'WHY DO NEGOTIATION PROCESSES MATTER?'

Informal Capabilities as Determinants of EU Member States Bargaining Success in the Council of the EU

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TESI DOCTORAL UPF / 2021

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In appreciation

Writing a PhD thesis is often perceived as being a difficult, solitary experience. I owe much gratitude to all those who made this journey far more pleasant and enjoyable than I initially expected it to be.

First and foremost, I am extremely grateful to my thesis supervisor, Prof. Javier Arregui, for his constant support throughout the research process. I find myself very lucky to have had the opportunity to work alongside him on this ambitious research project and constantly learn from him both at the personal and professional levels.

My daily life at the University Pompeu Fabra would not have been the same without my colleagues, including Joao, Wanli, Andreu, Marina, Abelardo and Paula, whose company made these Catalan years unforgettable.

In addition to Barcelona, this research allowed me to become a regular visitor of Brussels, the home of European institutions and so much more. I am very grateful to all the interviewees who generously shared their scarce time during my repeated stays in Belgium.

I want to express my sincere appreciation to the diplomats of the Permanent Representation of Luxembourg to the EU, whose warm welcome and contribution to my own understanding of the Council were invaluable.

Abstract

How do differences in the informal capacities of Member States impact their bargaining success at the EU level? Based on new datasets collected via 145 semi-structured interviews with national negotiators and EU officials in Brussels, this research shows how MS informal capacities impact legislative outcomes in the EU. This research provides evidence that informal capacities, such as the effectiveness of MS permanent representations and their capacity to coordinate with other actors in the legislative decision-making, matter for bargaining success. Using a mixed-method design, this dissertation explores the conditions and mechanisms granting more explanatory power to informal capabilities as determinants of EU Member States bargaining success in the Council of the EU.

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Introduction

Decisions and policies of the European Union (EU) have a significant impact on European member states (MS) and their citizens. The pervasiveness of EU policies highlights how essential it is to unpack the processes by which they are adopted. Within the EU institutional system, the Council of the EU (or 'Council') represents the interests of national governments and is often pictured as being the EU's most important decision-making institution, due to its executive and legislative functions.

As a pyramidal and segmented body, the Council heavily relies on working groups composed of national officials, as well as on the Committee of Permanent Representatives (Coreper) at the ambassadorial level, to perform most of its legislative activities. As part of the EU policymaking process, more than three quarters of Council positions are adopted at working groups and Coreper levels (Pollack & Wallace, 2010). These levels of decision-making thus generate a great deal of negotiations and bargaining games between member states in shaping EU policies and rules (Fouilleux et al., 2005).

In the processes leading up to the adoption of EU legislative dossiers, national experts and diplomats regularly interact and negotiate with their counterparts representing other member states and EU institutions. Whereas one strand of the literature considers the game

played by national representatives in Brussels only as a neutral "transmission belt" from the national to the EU level, and conceive decision outcomes as a reflection of asymmetries in the structural and voting power distribution between member states, other authors and practitioners specialized on international negotiations tend to emphasize the role played by processes and negotiators' resources in analysing political outcomes.

Yet, little is known of the processes by which member states adopt decisions in Council policymaking processes. The level of secrecy and complexity characterizing Council legislative activities has long been a major hurdle for EU scholars to capture the power games at play at the lower levels of interstate negotiations, but recent waves of academic research have opened up new promising theoretical and methodological avenues to further investigate the inner-workings of the Council.

Building on a mixed-method research design and novel datasets, this dissertation explores to what extent and under what conditions the resources mobilized by member states in Brussels in the context of EU legislative processes are relevant to explain MS bargaining success.

Drawing on the literature on EU decision-making processes as well as bodies of knowledge that were rarely mobilized in previous studies on the Council, this dissertation aims to contribute in two ways to the existing literature. On a theoretical level, this research contributes to recent attempts to capture how the Council works in practice, and analyse to what extent inputs and bargaining processes play a role in

explaining legislative outputs (Thomson et al., 2006). In line with Thomson's rational choice institutional analysis framework, the dissertation conceptualises negotiation processes as 'interactions among purposeful political actors operating within institutional constraints to produce decision outcomes' (Thomson, 2011).The rationale behind this study echoes Reinalda and Verbeek's argument that to understand how international organizations work, there needs to be a recognition that, above the inventory of the material capabilities, the process itself adds something over (Reinalda & Verbeek, 2004). On the empirical level, this research presents new comprehensive datasets on the bargaining success and capabilities of MS in the context of recent negotiations at the EU level. These new datasets allow for a systematic and in-depth analysis of the EU decision-making process, by capturing the influence and resources mobilised by member states at the European level.

In particular, this dissertation argues that our understanding of MS power in the EU decision-making process would benefit from a broader comparison of MS permanent representations and their informal capabilities. Informal capabilities in this dissertation refer to power resources mobilized by MS as part of the EU decision-making process, which are distinct from formal/institutional resources such as voting power. For instance, informal capabilities can relate to actors' level of access and coordination with others, the individual capacities of negotiators, and the efficiency of their bureaucracy. The notion of informal capabilities draws on the growing scholarship regarding the informal governance and politics in the EU (Heisenberg, 2005; Kleine, 2013; Christiansen & Neuhold,

2013), the interaction of informality with formal rules (Héritier, 2012; Reh, 2014), and on the various 'forms of informality' in decision-making processes (Peters, 2006). Though the notion of informality in decision-making processes remains subject to debates as it often refers to very different aspects (Novak, 2017), this research argues that it provides a powerful tool to explore both the 'seen and the unseen' in legislative politics (Cross, 2014).

This research investigates the role of states' informal capabilities by studying them in conjunction with other bargaining power resources to explain MS bargaining success. This research thus feeds into the growing scholarship on member states' bargaining success and its determinants (Bailer, 2004; Tallberg, 2008; Arregui & Thomson, 2009; Thomson, 2011; Cross, 2013; Lundgren et al., 2019). It contributes to this scholarship by analysing a novel, comprehensive dataset documenting the bargaining success of MS in the post-Lisbon Treaty period, across a wide range of policy sectors. It also aimed at deepening our understanding of the dynamics of EU negotiations, by laying the emphasis on the role of informal capabilities in the formulation and defence of MS preferences, and their implications for bargaining processes in the Council.

Over the past decades, MS had to increasingly adapt to a change in the rationale driving the Council policy-making system. From a logic of intergovernmental negotiation, the Council has moved to a logic of influence (Mangenot, 2016). For MS, achieving success in the Council now increasingly requires collective action at the EU level. As a result, the assumption of this dissertation is that MS are expected to achieve successful policy outcomes the more informal capabilities

they hold. In doing so, this research contributes to recent attempts to link the processes of national preference formation and interstate bargaining to policy outcomes (Wasserfallen et al., 2019).

Building on new measurements of MS informal capabilities, as well as the DEU III data set (Arregui & Perarnaud, Forthcoming), the dissertation explores the effects of a range of informal capabilities on negotiation outcomes. Using both linear regression models and process-tracing analysis, this research investigates whether MS with more informal capacities are more likely to achieve successful legislative outcomes. The findings suggest that under certain conditions, informal capacities do impact legislative outcomes in the EU.

The following section introduces the main theoretical framework of the dissertation, and presents a brief literature review. It is followed by a presentation and justification of the main research questions. The methodological approach is then detailed, and in particular the steps taken to develop the two datasets on which the empirical analysis is based. Finally, the articulation of the three articles is presented, as well as their main findings.

I.   Theoretical framework

To analyse the nature and determinants of MS influence on decision outcomes, this research draws on theories and concepts from the disciplines of International Relations (IR) and European studies. In doing so, this research attempts to fill some gaps that have emerged between various subfields of European studies. In EU studies, debates on the conceptualization of power remain scarce. Therefore, the rich IR scholarship on the concept of power is of great use to complement the theoretical gaps of the current literature for conceptualizing member states' power and influence in the context of negotiations. Scholars such as Mareike Kleine regretted for instance the existence of a division of labour "*between international relations scholars explaining the EU's treaty revisions and comparativists studying the EU's day-to-day politics*" (Kleine, 2013). This research first posits that the rich debates in the IR scholarship on power analysis could improve our understanding of inter-state bargaining at the level of the Council of the EU.

Before studying ways to shedding light on the power of member states in the EU, it is first essential to clarify our conceptualization of this contested notion, and then assess how it can feed into the literature on the EU decision-making system.

Power and power resources

In the field of IR, power analysis has been first dominated by an approach characterising states primarily as a function of their resources and capabilities. According to this theory, state power

depends on a variety of resources, such as the size of its population, its territory, as well as military and economic wealth. Developed partly by the realist scholar Hans J. Morgenthau in its book *Politics Among Nations* (1948), this "power as control over resources" approach was then further developed by Alexander Waltz with a neorealist perspective in its book *Theory of International Politics* (1979). In the second half of the last century, a number of IR scholars challenged this prevailing conceptualization of power. The research agenda progressively moved towards focusing on the relational dimension of power, and finds its roots in two major publications, Lasswell and Kaplan's *Power and Society (1950)*, and Dahl's *Who governs?* (1961), both drawing on Weber's conceptual insights. According to this approach, power is conceptualized as a causal notion, '*a relationship (actual or potential) in which the behavior of actor A at least partially causes a change in the behavior of actor B*' (Baldwin, 2013). Power resources are understood as "raw materials out of which power relationships are forged" (Baldwin, 2013). This challenged the resource-based approach with the idea that a power resource can be both an asset or a liability depending on the context, given that power resources do not always translate into power. Neorealist authors have criticized this relational perspective because it assimilates power with outcomes. Structural authors have also challenged the relational approach for failing to take into account the power of structures over social relationships (Strange, 1988). However, the relational approach gives a greater explanatory role to other material, normative and ideational dimensions, in comparison

with the resources-based approach which tends to focus primarily on 'hard power'.

One of the main arguments behind this dissertation is that adopting a relational approach to power is best suited to uncover Council power relations. This approach allows to go beyond the conventional understanding of power as "control over resources", but without ignoring the role of states' resources and capabilities. Following a relational approach to power does not mean ignoring the importance of states' resources and capabilities, but only grounding them into specific contexts and relationships, and connect power resources/capabilities with their actual effects. In other words, "*a process perspective sees power as an "emerging property" which only exists in interaction*" (Blau, 1964, in Berenskoetter & Williams 2007). Thus understanding power in a relational perspective seems well-suited to analyse power also in the context of the political processes via which states interact and negotiate. As argued by Andrew Moravcsik (1998), 'intergovernmental explanations often speak of Germany, France, or Britain as "powerful" or "influential" in negotiations, but such claims are rarely demonstrated by specifying what resources convey "power" or which outcomes demonstrate that one country has been influential'. This dissertation adopts a relational perspective to power to further refine our understanding on the types of resources allowing states to exercise power in the context of negotiations. Our conceptualization thus mirrors W.M. Habeeb's definition of power as 'the way in which actor A uses its resources in a process with actor B so as to bring about changes that cause preferred outcomes' (1988).

The next section presents a typology of power resources, and introduces a distinction between power resources "a priori" and 'in the process'.

Power a priori vs process-based power resources

The concept of "power a priori" was introduced by Jason Barr and Francesco Passarelli (2009) to study power distribution in the Council. Their objective was to differentiate between several types of states' power resources (by settings indices) and compare them. Though not using the same approach, this notion of power a priori was further developed by Tallberg (2008). Power a priori encompasses power resources that are constitutive of member states, as well as institutional power and structural power, as illustrated by Barnett and Duvall's taxonomy of power (2005). As opposed to process-based power resources, "power a priori" resources are independent from negotiation processes.

Figure 1: Typology of member states' capacities and power resources relevant in the context of political negotiations in the EU.

Types of power *a priori resources*		
State structural capacity	**Institutional capacity**	**Individual capacity**
- Military power - Economic wealth - Integration in the global market - Technological development - Size of the population - Demographical fragmentation	- Right to leave - Veto power - Formal power of voting - Holding the rotating Presidency in the Council	- Ability to convince - Understanding of the issues and actors - Experience and capacity for negotiating - Integration in networks - Credibility and trust

- Level of education - Geostrategic situation - Availability of natural resources - Capacity of political leadership - Ideology - Political stability - Administrative capacity - Integration in networks - Credibility and trust - Culture of cooperation		- Size and structure of the permanent representation to the EU

Types of power resources in the context of policy process
- Relative positioning with other member states - Issue salience - Time - Strategies deployed (logrolling) - Capacity to build ad hoc coalitions

Source: Arregui, 2015.

In the typology developed by Arregui (2015), "power a priori" resources are distinguished from process-based power resources. The latter refers to the strategies and capabilities mobilized by member states in the course of political negotiations. Various studies have indicated to what extent formal models of distribution of power between member states are not sufficient to explain Council outcomes. The literature indeed suggests that process-based power resources thus either catalyse and/or counterbalance existing imbalances of a priori power resources between member states.

For instance, studies show that the relative position of member states' preferences in the political spectrum plays a great role in increasing (or not) their chances to exercise influence in the negotiations (Bailer, 2004; Arregui & Thomson 2009). The proximity between member states' preferences can often lead to the constitution of *ad hoc* coalitions, which may amplify their voices in the negotiation process. MS' preferences (or 'positions') are defined here as 'the way it orders the possible outcomes of an interaction' (Frieden, 1999). Observed preferences are expected to be 'true' in the context of Council negotiations due to the highly institutionalized and information-rich setting in which they take place (Wasserfallen et al., 2019), and in light of previous assessments that observed preferences often correspond to 'sincere preferences' (Thomson et al., 2006; Bailer, 2011). In relation to MS preferences, their salience has also been studied as a determinant for bargaining success. Several studies have shown that the more salient a negotiation is for a member state, the more the decision outcome is likely to be close to their preferences (Schneider, 2005). Salience can be defined as 'the extent to which actors experience utility loss from the occurrence of decision outcomes that differ from the decision outcomes they most favour' (Thomson et al., 2006). Strategic prioritization of political preferences can thus play a role in determining the winners and losers of Council negotiations. Also, in the IR literature, strategic bargaining appears to play a crucial role in shaping policy outcomes. Bargaining between member states can take the form of informal mechanisms of exchanges. "Log-rolling" consists for instance in the interexchange of policy positions between national representatives as

part of one or several negotiation process(es). In the Council, this mechanism can be encountered at all levels, from the expert working groups to ministerial settings. The opaque and unstructured nature of day-to-day negotiations in the Council tends to favour such informal mechanisms of decision-making. Process-based power resources also include informal capacities such as the capacity of MS to build *ad hoc* coalitions.

Power analysis in European studies and IR rarely considered power relations as a dependent variable. According to Baldwin (2013), scholars should devote more attention to power as a dependent variable and less as an independent variable. Citing Cox and Jacobson's *The Anatomy of Influence* (1973) as an example to further reproduce, Baldwin argued that choosing power relationships as independent variables enables researchers to investigate: '(1) Who has the power with respect to which other actors, on which issues? (2) By what means is this power exercised? (3) What resources allow states to exercise this power' (Baldwin, 2013). All three questions are at the core of our research and support our choice to understand power in its relational dimension.

As it will be developed further in the next sections, this research lays the emphasis on the relational dimension of power, by following a process perspective linking states' capabilities with their effects. Often labelled as *pragmatist*, our work will feed into the Weberian-oriented scholarship developed by Laswell and Kaplan, and Dahl, that have regained momentum among IR scholars in the two past decades, and whose fundamental assumption is that power only exists through (and implies) interaction.

Power and bargaining success in the Council

In the same way as IR scholars, European integration scholars have tackled from various angles the issue of power in the EU (or formerly, the European Communities). If the main theories of European studies do not provide specific conceptualization of power, they have proposed alternative answers regarding its determinants and resources in the European integration process. Partly due to the intergovernmental design of the Council, a significant portion of the scholarship on the Council embraces a rationalist perspective, granting to national decision-makers the leading role, assuming that member states determine their actions according to their national preferences and own calculation of utility. Rationalist scholars attempted to measure the relative power of individual member states in the European Union, in order to determine the winners and losers of EU negotiations. Power measurements were first conducted based upon the voting power distribution between member states in the Council (Shapley-Shubik Index). Despite the great progress and sophistication of voting power measurements, the inability of voting power indices to explain appropriately the outcomes of Council negotiations led to the development of alternative measurements of power.

It is common knowledge that a major part of the positions adopted by member states in the Council are decided formally by consensus, making the emphasis on the voting phase of the decision-making process less relevant than the bargaining phase. This is the reason why research on the power distribution between member states was then complemented by innovative research programs focusing on the

actual negotiation processes at play in the Council (Thomson et al., 2006, 2012). This scholarship is primarily driven by the European Union Decides (DEU) project which led to more generalizable findings on the power distribution and bargaining processes in the Council. The DEU project 'in many ways presents the best that scholarship on EU decision-making currently has to offer' (Princen, 2012). It was recently complemented by the EMU Choices project (Wasserfallen et al., 2019). This scholarship feeds into the rationalist approach to EU policymaking, assuming that member states' main objective is primarily to maximize their utility, using bargaining power or informal arrangements (Warntjen, 2010). In this context, member states power is often associated to bargaining success (or satisfaction), measured as the distance between decision outcomes and member states preferences (sometimes weighted with member states' issue salience, or in relation with the *status quo* if no decision is adopted).

Other scholars have also investigated the Council from constructivist and institutionalist perspectives, depicting an institution in which the culture of consensus and the role of informality are predominant in influencing both negotiations' actors and outcomes. Authors point to the 'club-like' culture of negotiation in the Council and the essential role of socialization processes in Brussels for its main representatives and ultimately its deliberations (Lewis, 2005). Nonetheless, findings on the impact of socialization of national representatives remained disputed in explaining member states' negotiation strategies and preferences (Checkel, 2005; Naurin, 2015). As it will be further developed, this research will build on the

emerging scholarship focusing on power distribution and bargaining processes in the Council. It follows a vast body of literature on the EU policymaking system (Bueno de Mesquita & Stokman, 1994; Thomson et al., 2006; Thomson, 2011) which have attempted to broaden our understanding on the particular types of resources and capacities allowing states to actually exercise power in the Council.

Determinants of MS' bargaining success

Though knowledge of the mechanisms for exerting power at the EU level remains limited (Ruse, 2013), the scholarship on the determinants of bargaining success in the EU has identified a number of power resources and conditions that appear conducive to states' influence on decision outcomes as part of Council negotiations.

Studies examining the link between institutional power resources and success have suggested a limited role of voting power (Thomson et al., 2006; Schneider et al., 2010) for understanding MS' bargaining success in the Council. Veto power in the context of unanimity voting rules, and the possibility to opt-out or even leave from the negotiations, are other important institutional power resources for member states. The scholarship on formal power resources has demonstrated how variations of structural and institutional power resources remain insufficient to fully understand EU's decision-making outputs, as Council processes tend to be defined by informal bargaining rather than formal decision-making procedures (Thomson, 2011; Kleine, 2013).

However, other studies (Thomson et al., 2006; Thomson, 2011; Lundgren et al., 2019) have shown that the structure of the constellation of MS' preferences strongly determine states' bargaining success. The literature demonstrates in particular that actors with extreme policy positions will find it harder to get an outcome closer to their ideal point than moderate actors (Arregui & Thomson, 2009; Arregui, 2016). As argued by Arregui and Thomson (2009), issue salience also tends to contribute to success in EU negotiations, as it can 'gauge' the extent to which an actor will put into effect its potential to influence other actors as well as the decision outcome.

Nevertheless, the relationship between informal capabilities and bargaining success remains understudied. The notion of informal capabilities partly derives from the scholarship on the informal governance of the EU and the informal influence of its member states and institutions (Heisenberg, 2005; Peters, 2006; Héritier, 2012; Kleine, 2013; Christiansen & Neuhold, 2013; Reh, 2014; Kreppel & Webb, 2019; Laloux, 2019; Riddervold & Trondal, 2020). Though approaches differ in the literature, informal governance can be conceptualised as 'any rules, norms, and institutional structures and procedures that are not enshrined in formally constituted organizations or in their constitutions' (Westerwinter et al., 2021). This concept draws on the observation that institutional rules, such as voting rights, veto power or formal status, can be inadequate predictors for an international organisation's policy output (Stone, 2013). Still, the definition of the informal dimension of decision-making processes remains subject to debates. Novak (2017) argues

that empirical studies often qualify as informal, processes that do not differ from what is considered the unwritten 'norm'. Addressing this issue, this research proposes to investigate specifically the capabilities that member states neither possess nor mobilise uniformly in the context of informal bargaining processes. Indeed, a number of studies underline the importance of informal patterns of action at the EU level, and also more broadly in global public policymaking processes (Pouliot & Thérien, 2018). For instance, the work of Lewis identifies the various 'sources of influence' for MS diplomats in Coreper, highlighting the role of their individual skills and inter-personal relationships for the outcome of negotiations (Lewis, 2005). The work of Panke (2012) on the 'informal pathways' used by certain national negotiators to influence the deliberations of EU institutions, such as the European Parliament and the European Commission, in political sequences during which MS have no formal competencies, is also indicative of their relevance for understanding the EU decision-making process. The study of Rosén and Raube (2018) further exemplifies how 'informal avenues of influence' can be crucial during various stages of the decision-making process and empower specific actors in the formulation of EU's Common Foreign and Security Policy (CFSP).

Informal capabilities have been largely ignored by previous investigations of MS' bargaining success in the Council. As the following section shows, several authors have attempted to complement this gap by investigating the distribution of informal power resources across MS and its implications. For instance, studies of MS' network capital suggested that some states benefit from

stronger informal channels to connect with others in the context of negotiations (Naurin & Lindhal, 2010). The notion of 'network capital' used in the literature on the Council (Naurin, 2007) derives partly from Coleman's conceptualization of social capital in its theory of collective action and also builds on previous research efforts made by Beyers and Dierickx (1998) in analysing communication networks in the Council. At the individual level, scholars have also argued that the high interaction density between negotiators in working groups creates environments in which individual skills, expertise and social credit have been considered as pivotal during day-to-day proceedings (Smeets, 2015), thus amplifying asymmetries between national negotiators' capacities and resources. Despite such evidence that informal power resources may support bargaining success in EU negotiations, other studies on the effect of states' Brussels-based resources on bargaining success have however remained largely inconclusive (Bailer, 2004; Sepos, 2005).

II.   General research questions

This research attempts to better explain the conditions in which member states' influence can vary at Council level, by emphasizing the varying explanatory role of their resources. Our research posits that the unequal distribution of structural and institutional power resources cannot be the unique and main explanatory variables for understanding the outcome of EU negotiations, particularly in light of the common observation that member states do not wield equal

power depending on issues and policy domains at stake (Tallberg, 2008).

There is consensus in the literature that the capabilities that MS bring into the negotiation process are relevant explanatory factors of policy-making (Bueno de Mesquita, 2000; Thomson et al., 2006; Tallberg, 2008). Actors´ capabilities can combine different types of attributes and properties. Thus, capabilities are not conceived as being only based on formal or institutional powers. Instead, the notion of capabilities also includes informal resources that may have an impact on policy outcomes, such as access and coordination to other (domestic and European) actors, network capital, efficiency and/or expertise of the bureaucracy.

By focusing on member states' informal capabilities, the objective of this research is to understand to what extent the resources mobilized in the context of Council processes *per se* matter in shaping decision outcomes. At the level of the Council, few studies have attempted to assess the role of informal capabilities for supporting member states' ability to successfully influence decision outcomes. For instance, case studies based on national representatives' recollection of negotiations offered mixed and contradictory findings regarding to what extent individual capacities can play a significant role in shaping Council outcomes (Kassim, 2000; Sepos, 2005). However, the work developed by Panke (2010b) on the strategies of small states in the Council supports the idea that negotiation processes matter, and empirically showed that 'as a prerequisite to shape EU policies in day-to-day negotiations, states have to know what they want and have to quickly produce good instructions'. On the same line, Beyers

and Dierickx (1998) also suggested that variations in the institutional and financial support national negotiators get from their capital can explain differing policy outcomes. Adriaensen's work (2016) supported the idea that administrative capacity is a determinant factor in explaining states' behavior in the Council, while as highlighted by the recent literature on MS network capital (Naurin, 2007), the capacity of national negotiators to engage with their counterparts can also have a significant role in the shaping process of negotiations.

This scholarship underlies the 'unique structural position in the EU's legislative process' of MS permanent representations (Lewis, 2014). At the centre of the 'European–national nexus' (Chelotti, 2013), permanent representations to the EU indeed provide MS with essential informal capabilities to influence legislative processes. Permanent representations to the EU are critical elements in the domestic chain-of-command mobilized by Member States to defend national preferences in Brussels. They are characterized however by significant differences in their organization, resources, and effectiveness (Kassim et al., 2001). These variations have implications, in turn, for the role played by national negotiators based in Brussels in the context of legislative negotiations. For instance, certain MS delegate only a limited set of tasks to their permanent representations to the EU by relying heavily on technical experts based in the capitals to follow Council working groups.

Scholars' attempts to compare how permanent representations to the EU work, and investigate the implications of variations between MS, have remained scarce. The political and administrative apparatus of MS to formulate and defend preferences at the EU level is indeed

ignored in most analysis of inter-state negotiations. In studies linking MS preference formation and bargaining processes, the focus is usually placed on societal, ideological and institutional considerations (Frieden & Walter, 2019).

