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## The European Commission: appointment, preferences, and institutional relations

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# THE EUROPEAN COMMISSION – APPOINTMENT, PREFERENCES, AND INSTITUTIONAL RELATIONS

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# THE EUROPEAN COMMISSION – APPOINTMENT, PREFERENCES, AND INSTITUTIONAL RELATIONS

## Abstract

The paper analyzes the appointment of the European Commission as a strategic game between members of the European Parliament and the Council. The focal equilibrium results in Commissioners that duplicate the policy preferences of national Council representatives. Different internal decision rules still prevent the Commission from being a Council clone in aggregate. Rather, it is predicted a priori that Commission policies are on average more in accord with the aggregate position of the Parliament than that of the Council. This prediction is confirmed for a data set covering 66 dossiers with 162 controversial EU legislative proposals passed between 1999 and 2002.

JEL Code: C70, D02, D71, D72.

Keywords: European Commission, investiture procedure, voting rules, Council of Ministers, European Parliament.

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# 1 Introduction

The European Commission is in charge of applying the Treaty provisions of the European Union (EU) and of implementing its policy measures together with national governments. In addition to this executive function, it delivers recommendations for Community initiatives and drafts legislative proposals. It has own decision powers, e.g., in trade and competition policy and represents the EU externally, e.g., in the WTO or enlargement negotiations.

The selection and appointment of the Commission used to be a purely intergovernmental affair, involving the Council of Ministers in the composition of national heads of government or state. Decisions had to be unanimous, which created a balance of veto powers that left individual members practically unrestricted. They could send to Brussels whichever candidate was domestically opportune. The Treaties of Maastricht and Amsterdam then granted the European Parliament a formal say in the investiture procedure in 1993 and 1999: it needs to approve first the nominated Commission President and then again the full college of Commissioners before it can be appointed. In 2003, the Treaty of Nice replaced the unanimity requirement by a qualified majority rule, in principle allowing enough Council members to prevent a nominee without derailing the whole investiture process.

In view of these legal changes (see Section 2 for more details), one could expect the composition of the current Barroso Commission to differ in more than its size from, say, the first Delors Commission appointed 20 years earlier. A first puzzle is that the difference, if it exists, is at least not obvious. The currently 27 Commissioners had an on average somewhat higher profile when they were appointed: while the Delors Commission was dominated by senior civil servants and former party officials, the Barroso Commission comprises three former prime ministers, five former foreign ministers, and four former finance ministers; only five present Commissioners have not been members of a national government at some point. However, appointments such as that of Peter Mandelson – who was no longer tenable at home but a trusted friend of Tony Blair’s – hardly suggest a structural break from jolly old times. That the share of former government members has increased might moreover be interpreted as greater, not diminished Council influence despite the increased formal role of the Parliament. Fittingly, only two current Commissioners have ever been members of the European Parliament (in the fairly distant past and for less than a year in Olli Rehn’s case).

At the surface, the European Parliament has enjoyed two spectacular successes recently, with a little help from the media: the original Italian and Latvian nominees for the Barroso Commission, Rocco Buttiglione and Ingrida Udre, were replaced after severe criticisms.<sup>1</sup> A fundamental change of the way in which the Commission is selected would, however, likely look different and, for example, involve more candidates such as Viviane Reding who had a close connection to the Parliament prior to joining the Commission. More pointedly, we

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<sup>1</sup>László Kovács and Neelie Kroes were also criticized as unsuitable candidates, but were finally appointed (in Kovács’ case involving a portfolio change).

will argue in this paper that the European Parliament is still strategically powerless when it comes to choosing the Commission.

This is not obvious from the seemingly balanced Treaty provisions. But it follows rather straightforwardly from a game-theoretic analysis of the investiture procedure. The model which is investigated in Section 3 adds standard – though admittedly very stringent – assumptions (e.g., commonly known spatial preferences, the old Commission becomes a lame duck at the end of its term, dimension-by-dimension decisions after the appointment) to dynamic interaction that closely reflects Art. 214 of the post-Nice version of the EC Treaty. It turns out that heads of state or government can propose whom they like and, crucially, these choices will be accepted in equilibrium. So we argue that the treaty reforms formally gave the European Parliament teeth, but a big wooden block remains stuck in between them.

This leads to a second puzzle: Anecdotal evidence as well as the few related empirical studies (see König et al. 2007 and Rasmusen 2003) suggest that Commission and Parliament get along very well – and, in fact, seemingly better than Commission and Council. This was a common impression even before the mentioned legal changes, particularly regarding the issue of integration and pursuit of “an ever closer union among the peoples of Europe” as set out in the preamble of the founding Treaty of Rome. How can the Council’s domination of the Commission’s appointment be reconciled with this?

When federal interests clash with national ones, Commissioner’s loyalties might plausibly be shifting after they have assumed office; they may become ‘Europeanised’. An inconclusive debate on whether this happens in practice or should happen in theory is surveyed by Egeberg (1999) and recent doubts about this hypothesis have been raised, e.g., by Hooghe (2005). We do not rule out any Thomas-Becket effects or perhaps deliberate ‘Brussels brainwashing’ by seasoned bureaucrats as the cause of distance between Commission and Council. But we propose an alternative, to us more simple and plausible explanation: *institutional rules*. They – together with the confidentiality to which the ‘principle of collective responsibility’ obliges all Commission members – can create the appearance of a preference change where there really is little or none.

To see this in a nutshell, suppose that the appointed Commissioners are perfectly duplicating the respective Council members’ preferences and that neither’s preferences change. The Commission then clones the Council at the individual level during its entire term. Still the Commission *in aggregate* need not do so at any point in time. The key is that both institutions use different internal decision quotas: simple majority in the Commission and a qualified majority in the Council. This hands power to different preference types within Council and Commission. At least in the absence of cross-issue wheeling and dealing, the Council’s restrictive majority rule makes its collective ideal points on isolated questions coincide with those of an issue-specific *conservative* member. In contrast, the Commission’s position on non-consensual issues will be determined by its median, whose preferences coincide with those of a *moderate* member of the Council under the duplication hypothesis. Since Parliament also uses simple majority, its pivotal member tends to be a like-minded political moderate.

Section 4 investigates this point in more detail and Section 5 provides new empirical

evidence on institutional relations between Commission, Council, and Parliament. Our analysis of data gathered by expert interviews on 162 decisions made under the Consultation and Codecision procedures between 1999 and 2002 confirms for this period that the Commission is on average closer to the Parliament than to the Council. This validates a key prediction of our formal analysis even though it does not test the model as such. In particular, alternative explanations are also consistent with the data and will be briefly discussed in the concluding Section 6.

## 2 Related Literature and Legal Background

Legislative processes of the EU have received considerable analytical attention during the last decade. The literature typically takes preferences of the respective stake-holders to be either exogenous and independent of each other or it does not explicitly assume preferences at all. Contributions of the former kind include Tsebelis (1994), Tsebelis and Garrett (1997), Steunenberg and Selck (2002), and Franchino (2005); instances of the latter are Laruelle and Widgrén (1998), Baldwin et al. (2001), and Felsenthal and Machover (2004), amongst others. In either type of analysis, the dependency between the Commission’s policy ideals and those of Council or Parliament which is the topic of this paper is ignored (see the corresponding criticism by Hug 2003).

Hix (1997) and Crombez (1997) are notable exceptions, and most closely relate to our analysis. Hix investigates the investiture of the Commission President. He argues that because MEP candidates are primarily determined by national parties, whose views are represented by national governments, the Parliament’s approval can almost be taken for granted after the Council has internally agreed on a candidate. Consequently, he finds “little practical difference between the original Commission President selection process, where the EP did not have a say, and the procedure established by the Maastricht and Amsterdam Treaties” (Hix 1997, p. 5). Crombez looks at the full Commission’s investiture and its post-appointment interaction with Council and Parliament. He criticizes the conventional wisdom that the Commission is an independent pro-integrationist actor in the EU. Though he takes more liberty with the (then pre-Amsterdam) Treaty rules<sup>2</sup> and does not predict any specific preference configuration for the Commission, the first part of our paper is quite similar to his analysis. In particular, Crombez models appointment of the Commission as a strategic game. He then looks at those preferences that the Commission might conceivably translate into actual policy, and argues that the investigated version of the appointment procedure considerably limited the Commission’s freedom to promote an independent agenda. The post-Nice version imposes fewer constraints but keeps the fundamental dependency (see Crombez and Hix 2004, and Hix et al. 2004). Crombez’ view contrasts with that expressed by Tsebelis and Garrett (2000). The latter argue that

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<sup>2</sup>For example, Crombez assumes that the whole investiture procedure ends in failure after a candidate proposed for the position of the Commission President has been rejected. Or, supposedly, the designated President can nominate other Commission members after rejecting the respective Council member’s proposal. Also see Hug (1997).

already before Nice the appointment process involved internal filters sufficient to have a well-balanced, high-profile and therefore independent new Commission ready when the preceding one's 5-year term expires. Wonka (2007) has recently provided evidence that on the one hand confirms Tsebelis and Garrett's view: a big and increasing share of Commissioners appointed between 1958 and the present can be classified as 'politically visible' before their appointment. On the other hand, and with the same time trend, Commissioners' party background matters: it overwhelmingly reflects that of the appointing national government.

