# Informal bargaining in bicameral systems: Explaining delegation by the Council of the European Union and the European Parliament

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# Declaration

I, Philipp Broniecki, confirm that the work presented in this thesis is my own. Where information has been derived from other sources, I confirm that this has been indicated in the thesis.

# Abstract

This project is about the effects of institutional design on decision-making in the European Union. Specifically: *delegation* to *informal* inter-institutional legislative bargaining (the 'informal arena'). I develop a spatial complete information model to explain the decision to delegate to the 'informal arena' and test its empirical implications. The meta-theoretical umbrella for this project is New Institutionalism (more specifically, Rational Choice Institutionalism) and I view the decision to delegate through a principal-agent lens, i.e., delegation may result in policy outcomes that differ from counterfactual non-delegated acts (agency-drift). I contribute to the theoretical and empirical literatures on informal law-making in the European Union and legislative organisation more generally.

In the EU, the 'formal arena' co-exists with the 'informal arena.' In the formal arena, bills shuttle back and forth between two chambers in a maximum of three reading stages. In the informal arena, inter-institutional negotiations are delegated. The delegations meet behind closed doors and the resulting compromise is rubber-stamped by the parent chambers. The extant literature suggests that law-making in the informal arena leads to agency-drift.

The questions that I address in this project are: when does delegation to the informal arena take place and, equally, when does delegation not take place? Furthermore, does delegation lead to agency-drift?

My findings suggest that delegation is less likely, the greater the risk of agency-drift and more likely the greater the legislative workload cost of not delegating. I show that the bicameral system alters the incentive structure of legislative actors such that agency-drift is rare or moderate if it occurs.

# Impact Statement

My study sheds light on the practice of informal and early inter-institutional negotiations in the European Union (the 'informal arena'). I propose a theory that suggests that policy outcomes produced in such informal early negotiations will reflect policy outcomes from the formal arena rather well. Furthermore, I test the empirical implications of the theory and produce evidence in its favour. I thereby contribute to a scholarly debate which began in 1999, when informal early inter-institutional negotiations first became possible. The debate about the 'informal arena' is ongoing.

The scholarly debate has largely focused on the risk of agency-drift. This drift is the difference in policy outcomes between any one piece of legislation that was agreed upon in the 'informal procedure' and the counterfactual piece of legislation that was agreed upon in the formal arena. The extant literature suggests that agency-drift occurs because key actors who are involved in the informal negotiations have informational advantages over those who are excluded. The suggested remedies increase the control of those who are exclude over those who are included in the 'informal arena.' I contribute by analysing the incentive structure of negotiators and showing that agency-drift occurs less often than the literature expects. In my theory, I argue, and in the empirical analysis I provide evidence, that the bicameral setup alters the incentives such that agency-drift is rare. Furthermore, I show that it occurs when the legislative workload of the negotiators is large.

These findings enhance our understanding of the effects of institutional design on decision-making. I aim to contribute to the wider academic debate by submitting these findings, in three separate articles, for publication in academic journals.

The debate on the 'informal arena' in the EU also takes place in the European news media and among practitioners. It has led to institutional reform in the European Parliament. The reforms have increased the ability to monitor the behaviour in the informal arena. Such checks are not costless because they require resources. For example, if additional legislators are included in informal negotiations, those legislators cannot work on other pending legislation at the same time. The informal arena was introduced to increase the efficiency of the legislative system of

the EU. My findings suggest that overlooking the constraining effect of the bicameral structure, wastes legislative resources.

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# Chapter 1

# Introduction

This project is about the effects of institutional design on decision-making in the European Union. More specifically, I research *delegation* to *informal* inter-institutional legislative bargaining. I develop a spatial complete information model to explain the decision to delegate to the 'informal arena' and test its empirical implications. The meta-theoretical umbrella for this project is New Institutionalism. Legislative actors are assumed to be utility maximising policy-seekers. I view the decision to delegate through a principal-agent lens, i.e., delegation may result in policy outcomes that differ from counterfactual non-delegated acts, labelled 'agency-drift'. I contribute to the theoretical and empirical literatures on informal law-making in the European Union and legislative organisation more generally.

## 1.1 Research Question

The questions that I address in this project are: when does delegation to the informal arena take place and, equally, when does delegation not take place? Furthermore, does delegation lead to agency-drift?

My research questions are motivated by the criticism that the informal arena has drawn. Farrell and Héritier (2003) have famously hypothesised that key actors gain undue influence when legislative negotiations in the EU are delegated to the informal arena. The institutions themselves suspect that they might be at a disadvantage in informal negotiations (Kluger Dionigi and Koop, 2017), the European news media allege that 'foul play' takes place behind closed doors (Fox, 2014; Cooper, 2016), and the European Ombudsman, Emily O'Reilly, recently launched an investigation into the practice of informal inter-institutional legislative negotiations (European Ombudsman, 2016). Meanwhile, the practice becomes ever more common. It is in fact the standard law-making practice nowadays. If the informal arena receives bad press, if the institutions see themselves at a disadvantage, and if individual legislators could gain undue

influence, then why does delegation take place and, specifically, what explains variation in its application? In this project, I concentrate on agency-drift, i.e., the potential for individual legislators to gain undue influence.

## 1.2 Research Design

I apply the theory of incentives and specifically the principal-agent (PA) lens (Laffont and Martimort, 2002). The theory of incentives is well suited to analysing the research question because it problematises quasi-contractual relationships between actors who have different preferences. In the legislative game, the delegator's preferences may diverge from the delegate's preferences. The consequence may be agency-drift if the delegator is unable or unwilling to properly check the delegate. In PA jargon, the delegator is the principal and the delegate is the agent.

PA theory focuses on informational asymmetry between principal and agent. The agent has more information than the principal from the outset or acquires more information than the principal while carrying out a task for the principal (Ibid., 2002). There are two general types of problems that result from information asymmetry: (1) adverse selection and (2) moral hazard/ hidden action. I address the latter.[1] Moral hazard describes a situation where the agent can act in the agent's own interest without being detected by the principal because the agent has more information than the principal (Ibid., 2002). For example, a customer takes a laptop to a repair shop without knowing the full extent of the issue. The hardware specialist knows or finds out and would rather receive a larger fee than a smaller one. S/he is, therefore, incentivised to overstate the problem. In the legislative game, the agent may acquire specialised knowledge about a piece of legislation that the principal does not possess such as feasible alternative policy solutions.

Applied PA work often concentrates on mechanisms to mitigate moral hazard (e.g., Tallberg, 2004a). This project deviates from that literature. I concentrate on the incentive structures of all actors, i.e., when does the agent have an incentive to shirk and what would be the best response of the principal? Put differently, when does moral hazard exist? I develop a complete information spatial model to assess whether or not delegation to the informal arena takes place. In the model, actors have complete information about the preferences of all other actors. Following principal-agent theory, the actors in the model are the principals and the agents in the legislative institutions. The actors are policy-seeking utility maximisers. In the informal arena, agents shirk (deviate from their mandate) if it maximises their utility. Shirking

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[1]Adverse selection describes a situation where the principal selects an agent while having less information about the agent than the agent himself (Laffont and Martimort, 2002). For instance, a landlord rents a flat to a tenant, usually, without knowing whether the tenant will pay the rent, not disturb the neighbours, will be mindful with the property and so forth.

in the informal arena leads to agency-drift. Delegation to the informal arena takes place if doing so maximises the utility of the principal. The equilibrium concept is the sub-game perfect Nash equilibrium.

The legislative space is assumed to be uni-dimensional and the underlying policy dimension is interpreted as general left–right politics (throughout this project, I sometimes refer to left–right politics as ideological conflict). Because the legislators are assumed to be policy-seekers, the utilities of all actors depend on the distance of the policy outcome to their preferences. Furthermore, principals incur a cost if they do not delegate. That cost is an increased workload for the principals.

To test the empirical implications of the model, I gather preference data on all relevant actors as well as contextual data. The preference data encompasses actors from two legislative institutions. I scale preferences into a common space so that they are comparable, i.e., they lie on the same scale. Furthermore, I extend an existing dataset on legislative files. I describe the data in the following.

### 1.2.1  Data

I generate preference data for a comprehensive twenty years period from 1994 to 2014. I combine two data sources: (1) the 1999, 2002, 2006, 2010, and 2014 waves of the 'Chapel Hill Expert Surveys' (Bakker et al., 2015) and (2) roll-call data from the European Parliament for the 1994–2014 period. Using Bayesian Item Response Theory, I scale preferences into a common political space, i.e., preferences in the Council are on the same scale as preferences in the Parliament.

In addition to the preference data, I collected an original dataset that includes contextual information on members of the European Parliament (MEPs). It contains information on names, age, nationality, national party affiliation, transnational group affiliation, and committee functions such as committee chairs, vice-chairs, memberships, and substitute memberships for all representatives that have been members of the European Parliament to this day. The data collection has been automated to scape information from the data hub of the European Parliament, the Legislative Observatory (European Parliament, 2018). The computer scripts are written for Python 2.x versions, can be used to update the contextual data and are in the public domain, available on GitHub (Broniecki, 2017).

Finally, I employ and extend the 'informal politics of codecision' dataset (Bressanelli et al., 2014). It includes information on all concluded files subject to the ordinary legislative procedure. Among many other variables, it contains the names of the principals and agents in the Parliament, the appointment dates of the agents, and whether delegation to the informal arena took place.

## 1.3 Context

I research legislative politics in the European Union (EU). Its two legislative institutions are the Council of the European Union—the 'upper house'—composed of ministers and bureaucrats from the member states and the European Parliament (EP)—the 'lower house'—which is directly elected by European Union citizens.

In 1999, the Amsterdam Treaty amended the ordinary legislative procedure (then codecision) such that conclusion at first reading became possible. It was the advent of the 'informal arena' which since then co-exists with the 'formal arena'. Under the ordinary legislative procedure, the EU's legislative system resembles symmetric bicameralism—the Council of the European Union (Council) and the European Parliament (EP) both need to agree to a proposal to change the status quo. In the formal arena, bills shuttle back and forth between the two chambers in a maximum of three reading stages. In the informal arena, both chambers delegate inter-institutional negotiations to representatives who meet behind 'closed doors' to produce a compromise that is subsequently rubber-stamped by the parent chambers. At the outside of the legislative process (when the ordinary legislative procedure applies), both chambers decide jointly whether to delegate to the informal arena or not, i.e., the informal arena refers to a process where delegation takes place early—during the first reading stage.

Informal negotiations may take place at later reading stages and always take place prior to the third reading stage in the conciliation committee. However, in those later stages, moral hazard does not exist or is substantially weaker because information is distributed more symmetrically—the principal has already acquired more information about the legislation and the agent is bound by an 'iron-clad' mandate. It is *early delegation* that distinguishes the informal arena from other informal negotiations. In the extant literature, compromises from the informal arena are sometimes labelled 'early agreements' or 'fast-track legislation.'

Criticism of the informal arena has arisen among lawmakers because it is harder for those not involved in informal negotiations to stay informed—the threat of agency-drift is implicit (Huber and Shackleton, 2013; Kluger Dionigi and Koop, 2017). The Parliament maintains that informal early agreements are reserved for uncontroversial/technical files or urgent situations (European Parliament, 2014c). Meanwhile, the share of early agreements of all codecided files rose from 4.44% in the 1999–2004 period (the fifth European Parliament), to 51.51% in 2004–2009 (the sixth Parliament), to 73% in 2009–2014 (the seventh Parliament).[2]

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[2]The shares are based on a dataset by Bressanelli et al. (2014) which covers 1999–2009. I extended the dataset for the period 2009–2014. My definition of early agreements requires that bills are concluded at first reading and that a compromise was reached in informal negotiations. Official numbers from the European Parliament report 29% in 1999–2004, 72% in 2004–2009, and 85% in 2009–2014 (European Parliament, 2014a, p. 8). The discrepancy arises because the Parliament counts all agreements that were concluded at first reading even if informal negotiations were not required to reach a compromise.

Much of the efforts within the European Parliament have been focused on reducing the potential for agency-drift. In the intervening period from 1999–2004, informal and early negotiations existed in an institutional vacuum. In 2004, the first non-binding guidelines were introduced but not widely followed (Roederer-Rynning and Greenwood, 2015). More stringent reforms were then introduced in 2009, 2012, and 2016. Recently, the European Ombudsman, Emily O'Reilly, conducted an investigation into the practice of informal negotiations and suggested, among other things, greater transparency in the mandating from both institutions which would reduce the potential for agency-drift further (European Ombudsman, 2016).

This project contributes in a number of ways even though the potential for agency-drift is reduced/low nowadays. The potential for agency-drift is not a sufficient condition for its occurrence. Agents only shirk if they benefit from doing so. I show that inter-institutional competition in a bicameral setting reduces the risk of agency-drift substantially. Thereby, I contribute to the study of institutional design. Furthermore, I contribute to the debate on informal negotiations in the European Union. This literature hypothesises that agency-drift will occur without proper mechanisms that mitigate moral hazard (Farrell and Héritier, 2003; Shackleton and Raunio, 2003).

Theoretical and empirical contributions have analysed the informal arena. In the following, I summarise the contributions and highlight how this project differs from the literature and where it builds on previous research.

## 1.4   Literature on the Informal Arena

Why was the informal arena introduced in the first place and why do the institutions keep applying it? So far, I have highlighted the danger of agency-drift in the informal arena, I mentioned that the process has received negative press in the European news media and that both institutions suspect that the respective other institution possesses an advantage in the informal arena. The extant literature provides functionalist, sociological, and party-political explanations of early agreements—compromise agreements from the informal arena (Reh et al., 2013).

The functionalist view suggests that early agreements were introduced to increase the efficiency of the legislative apparatus (Shackleton and Raunio, 2003; Farrell and Héritier, 2003, 2004; Kreppel, 2003). Increasing legislative efficiency was considered urgent at the time (prior to the 1999 Amsterdam Treaty) because more policy areas would become subject to codecision and because of the upcoming EU-enlargements[3] (Kreppel, 2003; Héritier, 2012).

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[3]In 2004 eight Central and Eastern European countries acceded to the Union—the largest increase in EU membership to date.

Findings in support of functionlist arguments suggest that informal negotiations prevail when legislative action is urgent because existing legislation is about to expire (Rasmussen, 2011), the more complex a file, and the higher the legislative workload (Rasmussen, 2011; Reh et al., 2013). While evidence suggests that functionalist arguments are related to arena choice, the verdict on whether the informal arena is more efficient—measured by the time it takes to pass legislation—is still out. Toshkov and Rasmussen (2012) argue that informal negotiations did not provide an efficiency gain but rather that efficiency depends on the level of political conflict. Yet, informal first reading agreements did require less time to be completed than procedures without early agreements in the period 1999–2014. However, since 2014 early agreements have taken longer (Kluger Dionigi and Koop, 2017, p. 8).

Socialisation into inter-institutional norms of co-operation that work within an institution but also between institutions suggest that early agreements should become more prevalent over time as indeed they do (Reh et al., 2013). Furthermore, different 'cultures' of early agreements have developed within the different standing committees of the European Parliament (Roederer-Rynning and Greenwood, 2015, 2016) suggesting that variation in arena choice should be related to policy area.

Party political explanations suggest that the informal arena is applied because big party groups—often included in the informal negotiations—gain influence over policy outcomes (Farrell and Héritier, 2003, 2004). Indeed, when bigger party groups are involved, early agreements are more likely (Rasmussen, 2011). Furthermore, party political competition may be related to arena choice. Neither the salience of a file nor its distributive consequences were found to predict early agreements (Reh et al., 2013). Policy conflict between the legislative institutions, however, is related to the choice of the legislative arena: greater ideological conflict between the Council and the Parliament decreases the probability of an informal compromise (Ibid., 2013).

In summary, functionalist, sociological, and party-political/bargaining arguments seek to explain arena choice as well as the current trajectory of ever more early agreements. Empirically, the record is mixed, where support for functionalist arguments has been found most consistently. Almost 20 years since the introduction of early agreements, the debate on the legitimacy of the procedure and winners and losers is still fierce (Fox, 2014; Cooper, 2016; European Ombudsman, 2016).

My project takes functionalist arguments into account. I suspect that the informal arena is more efficient than the formal arena and, therefore I argue, that both the Parliament and the Council would rather apply the informal arena than not, given that the risk for agency-drift is low. My work differs from the functionalist approach because functionalist arguments seek to

explain variation in the application of the informal arena based on file-level characteristics such as workload. Instead, my work focuses on the preferences of the legislators.

Furthermore, my work is informed by the sociological approach. My theoretical approach does not focus on socialisation but in the empirical sections of this thesis, I control for changing norms over time and different legislative 'cultures' across policy areas.

This project is most closely related to party political contributions and may, perhaps, even be described as falling into that category because these contributions focus on ideological conflict as do I in this project. My work differs from these approaches because I do not focus on the size (power) of national parties or transnational groups. The focus in this project is on the incentive structure of principals and agents in inter-institutional bicameral bargaining. Thus, while both this project and the party political literature focus on preferences over policy, my focus is on decisive legislative actors—principals and agents—and not political groups.

Textbooks on European Union politics such as Hix and Høyland (2011) and Naurin (2015) refer to the potential for agency-drift when describing the ordinary legislative procedure and its informal arena. The theoretical literature on informal negotiations in the EU has formulated the expectation of agency-drift based on careful and convincing analyses of the potential that agents have to deviate from their mandates (Farrell and Héritier, 2003, 2004; Shackleton and Raunio, 2003). This project is motivated by that literature. It differs from that literature, because I concentrate on the incentive structure of all actors. The potential to deviate from the mandate is a necessary condition for agency-drift but it is not sufficient. An agent will only shirk (deviate from the mandate) when this is beneficial for the agent. Furthermore, a principal may favour agency-drift. However, in inter-institutional bargaining there are two chambers that check the negotiators. Delegation to the informal arena occurs only if both chambers agree. In this project, I show that the incentive structures of all the legislative actors in the bicameral legislative game usually align such that shirking is not attractive. Hence, agency-drift does not occur even if the agents have the full potential to shirk as they please.

## 1.5    Chapter Summaries

In the following, I describe the objectives, the findings and the approaches of the individual chapters. The project proceeds with an overview over the legislative procedure, focusing on the timing of the decision to delegate and the legislative actors involved in the decision (chapter 2). Next, I develop a theory of delegation to the informal arena (chapter 3) and then describe the generation of the preference data (chapter 4). I then, test the theory in three empirical chapters. Where the first shows that the principal is representative of the chamber as a whole,

the second that the agent is selected strategically and the third that the decision to delegate is related to the risk of agency-drift. The project closes with a conclusion chapter.

### 1.5.1 Chapter 2: The Ordinary Legislative Procedure

This chapter fulfils three purposes: (1) to summarise the legislative procedure focusing on the sequence of the decision-making process, and in particular the timing of the decision to enter the informal arena or not; (2) to introduce the actors that are involved in the legislative game, and (3) to illustrate the differences between the formal and the informal arenas as well as establishing when and why the agent has the potential to shirk.

With respect to (1), the key events are: The Commission proposes and then the Parliament assigns a proposal to a lead committee. The committee selects its agent and then decides jointly with the Council whether or not to delegate decision-making to the informal arena. With respect to (2), the two institutional actors are the Council and the Parliament which I disaggregate to principals and agents. In the Council, the member states are jointly the principal and the Council presidency is the agent. In the Parliament, the lead standing committee is the principal and the agent is the rapporteur. The key differences, with respect to (3), are that participation and information in the informal arena are restricted. Furthermore, the mandate is vague for the Parliament's agent but not for the Council's agent. In addition, the rules that govern the informal arena have changed over time and reduced the potential for shirking.

In summary, this chapter establishes that the necessary pre-condition for agency-drift—the *potential* for the agent to shirk—exists. It, therefore, sets the stage for the analysis of the *incentive structure* for the agent to shirk and the principal to delegate. The potential for shirking exists for the Parliament's agent, but not for the Council's agent. Therefore, the following analysis concentrates on the Parliament while treating the Council as a unitary actor.

### 1.5.2 Chapter 3: A Spatial Model of Delegation to the Informal Arena

The main task of this chapter is to develop a theory that predicts when delegation to the informal arena takes place and when it does not. I open the chapter by briefly describing that the New Institutionalism approach provides the meta-theoretical umbrella for this project. Following New Institutionalism, my approach is actor-centric where actors are assumed to be rational policy-seekers who are constrained by the rules that they operate under. Next, I discuss (1) the procedural models of legislative politics in the European Union and (2) cooperative bargaining solutions. The main insights from (1) the procedural models are that the Council and the Parliament are co-equal legislators under the ordinary legislative procedure. Furthermore, the Commission is not a relevant actor with respect to policy outcomes. The insights from (2),

the cooperative bargaining solutions, are that the Council position is well approximated by a weighted average of actors' preferences where the weights are preference intensities and actor capabilities.

I then develop a simple complete information spatial model. The baseline model concentrates on the Parliament, assuming that the Council always wants to delegate to the informal arena. Actors lose utility the further the outcome from their preferences. In addition, the principal incurs a cost for legislating in the formal arena. I construct two policy environments that cover the general set of actor constellations. In the first, agency-drift is detrimental to the principal's interests. However, the incentives for agency-drift rarely exist; policy conflict between principal and agent needs to be large in comparison to policy conflict between the principal and the opposition chamber. In the second environment, the agent always shirks resulting in agency-drift. This is beneficial for the principal unless policy conflict between principal and agent is large in comparison to policy conflict between the principal and the Council.

Following the baseline model, I discuss several extensions to the model. The central extension treats the Council as a proper actor, i.e., I relax the assumption that the Council always wants to delegate to the informal arena. The consequence is that agency-drift does not occur in the second policy environment—where agency-drift is beneficial for the principal in the Parliament—because the Council vetoes delegation to the informal arena.

In summary, I put forward a complete information spatial model in a bicameral setting. The model predicts (in the extended version) that shirking is seldom a winning strategy for the agent even under the circumstance where the agent has the potential to deviate from his mandate. The model explains variation in the decision to delegate to the informal arena and it suggests that bicameralism can be effective in mitigating agency-drift.

### 1.5.3 Chapter 4: Preferences on Legislation 1994–2014

The main objective of this chapter is to generate preference data in a common space and to assess the validity of the estimates. I open the chapter with a discussion of the dimensionality of the policy space and justify the decision to analyse a uni-dimensional space where left–right politics is the underlying dimension. Next, I describe the Chapel Hill Expert Survey data that is used to approximate government positions in the Council. Furthermore, I describe that the aggregate Council position is the weighted average of the member state positions where the weights are power index scores based on the Penrose method (Penrose, 1946). Then, I describe the roll-call data used to infer preferences of individual members of the European Parliament (MEPs) and discuss the Bayesian Item Response Model used to scale policy positions of MEPs into the same space as the positions of the governments in the Council.

In short, I use the national party positions from the Chapel Hill Expert Surveys as priors for each MEP who is a first time member of the Parliament. For re-elected MEPs, I use their left–right preference estimates from the previous term as a prior. Furthermore, I employ contextual information in the scaling model and I use preference estimates from a scaling technique that does not include prior information but is commonly used—NOMINATE (Poole et al., 2018)—as covariates. I estimate preferences for each Parliamentary term separately for the 1994–2014 period and show that face validity of the estimates is high.

### 1.5.4 Chapter 5: Committee Organisation 1994–2014

I analyse two research questions: (1) are standing committees representative of the plenary? (2) Does ideology predict selection into standing committees? I find that the committee system is highly representative of the chamber as a whole and that there is no evidence that ideology predicts committee membership over twenty yeas of legislative organisation and across nineteen standing committees.

The research questions are motivated by the fact that the principal in the Parliament, the respective lead committee, is itself the agent of the chamber as a whole. If the committee system were unrepresentative, one should expect biased policy, i.e., agency-drift. The questions are further motivated by mixed evidence regarding the committee system's representativeness in the extant literature.

The research design for question (1) is as follows. I combine the individual preference data with the context data on individual MEPs and construct a dataset of membership in the standing committees from 1994 to 2014. I construct the committee median positions, and dispersions from individual members. Committee membership is reshuffled halfway through the legislative term. Therefore, committee median positions and dispersions are derived for half terms. Median positions are important because committees decide by simple majority according to the rules and dispersion matters because it showcases the degree of preference heterogeneity.

To answer question (2), I construct for each individual committee a dependent variable that is 1 if an MEP was a full member and 0 otherwise. The level of observation is the individual member in a half term. In a series of logistic regressions, I regress committee membership on ideology and a number of covariates, including fixed effects for legislative terms and nationality.

In summary, I show that the committee medians are very close to the floor median and that they become ever more representative over time. Furthermore, they span a similar ideological range and there are no systematic outlier committees. In fact, there is more variation over time than across committees. Finally, ideology is not related to committee membership. Overall, committees are heterogeneous and representative. There is little policy conflict between the

principal who decides on delegation to the informal arena and the overall principal in the Parliament. The chapter contributes to the literature on legislative organisation in the European Parliament.

### 1.5.5 Chapter 6: Strategic Agent Selection

The research question in this chapter is: Does the principal select the agent strategically anticipating that the informal arena is on the cards? I find that strategic selection does indeed take place. The principal selects 'allies', agents who diverge less from the preferences of the principal.

The research question is motivated by contrasting predictions of the baseline model and the extended model that treats the Council as a proper actor. The baseline model predicts that the principal selects agents who are further from the Council than the principal as illustrated in figure 1.1. The extended model predicts that from a pool of possible candidates, the principal selects agents whose preferences diverge less from the principal's.

Figure 1.1: Selection of Extreme Agents
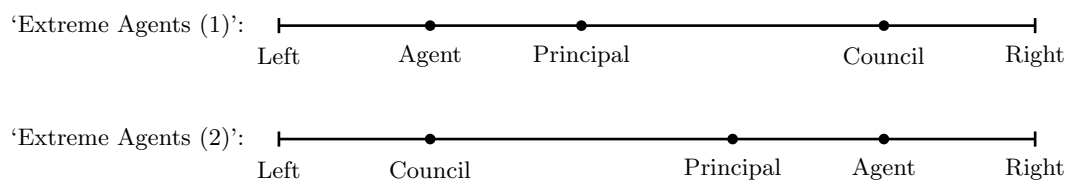


Note: The Council, and the principal and agent in the Parliament are ordered along the left–right dimension. The baseline model predicts that the principal selects agents that are further from the Council than she is herself—labelled 'extreme agents'. The two constellations are effectively equivalent.

I argue that the rule change in 1999, that made delegation to the informal arena possible, constitutes a natural experiment. Before delegation was possible, the principal did not have an incentive to select the agent strategically but did so after the rules changed. I apply a regression discontinuity design to estimate the effect of the advent of the informal arena on agent selection. I merge the preference data, and the contextual data to the extended dataset on the 'informal politics of codecision' where the level of observation is a completed file (Bressanelli et al., 2014).

The results show that the principal did indeed employ the 'ally principle', selecting agents that are noticeably closer to the principal after the rule change. In a series of 1000 placebo tests, I show that the rule change is the only consistently detectable discontinuity in the 1999–2014 period. The results contradict the predictions of the baseline model and lend credibility to the extended model that treats the Council as a proper actor. The chapter contributes to the literature on report allocation in the European Parliament.

### 1.5.6 Chapter 7: The Decision to Delegate 1999–2014

The purpose of this chapter is to empirically test the theoretical models of delegation to the informal arena. Specifically, I test whether the principal(s) delegate(s) if the risk of delegation to the informal arena is high. The risk of delegation increases when agency-drift becomes more likely, ceteris paribus.[4] The risk of delegation decreases, the larger the cost of legislating in the formal arena, ceteris paribus.

The findings in this chapter show that the decision to delegate is related to the risk of delegating to the informal arena. The correlation is strong and robust. I compare three theoretical models: the 'baseline model, the Council becomes an actor model' and 'the two principals and two agents model.' It turns out that the predictions from 'the Council becomes an actor model' correspond most closely to the actual decision to delegate. This implies that the Council does not always want to delegate to the informal arena and that the Council presidency is bound by its mandate: it cannot or does not deviate from its mandate. The findings contradict the argument that the presidency can bias policy to better reflect its own interests (Tallberg, 2004b, 2006; Warntjen, 2008) and support the findings that the presidency cannot use the informal arena in this way (Häge and Naurin, 2013).

I merge the dataset on the 'informal politics of codecision' with the preference data and the contextual data. The level of observation is a concluded file. The dependent variable is binary, indicating whether delegation to the informal arena took place or not. The independent variables are model predictions. I test whether the model predictions are statistically significant and establish the quality of the models by assessing which model's predictions most closely correspond to the actual decisions to delegate. I use out-of-sample predictions to account for sampling variability.

## 1.6 Project Summary

This project is about delegation to the informal arena in EU policy-making. The Council of the European Union (Council) and the European Parliament (EP) jointly decide whether to delegate decision-making to the informal arena or not. In the informal arena, representatives meet behind closed doors and the compromise is subsequently rubber-stamped by the parent chambers. Besides delegation, the informal arena is characterised by early conclusion—at first reading. The early timing ensures that the agent has an informational advantage over the principal and that the mandate leaves the agent with room to maneuver. In the formal arena, bills shuttle back and forth between the two chambers in a maximum of three reading stages.

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[4]In the baseline model, delegation to the informal arena may be beneficial for the principal in which case delegation remains likely.

At the outset of the legislative process, the Council and the Parliament jointly decide whether to delegate to the informal arena or not.

The project investigates variation in the application of the informal arena and the focus is on agency-drift. The theoretical literature has identified agency-drift as a risk because the Parliament's agent can deviate from his mandate (at least in the intervening period from 1999–2009). The empirical literature has produced mixed evidence of whether delegation leads to agency-drift or not. The assessment of the risk for agency-drift is based on the potential for the agent to deviate.

In this project, I build on the previous literature and I contribute by analysing whether the agent has an incentive to deviate from his mandate in the informal arena or not. I develop a complete information spatial model and show that inter-institutional competition mitigates the risk of moral hazard substantially. I test the theoretical contribution in three empirical chapters. They show that the principal in the Parliament—the standing committee—is representative of the Parliament as a whole, that the Parliament's agent is selected strategically and that the probability of delegation to the informal arena decreases with increasing risk of agency-drift.

The theory, proposed in this project, may travel to other bicameral contexts, subject to careful consideration of the rules and norms in those other contexts. Overall, this project inspires optimism in the legislative system of the European Union. Even if the potential for agency-drift exists, shirking is rarely a winning strategy.

In the following, I describe the legislative system that the actors operate in, i.e., the rules that constrain the players. Furthermore, I identify the relevant legislative actors.

# Chapter 2

# The Ordinary Legislative Procedure

This chapter fulfils three purposes: (1) to summarise the legislative procedure and the sequence of the decision-making process; (2) to introduce the actors that are involved in the legislative game, and (3) to illustrate the differences between the formal and the informal arenas as well as establishing when and why the agent has the potential to shirk.

With respect to (1), the key events are: The Commission proposes and then the Parliament assigns a proposal to a lead committee. The committee selects its agent and then decides jointly with the Council whether or not to delegate decision-making to the informal arena. With respect to (2), the two institutional actors are the Council and the Parliament which I disaggregate to principals and agents. In the Council, the member states are jointly the principal and the Council presidency is the agent. In the Parliament, the lead standing committee is the principal and the agent is the rapporteur. The key differences, with respect to (3) are that participation and information in the informal arena are restricted. Furthermore, the mandate is vague for the Parliament's agent but not for the Council's agent. In addition, the rules that govern the informal arena have changed over time and reduced the potential for shirking.

In summary, this chapter establishes that the necessary pre-condition for agency-drift—the *potential* for the agent to shirk—exists. It, therefore, sets the stage for the analysis of the *incentive structure* for the agent to shirk and the principal to delegate. The potential for shirking exists for the Parliament's agent, but not for the Council's agent. Therefore, in the following chapters, I focus on the Parliament while treating the Council as a unitary actor—I discuss and test the implications of disaggregating the Council to principal and agent but it turns out that a model that treats the Council as unitary predicts delegaion to the informal arena best.

## 2.1 The Legislative System

The legislative system of the European Union is bicameral and, thereby, similarly structured to about a third of the world's legislative systems such as the United States or Germany (Tsebelis and Money, 1997). Bicameralism is a checks-and-balances institutional set-up where two chambers are involved in the law-making process and, contrary to unicameralism, it favours the status quo and reduces policy conflict to an underlying privileged dimension (Ibid., 1997). The degree of bicameralism varies across systems—in pure bicameralism both chambers exert equal influence over legislation (Lijphart, 1984).

The two legislative institutions of the European Union today are the Council of the European Union—also called the Council of Ministers or simply the Council—and the European Parliament—Parliament or EP for short. The Council is composed of the ministers from the member state governments of the European Union and, since 1979, the European Parliament is directly elected by EU citizens. The European Commission—where each member state is allocated one Commissioner for one policy area—is formally not a legislative institution. However, it has the sole right to initiate legislation.[1] Furthermore, the Commission takes part in legislative negotiations and fulfils an advisory role.

Law-making follows one of the two main legislative procedures: consultation or the ordinary legislative procedure (formerly codecision). Both procedures afford different legislative powers to the institutional actors and apply to different policy areas (legal bases). In the period from 1999–2004, consultation was applied to 58% of all legislative proposals and codecision to 42% (European Parliament, 2014b). Consultation remained the most commonly applied procedure from 2004–2009, where 51% of all proposals were consultation files (Ibid., 2014). In the period from 2009–2014, 89% of all proposals were subject to the ordinary legislative procedure (codecision) and only 11% were consultation files (Ibid., 2014).

The upward trajectory of the ordinary legislative procedure is due to treaty changes. It was first introduced in November 1993 with the Maastricht Treaty and, then, applied mostly to legislation concerning the internal market (Ibid., 2014). With the entry intro force of the Amsterdam Treaty in May 1999, the scope was extended to 40 new policy areas (legal bases) including transport, environment, justice and home affairs, and employment and social affairs (Ibid., 2014). A further extension came in February 2003 (Nice Treaty) and since December 2009, with the Lisbon Treaty, codecision was renamed to the ordinary legislative procedure and extended to apply to 85 legal bases, now including agriculture, fisheries, and the common commercial policy (Ibid., 2014).

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[1]Both the Council and the Parliament may request a Commission initiative. If the Commmission rejects, it has to explain its decision; rejection almost never occurs (Corbett et al., 2016).

Currently, the ordinary legislative procedure applies to most EU legislation and is, therefore, the most important procedure. In contrast to the consultation procedure, it affords the Parliament the role of equal co-legislator to the Council. Under consultation, the Parliament's role is advisory.[2] Under consultation, the risk of agency-drift in the informal arena is not a significant problem because the importance of inter-institutional negotiations is marginal.

In this project, I focus on the ordinary legislative procedure. In essence, under the ordinary legislative procedure both the Council and the Parliament have to agree to pass legislation—both possess a veto. The legislative process starts with a proposal by the European Commission—which has the sole right to table a proposal but may act upon request by the Council, the Parliament, member states, or existing legislative or international obligations (Corbett et al., 2016).[3] This proposal is then transmitted to the Parliament and to the Council. In two readings, both institutions may make amendments to arrive at a compromise that is acceptable to both. In case they fail, the next stage is conciliation where delegations of both chambers meet. Finally, the compromise from conciliation is submitted to an up-or-down vote in both chambers. The co-legislators may conclude at any of the three stages—prior to the 1999 Amsterdam Treaty, conclusion was possible only after the first reading.

In summary, under the ordinary legislative procedure, the legislative system is bicameral where both chambers are afforded with equal legislative powers and the role of the Commission is advisory because it does not approve the final text (Thomson, 2011).[4] The 1999 Amsterdam Treaty opened the door for the co-existence of two procedures within the ordinary legislative procedure: the formal procedure and the informal procedure. In the following, I discuss the formal and informal procedures and highlight important differences.

## 2.2    The Formal and the Informal Procedures

The formal and the informal arenas differ with respect to three key aspects: (1) participation, (2) information, and (3) the legislative mandate. Participation in the informal arena is restricted, whereas participation in the formal arena is open to all legislators. The negotiations in the informal arena take place behind closed doors. Representatives who are included in the delegations have informational advantages over fellow representatives who are excluded. The

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[2]In the consultation procedure, the Commission proposes legislation. Parliament then formulates an opinion and submits it to the Council. The Council can, however, disregard the opinion of the Parliament entirely and decide to accept the Commission proposal with qualified majority or amend it with unanimity.

[3]Both the Parliament and the Council can formally request that the Commission initiates legislation. The Commission can refuse to do so but must then formally explain the reasons for refusal (Corbett et al., 2016, p. 233).

[4]Most scholars regard the legislative role of the Commission as negligible. However, it is involved in the legislative process (Thomson, 2011) and in a recent study was found to influence policy outcomes (Kreppel and Oztas, 2017).

informational asymmetry between included and excluded members is strong in the Parliament and weak in the Council. The informal arena produces a compromise that must be approved in the formal arena. Therefore, in the informal arena, the delegations act according to a mandate issued in the formal arena. The mandate is strong in the Council and weak in the Parliament. In the following, I describe the differences in more detail.

The so-called *trilogues* are informal inter-institutional negotiations that involve representatives from the Council, the Parliament, and the Commission. Trilogues are political negotiations—sometimes preceded by technical meetings—that address avenues for compromise between the Council and the Parliament. In order to facilitate compromise, trilogues take place behind closed doors and documents are classified (Corbett et al., 2016). The main working document of trilogues is the four-column document (European Parliament, 2014b). The first three columns contain the positions of the Commission, the Parliament, and the Council. The final column contains comments or compromise agreements.[5] Many trilogue-rounds may take place before a compromise is reached—on average 2.9, but up to 49 (Brandsma, 2015). Trilogues are *informal* meetings and may take place at the first reading stage, at the second reading, or during conciliation. Importantly, any compromise reached in trilogues is non-binding and requires formalisation in the Council and in Parliament (Reh et al., 2013).

Trilogues are an important piece of the informal arena. They are informal negotiations but have been applied to complement the formal procedure; for instance, in conciliation before 1999 (European Parliament, 2014b). The second piece to the informal arena is the timing of trilogue negotiations. With the entry into force of the 1999 Amsterdam Treaty, conclusion of the ordinary legislative procedure already at first reading became possible. In the following, I describe the timing of the legislative sequence in the first reading.

### 2.2.1 The Legislative Sequence at First Reading

The legislative sequence begins with the Commission proposal that is submitted at the same time to both the Council and the Parliament. Both institutions may work on the proposal at the same time, i.e., begin drafting a text that may or may not amend the Commission proposal. However, the formal sequential procedure requires that the Parliament forms its first reading opinion before the Council forms its first reading common position. Therefore, in the formal procedure the Parliament moves first. It votes in plenary on the first reading opinion

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[5]The four-column documents are great records of the negotiation process. Under freedom of information, the documents can be requested since the Lisbon Treaty (Kluger Dionigi and Koop, 2017). However, they must be requested individually from the Parliament or the Council and the institutions do not handle requests for larger quantities of documents. Gathering this data is, therefore, a task that should be carried out by a group of researchers. This data should be collected in the future as it would facilitate our understanding of the negotiation process and it could be analysed using natural language processing techniques (Broniecki and Hanchar, 2017).

by simple majority. The Council forms its first reading common position by qualified majority or unanimity—if the Council wishes to amend a text that the Commission supports, unanimity is required, otherwise a qualified majority suffices (European Parliament, 2017). If the Council first reading common position approves the Parliament's text, the procedure ends. Otherwise, both institutions move to the second reading.

On the EP side, the sequence of events plays out as follows. First, the Parliament submits the Commission proposal to a 'lead' committee where the EP's text is drafted. Next, the committee appoints a representative who leads the drafting of the text. That representative is called the 'rapporteur'. Finally, the plenary votes on the committee text and forms it formal first reading opinion or refers the text back to the committee. When the formal opinion is formed, the text is submitted to the Council.

In the Council, there is also a committee system. The Council text is prepared in the committee system and the six-months rotating Council presidency leads the preparatory work. When the Council receives the Parliament's official text, it also votes on its position which is referred to as the first reading common position.

In the case where little policy-conflict exists between the Council and the EP, the formal procedure can lead to a compromise at first reading. However, as policy-conflict becomes larger, it becomes less likely that both institutions can find a timely compromise. Therefore, both institutions can hold informal trilogue negotiations. The purpose of the informal meetings between representatives from both institutions is to find a compromise so that both institutions can conclude early.

The decision to hold trilogues is taken after or during the committee phases. In order to conclude at first reading, both institutions must find an informal compromise before the Parliament formed its formal first reading opinion—the first reading formal opinion marks the end of the first reading for the EP.

Agreements that are based on informal negotiations and concluded at the first reading are referred to as 'first reading early agreements' (Héritier and Reh, 2012). The informal arena in this project means that informal negotiations take place and lead to a first reading compromise. In figure 2.1, I illustrate the sequence in the informal arena and highlight in red when the decision to delegate must be taken, in order to lead to a first reading early agreement.

Trilogues can be held in the first reading stage after the official position of the Parliament has already been formed. Such agreements lead to 'second reading early agreements' (Héritier and Reh, 2012). These informal negotiations, like all informal negotiations at later stages are qualitatively different from 'first reading early agreements'.

Figure 2.1: The Sequence of the Legislative Procedure in the First Reading

Commission proposal

Council — EP

member states (principal) — lead committee (principal)

6 months rotating presidency (agent) — rapporteur (agent) appointment

COREPER or ministers decide on delegation — committee decides on delegation

informal arena (if both delegate)

plenary votes on EP formal 1st reading opinion
(rubber-stamp if preceeded by informal arena)

Council receives EP's 1st reading opinion

member states vote on Council formal 1st reading common
position (rubber-stamp if preceeded by informal arena)

●

end of first reading stage—more reading stages if no agreement found

Note: The figure illustrates the legislative sequence in the first reading stage of the ordinary legislative procedure. The Commission submits a proposal to both chambers. In the EP, the committee phase starts with the submission of the proposal to the lead committee. In the Council, the working group starts working on the proposal. In the committee, the rapporteur is appointed. In the Council, the current presidency leads the negotiations. Both institutions decide jointly to delegate or not. If they do not, the formal arena follows, i.e., the EP forms its formal first reading opinion and submits it to the Council which forms its formal first reading common position. If both delegated to the informal arena, representatives from both chambers find a compromise behind closed doors. If they reach a compromise before the EP forms its first reading opinion, the result is an informal first reading agreement. If they find a compromise after the EP forms its first reading opinion, the result is an informal early second reading agreement.

The difference between first reading early agreements and early second reading agreements (and all other informal negotiations) is that the potential for agency-drift is severely reduced in all but first reading early agreements. The Parliament's mandate in the informal arena is 'iron-clad' if the Parliament already voted on its first reading formal opinion.[6]

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[6]The Parliament's first reading opinion is the mandate in informal negotiations that take place afterwards.

The definition of the informal arena in this project is a combination of timing and informality. The institutions choose the informal arena if they commence informal negotiations at the first reading before the Parliament formed its official position. In the following, I discuss the key differences between the formal and the informal arenas.

### 2.2.2 Key Differences Between the Formal and Informal Arenas

The formal procedure is codified in the Treaty on the Functioning of the European Union (in Article 294, TFEU) whereas the informal procedure is not. Due to the lack of formalisation, norms and changing guidelines have determined behaviour in the informal arena (Roederer-Rynning and Greenwood, 2015, 2016). Furthermore, the compromise from the formal arena is non-binding and requires formalisation in the formal arena (Reh et al., 2013). Although compromises from the informal arena are not institutionally enforceable, they are seldom modified (Reh, 2012). A failure to pass the compromise would have reputational costs and, therefore, party whips try to enforce the agreements (Rasmussen and Reh, 2013). Consequently, party discipline is higher on bills coming from the informal arena (Bressanelli et al., 2016).

Furthermore, the informal arena differs in three key aspects from the formal arena: (1) participation, (2) information and (3), the mandate.

Participation is restricted to key negotiators (Farrell and Héritier, 2003, 2004) and both chambers may decide on a case-by-case basis upon the composition of the delegation because the EU treaties do not contain provisions for the composition of the delegations (Reh, 2014). Over the period from 1999–2014, the self-imposed rules by the chambers have changed.[7] The rules on the composition of the Parliamentary delegation were vague prior to 2009, constraints were based on the need to find a parliamentary majority for a pre-agreed compromise and participation was decided on an ad-hoc basis (Reh, 2014, pp. 825f.).

Information is asymmetrically distributed because the negotiations take place behind closed doors. Seclusion requires that legislators who are excluded from the negotiations must rely on back-channels for information about the preferences of the negotiating parties and viable alternatives. The delegation of the Parliament often reports back to key actors only instead of the full committee (Corbett et al., 2016). Within the Parliament, seclusion leads to an information asymmetry among legislators who are included in the delegation and legislators who are excluded from the delegation. Within the Council, more stringent rules on reporting back ensure that information is more symmetrically distributed among the member states (Rasmussen, 2011). Furthermore, documents that are produced in informal negotiations, e.g., four-column documents, are classified (Corbett et al., 2016).[8] It is, therefore, difficult for legislators, who

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[7]Rule changes are discussed in more detail in section 2.4 'Evolution of the Rules Governing Arena Choice'.
[8]In the Council, the delegation makes these documents available to the member states.

are excluded from the informal negotiations, to assess the positions of the negotiating parties and the scope for compromise.

The mandate is weak for the EP delegation and strong for the Council delegation. In negotiations that took place before the Parliament voted on its formal first reading opinion, the EP delegation did not have a clear mandate (Reh, 2014).[9] A vague mandate means that the delegation may interpret its mandate in a way that is unknown to fellow Members of the European Parliament (MEPs) who cannot hold the delegation to account because they do not know whether a 'bad' compromise in the informal arena was due to a shirking delegation or the need to find agreement with the Council—hence, moral hazard exists for the EP delegation. Mandating in the Council takes place in the preparatory work by the Committee of Permanent Representatives prior to informal negotiations and involves all member states (European Parliament, 2014b). In contrast to the Parliament, mandating in the Council is clear (Rasmussen, 2011).

In summary, the informal arena is not governed by a clear set of rules. Instead, norms, changing rules, and guidelines have developed. The informal arena is thus more flexible but also allows the legislators more leeway to adapt to changing circumstances (Reh, 2014). The rules of participation are also in flux and may vary across policy areas (Roederer-Rynning and Greenwood, 2015). The set of participants that is always included in the informal negotiations is discussed in the following section. Furthermore, the informal arena excludes some legislators that would be involved in the law-making process in the formal arena. Seclusion may facilitate compromise because negotiators are less prone to position-taking in secluded negotiations (Carey, 2008). However, at the same time, it creates an informational asymmetry that leads to moral hazard. The potential for principal-agent problems is corroborated by a weak mandate that the delegations in informal negotiations often work with. Key differences also exist between the Parliament and the Council. The Council delegations have more stringent rules regarding mandating and reporting back and, therefore, the informational asymmetries are less pronounced in the Council than in the Parliament.

## 2.3 Legislative Actors—Principals and Agents

In this project, I apply the principal-agent framework to analyse the decision to delegate to the informal arena. The principal delegates a task to an agent—to negotiate a compromise in the informal arena. Seclusion of the informal arena and a weak mandate lead to information asymmetry. The principal cannot properly check on the agent because it is difficult to attribute

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[9]Rules regarding the mandate changed over time and are addressed in section 2.4 'Evolution of the Rules Governing Arena Choice'.

an outcome in the informal arena to a shirking agent or to the necessity to accommodate the opposing institution. The result is moral hazard that leads to agency-drift if the agent has an incentive to shirk (Bendor et al., 2001). In the following, I discuss the legislative actors in those terms.

### 2.3.1 Legislative Actors in the Council

The Council of the European Union is formally one body composed of the ministers from the member states who vote on behalf of their member state governments. Depending on policy area, Council meetings are attended by different ministers. These are called Council configurations. Justice ministers, e.g., meet in Justice and Home Affairs (JHA) and economic and finance ministers meet in Economic and Financial Affairs (ECOFIN). The Council is organised in three levels: the working groups at the first level, the committee of permanent representatives (COREPER I) and their deputies (COREPER II) at the intermediate level, and the ministers at the top level. The working groups—composed of civil servants from the member states—prepare legislative proposals and solve most issues between member states (Hix and Høyland, 2011). The working groups pass on unresolved issues to COREPER—composed of more senior civil servants and chaired by the six months rotating Council presidency (Ibid., 2011). COREPER resolves outstanding issues that, if resolved, are sent to the ministerial level as A points and, if unresolved, as B points (Ibid., 2011). Research on the Council suggests that most issues are resolved before they reach the ministerial level (Lewis, 1998), yet ministerial involvement is substantial—35% of legislation is resolved by the ministers and 48% of all legislation is discussed at the top level (Häge, 2008).[10] Ministers tend to get involved on the more important issues and when the Council co-legislates with the Parliament (Häge, 2007). However, while the ordinary legislative procedure initially increased ministerial involvement, this trend is now reversed due the increase of informal early agreements which decrease ministerial involvement (Häge and Naurin, 2013).