Few comparative research have shed light on permanent representations' resources, with the notable exception of the ground-breaking volumes of Kassim et al. (2000, 2001) on *The National Co-ordination of EU Policy*. Other works also offered insights about their role and resources through in-depth accounts of the Council policymaking (De Zwaan, 1995; Naurin & Wallace, 2008), the informal dynamics of its negotiations (Ruse, 2013; Smeets 2015), and the characteristics and socialization process of their leading diplomats and negotiators (Lewis, 2005; Chatzistavrou, 2013). The rich literature on the interactions between the EU and its member states (Lequesne, 1993; Rometsch & Wessels, 1996; Maurer & Wessels, 2001; Wessels et al., 2003; Zeff & Pirro, 2015; Bulmer & Lequesne, 2020) has shed light on the ever-evolving practices and processes mobilized by national governments to adapt to the challenges raised by the EU policymaking process. Differences between representations were also addressed through studies on MS domestic position-shaping and coordination processes on EU affairs (Panke, 2010b; Jensen, 2014, 2017; Kassim, 2016), as part of a growing literature on comparative public administration. Additionally, the growing scholarship on MS' engagement with EU institutions in the context of legislative processes (Haverland & Liefferink, 2012; Bressanelli & Chelotti, 2017) demonstrates the essential gatekeeping role of permanent representations as part of EU

legislative processes and shows a 'considerable variation in the frequency with which states lobby' the main EU institutions (Panke, 2012). This is further elaborated in the literature on the informal governance (Kleine, 2013) and informal negotiations in EU decision-making (Laloux, 2019). Yet, little is known of the scope of conditions under which the influence capacities and activities of MS translate into actual success (Panke, 2012). In reference to the literature on comparative public administration, Adriaensen argued in particular that 'existing research is often focused on a limited number of member states and has refrained from engaging in theory-building and hypothesis generation' (Adriaensen, 2016).

This dissertation aims at furthering this scholarship and intends to disentangle member states' influence in the Council by looking more systematically at how MS' informal capabilities can be relevant explanatory factors of their bargaining success.

As a result, the main research questions of this dissertation are the following:

- **To what extent do MS' informal capabilities vary?**

- **To what extent and under what conditions do MS' informal capabilities explain bargaining success in the Council?**

- **What are the mechanisms granting relevance to MS' informal capabilities in explaining their bargaining success?**

III. Methodology

The originality of this project lies in its analytical framework, rich data sources and methodological approach. The analytical framework seeks to capture to what extent bargaining success varies between member states in the Council, and under what conditions it relates to variations in their informal capabilities. To delve into our research question, an extensive review of the literature as well as the 145 interviews conducted in Brussels allowed for the constitution of a uniquely rich set of qualitative and quantitative data. These comprehensive data sources provided ground to combine qualitative approaches, including process-tracing, as well as statistical methods to measure MS' bargaining success and the effects of relevant power resources.

This dissertation draws on two new datasets, both established as part of this research.

The DEU III Dataset

The first dataset consists in the third iteration of the Decision-Making in the European Union dataset (DEU III). The DEU III dataset compiles systematic information of preferences, salience and bargaining success of all MS on 141 legislative proposals and 363 controversial issues over twenty years of EU decision-making (1999-2019). This new iteration strengthened the DEU dataset, by incorporating data of sixteen new legislative proposals and thirty-three controversial issues which have been collected between 2016 to 2020. The DEU III dataset is the 'largest dataset that exists in the

literature on EU decision-making' focusing on controversial and political issues (Arregui & Perarnaud, Forthcoming). This dataset draws on spatial models of politics, by mapping the distance between actors' policy preferences and decision outcomes on key controversial policy issues. It provides a unique cartography of the positions of every stakeholder (as well as their salience), collected through in-depth interviews with national and EU decision-makers. The broad use of this dataset and its corresponding methodology demonstrates its relevance to uncover patterns of member states and EU institutions' policy positions. In line with this established methodology, national representatives identified the main controversial issues at stake, and gave information on the actors' positions as well as on the levels of importance each actor attached to the issues (Thomson et al., 2012). The coding techniques built on the corresponding DEU codebook, used regularly by political scientists. Scales between 0 and 100 were used to code the positions within the policy space of each controversial issue (0 and 100 were conceptualised as the opposite extreme positions). The same approach was followed to code MS' issue salience. The coded positions correspond to the preferences of MS in the beginning of each legislative process. Though the dataset may contain measurement errors due to its inherent limitations (Slapin, 2014), it has been demonstrated that the DEU research program produces satisfying results overall (Leinaweaver & Thomson, 2014).

The criteria used for the selection of the negotiations processes were: sector, 'controversiality' and time period. The bargaining success of MS was studied across different Council configurations (Coreper I

and Coreper II). Previous studies have shown to what extent sectors vary widely in terms of processes and dynamics. The Council formations under study consist in: Agriculture, Internal market, Justice and Home Affairs, Telecommunications, Health, Environment, and Social and Employment affairs. The dataset thus ensures variations in terms of member states´ competencies, history of the working groups, their level of activity, structure and nature of the policies under study. The selection of negotiations allows for intra- and inter-sectoral comparisons and support the validity and generalizability of the findings. The legislative negotiations were also chosen according to their level of controversy. Uncontroversial issues were deemed unfit for the purpose of this research given that no particular influence activity or strategy would be likely to be deployed by member states, should all actors systematically agree. Uncontroversial issues would not allow to test the main research questions and hypotheses. Legislative dossiers were selected in function of the number of abstention and negative votes they led to during Council votes. Finally, the legislative proposals included to the DEU III dataset had to be introduced between 2012 and 2018, and adopted before the end of 2019. This criterion was introduced because collecting data on MS' positions required to have access to negotiators with direct knowledge of these processes.

Field-work research was conducted in collaboration with other researchers involved in this research program. The data collection process in Brussels consisted in semi-structured interviews with key actors of the political processes under study and the review of relevant policy documents (European Commission consultation

documents, amendment proposals, press releases). During these interviews, national and EU negotiators provided information on all member states and EU institutions' policy preferences on key controversial issues (they had identified themselves), as well as on level of issue salience. This information was given via numerical estimations that had to be supported with qualitative arguments. The main controversial issues identified by interviewees needed to correspond to the main points of controversy that were discussed in the legislative dossier; illustrate the content of the policy alternatives defended by member states; be unidimensional; and generate a final policy output (Arregui & Perarnaud, Forthcoming).

Gathering accurate data and information from interviewees was of paramount importance in the development of both datasets. In order to validate the estimates provided by negotiators for the DEU III dataset, a systematic comparison was conducted using confidential Council documents corresponding to several legislative dossiers that were provided by several national negotiators. The results of the systematic comparison indicate that the DEU III dataset accurately depicts the most important conflict dimensions of the negotiations under study, as well as the preferences defended by actors (Arregui & Perarnaud, Forthcoming). It corroborates previous analysis of validity and reliability of the DEU project (Thomson, 2006).

A New Dataset on MS Informal Capabilities

As part of this PhD thesis, a second dataset was developed to document variations in the resources and capabilities at the disposal

of negotiators as part of EU legislative processes. This dataset draws on 87 interviews conducted in Brussels between October 2016 and January 2020. Interviewees included one ambassador, fifteen Antici and Mertens counsellors, fifty-five sectoral attachés and counsellors, nine Commission officials and seven representatives of the Council General Secretariat. All interviewees have been anonymized in the context of this research, and previously identified through snowball sampling.

Interviews were conducted using a questionnaire designed to collect the perceptions of national negotiators on their own capacities, the resources at their disposal, and the functioning of their permanent representation. Interviews were conducted with at least one Brussels-based representative for each EU member state, with the exception of Lithuania and the United Kingdom (UK). For all qualitative answers to the questionnaire, interview transcripts were coded using the software *MaxQDA*, thus allowing for systematic comparison across and within MS. When possible, answers from research respondents were complemented and compared with publicly available information in order to ensure sufficient validity and reliability.

The reliability of the data was assessed using two methodologies: the split halves method and the inter-coder reliability test. Regarding the quality of the data, a large majority of the interviews led to substantive discussions and covered all of the questions of the

questionnaire[1]. If this survey cannot be considered as immune from the traditional biases related to elite interviews, such as strategic considerations and political correctness (Naurin, 2015), the high consistency of negotiators' answers and their systematic justification with detailed arguments, confirm that such bias did not overly affect the findings. In addition to the strong congruence of the answers across countries, results were systematically compared with similar surveys on MS' organizational efficiency and engagement with EU institutional actors.

Finally, in order to conduct process-tracing analysis regarding specific legislative processes, additional interviews with relevant decision-makers were also conducted in order to document the case studies included in the dissertation. The list of interviews is made available in appendix. Also, a three-month internship was carried out within the JHA unit of the Permanent Representation of Luxembourg to the EU in 2019 in order to cross-check the results of the two main datasets and observe the informal dynamics of the Council within working groups and Coreper.

IV.   Articulation of the articles

The dissertation resolves around three articles designed to answer the main research questions on the nature and effects of variations in states' informal capabilities on Council decision outcomes.   The

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[1] There are marginal cases in which the data collected was considered insufficient, and thus dismissed, as answers needed to be justified by national representatives with substantive arguments.

originality of the research design resides in the combination of qualitative and quantitative tools and framework of analysis.

The articulation of the three articles follows a design in two steps: the first is quantitative-oriented and the second more qualitative. In other words, the descriptive statistical analysis of the first part allows for an informed and appropriate selection of cases aiming at conducting the qualitative analysis in the second part. This design echoes Spillman's argument (2014) for using quantitative empirical description to support for qualitative explanations, since quantitative evidence are more relevant for describing meso-level phenomenon and causal explanations can be inferred from qualitative studies.

The first article aims at documenting variations in the workforce, structure and processes of MS permanent representations. It builds on a new dataset based on public data sources and expert interviews. Based on a survey conducted between 2016 and 2020 in Brussels with 87 Council negotiators and EU representatives, this article identifies significant divergences in the workforce, role and efficiency of permanent representations, as well as in their level of engagement with other EU institutions. These findings show noticeable asymmetries (both qualitative and quantitative) in the informal capabilities of member states

The second article consists in a multivariate analysis and a case study designed to compare the effect of member states' permanent representations resources on their bargaining success in the Council of the EU. This article draws extensively on the third iteration of the DEU dataset (Arregui & Perarnaud, Forthcoming) in order to

measure MS bargaining satisfaction. The objective of this article is to understand which power resources matter more for explaining bargaining success, and in which context. The dependant variable is MS bargaining success, using the proxy of the relative difference between the preferences of member states on controversial issues and the outcome of negotiations. It is a continuous measure of MS preference attainment (Lundgren et al., 2019). The findings show how both the structure of allocation of preferences and thresholds of formal power are conditions under which informal power resources become relevant to analyse bargaining success.

The third article aims at refining our understanding of the role of member states' informal capabilities in Council negotiations, by reconstructing political processes and tracking causal mechanisms through three case studies across a specific policy sector. Particular attention is paid to variations of MS internal and external national mechanisms of coordination at the EU level. The case studies cover both policy formulation and decision-making stages, and allow for a very precise understanding of the evolution of the influence of member states during the drafting, and negotiating phases of legislative outputs. Using a comparative case design, this article shows how member states' capabilities to form coalitions at the EU level is dependent upon their human resources in Brussels and the efficiency of their coordination processes, which translate in turn into asymmetries of influence between member states.

1. Do Member States' Permanent Representations matter for their bargaining success? Evidence from the EU Council of Ministers (2004-2019)

1.1 Introduction

This research is focused on how the quality of Member States' (MS) bureaucracies, particularly in their capacities to coordinate with both domestic and European Union (EU) legislative actors, can be relevant explanatory factors of their bargaining success. More specifically, this research investigates the role of states' informal capabilities by studying them in conjunction with other bargaining power resources. Different capability resources may be at work in different negotiation settings. A key element to improve our understanding of EU decision-making processes, is to identify under which conditions certain power resources become more relevant. Accordingly, this study poses the following research question: *To what extent (and under what conditions) do informal capabilities related to the effectiveness of MS´ permanent representations and coordination processes explain bargaining success of MS in the EU legislative process?*

An actor capability might be defined as the potential an actor has to influence other actors and decision outcomes. There is consensus in the literature that the capabilities that MS bring into the negotiation process are a relevant explanatory factor of policy-making (Bueno de Mesquita, 2000; Thomson et al., 2006; Tallberg, 2008). Actors´

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capabilities can be based and/or combine different types of attributes. Thus, capabilities are not conceived as being only based on formal or institutional powers, such as the number of votes in the Council of Ministers every MS holds. Instead, the notion of capabilities also includes informal resources that may have an impact on policy outcomes, such as access and coordination to other actors, network capital, efficiency and/or expertise of the bureaucracy. Thus, informal capabilities are to a great extent dependent on domestic factors. Such capabilities indeed derive from various features of a MS, such as its domestic political structure and resources, the processes by which national actors interact at the domestic level or the selection/training process of their civil servants and diplomats.

So far, the scholarship has focused on various concepts of capabilities, mainly related to states' relatively stable formal and informal power resources. In the case of states' formal resources, studies examining the link between institutional power resources and success have suggested a limited role of voting power (Thomson et al., 2006; Schneider et al., 2010) for understanding MS' bargaining success in the Council. However, the relationship between informal capacities and bargaining success remains understudied in the literature. Only few studies have introduced and/or discussed states' informal capacities to explain bargaining success in the Council. Naurin (2007), for example, uses a measurement of MS' network capital as an alternative source of power to the number of votes within the Council of Ministers. Panke (2010b) argues that the strategies of small MS in the Council support the notion that informal

resources do matter. Adriaensen (2016) claims, in a similar way, that states' administrative capacity is a key factor for explaining states' behaviour in the Council. To the best of our knowledge, apart from the work of Naurin (2007), who formulated and tested the notion of network capital, no other informal capacity has been explicitly formulated and tested so far.

This research paper aims to formulate and test some of the most relevant informal capacities recognized (although never tested) in the literature. In order to do so, we develop two new measures of informal capacities. First, we produce a measure about the efficiency that different MS bring into the negotiation and decision-making process, considering in particular the speed at which governments adopt national positions on EU affairs. Second, we elaborate on the nature and proficiency of the national coordination system that MS implement in order to influence other actor´s policy positions, particularly in the case of the European Parliament (EP). Both measures were collected as part of a survey conducted between 2018 and 2020 with 87 national negotiators and EU officials in Brussels. The aim is to obtain a better comprehension of the role that MS' informal capacities play in the EU legislative process within the Council of Ministers. These new measurements of informal capacities will be tested using and analysing the DEU III dataset (Forthcoming). Both datasets employed for this research will allow us, for the first time, to explore the effects of variations of a range of informal capacities on legislative negotiation outcomes. Our analysis provides indications of how -under certain conditions- informal capacities impact legislative outcomes in the EU. This research

speaks to the literature on how MS´ informal capabilities play a key role and increase their leverage in EU decision-making.

Altogether, they achieve this by means of a good coordination system as well as a highly efficient administrative and bureaucratic system. Our results indicate that MS are more likely to get more success under certain conditions at bargaining. Specifically, MS defending extreme and salient preferences are more successful than others when both their effectiveness and coordination systems allow for adopting timely decisions during negotiations. These findings provide further evidence that informal factors matter in legislative decision-making, and that there is a key interdependency between formal and informal factors. Furthermore, this research shows that an expert knowledge and efficient administration in Brussels and a comprehensive coordination system with other actors (mainly with the EP) may have an impact on the legislative outputs. A case study illustrates how both the structure of preference allocation and the thresholds of formal power are conditions under which informal power resources become relevant to explain bargaining success.

In the next section, we develop the theoretical background and formulate the hypotheses tested in this research. In the third section, we illustrate the research design of our study, placing a special emphasis on the data collection process of the datasets. The fourth section shows a descriptive as well as a statistical analysis of the data. We also include a case study in order to illustrate the rationale and the role played by informal capabilities of MS during the EU negotiation process. Finally, we bring together the main conclusions and implications of our research.

1.2 Theory and Hypotheses

In this section, we develop the theoretical background of this research which investigates when and how informal capabilities might be relevant for legislative outcomes in the EU. Our argument builds on the idea already developed in the literature that informal capacities matter in the development and output of decision-making processes. For example, Panke (2013) has investigated how variations in the informal capacities of states can affect their ability to participate effectively in negotiations. Kleine (2013) has also pointed out the relevance of informal factors in explaining EU policy-making. Looking at how MS can exert influence on the Commission, Kleine suggested that not all MS are equally equipped to pursue 'their national interests within the bureaucracy' (Kleine, 2018). Naurin and Lindahl (2008) also developed how states' informal channels of influence, particularly in terms of the relationships they have with other states, can influence decision outcomes. Current changes in the nature of the EU polity have probably intensified these factors and mechanisms. As a matter of fact, it can be argued that MS had to increasingly adapt to a change in the rationale driving the Council policy-making system. This has switched from a logic of (intergovernmental) negotiation, to one of influence (Mangenot, 2016). Since achieving success in the Council increasingly requires collective EU level action, MS are more likely to achieve successful policy outcomes when they hold more informal capabilities. Some studies (Panke, 2012; Bressanelli & Chelotti, 2017) confirm that MS do not follow a uniform approach to liaise with EU institutions, as larger and more effective administrations appear more successful in

making their points heard by other relevant institutional actors. Thus, domestic factors and conditions of MS matter.

Dependent variable - The measure we use for bargaining success is the distance between the states' initial policy positions and their decision outcomes. This measure of bargaining success has already been used in previous studies (Bailer, 2004; Arregui & Thomson, 2009). The main argument for using this measure is that this research is focused on testing the relevance of informal capabilities for bargaining success of MS. Informal capabilities are activated when the salience an actor attaches to an issue is high. As argued by Arregui and Thomson (2009), issue salience can contribute to success in EU negotiations, as it can 'gauge' the extent to which an actor will put into effect its potential to influence other actors as well as the decision outcome. In this research, issue salience will not only be considered as the level of utility that MS can achieve from legislative processes, but also as an incentive for MS to fully mobilise their informal power resources. This means we need to include salience as an explanatory variable, to investigate the extent to which variations of MS issue salience influence the relationship between informal power resources and bargaining success.

Main explanatory variables - This research introduces a systematic analysis of two relevant capabilities: effectiveness of the administrative and bureaucratic system in Brussels as well as the quality of the national coordination mechanisms. Bargaining success in the Council of Ministers requires collective action from an increasing number of formal and informal actors. Within this context, efficient coordination mechanisms at the national level are highly

relevant to defend national positions efficiently. The assumption of this study is, therefore, that under certain conditions these resources can be highly relevant to understand negotiations' outcomes.

This study includes a measure of the structure and effectiveness of MS' coordination systems (in confrontation with other power resources). A MS coordination system is defined both by: *a*. the characteristics of national coordination processes mobilised when formulating EU-related preferences; and *b*. the characteristics of national coordination processes to channel these preferences from the domestic to the European level. MS indeed rely on various types of coordination processes to respectively shape and 'upload' preferences from the national to the European level. Previous research has acknowledged how such national coordination mechanisms are characterized by different types of structures, resources and processes (Kassim et al., 2001; Gärtner et al., 2011; Jensen et al., 2016). This is partly due to distinct administrative, institutional and political opportunity structures, but also to different policy styles and administrative legacies (Kassim et al., 2000). This article posits that internal and external coordination mechanisms are crucial resources for MS, and can condition their ability to influence EU decision-making processes.

Hypotheses - *Internal coordination efficiency.* Internal coordination mechanisms are crucial for MS, notably in terms of information, expertise and speed. Effective internal coordination mechanisms allow for the adoption of timely instructions by MS. Effective domestic mechanisms within/between ministries allow for swift processes to shape national positions in the capital, supported by

regular feedback loops with the permanent representation (Ruse, 2013). In terms of expertise, effective coordination mechanisms allow negotiators to defend detailed technical instructions as part of Council negotiations, thus gaining more informal weight within the EU's political networks (Huhe et al., 2019). Effective coordination systems also increase states' capacity to form coalitions, by facilitating the early mobilization of likeminded actors. Being successful in EU policy-making often requires early government action. Once the European Commission has launched its proposal, MS need to define their strategies and preferences as quickly as possible in the negotiation stage. This allows them to shape the debates, to proactively engage with other MS and gain support on issues relevant to them. In this context, the effectiveness of their national coordination systems can be understood as a function of the speed at which national governments adopt national positions. Indeed, cumbersome structures and slow procedures of national decision-making directly impact the effectiveness of a MS's bureaucracy. The complex and dynamic nature of Council negotiations requires MS to possess effective national processes to constantly digest EU developments, shape new positions, re-design influence strategies and approach relevant EU actors. MS with slow procedures may prevent them from exercising influence in the first steps of the negotiations (de Maillard and Smith, 2010). As a result, MS with slower coordination systems (between their capital and Brussels) will adopt more reactive strategies than states with quicker procedures to project preliminary influence at Council level. This might allow MS with a more efficient coordination process to

increase their capacity to achieve policy objectives (Spence, 1999). Thus, our first hypothesis is the following: H1a*: The more effective the internal coordination system of a MS is, the greater its bargaining success.*

The literature on the decision-making process of the Council identifies three main resources for explaining MS' influence on decision outcomes: the allocation structure of positions, MS' salience and formal power. These features are expected to condition the role of informal power resources in explaining bargaining success. Previous studies (Thomson et al., 2006; Thomson, 2011) have shown that the structure of the constellation of MS' preferences strongly determine states' bargaining success. The literature demonstrates in particular that actors with extreme policy positions will find it harder to get an outcome closer to their ideal point than moderate actors (Arregui & Thomson, 2009; Arregui, 2016). Defending extreme positions demands that MS engage in collective strategies to secure and maintain blocking minorities (Ruse, 2013). Thus, the more extreme the position of a MS is, the more it will rely on an efficient coordination system for developing counter-proposals. On the other hand, we also know that issue salience tends to contribute to success in EU negotiations (Arregui & Thomson, 2009). To achieve success on salient issues, MS are expected to mobilise the full scope of their resources. Thus, high levels of salience may strengthen the effects of MS' coordination efficiency. As a result, H1b: *The more effective a MS´ internal coordination system is, paralleled with more formal power and a strong defence of salient and extreme preferences, the greater its bargaining success.*

External coordination strength – By adopting EU legislation, the Council and its MS need to interact and co-decide with the EP. This means MS need to develop strategies to reach the necessary inter-institutional majorities (Trauner & Ripoll Servent, 2016). The rounds of negotiations between the Council and the EP provide incentives for governments to engage with parties and the Members of the European Parliament (MEP). MS can choose, for example, to support the selection of likeminded MEPs to lead particular legislative committees or be *rapporteurs* on salient legislative files. During negotiations, MS can also liaise with MEPs to share their expertise and ensure their preferences will be taken into account by political groups or individual MEPs sharing the same political affiliation and/or nationality. This is well illustrated by recent research on Economic and Monetary Union (EMU) policy-making showing how the Council can derail competing rationales in the EP, through various strategies to 'tame' its influence (Bressanelli & Chelotti, 2017). But not all MS have established similar relationships with national MEPs. Some MS have established structural channels to engage with MEPs, either by means of regular meetings or by regularly sending their government's position before each EP plenary. Others appear to follow more *ad hoc* processes, engaging only on a case-by-case basis. Though their influence on the EP may vary depending on the total number of their national MEPs, the capacity of MS to successfully advance their preferences is expected to vary in function of the mechanisms established to engage with the EP. Thus, H2a: *The stronger the engagement of a MS with Members of the European Parliament, the greater the bargaining success.*

As indicated earlier, MS with a lower level of salience on a particular issue are less likely to mobilise all available resources to exert influence on given negotiations' outcomes. Inversely, a MS is expected to proactively develop and use strategies to engage with the EP when it perceives an issue with a certain level of salience. As a result, H2b - *The stronger the engagement of a MS with Members of the European Parliament, the more bargaining success when defending salient preferences.*

1.3 Research design

To answer our research question and to test the empirical implications of the hypotheses, we rely on the new DEU III dataset and another new and unique dataset about informal capacities of MS in the EU policy-making process. The DEU III dataset is an extension of the previous DEU I and DEU II datasets (Stokman & Thomson, 2006; Thomson et al., 2012) and it is discussed in greater detail in the corresponding article of this special issue (Forthcoming). The new DEU III dataset includes sixteen new legislative dossiers and thirty-three issues decided between 2016 and 2019. This dataset contains full information on policy positions and salience that actors attach to 363 controversial issues, based on 494 in-depth interviews conducted with national and EU officials. The analysis developed in this paper has focused on the DEU II (EU-27) and DEU III (EU-28) data[2]. This

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[2] The EU-15 dataset was not included because it was not possible to obtain data about the informal capacities of almost half of MS, as they were not members of the EU.

analysis uses data from thirty-six legislative dossiers (covering 90 controversial issues) adopted under QMV rules between 2004 and 2019. Each controversy is represented on a scale identifying all actor positions, their salience and the final decision outcome. Observations of MS' positions with no salience (salience score 0) are excluded from the analysis, and accounted for as missing cases in line with previous studies (Thomson, 2011; Arregui, 2016).

In addition to the DEU III dataset, this study is also based on a unique source: a dataset based on the informal capabilities that MS have developed in order to become successful in the EU legislative process. Created simultaneously, but independently, to the DEU III dataset, the dataset on informal capabilities identified two key variables. The first variable is speed in the internal policy coordination of MS, and the second is level of engagement with other EU actors. These variables were identified by policy experts as key factors to explain Council political dynamics. Illustrating the relevance of studying coordination processes, for example, a Danish diplomat explained that '*due to its quick system of coordination, Denmark is sometimes able to take the lead on certain issues, as it is easy to coordinate, and at the same time [to] have the political backing from high levels*'.

 In order to assess variations of MS´ coordination efficiency and level of engagement with other institutions, 87 semi-structured interviews were conducted between 2018 and 2020 with national representatives and other key EU policy experts in Brussels. Negotiators of all MS were contacted simultaneously. All interviewees have been anonymised in the context of this research and previously identified

through snowball sampling. Each response from our semi-structured interviews included in the dataset was justified with substantive arguments by interviewees, thus providing rich and comprehensive data points on MS informal capacities. Responses to this semi-structured questionnaire led to the development of scales, ranking MS in function of two previously mentioned variables: the speed of their coordination mechanisms, and the level of engagement between the permanent representation and the EP[3].

