to not align with the group's position. In this circumstance, we would expect chief EU negotiators that want to achieve a united position at the EU level to *cut slack* to their MEPs so as to widen their *win-set*, ultimately resulting in a less ambitious group position. Another mechanism that we expect to have affected intra-EP negotiations is a change of interests throughout the negotiations, often due to the 'reverberation' of international pressures within domestic politics (Putnam, 1988, p. 456), or vice versa.

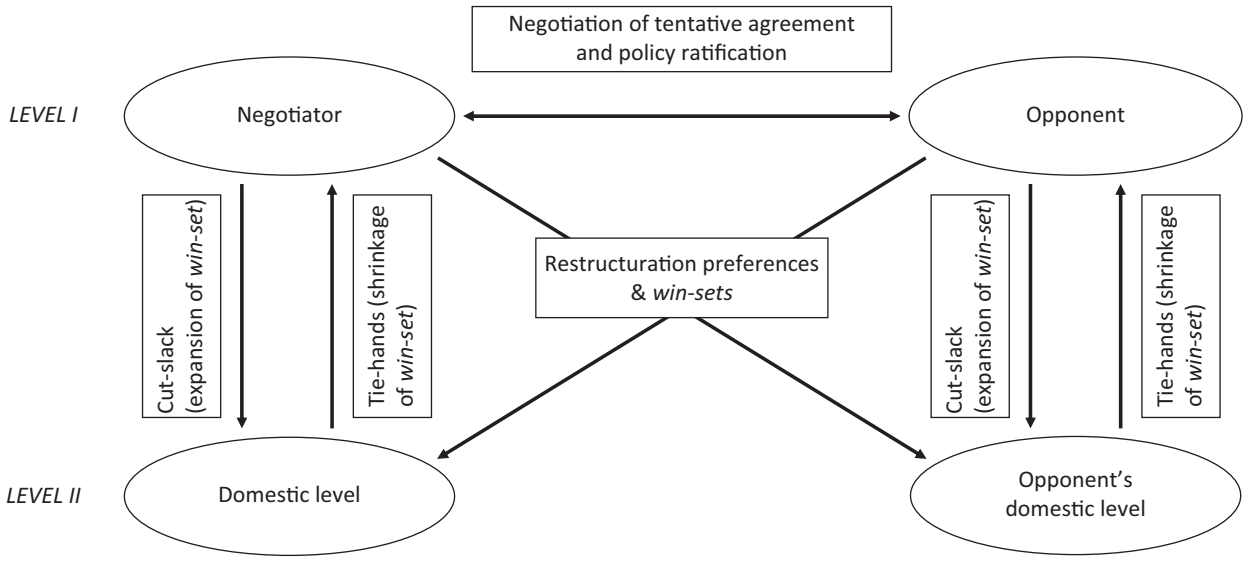

Figure 1. Mechanisms of a two-level game. Source: Adapted from Moravcsik (1993, p. 32) and Ripoll Servent (2014, p. 572).

In terms of methods, the article is built upon a multi-method research framework rooted in the deductive theory-testing side of process tracing, as defined by Bennett and Checkel (2014, pp. 7–8) as a methodological technique that 'examines the observable implications of hypothesized causal mechanisms within a case to test whether a theory on these mechanisms explains the case.' By operationalising Putnam's two-level game, the article looks at the causal mechanism between the observed outcome, or the unambitious role of the Parliament in the formulation of the two Refugee Relocation Decisions, and the partial explanation of bottom-up politicization of the policy issue at stake. As shown in the following sections, the particular legislative procedure in use—consultation—in the making of the two selected policies was a necessary and sufficient condition for the EP to be a structurally marginal policy actor. However, what rendered the EP's policy agenda even more unambitious was the lack of intra-EP unity, which resulted in unusually conservative opinions in the two procedures.

This framework is integrated with a set of primary and secondary sources, including: six semi-structured elite interviews undertaken between October 2018 and January 2019 (see Annex I in the Supplementary File); vote analysis; and documentary research, spanning from press briefings to European Council conclusions, from interviewees' meeting calendars to EP group position papers on migration. The findings are triangulated with secondary literature on, and media coverage of, the intergovernmental and interinstitutional debate preceding the adoption of the two Decisions.

3. The EP and Early Agenda-Setting on Refugee Relocation (2013–2015)

From as early as 2013, the EP attempted in different occasions to propose a Union-wide relocation mechanism for refugee redistribution. In a debate in late February 2013 (European Parliament, 2013a), the EP questioned the then JHA Commissioner Cecilia Malström about the Commission's commitment to table a legislative proposal for an intra-European relocation scheme, shaped on the basis of the past pilot projects of intra-EU refugee relocation for the benefit of Malta (the so-called EUREMA I and II). While stating that the Commission was 'very happy with the EUREMA scheme,' Malmström concluded, as based on the limited commitment of member states in implementing the pilot project EUREMA II (only 14 were relocated), that 'there [was] not the [right] political climate… to propose such a scheme' without incurring in 'a robust no…[or] a paper tiger' (European Parliament, 2013a).

Despite the clear political unworkability of relocation, Lampedusa's migrant shipwreck of 3 October 2013 gave the EP enough political momentum to reopen a debate about the situation in the Mediterranean and possible reforms of the AFSJ. A first EP resolution was published just days after the tragedy in the Mediterranean, encouraging member states and the Commission, among other things, to show 'greater solidarity with Member States facing particular pressure' (European Parliament resolution of 23 October 2013, 2013b). Less than two weeks later, the EP published another resolution, reiterating the legal obligation for member states to assist migrants at sea, as well as the need for responsibility-sharing. It recommended 'creating a mechanism based on objective criteria to reduce the pressure on those Member States receiving higher numbers of asylum seekers and beneficiaries of international protection, in either absolute or proportional terms' (European Parliament, 2013c, p. 6).

While the immediate public and political response to Lampedusa's tragedy was to pledge for 'no more deaths' in the Mediterranean (Muiznieks, 2015), the increased resources invested in search and rescue operations did not have the results expected in the short run. The EP gathered renewed momentum on the issue under the Italian Council Presidency and with the start of a more "political" Commission under Juncker's leadership (Kassim & Laffan, 2019; Nugent & Rhinard, 2019). Following the JHA Council of early December 2014, the EP stressed in another resolution 'the need for the EU to step up fair sharing of responsibility and solidarity… and recall[ed] the obligations deriving from Art. 78 and 79 TFEU' (European Parliament resolution of 17 December 2014, 2014).

A critical juncture on the issue was only to come on 18 April 2015, when a shipwreck disaster leaving over 700 migrants dead shook the European Council and prompted a EUCO special summit on 23 April 2015, where member states called on the Commission to 'consider options for organising emergency relocation between all member states on a voluntary basis' (Council of the European Union, 2015, p. 2). This message was reiterated in another EP resolution, which called 'on the Commission to establish a binding quota for the distribution of asylum seekers among all the Member States' (European Parliament resolution of 29 April 2015, 2015d). In other words, in spite of the EP's active efforts in setting the policy agenda on the issue at stake, it was only when the Commission's willingness to table a refugee relocation scheme was echoed by the European Council that a proposal for voluntary relocation was tabled by the Commission.

4. EP Groups' Positions on Refugee Relocation and Resettlement

While the EP as a whole lobbied member states and other EU institutions with one single voice, all groups came up with a different position paper ahead of the EUCO special summit on migration of April 2015: These papers reflected primarily the groups' *sets of acceptable agreements*, or *win-sets*, on the issues of refugee relocation and burden-sharing. Each group's position was

evaluated, as summarized in Table 1, in relation to its published position paper (if existing). In so doing, it was possible to define: a) the group's desired "policy focus" for a refugee relocation scheme (refugee oriented; MS capacity; executive control; not defined); b) its preference on the nature of refugee relocation (voluntary; binding; substituting Dublin; permanent; temporary); the group's degree of unity on the issue at stake (low; moderate; high); and c) the aggregate size of the group's *win-set* (narrow or broad). Seeing as neither the Eurosceptic Europe of Freedom and Direct Democracy Group (EFDD) nor the far-right Europe of Nations and Freedom Group (ENF) came up with a position paper in the outbreak of the migration crisis, it was not possible to determine either of these variables for them.

The most proactive groups were the Greens/EFA and the GUE/NGL. The Greens/EFA argued for 'visa-free travel' for Syrian refugees and for a relocation system focused on the refugees' preferences, language and culture in order to replace the Dublin Regulation (Greens/EFA, 2015, p. 2) and most importantly to reform the way in which the latter assigns responsibility for examining asylum applications to the countries of first entry in the EU, thereby putting enormous pressure on frontline Member States. The GUE/NGL threatened that their MEPs would be opposing any EU budget that would go against the 'activation of Temporary Protection Directive 2001/55/EC… increase[d] sharing of reception of asylum-seekers between Member States, including through relocation programmes that take fully into account family, language and cultural ties, adequate funding and reception conditions and closing down of detention centres' (GUE/NGL, 2016, pp. 1–2). In other words, strong of its internal cohesion on the issue at stake, the group tried to be influential in inter-institutional negotiations by *tying its own hands*.

Both the European People' Party (EPP) and the Socialists & Democrats (S&D) supported the idea of a binding mechanism for refugee relocation based on a variety of criteria reflecting the member state's capacity. They nonetheless differed in *win-sets* on a variety of fundamental issues at stake. The S&D 'wanted a legally binding, permanent relocation' system (Interview 1), with a comprehensive basis for the key redistribution criteria, reflecting both the member state's capacity and the individual asylum seeker's preferences. The EPP instead lobbied for a refugee distribution scheme based on solely objective criteria (EPP, 2015, p. 7), such as territorial size, population, economic situation, and the number of migrants already present in the country. In Putnam's terms, the EPP had a relatively narrower *win-set* on refugee relocation as compared to the other groups, meaning that it had less room for manoeuvre (*tied hands*). According to Christian Democrat MEP Jeroen Lenaers from the EPP—at the time also shadow rapporteur on the first file—concerns about asylum seekers' preferences were secondary or even tertiary in the discussion, whereas the whole EPP debate was fully on whether there should be a binding or non-binding mechanism for refugee relocation (Interview 2). As from Spring of 2015, the group initiated a discussion relating to the potential costs and benefits of no agreement, as well as the potential benefits which would originate from the ratification of the Scheme. As explained by MEP Lenaers, the group did not like the option of binding relocation, but abode by it in order to maintain pressure on the Council (*cut-slack*):

> It was never our favourite solution… but we understand we are in a crisis situation….The only thing we could do [was] delay the procedure really… which is something we really didn't want to do because the Parliament was in a majority in favour for a binding relocation measure so we wanted to keep pressure on the Member States. (Interview 2)

In March 2015, the Alliance of Democrats & Liberals (ALDE) Party had already held a seminar on the topic

Table 1. Summary of groups' policy positions on a refugee relocation scheme.

Group	Position Paper	Policy focus	Nature of Scheme	Expected group unity	Size of win-set
ALDE	Yes	MS capacity and refugee oriented	Permanent, substituting Dublin	Moderate	Broad
ECR	Yes	Executive control	Voluntary and temporary	High	Narrow
EFDD	No	N/D	N/D	N/D	N/D
ENF	No	N/D	N/D	N/D	N/D
Greens/EFA	Yes	Refugee oriented	Permanent	High	Narrow
GUE/NGL	Yes	Refugee oriented	Permanent, substituting Dublin	High	Narrow
EPP	Yes	MS capacity	Binding but temporary	Moderate/Low	Narrow
S&D	Yes	MS capacity and refugee oriented	Binding and permanent	Moderate	Broad

(ALDE Party, 2015), which then resulted in the creation of ALDE's *Blueprint for a New European Agenda on Migration* on 23 April: In the document, ALDE called for the introduction of a centralized, two-step refugee distribution scheme in replacement of Dublin. This entailed the voluntary offer of relocation spaces by each Member State; if not enough, this had to be integrated with compulsory redistribution, as based 'on both quantitative data (GDP and the Member State's population) and qualitative data (language, cultural ties, family ties of the refugee)' (ALDE, 2015, p. 6). As explained by an ALDE political advisor (Interview 3), the number of political stances comprised within the group—21 member states and 60 national parties—prompted an early formation of the group's *win-set* on migration.

The main task for the ALDE shadow rapporteurs and political advisors was to clarify and provide reassurance on the content of the legislative texts to their MEPs. This was done so as to ensure that the procedural complexity and negative press coverage for refugee relocation—possibly threatening a change of domestic interests throughout the negotiations, or reverberation effect in Putnam's words (1988, pp. 454–455)—would not get in the way of showing the group's support at plenary (Interview 3). This proved challenging due to the presence within the Group of eight parties that were at the time part of national governing coalitions (*reverberation of domestic interests*): In the face of increasing popularity of far-right, anti-migrant parties and movements at home, these parties in government would be sending different (i.e., more realist) messages to their domestic audience (*level I*) than they would within ALDE (*level II*). On the political debate surrounding the first Commission's proposal, the same advisor stated:

> They [Ministers] might be saying one thing in the Council, and then saying [to] their colleagues and MEPs a slightly different thing. No, no it's not mandatory, but yes, yes, it is mandatory….Having to explain [at the national level] that it's not mandatory but in the end we reached the same [result] because Member States are basically, not very publicly, but pretty much signed up to the same numbers as the Commission put forward in the mandatory Scheme. (Interview 3)

Compared to the other groups, the European Conservatives and Reformists (ECR) clarified that, for them, relocation ought to be based only on voluntary contributions made by governments—i.e., executive decision-making centralized at *level II*—and was sceptical towards the proposed distribution key, insofar as '[s]tatistics, numbers, and graphs rarely reflect the true local and national effects of decisions in the area of migration and asylum' (Kirkhope, 2015, p. 3).

The only two groups not to clarify their *win-sets* with a position paper were the EFDD and the ENF: the refusal to do so pertained mainly to the great diversity of political stances at stake in the two groups, as well as the ENF's late foundation (15 June 2015). As a result, both the EFDD and the ENF left their MEPs 'absolute freedom of vote' (Interview 4), with no attempt at consensus-seeking (Interview 5).

5. *Level I* Politics in the European Parliament

With the EP's Committee on Civil Liberties, JHA (LIBE) in charge for drafting a report on the two legislative files, the main objective for appointed rapporteur Ska Keller (Greens/EFA) was primarily 'to put down in black and white a bit of what we thought about it, and what were our requests' (Interview 5). The results obtained on the first Refugee Relocation Decision in the relative Committee vote—42 members in favour, 13 against, 3 abstentions—were praised by rapporteur Ska Keller as an example for the Council of unity:

> While member states are muddling through and cannot agree on how to distribute 40,000 refugees, our committee has supported a binding distribution key by a large majority….We are also calling for a permanent distribution mechanism which must go substantially beyond the current proposals….Respecting the interests of refugees is essential for the success of the distribution key. (LIBE Committee, 2015)

As explored in the following paragraphs, the cross-group unity achieved by the rapporteur on this and the second Committee votes came at the cost of a less ambitious and maximalist agenda tabled by the EP as a whole on refugee relocation and responsibility-sharing, in order to bring the Conservatives and Centre-Right on board (*cut-slack*).

When commenting on how the LIBE report was drafted, an ALDE advisor explained how, while political support from the S&D, ALDE, the Greens/EFA and GUE/NGL was almost automatic in view of 'a kind of alliance… on these issues' (Interview 3), this was not the case for the EPP. According to MEP Lenaers—substitute member for the LIBE Committee—the rapporteur knew that 'she needed at least half of the EPP to get a majority in the European Parliament' (Interview 2). For this to be the case, the rapporteur ensured that the preferences of asylum seekers would only be included 'to the extent possible,' whereas the numbers of refugees to be relocated would be kept unchanged, with a possible adjustment accounting for the evolution throughout the Summer of 2015 (Interview 2). The political compromise found was reflected in a swift change in the amendments postulated in the final EP report: Thanks to these adjustments, fourteen out of the fifteen roll-call votes requested by the ECR and the EFDD and tabled in the plenary of 9 September passed by majority.

While the draft report had called for an amendment in numbers of asylum seekers to be relocated from 40,000 to 50,000 (European Parliament, 2015a,

pp. 8, 16), in the final report it was only in an explanatory statement that the rapporteur suggested to increase in the future that number 'to 50,000 as a minimum' (European Parliament, 2015c, p. 34).

A similar adjustment was made in relation to the integration of preferences of asylum seekers and to what was politically attainable for the EPP on this policy matter. As suggested in the final report:

> Neither refugees have a right to choose their preferred Member State nor do Member States have a right to choose their preferred applicants. But their preferences should be taken into account to the extent possible. (European Parliament, 2015c, p. 35)

Alongside said effort in wording, the EPP also ensured that its MEPs who attended the LIBE vote would all be aligned to the found compromise:

> What we did try to do of course is to make sure that in the LIBE vote, so in Committee vote, we would have… people there that would represent the EPP line. And the EPP group line was that we were in favour of a mandatory binding mechanism. So, for instance, you tried to make sure that [when] people were absent from the vote, that they are being replaced by people who follow the EPP group line and not people who… go against the EPP group line. (Interview 2)

This was mirrored in the substitutions made for the LIBE vote on the report: Among the substitute members who were present for the vote on 28 July, four out of eleven were MEPs from moderate parties within the EPP group, namely: Sweden's Moderate Party, the Spanish Partido Popular, the Dutch Christian Democratic Appeal or CDA and the Greek New Democracy. Under rule *200*(2) of the EP Rules of Procedure, four out of six of the substitutions made followed the same political rationale and comprised substitutes from the following moderate parties: the German CDU, the Bulgarian GERB, the Belgian CD-V, and the Dutch CDA. The ways in which the EPP quickly aligned to the compromise found despite pressures at *level II* suggests a high degree of centralization and group discipline, as reported in other scholarly literature (Hix, 2002, pp. 690–691).

The legislative procedure for the second Refugee Relocation Decision—a total of thirteen days from the proposal on 9 September and its adoption on 22 September 2015—was much shorter than the first one. As a result of the short timing and the mostly unchanged legislative text, neither the LIBE nor the Budget Committees produced a different opinion. The only remarkable aspect was to see how domestic contestation weighed in preparatory EP debates (European Parliament, 2015b). In a debate on 8 September, a striking amount of references to domestic pressures and national preferences was reported among MEPs. Non-affiliated MEP Korwin-Mikke from Poland highlighted how his country 'has dozens of problems, [and] we have a problem with migrants,' and defined the relocation policy as an 'absurd policy… this will lead to the destruction of Europe.' Slovak MEP Benová (S&D) brought attention to the fact that 'these issues are viewed differently dependent on which Member State you are talking about' and reproached to EU institutions how they 'did not find a manner to get this issue across the population' and communicate it in an effective manner. Czech MEP Mach (EFDD) threatened that 'if you vote a binding quota through in our country [Czechia], then the public would not like to remain in the EU.' As shown in Section 6, domestic politics had heavy repercussions on the degree and nature of coalition-building at the EP, particularly in the second consultation procedure on 14 September 2015.

Looking at the voting dynamics in the two plenaries (see Table 2), the total number of favouring MEPs (pro votes) in the second Refugee Relocation Decision—diverged from the first one by 25 percentage points. All centrist and liberal-leaning groups lost between 18% up to 38% of "Yes" votes. While the amount of "No" votes (anti votes) went consistently down except for S&D, on a whole, 15 more MEPs abstained (abst. votes) and 143 more MEPs were absent (absent votes) in the second as compared to the first roll-call vote. The increase in absentees by two to four times was visible in all groups.

Commenting on the change in intra-EPP voting dynamics between the first and second plenary votes, MEP Lenaers stated that there was neither a push for MEPs to vote in favour of the second Refugee Relocation Decision nor to be absent for the plenary:

> [I]n our...parliamentary group, there is always room, if you have a principled issue, to vote according to your conscience, so that [pushing to be absent] was not...not something we tried....We tried of course to ease with as many people as possible… if you are not in favour of this, try at least, if you could at least abstain instead of voting against. (Interview 2)

A similar take on absenteeism was shared by an ALDE political advisor, according to whom there is always within ALDE 'a variable of people half for whatever reason they are not present, maybe [due to a] long session of plenary or they make mistakes' (Interview 3). The substantial increase in defections and absentees makes an analysis of *level II* politics and voting pressures essential in order to either confirm these takes on absenteeism or put it into question in the face of potential *level II* pressures coming from national parties or governments in place.

6. The Impact of *Level II* Politics in the EP

This layer of voting analysis is particularly useful to analyse whether MEPs from the countries that either rejected or abstained from the second Refugee

Table 2. Voting behaviour on legislative resolutions A8-0245/2015 and C8-0271/2015, by EP political group.

Group	Pro Vote 1	Pro Vote 2	%Δ	Anti Vote 1	Anti Vote 2	%Δ	Abst. Vote 1	Abst. Vote 2	%Δ	Absent Vote 1	Absent Vote 2	%Δ
ALDE	51	42	−0.18	7	4	−0.43	4	3	−0.25	9	22	1.44
ECR	9	2	−0.78	58	49	−0.16	0	6	6.00	7	17	1.43
EFDD	17	17	0.00	25	23	−0.08	1	0	−1.00	2	5	1.50
ENF	0	0	0.00	36	25	−0.31	1	0	−1.00	1	13	12.00
GUE/NGL	42	26	−0.38	2	0	−1.00	2	4	1.00	6	21	2.50
NI	0	1	0.00	9	3	−0.67	1	0	−1.00	4	11	1.75
EPP	158	115	−0.27	18	14	−0.22	26	31	0.19	15	57	2.80
S&D	173	133	−0.23	3	6	1.00	2	10	4.00	12	41	2.42
Greens/EFA	48	36	−0.25	0	0	0.00	0	0	0	2	14	6.00
TOTAL	498	372	−0.25	158	124	−0.22	37	54	0.46	58	201	2.47

Relocation Decision at the Council level—namely, CZ, HU, SK, RO, and FI—faced *level II* pressures to vote in one direction or the other at the EP (*tie-hands*). It is also useful to analyse the voting behaviour of Polish MEPs, seeing as the support provided by the Polish government at the time, led by EUCO President Tusk's Civic Platform party, was absolutely essential to build a strong qualified majority at the Council (Interview 6) without causing a serious rift and a real division between Central-Eastern and Western European member states (Interview 7). In order to better visualize how bottom-up politicization was reflected in the voting dynamics of the second refugee relocation decision (Council Decision (EU) 2015/1601 of 22 September 2015, 2015), the analysis undertaken is streamlined into Table 3, alongside Appendixes I and II in the Supplementary File: Appendixes I and II look at the voting behaviour of MEPs by member state on the two EP legislative files. Table 3 cross-references this information with the voting behaviour of parties in government from the member states selected above.

The Polish delegation to the EPP mostly aligned to the group's request to abstain, when unwilling to support the majority. In fact, the number of Polish MEPs abstaining in the second decision increased by five, as followed by a decrease in "Yes" votes (from 11 to 4): All of the abstain votes from Poland came from the then-governing EPP coalition led by the Civic Platform and its junior coalition partner Polish People's Party. These two parties in government not only led the national Abstain front but also the national efforts at the EP to side with the majority (see Table 3). This could suggest that the EPP's request to abstain instead of voting against was respected by Polish MEPs, in a way anticipating Poland's later inclination to side with the majority at the Council level. The then governing party and its PM Ewa Kopacz were in fact steered by President Juncker towards siding with the majority as they had already foreseen losing the upcoming elections regardless of their voting behaviour on these files (Interview 6).

The voting behaviour of the Romanian delegation to the EP seemingly mirrored Romania's rejection of the second Decision at the level of the Council (see Table 3): Within the governing coalition—composed by an EPP-S&D coalition (Partidul National Liberal, or PNL, and Partidul Social Democrat, or PSD)—the only "Yes" vote came from S&D Vice-Chair Bostinaru, whereas the

Table 3. *Level II* politics in the formulation of the Council Decision 2015/1601.

Member State	Voting Behaviour at the Council	Parties in govt (EP group affiliation)	Voting behaviour at the EP
Czech Republic	Against	CSDD (S&D) ANO 2011 (ALDE)	3 against; 1 missing 2 against; 2 missing
Hungary	Against	Fidesz Christian Democratic People's Party	8 missing; 3 against 1 missing
Slovakia	Against	Smer-SD (S&D)	3 against; one missing
Romania	Against	PNL (EPP) PSD (S&D)	6 against; 1 abstain; 1 missing 5 abstain; 6 missing; 1 for
Finland	Abstain	Centre Party (ALDE) National Coalition Party (EPP) Finns' Party (ECR)	1 abstain; 2 missing 1 for; 2 missing 1 against; 1 missing
Poland	In Favour	Polish People's Party (EPP) Civic Platform (EPP)	3 abstain; 1 missing 3 for; 13 abstain; 2 missing

rest of the PSD abstained or did not attend the vote. The overwhelming majority of the PNL—including EPP Vice-Chair Marinescu—voted against it.

Similarly, the Slovak delegation voted in line with the country's rejection at the level of the Council rather than the S&D's position, with three out of four MEPs belonging to the governing party Direction-Social Democracy voting against.

This was also the case for the Czech parties in government at the time: Česká strana sociálně demokratická, or CSSD (from the S&D), and its junior coalition partner ANO 2011 (from ALDE) either voted against the Council Decision 2015/1601 or did not attend the plenary, including ALDE Vice-Chair Telička. Commenting on the Czech delegation's voting behaviour, an ALDE political advisor suggested that, despite ALDE's affiliation of the then-PM:

> There was some kind of acceptance and they explained… for national reasons we have a different position. We did have discussions about other ways around this… but when the nature of these consultations is basically saying yes or no, there's not much room for manoeuvre, or discussions, so they were kind of left behind. (Interview 3)

Most MEPs from Hungary's and Finland's parties in government were absent at the plenary, suggesting they may have been subject to pressures coming from their own electorate/government and coalition partner respectively to vote in line with their own country's attitudes at the Council.

7. Conclusion

This article has conceptualized the negotiations leading to the adoption of two Refugee Relocation Decisions (Council Decision (EU) 2015/1523 of 14 September 2015, 2015; Council Decision (EU) 2015/1601 of 22 September 2015, 2015) as a two-level game involving primarily MEPs as responding to different pressures coming from their own EP political group and national party.

The empirical analysis has shown the importance of this analytical approach insofar as, by means of a two-level conceptual approach, it has shown how bottom-up politicization of the policy issues at stake made the EP more internally divided from within, despite working under consultation, and ultimately led to an unambitious policy agenda. Under consultation, the only negotiating leverage left to the EP would have been to be united to be influential and to advance forward-looking amendments. However, the Rapporteur's need to get the Centre-Right on board to come across as united in front of other EU institutions came at the cost of a less far-reaching Opinion. Indeed, the EPP's concerns were successfully integrated into the final text insofar as the group had a relatively narrower *win-set* (*tied hands*) compared to other mainstream EP groups and only sided with the majority on the two Council Decisions as the benefits from ratifying it surpassed the costs of blocking it (Interview 3).

As shown in this article, the policy issue(s) at stake reverberated so strongly at home, particularly in Central and Eastern Europe, that *level II* political considerations were as important as, or even trumped, the MEP's loyalty to their EP political group's line, leaving MEPs torn between "competing principals" and compromising the unity of the EP on this issue. This was particularly the case for MEPs from governing parties in countries that voted against Council Decision 2015/1601. The only successful tactic of *level I* consensus-seeking consisted in asking MEPs who did not comply to the group's position to abstain, or ensuring those attending the voting session at the LIBE Committee would be supportive of the group's majority line (Interview 2).