The Commission currently comprises 27 members – one from each EU member state. It unilaterally decides on many day-to-day issues, e.g., in competition and trade policy along the so-called *administrative route*, and makes any first proposal in the EU's various legislative processes (the *legislative route*). The Commission has some discretion in selecting between the administrative and legislative routes, but in any case both confer significant power to it.<sup>3</sup>

Commissioners have individual portfolios and thus in practice exert asymmetric influence on EU policy. Formally, however, they act as a team or *college* chaired by its President. If there is no consensus on delegating a given issue to a Commissioner or staff member,<sup>4</sup> the college is supposed to act by a *simple majority* of its members (Art. 219, EC Treaty). This and also the European Parliament's right to remove a Commission through a motion of censure have been unchanged since the Treaty of Rome in 1957 (then referring to the Assembly instead of the European Parliament).

Otherwise, rules regarding the appointment, composition and work of the Commission have been modified many times – and will likely do so again when a replacement for the failed Constitutional Treaty is agreed. Before 1993, the Council of Ministers (CM) selected the next Commission by unanimous agreement or *accord commun*. Then, the Treaty of Maastricht (Title II, 43.) gave the European Parliament (EP) the right to be consulted on the governments' nominee for Commission President, and required an explicit approving vote by EP on the complete college of Commissioners (as a single closed list).

The Treaty of Amsterdam, coming into force in 1999, replaced EP's consultation on the President's investiture by a separate formal vote and gave the nominated President a veto on the remaining Commissioners. Then the Treaty of Nice in 2003 removed the unanimity requirement for CM: the Commission President and later the full college only need to be endorsed by a qualified majority. Moreover, the Treaty of Nice changed the composition

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<sup>3</sup>For general discussions of the Commission's role in the EU see Pollack (1997) and Matlár (1997). One anonymous referee opined that the Commission is less of a key player in 2007 than it was twenty years ago. We concur with him and can add that the Commission's present size has made the selection of an individual member less important than it used to be, too. Our impression was that member states and Parliament were nevertheless very concerned with who got appointed to the Barroso Commission.

<sup>4</sup>Particularly in ordinary press coverage, the term 'Commission' is used not only for the college of Commissioners but also their about 25,000 staff in the Brussels head offices, the Luxembourg offices and elsewhere (for comparison: the city of Helsinki employs about 39,000 civil servants). We concentrate on the former and disregard decisions that are consensually delegated.

of the Commission to one Commissioner from each member state – hitherto, large member countries could have two Commissioners. And in response to the crisis of the Santer Commission between 1998 and 1999 (see Topan 2002), individual Commissioners can now be asked to resign by their President. In 2004, the Accession Treaty (or Act Concerning the Conditions of Accession) gave Commission seats to the 10 new EU members, which were joined in 2007 by Commissioners from Bulgaria and Romania. It is not clear if the corresponding provisions will ever come into force, but the to-be-replaced Constitutional Treaty calls for one proper seat for each EU member in a first new Commission and thereafter voting Commissioners from only two thirds of the member states with non-voting Commission members from the others on the basis of equal rotation (Art. I-26).<sup>5</sup>

In the following, we focus on current rules for appointment as specified by Art. 214ff of the EC Treaty, last amended by the Treaty of Nice and the Accession Treaties. The provisions leave open a number of details. Where possible, we base our interpretation of the Treaty provisions on what could publicly be observed during recent Commission appointments as well as semi-official sources.

The appointment process can be divided into five stages and summarized as follows:

1. CM, meeting in the composition of heads of government or state, nominates a person it intends to appoint as Commission President by qualified majority.
2. EP either approves the nominated candidate (by absolute majority of votes cast – see Art. 198) or rejects him or her, leading back to stage 1.
3. CM members submit national candidates for the remaining Commission positions, with the exception of the one already providing the nominated President. The designated President composes a list with one Commissioner from every member state from the proposals. This list is either approved by CM by a qualified majority, or stage 3 is repeated.
4. EP either approves the entire nominated Commission by absolute majority or rejects the entire college, leading back to stage 3.<sup>6</sup>
5. CM formally appoints the new Commission by qualified majority.

If during the five years of their appointment, individual Commissioners resign, die, or are retired, then CM decides on a replacement by qualified majority without explicit role for EP or the Commission President (Art. 215). The Commission President can ask individual members of the Commission to resign. The Code of Conduct for Commissioners (2004)

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<sup>5</sup>The European Convention’s draft constitution did not have extra provisions for the first post-ratification Commission. In contrast, it was more specific on the selection process for Commissioners (e.g., each country was to submit a list of three candidates including both genders).

<sup>6</sup>The Treaty is not explicit on what happens if EP has formally rejected the proposed college of Commissioners: is the Council bound by its earlier EP-approved choice of Commission President or may it restart the entire procedure? We assume the former.



obliges them to comply with such a request. In cases of serious misconduct, the Council can apply to the European Court of Justice to compulsorily retire individual Commissioners (Art. 216). Moreover, EP can force the entire college of Commissioners to resign by a two-thirds majority of votes (cast by at least half of all MEPs; Art. 201).<sup>7</sup>

### 3 Model and Ex Post Analysis

This section constructs a game-theoretic model of the described appointment procedure. As any model, it is a simplified description that purposely leaves out many details – including practically relevant ones such as the bounded rationality of actors or incomplete information about their goals. We focus on the effects of two institutional rules, namely the Council’s monopoly over proposals and the respective internal majority requirements. Both imply significant biases for the Commission’s composition and its later inter-institutional relations. Of course, the highlighted tendencies will in reality be moderated – but unlikely canceled – by others related to, e.g., the long time horizon of interaction, power sharing in national coalition governments, competence differences, populism directed to the national electorate, etc.

We will first analyze the procedure *ex post*, i.e., for arbitrary but given spatial preferences of the involved agents. Its implications from an *ex ante* or *a priori* standpoint which tries to identify general institutional biases by averaging over all possible ideal point profiles will be investigated in Section 4.

#### 3.1 Stylized appointment game

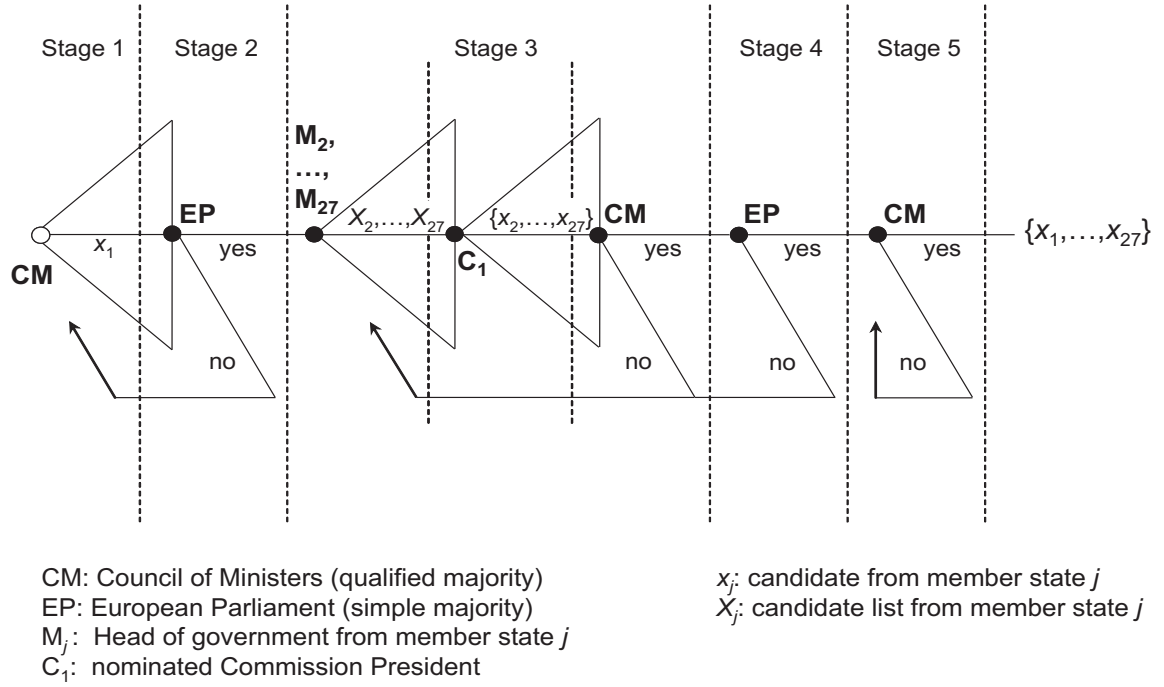
The sequential nature of moves during the appointment process (and also the Commission’s business thereafter) suggests a *non-cooperative appointment game in extensive form* which involves Council members, MEPs, and – interim – the designated new Commission President. In the game’s description and analysis, one faces a trade-off between formal rigor and the immense complexity that results from the scope for an unbounded number of iterations of and within the described stages 1 and 3. We confine ourselves to a stylized game which, e.g., treats the multilateral negotiations on which country provides the Commission President as a black box. Its sequence of moves is illustrated in Figure 1.