Figure 2: Typology of MS based on the speed of their national coordination systems

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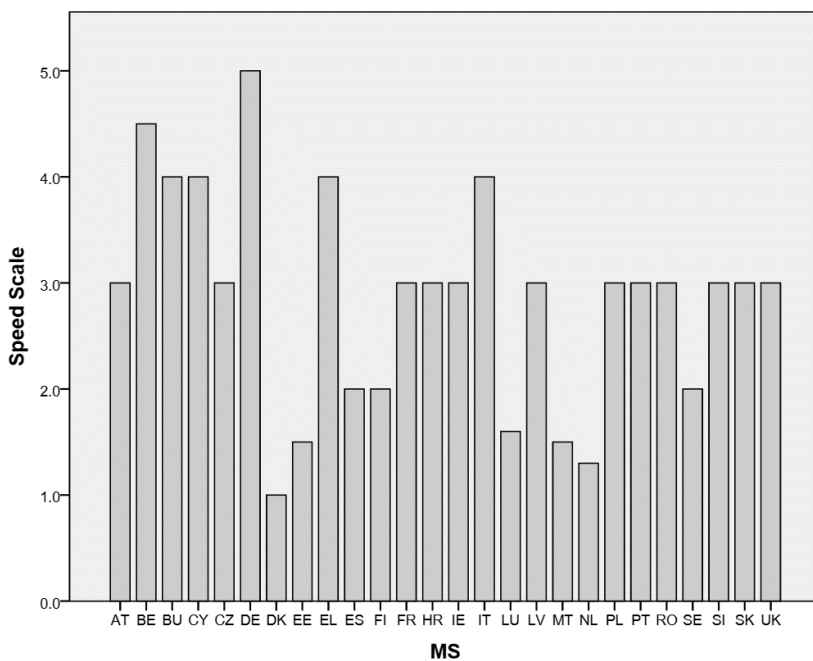
[3] More detailed information about the dataset is available in the appendix.

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Figure 3: Typology of permanent representations' engagement with the European Parliament

Regarding the *speed of national coordination systems*, research respondents were asked to answer the following question: "Within your sector, how would you assess the speed for adopting the national position in general? ¨ Answers were coded using a scale from 1 to 5: (1) Regularly quick: delays in formulating the positions are rare, and positions are generally adopted very quickly due to established mechanisms such as strict deadlines for establishing positions. (2) Quite quick: delays in formulating the positions are not a structural problem, positions are usually adopted early during the negotiations. (3) Average: delays in formulating the positions are not common. (4) Quite slow: delays in formulating the positions occur. (5) Regularly

slow: delays in formulating the positions are very common. In relation to the *coordination of permanent representations with EP and national MEPs*, respondents were asked the following question: "Within your sector, what are the instruments/channels used by your permanent representation to engage with the European Parliament and its members?" Answers were coded into three main categories, depending on the regularity of exchanges with the EP, as well as the structured/*ad hoc* character of the relationship between the permanent representation and the EP: (Cat 1) *ad hoc* relation, with limited engagement; (Cat 2) *ad hoc* relation, with regular engagement; (Cat 3) structured strategic relation, with regular engagement.

The reliability of the data was assessed using the split halves method and the inter-coder reliability test. The high consistency in answers regarding their own (as well as other's) permanent representation[4] and the systematic justification of answers through detailed arguments confirm that the bias did not affect the findings. Furthermore, in line with previous studies (Jensen, 2017), we have also used the Krippendorff's alpha (Hayes & Krippendorff, 2007) to assess the congruence of estimates. A satisfactory correspondence was found when comparing answers in terms of the efficiency of MS coordination systems and a very strong correspondence was also found regarding MS engagement with the EP[5]. Results were systematically compared with previous surveys (Panke, 2010a,

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[4] The data was complemented using interview transcripts from European Commission and Council General Secretariat officials, who had also referred to the speed characterizing MS.

[5] Detailed analysis of the Krippendorff's alpha can be found in the Appendix.

2012)[6]. The dataset strongly correlates with the data collected in 2009 by Panke (2012) regarding how frequently MS contacted EU institutions to influence them. The high correlation between the two data sources confirms that MS coordination processes are stable over the analysed timeframe, and that our survey on informal capabilities provide effective data points for the timeframe under study. The literature indeed insists that the structure and efficiency of MS coordination systems mainly relate to a set of broad, stable domestic factors (see Jensen, 2014; Kassim, 2016).

The rest of the explanatory variables have been operationalized as follows: *Extremity* is measured as the absolute distance between a state's position and the mean average position of all states that took a position; the proximity of a state's position with the European Commission (*COMdis*) and the European Parliament (*EPdis*) is estimated as the absolute distance between a state's position and their respective positions; the level of *salience* a state attaches to an issue relative to other states is measured by the level of salience the state attaches to the issue (estimated on a 0–100 salience scale); a states' *network capital* is measured by Naurin's (2007) measure of network capital across time; a states' voting power is measured by the Shapley–Shubik Index (*SSI*) score based on the relative share of votes MS have across time[7].

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[6] The correlation test results can be found in the Appendix.
[7] Additional dummy variables are used to distinguish: Member State's level of issue salience (based on MS' average issue salience), Member State's voting power (by differentiating large MS - Germany, France, UK, Italy, Spain, Poland - and other MS), and Issue's policy sector (differentiating issues related to states' core power - Coreper II - and other sectors - Coreper I).

1.4 Analyses

Before delving into the explanatory analysis, this section describes patterns of variations of the bargaining success of MS. The analysis of this variable indicates patterns of a state´s bargaining success across the 90 controversial issues under study. Figure 4 shows that although there is some variation among MS´ bargaining success, it appears a relatively evenly distribution across MS. Thus, the minimum and maximum MS' average successes are distant by 10,41 points. This relatively even distribution of bargaining success across MS is consistent with other recent studies focused on the Council (Thomson, 2011; Lundgren et al., 2019). In order to explain this variation in bargaining success we now perform further analyses.

Figure 4: Bargaining success by Member States (2004-2019) – Mean bargaining success indicated by the dashed horizontal line. *Source*: DEU III dataset
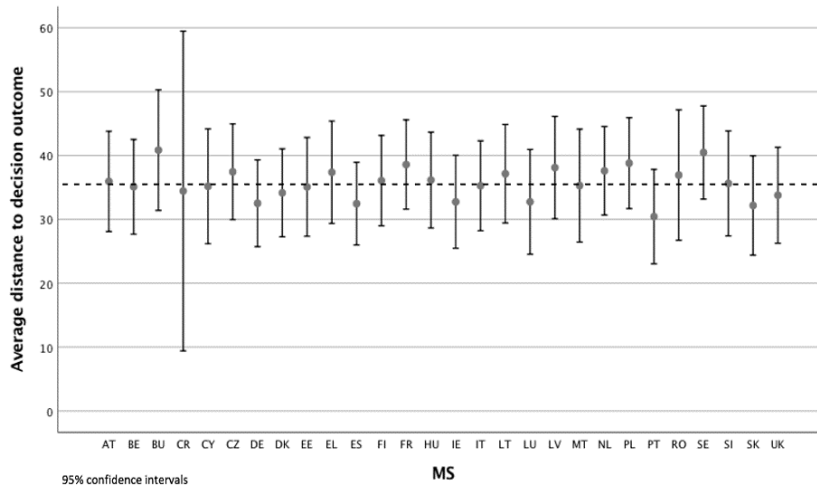
To test our hypotheses, and due to the structure of the data, as country-level observations of bargaining success are clustered within issues, we employ a two-level linear hierarchical model with random effects for issues. The two-level hierarchical model achieves a good balance between parsimony and the need to account for the potential interdependencies of our data.[8] Table 1 reports results for five models[9]: testing hypotheses related to the relationship between internal coordination efficiency and bargaining success (Models 1-4), and EP engagement and bargaining success (Models 1 and 5). In all five specifications, the likelihood ratio test comparing the multilevel model versus a linear model is highly significant (p-value= 0.0000) indicating that issues account for a significant amount of variability. We conclude that the multilevel approach is preferable to a simpler multivariate regression analysis. Moreover, the Akaike information criteria (AIC) scores for more complex hierarchical models[10], in which country and year fixed effects have been included, are higher than those of our preferred specification. This indicates that the inclusion of those controls decreases the quality of the models.

Model 1 includes all observations; model 2 includes observations with high salience, and an interaction variable for coordination efficiency and extremity; model 3 includes observations with high salience for small and medium-sized MS, with an interaction variable for coordination efficiency and extremity; model 4 includes

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[8] See the correlation matrix and robustness checks in the appendix.
[9] All models exclude observations with missing values for the covariates.
[10] See robustness checks in the appendix (Tables A3-A7).

observations with high salience for large MS, with an interaction variable for coordination efficiency and extremity; model 5 includes all observations, with an interaction variable for EP coordination and salience.

The results in Table 1 cast doubt on the validity of hypothesis *H1a* and *H2a*. The effect of the two main 'coordination variables' on bargaining success appears negligible in comparison to other power resources. However, the extremity of a state's position towards other MS and EU institutions, its salience, as well as its voting power appear statistically related to bargaining success. These findings are consistent with the EU decision-making scholarship underlined previously (Arregui & Thomson, 2009; Thomson, 2011; Cross, 2013).

To test *H1b*, results in Models 2, 3 and 4 focus instead on a specific subset of observations. As H1b intends to account for the interactions of three covariates – extremity, salience and voting power – and internal coordination efficiency, the approach focused on a number of observations sharing specific characteristics. To account for the relation between coordination efficiency and extremity, Models 2, 3 and 4 include an interaction variable between internal coordination efficiency and extremity. The three models use observations in cases when states' issue salience is above average, but they differ in the range of MS for which they observe such patterns. Model 2 includes all MS, Model 3 looks at small and medium-sized MS (in terms of voting power), whereas Model 4 only investigates MS with the greatest voting power (Germany, France, the UK, Italy, Spain and Poland).

These three models partly corroborate *H1b*. First, Model 2 does not indicate that the interaction variable between coordination efficiency and extremity is statistically significant for all MS. However, Model 3 shows an interaction variable for coordination efficiency and extremity with a negative coefficient (not statistically significant for all levels of extremity) for MS without significant voting power. According to the model´s specification, the marginal effects of coordination efficiency are statistically significant.

Table 1: Bargaining success in legislative negotiations 2004-2019 – Multilevel regression with random effects for issues (robust standard errors in parenthesis)

	Model 1	Model 2	Model 3	Model 4	Model 5
Success					
Speed-Coord	0.105	-1.618	-0.289	-4.243	0.093
	(0.63)	(1.44)	(1.80)	(3.79)	(0.63)
EP-Coord	-0.066	0.075	-0.474	3.962	2.073*
	(0.59)	(0.86)	(0.93)	(2.29)	(0.98)
Salience	-0.078***	-0.029	0.096	-0.243*	0.040
	(0.02)	(0.07)	(0.09)	(0.12)	(0.05)
Extremity	0.654***	0.547***	0.938***	0.409***	0.653***
	(0.03)	(0.08)	(0.12)	(0.11)	(0.03)
Distance to EP	0.391***	0.431***	0.420***	0.415***	0.393***
	(0.02)	(0.02)	(0.03)	(0.04)	(0.02)
Distance to COM	0.071***	0.156***	0.159***	0.197***	0.069***
	(0.02)	(0.02)	(0.03)	(0.04)	(0.02)
SSI	-0.457**	-0.610*	-2.538*	-2.214	-0.473**
	(0.17)	(0.26)	(1.00)	(1.30)	(0.17)
Network Capital	1.620	0.597	4.863*	-2.837	1.785
	(1.05)	(1.54)	(2.04)	(2.84)	(1.05)
Speed-Coord#Extremity		0.047	-0.060	0.019	
		(0.03)	(0.04)	(0.06)	
EP-Coord#Salience					-0.040**
					(0.01)
Constant	-2.377	-8.032	-26.617**	34.184	-8.626*
	(2.63)	(6.99)	(8.44)	(17.83)	(3.48)

var(cons)	245.383***	334.183***	401.690***	325.012***	245.429***
	(39.64)	(61.84)	(79.70)	(76.83)	(39.63)
var(Residual)	412.817***	343.964***	284.777***	328.715***	411.005***
	(14.13)	(19.17)	(20.35)	(36.54)	(14.07)
Observations	1796	738	488	250	1796
Log likelihood	-8070.683	-3291.818	-2155.471	-1132.963	-8066.922
AIC	16163.365	6607.636	4334.943	2289.927	16157.843

*$p<0.05$, ** $p<0.01$, *** $p<0.001$, (standard errors in parenthesis)*

The following figure suggests that in the case of small and medium-sized MS the relationship between internal coordination efficiency and bargaining success is statistically significant at higher levels of extremity. The negative coefficient indicates that under these conditions, the more efficient the internal coordination system, the less distance there is between a state's preference and a decision outcome. This model suggests that when MS without substantial voting power support an extreme preference, the efficiency of their coordination process has a significant effect on their bargaining success. A similar analysis of the marginal effect of coordination efficiency in Model 4 suggests that this relationship is not statistically significant for larger MS (Germany, France, UK, Italy, Spain, and Poland).

Figure 5: Coordination efficiency ('Speed') supports bargaining success for extreme MS.

Average Marginal Effects of Speed with 95% CIs
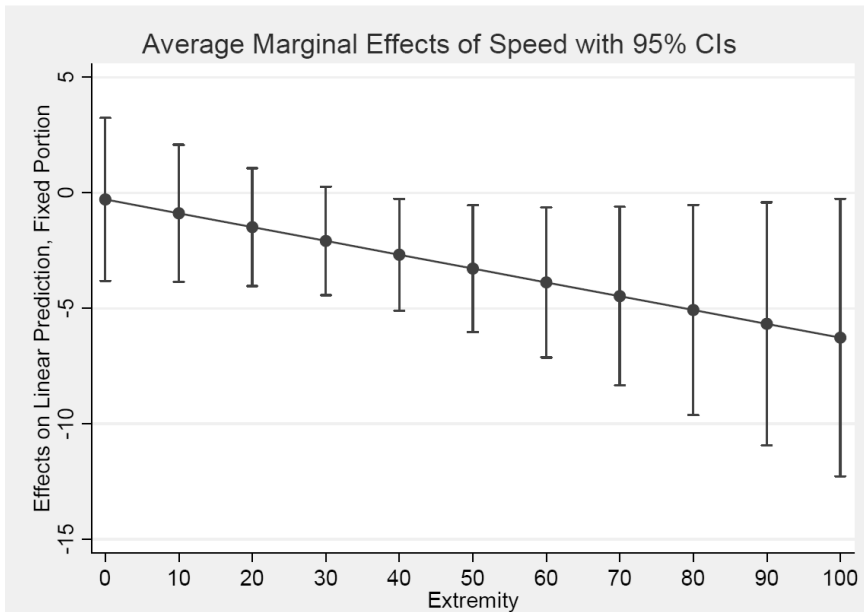
H2b is also corroborated in Model 5 of Table 1. The negative interaction between EP coordination and salience is statistically significant. In conditions of higher levels of salience, MS with stronger systems of coordination with the EP tend to show less distance between their preferences and negotiations' outcomes. The following figure illustrating the marginal effects of coordination with the EP, suggests that the more MS have established strong connections with the EP, the more they tend to be successful. This is certain, particularly the higher the salience of their preferences.

Figure 6: Average marginal effects of coordination with EP ('EP') on bargaining success
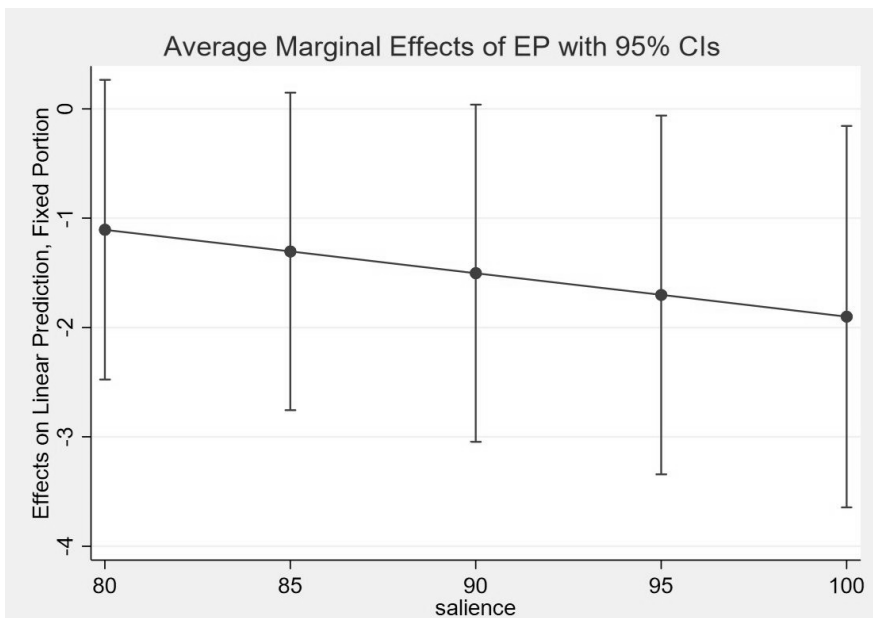
These findings confirm results from previous studies on the importance of MS' extremity, salience and voting power in understanding bargaining success. Most importantly, they show new patterns and conditions that informal capacities are also key determinants of bargaining success. Thus, under certain thresholds of MS' voting power, extremity and salience appear to be conditions under which coordination efficiency and structure become relevant to analyse bargaining success. For both internal and external coordination variables, high levels of salience appear to be a consistent enabler for the mobilisation of a state's resources at their

full potential. The more MS perceive issues with high intensity, the more they mobilise their coordination mechanisms at full speed.

1.5 Case Study

We explore a recent legislative text as a case study to further illustrate the mechanisms granting relevance to variations of coordination efficiency for understanding bargaining success. The case under study is the Organic Regulation (2014/0100/COD). In these negotiations, one of the main controversial issues which divided MS was related to the introduction of a ban of organic production of soil (issue 1). This controversial issue led a number of small and medium-sized MS to support extreme and highly salient preferences, as illustrated in Figure 7.

Figure 7: Spatial representation of the main controversial issue under study
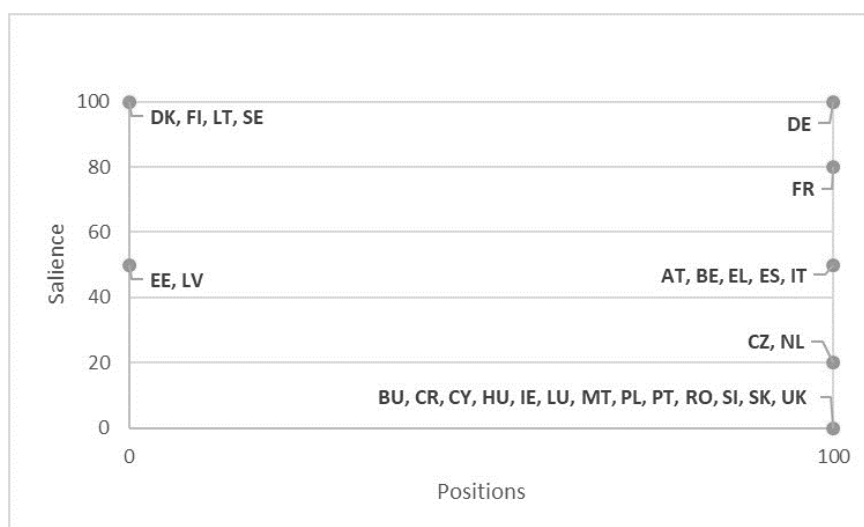
Prohibition of demarcated beds – The Commission proposal defined the principle of soil-based production as a basic organic farming rule (Position 100). Only six MS (including Sweden) opposed this principle (Position 0), given their farming practices of growing plants in demarcated beds. Other MS and the European Commission gave a high importance to banning demarcated beds, partly based on the fear that other countries could cultivate organic products in 'pesticide-free artificial substitutes' rather than soil[11]. This was particularly the case of France and Germany, though their formal position on the subject matter was adopted late in the process, and defended with less priority than for other policy issues (in particular the possibility to introduce thresholds for pesticide residues in organic products as part of this regulation).

Prior to, and in response to these objections, Scandinavian countries developed proposals to meet the needs of their own organic markets. A Swedish official explained that his team developed proposals for derogations on the basis of "climate and latitudes", or to regulate the components of demarcated beds instead of the practice itself. The Swedish position was updated weekly with the main domestic stakeholders[12]. At the level of the Commission, the Swedish minister for agriculture met with the responsible commissioner and other Scandinavian *attachés* (Finland and Denmark) met with Commission experts. These meetings were organized because the Commission was "not in favour of a Nordic interpretation of the framework, and

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[11] Interview with MS representative. 13/05/2019.
[12] Interview with MS representative. 23/05/2018.

threatened an infringement procedure if Sweden [had] kept its organic sector as it is"[13]. Though being likeminded with Nordic MS, Baltic states such as Lithuania and Latvia did not invest similar channels to convince their counterparts in the Council, in part due to limited resources in Brussels. A large majority of MS remained opposed to these proposals during several rounds of negotiations in Council working groups. Then, on 16 June 2015, the Council adopted its general approach supporting the position of a ban on demarcated beds.

EP report - The EP *rapporteur* for this legislative file was Martin Häusling, a German MEP of the Greens/EFA. The EP lead committee was the COMAGRI Committee whereas Sirpa Pietikäinen, a Swedish MEP, was the *rapporteur* for the opinion report of the ENVI Committee. On 13 October 2015, the COMAGRI committee adopted its report, backing the Council's position with regard to soil-bound production. Remarkably, the ENVI opinion report diverged from parts of the COMAGRI report, by stating that geographical conditions would need to be '*taken into account in the rules concerning greenhouse cultivation, ensuring that the current interpretation of the rules on organic greenhouse cultivation also apply in the future*'. Given the salience of these issues for certain MS, several national negotiators had met with the EP *rapporteur* and other relevant MEPs. In fact, the position of the ENVI committee was explained by officials by the nationality of the EP *rapporteur*, who was made aware of the issues of Nordic organic producers via the

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[13] Interview with MS representative. 23/05/2018.

Swedish permanent representation[14]. For similar reasons, Swedish and Finnish MEPs (Fredrick Federley and Elsi Katainen) supported amendments to the COMAGRI report in line with the interests defended by Scandinavian MS.

Trilogue phase - On November 2015, the Council granted the Presidency a mandate to start trilogue negotiations. Regarding demarcated beds, the position of the EP gradually evolved during the trilogue process, as illustrated by a compromise proposal sent by the EP to the Presidency stating that: '*growing plants in demarcated beds shall be allowed, in that part of the territory of Member States which lies to the north of the 56 degrees latitude north, on grounds of local, climatic, traditional and environmental specificities and historical developments and approaches.*' This is an indicator that the repeated contacts between Scandinavian representatives and MEPs shaped the EP position in favour of Nordic organic farmers. This was confirmed by an official who explained that Swedish negotiators were active in crafting proposals for the presidency and EP. Their strategy involved the mobilization of lawyers working on wordings, while national negotiators met extensively with MEPs[15]. Although the Council presidency also supported this amendment, a number of delegations kept opposing this proposal[16]. The final compromise stated that growing plants in demarcated beds will continue to be allowed in Denmark, Finland and Sweden for producers already certified as organic for 10 years, with the Commission tasked to report on the use

[14] Interview with MS representative. 23/05/2018.
[15] Interview with MS representative. 23/05/2018.
[16] Interview with MS representative. 13/05/2019.

of demarcated beds and present a legislative proposal. In May 2018, the Council adopted the regulation despite five negative votes and three abstentions. Among them, the justification for Belgium's abstention underlines the relative success of Scandinavian countries regarding soil-bound production. Indeed, Belgian negotiators were not overly satisfied with the outcome: "On the most important issues, we did not manage to have thresholds […]. On soil-bound, we did not manage to have strict limits, as the text opens possibility of smart ways to circumvent the rules."[17]

This case study shows how MS defending 'extreme' and salient preferences may become more successful than others due to the speed and structure of their coordination processes. The relative success of Scandinavian MS in this negotiation is particularly noticeable. As they demonstrated a high salience on the specific issue, the shaping process of their national position and their mechanisms of engagement with the EP appear to have played a role in their success. Scandinavian MS succeeded in channelling a provision suited for their organic farmers in the EP position during the trilogue phase, even though the COMAGRI report was not in favour of demarcated beds. This clearly appears linked to the efficient coordination process of Sweden for formulating proposals during the various stages of the negotiation, and to the resources mobilized to engage extensively with other MS, MEPs and Commission representatives.

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[17] Interview with MS representative. 30/05/2018.

1.6 Conclusion

This study has focused on the determinants of MS' bargaining success related to its central informal capabilities. It presents new avenues of research by proposing conditions under which specific power resources gain relevance in analysing legislative outcomes. While corroborating the main determinants of bargaining success, this study suggests that under certain conditions national coordination systems also matter. In order to do so, this research used a new dataset that provides detailed information concerning the efficiency of MS´ internal coordination processes, and their capacity of engagement with the EP.

Our analysis has illustrated that not all MS are equal in their ability to shape and defend their positions at the EU level. It confirms previous interpretations on the relevance of national coordination processes and states' lobbying frequencies. In particular, the empirical analysis indicates that the relevance of a state's informal power resources in explaining bargaining outcomes varies when they interact with other features of the negotiation process. Our study shows that under certain thresholds of MS' voting power, extremity and salience, some informal power resources become relevant to analyse bargaining success. For example, asymmetries in the voting power held by MS influence the relevance of coordination efficiency and thus bargaining success. The speed of the shaping process of national positions is relevant only for MS which do not hold a sizeable amount of voting power. This might be influenced by the

dynamics of negotiations at working group and Coreper levels in the Council. When the positions of large MS are unknown at the beginning of negotiations, other MS might be incentivized to wait for their preferences in order to devise appropriate strategies and build coalitions according to the structure of allocation of preferences. Thus, coordination efficiency is crucial mainly for smaller MS defending either salient or extreme preferences. This can indicate that smaller MS, which appear isolated when defending an *extreme* position, can only be successful in establishing a blocking minority if their coordination process allows them to adopt their position early. As opposed to larger MS, smaller MS which appear late in the shaping process of their position will not be able to derail competing dynamics in the Council.