These findings represent a key contribution to the scholarly debate on politicization in the European Union (see, for instance, Högenauer, 2017; Schmidt, 2019), as they illustrate how increasing pressures from the bottom and polarized debates at the EU level, such as the ones permeating EU policy-making during the migration crisis, are increasingly weakening the EP's transnationalism due to the competing interests on related policy matters (Högenauer, 2017, pp. 1105–1106), with the unintended consequence of further undermining the EP's bargaining position in JHA affairs.

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Conflict of Interests

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Supplementary Material

Supplementary material for this article is available online in the format provided by the author (unedited).

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Article

Why Defend Something I Don't Agree with? Conflicts within the Commission and Legislative Amendments in Trilogues

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Abstract
This article aims to examine the effect of intra-institutional conflicts in the European Commission on the extent of changes made to legislative proposals in trilogue negotiations. We develop and test three hypotheses related to how conflicts within the Commission, namely that intra-institutional disagreements during policy formulation (h1), and potential conflicts with previous (h2) or subsequent (h3) colleges of commissioners, increase the number of amendments to the Commission's proposal adopted in trilogues. To test our hypotheses, we use a new dataset measuring the number of changes between Commission proposals and adopted legislation for 216 legislative acts negotiated between 2012 and 2019 by means of text-mining techniques. It is important to note that we control for differences between the Commission's proposals and the co-legislators' positions in order to distinguish between an effect on preferences anticipation and on the negotiations proper. Our results indicate that intra-institutional conflicts affect the Commission's anticipation of the co-legislators' positions. The effect on its behaviour in trilogues, that is, after the legislative proposal has been tabled, is less clear. Regarding the latter, only the number of Directorates-General involved is significantly linked with the number of amendments tabled. These findings suggest that while intra-institutional disagreements affect the Commission's role in trilogues, the range of preferences is more important than the intensity of conflicts.

Keywords
bargaining success; college; delegation; European Commission; intra-institutional conflicts; legislative decision-making; text-mining; trilogues

Issue
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1. Introduction

The European Commission (henceforth referred to as the Commission) is composed of multiple services, Directorates-General (DGs) and 27 commissioners, who may have different policy preferences. Yet, the college of commissioners (College), as the highest political level in the Commission, adopts legislative proposals collegially. This principle of collegiality implies collective decision-making, which, in the case of disagreement within the College, most likely results in compromise decisions (Ershova, 2019; Wonka, 2008). In other words, the resulting proposals do not correspond exactly to the preferences of every commissioner. Nevertheless, because of the principle of collegiality, all commissioners are collectively responsible for College decisions. These Commission proposals, agreed in the College, constitute the basis for legislative negotiations in trilogues between the European Parliament, the Council of the European Union (in the following, simply referred to as the Parliament and the Council), and the Commission.

The Parliament and the Council, having the formal decision-making right, usually modify the Commission's proposal, whereas the Commission is present to defend its proposal and foster a deal. Generally, one lead commissioner is responsible for representing the Commission in these meetings. Hence, in the case of disagreement within the College, this commissioner must defend a proposal with which they might not fully agree. This raises the question of whether they do so properly. For example, the commissioner could try to promote their own preferences or simply not defend a provision they do not support. In this article we aim to address this issue by focusing on the following questions: Do intra-institutional conflicts in the Commission impact the behaviour of its representatives in trilogue negotiations in a way that leads to an increasing number of amendments adopted by Council and Parliament broadly speaking? We assume that the lead commissioner—who represents the Commission in trilogues—has less incentive to defend proposals with which they potentially disagree, leading to more amendments.

When analysing European Union (EU) legislative negotiations, including trilogues, existing research usually treats the Commission as a unitary actor instead of taking its various intra-institutional actors and preferences into account (Gastinger, 2017; Rauh, 2020). Conflicts and disagreements between commissioners, however, are likely to arise during the procedure that leads to a legislative proposal. We expect these disagreements to spill over into inter-institutional negotiations. As previous research has shown, intra-institutional conflicts are an important factor in explaining the EU institutions' (in)ability to defend their preferences in negotiations (Costello & Thomson, 2013; Tsebelis, 2002). Yet, little is known about their impact on the Commission's role, that is on the behaviour of its representatives in the legislative process, although the Commission participates in all steps of inter-institutional legislative negotiations. This lack of knowledge when it comes to factors influencing the Commission's role in trilogues may seem surprising but is consistent with 'the near total absence of any discussion of [the Commission's] role in the spate of recent analyses of early agreements' (Kreppel, 2018, p. 16).

Against this backdrop, this article aims to examine the effects of intra-institutional conflicts in the Commission on the extent of changes made to legislative proposals, the present article helps to fill this research gap. To that end, we develop and test three hypotheses related to disagreements within the Commission: intra-institutional conflicts during policy formulation (h1), and potential conflicts with the previous (h2) or subsequent (h3) College. To test our hypotheses, we use a new dataset measuring the number of changes between Commission proposals and adopted legislation for 216 legislative acts negotiated between 2012 and 2019.

By examining whether the Commission's intra-institutional policy has an impact on the results of the EU legislative procedure, we help fill two gaps in the current literature. First, existing research shows that decision-making dynamics within the Commission vary from file to file (Rauh, 2020; Van Ballaert, 2017), and that intra-institutional conflicts can arise in this process (Hartlapp et al., 2014; Rauh, 2019). The way in which a proposal is prepared and adopted affects its content (Bürgin, 2017; Hartlapp et al., 2014), the time for adoption (Chalmers, 2014; Rasmussen & Toshkov, 2013), the Commission's ability to correctly foresee the co-legislators' preferences (Bunea & Thomson, 2015), or the level of discretion granted for the implementation of the adopted legislation (Ershova, 2019). Therefore, intra-institutional dynamics and conflicts can affect legislative decision-making. Yet, despite these findings, we know little about whether the Commission's intra-institutional decision-making processes have consequences for the fate of legislative proposals that result from these very same processes.

Second, we know little about the Commission's behaviour in trilogues and potential consequences for the legislative process following from this behaviour. While the Commission's relevance in legislative negotiations is debated, the few articles that examine the Commission in trilogues compare legislative files negotiated in trilogues with files that follow the formal procedure outside of trilogues (Cross & Hermansson, 2017; Hartlapp et al., 2013; Kreppel, 2018). With trilogues nowadays being the main fora of legislative negotiations, these comparisons become less relevant to understand the current EU legislative decision-making, since almost all co-decision files are negotiated in trilogues (Kluger Dionigi & Koop, 2017). Therefore, research on the Commission's behaviour and influence in trilogues needs to continue outside of such comparisons.

From this perspective, this article contributes empirically to the debates regarding the Commission's power vis-à-vis the Parliament and the Council by indirectly testing whether and when the Commission matters in trilogues. If the intra-institutional decision-making of the Commission is important for the outcome of trilogues, this would suggest that what happens intra-institutionally in the Commission is an important factor to understand the outcomes of inter-institutional negotiations and, consequently, that it might have power therein. In other words, if the Commission's intra-institutional dynamics influence the negotiations, the Commission's preferences may be an important factor to understand the dynamics that lead to the trilogue agreement. If the Commission's substantive preferences do not matter for trilogues, its representatives should only be able to play a mediator role between the two co-legislators, not defending their own position on the legislation. If so, the internal dynamics would have no impact on the fate of the proposal after it has been issued. In contrast, we find that quarrels within the Commission can affect the outcome of the negotiations between the co-legislators, which is possible insofar

as the Commission representatives are able to defend their preferences, to some extent, against the will of the co-legislators.

Addressing those gaps therefore contributes to a better understanding of both the EU legislative process, especially trilogues, and the Commission's intra-institutional politics. In line with the overall aim of this special issue, we examine how the change of informal rules that lead to the systematic use of trilogues (instead of following the formal legislative procedure) affects the Commission. As this development affected intra- and inter-institutional dynamics between the co-legislators (Laloux, 2020), the same should be true for the Commission, yet it remains unclear.

Of course, other factors can influence the Commission's behaviour in trilogues as well. If the file under negotiation is, for example, a priority file of the Commission's work programme, the Commission might be more likely to push for its own positions, trying to limit the co-legislator's amendments to the text. Moreover, external factors could also affect trilogues and the Commission's behaviour therein. If, for example, public attention to a file increases due to a political crisis, more pressure might be put on all negotiating parties. These are noteworthy limitations of this study, and, as such, they must be taken into account when considering it. However, while it is to be expected that such factors have an effect on the Commission's behaviour and influence as well, it is likely that they do not contradict but interact with our findings. Our results thus pave the way for future research to analyse the behaviour and effect of the Commission in trilogues.

The article is structured as follows: The next section provides an overview of trilogues with a focus on the role of the Commission therein. Before presenting the data set, Section 3 develops our hypotheses based on the literature on the intra-institutional functioning of the Commission. The article concludes with a presentation of the empirical results in Section 5, and a summary of the main arguments and findings.

2. Who Influences What? The Commission in Trilogues

In the EU, almost all legislative files are adopted under the ordinary legislative procedure (OLP), which requires the Parliament and the Council to agree on a common text based on a Commission proposal. Almost all legislative negotiations between these institutions to reach a common text are now conducted in informal meetings called 'trilogues' by a small group of representatives of the three institutions at the earliest stage of the OLP (Laloux, 2020; Ripoll Servent & Panning, 2019). In terms of legislative decision-making, trilogues have thus become the standard way of negotiating in the EU, so that nowadays, the vast majority of legislation is thus adopted early on in the process (either at first or early second reading) on the basis of informal compromises. To put it plainly, there is hardly any legislation under the OLP that is not adopted early. The only files that do not go through trilogues are those that do not require negotiations for there is no disagreement (Kluger Dionigi & Koop, 2017). The Parliament's activity report on the 8th parliamentary term substantiates the importance of trilogues in EU legislation: Among the 401 OLP files adopted and signed between 2014 and 2019, '1,185 trilogues took place at different stages of the legislative procedure (first, early second and second reading)' (European Parliament, 2019, p. 8).

In all of these negotiations, the Commission is always present. Its trilogue delegation usually consists of officials 'always at a high level of hierarchy…together with support staff' (Roederer-Rynning & Greenwood, 2015, p. 1155). The main role of these Commission representatives in trilogues is to facilitate a compromise between the positions of the Parliament and the Council (Burns, 2014; Nugent & Rhinard, 2019). However, little is known about the Commission in trilogues beyond that. While the impact of trilogues on the Commission—although analysed in the literature—remains unclear, the impact of the Commission on trilogue negotiations is largely unknown. More generally, the fact that the Commission has no formal decision-making power over EU legislation has prompted debates about its role and influence in legislative negotiations (Rasmussen, 2012). Two opposing positions have been taken in the literature regarding the Commission's role in trilogues.

On the one hand, some recognize the Commission as an important actor in EU legislative negotiations (Becker et al., 2016; Nugent & Rhinard, 2019). Not only does the Commission have its own policy preferences distinct from the co-legislators (Fuglsang & Olsen, 2009; Thomson, 2011), but it also has several resources to defend them and exert influence during negotiations (Nugent & Rhinard, 2016). For example, it can withdraw its proposal (Nugent & Rhinard, 2016; Thomson & Hosli, 2006) or amend it during the legislative procedure, thereby affecting the Council's voting rules (Fuglsang & Olsen, 2009). Informal resources at the disposal of the Commission include its informational advantage vis-à-vis the co-legislators (e.g., König et al., 2007; Nugent & Rhinard, 2016) or its brokerage position that allows it to play a crucial mediating role in the negotiations (Costello & Thomson, 2013; Nugent & Rhinard, 2016; Thomson & Hosli, 2006). This combination of formal power and informational advantages provides the Commission with the potential to influence the outcome of negotiations (Costello & Thomson, 2013; König et al., 2007).

On the other hand, others argue that the Commission only plays a limited role in trilogues. Since the Parliament and the Council interact directly from the beginning of the negotiations, they do not need to rely on the Commission for information on the preferences of their counterpart. As a result, the importance of the Commission's mediation role might decrease in trilogues, potentially also limiting its impact on the negotiations (Kreppel & Oztas, 2017; Kurpas et al., 2008). Furthermore, the

formal conditions to modify the Commission proposal are less strict during the first reading, as the co-legislators have neither time nor amendment limits. Thus, first readings are less favourable for the Commission (Cross & Hermansson, 2017). Other aspects of trilogues, such as the involvement of the Commission's civil servants who often lack political skills (Fuglsang & Olsen, 2009), or the Commission's preference for some change to none (Häge & Kaeding, 2007), weaken its position in trilogues.

Overall, whether we assume that the Commission lost or preserved its role in trilogues, the relationship between the Commission and the co-legislators is an important factor in trilogues. Especially the congruence between the Commission's proposal and the co-legislators' preferences is crucial with regard to the amendments proposed by the Parliament and the Council to the legislative file (Bailer, 2014; Cross & Hermansson, 2017). The more the co-legislators disagree with the policies in the proposal, the more they try to modify it. Conversely, research has shown that the proximity of their positions to the Commission's proposal increases their bargaining success (Costello & Thomson, 2013; Franchino & Mariotto, 2013). Another aspect of the institutional relationship that influences trilogues are the co-legislators' intra-institutional dynamics. Cross and Hermansson (2017), for example, have shown that these dynamics affect the capacity of the Commission to defend its proposals.

Few studies, however, have examined whether the Commission's intra-institutional dynamics influence trilogue negotiations as well. Looking not specifically at trilogues but at the overall legislative procedures in the EU; we know, for example, that the number of staff in the lead DG (Bailer, 2014) or the external consultation conducted by the Commission (Bunea & Thomson, 2015) influence its ability to defend the proposal. Rauh (2020) finds that the capacity to anticipate the co-legislators' preferences, and thereby the number of amendments, varies across DGs depending on their experience and degree of coordination. Focusing on trilogues specifically, scholars observed that the Commission thoroughly prepares its trilogue mandates through an elaborate intra-institutional process (e.g., Page, 2012; Panning, 2021). Yet, so far these findings have not been linked with the subsequent trilogue negotiations. Nevertheless, those findings suggest that we should not only relax the assumption of the Commission as a unitary actor to better understand its behaviour and, following from that, the results of the EU legislative process, but that we should also pay more attention to the influence of the Commission's intra-institutional dynamics on trilogue negotiations and, thus, trilogue outcomes.

3. How the Commission's Intra-Institutional Disagreements May Influence Trilogue Amendments

To approach the puzzle whether the Commission's intra-institutional disagreements affect the number of the co-legislators' amendments, we develop three hypotheses regarding this effect of intra-institutional Commission dynamics. The first hypothesis considers potential effects of intra-institutional conflict in the Commission on the number of amendments submitted by the co-legislators during trilogues. The second and third hypotheses look at the effects of potential disagreements with the previous and subsequent Colleges on the number of adopted amendments.

3.1. Intra-Institutional Conflicts during Internal Decision-Making

The Commission is not a unitary actor. On the contrary, each DG and commissioner respectively prefers different policy outcomes (Ershova, 2019; Killermann, 2018). However, as discussed, the final decisions about legislative proposals are taken collegially in the Commission. In other words, all commissioners should agree with the decisions and, in turn, all commissioners are collectively responsible for them. This principle of collegiality implies that, in the case of disagreement within the College, decisions are likely to be a compromise among the different positions (Ershova, 2019; Wonka, 2008). Thus, all commissioners must make concessions and, thereby, will agree to a greater or lesser extent with the resulting College decision.

Since actors inside the Commission behave strategically to assert their preferences (Hartlapp et al., 2014), conflict may occur between different DGs and commissioners alike about the form and content of a legislative proposal. While the lead DG is in the most favourable position to defend its preferences, the College always takes the final decision. This "shadow of the vote" necessitates the integration of the positions of other DGs, as 'the threat to take a proposal to the College allows other commissioners to effectively restrict the political leeway of formally responsible commissioners' (Wonka, 2008, p. 1158). To this end, the Commission has developed a sophisticated system of preparatory bodies where DGs, cabinets, and commissioners discuss proposals under negotiation in trilogues to ensure that diverging preferences and suggestions are taken into account (Page, 2012; Panning, 2021).

Hence, the preference of the lead DG might deviate from the position expressed in the proposal approved by the College. In such cases, Commission negotiators in trilogues must defend a position that might differ from their own and, consequently, with which they do not fully agree. They therefore have incentives to try to steer the negotiations towards their own preferences, or, at least, to not support the adopted Commission proposal wholeheartedly. Although the preparatory bodies of the Commission agree on a mandate for the Commission negotiators (Page, 2012; Panning, 2021), trilogues are not only secluded and thus difficult to monitor, but ex-post sanctions are difficult for the Commission, since it lacks decision-making power. Delreux and Laloux (2018)

observed such a situation: Their interviewees suggested that the lead DG, representing the Commission in trilogues, supported several co-legislators' amendments that were more in line with its own preferences than the original Commission proposal, which was the result of intra-institutional compromises.

Similarly, the diverging views of Commission actors also imply that the Commission may be less able to anticipate what is acceptable for the co-legislators. Having different standpoints, DGs may interpret the co-legislators' preferences differently, or may be more interested in defending certain policies than in anticipating the co-legislators' preferences (Rauh, 2020). In both cases, the fact that the proposal is based on a compromise decreases the likelihood of accurate anticipation. In the absence of conflicts, the Commission faces fewer obstacles in estimating the co-legislators' views. Hence, we expect:

> h1: If the intra-institutional decision-making inside the Commission is conflictual, the number of amendments by the co-legislators to a legislative proposal increases.

3.2. Potential Disagreements with the Previous and Subsequent College of Commissioners

Not only conflicts within a College, but also potential disagreements with the previous or subsequent College may have an impact on the number of amendments. The preferences of commissioners decisively shape the positions of their DGs (Thomson, 2011; Wonka, 2007). However, it is likely that new commissioners set different priorities compared to their predecessors (Dinan, 2016). At the same time, EU legislative decision-making is often a lengthy process, such that commissioners frequently inherit proposals from their predecessors. In such cases, it is possible that the new lead commissioner does not fully support the proposal in the form adopted by their predecessors. Consequently, Commission representatives in trilogues may have an incentive not to defend these proposals as much as they could, resulting in an increased number of accepted amendments. Hence, the second hypothesis:

> h2: Proposals issued by the previous Commission are more likely to be amended.

Consequently, when nearing the end of a Commission's term, the incumbent commissioner in charge may anticipate that their successor will not defend their proposals, which are still under negotiation, to the same extent as they would have. Therefore, they may want to conclude as many trilogues as possible before the end of the mandate to close the deal before a new Commission takes office. For the sake of speeding up the negotiation process, the lead commissioner, therefore, may be willing to make more concessions, or to propose different solutions more acceptable to the co-legislators. In other words, the commissioners may prefer to close a file in their term by accepting more amendments over risking even more modifications to their proposals when handing over to a new Commission. Accordingly, we expect that the less time Commission negotiators have to finish negotiations, the more they are willing to concede to speed up a file's adoption. This effect of anticipation can be observed with regard to the issuing of Commission proposals: The Commission initiates more proposals around the end of its term (Kovats, 2009). Accordingly, we hypothesise:

> h3: The closer the end of a Commission's term, the more proposals are amended by the co-legislators before the final adoption.

4. Data

We measure the dependent variable, that is, the extent to which a Commission proposal is amended by the co-legislators, using DocuToads, a minimum editing distance algorithm that was specifically developed to quantify the extent of amendments made to Commission proposals in the resulting legislative act (Cross & Hermansson, 2017). Minimum edit distance algorithms quantify the degree of (dis)similarity of two texts by calculating the 'minimum number of editing operations required to transform one [text] into another' (Hermansson & Cross, 2016, p. 10). Specifically, DocuToads considers four types of editing operations: deletion, insertion, substitution, and word transposition. In turn, the minimum number of these operations required to transform Commission proposals into final acts indicates the substantial amount of changes made between versions of the texts (Hermansson & Cross, 2016).

Not only is the validity of this method theoretically justified by its creators, but, more importantly, the reliability of the algorithm's results has been confirmed by replicating existing studies on amendment tracking (Hermansson & Cross, 2016) and comparing it with the results of qualitative case studies on EU legislative decision-making (Laloux & Delreux, 2018). This last point explains our choice to use DocuToads instead of other text reuse methods (e.g., Gava et al., 2021). Unlike other algorithms, DocuToads was specifically developed to study amendments to Commission proposals and its validity for this purpose has thus been confirmed by other studies of the EU legislative process. Thus, we can be confident that it works as we expect it to, without the need for further verification, which might be less the case for methods developed for other contexts. Still, an important limitation of this approach is that it only considers the relative magnitude of the changes made and not their substantive meaning. Since we are interested in the former, this limitation is acceptable. Nevertheless, it should be kept in mind when interpreting the results.

In line with the argument of Laloux and Delreux (2020) that in many important respects the recitals are an integral part of the legislative act, alongside the articles themselves, and that consequently amendments to them should be taken into account, we use the whole body of the legislative act, i.e., the recitals and the articles of the proposal. To compare between legislative files of different length the distance between a Commission proposal and the final compromise was standardised, dividing the number of editing operations by the total number of words in the Commission proposals. The degree of modification between the Commission proposal and the final legislation was measured on 216 early agreements negotiated and adopted on first reading between December 2012 and 2019. Noteworthy, as our study focuses on trilogues, we did not select trivial adoption, for which no negotiation is needed because the legislators already agree. Moreover, our dataset only includes first reading agreements, which means that our findings are not necessarily applicable to trilogues leading to early second reading adoption. Yet, this decision is justified by the fact that it enables controlling for differences between first and early second reading, especially since the latter is rarer (for a discussion on this point see Laloux, 2020).

Turning to the independent variables, we use two proxies to measure whether conflict occurred during the internal decision-making of the Commission (h1). The first proxy is College adoption of a proposal by oral or written procedure. A proposal is adopted by written procedure when there is no disagreement between commissioners that would need a debate in the College (Osnabrügge, 2015). Conversely, oral procedures concern sensitive issues for which disagreements must be settled at College meetings (Hartlapp et al., 2014). The use of oral procedures therefore indicates a higher level of intra-institutional conflict (Killermann, 2018). The mode of decision for each proposal is available on EUR-Lex. The second proxy is the number of DGs involved in the drafting of the proposal, as identified in the impact assessment accompanying a proposal. DGs, which are not responsible for a proposal, can contribute to the drafting thereof through inter-service coordination (Blom-Hansen & Senninger, 2021; Panning, 2021). While every DG can participate, none is compelled to do so. Hence, arguably, they participate only when they are interested in a file. The number of participating DGs is therefore an indication of the extent of diverging interests within the Commission regarding the proposal.

To determine the effect of the previous Commission's adoption (h2), we use a dichotomous variable measuring whether the Commission issuing the act was the same as the one under which the legislation was adopted. Time before the end of term (h3) is calculated by the number of days between the last trilogue and the end of term of the Commission in charge. The date of the last trilogue was retrieved from the Committee of the Permanent Representatives of the Governments of the Member States to the European Union (Coreper) briefings of the negotiations, which are available in the public register of Council documents.

We also control for several variables. First, we control for the difference between the Commission proposal and the trilogue mandates of the Parliament and the Council. Since the co-legislators have the decision-making power, such a difference is a crucial indicator of the number of amendments to a proposal (Bailer, 2014; Kreppel, 2018). In fact, controlling for the difference is necessary to test whether conflicts within the Commission have an impact on trilogues and not merely on the Commission's ability to anticipate the co-legislators' preferences (for a more detailed discussion see Rauh, 2020). The distance between each co-legislator's position and the Commission proposal is also determined with the DocuToads algorithm. Following Laloux and Delreux (2018), co-legislators' positions were collected from their public document registry. Specifically, we used the legislators' trilogue mandates. These documents contain the changes they officially wish to make to the Commission's proposals. Where the mandates contained only a list of amendments, we manually added them to the proposals in order to have comparable documents.

Second, following Bunea and Thomson (2015), we control for the number of recitals as a proxy for the level of information intensity of a file, i.e., 'the level of specialist technical expertise required to participate in policymaking' (Bunea & Thomson, 2015, p. 522). When negotiating with a high level of information intensity, the co-legislators must rely more on the technical expertise of the Commission, which thereby enjoys more leverage over the outcome. Eventually, we also control for whether the negotiated act was a directive or not, and for the College that negotiated the files.

Third, we also control for the scope of the proposal, that is 'the extent to which policy effects are spread out over multiple policy fields' (Van Ballaert, 2017, p. 410). This allows us to differentiate between issues that require several actors to cooperate and issues in which several actors are interested and therefore want to participate. We measure the scope by the number of EuroVoc descriptors (Van Ballaert, 2017).

5. So, Do They Defend Alike Proposals They Disagree with?

We measured our variables for a sample of 216 trilogue negotiations, that is, all the trilogues conducted and adopted as early agreements between 2012 and 2019. In 2012, the EP reformed its rules of procedure regarding trilogue negotiations, which we expect to have affected the conduct of trilogues as it led to more institutionalized practices. The end date was determined by the start of our analysis. On this basis, we tested our hypotheses by means of multiple regression analyses. Figure 1 shows the distribution of our dependent variable. Since our original variable was extremely right-skewed, we

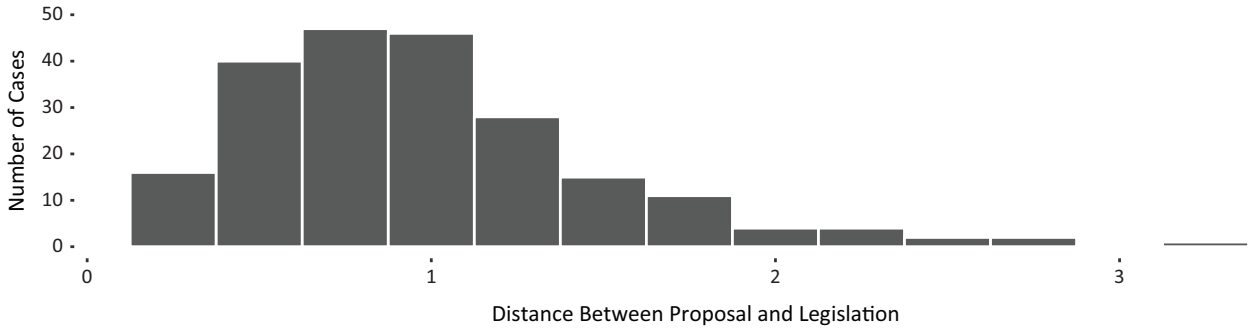

Figure 1. Distribution of the dependent variable.

used its logarithm in the analysis, which enabled us to conduct the ordinary least squares (OLS) regressions without violating its assumptions. As a robustness check, we also conducted robust regressions, more precisely, M-estimators using Tukey's biweight (BW) function (Baissa & Rainey, 2020). The results of the robust regressions can be found in the Supplementary File of the article, and largely confirm those of the OLS. Table 1 presents the results of the regressions. We conducted two models, Model 1 with only the independent variables, adding the control variables in Model 2.

As the table shows, all variables in Model 1 are significant, except the number of days remaining until the next Commission (h3). Model 1 therefore confirms that, as expected, conflicts within the Commission and relationships with the previous College have an effect on the amendments adopted by the co-legislators. It is noteworthy that all the significant variables go in the

Table 1. Regressions analysis.