Formal analysis requires a number of assumptions about players’ preferences and their respective sets of feasible actions. All of them impose restrictions but, first, in our view represent a reasonable compromise with analytical tractability and, second, help to isolate the biases induced by institutional rules:

(POL) Potential candidates differ regarding their policy preferences, not their competence.

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<sup>7</sup>The Council can by unanimous agreement alter the number of members of the Commission (Art. 213). It is not specified whether this could, in theory, be used to effect a reduction of the *current* Commission and lead to the dismissal of Commissioners.



**Figure 1:** Stylized appointment game tree

(SPA) All players have spatial preferences, characterized by an individual ideal point  $\lambda$  in the convex policy space  $X \subset \mathbb{R}^k$  and the utility function

$$u(x; \lambda) = -d_1(x, \lambda) = -\sum_{i=1}^k |x_i - \lambda_i|.$$

They have a stationary time preference characterized by a common discount factor  $\delta \in (0, 1)$ .<sup>8</sup> Preferences are common knowledge.

(ABU) Suitable candidates for a Commission job are abundant for any position  $\lambda \in X$ .

(DIM) The legislative *status quo*  $q \in X$  can only be changed dimension-by-dimension (or issue-by-issue). All  $k$  issues arrive randomly on the post-appointment agenda with equal probability, which w.l.o.g. is taken to be 1.

(IND) With an interim probability  $p > 0$  that is independent of the appointed Commission and constant across issues, post-appointment legislative decisions either implement the Commission's ideal policy  $x_i^C$  or are (locally) insensitive to it.

(MED) The Commission's policy position is decided by a simple majority of its members (Art. 219) and corresponds to the position of the median Commissioner in the respective dimension.

<sup>8</sup>Player-specific discount factors would not change the equilibrium.

(LAM) The old Commission becomes a ‘lame duck’ when the appointment process starts; keeping it forever is the worst outcome for sufficiently many members of CM and EP.

The main (albeit standard) limitation follows from assumptions (DIM) and (MED): they break down a complex, multi-dimensional and potentially indeterminate decision-making problem into a sequence of one-dimensional ones with straightforward solutions. If one assumed a strong consensus orientation in the Commission, a weighted average position should replace the median. Extra weight on the latter would still be called for by the ‘shadow’ which will likely be cast by the anticipated disagreement outcome on any consensus agreement – giving rise to qualitatively similar results below. Alternatively, one might assume that Commissioners have a lot of discretion in their respective portfolios. This would reduce the number  $k$  of issues to which our model applies, and add some baseline distance to the numbers calculated in Section 4.

The critical part of (IND) is not so much the dichotomy of outcomes, i.e., implementation of either the Commission’s ideal policy or an outcome fully determined by other players – this naturally arises on the administrative route and is consistent with game-theoretic predictions for both the Consultation and the Codecision procedures.<sup>9</sup> Rather the frequency of either case should in theory depend on the appointed Commission. Accounting for the link would be complicated by uncertainty at the time of the investiture, e.g., regarding the future composition of CM, but forward-looking members of CM or EP should strictly speaking treat  $p$  as an endogenous variable.

The qualitative findings below will be robust to the extent that a more sophisticated treatment of post-appointment decision making or other variations of the assumptions do not affect the following lemma (see the Appendix for a proof):

**Lemma 1** *All MEPs and members of CM seek to install a Commission whose dimension-by-dimension median position is as close to their respective own position as possible.*

This result, obtained under the listed idealizing assumptions, ignores many practical issues such as candidates’ competence or incomplete information about them. The latter in reality makes the choice of a candidate risky. One could capture this in the model by replacing actual with expected policy positions (presuming risk neutrality), which would allow for unpleasant surprises in later institutional relations but leave member state’s privilege to propose candidates unaffected. The introduction of candidates with different competence (weakening the assumptions (POL) and (SPA)) would create a trade off with proximity. It would result in less extreme equilibrium predictions below but not change the identified structural power imbalance. Similarly, giving up (ABU) would induce agents to

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<sup>9</sup>The subgame perfect equilibrium for the Consultation procedure results in either  $x_i^C$ , the policy closest to  $x_i^C$  which makes the pivotal Council member indifferent to the status quo, some policy that the Council unanimously agrees without Commission influence, or simply the status quo. In contrast,  $x_i^C$  plays no role under the Codecision procedure – its predicted outcome is determined primarily by CM (cf. Napel and Widgrén 2006; also see Napel and Widgrén 2004 on outcome sensitivity and decision power more generally).

seek the best available substitute for the respective ideal candidate, without fundamental differences.

### 3.2 Analysis of the appointment game

Delay at *stage 5* brings no advantage to Council members. In particular, the stationarity of preferences formalized by (SPA) implies that any interest in delaying the decision by one period must persist in the subsequent period, i.e., would necessarily translate into a preference for perpetual delay. (LAM) rules this out. So every member of CM has at least a weak preference for appointing the nominees. Anticipating that a qualified majority of other CM members will vote for the appointment (or a blocking minority against), an individual Council member actually is indifferent. However, we will throughout the analysis break such ties in favor of the candidate(s). So CM appoints the nominated Commission unanimously.

At *stage 4*, each MEP will vote for CM's proposal if this gives no less utility than continuation of the game at stage 3. In particular, after a rejection by EP the nominated Commission President and CM make another proposal which could be the *same* as the rejected one (possibly involving new faces, but with the same preferences). This means that a coalition comprising the nominated President and (a qualified majority of) CM plays a *monopolistic-offer bargaining game* with EP or, more precisely, the MEP singled out to receive the median utility from the offer.<sup>10</sup>

This bargaining game – essentially an open-ended version of the so-called *ultimatum game* – in abstract terms involves two players, 1 and 2, who interact as follows:

1. Player 1 offers a share  $y \in [0, 1]$  of a possible joint surplus to player 2.
2. Player 2 accepts or rejects  $y$ .
3. If player 2 accepts, payoffs are  $(1 - y, y)$ . Otherwise, the game moves back to 1. with next stage's payoffs discounted by factor  $\delta \in (0, 1)$ .

It is a subgame perfect equilibrium for player 1 to propose  $y = 0$  after any history of play and for player 2 to accept any offer  $y \geq 0$ . Using arguments similar to Rubinstein (1982), one can show that immediate agreement on  $y = 0$  is, in fact, the *unique* subgame perfect equilibrium outcome (see, e.g., Muthoo 1999, sec. 7.2.2).

This equilibrium prediction may seem somewhat extreme – one can expect that EP in practice manages to extract at least some appointment rent, e.g., by threatening a

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<sup>10</sup>The appointment of judges to the US Supreme Court involves a similar monopoly over proposals held by the US President. The outside option of the Senate, who must confirm any nominee, is, however, better than that of EP: only individual deceased or retired judges are replaced and the Court always stays fully operational. There is thus no analogue of (LAM). The exclusive right to propose still results in new judges who broadly reflect the US President's preferences – with red lines last tested by the nomination of Harriet Miers. See, e.g., Segal et al. (1995) and Martin and Quinn (2002) and the references therein for investigations of justices' ideological positions.

damaging media campaign if the proposal is too CM-biased.<sup>11</sup> Keeping things simple, we will nevertheless use it. It then follows that EP will accept any Commission that is better than a perpetual lame duck at stage 4, i.e., the nominated President and (a qualified majority of) CM get whatever candidates they agree on in the previous stage.