These results can also be understood to validate accounts of MS' varying capacities to 'tame' the EP as part of EU negotiations. This finding is also consistent with the assumption that issue salience can act as an incentive for MS to fully mobilise their informal power resources. It strengthens the notion of salience conceptualised as the proportion of an actor's potential capabilities' that it is willing to put into effect to influence other actors (Arregui & Thomson, 2009). Thus, MS will be more successful when they perceive an issue as highly salient, provided that they can mobilise pre-existing structured mechanisms of coordination with national MEPs and key decision-makers in the EP.

2. Revisiting the informal power resources of member states' permanent representations to the EU

2.1 Introduction

Permanent representations to the European Union (EU) are critical elements in the domestic chain-of-command mobilized by Member States (MS) to defend national preferences in Brussels. Permanent representations host national negotiators whose two main missions are to gather political and technical information for their capital, and advance national interests at the EU level. At the interstice of national and European levels, permanent representations play a crucial gatekeeping role for MS, as their negotiators are 'the only national agents with a broad, issue-intensive overview of the Council's work' (Lewis, 2014). In executing their mandate, permanent representations are characterized, however, by significant differences in their organization, resources, and effectiveness (Kassim et al., 2001). Some of these features can condition their capacity to implement MS' ambitions to influence the processes transforming policy demands into decision outcomes. For instance, their size may directly limit the ability of national negotiators to participate in Council processes (Panke, 2010a) and their administrative efficiency could determine the quality and speed of MS' position-shaping processes (Adriaensen, 2016). Despite this crucial role, scholars' attempts to compare how permanent representations work have remained scarce (Kassim et al., 2001). Hence, this study poses the following research question: *To what extent do MS' resources in Brussels vary in terms*

of workforce and structure, and what are the implications of these variations for MS' influence?

This article contributes to the limited comparative literature on permanent representations to the EU, and more broadly to the scholarship on MS' power resources in EU decision-making, by presenting novel data from semi-structured interviews conducted between 2016 and 2020 in Brussels with 87 national negotiators. The results provide evidence of significant asymmetries in the resources mobilized by MS to influence EU policymaking processes, both in terms of workforce and structure. In addition to rich qualitative observations, the findings include three comparative scales ranking MS in function of the autonomy of their permanent representation in the national decision-making system, the speed of their position-shaping processes, and the level of engagement between the permanent representation and the European Parliament (EP). Building on this systematic dataset, this article suggests how greater resources can be conducive to greater influence at the EU level, by comparing variations of MS' bargaining success and resources *via* a qualitative analysis of interview transcripts with negotiators.

The contribution of this research to the literature is threefold. First, it feeds into the literature focused on the capacities and role of individual negotiators and diplomats, by documenting variations in the human resources and personnel policies of MS' diplomatic representations to the EU (Kassim et al., 2001). This study also adds to the literature on national EU coordination mechanisms (Dimitrova & Toshkov, 2007; Gärtner et al., 2011; Jensen, 2017), by analysing the role of each permanent representation in shaping national

positions, as well as the efficiency of national coordination processes. Finally, by emphasizing differences in their coordination processes with EU stakeholders, this article contributes to the growing literature on MS' capacities of influence with regard to other EU institutions (Panke 2012; Bressanelli & Chelotti, 2017), and thus more broadly to the literature on the informal governance (Kleine, 2013) and informal negotiations in EU legislative decision-making (Laloux, 2020).

The following section reviews the literature on the resources of permanent representations. Next, the methodology and research design are laid out. It is followed by an outline of the main findings, uncovering variations in permanent representations' human resources and coordination processes with the domestic and EU levels. These findings are then discussed, placing special emphasis on the implications for MS' capacities to influence EU policymaking outcomes and the interactions between MS' formal and informal power resources.

2.2 Literature review

This section presents a review of the literature on permanent representations and MS' informal power resources in the EU decision-making process, and details the research question of the contribution.

The literature on MS' bargaining power and EU decision-making processes has underlined the role of MS' informal power resources in shaping decision outcomes at the EU level (Thomson, 2011). In

contrast to formal ones, informal power resources relate to capabilities that empower (or weaken) actors in the context of specific negotiations and can refer, for instance, to the expertise of negotiators (Hartlapp, 2017) or the effectiveness of the national bureaucracy in shaping and defending the national position (Panke, 2011b). At the centre of the 'European-national nexus' (Chelotti, 2013), permanent representations to the EU thus provide MS with essential informal capabilities to influence legislative processes.

Despite their crucial role, few comparative studies have shed light on their agency and structure, with the notable exception of the ground-breaking volumes by Kassim et al. (2000, 2001) on The National Co-ordination of EU Policy. While comparative projects investigating permanent representations have remained limited, other works have offered insights on their role and resources through in-depth accounts of the Council policymaking (Naurin & Wallace, 2008), the informal dynamics of its negotiations (Geuijen & 't Hart, 2010; Ruse, 2013; Smeets 2015) and the functioning of individual permanent representations (Galušková & Kaniok, 2015). In addition, sociological approaches on the Council decision-making process have unpacked the individual trajectories and socialization process of MS' diplomats and their implications for negotiation processes (Lewis, 2005; Chatzistavrou, 2013). Our understanding of the role and resources of permanent representations has also been deepened by studies on MS' position-shaping and coordination processes on EU affairs (Panke, 2010b, 2012; Jensen, 2014, 2017; Adriaensen, 2016; Dravigny et al., 2016; Kassim, 2016; Mangenot, 2016).

MS are unequally equipped with informal power resources, as illustrated for instance by the vast discrepancies between MS in terms of their 'network capital' in the Council (Naurin, 2007). The literature indeed presents permanent representations to the EU as a highly heterogeneous group of diplomatic entities. The seminal work by Kassim et al. (2001) showed how the mandate of permanent representations vary widely between MS, though all carry out certain core functions, such as providing a base for national negotiators, providing information and advice to their capitals, and communicating with EU institutions and MS.

To execute their mandate, resources, structure and processes of permanent representations vary also substantially. In terms of resources, asymmetries in the number of national negotiators based in Brussels underline how MS are not equally equipped to monitor and influence EU legislative developments. These stark differences in terms of administrative capacities impact the speed at which they can formulate a policy position (Dimitrova & Toshkov, 2007), and may as a result affect their bargaining power in the EU (Beyers & Dierickx, 1998). Administrative traditions and policy-learning also have a direct impact on the structure of national EU coordination mechanisms (Harmsen, 1999; de Maillard & Smith, 2010; Kassim, 2013), and thus on the functioning of permanent representations. These variations, in turn, have direct consequences on the capacities of permanent representations to engage with the EU level. If the literature on the informal governance of the EU shows how the EU decision-making process offers a myriad of possibilities for MS to secure influence (Kleine, 2018), national bureaucracies are not equal

in their capabilities to make their interests heard by other EU institutional actors (Bressanelli & Chelotti, 2017).

This contribution argues that our understanding of MS' power in the EU decision-making process would benefit from a broader comparison of MS' permanent representations and their informal power resources, to complement previous studies focusing on specific dimensions of their organization and processes. Following the comparative approach followed by Kassim et al. (2001), this study intends to capture variations in the workforce, processes and structures of permanent representations, to look for evidence of convergences or divergences between MS and to reflect on their implications for MS' performance at the European level.

2.3 Methodology

This contribution draws on the results of a novel survey conducted with national negotiators based in Brussels between October 2016 and January 2020. This study was carried out as part of a research programme on the power of MS in the Council of the EU, which also led, simultaneously but independently, to the development of the DEU III dataset (Forthcoming). This new dataset documents the policy positions of MS and EU institutions in 16 legislative proposals and 33 controversial issues adopted between 2016 and 2019. It provides a unique opportunity to compare the bargaining success of MS with the resources of their permanent representations and also to

focus on specific legislations to document evidence about how such resources may influence the shaping process of EU decisions.

This research programme draws on 145 semi-structured interviews with representatives from the Council and other EU institutions. Among them, 87 provided information directly relevant to this study. Interviewees included one ambassador, 15 Antici and Mertens counsellors, 55 sectoral attachés and counsellors, nine Commission officials and seven representatives of the Council General Secretariat. All interviewees have been anonymized in the context of this research.

Interviews were conducted using a questionnaire designed to collect national negotiators' perceptions on their own capacities, the resources at their disposal, and the functioning of their permanent representations. Interviews were conducted with at least one Brussels-based representative for each MS, with the exception of Lithuania and the United Kingdom (UK). All qualitative answers were coded using the software MaxQDA, thus allowing for systematic comparison across and within MS. When possible, answers from research respondents were complemented and compared with publicly available information in order to ensure sufficient validity and reliability.

Regarding the quality of the data, a large majority of the interviews led to substantive discussions and covered all the questions in the questionnaire. While this survey cannot be considered immune from the traditional biases related to elite interviews, such as strategic considerations and political correctness (Naurin, 2015), the high

consistency of negotiators' answers and their systematic justification with detailed arguments confirm that such bias did not overly affect the findings. In addition to the high congruence of the answers across countries, the results are also consistent with the findings of similar surveys on MS' organizational efficiency and engagement with EU institutional actors (Panke, 2010b, 2012).

2.4 Results

In line with the structure of the research questionnaire, results are presented in three sub-sections. The first part describes variations of permanent representations' human resources, looking at the number of negotiators, their capacities, and MS' personnel policy. The second part documents variations in the role of permanent representations, as well as the structure and efficiency of their internal coordination processes. The third part investigates differences in the way permanent representations coordinate with other legislative actors at the EU level.

Permanent representations' human resources

The dataset indicates that permanent representations differ in the number of staff and negotiators they host. In 2019, permanent representations hosted, on average, a hundred staff members, with great variations between MS[18]. For instance, the French permanent

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[18] The Croatian and Finnish permanent representations hosted more negotiators than usual in view of their upcoming Council presidencies.

representation hosted almost 250 staff members, while the permanent representation of Cyprus had around 40 national representatives. This confirms previous studies showing a wide gap between permanent representations' workforce, despite an overall steady increase in permanent representations' staff (Kassim et al., 2001), due to the expansion of legislative activities and previous institutional reforms at the European level.

Figure 8: Number of negotiators by member states (January 2019)[19].

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[19] These figures document the variations of workforces across/within policy sectors, based on the number of negotiators hosted in permanent representations. Due to inconsistencies in the transparency of governmental web portals, and in order to allow for a broad comparison, the decision was made to count only the number of negotiators for Coreper 1 and 2. This information was available for two thirds of MS.

Figure 9: Number of negotiators by policy sectors (January 2019)
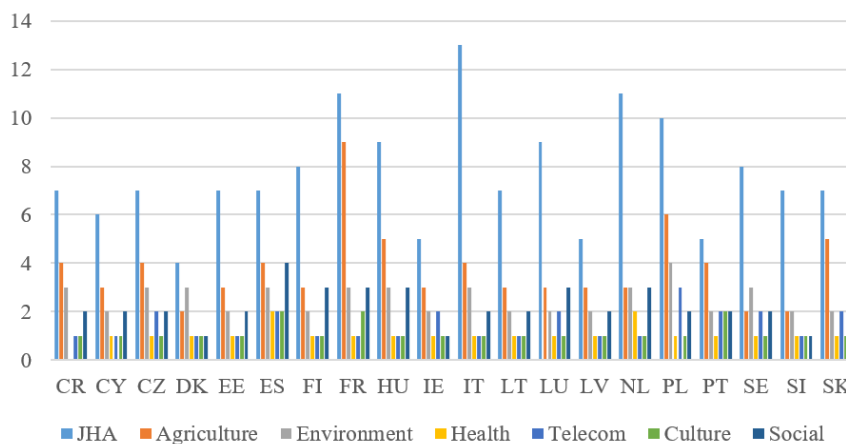
At the sectoral level, variations between MS also appeared significant. For instance, the German permanent representation hosted six counsellors for justice affairs in 2019, whereas the Spanish representation had three and the Portuguese representation one. While France and Germany have posted several financial experts in Brussels, there was only one negotiator for banking affairs for Croatia. It needs to be recognised that variations in the size of permanent representations can be related to the financial means at the disposal of MS, their varying level of priority in relation to EU affairs, their geographic distance with Brussels, but also patterns of political clientelism (Kassim et al., 2001).

Between permanent representations, practices vary in terms of their knowledge-transfer methods and trainings. Only a handful of MS have established structured mechanisms to train their new negotiators, as most others rely on informal and on-the-job trainings.

Understanding Council inner workings can be a challenge for national negotiators, particularly when they are posted in Brussels for the first time. This is the reason why the UK and Czech Republic offer(ed) structured training sessions to new negotiators. The UK, for instance, organised sessions on 'how to speak in a working group'[20], whereas the Czech ministry of foreign affairs (MFA) provides training to all experts posted in the Czech permanent representation to improve their presentation and negotiation skills[21]. A number of MS propose non-compulsory introductory seminars to newcomers, lasting two to three days in the case of Ireland, and one day for Sweden and Denmark.

The individual capacities (understood here as expertise, experience and interpersonal skills) of negotiators composing the workforce of permanent representations also vary widely. These variations can reflect different posting practices by MS. For instance, certain MS are represented by negotiators with significant experience, granting them strategic knowledge but also social status during negotiations. This is illustrated by a number of negotiators for France and Spain in the field of justice and home affairs (JHA), who were originally state lawyers and judges at the national level[22]. Apart from their expertise and experience, negotiators can be differentiated according to their interpersonal skills – notably in terms of personality and communication. Interpersonal skills were presented by respondents as crucial in the Council given that negotiations require national

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[20] MS representative, 18-09-2017, Brussels.
[21] MS representative, 15-09-2017, Brussels.
[22] Council General Secretariat representative, 18-06-2018, Brussels.

representatives to take the floor in working group meetings, constantly justify their preferences, and counter-argue or support previous speakers to ensure that their national position will be in line with what a qualified majority of MS will agree upon[23].

Permanent representations and domestic coordination systems

The research interviews confirm that MS rely on diverse national arrangements to shape their political preferences and decrease the information asymmetry between Brussels and the capital (Kassim, 2016). Though there may also be variations depending on the policy sector and negotiators, results highlight structural differences in the role and autonomy given to permanent representations by their capital.

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[23] MS representative, 11-09-2017, Brussels.

Figure 10: Role of the permanent representation in the domestic position-shaping process[24]

MS	Mean Value	Not involved	Slightly involved	Quite involved	Very involved	Systematically involved	Count of observations
DE	1,2	X					5
AT	2						1
PL	2						3
FI	2,5						2
IE	2,5						2
IT	2,5		X				2
BU	3						1
CZ	3						1
ES	3						3
FR	3						4
NL	3						2
SE	3						3
EE	3,2						4
BE	3,3						3
LV	3,5						2
PT	3,5						2
RO	3,5						2
DK	3,6				X		5
SK	4						1
EL	4						1
SI	4						3
UK	4				X		1
LU	4,3						3
MT	4,5						2
CY	5						1
CR	5						1

In some MS, the mandate defended by negotiators is systematically adopted in the capital, with no prior consultation from the permanent representation. The role of negotiators thus consists mainly in channelling national positions to the Council. This configuration is

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[24] The following graphs compile respondents' answers on a scale from 1 to 5. If negotiators from the same member state had distinct answers to the same question, more than one box is highlighted per member state. To compare member states, the value used is the average of answers' scale code. The data was complemented using interview transcripts from European Commission and Council General Secretariat officials, who had also referred to the speed characterizing member states. A number of national negotiators also referred to the speed of other member states' administrations. This complementary data is signalled with a black arrow.

exemplified by the German permanent representation to the EU. According to a German diplomat, the experts in Berlin are '*the ones shaping the positions*'[25]. Similarly, in other MS (such as Austria, Italy, Finland and Poland), permanent representations' negotiators are only consulted in the shaping process of the national position. They can send requests for changes, but their autonomy remains limited. A majority of permanent representations appear more involved in the shaping process of their national position, and act in a rather autonomous way when advancing national preferences at the EU level. In the Danish system, Brussels-based attachés are systematically kept in the loop of discussions in the capital, since the administration is small and allows for informality in the exchanges[26]. In France, negotiators can also play a role in orienting the national position, and in defining the national influence strategy towards other Council members.

This configuration contrasts with the one characterizing several permanent representations with significant autonomy in shaping the national position. In the case of Belgium, responsible attachés usually draft a detailed position 'on their own' at the beginning of the process. If there is no reaction from relevant ministries, the attachés can go on with their position. If a minister flags an issue, then there is an ad hoc coordination meeting to define the Belgian position. For Luxembourg, it was explained that, in many instances, experts based in Brussels send proposals to their ministries, which then forward the same instructions to the MFA, illustrating the significant role played

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[25] MS representative, 28-06-2018, Brussels.
[26] MS representative, 14-09-18, Brussels.

by the permanent representation in the process. The role of permanent representations can also be amplified by the personal and/or personal proximity between the Permanent representative and its national government. In other cases, the rivarly between Brussels-based diplomats and high-level officials in the capital can have a limiting effect on the autonomy of the permanent representation in legislative negotiations. For instance, in 2019, the Belgian Permanent Representative was also occupying the role of Sherpa for the Belgian Prime Minister. A respondent from the Belgian permanent representation explained that 'the Permanent Representative is also the sherpa of the Prime Minister. It is a new system, and is due to the current good relationship between the Permanent Representative and the Prime Minister. It is a coincidence. In a European system where more and more is decided at the European Council level, this can have an influence. There are Member States where Sherpa and Permanent Representatives are competing, sometimes not having the same political affiliation'[27].

In addition to permanent representations' autonomy, respondents highlighted significant variations in the efficiency of national EU coordination processes, particularly in terms of the speed with which they usually receive instructions from their capital.

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[27] MS representative, 23-04-2018, Brussels.

Figure 11: Speed of the national decision-making process in adopting positions

MS	Mean Value	Very quick	Quite quick	Average	Quite slow	Very slow	Count of observations
DK	1						3
NL	1,3						3
EE	1,5						4
MT	1,5						2
LU	1,6						3
ES	2						1
FI	2						3
SE	2						1
AT	3						1
CZ	3						1
FR	3						3
CR	3			X			2
IE	3						2
LV	3						1
PL	3						1
PT	3						1
RO	3			X			3
SI	3						2
SK	3						1
UK	3			X			1
BU	4						1
CY	4						1
EL	4						1
IT	4				X		2
BE	4,5					X	3
DE	5					X	10

A handful of MS seemed to face regular delays in formulating their positions, due to the lack of sufficient resources at the national level and weak coordination mechanisms between Brussels and the capital. A representative of Italy explained facing challenges related to her inability to receive national instructions from the capital in a timely manner. Due to limited resources at home, adopting the national position was presented as challenging for several governments (Bulgaria, Croatia, Cyprus) in terms of 'technical digestion', since the necessary expertise to cover all the implications of the provisions

of a new Commission proposal can be very limited at the national level. In the case of Germany, delays in formulating the positions were seen as very regular and deriving from structural features of the national decision-making system. A German negotiator argued that delays in issuing instructions from the national capital often resulted in '*missed opportunities*'[28]. Such delays appear related to the decentralised nature of EU coordination processes as well as the federal institutional structure in Germany (Freudlsperger & Weinrich, 2021). Inversely, a number of MS (including Denmark, Netherlands and Estonia) were perceived as benefiting from highly efficient (and thus quick) national coordination processes for shaping and amending positions on EU affairs.

Permanent representations and EU institutions

In defending MS preferences at the EU level, permanent representations need to approach a constellation of actors in order to communicate their positions, build coalitions and sensitize EU institutions to their views. The survey underlines divergences in the processes and resources mobilized by permanent representations to engage with other actors at the European level. First, there are significant variations in the way permanent representations and their negotiators actually engage with the EP.

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[28] MS representative, 13-09-17, Brussels.

Figure 12: Permanent representations' engagement with the European Parliament

MS	Mean Value	Ad hoc relation, limited engagement	Ad hoc relation, regular engagement	Structured relation, regular engagement	Count of observations
AT	1				1
BE	1				3
BU	1				1
CY	1				1
EL	1				1
HR	1				1
IE	1				3
LU	1				1
LV	1				2
MT	1				2
PT	1				2
RO	1				2
SI	1				3
SK	1				1
PL	1,33				3
EE	1,5				4
ES	1,75				4
DE	2		X		4
IT	2				1
SE	2				1
FI	2,66			X	3
CZ	3			X	2
DK	3				2
FR	3			X	10
NL	3			X	9
UK	3			X	3

Periodic briefings are among the main instruments commonly used by MS to engage with Members of the European Parliament (MEPs). There can also be meetings at the sectoral level, as illustrated by regular meetings between the Dutch permanent representation and MEPs before JHA Councils. Also, several permanent representations (Czech Republic, France, Finland, Poland, Sweden) systematically send the positions of their governments to national MEPs. A French representative explained that the French coordination body for EU affairs sends approximately 300 briefings to MEPs per year. Usually, a framework note is sent to French MEPs in the two months after the publication of a Commission proposal, followed by a more

comprehensive position during committees' debates[29]. Most permanent representations host a section to specifically follow EP legislative developments, though with unequal resources.

Figure 13: Staff in permanent representations' EP sections (January 2019)
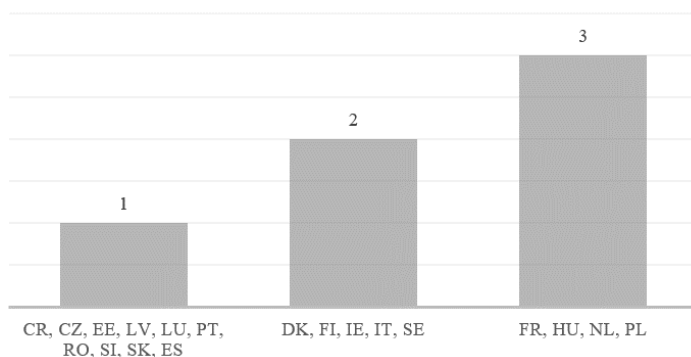
Permanent representations' EP sections generally follow all parliamentary activities to inform national ministries, and in larger MS, additional staff in Brussels and the capital can also be tasked to follow developments in specific sectors. For instance, the French Ministry of Economy tasks five civils servants to continuously follow EP committees related to economic and trade issues. In addition to sending notes and briefings, EP sections can also organize visits for ministers and experts to Brussels[30].

Respondents also underlined the importance of the engagement of permanent representations with the European Commission. At the technical level, attachés meet with Commission representatives

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[29] MS representative, 05-12-2018, Brussels.
[30] MS representative, 05-12-2018, Brussels.

several times a week during Council working groups, or bilaterally. At higher level, ministers may also meet directly with commissioners to solve issues at political level. Permanent representations can also engage directly with the commissioner from the same member state, since commissioners at times convey the concerns of 'their' MS during meetings of the college of commissioners or of their cabinets; as further detailed by a Danish respondent: "*there is a rather good contact with the Danish commissioner. He pushes formally for Danish interests in rather exceptional occasions, otherwise it would be seen as counterproductive. But it is true there is a good cooperation with the Danish commissioner across files. This type of exchanges, as in other member states, is always under the table, but everyone knows that there is a lot of dialogues*"[31].

To support and liaise with their nationals in the EU administration, most MS have also set up specific sections within their permanent representations. Their main role is to facilitate the recruitment of nationals by EU institutions for technical or high-level positions. The resources of these sections vary between MS. For instance, the Belgian section is composed of one civil servant (responsible for supporting more than 5000 nationals)[32], whereas France, Germany, the UK, and Poland have established larger sections, with up to four staff members. In the case of the Czech Republic, the permanent representation is only starting to have a structured policy for supporting nationals[33]. As for Sweden, one full-time employee has

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[31] MS representative, 09-05-2018, Brussels.
[32] MS representative, 27-09-17, Brussels.
[33] MS representative, 15-09-2017, Brussels.

recently been hired to support efforts to increase the number of nationals, in view of the Swedish Council presidency in 2023[34].

2.5 Analysis

From the results, a fundamental distinction can be drawn between permanent representations in term of their strategic approach in relation to EU policymaking. The functioning and structure of a range of permanent representations appear to be conditioned by their MS' strategic 'style of action' (Knill et al., 2016) towards the EU level.

The strategic approach of MS manifests itself in several ways. In terms of human resources, the size and distribution of their workforce is in line with the scope of national interests and the pace of EU legislative activities. Specific trainings are also administered to negotiators in order to strengthen their capacities to defend national preferences. In terms of processes, internal and external coordination processes are both efficient and structured, and designed to maximize MS' influence as part of complex EU negotiations. This contrasts strikingly with other permanent representations, for which resources and processes do not appear systematically suited to maximize political influence. For instance, the results corroborate the assessment of the German coordination system from two decades ago, which portrayed it as suffering from 'strategic timidity, late preference-building and position-taking, and, as a result, minority positions in the Council of Ministers' (Maurer & Wessels, in Kassim

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[34] MS representative, 18-06-2018, Brussels.

et al., 2001). While several MS have developed elaborate mechanisms to engage with EU institutions as part of dynamic policy processes (for instance by systematically channelling their positions to MEPs), it appears that others have yet to internalize the institutional changes brought about by recent Treaty changes. In light of their weak engagement with the EP, it appears that certain MS have not fully adapted to recent evolutions in the EU's political opportunity structure. It should be emphasised that these asymmetries do not necessarily reflect imbalances in terms of MS size, given that several small and medium-sized MS (such as Denmark and the Netherlands) appear to be characterized by greater organizational capacities to leverage influence at the EU level, than other larger ones (Italy, Poland).

MS do not possess the same resources in Brussels, nor do they mobilise them for the same purposes. These stark differences between MS invite us to consider the implications for their capacity of MS to influence EU decision outcomes, as well as the conditions under which these variations may be reinforced, or limited, in interaction with other MS' power resources. In order to study the implications of variations in permanent representations' workforces and structures, this study uses the data collected as part of the new DEU III dataset (Forthcoming). Though informal power resources do not appear statistically related to bargaining success per se, they can gain relevance in certain configurations and in interaction with other power resources. Recent research indeed indicates that informal power resources, such as MS coordination efficiency, become relevant to explain bargaining success in combination with certain

thresholds of MS voting power, salience and preferences' extremity in the context of Council negotiations (Forthcoming). These findings invite us to explore more qualitatively the complex interplay between MS power resources by studying the effects on MS' influence of the variations in permanent representations' resources, structures and engagement with EU institutions.