The Council presidency takes a central role in Council decision-making. It rotates every six months among the member states.[11] The presidency decides upon a legislative agenda in the Council and encourages the Commission to initiate corresponding proposals (Hix and Høyland, 2011). Since 2007, three presidencies—the trio or triumvirate—coordinate a legislative agenda among themselves. The literature attributes limited agenda-setting power to the presidency (Tallberg, 2004b, 2006; Warntjen, 2008; Thomson, 2008). Policy outcomes reflect the preferences of the member state that holds the presidency in the final stage of legislative proceedings

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[10]Hayes-Renshaw and Wallace (2006) place the share of legislation that is decided by the ministers at 15%.

[11]With the entry into force of the Lisbon Treaty, the Foreign Affairs Council is instead chaired by the high representative of the Union for Foreign Affairs and Security Policy (Naurin, 2015).

more than the average member state (Warntjen, 2008; Thomson, 2008). The presidency leads legislative negotiations within the Council and posses an informational advantage over other member states because it holds a better overview over the preferences of all member states (Tallberg, 2004b, 2006).

The presidency leads inter-institutional negotiations with the Parliament in both the formal and informal arenas—it is the main negotiator for the Council side. In principal-agent terminology: the presidency is the agent of the member states in the Council. In the informal arena one may expect the presidency to gain further influence over policy outcomes because seclusion may afford the presidency with a further informational advantage. However, the presidency does not gain influence over policy in the informal arena (Häge and Naurin, 2013).

Presidencies are usually, evaluated by the quantity of legislation that they managed to pass during their term (Naurin, 2015). Consequently, the presidency is expected to be interested in entering into informal negotiations as often as possible because of the greater efficiency of the informal arena. The decision to enter the informal arena is made in the Committee of Permanent Representatives (COREPER) or at the ministerial level by vote and the mandate is updated by COREPER throughout the negotiations if necessary (Kluger Dionigi and Koop, 2017). The Council mandate is drafted by COREPER or if a general approach is taken—which the presidency decides—at the ministerial level (Ibid., 2017). Whether a general approach is taken or not depends more on policy area than on presidency. The Council configurations economic and financial affairs and justice and home affairs, for instance, often seek a general approach (Ibid., 2017). Prior to the 2009 Lisbon Treaty, the presidency would circulate a draft proposal to all member states who would then highlight issues of national interest (Roederer-Rynning and Greenwood, 2015). All member states had access to the footnotes—where issues of national interest are recorded—of all other member states (Ibid., 2015). Since the Lisbon Treaty, the presidency takes feedback from national delegations bilaterally (Ibid., 2015). The presidency reports back orally to the Council in the working party or COREPER meeting that follows the last trilogue and makes the four-column documents of the trilogue meeting available to the national delegations (Kluger Dionigi and Koop, 2017). Overall, the presidency is bound by a stringent mandate and informs national delegations about the state of affairs in the informal arena, leaving the presidency unable to deviate from its mandate (Rasmussen, 2011).

To summarise, the member states are jointly the principal of the presidency. The Council presidency is the agent. It leads inter-institutional negotiations with the Parliament in both the formal and informal arenas. The Council presidency has an incentive to enter informal negotiations because it is evaluated on the number of legislative acts that it is able to conclude. The decision to enter informal negotiations is made jointly by the member states' civil servants in the

Committee of Permanent Representatives. The presidency's mandate in informal negotiations is stringent and it reports back regularly on the proceedings of informal negotiations—member state delegations are given access to documents from the informal arena. The principal-agent problem is weak if not negligible in the Council.

### 2.3.2 Legislative Actors in the Parliament

Members of the European Parliament (MEPs) are directly elected by EU citizens. Voting on final texts such as the first reading formal opinion, the second reading formal opinion, and the compromise from conciliation take place in the full plenary, i.e., every MEP may vote on the text. Compromises from the informal arena need approval in plenary by simple majority. The Parliament may have an incentive to seek out the informal arena because it becomes harder to amend the Council text in the second reading, due to a change in the voting threshold from simple to absolute majority voting (Hagemann and Høyland, 2010). Furthermore, high absenteeism makes the absolute majority threshold more akin to a qualified majority threshold (Tsebelis et al., 2001).

MEPs are members their national parties which coalesce into European party groups. The largest group currently is the centre-right European People's Party (EPP) and the next largest group is the centre-left Progressive Alliance of Socialists and Democrats (S&D). Whether Parliamentarians owe more loyalty to their national party or to the transnational group is debated. However, they seem to depend very little on the domestic voter because elections to the European Parliament are widely viewed as second-order contests—citizens cast their ballot based on domestic politics at the national level rather than the European level (Thorlakson, 2017). MEPs depend on their national party for re-election. The European groups, however, control a wide range of offices within the Parliament and, therefore, impact an MEPs career. The transnational group decides on committee membership, chairmanships, speaking time and allocation of lead negotiator in inter-institutional negotiations (Kreppel, 2002; Corbett et al., 2016). Generally, groups have become more cohesive, there is genuine enforcement of party discipline and ideology is a better predictor of voting behaviour than nationality (Hix et al., 2007). MEPs are ultimately controlled by their national parties rather than the transnational group—they vote with the national party if torn—but national parties voluntarily choose to vote with groups most of the time even if the preferences of the national party and the European group diverge (Ibid., 2007). Regarding the distinction between the informal and the formal arenas, party discipline with the transnational group is higher for votes on a compromise from the informal arena (Bressanelli et al., 2016).

The Parliament is organised into standing committees that are the equivalent of the Council configurations—there are currently twenty standing committees and ten Council configurations. One lead committee is in charge of a draft proposal but other committees may be requested to state their opinion if policy areas overlap (Corbett et al., 2016). Committees vary in membership size. The committee on Environment, Public Health and Food Safety (ENVI) has currently sixty-four full members, an equal amount of substitutes, one chair, and four vice-chairs. Fisheries (PECH) has twenty-two members and substitutes, one chair, and four vice-chairs. Substitutes may attend committee meetings but may not vote unless a full member drops out (Ibid., 2016). Committee membership is allocated by the transnational group and the groups receive spots according to their size. An EP term is five years. After a half-term, committee-membership is re-shuffled but MEPs may be reappointed to the same committee.

The literature on committee organisation in the United States Congress suggests that committees may not be representative of the plenary. The distributional theory proposes that legislators self-select into policy areas, leaving policy-making in other areas to fellow legislators (Shepsle and Weingast, 1995). The distributional rationale suggests that committees would be staffed by preference-outliers, relative to the legislative median in plenary, and that committee preferences would be relatively homogeneous (Ibid., 1995). The partisan theory proposes that the dominant party or coalition controls work in the committees while the minority or opposition is under-represented (Shepsle and Weingast, 1995). Committee preferences would be more heterogeneous than under the distributional theory but, rather than reflecting the preferences in the plenary, they would reflect the preferences in the majority coalition (Ibid., 2007).[12] The informational theory proposes that MEPs specialise into policy areas, e.g., economists serve on an economics committee, and consequently, committee preferences are most heterogeneous (Krehbiel, 2010). The committees in the European Parliament roughly reflect the partisan composition in the plenary (Yordanova, 2013). The plenary may be seen as the principal of the committee. Such a distinction would be meaningful if the preferences of plenary median and committee median systematically differ. I address this question in chapter 5. I show that committees are representative of the plenary as a whole and that committees can be treated as the principal on the EP side.[13]

The standing committees play a central role in the legislative process of the Parliament. Once the Parliament receives a Commission proposal, the text is referred to a responsible lead committee. According to the formal procedure, one committee member—the rapporteur—drafts

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[12]While there is no permanent coalition in the European Parliament, cooperation of some combination of the centre-right, the centre-left, and the liberal Groups usually suffices to secure a legislative majority (Yordanova, 2011).

[13]I distinguish between the EP floor median and the committee median in chapter 7 in order to account for any potential difference (even though the differences are small and not systematic).

a text and makes amendments. The committee then votes on the report in a public session. Depending on the time period, this did not have to be the case in the informal arena. The committee did not have to draft a mandate before inter-institutional negotiations commence and, in fact, committees did not do so in the 1999–2009 period (Roederer-Rynning and Greenwood, 2015).[14] After the committee voted on the final report of the rapporteur, the plenary would vote on the text to form the official EP opinion in that reading. Amendments can be made in plenary and the text can be referred back to the committee (Corbett et al., 2016). When the plenary votes on a text that is based on an informal compromise with the Council, amendments are almost never successful (Yordanova, 2013).

The committee member who leads the inter-institutional negotiations with the Council— both in the formal and informal arenas—and who drafts the EP's text, i.e. makes amendments, is the rapporteur. The rapporteur is the agent of the committee. Rapporteurships are prestigious positions and are sought-after by individual MEPs and, due to the influential role that the rapporteur takes-on, by the transnational groups and even the national delegations (Ibid., 2016). The exact rules regarding rapporteur selection vary among committees. Generally, reports are allocated in an auction-like system. Each party group controls a number of points that is proportional to the size of the group (Ibid., 2016). Groups bid for proposals. Reports that are highly sought-after are, therefore, more expensive. The literature on report allocation suggests that the process is competitive and strategic (Kreppel, 2002; Mamadouh and Raunio, 2003; Kaeding, 2004a; Benedetto, 2005; Hausemer, 2006; Høyland, 2006; Costello and Thomson, 2010; Yoshinaka et al., 2010). In chapter 6, I discuss the findings of the literature and show that rapporteur selection is indeed strategic in the sense that it is related to inter-institutional negotiations. Since the advent of the informal arena, committees select agents (rapporteurs) who are closer to the median position of the committee, i.e., policy conflict between principal and agent has become smaller.

The decision to enter into informal negotiations is made in the full committee by simple majority vote if a consensus cannot be reached (Corbett et al., 2016). The rapporteur makes the case for informal negotiations in the committee sessions, which is usually preceded by a meeting of the group coordinators—the whips of the party groups in a committee (Ibid., 2016).

Mandating for inter-institutional negotiations is a responsibility of the lead committee (Corbett et al., 2016) and the practice has changed over time (Roederer-Rynning and Greenwood, 2015). In the period from 1999–2009, the mandate for the informal arena was weak because the committee would only provide general guidelines rather than making amendments to the draft report (Corbett et al., 2016). In 2009–2011, the Code of Conduct—annexed to the Parliament's

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[14]There is some variation among committees which developed their own culture of trilogues (Roederer-Rynning and Greenwood, 2015). I discuss changes over time in more depth in the following section 2.4.

Rules of Procedure (Annex XXI, European Parliament, 2012)—stated that entering informal negotiations should be conditional on a mandate by the committee. However, the practice was not widely followed, criticised by practitioners, and in 2011 the Code of Conduct got legal status which made the mandate of the informal delegation much more solid (Roederer-Rynning and Greenwood, 2015). Since 2016, the mandate is based on a formal vote in plenary. Mandating in the European Parliament was weak in 1999–2009, ambiguous from 2009–2011, and is strong since 2011.

The composition of the delegation was unclear in the early days of the informal procedure, 1999–2009, where only the rapporteur would always lead the informal negotiations and the committee chair would often also be involved (Corbett et al., 2016). The rapporteur could bypass other members of the delegation because informal meetings could be prepared over the phone, by email, took place bilaterally between two institutions and sometimes it was not clear to the participants whether a meeting constituted a trilogue or not (Ibid., 2016). By 2001, the term 'enlarged trilogue' was used when shadow rapporteurs where appointed by a group, which did not have the rapporteur, to monitor the negotiations in the informal arena (Ibid., 2016). In addition, party group coordinators—party whips for their transnational groups in the committees—took part in some trilogues as well (Ibid., 2016). Overall, the rapporteur is the only clearly identifiable legislator who is always in charge of inter-institutional negotiations. Other actors may have taken part but the process is fluid, varies over time and committees (Roederer-Rynning and Greenwood, 2015).

The practice of reporting back from the informal arena is also subject to change and varies across committees (Roederer-Rynning and Greenwood, 2015). While rapporteurs would sometimes inform the full committee in a public session, more often—especially in the period from 1999–2009—the rapporteur would report back privately to the committee chair and some group coordinators (Corbett et al., 2016).

To summarise, the committee is the principal on the EP side and the rapporteur is the agent. In the period from 1999–2009, the mandate of the rapporteur was weak, there were no clear rules on reporting back, and the composition of the delegation was unregulated as well. In the intervening period from 2009–2011 clear rules on mandating, composition of the delegation, and reporting back where in place but not widely followed. From 2011 onwards, the mandate of the Parliamentary delegation is solid, the delegation is large and reporting back is carried out diligently (Corbett et al., 2016; Roederer-Rynning and Greenwood, 2016; Kluger Dionigi and Koop, 2017). Moral hazard was a significant problem in the first decade of informal negotiations (1999–2009). By 2009, the problem had been mitigated and since 2011, the problem should be weak.

## 2.4 Evolution of the Rules Governing Arena Choice

In the 1999–2009 period, informal inter-institutional negotiations between the Council and the Parliament were governed by relatively little regulation. The practice of early conclusion and informal inter-institutional negotiation drew criticism from scholars and practitioners alike, mainly for the lack of transparency (Farrell and Héritier, 2003; Shackleton and Raunio, 2003; Farrell and Héritier, 2004; Corbett et al., 2016; Héritier and Reh, 2012; Reh, 2014; Roederer-Rynning and Greenwood, 2015; Kluger Dionigi and Koop, 2017). Practice and regulation with respect to informal inter-institutional negotiation and early conclusion have changed over time. The following discussion focuses on the EP side, where moral hazard was a more severe problem than in the Council. Table 2.1 summarises key rule changes for the EP.

In 2004, the Parliament adopted the 'Guidelines for First and Second Reading Agreements under the Codecision Procedure' (Kluger Dionigi and Koop, 2017). The guidelines suggested a clearer mandate by the committee prior to informal negotiations. These changes had the character of a norm rather than a rule and were widely ignored (Roederer-Rynning and Greenwood, 2015, 2016). Therefore, I do not expect that the guidelines affected the mandate of the rapporteur and the resulting leeway in informal negotiations.

A more serious attempt to regulate trilouges came with the Parliament's adoption of the 'Code of Conduct for Negotiating in the Context of the Ordinary Legislative Procedure' in 2008 which was then annexed to the Parliament's rules of procedure in 2009 as 'Rule 70' (Kluger Dionigi and Koop, 2017). The three key changes are: (1) committee or plenary amendments were to form the mandate for the Parliament's delegation, (2) the committee (rather than the group coordinators) decides upon the composition of the delegation, and (3) the committee has access to documents produced in trilogues (Ibid., 2017). It became easier for the committee to monitor the rapporteur because access to trilogues and the documents, produced in triologues, was broadened. Despite the rule changes, criticism about the lack of transparency of the EP in inter-institutional negotiations persisted (Roederer-Rynning and Greenwood, 2016). Council officials, e.g., complained that it is hard to follow the preparatory work of the Parliament where it forms its position because some of the preparatory meetings are not public (Kluger Dionigi and Koop, 2017, p. 55). On balance, moral hazard was mitigated but persisted even after the 2009 reform.

In 2012, the code of conduct was again amended and received legal status. The new rules stipulate that informal negotiations should start only after a committee report, which forms the mandate, has been adopted (Ibid., 2017). Further, the delegation should now always include the committee chair or vice-chair, and the shadows from each political group in the committee (Ibid., 2017). Finally, the delegation must report back to the committee. Moral hazard in the

informal arena is based on an informational advantage of the rapporteur over the committee. This advantage should be severely reduced with the 2012 rule change.

The most recent change to the Parliament's rules of procedure came into effect in 2017 and is outside the scope of this project (1999–2014). Previously informal negotiations could, under exceptional circumstances, commence before a committee report had been adopted. A committee report was now required under all circumstances (Ibid., 2017). Moreover, the plenary is now required to vote on the committee report, providing the mandate. The Parliament's mandate should be 'iron-clad' and moral hazard should be a minor issue.

Table 2.1: Rule Changes in the EP that Mitigated Moral Hazard

| Time | Key Changes |
|------|-------------|
| 2004 | (1) committee encouraged to draft a clear mandate prior to informal arena |
| 2009 | (1) committee or plenary amendments were to form the mandate |
|      | (2) committee decides on the composition of the delegation |
|      | (3) committee gain access to trilogue documents |
| 2012 | (1) rules governing the informal arena receive legal status |
|      | (2) committee adopts mandate before delegation to informal arena |
|      | (3) delegation shall always include committee chair or vice-chair and shadows from all groups, represented in the committee |
|      | (4) delegation must report back to full committee |
| 2017 | (1) previously, under 'exceptional circumstances,' negotiations could commence without a mandate—not any more |
|      | (2) a vote in plenary provides the mandate for the informal arena |

Note: 2004 change: 'Guidelines for First and Second Reading Agreements under the Codecision Procedure'. 2009 change: 'Code of Conduct for Negotiating in the Context of the Ordinary Legislative Procedure,' annexed to the EP's rules of procedure as rule 70. 2012 change: Rules of procedure amendments. 2017: Rules of procedure amendments.

In this section, I have discussed the rule changes that have mitigated moral hazard on the EP side over time. Throughout the entire period (1999–2014), the problem may have persisted but it became less severe. In the following chapter, I develop a theory of delegation to the informal arena.

# Chapter 3

# A Spatial Model of Delegation to the Informal Arena

In this chapter, I develop a theory of delegation to the informal arena under the ordinary legislative procedure. Before doing so, I discuss the general decision-theoretic approach in section 3.1. I analyse the choice to delegate using a spatial model within a rational choice institutional framework.

The literature on legislative decision-making in the European Union is rich in theoretical models. I discuss these models with a focus on procedural models and cooperative bargaining solutions in section 3.2. My work differs from these models because I explain the decision to delegate to the informal arena. Procedural models explain the effects of the legislative rules on influence over policy outcomes. Comparative bargaining solutions explain influence over policy outcomes based on preferences, preference intensities and actor capabilities. These models are relevant because they inform my assumptions of what policy outcomes would be in the formal and informal arenas.

In section 3.3, I develop a parsimonious model of delegation, assuming that the Council always wants to delegate, i.e., the Council is not an actor. The model predictions depend on actor preferences and I assume that the principal incurs a cost for not delegating to the informal arena. The key predictions of the model are: (1) Shirking (deviating from the mandate) is rarely a wining strategy for the agent (unless this also benefits the principal). (2) The principal does not delegate if agency-drift is not beneficial for the principal unless; (3) the cost (legislative workload) of not delegating rises. (4) Agency-drift may be beneficial to the principal in which case delegation takes place.

In section 3.4, I relax model assumptions. First, I relax the assumption that the Council always wants to delegate. In this model, agency-drift becomes rare because the Council vetoes

delegation where agency-drift would have been beneficial for the principal. The predictions of this model are particularly benign because it predicts almost no agency-drift. However, some agency-drift occurs because the Council accepts drift, the larger its cost of legislating in the formal arena. Second, I disaggregate the Council to principal and agent. In this model, the space of delegation decreases and some agency-drift can again occur depending on the cost parameters for the principals. Overall, the predictions of these extensions are relatively similar. Third, I discuss differentiating between the committee median in the EP and the floor median and the effect of introducing a status quo.

In section (3.5), I present the proofs to the simple model without extensions. In the proofs, I ignore the cost parameter, i.e., I restrict it to be zero. The aim is to show that the agent rarely has an incentive to shirk (unless this is beneficial for the principal). That decision is not affected by the cost parameter. The cost parameter affects the principal's decision on delegation. Consequently, while shirking leading to agency-drift is rare (unless also beneficial for the principal), it may occur when the cost of legislating in the formal arena is large.

## 3.1 New Institutionalism and Spatial Models

In this project, I apply rational choice institutionalism. Rational choice institutionalism assumes that outcomes are produced by the interaction of legislative actors who are bound by a set of constraints imposed upon them by rules and practices. Actors have interests and they attempt to influence policy outcomes such that those outcomes reflect their interests as closely as possible.

The behavioural revolution in political science took the study of institutions away from legalistic and literary description towards an actor-centred approach (Gunnel, 1988). Rationalist theories—a strand of behaviouralism—aggregate preferences and beliefs into outcomes while treating the preferences and beliefs themselves as exogenously given (Shepsle, 1989). Such rationalist approaches operate in a vacuum without a society or a set of rules (Granovetter, 1985). 'Why so much stability,' was the question asked that followed from the discovery that every agreement, that a majority of actors prefer to the status quo, can itself be defeated by another agreement ad infinitum (Black, 1958; Arrow, 1963; McKelvey, 1976, 1979). A stable equilibrium should, therefore, not exist.

Rational choice approaches turned to institutions to solve the problem of instability culminating in 'rational choice institutionalism' or sometimes 'new institutionalism'. Set rules and practices that are often enshrined in legal documents induce structure into the system and allow stable equilibria, hence the term 'structure-induced equilibrium' (Shepsle and Weingast, 1981, 1984; Shepsle, 1989)—an equilibrium concept that was applied in legislative politics. The new

institutionalists' study the effects that rules or, more generally, institutional design have on the behaviour of actors within the system and the outcomes that they bring about.

Politics are often conceived of as spatial and spatial models have been widely employed in political science since the adoption of the median voter theorem (Downs, 1957; Black, 1958) from economic theory (Hotelling, 1929). Spatial models make assumptions about (1) the political space, (2) preference orderings, (3) behaviour, (4) institutions, (5) information (Krehbiel, 1988). The dimensionality of the policy space is assumed, if multiple dimensions are considered, the dimensions are independent—orthogonal. Preferences are usually considered to decrease monotonically from an ideal point. Preference orderings are, therefore, single-peaked. Legislators behave according to their preferences and may or may not have to 'vote' sincerely—myopic voting. Institutional constraints are described and treated as exogenous. Information is either perfect—preference positions are common knowledge—or incomplete—some legislators rely on probabilistic estimates of others' preferences. Furthermore, the equilibrium concept must be chosen, which is usually a variation of a Nash equilibrium where an outcome is stable if no-one can improve by choosing a different action.

In chapter 2, I have discussed the differences between the formal and informal arenas. The key differences—participation, information (limited due to seclusion), and mandating—constitute institutional constraints. The new institutionalism literature further suggests that agenda-setting power may be potent (Baron and Ferejohn, 1989). The presidency is the agenda-setter in the Council (Tallberg, 2004b). However, there is no variation between formal and informal arenas. The agenda-setter on the EP side is the rapporteur, again in both formal and informal arenas. In contrast to the Council side, the amendment rule changes de-facto in the Parliament. Technically, the amendment rule is the same for compromises from the informal arena and texts from the formal arena. In practice, however, the informal compromise is submitted to an up-or-down vote (Reh, 2012). Committee amendments that are tabled in plenary alongside the informal agreement have a very low chance of being accepted (Yordanova, 2013). Baron and Ferejohn (1989) have shown that agenda-setting power is dramatically more potent in combination with a closed amendment rule. Consequently, the rapporteur may gain influence in the informal arena due to the de-facto change in the amendment rule as well.

Gate-keeping powers—again in combination with the amendment rule—impact legislators' influence over policy and hence their behaviour. Under complete information—a legislator knows the preferences of other legislators—the gate-keeper knows that if the amendment rule is open, the proposal will be amended such that it reflects the floor median's preference and will, therefore, only propose when she prefers the floor median to the status quo (Denzau and Mackay, 1981). The Commission has the sole right to initiate legislation but it proposes legislation that

is requested by the Council or the Parliament and because both can re-write the Commission proposal, the Commission is often viewed as inconsequential for policy outcomes (Crombez and Vangerven, 2014). Neither committees within the Parliament nor the Council presidency have gate-keeping powers because legislation can originate from multiple sources.

Bargaining models often describe legislators as impatient, where patience increases in $\delta$ which varies between zero and one. A legislator with a $\delta$ of one would be indifferent between receiving some price in this period and receiving the same price in the following period. A legislator's payoff or influence is a function of impatience where more patient negotiators receive larger payoffs but this effect decreases as the size of the legislature increases (Baron and Ferejohn, 1989). Negotiations in the informal arena essentially shrink the size of the 'legislature'—fewer members of both chambers are actually involved in the law-making. Therefore, impatience may impact legislators' influence in the informal arena more than in the formal one and at the same time, the more impatient the principal, the more likely informal negotiations (Rasmussen, 2011).

Models of decision-making in the European Union have focused on the effects that the rules have on the influence of the legislative chambers. These procedural models of legislative decision-making are game-theoretic and spatial (Crombez and Vangerven, 2014). In the following, I discuss the literature on models of decision-making in the European Union, starting with procedural models and then moving to cooperative bargaining solutions.

## 3.2    Models of EU Decision-Making

The theoretical literature on decision-making in the European Union is rich and provides valuable insights for this project. I focus on the most common models: procedural models and cooperative bargaining solutions. Procedural models analyse the effects that rules have on outcomes. Cooperative bargaining solutions assume that rules reflect power and focus on preferences, preference intensities, and actor capabilities as determinants of outcomes. These models inform my expectations of where the outcome of legislative negotiations would be located in both the formal and informal arenas. In my theoretical models, actors lose utility, the further the outcome from their preferences. Hence, the importance of a plausible expectation on the location of the outcome.

### 3.2.1    Procedural Models

Early procedural models focused on institutional power under the different legislative procedures— codecision, consultation, and consent (Steunenberg, 1994; Tsebelis, 1994; Crombez, 1996, 1997).

The models by Steunenberg (1994) and Crombez (1996, 1997) are uni-dimensional perfect information games and analyse decision-making powers under consultation. They conclude that the Parliament has no legislative powers under this procedure but that the Commission has significant agenda-setting powers. The reason for the Commission's power is the change in the voting threshold in the Council. If the Council wants to amend a Commission proposal, it needs to do so by unanimity, whereas a qualified majority suffices to accept the Commission proposal.

The Commission does not have gate-keeping powers because it must propose upon a Council request—and under codecision also upon a Parliamentary request (Crombez et al., 2006). The Commission does, however, have an ex-post veto because it can withdraw a proposal that it dislikes (Ibid., 2006). Under consultation, a proposal is successful if the Commission and a qualified majority in the Council prefer it to the status quo. The Commission does not 'keep the gates closed,' unless it is a preference outlier (Ibid., 2006).

The Commission loses its power under the ordinary legislative procedure (formerly codecision) to the EP which becomes a genuine co-legislator to the Council (Crombez, 1996, 1997). The Commission proposal can be amended jointly by the EP and the Council in conciliation (Ibid., 1996, 1997). To amend in conciliation, the EP and the Council would have had to go through all three reading stages which requires some patience on the side of the legislators, i.e., the legislators had to discount the time it takes to legislate.[1] With the informal procedure, the EP and the Council can jointly amend the Commission proposal already at first reading. This further decreased the power of the Commission and may contribute to explaining why the EP and the Council resort to the informal arena often.

The debate on procedural powers in EU legislative decision-making has settled on the consensus that the Council and the Parliament are genuine co-legislators and that the Commission has lost its legislative powers—agenda-setting and gate-keeping (Crombez and Vangerven, 2014). The outcomes of legislative negotiations depend on the bargaining powers of the Council and the Parliament (Ibid., 2014).

The inter-institutional bargaining stage represents the second phase in legislative decision-making in the European Union. Prior to inter-institutional negotiations, the Parliament and the Council form their positions in intra-institutional negotiations. In spatial models, collective actors can be reduced to the pivotal actors and be treated as if unitary (Tsebelis, 2002). The outcomes, therefore, depend on the preferences of the actors that constitute the institutions and on the voting rules. In the Parliament, the voting rule in the decisive stage—either at first reading or in conciliation—is simple majority voting. Consequently, the pivotal actor in

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[1]Following the logic of backwards induction, the legislators would not actually go through all three reading stages. They would—under complete information—know how the game plays out in the third reading and, therefore, come to the same conclusion at first reading but the Council and the Parliament would still discount the time it takes to legislate.

the Parliament is the floor median (Steunenberg and Selck, 2006). The voting threshold in the Council is either unanimity or a qualified majority. In case of unanimity voting, the pivots in the Council are the most extreme member states (Ibid., 2006). In case of qualified majority voting, the pivots are the member states which complete a coalition of two thirds of the voting weights from the left or from the right.[2]

### 3.2.2 Cooperative Bargaining Solutions

Procedural models focus on the rules and, thereby, ignore the power of the actors in the legislative 'game' (Achen, 2006b). The logic of the rules-based spatial model rests on the preference positions alone. Cooperative bargaining models assume that the rules of an institution reflect the power of the actors that constitute it (Ibid., 2006). A common approach is to rely on the Nash Bargaining Solution (Nash Jr., 1950) in which actors may make offers simultaneously and where outcomes depend on preferences and the status quo (Schneider et al., 2010). The Nash Bargaining Solution chooses the outcome $O$ such that it maximises the product of the differences of the utilities $u$ that actors $a \in n$ receive from the outcome $O$ and the status quo $Q$ (Ibid., 2010).[3]

$$\max_{O \in \Theta} \prod_{a=1}^{n} = [u_a(O) - u_a(Q)] \tag{3.1}$$

The Nash Bargaining Solution is approximately similar to the Ståhl-Rubinstein sequential bargaining model (Rubinstein, 1982) when offer and counter-offer follow in close succession (Binmore et al., 1986; Schneider et al., 2010). The international relations literature suggests that actors' capabilities impact their success (Schneider, 2005). The asymmetric Nash Bargaining Solution (Nash Jr., 1953) weights the differences in actors' utilities by state capacity (Schneider et al., 2010):

$$\max_{O \in \Theta} \prod_{a=1}^{n} = [u_a(O) - u_a(Q)]^{c_a} \tag{3.2}$$

In addition to state capacity, preference intensity/salience is an important predictor of success, enables log-rolling and increases the probability of a compromise (Ibid., 2010). A possible

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[2]The member states would be ordered from left to right according to their preferences. Counting from the left, the member state that completes the two-thirds majority is the first pivot. Similarly, counting from the right, the member state that completes the two-thirds majority is the second pivot.

[3]The status quo can be replaced by a disagreement point that would be the utility of the outcome if the actor disagrees and, thereby, includes the possibility to be lucky (Schneider et al., 2010).

extension of the Nash Bargaining Solution that was chosen in Schneider et al. (2010) and includes salience $s$ as a weight is:

$$\max_{O \in \Theta} \prod_{a=1}^{n} = s_a[u_a(O) - u_a(Q)] \tag{3.3}$$

Schneider et al. (2010) test the predictive power of models (3.1), (3.2) and (3.3) against each other using the decision-making in the European Union data set (DEUI) (Thomson et al., 2006). The DEUI is based on expert interviews and includes estimates of policy positions of the member states, the Commission, and the Parliament as well as respective salience scores, outcomes, and reference points. On the ordinary legislative procedure, all bargaining models outperform a baseline model—the median preference of the legislators, i.e. the Black (1958) spatial model. The model that includes salience performs best and the model that includes capabilities performs worst among the bargaining solutions. The results are not conclusive due to measurement problems in the DEUI (and also DEUII) data (Slapin, 2014) and the small sample size.

The so-called 'compromise model' (Van den Bos, 1991) is an approximation of the Nash Bargaining Solution (Achen, 2006b). It includes preferences, power/capacity, and preference intensity/salience, where preferences are weighted by salience and power and then averaged over all actors.

$$O = \frac{\Sigma_{a=1}^{n} p_a s_a x_a}{\Sigma_{a=1}^{n} p_a s_a} \tag{3.4}$$

where $p$ and $s$ are the weights of actor $a$'s preference $x$. Salience measures that vary across files and legislative actors are hard to come by. The the DEU data includes such a measure where salience is based on expert opinion. Power in the legislative game is usually approximated by the Shapley Shubik index—a voting power index (Shapley and Shubik, 1954). The compromise model is the solution for actors' utility formulated as weighted quadratic loss functions:[4]

$$u_a = -s_a v_a (o - x_a)^2 \tag{3.5}$$

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[4]Quadratic loss functions assume that actors lose utility, the further the outcome form their ideal points. The marginal loss increases with distance. Common alternatives are linear loss functions and normal loss functions. In linear loss functions, the loss-rate is constant. Normal loss functions look very similar to quadratic loss functions except in the tails. In normal loss functions, the rate of utility loss decreases for outcomes that are extremely distant to the ideal point. For quadratic loss functions, marginal utility loss keeps increasing with distance.

where $s$ and $v$ are salience and power weights respectively, $o$ is a policy outcome and $x$ is the preference of actor $a$ (Achen, 2006b). The compromise model is the most commonly applied model for Council bargaining (see e.g. Thomson, 2011; Costello and Thomson, 2013; Rasmussen and Reh, 2013) but it can also be applied to the inter-institutional bargaining stage (Achen, 2006b). Furthermore, the compromise model is consistently among the best predictive models of Council decision-making (Bueno de Mesquita and Stokman, 1994).[5]

In a test to predict outcomes in the ordinary legislative procedure, where procedural models were pitted against cooperative bargaining solutions and other candidates, no decision-model could outperform the simple mean of all legislators' preferences (Achen, 2006a). Slapin (2014) shows that the data most commonly used to test EU legislative decision-making models—the decision-making in the European Union data sets DEUI and DEUII (Thomson et al., 2006, 2012)—is stacked against procedural decision-making models because the preferences of the member states are measured more precisely than the preferences of the Commission and the Parliament. Accounting for systematic measurement error reveals that the data is insufficient to distinguish predictive power of the theoretical models (Ibid., 2014). The empirical literature that compares the power of the institutional actors (e.g., Thomson, 2011; Costello and Thomson, 2013)—concluding that the Council is generally more influential than the Parliament even under the ordinary legislative procedure—has heavily relied on the DEUI and DEUII data sets as well and suffers from the same measurement problem. Slapin (2017) compares power-based bargaining approaches to rule-based approaches in the intergovernmental conference that led to the Amsterdam Treaty and finds that a procedural model that takes the status quo into account, better predicts bargaining outcomes.

In summary, the verdict which theoretical model best predicts decision-outcomes in the European Union is still out. Whether procedural models or cooperative bargaining models fare better remains to be seen but both modelling approaches produce valuable insights. The substantive insights form procedural models of legislative decision-making in the European Union are that the Commission is not a relevant legislative actor and that the Parliament and the Council are genuine co-legislators under the ordinary legislative procedure. Bargaining models and empirical tests show that decision-outcomes are well approximated by the mean of the preferences of the legislators.

In my theoretical approach, I rely on these findings in assuming that the negotiation outcome is the midpoint between the negotiators, i.e., the mean. The outcome then depends on who negotiates and whether negotiators in the informal arena deviate from their mandates (shirk) or not.

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[5]The compromise model finished third in a setup favoured by the authors, moved to second position in a robustness check and to first position with a different operationalisation of salience (Achen, 2006b).

## 3.3 A Theory of Delegation in EU Legislative Politics

In the following, I develop a model of delegation to the informal arena that builds on the insights from models of EU decision-making. The goal of these models is usually to predict policy outcomes or to showcase the effect of rule changes. The goal of my model is to predict whether delegation takes place. In line with the rich modelling tradition, I assume that legislators have preferences over outcomes that (partially) determine the decision to delegate to the informal arena. I proceed with a parsimonious model, that although simple, produces the powerful insight that shirking is seldom a winning strategy in the informal arena. In this model, the Council always wants to delegate; it is, therefore, not an actor. I relax this assumption in section XXX. I then disaggregate the Council to principal and agent and discuss distinguishing between committee median and EP floor median and how the status quo would affect the results.

I employ a spatial model of politics. Actors are rational and have single-peaked and symmetric preferences in a uni-dimensional policy space (Riker and Ordeshook, 1973). A one-dimensional model in EU policy-making is justified because the EU uses strict germaneness rules, i.e., a compromise to a budgetary issue cannot be overturned by an amendment on employment rights (Crombez and Hix, 2015). Strict germaneness implies that any dimension can be analysed in isolation (Krehbiel, 1988). Furthermore, Tsebelis and Money (1997) show that in bicameralism, generally, all inter-institutional conflict unfolds along one main dimension. The policy space of the European Union is discussed in more depth in chapter 4.1, however to anticipate, I interpret the underlying dimension to be ideological conflict, i.e., left–right politics.

I have motivated this project with the expectation, from the literature on the informal arena in the EU, that informal decision-making leads to agency-drift (Farrell and Héritier, 2004). The potential for the agent to deviate exists in the EP but not in the Council. In the words of Bendor et al. (2001), the EP principal is not able to properly check on its agent in the period from 1999–2009. In the intervening period from 2009–2011, the EP principal may be able to check on the agent and since 2011, the principal is most likely able to check on the agent. The principal in the Council is, and always has been, able to check the agent (see section 2.3.1). The potential for policy-drift may, therefore, exist in the period from 1999–2009 and potentially even afterwards. The 'culprit' is the Parliament.

So far, when discussing moral hazard, I have focused on the potential for shirking, which then leads to agency-drift. However, whether moral hazard leads to agency-drift also depends on the agent's incentives to shirk. In the following, I model the incentive structure of the legislative actors which depends on policy conflict between principal and agent and their relative locations vis-à-vis the Council. Policy conflict is defined as the distance between the most preferred outcomes of any two actors. In the EU, the Commission, usually, only proposes if it believes

that scope for compromise exists (König and Junge, 2009). Yet, substantial political conflict over EU legislation persists (Thomson et al., 2006).

I assume perfect information. Preferences are common knowledge. The principal, for instance, knows the position of the agent and the agent knows that the principal knows. Both the principal and the agent know the position of the Council. The Council is not an actor. The equilibrium concept in the 'baseline model,' and in the extensions, is the subgame perfect Nash equilibrium.

The outcome in the formal arena is the midpoint between principal and Council. The outcome in the informal arena is the same if the agent does not shirk, i.e., the agent adheres to the mandate. If the agent shirks, the outcome is the midpoint between the agent and the Council. The location of the outcome is based on the models of EU decision-making. The procedural models suggest that the EP and the Council are genuine co-legislators and the Commission is not relevant (Crombez and Vangerven, 2014). The co-operative bargaining solutions suggest that the outcome is well approximated by the mean of the actor's preferences (Achen, 2006a). The empirical literature on actor's influence in the legislative 'game' of EU decision-making uses the same expectation as a counterfactual, either implicitly (Thomson et al., 2006; Häge and Kaeding, 2007; Rasmussen and Reh, 2013) or explicitly (Warntjen, 2008; Thomson, 2011).

Without loss of generality, I impose linear loss functions on the actors, i.e., actors lose utility linearly the further the outcome from the preferred outcome.[6]

### 3.3.1 The Baseline Model

The legislative game unfolds in two steps. First, the principal decides whether to delegate ($d$) or not ($\neg d$) and second, the agent decides whether to shirk ($s$) or not ($\neg s$). Figure 3.1 illustrates the extensive form of the game. Outcome (1) is a compromise in the formal arena and outcomes (2) and (3) are compromises in the informal arena. In (2), the agent does not shirk and in (3), the agent shirks. The outcomes in (1) and (2) are the same—the midpoint between principal and Council. In (3), the outcome is the midpoint between the agent and the Council. Thus, shirking leads to agency-drift.

I assume that the principal incurs a cost $c$ for not delegating. The cost is motivated by the literature on the informal arena which suggests that the informal arena was introduced to increase legislative efficiency (Farrell and Héritier, 2003; Shackleton and Raunio, 2003). The cost conceptualises that representatives in the committee have to specialise and acquire knowledge on a specific piece of legislation. They have to hold committee meetings, vote on amendments,

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[6]The findings depend on symmetry and are equivalent for quadratic or normal loss functions. See the appendix section 3.5 for the proofs. Linear loss functions are employed for convenience.

Figure 3.1: Decision Tree: Baseline Model
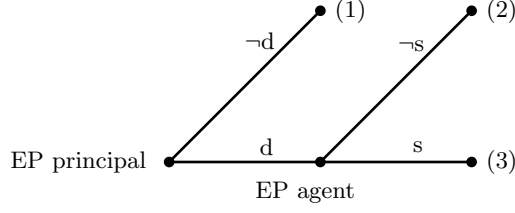


Note: The actors in the baseline model are the principal in the Parliament (EP principal) and the agent in the Parliament (EP agent). The principal's actions are: delegate (d) or not delegate (¬d). The agent's actions are: shirk (s) or not shirk (¬s). The Council is not a proper actor in this model. I assume that the Council always wants to delegate to the informal arena. The three terminal nodes are numbered in brackets. Outcome (1) is a compromise in the formal arena and outcomes (2) and (3) are compromises in the informal arena. In (2), the agent does not shirk and no agency-drift occurs. In (3), the agent shirks, leading to agency-drift.

interview policy experts and interest group representatives (Corbett et al., 2016). Unless the cost is exactly zero, the principal always prefers delegation if the agent does not shirk.

The agent does not incur a cost if delegation does not take place. The agent leads the negotiations in the formal arena as well as in the informal arena. In both arenas, the agent has to specialise. In table 3.1, I list the utilities of the principal and the agent by outcome.

Table 3.1: Utilities in the Legislative Game by Outcome

| Abbreviations | Policy outcome $o$ | EP principal $p$ | EP agent $a$ |
|---|---|---|---|
| Outcomes & actions | | | |
| (1) ¬d | $(x_p + x_{cou})/2$ | $-|x_p - o| - c_p$ | $-|x_a - o|$ |
| (2) d,¬s | $(x_p + x_{cou})/2$ | $-|x_p - o| - c_p$ | $-|x_a - o|$ |
| (3) d,s | $(x_a + x_{cou})/2$ | $-|x_p - o|$ | $-|x_a - o|$ |

Note: The principal decides whether to delegate (d) or not to delegate (¬d). The agent's actions are: shirk (s) or not shirk (¬s). The preferences are abbreviated as $x$, subscripts identify the actors. Subscript $p$ is the principal, $a$ is the agent and $cou$ is the Council. The principal incurs a cost $c$ for legislating in the formal arena.

The agent shirks if:

$$-|x_a - \frac{x_a + x_{cou}}{2}| > -|x_a - \frac{x_p + x_{cou}}{2}| \tag{3.6}$$

where, $x$ is the preference and the actors are $a$ for the agent, $p$ for the principal and $cou$ for the Council.

The principal's decision depends on the anticipated behaviour of the agent. If the agent shirks, i.e., inequality 3.6 holds, the principal delegates if:

$$-|x_p - \frac{x_a + x_{cou}}{2}| > -|x_p - \frac{x_p + x_{cou}}{2}| - c_p \tag{3.7}$$

The outcome in the formal arena is the same as the outcome in the informal arena if the agent does not shirk. Consequently, the principal always delegates—if $c_p$ were exactly 0, the principal would be indifferent between $d$ and $\neg d$.

### 3.3.2 The Moderate Agents Environment

In one dimension, there are two basic policy environments that cover the possible constellations of the actors in the policy space. I label the first policy environment 'moderate agents'. In it, the agent is located between the principal and the Council.[7] Figure 3.2 illustrates the environment. 'Moderate agents (1)' and 'moderate agents (2)' are similar—they are mirrored.

Figure 3.2: The Moderate Agent's Environment
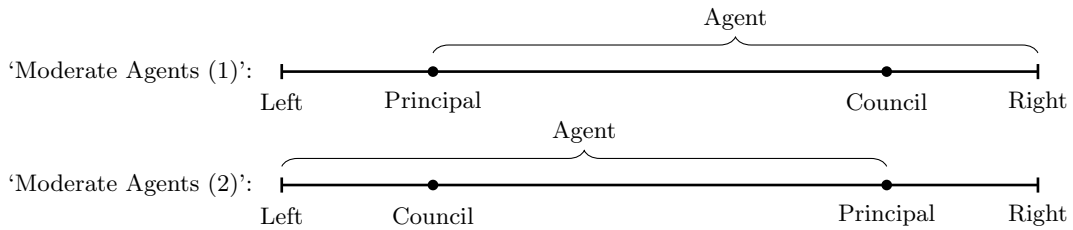


Note: In the moderate agent's environment, the agent is located anywhere along the space marked by the brace. Moderate agents (1) is the mirror of (2). Both environments are similar.

The 'moderate agents' environment is intuitively problematic for the principal. If the agent shirks, the outcome is the midpoint between the agent and the Council. This outcome is undesirable for the principal because it is further from the principal's ideal point than the outcome from the formal arena or the informal arena if the agent does not shirk. Furthermore, it seems intuitive that the agent might want to collude with the Council if the agent is close to the Council. To recap, the agent shirks if:

$$-|x_a - \frac{x_a + x_{cou}}{2}| > -|x_a - \frac{x_p + x_{cou}}{2}| \tag{3.8}$$

'In moderate agents (1)', the agent is indifferent between shirking ($s$) and not shirking ($\neg s$) at two-thirds of the distance between principal and Council from the principal.

$$x_p + \overline{x_p \ x_{cou}} \times \frac{2}{3} \tag{3.9}$$

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[7]This environment subsumes cases where the Council is between principal and agent.

'In moderate agents (2)', the agent is indifferent at:

$$x_p - \overline{x_p\ x_{cou}} \times \frac{2}{3} \tag{3.10}$$

Figure 3.3 illustrates 'moderate agents (1).' The intuition is that agent ($a$) has no incentive to shirk unless the agent clearly sides with the Council. The principal would anticipate that the agent shirks and stay in the formal arena, unless the cost $c_p$ is large.

Figure 3.3: When Does the Agent Shirk in the 'Moderate Agents Environement?'
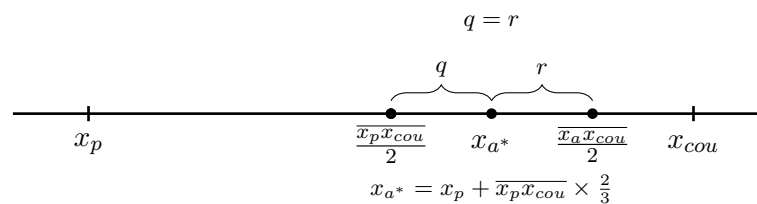


Note: The figure illustrates 'moderate agents (1).' The preferences are $x$, the principal is $p$, the agent is $a$ and the Council is $cou$. The midpoint between principal and Council is $\frac{\overline{x_p x_{cou}}}{2}$. The distance from that point to the agent is $q$. The midpoint between agent and Council is $\frac{\overline{x_a x_c}}{2}$. The distance from that point to the agent is $r$. Whether the agent shirks depends on the constellation of the three actors, generally he is indifferent when $q$ equals $r$ (the agent is at two thirds the distance between between principal and Council).

To summarise the 'moderate agents' environment, shirking is seldom a 'winning' strategy for the agent. The agent does not have an incentive to shirk unless the agent is much closer to the Council than to the principal. Furthermore, shirking leads to agency-drift which is clearly undesirable for the principal. The principal will not delegate to shirking agents in the 'moderate agents' environment unless the cost $c$ is large—the principal incurs a cost for legislating in the formal arena.

Whether agents who much closer to the Council than to the principal are common, is an empirical question. However, it seems that agency-drift is an unlikely outcome in the policy environment.

### 3.3.3 The Extreme Agents Environment

In the second policy environment, 'extreme agents,' the problem of delegation is much more benign for the principal. Shirking is the dominant strategy for the agent who will always do so. This will lead to agency-drift. However, such drift is beneficial for the principal, unless the agent is extremely far from the principal. Figure 3.4 illustrates the 'extreme agents' environment. Both 'extreme agents (1)' and 'extreme agents (2)' are similar—they are mirrored.

Figure 3.4: Selection of Extreme Agents
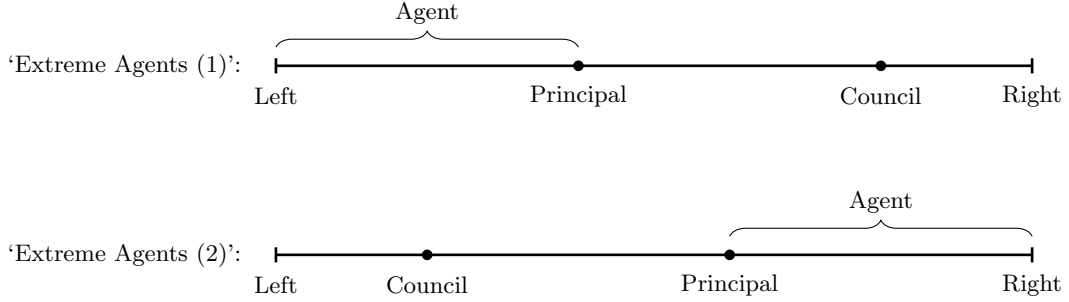


Note: In the extreme agent's environment, the agent is located anywhere along the space marked by the brace. Extreme agents (1) is the mirror of (2). Both environments are similar.