During *stage 3* the respective heads of government or state propose national candidates to their fellow Council members and the nominated President. This amounts to 26 monopolistic-offer bargaining games with heads of government or state as proposers. The responders – the respective 26 other heads and the nominated President – can only delay an agreement but not make any counter-proposals.<sup>12</sup> Moreover, it is generally incredible for the nominated President to threaten to ask undesired Commission members to resign later: first, even though Art. 215 is not explicit on this, it seems that the respective head of government or state would again be the one to propose a new candidate. Second, a qualified majority of CM has to agree on the replacement before a resigned Commissioner actually leaves the college; however, without great coincidence or coordinated collusion, there is a blocking simple majority against replacements affecting the median positions of the Commission. So, in effect, heads of government or state face no constraints in selecting ‘their’ national Commissioner due to (LAM), i.e., the Maastricht reform of the Commission’s investiture mainly constituted a cosmetic change.<sup>13</sup>

In what we will refer to as the *truth-telling equilibrium* every country  $j$  will nominate a Commission member with ideal point  $\gamma^j = \mu^j$ , i.e., a person duplicating the respective head of government or state’s position  $\mu^j$ . This is not the only equilibrium of the subgame starting in stage 3, but clearly the *focal* one since all other equilibria are either outcome-equivalent (heads of government or state misrepresent their ideal point in dimensions in which they are not decisive in the college anyway) or involve *collusion* between some Council members against others. Such collusion equilibria arise as follows: a dimension- $i$  misrepresentation of country  $j$ ’s ideal point by  $\Delta x_i$  has an effect if that member  $j$  is the unique median on issue  $i$ . In this case,  $j$  is actually hurt by its own misrepresentation – but 13 others are benefitting from it. For high enough dimensionality of the policy space it is then possible to build a ‘cartel’ of, say, 25 members who each misrepresent their issue-specific ideal points in such a way that the two ‘outsiders’ are always amongst the 14 losers. This implies that ‘insiders’ win more often than they lose and, in summary, benefit from the deal. Whilst such options may be good to exist in principle (think of national elections producing a rogue head of government who can thus be kept in check), their exercise is surely in violation with the EU’s ‘principle of equality’. Moreover, it requires coordination

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<sup>11</sup>Recall that the prediction also rests on the assumption of complete information. Temporary impasses such as during the Barroso Commission’s nomination demonstrate that CM in reality has asymmetric information about MEPs’ reservation utility.

<sup>12</sup>Credible threats to reject a bad offer and then to respond with a counter-offer, i.e., to turn the table, drive the more symmetric outcome in Rubinstein’s (1982) bargaining game.

<sup>13</sup>Note that EP’s passage of a motion of censure simply restarts the CM-dominated appointment procedure. So this oldest instrument of parliamentary power has always been blunt; it cannot bring about different policies unless CM wants them (possibly after having a new composition).

and potential punishment of free-riders. Truth-telling, in contrast, constitutes an equitable equilibrium in simple, frugal, and transparent strategies.

Analogous reasoning applies to *stages 2 and 1*. By (MED) there is no special benefit from providing the Commission President, at least in our stylized game. CM can hence select an arbitrary country  $j$  to nominate the President, e.g., one for which a particularly high-profile candidate attractive to the respective national government is available. Anticipating truth-telling equilibrium strategies of the other Council members, country  $j$ 's representative will optimally propose a candidate with  $\gamma^j = \mu^j$ , who is then endorsed by CM and approved by EP. In summary, we predict that in equilibrium  $\gamma^k = \mu^k$  for  $k = 1, \dots, 27$ , i.e., every Commissioner replicates the respective national Council member's own preferences.

It is not hard to think of real-world 'counter-examples'. For instance, the former social democratic Finnish finance minister Erkki Liikanen was selected to be Finland's first Commissioner in 1994 by a center-right coalition, joining a left-wing German trade union representative, Monika Wulf-Matthies, appointed by right-wing chancellor Kohl. More recently, former German chancellor Schröder suggested a Commission job for his key opponent of the 2002 national elections (and at the time possibly again in 2006). Other examples could be added.<sup>14</sup> They may have led Tsebelis and Garrett (2000) to hold that Commissioners' appointments are primarily merit-based, with national governments generally seeking to send important and independent personalities to Brussels. That would actually not contradict the prediction of overwhelming Council influence on the Commission's selection: heads of state or government in equilibrium only care (i.e., are not indifferent but have a strict preference) about their nominee in those dimensions in which their own position is the Council's median one. These amount to a priori  $1/27 \approx 3.7\%$  of all relevant dimensions in case of 27 Council members; the remaining 96.3% others provide enormous flexibility. In particular, they can be used in order to pursue unmodeled additional goals: e.g., to foster a national consensus, to please coalition partners, to reward political friends, to cater to particular constituencies, etc. Choosing a virtual duplicate of oneself is the focal strategy in our model, but more refined preference assumptions would break the big number of equilibrium ties in other and more realistic ways.

## 4 A priori Implications for Institutional Relations

Above analysis implies that heads of government or state can propose and with EP's help approve the Commissioners they like best: 'clones' of themselves. This finding leads to more questions. If the Commission is a clone of the Council, why would the EU need it? Perhaps it is a federalist fig leaf, covering a primarily intergovernmental and economic project never meant to result in genuine political integration. Or may the Commission's role be simply to serve as a high-powered secretariat to the Council? Legislation according

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<sup>14</sup>See MacMullen (1997) for a comprehensive account of Commissioners' characteristics, dating back to Jean Monnet. He notes "reallocation of domestic political patronage" as the prime reason if single-term Commissioners were denied renomination.

to, e.g., the Consultation procedure could then amount to the writing down and rubber-stamping of Council policy, in spite of the EC Treaty provision that “The Members of the Commission shall, in the general interest of the Community, be completely independent in the performance of their duties.” (Art. 213(2)).

Related questions about the power and independence of an appointed bureaucrat or a set of dependant agents have a long history in political science. In the context of the European Commission, it goes back at least to Coombes (1970) who highlighted functions of the Commission such as taking own initiatives, laying down rules, and interpreting the common European interest on a day-to-day basis which point to actual independence. So do the explicit empowerment to independently impose anti-dumping measures and fines, to prohibit mergers and acquisitions, to disallow subsidies by member governments, etc. Generally, the administrative route is under exclusive control of the Commission and gives it considerable leeway. Consequently, a sizeable literature analyzes the Commission’s activity in the *principal-agent framework* (see, e.g., Pollack 1997, Franchino 2000, 2004, or Thomson 2008; Kassim and Menon 2002 give a critical survey). Stressing the role of informational advantages, moral hazard, and agenda setting, it provides ample reasons for not expecting the Commission to act like a clone of the Council in practice.<sup>15</sup>

We will add to these a more basic, either under-appreciated or overlooked explanation for why the Commission will pursue different goals than the Council: in our view, a major reason are *institutional rules*. In particular, there exist different internal rules for reaching decisions and thereby for aggregating preferences in both institutions. Even if Commissioners *individually* duplicate CM members, the Commission in aggregate need not and typically will not.

The *simple majority rule* which is applied by the Commission whenever there is no consensus makes its median in any given dimension the focal prediction for the corresponding aggregate policy position. Based on the previous section’s analysis, the Commission’s ideal policy can therefore be expected to be determined by the issue-specific *Council median*. However, the latter will very rarely coincide with the aggregate position of CM because that results from a rather complex *qualified majority rule*: supporters of a Council motion regarding carbon emission levels, the speed of electricity deregulation, or the fat contents of chocolate etc. have to constitute a majority in three ways. In particular, there have to be at least 255 votes out of 345 ( $\approx 74\%$ ) in favor of a proposal.<sup>16</sup>

It is worthwhile to illustrate the effect of the respective majority rule on policy relations by a few ‘back of the envelope’ computations. They are not meant to give a realistic picture of current or recent institutional relations (see Section 5), but to show the *a priori bias*

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<sup>15</sup>Another practical reason for why the Commission should not be expected to rubber-stamp the Council’s decisions is that the latter typically does not meet in the composition of heads of government or state, but rather of specialist ministers with possibly incongruent interests. See Henning (2004) on systematic differences between the position of national ministers of agriculture and their superiors.