Permanent representations in legislative processes

This qualitative analysis draws on interviews with negotiators documenting the adoption process of the legislative files belonging to the DEU III dataset. The analysis focuses on the workforce of permanent representations, then on their role and structure, and finally on their processes to shape and defend national positions.

In terms of human resources, respondents suggested that having fewer negotiators than other MS appears detrimental to bargaining success at the EU level. Indeed, all MS generally participate in an equivalent number of negotiation processes. Having one single attaché to cover a whole policy sector, as a few permanent representations do for social and employment affairs, for instance, is challenging in practice. Working group meetings in this policy area can occur simultaneously, leading to significant constraints for negotiators, in particular if they are not supported by experts from their capital. A representative from Greece referred to the challenges faced by one colleague who had to deal with all environmental files alone, and went through '*a lot of stress*'[35]. Also, a deficit in human

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[35] MS representative, 29-06-2018, Brussels.

resources can affect the ability of national representatives to develop counter-proposals in Council working groups, as emphasized by a Slovenian representative who argued she had to '*trust the experts of other member states*' and rely on their inputs during Council discussions[36].

The lack of training programs may also limit negotiators' influence during negotiations. Illustrating the challenges faced by negotiators unfamiliar with Council processes, a Polish representative admitted that: '*in terms of trainings, I learned by talking hours with my predecessor who had stayed seven years. But you need to be there to understand. There are many things you don't see in the beginning, and maybe you still don't see. In the beginning I was really unexperienced and struggling to understand the dynamics. I was a really bad counsellor in the beginning, and then I learnt*'[37]. Similarly, a Cypriot representative indicated that with no structured training programs, the ability of representatives to quickly take over depends on the capacity and availability of their predecessors: '*In Cyprus, there is no program for training. Generally, your predecessor gives you a folder with the past negotiations, and then you have to build from there. Sometimes they have a short period to discuss together, but sometimes they don't.*[38]'

Experience is thus an asset for negotiators, as illustrated by an official from the Council General Secretariat, who explained that "*there are very different levels of preparations and knowledge between*

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[36] MS representative, 19-10-2018, Brussels.
[37] MS representative, 05-06-2018, Brussels.
[38] MS representative, 20-09-2017, Brussels.

negotiators. Some are very junior and young, with little expertise, while others are experienced […]. Certain are thus weaker and less credible in the exchanges, and it has an impact"[39]. Expertise is also key, as well illustrated by the negotiations on the Medical Devices regulation (2012/0266COD), a text deemed '*so complex that only a handful of people [could] understand it*'[40]. Given the limited availability of expertise in certain MS, the role of individual negotiators was strengthened in these negotiations, as shown by the Greek delegate who successfully shaped a key provision ('reprocessing') despite the strong opposition of Germany. Similarly, in the adoption process of the regulation on secure ID cards (2018/0104COD), the Lithuanian attaché was described as instrumental in the Council due to his extensive knowledge of information systems for border controls[41].

Beyond their experience and expertise, the personality traits[42] of negotiators may also have an effect on MS' influence. Several respondents referred specifically to the lack of success of particularly '*stubborn*' negotiators. In the context of a recent health-related negotiation, a German negotiator was described as being disinclined to find compromises with others. A MS representative added: "*He made us lose a lot of time and was very arrogant. He knew everything about the topic, so we had to listen what he had to say. The fact that he was always against all proposals did not help him in securing*

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[39] Council General Secretariat representative, 18-06-2018, Brussels.
[40] MS representative, 27-04-2018, Brussels.
[41] MS representative, 20-01-2020, Brussels
[42] In line with studies on the role of personality in international negotiations (Brummer, 2016), personality is understood here as the pattern of characteristics and individual traits shaping negotiators' behaviour.

support from other member states. […] Member states which did not have a position were not encouraged to follow his lead. Attachés who did not have instructions, could say more or less what they wanted. The Polish attaché did not like the German expert, and would oppose his proposals just to annoy him". Underlying the importance of negotiators' communication skills, negotiators repeatedly referred to counterparts who had the tendency to take the floor frequently and at length, such as one Finnish expert who constantly lost most of his audience with "*never-ending monologues*".

The role of permanent representations and the quality of their domestic decision-making process also influence MS' ability to successfully advance political preferences at the EU level. Variations in the efficiency of EU national coordination processes can have direct effects on the ability of negotiators to engage with Council working group and Coreper levels. For instance, Denmark and the Netherlands have developed swift national coordination processes, allowing them to quickly get clearance from the highest levels of ministries and approve a position in '*one day*' if needed. A Danish representative explained that '*due to its quick system of coordination, Denmark is sometimes able to take the lead on certain issues, as it is easy to coordinate, and at the same time [to] have the political backing from high levels*'. This is well illustrated by the adoption process of the free flow of data regulation (2017/0228COD), in which Denmark, along with other likeminded MS, engaged extensively with commissioners and MEPs prior to and during the negotiations, and successfully derailed competing dynamics in the Council (Perarnaud, Forthcoming). On the contrary, the German system appeared

characterised by regular delays, as shown for instance by the two years needed by Germany during the negotiations on the copyright directive (2016/0280COD) to define its national position on a key provision ('article 13')[43]. An official from the European Commission provocatively emphasized that the '*agony of the German decision-making*'[44] absorbed a disproportionate amount of time of their allies, while another EU official detailed that *'what always slows down the German is the federal structure. It takes ages for them to come up with positions, because not only you have the inter-ministerial coordination, but you also have the Landers' coordination, and they are usually much slower than others. Sometimes the negotiations have moved on, you have new texts on the table and the presidency has already a new version, and they have to say "we have still internal discussions and so on…". But the text has already moved on*'[45].

Also, the level of resources allocated to national EU coordination processes can have implications for MS' influence. In the case of Croatia, a representative indicated that '*in theory, the MFA should have a unit in charge of the coordination. I put them in my emails, but don't expect them to react. They don't have the capacity*'[46]. Conversely, the French coordination body (SGAE) relies on a broader apparatus, responsible for drafting all instructions for Coreper meetings. According to a French negotiator, *'the SGAE gives*

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[43] MS representative, 27-06-2018, Brussels.
[44] European Commission representative, 04-12-2018, Brussels.
[45] European Commission representative, 26-11-2018, Brussels.
[46] MS representative, 30-05-2018, Brussels.

us strength, it sends a signal to other member states that we have the direct support from our capital at the level of the Prime minister'[47].

Asymmetries in the mechanisms mobilized by permanent representations to engage with actors at the EU level also emphasize their unequal capacity to exert influence on European decision outcomes. In the Council, MS with efficient and well-resourced administrations appear more suited for initiating coalitions and derailing competing political dynamics. For instance, during the negotiations on the recast of the Electronic Communications Code (2016/0288COD), the Dutch permanent representation was depicted as having successfully channelled its position in the European Parliament on an issue, after having failed to advance it in the Council[48]. A former French permanent representative, when welcoming new attachés to in his team, systematically explained that in order to secure influence, they would need to spend one third of their working time at the EP[49]. This physical engagement at the EP is neglected by several MS, or strongly limited due to limited resources, thus favouring MS with the sufficient means to engage extensively with MEPs. At the level of the Commission, close contacts between a commissioner and the permanent representation (or the capital) can favour personal interventions in the college of commissioners. For instance, the Irish permanent representation approached the Irish commissioner in the early rounds of negotiations on the 'effort-sharing regulation' (2016/0231COD), despite the fact he was not

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[47] MS representative, 30-05-2018, Brussels.
[48] MS representative, 21-11-2018, Brussels
[49] MS representative, 25-09-2017, Brussels.

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directly responsible for this particular policy. Ireland wanted to ensure their message would be 'passed'[50] when the draft Commission proposal was sent to the cabinet of commissioners.

Interactions between MS' formal and informal power resources

The following section discusses the implications of the results for our understanding of MS' influence, looking in particular at the interactions between MS' power resources in the context of EU negotiation processes. Survey results indeed offer interesting avenues to further explore the interactions of formal and informal power resources in the making of EU policies.

<u>Interaction with MS' human resources</u>**:** the findings suggest that the explanatory role of permanent representations' human resources can be influenced by MS' voting power and salience. Negotiators representing large MS can benefit from their voting power by having more leverage to use their individual skills in the context of EU negotiations. For instance, a Belgian counsellor argued that that the German and French permanent representatives could "*say things in a way that no other Permanent representative could*"[51] due to their political clout, deriving from their high-level personal experience but more importantly from the size of their MS. Also, a number of interviewees suggested that the role played by individual negotiators could be limited as the salience of negotiations increased. When negotiations become highly salient, heads of states and ministries'

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[50] MS representative, 25-04-2018, Brussels.
[51] MS representative, 13-09-2017, Brussels.

cabinets can become more involved, often launching bilateral discussions at the capital level. As a result, discussions between counsellors and even ambassadors are not necessarily where final compromises are formulated, thus diminishing the reach of Brussels-based negotiators. An experienced EU official in the area of social affairs indicated that his influence on high-stake negotiations could only be 'negative', in the sense that only if he had done a mediocre job in facilitating technical negotiations in Brussels, could his abilities have had an impact on the process[52]. On the other hand, a Slovenian diplomat also explained that on topics that are 'not relevant' to Slovenia, negotiators are more autonomous, '*and I would say even that sometimes we are on our own*'[53].

Interaction with the efficiency of internal coordination processes: Interviews with negotiators suggest that the role of the efficiency of internal coordination processes increases in function of MS' human resources and voting power. The more limited is the voting power and size of the workforce, the more MS need to have efficient internal coordination processes, since smaller MS are more incentivized to be prime-movers in comparison to larger MS. Acting early requires them to draft positions quickly, and be able to regularly update their national preferences as part of dynamic policy processes. This is exemplified by a representative of Luxembourg, who explained that 'for us it is important to be flexible'[54]. Larger MS can benefit from the shadow of their votes by having more time to develop and present

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[52] European Commission representative, 24-11-2018, Brussels.
[53] MS representative, 26-11-2018, Brussels.
[54] MS representative, 18-04-2018, Brussels.

their positions, as it will be more difficult to ignore them during the negotiation process, according to a Spanish negotiator[55].

The lack of coordination efficiency can have a direct impact on the positions of MS, especially on technical files, but also on their ambition in the negotiation process. When constrained by limited resources, MS' negotiators can only focus on specific files, or even provisions. Limited coordination efficiency can reduce the scope of national interests that are defended at the European level. The lack of administrative resources can thus favour the free-riding behaviour of governments. In the case of Greece, a national negotiator explained that despite the fact that there are good experts in Athens, problems of coordination and resources led to situations in which no positions were sent from the capital. In this context, either the attaché abstained from participating in Council discussions or needed to develop an assumption of what the Greek position was, based on his own expertise and '*intellectual ability*'[56].

Interaction with EU coordination processes: The role of MS' coordination processes with EU stakeholders appears partly determined by the size of their human resources, and the efficiency of their internal coordination process. Indeed, the larger the workforce of permanent representations, the more time negotiators will have to engage with EU institutions. According to a Finnish negotiator, the factor that limits the engagement of the permanent representation with MEPs is '*the question of [the] resources. The bigger the permanent representation, the easier it is. We try to*

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[55] MS representative, 19-06-2018, Brussels.
[56] MS representative, 29-06-2018, Brussels.

engage with the EP as much as possible, but we have also to prioritise'[57]. Regarding the activities of the EP committee focusing on energy, a Commission official also observed that it was noticeable '*that only the French were sending attachés at the committee meetings*'[58].

Also, the more efficient MS' internal coordination processes are, the more comprehensive and timely the messages conveyed by negotiators will be. For instance, a Dutch negotiator indicated that, because it can define its national position early in the process, the strength of the Netherlands '*is to be able to organise likeminded groups'*[59]. On the contrary, a representative of Italy explained facing challenges related to her inability to receive national instructions from the capital in a timely manner. This attaché explained regularly receiving national positions just one or two hours before Coreper, thus preventing extensive negotiations prior to ambassadorial meetings[60].

2.6 Conclusion

Permanent representations are key 'reservoirs' of informal power resources for MS, given their centrality in the national mechanisms and processes mobilized to influence EU decision outcomes. Their resources and structures can have a direct effect on the influence MS have on the EU policymaking process. In line with previous research

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[57] MS representative, 15-06-2018, Brussels.
[58] European Commission representative, 04-12-2018, Brussels.
[59] MS representative, 17-04-2018, Brussels.
[60] MS representative, 21-11-2018, Brussels.

on EU national coordination processes, this study found 'few signs of convergence' (Jensen et al., 2016) not only in the workforce, structure and processes of permanent representations, but also in their level of engagement with other EU institutions in Brussels.

The rich and novel data offers systematic information about the capabilities of MS' permanent representations. It suggests that variations of permanent representations' resources do not necessarily reflect asymmetries in terms of MS' size, given that a range of medium-sized states' permanent representations (including Denmark and the Netherlands) appear to be characterized by greater organizational capacities to leverage influence at the EU level than others. The qualitative analysis illustrates how permanent representations' structures and processes may either amplify or decrease the voice of governments in the context of recent Council negotiations, and how these informal resources interact with other MS' power resources.

By acknowledging that some governments have developed sophisticated instruments to 'use' the EP, this study also highlights the fact that, while some states do deploy such tactics towards EU institutions systematically, not all MS appear to have internalized the institutional changes brought about by the Lisbon treaty. The study suggests that these variations play a significant role in the ability of MS to successfully advance their preferences at the European level, but more studies are needed to investigate the actual relationship between the informal power resources of MS and their bargaining success in the context of specific legislations.

3. Power to the connected? Determinants of Member States' bargaining success in the making of the EU Digital Single Market

3.1 Introduction

This study investigates the role of Member States (MS)' permanent representations to the European (EU) in explaining their success as part of European negotiations related to digital policies. Permanent representations to the EU are national power houses deployed by MS to gather political and technical information for their capital, and advance national interests in Brussels. This research investigates the role of permanent representations in the context of such negotiations, by analysing the policymaking process leading to the adoption of key legislations of the Digital single market (DSM) at the EU level.

If a range of MS' power resources such as voting power have been thoroughly analysed in order to explain bargaining success in EU negotiations (Schneider et al., 2010; Thomson, 2011), the effects of states' Brussels-based resources appear largely understudied. Investigating the role of permanent representations appears especially relevant since the logic driving the Council has shifted in recent years from a logic of intergovernmental negotiation to a logic of influence (Mangenot, 2016). For states, achieving success at the European level demands allocating to permanent representations sufficient resources to shape and influence the complex and ever-evolving political processes of the EU.

In these power games, permanent representations act as the main vehicles for MS' preferences in Brussels, and if previous evidence insist on the decisive role they can play in forming or derailing political dynamics at EU level (Ruse, 2013), only few studies have investigated the mechanisms by which MS exert power via their permanent representations. Permanent representations' resources will be conceptualized here as both their negotiators (*human resource*), and the characteristics of the institutional setting in which they operate (*administrative resource*).

In answering this puzzle, this article contributes to the recent scholarship on Council negotiations and on EU digital policymaking. Firstly, this study feeds into the literature focusing on the power balance between MS in the context of Council negotiations, following a growing body of literature on bargaining power in the EU (Thomson et al., 2006, 2011). This research intends to complement the literature on states' bargaining success by laying the emphasis on MS' capacities to coordinate their positions at the European level, and in particular permanent representations' capacity to form coalitions as part of Council and EP policymaking processes. Second, by documenting MS' bargaining success in three recent EU negotiations, this research intends to investigate "who gets what, where and how" in the shaping process of European policies related to the DSM. Though internet policy has been framed as a field of struggle (Pohle et al., 2016), characterized by continuous conflicts occurring within the EU (Timmers, 2018), the literature on EU's digital policymaking only offers scarce insights of the complex political dynamics in the Council used to overcome these 'struggles'.

Offering three case studies based on 28 interviews with EU negotiators, this article intends to fill this gap by exploring the determinants of states' bargaining success in shaping policies related to the European digital single market between 2016 and 2018.

In the next section the theoretical background and research question are presented. In the third section, I describe the research design of the study and the data collection methodology. The fourth section presents the three case studies. Finally, the main conclusions and implications of the research are highlighted.

3.2 Theoretical framework and research question

This research draws on recent developments of the scholarship focusing on the bargaining phase of EU decision-making processes (Thomson et al., 2011). Though knowledge of the mechanisms for exerting power at the EU level remains limited (Ruse, 2013), the scholarship on the determinants of bargaining success in the EU has identified a number of power resources that appear conducive to states' capacity to shape decision outcomes as part of Council negotiations.

The literature divides power resources between informal (for instance related to the issue/process at stake) and formal power resources (such as voting power). The scholarship on formal power resources has demonstrated how variations of structural and institutional power resources remain insufficient to fully understand EU's decision-making outputs, as Council processes tend to be

defined by informal bargaining rather than formal decision-making procedures (Thomson et al., 2011; Kleine, 2013). The growing scholarship on Council's informal processes have complemented this gap by investigating the distribution of informal power resources across MS, and its implications. For instance, studies of MS' network capital suggest that some states benefit from stronger informal channels to connect with others in the context of negotiations (Naurin & Lindhal, 2010). The literature on the informal governance of the EU (Kleine, 2018) and on the power of small states (Panke, 2010b) also indicates differences in the capacity of MS to exert influence on other EU institutions. At the individual level, scholars have also argued that the high interaction density between negotiators in working groups creates environments in which individual skills, expertise and social credit have been considered as pivotal during day-to-day proceedings (Smeets, 2015), thus amplifying asymmetries between national negotiators' capacities and resources.

But despite evidence that informal power resources can support bargaining success in EU negotiations, other studies on the effect of states' Brussels-based resources on bargaining success have remained largely inconclusive (Bailer, 2004; Sepos, 2005). These accounts seem paradoxical since bargaining success in the Council increasingly requires collective action among governments, and thus between their representatives in Brussels. The increasingly complex and multipartite nature of EU negotiations requires states to allocate sufficient resources to their negotiators to efficiently engage with the ever-evolving political dynamics of the EU.

Though faced with the same challenge, MS differ in the resources they allocate at the European level (Panke, 2012). These asymmetries of resources are displayed in the execution of 'upstream' and 'downstream' functions (Kassim et al., 2001) which permanent representations perform vis-à-vis their national system. 'Upstream', the role of the permanent representation is to defend the interests of their member state by engaging with other actors in Brussels, and 'downstream' it consists in informing and engaging with domestic actors in the capital.

Though not all MS give the same scope of tasks to their respective permanent representation, each is at least responsible for one core 'upstream' function: engaging with other actors in Brussels to forge coalitions on issues of interest. Since all permanent representations are responsible for coalition-building tasks, though with different levels of resources, focusing on the capacities of permanent representations to liaise with others at the EU level thus offers a relevant framework to explore the mechanisms by which asymmetries in permanent representations' resources can influence states' bargaining success in the EU.

Linking states' resources and coalition-building processes

Once national negotiators in Brussels receive their mandate of negotiation, their role is to advance these positions at the EU level. Recent changes in the institutional rules of the Council and past EU enlargements suggest that forms of cooperation with other MS, and EU institutions, are increasingly needed to secure favourable outcomes, though not all benefit from the same resources to liaise

with others (Panke, 2012). This article distinguishes three main elements derived from the recent literature on Council negotiations, which combined can give explanatory power to MS' resources for understanding decision outcomes in the Council.

Salience: Given the importance of alliance-building efforts in achieving success in Council negotiations (Ruse, 2013), permanent representations with more resources may be more likely to be in the capacity to shape decision outcomes, though not systematically. The scholarship on the decision-making process of the Council indeed indicates that the relative salience of actors is a key determinant for bargaining success (Thomson, 2011), and can also lead them to shift their policy positions as part of negotiations (Arregui et al., 2004). Salience appears directly relevant to the study of the effects of permanent representations' resources, given that MS' salience can be conceptualized as an incentive for MS to fully mobilize their informal power resources (Arregui & Thomson, 2009). As a result, variations of permanent representations' resources need to be studied in particular when MS express high issue salience, given that only under these conditions do MS actually use their 'potential capabilities' to influence a decision outcome (Arregui, 2016; Perarnaud & Arregui, Forthcoming).

Capacity to liaise within the Council: MS are incentivized to engage with a range of actors in order to ensure that their preferences will be reflected in negotiations' outcomes. The scholarship recognizes coalition-building as a strategic behaviour of power pooling (Elgström et al., 2001) that is key for MS in order to achieve blocking or qualified majorities. But to initiate political dynamics in Brussels,

permanent representations need timely and clear positions in order to identify and rally potential coalition partners (Huhe et al., 2019). Also for negotiators in Brussels, forming *ad hoc* alliances majority requires a sustained engagement with their counterparts, as well as a minimal level of negotiating skills. National coordination systems characterized by slow and cumbersome processes may thus limit the ability of permanent representations to engage with their capital, but also lead to insufficient or delayed instructions to be defended by negotiators in Brussels (Adriaensen, 2016). These limitations may then undermine MS' bargaining power, in weakening their capacity to form coalitions.

Capacity to engage with EU institutions: Beyond the Council, national representatives are also incentivized to engage with other EU institutions, and in particular the European Parliament (EP) and the European Commission (Panke, 2012). Engaging with MEPs can provide a second avenue for the defence of states' interests, in particular given the EP's role in trilogue negotiations. These incentives apply with the European Commission as well, as maintaining good relations with the European Commission is often presented as 'extremely valuable, in terms of gaining access to information, or influencing policy-making' (Kassim et al., 2001). Establishing links with MEPs and Commission officials is however highly resource-intensive for permanent representations, given that negotiators are expected to liaise with MEPs and EU officials, simultaneously and in addition to their 'normal' work in the Council (Bressanelli & Chelotti, 2017). Thus MS with sufficient human resources and structured connections with MEPs are likely to benefit

from such asymmetries in the context of bargaining processes between the EP and the Council. In this context, the decision-making process can thus be framed as a competition between actors, in which they formulate competing demands on others, with a view to attracting as much support as possible for their own policy positions (Arregui et al., 2004). Thus the conditions set by the hypothesized explanatory mechanism are expected to give more relevance to the challenge model (Bueno de Mesquita, 1994), relative to other cooperative models of bargaining (compromise and exchange), in explaining shifts in the positions of MS.

The proposed explicative mechanism thus hypothesizes that MS must engage with a range of actors in order to ensure that their preferences will be reflected in negotiations' outcomes, and tend to do so proportionally to the salience they attach to their preferences. On salient issues, MS' capacity to form coalitions with other MS is dependent upon their human resources in Brussels and the efficiency of their coordination processes, and in particular the reception of timely and clear positions from the capital. Beyond the Council, MS' capacity to nurture structured relationships with MEPs and Commission officials is also constrained by their own resources and processes, thus amplifying asymmetries of access, information, and eventually influence between MS.

3.3 Methodology and data

Given the limited insights on the effects of permanent representations' resources on bargaining success in the Council, this

article intends to make a first step towards filling this gap by presenting a qualitative comparative case study, looking at three recent EU negotiations.

The three cases are investigated according to a most-similar-systems design (Przeworksi & Teune, 1970), as on the one hand they are characterized by significant variation in the independent variables (permanent representations' resources), whereas on the other hand they show similarities for a range of key factors. These legislative dossiers indeed share a set of key characteristics, in terms of negotiation rules (qualified majority voting in the Council), their overlap in timespan (between 2016 and 2018), the high level of controversiality of the issues under discussion, and their similar policy-domain (DSM policies). These shared characteristics allow to minimize the impact of other potential factors such as issue area, institutional rules, contextual developments, and even more importantly, variations over time of the resources allocated by states to their permanent representation. Importantly, these three cases are extracted from the newly released DEUIII dataset which provides with a comprehensive mapping of MS' initial positions (and salience) on the main controversial issues of these recent legislative files.

To analyse how asymmetries in permanent representations' resources influenced negotiations' outcomes, this article investigates different types of 'fingerprints' - pattern evidence, trace evidence and account evidence – as proposed by Beach and Pedersen (2016). In line with the theoretical expectations, the evidence that are analysed refer to the variations of permanent representations' resources mobilized in the context of the legislative files under study, actors' policy

positions and decision outcome for each controversial issue, and evidence linking states' informal resources and their bargaining success.

The empirical analysis primarily draws on 23 semi-structured interviews in Brussels with representatives of MS (Belgium, Bulgaria, Croatia, Cyprus, Denmark, Estonia, France, Germany, Ireland, Luxembourg, Malta, Netherlands, Slovakia, Spain, Sweden) and EU institutions (European Commission and Council General Secretariat). The interviewees were contacted due to their direct participation to the negotiations under study and therefore unique insights on the role played by their respective permanent representations in these processes. For reasons of confidentiality, the interviews were anonymized.

In order to estimate states' bargaining success, their initial preferences on key controversial issues were compared with their respective outcome, based on the newly released DEU III dataset (Arregui & Perarnaud, Forthcoming). The information on states' positions and salience is represented by means of 'scales' according to an established methodology (Thomson, 2006). The estimated distribution of states' preferences and salience on each controversial issue is detailed in Appendix 1. To increase validity, triangulation was also applied to use contextual information retrieved on governmental portals and confidential session reports disclosed by at least one respondent for each legislative process under study.

Figure 14: Legislative files and controversial issues under study (2016-2018)

Case Studies	Issues
Regulation on the free flow of non-personal data (2017-2018)	- *Scope of the derogations*
Geoblocking regulation (2016-2018)	- *Relation of the regulation with Rome I and Brussels I regulations* - *Passive sales* - *Inclusion of copyright protected services*
European Electronic Communication Code directive (2016-2018)	- *Peer-review for spectrum* - *Inclusion of OTTs* - *Governance* - *Access*

3.4 Empirical analysis

This section presents three case studies, documenting the adoption process of recent legislative files related to the EU Digital Single Market. For each case, the analysis first provides an overview of the distribution of the initial preferences and salience of MS on the main controversial issues[61]. This overview is followed by two sections respectively uncovering states' coalition-building dynamics in the Council and engagement efforts with the EP.