The principal must decide whether to delegate ($d$) or not ($\neg d$). To recap, the principal delegates as long as:

$$-|x_p - \frac{x_a + x_{cou}}{2}| \quad > \quad -|x_p - \frac{x_p + x_{cou}}{2}| - c_p \tag{3.11}$$

In 'extreme agents (1),' the principal is indifferent at:

$$x_p - \overline{x_p\ x_{cou}} \times 2 + c_p \tag{3.12}$$

In 'extreme agents (2),' the principal is indifferent at:

$$x_p + \overline{x_p\ x_{cou}} \times 2 + c_p \tag{3.13}$$

Figure 3.5 illustrates 'extreme agents (1)' under the assumption: $c_p = 0$. Setting the cost to zero, is the 'best' case scenario for the Council because the least agency-drift occurs. With increasing cost, the principal is more and more willing to delegate to agents who are ever more extreme.

Figure 3.5: Delegation to an Agent whose Policy Position is Extreme
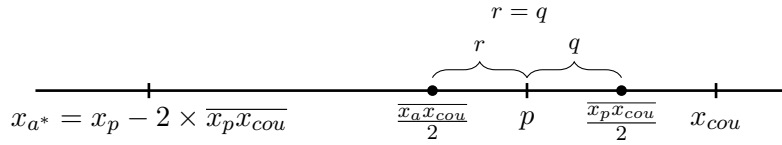


Note: The figure presents 'extreme agents (1).' Preferences are abbreviated $x$, the principal is $p$, the agent is $a$ and the Council is $cou$. The midpoint between principal and Council is $\frac{\overline{x_p x_{cou}}}{2}$. The distance from that point to the principal is $q$. The midpoint between agent and Council is $\frac{\overline{x_a x_{cou}}}{2}$. The distance from that point to the principal is $r$. The agent always shirks, whether that is beneficial to the principal depends on the constellation of the three actors, generally she is indifferent when $q$ equals $r$ (the agent is at twice the distance between principal and Council from the principal).

The intuition of the 'extreme agents' environment is that agency-drift occurs because the principal benefits from such drift. The principal will not delegate when the agent is extremely far from the principal. However, with increasing cost, the likelihood of delegation increases. This scenario is problematic because it predicts agency-drift.

The predictions from the baseline model also suggests that the principal has an incentive to select 'extreme agents' in order to benefit from delegation. However, these predictions raise the question why the Council would accept delegation to 'extreme agents.' In summary, the agency-drift prediction crucially depends on the assumption that the Council always wants to delegate. This assumption seems too strong, given that agency-drift would occur in the 'extreme agents' environment and that the principal should select such agents. I, therefore, relax this assumption in the following model extension.

## 3.4   Model Extensions

In the previous section, I have developed the baseline model to explain delegation to the informal arena. The model predictions depend on the policy environment. In the 'moderate agents' environment, shirking is seldom a winning strategy for the agent. However, in the 'extreme agents' environment, agency-drift should not only always occur, this drift is also beneficial for the principal. The principal has an incentive to select such agents. In the following, I relax the assumption that the Council always wants to delegate and show that the model predictions become more benign.

### 3.4.1   The Council Becomes an Actor

The model extension that treats the Council as an actor is labelled 'the Council becomes an actor model.' In this model, the Council also decides whether to delegate ($d$) or not ($\neg d$). Figure 3.6 illustrates the extensive form of the legislative game. The Council can now veto delegation

which increases the number of outcomes to four. Outcomes (1) and (2) are compromises from the formal arena and outcomes (3) and (4) are compromises from the informal arena. The sole difference between outcomes (1) and (2) is which actor vetoed delegation. In outcome (3), the agent does not shirk and in (4), the agent shirks, leading to agency-drift.

Figure 3.6: Decision Tree: Council Becomes an Actor Model
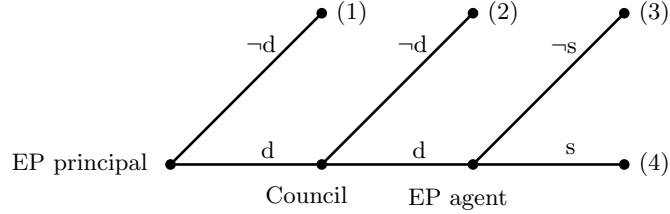


Note: The actors are the principal in the Parliament (EP principal), the agent in the Parliament (EP agent) and the Council. The principal's and the Council's actions are: delegate ($d$) or not delegate ($\neg d$). The agent's actions are: shirk (s) or not shirk ($\neg s$). The numbers in brackets label the four outcomes. Outcomes (1) and (2) are compromises in the formal arena and outcomes (3) and (4) are compromises in the informal arena. In (3), the agent does not shirk and no agency-drift occurs. In (4), the agent shirks, leading to agency-drift.

The utility function of the Council is similar to the EP principal's utility. The Council loses utility, the further the outcome from its preference. The Council also incurs a cost ($c_{cou}$) for delegating in the formal arena.

Table 3.2: Utilities in the Legislative Game by Outcome

| Abbreviations | Policy Outcome $o$ | EP principal $p$ | Council $cou$ | EP agent $a$ |
|---|---|---|---|---|
| Actions | | | | |
| (1) $\neg d$ | $(x_p + x_{cou})/2$ | $-\|x_p - o\| - c_p$ | $-\|x_{cou} - o\| - c_{cou}$ | $-\|x_a - o\|$ |
| (2) $d,\neg d$ | $(x_p + x_{cou})/2$ | $-\|x_p - o\| - c_p$ | $-\|x_{cou} - o\| - c_{cou}$ | $-\|x_a - o\|$ |
| (3) $d,d,\neg s$ | $(x_p + x_{cou})/2$ | $-\|x_p - o\|$ | $-\|x_{cou} - o\|$ | $-\|x_a - o\|$ |
| (4) $d,d,s$ | $(x_a + x_{cou})/2$ | $-\|x_p - o\|$ | $-\|x_{cou} - o\|$ | $-\|x_a - o\|$ |

Note: The principal and the Council decide whether to delegate ($d$) or not to delegate ($\neg d$). The agent's actions are: shirk (s) or not shirk ($\neg s$). The preferences are abbreviated as $x$, subscripts identify the actors and the cost is abbreviated as $c$.

The model predictions for the 'moderate agents' environment do not change. The Council would always benefit if the agent shirks. Therefore, shirking would not change the Council's decision to delegate. In the 'extreme agents' environment, the prediction changes. A shirking agent would be undesirable for the Council. The Council would always veto delegation in the 'extreme agents' environment if it's cost for legislating in the formal arena is zero. As the cost increases, the Council is more willing to delegate in the 'extreme agents' environment.

The implication is that agency-drift, although possible, would be much less pronounced if the Council is treated as an actor. If one accepts that a trade-off between efficiency and representativeness exists, some moderate amount of drift would appear to be acceptable. The EP does not have an incentive to select 'extreme agents' because such agents increase the probability that the Council vetoes delegation.

Overall, the 'Council becomes an actor model' is only marginally more complex but its predictions seem to be more plausible. In addition, the result is much more benign. Shirking is seldom a winning strategy in the 'moderate agents environment' and moderate drift can occur, the larger the cost of delegating in the informal arena.

### 3.4.2  Two Principals and Two Agents

I have assumed that the Council is a unitary actor because the mandate for the Council agent is strong, the Council principal has access to documents from the informal arena and stringent rules for reporting back are in place. However, I have also discussed the literature that argues that the presidency has some room to manoeuvre. In the following, I disaggregate the Council to principal and agent. The space in which delegation should occur becomes smaller. However, both actors have substantial room to delegate. Delegation to 'extreme agents' becomes less likely but may occur, the larger the cost of delegating in the formal arena.

Figure 3.7 illustrates the extensive form of the legislative game. The EP principal decides whether to delegate ($d$) or not ($\neg d$). Next, the Council principal makes the same decision. If both principals delegate, the EP agent decides whether to shirk ($s$) or not ($\neg s$). Finally, the Council principal makes the same decision as the EP principal.

The came becomes more complex and the number of outcomes increases to six. Outcomes (1) and (2) are compromises in the formal arena. The only difference between these outcomes is which principal vetoed delegation. Outcomes (3), (4), (5) and (6) are outcomes in the informal arena. In outcome (3), both agents do not shirk and no agency-drift occurs. In outcomes (4), (5) and (6) at least on agent shirks and agency-drift ensues.

The utility function of the Council agent is similar to the utility of the EP agent. The agent loses utility the further the outcome from the agent's ideal point. The outcome depends on actions of the other actors. Table 3.3 lists the utilities of all actors by outcome.

The 'two principals and two agents' model predicts outcomes that are quite similar to the 'Council becomes an actor model.' Delegation is vetoed if agents are extreme but the willingness to accept some drift increases, the larger the cost of legislating in the formal arena.

Figure 3.7: Decision Tree: Two Principals and Two Agents Model
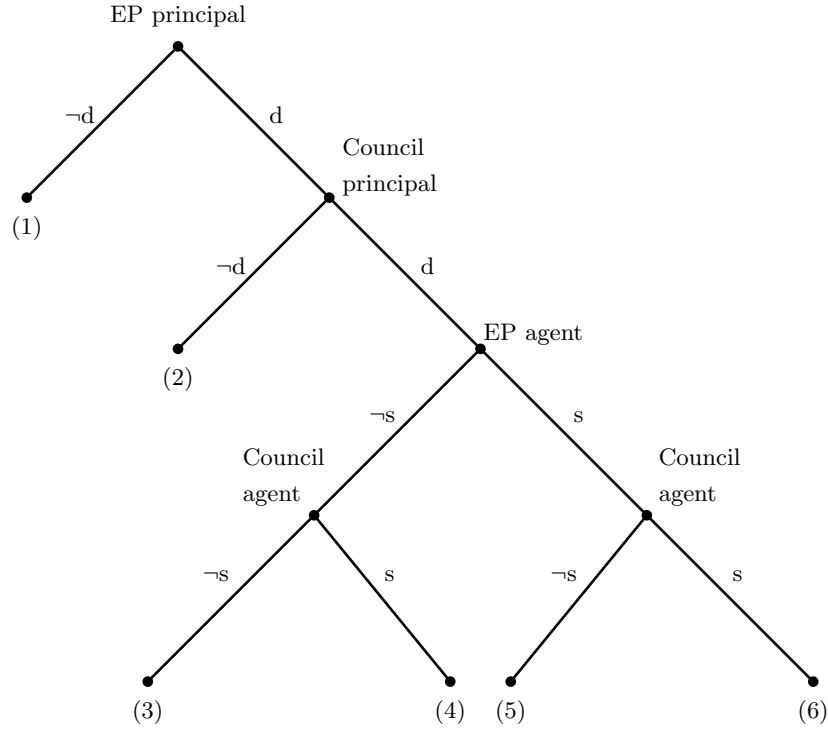


Note: The actors are the principal in the Parliament (EP principal), the agent in the Parliament (EP agent), the principal in the Council (Council principal) and the agent in the Council (Council agent). The principals' actions are: delegate ($d$) or not delegate ($\neg d$) and the agents' actions are: shirk (s) or not shirk ($\neg$s). The six terminal nodes are labelled in brackets. Outcomes (1) and (2) are compromises in the formal arena and outcomes (3), (4), (5) and (6) are compromises in the informal arena. In (3), none of the agents shirk and no agency-drift occurs. In (4), (5) and (6), at least one agent shirks, leading to agency-drift.

Table 3.3: Utilities in the Game with Two Principals and Two Agents by Outcome

| | Policy Outcome | Utilities of the legislative actors | | | |
| | | EP principal | Council principal | EP agent | Council agent |
| Abbr. | o | p1 | p2 | a1 | a2 |
|---|---|---|---|---|---|
| Actions | | | | | |
| (1) $\neg d$ | $(x_{\text{floor}} + x_{p2})/2$ | $-\|x_{p1} - o\| - c_{p1}$ | $-\|x_{p2} - o\| - c_{p2}$ | $-\|x_{a1} - o\|$ | $-\|x_{a2} - o\|$ |
| (2) d,$\neg d$ | $(x_{\text{floor}} + x_{p2})/2$ | $-\|x_{p1} - o\| - c_{p1}$ | $-\|x_{p2} - o\| - c_{p2}$ | $-\|x_{a1} - o\|$ | $-\|x_{a2} - o\|$ |
| (3) d,d,$\neg$s,$\neg$s | $(x_{p1} + x_{p2})/2$ | $-\|x_{p1} - o\|$ | $-\|x_{p2} - o\|$ | $-\|x_{a1} - o\|$ | $-\|x_{a2} - o\|$ |
| (4) d,d,$\neg$s,s | $(x_{p1} + x_{a2})/2$ | $-\|x_{p1} - o\|$ | $-\|x_{p2} - o\|$ | $-\|x_{a1} - o\|$ | $-\|x_{a2} - o\|$ |
| (5) d,d,s,$\neg$s | $(x_{a1} + x_{p2})/2$ | $-\|x_{p1} - o\|$ | $-\|x_{p2} - o\|$ | $-\|x_{a1} - o\|$ | $-\|x_{a2} - o\|$ |
| (6) d,d,s,s | $(x_{a1} + x_{a2})/2$ | $-\|x_{p1} - o\|$ | $-\|x_{p2} - o\|$ | $-\|x_{a1} - o\|$ | $-\|x_{a2} - o\|$ |

Note: The principals decide whether to delegate ($d$) or not to delegate ($\neg d$). The agents' actions are: shirk (s) or not shirk ($\neg$s). The preferences are abbreviated as $x$, subscripts identify the actors and the cost is abbreviated as $c$. In the formal arena, the outcome is the midpoint between the floor median in the Parliament (floor) and the Council.

In the following, I illustrate the decision to delegate to the informal arena with two examples and then show the entire space where both principals delegate. In the examples, I restrict the cost of legislating in the formal arena to zero. With increasing cost, the space increases.

An interesting scenario arises if both agents are between their principals—if both agents were equally far from their principal's the outcomes would be the same as in the formal arena. In example one, both agents are closer to their own principal than to the opposition principal. Suppose, principal one ($p1$) is located at 0 in the space and $p2$ at 100. The midpoint between them is 50. This would be the outcome in the formal and in the informal arena if both agents decide to remain loyal. Agent one ($a1$) is placed at 49 and agent two ($a2$) at 90 which provides an asymmetry in the principal-agent distances: $\overline{p1a1} > \overline{p2a2}$. Both agents can choose between the two strategies—remaining loyal or shirking. Nine outcomes are conceivable—the number of outcomes reduces to six but I list all combinations of actions here to better illustrate the decision-making. I omit the abbreviation $x$ of the preferences to increase readability.

- Formal arena:

    1. $\frac{p1+p2}{2} = 50$

- Informal arena:

    - $a1$ is loyal:

        2. $a2$ is loyal: $\frac{p1+p2}{2} = 50$
        3. $a2$ shirks: $\frac{p1+a2}{2} = 45$

    - $a1$ shirks:

        4. $a2$ is loyal: $\frac{a1+p2}{2} = 74.5$
        5. $a2$ shirks: $\frac{a1+a2}{2} = 69.5$

    - $a2$ is loyal:

        6. $a1$ is loyal: $\frac{p1+p2}{2} = 50$
        7. $a1$ is shirks: $\frac{a1+p2}{2} = 74.5$

    - $a2$ shirks:

        8. $a1$ is loyal: $\frac{p1+a2}{2} = 45$
        9. $a1$ shirks: $\frac{a1+a2}{2} = 69.5$

It is immediately apparent, that for both agents the strategy of remaining loyal dominates the strategy of shirking. Therefore, both principals can safely delegate to the informal arena because their agents do not have an incentive to deviate from their mandates. The take-away is

that if both agents are closer to their own principals than to the opposing principal, delegation to the informal arena is unproblematic. Neither agent will deviate from his mandate.

In the second example, the first agent ($a1$) is closer to the opposing principal. $A1$ is placed at the point of indifference that culminated from the model where the Council does not act, 66.6. Agent two ($a2$) remains at 90 and both principals ($p1$ and $p2$) are also held constant at 0 and 100 respectively. The following nine outcomes are conceivable:

- Formal arena:

  1. $\frac{p1+p2}{2} = 50$

- Informal arena:

  - $a1$ is loyal:

    2. $a2$ is loyal: $\frac{p1+p2}{2} = 50$
    3. $a2$ shirks: $\frac{p1+a2}{2} = 45$

  - $a1$ shirks:

    4. $a2$ is loyal: $\frac{a1+p2}{2} = 83.3$
    5. $a2$ shirks: $\frac{a1+a2}{2} = 78.3$

  - $a2$ is loyal:

    6. $a1$ is loyal: $\frac{p1+p2}{2} = 50$
    7. $a1$ is shirks: $\frac{a1+p2}{2} = 83.3$

  - $a2$ shirks:

    8. $a1$ is loyal: $\frac{p1+a2}{2} = 45$
    9. $a1$ shirks: $\frac{a1+a2}{2} = 78.3$

It is again immediately apparent that for $a2$ being loyal dominates shirking, i.e. independent of $a1$'s action. Therefore, $a1$ also knows that $a2$ remains loyal. Therefore, the solution is the same as in the game where the Council was not an actor. As long as $a1$ knows that $a2$ will remain loyal, $a1$ will be indifferent between shirking and being loyal at two-thirds the distance between the two principals from its own principal:

$$x_{p1} + \overline{x_{p1}\ x_{p2}} \times \frac{2}{3} \tag{3.14}$$

When considering the entire policy space, many scenarios exist where both agents have incentives to shirk and one of the principals would prefer not to delegate. The following example

illustrates this: Moving $a2$ much closer to $a1$ and keeping all other actors fixed, would lead to such a situation, e.g. $a2 = 70$. Both agents would be relatively close and it would be beneficial for both of them to shirk. The outcome would also benefit the second principal but it would be undesirable for the first principal. $P1$ would not delegate if the cost is zero but would be more willing to do so, the larger the cost.

Figure 3.8: Decision Space with 2 Principals and 2 Agents
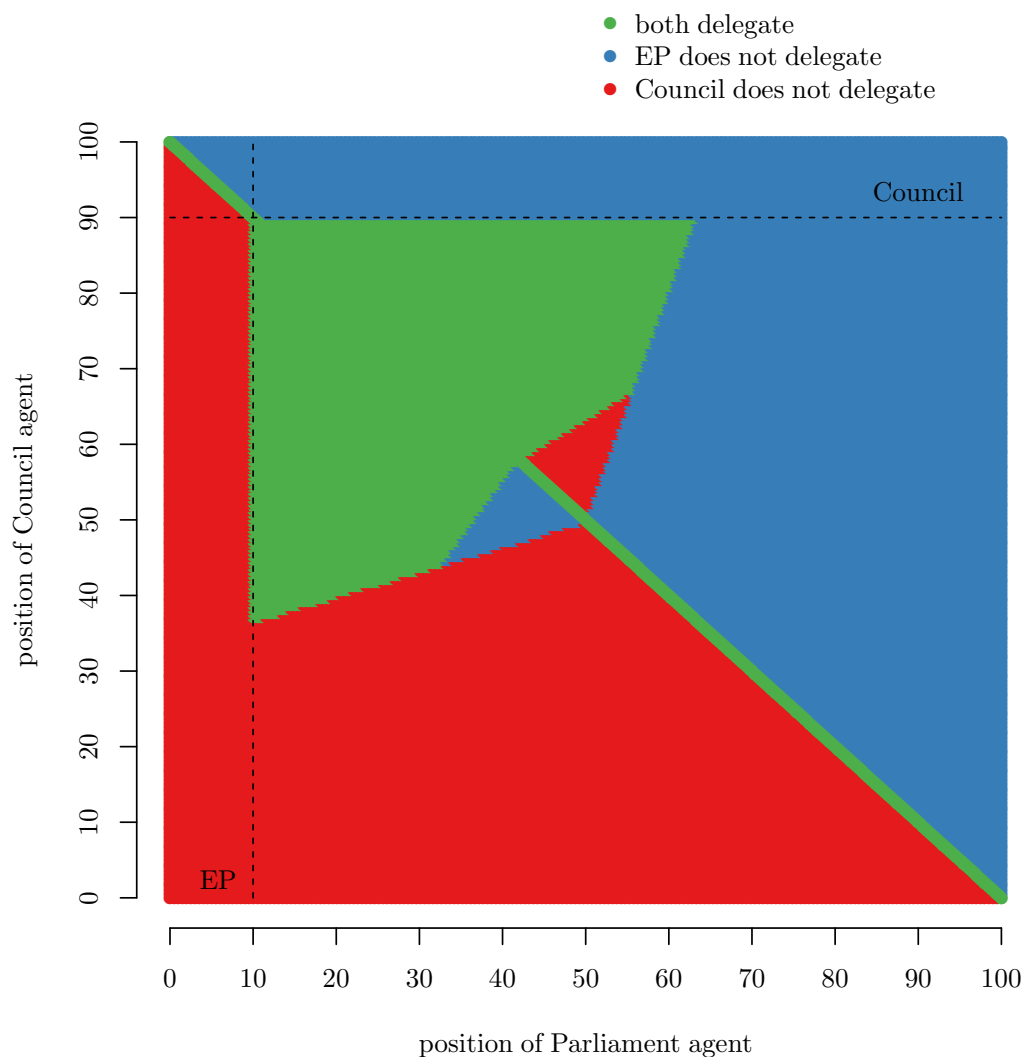


Note: The figure illustrates delegation with two principals and two agents. The Parliament (EP) and Council principals are fixed at 10 and 90 respectively. The position of the of EP agent varies on the x-axis. The position of the Council agent varies on the y-axis. In the green zone, both principals agree to entering the informal arena. In the red zone, the Council principal vetoes delegation to the informal arena and in the blue zone, the EP principal vetoes delegation. Delegation to extreme agents does not occur unless both are at the same distance from their principals. Clearly, delegation to the informal arena remains likely. The cost is assumed to be zero and the space of delegation increases, the larger the cost.

Figure 3.8 illustrates the decision space with two principals and two agents more generally. The position of the principal in the Parliament is fixed at 10 and the Council principal is fixed at 90. The position of the Parliament's agent varies on the x-axis and the position of the Council agent varies on the y-axis. The cost $c$ of both principals is 0, i.e., I ignore the cost of legislating in the formal arena. Increasing $c$ would increase the area of delegation. The green area is the zone where both principals delegate to the informal arena. In the red zone, the Council principal vetoes delegation and in the blue zone, the principal in the Parliament vetoes delegation. Principals do not delegate to the informal arena when the agent of the opposition chamber is extreme, unless both agents are exactly at the same distance from their principals. When the agents are located between the principals, delegation is very likely unless one agent is quite far from his principal. The blue and red diamond at the south-east corner of the green zone indicates cases where both agents are extremely close to one another and shirk. In this case the principal that is further from the agents vetoes delegation.

Overall, the following intuition emerges. Similar to the 'Council becomes and agent model,' delegation to 'extreme agents' becomes less likely but increases, the larger the cost $c$. When the agents are located between their principals, neither agent has an incentive to deviate from the mandate if the agents are both closer to their principals than to the opposition's principal. If one agent is closer to the opposition principal than to his own principal, the incentives for shirking depend on how close the two agents are to one another. The number of cases where agents may have incentives to deviate from their mandates increases as opposed to the game with only one agent. However, the space to delegate to the informal arena remains large for 'moderate agents.'

I proposed three models: 'the baseline model,' 'the Council becomes an actor model' and the 'two principals and two agents' model. The baseline model differs markedly from the other two. It predicts more agency-drift in the 'extreme agents' environment. The remaining models make more benign predictions. While agency-drift is possible, it is moderate and results from a trade-off between efficiency and representativeness.

In chapter 6, I test whether the EP selects 'extreme agents.' I find that, instead, the EP selects less 'extreme agents.' This finding is evidence against the baseline model. In chapter 7, I test the three theoretical models against each other. It turns out that the 'Council becomes an actor model' performs best. Chapter 7, therefore, provides evidence: (1) that the risk of agency-drift is moderate in the informal arena, (2) that the Council does not always prefer delegation and (3) that the Council agent does not or cannot deviate from the Council mandate.

### 3.4.3 The Floor Median and the Committee Median

In the discussion of the theoretical models, I have so far assumed that the outcome in the formal arena is the midpoint between EP principal—the committee median—and the Council side. Earlier, I have discussed the effect of the open amendment rule as well. The open amendment rule's effect is that the committee's text is amended in plenary to reflect the plenary median. The conceptualisation of the outcome and the amendment rule are at odds.

In chapter 5, I test whether the committees are representative of the floor median in the EP. It turns out that the committee medians reflect the EP floor median extremely well and increasingly so over time. However, some small, idiosyncratic, variation exists. It is, therefore, prudent to account for the difference between the floor median and the committee median.

In the following, the outcome in the formal arena is approximated by the midpoint between the floor median and the Council: $\frac{x_{\text{floor}} + x_{cou}}{2}$. The decision to delegate to the informal arena or not remains with the committee, i.e., the committee (median) is the principal.

I describe the implications of the adjustment for the baseline model and the 'moderate agents' environment. In the example the constellation is: $x_{\text{floor}} < x_a < x_{cou}$.

The utility functions of the EP principal in the formal arena is:

$$-|x_p - \frac{x_{\text{floor}} + x_{cou}}{2}| - c \tag{3.15}$$

$$\tag{3.16}$$

In the informal arena, the utility depends on whether the agent shirks. If the agent does not shirk, it is:

$$-|x_p - \frac{x_p + x_{cou}}{2}| - c \tag{3.17}$$

$$\tag{3.18}$$

If the agent shirks, it is:

$$-|x_p - \frac{x_a + x_{cou}}{2}| - c \tag{3.19}$$

$$\tag{3.20}$$

In the moderate agents environment where the agent is in between principal and Council, the agent shirks if he is further from the floor median than two-thirds the distance between the

floor median and the Council:

$$a^* \;=\; x_{\text{floor}} + \overline{x_{\text{floor}}x_{cou}} \times \frac{2}{3} \qquad (3.21)$$

The principal's decision to delegate or not will, therefore, depend on the position of the floor median relative to her own position. However, it turns out that the principal always delegates until the agent is two-thirds the distance between the floor median and the Council from the floor median. The only case where the principal wants to delegate to a shirking agent arises if the principal is at least as close to the Council as the agent, i.e., $x_p \geq x_a$. Figure 3.9 below illustrates the result. The EP median position is fixed at 15, the Council at 100, and the agent is fixed at the point that sets him indifferent between being loyal and deviating from his mandate, $71.\overline{6}$. The position of the principal varies along the x-axis and her utility loss is depicted on the y-axis. The utility form the formal arena is depicted in green and the utility from the informal arena in orange—assuming that the agent shirks. Clearly, the principal does not want to delegate to a shirking agent unless the principal is herself at least as close to the Council as the agent.

In the 'extreme agents' environment, the principal is located between Council and agent. I describe a scenario where $x_a < x_p < x_{cou}$. The agent always shirks. If the principal is located to the left of the EP, i.e., $x_p < x_{\text{floor}}$, the agent becomes unbeneficial at:

$$x_{\text{floor}} - \overline{x_p x_{cou}} \times 2 + c - \overline{x_p x_{\text{floor}}} \qquad (3.22)$$

If the principal is located to the right of the EP, i.e. $x_p > x_{\text{floor}}$, the agent becomes unbeneficial at:

$$x_{\text{floor}} - \overline{x_p x_{cou}} \times 2 + c + \overline{x_p x_{\text{floor}}} \qquad (3.23)$$

Therefore, whether the agent becomes unbeneficial or not depends on the distance between principal and agent as well. The result from the extreme agents environment depends on the assumption that the Council always wants to delegate. Overall, the results of replacing the outcome in the formal arena with the midpoint between floor median and Council instead of principal and Council, changes the results remarkably little. The main insights remain intact. The results would be even more similar if the Council were an actor.

Figure 3.9: Comparative Statics: Principal's Utility given a Shirking Agent
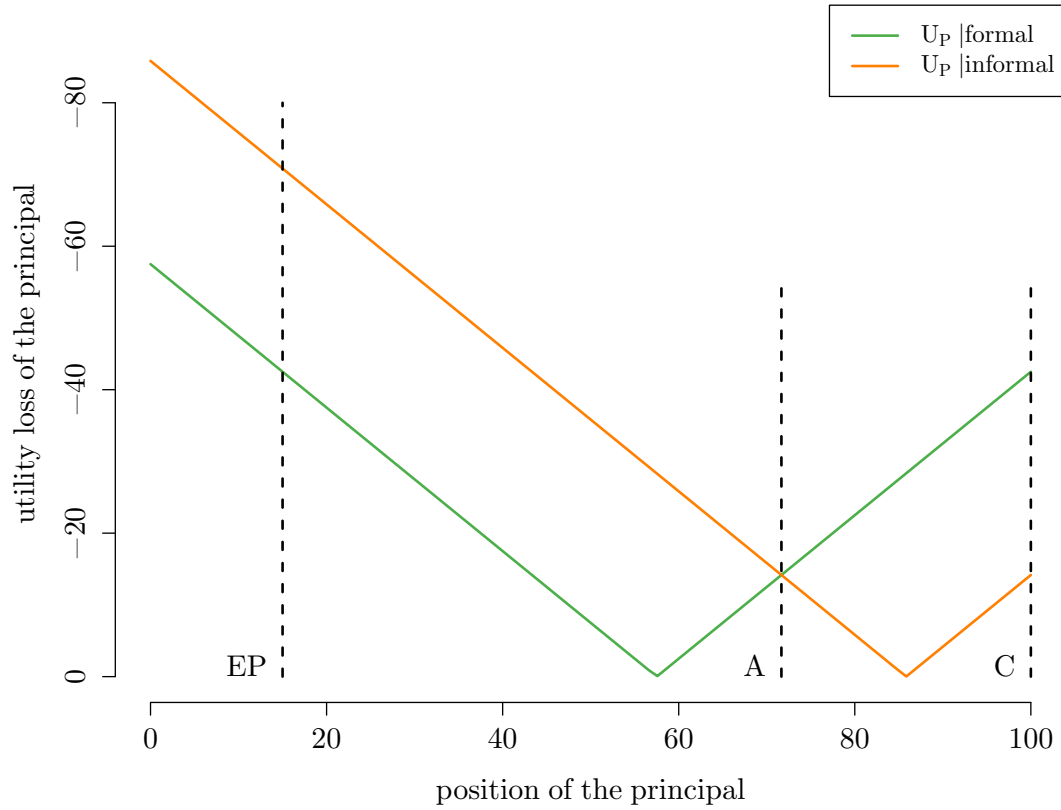


Note: The figure illustrates the decision of the principal given that the EP median determines the policy outcome rather than the committee median. The positions of the EP (15), agent $(71.\overline{6})$—at his point of indifference between shirking and remaining loyal—and Council (100) are fixed. The position of the principal is varied on the x-axis. The utility loss is displayed on the y-axis. The green line depicts the utility of the principal from staying in the formal arena. The orange line depicts the utility of the principal from delegating to the informal arena—assuming that the agent shirks. Clearly, the principal does not want to delegate to a shirking agent unless she is at least as close to the Council as the agent.

### 3.4.4 The Status Quo

Most spatial models feature a status quo or reversion point, i.e., an outcome that would ensue if the inter-institutional negotiations fail. I discuss the consequences of including a status quo into the model with one agent without formalising the results. The status quo affects delegation to the informal arena only if one of the actors is constrained by the status quo. I describe the 'moderate agents' environment first where the agent is in between the principals.

In the moderate agent environment, the agent would shirk if he was further form the principal than two-thirds the distance between principal and Council from the principal. The principal would, therefore, not delegate in such a situation. The status quo only comes into play if either the Council or the principal is constrained by it. Note, that the agent cannot be constrained

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by the status quo unless the status quo is in between the principal and the Council. If that were the case, the negotiations would fail because a compromise would be worse for either the Council or the principal and one veto player would, therefore, veto it.

First, the Council is constrained by the status quo such that the outcome if the agent shirks—at $x_p + \overline{x_p x_c} \times \frac{2}{3}$—is not included in the win-set. In this situation, the Council vetoes any point beyond the point that sets it indifferent between the status quo and policy change. Therefore, it becomes less problematic for the principal to delegate to the informal arena because the point that sets the Council indifferent between the status quo and policy change is the expected outcome in the formal arena as well.

If the principal is constrained by the status quo, delegation to an agent can be problematic. The agent will have an incentive to deviate sooner than at two-thirds the distance between principal and Council from the principal. An example of such a scenario would be: $sq = 0$; $x_p = 10$; $x_a = 50$; $x_{cou} = 100$. The agent would have an incentive to deviate from his mandate and the outcome would be 75 making the principal worse off than if she stays in the formal arena where the outcome would be 20. The agent would have an incentive to deviate if he is further than one-thirds the distance between the outcome in the formal arena and the Council from the outcome in the formal arena.

In the extreme agents environment, the Council, the principal and the agent could be constrained by the status quo. A constraint on the principal means that the shirking agent is beneficial to the principal until the agent is further than twice the distance between the principal and the status quo from the principal. The constraint on the agent is consequential because the agent will always deviate. If the agent is constrained such that the point at half the distance between the principal and the Council from the principal is not included in the win-set, the principal should not delegate. A constraint on the Council is inconsequential for decision to delegate in this policy environment.

In summary, the two policy environments are affected in the following way. In the 'moderate agents environment,' the incentives for the agent to deviate increase if the principal is constrained by the status quo and they decrease if the Council is constrained by the status quo. In the extreme agents environment, the agent always deviates—unless the Council does not always want to delegate in which case delegation to extreme agents does not occur. If the principal is constrained by the status quo, the agent becomes unbeneficial sooner. If the agent is constrained, he becomes unbeneficial for the principal sooner. The overall prediction of the model remains the same. It might be argued that delegation becomes even less problematic in the context of the European Union because the Council is more often constrained by the

status quo than the Parliament—the Council is more often the more conservative institution (Thomson et al., 2006).

## 3.5 Proofs

In the following, I present proofs for the two main solutions of the baseline model. I distinguish between two policy environments. The 'moderate agents' environment requires that the agent is in between principal and Council. The 'extreme agents' environment requires that the principal is in between agent and Council. In the first environment, the agent is indifferent when he is equidistant from the midpoint between Council and principal $\frac{\overline{PC}}{2}$, and the midpoint between himself and the Council $\frac{\overline{AC}}{2}$—the outcomes in the formal and informal arenas respectively. The following proves the solution, that the agent is indifferent at two thirds the distance between Council and principal.

Figure 3.10: An Indifferent Moderate Agent
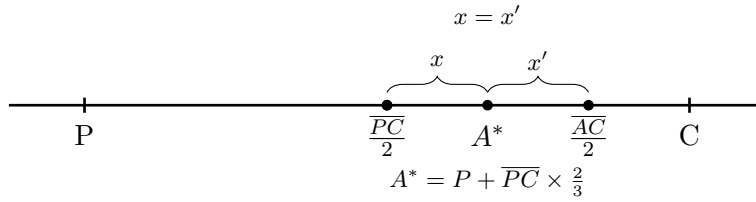


Note: P is the principal, A the agent—where the star indicates that the agent is indifferent at this point—and C the Council. The midpoint between principal and Council is $\frac{\overline{PC}}{2}$. The distance from that point to the agent is $x$. The midpoint between agent and Council is $\frac{\overline{AC}}{2}$. The distance from that point to the agent is $x'$.

**Proof 1 (Moderate Agent)**

Step 1: Due to symmetry and single-peakedness, the agent must be equidistant to $\frac{\overline{PC}}{2}$ and $\frac{\overline{AC}}{2}$ to be indifferent between shirking and representing the principal faithfully. Call this distance $x$.

Step 2: Without loss of generality, due to symmetry, the principal is to the left of the agent, who is to the left of the Council, as in figure 3.10, i.e $P < A < C$. Because $x$ is the distance from the agent to $\frac{\overline{AC}}{2}$, the Council is located at the position of the agent plus $2x$, i.e. at $A + 2x$. It follows that the agent is indifferent if equation 3.24 holds.

$$\frac{P+C}{2} + x \;=\; C - 2x \qquad (3.24)$$

which simplifies to:

$$\frac{1}{6}(-P+C) \quad = \quad x \tag{3.25}$$

Step 3: Because the principal is to the left of the Council, $-P+C$ is the distance between the Council and the EP and $x$ is one sixth of that distance. Furthermore, because $\frac{P+C}{2}$ is the midpoint between principal and Council, this point is at $P+\frac{3}{6}(-P+C)$. Substituting back into equation 3.24, the agent is at $P+\frac{2}{3}(-P+C)$, i.e. two thirds the distance between principal and Council from the principal. Finally, if the constellation is such that the Council is to the left of the agent, who is to the left of the principal ($C < A < P$), symmetry ensures that the agent is again indifferent at two thirds the distance between principal and Council from the principal, i.e. $P-\frac{2}{3}(P-C)$.

The proof relies on symmetry and single-peakedness. The shape of the utility function is inconsequential. Therefore, the results hold independent of the shape of the loss function, i.e. it makes no difference whether linear, quadratic, or normal loss functions are applied.

**Proof 2 (Extreme Agent)**

In the second scenario, the agent always shirks. Whether this is beneficial to the principal depends on the distance of the agent to the principal relative to the distance of the principal to the Council. The principal is indifferent when the agent is at twice the distance between the principal and the Council from the principal. The proof follows.

Figure 3.11: An Extreme Agent
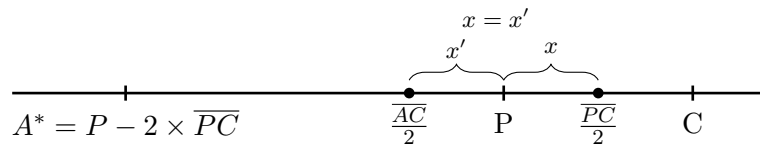


Note: P is the principal, A the agent, and C the Council. The midpoint between principal and Council is $\frac{\overline{PC}}{2}$. The distance from that point to the principal is $x$. The midpoint between agent and Council is $\frac{\overline{AC}}{2}$. The distance from that point to the principal is $x'$.

Step 1: Without loss of generality, due to symmetry, the agent is to the left of the principal, who is to the left of the Council ($A < P < C$). The half-distance between the principal and the Council is: $\frac{C-P}{2}$ because $P < C$. The principal is indifferent if the outcomes from the formal arena, $\frac{\overline{PC}}{2}$, and from the informal arena $\frac{\overline{AC}}{2}$ are equidistant to the principal.

Step 2: The principal is indifferent if he is equidistant from $\frac{\overline{PC}}{2}$ and $\frac{\overline{AC}}{2}$. Therefore, equation 3.27 holds (the midpoint between the agent and the Council is the same as the point one arrives at by moving a half-distance between principal and Council to the left from the principal).

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$$\frac{A+C}{2} \quad = \quad P - \frac{C-P}{2} \tag{3.26}$$

Solving for A gives:

$$A \quad = \quad P - 2(C-P) \tag{3.27}$$

Because the agent is to the left of the principal, who is to the left of the Council, $C-P$ is the distance between the principal and the Council. Due to symmetry the same relationship holds when the scenario is such that $C < P < A$, in which case the principal would be indifferent if the agent is at $A = P + 2(P-C)$.

The second proof also relies on symmetry and single-peakedness and not the shape of the utility functions. The relationships hold for differently shaped functions such as quadratic of normal loss functions.

# Chapter 4

# Preferences on Legislation 1994–2014

In the previous chapter (3), I presented a theory of delegation to the informal arena under the ordinary legislative procedure. I employed a simple perfect information spatial model. In the baseline model, I distinguished between the principal and the agent in the Parliament. I assumed that the Council always prefers delegation to the informal arena and I constructed two policy environments that cover the relative actor constellations. In the 'moderate agents' environment, the agent is located between the principal and the Council. In this environment, delegation is intuitively problematic because of the suspicion that the agent colludes with the Council against the preference of his principal. However, as I have demonstrated in the previous chapter, the agent is rarely faced with an incentive structure that makes deviating from his mandate attractive. Policy disagreement between the principal and the agent must be large, the agent must side with the Council, and the agent must be located at least at two-thirds the distance between the principal and the Council from the principal, i.e., policy-conflict between the agent and the principal is at least two-thirds of the conflict between the principal and the Council. The finding suggests that agency-drift in this environment may be much less of a concern than the literature on informal negotiations in the EU theorised (Farrell and Héritier, 2003; Shackleton and Raunio, 2003; Farrell and Héritier, 2004). Furthermore, I have shown that the result changes very little for a number of extensions to the model, namely when the Council becomes an actor—i.e., it does not always want to delegate to the informal arena—when the Council agent can deviate from his mandate and with two principals and two agents.

In the 'extreme agents' environment, the principal is located between the agent and the Council. In this environment, the agent always has an incentive to deviate from his mandate. Delegation to the informal arena in such a situation is, therefore, problematic because the model predicts policy-drift. The principal embraces the drift because it is in her interest—the agent moves the outcome into the direction of both the principal and her agent. However, I have

demonstrated that this finding only holds if the Council is not treated as a proper actor. Once the Council can also decide whether to legislate in the informal arena or in the formal arena—as is the case under the ordinary legislative procedure—the Council would not delegate to the informal arena in an 'extreme agents' environment, unless the cost of legislating in the formal arena is large.

To empirically test the theoretical models, I require preference positions of all relevant legislative actors in a common political space. This chapter proceeds with a discussion of the literature on the political space in EU politics in section 4.1. In the following measurement section (4.2), I discuss data sources, levels of measurement, and the technique used to infer preferences in the Council, in section 4.2.1. Similarly, I discuss data sources and levels of measurement to infer preferences in the Parliament in section 4.2.2. To ensure comparability of preference estimates in the Council and Parliament, I use a Bayesian Item Response Theory (IRT) model—discussed in section 4.3. Finally, I discuss the results of scaling preferences of members of the European Parliament into the same space as preferences in the Council and describe the data in section 4.4.

## 4.1 Dimensionality of the Legislative Space

In this project, I consider political conflict in inter-institutional negotiations in the EU to unfold along one main dimension: ideological left–right politics. In the following, when referring to ideology, I mean left–right politics. Whether the left–right dimension is appropriate to describe political conflict in the EU is contested. I proceed with a brief discussion of the literature.

The classic left–right dimension is a central concept to understanding political conflict in Western Europe (Hix et al., 2006). Whether the dimension can be split into economic and general left–right politics is debated along with whether a second dimension—correlated or orthogonal—exists (Marks and Steenbergen, 2002). Overall, there is little doubt that policy conflict can be reduced to a dominant dimension in most European democracies (Hinich and Munger, 1997). The literature on the dimensionality of European Union politics provides insights into the policy space but is divided on the number of dimensions and the interpretation of these dimensions, e.g., is there a left–right dimension and a European integration dimension or does left–right subsume integration (Marks and Steenbergen, 2002)?

The early literature on the policy space in the EU theorised that EU politics is driven by conflict over integration—a policy dimension that is arguably unrelated to domestic ideological politics (Marks and Steenbergen, 2002). More recently, scholars have found that party politics and interest group contestation have intensified and, therefore, the claim that EU policy conflict is related to integration only cannot be maintained (Hooghe and Marks, 1999; Imig and

Tarrow, 2001). Currently, the literature on the policy space in the EU can be grouped into four approaches (Marks and Steenbergen, 2002). First, the international relations literature (Haas, 1958; Hoffmann, 1966; Moravcsik, 1998). Second, the Hix and Lord (1997) model (see also Hix, 1999; Hix and Høyland, 2013). Third, the Tsebelis and Garrett (2000) model (see also Tsebelis and Money, 1997). Fourth, the Hooghe and Marks (1999, 2001) model.

Under the international relations umbrella, realists propose that governments act according to national interest which is orthogonal to domestic politics (Hoffmann, 1966). Liberal intergovernmentalists adopt the logic of sector politics from the political economy/trade literature (Stolper and Samuelson, 1941; Becker, 1983; Rogowski, 1987) to EU politics. Moravcsik (1998) argues that EU politics is driven by policy conflict among employers in export- and import-competing sectors—where employers in export-competing sectors want more harmonisation/integration and employers in import-competing sectors want less. Neo-functionalists argue that national elites coalesce across countries and that even their identity changes in the process (Haas, 1958). Theories of the policy space that emerge from the international relations literatures view left–right politics as irrelevant in the EU context.

The remaining approaches can be grouped under a comparativist umbrella (Marks and Steenbergen, 2002). Generally, EU policy conflict will reflect conflict in the domestic arena due to path dependency—strong institutional and cognitive biases to recreate coalitions/ties that exist(ed) previously/domestically (Marks and Steenbergen, 2002; Steenbergen and Lodge, 2003). More recent contributions suggest that politics travels 'bottom-up' from the domestic level to the European level, where greater salience of and attention to the supranational arena increases and domestic elections influence EU policy-making (Schneider, 2013; Boranbay-Akan et al., 2017; Hagemann et al., 2012; Kleine and Minaudier, 2017; Koop et al., 2017; Wratil, 2018).

The Hix and Lord (1997) model identifies two orthogonal dimensions. Left–right politics is the dominant dimension and a second less significant dimension captures issues of European integration. Parties recreate the domestic party system internationally where left–right politics dominates day-to-day policy conflict and matters of national interest—rarely salient—are subject to the second dimension Hix et al. (2007). Focusing on the European Parliament and based on a spatial model of voting (Poole and Rosenthal, 1985; Poole, 2005), two orthogonal dimensions can be uncovered from voting behaviour (Hix et al., 2006). The analysis by Hix et al. (2006) focuses on the European Parliament only but it includes texts that are subject to the ordinary legislative procedure where the Council and the Parliament co-legislate and, therefore, it provides insights on the political space of bicameral legislative policy-making in the EU.

Tsebelis and Garrett (2000) argue that issues of European integration are not orthogonal to the first, left–right, dimension but that these issues can be subsumed into the same dimension. The idea that European integration issues are expressions of left–right politics, corresponds to the observation that European elections are determined by domestic politics (Marks and Steenbergen, 2002). In terms of spatial voting theory, some issues separate legislators along a left–right dimension less well without being unrelated to the main left–right dimension (Poole, 2005). Furthermore, Tsebelis and Money (1997) show that in bicameralism, generally, all inter-institutional conflict unfolds along one main dimension.[1]

Hooghe and Marks (1999, 2001) identify two dimensions. They label the first dimension 'social democracy–market liberalism' and the second dimension 'nationalism–supranationalism'. In contrast to Hix and Lord (1997), they argue that the two dimensions are not orthogonal but that both dimensions structure the policy space. Actors on the left–right shift their support for supranational regulation according to the policy area that is considered. Data from public opinion surveys suggests that left–right placement predicts attitudes towards European integration (Hooghe et al., 2002). Although on integration, an alternative dimension from Green/alternative/libertarian (GAL) to traditional/authoritarian/nationalist (TAN) predicts attitudes even better (Ibid., 2002).

Overall, the empirical evidence suggests that an underlying left–right dimension structures the opinions, stances, and the behaviour of citizens, social movements, and political parties in the European Union (Marks and Steenbergen, 2002, p. 889). However, Proksch and Slapin (2010) estimate individual preferences in the Parliament from legislative speech and find evidence for three dimensions, including left–right, but their ideal point estimates reflect partisan conflict over integration and national divisions rather than left–right politics. In most studies, however, left–right is the dominant dimension and depending on the focus, empirical studies highlight the importance of other dimensions as well. Mattila (2004) analyses voting behaviour in the Council and uncovers a left–right dimension as well as an orthogonal independence–integration dimension (Hagemann (2007) also uncovers two orthogonal dimensions). Recent data, coded from video-recordings of Council negotiations, suggests that governments mainly respond to left–right issues but to a much lesser extent also to pro–anti integration issues (Wratil, 2018). Evidence from the ordinary legislative procedure, i.e. intercameral bargaining under conditions of symmetric bicameralism, suggests that preference heterogeneity—the size of the one-dimensional core/gridlock interval—on the left–right dimension retards aggregate legislative output (Crombez and Hix, 2015) and the speed of law-making decreases with increasing levels of left–right conflict (Klüver and Sagarzazu, 2013).

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[1]The inter-institutional dimension in bicameralism does not necessarily have to be the left–right dimension. This would depend on the dimensionality of the underlying policy space (Tsebelis and Money, 1997, ch. 3).

In the following and in line with much of the literature, I assume that politics in the European Union is driven by left–right conflict and I ignore other dimensions of politics. In future research, I may consider including another dimension. However, increasing the dimensionality of the space makes the theoretical models more complex—assumptions have to be made about the relative importance of the dimensions for example—and complicates the empirical analysis—models to infer preferences from voting behaviour, e.g., require fixing the poles of the dimensions. I submit that much can be learned from a simpler one-dimensional approach. In the following, I discuss the measurement of preference positions and aggregation to the relevant legislative actors.