<sup>16</sup>We refer to the Treaty of Nice for details. ‘Yes’-votes currently also have to represent 62% of total EU population and a simple majority of member states.

towards cooperation between Commission and EP (rather than CM) which is built into institutional rules. The same *tendencies* would obtain also for other assumptions, e.g., about the distribution of individual ideal points and are therefore likely to be relevant in practice, too.

Consider an unweighted 74% rule (20 out of 27 equal votes) as a first approximation of the Council's internal decision rule. Given ordered ideal points  $\mu_i^{(1)} \leq \mu_i^{(2)} \leq \dots \leq \mu_i^{(27)}$  of CM's members on issue  $i$  and an issue-specific status quo  $q_i \in [0, 1]$ , CM's aggregate position is restricted to

$$x_i^{CM} \in \begin{cases} [\mu_i^{(8)}, \min \{2\mu_i^{(8)} - q, \mu_i^{(20)}\}] & \text{if } q < \mu_i^{(8)}, \\ \{q\} & \text{if } \mu_i^{(8)} \leq q \leq \mu_i^{(20)}, \\ [\max \{2\mu_i^{(20)} - q, \mu_i^{(8)}\}, \mu_i^{(20)}] & \text{if } q > \mu_i^{(20)}. \end{cases} \quad (1)$$

Namely, only positions  $x_i^{CM}$  satisfying (1) would be supported by a qualified Council majority and could not be successfully replaced by another internal policy proposal.

Similarly, denoting the issue-specific ordered ideal points of the currently 785 MEP by  $\pi_i^{(1)} \leq \dots \leq \pi_i^{(785)}$ , the aggregate position of Parliament will be (leaving party considerations aside)

$$x_i^{EP} = \pi_i^{(393)}, \quad (2)$$

i.e., its median. The issue-specific position of the Commission is simply

$$x_i^C = \gamma_i^{(14)} = \mu_i^{(14)}. \quad (3)$$

Any continuous a priori distribution of the ideal points of members of CM and EP implies with (2) and (3) that the Commission's and EP's a priori *propensity for change* is

$$\Pr(\gamma_i^{(14)} \neq q_i) = \Pr(\pi_i^{(393)} \neq q_i) = 1.$$

The corresponding number for CM depends on the actual ideal point distribution, but the more demanding majority rule in CM robustly makes its propensity for change smaller than that of EP and Commission. If, as a typical a priori benchmark, one assumes that all ideal points as well as the status quo are independently and uniformly distributed on  $[0, 1]$ , one obtains

$$1 - \Pr(\pi_i^{(8)} \leq q \leq \pi_i^{(20)}) = 1 - (20/28 - 8/28) \approx 0.571$$

for CM's propensity for change. A similar difference would prevail also for other assumptions: institutional rules a priori make the Commission and the Parliament the European Union's most dynamic players and the Council its most conservative institution. EP and Commission are more likely to agree on a need for change than CM and Commission are.

When CM and Commission do agree on change, their preference dependence in theory lets them automatically agree on the direction. This is not the case for EP and Commission. However, the former almost always want to go quite different distances, in contrast to



often similarly central ideal points of EP and Commission. Average distances are therefore smaller between Commission and EP than between Commission and CM under various distributional assumptions.

For a numerical illustration, again let individual ideal points and the status quo be independently uniformly distributed on  $[0, 1]$ . One can then calculate<sup>17</sup>

$$\mathbf{E}(|x_i^{EP} - x_i^C|) = \mathbf{E}(|\pi_i^{(393)} - \mu_i^{(14)}|) \approx 0.076$$

as the average distance between EP and Commission. Moreover, avoiding a more complex while still ad hoc model of intra-Council bargaining, assume that the Council's actual policy position,  $x_i^{CM}$ , for given realizations of  $\mu_i^{(8)}$  and  $\mu_i^{(20)}$  is a priori uniformly distributed on the respective interval of stable CM positions defined by (1) (if it is not  $q$ ). One then obtains

$$\mathbf{E}(|x_i^{CM} - x_i^C|) \approx 0.134$$

i.e., CM and Commission are on average noticeably farther apart than Commission and EP.<sup>18</sup>

CM would have smaller distance to the Commission if, e.g., the *entire* Parliament acted as a single unitary actor with uniformly distributed ideal point. In this sense, greater closeness between Commission and EP is sensitive to distributional assumptions. Still, one can robustly conclude a priori that CM and Commission rarely hold particularly similar positions.

In our view, this is the key to why the EU has a role for Commissioners who share the appointing national Council members' preferences on decisive issues: Loosely speaking the *same players* sit in CM and Commission. But internal rules allocate decision power to a *different pivot* in each institution. Its simple majority rule lets the Commission represent an issue-specific moderate member state. In contrast, CM speaks for a conservative one. One could say that the Commission protects member states against excessive Council inertia, while the Council provides a safeguard against the dynamism of simple majority rule in EP and Commission.

## 5 Evidence on Institutional Relations

Above statements regarding the distinct degrees of conservatism of Council, Parliament, and Commission and average distances between their policy positions are derived entirely a priori. We made preference assumptions that were unrelated to any empirical observations and interpreted Treaty provisions in a very legalistic way (e.g., regarding the use of simple majority rule by the Commission). It is therefore useful to check related empirical evidence. Unfortunately, reliable quantitative information on stake-holders' preferences in EU legislation is still rather scarce. The particular unavailability of data on individual

<sup>17</sup> $\pi_i^{(393)}$  and  $\mu_i^{(14)}$  are beta distributed with parameters (393, 393) and (14, 14), respectively.

<sup>18</sup>The number was obtained by Monte Carlo simulation. Similarly,  $\mathbf{E}(|x_i^{CM} - x_i^{EP}|) \approx 0.135$ .

standing Commissioners, who are obliged to the ‘principle of collective responsibility’ and strict confidentiality, makes a direct test of the model in Section 3 almost impossible.

Two recent empirical studies, however, lend at least some support to our game-theoretic prediction that heads of state or government remain unrestricted in picking ‘their’ Commissioners. Using the same post-Amsterdam data set which we will investigate below, Thomson (2008) studies the distance between the Commission’s aggregate policy position and the policy position of the home member state of the Commissioner primarily responsible for drafting the respective legislative proposal. For issues on which the Council decides by qualified majority voting, the Commission’s positions happen to be significantly closer to the positions of the responsible Commissioners’ home member states than to other policy positions. This suggests that Council members indeed manage to appoint Commissioners who are aligned with their own interests. They also manage to appoint candidates who share the respective national government’s party affiliation(s), as found by Wonka (2007). He has compared the personal political background of all Commissioners since 1958 with the relevant attributes of the nominating governments.

We here concentrate on institutional relations and confront Section 4’s prediction with data. Greater similarity between Commission and Parliament can, of course, result for many reasons other than internal decision rules. For instance, a new Commission and a new Parliament might go through the same supranational socialization after they assume office and get ‘Europeanised’. Hooghe’s (2005) case study questions that this plays a major role, but other hypotheses can be put forward and will be discussed below. The following should therefore be viewed not as a targeted test of our theoretical investigation but rather as a robustness check: if the data does not show the predicted institutional (dis)similarities, the identified institutional biases would be too weak to matter (or are compensated by neglected ones).

König, Lindberg, Lechner, and Pohlmeier (2007) analyze data on 69 proposals involving 73 issues that reached the conciliation stage of the Codecision procedure between May 1999 and July 2002.<sup>19</sup> According to the experts interviewed for their study, the Commission supported EP on 41 issues whilst it supported CM on only 24 issues. This relative closeness of Commission and EP is confirmed by anecdotal evidence. In her analysis of the Codecision procedure, Rasmussen (2003, sec. 5.2) quotes, for instance, an interviewed MEP as saying “... the Commission expects that the Parliament will help it to get more [than the original proposal] ... ” and a Commissioner as noting “Often we can use the parliamentarians to pass certain messages, because they have a right to say what they like ... there is a very good co-operation.”