Controversial issues: Positions and Salience

Case study 1 – Regulation on the free flow of non-personal data (2017-2018)

Case study 1 consists in the adoption process of a regulation on the free flow of non-personal data in the EU, initially proposed in

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[61] The detailed account of MS' positions and salience is included in Appendix 1 due to space constraints.

September 2017 by the European Commission (2017/0228COD). Its main objective was to achieve a more integrated internal market for data storage at the European level. This file was considered as a political flagship for European commissioner Andrus Ansip, who reportedly lobbied the president of the European Commission to maintain this proposal on the agenda, despite France and Germany's opposition[62].

At the level of the Council, the main controversial issue opposing MS consisted in the scope of the derogations which could interfere with the principle of free flow of non-personal data. Proponents of the free flow of data wanted to maintain the scope of the regulation as broad as possible, as envisioned initially by the European Commission. Individually, the support of MS to the free flow of data was motivated by different economic and political interests. For instance, Poland had an interest in ending data localization practices given its competitive advantage (in terms of labour and energy costs) for attracting data storage companies on its territory[63].

On the other side of the political spectrum, France and Germany were explicitly opposed to this regulation. They opposed the possibility given to companies to move data away from their national territory, on the ground that curbing data localization practices would lead to a greater concentration of the global cloud market. France and

[62] After a first proposal was internally drafted by the services of the European Commission, France reportedly pressured the Commission to delay its publication, due to concerns regarding the scope of the proposal.
[63] Poland funded a study which described the positive effects of this regulation for Poland and other MS. This report was presented in Brussels by the Polish secretary of State to European Commissioner Mariya Gabriel.

Germany expressed concerns about the negative externalities that such data transfers could imply, in terms of intellectual property, data theft and cybersecurity[64]. As a result, France and Germany supported a number of derogations, for instance providing that public data should be stored on national infrastructures. France also pushed for ensuring that national companies could not refuse to communicate information to relevant national jurisdictions, and be compelled to relocate their data in last resort. France also promoted a broad exemption for national security purposes, public archives, national treasury, and culture[65]. On November 2018, this regulation was adopted unanimously by the Council, with a number of amendments suggested by France and Germany, notably on the possibility for MS to impose penalties on actors which would prevent national authorities from accessing data stored in another member state, though several exemptions, on data related to creation and cultural heritage for instance, were not included.

Case study 2 – Geoblocking regulation (2016-2018)

On May 2016, the European Commission proposed a new regulation to prevent geoblocking and discrimination for online customers in the EU (2016/0152COD)[66]. This legislative proposal was one of the core proposals of a broader package of e-commerce rules unveiled in 2016, and had internally triggered intense debates within the

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[64] Interview 17 with EU official, 15/11/2018, Brussels.
[65] Interview 11 with MS representative, 19/09/2018, Brussels.
[66] Geoblocking refers to discriminatory practices preventing customers to access or purchase online services and products when located in another member state than where the local website is based.

Commission[67]. The examination of the proposal started in the Council in June 2016. Three core issues structured the negotiations.

The first issue under discussion was the relation of the geoblocking regulation with Rome I and Brussels I regulations (rules that cover the applicable consumer protection law and jurisdiction of courts). A number of MS displayed strong reserves regarding the Commission proposal because the link between the geoblocking and Rome I/Brussels I regulations was insufficiently clear in the initial proposal. Luxembourg strongly advocated for a derogation to Rome I, with the support of other MS[68].

The second contested issue of this negotiation dealt with passive sales[69]. A number of internal market-oriented MS were in favour of maintaining the provisions of the article 6 as drafted by the European Commission[70]. For these MS, it appeared important to guarantee the prevalence of the geoblocking regulation over competition law in particular. But other MS instead supported maintaining the prevalence of competition law over the geoblocking regulation, and this issue appeared as a strong red line for Germany, Spain and France.

The third controversial issue concerned the inclusion of copyright protected services in the scope of the regulation (article 4). A number

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[67] The very targeted nature of the Commission initial proposal signaled that commissioner Gunther Oettinger, who had repeatedly sided with rights-holders of copyrighted content, appeared successful in opposing Andrus Ansip' stance, who publicly signaled his "hate" for geoblocking practices.

[68] Interview 2 with MS representative, 11/06/2018, Brussels.

[69] Passive sales refer to sales in response to unsolicited requests from individuals

[70] The provision read: "agreements imposing on traders' obligations, in respect of passive sales, to act in violation of this Regulation shall be automatically void".

of MS (such as France) were strongly opposed to their inclusion from the beginning[71]. Their position could be explained by their content industry's interests in maintaining the *status quo*. On February 2018, the Council voted in favour of the regulation with the abstention of Austria. Among the three controversial issues, the outcome was the non-inclusion of services providing copyright protected materials in the regulation (with a review clause), and an inclusion of a derogation in case of conflict with competition law.

Case Study 3 – European Electronic Communication Code directive (2016-2018)

On September 2016, the European Commission proposed a directive establishing a European electronic communication code, amending four directives related to the field of telecommunications (2016/0288COD). This proposal was a core element of the connectivity package put forward by the European Commission as part of its digital single market strategy. This reform intended to address recent evolutions in the field of telecoms, as well as uncertainties deriving from the fragmentation of national telecom rules and the growth of internet platforms.

On spectrum policies[72], one of the main issues at stake consisted in the proposal of the European Commission to grant more authority to the EU regulator. More specifically, the proposal consisted in having

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[71] Interview 13 with MS representative, 16/10/2018, Brussels.
[72] The main blocks of the directive were initially addressed separately by negotiators as part of different tracks. Since all issues could not be tackled altogether, this study covers one key issue for each track – spectrum, services, governance and access.

national regulatory authorities submit national spectrum assignment measures to a peer-review led by the EU telecommunication regulatory body. The pre-existing system was instead driven by an entirely voluntary process led by a MS-led advisory group known as the radio spectrum policy group (RSPG). France, Sweden and Slovenia appeared in favour of such a peer-review led by the EU regulator, whereas Netherlands, Hungary and Spain, as well as a large majority of MS, were strongly opposed to this possibility[73].

For the block "services", the main issue consisted in the inclusion of over-the-top services (OTTs) within the scope of the directive. The Commission had initially proposed to explicitly bring certain communications services within the scope of the directive for a number of provisions. MS were strongly divided on the extension of telecom rules to OTT service providers. France and Spain wanted to introduce wide requirements for OTTs, whereas Sweden, Finland, Denmark, Czech Republic, Netherlands, Luxembourg, Ireland, United Kingdom and Belgium were among the MS advocating for a very limited inclusion.

The third building block of this reform concerned its governance dimension, and one of its main controversial issues referred the harmonization of the list of tasks attributed between national regulatory authorities and governments to regulate network and service providers. On this issue, MS were divided, primarily in function of the structure of their own national system. MS in which national regulatory authorities had more limited competencies

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[73] Interview 3 with MS representative, 11/06/2018, Brussels.

(Spain, Denmark), were opposed to ones where national regulatory authorities appear more powerful (France, Visegrad countries).

As for the block on access, the main controversial issue related to a suggested increase by the Commission of the intervention power of states on their own national market, in order to prevent situation of duopolies and rising costs for consumers. Netherlands and Belgium appeared to be the main driving forces in favour of broadening further this proposed regulatory change, by calling for this power to be widened to a wider set of circumstances and with fewer limitations on its use[74]. However, the rest of the Council, and in particular Germany, was concerned about an increase in the intervention power of states on their own markets, as it could further fragment the EU telecom regulatory framework. On February 2019, the Council approved the EP's position in the directive by unanimity, which opposed a mandatory peer-review on spectrum, provided for a limited inclusion of OTTs in the scope of the directive, an intermediate list of tasks for NRAs, and more power for MS regarding joint dominance.

States' coalition-building efforts in the Council

In Case Study 1, the two main groups of MS which were opposed in the Council did not appear characterized by similar coalition dynamics. For MS in favour of maintaining the scope of the regulation as broad as possible, the free flow of data was identified as a priority before the Commission proposal, and therefore did not

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[74] Interview 5 with MS representative, 21/06/2018, Brussels.

require an intense preference-shaping exercise in capitals during the negotiations. To coordinate their actions, these MS engaged as part of an informal coalition group, the '*digital likeminded group*', gathering 17 MS in total[75]. The Danish and Estonian attachés had been the driving forces behind the creation of this likeminded group during previous negotiations[76]. Brussels-based, this group gathered mostly at attaché level, though ambassadors also met informally under this format. According to respondents, the Danish and Polish attachés were particularly active in the context of this group to mobilize other MS and build political momentum around their political preferences[77]. Before the adoption of the Commission proposal, a number of joint letters from heads of states were initiated by this group. During the negotiations, it gathered regularly to discuss on text compromises and help align MS' strategies.

Though both defending salient preferences, France and Germany did not formulate their detailed positions at the same pace. France had its position defined earlier than Germany. Despite initial disagreements between ministries, the French national coordination system, headed by the SGAE ('Secrétariat general des affaires européennes') at the Prime minister's office, led to a strong national mandate from the beginning of the negotiations in 2017. On the contrary, the German coordination system had more difficulties to combine the

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[75] Interview 8 with MS representative, 11/09/2018, Brussels
[76] Originally, the digital like-minded group had been launched when the European Commission initiated its Digital single market strategy in 2015. It mobilized concretely for the first time during negotiations on the NIS directive. MS part of this like-minded group have a liberal approach to internal market and digital issues, and in common to be digitally "ambitious", but not necessarily digitally advanced.
[77] Interview 17 with EU official, 15/11/2018, Brussels.

antagonistic views of the interior ministry, which was more aligned with the French mandate, and the economy ministry, which privileged a more liberal approach towards the free flow of data. The ambiguity of the German position remained until the very last rounds of negotiations in Coreper. The initial support of Spain, Cyprus and Hungary gave this camp the possibility to form a blocking minority, which may have prevented the adoption of the Council mandate. But as time passed, Spain ultimately withdrew from the blocking minority, on the one hand because its main red lines had been taken into account by the Council presidency, but also as a result of a number of bilateral discussions with other governments from the digital like-minded group. As a result, the blocking minority was lifted[78].

In Case Study 2, the adoption process of the Council's general approach also displayed contrasted coalition-building dynamics. Regarding the relation of the geoblocking regulation with Rome I and Brussels I regulations, after several rounds of negotiations and an extension of the wording related to this issue, a large majority of MS agreed with an amended version of the Commission proposal. Only Luxembourg, Austria, Greece, Romania and Belgium maintained their opposition to the text at the level of Coreper. This issue was highly salient for Luxembourg, which was represented by an experienced and skilful negotiator, who appeared unable to advance its position in the Council, due to the opposition of other MS, but also the strategy followed by its potential allies, and in particular Austria.

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[78] Interview 5 with MS representative, 21/06/2018, Brussels.

Though defending a highly salient position on this issue, Austrian negotiators never attempted to negotiate constructively with their counterparts, and remained opposed to the adoption of this file until the end without entering into compromises to derail competing dynamics.

On the issue regarding passive sales, the Dutch negotiator played an instrumental role, drafting with Spain a compromise not fully in line with the Dutch mandate, but which allowed to secure the adoption of the general approach. The compromise significantly departed from the Commission proposal, and suggested that competition law would prevail on the geoblocking regulation. The Dutch negotiator had chosen to craft this compromise in order to 'control the deviation' of the Council position from the Commission proposal, knowing that the Dutch position of maintaining the prevalence of the geo-blocking regulation over competition law was not supported by a majority in the Council[79].

Regarding copyright, the negotiations on the general approach did not generate significant debates between MS, given that MS with high salience on this issue shared the same position, and were supported by a large majority of MS. The Council position thus consisted in excluding services providing copyright protected materials such as e-books, online music and audio-visual content from the scope of the regulation. The compromise on the Council position was ultimately agreed at a Competitiveness Council meeting in November 2016.

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[79] Interview 12 with MS representative, 24/09/2018, Brussels.

In Case Study 3, the negotiation dynamics also favoured a number of pro-active MS in the shaping process of the Council's position. First, the discussions on spectrum issues were particularly intense between states, and derived progressively outside of the working group, as part of bilateral talks between capitals of MS with the highest salience[80]. Informally, the presidency was made aware of the development of discussions outside of the working group. Once the two opposing camps found an agreement, they came back to the working group with a compromise proposal. Since a large majority of MS did not support the proposal of a peer-review, the Council position was to maintain the voluntary process led by the radio spectrum policy group.

Regarding the inclusion or not of OTTs, the United Kingdom appeared instrumental, along with Germany, in designing the mechanism of the review clause, which secured an agreement on this issue in the Council. Germany and the United Kingdom had indeed circulated during the negotiations a non-paper suggesting the creation of a special review procedure on end-users' rights, in order to provide a possibility to re-evaluate in the future the scope of the types of electronic communications services covered.

Regarding the issue on symmetric regulation, Netherlands and Belgium progressively received the support from other MS (including Sweden and France), in exchange for Belgium and Netherlands' support on other issues in return[81]. Though the rest of the Council, and in particular Germany, was concerned about an

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[80] Interview 4 with MS representative, 20/06/2018, Brussels.
[81] Interview 10 with MS representative, 18/09/2018, Brussels

increase in the intervention power of states on their own markets, this position was adopted by MS, though it was expected that some, and in particular Finland and Germany may not be able to support the final compromise.

States' engagement with the EP

In Case Study 1, the EP report of the Swedish rapporteur Anna Maria Corazza Bildt (EPP) on the regulation was approved by the committee on Internal Market and Consumer Protection (IMCO) on 4 June 2018. Given the alignment between the EP and Council's positions, the trilogue phase did not generate significant controversies between the two institutions, and did not alter the core parts of the Council mandate. The main EP political parties broadly supported the affirmation of this principle in EU law, as only a few amendments were proposed by MEPs in favour of more derogations to the principle of the free flow of data[82].

In Case Study 2, this legislative proposal was discussed in the EP by the IMCO committee and had the Polish MEP Roza Graefin von Thun und Hohenstein (PPE) as rapporteur. In this case, the position of the EP on passive sales and copyrighted content strongly diverged from the Council's position. The strong mandate of the EP on both issues reopened discussions within the Council. A number of MS including the Netherlands advocated for returning to the initial wording of the provision on passive sales during trilogue

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[82] See for instance amendments 76, 86, 106, 111, 164, 182 and 183 by MEP Philippe Juvin, mirroring the position of the French government.

negotiations. Also, several MS (including Italy, Finland, Ireland, Cyprus, Belgium, Latvia and Czech Republic) indicated that they could support the compromise proposal of the EP on copyrighted content. For the EP rapporteur, the inclusion of non-audiovisual copyright protected content services was indeed considered as a red line to strike a deal, though not all MEPs in its committee supported this stance. As reported by respondents, France was for instance active in engaging with French MEPs in the IMCO committee[83] in order to restrain the efforts of the EP rapporteur in favour of the inclusion of copyright protected content[84]. To address the strong reservations of MS such as France on copyright issues, the Estonian presidency proposed to include only certain non-audiovisual copyright-protected content services in the scope of the regulation, after a transitional period of three years. This proposal, as well as other similar packages, eventually failed to meet sufficient support from MS, though only few votes were missing to obtain a qualified majority.

As the issues of passive sales and non-audiovisual copyrighted content were tied to each other in trilogues, a number of countries such as France, with high salience on both issues, were forced to choose between the two, as it appeared this was the only condition for an agreement with the EP. MS such as France and Spain were constrained to compromise on one issue (passive sales) in order to

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[83] Interview 16 with EU official, 22/10/2018, Brussels.
[84] As suggested also by the amendments of French MEPs such as Philippe Juvin in amendments proposals 111, 112 and 121 on the EP's draft report.

impose their preferences on another one with greater salience (copyright).

In Case Study 3, the IMCO and ITRE committees of the EP were each responsible for different sections of the directive. For one of the two EP rapporteurs, Pilar Del Castillo Vera, as for the rest of the EPP group in the EP, the main priority in this directive was the duration of licenses (in the spectrum block). Whereas for the second main EP's political parties, the S&D party, the main priorities consisted in the provisions on intra-EU calls (services) and symmetric regulation (access). The EP had initially supported the mandatory peer review mechanism in its report, but quickly gave up on its position during trilogue negotiations, since it was not one of its major red lines. This choice was justified by respondents by the influence of Spanish negotiators in liaising with one of the two EP rapporteurs, who was in charge of spectrum issues. Preventing the creation of a mandatory peer-review was a top priority for Spain, and led Spanish negotiators to engage repeatedly with the rapporteur in the context of discussions between the Council and the EP[85]. Informal exchanges were partly facilitated by the fact that this EP rapporteur was Spanish, affiliated to the at-a-time governing party (PP) in Spain and had similar views with Spanish ministries on this directive. The outcome of the negotiations on this issue was the permanence of a voluntary system, led by the RSPG, in line with the preferences of Spain and other likeminded MS.

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[85] Interview 4 with MS representative, 20/06/2018, Brussels.

Regarding the block on 'Services', the main issue for the EP concerned intra-EU calls, and not the inclusion of OTTs. The issue of Intra-EU calls had not been envisioned by the European Commission in its initial proposal, and consisted in adding a provision to cap the prices of intra-EU international calls. MEPs wanted to use this negotiation to obtain a similar capping mechanism as for roaming fees in a previous legislative text. Respondents explained that the final inclusion of a provision on intra-EU calls in the directive, though with caveats and limitations, illustrates that the EP agreed to exchange its support to the Council's position on a number of issues, including a limited inclusion of OTTs in the scope of the directive.

This issue related to the list of tasks for NRAs did not lead to substantial negotiations during trilogues, and the final outcome of the negotiations on this issue appeared relatively in between the preferences of the two camps that were first opposed in the Council. However, a respondent argued that in this context Spanish negotiators were helped by their connection with the rapporteur, and that in finding compromise with the EP, the Council had to agree in direction of the Spanish position[86].

Finally, in discussions revolving around symmetric regulation, Belgium and the Netherlands' position was highly salient, but rather isolated in the Council, especially in the first steps of the negotiations. As a result, Dutch negotiators engaged proactively with MEPs in order to explain their position and attract the interests of the EP on

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[86] Interview 13 with MS representative, 16/10/2018, Brussels.

this issue[87]. Dutch negotiators were instrumental in helping MEPs to identify the political opportunity brought by this issue, hidden in a very technical file, to call for more competition, lower costs and advocate against joint dominance[88]. Though it was not initially envisioned by the EP rapporteur, the position of the EP on this proposal became thus aligned with the one supported on this issue in the Council by the Netherlands and Belgium.

3.5 Discussion

The empirical analysis indicates how a set of states' informal power resources appear to have fostered (or prevented) their cooperation with other MS and EU institutions, and thus influenced decision outcomes.

Case Study 1 indicates how large MS can be outmanoeuvred by smaller MS in a legislative dossier, limited in size, but highly political nonetheless. It appears that the high level of coordination between members of the '*digital like-minded group*' allowed for the development of efficient strategies to contain the initial concerns forcefully expressed by France, and to dismantle a blocking minority, which had threatened to block the adoption process of this regulation. At the individual level, evidence at the attachés/counsellors level suggest that the personal capacities of a handful of negotiators, supported politically by their home state, helped to create a dynamic

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[87] Interview 22 with EU official, 10/05/2019, Brussels.
[88] Interview 18 with MS representative, 21/11/2018, Brussels

Brussels-based intergovernmental network which appeared instrumental throughout the process. However, MS supporting Franco-German concerns did not appear to coordinate their opposition to this regulation, and the slowness of the German internal coordination process appeared to limit the overall influence of the German government on this dossier.

In Case Study 2, bargaining success appears also unevenly distributed between MS across issues, and evidence suggests it is partly as a result of asymmetries of states' informal resources. The role of the Dutch negotiator in drafting and securing support to compromise proposals in the Council and during trilogue negotiations on a specific issue illustrates the circumstances in which permanent representation's resources matter in shaping decision outcomes. On the other hand, the inability of Austrian negotiators to defend salient positions shows how not engaging constructively with other states and the EP significantly limit opportunities to achieve success at the EU level. As suggested by a respondent: '*[The Austrians] didn't build strong alliances either. They really went down alone if you want. Of course, whenever someone was criticizing an article, they were supporting them. But they just said all the time "as you know we hate this proposal, so we also hate this article". But that's useless'.* Also, the success of France on the issue of copyright appears to relate to contextual developments (namely the situation generated by the political crisis in Germany at a time), but also the pressure it exerted towards the EP rapporteur. Indeed, according to a respondent, because '*the French kept their MEPs mobilizing the copyright friendly MEPs, the rapporteur knew she cannot be too bold*

in the negotiations, because she may lose the debate or the vote afterwards. And the Council knew it as well, these things are quite obvious. If you negotiate you know who is behind, how solid is it. If you go to the next round, will you still have the majority behind you? We doubt it. And that may have helped the EP to give in on copyright and keep article 6 and the more ambitious review clause in return.'[89]

Case Study 3 also offers valuable insights on the role of resources and individual capacities in Council and trilogue negotiations. A number of MS (UK, Netherlands, Germany, Dutch, Spain, Denmark) led the negotiation dynamics, as shown by the range of compromise proposals they issued, which eventually gathered the support of the Council. On the issue related to spectrum, MS with highly salient positions informally agreed on a compromise outside of the Council working group, thus underlying the extent to which salience can condition bargaining success in Council negotiations. Also, Dutch and Spanish negotiators appeared, in the context of independent issues, to be able to efficiently convey their positions to relevant MEPs during the drafting of the EP position and the trilogue phase. In particular, Dutch negotiators appeared instrumental in "informing" the position of the EP on joint dominance, and thus aligning it with the preferences of the Dutch government.

Alternative explanations: Relation with other power resources

The three cases described in the empirical analysis confirm the overall explanatory role of formal resources and preferences'

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[89] Interview 16 with EU official, 22/10/2018, Brussels.

extremity in shaping Council decision outcomes, but also suggest configurations in which they are insufficient to explain decisions, while granting more relevance to informal power resources.

Regarding voting power, each case indicates how large MS can benefit from the shadow of their votes (Golub, 1999) as part of Council negotiations. Each case demonstrates the significance of the influence of large MS in EU policymaking, and the power they derive from their position of strength in the Council. Even in case study 1, despite not being able to prevent this regulation from being proposed by the European Commission, Germany and France secured a number of exemptions, despite the broad opposition of the rest of the Council. However, this case also shows how greater voting power alone is not sufficient for MS to initiate political dynamics in the Council. The reactivity and level of engagement of MS with Council policymaking processes, which partly stems from the structure and resources of their permanent representation, appear to have helped several MS to overcome voting power imbalances, as argued by a senior negotiator responsible for the geoblocking regulation: "*that is of course important if you want to influence a negotiation. If you just come all the time to express the same position, it is less strong than if you put up a room document, secure the support by four or five others at least, as the likeminded often do, and then it gets a momentum in the room. [...] Five or six MS have already agreed behind the scene to support this and all of the sudden it is there, and you have a choice, and sometimes it kicks off a dynamic. [...] Then you have fifteen or sixteen MS putting positive scrutiny reservations, and this text becomes a real contender to the presidency text. But if*

you are like the Germans, unable to put forward a document, or a new position, you are always in this reactive mode, you are like a grizzly bear sitting there"[90].

The structure of the constellation of MS' preferences for each issue also appears as a clear determinant of their relative bargaining success. For most issues, the decision outcome tends to favour the position gathering the support of the highest number of MS. When a large majority of MS initially agrees on a particular issue, this position logically becomes a serious contender in the negotiations, as exemplified in the case study 3 by the debates on the mandatory peer-review, for which all MS (except two) initially shared the same position. However, the empirical analysis also includes configurations in which a minority of MS prevails, by leveraging negotiation games between the EP and the Council in their favour. In separate issue, evidence of coordinated engagement between the Dutch, French and Spanish permanent representations and MEPs appear to have tilted decision outcomes towards their own national positions.

3.6 Conclusion

This research suggests how permanent representations' resources can play a role in supporting or limiting states' influence in EU policymaking processes. Corroborating that states' voting power and

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[90] Interview 16 with EU official, 22/10/2018, Brussels.

preferences' constellation structures do influence decision outcomes, the three case studies also indicate configurations in which states' varying capacity to liaise with other actors in the Council and the EP may partly determine their bargaining success. For instance, MS such as the Netherlands, with appropriate resources allocated to their permanent representation, appeared successful in different contexts, having regularly drafted compromise proposals in the Council to safeguard their interests, or by engaging directly with the EP to circumvent Council processes.

Findings confirm that the capacity of MS to liaise with other actors in the Council and the EP partly relates to their permanent representations' resources, which are mobilized proportionally to the salience of states' preferences on an issue, as MS do not systematically use the full potential of their power-pooling mechanisms. But when defending highly salient preferences, not all Brussels-based national negotiators appear to regularly engage with MEPs in order to channel national interests and 'exploit' the different political positions voiced inside the EP (Bressanelli & Chelotti, 2017). These conditions appear to give more explanatory power to the 'challenge model' of bargaining, in which actors shift their positions as the result of proposals and counter-proposals from other actors, as opposed to models of compromise and exchange (Arregui et al., 2004). Though the research design of the article does not allow for broad generalization, this visible asymmetry between states also has repercussions for debates on the EP's legislative role and the inter-institutional power balance of the EU (Trauner & Ripoll Servent, 2016).

On the policy level, the findings also suggest that the adoption process of digital policies in the EU is far from consensual, as MS appear divided on what the future of the DSM should look like. This article offers new insights on the determinants of states' bargaining success in overcoming these controversies. This research shows in particular that strong, yet informal, coordination mechanisms between the most digitally advanced countries of the EU have granted them significant influence over large MS. The '*digital like-minded group*' appeared successful in preventing the main internet platforms to be fully covered by new telecom rules, while affirming the principle of free flow of personal data in EU law, despite strong opposition from other governments. Nonetheless the policy preferences of this coalition are not homogeneous on all issues, as shown by the geoblocking regulation, reflecting the complex constellations of states' interests in the digital policy arena.