## 4.2 Measuring Preference Positions

The institutional legislative actors in the ordinary legislative procedure are the Council and the Parliament. Testing the theory of delegation, that I proposed in chapter 3, requires disaggregating the institutional actors to principals and agents within the institutions. In the following, I discuss the data sources chosen as well as the procedure I use to aggregate preferences to the relevant actors. I proceed by first discussing actors in the Council, followed by actors in the Parliament, and finally, I discuss how I combine these positions. I chose the data sources with three goals in mind. First, delegation to the informal procedure became possible with the entry into force of the Amsterdam Treaty in 1999. The data should cover the longest possible period—I collected data for the period 1999–2014 (extended back to 1994 for chapter 6 on rapporteur selection). Second, I require preference positions for all actors in the 'game', proposed in chapter 3. Third, all preferences positions must lie on a common comparable scale, i.e. the same scale must apply to actors from the Council and actors from the Parliament and the positions must be comparable over the time period. My level of observation, to analyse the decision to delegate, is the bill/proposal level. The decision to delegate is made at different dates throughout the legislative cycles. To complicate matters, the legislative terms of the Council and the Parliament differ. The composition of the Council changes according to national elections in the member states. The legislative term in the Parliament is five years. The 1994–2014 time period covers the fourth European Paliament (1994–1999), the fifth European Parliament (1999–2004), the sixth Parliament (2004–2009), and the seventh Parliament (2009–2014). Due to the changing composition of the Council, I construct a dataset of daily Council preferences over the entire period. In the Parliament, I estimate preferences for each member of the European Parliament assuming that the legislator has stable preferences over one legislative term (see e.g. Hix et al., 2006).

### 4.2.1 Preferences in the Council

The governments of the member states of the European Union are represented in the Council. Specifically, Council configurations are staffed by the ministers from the respective policy area—economy and finance ministers, for instance, meet in ECOFIN—and bureaucrats from the member states. Furthermore, most member states of the European Union have coalition governments. Are positions of member states in the Council better approximated by the positions of the coalition or by the position of the respective ministers?

The literature on government formation theorised that ministers enjoy a substantial degree of autonomy (Laver and Shepsle, 1996). A high degree of specialisation is necessary to influence legislation and it is difficult to monitor ministers' behaviour in order to detect whether a minister deviates from the coalition contract (Ibid., 1996). Martin and Vanberg (2011) argue that ministers can be scrutinised by the coalition partner in the standing committees of the national parliament and, therefore, the minister does not enjoy 'ministerial autonomy' (Laver and Shepsle, 1996) but represents the coalition contract. However, ministers are only scrutinised in strong parliamentary systems with procedures and committee systems that facilitate monitoring (Martin and Vanberg, 2011). It is doubtful that national parliaments can successfully monitor the work of their ministers in the Council of the European Union.

The Council is organised in three levels, as discussed in more detail in chapter 2.3. The working groups are the first level. The Committee of Permanent Representatives (COREPER) is the second level, and the ministers are at the top level. The first level is staffed by national bureaucrats and the second level is staffed by more senior national bureaucrats. The working groups prepare legislative proposals and solve most issues between member states (Hix and Høyland, 2011). COREPER resolves outstanding issues that, if resolved, are sent to the ministerial level as A points and, if unresolved, as B points (Ibid., 2011). Ministers tend to get involved on the more important issues and when the Council co-legislates with the Parliament (Häge, 2007) but the application of the informal arena decreases ministerial involvement (Häge and Naurin, 2013). The decision to enter the informal arena is usually made in the Committee of Permanent Representatives (COREPER) but it may also be taken at the ministerial level (Kluger Dionigi and Koop, 2017). The Council mandate is drafted by COREPER or if a general approach is taken—which the presidency decides—at the ministerial level (Ibid., 2017).

Overall, it is not entirely clear whether the position of the member states in the Council would be better approximated by the position of the coalition government or by the position of the minister. Given the organisational structure of the Council where bureaucrats do most of the preparatory work, usually make the decision of whether to enter the informal arena or not, draft the mandate for informal negotiations and always update the mandate, I approximate the

member state position as the weighted mean position of the coalition government (cf. Martin and Vanberg, 2011). Estimating the position of the coalition government requires the positions of national parties in government as well as their respective seat shares. I discuss data sources for national party positions before describing how the government coalition position is estimated using expert survey data.

There are several sources for national party positions. The most commonly used sources are surveys (opinion polls and expert surveys), political texts such as party manifestos or speeches, and roll-calls. In opinion polls, such as the 'European Election Study' (Schmitt et al., 2015), respondents place their national parties on a left–right scale. In expert surveys such as the 'Chapel Hill Expert Survey' (Bakker et al., 2015), country experts place parties on left–right scales and on additional dimensions. The 'Comparative Manifesto Project' provides party manifestos and expert coding on several policy dimensions (Budge et al., 2001). Manifesto data can be used to infer preference positions using text analysis (e.g. Slapin and Proksch, 2008; Lowe et al., 2011). Furthermore, scholars have employed text analysis to estimate preferences from legislative speeches (Proksch and Slapin, 2010; Herzog and Benoit, 2015; Lauderdale and Herzog, 2016). I have ruled out manifesto data[2], text scaling and opinion polls for this project because the sources either do not cover the time period or do not include all the national party positions required to estimate the coalition government positions. Roll-call data has been used to infer the preferences of the member states in the Council from their voting behaviour (Mattila, 2004; Wallace and Hayes-Renshaw, 2006; Hagemann, 2007). Roll-call vote analysis suffers from problems of selection bias due to the strategic use of the roll-call to increase party discipline and the unseen behaviour of legislators in unrecorded votes (Carrubba et al., 2006, 2008). Schwarz et al. (2017) find larger intra-party preference variance in estimates from scaling legislative speeches than in roll-call data—where roll-call data suffers from strategic selection, legislative speech may be considered 'cheap-talk' and/or strategic 'signalling' and may, therefore, also suffer from strategic selection. In the Council, roll-calls are either called by a member state or by the Commission (Hagemann, 2007). Voting in the Council is extremely lopsided (Mattila, 2004; Wallace and Hayes-Renshaw, 2006). Hagemann (2007) complements voting behaviour with official statements by the member states that may signal dissent to mitigate both the selection problem and the lopsidedness. I have decided against the use of roll-calls because collecting official statements is very time consuming and only slightly ameliorates the problem of lopsided voting (Hagemann, 2007). I rely on expert survey data because of its coverage in length (time) and breath (number of national parties). Cross-validation of expert surveys

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[2]I use data from the Comparative Manifesto Project (Klingemann et al., 2006) to match party names.

and expert coding from manifesto data shows relatively similar results (Warntjen et al., 2008; McDonald and Mendes, 2001; Benoit and Laver, 2006).

A common concern with expert survey data is the comparability of positions over time and across countries. Differential item functioning arises when respondents conceptualise the left–right scale differently (Aldrich and McKelvey, 1977; Palfrey and Poole, 1987; Groseclose et al., 1999; King et al., 2004). Two respondents may order parties the same way but one could shift the scale to the left or right of the other. Furthermore, when respondents do not space parties equally, e.g., by pushing parties at the end of the scales further out, the scale is stretched. These issues are more pronounced when comparing across vastly different cultural contexts such as Mexico and China as King et al. (2004) show. The methodological literature on European party positions offers several approaches to correct for individual perceptual bias within countries as well as shifts in perception over time (e.g. König et al., 2013; Lo et al., 2014). However, none of the approaches allows estimating policy preferences for all government parties in the member states of the European Union over the entire time period (1999–2014 and, in chapter 6, extending back to 1994). I choose a more pragmatic approach but I cannot rule out that the experts who place parties on a left–right scale perceive the scale differently. Furthermore, I cannot account for shifts in the perception of the left–right scale over time, although König et al. (2013) show that there is relatively little variation.

I use ParlGov data (Döring and Manow, 2018) to identify national parties in government in the 1994–2014 period. The time period covers three rounds of EU enlargements. In 2004, ten member states acceded to the Union. In 2007, Romania and Bulgaria joined and in 2013, Croatia joined the European Union of then 28 member states. I manually compiled a small dataset of accession dates for all member states in order to identify whether a national cabinet was a European Union member or would join the European Union during its term. I then compile a data set of cabinets that are members of the European Union and a dataset of national parties in each of these cabinets. These datasets are then matched—manually and using the statistical software R (R Core Team, 2016) to cross-reference party ID's from the ParlGov (Döring and Manow, 2018), Comparative Manifesto Project (Klingemann et al., 2006), and Chapel Hill Expert Survey (Bakker et al., 2015; Polk et al., 2017) datasets—with preference positions on the general left–right from the 1999, 2002, 2006, 2010, and 2014 waves of the Chapel Hill Expert Survey (CHESS) (Bakker et al., 2015; Polk et al., 2017).[3]

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[3]Currently, I do not take the standard errors of the party preference estimates into account. This decision is due to limitations in processing power. I would have taken a simulation approach and drawn preference estimates from a normal distribution—defined by the mean preference position and the standard error—and then constructed as many datasets as I have draws from the distribution. However, the subsequent method to combine preferences into a common space relies on an IRT model which takes roughly one day to run per Parliamentary term. Repeating this process many times did not seem feasible.

The preference position of a national cabinet is a seat-weighted average of the parties in government (cf. Martin and Vanberg, 2011)—the number of seats of each party in government is included in the ParlGov data (Döring and Manow, 2018). Party positions in the full CHESS dataset are normalised to have mean 0 and standard deviation 1 prior to estimating government and Council positions. The preference positions in the CHESS data contain 'missings' for the years between the waves. One approach to deal with missing data is to impute the missing positions. One can reasonably apply a moving average, i.e. average positions between the waves (applied to the CHESS data in Obholzer, 2014). Another approach assumes that the data is missing at random conditional on a set of covariates and then estimates missing positions under the maximum likelihood framework (e.g., Honaker and King, 2010; Honaker et al., 2011; Lall, 2016). Imputation, however, requires a reasonable model of missingness which I do not have except that missingness is determined by time. My approach is to estimate the preference of a party in a given year as a weighted average of all preferences for that party from all CHESS waves. I do so because preferences in expert surveys are based on a few expert opinions in each year. Averaging reduces the significance of perceptual biases. With my approach—given that a party preference has shifted over time and all experts conceptualised the left–right scale in exactly the same way—the preference shift would be mitigated. Because I apply the same operation to all preferences, all preference shifts would be mitigated similarly.[4]

For each day in the 1994–2014 period, I search the member states that were represented in the Council that day using the accession date data. I then search for the cabinets in the member states and the constituent parties. From each exact date, I extract the year. I then weigh party positions from all CHESS waves by the inverse distance of the CHESS wave to the current date in years, where the weights sum to 1. The inverse distances are:

$$D_p \quad = \quad |\text{cabinet year} - \text{CHESS wave year}|^{-1} \qquad (4.1)$$

where $D$ is the vector of inverse distances for party $p$ in the cabinet. If the date is the same as a CHESS wave, e.g. if the current year is 1999 where a CHESS wave took place, the result is $\infty$ which I replace by 1. The weights for each party $p$ are calculated as:

$$W_p \quad = \quad \frac{D_p}{\sum_{a=1}^{n} d_p} \qquad (4.2)$$

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[4]The transformation is not linear, i.e. shifts further in the future/past have a smaller impact.

The position of a party in the cabinet $x_p$ is the product of the preferences for that party from the five CHESS waves multiplied by the weights:

$$x_p \quad = \quad X'W \tag{4.3}$$

where $X'$ is the transpose of the $n \times 1$ matrix of preferences, $W$ is $n \times 1$ matrix of weights for each party and $n$ is the number of non-missing preference positions in the CHESS data set for a specific party. With the positions of the parties in government, the government position $x_g$ is calculated similarly as the product of all parties in government and the seat weights which sum to 1.

$$x_g \quad = \quad Y'S \tag{4.4}$$

where, $Y$ is the matrix of party positions in government and $S$ is the matrix of seat weights. To estimate the position of the Council on a given day, I take the weighted average of the government preferences $G$ where the weights are a voting power index $V$ of the member states in the Council:

$$x_c \quad = \quad G'V \tag{4.5}$$

The voting weights of the member states have changed over time according to the number of member states in the Council and since the Lisbon Treaty, voting weights are no longer applied in the same way. A usual way of estimating voting power in the Council is to apply the Shapley and Shubik (1954) or Banzhaf (1965) power indexes (Thomson et al., 2006). However, these indexes require voting weights. To estimate voting power in a consistent way for the 1994–2014 period, I apply the Penrose (1946) method—also known as the 'square-root method'—to estimate voting power weights. The 'power' weights $V$ are calculated as:

$$V \quad = \quad \frac{\sqrt{\text{population}_a}}{\sum_{a=1}^{n} \sqrt{\text{population}_a}} \tag{4.6}$$

I have compiled a dataset of member states' populations for each year from EuroStat (European Commission, 2018). The Penrose power index value is usually in the interval between the power index values from the Banzhaf and Shapley-Shubik indexes. The position of the

six-months rotating Council presidency is the government position of the member state that held the presidency at the time. Since 2007, three presidencies coordinate a legislative agenda among each other. In order to have a consistent way of estimating the presidency position for the 1994–2014 period, I have not taken the 'trio' into account when estimating presidency positions.[5]

In summary, I use preference data from five waves of the Chapel Hill Expert Survey (CHESS) (Bakker et al., 2015; Polk et al., 2017) to estimate preferences of member state governments which I then aggregate to a common Council position. The Council composition varies according to national election cycles and EU membership. I estimate preference positions of the Council for each day in the 1994–2014 period. Preferences on the left–right, therefore, vary dynamically over time. The member states are jointly the principal in the Council. Thus, the position of the Council principal is the estimated overall Council position. The presidency is the agent in the Council. Therefore, the presidency position is the position of the member state that holds the six-months rotating presidency.

The scale for actor preferences is set by the way the Council principal and Council agent positions are estimated. The preferences of actors in the Parliament have to lie on the same scale, where the endpoints of the scale are not fixed, i.e. individual actors in the Parliament may be more extreme than their governments in the Council. In the following, I describe how preferences in the Parliament are estimated such that they fall onto the same scale.

### 4.2.2 Preferences in the Parliament

The Parliament is composed of individual legislators who organise into standing committees. As discussed in chapter 2.3, the principal in the Parliament is the median in the responsible lead committee—the committee takes the decision to enter the informal arena or not by simple majority vote. The agent in the Parliament is the rapporteur who is in charge of a report and either the principal or the floor median in the Parliament may partly determine the outcome in the formal arena—where the outcome is the midpoint between the Council and the Parliament. To estimate the preferences of the relevant actors, I require preference positions of individual members of the European Parliament (MEPs).

Roll-calls in the EP are the most comprehensive source of data for individual preferences (Hix et al., 2006). Most legislators voted multiple times and voting records date back to 1979. Alternatively, legislative speeches could be employed—most but not all legislators held multiple speeches in the 1999–2009 period as well (Proksch and Slapin, 2010). I download roll-call data from the 'Roll Call Votes in the European Parliament' dataset that covers 1979–2009 (Hix et al.,

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[5]In future iterations of the project, I will consider weighting the presidency position in the same way as I estimate party positions from CHESS waves.

2006, 2007, 2009; Hix and Noury, 2009). For the seventh Parliament, 2009–2014, I bought access to the 'VoteWatch' database—VoteWatch is a Brussels based IGNO (VoteWatch, 2018)—and downloaded all roll-calls that were taken in that period by hand.[6]

The common criticisms of roll-call data that may cause selection bias apply to roll-call analysis of the European Parliament (Carrubba et al., 2006, 2008). Taking roll-calls is a common practice in the Parliament and the problem of lopsidedness—that haunts roll-call analysis in the Council—is less of a problem in the Parliament. In 1999–2000, roll-calls were more common on some issues than on others and some party groups requested more roll-calls than others and on different types of votes, e.g. the centre-right group requested the most roll-calls on final votes and the liberal group requested most roll-calls on amendments (Carrubba et al., 2006). Since 2009, with the entry into force of the Lisbon Treaty, all final votes in the Parliament must be taken by roll-call. Prior to 2009, a party group or at least 32 members of the Parliament could request a roll-call (Hix et al., 2006). Roll-call analyses of the European Parliament have identified the left–right dimension as the main dimension of political conflict even after the 'Eastern Enlargement' and furthermore, ideological distance is the best predictor of coalition formation (Hix et al., 2006, 2007, 2009; Hix and Noury, 2009).

Legislators' preferences are inferred from their voting behaviour based on a spatial model of politics (Hotelling, 1929). Spatial models of legislative voting rely on the assumption that legislators have preferences on a latent dimension and vote for the policy closest to their ideal point (subject to random error) (Armstrong et al., 2014, 183). Most methods assume probabilistic voting in a policy space where legislators have single-peaked symmetric preferences. Two vote choices are considered: 'Yays' and 'Nays', abstentions or absences are discarded.[7] Legislators maximize their utility by voting for the option that minimizes the distance to their preferences. Hence, they are assumed to vote sincerely—a heavily criticised assumption.[8] Votes take place on individual issue dimensions. Formally, a matrix $W$ maps positions on the matrix $X$ of latent dimensions onto a matrix $Y$ of ideal points on issue dimensions. I am ultimately interested in $X$ - the positions of legislators on one latent policy dimension—the left–right (Chp. 2, Poole, 2005).

The preference estimates from the roll-call analysis are required to lie on the same scale as the estimates in the Council. Furthermore, committee membership, party group membership and national party membership must be identified. National party membership is required to

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[6]I acquired a two-months premium account for €242.

[7]Abstentions or absences may be informative, e.g., when absolute majority voting applies. Under absolute majority voting, an absence raises the threshold for the majority (Carrubba et al., 2008). Models that take such decisions into account would be considerably more complicated and, to my knowledge, are not applied in roll-call analysis. However, the researcher may consider coding an absence/abstention as a 'Nay'.

[8]If parties call roll-calls to enhance party cohesion and representatives comply, voting would not be sincere.

link the estimates of the European Parliament and the Council, as is elaborated below. Group membership is required to validate preference estimates—do legislators from the same political group cluster together on the left–right and does the order of groups from left to right make sense intuitively? Furthermore, does the ordering of political groups in the Parliament coincide with previous research? I require committee membership to identify the principal in the Parliament.

I compiled an original dataset of all MEPs who were members of the European Parliament that includes information on their dates of birth, nationalities, national party affiliations, European party group affiliations, and committee functions, i.e. chairmanships, vice-chairmanships, memberships, and substitute memberships. For each of the committee functions, I collected exact start and end dates. Therefore, at each exact point in time, I am able to establish committee membership and the position of that committee. The collection of this data has been automated to scrape the information from the legislative observatory—the European Parliament's data hub (European Parliament, 2018). The scripts are written for Python 2.x versions, work for all eight Parliaments to date, can be used to update MEP data, and are in the public domain, available on github (Broniecki, 2017).

Most roll-call analyses of the European Parliament and many other Parliaments employ a method called NOMINATE developed by Poole and Rosenthal (1985) for the U.S. Congress (e.g. Voeten, 2000; Rosenthal and Voeten, 2004; Hix et al., 2006, 2007, 2009; Hix and Noury, 2009). NOMINATE abbreviates 'nominal 3-step estimation' where nominal refers to the binary character of the roll-call—yay or nay—and 3-Step estimation refers to the alternating estimation of ideal points, roll-call parameters and signal-to-noise parameters (Armstrong et al., 2014, p. 190). I estimate NOMINATE scores—implemented in the WNOMINATE package for R (Poole et al., 2018)—for cross-validation and as a covariate in the IRT model. The main approach to infer preferences is to use a Bayesian 'Item Response Theory' (IRT) model.

## 4.3   Scaling Preferences into a Common Space

Item Response Theory was developed in psychometrics to measure skills based on a questionnaire (Armstrong et al., 2014). Respondents possess a level of latent ability measured by a number of questions—items in survey jargon—that are more or less closely related to ability (Ibid., 2014). For each item, a threshold of ability exists that separates those who answer correctly from those who answer incorrectly—that threshold is the difficulty parameter (Ibid., 2014). Furthermore, some questions separate respondents well according to their level of latent ability while other questions do not separate well—the discrimination parameter (Ibid., 2014). In legislative voting, ability is ideology, the items are the roll-calls, the respondents are the legislators, the difficulty parameter determines the cut-off on each roll-call, i.e. how left a legislator

has to be to support amending a right status quo (voting 'yay'), and the discrimination parameter determines how well a roll-call corresponds to the left–right cleavage (Ladha, 1991). The quantities of interest in political science applications—and in this project—are the individual parameters: the ideal points (Clinton et al., 2004, p. 356).

I employ the Bayesian IRT approach (Martin and Quinn, 2002; Clinton et al., 2004)—implemented in the 'pscl' package for R (Jackman, 2017) because I can nudge preference estimates of members of the European Parliament onto the same scale as preferences in the Council by setting priors on all legislators. Bayesian IRT differs from NOMINATE with respect to the assumption of the shape of legislators' utilities—NOMINATE assumes Gaussian and Bayesian IRT assumes quadratic loss functions, i.e. the Bayesian functional from assumption for the vote choice is logit and NOMINATE uses probit (Armstrong et al., 2014).

The Bayesian framework allows the specification of prior information on legislators' preferences. This feature makes it possible to 'nudge' preference estimates onto the same scale as the left–right positions in the Council. Scaling preferences into a common space requires making 'bridge assumptions', i.e. points of contact where the two legislatures can be linked (e.g. Groseclose et al., 1999). I assume—as prior knowledge—that a member of the European Parliament who enters the Parliament for the first time has the same left–right position as her national party. I further assume that legislators' left–right preferences remain stable over one legislative term. Estimating preferences over time requires to either assume preferences will remain stable over the entire time period or to make more bridge assumptions. Nokken and Poole (2004) estimate preferences over multiple legislative terms by assuming that the legislators who were members of the chamber in both terms have the same ideal points in both terms. Similarly, I set the preference estimate in the previous term as the prior for a legislator who was re-elected.

In the Bayesian framework, the prior does not determine the estimate completely, rather the estimate—posterior in Bayesian jargon—is the prior multiplied by the likelihood and hence a compromise of the prior distribution and the data (Gelman et al., 2014). The variance of the posterior distribution is smaller than the variance of the prior distribution in expectation and the posterior is controlled to a greater degree by the data as sample size increases (Ibid., 2014, pp. 32f.). The flat or uninformative prior is used when one has no information about the quantity of interest. The vague or semi-informative prior describes little knowledge and the informative prior describes good knowledge. There are no hard rules about the differences between semi-informative and informative priors. The distinction depends on the variance of the target quantity (Ibid., 2014). I use informative priors for legislators who enter the Parliament for the first time and I use 'more informative' priors when legislators are re-elected. The reason for employing informative priors is that I already have good prior knowledge about legislators'

ideology based on their national party affiliations but first and foremost to pin down the left–right scale.[9]

Preferences are estimated separately for each Parliamentary term. While most of the analysis in this project focuses on the 1999–2014 period, I estimate preferences for the fourth Parliament (1994–1999) first. In chapter 6 on strategic rapporteur selection, I compare report allocation—who becomes rapporteur—before and after informal law-making became possible—hence the need for preference estimates in the fourth Parliament. The Bayesian IRT model estimates ability, difficulty, and discrimination parameters simultaneously. Starting values for prior means and prior precisions (inverse variances) have to be set for all parameters. Following the standard approach, I set discrimination and difficulty parameter means to 0 and their variances to 4, because I do not have prior information on these parameters (Armstrong et al., 2014).

Prior information on legislators' ideology should be excellent because the national party affiliation of each legislator is known and, furthermore, the ideology of that national party is also known. Setting the priors serves two purposes: (1) pinning down the left–right scale and (2) getting more precise estimates by making use of knowledge about the legislators that is known prior to the estimation.

In the fourth Parliament, I treat every legislator as if they were in the Parliament for the first time, i.e. the prior knowledge about their ideology, that I have, is their national party position. Thus, I set prior means on the ability parameter to the national party positions. How precise should this prior knowledge be, i.e. what is the variance of the prior distribution? The prior party positions in the 1994–1999 period range from −1.94 to 2.05. While it would be entirely possible that a German legislator who is ideologically closer to the centre-left Social Democrats joins the centre-right Christian Democrats—an ideological distance of 0.94 points on the left–right scale—that decision should be the exception rather than the norm. It should be even less common that a German legislator who is ideologically closer to the Green party joins the Christian Democrats instead—an ideological difference of 1.24 points on the left–right scale. I propose that the legislator who identifies with the Greens—in 1994—but joins the Christian Democrats should be three standard deviations from the average member of the Christian Democrats, i.e. this should be an extremely rare event. Therefore, I set the precision to $\approx 5.9$ which corresponds to an average deviation of $\approx 0.41$ (variance $\approx 0.17$). This setting effectively pins down the scale.

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[9]In the analysis, I start with preferences in the fourth European Parliament (1994–1999). In chapter 6 on strategic rapporteur selection, I use data from the period where delegation to the informal arena was not possible to compare rapporteur selection before and after the advent of informal law-making. All legislators in the fourth Parliament are treated as if they were Parliamentarians for the first time, i.e. their priors are informative and the mean is the national party estimate from the Chapel Hill Expert Survey.

In the following Parliaments, the posterior means of the ability parameter for legislators who have not been members of the Parliament before, are set to their respective national party positions and, like in the fourth Parliament, prior precision is set to 5.9. For those legislators who have been re-elected, the prior mean of the ability parameter is the mean ideological estimate from the previous Parliamentary term. In case of re-election, prior knowledge about a legislator's ideology is quite precise. Consequently, I set prior precision to 100 (standard deviation: 0.1).

The Bayesian IRT model relies on Markov chain Monte Carlo (MCMC) simulation and the Gibbs sampler for parameter optimization (Clinton et al., 2004). Following standard practice, I run $55,000$ iterations, discard the first $5,000$ and thin the chain by 10, i.e. take every tenth draw, which leads to $5,000$ posterior estimates per parameter (Armstrong et al., 2014). I drop extremely lopsided votes—where at least 97.5% of all legislators voted the same way and legislators who voted less than 35 times (cf. Hix et al., 2007; Armstrong et al., 2014). Parameter optimisation requires setting starting values. The ability parameters—the ideal points—are set to the national party positions—a trick that ensures, along with setting priors, that the posterior estimates are pinned down to the correct scale. Furthermore, I include contextual information into the model to improve the precision of the posterior estimates. The following covariates are included: the age of a legislator, nationality, transnational group affiliation, national party affiliation, and the NOMINATE score.

In summary, I analyse roll-calls in the Parliament using a Bayesian IRT model to pin down the left-right scale and make preference estimates in the Council and the Parliament comparable. The Bayesian framework is especially useful in roll-call analysis because it mitigates the effect that the strategic use of the roll-call has on preference estimates that are scaled under the assumption that voting is sincere. By using prior information—knowledge about national party affiliation and the national parties' ideological positions judged by experts—I combine voting behaviour, which may be strategic, with expert opinion. Preferences of the member states are measured yearly. The composition of the Council changes according to national election schedules and EU membership. The simplest solution was to estimate the Council position daily—the Council position does not vary daily but only with national elections, new expert survey waves, or accession rounds. National party preferences are based on five waves of Chapel Hill Expert Surveys (Bakker et al., 2015). In the Parliament, individual representatives' preferences are based on expert survey data, on roll-call data and on contextual information. Until 2009, roll-call data is available from the 'Roll Call Votes in the European Parliament' project (Hix et al., 2006, 2007, 2009; Hix and Noury, 2009) and for the period from 2009–2014, voting data was downloaded from VoteWatch (VoteWatch, 2018). Contextual data was web-scraped

from the the Legislative Observatory (European Parliament, 2018) and the NOMINATE scores were estimated prior to the estimation of the Bayesian model.

## 4.4  Description and Robustness of Preference Estimates

In the previous section, I have described the IRT model that I use to estimate preferences on the left–right scale. In this section, I provide an overview over the data, discuss cross-validation results, and face validity of the estimates by examining the left–right positions of the legislators by their transnational groups—legislators from the Social Democrats should, e.g., be to the left of legislators from the Christian Democrats. Table 4.1 shows legislators by political groups and legislative term—I have borrowed the grouping of the transnational groups and the format of the table from Hix et al. (2006, p. 496). I have grouped smaller party groups together under umbrella terms such as 'Left', 'Lib', and 'Right'. Only the centre-left 'S&D', centre-right 'EPP', and conservative 'ECR' groups have not been joined with other party groups. The numbers refer to my data. I rely on fewer roll-calls for estimating the positions in the seventh Parliament— I downloaded voting data for the seventh Parliament manually from VoteWatch (VoteWatch, 2018) where I did find all final votes but not all votes on amendments.

Table 4.1: Transnational Party Groups in the European Parliament 1994–2014

| Party Description | Abbr. | Fourth Parliament 1994–1999 Seats | % | Fifth Parliament 1999–2004 Seats | % | Sixth Parliament 2004–2009 Seats | % | Seventh Parliament 2009–2014 Seats | % |
|---|---|---|---|---|---|---|---|---|---|
| *Transnational Groups* | | | | | | | | | |
| Christian Democrats | EPP | 173 | 26% | 250 | 39% | 340 | 36% | 299 | 36% |
| Conservatives | ECR | - | - | - | - | - | - | 57 | 7% |
| Socialists | S&D | 240 | 36% | 189 | 29% | 256 | 27% | 210 | 25% |
| Liberals | Lib | 100 | 15% | 55 | 9% | 127 | 14% | 92 | 11% |
| Greens | Greens | 29 | 4% | 48 | 7% | 43 | 5% | 64 | 8% |
| Left | Left | 37 | 6% | 45 | 7% | 48 | 5% | 44 | 5% |
| Right | Right | 4 | 1% | 38 | 6% | 75 | 8% | 33 | 4% |
| Regionalists | Reg | 47 | 7% | - | - | 2 | 0% | - | - |
| Non-attached | NA | 35 | 5% | 18 | 3% | 46 | 5% | 34 | 4% |
| Total | | 665 | | 643 | | 934 | | 833 | |
| No. of Roll-Calls | | 3740 | | 5752 | | 6202 | | 1908 | |

Overall, the centre-left Social Democrats were the largest group in the fourth Parliament and since 1999, they have been the second largest group. The centre-right Christian Democrats were the second largest group in the fourth Parliament and have been the largest political faction since 1999. The Liberals are the third largest political force in my data. A grand coalition always

suffices to gain a simple majority. Other coalitions of two party groups sometimes suffice but not always.

I estimate preference positions using NOMINATE (Palfrey and Poole, 1987) to cross-validate the estimates from the IRT model and I also use the NOMINATE scores in the IRT estimation. The NOMINATE estimates are on a different scale than the Council estimates because I can not set priors in NOMINATE to pin down the scale. Furthermore, I estimate each Parliament without any information from previous Parliaments in NOMINATE. As such the NOMINATE estimates are not dynamic and do not take any prior knowledge into account.

Table 4.2: Roll-Call Analysis: Predictive Power, Convergence & Aggr. Behaviour

| | Correlation of Estimates | | | Correctly Classified | | Aggregate Voting Behaviour | | Scalable | |
|---|---|---|---|---|---|---|---|---|---|
| | Prior NOM. | Prior IRT | IRT NOM. | NOM. | IRT | Yay Votes | Nay Votes | Votes | MEPs |
| EP 4 | 0.82 | 0.94 | 0.93 | 88% | 87% | 30% | 22% | 3623 | 659 |
| EP 5 | 0.81 | 0.89 | 0.94 | 88% | 87% | 40% | 27% | 5658 | 649 |
| EP 6 | 0.81 | 0.91 | 0.93 | 89% | 88% | 38% | 24% | 6138 | 931 |
| EP 7 | 0.56 | 0.93 | 0.60 | 93% | 91% | 61% | 9% | 1881 | 830 |

NOMINATE scores are abbreviated as NOM.

Table 4.2, illustrates the validity of the IRT model. Firstly, the priors are exogenous to the NOMINATE scores. The fact that both correlate—with $\approx 0.75$ overall—shows that the priors are sensible estimates of legislators' ideology and it also suggests that the first dimension extracted from roll-calls is the left–right dimension (cf. Hix and Høyland, 2013). Secondly, the correlation between the priors and the IRT posterior means is lower than or in the same ball park as the correlation between the IRT posterior means and the NOMINATE estimates. Thus, the priors do not over-determine the IRT posterior means—at least not in a way that contradicts a model that does not employ prior information. Thirdly, correlation between the NOMINATE estimates and the IRT posterior means is extremely high, except in the seventh Parliament where they correlate only with 0.60. High correlation of the estimates from both types of models suggests that the IRT estimates are sensible approximations of legislators' ideology. Fourthly, both models correctly classify roughly the same amount of vote choices (correct 'yays' and correct 'nays') which again suggests high convergence between both estimation types. The NOMINATE model predicts slightly better, however, the small difference is not too concerning given that the Bayesian framework produces estimates that are in a common space with the Council and member state estimates. Furthermore, correct classification is not the main goal, correlation with real ideology while maintaining comparability of the left–right scales across

institutions and over time, is—in the Bayesian IRT model, voting behaviour is not the only determinant of the ideal point estimates.

The aggregate voting behaviour in the four Parliaments suggests that voting may have become much more lopsided in the seventh Parliament but more likely, it highlights a weakness of roll-call analysis. In the seventh Parliament, I collected data on all final votes but was unable to collect all votes on amendments. Party-discipline may be higher on final votes, hence the discrepancy. Furthermore, the lopsidedness of the voting behaviour renders the high percentage of correctly classified cases in the seventh Parliament unimpressive. The lower quality and quantity of the data in the seventh Parliament, magnifies the advantage of the Bayesian model that takes contextual data and prior knowledge—from previous voting behaviour and from the national party's ideology—into account. Both models differ the most—their estimates correlate the least—in the seventh Parliament. NOMINATE relies on the data only and, therefore, in the seventh Parliament, I am inclined to trust the results of the Bayesian IRT model more—the following discussion shows that face validity of the posterior estimates from the Bayesian IRT model is high.

Figure 4.1: Legislators' Preferences in the Fourth Parliament 1994–1999



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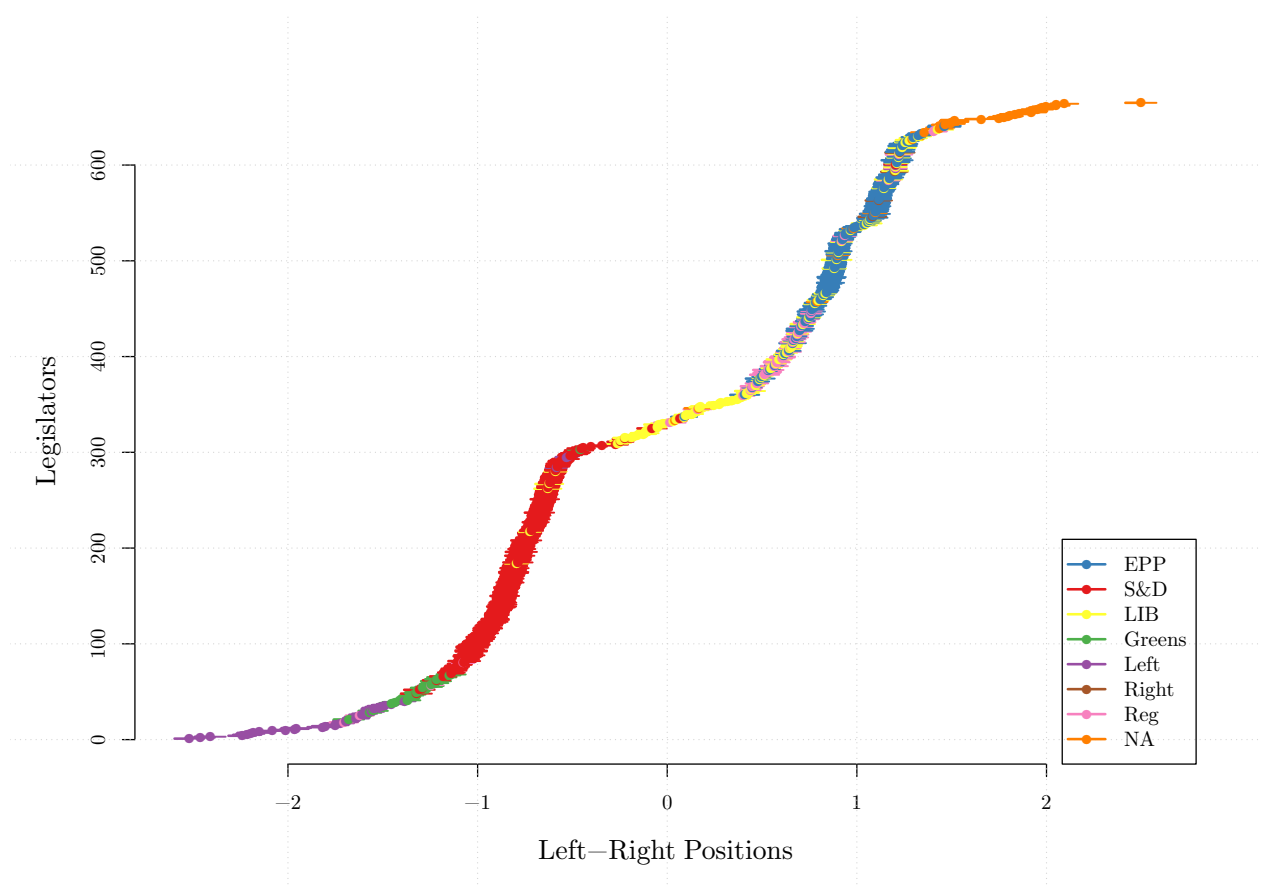
Figure 4.1 plots all legislators' ideal points and the 95 percent credible intervals—the precision of the estimates—in the fourth Parliament (1994–1999) from left to right on the ideological dimension. The use of informative priors and context information leads to narrow credible intervals. Lefts, Greens, and Social Democrats are on the left side of the scale. Legislators from the liberal spectrum occupy the centre, followed by Regionalists—Forza Italia and Europe of Nations—and Christian Democrats on the centre-right. The four legislators who are grouped into the Right group—members of the Union for Europe group—are relatively far to the right and overlap with the right-wing of the Christian Democrats. The non-attached members such as Jean-Marie Le Pen of the French far-right Front national, Frank Vanhecke of the Belgian far-right and secessionist Vlaams Blok, and Gerhard Hager of the Austrian far-right Freedom Party are on the far right end of the spectrum. The result reflects that many nationalist parties were not respected enough to be accepted into any of the political groups and not numerous and united enough to form their own group. The left–right scale ranges from −2.5 to 2.5 compared to the range of the the national party positions from −1.9 to 2.1. Some individual legislators are, therefore, more extreme than their national parties mean. Overall, face validity is high for the fourth Parliament. Estimates from the fourth Parliament are inconsequential for the test of the theory on delegation. I employ these estimates in chapter 6 on report allocation only. The estimates of members who were re-elected to the fifth Parliament, however, influence preference estimates in the fifth European Parliament.

Turnover from the fourth to the fifth Parliament was high, 44% of the members in the previous Parliament were re-elected to the fifth European Parliament (1999–2004). Consequently, prior information on ideology of many of the new Parliament's members is excellent. The range of the left–right scale in the fifth Parliament is −2.6 to 2.0, compared to −2.5 to 2.5 in the fourth Parliament and the scale of the national parties in the Council ranges from −2.2 to 2. Therefore, the preference range of the scaled estimates follows the national party positions where the extreme left seems to move to the left ever so slightly and the extreme right becomes somewhat less extreme—note, however, that the extremes of the scale are occupied by very few legislators, i.e. making out trends is a tad optimistic. Preferences of all legislators in the fifth Parliament are plotted in figure 4.2. The face validity of the estimates is quite high because the transnational groups align from left to right as can be expected from our understanding of European politics. Legislators from the left group—the European United Left and Nordic Green Left—form the left wing in the Parliament. The Greens make up the right of the left wing. The Social Democrats occupy centre-left, Liberals are in the centre, and the Christian Democrats take centre-right. Legislators from the Right group are organised in the Union for Europe of the Nations Group or in the Group for Europe of Democracies and Diversities. Af-

Figure 4.2: Legislators' Preferences in the Fifth Parliament 1999–2004
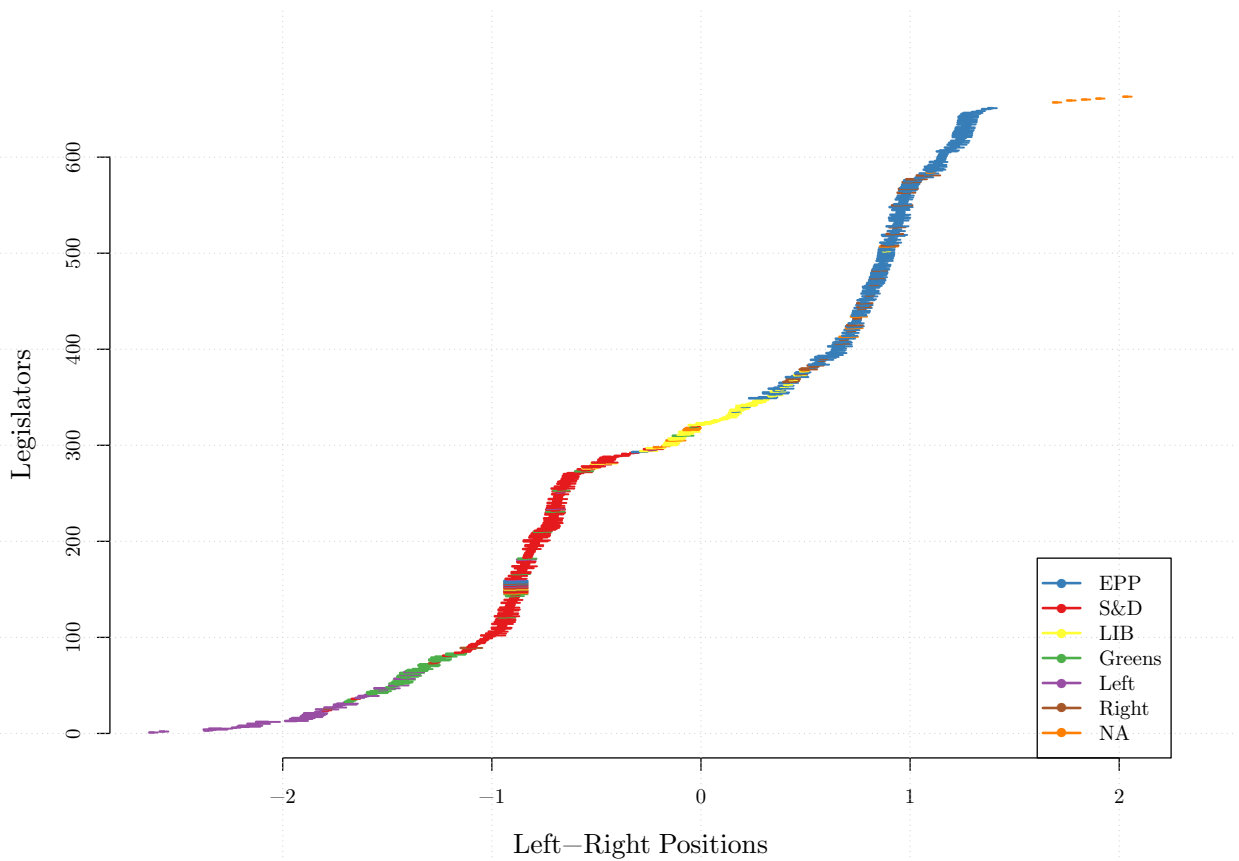
ter the 1999 election, the Union for Europe of the Nations group consisted of the Eurosceptic and conservative/nationalist National Alliance led by Gianfranco Fini—1.7 on the left–right scale—and Fianna Fáil led by Bertie Ahern who I do not have voting data on. The Europe of Democracies and Diversities group consisted of the Danish June Movement and People's Movement against the EU, the gaily named French Hunting, Fishing, Nature, Tradition party, the Dutch Christian Union, and the UK Independence Party. Their legislators largely overlap with Christian Democrats. Nigel Farage's position, e.g., is 1.0 which corresponds to the right wing of the Christian Democrats and is much more moderate than Gianfranco Fini—one of the leading figures in the Union for Europe of the Nations group. The extreme right wing of the scale is again occupied by members who are coded as non-attached. However, in the fifth Parliament, they were initially organised in a political group—the Technical Group of Independents—that consisted of an ideologically diverse hotchpotch of national parties such as the nationalist Italian Lega Nord, the nationalist French Front National, and the liberal Bonino List. The group ceased to exist in 2001 when the Parliament dissolved it because 'overtly mixed' groups violate its Rules of Procedure and the European Court of Justice rejected an appeal. Consequently, members of the non-attached group can be found at the far right end of the scale as well as in

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the centre. The most leftist member of the fifth Parliament was Italy's Luigi Vinci, member of the Communist Refoundation Party. The median legislator—0.16 on the left–right scale—was Finland's Pavo Vayryne, member of the aptly named Centre Party. Jean-Marie Le Pen of the French Front National was the most right-wing member of the fifth European Parliament.

Turnover from the fifth to the sixth Parliament was 34%, down from the previous figure of 44% because of the Eastern Enlargement—the Parliament's size increased from 649 to 931 members. Based on the size of the old Parliament, turnover would have been at 49%. The turnover numbers imply that we have excellent prior information about a third of the legislators in the sixth European Parliament (2004–2009), namely their ideology estimates from the previous term. All representatives from Eastern Europe enter the Parliament for the first time. Whether the left–right scale applies as well to Eastern European countries as it does to Western European countries is doubtful (Evans and Whitefield, 1993; Klingemann et al., 2006; Bressanelli, 2012). If it does not, prior knowledge about the ideology of East European representatives would be comparatively lower than prior knowledge about West European representatives. It might, therefore, be prudent to decrease the setting of prior precision on Eastern Europeans and let the data dominate the priors more. However, previous research points to higher party discipline among representatives from Eastern Europe (Hix and Noury, 2009) which could imply more insincere voting among Easterners than Westerners—the utility functions of the IRT model are based on the spatial model which assumes sincere voting, i.e. legislators vote for the option that minimises the distance between their preference and the policy. I leave the prior precisions untouched but I introduce a new contextual covariate into the model: an East/West indicator that is equal to 1 if a legislator is from one of the new member states. Figure 4.3 plots preference estimates of all members of the European Parliament.