In the following, we add to König et al.’s quantitative evidence and analyze a data set

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<sup>19</sup>Above back-of-the-envelope computations refer to EU27, whilst Thomson’s (2008), König et al.’s (2007) and our data still relate to EU15. The crucial difference between the respective simple and qualified majority requirements has been unaffected by enlargements. So ballpark figures similar to those of Section 4 obtain for EU15, and we expect similar empirical results when more recent data becomes available. Note also that Amsterdam’s switch from unanimity to qualified majority did not affect the focal equilibrium of Section 3’s appointment game.

covering 66 multi-issue legislative proposals that were made before or in 2000 and concluded between May 1999 and February 2002. The data was collected by an international group of researchers.<sup>20</sup> Reports in *Agence Europe*, the main independent daily news service on EU affairs, were used to select issues of general political importance and with at least a minimum level of controversy. Then, interviews with altogether 125 experts were carried out. Most of these were affiliated with the permanent representations of the member states in Brussels. These experts were usually desk officers responsible for representing their state in Council negotiations. Others were affiliated with the Commission, European Parliament, Council Secretariat and interest groups. These experts provided estimates on actors' policy positions on a  $[-100, 100]$ -scale, the status quo point, issue salience, and actual outcome on a total of 162 controversial issues. The corresponding dossiers cover a wide range of policy domains: the internal market, agriculture, fisheries, ECOFIN, justice and home affairs, general, culture, development, employment, energy, industry, social affairs and transport. We only use information about players' preferences – not policy outcomes.

We deduced the Council's aggregate position from the estimated policy positions of its 15 members plus the pre-Nice weight assignment and decision quota. 15 issues had to be removed because too many preference values were missing. Of the remaining 147 issues, 83 had been decided using the Consultation procedure and 64 using the Codecision procedure. When we tested for differences in the degree of conservatism, accurate information on the status quo was needed. This led to the exclusion of another 34 issues, with 56 of the remaining issues pertaining to Codecision and 57 to Consultation.<sup>21</sup>

The ideal points attributed to the three institutions fail to be approximately normally distributed, so that we could not perform a paired  $t$ -test. We resorted to non-parametric statistical methods, in particular the *Wilcoxon signed-ranks test* (see Wilcoxon 1945 or, e.g., Siegel and Castellan 1988 for a textbook presentation). This test disregards the level of, say, the Commission's conservatism as picked up by its distance to the status quo,  $|x_i^C - q_i|$ , and similarly the Council's conservatism but assumes that there is information in the sign and magnitude of the *difference* between these two status quo distances for any given issue  $i$ .<sup>22</sup>

We first considered the following three null hypotheses:

**Hypothesis 1** *Conservatism of CM (i.e., the inverse of distance between issue-specific*

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<sup>20</sup>For details see Thomson, Stokman, Achen, and König (2006) and the special issue of *European Union Politics* 5(1), 2004.

<sup>21</sup>When testing Hypothesis 4 below, CM's pivot for these 34 issues was deduced using the modal status quo in the data,  $q = 0$ . – Note that we obtain distinct distance observations from different issues of any given dossier. If instead we ignore obvious comparability problems and look at aggregate *dossier-wise* distances, CM is the most conservative institution and also has greater distance to the Commission than EP. Latter finding is, however, not significant for aggregate distances.

<sup>22</sup>The related *Fisher sign test* only exploits the sign. The corresponding  $p$ -values turn out to be only slightly larger for our data.

status quo and ideal point of CM) is not greater than that of EP,<sup>23</sup> i.e.,

$$H_0: |x_i^{CM} - q_i| \geq |x_i^{EP} - q_i|.$$

**Hypothesis 2** *Conservatism of CM is not greater than that of the Commission, i.e.,*

$$H_0: |x_i^{CM} - q_i| \geq |x_i^C - q_i|.$$

**Hypothesis 3** *Conservatism of EP is not greater than that of the Commission, i.e.,*

$$H_0: |x_i^{EP} - q_i| \geq |x_i^C - q_i|.$$

The first three diagrams in Figure 2 illustrate the empirical cumulative distribution functions of the respective two distance variables.<sup>24</sup> Table 1 provides some descriptive statistics and the test results. The Wilcoxon test statistic  $Z_w$  asymptotically has a standard normal distribution, i.e., we can for instance reject the first null hypothesis with 97.5%-confidence if  $Z_w < -1.96$ , and then conclude that, in fact,  $|x_i^{CM} - q_i| < |x_i^{EP} - q_i|$ . It turns out that

1. CM is significantly more conservative than EP,
2. CM is significantly more conservative than the Commission, and
3. Commission and EP do not exhibit any significant difference in their conservatism.<sup>25</sup>

These results are very much in accord with the predictions. A high number of ties between EP and the pivotal Council member is, however, worth noting. It indicates that our a priori assumption of independent ideal points with a continuous distribution is a major idealization.

We finally tested the following null hypothesis:

**Hypothesis 4** *Closeness between CM and the Commission (i.e., the inverse of distance between issue-specific ideal points) is not smaller than that between EP and Commission, i.e.,*

$$H_0: |x_i^{CM} - x_i^C| \leq |x_i^{EP} - x_i^C|.$$

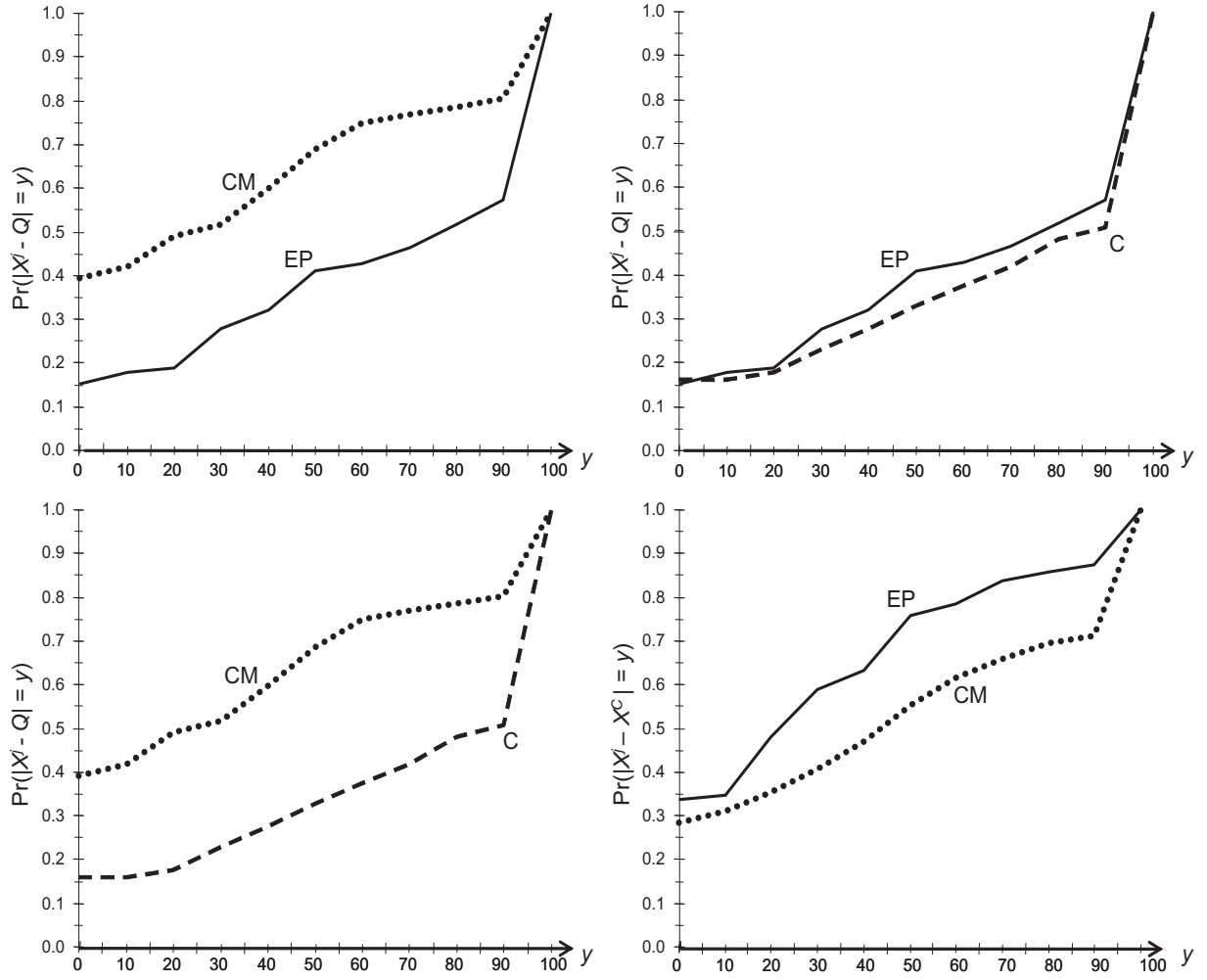
As indicated in Table 1, this hypothesis can be rejected, and we conclude

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<sup>23</sup>The comparisons refer to *first degree stochastic dominance*, i.e., more formally we assume comparability based on Figure 2 and test  $H_0: F_{|X^{CM}-Q|}(y) \leq F_{|X^{EP}-Q|}(y)$  for all  $y$  vs.  $H_1: F_{|X^{CM}-Q|}(y) \geq F_{|X^{EP}-Q|}(y)$  with strict inequality for at least some  $y$ .