4. General conclusion

The processes by which EU decisions are adopted, and the various resources at the disposal of decision-makers can partly determine the bargaining success of member states at the EU level. From different analytical perspectives, and building on complementary research approaches, this dissertation has investigated how and to what extent the informal capabilities of MS have an influence on the outcome of Council decision-making processes.

The following section presents and ties together the main findings of the articles composing the dissertation. The limitations of this research and its main outputs are then critically examined, notably in terms of scope, research approach and methodology. A final section describes the main research avenues laid out by this research project and draws the way forward.

4.1 Main findings

The first article shows how MS' informal capabilities can impact legislative outcomes under certain conditions. Based on two comprehensive datasets documenting the capabilities of MS and their bargaining success, this research illustrates how the effectiveness of MS' permanent representations and their capacity to coordinate with other actors matter for explaining their bargaining success. This research indeed uncovers how both the structure of preference allocation and thresholds of formal power can be conditions of informal power resource activation, offering both quantitative and

qualitative evidence. Acknowledging that not all MS are equal in their ability to shape and defend their positions at the EU level, this research demonstrates the relevance of national coordination processes and states' lobbying frequencies in understanding EU decisions outcomes.

The empirical analysis indicates in particular that the relevance of MS' informal power resources in explaining bargaining outcomes varies in interaction with certain key features of the negotiations. Indeed, under certain thresholds of MS' voting power, extremity and salience, informal power resources appear increasingly relevant to analyse bargaining success. For example, differences in MS' voting power can influence the relevance of coordination efficiency. In the first article, it is demonstrated that the speed of the shaping process of national positions is relevant only for MS not characterized by a sizeable amount of voting power. Coordination efficiency is presented as particularly crucial for smaller MS, defending either salient or extreme preferences. One of the conclusions of the first article is that small MS (in terms of voting power), which appear isolated when defending an extreme position, can only be successful in establishing a blocking minority if their coordination process allows them to adopt their position early. As opposed to larger ones, smaller MS which appear late in the shaping process of their position appear less likely to be in the capacity to derail competing dynamics in the Council. In addition, the findings corroborate previous studies on MS' varying capacities to influence, or 'tame', the European Parliament as part of EU negotiations. In this context, it appears that issue salience can act as an incentive for MS to fully mobilise their

informal power resources, an in particular their influence channels towards other key actors (such as the EP). These findings highlight the critical role of salience in analysing bargaining success, conceptualised here as the proportion of an actor's potential capabilities' that it is willing to put into effect to influence other actors (Arregui & Thomson, 2009).

The second article complements the statistical analysis of the datasets, by unpacking the comprehensive qualitative data collected as part of the expert survey conducted in Brussels. By investigating the role and resources of permanent representations to the EU, this article compares the power resources of member states at the European level, in terms of variations in their human resources, structure and coordination processes. Significant differences are evidenced in the workforce, role and efficiency of permanent representations, as well as in their engagement with other EU institutions.

This research underlines major asymmetries in the informal capabilities of MS and thus challenges the notion of MS' 'equal' capacity to defend political preferences at the European level. The rich and novel data provided by this survey offers systematic information about the capabilities of MS permanent representations, and suggests that variations of permanent representations' resources do not necessarily reflect asymmetries in terms of their population and/or administration' size. A range of MS' permanent representations (such as Denmark and the Netherlands) indeed appear to be characterized by greater organizational capacities to leverage influence at the EU level, relatively to others. The

qualitative analysis illustrates how permanent representations' structure and processes can either amplify or limit the voice of governments in the context of recent Council negotiations. The analysis also provides for detailed accounts of how these informal resources can interact with other MS' power resources. If some MS have developed sophisticated instruments to influence the European Parliament, this study concludes that not all MS appear to have similarly internalized the institutional changes brought by the Lisbon Treaty, thus underlying significant divergences in the influence capabilities of MS.

The third article further studies the role of MS' permanent representations in relation to their bargaining success, by investigating in-depth several recent negotiations of a specific policy area (EU digital policies). Using a comparative case design, the article shows how member states' capabilities to form coalitions at the EU level are dependent upon their human resources in Brussels and the efficiency of their coordination processes, and how they can in turn translate into asymmetries of influence.

Three case studies evidence configurations in which MS' asymmetric capacity to liaise with the Council and the EP partly determined their bargaining success. Several MS, with appropriate human and administrative resources allocated to their permanent representation, appeared successful in different contexts, either in the Council, or in the EP to circumvent unfavourable Council dynamics. The article offers new unique insights on the determinants of states' bargaining success in overcoming policy controversies related to the negotiations of EU digital policies. This research shows in particular

that strong, yet informal, coordination mechanisms between the most digitally advanced countries of the EU have granted them significant influence over the shaping process of Digital single market legislations. These case studies thus further substantiate anecdotal evidence that influence asymmetries between MS correspond less to variations in terms of their structural power resources, and more to factors related to MS' governmental capacities and the strategies deployed (Grimaud, 2018).

4.2 Limitations

This section intends to critically examine this research project, notably in terms of scope, research approach and methodology,

It needs to be acknowledged that the first limitation of this project relates to its clear focus on the negotiation phase of the EU policy cycle. Indeed, this research investigates the EU bargaining phase in order to assess the influence of member states on policy outcomes. As the literature on agenda setting in the EU suggests (Princen, 2015), national governments and other stakeholders can invest significant resources into the preparatory steps of legislations negotiations, influence efforts that are not thoroughly addressed in the empirical part of the dissertation. Yet, influence is constantly exerted by a myriad of actors, and with varying levels of success, in shaping the political agenda of the EU. Estimating the success of MS based on their initial policy preferences shortly after the release of the Commission proposal thus casts shadow on the political sequence prior to the negotiations. The scholarship on 'non-decision making'

indeed shows the importance of agenda-setting in terms of political power (Bachrach & Baratz, 1970; Lukes, 1974). Still, it can be assumed that MS with efficient decision-making systems to advance their political preferences during the negotiation phase may also benefit from efficient mechanisms to convey their positions as part of the preparatory phase. Though it remains out of the scope of this research, we can at least reasonably expect that MS with limited administrative resources and weak coordination systems are not more likely than others to successfully shape the EU's political agenda. Furthermore, it can also be argued that the bargaining and decision-taking phase remains the most relevant stage to understand variations in the power balance (and its determinants) of the Council.

Similarly, this dissertation does not investigate the implementation of EU legislations, once decisions are effectively adopted. MS play a critical role in implementing the norms and decisions adopted by the EU. The growing literature on EU comitology indicates that MS can often reproduce the same divisions and influence efforts observed during negotiations, after legislative decisions are actually adopted (Blom-Hansen, 2013; Fernández Pasarín et al., 2020). Research on the implementation of EU legislation (Falkner et al., 2004) indicates how non-compliance can be used at times as a tool by MS to pursue by other means the defence of their political interests. Litigation is also among the tools in the repertoire of action of MS, that can be mobilised to contest and reverse EU decisions and rules during the implementation phase of decision outcomes (Adam et al., 2020). Though this sequence in the EU policy cycle is beyond the scope of our research, it could be expected that MS, characterized by high

issue salience but limited success during the negotiation phase, may become more likely to leverage such tools.

In addition to its strong focus on the negotiation phase, this research also focuses mostly on the decision-making process of the Council. As a result, the processes and actors of other critical EU institutions, such as the European Parliament, are less prevalent in the dissertation, due to time and resources constraints. For instance, when looking at how MS interact and strategically mobilise MEPs and the EP in general, the dissertation does not explore whether the opposite is also true. Indeed, MEPs may also consider strategically engaging with the Council and MS, to defend their own preferences, strengthen their influence within the EP and secure political gains in the short or medium term. Thus the strategic approach of MEPs towards MS permanent representations as well as their individual and collective influence capabilities would also deserve to be uncovered. Variations could indeed be encountered in function of the nationality of the MEPs, their seniority, or political affiliation. The relationships between permanent representations and MEPs need to be seen as embedded in unique and evolving political opportunity structures that should also be disentangled in order to better grasp the leverages that can be mobilized by MS in the EP. Moreover, as part of the DEU III dataset, the measurement of the initial preferences of the European Parliament on controversial policy issues does not reflect the constellation of existing preferences within the EP (across political parties, political role, nationality…), and thus may oversimplify what is understood as the position of the EP. This limitation is inherent to the DEU project, and its significant emphasis on the Council

decision-making process. Since the focus of this study is on the EU decision-making process and its main legislative institutions, other stakeholders, such as interest groups or sub-national organisations, appear less prevalent in the analysis, despite the burgeoning literature on interest groups and interest representation at the EU level (Dür et al., 2015; Greenwood, 2017). Though this limit needs to be acknowledged, this research assumes that formal decision-making institutions remain the most relevant actors to analyse and explain EU decision-making processes. Finally, this research focuses exclusively on legislative files following the ordinary legislative procedure, thus excluding negotiations and policy sectors in which the European Parliament cannot participate on an 'equal-footing' with the Council. This is for instance the case of the CFSP as part of the Political and Security Committee (PSC). Interestingly, Chelotti (2013) indicates that similar dynamics can be observed in the making of the EU's foreign policy, by laying the emphasis on the varying level of autonomy that national negotiators based in Brussels enjoy during CFSP negotiations.

4.3 Avenues for future research

This section describes the main avenues laid out by this research project and its corresponding datasets. First, this research focuses on the determinants of bargaining success at the EU level, and contributes to this field of study by evidencing the interaction effects of various conditions and resources on the success of MS in legislative negotiations. While confirming previous findings on the

main determinants of bargaining success (Bailer, 2004; A, this study suggests that under certain conditions national coordination systems also matter. Certain thresholds of formal powers and the structure of preference allocation indeed appear as conditions for the increase in relevance of informal capabilities in explaining bargaining success. More studies need to explore the intricate and complex interaction effects between a priori and process-based power resources, and in particular in linking the processes of national preference formation and interstate bargaining to policy outcomes (Wasserfallen et al., 2019).

More broadly, this study emphasises the role and relative importance of MS' informal capabilities for exerting influence at the EU level. As suggested by Panke (2013), organizational resources and coordination efficiency are valuable resources for MS in a multitude of other contexts than EU negotiations. Recent research efforts have indeed offered new insights on the link between the financial and staff capabilities of international organisations and their actual power (Heldt & Schmidtke, 2017). This research could thus be replicated looking at other negotiating environments at the international level, such as the United Nations General Assembly, or in the context of multilateral streams of negotiations (including trade agreements or climate negotiations).

Aside from states, this focus on informal capabilities could also be laid upon other formal and informal stakeholders in the context of EU negotiations, such as MEPs, interest groups, third countries, or sub-national actors. As suggested in the previous section, the DEU methodology would be extremely well suited in mapping the

allocation of preferences of other relevant actors, such as interest groups, and would thus allow for an estimation of their respective bargaining satisfaction as part of legislative negotiations. The same methodology could also be applied to the preferences and issue salience of third countries (in addition to EU MS), which also appear to be informally active in the EU decision-making process on specific policy issues (Haugevik, 2017).

Studying variations in the human resources of MS in Brussels also underlined significant differences in the number, stability, level of autonomy, but also individual strengths, of national negotiators. Indeed, variations in the experience, expertise, and communication skills were presented by interviews as crucial in the context of negotiations within Council working groups. The administrative or political constraints they face in Brussels were also deemed essential in terms of their capacity to exert influence at the EU level, and their importance clearly illustrated as part of the case studies presented in the dissertation. Thus, future studies should further investigate the actual role of negotiators in Council working groups (Fouilleux et al., 2005), the scope of conditions under which such variations may become critical, and the importance of socialization patterns for decision outcomes.

One of the main added values of this research is empirical, through the release of two unique and comprehensive datasets on the decision-making process of the EU and the resources of MS in the negotiation process. The DEU III dataset indeed offers a great potential for future research, and has shown great amounts of adaptability for multiple research topics on the inputs, processes and

outputs of the EU system of governance. This dataset is now the largest existing dataset in the literature on EU decision-making, and offers systematic information over twenty years (1999-2019). As illustrated by the vast literature already using this dataset, the DEU data can inspire contributions regarding individual institutional settings (as much in the Council as in other EU institutions, such as the EP) and collective decision-making processes. Over the two past decades, it has been equally capable of generating comprehensive analyses (on bargaining models and success rates for instance) and providing information useful for specific studies on transparency and the role of Council presidencies (Warntjen, 2008; Cross, 2014). Besides, it has shown high context-specific adaptation to the multiple stages of the EU governance process and even into evolving stages of the integration process, by looking at the effects of the Eastern Enlargement for instance.

This dissertation also introduces a new dataset on Informal capabilities, highlighting variations in the internal and external coordination processes of MS. This dataset further complements previous empirical efforts from Jensen (2014, 2017) and Panke (2010b, 2012), and provides updated and comprehensive data points regarding the quality and structure of MS' coordination processes. This new dataset could be used in future studies on the determinants of MS' bargaining success in international negotiations, in conjunction with the other data points introduced in this study. It could also be further enriched with more data related to specific policy sectors, to compare resources and processes across different

ministries. It thus provides interesting research avenues for the literature on comparative public administration.

By focusing on MS' informal capabilities, the objective of this research was to analyse to what extent the resources mobilized in the context of Council processes *per se* matter in shaping decision outcomes. In addition to comprehensively and systematically document variations in MS' informal capabilities and bargaining success at the EU level, this research has provided innovative insights on the role of informal capabilities in supporting member states to successfully influence decision outcomes. Observed by Kassim et al. (2001) two decades ago, the 'predominant pattern of differentiation' between national EU coordination processes has not only persisted, but appears to have had a concrete impact on the capabilities of MS to exert influence on EU legislations.

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Appendix

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Table A1: Descriptive Statistics.

	N	Minimum	Maximum	Mean	Std. Deviation
Success	1977	0	100	35.68	32.44
Salience	1977	10	100	52.88	26.38
Speed-Coord	1835	0	4	2.155	1.03
EP-Coord	1835	1.7	5	2.891	1.34
Extremity	1977	0	94	28.35	21.89
Distance to EP	1977	0	100	53.08	38.34
Distance to COM	1977	0	100	40.71	40.14
SSI	1977	.08	17.97	4.01	4.79
Network Capital	1938	.25	3.62	1.48	.89

Table A2: Correlation matrix

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
(1) Speed-Coord	1							
(2) EP-Coord	0.3247***	1						
(3) Salience	0.0107	0.1916***	1					
(4) Extremity	-0.0044	0.1105***	0.2271***	1				
(5) Distance to EP	-0.0468**	-0.0646***	0.0085	-0.0558**	1			
(6) Distance to COM	-0.0448*	-0.0502**	0.2106***	0.1991***	0.2038***	1		
(7) SSI	-0.4088***	0.4060***	0.1781***	0.1100***	-0.0390*	-0.0015	1	
(8) Network Capital	-0.0180	0.7191***	0.2297***	0.1104***	-0.0736***	-0.0495**	0.7247***	1

Text Box A1: Robustness checks

Table A2 indicates that the independent variables (in particular SSI and Network Capital) are highly correlated with other variables of interest. This high correlation might imply that our specification suffers from imperfect multicollinearity. Multicollinearity might lead to imperfect estimation of the affected coefficients and abrupt changes in the coefficients (in magnitude and direction) with small changes in the model. To address this potential issue, we stress that in our preferred specification we employ a two-level linear hierarchical model with random effects for issues, as this specification is already taking out some of the common variation (correlation) between the independent variables by estimating a common random component for issues. Secondly, as a robustness check, we decided to estimate the five models reported in Table 1 without including those potentially problematic controls, SSI and Network Capital. Tables A3-A7 report our original specification for models 1-5 respectively in the first column, and in the second column the same specification without including SSI and Network Capital. It can be noticed that as expected, the coefficients that were statistically significant (those used to draw our conclusions) remain significant and almost the same in terms of magnitude, indicating that those coefficients were precisely estimated. Moreover, the AIC scores are lower with our preferred specification indicating that the exclusion of those controls increases the amount of information lost and therefore, decreases the quality of the models. Finally, we investigate whether the inclusion of country and year fixed effects could lead to

better and more precise estimates and also could help mitigate the potential problem of multicollinearity by removing some additional correlation between the independent variables. Tables A3-A7 report the results of our preferred specification with country fixed effects (Column 3), with year of adoption fixed effects (Column 4) and with both country and year fixed effects (Column 5). Again, we observe that the significant coefficients in our preferred specification were precisely estimated. Also, the AIC scores are lower with our preferred specification indicating that the inclusion of those controls increases the amount of information lost therefore decreasing the quality of the models. Hence, we conclude that multicollinearity is not a worrying issue in our analysis and the results reported in this appendix shed light on the validity and credibility of our specification.

Table A3: Robustness checks for Model 1[91]

	C1	C2	C3	C4	C5
	b/se	b/se	b/se	b/se	b/se
Speed-Coord	0.105	1.057*	23.421	0.109	23.092
	(0.63)	(0.49)	(18.71)	(0.63)	(18.77)
EP-Coord	-0.066	-0.143	-14.246	-0.069	-14.035
	(0.59)	(0.39)	(12.57)	(0.59)	(12.62)
Salience	-0.078***	-0.076***	-0.080***	-0.080***	-0.081***
	(0.02)	(0.02)	(0.02)	(0.02)	(0.02)
Extremity	0.654***	0.640***	0.660***	0.656***	0.660***
	(0.03)	(0.03)	(0.03)	(0.03)	(0.03)
Distance to EP	0.391***	0.396***	0.396***	0.392***	0.397***
	(0.02)	(0.02)	(0.02)	(0.02)	(0.02)
Distance to COM	0.071***	0.070***	0.071***	0.072***	0.072***
	(0.02)	(0.02)	(0.02)	(0.02)	(0.02)
SSI	-0.457**		3.861	-0.458**	3.793
	(0.17)		(3.75)	(0.17)	(3.76)
Network Capital	1.620		3.034	1.623	3.035
	(1.05)		(2.26)	(1.05)	(2.28)
Member_state==2			35.413		34.895
			(26.59)		(26.65)
Member_state==3			26.692		26.379
			(20.07)		(20.13)
Member_state==4			-0.487		-0.570
			(8.02)		(8.03)
Member_state==5			33.474		33.005
			(24.90)		(24.98)
Member_state==6			44.566		43.832
			(39.58)		(39.74)
Member_state==7			-1.175		-1.218
			(9.03)		(9.05)
Member_state==8			1.468		1.389
			(9.21)		(9.25)
Member_state==9			-17.525		-17.335
			(13.53)		(13.56)

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[91] Distribution of the MS: Austria (Member_state=1), Belgium (Member_state=2), Bulgaria (Member_state=3), Croatia (Member_state=4), Cyprus (Member_state=5), Czech Republic (Member_state=6), Germany (Member_state=7), Denmark (Member_state=8), Estonia (Member_state=9), Greece (Member_state=10), Spain (Member_state=11), Finland (Member_state=13), France (Member_state=14), Hungary (Member_state=15), Ireland (Member_state=16), Italy (Member_state=16), Lithuania (Member_state=17), Luxembourg (Member_state=18), Latvia (Member_state=19), Malta (Member_state=20), Netherlands (Member_state=21), Poland (Member_state=22), Portugal (Member_state=23), Romania (Member_state=24), Sweden (Member_state=25), Slovenia (Member_state=26), Slovakia (Member_state=27), United Kingdom (Member_state=28).

Member_state==10	**26.648**		**26.346**
	(17.08)		**(17.12)**
Member_state==11	**-39.307**		**-38.780**
	(31.67)		**(31.77)**
Member_state==12	**19.141**		**18.803**
	(17.81)		**(17.89)**
Member_state==13	**1.918**		**1.956**
	(3.87)		**(3.87)**
Member_state==14	**0.000**		**0.000**
	(.)		**(.)**
Member_state==15	**6.142**		**6.062**
	(4.52)		**(4.53)**
Member_state==16	**4.036**		**4.048**
	(4.66)		**(4.66)**
Member_state==17	**0.000**		**0.000**
	(.)		**(.)**
Member_state==18	**-20.191**		**-19.897**
	(18.62)		**(18.67)**
Member_state==19	**8.062**		**7.967**
	(5.70)		**(5.72)**
Member_state==20	**-24.452**		**-24.093**
	(22.16)		**(22.21)**
Member_state==21	**-0.438**		**-0.471**
	(6.84)		**(6.86)**
Member_state==22	**-13.769**		**-13.532**
	(16.85)		**(16.92)**
Member_state==23	**-0.608**		**-0.571**
	(3.84)		**(3.84)**
Member_state==24	**-12.656**		**-12.456**
	(10.75)		**(10.78)**
Member_state==25	**0.000**		**0.000**
	(.)		**(.)**
Member_state==26	**9.610**		**9.444**
	(6.04)		**(6.05)**
Member_state==27	**0.706**		**0.656**
	(4.01)		**(4.01)**
Member_state==28	**0.000**		**0.000**
	(.)		**(.)**
year_adoption==2006		**-2.995**	**-2.834**
		(4.83)	**(4.84)**
year_adoption==2007		**-0.295**	**0.069**
		(5.16)	**(5.17)**
year_adoption==2012		**-1.090**	**-0.524**
		(9.80)	**(9.81)**
year_adoption==2013		**-8.839**	**-8.121**
		(16.08)	**(16.09)**
year_adoption==2014		**-3.398**	**-2.859**
		(11.74)	**(11.75)**
year_adoption==2015		**1.381**	**2.318**
		(17.13)	**(17.16)**
year_adoption==2016		**-3.602**	**-2.820**
		(4.79)	**(4.81)**

year_adoption==2017				20.618	21.219
				(12.00)	(12.01)
year_adoption==2018				-6.190	-5.506
				(11.87)	(11.88)
Constant	-2.377	-3.615	-35.794	-1.192	-34.470
	(2.63)	(2.58)	(24.01)	(3.51)	(24.32)
var(_cons)	245.383***	248.368***	245.142***	232.896***	233.045***
	(39.64)	(39.99)	(39.58)	(37.62)	(37.62)
var(Residual)	412.817***	411.273***	406.201***	412.716***	406.098***
	(14.13)	(13.92)	(13.90)	(14.12)	(13.90)
N	1796	1835	1796	1796	1796
ll	-8070.683	-8241.483	-8056.801	-8068.323	-8054.499
aic	16163.365	16500.967	16181.602	16176.645	16194.997
*p<0.05, ** p<0.01, *** p<0.001, (standard errors in parenthesis)*					

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year_adoption==2017				20.618	21.219
				(12.00)	(12.01)
year_adoption==2018				-6.190	-5.506
				(11.87)	(11.88)
Constant	-2.377	-3.615	-35.794	-1.192	-34.470
	(2.63)	(2.58)	(24.01)	(3.51)	(24.32)
var(_cons)	245.383***	248.368***	245.142***	232.896***	233.045***
	(39.64)	(39.99)	(39.58)	(37.62)	(37.62)
var(Residual)	412.817***	411.273***	406.201***	412.716***	406.098***
	(14.13)	(13.92)	(13.90)	(14.12)	(13.90)
N	1796	1835	1796	1796	1796
ll	-8070.683	-8241.483	-8056.801	-8068.323	-8054.499
aic	16163.365	16500.967	16181.602	16176.645	16194.997
*p<0.05, ** p<0.01, *** p<0.001, (standard errors in parenthesis)*					

Table A4: Robustness checks for Model 2

	C1	C2	C3	C4	C5
	b/se	b/se	b/se	b/se	b/se
Speed-Coord	-1.618	-0.019	30.699	-1.565	29.063
	(1.44)	(1.31)	(27.49)	(1.44)	(27.75)
EP-Coord	0.075	-0.836	-31.769	0.093	-30.543
	(0.86)	(0.56)	(18.65)	(0.86)	(18.87)
Salience	-0.029	-0.043	-0.022	-0.003	-0.002
	(0.07)	(0.07)	(0.07)	(0.08)	(0.08)
Extremity	0.547***	0.532***	0.579***	0.549***	0.581***
	(0.08)	(0.08)	(0.08)	(0.08)	(0.08)
Distance to EP	0.431***	0.432***	0.444***	0.433***	0.446***
	(0.02)	(0.02)	(0.02)	(0.02)	(0.02)
Distance to COM	0.156***	0.157***	0.149***	0.154***	0.148***
	(0.02)	(0.02)	(0.02)	(0.02)	(0.02)
SSI	-0.610*		5.937	-0.604*	5.585
	(0.26)		(5.48)	(0.26)	(5.54)
Network Capital	0.597		15.328**	0.490	15.097**
	(1.54)		(4.94)	(1.54)	(4.97)
Speed x Extremity	0.047	0.052	0.034	0.046	0.034
	(0.03)	(0.03)	(0.03)	(0.03)	(0.03)
Member_state==2			48.052		45.704
			(38.94)		(39.28)
Member_state==3			36.716		35.042
			(29.50)		(29.76)
Member_state==4			30.739		28.170
			(21.33)		(22.01)
Member_state==5			56.581		54.153
			(36.54)		(36.90)
Member_state==6			98.656		94.946
			(58.43)		(59.09)
Member_state==7			-22.343		-22.049
			(14.30)		(14.33)
Member_state==8			28.308		27.642
			(15.59)		(15.70)
Member_state==9			-18.556		-17.465
			(20.13)		(20.29)
Member_state==10			34.295		32.444
			(24.91)		(25.09)
Member_state==11			-48.999		-45.962
			(46.33)		(46.78)
Member_state==12			53.723*		51.887
			(26.95)		(27.26)
Member_state==13			1.749		2.036
			(5.18)		(5.21)
Member_state==**14**			0.000		0.000
			(.)		(.)