The range of national parties in the Council was $-2.1$ to $2.08$ and the range in the previous Parliament was $-2.6$ to $2.0$. The range of new preference estimates is $-2.9$ to $2.0$. In the sixth Parliament, we therefore see a continuation of the trend that the extreme left moves left while the extreme right remains relatively stable and is less far from the centre. The face validity of the estimates remains high in the sixth Parliament. The Lefts, the Greens, and the Social Democrats make up the left spectrum of the Parliament. The liberals—the Alliance of Liberals and Democrats for Europe (ALDE)—occupy the centre. The Christian Democrats follow on centre-right. Representatives from the right group—members of the Union for Europe of the Nations group (UEN) and of the Independence and Democracy group (IND/DEM)—follow on the extreme right. UEN is significantly less extreme than IND/DEM. UEN members overlap with the Christian Democrats. The most extreme UEN member—1.5 on the left–right scale—is Italy's Sebastiano Musumeci of Alleanza Nazionale. The most extreme Christian Democrat is

Figure 4.3: Legislators' Preferences in the Sixth Parliament 2004–2009
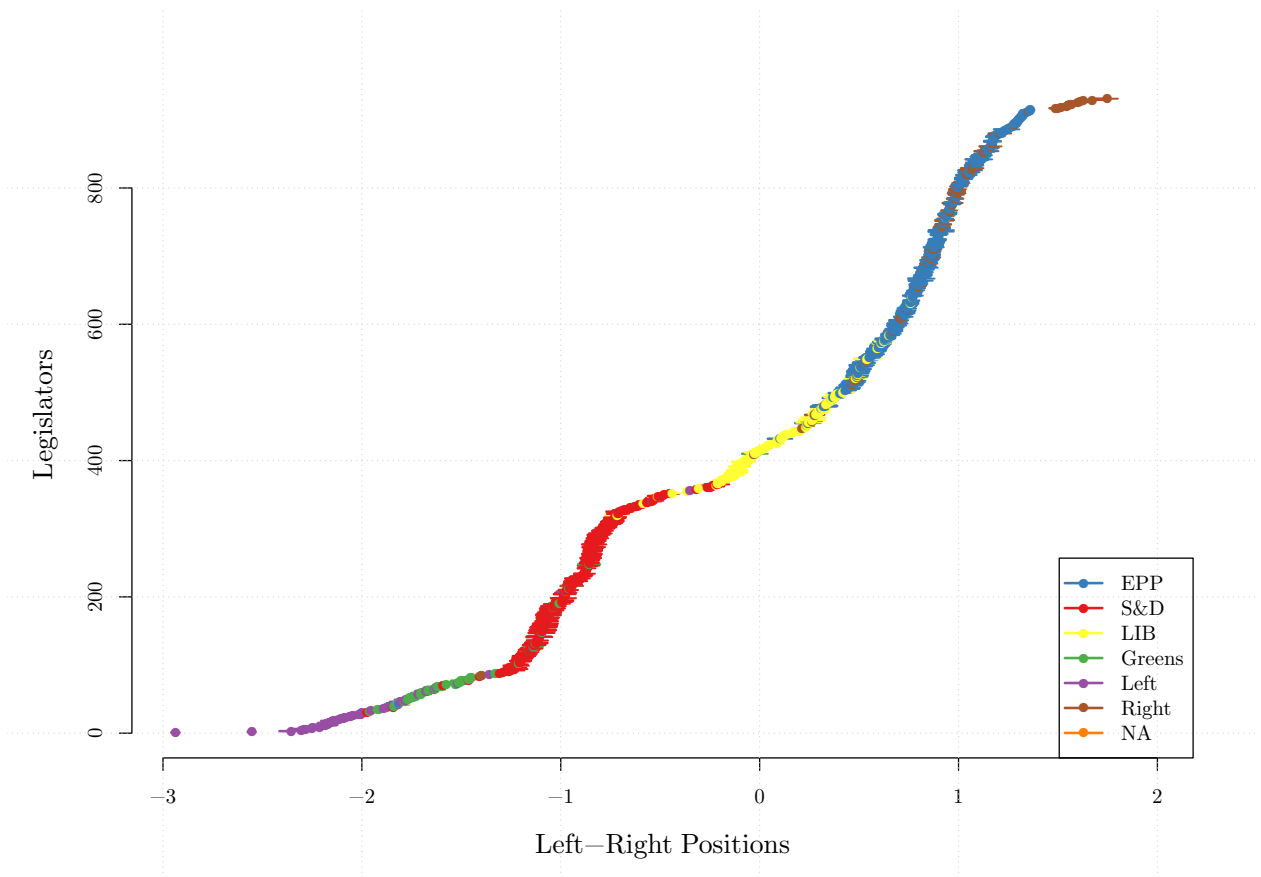


Italy's Innocenzo Leontini—1.8 on the left–right scale—of Forza Italia. Members of IND/DEM are relatively ideologically coherent. Most members are clearly to the right of the Christian Democrats and some overlap with the right wing of the Christian Democrats. Overall, the most extreme left wing member of the sixth European Parliament is Fausto Bertinotti with −2.9 on the left–right scale from the Communist Refoundation Party of Italy. The median MEP is Daniel Dainau, member of the National Liberal Party of Romania and member of the ALDE group with an ideology score of 0.3. The most extreme right-wing representative is again the non-attached Jean-Marie Le Pen of France's Front National with an ideology score of 2.0

Turnover from the sixth to the seventh Parliament was 45%. In the seventh Parliament (2009–2014), after a long period of estrangement between Conservatives and Christian Democrats in the European People's Party, the new European Conservatives and Reformists Group (ECR) was formed under the leadership of the British Conservatives and the Polish Law and Justice Party because the Christian Democrats were too federalist for Conservative members (Whitaker and Lynch, 2014).[10] Furthermore, during the seventh Parliament, the 'European Debt Crisis'

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[10]Other members are the German Liberal Conservative Reformers, the Danish People's Party, the Belgian Flemish Alliance, Bulgaria Without Censorship, the Irish Fianna Fáil, the Slovak Ordinary People Party, the

unfolded and consequently Euroscepticism was on the rise. Consequently, while the left has become less extreme the right has moved somewhat more to the right. The range of the left–right spectrum in the previous Parliament was −2.9 to 2.0. The new range is −2.5 to 2.2. The corresponding range of national parties in the Council is −2.1 to 2.1. Figure 4.4 plots the posterior preference estimates of all legislators in the seventh Parliament. The voting data for the seventh Parliament is worse than the data for all other Parliaments. Furthermore, the estimates correlate the least with the NOMINATE model—NOMINATE scores rely only on voting behaviour and correlate very little with the party priors that had been highly correlated in previous Parliaments. While the quality of the voting data became worse in the seventh Parliament, there is no reason to believe that the quality of the expert survey data has deteriorated. Face validity of the posterior means is high, which emphasises the strength of the Bayesian framework when the data is not the best.

Figure 4.4: Legislators' Preferences in the Seventh Parliament 2009–2014
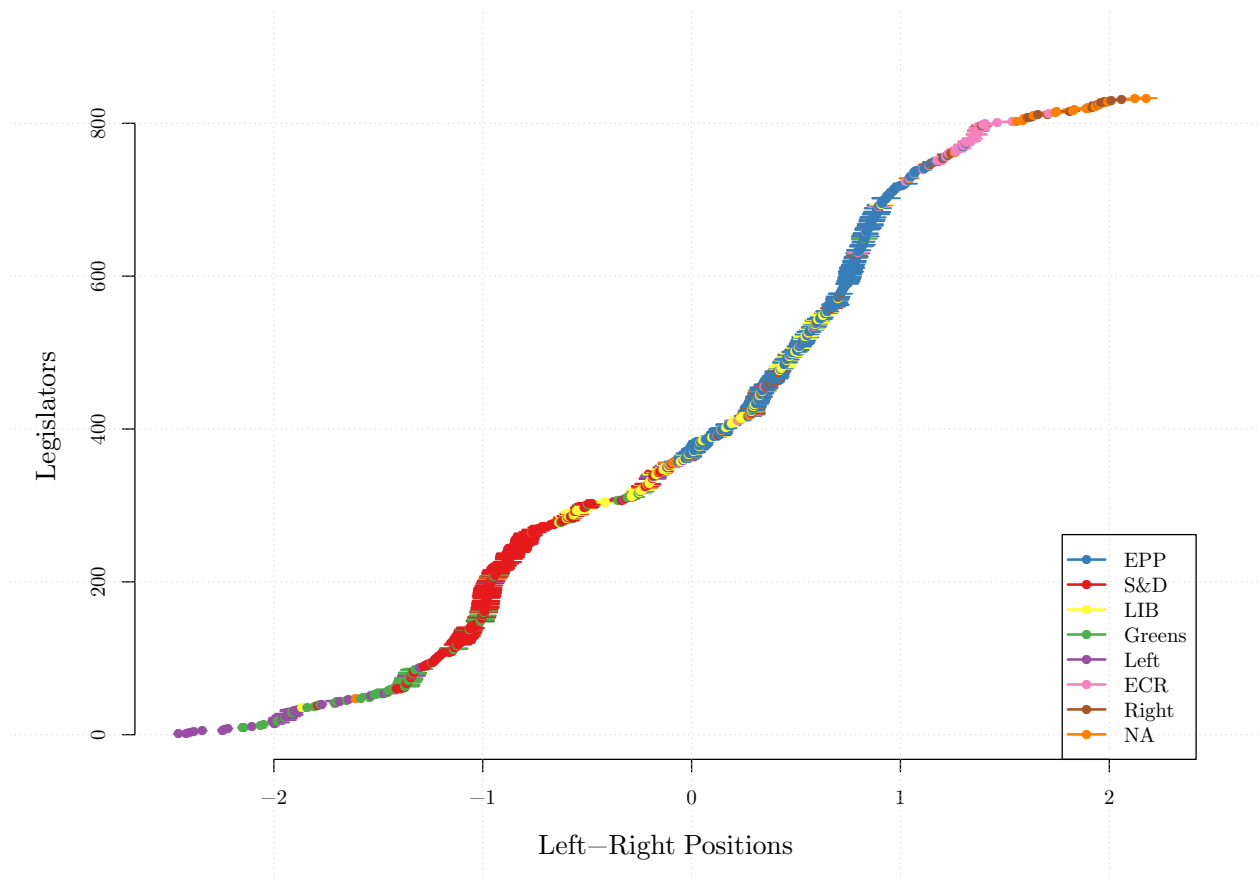


Figure 4.4 shows that members of the transnational groups cluster from left to right as should be expected. Representatives from the Left group form the left wing of Parliament seven

Lithuanian Electoral Action of Poles in Lithuania, the Croatian Conservative Party, the Dutch Christian Union, the Czech Civic Democracy Party, and the Latvian National Alliance.

followed by the Greens. Centre-left is occupied by the Social Democrats and the Liberals take the centre. The Christian Democrat European People's Party (EPP) is the centre-right group. They are followed by the newly formed conservative ECR group. Members of the Right group form the organised right wing of the seventh Parliament. The Right group is composed of the newly formed Europe of Freedom and Democracy group (EFD). The trend shows that the European right becomes more organised and more united over time. In the sixth Parliament, the two right groups, Union for Europe of the Nations (UEN) and Independence and Democracy (IND/DEM), were separate groups. In the seventh Parliament, they joined forces as the Europe of Freedom and Democracy Group (EFD). While the EFD is the most extreme right group, the most ring wing members of the seventh Parliament are non-attached. Besides the new unity on the right, a noticeable change is that the Christian Democrats are less ideologically coherent than they were in previous Parliaments. The left wing of the Christian Democrats has moved markedly towards the centre and overlaps with the Liberals. At the same time, the Social Democrats have not moved towards the centre but clearly remain a centre-left group. The most extreme MEP on the left is Vera Flasarová of the Czech Communist Party of Bohemia and Moravia, which is organised in the European United Left and Nordic Green Left group, with an ideology score of $-2.5$. The median legislator, with an ideology score of 0.3, is Tadeusz Ross of the Polish Civic Platform which is a member of the European People's Party. The median legislator illustrates that some Christian Democrat parties have moved to the left. For the first time, the median legislator is not a member of the Liberal group but a member of the Christian Democrats. The non-attached Nick Griffin of the British National Party is the most right wing member of the seventh European Parliament with an ideology score of 2.2.

Over twenty years, the political left–right spectrum in the European Parliament has remained relatively stable. In the first five years of the 1994–2014 period, the centre-left was the largest political force in the Parliament. Since then, the centre-right Christian Democrats have been the largest force. At the extreme ends of the political spectrum, the Parliament has included the extreme left throughout the entire period. The extreme right was more fractured and moderate compared to the left but in recent years has become slightly more extreme and more unified. The centre has been controlled by the Liberal group throughout the entire period but in the seventh Parliament, the left wing of the Christian Democrats has moved more towards the centre and created new competition for the liberal parties. Non-attached members are consistently the most extreme right-wing representatives. The right wing in the Parliament, therefore, has the potential to become more unified and more numerous still. Figure 4.5 illustrates how the median in the plenary has shifted over time. A right-shift is noticeable from the fourth to the seventh Parliament, where the sixth Parliament was the right-most Parliament

overall. All Parliaments are distinguishable because the distributions of the median positions do not overlap. Given the entire left–right spectrum over the twenty years period, the shift from the fourth Parliament to the sixth Parliament constitutes 5% of the range.

Figure 4.5: Floor Medians in the Parliament 1994–2014
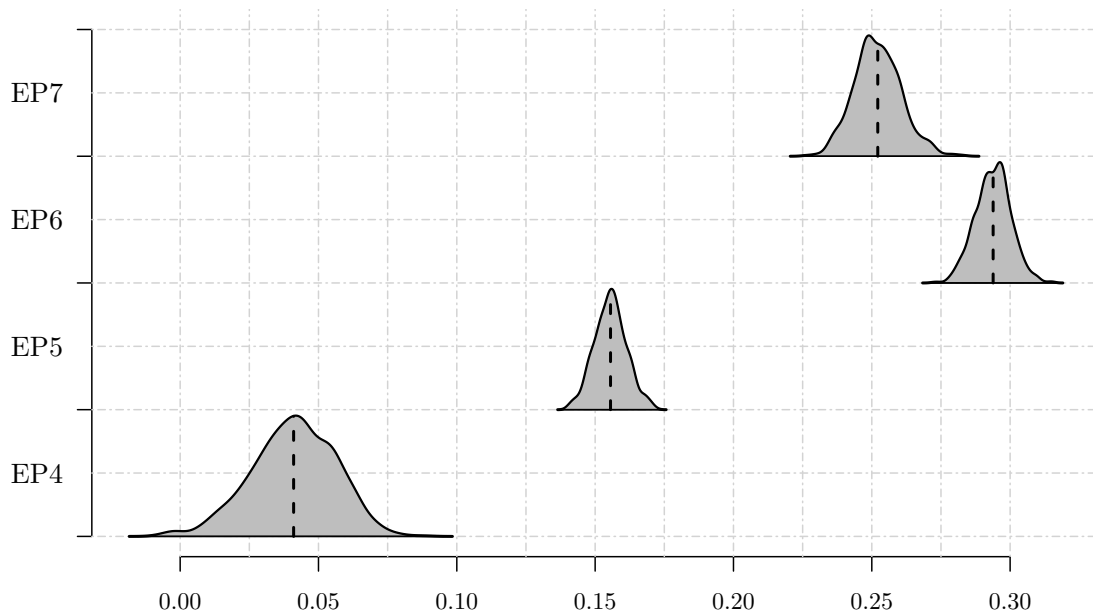


In summary, I have scaled preferences of members of the European Parliament in the fourth, fifth, sixth, and seventh Parliaments covering the 1994–2014 period. I rely on a Bayesian Item Response Theory model to estimate preferences in a common space. I make use of informative prior information on the ideology of the members of the European Parliament. Priors for first-time members are the national party positions from the Chapel Hill Expert Surveys. Priors for re-elected members are the ideology estimates from the previous term. Furthermore, I use contextual information to estimate preferences more precisely. The informative priors highly correlate with the ideology estimates but they do not over-determine the final estimates. In the sixth Parliament, e.g., Marco Pannella of Italy's liberal Lista Emma Bonino had a prior ideology score of −0.3 and a posterior ideology score of 0.9. This right-shift of 1.2 points corresponds to 24% of the ideological spectrum. The scaled positions have high face validity and correlate highly with estimates from a model that relies on voting behaviour only. The preference data is used in the following empirical chapters of this study. In the following, I analyse committee organisation within the Parliament to determine whether committees are representative of the plenary.

# Chapter 5

# Committee Organisation 1994–2014

In this chapter, I analyse the composition of the European Parliament's standing committees comprehensively from 1994 to 2014. I provide answers to the following two questions: (1) Are the standing committees representative of the plenary, or are there systematic outliers? (2) Does ideology predict committee membership?

The first question relates to the literature on committee organisation in the U.S. Congress. Competing theories predict that preference outliers join the same committees; hence, committee preferences are homogeneous and, therefore, not representative of the whole chamber (Shepsle and Weingast, 1995). Alternatively, representatives form committees based on expertise; hence, committee preferences are heterogeneous and reflective of the chamber as a whole (Krehbiel, 2010). Furthermore, the first question relates to the effect of the open amendment rule.[1] Its consequence is that the committee text will be amended in plenary such that it reflects the preference of the floor median. As the committee does not have gate-keeping powers, the outcome in inter-institutional negotiations will be between floor median and Council rather than between committee median and Council. However, if the committees are broadly representative of the plenary, this differentiation would be negligible.

The second question relates to committee representativeness. If more leftist members prefer organising into specific committees such as the Environment, Public Health and Food Safety committee, representativeness may be compromised and the Parliament may produce ideologically biased policies depending on the policy area. Furthermore, if committees are representative of the plenary, ideology should not predict committee choice.

In what follows, I proceed with a brief overview of the literature on committee organisation in the European Parliament. Next, I describe ideology across committees and over time with respect to the median in the committee as well as the dispersion of ideology. I then present

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[1]I have discussed the effect of the open amendment rule in chapter 3.

the results of the empirical analysis on committee membership for twenty years of legislative organisation in the European Parliament. In short, the results suggest that ideology is unrelated to committee membership. The legislative standing committees are remarkably representative of the plenary. There is no evidence for the distributional theory but some for either the informational theory or a third alternative—the partisan theory. The results inspire optimism in the legislative system of the European Union, because agency-drift should be expected if the committee system were not representative of the plenary. In this thesis, I treat the committee as the principal in the decision to delegate to the informal arena. The committee's principal is the plenary and because the committees are very representative, agency-drift should not ensue due to little policy-conflict between committees and the plenary.

## 5.1   Literature on Committee Organisation in the Parliament

The three theories of legislative organisation in the U.S. Congress are the distributional theory (Shepsle and Weingast, 1995), the informational theory (Krehbiel, 2010), and the partisan theory (Cox and McCubbins, 2007). The theories have been applied to legislative organisation in the European Parliament. In line with the informational rationale, Yordanova (2013) finds that the committees are broadly representative of the plenary (see also McElroy, 2006) but, in line with the distributional rationale, some committees are staffed by preference outliers who self-select into a committee due to their specific interest. Yordanova (2013) does not find convincing evidence that the partisan rationale informs committee organisation in the European Parliament. Similar to Yordanova (2013), McElroy (2006) finds that members of the Environment, Public Health and Food Safety committee tend to have closer ties to environmental interest groups than fellow members of the Parliament. According to interview data, representatives can self-select into their preferred committees (Whitaker, 2001). Voting in committees is usually unanimous which may point towards a committee system that functions as an information gathering system rather than one where partisan or individual political interests determine committee membership (Settembri and Neuhold, 2009). However, using aggregate voting data in the committees in the first two years of the fifth and sixth Parliaments, Settembri and Neuhold (2009) find substantive variation across committees. Competition seems to be highest in the Employment and Social Affairs committee (EMPL), the Environment, Public Health and Food Safety committee (ENVI), the Transport and Tourism committee (TRAN), the Civil Liberties, Justice and Home Affairs committee (LIBE), and the Constitutional Affairs committee (AFCO). The least conflictual committees where the Foreign Affairs committee (AFET), the Budgets committee (BUDG), the Agriculture and Rural Development committee (AGRI), and the Fisheries committee (PECH). Cohesive or near unanimous voting does not necessarily have

to imply that contested committees are more important committees. Whitaker (2005) interprets cohesive voting as a sign of party discipline and proposes that parties are more likely to impose party discipline, the more legislative power a committee has.

One of the most sought-after committee positions is the rapporteurship because it affords tremendous legislative influence (Hix and Høyland, 2013). I focus on report allocation in the next chapter, however, the literature on report allocation also speaks to the allocation of other influential committee positions such as the chair and vice-chair. Mamadouh and Raunio (2003) find support for the partisan rationale: key reports and key positions are over-proportionally allocated to larger party groups and especially to larger national delegations within the party groups. In the ENVI committee influential positions where allocated to states with higher environmental standards, pointing to the distributional rational (Kaeding, 2004a). Ideological similarity between the representative and the group median predicts well the appointment to political office—report allocation and committee leadership roles (Yoshinaka et al., 2010). The theories of legislative organisation from the U.S. Congress all seem to apply to some degree and there is still some dispute over the power of national parties compared to the power of transnational groups (Hix and Høyland, 2013). By and large, the party groups seem to be able to control the committee system by assigning positions to loyal representatives (Bowler and Farrell, 1995; Hix and Høyland, 2013; Corbett et al., 2016).

## 5.2   Committee Positions: Median and Dispersion

The following analysis of committee organisation in the European Parliament relies on the preference data which I discussed in the previous chapter. I cover twenty years of legislative organisation in the Parliament from 1994 to 2014. Furthermore, I have collected contextual data on individual members of the European Parliament by web-scarping the data hub of the European Parliament, the Legislative Observatory (Broniecki, 2017). The information that I collected includes age, nationality, national party affiliation, committee membership, committee substitute membership, committee chairmanship, and committee vice-chairmanship. Furthermore, for every member of the European Parliament in the twenty year period, I have collected exact dates of the committee functions and party affiliations. Committee membership and committee roles are re-shuffled in the middle of the legislative term (Corbett et al., 2016). I have collected the dates of these re-shuffles and for each committee-term I construct the composition of the committee and the various roles in the committee. The level of observation of the committee composition is, therefore, the half-term of the Parliament. Assignment to committees is on the individual level. In the following, I describe the composition of the standing committees

in the Parliament over time.[2] Table 5.1 lists the legislative committees that I have data on and the corresponding abbreviations.

Table 5.1: List of Legislative Standing Committees

| Standing Committee Name | Abbreviation |
|---|---|
| Foreign Affairs | (AFET) |
| Development | (DEVE) |
| International Trade | (INTA) |
| Budgets | (BUDG) |
| Budgetary Control | (CONT) |
| Economic and Monetary Affairs | (ECON) |
| Employment and Social Affairs | (EMPL) |
| Environment, Public Health and Food Safety | (ENVI) |
| Industry, Research and Energy | (ITRE) |
| Internal Market and Consumer Protection | (IMCO) |
| Transport and Tourism | (TRAN) |
| Regional Development | (REGI) |
| Agriculture and Rural Development | (AGRI) |
| Fisheries | (PECH) |
| Culture and Education | (CULT) |
| Legal Affairs | (JURI) |
| Civil Liberties, Justice and Home Affairs | (LIBE) |
| Constitutional Affairs | (AFCO) |
| Women's Rights and Gender Equality | (FEMM) |

In the fourth Parliament (1994–1999), the political left-right spectrum ranges from $-2.5$ to 2.5. The floor median is at 0.04. The range from the $25^{\text{th}}$ percentile to the $75^{\text{th}}$ percentile is $-0.83$ to 0.89, i.e. half the representatives in the Parliament are within this ideological range. I define the centre of the Parliament as the 20% who are most centrist, i.e. the range from the $40^{\text{th}}$ percentile to the $60^{\text{th}}$ percentile. This range is $-0.62$ to 0.61. The Social Democrats are the biggest group and the median in the Social Democrat group is at $-0.78$. The median in the second biggest group, the centre-right Christian Democrats, is 0.91. The median in the centrist liberal groups is 0.44.

The committee medians are an important indicator of the political leaning of a committee because decisions in committee are taken by simple majority (Corbett et al., 2016). Figure 5.1 plots the median positions in the standing committees of the fourth Parliament.[3] The most leftist committee in the fourth Parliament is the Employment and Social Affairs committee in the second half term with a median position of $-0.65$. Over the entire period of the fourth Parliament, four standing committees are visibly more leftist than the other committees: Em-

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[2]During that period, committee names have changed somewhat.
[3]TRAN did not exist in the fourth Parliament. I recoded RETT to TRAN (cf. Settembri and Neuhold, 2009).

Figure 5.1: Committee Medians in the Fourth Parliament 1994–1999
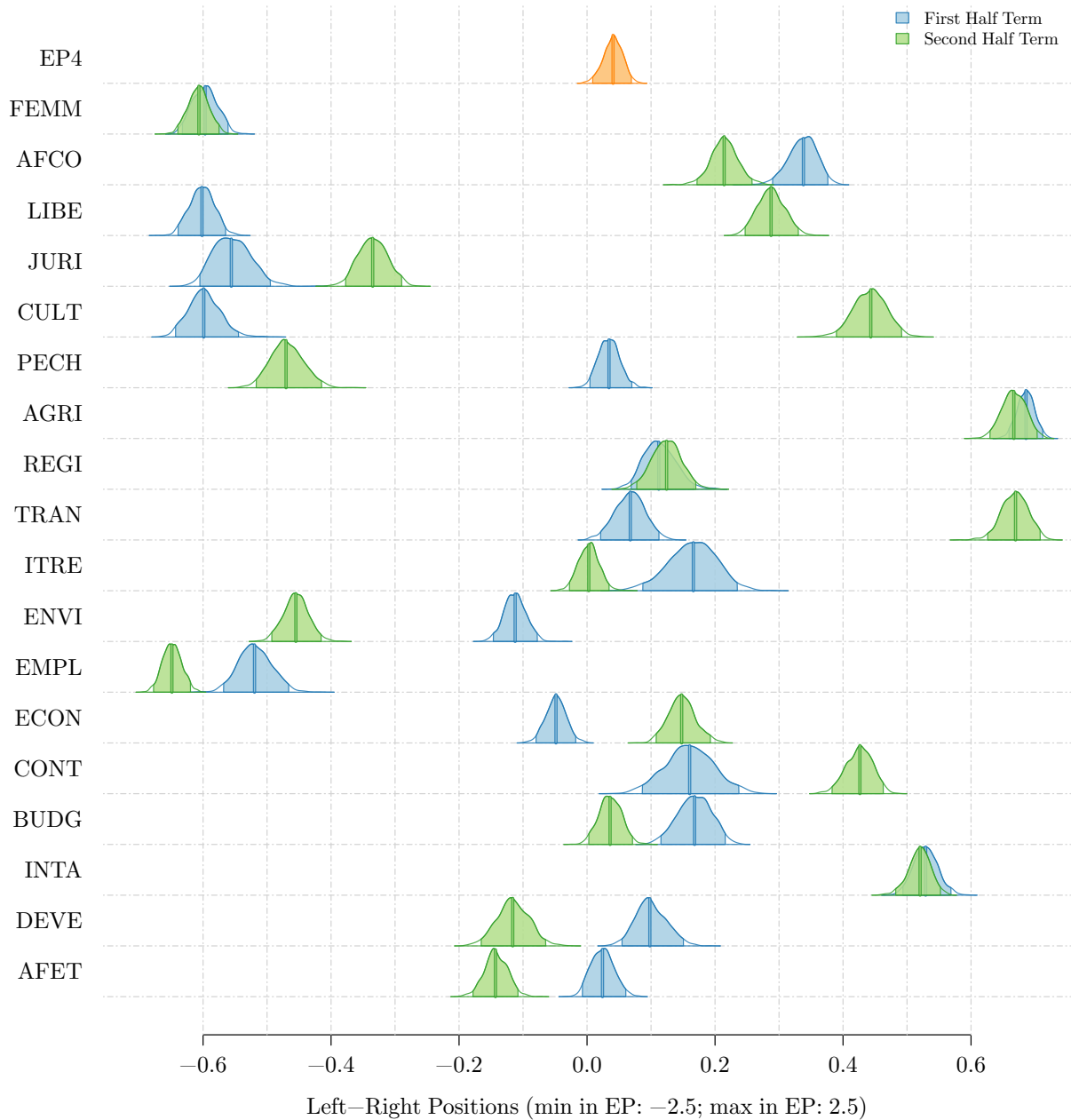
Note: The figure plots median positions and highlights the 95% credible intervals of the median positions for the standing committees in the fourth Parliament.

ployment and Social Affairs, Women's Rights and Gender Equality, Legal Affairs and, to a lesser extent, Environment, Public Health and Food Safety. The most right-wing committee is Agriculture and Rural Development in the first half term with a median left–right position of 0.69. Over the entire legislative term of the fourth Parliament, three committees are more rightist than other committees: Agriculture and Rural Development, International Trade, and

to a much lesser extent, Budgetary Control. Preference outlier committees are evidence of the distributional rationale where representatives self-select into committees. Only in three of seventeen committees is the median position outside the centre of the political spectrum in one of the half terms. In all three, the median is still within the middle 50% of the chamber. Therefore, describing these committees as outlier committees shifts the frame somewhat. The median within the left-wing of the Parliament—composed of the Left group and the Green group—is $-1.50$, far to the left of all committee medians.

The partisan rationale explains committee composition better than the distributional rationale. The Social Democrats are the biggest group in the fourth Parliament and the Employment and Social Affairs committee, for example, reflects the centre-left position more than the centre-right. Furthermore, social affairs is a core issue of the centre-left. Equally, the Christian Democrat and conservative parties tend to be associated with agriculture more and the Agriculture and Rural Development committee reflects the centre-right more than the centre-left. In the Civil Liberties, Justice and Home Affairs and Culture and Education committees, the median shifts noticeably from left of centre to right of centre which could reflect a compromise between the two largest political forces in the Parliament whose votes are often required to form a winning coalition (Hix and Høyland, 2013).

The Fisheries committee is slightly left of centre overall and the Transport and Tourism committee is slightly right of centre overall. The following six committees reflect the floor median relatively closely overall: Foreign Affairs, Development, Budgets, Economic and Financial Affairs, Industry, Research and Energy and Regional Development. The Economic and Financial Affairs committees is one of most influential committees and important to the large centre-left and centre-right groups (Settembri and Neuhold, 2009; Roederer-Rynning and Greenwood, 2015). The Regional Development committee deals with distributive issues and is remarkably close to the floor median in both half terms. Similarly, the Committee on Budgets, which co-decides with the Council the EU budget to fund EU policies and institutions, is remarkably close to the floor median in both half terms. Overall, the committees are reflective of the plenary with some minor exceptions. None of the committees is a preference outlier as the distributional theory would predict. The informational theory and the partisan theory seem to better explain overall committee positions, however, with regard to the median position, they may be considered observationally equivalent in many cases.

In the fifth Parliament (1999–2004), the political spectrum ranges from $-2.6$ to $2.0$ The majority group is now the centre-right European People's Party with a median ideology score of $0.92$ and the Social Democrats are the second biggest group with median ideology $-0.81$. Thus, while the overall political spectrum shrinks in comparison to the fourth Parliament, the

Figure 5.2: Committee Medians in the Fifth Parliament 1999–2004

Note: The figure plots median positions and highlights the 95% credible intervals of the median positions for the standing committees in the fifth Parliament. The positions of AFCO and ITRE in the first half term are missing from the data. REGI is completely missing from the data. Committee memberships where web-scraped from the Legislative Observatory. I dropped committees, where the number of scraped members did not match the number of reported actual members.

distance between centre-left and centre-right slightly increases. The range of the centre (the central 20%) ranges from −0.63 to 0.66, i.e the centre is also slightly less ideologically coherent compared to the fourth Parliament. Figure 5.2 plots the committee medians in Parliament five

for both half terms. All committees, except Women's Rights and Gender Equality in the second half term, have median positions inside the centre range. Out of the left committees in the fourth Parliament, only Women's Rights and Gender Equality is still a 'left' committee. Legal Affairs is now the most right-wing committee on average. Environment and Employment are both close to the median on average. The formerly right-wing Agriculture and Rural Development is now exactly at the floor median. Most committees are within close proximity of the median but Development and Fisheries alternate between left and right. Over both half terms, one more committee is to the right of the floor median than to the left of the floor median which reflects the new majority in the Parliament.

I web-scraped information such as committee membership on individual representatives. The coding of membership dates on the website was not always consistent. I dropped committees from the data if the number of scraped members did not match the number of officially reported members. The Regional Development committee has been dropped from the data in the fifth Parliament. When taking the evidence from the fourth and the fifth Parliaments together, it becomes clear that the distributional rationale does not explain committee organisation in the Parliament well. The informational or partisan theories seem to apply better.

The size of the sixth Parliament (2004–2009) increased substantially because ten new member states acceded to the Union. The political spectrum ranges from $-2.9$ to $2.0$ and the median in the Parliament is $0.29$. The centre-right Christian Democrats and conservative parties in the European People's Party remain the strongest political force with a median ideology score of $0.86$. The second largest group are the centre-left Social Democrats with $-0.94$ median ideology. The central 20% in the Parliament range from $-0.13$ to $0.59$. The central range has become noticeably smaller—it does not reach as far left as in previous terms.

The committee on International Trade (INTA) is the most rightist committee, outside the central range at $0.7$ in the first half term and at $0.65$ in the second half term. The position of INTA is in-line with the partisan expectation—international trade is an important issue for the centre-right. Furthermore, the findings correspond to the position of INTA in Parliament four (I do not have data on INTA in Parliament five). In the second half term, the Development and the Legal Affairs committees are to the left of the central range. In the first half term, Development is roughly at the position of the floor median and Legal Affairs is to the right of the floor median. The most left-wing committee overall, is Employment and Social Affairs. Again, the partisan theory suggests that committees would reflect the political majorities in the Parliament and the Social Democrats, although a junior partner, are often needed to form a winning coalition. Furthermore, Employment and Social Affairs is a classic issue of the Left. Averaged over both half terms, the same amount of committees are to the left of the floor

Figure 5.3: Committee Medians in the Sixth Parliament 2004–2009
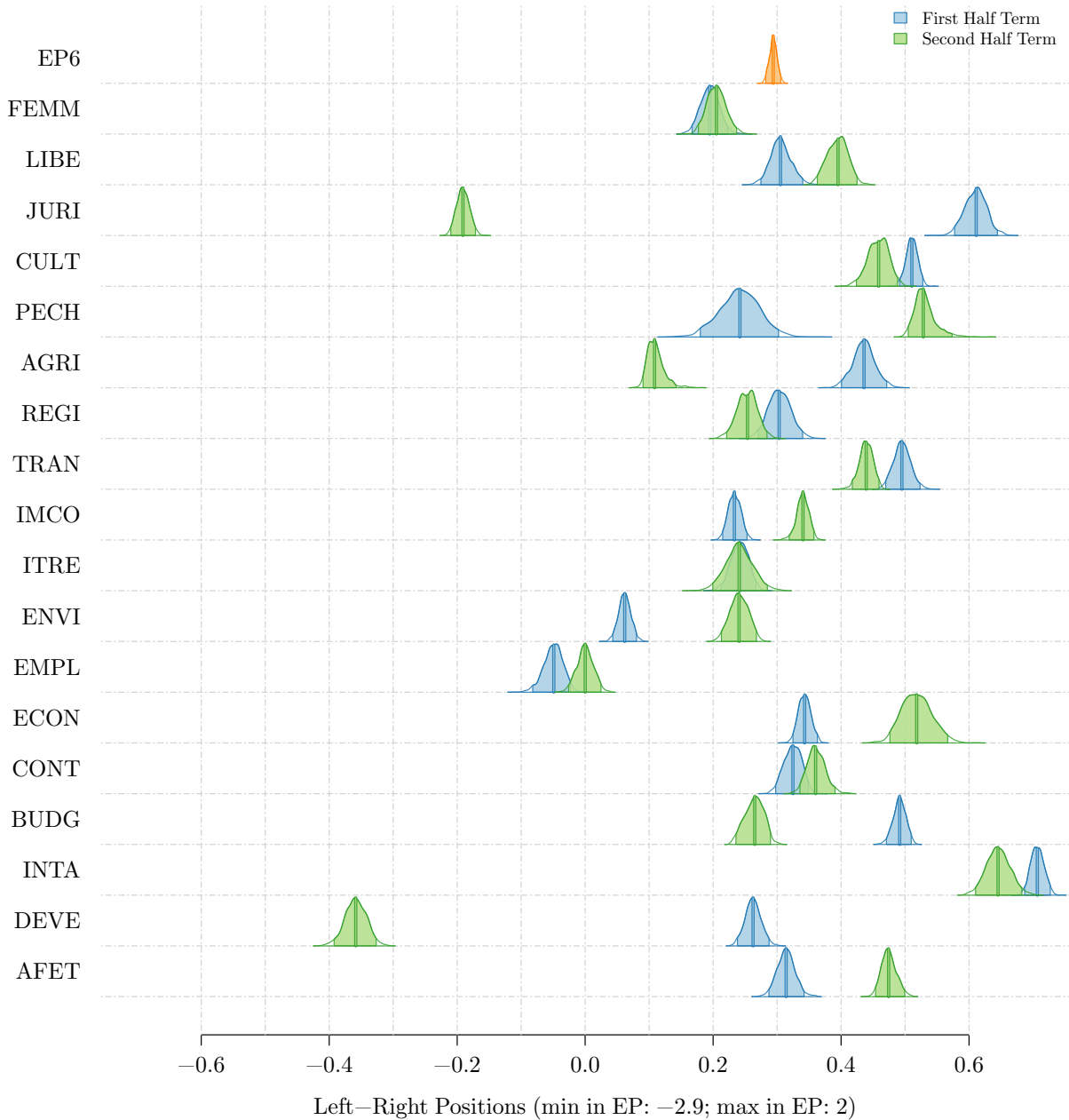
Note: The figure plots median positions and highlights the 95% credible intervals of the median positions for the standing committees in the sixth Parliament.

median as are to the right of the floor median. Overall, the committees are very representative of the plenary in the sixth Parliament, the 'Eastern Enlargement' notwithstanding.

In Parliament seven (2009–2014), the ideological spectrum ranges from −2.5 to 2.2 and the floor median is at 0.25. The largest group is the centre-right European People's Party, despite the breakaway of the British Conservatives and the Polish Law and Justice party, with a median

Figure 5.4: Committee Medians in the Seventh Parliament 2009–2014

Note: The figure plots median positions and highlights the 95% credible intervals of the median positions for the standing committees in the seventh Parliament. FEMM has been dropped from the data in the first half term because the number of web-scraped members in my data did not match the officially reported number of members.

ideology score of 0.74. The newly formed European Conservatives and Reformists group has a median ideology score of 1.30 and is, therefore, clearly to the right of the European People's Party. The second largest group are the Social Democrats with a median left–right score of

−0.97. The central 20% in the Parliament range from −0.19 to 0.48 which means that the centre of the Parliament has again become more ideologically cohesive. All committee medians are within the central range. Furthermore, all committees are relatively tightly packed around the floor median and, therefore, the committees reflect the plenary very well. Agriculture is, overall, the rightmost committee and Development is the leftmost.

According to the spatial model of politics, the median is decisive in simple majority voting (Hotelling, 1929). Committees decide important questions such as delegation to the informal arena by simple majority vote (Corbett et al., 2016). Therefore, the committee median indicates the ideological leaning of a committee. The distributional theory does not appear to predict the committee's ideological leaning well because outlier committees do not exist. Both the informational theory and the partisan theory can better explain committee organisation in the Parliament when looking at median positions. What is more, the committees have become more representative of the floor median over time. The mean ideological distance between all committee medians and the floor median decreased from 0.22 in Parliament four, to 0.13 and 0.14 in Parliament's five and sixth and finally to 0.12 in Parliament seven.

Settembri and Neuhold (2009) claim that decisions in the committees are taken by unanimity if possible and with qualified majorities otherwise rather than by simple majority voting. In the following, I describe committees in terms of the ideological breadth. Using roll-call data from the first year of Parliaments five and six respectively, Settembri and Neuhold (2009) found significant differences between committees with respect to their ideological cohesion. The higher the preference heterogeneity, the more competitive the committee is. Competition was found to be high in Employment and Social Affairs (EMPL), Environment, Public Health and Food Safety (ENVI), Transport and Tourism, Civil Liberties (TRAN), Justice and Home Affairs (LIBE), and Constitutional Affairs (AFCO). In Foreign Affairs (AFET), Budgets (BUDG), Agriculture and Rural Development (AGRI), and in Fisheries (PECH) competition was low.

Figure 5.5 illustrates the dispersion of the standing committees in both half terms of the fourth Parliament (1994-1999). The interquartile range is commonly used to describe the variability of a distribution (Stock and Watson, 2007). It is the distance from the 25th to the 75th percentiles and hence covers the central 50% of observations in a distribution. In a boxplot, the size of the box is the interquartile range, i.e., the larger the box, the more variable the data. The bold line within the box is the median. If the median is in the centre of the box, the distribution is more symmetric. If the median is closer to the left end of the box, in figure 5.5, it means that the 25% of legislators to the left of the median are more ideologically coherent than the 25% who are to the right of the median. The whiskers extend to 1.5 times the interquartile range if the data extents that far out and observations outside that range are considered outliers—dots

Figure 5.5: Ideological Dispersion of Committees in Parliament 4 (1994–1999)
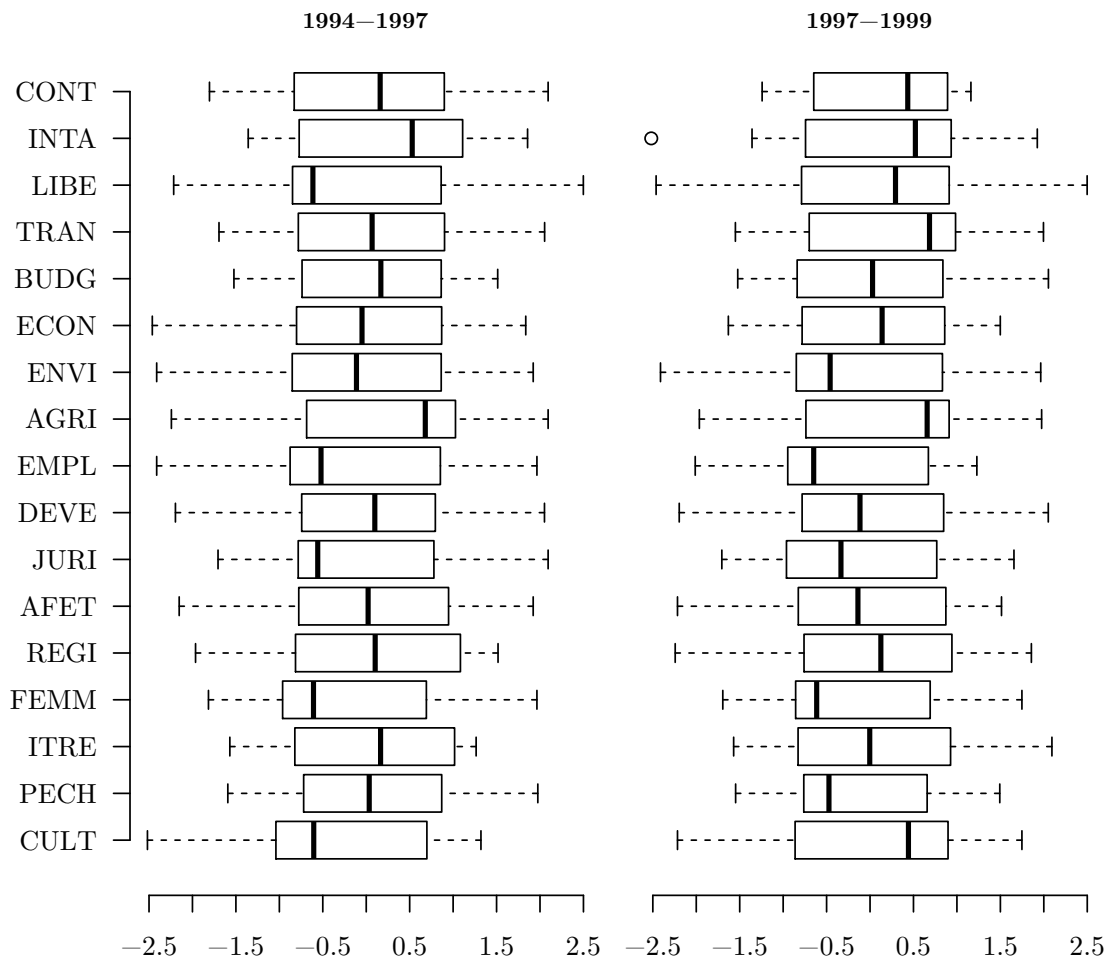
Note: Boxplots of the left–right positions of all committees in the first and second halves of the fourth Parliament (1994–1999) illustrate ideological cohesion. The interquartile range (the box size) suggests that committees cover a similar ideolgical breadth.

in figure 5.5. The committees are quite similar with respect to ideological breadth—the box sizes are similar across committees and over the half terms. The regularities in Settembri and Neuhold (2009) do not replicate in Parliament four, except that the small Fisheries committee is ideologically more homogeneous than most other committees. More variation may be observed when the whiskers are included in the comparison—a comparison that better reflects near una-nimity voting. However, even then, greater variation can be observed over time than across committees, i.e., figure 5.5 does not suggest that some committees exhibit greater preference heterogeneity than others. This suggests that the distributional rationale did not apply in the fourth Parliament.

Figure 5.6 plots dispersion of the standing committees in both half terms of the fifth Parlia-ment (1999–2004). There is comparatively less variation across committees than in the fourth

Figure 5.6: Ideological Dispersion of Committees in Parliament 5 (1999–2004)
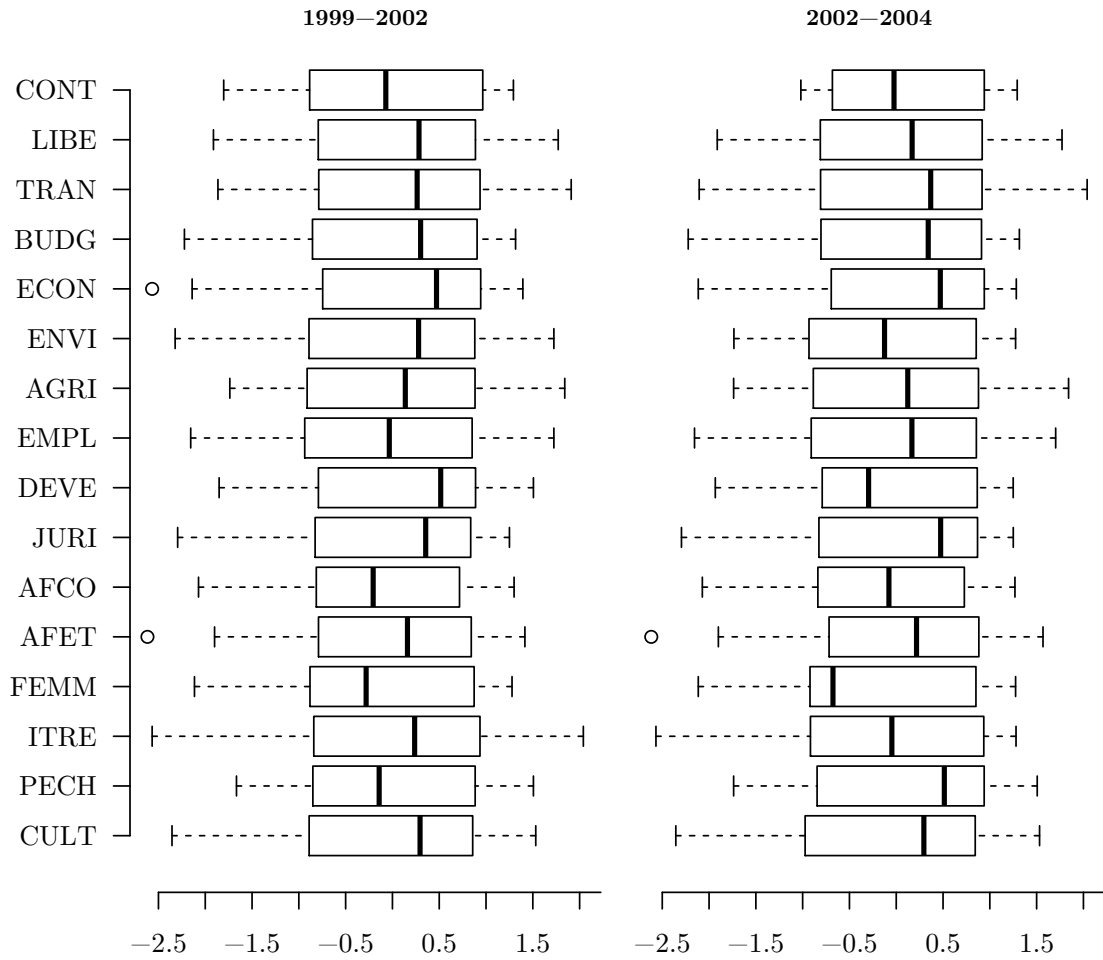


Note: Boxplots of the left–right positions of all committees in the first and second halves of the fifth Parliament (1999–2004). Ideological breadth, measured by the interquartile range (the size of the box), is remarkably similar across committees.

Parliament which is further evidence against the distributional rationale. In fact, the interquartile ranges vary more between half terms than across committees which indicates that the variation across committees is random. Overall, in Parliament five, committees cover similar ideological breadths.

Figure 5.7 plots dispersion of the standing committees in both half terms of the sixth Parliament (2004–2009). There is little variation across committees. The interquartile ranges vary between half terms roughly as much as they do across committees which indicates that the variation across committees is random. Overall, in Parliament sixth, committees cover similar ideological breadths again.