	(1)	(2)
Decision: written	−0.265***	−0.022
	(0.079)	(0.056)
Number of DGs consulted	0.019***	0.009**
	(0.006)	(0.004)
Number of days to end of term	−0.0003*	−0.0002*
	(0.0001)	(0.0001)
Issued by a different college	0.274**	0.121
	(0.123)	(0.084)
Directive		0.027
		(0.053)
Number of recitals		0.001
		(0.002)
Distance with EP mandate		0.431***
		(0.06)
Distance with Council mandate		0.775***
		(0.078)
Scope		0.009
		(0.010)
Constant	0.045***	−0.861***
	(0.108)	(0.102)
Observations	216	216
R^2	0.164	0.650
Adjusted R^2	0.148	0.636
Residual Std. Error	0.517	0.338
	(df = 211)	(df = 207)
F Statistic	10.342***	47.973***
	(df = 4; 211)	(df = 8; 207)

Notes: *p < 0.1, **p < 0.05, ***p < 0.01, unstandardized effect, standard error in parenthesis.

directions we expected. Conflicts increase the extent to which Commission proposals are modified. Similarly, proposals issued by the previous Commission are amended more on average. Eventually, as expected by h3, the more time remains in the term of one commissioner, the less a proposal will be modified. Those results suggest that, as expected by h3, conflicts in the Commission have an impact on the fate of proposals.

However, while interesting, those results cannot account for the effect of conflict on the capacity of the Commission to defend its proposals in trilogues. Indeed, when taking the control variables out of the models, one could interpret the findings in the sense that internal conflicts prevent the Commission from correctly anticipating the preferences of the co-legislators. Only by controlling for the accuracy of this anticipation, i.e., the distance between the proposal and the positions of the co-legislators, can one assess whether conflicts within the Commission affect trilogue negotiations after a proposal has been issued. Therefore, testing our hypotheses requires including those controls.

To that end, Model 2 controls for those distances together with the other control variables. As can be seen in Table 1, adding those variables changes the picture: Only the number of DGs consulted (h1) remains significant among the independent variables. In other words, we do not find evidence that potential disagreement with the previous (h2) or subsequent (h3) Commission increases deviation, nor that the mode of decision does so (h1). Those results suggest that these now non-significant variables might influence how co-legislators' preferences are anticipated when the Commission formulates its proposals, but not the role of the Commission in the ensuing trilogue negotiations. Figure 1 shows the marginal effects for all the independent variables, before and after the inclusion of the control variables. Regarding the control variables, unsurprisingly, the distance to the two co-legislators significantly increases the number of

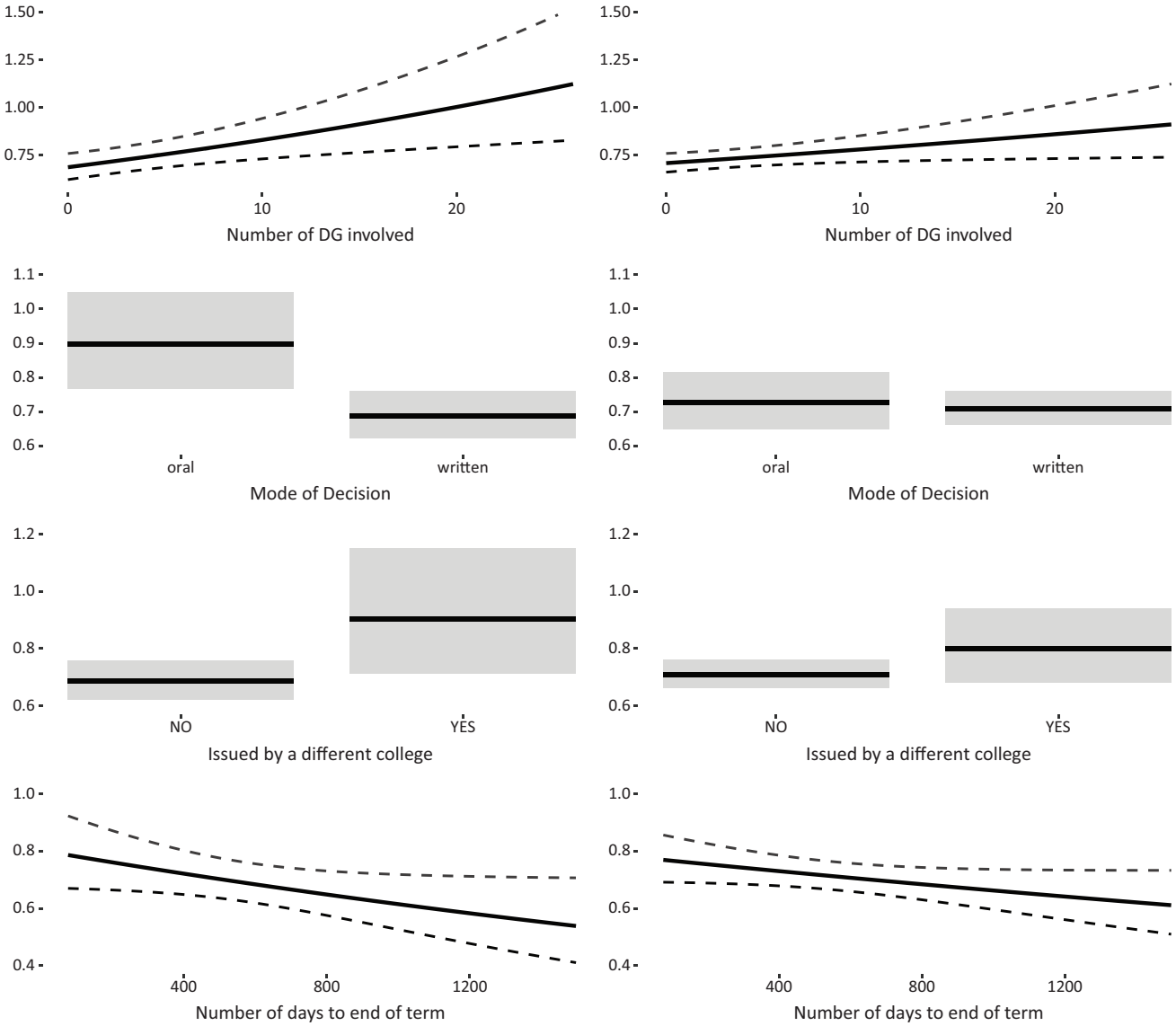

Figure 2. Marginal effects of the independent variables without and with controls.

amendments, but neither the number of recitals nor the scope has a significant effect.

In sum, of all the hypotheses only h1 is partially confirmed. Only the number of DGs consulted is significant, while the mode of decision is not. One possible explanation for this difference is that the range of intra-institutional preferences is more important than the intensity of conflicts. These results are in line with, for example, the findings of Panning (2021) about intra-institutional Commission dynamics. While the number of DGs measures the number of different interests involved in the Commission process, the choice of decision mode determines whether these differences are so intense that they need to be settled at the highest level, i.e., in the College. Another possible explanation is that, if an actor has a good opportunity to slack, it is enough to have conflicting preferences with its institution, regardless of the intensity of this conflict (Delreux & Adriaensen, 2017).

6. Conclusion

The purpose of this article has been to examine the effect of intra-institutional conflicts in the Commission on the number of the amendments to the Commission's legislative proposal agreed by the co-legislators in trilogues. We hypothesized that such conflicts increase the number of amendments, as the lead commissioner, who is responsible for defending the proposal in trilogues, may not wholeheartedly defend the Commission's proposal. This assumption results from the fact that the decisions of the College are taken collectively, likely resulting in a compromise decision. In the case of disagreements, compromise decisions logically imply concessions on the part of the commissioners (Bellamy et al., 2012) and therefore do not fully correspond to the preferences of the lead commissioner nor, probably, of any commissioner in the College.

Furthermore, we assumed that a lead commissioner may not fully support a proposal if they are member of a new College, but they have to finalise trilogues that remain open from the previous Commission. As they have inherited the file under negotiation, they may be willing to accept more amendments to the original proposal, since they did not decide on its content. Relatedly, we also expected that a lead commissioner prefers to avoid such a situation. Therefore, they may accept more amendments if the term of the College is nearing its end, as they want to finalise negotiations under their mandate to not leave control to the successors. In other words, we have hypothesised that both the fact that a file was issued by a College other than the one that adopts it and the proximity of the end of a College increase the number of amendments.

We tested our hypotheses on a sample of 216 trilogue negotiations conducted between 2012 and 2019. It is important to note that we controlled for the distance between the proposals and the positions of the co-legislators to ensure that our hypotheses worked as expected, that is to say, that the effect of the conflict was not due to a lack of anticipation on the part of the Commission. Running the model without control variables, all the independent variables were significant in the expected direction. However, after adding the controls, we only found mixed evidence regarding the effect of intra-institutional conflict in policy formulation, and no evidence of an effect of the relationship with other Colleges, either preceding or following. Looking at intra-institutional conflicts, the number of DGs involved in the process was significantly related to the extent of the amendments adopted in trilogues. The mode of decision-making within the College, however, was not significant. Consequently, these results suggest that the extent of intra-institutional conflicts in the Commission are more important than their intensity.

All taken together, our findings make several important contributions to understanding the hitherto neglected role of the Commission in trilogues, as well as to the EU legislative process more generally. First, the effects of variables in the model without control variables suggest that conflicts within the Commission and with other Colleges are important for the Commission's ability to foresee the preferences of the co-legislators. Being able to foresee the co-legislators' preferences is an essential ability for the Commission when developing and writing its legislative initiatives (Bunea & Thomson, 2015; Häge & Toshkov, 2011). While our findings changed insignificantly after adding control variables, it is possible that disagreements within or between different Colleges increase in importance with the increasing politicisation and presidentialisation of the Commission. If such developments would have negative implications for the Commission's ability to foresee preferences, not only would this impact one of the most central Commission tasks but also impact the subsequent legislative negotiations and thereby the efficiency of the EU legislative decision-making.

Second, commissioners do not appear to defend the proposals adopted by their predecessors differently, nor do they appear to fear that this will happen to their own proposals. This may indicate that preferences do not vary much among commissioners, or that commissioners do not have as much power in the formulation of proposals. Certainly, however, it complements previous findings regarding the thorough intra-institutional preparation of the Commission's trilogue mandates (e.g., Panning, 2021). Our findings suggest that the relevant actors abide by the mandate even if it was issued by a previous College, and that predecessors trust in this abidance of their successors. This may not come as a surprise if we take into consideration that, while the political level of the Commission (that is the commissioners and their cabinets) change every five years, the officials of the technical level (DGs and services), who assist the commissioners and prepare the original draft proposals, do not change (Hartlapp et al., 2014).

From a normative perspective, this raises the issue of potential discontinuity in EU decision-making (König, 2007). That is, the fact that the decisions of legislative actors, in our case the content of legislative proposals, commit their successors even though their preferences change, thus hindering the possibility of policy revisions in line with those new preferences. If this is the case, questions regarding the possibility of Commission control, both by the co-legislators as well as by member states or EU citizens arise. For example, why select a Commission president through the *Spitzenkandidaten* procedure to make it politically more accountable if a change of College may not make such a big difference? Our findings may be a first indication in this direction, but future research will have to examine this possibility in greater detail.

Finally, the fact that the range of internal preferences matters to the Commission in trilogues has several implications. First, it contributes to the debate about whether or not the Commission has power in trilogues. So far, the Commission is often presented as a mediator between the Parliament and the Council in trilogues. Yet, if the intra-institutional dynamics within the Commission are important for trilogue outcomes beyond the anticipation of the co-legislators' preferences, the Commission may well have more influence in trilogues than assumed by existing research. To put it simply, this suggests that the Commission's representatives in trilogues could, to some extent, influence the outcome of negotiations. Hence, we conclude that the Commission's preferences must be taken into account to understand the outcomes of trilogues, that is EU legislation. If so, this would have normative consequences, as the Commission's legitimacy in legislative negotiations rests in part on its role as a neutral facilitator (Tsakatika, 2005). Therefore, if the Commission representative in trilogues promotes a particular position, which may, in case of intra-institutional disagreements, differ from the Commission mandate, one could question this legitimacy. In any case, this calls for more research on the Commission's role and influence in trilogues. For example, how can it influence trilogue negotiations if we keep in mind that it has no formal decision-making power? Does the Commission rely rather on formal or informal means to persuade the Parliament and the Council of its arguments?

Such results also have implications for our knowledge of the internal workings of the Commission. If the lead commissioners were indeed able to promote their positions in trilogues to the detriment of the College's proposal, this would mean that the Commission could very well have its own 'relais actors issues.' In other words, the informalisation of EU legislative decision-making could have had an impact on the intra-institutional balance of power within the Commission by favouring actors involved in trilogues. As in the case of the co-legislators, such a bias would be problematic, since the Commission as a whole is not only tasked with promoting the EU's general interest (according to the Article 17 (1) of the Treaty on European Union) and, therefore, collegially responsible for it, but its legitimacy is indirectly based on its representativity (Wille, 2012). Hence, this potential agency cost warrants further research on the delegation to representatives in trilogues within the Commission, on the possibility of agency slack from those representatives, and on the way, they are controlled during negotiations. Moreover, this also raises questions about both the conditions under which this slack is possible and about the kind of conflicts that induce slack.

Looking at the aim of this thematic issue, this would not only mean that the Commission's preferences matter for the output of the OLP. Moreover, the informal rule changes resulted in outputs closer to the preferences of the lead commissioner in the event of disagreement within the College. In other words, the shift to informal negotiations enables the lead commissioner to exert more influence on the outcome of the legislative process by modifying the College's proposals, which may not have been possible under the formal procedure. In sum, and to return to the quote from Kreppel (2018) that we cited in the introduction, our results underline that a more thorough discussion of the Commission's role in early agreements is necessary to better understand both the processes within trilogues as well as within the Commission. Therefore, our findings strongly call for putting the spotlight of trilogue research not only on Parliament and Council but also on the Commission as the third of three trilogue parties.

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Conflict of Interests

The authors declare no conflict of interests.

Supplementary Material

Supplementary material for this article is available online in the format provided by the author (unedited).

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Article

Crisis-Induced Leadership: Exploring the Role of the EU Commission in the EU–Jordan Compact

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Abstract
The EU–Jordan Compact (hereafter Compact) has been identified as being a groundbreaking, comprehensive approach to global refugee protection. Thus far, research on this underexplored case has mainly focused on the effects of the Compact. The policy process leading to the adoption of the Compact, as well as the motivations of the EU (i.e., the main donor), remain blackboxed. This article explores how the migration crisis affected the EU Commission's ability to create coordinated, strategic action in external policy. It does so by tracing the internal EU negotiations and developing a causal model that explains how the Commission could overcome silos and efficiently draft a policy proposal linking the issues of migration and trade. The analysis is based on 13 original in-depth interviews with EU representatives. The article contributes to crisisification theory by presenting a mechanism that explains how the Commission can make use of crises. The Commission created cohesion by reframing the crisis, identifying the relevant policy tools with which to address it, and by reframing the responsibilities of the relevant directorate-general. Furthermore, by utilizing the urgency of the crisis, the Commission enabled rapid policy drafting and created an explicit linkage between refugee policy and trade policy. This linkage provided the member states with the motivation to adopt the proposal as a solution to the ongoing migration crisis.

Keywords
crisis management; crisisification; European Union; foreign policy; international negotiation; Jordan; migration policy; refugee

Issue
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1. Introduction

In 2015, the number of refugees entering Europe surged to over one million. In July 2016, the EU–Jordan Compact (hereinafter referred to as the Compact) was signed to provide the refugee-hosting state of Jordan with economic support and trade benefits. The Compact is recognized as being a groundbreaking and 'holistic' idea because of its innovative use of trade concessions as a tool in refugee policy (Betts & Collier, 2017; Temprano-Arroyo, 2018). It is even considered to be a relevant model that can be exported to other refugee-hosting nations (Brandt & Kirisci, 2019; Temprano-Arroyo, 2018). This article explains the actions of the units within the EU Commission (hereinafter referred to as the Commission) in the intra-institutional negotiations, thus unpacking how the Compact was created and why it was adopted. The EU has been criticized for not coordinating external action across policy fields (i.e., Börzel & Risse, 2004; Gebhard, 2011; Monar, 2015; Wolff, 2008). A lack of coordination has been explicitly demonstrated in the case of external migration and trade policy (Jurje & Lavenex, 2014). I argue that the external relations units within the Commission along with the External Action Service leveraged the migration crisis to increase their influence within the Commission by arguing that trade concessions

were the most appropriate measure and by reframing the responsibilities of the directorate-general (DG) for Trade, and furthermore that they created interest alignment with the member states through issue-linkage. Building on and further expanding crisisification theory (Rhinard, 2019), the article demonstrates how actors utilized the migration crisis to overcome internal silos and create a rapid policy response. The study has relevance for EU external policies more broadly, as it contributes to models of intra-institutional bargaining and shows how actors, through the reframing of issues and responsibilities, can contribute to changing the position of a powerful and conservative actor such as the DG for Trade (McKenzie & Maissner, 2017, p. 837; Sicurelli, 2015).

The Compact is a bilateral agreement between the Hashemite Kingdom of Jordan and the EU and its member states, adopted by the EU–Jordan Association Council in July 2016. According to Poli (2020, p. 83) it can be argued that the Compact is a legal hybrid because although the EU–Jordan Association Council has legally binding powers, their decision was only to recommend that the Compact be implemented. It was inspired by the UN Compact, but the EU launched its own Compact with stronger commitments using the more efficient policy tools at the EU's disposal (Betts & Collier, 2017). The EU offered Jordan trade concessions aimed at increasing exports to Europe, contingent on Jordan providing Syrian refugees with access to their labor market (Council of the European Union, 2016). The Compact was negotiated at the height of the EU migration (management) crisis when migration was a highly contentious and politicized issue. The contribution of this article lies in its demonstration of how the Commission used the crisis to influence policy. Furthermore, this contribution relates to the *Politics and Governance* thematic issue on The Impact of Rule Change on Policy Outputs, by highlighting the effects that external shocks can have on the relative power of EU institutions and on policy output.

Research on the Compact has thus far been mostly limited to reports, many of them done on assignment for the Compact's main donors, i.e., the UN and the EU (e.g., Agulhas, 2019; Center for Global Development, 2017; Overseas Development Institute, 2018; Temprano-Arroyo, 2018). The exceptions include academic articles that focus on the (thus far disappointing) effects that the Compact has had on refugees' access to rights and the labor market (Gray Meral, 2020; Lenner & Turner, 2018; Mencutek & Nashwan, 2020; Turner, 2021). The policy process behind it has so far only been explored from the Jordanian side (Seeberg, 2020; Seeberg & Zardo, 2020). Donor state engagement is identified as a key factor in the success of refugee compacts without explaining donor state involvement in Jordan (Gray Meral, 2020; Lenner & Turner, 2018; Mencutek & Nashwan, 2020). An exploration of the legal aspects of the Compact has been offered by Poli (2020). Although she hints that there may be pragmatic reasons for the hybrid format, she does not explain this (Poli, 2020, p. 83). Furthermore, she argues that the Compact is an example of the rising number of practical and informal agreements in the EU's external migration policy, which have negative consequences for the balance of power between the EU institutions as it undermines the role of the EU Parliament (Poli, 2020, p. 80). This article explains donor state involvement and sheds light on the crisis policy process that leads to such sui generis policy outcomes.

The article is structured as follows. Section 2 presents the driving forces behind the external dimension of the EU's migration policy, first from its emergence in the 1980s until the crisis, and then since the migration crisis. In Section 3, the causal model explaining how the migration crisis affected the Commission's ability to create the Compact is presented. In Section 4, the methodology behind the data collection is described. Section 5 presents the analysis, tracing the negotiations. Section 6 provides a summary of the empirical findings and a discussion of the theoretical implications of the case study.

2. EU External Migration Policy

2.1. Before the Migration Crisis, 1980s–2014

While the external dimension of migration policy has recently gained more interest, it is by no means a new phenomenon. Since the 1980s, the member states have increasingly collaborated with countries outside of the EU on issues of migration (Guiraudon, 2002). The external dimension of migration policy was officially embraced at the EU level in 1999 (Lavenex & Kunz, 2008). At the Tampere European Council in 1999, the member states declared their ambition for a 'comprehensive approach' to migration, which they defined as addressing political, human rights, and development issues in countries and regions of origin and transit (European Council, 1999). However, a review of the literature reveals that the expressed will for a comprehensive approach failed to translate into policy and that there are two main explanations as to why. The first being that the comprehensive approach has been sidelined by a securitization approach pursued by actors in the member states who found less containing factors at the EU level and with the external dimension in their pursuit of policy goals (Boswell, 2003; Guiraudon, 2002; Lavenex, 2006, 2018). Law and order officials strategically moved migration discussions to the EU level where they faced less opposition from political parties and civil society than at the member state level (Guiraudon, 2002) and further on to the external dimension (Lavenex, 2006). They achieved this by framing migration as a security issue and linking it to other global security threats that demanded transnational solutions (Guiraudon, 2002, p. 260).

The second reason for the failure of the comprehensive approach is that the Commission has not been able to cooperate across issue areas to create and push for comprehensive policy proposals (Boswell, 2003; Jurje &

Lavenex, 2014). Immigration ministers favored security policies rather than policies that fall under the portfolio of development and foreign affairs officials because they wanted to limit migration without losing autonomy (Boswell, 2003, p. 626; Lavenex, 2006). This tension went both ways, as development and foreign affairs officials were not interested in having their policy field downgraded to merely being a tool for reducing migration (Boswell, 2003). At the Commission level, such tension resulted in resistance against integrating migration prevention goals into the EU's external policy (Boswell, 2003, p. 626). The EU's ability to create coordinated, strategic action in its external relations has been questioned (Börzel & Risse, 2004; Gebhard, 2011; Jurje & Lavenex, 2014; Monar, 2015; Wolff, 2008). An example of this is migration and trade policy. Jurje and Lavenex (2014) find that the EU has not leveraged its market power to push its migration agenda in trade negotiations. The content of EU trade agreements reflected the institutional setup of the EU rather than relevant aspects of the third country, such as the number of migrants (Jurje & Lavenex, 2014). Jurje and Lavenex (2014) argue that international migration was characterized by competing frames that cut across bureaucratic divides, which made it difficult to find shared ideals. This article makes an important contribution because it demonstrates how the Commission was able to bridge migration and trade in external policy by reframing the crisis in Jordan as a developmental and economic issue and by reframing the responsibilities of the DG for Trade. This argument has implications for the broader literature on EU external policies that often use models of institutional bargaining and which emphasize the tension between actors that pursue values and those that pursue commercial interests (see, for example, Gstöhl & Hanf, 2014; McKenzie & Maissner, 2017; Meunier & Nicolaïdis, 2006; Sicurelli, 2015).

2.2. The Migration Crisis

Migration and asylum policies have always been politically salient, but the events in 2015 and 2016 changed the dynamics of decision making as they became issues of "high level crisis governance" (Smeets & Beach, 2020, p. 135). In one year, the EU received more than one million refugees and migrants, resulting in a political crisis in which the core principles of EU integration broke down (Zaun, 2018). In addition, the migration (management) crisis hit the EU's image as a human rights promoter, when more than three thousand refugees drowned on the journey toward European shores (International Organization for Migration, 2016). In response to the crisis, the EU attempted to limit migration by striking deals with countries outside of Europe. These agreements are sui generis and often informal, meaning that the European Parliament is left out of the decision-making process (Poli, 2020).

Examples of intergovernmental bargains include the agreements with Turkey, Lebanon, and with countries in North Africa and the Sahel. The agreement with Turkey is an extreme example of a protection strategy, wherein the aim is to control the EU border and limit the inflow of refugees, rather than a comprehensive strategy, which would also address the reasons for secondary movement among refugees in Turkey. Several other, lesser-known strategic partnerships with third countries have been established since the migration crisis. Across North Africa and in the Sahel region, the EU train police forces, monitor border controls, and push for the criminalization of smuggling activities (Bøås, 2019). The Compact with Jordan is another example of a pragmatic bilateral agreement. However, it stands out because it provides a more comprehensive approach to the causes of migration by addressing issues such as job opportunities for refugees (Poli, 2020).

So far, the policy responses to the crisis have been understood as being driven by the European Council (Lavenex, 2018; Smeets & Beach, 2020; Trauner & Ripoll Servent, 2016). Because of the increased politicization of migration policy, the member states wanted to regain national control over the issue (Lavenex, 2018). This has been the main explanation of the rise in intergovernmental bargains between member states and third countries, and protectionist policies (Greenhill, 2016; Lavenex, 2018). This development underlined the relevance of theories such as postfunctionalism and *new* intergovernmentalism (e.g., Bickerton et al., 2015; Hooghe & Marks, 2018; Kleine & Pollack, 2018; Schmidt, 2018; Smeets & Zaun, 2020), which both share the idea that a transition of power and influence has taken place, i.e., from the supranational level to the intergovernmental level. These explanations emphasize that with the rise of the European Council, the Commission and the European Parliament have been marginalized in EU policymaking. However, such accounts fail to explain how the Commission was able to shape external migration policy, as in the case of the EU–Jordan Compact.

3. Explaining the Success of the Commission

The policymaking literature theorizes how actors adapt to changing circumstances and how they utilize change to gain influence (Trauner & Ripoll Servent, 2016, p. 1420). Indeed, changes in the decision-making arena can be caused not only by institutional change but also by external shocks (Håkansson, 2021; Kaunert, 2010a, 2010b; Ripoll Servent, 2019; Trauner & Ripoll Servent, 2016). A decade involving several severe crises has affected EU decision-making procedures, and Rhinard (2019) describes a process of 'crisisification.' Crisisification of decision-making procedures involves "finding the next urgent event, prioritizing speed in decision-making, ushering in new constellations of concerned actors and emphasizing new narratives of what matters in European governance" (Rhinard, 2019, p. 617). A crisis in itself does not affect the influence of different actors, but it is a window of opportunity that

can be leveraged by actors in different ways (Trauner & Ripoll Servent, 2016). A two-stage process drives crisisification (see Figure 1): The first stage takes place in the urgent aftermath of a crisis, wherein there is a demand for a political response, i.e., a 'call for action,' to which symbolic commitments by member states are often the first response (Rhinard, 2019). In the second stage, such commitments are leveraged by the Commission to build momentum for policy change (Rhinard, 2019). In fact, Rhinard (2019, p. 622) goes so far as to argue that when it comes to crisis-related responses the Council will support the Commission in virtually any policy area. However, exactly how the Commission can make use of the crisis dynamic is not explained. This article unpacks stage two of crisisification theory as it peers into the gray box (Figure 1).

I use process-tracing methodology, following the guidelines of Beach and Pedersen (2019), to trace the negotiations that led to the Compact. The case study unpacks the second stage of crisisification theory: how the Commission can build momentum for policy change following a call for action. It explains this as a four-step process, wherein cohesion is created within the Commission and the approval of member states is achieved. The four steps of the mechanism are presented in Figure 2. The Commission was able to leverage the crisis to act as a cohesive actor by reframing the crisis (Step 1) and identifying the appropriate tools, and by reframing the responsibilities of the directorates-general responsible for those tools (Step 2). Furthermore, the Commission was able to efficiently draft a policy proposal covering a broad set of issues by leveraging the urgency of the crisis to assemble a cross-sectoral working group (Step 3). Issue-linkage enabled the Commission to gain the approval of the member states by presenting them with policy solutions to issues made high-priority by the crisis (Step 4). The operationalization of the mechanism is presented in the Supplementary File, which also includes an evaluation of the strength of the data for each step of the mechanism.