<sup>24</sup>Theoretically, the  $[-100, 100]$ -scale would have allowed for distances ranging from 0 to 200. For most issues the status quo point was in fact  $q = 0$  and all actors' ideal points lay in the interval  $[0, 100]$ . For the remaining issues, *distances* between Council pivot, EP, and Commission turned out to range only between 0 and 100, too.

<sup>25</sup>This is confirmed by testing  $H'_0: |x_i^{EP} - q_i| \leq |x_i^C - q_i|$ .



**Figure 2:** C.d.f. of EP's, CM's and Commission's distance to status quo and of EP's and CM's distance to Commission

<b>Hypothesis 1</b>	$n = 113$
Parliament is more conservative than Council	4
Council is more conservative than Parliament	56
Ties	53
$Z_w$	$-6.219^{***}$
Asymptotic $p$ -value (one-tailed)	.000
<b>Hypothesis 2</b>	$n = 113$
Commission is more conservative than Council	24
Council is more conservative than Commission	73
Ties	16
$Z_w$	$-4.412^{***}$
Asymptotic $p$ -value (one-tailed)	.000
<b>Hypothesis 3</b>	$n = 113$
Commission is more conservative than Parliament	46
Parliament is more conservative than Commission	49
Ties	18
$Z_w$	0.704
Asymptotic $p$ -value (one-tailed)	.241
<b>Hypothesis 4</b>	$n = 147$
Commission is closer to Council	37
Commission is closer to Parliament	61
Ties	49
$Z_w$	$-2.774^{**}$
Asymptotic $p$ -value (one-tailed)	.003

**Table 1:** Tests of Hypotheses 1–4 (\*\*/\*\*\*: significant at 99%/99.9%)

4. EP and the Commission are significantly closer than CM and the Commission.

As mentioned, the data set contains issues from both main EU decision procedures. They differ in particular regarding EP's role: the Parliament has neither veto power nor any binding say under the Consultation procedure, while it has both under the Codecision procedure specified in Art. 251.<sup>26</sup> The Consultation procedure pertains particularly to common agricultural policy, but also competition, taxation and approximation of laws. Restricting attention to it, Hypotheses 1, 2 and 4 were rejected at the same levels of significance as before, while Hypothesis 3 could again not be rejected.

The Codecision procedure is most widely used for regulations and directives concerning the internal market, but also transport, public health, education and research, the environment, and the Regional Development Fund. Restricting attention to it we could reject Hypothesis 1 at the old 99.9%-level of significance and Hypothesis 2 at 90% ( $Z_w = -1.557^*$ , asympt.  $p = 0.060$ ). In contrast to the pooled data, Hypothesis 4 cannot be rejected for Codecision alone ( $Z_w = -1.247$ , asympt.  $p = 0.106$ ). However, Hypothesis 3 can be rejected for only Codecision issues at the 90%-level ( $Z_w = -1.407^*$ , asympt.  $p = 0.080$ ), i.e., EP is significantly more conservative than the Commission in the corresponding policy dimensions. This may in particular reflect EP's reluctance to liberalize the internal market.

## 6 Concluding Remarks

There exist several plausible reasons other than voting rules for the finding that the Commission's policy positions are closer to those of the Parliament than of the Council. We already pointed to the Thomas-Beckett effect, named after the close friend of English king Henry II who was appointed by Henry as archbishop of Canterbury and then sided with the church in Rome, actually becoming Henry's key opponent (see, e.g., Hillman 2003, sec. 3.3.4). Commissioners might similarly take up their job with national government-aligned preferences and, say, scepticism towards an ever closer union but then they become 'Europeanised' and converge to a federalist 'Brussels consensus' shared with a majority of MEPs. The significance of this is, however, questioned not only by Hooghe (2005) but also Thomson (2008).

Principal-agent models as investigated by Pollack (1997) or Franchino (2000, 2004) explain the Commission's independence of Council interests by its informational advantages and agenda-setting (see also Kassim and Menon 2002). They and explicit decision powers of the Commission allow for a great degree of self-motivated political entrepreneurship. For example, newly appointed Commissioners might demonstratively abandon the policy positions of their former patrons as a means to prove their independence and gain leverage inside the EU bureaucracy, akin to new central bankers seeking to assert their anti-inflationary stance. Such derivatives of asymmetric information and agenda power could

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<sup>26</sup>Even under the Codecision procedure EP is significantly less powerful than CM (see Napel and Widgrén 2006).

explain a significant distance between CM and the Commission, but *not* why the Commission and EP are close to each other both in relative and absolute terms. Institutional rules can explain *both*. The classical agency problems related to asymmetric information, moral hazard, incomplete contracts, or transaction costs can be expected to abound in the European Commission at large, but concerning the college of Commissioners and, yet more specifically, the relationship of its policy positions to those of CM and EP as institutional actors, decision rules seem at least as relevant.

Another prospective explanation for divergent interests is given by Dowding (2000): Commission and EP respectively conserve the political map of Europe for five years at about the same point of time.<sup>27</sup> Uncoordinated elections of national governments, in contrast, result in an ever-changing CM. This could explain a growing distance between Council and Commission. A complementing view is that the Commission can develop better relations and trust with EP given that both are at least partially Brussels-based and share about 4.5 years of their respective service (see, e.g., Topan 2002). More extensive data that, e.g., allow a distinction between periods of small and great Council turnover hopefully make it possible to test these alternative explanations in the future.

Whether intentionally or not, the last Treaty reforms have given the European Parliament a formally important role which, however, from a strategic point of view is only symbolic. The bringing about of a new face for, e.g., the Italian Commission seat may be regarded as a breakthrough and sign of increased parliamentary power. But Buttiglione's replacement, Franco Frattini from Silvio Berlusconi's Forza Italia, would probably not count as the Parliament's first or second choice. Its victory could only be of a partial nature because national governments have kept their monopoly over proposing candidates.

Under our idealizing assumptions (blending out information problems, concern for consensus inside the Council, or governments' interest in not discrediting a new Commission by making very unpopular choices) we have deduced that national heads of state or government face few restrictions and can pick national Commissioners who share their respective political preferences regardless of the policy ideals of the European Parliament. That this does not imply a close alliance between Council and Commission in their later interaction with the Parliament can be explained very straightforwardly by different institutional rules for aggregating preferences. A changing Council composition and agency problems may also matter but one can expect preferences of the Council and the Commission to diverge even in an ideal world without these.

Since institutional rules are determined by the Council, one is tempted to ask *why* they are as they are. In particular, why does the Council not align the Commission's decision

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<sup>27</sup>Parliamentary elections and the Commission's appointment have been pretty much synchronized since 1994. The Treaty is not explicit here but [http://europa.eu/institutions/inst/comm/index\\_en.htm](http://europa.eu/institutions/inst/comm/index_en.htm) (consulted in September 2007) holds that "A new Commission is appointed every five years, within six months of the elections to the European Parliament" – implicitly ruling out prolonged periods of impasse in the appointment process. If a Commission is replaced as the result of a motion of censure, the new Commission's term expires at the date originally set for the resigned one (Art. 201).



rule with its own? The use of simple majority rule in the Commission might be sacrosanct because it was already part of the Treaty of Rome. It is more likely, though, that several Council members have no interest in amending it (and a unanimous decision would be required). The reason is that the Council *as a unitary actor* would prefer dealing with a Commission that shares its own preferences, but individual Council members may be very happy to see the Commission represent and pursue their minority (or unqualified majority) interests whenever the more conservative members prevail inside the Council. Even if a member state is not sure whether it will more often hold a moderate than a conservative position, risk aversion and a taste for hedging one's bets make distinct majority requirements appealing. They can be viewed as an ex ante compromise between ex post conservative and ex post progressive interests in the Council. In this interpretation, the Commission is neither a fig leaf nor just an executive secretariat, but an essential part of an institutionalized balance of power between the members states.

