

**New Powers – New Peers: the Developing Relations between EU Member State Governments and the European Parliament, and What Can Be Learned from Looking to the US Congress**

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**Abstract**

A central part of the debate about the EU's institutional system has centered on the role of the European Parliament and the aspiration that a strengthened EP would increase the democratic legitimacy of the EU towards its citizens. With its accessible structure, the EP has become a key target for external actors, and among these, increasingly, the member states' governments, who have seen their influence through the Council of Ministers challenged by the growing influence of the European Parliament. Informal bilateral relations with MEPs' offices, cutting across institutional and party political affiliations, has grown to become an integral part of the national governments' strategies in the EU legislative process.

On the basis of an empirical analysis of interviews with EU government officials, MEPs and their assistants, the paper examines this little studied dimension of interaction in the EU, and then places this in a comparative perspective with the US Congress.

## **1. Introduction**

The European Parliament's promotion to equal co-legislator with the Council in the majority of the legislative cases in the EU under the Lisbon Treaty's "ordinary legislative procedure", marked the culmination of decades of institutional transformation of the EU's legislative process, and a triumph for the EP's aspirations to gain a more prominent position in the EU in its capacity as the most democratically legitimate body of the EU. This did not necessarily mark the end of this journey for the EP, and certainly it did not mark the end of Parliament's ambitions, as was illustrated clearly with the EP's struggle for the right to propose the spitzenkandidaten for the President of the Commission leading up to the latest European elections. However, the strengthening of the EP's role in the EU policymaking process was not a project pursued solely by the EP, and it could not have taken place without the member states' interest in, and realization of, the development. Treaty changes to the advantage of the EP have all been unanimously adopted by the member states. The member states have knowingly and deliberately surrendered sovereignty to the EP more power relative to the Council by way of advancing the use of the co-decision procedure, and giving each government less intra-institutional power in the Council through an increase in the use of qualified majority voting (QMV) in the Council.

Now, 5 years after the Lisbon Treaty entered into force, at a time when first reading agreements dominate the legislative negotiation process, a new picture of the relations between the Council and the EP is evolving – one that contains an increasing amount of informal bilateral relations between the two major legislative institutions of the EU. Member state governments are reaching out to the MEPs in parallel to but outside of the context of the legislative negotiations between the Council and the EP. Ranging from exchanges of political views on legislative cases to providing specific amendments and voting recommendations to the MEPs, the national governments seek to forward their position as much as they can in parallel to the official negotiations, in the hope that they may thereby increase the chances of moving the negotiations in their preferred direction. As this paper shows, this is not an unrealistic aspiration.

After having constructed a system of formally strong separate legislative institutions working in parallel to create legislative compromises, why do we see an under-the-radar move by the governments to blur these institutional lines? On this background, this paper sets out to answer the following question: **1.**

***What caused member states' national governments to develop their engagement with the MEPs?***

Where the governments all spurred on by the same events and moments in time, or were they triggered by different factors or events? With a European Parliament adamant in using its acquired competences

vis a vis the member state governments, as seen e.g. in the cases of “ACTA” and “SWIFT”, how can there be fertile ground for such a development? Assuming that the national governments would not keep being in contact with the MEPs if they did not expect to benefit in some way from the interaction, the second research question this paper addresses is **2: *Why do MEPs engage with the governments? And how receptive are the MEPs to input from the governments?*** With this question the paper does not aim at establishing causality in terms of effect of the interaction with national governments on MEPs’ activity and, ultimately, policy output. Working from a starting point that proving causality as expressed in opinion formation and policy output is, at best, hugely challenging, this paper will instead investigate to what extent MEPs are receptive to the input they receive from the governments and whether they share the governments’ interest in establishing contact and exchanging information. What must of course be added to the discussion is that, just because an MEP is interested in hearing the opinion of the government, it does not necessarily imply that the MEP will follow the indications of the government. Exploring the impact of government involvement with MEPs on the EP’s legislative output is, however, for future studies to investigate in depth. It is the argument of this paper that taking in information from the governments and confirming its usefulness is, in itself, sufficient to establish that said information finds its way into the legislative process of the EP, and to prompt a closer look at what structural reasons there may be for this. With the answers to the two first questions in mind, the third question of this paper is asked: **3: *What can be learned from looking to the US Congress?*** Though several aspects would be interesting to compare, one factor in particular will be at the focus of this paper, as it relates to following up on the findings first two research questions.