	(1)	(2)	(3)	(4)	(5)
Member_state==15			8.793 (6.52)		8.462 (6.55)
Member_state==16			13.160* (6.52)		13.033* (6.52)
Member_state==17			0.000 (.)		0.000 (.)
Member_state==18			-25.808 (27.43)		-24.368 (27.67)
Member_state==19			8.436 (8.33)		8.047 (8.37)
Member_state==20			-20.729 (32.70)		-19.048 (32.97)
Member_state==21			19.639 (12.41)		19.128 (12.47)
Member_state==22			-25.783 (24.66)		-24.112 (24.93)
Member_state==23			3.074 (5.89)		3.010 (5.90)
Member_state==24			-13.807 (16.00)		-13.111 (16.12)
Member_state==25			0.000 (.)		0.000 (.)
Member_state==26			17.403 (9.30)		16.827 (9.37)
Member_state==27			-0.836 (5.88)		-1.075 (5.89)
Member_state==28			0.000 (.)		0.000 (.)
year_adoption==2006				0.888 (5.86)	1.904 (5.82)
year_adoption==2007				1.354 (6.30)	3.265 (6.27)
year_adoption==2012				3.537 (12.66)	6.740 (12.67)
year_adoption==2013				-7.032 (19.01)	-3.129 (18.89)
year_adoption==2014				-0.261 (14.15)	2.926 (14.06)
year_adoption==2015				10.814 (20.35)	7.442 (20.88)
year_adoption==2016				-8.631 (5.99)	-6.457 (5.97)
year_adoption==2017				-26.427 (14.83)	-23.622 (14.76)
year_adoption==2018				5.177 (15.90)	5.794 (15.78)
Constant	-8.032 (6.99)	-9.735 (6.88)	-46.683 (36.12)	-8.587 (7.38)	-45.766 (36.56)
var(cons)	334.183*** (61.84)	334.314*** (61.68)	325.342*** (60.41)	311.013*** (57.51)	306.051*** (56.78)
var(Residual)	343.964*** (19.17)	342.055*** (18.81)	329.568*** (18.38)	343.228*** (19.09)	328.946*** (18.32)

N	738	755	738	738	738
ll	-3291.818	-3364.099	-3276.634	-3288.453	-3273.743
aic	6607.636	6748.199	6623.268	6618.906	6635.485

*p<0.05, ** p<0.01, *** p<0.001, (standard errors in parenthesis)*

Table A5: Robustness checks for Model 3

	C1	C2	C3	C4	C5
	b/se	b/se	b/se	b/se	b/se
Speed-Coord	-0.289	1.294	-173.907	-0.331	-169.500
	(1.80)	(1.68)	(128.17)	(1.80)	(128.30)
EP-Coord	-0.474	-0.194	91.022	-0.413	87.314
	(0.93)	(0.72)	(82.65)	(0.94)	(82.77)
Extremity	0.938***	0.922***	1.003***	0.941***	1.009***
	(0.12)	(0.12)	(0.12)	(0.12)	(0.12)
Salience	0.096	0.116	0.099	0.126	0.123
	(0.09)	(0.09)	(0.09)	(0.09)	(0.09)
Distance to EP	0.420***	0.412***	0.440***	0.424***	0.443***
	(0.03)	(0.03)	(0.03)	(0.03)	(0.03)
Distance to COM	0.159***	0.155***	0.150***	0.157***	0.150***
	(0.03)	(0.03)	(0.03)	(0.03)	(0.03)
SSI	-2.538*		-21.107	-2.645**	-18.849
	(1.00)		(35.25)	(1.00)	(35.34)
Network Capital	4.863*		24.790***	4.898*	25.412***
	(2.04)		(5.52)	(2.04)	(5.60)
Speed x Extremity	-0.060	-0.051	-0.072	-0.060	-0.074
	(0.04)	(0.04)	(0.04)	(0.04)	(0.04)
Member_state==2			-251.056		-245.701
			(176.48)		(176.64)
Member_state==3			-174.977		-169.845
			(134.00)		(134.12)
Member_state==4			4.925		3.920
			(34.98)		(35.56)
Member_state==5			-187.280		-179.416
			(179.73)		(179.98)
Member_state==6			-300.560		-289.530
			(258.93)		(259.25)
Member_state==7			0.000		0.000
			(.)		(.)
Member_state==8			11.799		15.819
			(42.92)		(43.17)
Member_state==9			154.524		153.772
			(80.79)		(80.87)
Member_state==10			-156.902		-155.014
			(108.81)		(108.89)
Member_state==11			0.000		0.000
			(.)		(.)
Member_state==12			-91.962		-85.499
			(117.24)		(117.48)
Member_state==13			0.000		0.000
			(.)		(.)
Member_state==14			0.000		0.000
			(.)		(.)
Member_state==15			-9.551		-7.706
			(28.31)		(28.40)
Member_state==16			0.000		0.000
			(.)		(.)

Member_state==17			0.000 (.)		0.000 (.)
Member_state==18			203.112 (115.17)		200.913 (115.27)
Member_state==19			-22.959 (42.95)		-20.264 (43.05)
Member_state==20			253.200 (140.44)		250.358 (140.55)
Member_state==21			0.000 (.)		0.000 (.)
Member_state==22			0.000 (.)		0.000 (.)
Member_state==23			18.559 (17.49)		17.174 (17.53)
Member_state==24			60.955 (92.51)		55.130 (92.74)
Member_state==25			0.000 (.)		0.000 (.)
Member_state==26			-11.927 (44.74)		-9.005 (44.88)
Member_state==27			-17.474 (20.80)		-16.442 (20.82)
Member_state==28			0.000 (.)		0.000 (.)
year_adoption==2006				4.339 (6.55)	4.705 (6.60)
year_adoption==2007				4.058 (6.96)	4.866 (7.02)
year_adoption==2012				13.536 (18.77)	21.539 (19.23)
year_adoption==2013				-8.097 (20.71)	-4.068 (20.94)
year_adoption==2014				-9.584 (15.65)	-6.025 (15.75)
year_adoption==2015				15.440 (22.16)	12.569 (23.33)
year_adoption==2016				-7.560 (6.79)	-5.896 (6.86)
year_adoption==2017				-19.945 (16.70)	-19.075 (16.75)
year_adoption==2018				6.502 (17.22)	5.153 (17.27)
Constant	-26.617** (8.44)	-30.049*** (8.22)	173.757 (171.71)	-29.033** (8.84)	164.329 (172.04)
var(_cons)	401.690*** (79.70)	420.754*** (82.13)	407.438*** (80.59)	372.246*** (74.59)	381.783*** (75.92)
var(Residual)	284.777*** (20.35)	280.784*** (19.62)	265.151*** (19.00)	284.139*** (20.29)	264.392*** (18.92)
N	488	505	488	488	488
ll	-2155.471	-2226.744	-2141.090	-2152.332	-2138.178
aic	4334.943	4473.487	4340.180	4346.663	4352.355

*p<0.05, ** p<0.01, *** p<0.001, (standard errors in parenthesis)*

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Table A6: Robustness checks for Model 4

	C1	C2	C3	C4	C5
	b/se	b/se	b/se	b/se	b/se
Speed-Coord	-4.243	1.955	6.788	-3.951	5.727
	(3.79)	(2.62)	(17.27)	(3.79)	(17.93)
EP-Coord	3.962	-0.799	-2.693	3.769	0.140
	(2.29)	(1.21)	(13.71)	(2.29)	(14.42)
Extremity	0.409***	0.396***	0.418***	0.412***	0.419***
	(0.11)	(0.12)	(0.11)	(0.11)	(0.11)
Salience	-0.243*	-0.253*	-0.266*	-0.204	-0.228
	(0.12)	(0.12)	(0.12)	(0.12)	(0.12)
Distance to EP	0.415***	0.410***	0.411***	0.424***	0.420***
	(0.04)	(0.04)	(0.04)	(0.04)	(0.04)
Distance to COM	0.197***	0.195***	0.198***	0.196***	0.197***
	(0.04)	(0.04)	(0.04)	(0.04)	(0.04)
SSI	-2.214		1.276	-2.205	0.125
	(1.30)		(6.51)	(1.30)	(6.86)
Network Capital	-2.837		-4.102	-2.706	-5.713
	(2.84)		(9.10)	(2.84)	(9.36)
Speed x Extremity	0.019	0.028	0.009	0.021	0.013
	(0.06)	(0.06)	(0.06)	(0.06)	(0.06)
Member_state==2			0.000		0.000
			(.)		(.)
Member_state==3			0.000		0.000
			(.)		(.)
Member_state==4			0.000		0.000
			(.)		(.)
Member_state==5			0.000		0.000
			(.)		(.)
Member_state==6			0.000		0.000
			(.)		(.)
Member_state==7			-1.433		6.077
			(31.97)		(33.28)
Member_state==8			0.000		0.000
			(.)		(.)
Member_state==9			0.000		0.000
			(.)		(.)
Member_state==10			0.000		0.000
			(.)		(.)

Member_state==11	**-13.528** **(20.16)**	**-12.852** **(20.75)**
Member_state==12	**0.000** (.)	**0.000** (.)
Member_state==13	**3.257** **(5.83)**	**3.890** **(5.97)**
Member_state==14	**0.000** (.)	**0.000** (.)
Member_state==15	**0.000** (.)	**0.000** (.)
Member_state==16	**0.000** (.)	**0.000** (.)
Member_state==17	**0.000** (.)	**0.000** (.)
Member_state==18	**0.000** (.)	**0.000** (.)
Member_state==19	**0.000** (.)	**0.000** (.)
Member_state==20	**0.000** (.)	**0.000** (.)
Member_state==21	**0.000** (.)	**0.000** (.)
Member_state==22	**0.000** (.)	**0.000** (.)
Member_state==23	**0.000** (.)	**0.000** (.)
Member_state==24	**0.000** (.)	**0.000** (.)
Member_state==25	**0.000** (.)	**0.000** (.)
Member_state==26	**0.000** (.)	**0.000** (.)
Member_state==27	**0.000** (.)	**0.000** (.)
Member_state==28	**0.000** (.)	**0.000** (.)
year_adoption==2006	**-4.150** **(6.49)**	**-4.143** **(6.56)**
year_adoption==2007	**0.722** **(7.12)**	**0.476** **(7.26)**
year_adoption==2012	**6.302** **(13.49)**	**7.022** **(13.78)**
year_adoption==2013	**-3.545** **(22.26)**	**-5.524** **(22.38)**
year_adoption==2014	**13.032** **(16.02)**	**13.397** **(16.29)**

year_adoption==2015				-5.024	-7.600
				(25.86)	(25.83)
year_adoption==2016				-8.094	-8.748
				(7.11)	(7.35)
year_adoption==2017				-25.330	-24.841
				(16.73)	(17.08)
year_adoption==2018				-4.386	-4.604
				(21.06)	(21.19)
Constant	34.184	8.974	6.059	32.517	12.442
	(17.83)	(11.82)	(59.97)	(18.15)	(62.74)
var(_cons)	325.012***	316.261***	325.237***	306.397***	305.591***
	(76.83)	(75.99)	(77.08)	(72.15)	(72.00)
var(Residual)	328.715***	342.177***	323.728***	325.665***	320.661***
	(36.54)	(37.97)	(36.09)	(35.92)	(35.43)
N	250	250	250	250	250
ll	-1132.963	-1136.046	-1131.516	-1130.370	-1128.802
aic	2289.927	2292.091	2293.032	2302.739	2305.604

*p<0.05, ** p<0.01, *** p<0.001, (standard errors in parenthesis)*

Table A7: Robustness checks for Model 5

	C1	C2	C3	C4	C5
	b/se	b/se	b/se	b/se	b/se
Speed-Coord	0.093	1.050*	23.419	0.097	23.139
	(0.63)	(0.48)	(18.65)	(0.63)	(18.70)
EP-Coord	2.073*	2.058*	-12.542	2.082*	-12.361
	(0.98)	(0.88)	(12.54)	(0.98)	(12.59)
Salience	0.040	0.043	0.069	0.040	0.068
	(0.05)	(0.05)	(0.05)	(0.05)	(0.05)
Extremity	0.653***	0.639***	0.660***	0.654***	0.661***
	(0.03)	(0.03)	(0.03)	(0.03)	(0.03)
Distance to EP	0.393***	0.397***	0.398***	0.394***	0.399***
	(0.02)	(0.02)	(0.02)	(0.02)	(0.02)
Distance to COM	0.069***	0.067***	0.068***	0.069***	0.068***
	(0.02)	(0.02)	(0.02)	(0.02)	(0.02)
SSI	-0.473**		4.017	-0.474**	3.960
	(0.17)		(3.74)	(0.17)	(3.75)
Network Capital	1.785		3.984	1.789	3.996
	(1.05)		(2.27)	(1.05)	(2.29)
EP-Coord x Salience	-0.040**	-0.040**	-0.050***	-0.040**	-0.050***
	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)
Member_state==2			35.465		35.015
			(26.50)		(26.57)
Member_state==3			27.493		27.230
			(20.01)		(20.06)
Member_state==4			1.198		1.143
			(8.01)		(8.02)
Member_state==5			35.023		34.630
			(24.82)		(24.90)
Member_state==6			47.371		46.770
			(39.47)		(39.62)
Member_state==7			-4.272		-4.341
			(9.05)		(9.06)
Member_state==8			4.161		4.121
			(9.21)		(9.25)
Member_state==9			-16.742		-16.578
			(13.49)		(13.51)
Member_state==10			26.917		26.659
			(17.02)		(17.06)
Member_state==11			-39.911		-39.473
			(31.57)		(31.67)
Member_state==12			21.348		21.078
			(17.76)		(17.85)
Member_state==13			2.664		2.699
			(3.86)		(3.87)

Member_state==14	0.000	0.000
	(.)	(.)
Member_state==15	6.276	6.204
	(4.50)	(4.51)
Member_state==16	3.418	3.424
	(4.64)	(4.64)
Member_state==17	0.000	0.000
	(.)	(.)
Member_state==18	-19.399	-19.148
	(18.56)	(18.61)
Member_state==19	8.527	8.447
	(5.69)	(5.70)
Member_state==20	-22.946	-22.634
	(22.10)	(22.15)
Member_state==21	1.645	1.640
	(6.85)	(6.87)
Member_state==22	-14.980	-14.798
	(16.80)	(16.87)
Member_state==23	-0.305	-0.270
	(3.82)	(3.83)
Member_state==24	-12.114	-11.944
	(10.72)	(10.75)
Member_state==25	0.000	0.000
	(.)	(.)
Member_state==26	10.852	10.708
	(6.03)	(6.05)
Member_state==27	0.902	0.857
	(4.00)	(4.00)
Member_state==28	0.000	0.000
	(.)	(.)
year_adoption==2006	-2.813	-2.597
	(4.83)	(4.83)
year_adoption==2007	0.078	0.597
	(5.16)	(5.16)
year_adoption==2012	-1.135	-0.385
	(9.79)	(9.80)
year_adoption==2013	-8.874	-8.053
	(16.07)	(16.07)
year_adoption==2014	-3.386	-2.663
	(11.73)	(11.74)
year_adoption==2015	1.434	2.284
	(17.12)	(17.14)
year_adoption==2016	-3.613	-2.705
	(4.78)	(4.81)
year_adoption==2017	20.832	21.653
	(12.00)	(12.00)

year_adoption==2018				-6.214	-5.420
				(11.87)	(11.87)
Constant	-8.626*	-9.867**	-43.213	-7.573	-42.156
	(3.48)	(3.41)	(24.03)	(4.20)	(24.35)
var(_cons)	245.429***	248.357***	245.147***	232.712***	232.754***
	(39.63)	(39.98)	(39.57)	(37.58)	(37.56)
var(Residual)	411.005***	409.460***	403.544***	410.904***	403.441***
	(14.07)	(13.86)	(13.81)	(14.06)	(13.81)
N	1796	1835	1796	1796	1796
ll	-8066.922	-8237.612	-8051.179	-8064.520	-8048.823
aic	16157.843	16495.225	16172.359	16171.041	16185.645

*$p<0.05$, ** $p<0.01$, *** $p<0.001$, (standard errors in parenthesis)*

Table A8: Correlations test between EP engagement scale and MS Lobbying dataset (Panke, 2012)

		EP Lobbying Scale - 2009
EP Engagement Scale 2016-2019	Pearson Correlation	.742**
	Sig. (2-tailed)	.000
	N	25

Table A9: Krippendorff's Alpha Estimates in relation to MS' Informal capabilities dataset

	Krippendorff's Alpha	**MS**	Data points per MS
Speed-Coord	.8311	14	Range between 2 and 10
EP-Coord	.9159	15	Range between 2 and 10

In line with previous studies (Jensen, 2017), the Krippendorff's alpha (Hayes & Krippendorff, 2007) was used to assess the congruence of estimates for each MS. With a Krippendorff's alpha of 0.7991, a satisfactory correspondence was found when comparing answers in terms of the efficiency of MS' coordination systems. With a Krippendorff's alpha of 0.9159, a very strong correspondence was found between answers related to MS' engagement with the EP.

References:
 Hayes, A. F., & Krippendorff, K. (2007). Answering the call for a standard reliability measure for coding data. *Communication Methods and Measures*, 1, 77-89.
Jensen, M. D. (2017). Exploring Central Governments' Coordination of European Union Affairs. *Public Administration*, 95(1), 249-268.

Table A10: Dataset on MS' Informal Capabilities - Speed of MS' EU coordination systems (1)

MS	Mean Value	1- Very quick	2 - Quite quick	3 - Average	4 - Quite slow	5 - Very slow	Count of observations
Denmark	1						3
Netherlands	1,3						3
Estonia	1,5						4
Malta	1,5						2
Luxembourg	1,6						3
Spain	2						1
Finland	2						3
Sweden	2						1
Austria	3						1
Czech Republic	3						1
France	3						3
Croatia	3			X			2
Ireland	3						2
Latvia	3						1
Poland	3						1
Portugal	3						1
Romania	3			X			3
Slovenia	3						2
Slovakia	3						1
UK	3			X			1
Bulgaria	4						1
Cyprus	4						1
Greece	4						1
Italy	4				X		2
Belgium	4,5					X	3
Germany	5					X	10

The dataset was complemented with interview transcripts from European Commission and Council General Secretariat officials, who had also referred to the speeds characterizing member states. A number of national negotiators also referred to the speed of other member states' administrations. This complementary data is signalled with a black arrow.

Table A11: Dataset on MS' Informal Capabilities – MS' engagement with the European Parliament (2)

MS	Mean Value	Cat 1	Cat 2	Cat 3	Count of observations
Austria	1				1
Belgium	1				3
Bulgaria	1				1
Cyprus	1				1
Greece	1				1
Croatia	1				1
Ireland	1				3
Luxembourg	1				1
Latvia	1				2
Malta	1				2
Portugal	1				2
Romania	1				2
Slovenia	1				3
Slovakia	1				1
Poland	1,33				3
Estonia	1,5				4
Spain	1,75				4
Germany	2		X		4
Italy	2				1
Sweden	2				1
Finland	2,66			X	3
Czech Republic	3			X	2
Denmark	3				2
France	3			X	10
Netherlands	3			X	9
UK	3			X	3

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The dataset on MS' Informal Capabilities draws on the results of semi-structured interviews conducted with national negotiators based in Brussels between October 2016 and January 2020. This study was carried out as part of a research program on the power of MS in the Council of the EU, which also led to the development of the DEU III dataset (Forthcoming). This research program draws on 145 semi-structured interviews with representatives of all Member States from the Council and other EU institutions. Among them, 87 provided information directly relevant to this study. Interviewees included ambassadors, *Antici and Mertens* counsellors, sectoral *attachés* and counsellors, Commission officials and representatives of the Council General Secretariat. All interviewees have been anonymized in the context of this research, and previously identified through snowball sampling.

Interviews were conducted using a semi-open questionnaire designed to collect the perceptions of national negotiators on their own capacities, the resources at their disposal, and the functioning of their permanent representation. Interviews were conducted with at least one Brussels-based representative for each EU member state. For all qualitative answers to the questionnaire, interview transcripts were coded using the software MaxQDA, thus allowing for systematic comparison across and within MS. When possible, answers from research respondents were complemented and compared with

publicly available information in order to ensure sufficient validity and reliability.

The first part of the questionnaire was about the variation of permanent representations' human resources, looking at the number of negotiators, their capacities, and MS' personnel policy. The second part investigates variations in the role of permanent representations, as well as the structure and efficiency of their internal coordination processes. The third part looks at variations in the way permanent representations coordinate with other legislative actors at the EU level.

The Dataset on MS' Informal Capabilities focuses on two data points: the speed of the MS' national coordination systems, and the level and quality of the engagement between national permanent representations in Brussels and the EP. These variables were identified by respondents as the key factors to understand Council political dynamics. Illustrating the relevance of studying coordination processes, a Danish diplomat explained that 'due to its quick system of coordination, Denmark is sometimes able to take the lead on certain issues, as it is easy to coordinate, and at the same time [to] have the political backing from high levels'.

Regarding the speed of national coordination systems, research respondents were asked to answer the following question: "Within your sector, how would you assess the speed for adopting the national position in general? ¨ Answers were coded using a scale from 1 to 5: (1) Regularly quick: delays in formulating the positions are rare, and positions are generally adopted very quickly due to established

mechanisms such as strict deadlines for establishing positions. (2) Quite quick: delays in formulating the positions are not a structural problem, positions are usually adopted early during the negotiations. (3) Average: delays in formulating the positions are not common. (4) Quite slow: delays in formulating the positions occur. (5) Regularly slow: delays in formulating the positions are very common. In relation to the coordination of permanent representations with EP and national MEPs, respondents were asked the following question: "Within your sector, what are the instruments/channels used by your permanent representation to engage with the European Parliament and its members?" Answers were coded into three main categories, depending on the regularity of exchanges with the EP, as well as the structured/ad hoc character of the relationship between the permanent representation and the EP: (Cat 1) ad hoc relation, with limited engagement; (Cat 2) ad hoc relation, with regular engagement; (Cat 3) structured strategic relation, with regular engagement.

The reliability of the data was assessed using the split halves method and the inter-coder reliability test. The high consistency in answers regarding their own (as well as other's) permanent representation and the systematic justification through detailed arguments confirm that the bias did not affect the findings.

The DEU-III data set is the third iteration of the Decision-making in the European Union (DEU) database.

This database provides information on the policy positions of Member states´ representatives in the Council of Ministers, the European Commission (EC), and the European Parliament (EP) on key controversial issues of EU legislative negotiations. The DEU-III dataset also provides information on the salience scores that each actor attaches to the issues subjected to a final decision.

In total, the new DEU-III dataset covers systematic information over twenty years of EU decision-making (1999-2019) and it includes 141 legislative proposals and 363 controversial issues. The new DEU-III data set includes 69 legislative dossiers from the EU-15 (Thomson & Stokman, 2006), 56 dossiers from the EU-27 (covering the 2004-2007 EU enlargement) (Thomson et al., 2012) and 16 legislative dossiers from the EU-28 that cover the time framework between 2016 and 2019.

In terms of methodology, this new dataset is in line with an established research tradition (Bueno de Mesquita & Stokman, 1994; Bueno de Mesquita, 2009; Thomson et al., 2006; Thomson et al., 2012).

The criteria used for the selection of the legislative dossiers were the same for the DEU-I and DEU-II datasets: *a.* the political relevance of the dossier and its level of controversy; *b.* the time period associated to the research; and *c*. the legislative procedure used. In the updated

EU-28, the last criterion does not apply as a consequence of the marginal use of the consultation procedure after the Lisbon Treaty.

The DEU team held a total of 494 semi-structured interviews with policy experts to gather information on the controversies raised by the selected legislative proposals. Interviews with all experts took place face-to-face in Brussels. In these interviews, policy experts provided information on the actors´ policy preferences on controversial issues, as well as on the level of salience that actors attached to issues subjected to a final decision. Every estimation provided by any expert had to be justified through evidence and/or substantive arguments. The interviewed were affiliated with different institutions, mainly the Member states´ permanent representations, the European Commission and/or the Council Secretariat.

At the beginning of the interviews, the experts were asked to identify the main controversies raised among Member states once the EC had introduced the legislative proposal. Subsequently, the policy experts had to locate the positions of actors along the policy scale. We first asked to identify actors with the most extreme policy positions. These alternatives were the end points of the issue continuum that represented each controversy (on a scale of 0 to 100). The main issues identified by policy experts had to: *a*. correspond to the main points of controversy that were discussed in the legislative dossier; *b*. illustrate the content of the policy alternatives defended by member states; *c.* be unidimensional (in order to be able to locate policy alternatives with a *single-peaked* preference function). Thus, issue specifications actually try to capture the major points of discussion. The experts found that in most of the cases, two or three issues

represented the main controversies. The average number of issues used to represent policy controversies of the dossiers contained in DEU-III is 2.609 ranging from one to six (s.d= 1.280; n=141). The policy experts were also asked to estimate the level of salience that actors attached to each controversial issue.

Obtaining information from policy experts was crucial for the DEU III dataset. Due to the need to test the validity of the data, we considered it necessary to contrast the results with the analysis of Council documents relative to some dossiers. Overall, the comparative analysis between the dataset and the Council documents has supported the validity of our issue definition, and the policy experts´ estimates on actors´ policy positions. Furthermore, it has corroborated previous testing of validity and reliability of the EU-15 dataset made by Thomson (2006).

References:

Thomson R., Arregui J., Leuffen D., Costello R., Cross J., Hertz R., & Jensen T. (2012). A new dataset on decision-making in the European Union before and after the 2004 and 2007 enlargements (DEUII). *Journal of European Public Policy*, 19(4), 604-622.

Thomson, R. & Stokman, F. (2006). Research design: measuring actors' positions, saliences, and capabilities. In: Thomson R., Stokman F., Achen C. & König, T. (eds) (2006). *The European Union Decides*. New York and Cambridge: Cambridge University Press, 25-53.

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Bueno de Mesquita, B. (2009, February 15-18). A new model for forecasting policy choices: preliminary tests [Paper presentation]. *Annual meeting of the International Studies Association, New York, US.*