Figure 5.8 plots dispersion of the standing committees in both half terms of the seventh Parliament (2009–2014). The results are similar to the previous Parliaments. There is not much

Figure 5.7: Ideological Dispersion of Committees in Parliament 6 (2004–2009)
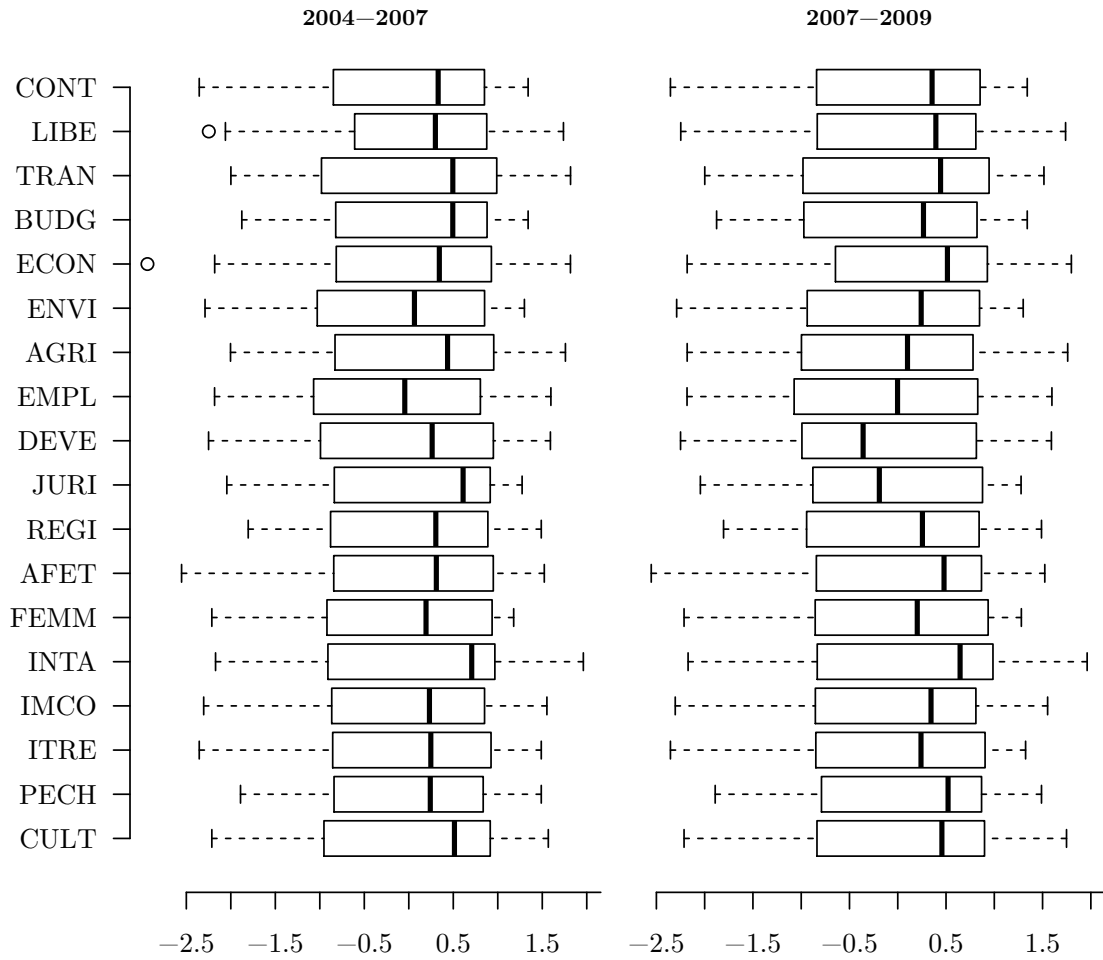


Note: Boxplots of the left–right positions of all committees in the first and second halves of the sixth Parliament (2004–2009). Ideological breadth, measured by the interquartile range (the size of the box), is remarkably similar across committees.

systematic variation in the ideological breadth across committees. Furthermore, comparing across all Parliaments, committees are sometimes among the ideologically 'wider' and sometimes among the ideologically 'narrower'. The Culture and Education committee (CULT), e.g., is somewhat narrow in Parliament seven and somewhat wide in Parliament six.

Overall, there is little evidence for systematic differences in ideological breadth of the standing committees. The findings go against the predictions of the distributional theory which postulates that 'high demanders' self-select into committees. Committees should, according to the distributional rationale, be homogeneous in terms of preferences but there should be clear variation across committees. The dispersion of the committees is more in-line with the predictions of the informational and partisan theories of legislative organisation.

Figure 5.8: Ideological Dispersion of Committees in Parliament 7 (2009–2014)
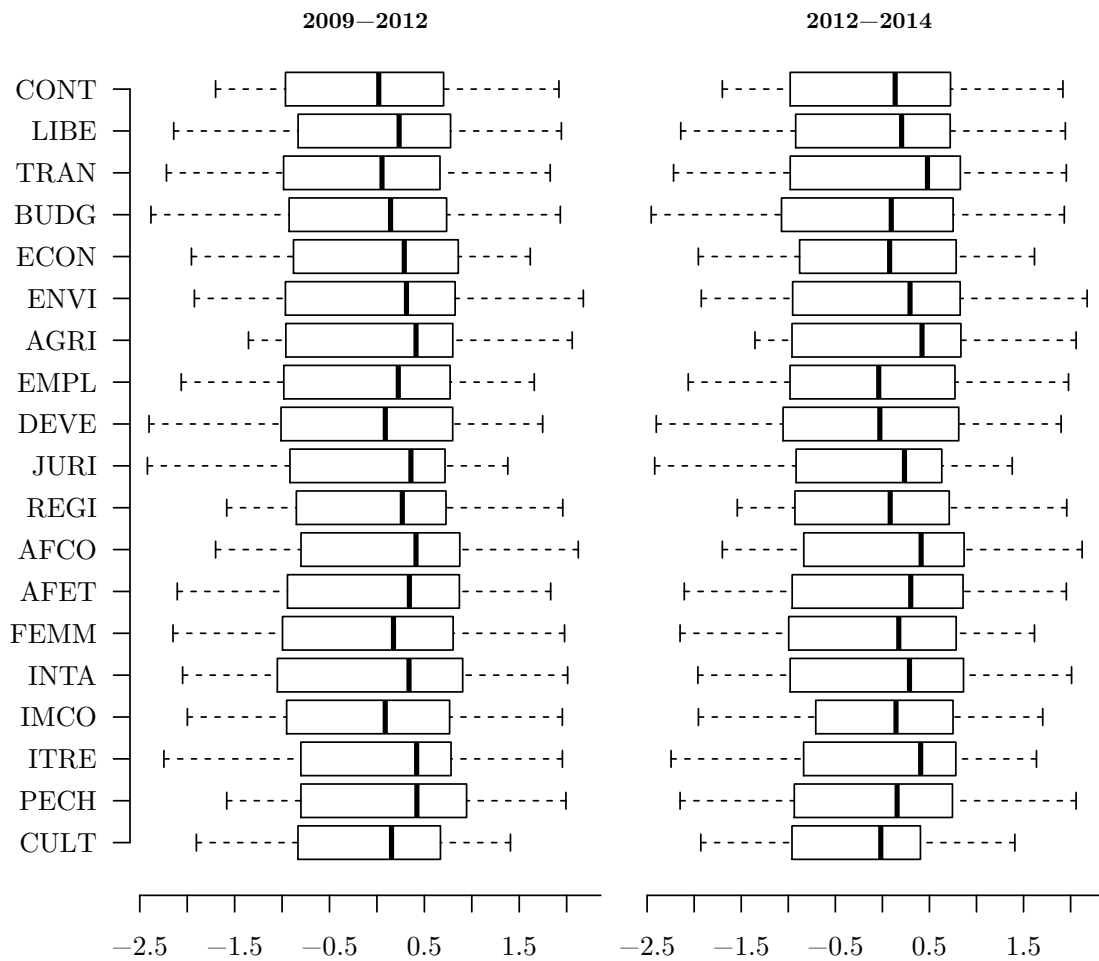


Note: The figure shows boxplots of the left–right positions of all committees in the first and second halves of the seventh Parliament (2009–2014).

The first question that I seek to answer in this chapter is whether there are systematic outlier committees or whether committees tend to be representative of the floor median? The answer is that most committees are representative of the plenary, the median is almost always within the ideological range of the central 25% of the Parliament. There are sometimes 'outlier' committees—where the committee median is outside the central 25% range—such as Employment and Social Affairs on the left or International Trade on the right in the fourth Parliament. These committees tend to be to the left and to the right of the median respectively over all Parliaments which lends credibility to the partisan rationale. However, these committees are never as 'extreme' as the median in the centre-left or centre-right groups. By and large, the variation in the data does not appear to be systematic. Furthermore, the committees become more representative over time. In addition to that, committees cover similar ideological ranges.

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There is as much variation over time as there is across committees which is further evidence that the variation is unsystematic.

In the following, I analyse whether ideology predicts committee membership. I do not expect this to be the case because the committees are largely representative according to the descriptive analysis in this section.

## 5.3 Ideology is Unrelated to Committee Membership

In this section, I answer the second question of this chapter: Does ideology predict committee membership? In the previous section, I have established that there are no clearly visible systematic outlier committees. In this section, I keep other factors constant to check whether ideology is at all related to committee membership or not. Intuitively, I expect members of the Green group who are on the left of the ideological spectrum, to self-select into the Environment, Public Health and Food Safety committee for example (Yordanova, 2009). However, given the findings in the previous section, the party system in the Parliament may prevent self-selection into committees based on ideology.

In the following analysis, all observations are pooled and the level of observation is, therefore, a legislator in a half term. The data covers four Parliaments and eight half terms in total. The total number of observations is 6150. The dependent variables are binary. I use logistic regression to predict committee membership.

The dependent variables are indicators of committee membership. There are nineteen standing committees in the data. Therefore, I have nineteen dependent variables. A committee member is a legislator who has a vote in a committee, i.e. a member, a chair, or a vice-chair. Substitutes are not full committee members and, therefore, I do not count substitutes among committee members.

The main explanatory variable is *ideology*. Ideology is measured on the individual level and varies over parliamentary terms but not within terms (see chapter 4).

Furthermore, I control for other potential predictors of committee membership such as: age, group size, size of the national delegation, whether a legislator was previously a full member, whether a legislator was previously a substitute, ideological similarity to the group, ideological similarity to the national delegation, fixed effects for legislative terms, groups, national delegations, and individual legislators. All variables are either based on the preference estimates described in chapter 4 or are web-scraped from the Legislative Observatory (Broniecki, 2017).

*Age* is a sociodemographic control that may pick up on the seniority of a representative. Furthermore, legislators may wish to make a career in national politics, in European politics, or they may wish to end their careers with a 'quiet spell' in the European Parliament (Settembri

and Neuhold, 2009). Older politicians are less likely to have a career in front of them and may, therefore, be content with less prestigious assignments or they may be more established and may, therefore, receive more prestigious assignments.

*Group size* is measured as a proportion of the total size of the Parliament. Political groups assign committee membership and larger groups have more resources to grand access to committees (Corbett et al., 2016).

*National delegation size* is measured as a proportion of the total group size. Similar to influence of a group, larger national delegations have more resources and may be more powerful players in the legislative game.

*Previous substitute* is 1 if a representative was previously a substitute on the committee and 0 otherwise. A member who was previously a substitute member but not a full member of a committee may be a legislator who is interested in a committee but did not get the assignment yet but was promised full membership in good time. Additionally, a substitute may start to learn and specialise into a certain policy area before becoming a full member. Such a process would be in-line with the informational rationale.

*Previous member* is 1 if a representative was previously a voting member on the committee and 0 otherwise. Full members already specialised in a particular policy area. They are policy experts and should, therefore, be more likely to be re-assigned to the same committee.

*Distance to group* is approximated by the ideological distance between the ideology estimate of the representative in a particular term and the group median. Party groups control access to political office such as committee membership in the Parliament. Certain committees may be more prestigious or salient. Therefore, political groups could reserve access to these committees for members that they know represent the group line. The ideological distance is related to group loyalty because the preference estimates are based on voting behaviour. Greater distances, therefore, imply that a legislator voted more often differently than the group overall.

*Distance to nat. deleg.* is measured as the ideological distance between the legislator in a particular term and the national delegation's median. Kreppel (2002) argues that national delegations control the 'spoils' that group size grants: It is the norm in the Parliament that transnational groups delegate control over political office to their national delegations. Legislators who are further from the median of their national delegation may not receive important committee assignments often.

Furthermore, I employ fixed effects to control for differences between Parliaments that are constant over time with *EP term fixed effects*. *Country fixed effects* control for differences between member states that are constant over time. Including fixed effects reduces the potential

for bias from omitted variables substantially. I run multiple models and highlight which fixed effects are included.

The *ideology* variable is based on the estimation in chapter 4. To account for the estimation uncertainty, I employ a simulation approach. I run each model 100 times. In each run, I randomly draw the individual preference of a legislator from the posterior density. The results are averaged over the 100 models.

Table 5.2: Logistic Regressions on Committee Membership (1)

|  | Foreign Affairs | | Development | | Intl.Trade | |
|---|---|---|---|---|---|---|
| Ideology | 0.09 | 0.06 | −0.07 | −0.06 | 0.03 | 0.09 |
|  | (0.06) | (0.06) | (0.08) | (0.08) | (0.09) | (0.09) |
| Age | 0.02** | 0.02** | 0.02 | 0.01 | 0.01 | −0.02 |
|  | (0.01) | (0.01) | (0.01) | (0.01) | (0.01) | (0.01) |
| Group size | −0.79 | −0.57 | −0.23 | −0.39 | 0.00 | −0.90 |
|  | (0.54) | (0.63) | (0.69) | (0.78) | (0.76) | (0.81) |
| Nat. delegation size | −2.09** | −1.56 | 0.19 | −0.44 | 0.92 | −1.26 |
|  | (0.71) | (1.02) | (0.76) | (1.11) | (0.82) | (1.26) |
| Prev. substitute | −0.20 | −0.18 | −0.03 | −0.08 | −0.21 | −0.17 |
|  | (0.21) | (0.20) | (0.31) | (0.33) | (0.44) | (0.45) |
| Prev. member | 3.34*** | 3.46*** | 3.74*** | 3.67* | 3.82*** | 3.70*** |
|  | (0.14) | (0.15) | (0.21) | (0.21) | (0.24) | (0.23) |
| Distance to group | −0.05 | 0.04 | −0.21 | −0.25 | −0.12 | −0.28 |
|  | (0.28) | (0.27) | (0.34) | (0.37) | (0.37) | (0.42) |
| Distance to nat. deleg. | −0.68 | −0.68 | 0.14 | 0.14 | −0.06 | −0.05 |
|  | (0.36) | (0.37) | (0.36) | (0.37) | 0.44 | (0.48) |
| Constant | −2.82*** | −3.04*** | −3.85*** | −18.62 | −3.04*** | −2.51*** |
|  | (0.38) | (0.49) | (0.52) | (0.54) | (0.54) | (0.71) |
| EP term fixed effects | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Country fixed effects | ✗ | ✓ | ✗ | ✓ | ✗ | ✓ |
| $N$ | 6150 | 6150 | 6150 | 6150 | 6150 | 4864 |
| $R^2$ (correlation squared) | 0.28 | 0.29 | 0.23 | 0.23 | 0.21 | 0.22 |

$***\ p < 0.001; **\ p < 0.01; *\ p < 0.05$. Standard errors are clustered by legislators. Logistic regressions were run. The results are similar to the linear probability model. Ideology scores are drawn at random from the posterior density in 100 iterations. The results are averaged over all 100 models.

Table 5.2, illustrates the results for Foreign Affairs (AFET), Development (DEVE), and International Trade (INTA). I ran logistic regressions and validated with the linear probability model—both models produce substantially similar results. Tables 5.5, 5.6, 5.7, 5.8, 5.9, and 5.10 illustrate the results for the remaining sixteen committees. I have moved these tables to the appendix of this chapter because the results are very similar.[4]

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[4]Summary statistics of all variables are included in the appendix to this chapter.

Ideology does not predict committee membership. It follows that the committees were not ideologically biased in twenty years of parliamentary organisation (1994–2014). The only exception is the Legal Affairs committee (see table 5.9). The more rightist a legislator, the less likely s/he was to be on the JURI committee. The analysis imposes a strict functional form on the data. In the case of ideology, I test whether a legislator who is more extreme to one side is more likely to be on a committee. It is plausible that committees are ideologically biased with respect to the centre of the Parliament but not when looking at the entire ideological range. For example: a centre-right legislator may be more likely to sit on the International Trade committee than a centre-left representative but that does not mean that a right-wing legislator is most likely to sit on the INTA committee. To account for this eventuality, I re-run the analysis with the data cut to the interquartile range[5] of ideology, i.e., I analyse the central 50% of the Parliament.[6] The interquartile range of ideology is −0.87 to 0.86.

Figure 5.9: Ideology Coeffiecients for Central 50% of the Parliament
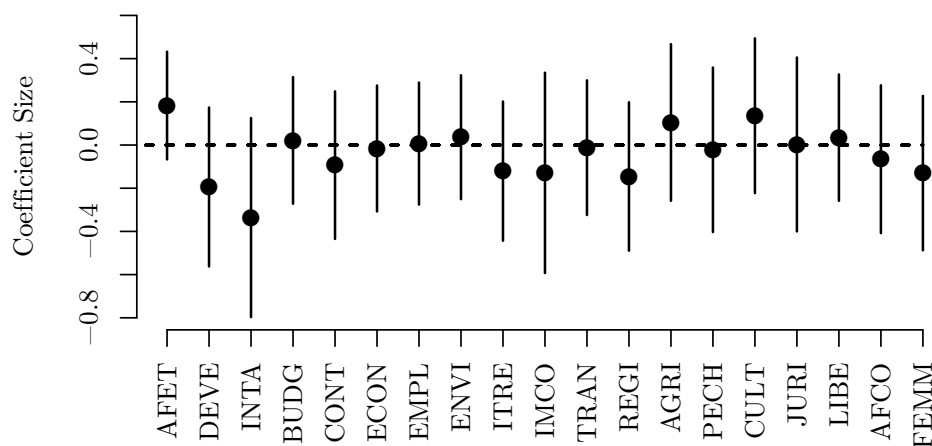


Note: The coefficients are based on logistic regressions run on committee membership. The data includes only those legislators who are located between the 25th and the 75th percentiles of the left–right spectrum. Standard errors are clustered by legislators. All control variables were included, i.e. *age*, *group size*, *nat. delegation size*, *prev. subsitute*, *prev. member*, *distance to group*, *distance to nat. delegation*, fixed effects for legislative terms and member states. The solid points are the mean estimates and the segments are the 95 percent confidence intervals. All effects are insignificant.

Figure 5.9 plots the ideology coefficients and their 95% confidence intervals for all committees with the data cut to the interquartile range of ideology. The data is based on twenty years of

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[5]The interquartile range sometimes refers to the absolute distance from the first to the third quartile. Here, I refer to the values of the 25th and 75th percentiles.

[6]As an alternative to cutting the ideological range, one might attempt to fit higher order polynomials to the data or use a non-parametric approach such as classification tree ensembles. The downside of these approaches is that it becomes harder to systematically evaluate the results—model complexity, i.e., idiosyncrasy, increases. I impose some meaningful structure on the data by assuming that the probability of joining a committee must increase/decrease monotonically as ideology increases/decreases. I mitigate the problem that extreme legislators may be the least likely to sit on a committee by analysing the entire ideological range first, followed by the central half second.

committee assignments in the Parliament and as figure 5.9 illustrates, ideology is unrelated to committee assignment throughout that period.

The size of the transnational group and the size of the national group are usually unrelated to committee assignment with a few exceptions. When member state fixed effects are excluded, representatives from larger delegations are less likely to sit on the Foreign Affairs committee as table 5.2 suggests.[7] The larger the national delegation, the more likely membership in Legal Affairs (see table 5.9). Similarly, the larger the transnational group, the more likely membership in Legal Affairs.

Substitute committee assignments are not used for specialising into a policy area in order to become a policy-maker in that field later. In fact, if significant, having been a substitute previously is negatively related to future full voting membership in that committee. This relation applies to Economic and Monetary Affairs, Employment and Social Affairs, Environment, Public Health and Food Safety, and Industry, Technology, Research and Energy. The only committee were having been a previous substitute is positively related to future membership is the committee on Budgetary Control.

The effect of having previously been a committee member is extremely stable. It is virtually similar in magnitude across all committees. Furthermore, it is positive and significant in every model. Previous full committee membership predicts future full committee membership very well. For previous members, the odds of sitting on the Economic and Monetary Affairs committee, for example, are $\approx 370\%$ higher than for legislators who have not been on the committee previously.

Neither the ideological distance to the national delegation nor the ideological distance to the group are related to committee assignment. This finding holds across all committees, except Women's Rights and Gender Equality. Members who are further from their group median are less likely to sit on the FEMM committee. The overwhelming evidence against an effect of ideological compatibility is surprising given how diverse the larger transnational groups are. However, the national delegations within groups are much less ideologically diverse and national delegations maintain strict parity in committee assignments (Corbett et al., 2016).

Overall, statistically significant effects of all variables, except ideology, can be found when fixed effects are excluded. However, the effects are not consistent. Legislative term fixed effects soak up differences between the terms that are constant over the period and member state fixed effects control for all differences between countries that are constant over the period. Including

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[7]The size of the national delegation is relative to the size of the political group and it, therefore, varies within member states. However, to evaluate the effect of the size of the national delegation, the models that exclude member state fixed effects are more meaningful. They allow for the comparison of the size of national delegations within the same group—variation that is soaked up by the member state fixed effect.

fixed effects reduces the potential for omitted variable bias substantially and the similarity of the results across committees is evidence of this.

The findings in this chapter speak of a remarkable representativeness of the committee system in the European Parliament. Committees are not ideologically biased and hence, we should not expect ideologically biased policy from the committee system. The finding that previous membership predicts future membership is most in-line with the informational theory of committee organisation. There is no evidence for the distributional theory in this chapter at all—the data is not sufficient to distinguish between the partisan and the informational theories. Overall, this chapter contributes to the literature on legislative organisation in the European Parliament and its findings inspire optimism in the legislative system of the European Union.

In the following chapter, I analyse the selection of the most prominent committee member: the rapporteur (Hix and Høyland, 2013). Specifically, is the rapporteur selected strategically to prevent policy drift in the informal arena, to achieve policy drift that benefits the principal, or do other factors drive rapporteur selection?

## 5.4 Appendix

The appendix includes the regression tables from the logistic regressions on committee membership. The results were discussed in the chapter. They suggest that ideology is not related to committee selection. Previous membership predicts future committee membership well which is most in line-with the informational theory. Committee members become experts in a policy area. Specialisation is costly and, therefore, members with previous experience are prioritised.

Table 5.3: Summary Statistics of all Covariates (1)

| | Min. | 1ˢᵗ Quartile | Median | Mean | 3ʳᵈ Quartile | Max. |
|---|---|---|---|---|---|---|
| AFET | 0.00 | 0.00 | 0.00 | 0.10 | 0.00 | 1.00 |
| DEVE | 0.00 | 0.00 | 0.00 | 0.05 | 0.00 | 1.00 |
| INTA | 0.00 | 0.00 | 0.00 | 0.04 | 0.00 | 1.00 |
| BUDG | 0.00 | 0.00 | 0.00 | 0.07 | 0.00 | 1.00 |
| CONT | 0.00 | 0.00 | 0.00 | 0.05 | 0.00 | 1.00 |
| ECON | 0.00 | 0.00 | 0.00 | 0.07 | 0.00 | 1.00 |
| EMPL | 0.00 | 0.00 | 0.00 | 0.07 | 0.00 | 1.00 |
| ENVI | 0.00 | 0.00 | 0.00 | 0.09 | 0.00 | 1.00 |
| ITRE | 0.00 | 0.00 | 0.00 | 0.07 | 0.00 | 1.00 |
| IMCO | 0.00 | 0.00 | 0.00 | 0.03 | 0.00 | 1.00 |
| TRAN | 0.00 | 0.00 | 0.00 | 0.07 | 0.00 | 1.00 |
| REGI | 0.00 | 0.00 | 0.00 | 0.05 | 0.00 | 1.00 |
| AGRI | 0.00 | 0.00 | 0.00 | 0.06 | 0.00 | 1.00 |
| PECH | 0.00 | 0.00 | 0.00 | 0.04 | 0.00 | 1.00 |
| CULT | 0.00 | 0.00 | 0.00 | 0.05 | 0.00 | 1.00 |
| JURI | 0.00 | 0.00 | 0.00 | 0.04 | 0.00 | 1.00 |
| LIBE | 0.00 | 0.00 | 0.00 | 0.07 | 0.00 | 1.00 |
| AFCO | 0.00 | 0.00 | 0.00 | 0.05 | 0.00 | 1.00 |
| FEMM | 0.00 | 0.00 | 0.00 | 0.05 | 0.00 | 1.00 |
| Age | 22.88 | 35.18 | 42.97 | 42.14 | 49.70 | 81.55 |
| Group size | 0.00 | 0.08 | 0.27 | 0.23 | 0.36 | 0.38 |
| Nat. delgegation size | 0.00 | 0.05 | 0.10 | 0.12 | 0.16 | 1.00 |
| Ideology | −2.94 | −0.87 | 0.23 | 0.00 | 0.86 | 2.50 |
| Distance to group | 0.00 | 0.07 | 0.17 | 0.26 | 0.33 | 3.18 |
| Distance to nat. deleg. | 0.00 | 0.01 | 0.05 | 0.14 | 0.16 | 2.82 |

Table 5.4: Summary Statistics of all Covariates (2)

|  | Min. | 1st Quartile | Median | Mean | 3rd Quartile | Max. |
|---|---|---|---|---|---|---|
| Previous substitute AFET | 0.00 | 0.00 | 0.00 | 0.12 | 0.00 | 1.00 |
| Previous substitute DEVE | 0.00 | 0.00 | 0.00 | 0.07 | 0.00 | 1.00 |
| Previous substitute INTA | 0.00 | 0.00 | 0.00 | 0.05 | 0.00 | 1.00 |
| Previous substitute BUDG | 0.00 | 0.00 | 0.00 | 0.08 | 0.00 | 1.00 |
| Previous substitute CONT | 0.00 | 0.00 | 0.00 | 0.06 | 0.00 | 1.00 |
| Previous substitute ECON | 0.00 | 0.00 | 0.00 | 0.09 | 0.00 | 1.00 |
| Previous substitute EMPL | 0.00 | 0.00 | 0.00 | 0.09 | 0.00 | 1.00 |
| Previous substitute ENVI | 0.00 | 0.00 | 0.00 | 0.11 | 0.00 | 1.00 |
| Previous substitute ITRE | 0.00 | 0.00 | 0.00 | 0.09 | 0.00 | 1.00 |
| Previous substitute IMCO | 0.00 | 0.00 | 0.00 | 0.03 | 0.00 | 1.00 |
| Previous substitute TRAN | 0.00 | 0.00 | 0.00 | 0.09 | 0.00 | 1.00 |
| Previous substitute REGI | 0.00 | 0.00 | 0.00 | 0.06 | 0.00 | 1.00 |
| Previous substitute AGRI | 0.00 | 0.00 | 0.00 | 0.07 | 0.00 | 1.00 |
| Previous substitute PECH | 0.00 | 0.00 | 0.00 | 0.04 | 0.00 | 1.00 |
| Previous substitute CULT | 0.00 | 0.00 | 0.00 | 0.07 | 0.00 | 1.00 |
| Previous substitute JURI | 0.00 | 0.00 | 0.00 | 0.06 | 0.00 | 1.00 |
| Previous substitute LIBE | 0.00 | 0.00 | 0.00 | 0.09 | 0.00 | 1.00 |
| Previous substitute AFCO | 0.00 | 0.00 | 0.00 | 0.06 | 0.00 | 1.00 |
| Previous substitute FEMM | 0.00 | 0.00 | 0.00 | 0.05 | 0.00 | 1.00 |
| Previous member AFET | 0.00 | 0.00 | 0.00 | 0.08 | 0.00 | 1.00 |
| Previous member DEVE | 0.00 | 0.00 | 0.00 | 0.04 | 0.00 | 1.00 |
| Previous member INTA | 0.00 | 0.00 | 0.00 | 0.03 | 0.00 | 1.00 |
| Previous member BUDG | 0.00 | 0.00 | 0.00 | 0.06 | 0.00 | 1.00 |
| Previous member CONT | 0.00 | 0.00 | 0.00 | 0.04 | 0.00 | 1.00 |
| Previous member ECON | 0.00 | 0.00 | 0.00 | 0.07 | 0.00 | 1.00 |
| Previous member EMPL | 0.00 | 0.00 | 0.00 | 0.07 | 0.00 | 1.00 |
| Previous member ENVI | 0.00 | 0.00 | 0.00 | 0.07 | 0.00 | 1.00 |
| Previous member ITRE | 0.00 | 0.00 | 0.00 | 0.06 | 0.00 | 1.00 |
| Previous member IMCO | 0.00 | 0.00 | 0.00 | 0.02 | 0.00 | 1.00 |
| Previous member TRAN | 0.00 | 0.00 | 0.00 | 0.06 | 0.00 | 1.00 |
| Previous member REGI | 0.00 | 0.00 | 0.00 | 0.05 | 0.00 | 1.00 |
| Previous member AGRI | 0.00 | 0.00 | 0.00 | 0.05 | 0.00 | 1.00 |
| Previous member PECH | 0.00 | 0.00 | 0.00 | 0.03 | 0.00 | 1.00 |
| Previous member CULT | 0.00 | 0.00 | 0.00 | 0.04 | 0.00 | 1.00 |
| Previous member JURI | 0.00 | 0.00 | 0.00 | 0.04 | 0.00 | 1.00 |
| Previous member LIBE | 0.00 | 0.00 | 0.00 | 0.06 | 0.00 | 1.00 |
| Previous member AFCO | 0.00 | 0.00 | 0.00 | 0.05 | 0.00 | 1.00 |
| Previous member FEMM | 0.00 | 0.00 | 0.00 | 0.05 | 0.00 | 1.00 |

Table 5.5: Logistic Regressions on Committee Membership (2)

| | Budgets | | Budgetary Control | | Economic & Monetary Affairs | |
|---|---|---|---|---|---|---|
| Ideology | −0.04 | 0.07 | 0.04 | 0.04 | 0.09 | 0.09 |
| | (0.07) | (0.08) | (0.07) | (0.08) | (0.07) | (0.07) |
| Age | −0.02*** | −0.02** | −0.02** | −0.02*** | −0.02* | −0.02** |
| | (0.01) | (0.01) | (0.01) | (0.01) | (0.01) | (0.01) |
| Group size | 0.76 | 1.21 | −0.23 | −0.08 | −0.32 | −0.31 |
| | (0.67) | (0.67) | (0.72) | (0.78) | (0.60) | (0.65) |
| Nat. delegation size | 0.17 | 0.93 | −1.27 | −1.10 | 0.47 | 1.04 |
| | (0.78) | (0.90) | (0.93) | (1.10) | (0.72) | (0.80) |
| Prev. substitute | −0.13 | −0.71 | 0.58* | 0.60* | −0.66* | −0.66* |
| | (0.26) | (0.27) | (0.27) | (0.26) | (0.28) | (0.27) |
| Prev. member | 3.63*** | 3.67*** | 3.33*** | 3.32*** | 3.70*** | 3.66*** |
| | (0.18) | (0.18) | (0.20) | (0.20) | (0.17) | (0.17) |
| Distance to group | 0.29 | 0.34 | −0.34 | −0.29 | −0.30 | −0.31 |
| | (0.27) | (0.28) | (0.29) | (0.26) | (0.35) | (0.36) |
| Distance to nat. deleg. | −0.71 | −0.67 | 0.56 | 0.50 | −0.30 | −0.22 |
| | (0.38) | (0.38) | (0.37) | (0.34) | (0.42) | (0.42) |
| Constant | −2.09*** | −3.07*** | −1.93*** | −1.75** | −1.91*** | −2.13*** |
| | (0.42) | (0.59) | (0.45) | (0.54) | (0.38) | (0.56) |
| EP term fixed effects | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Country fixed effects | ✗ | ✓ | ✗ | ✓ | ✗ | ✓ |
| $N$ | 6150 | 6150 | 6150 | 6150 | 6150 | 6150 |
| $R^2$ (correlation squared) | 0.25 | 0.26 | 0.18 | 0.20 | 0.27 | 0.28 |

$***\ p < 0.001$; $**\ p < 0.01$; $*\ p < 0.05$. Standard errors are clustered by legislators. Logistic regressions were run. The results are similar to the linear probability model. Ideology scores are drawn at random from the posterior density in 100 iterations. The results are averaged over all 100 models.

Table 5.6: Logistic Regressions on Committee Membership (3)

| | Employment & Social Affairs | | Environment, Public Health & Food Safety | | Industry, Technology, Research & Energy | |
|---|---|---|---|---|---|---|
| Ideology | −0.07 | −0.08 | −0.00 | −0.02 | 0.01 | −0.01 |
| | (0.07) | (0.08) | (0.07) | (0.07) | (0.07) | (0.07) |
| Age | −0.00 | −0.00 | −0.03*** | −0.03*** | 0.00 | −0.00 |
| | (0.01) | (0.01) | (0.01) | (0.01) | (0.01) | (0.01) |
| Group size | 0.28 | 0.83 | −1.07 | −0.71 | −0.27 | 0.24 |
| | (0.62) | (0.70) | (0.63) | (0.70) | (0.64) | (0.70) |
| Nat. delegation size | −0.35 | 0.17 | −0.83 | −0.02 | −0.18 | 0.92 |
| | (0.72) | (0.89) | (0.71) | (0.84) | (0.78) | (0.91) |
| Prev. substitute | −1.02*** | −1.05*** | −0.73* | −0.74* | −0.80 | −0.57* |
| | (0.31) | (0.32) | (0.30) | (0.30) | (0.28) | (0.29) |
| Prev. member | 3.60*** | 3.55*** | 4.54*** | 4.56*** | 3.72*** | 3.77*** |
| | (0.19) | (0.18) | (0.21) | (0.19) | (0.17) | (0.17) |
| Distance to group | 0.11 | 0.03 | −0.28 | −0.26 | −0.58 | −0.53 |
| | (0.31) | (0.32) | (0.29) | (0.29) | (0.32) | (0.33) |
| Distance to nat. deleg. | −0.73 | −0.68 | −0.51 | −0.38 | −0.04 | −0.11 |
| | (0.47) | (0.68) | (0.40) | (0.39) | (0.42) | (0.43) |
| Constant | −2.82*** | −3.31*** | −1.17** | −1.57** | −3.12*** | −3.85*** |
| | (0.40) | (0.65) | (0.39) | (0.68) | (0.44) | (0.83) |
| EP term fixed effects | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Country fixed effects | ✗ | ✓ | ✗ | ✓ | ✗ | ✓ |
| $N$ | 6150 | 6150 | 6150 | 6150 | 6150 | 6150 |
| $R^2$ (correlation squared) | 0.25 | 0.26 | 0.41 | 0.41 | 0.28 | 0.30 |

$***\ p < 0.001$; $**\ p < 0.01$; $*\ p < 0.05$. Standard errors are clustered by legislators. Logistic regressions were run. The results are similar to the linear probability model. Ideology scores are drawn at random from the posterior density in 100 iterations. The results are averaged over all 100 models.

Table 5.7: Logistic Regressions on Committee Membership (4)

| | Internal Market & Consumer Protection | | Transport & Tourism | | Regional Development | |
|---|---|---|---|---|---|---|
| Ideology | −0.08 | −0.07 | 0.10 | 0.09 | 0.06 | 0.05 |
| | (0.10) | (0.11) | (0.08) | (0.08) | (0.07) | (0.07) |
| Age | −0.02 | −0.02 | 0.00 | 0.00 | −0.01 | −0.01 |
| | (0.01) | (0.01) | (0.01) | (0.01) | (0.01) | (0.01) |
| Group size | 1.40 | 1.77 | −0.95 | −0.96 | −0.49 | −0.63 |
| | (1.02) | (1.06) | (0.67) | (0.72) | (0.92) | (0.70) |
| Nat. delegation size | 0.03 | 0.52 | −0.88 | −1.21 | 0.19 | 0.00 |
| | (1.67) | (1.56) | (0.74) | (0.96) | (0.70) | (0.97) |
| Prev. substitute | −0.07 | −0.12 | −0.48 | −0.44 | −0.31 | −0.29 |
| | (0.41) | (0.41) | (0.26) | (0.26) | (0.31) | (0.32) |
| Prev. member | 4.54*** | 4.44*** | 3.78*** | 3.77*** | 3.58*** | 3.53*** |
| | (0.25) | (0.27) | (0.18) | (0.18) | (0.17) | (0.18) |
| Distance to group | 0.06 | 0.14 | −0.14 | −1.17 | −0.60 | 0.04 |
| | (0.39) | (0.38) | (0.23) | (0.24) | (0.27) | (0.31) |
| Distance to nat. deleg. | 0.46 | 0.42 | −0.43 | −0.45 | −0.18 | −0.21 |
| | (0.49) | (0.48) | (0.33) | (0.33) | (0.37) | (0.39) |
| Constant | −20.03*** | −22.41*** | −2.70*** | −2.46*** | −2.23*** | −2.74*** |
| | (0.64) | (1.20) | (0.38) | (0.53) | (0.43) | (0.65) |
| EP term fixed effects | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Country fixed effects | ✗ | ✓ | ✗ | ✓ | ✗ | ✓ |
| $N$ | 6150 | 6150 | 6150 | 6150 | 6150 | 4864 |
| $R^2$ (correlation squared) | 0.33 | 0.34 | 0.28 | 0.29 | 0.23 | 0.23 |

$*** p < 0.001$; $** p < 0.01$; $* p < 0.05$. Standard errors are clustered by legislators. Logistic regressions were run. The results are similar to the linear probability model. Ideology scores are drawn at random from the posterior density in 100 iterations. The results are averaged over all 100 models.

Table 5.8: Logistic Regressions on Committee Membership (5)

| | Agriculture & Rural Development | | Fisheries | | Culture & Education | |
|---|---|---|---|---|---|---|
| Ideology | 0.01 | 0.02 | 0.06 | 0.13 | −0.00 | −0.01 |
| | (0.08) | (0.08) | (0.09) | (0.09) | (0.07) | (0.08) |
| Age | −0.01 | −0.01 | −0.00 | −0.01 | −0.00 | −0.00 |
| | (0.01) | (0.01) | (0.01) | (0.01) | (0.01) | (0.01) |
| Group size | −0.92 | −1.53 | 0.36 | −0.49 | −0.54 | −0.63 |
| | (0.71) | (0.78) | (0.86) | (0.85) | (0.68) | (0.77) |
| Nat. delegation size | 0.31 | −0.80 | −1.34 | −2.76 | 0.60 | 0.47 |
| | (0.69) | (0.98) | (0.96) | (1.28) | (0.74) | (0.99) |
| Prev. substitute | −0.28 | −0.19 | −0.03 | −0.19 | −0.72 | −0.73 |
| | (0.36) | (0.34) | (0.45) | (0.43) | (0.39) | (0.40) |
| Prev. member | 4.35*** | 4.34*** | 4.29*** | 4.06*** | 3.64*** | 3.65*** |
| | (0.20) | (0.20) | (0.26) | (0.27) | (0.20) | (0.21) |
| Distance to group | −0.33 | −0.32 | 0.37 | 0.16 | 0.11 | 0.11 |
| | (0.35) | (0.35) | (0.32) | (0.33) | (0.30) | (0.32) |
| Distance to nat. deleg. | −0.65 | −0.74 | −0.10 | −0.05 | −0.70 | −0.75 |
| | (0.48) | (0.49) | (0.72) | (0.43) | (0.44) | (0.46) |
| Constant | −2.09*** | −1.77** | −3.39*** | −18.73*** | −2.77*** | −2.50*** |
| | (0.43) | (0.62) | (0.56) | (0.29) | (0.49) | (0.64) |
| EP term fixed effects | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Country fixed effects | ✗ | ✓ | ✗ | ✓ | ✗ | ✓ |
| $N$ | 6150 | 6150 | 6150 | 6150 | 6150 | 4864 |
| $R^2$ (correlation squared) | 0.34 | 0.35 | 0.27 | 0.28 | 0.21 | 0.21 |

$*** \, p < 0.001$; $** \, p < 0.01$; $* \, p < 0.05$. Standard errors are clustered by legislators. Logistic regressions were run. The results are similar to the linear probability model. Ideology scores are drawn at random from the posterior density in 100 iterations. The results are averaged over all 100 models.

Table 5.9: Logistic Regressions on Committee Membership (7)

| | Legal Affairs | | Civil Liberties, Justice & Home Affairs | | Constitutional Affairs | |
|---|---|---|---|---|---|---|
| Ideology | −0.16* | −0.17* | −0.01 | −0.01 | −0.00 | −0.02 |
| | (0.08) | (0.08) | (0.07) | (0.07) | (0.08) | (0.08) |
| Age | −0.00 | −0.00 | −0.02*** | −0.02*** | 0.00 | 0.00 |
| | (0.01) | (0.01) | (0.01) | (0.01) | (0.01) | (0.01) |
| Group size | 1.52* | 1.09 | 0.23 | 0.42 | −0.82 | −1.17 |
| | (0.72) | (0.85) | (0.57) | (0.62) | (0.72) | (0.84) |
| Nat. delegation size | 2.32*** | 1.67* | 0.39 | 0.72 | −0.38 | −0.80 |
| | (0.60) | (0.84) | (0.65) | (0.72) | (0.83) | (1.09) |
| Prev. substitute | 0.14 | 0.37 | −0.10 | −0.09 | −0.50 | −0.35 |
| | (0.35) | (0.35) | (0.26) | (0.26) | (0.31) | (0.30) |
| Prev. member | 3.56*** | 3.51*** | 3.40*** | 3.36*** | 3.57*** | 3.57*** |
| | (0.20) | (0.20) | (0.16) | (0.17) | (0.20) | (0.21) |
| Distance to group | 0.03 | 0.20 | 0.13 | 0.11 | 0.03 | −0.21 |
| | (0.36) | (0.37) | (0.25) | (0.28) | (0.40) | (0.34) |
| Distance to nat. deleg. | −0.13 | −0.14 | −0.14 | −0.16 | −0.26 | −0.15 |
| | (0.40) | (0.41) | (0.27) | (0.28) | (0.47) | (0.44) |
| Constant | −4.00*** | −3.65*** | −2.20*** | −2.92*** | −2.79*** | −2.61*** |
| | (0.51) | (0.63) | (0.40) | (0.61) | (0.48) | (0.65) |
| EP term fixed effects | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Country fixed effects | ✗ | ✓ | ✗ | ✓ | ✗ | ✓ |
| $N$ | 6150 | 6150 | 6150 | 6150 | 6150 | 4864 |
| $R^2$ (correlation squared) | 0.20 | 0.22 | 0.22 | 0.23 | 0.20 | 0.21 |

$*** \, p < 0.001; \, ** \, p < 0.01; \, * \, p < 0.05$. Standard errors are clustered by legislators. Logistic regressions were run. The results are similar to the linear probability model. Ideology scores are drawn at random from the posterior density in 100 iterations. The results are averaged over all 100 models.

Table 5.10: Logistic Regressions on Committee Membership (8)

|  | Women's Rights and Gender Equality | |
| --- | --- | --- |
| Ideology | −0.03 | −0.03 |
|  | (0.08) | (0.08) |
| Age | −0.02 | −0.02 |
|  | (0.01) | (0.01) |
| Group size | −0.90 | −0.90 |
|  | (0.69) | (0.69) |
| Nat. delegation size | −1.10 | −1.10 |
|  | (0.82) | (0.82) |
| Prev. substitute | −0.38 | −0.38 |
|  | (0.38) | (0.38) |
| Prev. member | 3.76*** | 3.76*** |
|  | (0.20) | (0.20) |
| Distance to group | −0.81* | −0.81* |
|  | (0.38) | (0.38) |
| Distance to nat. deleg. | −0.14 | −0.14 |
|  | (0.46) | (0.46) |
| Constant | −1.84*** | −3.65*** |
|  | (0.45) | (0.63) |
| EP term fixed effects | ✓ | ✓ |
| Country fixed effects | ✗ | ✓ |
| N | 6150 | 6150 |
| $R^2$ (correlation squared) | 0.23 | 0.26 |

$*** p < 0.001$; $** p < 0.01$; $* p < 0.05$. Standard errors are clustered by legislators. Logistic regressions were run. The results are similar to the linear probability model. Ideology scores are drawn at random from the posterior density in 100 iterations. The results are averaged over all 100 models.

# Chapter 6

# Strategic Agent Selection

In this chapter, I analyse the selection of the agent in the Parliament. Specifically, I address the question whether the principal selects the rapporteur strategically. In the context of this project, strategic selection refers to the principal-agent problem and agency-drift specifically. The baseline theoretical model—where the Council is not an actor (see chapter 3.3.1)—predicts that agency-drift can be beneficial for the principal. I described two policy environments: (1) the 'extreme agents' environment and (2) the 'moderate agents' environment.

Figure 6.1: Extreme Agents and Moderate Agents
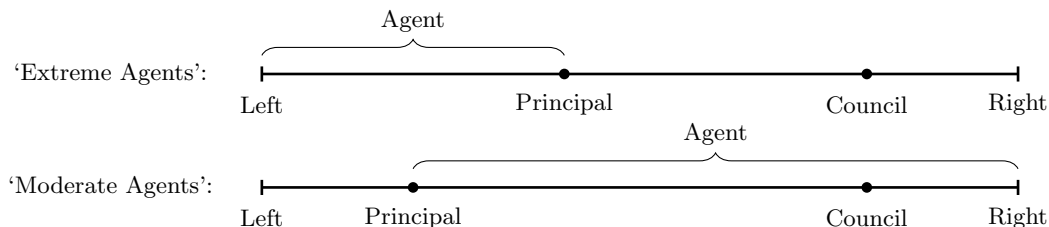


Note: The agent can be located anywhere in the space, delimited by the braces. Agents can shirk in the informal arena. Shirking agents always lead to policy drift. The upper constellation depicts the 'extreme agents' environment where a shirking agent would be beneficial to the principal unless the agent is extremely far from the principal in relation to the distance between principal and Council. The constellation on the bottom depicts the 'moderate agents' environment. A shirking agent would be against the interest of the principal.

In the 'extreme agents' environment, the agent always shirks and this is beneficial to the principal, unless the agent is very far from the principal in relation to the distance between principal and Council.[1] Strategic selection under these circumstances implies that the principal selects an extreme agent that is *further* from the principal (but not too far, see section 3.3). In the extension to the baseline model, I have shown that this result does not hold if the assumption that the Council always wants to delegate is relaxed. If the Council becomes a proper actor,

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[1] In chapter 3.3, I demonstrated that assuming that the cost of legislating in the formal arena is 0, the principal delegates until the agent is at twice the distance between principal and Council from the principal. The larger the cost, the more willing the principal to delegate to more extreme agents.

it does not want to delegate in the 'extreme agents' environment.[2] In the 'Council becomes an actor model' and the 'two principals and two agents model,' selecting 'extreme agents' is risky because the Council is more likely to veto delegation. The EP principal incurs a cost ($c_p$) for legislating in the formal arena. Therefore, the EP principal prefers delegation. Strategic selection implies that the EP principal selects agents that are *closer* to the principal.

Agent selection determines the policy environment that ensues. In the baseline model, the principal prefers 'extreme agents' over 'moderate agents.' Among the 'moderate agents,' the principal should select agents that are *closer* to the principal—this holds for all theoretical models.[3]

The assumption that the Council is not a proper actor but always wants to delegate to the informal arena drives model predictions. Relaxing that assumption leads to the prediction that the principal selects agents that are closer to the preference of the principal—the median in the committee. The question that is answered in this chapter is: does the principal select agents strategically?

It is not at all clear that strategic selection should occur for two reasons: (1), the rapporteur is selected before the decision to enter the informal arena or not is taken (Corbett et al., 2016). The principal can anticipate delegating to the informal arena but the decision has to be taken in the committee by simple majority vote after the rapporteur has already been selected. (2) Parties compete for the most prestigious committee position—the rapporteur—and selection may be driven by partisan considerations rather than by anticipated gains or losses in inter-institutional negotiations (Hix and Høyland, 2013).

The strategy to answer the question on strategic selection is to exploit the rule change that made delegation to the informal arena possible. The rule change is exogenous to partisan haggling, careerism, and left–right politics. According to the literature, the rules were changed to make the legislative process more efficient, mainly in anticipation of the European Enlargement round where ten new member states would join the Union (Farrell and Héritier, 2003, 2004; Shackleton and Raunio, 2003; Reh, 2012; Héritier and Reh, 2012; Rasmussen and Reh, 2013; Reh et al., 2013; Reh, 2014; Yordanova, 2013; Brandsma, 2015; Roederer-Rynning and Green-wood, 2015). The rule change that occurred with the entry into force of the Amsterdam Treaty in 1999 constitutes a natural experiment. I employ a regression discontinuity design to estimate the effect of the rule change on rapporteur selection with respect to ideological disagreement between principal and agent.

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[2]The Council always vetoes delegation in the 'extreme agents' environment if the cost $c_{cou}$ is zero. The larger the cost, the more willing is the Council to delegate (see chapter 3.4.1).

[3]Shirking in the 'moderate agents environment' leads to agency-drift that is undesirable for the principal. The agent is indifferent between shirking and not shirking at two-thirds the distance between principal and Council from the principal.

This chapter contributes to the literature on report allocation in the European Parliament—report allocation is the decision which committee member becomes rapporteur and drafts the report (the legislative text of the EP). I proceed with a brief review of that literature. Next, I discuss the research design and carry out the analysis. In brief, the results suggest that strategic considerations play a role in rapporteur appointments. Ideological disagreement between principal and agent was roughly 10% less of the entire left–right spectrum after the advent of informal arena. The finding is robust to an adjustment that takes into account that smaller transnational party groups are usually more extreme than larger ones. The findings also hold if the data are cut to just those policy areas that were subject to the ordinary legislative procedure before and after the 1999 rule change.

The findings imply that moral hazard may be on the mind of the principal when appointing the rapporteur. Consequently, the EP side becomes more cohesive in key positions, even in the formal arena.

## 6.1    Literature on Report Allocation in the Parliament

The system of report allocation varies slightly across committees and over time, but in all committees it is an auction-like system (Corbett et al., 2016). The transnational groups have a number of points available that they use to bid for reports (Ibid., 2016). The number of points is proportional to the group's size (Ibid., 2016). According to Judge and Earnshaw (2003), report allocation is based on the principal of proportionality. Mamadouh and Raunio (2003) find that this proportionality extends to the national delegations. However, focusing on the fourth Parliament (1994–1999), Kaeding (2004b) finds that report allocation was disproportional with regard to transnational group size. The two largest groups, the centre-left Social Democrats and the centre-right Christian Democrats received less reports than expected and the smaller Greens and Liberals received more (Ibid., 2004). Hurka and Kaeding (2012) and Hurka et al. (2015) find that legislators from the member states that joined in 2004 with the 'Eastern Enlargement' receive less reports than representatives from all other countries.