## Appendix

*Proof of Lemma 1:*

Given (potential) Commissioners with ideal points  $\gamma^1, \dots, \gamma^{27}$  denote their dimension- $i$  median ideal point by  $\gamma_i^{(m)}$ . (SPA), (DIM), (IND) and (MED) then imply that the expected utility to a player with ideal point  $\lambda$  from appointing a Commission  $\Gamma = (\gamma^1, \dots, \gamma^{27})$  is

$$\tilde{U}(\Gamma; \lambda) = - \sum_{i=1}^k \left( p \cdot |\lambda_i - \gamma_i^{(m)}| + \bar{U}_i(\lambda) \right)$$

where  $\bar{U}_i(\lambda)$  is a constant unaffected by the selected Commission. Since  $p$  is assumed to be independent of  $\Gamma$  and  $\lambda$  is fixed, any given agent's maximization of  $\tilde{U}(\cdot)$  is equivalent to maximization of

$$U(\Gamma; \lambda) = - \sum_{i=1}^k |\lambda_i - \gamma_i^{(m)}| = u(\gamma^{(m)}; \lambda).$$

■

## References

- Baldwin, R. E., E. Berglöf, F. Giavazzi, and M. Widgrén (2001). *Nice Try: Should the Treaty of Nice Be Ratified?* Monitoring European Integration 11. London: Center for Economic Policy Research.
- Code of Conduct for Commissioners (2004). Document prepared by the Secretariat-General, Directorate B. URL: [http://ec.europa.eu/commission\\_barroso/president/pdf/conduct\\_en.pdf](http://ec.europa.eu/commission_barroso/president/pdf/conduct_en.pdf) (consulted: September 2007).
- Coombes, D. (1970). *Politics and Bureaucracy in the European Community*. Beverly Hills, California: Sage Publications.

- Crombez, C. (1997). Policy making and Commission appointment in the European Union. *Aussenwirtschaft* 52(1-2), 63–82. [Reprinted in: P. Moser, G. Schneider, and G. Kirchgässner (Eds.), *Decision Rules in the European Union – A Rational Choice Perspective*, pp. 48–67, Basingstoke: Palgrave Macmillan, 2000].
- Crombez, C. and S. Hix (2004). Government-opposition in the EU: Implications of EU Treaty reforms for Commission preferences and EU policies. mimeo.
- Dowding, K. (2000). Institutional research on the European Union – A critical review. *European Union Politics* 1(1), 125–144.
- Egeberg, M. (1999). Transcending intergovernmentalism? Identity and role perceptions of national officials in EU decision-making. *Journal of European Public Policy* 6(3), 456–474.
- Felsenthal, D. and M. Machover (2004). Analysis of QM rules in the draft Constitution for Europe proposed by the European Convention, 2003. *Social Choice and Welfare* 23(1), 1–20.
- Franchino, F. (2000). The Commission’s executive discretion, information and comitology. *Journal of Theoretical Politics* 12(2), 155–181.
- Franchino, F. (2004). Delegating powers in the European Community. *British Journal of Political Science* 34, 269–293.
- Franchino, F. (2005). A formal model of delegation in the European Union. *Journal of Theoretical Politics* 17(2), 217–247.
- Henning, C. H. (2004). The role of institutions in European agricultural protection. In G. V. Huylenbroeck, W. Verbeke, and L. Lauwers (Eds.), *Role of Institutions in Rural Policies and Agricultural Markets*, pp. 137–151. Amsterdam: Elsevier.
- Hillman, A. L. (2003). *Public Finance and Public Policy*. Cambridge: Cambridge University Press.
- Hix, S. (1997). Executive selection in the European Union: Does the Commission President investiture procedure reduce the democratic deficit? *European Integration online Papers* 1(21). [<http://eiop.or.at/eiop/texte/1997-021a.htm>].
- Hix, S., A. Noury, and G. Roland (2004). How to choose the European executive. In C. Blankart and D. Mueller (Eds.), *A Constitution for the European Union*, pp. 203–236. MIT Press.
- Hooghe, L. (2005). Several roads lead to international norms, but few via international socialization: a case study of the European Commission. *International Organization* 59, 861–898.
- Hug, S. (1997). The Commission as a pawn to the Member Countries: Comment to Christophe Crombez. *Aussenwirtschaft* 52(1-2), 83–86. [Reprinted in: P. Moser, G. Schneider, and G. Kirchgässner (Eds.), *Decision Rules in the European Union – A Rational Choice Perspective*, pp. 68–71, Basingstoke: Palgrave Macmillan, 2000].

- Hug, S. (2003). Endogenous preferences and delegation in the European Union. *Comparative Political Studies* 36(1-2), 41–74.
- Kassim, H. and A. Menon (2002). The principal-agent approach and the study of the European union: A provisional assessment. Working Paper 14 July 2002, The European Research Institute, University of Birmingham.
- König, T., B. Lindberg, S. Lechner, and W. Pohlmeier (2007). Bicameral conflict resolution in the European Union. An empirical analysis of Conciliation Committee bargains. *British Journal of Political Science* 37(2), 281–312.
- Laruelle, A. and M. Widgrén (1998). Is the allocation of power among EU states fair? *Public Choice* 94(3-4), 317–340.
- MacMullen, A. (1997). European Commissioners 1952–1995: National routes to a European elite. In N. Nugent (Ed.), *At the Heart of the Union. Studies of the European Commission*, pp. 27–48. MacMillan Press.
- Martin, A. D. and K. M. Quinn (2002). Dynamic ideal point estimation via Markov chain Monte Carlo for the U.S. Supreme Court, 1953–1999. *Political Analysis* 10(2), 134–153.
- Matlár, J. H. (1997). The role of the Commission: A theoretical discussion. In N. Nugent (Ed.), *At the Heart of the European Union. Studies of the European Commission*, pp. 265–282. Macmillan Press.
- Muthoo, A. (1999). *Bargaining Theory with Applications*. Cambridge: Cambridge University Press.
- Napel, S. and M. Widgrén (2004). Power measurement as sensitivity analysis – A unified approach. *Journal of Theoretical Politics* 16(4), 517–538.
- Napel, S. and M. Widgrén (2006). The inter-institutional distribution of power in EU codecision. *Social Choice and Welfare* 27(1), 129–154.
- Pollack, M. A. (1997). The Commission as an agent. In N. Nugent (Ed.), *At the Heart of the Union. Studies of the European Commission*, pp. 109–128. Macmillan Press.
- Rasmusen, A. (2003). The role of the European Commission in Co-decision – A strategic facilitator operating in a situation of structural disadvantage. *European Integration online Papers* 7(10). [<http://eiop.or.at/eiop/texte/2003-10a.htm>].
- Rubinstein, A. (1982). Perfect equilibrium in a bargaining model. *Econometrica* 50(1), 97–109.
- Segal, J. A., L. Epstein, C. M. Cameron, and H. J. Spaeth (1995). Ideological values and the votes of U.S. Supreme Court justices revisited. *Journal of Politics* 57(3), 812–823.
- Siegel, S. and N. J. Castellan (1988). *Nonparametric Statistics for The Behavioral Sciences*. New York, NY: McGraw-Hill.

- Steunenberg, B. and T. Selck (2002). The insignificance of the significance? A review of procedural models on EU decision making. mimeo.
- Thomson, R. (2008). National actors in international organizations: the case of the European Commission. *Comparative Political Studies* (forthcoming).
- Thomson, R., F. Stokman, C. H. Achen, and T. König (Eds.) (2006). *The European Union Decides*. Cambridge: Cambridge University Press.
- Topan, A. (2002). The resignation of the Santer-Commission: the impact of trust and reputation. *European Integration online Papers* 6(14). [<http://eiop.or.at/eiop/texte/2002-014a.htm>].
- Tsebelis, G. (1994). The power of the European Parliament as a conditional agenda setter. *American Political Science Review* 88(1), 128–142.
- Tsebelis, G. and G. Garrett (1997). Agenda setting, vetoes and the European Union’s co-decision procedure. *Journal of Legislative Studies* 3(3), 74–92.
- Tsebelis, G. and G. Garrett (2000). Legislative politics in the European Union. *European Union Politics* 1(1), 9–36.
- Wilcoxon, F. (1945). Individual comparisons by ranking methods. *Biometrics* 1, 80–83.
- Wonka, A. (2007). Technocratic and independent? the appointment of the European Commissioners and its policy implications. *Journal of European Public Policy* 14(2), 169–189.

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