3.1. Reframing

For a crisis to be converted into a policy response, double framing is required: First, a situation needs to be identified as a crisis; second, the nature and character of the crisis need to be specified (Voltolini et al., 2020, p. 620). The first stage of crisisification explains that member states will often respond urgently to what they perceive to be a crisis and ask for action. I argue that the Commission leadership can build on this request and specify the nature and character of the crisis (Step 1). For example, they can argue that it is a humanitarian or developmental issue, instead of a security issue. Through such reframing, the Commission can argue for the use of alternative policy tools such as humanitarian aid or trade policy as appropriate measures with which to address the crisis.

Furthermore, a crisis can be used to challenge the perceived appropriateness of existing normative frames such as perceived roles and responsibilities. I argue that the Commission leadership can exploit a crisis to expand an institution's understanding of its responsibilities (Step 2). For example, the terrorist attacks of 9/11 were used to reframe the EU as an actor in 'high politics' (den Boer & Monar, 2002). Through reframing, the Commission leadership can advocate for the use of policy tools governed by one directorate-general on issues administered by another. In this case, the Commission leadership wanted to use trade concessions as a tool in refugee policy. Such policy proposals can be further legitimized by appealing to the EU as a 'Union of values' (Lavenex, 2018), making opposition more difficult.

3.2. Issue-Linkage

The embedded ways of working that are considered to be appropriate can be challenged in an urgent setting, and the Commission can implement administrative reforms to improve its efficiency in response to calls to 'do something' (Rhinard, 2019). I argue that this creates opportunities for establishing new informal working structures

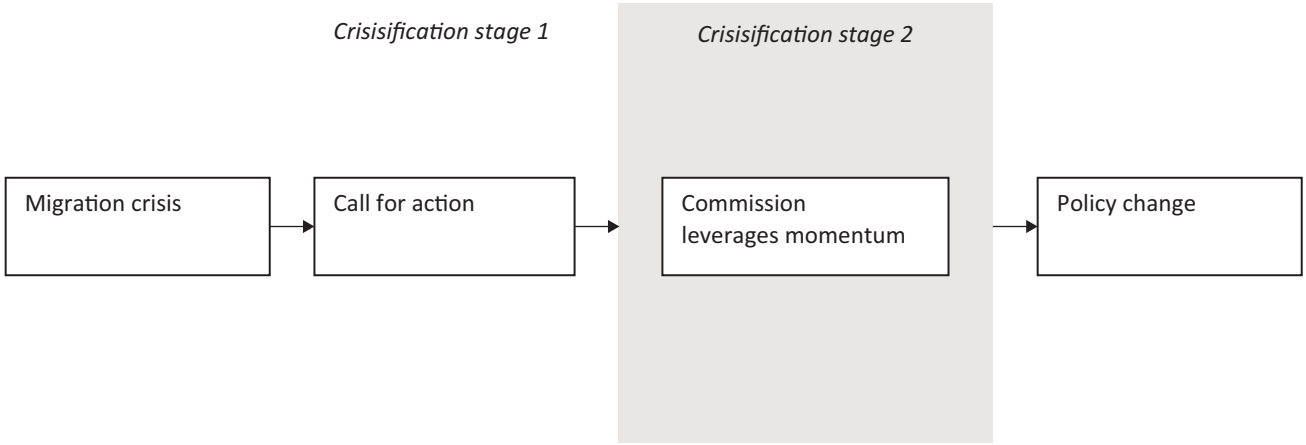

Figure 1. Crisisification theory illustrated.

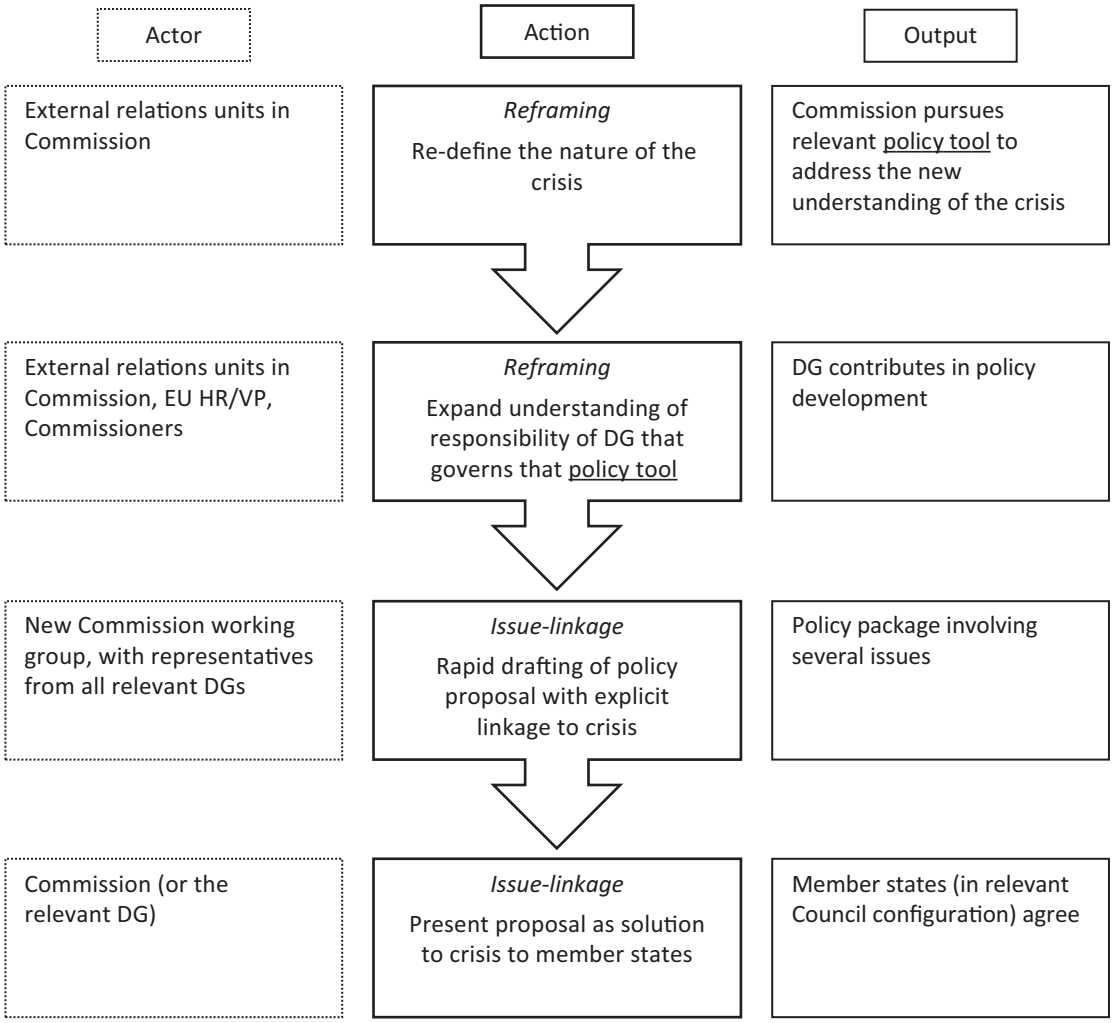

Figure 2. Four-step causal model explaining how the Commission leveraged the refugee crisis.

that cut across existing silos, such as a working group or a taskforce (Step 3). Lewis (2010) argues that a high degree of *insulation*, a broad *scope of issues*, and *intensive interaction* all promote cooperative negotiations between member states in the Council (of Ministers). His theory is here transferred to the Commission to argue how cross-sectoral cooperation can be cultivated to achieve efficient policy drafting across issue areas. This influences the efficiency of the technical drafting of a proposal, which happens at a lower level of the Commission. However, cohesiveness in the Commission is a necessary condition for the working group to be successful. Lower-ranking desk officers who take part in the technical drafting do not have the freedom to go beyond their responsibilities which are defined by others higher up in the system.

If the Commission does achieve rapid drafting of a policy solution involving several issue areas, I argue that it increases the likelihood of a policy package being adopted by the member states (Step 4). Through linkage, the Commission can include high-priority issues for the member states in their proposal. However, for this to be successful the Commission needs to be quick in the drafting so that they can leverage the pressure that member states experience during an urgent crisis. This pressure is what makes the issue a priority for the member states and makes issue-linkage effective.

4. Data

The analysis is based on the main document stipulating the Compact, i.e., the annex to the 2016–2018 *EU–Jordan Partnership Priorities and Compact* (Council of the European Union, 2016), as well as on original interviews with EU representatives with knowledge of the negotiations. The interviews were conducted between March and September 2020, online or via telephone. The interviews lasted between 50 and 90 minutes. They were semi-structured (following an interview guide developed after document analysis of the agreement). Fourteen EU representatives were identified by means of snowball sampling. In the final round of interviews, the participants referred me only to people whom I had already interviewed, signaling that I had already identified the key individuals who were involved. Only one interviewee declined because of

limited time, producing a total number of 13 interviews. The interviewees represent most of the relevant Commission units that are likely to have been involved in the process. Interviews were conducted with representatives from the DGs for: Trade, Neighborhood and Enlargement Negotiations (NEAR), Migration and Home Affairs, European Civil Protection and Humanitarian Aid Operations (ECHO), and Economic and Financial Affairs (ECFIN). A member of a Commissioner's cabinet also participated. In addition, representatives from the European External Action Service (EEAS) and from the Amman delegation also participated.

The participants include desk officers, directors, and a cabinet member. Eight of the interviewees were active participants in the negotiations or the drafting, one interviewee was active in the concluding phase, and four were active in the implementation of the Compact. All of them possessed knowledge of what took place during the negotiations, either through direct participation or through accounts given to them by their colleagues who had participated. Although there are obvious advantages of first-hand accounts, second-hand accounts can (arguably) be less at risk of social desirability bias because they have less inclination to exaggerate or to describe the participants in an advantageous way. Accounts that support the steps of the mechanism should be confirmed by several sources (see Table 1 in the Supplementary File for operationalization). By including interviewees from different units and at different levels, and by including participants with first-hand knowledge as well as their colleagues with second-hand knowledge, there is some width in the data collection to allow for triangulation.

All interviewees requested anonymity so that they could speak freely, thus providing me with better data. To ensure this, all interviewees are referred to by the numbers 1 to 13. Because it was a relatively small group of people participating in the policymaking process, revealing their institution or position in the publication might jeopardize their anonymity. I have, however, borne in mind their position and institution while evaluating the strength of the data (see Table 1 in the Supplementary File).

5. Tracing the Negotiations

5.1. Reframing

Jordan had long wanted to increase its exports to Europe and had formally requested a relaxation of the rules of origin before the Syria conflict began. This demand was rejected by the Commission partly because DG Trade was reluctant to grant just one country in the neighborhood special conditions (Interviews 3, 5, 7, 13). The first two steps of the mechanism explain how units within the Commission were able to leverage the crisis to create internal unity, which was necessary to successfully have the Compact adopted. The first entails a reframing of the nature of the crisis. DG NEAR and the EEAS had very similar understandings of the situation in Jordan. Several of the interviewees from DG NEAR and the EEAS underlined that the dire economic situation in Jordan already existed before the refugee crisis, as a result of the many years of conflict and a lack of stability in the region (Interviews 1, 10). They also argued that the additional burden of hosting 650,000 refugees had made the situation worse. Furthermore, there are accounts that support the notion that economic issues in Jordan were their main motivation for the Compact: "Obviously, the narratives and the response to the Syrian crisis contributed to the discourse around development assistance in the southern Mediterranean, but I don't think that they were the main driver in this case" (Interview 10). Another interviewee referred to the importance of having a stable partner in the region, one that is a good ally for the EU in geopolitics, and further stated:

> All these factors make it very important for us that Jordan remains there as a stable country, so this is really the long-term interest. It would be tragic if Jordan were to fall, and everything is targeted towards the objective of making them sustainable in the long term. (Interview 1)

Across the different DGs in Commission, they all perceived the situation in Jordan to be an urgent crisis; furthermore, the DG NEAR and the EEAS considered the crisis to be economic in nature and that it was further exasperated by the refugee situation. They argued that the crisis was economic in nature and reframed it from a refugee issue to an economic and development issue. Representatives from DG ECFIN expressed that they understood the crisis in Jordan to be an economic one (Interview 3) and this explains why also they were in favor of granting Jordan trade preferences. DG ECHO wanted to better the livelihoods of refugees living in Jordan, and so they welcomed policies that could provide jobs for refugees (Interview 11). By successfully reframing the crisis as an economic and developmental one, the interests and understandings of some of the different units in the Commission were aligned.

Furthermore, by framing the crisis as a developmental and humanitarian one, trade policy was made an appropriate measure with which to respond to the crisis. This meant that DG for Trade, i.e., the DG governing EU trade policy, became a key actor when moving forward in the negotiations. In the initial inter-service consultations in the Commission, DG ECFIN, DG NEAR, and DG ECHO were all very much in favor of providing trade preferences linked to assisting the refugees in Jordan (Interview 3). DG for Migration and Home Affairs was not much involved, because so few refugees from Jordan travelled onwards towards Europe, they were not stakeholders in the process (Interview 8). However, DG for Trade was initially reluctant. This leads to the second step of the mechanism, which entails getting the support of the relevant DG.

DG for Trade did not agree that external migration policy fell within their responsibilities. DG for Trade was described by several interviewees as being orthodox, mercantile, and working primarily for the protection of the economic interests of member states (Interviews 3, 6, 10, 13). Another perspective on this is that the DG for Trade was very sensitive and responsive to the member states' positions in trade policy because they regularly discussed it with them in the Trade Policy Committee. This means that the DG for Trade knew what the member states would, and would not, be able to accept. In order to get the DG for Trade to work toward the political goal set by the EEAS and DG NEAR, which was now a goal shared by other DGs in the Commission such as DG ECHO and DG ECFIN, tremendous pressure was placed on the DG for Trade to support the proposal (Interviews 4, 9, 13). The High Representative of the Union for Foreign Affairs and Security Policy, i.e., Federica Mogherini, and directors in both DG NEAR and the EEAS, as well as Trade Commissioner Cecilia Malmström were all pushing the DG. The United Kingdom was an important ally and advocate for Jordan and the Compact, with the British ambassador visiting a DG for Trade director to present trade concessions as a solution to the crisis in Jordan (Interviews 5, 7). This broad alliance of players from both within and outside the Commission argued that there was a sense of urgency because of the crisis and, furthermore, that trade policy was the relevant tool to use in order to resolve the crisis. This argumentation was effective in persuading the DG for Trade to expand their responsibilities and created unity in the Commission in the pursuit of the Compact. This confirms the second step of the mechanism. By February 2016, the DG for Trade was very much leading the policy process. They were chef de field in the negotiations within the Commission as well as vis-à-vis the member states in the Trade Policy Committee in the Council (Interviews 3, 7, 13). One DG for Trade representative expressed that trade was considered the most appropriate solution:

> Of course, helping Syrian refugees is a political objective, if I may put it that way, but it is a trade-related initiative contributing to a political objective because at that moment it was considered to be the most appropriate one.

One high-ranking official within the DG for Trade at the time explained this shift partly with the ambition of the DG for Trade to be responsible outside of their immediate issue area:

> I thought that we had to demonstrate that [our DG] could be responsive to this kind of political and social situation, like the one that had been generated by the refugee crisis, and that it was, therefore, better that we were proactive and that we started from the beginning to try to explore solutions.

Even though the DG for Trade took ownership over the Compact, this does not necessarily signify a more permanent expansion of the DG's responsibilities to include migration issues. Interviewees from inside and outside of the DG for Trade did not believe that this signified a permanent shift in the understanding of their role (Interviews 4, 9, 13). The case does, however, demonstrate how DG NEAR and the EEAS were able to use the momentum of the crisis to create internal cohesion.

5.2. Issue-Linkage

Crisisification theory explains that a call for action by the member states will follow shortly after a crisis (Rhinard, 2019). In 2015, the Council asked the Commission and the EU delegation in Amman to do "anything possible" for the ongoing refugee crisis (Interview 5). This enabled the Commission to move forward with a rapid drafting of the policy proposal—step three of the mechanism. The call for action triggered a change in working structures, as a small working group was set up with members from the EU's Amman delegation, the EEAS, and technical expertise from the DG for Trade and DG NEAR (Interviews 5, 9, 13). The small working group engaged in cooperative negotiations by working in a separate and small group of people allowing a high level of trust, working on broad scopes of issues, and working very intensively over a short period. They succeeded in creating the first draft by October 2015. The draft was, in fact, written by a desk officer in the DG for Trade, which demonstrates the necessity of getting the DG to contribute to the policy process. Members of the working group described the process as being unique in that it was highly intensive, and they worked very closely together day and night. One member claimed that some did not last long there because of the pressure (Interview 9). Furthermore, they argued that it was the sense of urgency caused by the crisis enabled this new working structure (Interviews 3, 5). People who were not part of the initial negotiations supported the claim of how remarkably quick the development of the proposal was (Interview 2). The very novel idea was remarkably drafted within only a few months of the group being given the assignment.

In this working group, the novel idea of linking trade concessions to the employment of refugees was further developed from a vague idea into a highly technical policy proposal (Interview 2). In February 2016, at the London Syria Conference, the EU made their first public commitment to offering Jordan trade concessions contingent on Jordan granting work permits to Syrian refugees (Interview 3).

During the final phase of the negotiations, from February to July 2016, there were expectations that the EU would deliver on the commitments made to Jordan at the London Conference and to the Syrian refugees living in Jordan. The member states' refusal to receive more refugees provided further motivation to assist the refugee-hosting countries outside of the EU

(Interviews 6, 9). The tragic number of deaths at sea further escalated domestic pressure for EU action (Interviews 1, 5). The final step of the mechanism involves convincing the member states to adopt the policy proposal. The Compact was not supported by all member states initially, but the crisis led to increased pressure for them to act:

> Some member states initially were not terribly enthusiastic. They insisted that they could accept it because of the very special political situation and provided that there was a very strong linkage to refugees. (Interview 7)

DG for Trade was identified as a crucial advocate for the Compact. Because the DG for Trade benefits from a position as trusted experts in trade, and because trade is an exclusive competence of the Commission, they were able to push the member states to agree to the trade concessions (Interview 13). They achieved this by presenting projections for expected imports from Jordan indicating that there was little risk involved for any member states. The member states with large textile industries were particularly concerned because textile products would benefit from the trade preferences (Interview 2). The member states were also worried about other countries with larger economies, such as Morocco or Tunisia, asking for similar benefits. The DG for Trade drafted the agreement in such a way that the trade preferences only applied to businesses in Special Economic Zones in Jordan that employed a minimum share of refugees, ensuring that no other country would be able to ask for a similar agreement (Interviews 2, 7, 13). The important role the DG for Trade played in convincing the member states underlines the importance of internal cohesion within the Commission (Step 2 of the mechanism). Furthermore, the Commission realized that linking the migration crisis to their proposal was a clever way of motivating the member states to adopt the proposal:

> 2015 was, of course, the year of migration crisis for the EU, so there was a recognition that we did not want refugees to leave their countries of temporary residence bordering Syria. For me, it is quite a clever way of dealing with the issue and it would have been attractive to many people in the EU system and to many of the member states. (Interview 6)

This suggests that step four of the mechanism is present. Another participant noted how time-sensitive the proposal was, arguing that only a few months later, the discussions in Europe were completely different in nature and that there would have been little political will to prioritize aid to refugees outside of Europe (Interview 4). This demonstrates how important it is that the drafting (Step 3) be efficient for the mechanism to work. The European Parliament was not formally involved in the negotiations, but they were briefed on the proposal by the Commission (Interviews 3, 4). The Commission wanted to convince the Parliament that the Compact was necessary because they wanted to have as broad a coalition as possible to avoid any push back (Interviews 4, 5).

The sense of urgency that was necessary for the Commission to succeed in drafting and defending the Compact shed some light on the sui generis format of the Compact. The format was pragmatic in the sense that it ensured swift drafting and adoption. The EU–Jordan Association Council adopted the Compact in July 2016, but as pointed out by Poli (2020, p. 83), in the joint decision the parties only recommended implementation (EU–Jordan Association Council, 2016, p. 1). The phrasing of the implementation as a recommendation rather than something more binding reflected concerns on the Jordanian side regarding the granting of Syrians' access to work permits (Interviews 12, 13).

6. Conclusion

Through tracing the internal EU negotiations that led to the Compact, this article demonstrates the presence of a causal mechanism explaining how external relation units within the Commission and the EEAS can leverage a crisis to influence external EU policy. They argued that there was a dire economic situation in Jordan and that the additional burden of hosting 650,000 refugees had made the situation worse. This reframing of the refugee crisis meant that development assistance tools such as trade concessions became appropriate measures with which to address the situation. As trade policy is governed by the DG for Trade, pressure was put on the DG from a broad alliance of players including the Commissioner for Trade, the High Representative of the Union for Foreign Affairs and Security Policy, the EEAS, DG NEAR, DG ECHO, DG ECFIN, and the United Kingdom. The DG for Trade assumed this responsibility and went on to lead the negotiations internally as well as vis-à-vis the member states in the Trade Policy Committee in the Council. However, accounts suggest that this was a temporary expansion of responsibilities that may not be long-lived. The Commission set up a cross-sectoral working group that was tasked with the urgent assignment of creating a policy proposal for the Compact. The group efficiently created a highly technical proposal with explicit linkages between refugee policy and trade policy. This proposal was presented to the member states as an important solution to the ongoing migration (management) crisis that was playing out in Europe, and the member states accepted the proposal after being convinced by the DG for Trade. The conclusion of informal agreements with third countries such as the Compact with Jordan is not prohibited by EU law, but as Poli argues (2020, p. 80), it does have consequences for the balance of power between the EU institutions. This article has demonstrated how a crisis can be leveraged by actors in the Commission who aim to influence policy outcomes, and how this results in informal policy processes that do not

include the European Parliament. In addition, this article has explained how reframing contributed to the DG for Trade assuming the role as a reluctant initiator of the Compact—this has implications for institutional bargaining models used to explain EU external policies more broadly, such as trade (Gstöhl & Hanf, 2014; McKenzie & Maissner, 2017; Sicurelli, 2015).

The causal mechanism presented in this article expands crisisification theory, which suggests that the Commission can make use of crises to influence policy (Rhinard, 2019). The mechanism described in this article explains only one of many processes that have contributed to the Compact. The roles of several important actors, such as the Jordanian government, the UN Refugee Agency, the United Kingdom, and the European Council, are not included in this study. Additional case studies on the Commission's role in external EU policies during crises are needed, as they could contribute to strengthening or revising the mechanism presented in this article.

Finally, this article provides important empirical findings on the negotiation process behind this hitherto under-researched Compact. If the Compact approach is to be replicated in other refugee-hosting nations, it is important to understand how it came about from the perspective of the main donor, i.e., the EU. Based on the empirical findings presented in this article, it is doubtful that a similar policy output will be replicated in the future. It is not likely that the DG for Trade will contribute to the same degree in future contexts, and it is doubtful that the member states will find themselves in an equally politicized crisis.

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Conflict of Interests

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Supplementary Material

Supplementary material for this article is available online in the format provided by the author (unedited).

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Article

The European Commission as a Policy Entrepreneur under the European Semester

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Abstract
This article discusses the impact that the reforms of the European Union's economic governance since 2011 have had on the European Commission's role as a policy entrepreneur. Particular attention is paid to mechanisms that are applied by the Commission to extend its scope beyond its given formal competences to shape national reform agendas. The research interest is based on the assumption that the Commission is a 'competence-maximising rational actor' (Pollack, 1997), whose primary organisational goals are to expand the scope of Community competence and increase the Commission's own standing within the policy process. Accordingly, this research contributes to the scholarly debate by identifying mechanisms applied by the Commission under the European Semester to shape European and national reform agendas in areas of sovereign policymaking competences of the member states.

Keywords
economic governance; European Commission; European Semester; policy entrepreneurship; soft law

Issue
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1. Introduction

In the aftermath of the financial and economic crisis, several changes were made to the EU's economic governance. In an immediate response to the crisis, the EU Council agreed on far-reaching institutional changes with the reform packages of the 'Six Pack' (2011) and 'Two Pack' (2013). The reforms aim to strengthen fiscal discipline, based on fiscal rules and macroeconomic indicators, and increase reform pressure in areas of national competencies such as economic, fiscal, labour market, and social policies.

The noteworthy changes enhanced the discretionary authority of the Commission and the Council to push for structural reforms in EU member states by addressing macroeconomic imbalances (Erne, 2018, p. 237; Scharpf, 2014). Macroeconomic coordination was improved by integrating soft-governed policy issues, such as labour market and social policy, into the regime of hard-governed fiscal policy (Barcevičius et al., 2014, pp. 34–35; Copeland & Daly, 2015; Crespy & Menz, 2015; de la Porte & Heins, 2015, p. 12). Many authors have described this as a subordination of social policy objectives to the priorities of the latter, such as fiscal discipline and economic productivity (Bruff, 2017; Crespy & Menz, 2015, pp. 199–200; Degryse et al., 2013, p. 70; Hacker, 2019, p. 56; Syrovatka, 2016, p. 33; Wigger, 2015). Based on that, the European Semester has become the focal point for reform discussions in Europe that aim to achieve the goals of the Europe 2020 strategy and the Euro-Plus Pact (de la Porte & Heins, 2015). The reform agenda is substantiated by expertise-driven Country-Specific-Recommendations (CSRs). Deciding on CSRs, however, is a collaborative process between Commission and Council. The Commission formulates a draft and the Council, on behalf of the member states, decides on this soft law. To ensure the member states' commitment and, thus, compliance with the CSRs, once passed, it is crucial to involve them at every stage during the European Semester.

In 2015, under the Juncker presidency in the Commission, several measures were introduced for fostering dialogue and information gathering with various actors from member states, primarily with social partners in accordance with guideline seven and principle eight of the *European Pillar of Social Rights* (EPSR; European Commission, 2016). Important innovations include the establishment of European Semester Officers (ESOs), as part of Commission delegations in each member state. The ESOs consult with national policymakers and social partners separately in their fact-finding missions, discussing policy developments in their countries and including this information when drafting the annual CSRs. Furthermore, the Commission's Directorate-General for Employment, Social Affairs and Inclusion (DG EMPL) and the Employment Committee (EMCO), representing the member states, conduct regular tripartite joint reviews with member states and national social partners on *Country Reports* and CSRs (Eihmanis, 2017).

Although the Semester was suspended in response to the Covid-19 pandemic and its severe impact on the economic development, a new instrument was introduced that might further increase the Commission's role as a policy entrepreneur. With Regulation 2021/241, the EU Council agreed to establish a temporary financial instrument under the budgetary line of the 'NextGenerationEU,' called the *Recovery and Resilience Facility*. Member states benefit from the support of the *Recovery and Resilience Facility* if their reform plans contribute to the Commission's policy guidelines.