The theories of legislative organisation in the U.S. Congress have also been applied to report allocation (Hix and Høyland, 2013). With respect to the distributive theory, Kaeding (2004b) hypothesises that reports in the Environment committee are assigned to legislators who demand stricter regulation. The informational hypothesis is that rapporteurs in the Environment committee represent both sides of the policy spectrum (Ibid., 2004). The findings support both perspectives. Experience determines report allocation as does affiliation with Green parties from Northern countries (Ibid., 2004).

With respect to ideological coherence, Yoshinaka et al. (2010) show, the greater the distance of a legislator from the transnational group median on the left–right, the smaller the probability that the legislator is appointed rapporteur. Distance from the median of the national delegation, however, is unrelated to report allocation (Ibid., 2010). The findings, therefore, support the partisan theory of legislative organisation. The authors also find support for the informational rationale: experience is related to report allocation (Ibid., 2010). Similarly, Hausemer (2006) uses voting data from the first half of the fifth Parliament and shows that greater deviation from the group median reduces the chances of becoming rapporteur. In addition to ideological cohesion, previous experience is related to report allocation (Ibid., 2006). Yordanova (2011) distinguishes between the legislative procedures and finds that seniority best predicts report allocation in the ordinary legislative procedure.

Scholars also investigate the role of rapporteurs in inter-institutional negotiations. Benedetto (2005) shows in two case studies that rapporteurs defend the interests of the Parliament in negotiations with the Council. Contrary to Benedetto (2005), Høyland (2006) shows that legislators who are members of national parties that are in government and, therefore, represented in the Council, are more likely to become rapporteurs. The author suggests that legislators who are members of parties which are represented in the Council incur smaller costs for gathering information about possible win-sets in the Council (Ibid., 2006). Inter-institutional links are problematic from the principal-agent perspective because the preferences of the rapporteur and the Council side could align such that the rapporteur shirks and agency-drift occurs. The models, developed in chapter 3, suggest that the Parliament does not delegate to the informal arena in such situations.[4] Indeed, Rasmussen (2011) finds evidence that the Parliament is less likely to delegate to the informal arena, the greater the left–right distance between rapporteur and floor median. The relationship holds for the big transnational groups only, because the smaller groups tend to be further from the floor median as well—smaller groups are more extreme. Overall, Costello and Thomson (2010) show that Parliamentary opinions reflect the position of the median legislator. However, in the informal arena, the rapporteurs are able to influence the positions of the Parliament more than in the formal arena (Ibid., 2010).

Overall, the literature suggests that rapporteur appointment is related to ideological distance of a legislator to the floor median. In this project, I am particularly concerned about the ideological distance or disagreement between the principal and the agent. The principal is the committee median and not the floor median. However, the committee medians reflect the floor medians well (see chapter 5). The argument in this chapter departs from the usual argument in the literature on report allocation when I argue that ideological disagreement between principal

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[4]With increasing cost $c$, delegation becomes more likely.

and agent should be smaller after the 1999 change of the rules that made the informal arena possible. The hypothesis to be tested is:

> The 1999 rule change caused the principal to select agents that are ideologically closer than before the rule change.

Evidence in favour of this hypothesis is evidence against the baseline model and for 'the Council becomes an actor model' as well as the 'two principals and two agents model.'

## 6.2   Research Design

Estimating the causal effect that the 1999 rule change had on rapporteur selection is a difficult task because many background characteristics might influence rapporteur selection. Eggers and Hainmueller (2009) note that controlling for unobserved confounding is impossible in most observational studies. The rule change that made conclusion at first reading possible was introduced with the Amsterdam Treaty, as discussed in chapter 3, and is exogenous to the type of bills that are discussed as well as the legislators represented in the Parliament. The rules were changed to make the ordinary legislative procedure more efficient (e.g., Farrell and Héritier, 2004). Efficiency was a concern at the time because ten member states were about to join the Union and because the EP was getting more influence—more policy areas were about to be subject to the ordinary legislative procedure (Hix and Høyland, 2013).

The 1999 rule change resembles a natural experiment if the bills and the representatives in the EP were similar before and after the rules were changed—the comparison is a like-with-like comparison. I employ a regression discontinuity design (RDD) (Thistlethwaite and Campbell, 1960) to estimate the local average treatment effect (LATE), i.e., the effect of the rule change on ideological disagreement between principals and selected agents. If local assignment—around the rule change—is random, the regression discontinuity estimate would be as credible as an estimate from a randomised experiment (Eggers and Hainmueller, 2009). Put differently, the RDD design estimates the effect of a treatment that changes at a threshold of a continuous variable (Eggers et al., 2015). In the original RDD, Thistlethwaite and Campbell (1960) estimate the effect of a scholarship on students' career plans and attitudes by comparing students who just received the scholarship with students who just failed to receive the scholarship. The intuition is that these students are similar with respect to sources of confounding and the RDD's like-with-like comparison, therefore, resembles an experimental setting. In experiments, balance (similarity) between the subjects on all characteristics but the treatment, allows the researcher to isolate the treatment's effect.

To test the effect of the rule change, I employ the 'informal politics of codecision' dataset (Bressanelli et al., 2014). The dataset was predominantly compiled by working through the Parliament's Legislative Observatory (European Parliament, 2018). The dataset includes information on all concluded files that were subject to the ordinary legislative procedure in the period 1999–2009. I was employed as a research assistant to extend the data forward until 2014 and kindly given access to the data.[5] The rules were changed to allow conclusion already at first reading in 1999. Therefore, to estimate the effect of the rule change, I also extended the dataset back to 1994. Overall, the dataset includes the name of the rapporteur and which committee was the lead committee on the file from 1994 to 2014. As a new variable, I collected the exact date of the rapporteur appointment from the 'Key players' panel in the Legislative Observatory (European Parliament, 2018). I matched this file-level dataset with the preference data and the contextual data on individual representatives (Broniecki, 2017), described in chapter 4.

The level of observation is an individual rapporteur at the exact date of appointment by the committee. The sample includes all files that were concluded under the ordinary legislative procedure in the period 1994–2014. The *'treatment'* variable is binary. It is coded 1 after the rules were changed and 0 before.[6] The *running variable* (sometimes called forcing variable) is the difference between the date of the rule change and the date of the rapporteur appointment.

The main advantage of the regression discontinuity design over many other designs is that the identifying assumptions are relatively weak (Angrist and Pischke, 2015; Imai, 2017). The key identifying assumption is the continuity of the conditional expectation of counterfactual outcomes in the running variable (Lee, 2008). The regression discontinuity estimate is invalid if sorting can take place on the running variable. A committee during the fourth Parliament might, e.g., delay the appointment of the rapporteur until the fifth Parliament to take advantage of the informal arena. Sorting in this application can only take place in one direction and is not very plausible because it requires that committee members are re-elected and re-appointed to the same committee and that the political conditions in the Council remain stable. The McCrary test, checks for a jump/discontinuity in the running variable to detect sorting empirically (McCrary, 2008). The p-value for a discontinuity at the date of the rule change in the running variable is 0.8, i.e., there is no evidence of sorting.

The optimal bandwidth around the threshold determines the number of observations to the left and to the right of the threshold that are included in the estimation. Larger bandwidths increase the number of observations at the cost of similarity in confounding factors between ob-

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[5]I thank Christine Reh, Edoardo Bressanelli, and Christel Koop for allowing be to use their extended dataset.

[6]The Amsterdam Treaty entered into force on 1 May 1999. The fifth Parliament's constitutive session was on 20 July 1999. There was no delegation to the informal arena in the fourth Parliament according to the information in the Legislative Observatory (European Parliament, 2018). Therefore, I have coded the treatment cut-off as 20 July 1999.

servations that are far to the left of the threshold and far to the right of the threshold (Angrist and Pischke, 2015). I follow standard practice and calculate the Imbens and Kalyanaraman (2012) optimal bandwidth using the 'rdd' package for R (Dimmery, 2016). The optimal bandwidth is 2.07 years, i.e., the analysis includes observations from roughly 1997–2001. Following the standard approach again, I present results for the half bandwidth and double bandwidth to increase confidence that the results are not driven by the bandwidth choice (Eggers and Hainmueller, 2009).

I use two operationalisations of the dependent variable. The dependent variables are the only difference between model (1) and model (2) in the following results section. In the first dependent variable, the outcome is the absolute distance between principal and agent, i.e., rapporteur and committee median:

$$|x_{\text{principal}} - x_{\text{agent}}|$$

where $x$ is the left–right preference. The variable captures ideological disagreement or policy conflict between principal and agent.

As Rasmussen (2011) points out, smaller transnational groups tend to be further from the floor median than the larger centre-right and centre-left groups. I have shown, in the previous chapter, that the committee medians are representative of the floor median, i.e., smaller groups also tend to be further from the committee median. Consequently, whenever a rapporteur from a smaller group is selected, the absolute distance between principal and agent tends to be larger than when a rapporteur from a larger group is selected. If more/less agents from smaller groups are selected after the rule change, this would affect the first operationalisation of the outcome. Rather than being caused by the rule change, the estimated effect of the rule change could be driven by a slightly changed composition of the Parliament. Furthermore, the ideological range in the fourth Parliament was 5.01. In the fifth Parliament, it was 4.66. The estimated effect of the rule change in the first operationalisation could be the result of a slightly less ideologically conflictual fifth Parliament.

Figure 6.2, overlays the densities of the preferences of all legislators in the fourth Parliament (1994–1999) and in the fifth Parliament (1999–2004). Clearly, the ideological spectrum is extremely similar. The difference in the ranges is due to a few extreme representatives. However, there is a small but noticeable shift from a centre-left majority to a centre-right majority.

To account for these differences between Parliament's four and five and for the fact that most smaller groups tend to be further from the median, I use a second operationalisation. In that second operationalisation, the dependent variable subtracts out the distance between the floor median and the median of the transnational group which the rapporteur belongs to:

Figure 6.2: Left–Right Spectrum in fourth and fifth Parliaments
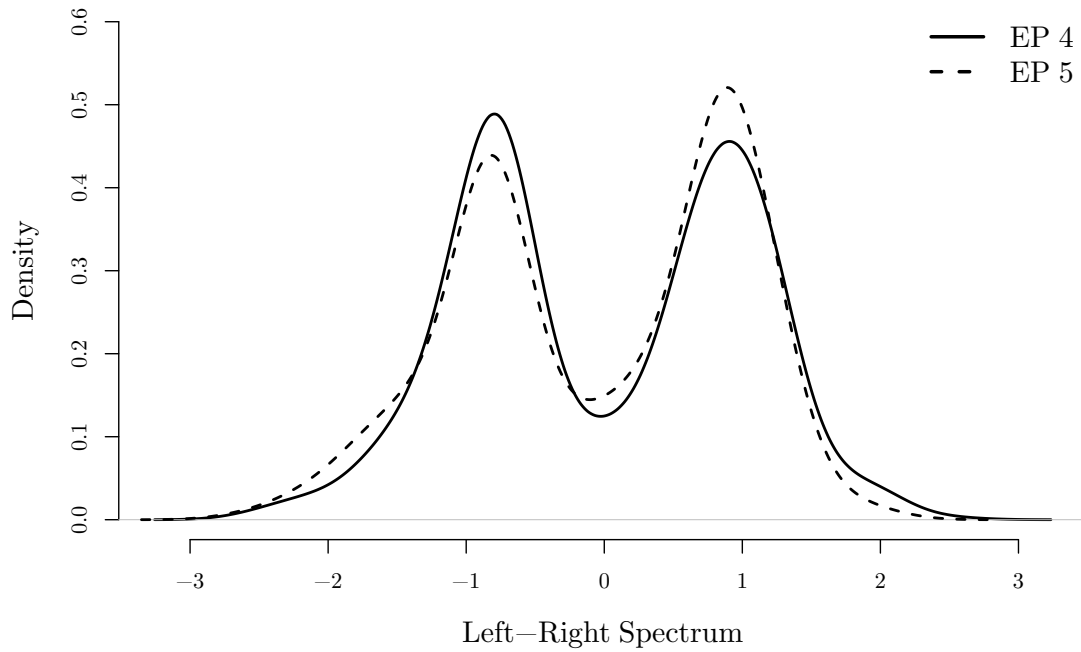


Note: The figure overlays the densities of the left–right preferences of all representatives in the fourth Parliament (1994–1999) and the fifth Parliament (1999–2004). While the left–right spectrum remains relatively stable, there is a slight but noticeable change from a centre-left to a centre-right majority.

$$|x_{\text{principal}} - x_{\text{agent}}| - |x_{\text{group}} - x_{\text{floor}}|$$

The second dependent variable can take on negative values which indicates that the agent is closer to the floor median than his/her transnational group median. This operationalisation ensures that the estimated effect of the advent of the informal arena is not driven by differences in the group sizes or a change in how often representatives from smaller groups are selected.

Table 6.1: Summary Statistics of the Dependent Variables

| | Min. | 1st Quartile | Mean | Median | 3nd Quartile | Max. |
|---|---|---|---|---|---|---|
| DV1: Absolute Distance Committee median to Rapporteur median | 0.00 | 0.48 | 0.87 | 0.83 | 1.22 | 2.82 |
| DV2: Absolute Distance Committee median to Rapporteur median minus Group median to floor median | −2.00 | −0.19 | 0.03 | 0.03 | 0.24 | 0.96 |

Table 6.1 shows the summary statistics for both dependent variables. Evidently, there is a lot of variation in policy conflict between principal and agent. The average policy conflict is 0.87 which corresponds to 17% to the total ideological spectrum. That illustrates that policy disagreement between principals and agents is on average large. The difference between the distances of the agents to the floor median and the agents' groups to the floor median are minuscule. Overall, agents are on average about as far from the committee median as the transnational group that they represent.

In the following, I break down the descriptive statistics by period; before and after the rule change to provide an intuition of what will likely be the outcome of the estimation. Next, I carry out the estimation, discuss the effect of the rule change, and carry out robustness checks.

## 6.3   Results on Strategic Selection

With respect to ideology, the Parliament looks similar in the periods before and after the rule change. However, a few very extreme legislators are not represented in the new Parliament and the majority shifts from centre-left to centre-right. A simple t test for the difference in means suggests that policy-conflict, between principal and agent, after the rule change is significantly lower than before. The difference in means is 0.19 (the 99 percent confidence interval ranges from 0.09 to 0.29). With respect to the second dependent variable—policy conflict between agent and principal compared to policy conflict between the agent's transnational group and the principal—the difference is again significantly smaller after the rule change. The difference in means is 0.14 (the 99 percent confidence interval ranges from 0.05 to 0.22).

Figure 6.4 illustrates the distributions of both dependent variables before and after the rules were changed. The left panel overlays the before and after densities for the first dependent variable. The right panel overlays the densities for the second dependent variable by period. The first dependent variable is simply the absolute ideological distance between principal and agent, i.e., policy conflict. The density of the fourth Parliament is shifted to the right of the density of the fifth Parliament. This means that policy conflict between principal and agent was larger before the rules changed. The second dependent variable operationalises how moderate/extreme an agent is compared to the transnational group of the agent. The distribution in the fifth Parliament is more tightly centred around zero. This suggests that after the rule change, more moderate group representatives were selected as rapporteurs. The Kolmogorov-Smirnov test, which tests for a difference across the entire distribution (Sekhon, 2011), detects significant differences between both periods for both dependent variables. For the first dependent variable, the p value is $0.10 \times 10^{-9}$. For the second dependent variable it is $1.26 \times 10^{-10}$.

Figure 6.3: Principal-Agent Policy Conflict Before and After the Rule Change
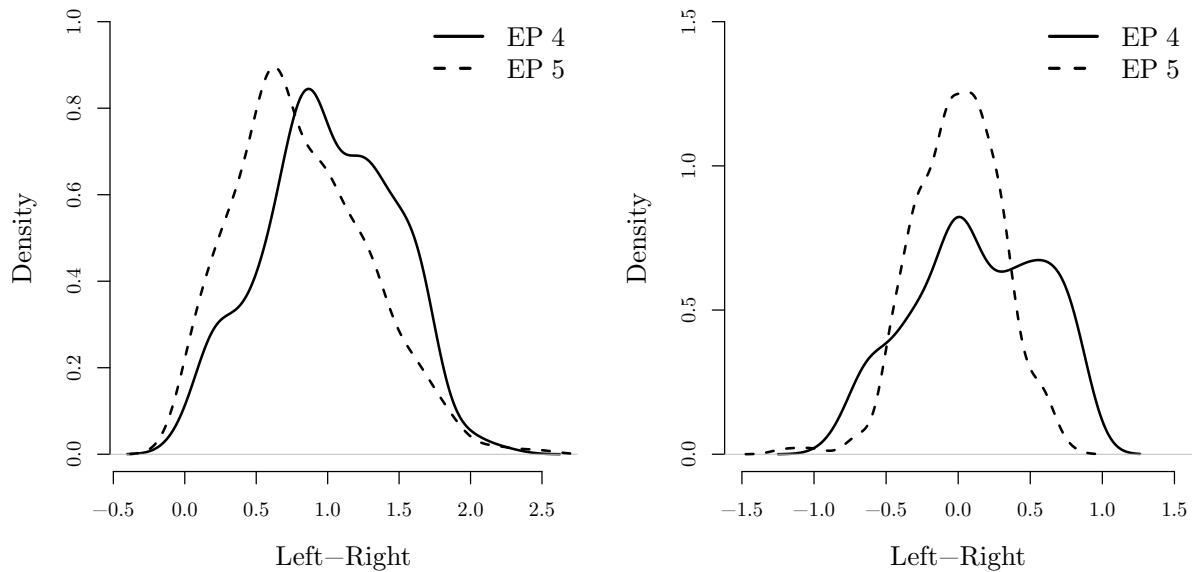


Note: The left panel shows policy conflict between principal and agent (dependent variable 1) in the fourth and fifth Parliaments. Policy conflict was clearly larger in the fourth Parliament before the rule change. The right panel shows the second dependent variable. Policy conflict between principal and agent compared to policy conflict between principal and the agent's transnational group. The difference between the fourth and the fifth Parliaments is stark. Clearly, in the fifth Parliament, more moderate group representatives were appointed.

Both operationalisations show that policy conflict between principal and agent was larger before the advent of the informal arena. The results suggest, strategic selection could be the cause. However, possibly the composition of the transnational groups changed between the fourth and the fifth Parliaments. Figure 6.4 shows the cohesion of the transnational groups in both periods. Clearly, the groups did not become more cohesive in the fifth Parliament. The only exception is the liberal group. The liberal group became much more cohesive in the fifth Parliament with two clear outliers. All other transnational groups cover a wider or roughly similar ideological range. While policy conflict between principal and agent became smaller after the rules were changed, intra-group policy conflict did not. Once more, these findings suggest that strategic selection could be at play; principals select 'allied' agents—agents that are closer to the committee median—anticipating that inter-institutional negotiations could take place in the informal arena.

The estimation of the discontinuity is, following standard practice, based on local linear regression (Imbens and Lemieux, 2008). Local linear regression is a kernel smoothing method that fits a line to a segment of the data moving from left to right, similar to a moving average (Hastie et al., 2009). The advantage of local linear regression in the estimation of the discontinuity is that it does not assume a functional form of the data generating process. The size of

Figure 6.4: Transnational Group Cohesion Before and After the Rule Change
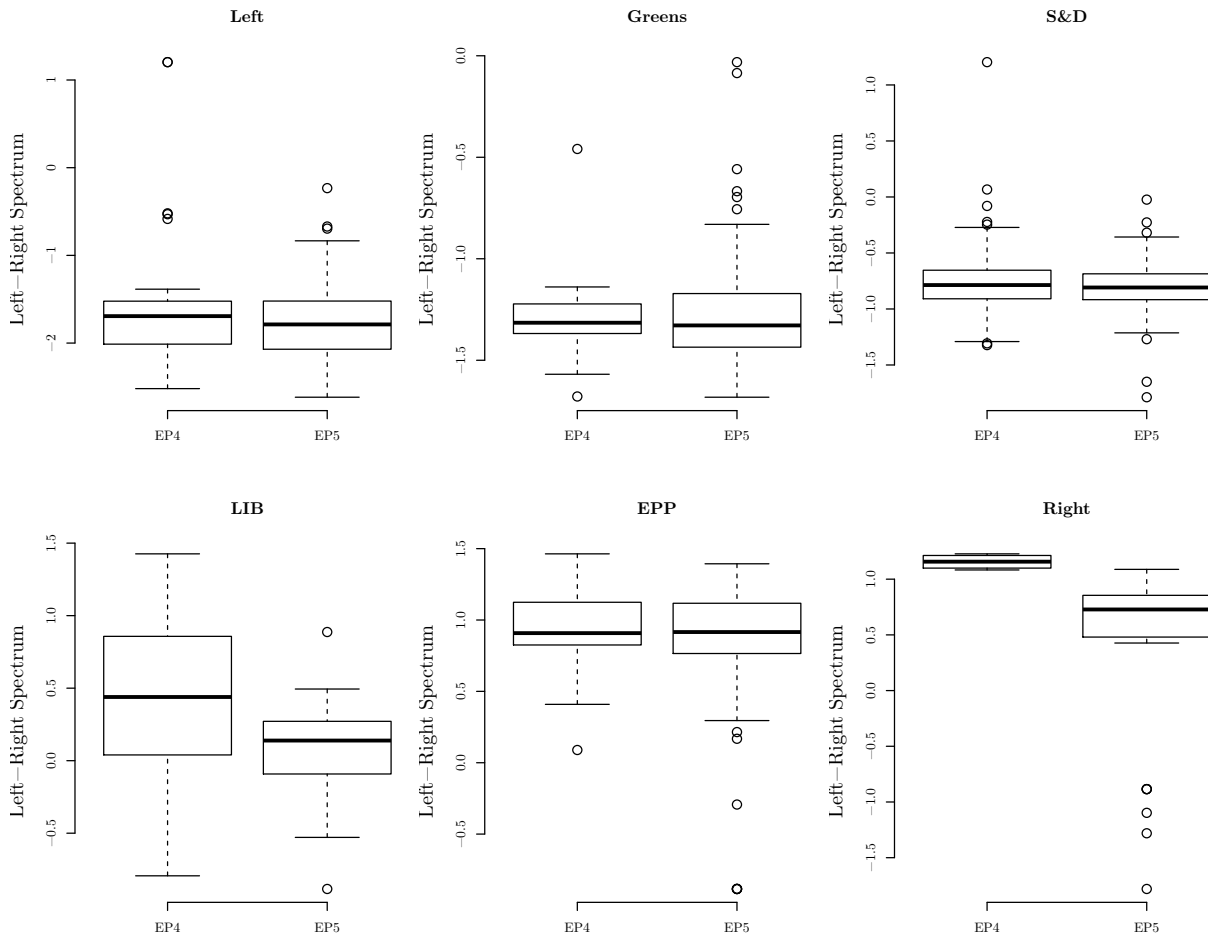


Note: The figure illustrates the cohesion of the transnational groups in the fourth and fifth Parliaments. The transnational groups span a similar or larger left–right spectrum in the fifth and the fourth Parliaments. The only exception is the liberal group that became more cohesive after the rules changed.

the treatment effect, the discontinuity, would otherwise depend on the functional form assumption. A polynomial functional form, e.g., may look like a discontinuity at the threshold if one assumes a linear or lower order polynomial functional form. Polynomials in turn are sensitive to sparse data at the tails, the polynomial can easily be 'wagged around' by its tail (Ibid., 2009). Following, recent standard practice, I use local linear fitting with a triangular kernel that is the 'correct' theoretical kernel used for edge estimation (Lee and Lemieux, 2010).

Table 6.2, illustrates the results from the regression discontinuity design. The findings are in line with the intuition from the descriptive analysis. The principal was less willing to appoint agents that were more ideologically distant after the informal arena was introduced. Model (1) uses the first dependent variable and model (2) uses the second dependent variable. According to model (1), ideological disagreement is on average $-0.49$ points lower after the informal arena

was introduced. The difference is substantial, it accounts for 10% of the ideological range. In model (2), ideological conflict between group and floor median is subtracted out of ideological conflict between the principal and the agent. According to model (2), in the fifth Parliament, agents are more moderate representatives of their groups. The difference between the periods is $-0.51$.

Table 6.2: Regression Discontinuity Results: Effect of Advent of the Informal Arena on Ideological Disagreement Between Principal and Agent

|  | Model (1) | Model (2) |
|---|---|---|
| LATE | $-0.49^{***}$ | $-0.51^{***}$ |
|  | (0.11) | (0.09) |
| Half Bandwidth | $-0.76^{***}$ | $-0.66^{***}$ |
|  | (0.13) | (0.12) |
| Double Bandwidth | $-0.29^{***}$ | $-0.34^{***}$ |
|  | (0.08) | (0.07) |

$***$ $p < 0.001$; $**$ $p < 0.01$; $*$ $p < 0.05$. LATE is the local average treatment effect, i.e., the discontinuity at the time when the informal arena was introduced. $N$ at optimal bandwidth $= 302$; at half bandwidth $= 178$; at double bandwidth $= 528$. In model (1), the dependent variable is the absolute distance between principal and agent on the left–right scale. In model (2), the dependent variable is the same absolute distance but the absolute distance between the group median of the agent's group and the floor median is subtracted out.

The size of the estimated effect varies with the bandwidth. The double bandwidth is 4.14 and hence, covers almost the entire term. The difference is still visible with more data but the effect becomes smaller. It is not surprising that the effect varies because the dissimilarity between observations increases as the bandwidth increases. A clear difference before and after the introduction of the informal arena is detected, no matter which bandwidth size is chosen.

The results suggest that, after the introduction of the informal arena, the principal was more risk averse when selecting the agent. The principal may have feared agency-drift when delegating to the informal arena and, therefore, selected agents that where less ideologically distant from the committee median.

### 6.3.1 Placebo Tests

The results from the analysis suggest that the principal behaved differently before and after the rules have been changed in 1999. Before 1999, policy conflict between principal and agent was larger than after 1999. Furthermore, the second dependent variable compares 'extremism' of the agents within their transnational groups. The results clearly indicate that before 1999, more extreme agents were chosen than after.

In the previous chapter, I have shown that committees became more representative over time. In figures 6.5 and 6.6, I plot the dependent variables over time and fit different local

Figure 6.5: Principal-Agent Policy Conflict Over Time
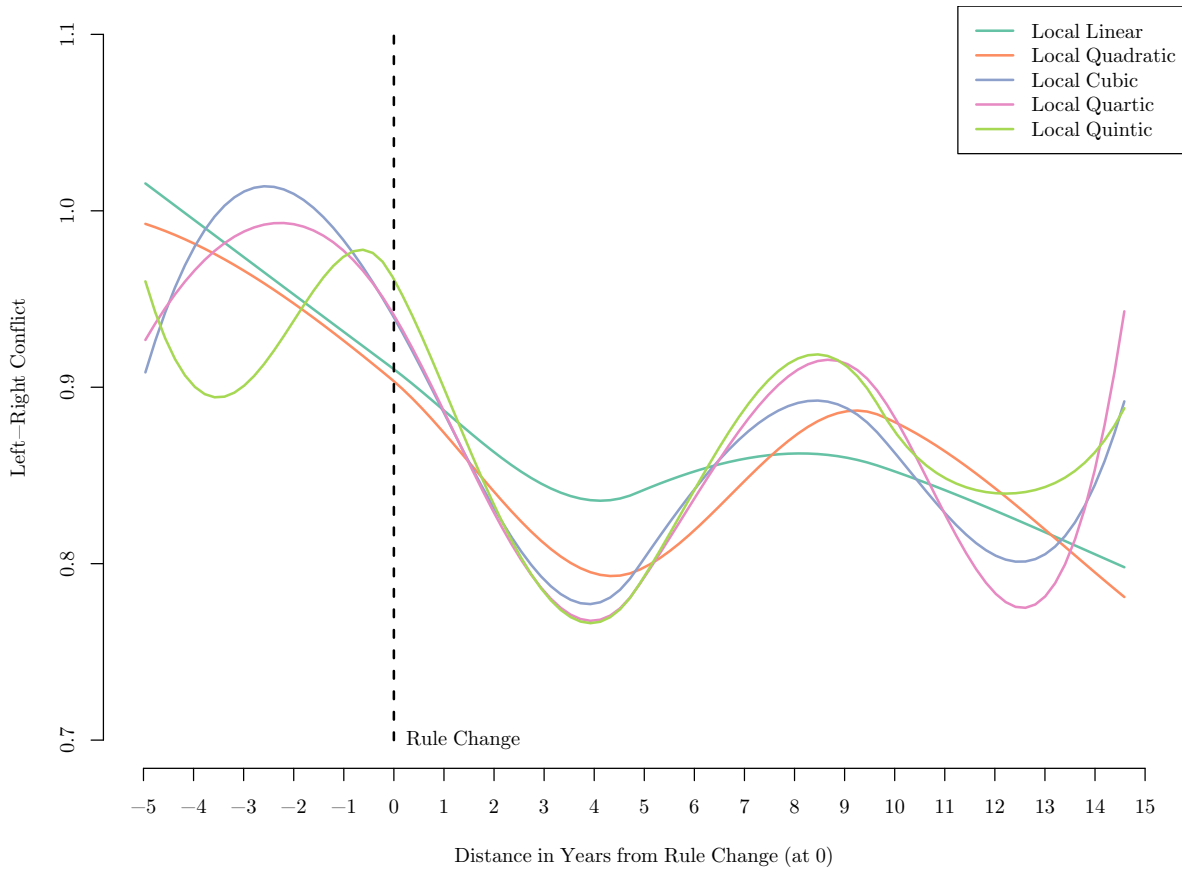


Note: The figure shows local regression fits to policy conflict between principal and agent. There seems to be a general trend where policy conflict becomes lower over time. Furthermore, several 'peaks' and 'valleys' suggest that a discontinuity could be detected at other points in time.

regressions to show the general trend over the 1994–2014 period. The x-axis shows distance in years from the rule change. The y-axis is in the units of the dependent variable. While local linear regression fits a relatively smooth line, higher order local polynomial regressions—that fit the idiosyncrasy of the data ever more closely—show more 'peaks' and 'valleys'. The downward trend suggests that agents become more representative over time. The ups and downs in the data suggest that one may discover significant discontinuities at other points in time than the actual 1999 rule change.

The RD design estimates the local treatment effect at the point of the discontinuity that the user specifies. In this analysis, this point is the 1999 rule change (coded as 20 July 1999, the constituent session of the fifth Parliament). A good placebo test of the RD design involves moving the cut-off point away from the real cut-off. When the cut-off is set to a different point

Figure 6.6: Principal-Agent Policy Conflict compared to Poliy Conflict Group–Floor Median
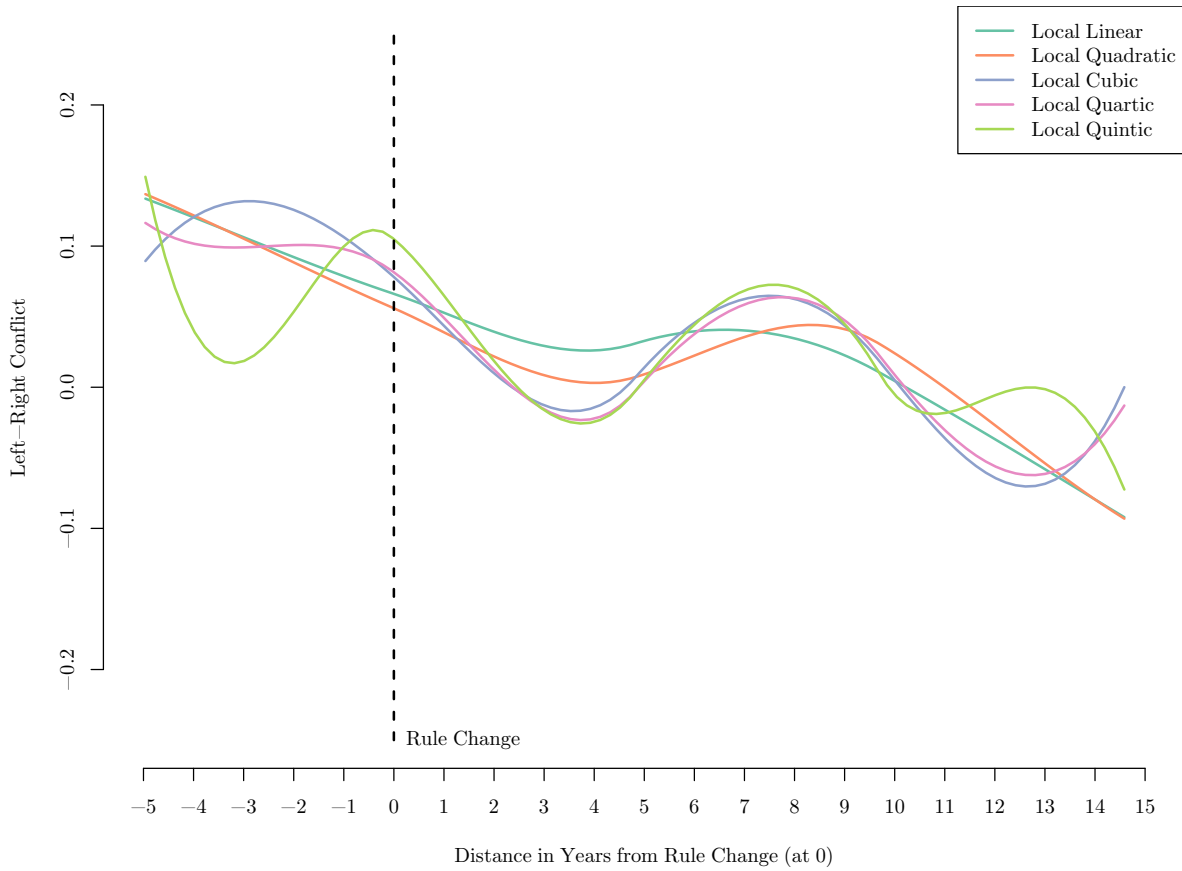


Note: The figure illustrates policy conflict between principal and agent where policy conflict between the agent's group and the floor median is subtracted out. A general trend seems to emerge. Ever more moderate agents are selected over time. Furthermore, one may again spot multiple 'peaks' and 'valleys' which suggests that a discontinuity could be detected in the data at other points in time than the rule change.

than the actual rule change, the RD estimate should become insignificant. If, however, one can arbitrarily move the cut-off and still recover significant estimates, the design would lose credibility.

As a placebo test, I move the cut-off as far backwards and forwards as possible in 500 steps. At each step, I estimate the discontinuity for both dependent variables and plot the 99.9% confidence intervals. Figure 6.7 illustrates the results for the first dependent variable and figure 6.8 illustrates the results for the second dependent variable.

In figure 6.7, the RD estimate is clearly significant around the actual rule change. Furthermore, when moving the cut-off to the left or to the right of the threshold, the estimates become quickly insignificant. This suggests that the effect really does occur when the rules were changed. When varying the cut-off in 500 steps, it is not too unlikely that significant results pop

up by chance. Surprisingly, this almost does not occur except around roughly 2008. However, when these significant results pop up, they do not do so consistently in a longer sequence as they do around the actual 1999 rule change. Overall, the placebo tests are encouraging for the robustness of the analysis because it is very hard to 'find' significant results by chance.

Figure 6.7: Placebo Tests DV1: RDD Estimates with Cut-offs Varied over Time
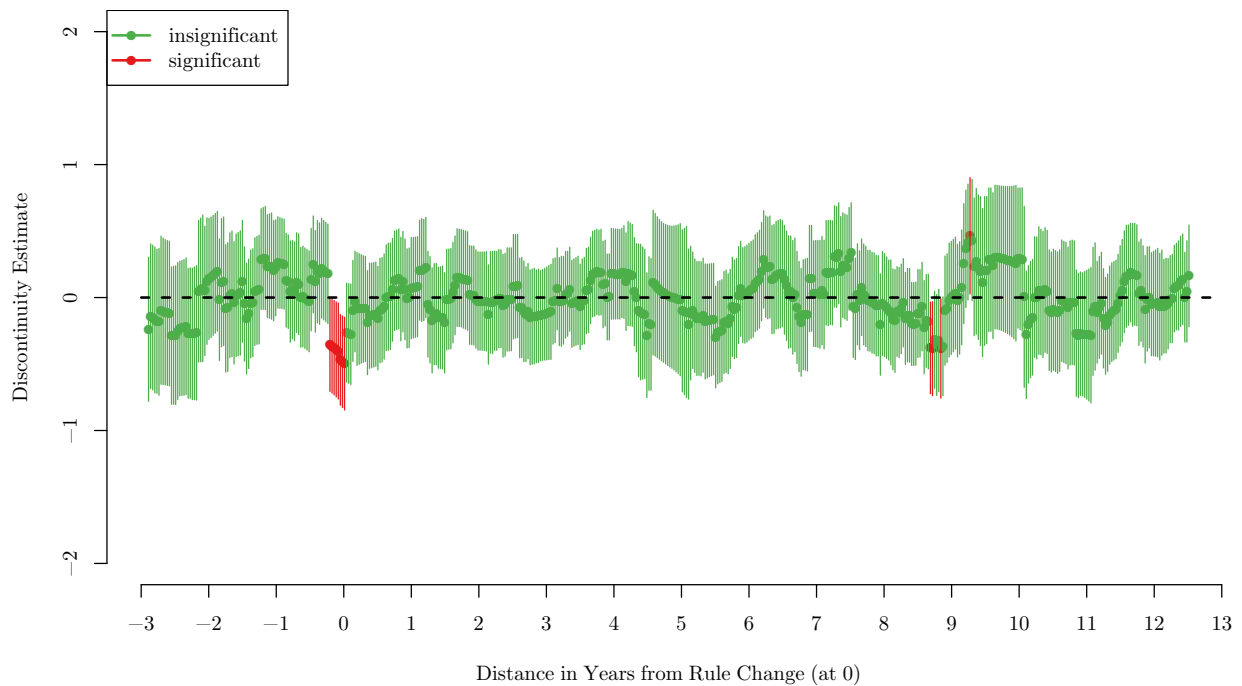


Note: This figure plots the local average treatment effects (dots) and the 99.9% confidence intervals (segments) while arbitrarily moving the treatment to the left and right of the actual 1999 rule change. A significant discontinuity should only be detected at the real cut-off (at 0). The dependent variable is the absolute distance between principal and agent.

In figure 6.8, the local treatment effect is again significant at the actual rule change. The effect is consistently visible. When moving the cut-off away from the actual rule change, it becomes insignificant at almost every point in the data. Around 1998, the analysis detects a significant positive effect. This is the most stable effect that is not at the actual rule change but it is again only visible for a very short time which suggests that the effect is driven by idiosyncrasies in the data.

Overall, taking the evidence from both figure 6.7 and figure 6.8 together, suggests that a change in behaviour occurred around the rule change in 1999. The effect at the actual rule change is the only effect that is detected at the same time across both figures—no other significant effect is reliably detectable across both operationalisations.

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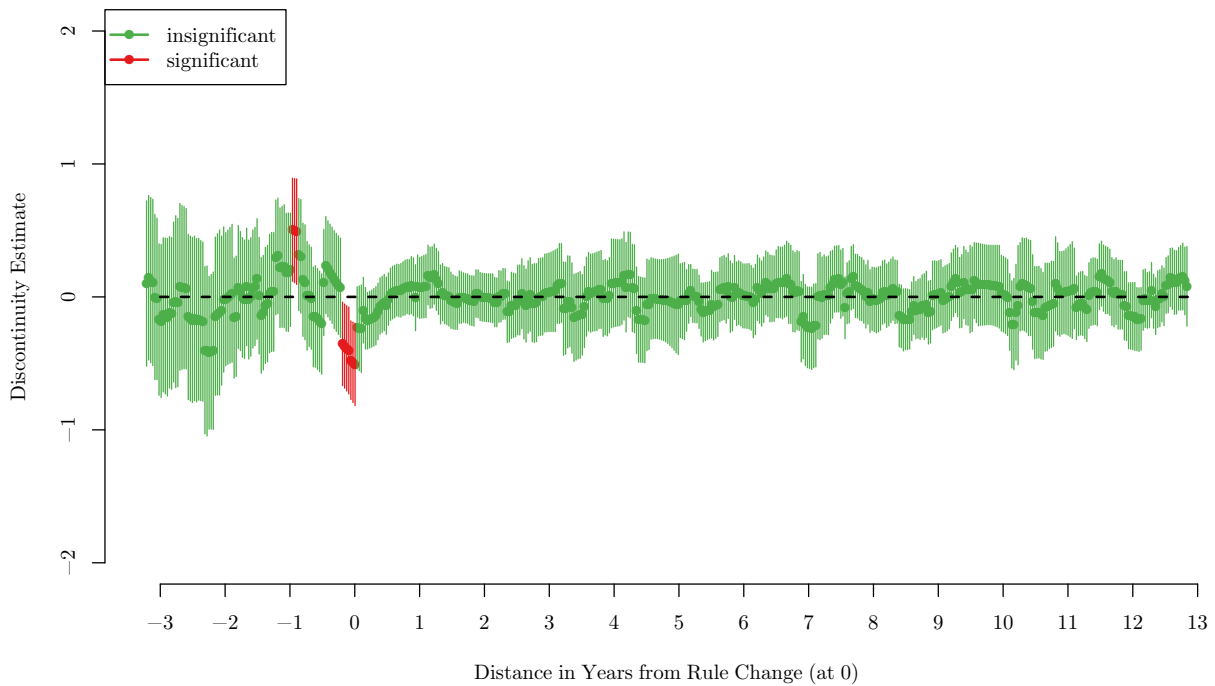Figure 6.8: Placebo Tests DV2: RDD Estimates with Cut-offs Varied over Time



Note: This figure plots the local average treatment effects (dots) and the 99.9% confidence intervals (segments) while arbitrarily moving the treatment to the left and right of the actual 1999 rule change. A significant discontinuity should only be detected at the real cut-off (at 0). The dependent variable is the absolute distance between principal and agent where the absolute distance between the agent's group and the principal is subtracted out.

The informal arena was introduced with the Amsterdam Treaty. In addition to the rule change that made delegation to the informal arena possible, the Amsterdam Treaty increased the scope of the ordinary legislative procedure. The procedure newly applied to Transport, Environment, Justice and Home Affairs and Employment and Social Affairs. These policy areas may be fundamentally different from those that were already subject to the ordinary legislative procedure—mostly internal market policy (European Parliament, 2017). In the following, I remove all observations from the data, where the lead committee was Transport and Tourism, Environment, Justice and Home Affairs or Employment and Social Affairs.

When including only those policy areas that were subject to the ordinary legislative procedure before and after the rule change, the RD estimate is again significant at the rule change. The standard errors increase which is unsurprising because the number of observations decreases.

Overall, the results of the regression discontinuity design suggest that the rule change in 1999 when the informal arena became possible, affected rapporteur selection in the Parliament. More moderate agents were chosen after the advent of the informal arena. The results stand up

Table 6.3: Robustness Test: RDD Results with New Policy Areas Removed

|                   | Model (1)   | Model (2)    |
|-------------------|-------------|--------------|
| LATE              | $-0.34^{*}$ | $-0.41^{***}$ |
|                   | (0.16)      | (0.11)       |
| Half Bandwidth    | $-0.56^{**}$ | $-0.54^{***}$ |
|                   | (0.21)      | (0.10)       |
| Double Bandwidth  | $-0.19$     | $-0.22^{*}$  |
|                   | (0.11)      | (0.09)       |

$*** p < 0.001$; $** p < 0.01$; $* p < 0.05$. LATE is the local average treatment effect, i.e., the discontinuity at the time when the informal arena was introduced. $N$ at optimal bandwidth $= 165$; at half bandwidth $= 97$; at double bandwidth $= 328$. In model (1), the dependent variable is the absolute distance between principal and agent on the left–right scale. In model (2), the dependent variable is the same absolute distance but the absolute distance between the group median of the agent's group and the floor median is subtracted out.

to a battery of robustness tests. I am, therefore, confident that the 1999 rule change affected agent selection.

I formulated the following hypothesis earlier in this chapter:

> The 1999 rule change caused the principal to select agents that are ideologically closer than before the rule change.

The analysis provides evidence that this hypothesis holds. The results have implications for the theoretical model developed in chapter 3. The results are in line with the expectations from the model extension where the Council does not always want to delegate to the informal arena and clearly contradict the expectations from the baseline model. The extended models predict less agency-drift than the baseline model. Hence, like the previous chapter, this chapter inspires optimism in the legislative system of the European Union. In addition, this chapter contributes to literatures on report allocation and the informal arena. According to the literature on report allocation, rapporteurs are more likely to be appointed, the closer they are to the EP median (Yoshinaka et al., 2010). I contribute to this literature and the literature on the informal arena by providing evidence that report allocation is linked to the risk of agency-drift.

In this chapter, I have shown that the principal selects agents in anticipation of potential inter-institutional negotiations in the informal arena. More moderate agents are selected to prevent agency-drift. In the following chapter, I test the theory developed in chapter 3 with respect to the decision to delegate to the informal arena. Agent selection changed with the advent of the informal arena. Since the introduction of the rule change in 1999, agents are on average closer to the principal than before the rule change. In the following, I test the explanation of the decision to delegate or not, once the rules had been changed.

# Chapter 7

# The Decision to Delegate 1999–2014

The purpose of this chapter is to empirically test the theoretical models of delegation to the informal arena (see chapter 3). Specifically, I test whether the principal(s) delegate(s) if the risk of delegation to the informal arena is high. The risk of delegation increases when agency-drift becomes more likely, ceteris paribus.[1] The risk of delegation decreases, the larger the cost of legislating in the formal arena, ceteris paribus.

The findings in this chapter show that the decision to delegate is related to the risk of delegating to the informal arena. The correlation is strong and robust. I compare three theoretical models: the 'baseline model, the Council becomes an actor model' and 'the two principals and two agents model.' It turns out that the predictions from 'the Council becomes an actor model' correspond most closely to the actual decision to delegate. This implies that the Council does not always want to delegate to the informal arena and that the Council presidency is bound by its mandate: it cannot or does not deviate from its mandate. The findings contradict the argument that the presidency can bias policy to better reflect its own interests (Tallberg, 2004b, 2006; Warntjen, 2008) and support the findings that the presidency cannot use the informal arena in this way (Häge and Naurin, 2013).

Exploiting variation in the cost of legislating in the formal arena, improves the predictions of the theoretical models. Consequently, some agency-drift may occur if efficiency gains can be achieved in the informal arena. The finding is benign if one accepts that a trade-off between efficiency and representativeness exists.

The chapter contributes to the literature on informal negotiations in the EU. It nuances the expectation that agency-drift occurs in the informal arena. Shirking is seldom a winning strategy for agents in the informal arena. The principal acquiesces to drift only if efficiency gains offset the losses from the drift. Furthermore, the bicameral setting with two principals

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[1]In the baseline model, delegation to the informal arena may be beneficial for the principal in which case delegation remains likely.

reduces the risk that one chamber is able to use the informal arena to achieve policy outcomes that reflect its preferences more closely. In the following, I briefly discuss the three theoretical models with respect to their differences

## 7.1 The Three Models: Predictions and Key Differences

The first theoretical model is the 'baseline model.' Figure 7.1 illustrates the extensive form of the game. The principal in the Parliament decides whether to delegate to the informal arena or not, abbreviated as d and ¬d respectively. If the principal does not delegate, the outcome is the midpoint between the floor median in the Parliament and the Council. The principal incurs a cost (c) for not delegating. The cost is motivated by the literature on the informal arena which suggests that the informal arena was introduced to increase legislative efficiency (Farrell and Héritier, 2003; Shackleton and Raunio, 2003). The cost, c, conceptualises that representatives in the committee have to specialise and acquire knowledge on a specific piece of legislation. They have to hold committee meetings, vote on amendments, interview policy experts and interest group representatives (Corbett et al., 2016). The utilities for the principal and the agent in the formal arena are:

Figure 7.1: Decision Tree: Baseline Model
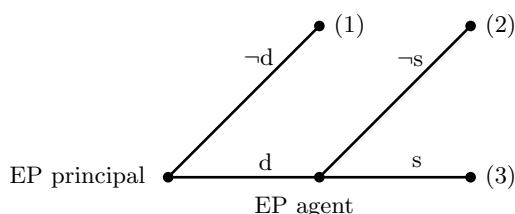


Note: The actors in the baseline model are the principal in the Parliament (EP principal) and the agent in the Parliament (EP agent). The principal's actions are: delegate (*d*) or not delegate (¬d). The agent's actions are: shirk (s) or not shirk (¬s). The Council is not a proper actor in this model. I assume that the Council always wants to delegate to the informal arena. The three terminal nodes are numbered in brackets. Outcome (1) is a compromise in the formal arena and outcomes (2) and (3) are compromises in the informal arena. In (2), the agent does not shirk and no agency-drift occurs. In (3), the agent shirks, leading to agency-drift.

$$u(\text{p}|\text{formal}) = -|x_p - \frac{x_{\text{floor}} + x_{cou}}{2}| - c_p \tag{7.1}$$

$$u(\text{a}|\text{formal}) = -|x_a - \frac{x_{\text{floor}} + x_{cou}}{2}| \tag{7.2}$$

Where p is the principal in the Parliament, a is the agent in the Parliament and $x$ is the policy preference of an actor. The floor median in the Parliament is abbreviated as floor and the Council as *cou*.

If the principal has made the decision to delegate to the informal arena, the agent decides whether to shirk (s) or not (¬s). If the agent does not shirk, the utilities for the players are:

$$u(\text{p|loyal}) = -|x_p - \frac{x_\text{p} + x_{cou}}{2}| \tag{7.3}$$

$$u(\text{a|loyal}) = -|x_a - \frac{x_\text{p} + x_{cou}}{2}| \tag{7.4}$$

Delegation is, thus, always beneficial for the principal if $c > 0$ and it can be beneficial if policy conflict between the principal and the floor median is large—as shown in chapter 5, committees are very representative of the chamber as a whole, i.e., policy conflict between principal and floor is usually very small. If the agent shirks, the utilities are:

$$u(\text{p|shirk}) = -|x_p - \frac{x_\text{a} + x_{cou}}{2}| \tag{7.5}$$

$$u(\text{a|shirk}) = -|x_a - \frac{x_\text{a} + x_{cou}}{2}| \tag{7.6}$$

The agent shirks if the utility from equation 7.6 is greater than the utility from 7.4. The principal's decision to delegate or not depends on the anticipated action of the agent. If the agent is expected to shirk, the principal delegates if $7.5 \geq 7.1$. Similarly, if the agent is loyal, the principal delegates if $7.3 \geq 7.1$.

In the baseline model, I assume that the Council is not an actor but that it always prefers delegation to the informal arena. While this assumption is strong, one can make an argument for it. Häge and Kaeding (2007), for instance, argue that the Council has less resources than the Parliament and is, therefore, keener to apply the more efficient informal arena.

The second model is labelled the 'Council becomes an actor model' and it relaxes the assumption that the Council always wants to delegate to the informal arena. The Council is, however, still a unitary actor in this model. Figure 7.2 illustrates the extensive form of the legislative game for this extended model.

To enter the informal arena, both the Council and the principal in the Parliament must delegate ($d$). If one actor does not delegate ($\neg d$), the formal arena ensues. The utilities of the actors in the formal arena do not depend on which actor vetoed delegation. Table 7.1 lists the utilities of all actors for each outcome.

Figure 7.2: Decision Tree: Council Becomes an Actor Model
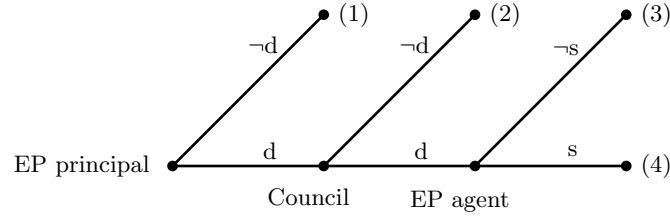


Note: The actors are the principal in the Parliament (EP principal), the agent in the Parliament (EP agent) and the Council. The principal's and the Council's actions are: delegate ($d$) or not delegate ($\neg d$). The agent's actions are: shirk (s) or not shirk ($\neg s$). The numbers in brackets label the four outcomes. Outcomes (1) and (2) are compromises in the formal arena and outcomes (3) and (4) are compromises in the informal arena. In (3), the agent does not shirk and no agency-drift occurs. In (4), the agent shirks, leading to agency-drift.

Table 7.1: Utilities in the Legislative Game by Outcome

| | Policy Outcome | EP principal | Council | EP agent |
| Abbreviations | $o$ | $p$ | $cou$ | $a$ |
| --- | --- | --- | --- | --- |
| Actions | | | | |
| (1) $\neg d$ | $(x_{\text{floor}} + x_{cou})/2$ | $-|x_p - o| - c_p$ | $-|x_{cou} - o| - c_{cou}$ | $-|x_a - o|$ |
| (2) $d,\neg d$ | $(x_{\text{floor}} + x_{cou})/2$ | $-|x_p - o| - c_p$ | $-|x_{cou} - o| - c_{cou}$ | $-|x_a - o|$ |
| (3) $d,d,\neg s$ | $(x_p + x_{cou})/2$ | $-|x_p - o|$ | $-|x_{cou} - o|$ | $-|x_a - o|$ |
| (4) $d,d,s$ | $(x_a + x_{cou})/2$ | $-|x_p - o|$ | $-|x_{cou} - o|$ | $-|x_a - o|$ |

Note: The principal and the Council decide whether to delegate ($d$) or not to delegate ($\neg d$). The agent's actions are: shirk (s) or not shirk ($\neg s$). The preferences are abbreviated as $x$, subscripts identify the actors and the cost is abbreviated as $c$. In the formal arena, the outcome is the midpoint between the floor median in the Parliament (floor) and the Council.

The key difference between this model and the baseline model is that delegation takes place less often because the Council vetoes delegation when the Parliament appoints 'extreme agents' (where the principal is located between agent and Council) assuming that the cost $c_{cou}$ is zero. However, the Council's willingness to delegate, even if the Parliament appoints an 'extreme agent', increases the larger $c_{cou}$.

In chapter 2.3.1, I have argued that the Council presidency—the agent in the Council—is bound by a strong mandate and, therefore, the presidency cannot deviate from its mandate in the informal arena. The reason is that the Council principal has access to documents from the informal arena (Kluger Dionigi and Koop, 2017) and that the agent must report back regularly to the agents (Rasmussen, 2011). However, it is argued in the literature that the presidency has some leeway and may deviate also (e.g., Tallberg, 2004b, 2006). I relax that assumption in the third model which I label: 'two principals and two agents.' Figure 7.3 illustrates the extensive form of the legislative game where both institutions are disaggregated to principals and agents.

Figure 7.3: Decision Tree: Two Principals and Two Agents Model
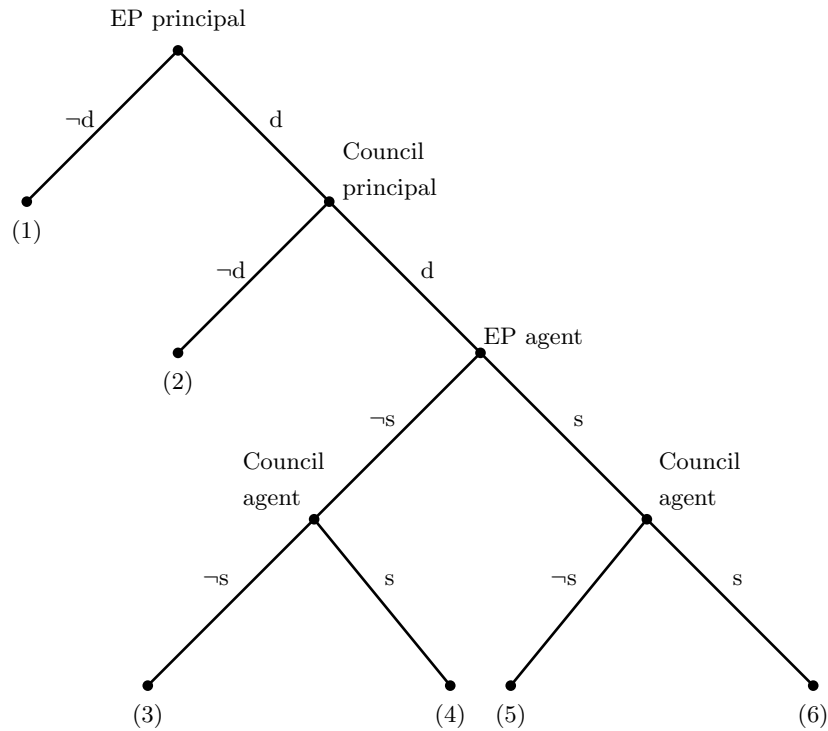


Note: The actors are the principal in the Parliament (EP principal), the agent in the Parliament (EP agent), the principal in the Council (Council principal) and the agent in the Council (Council agent). The principals' actions are: delegate ($d$) or not delegate ($\neg d$) and the agents' actions are: shirk (s) or not shirk ($\neg$s). The six terminal nodes are labelled in brackets. Outcomes (1) and (2) are compromises in the formal arena and outcomes (3), (4), (5) and (6) are compromises in the informal arena. In (3), none of the agents shirk and no agency-drift occurs. In (4), (5) and (6), at least one agent shirks, leading to agency-drift.

I list the policy outcomes and utilities of all actors for each of the six possible terminal nodes in table 7.2. In this model, the space of delegation decreases, if the cost $c$ is zero, because both chambers would now veto 'extreme agents.' Similar to the previous model, however, both principals are more willing to delegate, even if 'extreme agents' are appointed, with increasing $c$. Delegation with 'extreme agents' can, therefore, become more likely if both chambers appoint such agents—the Council presidency cannot be chosen but rotates every six months. Empirically, delegation becomes more likely in the 'two principals and two agents' model than in the 'Council becomes an actor' model.

All three models are solved using backwards induction and the equilibrium concept is the subgame perfect Nash equilibrium. In the following, I describe how I test the three models against each other. To recap: model 1 is the 'baseline model' where the Council does not act. In model 2, the Council becomes an actor but is treated as unitary. In model 3, the Council is disaggregated to principals and agents. The trade-off between these models is between realism and the cognitive capabilities required to act strategically, the more complex the game.

Table 7.2: Utilities in the Game with Two Principals and Two Agents by Outcome

| | | Policy Outcome | Utilities of the legislative actors | | | |
| | | | EP principal | Council principal | EP agent | Council agent |
| Abbr. | | o | p1 | p2 | a1 | a2 |
|---|---|---|---|---|---|---|
| Actions | | | | | | |
| (1) ¬d | | $(x_{\text{floor}} + x_{p2})/2$ | $-|x_{p1} - o| - c_{p1}$ | $-|x_{p2} - o| - c_{p2}$ | $-|x_{a1} - o|$ | $-|x_{a2} - o|$ |
| (2) d,¬d | | $(x_{\text{floor}} + x_{p2})/2$ | $-|x_{p1} - o| - c_{p1}$ | $-|x_{p2} - o| - c_{p2}$ | $-|x_{a1} - o|$ | $-|x_{a2} - o|$ |
| (3) d,d,¬s,¬s | | $(x_{p1} + x_{p2})/2$ | $-|x_{p1} - o|$ | $-|x_{p2} - o|$ | $-|x_{a1} - o|$ | $-|x_{a2} - o|$ |
| (4) d,d,¬s,s | | $(x_{p1} + x_{a2})/2$ | $-|x_{p1} - o|$ | $-|x_{p2} - o|$ | $-|x_{a1} - o|$ | $-|x_{a2} - o|$ |
| (5) d,d,s,¬s | | $(x_{a1} + x_{p2})/2$ | $-|x_{p1} - o|$ | $-|x_{p2} - o|$ | $-|x_{a1} - o|$ | $-|x_{a2} - o|$ |
| (6) d,d,s,s | | $(x_{a1} + x_{a2})/2$ | $-|x_{p1} - o|$ | $-|x_{p2} - o|$ | $-|x_{a1} - o|$ | $-|x_{a2} - o|$ |

Note: The principals decide whether to delegate ($d$) or not to delegate ($\neg d$). The agents' actions are: shirk ($s$) or not shirk ($\neg s$). The preferences are abbreviated as $x$, subscripts identify the actors and the cost is abbreviated as $c$. In the formal arena, the outcome is the midpoint between the floor median in the Parliament (floor) and the Council.

## 7.2 Research Design

The purpose of the empirical analysis is twofold: to test the theoretical models of delegation to the informal arena and to establish a rank-order between them. I evaluate the models based on how closely their predictions reflect reality. In order to account for sampling variability, I make out-of-sample predictions and compare these to the real outcomes. The 'winner' is the model that predicts best.

Furthermore, the empirical analysis is a theory test. As such, the purpose of control variables in the regression models in this chapter is to reduce potential bias in the estimate of the relationship of interest: the predictions of the theoretical model on delegation and the actual decisions to delegate. Control variables are only relevant insofar as they potentially correlate with my model predictions and cause the actual decisions to delegate. In addition, most control variables are 'catch-all' operationalisations such as time or fixed effects. For these reasons, I do *not* interpret significance, direction or effect magnitude of control variables.

I determine the 'winner' of the three theoretical models in two steps. In the first step, I code two explanatory variables that are based on the predictions of the respective models, *delegate* and *delegation risk*. I then fit statistical models, one for each explanatory variable and theoretical model (six in total). In each statistical model, I determine whether both explanatory variables are significant or not. Significance alone may be insufficient to distinguish the three theoretical models. While the models are not observationally equivalent, their predictions overlap, i.e., the explanatory variables may be significant in all three models. In step two, I predict delegation based on the three models. The model that best predicts delegation out of

sample is the winner (unless one of the models was already defeated in the first step). I use leave-one-out cross-validation to determine the percentage of correctly classified cases. First, I include only explanatory variables that are based on my theory. Next, I include additional controls as a robustness check.

I merge the extended dataset on the 'informal politics of codecision' (Bressanelli et al., 2014) with the preference data and the contextual data, both described in chapter 4. The level of observation is a concluded file subject to the ordinary legislative procedure. The sample includes all files concluded in the 1999–2014 period. The period covers the fifth, sixth and seventh European Parliaments. I exclude data for the fourth European Parliament (1994–1999), because delegation to the informal arena became only possible after the entry into force of the Amsterdam Treaty in 1999.

### 7.2.1 Operationalisation

The dependent variable, *informal arena*, is binary, coded 1 if delegation to the informal arena took place and 0 otherwise. Specifically, the variable *informal arena* is set to 1 if delegation took place at first reading and led to a successful compromise based on trilogues between Parliament, the Council and the Commission. The variable is included in the 'informal politics of codecision' dataset (Bressanelli et al., 2014).[2] The dependent variable approximates the decision to delegate because the data does not include failed negotiations.

I code two explanatory variables: (1), *delegate* and (2), *delegation risk*. *Delegate* is binary, coded 1 if the principal(s) utility from delegating is greater than from not delegating and 0 otherwise. *Delegation risk* is a principal's utility from not delegating minus the same principal's utility from delegating:

$$u(\text{p1}|\text{formal}) \quad - \quad u(\text{p1}|\text{informal}) \tag{7.7}$$

$$u(\text{p2}|\text{formal}) \quad - \quad u(\text{p2}|\text{informal}) \tag{7.8}$$

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[2]The dataset includes the variable *early_agree* which is 1 if a compromise is based on an informal agreement and was concluded as first reading or early second reading. The variable *stage* records the reading stage of file conclusion. My variable *informal arena* is coded 1 if both *early_agree* and *stage* are 1 and 0 otherwise. Whether a file was delegated to the informal arena or not is based on information in the Legislative Observatory (European Parliament, 2018). Coders read the summary texts in the 'key events panel' where it is indicated whether a compromise is based on an informal agreement or not. For example, in file 2000/0032(COD) 'Public access to European Parliament, Council and Commission documents', the summary text from 26 April 2001 says: 'A compromise agreement on the proposal was finally hammered out between Parliament, Commission and the Council on 25 April 2001.' The sentence refers to a compromise reached in the informal arena. The compromise was reached before the Parliament voted on its formal first reading opinion.

where $p1$ is the principal in the Parliament and $p2$ is the principal in the Council, i.e, 7.7 is the risk of delegation for the EP principal and 7.8 is the risk of delegation for the Council principal. Positive values mean that the utility from delegating is smaller than the utility from staying in the formal arena. Negative values mean that the utility from delegation is larger than the utility from staying in the formal arena. The third theoretical model includes two principals. As each principal can veto delegation, *delegation risk* is the larger value of the two risk values from 7.7 and 7.8. Both explanatory variables—*delegate* and *delegation risk*—are different operationalisations of the following hypothesis:

> The larger the risk of delegation, the lower the probability of delegation to the informal arena.

Table 7.3: Principal Component Analysis Summary (Factor Loadings & Explained Variance)

|  | Principal components | | |
|  | PC1 | PC2 | PC3 |
| --- | --- | --- | --- |
| No. of committees asked | 0.31 | 0.94 | −0.12 |
| Word length | 0.66 | −0.31 | −0.69 |
| No. of recitals | 0.68 | −0.14 | 0.72 |
| Proportion of Variance | 0.58 | 0.31 | 0.11 |
| Cumulative Proportion | 0.58 | 0.89 | 1.00 |

Note: The first principal component (PC1) summarises 58% of the joint variation of the three input variables and thus, summarises the data well. Furthermore, all three inputs load positively on the first component, i.e., lager values on the input variables correspond to larger values on the first component. All input variables have been normalised.

The principals incur a cost $c$ for not delegating. The larger the cost, the lower their utilities. The cost conceptualises the work that it takes for representatives to specialise on a piece of legislation. I operationalise the cost as the first principal component of three variables from the 'informal politics of codecision' dataset (Bressanelli et al., 2014). First, the word length of the legislative proposal. Second, the number of recitals in the proposal and third, the number of committees asked to give an opinion. All three variables capture aspects of file complexity. To make sure that the three input variables have the same weights in the principal component analysis (they are on the same scale, i.e., a unit change means the same across the variables), I standardise word length, number of recitals and number of committees asked for an opinion to mean zero and standard deviation one. All three variables load positively on the first component, i.e., larger values on the input variables correspond to larger values on the first principal component. The first component explains a large chunk of the joint variation (58%) and, therefore, summarises the data well. I normalise the cost variable to the unit interval so

that it does not dominate the utility of the actors. The average cost is 0.07, roughly half the size of the average policy conflict between the principals (0.13).[3]

## 7.2.2 Potential Confounders

Confounders correlate with the explanatory variable and cause the outcome variable. One misattributes a causal relation between the confounder and the outcome to the explanatory variable if the confounder is excluded from the regression model. The reason is the correlation between the explanatory variable and the confounder. In the following, I discuss variables that may potentially 'act' in this way.

First, I include fixed effects for the legislative terms of the EP. These are time fixed effects where a period is the legislative term. The *term fixed effects* control for potential sources of confounding that differ between the terms. The term fixed effects correlate with the outcome because the application of the informal arena has become more frequent over time. Potential causal mechanisms could be better institutional control or trust in the new institutional arrangement or greater familiarity of the legislators with the procedure. Furthermore, *term fixed effects* may correlate with the model predictions because the EP has become more cohesive over time, i.e., policy conflict may correlate with the composition of the different EP's in the analysis.

Second, I include fixed effects for the nationality of the rapporteur. A potential causal link between nationality and the outcome is that larger national delegations may act more forceful in inter-institutional negotiations and, the EP principal may dislike delegation to such actors more. Another potential link could be that ties between the domestic national party and the MEPs are stronger in some countries than in others. When ties are stronger, the agents may act on behalf of their domestic party rather than the EP principal. The correlation with the model predictions could arise because countries, where ties are stronger, may be ideologically more 'extreme.'

Third, I include fixed effects for the nationality of the Council presidency. A potential causal link between the outcome and the *presidency fixed effects* may be the following: Presidencies are usually evaluated on the number of files that they can successfully conclude (Naurin, 2015). Some member states may seek such recognition more than others and are, therefore, more willing to delegate to the more efficient informal arena. The correlation with the model prediction may arise if these states are also ideologically more/less 'extreme' than others.

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[3]In the theoretical models, I add an index to $c$ indicating the actor. In this operationalisation, the cost for the Council is the same as the cost for the Parliament. The cost captures the effort it takes to legislate on an issue which is a function of file complexity, workload and resources. I chose this approach because I had data on complexity available. Future research should disentangle the cost further.

Fourth, I include fixed effects for the transnational groups in the Parliament. *Transnational group fixed effects* control for confounding from sources that differ across the groups but are constant over time. A potential causal link between the outcome and the fixed effects may be the following: Larger groups employ the informal arena to marginalise smaller groups in policy-making (Farrell and Héritier, 2003). Larger groups receive more reports and have more members in the committees. Hence, delegation to the informal arena may be more likely, the larger the group (Rasmussen, 2011; Rasmussen and Reh, 2013). The correlation with the model predictions arises because the size of group correlates with ideology—smaller groups tend to be more ideologically 'extreme' (Rasmussen, 2011).

Fifth, I include a time variable that captures the time in weeks until the end of the legislative term in the EP. The *EP term fixed effects* capture time differences across the legislative terms of the Parliament. Note that the EP has fixed terms, while the composition of the Council varies with national election cycles. A potential causal link with the outcome could be the following: MEPs try to finalise as many bills as possible before the term ends. Therefore, they may be more willing to delegate to the informal arena, the closer the end of their term (Corbett et al., 2016). The systematic correlation with the model predictions is somewhat less plausible but, potentially, the EP selects less ideologically 'extreme' agents, the nearer the end of the legislative term.

The proposed causal mechanisms between the potential confounders and the outcome may not actually be the real mechanisms. Fixed-effects and time variables are 'catch-all' concepts that can be related to a multitude of underlying mechanisms—which is desirable because my goal is to control for potential bias. I include these variables in the regression models to control for their potential to bias the estimated effect of my model predictions on the decisions to delegate. The estimates of the relationships between the potential confounders and the outcome are not relevant for the theory test and, therefore, I do not interpret these quantities.

## 7.3   Results of the Theory Test

Table 7.4, shows the summary statistics of the dependent variable, the explanatory variables, the cost and the preferences of the actors. In the sample, delegation to the informal arena took place for 50% of all files. The mean of the dependent variable and its standard error (0.014) imply that delegation can be correctly predicted—out of sample—for 50% of all files (±3 percentage points) without any model at all.[4] Hence, the theoretical models are only useful if they increase correct classification, out of sample, above 53%.

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[4]The confidence interval is the 95 percent level, i.e., 1.96 times the standard error of the mean.

Table 7.4: Summary Statistics

| | Min. | 1st Quartile | Median | Mean | 3rd Quartile | Max. |
|---|---|---|---|---|---|---|
| Informal arena | 0.00 | 0.00 | 0.00 | 0.50 | 1.00 | 1.00 |
| Delegate (model 1) | 0.00 | 0.00 | 0.00 | 0.49 | 1.00 | 1.00 |
| Delegate (model 2) | 0.00 | 0.00 | 0.00 | 0.28 | 0.00 | 1.00 |
| Delegate (model 3) | 0.00 | 0.00 | 0.00 | 0.31 | 1.00 | 1.00 |
| Delegation risk (model 1) | −2.83 | −0.28 | 0.00 | −0.00 | 0.30 | 1.22 |
| Delegation risk (model 2) | −2.59 | −0.03 | 0.18 | 0.15 | 0.36 | 1.22 |
| Delegation risk (model 3) | −2.61 | −0.06 | 0.13 | 0.12 | 0.32 | 1.20 |
| cost | 0.00 | 0.04 | 0.07 | 0.09 | 0.11 | 1.00 |
| $x_{p1}$ | −0.67 | 0.06 | 0.26 | 0.19 | 0.36 | 0.71 |
| $x_{p2}$ | −0.05 | 0.02 | 0.08 | 0.06 | 0.09 | 0.15 |
| $x_{a1}$ | −2.42 | −0.88 | 0.27 | 0.01 | 0.87 | 2.00 |
| $x_{a2}$ | −0.64 | −0.04 | 0.07 | 0.07 | 0.22 | 0.69 |
| $x_{\text{floor}}$ | 0.04 | 0.16 | 0.27 | 0.21 | 0.30 | 0.30 |

I have argued that delegation should be most likely in the baseline model. In model 2, the Council can veto delegation and, therefore, delegation becomes less likely. In model 3, two principals can veto delegation to two extreme agents. The space of delegation may shrink if one side selects more 'extreme' agents than the other and the cost of legislating in the formal arena does not offset the utility loss. The space may also increase, if the cost offsets delegation to agents that are roughly similarly 'extreme.'

Empirically, model 1 suggests that delegation would have been beneficial in 49% of all cases. This prediction is close to the actual amount of delegation to the informal arena (50%). Meanwhile both model 2 and model 3 predict much lower levels of delegation. According to model 2, delegation was only beneficial in 28% of all cases. In model 3, delegation is predicted to be beneficial in 31% of all cases. The large difference between model 1 and models 2 and 3, arises from the frequency of the 'extreme agents' environment in the data (46%)—in the 'extreme agents' environment, delegation is beneficial for the principal according to model 1 (unless the agent is very extreme).

Figure 7.4, illustrates the results from logistic regression on the dependent variable: delegation to the informal arena (yes = 1; no = 0).[5] The left panel shows the result for the models that include only the binary variable *delegate* as predictor. *Delegate* is coded 1 if the theoretical model predicts that delegation should occur. The right panel shows the result for the models that include only the continuous variable *delegation risk* as predictor. Greater values of *delegation risk* imply greater risk, i.e., delegation should become less likely. The three theoretical models are labelled m1, m2 and m3 for the 'baseline model', the 'Council becomes an actor'

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[5]Logistic regression is appropriate if the response is binary and logistic regression is commonly applied in political science (Stock and Watson, 2007).

model and the 'two principals and two agents' model respectively. The black segments are the point estimates and the boxes illustrate the uncertainty based on the 95%, 99% and 99.9% confidence intervals from narrowest to widest.

Figure 7.4: Hypothesis Tests by Theoretical Model (Without Controls; Logistic Regression)
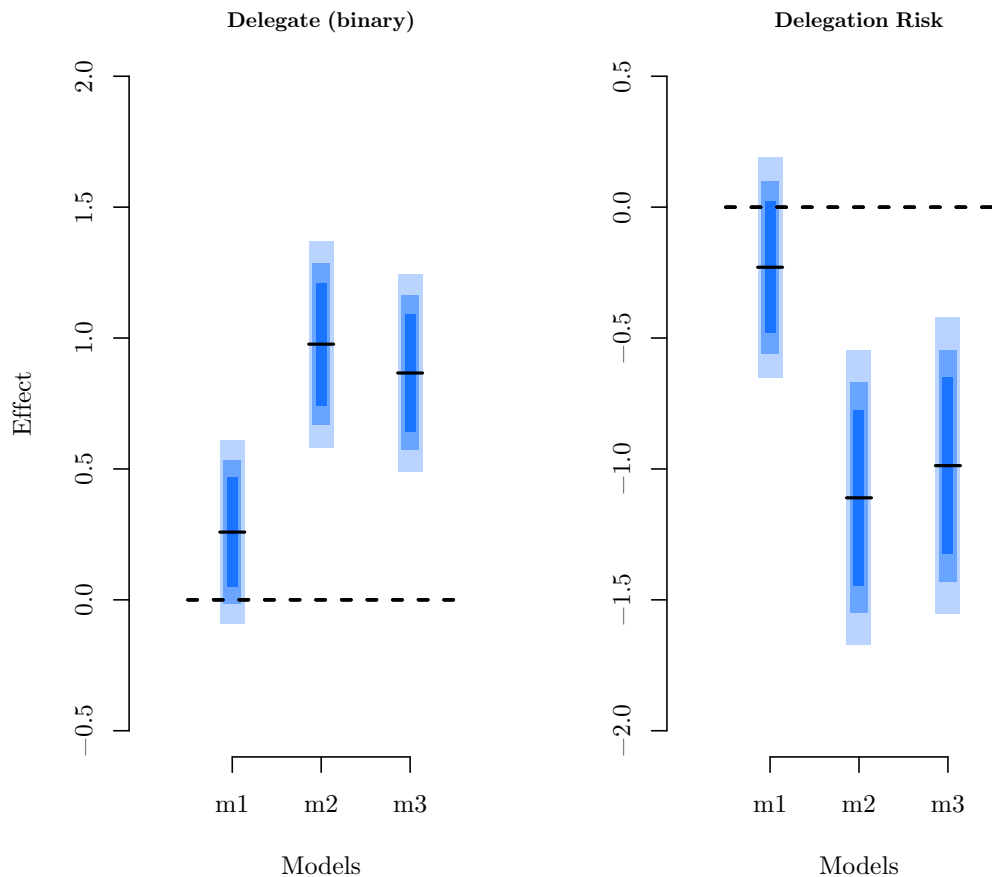


Note: In the left panel, the explanatory variable is *delegate* (yes = 1; no = 0). In the right panel, the explanatory variable is *delegation risk* (greater values = more risk). The independent variables are based on the three theoretical models: m1 = baseline model; m2 = Council becomes an actor model; m3 = 2 principals and 2 agents model. The point estimates are the black segments and the boxes illustrate the 95%, 99% and 99.9% confidence intervals from narrowest to widest. For both operationalisations of the explanatory variable, the baseline model (m1) fares worst. *Delegation risk* is insignificant at the conventional 95% confidence level in m1. Models 2 and 3 fare about equally well. The models do not include controls; N = 1241. The dependent variable is coded 1 if delegation to the informal arena took place and 0 otherwise.

The baseline model fares poorly in comparison to the other two theoretical models. While the binary predictor *delegate* is just significant at the conventional 95% confidence level, the continuous predictor *delegation risk* is not. Both *delegate* and *delegation risk* are significant at the 99.9% confidence levels in the other two theoretical models—the Council becomes an actor model (m2) and the two principals and two agents model (m3).

Table 7.7 shows the percentages of correctly classified cases by theoretical model and differentiated by the explanatory variables, *delegate* and *delegation risk*. The naïve guess—that is, the best classification without a statistical model—is to predict the application of the formal arena every time (the mean of the dependent variable is 0.497). Such a classification would reflect a coin toss ($\pm$ 3 percentage points). The baseline model substantially improves the prediction of area choice. It correctly classifies: 58% of cases for both operationalisations of the main explanatory variable. The best model is the Council becomes an actor model. It correctly classifies 63% of all cases and, thereby, reduces missclassfication by 26%. The explanatory power of the theoretical models is substantial.[6]

Table 7.5: Percent Correctly Classified by Theoretical Model (unseen cases)

|                                           | *Delegate* | *Delegation risk* |
| ----------------------------------------- | ---------- | ----------------- |
| Baseline model (m1)                       | 58%        | 58%               |
| Council becomes an actor model (m2)       | 63%        | 63%               |
| Two principals and two agents model (m3)  | 62%        | 60%               |

Note: All models improve upon a model that does not include any predictors (50% $\pm$ 3 percentage points). The baseline model is clearly the worst model. The Council becomes an actor model (m2) predicts best, followed closely by the model with two principals and two agents (m3). The percent of correct classification of unseen cases is based on leave-one-out cross-validation.

Overall, the results suggest that all theoretical models partially predict arena choice. The baseline model, however, captures the decision-making process less well than the two more complex models. Model 2, where the Council becomes a unitary actor, performs best. Disaggregating the Council to principal and agent does not increase predictive power. The results suggest that the presidency cannot or does not deviate from its mandate.

### 7.3.1 Robustness Tests

The robustness test section serves two purposes. First, to test whether the effect of the main hypothesis—the larger the risk of delegation, the lower the probability of delegation to the informal arena—holds when I control for potential sources of confounding. Second, to test whether the cost parameter over-determines the two measures of delegation risk: *delegate* and *delegation risk*.

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[6]I do not present predicted probabilities or odds ratios here because I am interested in the explanatory power of the theoretical model rather than in effect sizes. The models do not control for confounding and effect sizes are likely biased. However, the estimated effects are large. According to model 2, the odds of delegation increase 166% if the model predicts delegation compared to when it does not predict delegation. This is likely an over-estimate. In the robustness tests section, where a lot of variation is 'soaked up' by fixed effects, the estimate is 9%.

Table 7.6: Theory Tests Including Control Variables (Logistic Regressions)

| | Baseline | | Council is an Actor | | 2 Principals & 2 Agents | |
|---|---|---|---|---|---|---|
| | (1) | (2) | (3) | (4) | (5) | (6) |
| Delegate | 0.05* | - | 0.08** | - | 0.08** | - |
| | (0.02) | | (0.03) | | (0.02) | |
| Delegation risk | - | −0.07* | - | −0.13*** | - | −0.13*** |
| | | (0.03) | | (0.04) | | (0.04) |
| Weeks until term end | −0.00* | −0.00* | −0.00* | −0.00* | −0.00* | −0.00* |
| | (0.00) | 0.00 | (0.00) | (0.00) | (0.00) | (0.00) |
| EP term fixed effects | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Presidency country fixed effects | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Rapporteur country fixed effects | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Transnational group fixed effects | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| $N$ | 1241 | 1241 | 1241 | 1241 | 1241 | 1241 |
| % correctly classified | 82% | 82% | 82% | 82% | 82% | 82% |

$*** p < 0.001; ** p < 0.01; * p < 0.05$

Table 7.6 shows the results of the theory tests when the control variables, that I discussed previously, are included. The results become more robust for the baseline model where both *delegate* and *delegation risk* become significant at the 95% level. The general take-away is that across all models, the main explanatory variables *delegate* and *delegation risk* are significant, even when I control for a large number of confounding sources. However, the effect sizes decrease. Based on the 'Council becomes an actor model,' the odds of delegation to the informal arena are 9% larger when the model predicts delegation than when it does not—the difference is attributable to confounding sources and that a lot of the variation is 'soaked up' by fixed effects.

To test whether the cost parameter over-determines *delegate* and *delegation risk*, I hold the cost constant at its mean value. The theoretical models, therefore, do not benefit from variation in the cost parameter for their predictions. I re-ran all models without controls and re-estimated the percentage of correct classification.[7] Table 7.7 presents the results. All models remain comfortably better than the model without predictors—the naïve guess. In addition, m2, where the Council becomes an actor, is still the best model. Predictive performance decreases across all models, however, the difference is not huge. This robustness test shows that while the cost in an important factor in explaining the decision to delegate, the models perform decently even without benefiting from variation in the cost parameter.

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[7]Running models without controls is the harder test because the control variables would contribute to correct classification.

Table 7.7: Percent Correctly Classified if Cost $c$ is Kept at its Mean

|  | Delegate | Delegation risk |
|---|---|---|
| Baseline model (m1) | 58% | 58% |
| Council becomes an actor model (m2) | 61% | 58% |
| Two principals and two agents model (m3) | 58% | 58% |

Note: The cost $c$ is held constant at its mean value. All models improve upon a model that does not include any predictors (50% ± 3 percentage points). The Council becomes an actor model (m2) remains the best model. The percent of correct classification of unseen cases is based on leave-one-out cross-validation. The models do not include controls.

## 7.4 Summary

Overall, this chapter provides evidence for the theory of delegation that I have proposed in this project. The model where the Council becomes an actor, performs best. The baseline model performs worst but substantially improves upon no model.[8] The evidence suggests that the agent in the Parliament could deviate from its mandate and the agent in the Council could not or would not. Therefore, I provide evidence for the argument that the Council presidency cannot use the informal arena to gain influence over policy (Häge and Naurin, 2013) and evidence against the argument that the presidency can substantially bias policy in its own interest (Tallberg, 2004b, 2006).

Delegation is seldom a winning strategy but some agency-drift may occur if the efficiency gain in the informal arena is large enough. These findings add nuance to the theoretical literature on the informal arena in the EU. The literature suggests that agency-drift occurs (Farrell and Héritier, 2003, 2004; Shackleton and Raunio, 2003). This expectation is usually referenced in research on the informal arena (Høyland, 2006; Costello and Thomson, 2011; Obholzer and Reh, 2012; Héritier and Reh, 2012; Toshkov and Rasmussen, 2012; Reh et al., 2013; Rasmussen and Reh, 2013; Häge and Naurin, 2013; Hix and Høyland, 2013; Yordanova, 2013; Bressanelli et al., 2016; Naurin, 2015; Brandsma, 2015; Roederer-Rynning and Greenwood, 2015, 2016) and even in text books on European Union politics (Hix and Høyland, 2011).

Furthermore, the findings suggest that the bicameral setting of the EU's legislative system provides a powerful safeguard against agency-drift in the informal arena. Bicameralism often alters the incentive structure of the agents such that they do not shirk even if they have the potential to shirk. If they do have the potential and the incentive to shirk, delegation is less likely, unless the efficiency gain from delegation is large. The trade-off between efficiency and

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[8]The distribution of the dependent variable contributes to the success. The mean is 0.5 which is the best case scenario for prediction. Improving prediction over more lopsided variables is harder because the data vary less. The application of the informal arena becomes ever more frequent. Hence, new data will be much more lopsided which decreases the amount of information in that data.

representativeness affords flexibility to a complex legislative system that might otherwise be unable to cope with the legislative workload.

The informal arena receives much criticism because of its seclusion (Fox, 2014; Cooper, 2016) and the potential for biased outcomes (Farrell and Héritier, 2003, 2004; Shackleton and Raunio, 2003). An investigation into the practice was recently carried out by the European Ombudsman who suggested greater transparency from both institutions (European Ombudsman, 2016). The Council and the EP have formalised the informal arena more and more by introducing more checks (Kluger Dionigi and Koop, 2017). Placing more checks on the informal arena and increasing transparency may not be costless. The informal arena could, for example, become less efficient by increasing the workload of those who check on the delegation. Acknowledging the constraining effect of bicameralism may mitigate some of the concerns and acknowledging that a trade-off with efficiency exists, may allow the Council and the Parliament to remain successful legislators.

In this project, I did not have data on outcomes. Therefore, this project does not provide any evidence on whether agency-drift did occur in the informal arena. Such evidence would be needed in future to further enrich our understanding of law-making in the EU and the effects of institutional design on it.

A caveat of the empirical tests of the models in this project is that the position of the EP delegation is the least accurately measured. The problem is akin to measurement issues in the DEU data where the position of the Parliament is less accurately measured than the position of the Council (Slapin, 2014). I operationalise the delegation with the position of the rapporteur. The position of the delegation is, therefore, based on a single legislator. All other actor positions are averages/medians of multiple legislators. The reason for this operationalisation is that it was not possible to identify the exact composition of the delegation and furthermore, the rapporteur is the lead delegate. However, the data would benefit from information about the exact composition of the delegation. The position of the EP agent varies the most in my data. The models may, therefore, be 'over-cautious' in their predictions. The winning model—'the Council becomes an actor'—predicts delegation for 28% of the cases. Delegation took place for 50%. The discrepancy may be related to imprecise measurement of the EP agent's position. Further research would, therefore, benefit from refining our information on the composition of the delegation.

# Chapter 8

# Conclusion

In this project, I ask the following research questions: when does delegation to the informal arena take place and, equally, when does delegation not take place? Furthermore, does delegation lead to agency drift?

To answer these questions, I develop a uni-dimensional complete information spatial model. Its inputs are the preferences of key legislative actors—principals and agents—and a cost parameter which captures that the purpose of delegation is to reduce the workload of the actor who delegates a task. My theoretical model suggests that delegation takes place when: (1) the risk of agency-drift is low or (2) the cost of not delegating is high. A key conclusion that follows from the model is that shirking is seldom a winning strategy for the agent. Therefore, agency-drift in the informal arena should be rare. However, some agency-drift can occur depending on the cost parameter. The model suggests that a trade-off between legislative efficiency and representativeness exits. The actors who decide on delegation, acquiesce to some drift, the higher the legislative workload cost of not delegating.

I test the theory on completed legislation in the 1999–2014 period. I generate uni-dimensional preference data and interpret the underlying dimension to be ideology (left–right politics). Furthermore, I scraped information on individual legislators from the European Parliament's data hub. These data sources are combined. The empirical test provides evidence for my theory. The model predictions substantially improve upon an empty model. Furthermore, I show that model predictions (of the best model) pass statistical significance at the 99 percent level—the predictions correlate with the actual decisions. Based on my theoretical model alone, without any co-variates, I correctly classify 63 percent of actual decisions to delegate, out-of-sample.

## 8.1 Recap of Argument and Results

In this project, I research legislative politics in the European Union (EU). Its two legislative institutions are the Council of the European Union and the European Parliament (EP). The main legislative procedure that I research—the ordinary legislative procedure (formerly codecision)—equips both the Council and the EP with a veto, i.e., both institutions can veto a legislative proposal.

In 1999, the Amsterdam Treaty amended the ordinary legislative procedure (then codecision) such that conclusion at first reading became possible. It was the advent of the 'informal arena' which since then co-exists with the 'formal arena'. In the formal arena, bills shuttle back and forth between the two chambers in a maximum of three reading stages. In the informal arena, both chambers delegate inter-institutional negotiations to representatives who meet behind 'closed doors' to produce a compromise that is subsequently rubber-stamped by the parent chambers. At the outside of the legislative process, both chambers decide jointly whether to delegate to the informal arena or not, i.e., the informal arena refers to a process where delegation takes place early—during the first reading stage.

The practice of delegating to the informal arena has drawn criticism from multiple 'corners.' Key among the criticisms is the expectation of agency-drift. Farrell and Héritier (2003) have famously hypothesised that key actors gain undue influence when legislative negotiations in the EU are delegated to the informal arena. That means that policy outcomes that result from the informal arena differ from counterfactual non-delegated acts. The difference is called *agency-drift* and the larger the difference, the more problematic is delegation to the informal arena in terms of democratic legitimacy.

The literature on the informal arena has suggested several remedies to mitigate the risk of agency-drift which are aimed at reducing the potential for the agent to shirk. Reform in the European Parliament has taken this route. The mandating process of the EP has become more stringent. The rules on reporting back have become more stringent and the size of the delegation has grown. Consequently, the potential for shirking has become smaller.

In this project, I apply a principal-agent lens. The agent may deviate from the principal's mandate if the principal is unable or unwilling to properly check on the agent. In addition, I argue, that agents only shirk if they have an incentive to do so. Therefore, I argue that we need to know about the preferences of the principals and the agents to assess the incentive structure of the decisive actors.

In addition, I argue that the size of policy disagreement between principal and agent is not enough to assess whether the agent has an incentive to shirk. Legislative negotiations in the EU, under the ordinary legislative procedure, are bicameral. Consequently, the incentive to

shirk depends on policy conflict (policy disagreement) between principal and agent but also on policy conflict between principal and opposition and agent and opposition.

In the bicameral setting, both chambers 'check' the agents. Agency-drift that would be beneficial for one principal is undesirable for the other. Both chambers can veto delegation to the informal arena. In effect, the bicameral setting is a powerful deterrent against shirking in the informal arena. Hence, bicameralism is an effective mechanism to mitigate the risk of agency-drift because it alters the incentive structure of the agents and the principals.

I develop three models of delegation to the informal arena in chapter 3. In the baseline model, the Council is not treated as an actor and I assume that the Council always prefers delegation to the informal arena. I relax the assumption that the Council always wants to delegate in 'the Council becomes an actor model.' In this model, the Council is treated as unitary whereas the Parliament is disaggregated to principal and agent. In the third model, I also disaggregate the Council to principal and agent.

The baseline model suggests that agency-drift should occur because the EP principal has an incentive to select agents that always shirk such that agency-drift is beneficial for the EP. In chapter 6, I find that this is not the case. In fact, when delegation to the informal arena became possible, the EP principal selected agents that were closer to its preference than before delegation to the informal arena became possible. These findings are evidence against the baseline model and are in line with the models that treat the Council as an actor.

In chapter 7, I test the three theoretical models against each other and it turns out that the model where the Council is an actor but not disaggregated to principal and agent, produces the most accurate predictions. Furthermore, the baseline model produces the least accurate predictions. In addition, I show that the decision to delegate is clearly related to the risk of delegation. The risk of delegation increases when agency-drift becomes more likely and decreases when the cost of not delegating increases.

In chapter 5, I test how representative the EP committees are of the EP as a whole. In the EP, the decision to delegate to the informal arena is taken in the committees. The committees are themselves agents of the floor. If committee preferences would systematically differ from the preference of the floor median, one should expect biased policy from the committees. The bias would be aggravated in the informal arena. The amendment rule in the EP is open. In the formal arena, the committee text would be amended to reflect the floor median. In the informal arena, the inter-institutional compromise is rubber-stamped. Hence, in the informal arena, a biased committee system would be more consequential. However, the committees are representative of the floor median and they have become more so over time. In addition, there are not systematic differences across policy areas. There are no 'left' or 'right' committees.

Furthermore, ideological disposition of individual representatives is unrelated to committee membership—members of the committee on Employment and Social Affairs, for example, are not more leftist (or rightist) than members of the committee on Agriculture.

Overall, I analyse whether agents have an incentive to deviate from their mandates in the informal arena or not. I develop a complete information spatial model and show that inter-institutional competition mitigates the risk of moral hazard substantially. I test the theoretical contribution in three empirical chapters. They show that the principal in the Parliament—the standing committee—is representative of the Parliament as a whole, that the Parliament's agent is selected strategically and that the probability of delegation to the informal arena decreases with increasing risk of agency-drift.

The theory, proposed in this project, may travel to other bicameral contexts, subject to careful consideration of the rules and norms in those other contexts. Overall, this project inspires optimism in the legislative system of the European Union. Even if the potential for agency-drift exists, shirking is rarely a winning strategy.

## 8.2 Implications for Legislative Organisation

My work has implications for the study of legislative organisation in the European Union. The informal arena is associated with the risk of agency-drift. While I do not suggest that agency-drift does not occur, I nuance these expectations. I show that incentives for shirking, leading to agency-drift, are seldom given. Instead, I show that some drift can occur when the cost of legislating in the formal arena increases. On balance my model suggests that key actors do not gain undue influence in the informal arena. Furthermore, I provide a theory that explains variation in the application of the informal arena well.

In addition, a trade-off between legislative efficiency and representativeness suggests a re-think of institutional checks that are needed and institutional checks that are unnecessary. For example, since 2016, the plenary votes on the mandate of the delegation in the informal arena. This makes the mandate stronger and reduces the potential of the agent to deviate in the informal arena. However, such a vote requires resources and reduces the efficiency of the procedure. The rule may not have an extra effect on the risk of agency-drift because it is seldom that the agent has an incentive to shirk.

The theory presented in this dissertation suggests that the preferences of the legislative actors are related to the decision to delegate. While I do not test whether drift occurs in the informal arena, because I do not have data on outcomes, my findings suggest that preferences impact legislative outcomes as well. Therefore, committee organisation should reflect preferences in the chamber as a whole.

Theories of legislative organisation, developed for the U.S. Congress, suggests that self-selection into committees may result in outlier committees. Such committees would benefit from negotiations in the informal arena where the inter-institutional compromise is rubber stamped—assuming that the committee selects the agent who negotiates in the informal arena. It follows that committees may gain influence vis-à-vis the chamber when negotiations take place in the informal arena. In the EU, I show that the committees are representative of the plenary in terms of ideology. However, if in other legislatures, this is not the case, application of the 'informal arena' may lead to substantial agency-drift.

## 8.3   Implications for the Study of Bicameralism

My findings have implications for bicameral negotiations as well for the design of the legislative institutions. The European Union resembles a bicameral system. The European Parliament with its directly elected representatives is the 'lower house' and the Parliament represents the 'European citizen.' The Council is composed of the ministers from the member states. It represents regional interests and is the Union's 'upper house.' The setup in the EU is similar to many political systems the world over such as the United States and Germany. While there are substantial differences between those bicameral systems and the European Union, in all of these systems two institutions are involved in the law-making process.

The theoretical literature on the informal arena in the EU has largely focused on institutional constraints that make it harder for the agent in informal negotiations to deviate from the mandate. My work suggests that the preferences of the actors are important to assess the risk of agency-drift. Whether an agent shirks or not does not only depend on the potential to do so but also on the incentives. At the same time, increasing the amount of checks in the formal arena is not costless. The informal arena was introduced, according to the literature, to increase legislative efficiency (Farrell and Héritier, 2003; Shackleton and Raunio, 2003). It was introduced because ten new member states were about to join the European Union and more policy areas were about to be subject to the ordinary legislative procedure—where the EP and the Council co-legislate. Indeed, completing legislation took less time in the informal arena than in the formal arena (Kluger Dionigi and Koop, 2017). However, since the Lisbon Treaty, legislation completed in the informal arena takes longer than legislation completed in the formal arena. Hence, the informal arena may have become less efficient.

The efficiency of the informal arena decreases if additional checks take resources from the legislative system. For example, if the size of the delegation increases and shadow rapporteurs are appointed from each transnational party group, then those legislators cannot at the same time work on other legislation. As I have shown, the bicameral system alters the incentive

structure of the agents. It would be more likely that agents deviate in a unicameral system. In a bicameral system, delegation to informal law-making may be a feasible alternative to the formal arena—where bills shuttle back and forth between the chambers—even if the agents have the potential to deviate from their mandates. Furthermore, in the case of an increasing legislative workload, informal negotiations similar to the EU's informal inter-institutional negotiations at the time when the informal arena was introduced—without restricting the potential of the agent to deviate from the mandate—may be a way of making the system more efficient without risking substantial agency-drift.

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