The underlying argument of this article is that the paramount importance of these changes and their potential impact on the political and bureaucratic function of the Commission call for a reopening of the debate concerning the entrepreneurial role of the Commission in facilitating structural reforms in areas of national competence. The research contributes to this debate by examining how the Commission uses its new role under the European Semester to strategically exploit instruments and strategies and enhance its ability to mobilise both consensus for the Commission's reform proposals and commitment among supranational and national policymakers. It does so despite institutional asymmetries and structural power imbalances in decision-making with its inter-institutional counterparts in the Council.

2. The Conceptual Framework: Mechanisms of Policy Entrepreneurship in a Multilevel Governance

This article attempts to generate insights on the empirical patterns by which the Commission exerts reform pressure on member states under the European Semester, its role being limited to coordinating policy reforms in areas that are entirely in the competence of the member states. This section starts from the premise that the Commission benefited from changes made to the economic governance, which enabled it to become an effective policy entrepreneur.

In the literature, a policy entrepreneur is described as an individual or collective actor who might be based within the government system (politicians or civil servants) or outside it (interest groups; Gunn, 2017, p. 265). A policy entrepreneur "seeks policy change that shifts the *status quo* in given areas of public policy" (Mintrom, 2015, p. 103) by influencing key players in the decision making (Cohen, 2012, p. 9). The European Semester includes several innovations that have clearly enhanced the Commission's capacity to shape the reform agenda in areas in the domain of member states, such as labour market and social policy. Research has so far highlighted the entrepreneurial role of the Commission in economic policymaking (Chang & Monar, 2013; Ferrera, 2017), focusing on the economic crisis and its impact on policy change (Saurugger & Terpan, 2016) and analysing the entrepreneurship of the Directorate-General for Economic and Financial Affairs (DG ECFIN) within the Commission in economic governance (Maricut & Puetter, 2018; Schön-Quinlivan & Scipioni, 2017). So far, there has been no research done into the entrepreneurial role of the Commission under the European Semester. This article delves into the formulation and adoption of CSRs as the instrument to shape national reform agenda and contributes to the research area by identifying mechanisms that enhance the capacity of policy entrepreneurs to shape policymaking in a multilevel governance setting.

The analytical framework borrows from the 'multiple-streams framework' of John Kingdon (2011), used for a structured description of the involvement of policy entrepreneurs in policy formation ranging from problem identification to interpretation of problems and, further, to the negotiation of specific policy responses. The 'multiple-streams framework' describes policymaking along three streams called 'problem stream,' 'politics stream,' and 'policy stream' each offering distinct 'policy windows' for policy entrepreneurs to shape policymaking (Petridou, 2014, p. 20). The problem stream focuses on factors that have an influence on the identification and interpretation of a policy problem and open a window of opportunity for policy entrepreneurs. These factors can include specific events that change the salience of issues and the feedback on policies from stakeholders on policies. Furthermore, the creation of a technocratic procedures, based on strict assessment guidelines and indicators, as well, can also have a huge impact on the identification and interpretation of problems. Based on these considerations, a first hypothesis is formulated as follows:

> H1: The more a problem identification and interpretation takes place within strict assessment guidelines and indicators, the more likely it will be put on the agenda by the policymakers.

Policy entrepreneurs benefit from a technocratic approach in a veto-prone setting. In technocratic governance regimes, proposals based on statistics and

facts are difficult for policymakers to ignore or to argue against without referring to empirical evidence. In any case, policy entrepreneurs depend on detailed and specific policy knowledge. Policy entrepreneurs are in regular consultation with all kinds of political actors, such as policymakers, interest groups, and other policy entrepreneurs to gather information. Further, the more a policy entrepreneur is able to gain far-reaching political support from other stakeholders, such as interest groups, the more a policy proposal is perceived as legitimate and the harder it is for policymakers to ignore or veto. Therefore, policy entrepreneurs actively seek to form policy communities or epistemic communities, as they are an important source of knowledge and legitimacy (Hartlapp et al., 2010, p. 20).

> H2: The more policy entrepreneurs gather country and policy knowledge from relevant policy communities, the more their proposals are perceived as more legitimate.

As discussed by Kingdon (2011), the likelihood of a policymaker to succeed in putting a policy problem on top of the agenda relates to the political costs associated with it. Political costs of any decision relate to the salience and acceptability of a policy to the general public and are expressed by public opinion, electoral votes, consent by party clientele, and reputation of the policymaker (Kingdon, 2011, pp. 66, 147). Therefore, policymakers will prefer decisions with low political costs for them. The less politicised a policy, the less the political costs. Consequently, technocratic procedures and a low obligation to implement decisions ease the adoption by policymakers as their decision is of less consequence. Besides, as discussed by Kingdon (2011, pp. 184–186), it is advisable to focus on a manageable number of policy problems, as a policymaker can only process a limited number of projects at any given time. It might be the case that policymakers pick policy problems of little political cost and avoid the ones with high political costs. Therefore, less is more and a policy entrepreneur should anticipate policymakers' constraints when raising policy proposals.

Furthermore, as stated by the 'actor-centred institutionalism' (Mayntz & Scharpf, 1995), institutional rules and values have an influence on how policy entrepreneurs are empowered to mobilize their optional power resources. Optional power resources are defined here as the ability of actors to increase political costs for policymakers in case of deviant action by legal enforcement powers as well as to mobilise peer pressure (Treib, 2015). The decision-making rules play a crucial role in this context. It matters if it is possible for the decision-makers to amend or reject a proposal and if the decision to be agreed is vague and non-binding rather than strict and of binding force, with possible sanctions in place. The ability to mobilize peer pressure is another power resource that is a result of shared beliefs between the policy entrepreneur and relevant political actors and epistemic communities (Scharpf, 2000, p. 77). In a multi-level setting, the decision-making includes several actors of distinct political power. Consequently, if the policy entrepreneur shares its belief with the more powerful actors, peer pressure might evoke and ease the consent of reluctant policymakers. A good example for asymmetric imbalance of power in governance regimes is the 'EU core-periphery model' at the member state level. The argument here is as follows: If the Commission's CSRs address member states in the periphery, it might be easy to mobilise peer pressure among the more powerful core member states. With that in mind, our third hypothesis is claimed:

> H3: The less politicised and the less binding a decision is the more likely policymakers will vote in favour of the peer group.

On the contrary, the more controversial a policy and the more precise in wording as well as binding in the scope of action needed, the more hesitant decision makers will be to agree. Conversely, this means that a policy entrepreneur needs to seek for ownership first, to make a policy effective. The main instruments for generating ownership are: firstly, gaining the consent of policymakers to the procedure and the indicators to assess policy developments; secondly, anticipating policy preferences as well as general preferences of policymakers and using these for the policy entrepreneur's strategic advantage; thirdly, ensuring significant involvement of policymakers in the identification and interpretation of policy problems as well when formulating the policy proposal. That means that policymakers have to have a chance to intervene or argue at a preliminary stage. However, once a policy proposal is adopted, policy entrepreneurs will refer to the ownership of policymakers if the policy is to be implemented. If policymakers are not willing to do so, their reputation will be permanently damaged.

> H4: Policy entrepreneurs seek to involve policymakers at every stage of the policy formation aiming to increase their ownership of the proposal when it is due to be implemented.

The final stream of the 'multiple-stream framework' is the policy stream, which focuses on the formation and negotiation of specific policy responses. This stream is more policy oriented and here the 'coupling process' (Kingdon, 2011, pp. 180–181) comes into play. This concept is applied by policy entrepreneurs to shape the agenda setting by presenting their favourite policy to the policymakers as a solution to the detected problem at the right moment (Knaggård, 2015, p. 450). This is because it is quite helpful if the policy entrepreneur is able to influence the process of identifying and interpreting policy problems and to narrow policy options down to a limited set of possible solutions (Ackrill et al., 2013). This relates to a specific technocratic capture potential

that a policy entrepreneur has to define specific assessment indicators, use procedural rules to put its interpretation first on the agenda, and mobilise peer pressure.

> H5: The higher the technocratic capture potential of policy entrepreneurs, the more likely they are able to streamline policy debates according to their own policy preferences by coupling identified problems with the right policy solution.

Figure 1 summarizes the findings of the theoretical discussion by structuring the causal mechanisms in relation to the distinct stage of the policymaking and the differences between mechanisms based on procedural rules and on political interaction.

In the following sections, the theoretical claims are qualified by an inference analysis on applied mechanisms of policy entrepreneurship, as demonstrated in Figure 1. These mechanisms are tested against the practice of economic governance under the European Semester. To achieve this, the empirical analysis relies on the findings from 14 semi-directed expert interviews carried out with senior officials at the Commission, advisory committees to the Council (EMCO) and involved social partners between December 2020 and May 2021 (the list of interviewees is in the Supplementary File). Interviewees were asked to describe how the Commission works under the rules of the European Semester and how it cooperates with the Council, the member states executives, and social partners, in order to increase the significance of its policy proposals. Furthermore, the main findings from the interviews were discussed with leading academics in the field of interest to qualify the arguments and conclusions made in the article. The author would like to thank Amy Verdun, Bart Vanhercke, Sebastiano Sabato, Jörg Haas and Felix Syrovatka for their helpful comments.

3. Empirical Analysis

In this section, the author takes a 'mechanismic perspective' (Gerring, 2008) by empirically uncovering the causal pathways on how the Commission exerts influence as a policy entrepreneur. The empirical analysis scrutinises the rule change implemented with the 'Six Pack' (2011) and 'Two Pack' (2013), the reforms to the procedure at the beginning of the Juncker Commission (2015) and, finally, the establishment of the *Recovery and Resilience Facility* in 2021. The theoretical argument is that, with the changes made to the economic governance, the Commission's role as a policy entrepreneur was strengthened as follows. Firstly, the commission gained a higher direct impact on the European reform agenda due to new treaty-based competences under the European Semester. Secondly, the Commission made strategic endeavours to extend its scope for shaping policy decisions beyond formal rules and in areas of national competence such as the labour market and social policy. The empirical analysis sheds light on the strategic endeavours of the Commission to use its optional power resources within the rules of procedure and political interaction. The research analyses strategic attempts by the Commission to increase its influence on policymaking by scrutinizing its role in the procedure and its interaction with other actors along three stages of the policy cycle: 1) policy identification and interpretation, 2) policy formulation and negotiation, and 3) policy implementation.

3.1. Policy Identification and Interpretation: Streamlining Policy Debates

The European Semester starts with two main monitoring reports: The *Alert Mechanism Report* and the *Joint Employment Report* annexed to the *Annual Growth Survey*. The *Alert Mechanism Report* includes the findings of an examination by the Commission based on a scoreboard of 14 macroeconomic indicators. Specific thresholds are set, in order to define the appropriate development in a country. If a country's development is below or above this threshold, the Commission conducts 'In-Depth Reviews.' Consequently, countries with severe macroeconomic imbalances could face an 'Excessive Imbalance Procedure.' Thus, indicators play a

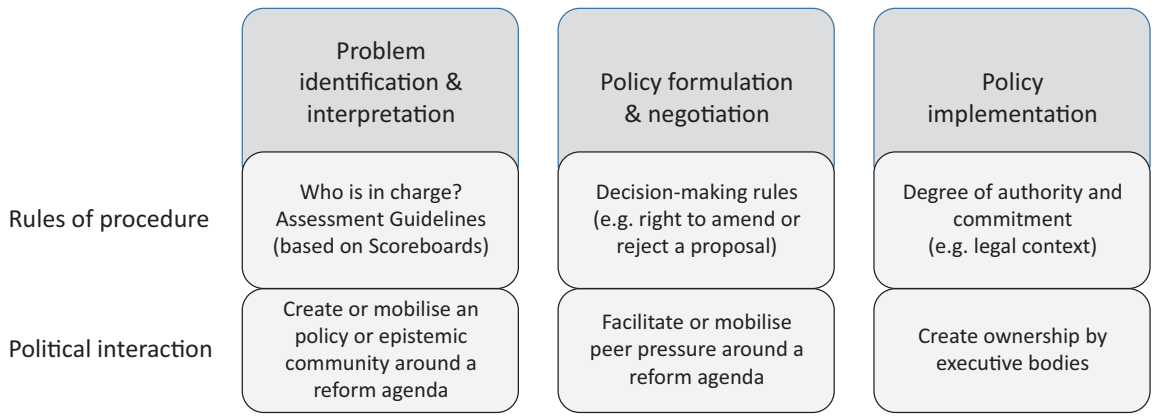

Figure 1. The 'multilevel policy entrepreneur' mechanisms of policy reform.

crucial role in shaping reform agendas. Although they are perceived as being technocratic in form and objective, the agreement on them has been highly political and often a compromise between France and Germany (Bokhorst, 2019, pp. 118–120). The Commission performs the scrutiny based on the indicators but is free to interpret the findings and thus uses them to frame policy discourses. Its conclusion is published in the so-called *Country Reports*. They serve as the basis for tailor-made CSRs for member states that address reform demands in economic, fiscal, employment or social policy areas. Member states are requested to implement them within 12–18 months. The Commission's draft CSRs have to receive the consent of the Council to be adopted.

The Commission's interpretation, therefore, has to be backed by specific policy and country knowledge. For the former, DG EMPL on behalf of the Commission has strengthened its intelligence-gathering and analytical capacity through the development of new monitoring instruments and the intensification of multilateral surveillance by establishing different benchmarking tools such as the *Europe 2020 Joint Assessment Framework* for monitoring the *Employment Guidelines*, the *Social Protection Performance Monitor* and the *Employment Performance Monitor*. The *Employment Performance Monitor* is a bi-annual joint report of DG EMPL together with EMCO, which summarises the assessment of the *Europe 2020 Joint Assessment Framework* and identifies key challenges. Another important innovation has been the establishment of the EPSR in 2017, based on 20 principals. Since 2018, the *Joint Employment Report* is drawn up according to twelve Social Scoreboard indicators based on these 20 principles. Although the DG EMPL and the Council configuration on Employment, Social Policy, Health and Consumer Affairs (EPSCO) together agree on using EPSR as the reference for social CSRs, member states seem very reticent. As Hacker (2019, p. 55) found out, only eleven member states consider them when formulating their National Reform Programme (NRP). In addition, DG EMPL published several proposals to emphasise its reform agenda, which were discussed, monitored, and reviewed within the European Semester. Foremost among these were the 'Employment Package' (2012), the 'Compact for Growth and Jobs' (2012), the 'Youth Employment Package' (2012) and the 'Social Investment Package' (2013). Furthermore, individual DGs also have their own monitoring reports to address their specific policy demands. A good example is the debate on the effective and statutory retirement age. DG EMPL and DG ECFIN each provide their own expertise on this issue. Whereas DG EMPL produces a so-called *adequacy report* every two years, which is adopted at the advisory committee to the Council EPSCO, DG ECFIN draws up the so-called *ageing report* to emphasise its own agenda on this issue.

With the Juncker Commission (2014–2019), the Commission intensified the information exchange with political communities (Haas, 1992; Zito, 2001). The Commission opened several channels for gathering country-specific information, and for discussing findings of the annual monitoring, expressed in the so-called *Country Reports*. The most important of these are annual fact-finding missions and the establishment of responsible contact persons at the Commissions delegation in each country, the so-called ESOs. In addition, the Commission conducts bipartite and tripartite meetings with country representatives to gain all-encompassing information as well as to increase its ownership with the CSRs. The involvement and consultation of national stakeholders, especially social partners, are a crucial source of expertise and legitimacy that strengthens the Commission's role as a policy entrepreneur (Interview DG EMPL #1 and SECGEN #6; Tricart, 2019). As for the involvement of trade unions, the European Trade Union Confederation (ETUC) is most notably involved in ex-ante consultation when drafting the *Annual Growth Survey* and the *Joint Employment Report* (Interview ETUC #7). The ETUC is also invited to meet with the Troika of the EU during the informal EPSCO Council. Their cooperation was formalised in a cooperation protocol in 2014 (Interview DG EMPL #1). Furthermore, the Commission financially supported the launch of Trade Union Semester Liaison Officers (TUSLOs) for a more streamlined communication. TUSLOs are the main representatives of their organisation in coordinating Semester policies at the EU level, especially within the ETUC, and in acting as a central contact at the national level.

The traditional arenas for neo-corporatist practices at the EU level are the European Economic and Social Committee (EESC) and the European Social Dialogue (ESD). The EESC has acknowledged the growing importance of the European Semester and replaced its Europe 2020 Steering Committee with the European Semester Ad hoc Group. The European Semester Ad hoc Group coordinates the work of the EESC sections and takes a position on Semester documents by using existing access to actors around EU's economic governance. The ESD, however, is not used for consultation between European social partners on issues related to the European Semester. In fact, the EESC and ESD play no decisive role because the consultation between social partners and the Commission still takes place bilaterally (Sabato, 2020). Although multiple points of access along the multilevel system are open to social partners within the European Semester, the most effective one is still the national social dialogue. But its significance has diminished especially in countries that enjoy a strong social dialogue anyway, such as Austria, Germany, and Finland (Kirov & Markova, 2020; Pavolini & Natili, 2020; Sabato, 2020).

Furthermore, in light of the limited enforcement authority in labour market and social policy domains, a deliberative and inclusive approach is applied to increase national ownership and politicisation of CSRs with contributing to effective compliance with CSRs. This approach counteracts the practice of behind-closed-

doors decision-making on NRPs and the dominance of finance ministers. As a result, the Commission strengthened its efforts to involve social partners by calling on the national governments to consult social partners more effectively in drawing up NRPs and the National Job Plan (Eurofound, 2019). After this, governments were obliged to annex the views of social partners to those documents. In any case, most governments are bypassing social partners when drafting their NRPs, including in the current recovery plan (Interview ECOSOC #9 and TUSLO #6).

These measures are interpreted as endeavours to politicise CSRs at the national level with the help of social partners and, hence, increase reform pressure on national governments (Erne, 2019). Moreover, the interventionist tendencies associated with the European Semester regime also favour the politicization along national rather than transnational class lines (Jordan et al., 2020, p. 3). It is therefore questionable whether the current institutionalisation of civil society participation offers an appropriate remedy to the problems of democracy and accountability from which the EU suffers. The vertical surveillance under the European Semester put countries in competition with one another, which implicitly constitutes a deterrent to transnational Euro-corporatism. Effective interest intermediation and influence presuppose a shared agenda accumulated within the respective social partner organisations. Nevertheless, different national circumstances make it difficult to develop a joint agenda at the ETUC. The main cleavages are based on the different economic models in each country, divided between those that are more demand-side or supply-side oriented. In particular, trade unions in many member states are sceptical about recognising the European Semester as a legitimate policy process. Several interviewees from trade unions (Interview TUSLO #12 and TUSLO #8), underlined the demand for the democratisation of the European Semester by including the European parliament as well as national parliaments into the decision making. Current consultations of social partners are merely on an ad-hoc basis and not seen as effective for having a say in the agenda building; a regular dialogue would be needed for that.

Trade unions, in particular, accept DG EMPL as an honest broker for their interests (Interview TUSLO #12). Nevertheless, trade unions criticise the limitation in scope and regularity of their interaction (Sabato et al., 2017). They criticise a lack of access to other thematic DGs involved in the process, like DG ECFIN or SECGEN (Interview ETUC #7). Furthermore, trade unions propose the expansion of economic governance to include other policy areas, such as environment, industry, and education, in order to discuss employees' interests in a more comprehensive manner (Interview TUSLO #12). In addition, the interaction with the Commission is described as asymmetric, spontaneous, and without any commitment. As described in the interviews, DG EMPL consults trade unions proactively and regularly. Trade unions are invited to tripartite talks during fact-finding missions and to discussions of *Country Reports* and CSRs. Often, trade unions are consulted on an ad-hoc basis, when DG EMPL needs specific information (Interview TUSLO #12). Although trade unions deliver requested information, they regret the absence of an ex-post dialogue as well as any commitment to their proposals by DG EMPL and, thus, their lack of impact on final decisions (Interview TUSLO #12). Consequently, social partners often feel instrumentalised by DGs' agendas and do not see a reliable cooperation, because relevant transparent procedures are missing (Interview TUSLO #12).

To sum up, it is the technocratic notion set up by the assessment guidelines and the competence given to the Commissions as well as their regular consultation with social partners which strengthens the Commission's proposals and thus, clearly shapes the decision-making of the Council on CSRs.

3.2. Policy Formulation and Negotiation: The Commission's True Agenda-Setting Power

The insistence on the implementation of a revamped integrated coordination and surveillance framework reflects both the extension of the scope of coordination, which is due to an expansion to include labour market and social policy areas, and its intensification, which is due to enhanced surveillance and peer pressure (Maricut & Puetter, 2018, p. 198). The reform packages of the 'Six Pack' (2011) and 'Two Pack' (2013) provide crucial competences to the Commission to administer the European Semester and to prepare the basis for any decision by the Council. The Commission's preferences are substantiated by formulating the CSRs. CSR formation at the level of the Commission is built upon expertise and transparent indicator-based monitoring. Apparent independent expertise, based on information-gathering and indicator-based interpretation, serves as the justification of CSRs (Interview DG EMPL #1). CSRs find their legitimisation through their reference to other public monitoring reports, like the *Alert Mechanism Report* and the *Joint Employment Report* annexed to the *Annual Growth Survey*, and benchmarks formulated in the Europe 2020 and Euro-Plus Pact. Soft-law, used to coordinate labour market and social policies, was merely integrated into the logic of hard governance of fiscal policy (Kahn-Nisser, 2015) and the coordination process became more characterised by 'command-and-control' attitudes whereby "national diversity is often placed within strict limits with high levels of supranational policy prescription" (Dawson, 2015, p. 984).

One widely discussed argument is that the empowerment of the Commission is an attempt by 'core' member states (Gräbner et al., 2018, p. 19)—such as Germany, Netherlands, and Denmark—to utilise the Commission as a strategic agency to discipline member states into maintaining sound public finances and push them to implement requested structural reforms according to an ordoliberal agenda (Ryner, 2015). In this

view, the European Semester is intended to help in putting pressure on indebted member states (e.g., Italy, Spain, Portugal, and Greece) to conduct reforms in the policy areas that account for the main shares of budgetary expenditures, such as unemployment compensation and social allowances. Furthermore, the argument runs, these reforms are supposed to contribute to the EU's objective to gain productivity by, for example, ensuring lower unit labour costs and higher flexibility on the labour market. Overall, the article argues that core member states facilitate peer pressure on the periphery to accept the new economic governance regime and its policy objectives by integrating its economic models into the logic of the European Semester. Furthermore, in 2015, as part of broader efforts to streamline the European Semester, the number of CSRs was reduced to two to five overall recommendations per country to increase reform pressure on prioritised CSRs (Vanhercke et al., 2015). It is thought that putting emphasis on the most prioritised CSRs is a good strategy to evoke peer pressure in the tradition of the Open Method of Coordination (OMC) strategy of blaming and shaming concerning the monitoring of progress on pre-defined benchmarks.

It should be emphasised that the Commission draws on its technocratic capture potential through substantial in-house policy and country expertise, built up through administering the coordination of the Lisbon and Europe 2020 process under the OMC, which relies on a deliberative, consensus-seeking, and expertise-driven approach. The Commission benefits from its "familiarity with the challenge of debating its positions with the economic policy actors under the Integrated Guidelines of the Lisbon Strategy" (Zeitlin & Vanhercke, 2018, p. 165).

With the launch of the Lisbon Strategy in 2000, the Commission was entrusted with the facilitation of policy coordination among member states on the OMC-principles. The purpose of this coordination is to harmonize member states' policies along mutually agreed benchmarks while guaranteeing them their sole sovereign power to govern in these policy areas. In 2010, the ill-fated Lisbon Strategy was succeeded by the ten-year reform agenda Europe 2020, which defines five numerical headline targets, mainly addressing social cohesion. In addition, member states agreed on the Euro-Plus Pact that addresses more than 50 reform proposals in twelve key areas aiming to increase productivity and economic growth in the European Single Market. Member states are encouraged to include them into their annual NRP and have to report to the Commission on the progress achieved and on the challenges encountered. The policy coordination under the OMC clearly falls short of expectations. It is the Commission's task to identify and negotiate on jointly agreed benchmarks and monitor the progress made by member states in fulfilling them. But the Commission lacks any enforcement authority under the OMC. Any policy change in the member states relies mainly on soft power as policy learning through the exchange of best practices and expertise.

One way of increasing compliance pressure is to incorporate unbinding recommendations into the logic of what appears to be hard governance. Subsequently, macroeconomic coordination builds upon a precise monitoring of member states compliance with defined benchmarks and entails enforcement duties in case of policy failure. It is the Commission who is in charge of monitoring member states' macroeconomic development and identifying severe imbalances. Each year, the Commission publishes its results and clusters countries according to the extent of their macroeconomic imbalances. This is reminiscent of the mechanism of blaming and shaming that has been used under the OMC. Nevertheless, the Commission's role as policy entrepreneur benefits from the changes made by the Semester's procedural framework. Although the cooperation between the Commission (DG EMPL) and the EPSCO Council has gradually been shaped by institutional asymmetries based on distinct legal contexts of their competences, it has turned into a collaborative setting, facilitated by the consensus-seeking nature of the advisory committee to the Council EMCO (Zeitlin & Vanhercke, 2018, p. 151). Therefore, the EMCO is seen as an important resource for the Commission to evoke peer pressure as decisions are made collectively and on the basis of the Commission's evidence-based problem interpretation (Interview DG EMPL #1 and SECGEN #6). The consensus at EMCO is a crucial resource of ownership (Interview DG EMPL #1 and EMCO #2).

Interaction between the DG EMPL of the Commission and national governments takes place at two main venues. First, they seek consultation with national governments during its annual fact-finding missions while formulating its *Country Reports*. These fact-finding missions are organised by the ESOs at the Commission delegations in the member states and include dialogues with national governments and administrations as well as social partners. Second, the advisory EMCO prepares EPSCO conclusions on the *Annual Growth Survey* (including the *Joint Employment Report*) and on CSRs in the employment field. The EMCO is a senior expert committee that consists of representatives from member states and is supported by DG EMPL. EMCO enjoys crucial consensus-generating capacities and draws its strength from close and regular cooperation between senior experts from member states' ministries and DG EMPL. Two sub-groups support it: the policy analysis group, which provides advice on EMCO work, and the indicators group, which carries out technical work related to the indicators that are used to monitor the implementation of EU's employment strategy. Their role is seen as very important, as indicators are used to justify policy recommendations. To conclude, member states are involved at various stages of the Semester cycle. They adopt indicators, used to identify macroeconomic imbalances, have to adopt CSRs, and can veto an excessive imbalance procedure. But the process is highly standardised and technocratic. Therefore, once the process has started, it is

hardly possible for a member state to veto on CSRs. Changes to the Commissions' proposal on CSRs need a double majority in the Council, which is virtually unreachable without a good reason (Interview SECGEN #6). And, although they are not binding, once in place, it is almost impossible to remove CSRs from the agenda and, thus, member states have to reflect on them until they are implemented (Interview ETUC #7). As another interviewee points out "once on the list, it is difficult to get them off the list" (Interview TUSLO #8).

To conclude this section, it is very difficult to reject or change a proposal made by the Commission. Most of its proposals gain support by the core and creditor states for two reasons. First, CSRs gain impact in case of severe macroeconomic imbalances. Most of the states who face severe macroeconomic imbalances are from the so-called European periphery. Second, indicators used for the assessment are mainly negotiated among core member states and, thus, follow their policy objectives. To sum up, it is about the Commission's technocratic capture potential to be able to emancipate from core member states' agenda.

3.3. Policy Implementation: How to Ensure the Significance of CSRs

This section asks about the significance of CSRs on national reform agendas, as their proposed effectiveness has a direct impact on the decision-making. The argument here is, the more binding a CSR, the more difficult to get it through the Council. Although the Commission enjoys far-reaching agenda-setting competences, it reveals little about its effective implementation into national reform agendas. Due to a database provided by the Commission's Economic Governance Support Unit of the Directorate-General for Internal Policies, only 51.6 percent of CSRs were satisfyingly implemented in average between 2012 and 2019. Furthermore, the compliance rate declined from 71 percent in 2012 to 39.8 percent in 2019 (Directorate-General for Internal Policies, 2020). The lack of enforcement capabilities fits into the debate on the 'post-Maastricht integration paradox,' which states that member states seek closer integration in order to address undeniable policy interdependencies, but without transferring real powers such as legislative competences to supranational actors (Maricut & Puetter, 2018, p. 206). Instead, they prefer collective agreement on coordination objectives by enhancing the consensus-generation capacity of high-level intergovernmental forums in areas outside the classic community method—namely economic governance, employment, and social affairs (Maricut & Puetter, 2018, p. 195).

Some of the CSRs themselves have gained more significance because of a legal context referring to the Macroeconomic Imbalance Procedure and/or the Stability and Growth Pact and their corrective arms 'Excessive Imbalance Procedure' for the former and 'Excessive Deficit Procedure' for the latter. As a study by Bekker (2015, p. 13) and Maricut and Puetter (2018, p. 205) has shown, at least 50 percent of social CSRs are addressed under a legal context. Member states are requested to implement them within 12–18 months. The national Ministries of Finance are primarily responsible for implementation because most of the proposed reforms have implications for the budget (Interview DG EMPL #1; Kudrna & Wasserfallen, 2020). Furthermore, a positive conditionality as well might help to increase the compliance with CSRs. A good example is the recently established *Resilience and Recovery Facility* that provides financial assistance for funding the implementation of reforms who address CSRs (Interview TUSLO #6).

Apart from that, the Commission puts efforts to increase the consent among member states under a veto-prone procedure. The challenge, therefore, is to formulate CSRs that get the ownership of member states. This includes a regular communication relying on data-based expertise and specific policy knowledge. To enhance national ownership of the supranational reform agenda, the Commission underpins CSRs through wide-ranging consultation with national administrations, ensuring that CSRs are robust enough to withstand scrutiny (Verdun & Zeitlin, 2018, p. 145). The governance of the Semester has likewise become less hierarchical and more interactive, while the CSRs, especially in the social and employment field, have become less uniform, less prescriptive, and better adapted to national circumstances (Zeitlin & Vanhercke, 2018, p. 168).

Finally, since 2015, the Commission involves social partners more closely in the Semester cycle. Forming political communities with national social partners, which provide the Commission with specific policy and country knowledge, should also help to politicise the technocratic Semester Cycle on the member state level and mobilise publicity of CSRs and, thus, bring them on the national reform agenda. To conclude here, CSRs are not binding, but they raise attention to crucial shortcomings of a state and, thus, may be referenced in domestic political debates by political actors to blame the government or to increase reform pressure. Currently, the politicisation is the highest in countries of the periphery (e.g., Italy) that face severe reform pressure by legally binding CSRs.

The main conclusion to be made here is that CSRs linked to severe macroeconomic imbalances are of binding force with possible legal consequences in case of a lack of compliance by national policymaking. The challenge, however, is to gain impact on the policymaking in all member states, despite the legal context of the CSRs. On one hand, the Commission aims to increase national ownership with the Semester procedure and the CSRs. The involvement of social partners, on the other hand, should help to increase political costs for policymakers at the national level in case of a lack of implementation (see also Ferrera, 2017).

4. Conclusion

It was the aim of this article to uncover the entrepreneurial role gained by the Commission with the reform of the economic governance. Initially, therefore, a theoretical model of distinct mechanisms (Figure 1) by which a policy entrepreneur might shape multi-level policymaking was developed in the first place. The model and delineated hypothesis were used to investigate Commission's entrepreneurial role under the European Semester. The empirical analysis was mainly based on document analysis and semi-structured expert interviews.

First, it was hypothesised that policy entrepreneurs are more successful in agenda-setting when this process is highly technocratic. The analysis has shown that the European Semester procedure is highly standardised. Political debates on the formulation of CSRs are based on indicators and specific policy as well as country knowledge. Although such technocratic procedures seem to be less politicized, the author underlines the high degree of politicisation when setting specific indicators that streamline policy debates within prioritized norms and values. Furthermore, the Commission was able to increase its technocratic capture potential by juxtaposing the political logic of hard governance with streamlining agenda building in areas of soft governance on the 'command and control' principle. Its impact relies on its empowered role under the European Semester regime, in which it is in charge of identifying and interpreting policy problems as well as offering justified solutions substantiated by CSRs. This is illustrated by clear benchmarks, assessment frameworks, and monitoring reports. Second, and connected to the Commissions' technocratic capture potential, reference is made to the gained policy and country knowledge that forms the Commission's expertise. Of importance are regular and meaningful consultations with social partners, which have been intensified since 2015 and strengthen Commission's political power when discussing its proposed CSRs.

Third, peer pressure is an important factor under the European Semester. The research has shown some evidence that the European Semester is of asymmetric significance to member states, depending on whether the latter are confronted by severe budget and/or macroeconomic imbalances. As discussed by Ryner (2015) and others, initially, the Commission was empowered in the economic governance to serve the agenda of core member states. Nonetheless, our findings show that since the Commission under Juncker (2014–2019), the Commission has emancipated itself from core member states' agendas and developed its own policy priorities such as substantiated in the EPSR. Nevertheless, the research lacks any evidence so far that the Commission is able to mobilise specific peer pressure in the Council to its favour. Apart from that, we still face a huge politicization in the Council when it comes to decisions on the corrective arms of the Semester.

Our fourth hypothesis refers to Commission's aim to increase the compliance with CSRs at member state level. The Commission interacts closely with national governments and includes them at every stage of the agenda building to gain their consent to the final CSRs. The aim is to increase national ownership to the fullest extent and to de-politicize reform debates at the EU-level by means of expertise-driven proposals. On the other hand, our final finding refers to the Commission's attempt to enable a meaningful involvement by social partners at the national level. Although on a weaker level, evidence is given that the Commission seeks, by the involvement of stakeholders, to politicize CSRs in member states. The Commission's strategic aim is to bring CSRs onto the national reform agenda and, thus, increase the effectiveness of macroeconomic policy coordination under the European Semester.

To conclude, this research contributes to the literature by shedding light on how the Commission expands its impact on national policymaking beyond its given competences. The elaborated model should help to guide further research into the mechanisms applied to reach effective impact on national reform agendas.

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Conflict of Interests

The author declares no conflict of interests.

Supplementary Material

Supplementary material for this article is available online in the format provided by the author (unedited).

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Article

Detecting Looming Vetoes: Getting the European Parliament's Consent in Trade Agreements

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Abstract
Since the implementation of the Lisbon Treaty, the European Parliament wields the power of consent over international (trade) agreements, enabling it to threaten a veto. Due to the extensive financial and reputational costs associated with a veto, the European Commission (hereinafter Commission) was expected to read these threats effectively. However, the Commission's responses to such threats have varied greatly. Building on a fine-grained causal mechanism derived from information processing theory and an extensive process-tracing analysis of seven free trade agreements post-Lisbon, we explain why the Commission has responded differently to looming vetoes. Our analysis reveals that the variation in Commission responses derives from imperfections in its information-processing system, the 'early-warning system,' which had to be adapted to the new institutional equilibrium post-Lisbon. Because of this adaption process, factors exogenous to the parliamentary context ('externalities') as well as internal uncertainties ('internalities') add constant unpredictability to the Commission's reading of the European Parliament.

Keywords
EU trade policy; European Commission; European Parliament; information processing theory; trade agreements; veto

Issue
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1. Introduction

With the power to reject international trade agreements, the European Parliament (hereinafter EP) received a costly 'whip' to sanction the EU negotiator during the final ratification stage. As this 'nuclear option' (Smith, 1999, p. 76) coincided with the politicisation of trade policy, it was widely anticipated that the EP would flex these new 'muscles' frequently. Considering the high financial and reputational costs of looming vetoes, one would expect the European Commission (hereinafter Commission) to read and react to such threats effectively (Gastinger, 2016).

Indeed, there have been several cases where the Commission was uncertain if a majority of Members of the European Parliament (MEPs) would approve the agreement and only realised the impending rejection later or even too late in the process. Such was the case with the Anti-Counterfeiting Trade Agreement (ACTA) where late-stage protests entrapped MEPs to reject the entire agreement. In other cases such as the Comprehensive Economic Trade Agreement (CETA), the Commission reacted to demands backed by a majority of MEPs by re-opening the concluded negotiations. Yet again in other cases such as the agreement with Colombia and Peru (CoPe), the Commission addressed parliamentarians' concerns in a more sufficient manner. Hence, despite the threat of a parliamentary veto having loomed over several cases, the Commission's reaction thereto has varied. We therefore pose the research

question: Why has the Commission read and reacted differently to threats of vetoes? We deliberately distinguish between a 'veto threat' and the 'threat of a veto': The terminology 'veto threat' suggests an actor-centred concept where A compels B to do something (Cameron, 2000, p. 85). A 'threat of a veto,' on the other hand, suggests a more situational concept where different variables produce a situation where a veto becomes a likely policy option. In this article, we aim to explain why such situational threats have produced varying reactions from the Commission.

As we explain in the second section, the existing literature commonly sees this as a form of brinkmanship, meaning that both institutions are locked in a 'chicken game' with the EP wanting to assert its newly gained powers, and the Commission shifting the burden of rejection to the EP. While such approaches can capture the various outcomes observed, they mischaracterise much of the inter-institutional dynamics surrounding trade negotiations. Our analysis, by contrast, focuses on the *communication* between the EP and the Commission by applying insights from information processing theory (IPT).

We deliberately focus on the communicative interaction between the Commission and the EP: First, the Council has been the main legislator in trade policy since the establishment of the Common Commercial Policy in 1957. The Commission–Council working relationship is therefore well-established, meaning that we can expect the Commission to be capable of anticipating the sensitivities of the member states. Second, the EP consists of significantly more 'voices' that can transfer signals to the Commission. It thus poses a new challenge in terms of institutional communication. By focussing on the Commission–EP interaction, we thus aim to assess how the rule changes introduced by the Lisbon Treaty increased the chance of rejection of trade agreements as the Commission needed to cope with a new veto player. Yet, considering that the Commission–EP interaction does not take place in a political vacuum, we consider the communicative 'interference' of the Council at key points in our analysis in order to provide a more complete picture of the information exchange between the institutions.

Focusing on processes of organisational learning, we claim that the Commission had to pay some tuition costs as it learned to decipher the signals emitted by the EP. Our deduced mechanism can explain initial vetoes following the entry into force of the Lisbon Treaty such as ACTA but also the disappearance of formal rejections in recent debates. Yet, it is weaker in offering insights into the recurrent bouts of late-stage contestation, even if the issue has ultimately been resolved.

Our empirical analysis comprises of two parts: The first part traces the ratification of three agreements in the 'early post-Lisbon period' (2009–2012). The second part studies three additional trade negotiations in the 'later post-Lisbon period' (2012–2020) when the implications of the treaty change had manifested within the institutions' political awareness (Ripoll Servent, 2014, p. 569). From these findings, we deduce the role of 'internalities' (factors internal to the EU institutional context) and 'externalities' (factors external to the EU institutional context) that necessitate a constant updating of the Commission's information-processing system. Precisely because of this continuous refinement process under constant uncertainty, we argue that reading veto threats resembles efforts to hit 'moving targets,' hence explaining the recurrent stand-offs between EP and Commission late in the negotiations.

2. Wielding Institutional Power, or a New Parliament in a New Era

The EP's more prominent role post-Lisbon in EU trade policy informed debates on parliamentary assertion, but also provided a new test case for principal-agent scholars scrutinising inter-institutional dynamics in trade negotiations. The former tradition is particularly useful in shedding light on the EP's motivations and strategies to expand and apply its power. The latter complements such insights by introducing the main target of the EP's actions in trade negotiations. Neither, however, gives due attention to the communicative action through which parliamentary power is asserted.

2.1. Parliamentary Assertion: Stories of Empowerment

With the Treaty of Lisbon, the EP received three new rights: the right to be fully informed, the right to accept or reject trade agreements, and the right to implement trade legislation through internal legislation (Art. 207 TFEU, Art. 218 TFEU). These rule changes bundled academia's focus in two ways: On the one hand, an audience-centred focus gave centrality to the growing awareness of the EP's new powers in the eyes of the public. As the argument goes, the increasing public salience of EU affairs following the Lisbon Treaty activates MEPs' desire to 'flex muscles' vis-à-vis the Commission, considering that politicians are subject to election cycles (Gheyle, 2016, p. 2, 2019, p. 20). The politicisation of trade policy hence produced a parliamentary actor which rose 'from zero to hero' (Rosén, 2015) in the eyes of the public and which "[became] active in speaking out with its autonomous voices and expressing autonomous views" (Shaohua, 2015, p. 3).

Other scholars focus on how the rule changes introduced by the Lisbon Treaty have induced the EP to actively leverage its powers beyond formal constitutional rules. Supporters of 'parliamentary assertion' argue that the EP has "come of age" (Roederer-Rynning & Greenwood, 2016, p. 735) through the Lisbon Treaty, seeking to "*institutionalise* [its] power in everyday policymaking" (Roederer-Rynning, 2017, p. 2, emphasis in the original). Significant contributions have been published on the SWIFT agreement (Ripoll Servent, 2014),

the EU–Korea (KOREU) negotiations (Park, 2017), ACTA, and TTIP (Roederer-Rynning, 2017). In a similar vein, defendants of the informal governance approach claim that informal contact nodes outside of formal decision-making procedures create space for political actors to bend these formal rules in their pursuit for greater power (Christiansen et al., 2003; Christiansen & Neuhold, 2012; Stacey, 2012). How the EP has leveraged its powers (with varying success) in the area of external negotiations has been documented extensively (Héritier et al., 2019; Kerremans et al., 2019). From these perspectives, the escalation of threats reflects a strategic act of brinkmanship in which the EP seeks to increase its leverage by taking the entire process hostage.

Yet, such an interpretation omits long-standing insights of negotiation theory, which suggests that 'the early bird' is more likely to 'catch a worm' (Panke, 2010; Thorhallsson & Wivel, 2006). This would imply that a late-stage threat is less a strategic choice and more a measure of last resort after a (perhaps lengthy) negotiation. The dynamic of such inter-institutional negotiations is at the heart of the principal-agent model.

2.2. Principal-Agent Models: Exploiting Asymmetries, Remaining in Control

Principal-agent models study an agent's (here the Commission) efforts to engage into opportunistic behaviour ('shirking') while principals (here the EP) seek to remain in control of the agents' actions (Delreux & Adriaensen, 2017; Delreux & Kerremans, 2010).

Applied to EU trade policy, most studies focus on the Council and on the conditions under which it can effectively control the Commission (da Conceição-Heldt, 2011; Kerremans, 2004). While these studies are useful in assessing different control mechanisms and the motives for triggering these, they suffer from a "remarkably thin view of agent behaviour" (Hawkins & Jacoby, 2006, p. 199). Isolating the influence of the EP independently from that of the Council has emerged as another challenge as the same concerns tend to be raised in both institutions. Studies attributing a more central role to the agent can address both critiques by looking directly at the agent's responses to control exerted by a principal (see also Gastinger & Adriaensen, 2019).

Such "agent-principal approaches" (Delreux & Adriaensen, 2017, p. 9) have mapped strategies for agents to expand their autonomy by shifting their principals' preferences (Elsig & Dupont, 2012), limiting monitoring efforts (da Conceição-Heldt, 2017) or shifting the burden of rejection (Delreux & Kerremans, 2010). Others have looked at the broader context in which the agent operates as a source of autonomy (Planck & Niemann, 2017). The thematic focus on control and the efforts to escape therefrom are innate to principal-agent models and suggest a view of inter-institutional relations as conflictual. The escalation of a threat is interpreted as a form of (deliberate) shirking, meaning that the agent purposely pursues its own objectives against the preferences of the principal. This assumption is, however, difficult to maintain as it would be unreasonable for the Commission to jeopardise the entire agreement after lengthy negotiations.

Coremans and Kerremans (2017) show how the Commission set up a system of additional meetings and briefings for the Council to ultimately avoid 'involuntary shirking.' They sketch the idea of an agent trying to anticipate what its principals want (Sobol, 2016). This compels us to give more attention to the communication between both institutions. Studies using such an approach have revealed a far more nuanced picture of inter-institutional relations. For example, Coremans (2020) showed how the increasing access to information by the EP exposed capacity constraints and ultimately led to the embrace of informal governance arrangements as a coping mechanism. Moving our focus towards the Commission, we aim to explain its (lack of) responsiveness to threats of vetoes.

3. An Information-Processing Perspective on Institutional Interaction

The communicative aspect of institutional interaction is particularly relevant considering the huge amount of information that the EU institutions exchange regularly—'information overload' as the political scientist Herbert Simon put it most famously in 1971. As human beings are constantly flooded with information, Simon (1971) argued that "information consumes the attention of its recipients" (p. 6). The ability of individuals to distinguish between relevant and irrelevant information is thus central to the functioning of all organisational processes. This *law of attention scarcity* laid the foundations for IPT.

Institutions hence need to clear the 'noise' that surrounds them on a daily basis, given that they cannot pay equal attention to all signals simultaneously. Applied to our case, the Commission is flooded by information from the EP and needs to figure out upon which demands it has to act. In other words, once information, which we define as a preference on substantive issues, has been released, IPT assumes the recipient to undertake an *assessment* or *prioritisation* of whether this piece of information is 'worthy' of attention (Walgrave & Dejaeghere, 2017, pp. 235–237).

Political psychologists later extended this notion by arguing that attention is scarce because human beings cannot process several pieces of information simultaneously. The *law of serial processing* implies that recipients, once they have made an initial prioritisation, need to rely on heuristics, so-called 'signals,' in order to interpret the information received (Axelrod, 1973; Feldman & March, 1981). IPT hence assumes *signal interpretation* to be a corollary of prioritisation of information (Jones & Baumgartner, 2005). Naturally, this latter step leaves room for misinterpretation, given that information can be both uncertain (i.e., the precise value of the estimate

is not set) and ambiguous (i.e., it is subject to more than one interpretation; Jones & Baumgartner, 2012, p. 7). Misreading information may lead to inefficient policy decisions and hence to a sanction. We interpret the meaning of 'sanction' broadly: It is not just the rejection of an agreement, but also the reputational 'shaming' when the Commission is pressed to re-open negotiations it considered concluded. Importantly, IPT assumes that consequences of both correct and incorrect information processing produce positive and negative feedback loops, meaning that human beings *learn* from their past experiences (Jones & Baumgartner, 2012, p. 3; Workman et al., 2009, p. 81). This is called the *law of learning*.

These three laws provide fitting premises for our research question as institutions constitute of, produce, and exchange information. In applying them, we seek to add novel and relevant insights to the literature on inter-institutional relations by understanding inter-institutional conflict as positive and negative feedback loops of information processing at work.

Figure 1 projects the three laws of IPT to the context of Commission–EP interaction in EU trade policy. The Commission receives signals from the EP on a daily basis (information reception; *x*). The challenge for the Commission is then to first assess the urgency of that demand for which, as we will introduce later, it relies on its own information-processing system, the 'early-warning system' (EWS). As the law of serial processing highlights, signal interpretation leaves room for misreading. Therefore, two pathways emerge: (1) The Commission might correctly anticipate the urgency of the demand, meaning that it anticipates the demand's potential to escalate. The result is institutional pacification which renders the ratification of a trade agreement more likely (*pacification route*); and (2) The Commission might misread the demand's potential to escalate (*escalation route*). In this case, we expect a sanction to be more likely. Such a sanction takes the form of an expected loss of authority or discretion in future negotiations. Hence, it is not just the rejection of an agreement, but also the reputational 'shaming' of the Commission in case it needs to re-do its work (e.g., when re-opening negotiations).

In accordance with the *law of learning*, both institutional escalation and institutional pacification trigger organisational learning. This means that we understand organisational learning as an integral part of institutional communication which is generated by both positive and negative feedback loops. These feedback loops are summarised on p. 8 of our online Supplementary File; a full operationalisation of every causal step can be found on pp. 6–7 of our online Supplementary File. If we follow the logic of IPT, information processing should improve over time, leading to fewer occasions of sanctioning. Contrary to the literature on parliamentary assertion or on principal-agent models, our information-processing perspective hence suggests that the escalation of threats of vetoes is better understood as an error in communication rather than a strategic act of brinkmanship.

4. Research Design

To scrutinise communicative interaction, qualitative expert interviews constituted our main data collection

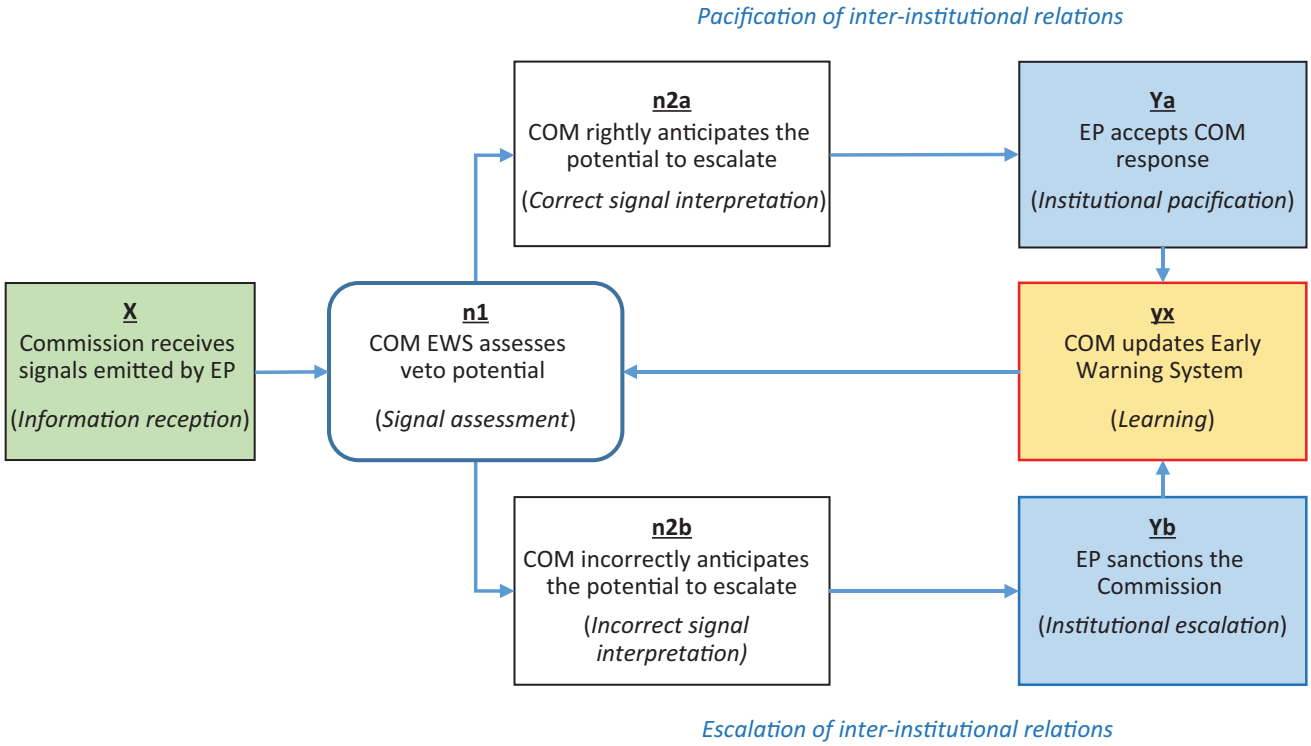

Figure 1. Learning to read veto threats—A causal mechanism.

method (Rubin & Rubin, 2012). In total, we carried out 12 semi-structured expert interviews with high-ranking Commission officials from DG Trade and with MEPs (or their assistants) from the Committee on International Trade (hereinafter INTA). We strategically recruited our Commission interviewees from the (deputy) head of unit and director level because these high-ranking officials sit at the heart of processing information about potential vetoes (Hooghe & Rauh, 2017, pp. 195–196; Nugent & Rhinard, 2015, pp. 174–175).

Additionally, we interviewed trade experts from INTA, the key contact point for DG Trade during trade negotiations. 'Trade experts' are MEPs which are well versed in trade politics and are therefore seen by their colleagues to be experts in this field. This includes for example group coordinators in INTA but also former (shadow) rapporteurs of trade policy dossiers or MEPs who monitored trade policy before joining the EP.

The interviews were carried out in two rounds (April–June 2019 and February–March 2020) and included a ranking exercise (see pp. 3–4 of our online Supplementary File) which asked interviewees from both the Commission and the EP to rank ten parliamentary signals. The results of the ranking exercise can be found in our online Supplementary File. Additionally, we collected four types of policy documents—parliamentary questions, resolutions, follow-up fiches to resolutions, and Civil Society Dialogues—to triangulate our interview data.

Our analysis includes both cases of institutional pacification and cases of institutional escalation. If we would only study the latter, we would fail to capture the results from the Commission's learning processes. As cases of institutional pacification, we identified KOREU (2011), CoPe (2012), the Singapore agreement (EUSFTA, 2019) and the Vietnam agreement (EVFTA, 2020). Cases of institutional escalation are ACTA (2012), TTIP (not concluded), CETA (2017) and the Uzbekistan agreement (2016). This selection emerged directly from initial interviews conducted with our Commission officials.

To analyse our data, we apply theory-testing process tracing (Beach & Pedersen, 2013, p. 20). This variant of process tracing provides us with a systematic method to first reconstruct the process of receiving and processing information in theory and then to gauge the reading of a threat of veto 'in action.' This method is hence particularly apt to answer our research question because it allows us to dive deep into our individual-level data.

In the following part, we apply this research design to show that: (1) The Commission's initial EWS comprised a small network of key players within DG Trade and in INTA and had to be updated; and (2) While this recalibrated system later provided the Commission with broader monitoring capacities, external shocks could still escape the system. As a result, the rule changes introduced by the Lisbon Treaty led to more latent powers of the EP in EU trade policy by aggravating the permeability of external shocks and uncertainties in the communicative interaction of the EU negotiator and an EU co-legislator.

5. Empirical Analysis

5.1. The Early Post-Lisbon Period (2009–2012): "We Are Institutional Partners"

Already prior to the implementation of the Lisbon Treaty, the Commission anticipated that the rule changes introduced by the Lisbon Treaty would result in a new institutional equilibrium. Seeking to mitigate this 'structural shock,' the Commission constructed what one of our interviewees called an "early-warning system" (EWS; Interview 11). The term EWS should not be confused with the procedure established by the Lisbon Treaty to coordinate national parliaments' subsidiarity checks. In our case, the EWS initially referred to *institutional* contact nodes, i.e., personal networks with 'lifelines' (such as regular meetings or an exchange of documents) between the staff of DG Trade's inter-institutional unit and key players in INTA, mostly the group coordinators and the committee chair (Interviews 5, 8, 9, 11). The initial EWS hence provided the attempt of an "institutional safety net" (Interview 4) that aimed to uphold constant communicative interaction with the 'new' institutional partner.

The resilience of this safety net was quickly put to the test by KOREU and CoPe, whose negotiations were finalised not even a year after the entry into force of the Lisbon Treaty (Interview 2). Although issues of exporter discrimination (KOREU) and human rights abuses (CoPe) triggered concern within civil society and some parts of the EP already during the pre-negotiation phase, the Commission negotiators trusted in the lifelines established by their initial EWS (Interview 12).

In the case of KOREU, it was the Council's Trade Policy Committee which turned into the epicentre of a large-scale lobbying campaign by the European automobile industry. Arguing that duty drawback would allow Korean car manufacturers to buy car components in China and to claim back duties when the final cars would be exported to the EU, the car industry sought to eliminate the provision (Ahn, 2010, p. 12; Elsig & Dupont, 2012, p. 500; Interview 12). This lobbying pressure spilled over to the EP over the first half of 2010: On 23 June 2010, INTA adopted no less than 54 amendments during its first legislative reading on its own-initiative report, most of which were formulated with a strong language (Kleimann, 2011, p. 23; see p. 9 of our online Supplementary File). Additionally, strong voices came from Bernd Lange (S&D, Germany) and Michael Theurer (ALDE, Germany), two prominent INTA members. As more and more MEPs became open to the argument of exporter discrimination through duty drawback, the majority ratios in the EP began to shrink (Interviews 1, 2, 12). These developments signalled to the Commission that the issue of duty drawback contained high threat

potential and explains why interaction with INTA was placed as the second most important parliamentary signal in our ranking exercise (step *n1*).

Similarly, CoPe became subject to early lobbying. Human rights NGOs approached MEPs from the GUE/NGL and the Greens for whom human rights concerns are traditionally salient (Interview 2; Dijkstra, 2017, p. 23). Following mass assassinations of trade unionists in Colombia in 2008 and 2009, also larger parts of the S&D began to criticise the agreement, thus potentially threatening ratification (step *n1*; see p. 9 of our online Supplementary File).

Given that the Parliament had merely published "a very supportive resolution [on KOREU] that had been adopted by the European Parliament with the support of practically all political groups" (Interview 1) and none on CoPe, the Commission negotiators were taken by surprise as an element external to its institutional contact nodes threatened the fragmentation of the plenary (Interviews 1, 8, 11).

The Commission nevertheless attributed these issues a low potential to escalate: In case of KOREU, the EP had merely published one supportive resolution and had otherwise been rather uninterested in the negotiations (see p. 6 of our online Supplementary File). In case of CoPe, contacts with parliamentary key players offered the impression that the more neo-liberal parties (EPP, ALDE, ECR) were not willing to reject a trade-beneficial agreement because of human rights issues (step *n2a*; p. 10 of our online Supplementary File).

Having interpreted these signals, the Commission sought to pacify a potential rejection by appealing to the EP's responsibility as an institutional partner and by formalising concessions through public statements, thus raising the cost of rejection (Interviews 1, 4, 7, 11, 12). In subsequent meetings with INTA key players, Commission officials stressed the mutual interest to ratify the agreements and reminded them that, in case of a rejection, "everybody has to take the responsibilities" (Interview 9). On CoPe, the Commission also negotiated stronger civil society mechanisms (see pp. 12–13 of our online Supplementary File). In the end, the Commission could prevent institutional escalation; both agreements were ratified by a majority of MEPs in 2011 (*nya*).

In contrast, ACTA and the textile protocol with Uzbekistan which complemented the EU–Uzbekistan Partnership and Cooperation Agreement of 1999 (Interview 8; Yunusov, 2014, p. 5) present cases where looming vetoes escalated. In the case of ACTA, late-stage public dissatisfaction in the member states followed similar initiatives against the Stop Online Piracy Act and the Protect IP Act in the US (Interviews 10, 11; Dür & Mateo, 2014, p. 1202). While the Uzbekistan protocol was less politicised, child labour in the cotton industry caused public criticism (see pp. 17–18 of our online Supplementary File).

These criticisms took the Commission by surprise, considering that both agreements "[were not] doing anything radical" (Interview 10) and that previous resolutions on ACTA had been supportive of the negotiations (p. 14 of our online Supplementary File). Moreover, while the street protests on ACTA placed the EP under close public scrutiny, the main political groups in the plenary (the EPP, the ALDE and the S&D) as well as majorities in the committees for opinion still supported the agreement until April 2012 (step *n1;* Interview 8).

This changed in February 2012 when the German social democratic delegation started to oppose the agreement (Interview 10). As civil society actors continued to raise the political heat, MEPs that still supported ACTA became entrapped by this public scrutiny, meaning that it became difficult for them to still vote in favour (Interview 3). After the liberals joined the anti-ACTA camp in April 2012, parliamentary rejection was inevitable (step *n2b*). On 4 July 2012, a majority of MEPs rejected ACTA (*sanction*).

In the case of Uzbekistan, human rights issues encapsulated the social democrats (Interview 8). Due to the salience of this issue for social democratic voters, large parts of the S&D threw their weight behind the critical voices, thus negatively impacting the group cohesion of the S&D (step *n2b*). Because the EP was now split almost evenly into supporters and opponents, the ratification of the protocol was delayed by five years—a reaction which comes "pretty close to voting down" (*sanction*; Interview 9).

Considering the Commission's previous success in pacifying looming vetoes, ACTA and Uzbekistan seem surprising. However, while the EWS had provided samples of the political atmosphere in the committees, it had not captured information on the strategic sensitivities of MEPs caused by external dynamics. As both ACTA and Uzbekistan addressed only a limited range of stakeholders, did not lower the EU's regulatory standards, and were already rejected by the public, the costs of rejection were manageable (Interviews 10, 11). Despite MEPs having communicated support, the 'shock waves' of public protest rendered rejection a rational choice (Interview 5). The EWS had hence communicated a wrong picture of the political atmosphere in the committees and had led to misreading the situations.

5.2. The Later Post-Lisbon Period (2012–2020): Learning from Disaster?

From these experiences, it became clear that the initial EWS required recalibration (Interview 12). While personal contact nodes which had been deliberately established pre-Lisbon had certainly proven useful, KOREU, CoPe and ACTA had shown that broader monitoring of societal movements, public pressure and lobbying was necessary. The initial EWS was therefore revised by being broadened in scope and in depth: To deepen the institutional contact nodes, DG Trade allocated more resources to its inter-institutional unit (Interviews 7, 10). Additionally, more regular channels of communication

such as monitoring groups were introduced to improve DG Trade's reading of the Parliament (Interviews 7, 9, 10). To broaden the scope of the EWS, DG Trade's communications unit received more financial and staff resources to better communicate with national and regional journalists, NGOs, and civil society actors (Interview 11). As one interviewee stressed, "since then, my sense is that we would really have to be a little bit blind if we [would] not identify that [something] is problematic" (Interview 1).

However, after ACTA, the EP showed a particular 'appetite' for confronting its institutional counterparts (Roederer-Rynning, 2017, p. 9). It deliberately adopted its first TTIP resolution on 23 May 2013, one day before the Council officially published the negotiation directives. In a section explicitly labelled 'mandate,' the resolution underlined with the wording of a "clear-cut exclusion" (Interview 9) that the negotiations should exclude audiovisual services. The section "the role of the Parliament" "recall[ed] that Parliament will be asked to give its consent to the future TTIP agreement" (EP, 2013a, Art. 25).

At the same time, criticism on investor-to-state dispute settlement (ISDS) began to grow within civil society. Following a number of high-profile ISDS cases such as the triumph of the Swedish energy company Vattenfall over the German government (Siles-Brügge, 2018, p. 14), the German EPP and S&D delegations came under pressure (De Bièvre, 2018, p. 73). Although the grand coalition of S&D and EPP in the plenary still stood firm (Roederer-Rynning, 2017, p. 520), TTIP was beginning to show the same characteristics as ACTA (step *n1*; see p. 19 of our online Supplementary File).

Therefore, the Commission stalled the negotiations while launching a public consultation (step *n2a*; Interviews 10, 12). However, because its relationship with INTA was working "at the highest level" (Interview 7), the Commission was "wrongly confident" (Hübner et al., 2017, p. 852) that CETA, which was being negotiated in parallel to TTIP, would be ratified (step *n1*; Interviews 8, 11). While TTIP was stalled, the Commission therefore continued the negotiations on CETA (Interview 11). Trusting in the EP's long-term support for the agreement, the Commission misread the degree of politicisation and the contentiousness of ISDS in the EP (step *n2b*). After CETA's official conclusion on 26 September 2014, the political left directly threatened to veto (Interview 2). When on 4 March 2015, the S&D cast a vote on its official group line, an overwhelming majority voted to oppose ISDS in TTIP and CETA (Siles-Brügge, 2018, p. 18). Due to these fault lines, the plenary vote on CETA which was originally scheduled for 10 June 2015 had to be postponed (*sanction*; Roederer-Rynning, 2017, p. 521).

During the drafting process of the EP's second TTIP resolution, most amendments which explicitly "oppose[d] the inclusion of an ISDS mechanism in TTIP" (Amendment 106) were tabled by the Left and the Greens (also Amendments 27, 72, 108), some also by the S&D (e.g., Amendment 115). The final resolution of 8 July 2015 therefore demanded to "replace the ISDS system with a new system for resolving disputes between investors and states" (EP, 2015, Art. xv). In particular the social democrats made their opposition to TTIP very explicit: On 10 November 2015, Sorin Moisă (S&D, Romania) directly addressed the Commission during a plenary debate, stating that "ISDS is the thorn in the flesh of CETA" (Hübner et al., 2017, p. 853). Although being ranked as the least important signal, the plenary speech renders the looming rejection more credible as it becomes more difficult for MEPs to back down (Interview 11). It had hence become clear that "having ISDS in CETA, CETA would not be… accepted" (Interview 5; steps *n1*, *n2a*).

To avoid a second ACTA, Trade Commissioner Cecilia Malmström and the President's cabinet decided in November 2015 to "make the treaty more acceptable" by re-negotiating the investment chapters of TTIP and CETA (step *n2a*; see p. 23 of our online Supplementary File; Interviews 4, 5). Accordingly, the Commission replaced ISDS with an Investment Court System which mirrored, with some adjustments, the WTO Appellate Body (Alvarez, 2020, pp. 10–11). On 15 February 2017, the agreement was narrowly accepted with 54.3% (step *nya*). TTIP and CETA hence taught the Commission how to find flexible and creative solutions in order to address looming vetoes during the 'end-game.'

More recent trade agreements such as the ones with Singapore (2019) or Vietnam (2020) support this flexible learning process. As the final negotiation rounds of both agreements overlapped with CETA's 'hot phase,' they faced similar public and parliamentary criticism (step *n1*; Hindelang et al., 2019, pp. 17–18; McKenzie & Meissner, 2017, p. 6). However, as public attention was predominantly focused on TTIP and CETA, Singapore and Vietnam were never explicitly politicised (step *n2a*; p. 25, 27 of our online Supplementary File).

Nevertheless, the Commission stalled the negotiations on Singapore while re-negotiating TTIP and CETA (Interview 4) and constantly interacted with key players in INTA. In 2017, following a European Court of Justice opinion, it decided "to take the [Singapore] agreement and… split it in two: [One] part of the agreement [being] EU-only which is 99% of the agreement and a small part of the agreement covering investment" (Interview 11).

This decision had also been taken in light of the upcoming ratification of the EU–Vietnam agreement. Due to Vietnam's history of human rights abuses, DG Trade anticipated a dynamic similar to the CoPe negotiations (Interview 1). The potential explosiveness of human rights concerns revealed itself over the course of the EP's resolution on Vietnam of 18 April 2013 within which the EP emphasised the importance of human rights stipulations (EP, 2013b, Art. 11). When the Vietnamese government stressed that the inclusion of human rights stipulations was a dealbreaker (Thu & Schweisshelm, 2020, p. 19), it was clear that the situation could potentially turn into a veto (step *n1*). Yet, as

Vietnam was never explicitly politicised, the Commission read the Vietnam case similar to CoPe: Although human rights issues had turned into a salient topic, the lack of politicisation indicated that there were fewer incentives for parliamentarians to strategically vote against the agreement (step *n2a*). To still address the issue, the Commission negotiators proposed to strengthen "the possibility of suspension of the PTA in case of severe human rights abuses" (Sicurelli, 2015, p. 240) and supported an INTA mission to Vietnam (Interview 8). In their resolution of 9 June 2016, MEPs 'applauded' this compromise (EP, 2016, Art. 1). The agreement received a two-thirds majority on 13 February 2020 (step *ya*; see p. 28 of our online Supplementary File).

5.3. External Shocks, Internal Uncertainties

Our analysis thus confirms that both positive and negative information-processing experiences have necessitated a constant adjustment of the Commission's EWS. However, we also highlighted throughout that, no matter how close the working relationship between both institutions, different types of uncertainties can impede the proper reading of signals emitted by the EP.

Hence, organic *externalities* add unpredictability to the institutional context. While past politicisation of a specific issue will trigger adaptation of the EWS, "[*sic*] there's always a risk" (Interview 7) when reading the EP. Indeed, ISDS had been used in investment agreements for over half a century without causing controversy. Lobbying efforts (KOREU, CoPe, ACTA, Uzbekistan, CETA, Vietnam), mass mobilisation (ACTA, TTIP/CETA) and entrapment by public scrutiny (ACTA, CETA, Vietnam) can thus create unpredictable impediments in the ratification process.

Yet, our analysis also revealed that this unpredictability stems from within the EP itself. While resolutions were unanimously ranked as the most important parliamentary instrument in our ranking exercise, our analysis showed that these are typically supportive. This produces a communicative mismatch between information and content. The internal cohesion of the parliamentary groups, most notably the S&D, is another internal factor of uncertainty: Not only does the S&D consist of highly heterogenous national delegations (Interviews 2, 8), but also tends to "make up its mind… only the night before the [final] vote" (Interview 8). This late-stage voicing of criticism renders it difficult for the Commission to respond to potential obstacles in time.

Together, externalities and internalities create 'white noise' which impedes the Commission's proper reading of signals emitted by the EP. When analysing inter-institutional communication, it is pertinent to consider this scope condition: As we have shown, processing information does not take place in a 'clean' institutional environment but is subject to and hindered by obstacles that lie both within and outside of this institutional scope. While IPT suggests that one should see fewer institutional escalations over time, we argue that 'failure' is still possible as internal and external uncertainties produce a constant residual risk of misreading information. Our argument thus highlights the informational challenges that can undermine policy coordination. Against this background, we argue that from an information-processing perspective, policy output refers to the lack of 'visible' output, i.e., no agreement has been ratified. The addition of this 'white noise' as a scope condition to IPT is one of the main contributions of our article.

This residual risk is furthermore aggravated by the human nature of the EWS: As the EWS relies on interpersonal contacts and individuals' experience, changes in the personal set-up of this network impact the systems' institutional memory. Considering that the EP changes each election cycle, and considering that Commission officials regularly move positions, past lessons may be forgotten or may become outdated. It is thus not only the Damocles' Sword of 'white noise' that is looming over inter-institutional information processing. In fact, learning itself is a dynamic process which needs to perpetuate to cope with the continuous change in political landscape. Hence, the veto potential of different substantive concerns needs to be re-assessed continuously.

6. Conclusion

While the Lisbon Treaty has been in force for more than a decade, the relationship between the EP and the Commission remains in flux. High profile confrontations have resulted in the delay or even rejection of trade agreements. The existing literature commonly explains these as a strife for parliamentary empowerment or as a game of brinkmanship gone awry. Yet, both explanations sit at odds with the rather constructive and respectful manner in which both institutions have worked on many of the concerned trade agreements.

To understand this outcome, we advocate the use of an information-processing perspective which suggests that the escalation of threats is better understood as a communicative error. As the newly gained powers of the EP did not come with an instruction manual, the Commission required time to gain experience in reading this highly diverse and decentralised partner that is sensitive to shifts in the public agenda. Central in this process has been the elaboration of an information-processing system, the 'early-warning system,' with which the Commission seeks to identify possible vetoes amidst the many signals emitted by the EP and its members.

This system, as we have shown, is continuously adapted as institutions learn from prior experiences. While this seems to suggest that the Commission develops nearly perfect information-processing capacities over time, we have shown that externalities like a sudden mobilisation of public opinion and the unpredictable responses from MEPs thereupon can still catch the Commission off guard. 'White noise' is therefore an

important scope condition which indicates that, no matter how fine-grained an information-processing system might be, threats of vetoes still have the potential to escalate. As a corollary, future vetoes are possible if they follow intense political mobilisation during the ratification stage, and if they cover issues that have not been subject to intense parliamentary scrutiny. If the latter condition is not fulfilled, we can assume that the Commission has been able to anticipate the issue.

Beyond an insight on the conditions by which vetoes can be triggered, our article aims to contribute to a broader discussion on inter-institutional relations. By treating threats of vetoes as errors in communication, we escape the simplified depiction of such relations as conflictual or antagonistic. Instead, we gain a more human and practical insight into the messy and often frustrating process by which large collective entities engage in decision-making.

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Conflict of Interests

The authors declare no conflict of interests.

Supplementary Material

Supplementary material for this article is available online in the format provided by the author (unedited).

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Article

Agencies' Reputational Game in an Evolving Environment: Europol and the European Parliament

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Abstract
With European Union agencies becoming increasingly significant actors in European governance, further research is needed to understand how they interact with their environment. Applying the 'reputation' literature to Europol, this article examines in greater detail how agencies behave with their 'informal' audiences in comparison with the formal ones. It demonstrates that agencies are deeply invested in the shaping of their reputation, including towards their informal audiences especially if the latter represent 'reputational threats.' Based on a quantitative analysis of activity reports and on a qualitative study of the face-to-face engagements of Europol with the European Parliament over time, this research sheds light on the complementary communicative strategies agencies can use to (re)present themselves depending on the dimension of their reputation at stake.

Keywords
autonomy; EU agencies; European governance; Europol; reputation

Issue
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1. Introduction

The agencification, i.e., the proliferation of European Union (EU) agencies since the 1990s, is depicted by some commentators as the "*New Paradigm of European Governance*" (Magnette, 2005) and has been well-documented in academic literature. This strong interest holds especially true on some specific dimensions of agencification, for instance the motives behind the creation of agencies or the interrelated matter of control (Geradin et al., 2005; Pollack, 1997; Schout, 2012).

Scholars have also explored how these *de novo* bodies interact with their environment, especially with their political masters, called 'principals' in the predominant Principal-Agent model. Academic works drawing on this model assume an agent may over time develop its own interests, and have shed light on the different strategies it can use to achieve them, e.g., exploiting the disagreements between its multiple principals (Dehousse, 2008) or voluntarily reducing the information asymmetry (Coremans & Keremans, 2017).

Nonetheless, the instrumental rationality underlying this model tends to elide the role of representations, ideas, and norms from the analysis of agencies' decisions and actions, the latter assumed to be the result of a cost-benefit calculation (Delreux & Adriaensen, 2017). Furthermore, the explanatory power of the Principal-Agent model falls short in respect to how agencies behave with those political institutions that do not fit in the category of principals, i.e., not having initiated the delegation of powers to the agency and unable to control it. Indeed, the Principal-Agent model has been mostly elaborated to bring insights on the vertical relationships an agency is part of, and, as such, has an "exclusive focus on hierarchical, dyadic relations" (Delreux & Adriaensen, 2017, p. 2).

The novel research agenda based on the concept of 'reputation' in the field of EU agencies offers relevant

insights to resolve these two issues, and is currently migrating from the study of domestic organisations to be applied at the EU stage, notably to understand EU agencies (Busuioc & Rimkute, 2020a, 2020b; Rimkute, 2020). On one hand, these recent publications have integrated cognitive dimensions in the logics of action and in the trajectory of an agency. On the other hand, these analyses pay attention to the whole environment of an agency, not only reputational issues in respect to its formal political masters but also to its informal audiences (other institutions, media, citizens, interest groups, etc.).

Yet, the existing literature does not fully account if agencies behave differently towards their informal audiences in comparison with their formal ones. One could indeed assume that agencies would prioritise the shaping of their reputation in relation to their formal audiences over the informal ones, reputational issues being a priori more critical with the former as they have legal powers to control them, and even to sanction them (Bach et al., 2021). A way to explore this question is by comparing whether agencies adapt their reputational strategies when informal audiences turn into formal ones following changes of their legal basis. In that sense, we suppose agencies would anticipate and react to such legal transformations by further trying to shape their reputation in accordance with what they believe are the expectations of their new master, so as to maintain a strong level of autonomy.

To test this expectation, this article focuses on the case of Europol, the EU law enforcement agency in charge of facilitating the cooperation between national law enforcement to fight crime and terrorism through information exchanges, operational analysis, and expertise. Created in 1995 as an intergovernmental organisation, Europol became an EU agency when the 1995 Europol Convention (Council Act of 26 July 1995, 1995) was replaced in 2009 by the Europol decision (Council Decision of 6 April 2009, 2009). This formal transformation, reinforced by the 2016 Europol regulation (Regulation (EU) 2016/794, 2016) replacing the 2009 decision, meant that, after having been an informal audience deprived of any power on Europol for almost 15 years, the EP acquired the status of formal audience. Acting as a principal together with the Council and the European Commission, it can now modify the competences and design of the agency and it has gained access to more information, obtained budgetary authority on the agency, and extended the topics on which it has to be consulted by the Council. This article thus explores whether Europol has intended to adjust its reputation to satisfy the EP, i.e., whether a change is visible in the reputational strategy of the agency to conform MEPs' expectations after legal changes were performed in 2009. Reputational strategy seems even more necessary in this case study as the EP was very critical of Europol in the early 1990s (Resolution B4-0732/95, 1995; Resolution A4-0061/96, 1996), confirming its own reputation of a liberal institution (Ripoll Servent, 2018; Ripoll Servent & Trauner, 2014) and posing therefore 'reputational threats' to the agency (Gilad et al., 2015). Based on the existing academic studies of the EP, risks could exist therefore that MEPs would start using their newly acquired formal prerogatives as soon as possible to restrict or at least slow down the autonomy of Europol, a security-driven and long-time intergovernmental agency, in the name of a better balance with freedom and of democracy.

The article proceeds as follows. First, it presents the theoretical framework on which this study is grounded, built around the concept of reputation. Then, based on the existing scholarship, interviews and parliamentary debates and reports, we detail the EP's representations in respect to Europol to fully operationalise our research assumption, before detailing our quantitative and qualitative methodology. Finally, we shed light on the absence of a sudden shift following the 2009 EP's empowerment. This continuity shows that the agency has been careful about the dominant representations of this audience since the start of its activities. In doing so, our contribution to the literature on agencies' behaviour and reputation is twofold. On one hand, the variations in terms of content between activity reports and face-to-face engagement indicate that agencies have a differentiated use of the communication tools from their repertoire. On the other hand, agencies do not strictly prioritise formal audiences over informal ones, they rather seem to address what they perceive as the main sources of reputational threats.

2. Reputation as a Social Representation

While the idea of reputation has been used to study bureaucratic and organisational behaviours as soon as the 1950s (Maor, 2018), the first conceptual works on it and definitional attempts are much more recent. They are mostly attributed to Daniel Carpenter (2001, 2010) who defined it as "the set of beliefs about an organisation's capacities, intentions, history, and mission that are embedded in a network of multiple audiences" (Carpenter, 2010, p. 45). This scholar offered new perspectives on agencies by accounting for the complexity of their environment due to the "existence of multiple expectations by multiple audiences and the context of today's knowledge society and blame culture" (Maor, 2018, p. 18). Mainly applied to the domestic stage, the concept of reputation is increasingly used to analyse agencies at the EU level, where the above-mentioned characteristics tend to be exacerbated (Rimkute, 2020). These works start from three considerations.

Firstly, reputation is thought as multifaceted. Four dimensions of reputation can be distinguished (Carpenter, 2010). Two relate to the outputs: the technical (does the agency possess sufficient technical and analytical capacity and skills?) and performative (does the agency fulfil its formal missions and attain its goals?) aspects. The other two are rather about the agency's

inputs: the legal-procedural (does the agency follow fair procedures and rules?) and moral (does the agency engage in ethical behaviour and contribute to the safeguarding of the most important values?) reputational matters. Therefore, studying an agency's reputation cannot be simplified to observing whether an agency does or does not have a reputation *per se*, rather it means the identification of the technical, performative, legal-procedural and moral reputation of an agency. As expressed by Carpenter and Krause:

> If reputation is reduced to simply a binary or monotonic choice or outcome pertaining to what a public agency has or does not have, or that an agency has 'more' or 'less' of, much of the richness of administrative behaviour will be lost to the analyst. (2012, p. 31)

Secondly, the reputation literature pays specific attention to audiences. Indeed, reputation is how different audiences perceive what an agency is and does. Audiences are "any individual or collective that observes a regulatory organisation and can judge it" (Carpenter, 2010, p. 33). They can be formal, what the Principal-Agent model calls 'principals,' or informal, the constellation of actors and organisations being part of the agency's environment. Each of these audiences has its own representations since every audience evaluates the identity and activities of the agency according to its own norms. Furthermore, not all audiences will value the same dimension of an agency's reputation according to their own dominant values and criteria. For instance, some will be more attached to performative or technical facets, pushing the moral and legal-procedural ones to the background. Considering these elements is crucial as, argued by Carpenter and Kraus, "audience members' behaviours toward government agencies are a function of their beliefs" (2012, p. 26).

Thirdly, reputation as a set of beliefs is not immutable or frozen; it can evolve. Agencies themselves can try to act upon their perceptions among external audiences through communicative strategies, whether to cultivate their reputation when it is positive or, above all, to change the representations of themselves held within their environment when those are negative. Communication can also be used to model the expectations of audiences (Busuioc & Rimkute, 2020b; Wood, 2018). Scholars have highlighted how agencies are usually very active in their communication as their autonomy is a function of their reputation. Autonomy can be defined as the capacity of an agency to implement its own ideas, to deal with its own business and to benefit from a certain leeway in its actions and decisions (Busuioc et al., 2011; Carpenter, 2001; Groenleer, 2009). To this end, scholars have shown that reputation turns out to be an 'asset' (Maor, 2018; Rimkute, 2020). Indeed, when an agency meets the expectations of its formal audiences about its capacities, intentions, history, and mission, audiences are more encouraged to extend its formal mandate and authority and/or have fewer motives to exert control over it and hence to restrict its autonomy (Carpenter, 2010; Gilad & Yogev, 2012; Maor, 2018). This holds true even in respect to informal audiences insofar as they would offer support to an agency whose representations comply with all their beliefs. That support can be crucial for agencies to avoid criticism and disempowerment or to fulfil their tasks, as they rarely benefit from constraining powers. In gaining that support, agencies can expand their autonomy beyond their formal powers (Busuioc & Rimkute, 2020a, 2020b).

Nevertheless, agencies can only try to shape their reputation; the results of their actions are not guaranteed and are not always the ones they hoped for. Indeed, reputation being multi-faceted, agencies need to juggle to find the right balance between the four components mentioned above and can struggle in this process (Busuioc & Rimkute, 2020a; Carpenter, 2010). In addition, in their attempt to gain support from one audience, agencies take the risk of alienating others that have different norms. Consequently, agencies do not fully control how their communication will be interpreted by external actors and can be confronted with the need to make difficult decisions on the dimension of their reputation they choose to emphasise the most and on what support they need the most. In that situation, scholars have identified that agencies would be "selectively responding to, and actively shaping, expectations of audiences 'that matter'—on whose support they depend" (Busuioc & Rimkute, 2020b, p. 1259).

Yet, little is known about what the key audiences for an agency are, the ones 'that matter,' and whether a distinction between informal and formal audiences is operated by agencies in their reputational communication. A way to explore this research question is to compare the attention paid by an agency to a specific audience, before

Table 1. Summary of organisational reputation dimensions.

Reputational dimensions	Signals that the agency sends to audiences
Technical	Agency sends strong professional and technical signals
Performative	Agency emphasises its ability to attain goals set in its formal mandate
Legal-procedural	Agency emphasises a thorough engagement in socially acknowledged procedures
Moral	Agency signals its commitment to wide moral implications and the ethical aspects of its conduct

Source: based on Rimkute (2020, p. 389).

and after it acquires formal powers to control and even sanction it. We assume that the agency would adapt to changes of its legal basis by being much more careful about the expectations of this audience and would further try to shape its reputation in accordance with the dominant representations of its new master to preserve the most its autonomy. To test it, this article focuses on the reputational game of Europol, created as an organisation exclusively controlled by national governments before becoming an EU agency with the 2009 decision. This legal change meant that the EP, an informal audience for 15 years, turned into a formal one and gained control and sanction powers, such as hearings of the executive director or blocking of the discharge procedure.

Our initial expectation of the agency strongly adapting its communication after this formal change is even stronger here as the EP could have been perceived by Europol as a source of 'reputational threats,' i.e., of "challenges that pose a threat to the agency's established reputation, consisting of external opinions and allegations from (a) particular audience(s)" (Gilad et al., 2015 p. 452). Indeed, scholars depict the EP as a 'liberal' institution and such position appears in the first very critical public statements the institution issued in respect to Europol, calling for a better data protection framework and more democratic control of the newly created organisation (Resolution B4-0732/95, 1995; Resolution A4-0061/96, 1996). The existing literature has highlighted how, when facing reputational threats, agencies can be very active in their communication to ensure their survival through their annual reports (Rimkute, 2020), public statements (Bach et al., 2021) or even strategically remaining silent (Maor et al., 2013). One could therefore expect that the EP's empowerment in respect to Europol would intensify the perception of these threats, making reputational issues particularly acute for the agency and leading to a sudden adjustment from the agency. To fully verify this assumption, we need first to assess MEPs' expectations towards Europol and then to analyse whether the agency has attempted to further take them into consideration in its communication following the legal empowerment of the EP.

3. Political Cleavages and Conflicting Expectations within the EP

The first public judgements issued by the MEPs shed light on the prevalence of the legal-procedural and ethical dimensions in their assessment of Europol. Yet, MEPs' expectations have turned out to be much more complex and the dominant representations within the institution have also evolved following European elections, exogenous events, and formal changes. In this section, we consider political groups as the units of analysis as they reflect ideological stances and are key determinants of the positions adopted by MEPs (Ripoll Servent, 2017). We hence selected quotations that were especially representative of the positions adopted by each political group, whatever the nationality of the individual MEP, at each transformation of Europol's legal bases.

Firstly, the EP is far from being a homogenous institution and its changing composition between the 1990s and the 2010s has impacted the dominant expectations held towards Europol, especially following the electoral successes of the European People's Party (EPP), a right/centre-right wing party. The EPP has exhibited since the 1990s strong concerns for internal security, following the abolition of internal border controls between member states, calling for solutions to solve this problem (Ripoll Servent, 2017). One of the ideas advocated by members of the EPP was the setting up of a structured European police cooperation (EP, 1992) and since then the EPP has had strong expectations in relation to Europol's performance, expecting it to achieve the goals set in its formal mandate: the effective fight against crime and terrorism. This position clearly appears during plenary debates dedicated to Europol's legal bases. For instance, in 2008 various EPP members urged the rest of the hemicycle to support Europol's operational expansion to make it more effective, without waiting for even stronger data protection or a reinforced role for the EP insofar as, according to them: "We need security now, which means we need Europol now" (Hubert Pirker, Austria, EPP; EP, 2008). This position was reiterated during the 2016 plenary debates dedicated to the second reading of Europol regulation, with declarations such as "reinforcing Europol means reinforcing the protection and security of the citizens of the EU" (Stefano Maullu, Italy, EPP; EP, 2016).

While the EPP has gradually become the largest political group within the EP, it was in the early 1990s only second, behind the Socialist group. Yet, MEPs from this latter group had at that time different expectations towards Europol, as illustrated by their rejection of the 1995 report on Europol convention, written by EPP Harmut Nassauer. Being by then numerically dominant, Socialists were able to oppose the numerous amendments made by the EPP insisting on the risks created by international crime and the urgent need to establish Europol. Their representation was mostly due, in the early 2000s, to the very few powers granted to the EP in Europol's creation and governance. Its intergovernmental nature worsened the existing suspicion in regard to Europol, first announced as a European FBI. This distrust was even stronger as the negotiations of the 1995 Convention were held in a very opaque and secret way, a source of "bred misconceptions" (Busuioc et al., 2011, p. 856) about what Europol was and how it was controlled. The arrest in 2001 of a Europol staff member on the grounds of financial misappropriation did nothing to disperse these fears.

However, socialist MEPs have gradually shifted their expectations towards this agency. They now favour more and more output prospects in relation to the agency and have stopped blocking its operational expansion since the early 2000s. This change appears in 2008 during the

plenary debates about the new legal basis of Europol: "We are finally in a position to make Europol into a concrete and effective tool in combating organised crime, as well as many other dangerous types of crime which are now manifesting themselves at European level" (Claudio Fava, Italy, PSE; EP, 2008); and then again in 2014 during the debates on Europol regulation: "I believe that a strong cooperation agency for the various police authorities is fundamental in the strategy to fight organised country, and that a strong Europol is important" (Salvatore Caronna, Italy, S&D; EP, 2014).

The renewed expectations of socialist MEPs are partly due to exogenous events relating to internal security. Indeed, the EP being a majoritarian institution, MEPs are elected by EU citizens who want their concerns to be taken care of by their representatives. Since the 1970s, internal security has become a growing electoral topic (Eurobarometer, 2013, 2018), especially after events as terrorist attacks or major criminal discoveries. EU citizens have hence exerted strong pressures towards their elected representatives to take further steps to guarantee their security. Thus, the previous quotes make clear that, contrary to the early 1990s, socialist MEPs have insisted since the 2000s on the threat international crime and terrorism represent and have been looking for solutions to this problem, contributing to the shift from input reputational aspects being prioritised to the growing importance of output ones.

On top of this potential explanation, a broader normative development of the EP in Justice and Home Affairs has been witnessed by different scholars since the Lisbon Treaty. With its new status of co-legislator in this domain, new norms became dominant as co-decision amplifies the weight of the major political groups and encourages the smaller ones to support the big ones so as to avoid being side-lined (Carrera et al., 2013; Hausemer, 2006; Ripoll Servent, 2010, 2012). In Justice and Home Affairs, it has meant aligning with the EPP's expectations in terms of outputs, as the Council and the EPP, the dominant group since the 1999 elections, have insisted on the need for MEPs to act 'responsibly' (Ripoll Servent, 2010, 2018), i.e., to adopt a 'realistic' stance and to put an end to "Christmas wish lists" (Ripoll Servent, 2012, p. 67).

Nevertheless, MEPs paying more attention and prioritising the output reputational aspects of Europol does not mean that they omitted input dimensions from their expectations nor that reputational threats on the agency have disappeared (Rimkute, 2020). For instance, legal-procedural and moral expectations have not been completely inexistent in the EPP's expectations towards Europol's activities. EPP's concerns regarding the control over the agency and its respect for fundamental rights and freedoms (especially data protection, transparency, and democracy) have been strong since the 1990s. The need for the agency to integrate these two imperatives in its daily work has been recalled by MEPs from this group, in the various reports they wrote on Europol's legal bases (Resolution A4-0061/96, 1996) or during plenary debates (EP, 2008, 2014).

In addition, similarly to other JHA matters (Ripoll Servent, 2018), one should not over homogenise the EP, as recalled by a former member of Europol's direction:

> The views about Europol in the EP are much more diverse and that reflects the diversity of political opinions and interest groups that are in the EP. So, traditionally, you have everything from left to right and up and down, you have many MEPs, who are concerned about privacy issues, secret State agenda and so on, who have traditionally expressed some distrust about institutions like Europol, and some who have been directly challenging Europol's work, being sometimes hostile towards Europol. On the other side, normally on the EPP and towards the right you have people who strongly support the work of Europol, especially in terrorism. (Interview A, former director of Europol, July 2017, The Hague)

Furthermore, some political groups have kept prioritising legal-procedural and moral expectations in respect to Europol, such as MEPs belonging to the European United Left/Nordic Green Left (GUE/NGL) group. This group has not demonstrated a level of concern for internal security similar to the EPP for instance, with very few mentions of it during debates. The main threat to EU citizens and states in these MEPs' eyes does not seem to be international crime or terrorism themselves, but rather any potential breach to citizens' rights and freedoms Europol could be responsible for, in the name of the fight against criminals and terrorists. Contrary to the Socialist group, no major transformation of their expectations is observed in the public declarations of the GUE/NGL group, whether in 2008—"There is no real possibility of controlling the inaccessible citadel of Europol or of restricting its enforcement activities" (Athanasios Pafilis, Greece, GUE/NGL; EP, 2008)—or in 2016—"We are opposed to this agency being granted significant powers while being strongly opaque and out of public scrutiny" (Marina Albiol Guzmán, Spain, GUE/NGL; EP, 2016).

Consequently, European elections, exogenous events and formal changes have made MEPs' representations much more complex in respect to Europol: Not only the agency is expected to effectively fight crime and terrorism and to display specific expertise, but MEPs are also very careful with moral and legal-procedural considerations. What does it mean for the operationalising of our main assumption? The existing literature on reputation has demonstrated that the two 'output' reputational facets are usually dominant in the reputational work undertaken by EU agencies as they reflect their very '*raison d'être*' (Busuioc & Rimkute, 2020b) in the EU regulatory State (Majone, 1997). Indeed, these *de novo* non-majoritarian bodies would above all be created to deliver solutions to the problems met at the

EU level through the providing of expertise and knowledge without any political interference. Thus, technical reputation is commonly emphasised by EU agencies as "technocratic expertise [is] the key criterion for legitimation above all others" (Busuioc & Rimkute, 2020b, p. 1261), and the performative dimension is similarly central in their communicative strategies as "expertise then provides the means through which EU agencies deliver" (Busuioc & Rimkute, 2020b, p. 1261). Therefore, we could expect that, independently from its legal basis, Europol has also strongly underlined these two reputational dimensions since the start of its activities. Conversely, considering the whole spectrum of the conflicting MEPs' expectations and the reputational threats lead us to assume that Europol's potential adjustments to the EP's empowerment to ensure its own autonomy, and even survival, would be translated by the agency better balancing the different dimensions of its reputation, outputs and inputs. In other words, Europol having anticipated the transformations of its legal basis and attempting to satisfy its new formal audience would be confirmed if in its communications a shift appears from 2009, with Europol equally presenting itself as a performative and ethical organisation holding a high level of expertise and strongly committed to respect the fair and due decision-making processes. We offer to test this assumption through a quantitative and qualitative methodology.

4. Methodology

Agencies have different tools at their disposal to shape their reputation. One of these instruments is their annual activity reports. According to Busuioc and Rimkute, "annual reports are an important (and thus far largely untapped) source for mapping how EU agencies present themselves to a broad range of audiences" (2020a, p. 555). Analysing these reports can be useful to understand the reputational game of an agency over time and to trace back its potential changes as it is a requirement for EU agencies to produce activity reports every year. Other tools, not being issued at a similar periodicity, do not offer the same insights in respect to long-term analyses. In addition, far from being a neutral reporting of their activities, these documents are used strategically by agencies which are quite free in their preparation. They purposefully select the information they wish to disseminate and the way it should appear, and hence which facets of their reputation they chose to build and emphasise (Busuioc & Rimkute, 2020a). The importance of these documents appears in the care agencies take to prepare these reports. Europol illustrates it perfectly. While its first activity reports were quite simple and activities were resumed on a blank page, over the years they have become increasingly sophisticated in respect to their formatting and their content. The efforts invested in the writing of activity reports makes sense when considering the diversity of audiences they are directed to and the role they play in agencies' governance, including in respect to the EP's control. Until 2009 Europol's activity reports were the only information produced by Europol that MEPs had access to. Since then, they are one of the documents MEPs refer to during the budgetary discharge procedure, extracting indicators and numbers from the reports to justify their decision (e.g., EP, 2021). Consequently, these documents appeared until 2009 as the main written channel and, since then, as one of the principal channels for Europol to (re)present itself to MEPs.

These characteristics explain why we paid a specific attention to Europol's annual activity reports from 1999 to 2019. Our expectation in respect to Europol's entrepreneurship vis-à-vis the EP would be confirmed if we observe a potential balance over time, especially in the late 2000s, between the space the agency has granted in these documents to the four dimensions of its activities and identity. Quantitative methods enable us to identify which dimensions of its reputation Europol has showcased from 1999 to 2020 by considering with NVivo their frequency of occurrence in its successive annual activity reports (see Supplementary File 1 for further information).

Three limits to this method can be highlighted. A first comment needs to be made in respect to the 2001 annual report. The latter was not included in the study as it turned out to be unexploitable, the format not allowing any word search. However, as the analysis is based on reports from 1999 to 2019, the absence of one annual report on such a long period of time should not alter our result. Secondly, word counting and quantitative approaches cannot grasp all the nuances as words are used in more complex communication structures and make sense only when reading the whole sentence or even the entire paragraph. This matter is already identified by Busuioc and Rimkute: "If agencies use 'technical' words to convey a 'moral' message our study would not be able to capture it" (2020a, p. 557). Thirdly, even with tests on samples, coding necessarily means that some selecting is performed. Therefore, we cannot pretend to have been exhaustive in this process. Other researchers could have identified different and additional keywords to operationalise the different facets of a reputation, or the list could have been extended. Nevertheless, the way we designed our research strategy pushes those possible biases at the margins and would not question our results, which aim less at offering a precise counting than at rendering the broad evolutions of Europol's communication on a 20-year period. Keeping this research goal in mind also explains why we chose to analyse our results based on trendlines rather than on raw numbers, so as to mitigate the impact of the above-mentioned limitations.

Furthermore, we complemented our quantitative material by a qualitative one as another important communication channel agencies can use in their reputational strategies is "face-to-face engagement" (Wood, 2018, p. 409). The latter is one of the three "entrepreneurship methods" identified by Wood,

alongside media communication (social media, traditional media, institutional website) and "knowledge development and learning" (training sessions, sharing of expertise). However, these two tools are less relevant in the case of Europol's addressing the EP: While media communication is very broad and Europol has no guarantee MEPs will read it, knowledge development and learning, as "epistemic exercises" (Wood, 2018, p. 410) aiming at strengthening professional skills, are rather directed to other audiences, e.g., law enforcement officials in our case study.

'Face-to-face engagement' covers a range of different activities, such as networking activities, conferences, consultation. It matches with some legal requirements, for instance, the Europol Executive Director, the Chairperson of the Management Board or their Deputies shall appear in front of MEPs when requested (Regulation (EU) 2016/794, 2016, article 51 §2(a)) or Europol activity reports by the Executive Director are requested by the EP (Regulation (EU) 2016/794, 2016, preamble §60). Face-to-face engagement also includes non-compulsory practices, such as MEPs visiting the agency's seat. The content of these activities and the way they are used by the agency to shape its reputation are difficult to apprehend through quantitative methods. Instead, we used a qualitative methodology combining different material. An interview with Europol's director, conducted in 2017 and part of a broader research project, is used and complemented by some open-access documents enabling us to understand the face-to-face engagement practices set up by the agency in relation to MEPs (speeches within the European hemicycle, agenda of the visit to the agency's seat in The Hague) and their content. As these instruments involve a limited audience, we could expect the agency to use them for tailor-made ends, to particularly answer the expectations of this audience.

5. A complex Reputational Game

Our results are detailed as follows. We start by exploring which facets of its reputation Europol has attempted to convey through its annual activity reports, then through face-to-face engagement, in order to confirm whether the agency has anticipated the 2009 transformation of the EP into one of its political masters and to test if it prioritises formal audiences over informal ones. In this case, it would have tried to fulfil its conflicting expectations, balancing the output aspects of its reputation with the input ones.

5.1. Managing a Multi-Faceted Reputation through Activity Reports

Applying our quantitative methodology, figure 1 offers a visualisation of the evolution of the appearance percentage of each reputational facet in Europol's activity reports over time.

A first look at this figure seems to confirm what the pre-existing literature on reputation demonstrated: Agencies would become more "reputationally-astute and over time expand their toolbox of reputational strategies" (Busuioc & Rimkute, 2020a, p. 566). While the technical dimension was clearly predominant over the three other aspects of reputation in 1999, a better balance was gradually achieved. Indeed, the linear trend of the legal-procedural dimension is ascending and so is the moral one, even if to a much lesser extent, with a small bump of both in 2009, when the EP became one of Europol's principals. Here lies a slight difference between our results and the existing literature. For instance, according to Rimkute and Busuioc, while ageing, EU agencies would grant less importance to the moral dimension of their reputation and this decrease would be even stronger for the legal-procedural aspect (2020a).

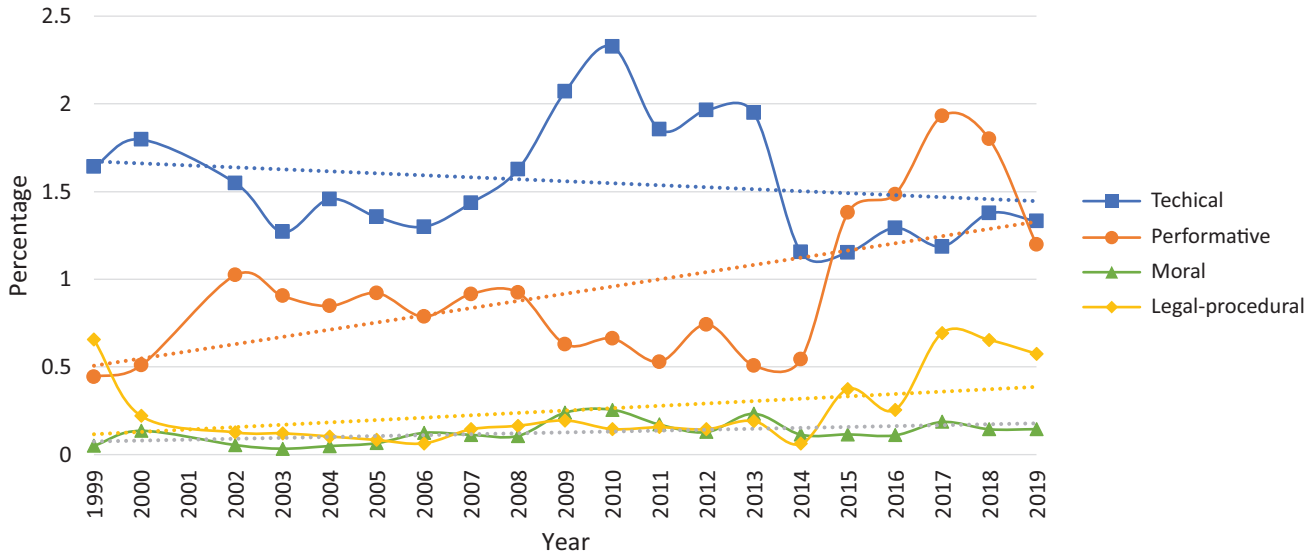

Figure 1. Evolution of the highlighted reputational dimensions.

In our case study, such result could be a confirmation of Europol anticipating the transformation of its legal basis and the reinforced powers of the EP.

Nonetheless, the biggest 'winner' of the readjustment initiated by Europol over time is its reputational performative facet. It has gained more and more attention in the agency's annual reports, especially since 2015 and the new format of reports (the 'consolidated annual activity report'). In addition, although the linear trend of the technical aspect is descending, no major gap can be witnessed between 1999 and 2019 and this dimension became even stronger in 2009. Therefore, the technical and performative matters have remained the reputational dimensions Europol has emphasised the most since the start of its activities. This imbalance in favour of reputational outputs in Europol's annual reports confirms the existing literature in respect to these dimensions being predominant in the communication issued by EU agencies as they are their '*raison d'être*,' even when facing reputational threats (Rimkute, 2020). It also makes sense when taking into account the diversity of audiences targeted by these documents. Annual reports are used by Europol to (re)present itself not only to parliamentarians, but also, among others, to national law enforcement services. The latter had to be convinced of the technical expertise and the capacity of the agency to fulfil its missions, to be effective. Hence, the strong focus of Europol on these two aspects partly relates to the need for the agency to persuade national police officers to enter the data they took time to obtain into the European law enforcement databases.

Although these accounts shed light on the imbalance between its different reputational facets performed by Europol in its activity reports, our research question is far from being answered. While the legal-procedural and moral dimensions have gradually gained more weight in annual reports, this evolution remains limited without any major turning point and the input aspects are still far from the output ones. In other words, Europol does not seem to have suddenly used its annual reports to frame its reputation in accordance with the multidimensional expectations of the EP after the latter became a formal audience. We argue in the following sub-section for the need for researchers to pay attention to the panel of agencies' practices to get the 'full picture' of their interactions with their audiences. This is especially the case of face-to-face engagement, creating more intimate contacts and potentially offering the opportunity to an agency to answer the expectations of a specific audience.

5.2. Face-to-Face Engagement: A Tailor-Made Tool?

While performative and technical reputational dimensions have remained predominant over time in comparison with the input aspects in annual activity reports, it appears that Europol has mostly used face-to-face engagements with MEPs to focus more restrictively on the input expectations. Nonetheless, contrary to our expectations, the agency has not simply adjusted its communication after the EP formally became one of its political masters able to control it: Europol has paid attention to the EP's representations since it started its activities in the 1990s, demonstrating its strong care to informal audiences.

Indeed, as soon as the 1990s, effective face-to-face exchanges were initiated by Europol and went beyond the legal requirements. In the 1990s, without being compelled to do it, Europol answered regularly to the MEPs' information requests, sent them information, planned visits of MEPs to its seat in The Hague, and accepted the invitations of the EP's committee on Civil Liberties, Justice and Home Affairs to come to Brussels to explain their activities and answer their questions (Busuioc, 2010; Trauner, 2012). In these circumstances, adding to some public statements (Bruggeman, 2006), representatives of Europol were very active in trying to convince MEPs about the agency's respect for due and fair processes and the ethical nature of its work. For instance, Jürgen Storbeck, the agency's director from 1999 to 2004, stated in front of MEPs that "parliamentary control of Europol is currently unclear," claiming that stronger and more efficient democratic control would be in Europol's own interest (EP, 2003).

In doing so, Europol was willing to reduce information asymmetries so as to mitigate the existing doubts and critics addressed to the agency by MEPs, although they were only an informal audience, according to one of Europol's former directors:

> The more I have been involved and the more Europol has been exposed to the EP, the better it has been to demystify Europol. Some of the assumptions that we are collecting despite of privacy rights are eroded because of the way in which Europol is managing this and is taking privacy concerns in a very strong way. (Interview A)

This attempt to positively shape its legal-procedural and moral reputations by presenting itself as willing to be more controlled than the legal requirements, more transparent, and more attentive to data protection issues persisted in the 2000s and 2010s. For instance, in its 2010 annual report, Europol submitted the idea of its multiannual and annual working programmes to be discussed by the EP and called for more frequent visits from MEPs to be scheduled to its seat. These visits are opportunities for Europol to present aspects of governance, oversight, financial and administrative management, data protection, alongside more operational briefings (EP, 2017; Europol, 2013). Similarly, Europol wrote a very detailed information note for the EP about the transfer of financial data from the agency to the United States. Without being obliged to do it, the aim of the agency was to reassure MEPs about its activities (Trauner, 2012). Finally, a former Europol's director explained to us how

he multiplied his trips to Brussels to appear more transparent and subject to democratic control:

> Europol becoming an EU agency and becoming more integrated therefore into the EU institutions domain allowed me as the director to appear much more frequently before the LIBE committee to meet more frequently MEPs. And I think it has led many MEPs to feel a little bit of ownership for Europol. So today Europol has probably the most positive profile or reputation in the EP for a long time. (Interview A)

If a more systematic exploration of face-to-face engagement practices is required, it nonetheless appears in the above-mentioned examples that Europol has initiated itself direct interactions with MEPs, even when not required to do so, to shape their representations. However, contrary to what we expected, Europol did not shift its practices following legal changes as it paid attention to MEPs' representations even when they were restricted to the role and powers of an informal audience. Such effort could relate to the perception by an agency of a 'reputational threat' posed by the EP, very critical of its identity and activities in the early 1990s, although it was only an informal audience by that time. EP's public statements on the insufficient democratic control of Europol and on its lack of respect for fundamental freedoms could have been perceived by the agency as detrimental to its autonomy and legitimacy. Therefore, these results confirm the idea that agencies "react to reputational threats through communicative behaviours" (Bach et al., 2021, p. 2). However, we demonstrate here that they can also use face-to-face engagements to address these risks, and not only public declarations (Bach et al., 2021, p. 2), annual reports (Rimkute, 2020) or remaining silent (Maor et al., 2013). This reaction could indicate that the audiences 'that matter' for agencies are not exclusively the ones benefitting from more power on them, but rather the ones posing the highest reputational threats.

6. Conclusion

This article offers more insights on the relationship between an agency and its audiences with the concept of 'reputation.' The emerging co-decision norms following formal changes and the renewed context of internal security have contributed to a rebalancing over time between output- and input-oriented expectations for a majority of left-wing MEPs. Together with the electoral victories of right-wing MEPs already driven by technical and performative dimensions, these evolutions lead to complex expectations of MEPs towards Europol without ending reputational threats over the agency. Complementing the existing literature on reputation, audiences, and threats, we demonstrated that these conflicting representations were addressed by Europol through a combination of tools, articulating the different facets of an agency's reputation. In those instruments dedicated to a general audience, Europol mostly emphasised its output reputational aspects—technical expertise and performative power—, corresponding to their '*raison d'être*' in the EU regulatory State (Busuioc & Rimkute, 2020b). Yet, more tailor-made and face-to-face strategies (Wood, 2018) were also deployed by the agency when it came to its input reputational dimensions—legal-procedural and moral facets. Nevertheless, no sudden shift appears in Europol's reputational game following legal changes: No major rupture can be observed in terms of content and strategies after the EP acquired formal powers on the agency. Legal changes have hence only intensified pre-existing dynamics, proving the strong care taken by an agency to (re)present itself to informal audiences and that formal ones are not the only audiences 'that matter.' Based on a single case study, this article calls for further research on EU agencies' differentiated strategies in respect to audiences and to the reputational dimensions at stake. To this respect, a question to explore is whether agencies use face-to-face engagement to shape their reputation on inputs dimensions, while they would rather be more public when their '*raison d'être*' reputational dimensions are attacked.

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Conflict of Interests

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Supplementary Material

Supplementary material for this article is available online in the format provided by the author (unedited).

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