## **2. Context, hypotheses and methodology**

The changing role of the EP over time, from being the third wheel in a process dominated by the member states’ governments, to being an equal co-legislator with the Council in the majority of cases following the Lisbon treaty, has been a central part of the efforts to increase the effectiveness and democratic legitimacy of the EU’s decision making process (Wallace et al:2005). By allocating more and more power to the EP, in terms of decision making powers and scope of policy areas, member states have shifted the inter-institutional balance of power significantly between the EP and the Council to the advantage of the EP. With these formal changes to the institutional setup of the EU, changes of institutional rules of a more informal nature have followed. Informal institutional changes, described by Farrell and Heritiér as “interstitial institutional changes”, have taken place in between the formal

institutional agreements in the treaties, and have altered the original, formal institutional setting (Farrell and Heritiér:2007). One such development in the EU legislative process of particular significance to this paper is the mushrooming of early reading agreements. During the 7<sup>th</sup> Parliament, legislation adopted by the first reading under the co-decision procedure accounted for 85% of legislation adopted, up from 72% in the previous Parliament (EP Conciliations and Codecision website). Though the co-decision procedure is more inclusive in that the EP has the possibility of contributing with perspectives that can counterweigh the position of the national executives represented in the Council, the rise in early reading agreements have, in some respect, had the opposite effect. The current modus operandi of the EU's decision making process yields room for a very limited amount of people to be in direct contact with the legislation before it is passed. This goes for the individual Council members as well as individual MEPs.

The tendency towards quicker and less transparent "fast track" negotiations has affected the internal power dynamics and working conditions of the MEPs, and has not strengthened all MEPs equally (Farrell and Heritier:2004). In the EP, one problem that has in particular been raised is that of agreements being made in the trialogues and concluded in the Committees as a "fait accompli" without many, especially MEPs from minority EP Party Groups, having a proper chance to have their voices heard on the issue. The MEPs that are part of the central negotiations – referred to as relais actors of the EP by Farrell and Heritier (2004) – are in fact more directly involved with the legislative negotiations than are most member state governments,, that must instead rely on the compromise struck on their behalf by the country that holds the EU presidency at any given time. This adds to the challenge individual governments face in affecting legislative negotiations within the Council under the QMV. While the spirit of the Luxembourg compromise (Wallace et al.:2005) may still be a guiding principle of the Council, and compromises that will not be completely unacceptable to any of the governments will be sought, Novak (2011) points to there having been an increasing number of cases of disagreement and outcomes unfavorable to individual governments in the Council. Instances where the absence of a public display of a government's discontent about decisions reached in the Council could be due rather to face saving and considerations regarding how to best ensure long term influence in the Council, than being a reflection of actual compromises and consensus within the Council (Novak:2011). Additionally, the time period for exerting influence on the legislative proposals has been greatly shortened, as deals are completed quickly, rarely proceeding to a second round of negotiations. Within the shorter timespan, governments have to determine their political position on the legislative case, as well as how best to promote it. How to promote their position is further complicated by the low level of transparency of the triologue negotiations, which pose a significant challenge for actors not involved in the negotiations (Farrell and

Héritier:2004, Wolffberg:2008). While the dialogues may have boosted the effectiveness of the legislative process, they have also made it a more exclusive process, and an intensified intra-institutionally competitive one.

The result of these changes has been that in several respects, the current mode of legislative negotiations renders actors who are centrally involved relatively more influential than those that are not directly involved in the process, while those on the margins risk being left with little to no influence. While not everybody can of course always have it their way in a democratic process, it is within this institutional context, the preferences and motivations of the two actors at the focus of this paper must be understood, and their activities analyzed.

As the EP has grown in political significance, so has the literature attempting to grasp its internal dynamics and to understand how its members act. A frequently mentioned perspective is to describe MEPs as agents operating under the “patronage” of two principals – their national party and their EP party group (Hix:2002). This is founded in the notion that the MEPs, as utility maximizing individuals, seek to strengthen their own careers as much as possible, by catering to the party that can secure their reelection (their national party) and the EP Party Group that can provide them with opportunities to improve their career within the EP and, thereby ultimately contributing to increasing the odds that they will get reelected at home. Analyzing EP roll call votes, Hix et al (2007) have argued in favor of a tendency towards increased intra-party group cohesion in the EP, and while Mühlböck (2012) finds that national parties do not define how MEPs behave, Cicchi (2013) cautions against overlooking the national element in these votes, when controlling for the national salience of a case.. The difficulty of following all the developments in the EP and knowing what position to take on the issues is not limited to outside actors according to among others Ringe (2010) and Thomson and Hosli (2006). MEPs who are not themselves experts on the legislative content (which is increasingly frequent given the vast amount of legislation passed) do not have the possibility of acquiring sufficient information to independently establish an informed position on all topics passing through the EP (Thomson and Hosli:2006). As such, they may tend to emulate the policy stand of those with whom they perceive themselves having the greatest political agreement and whom they perceive as more expert on the specific matter– a mechanism Ringe refers to as Perceived Preference Coherence (PPC) (Ringe:2010). MEPs want to vote “the right way” and are thus open to input from those with whom they perceive they share policy position. In spite of many analysis emphasizing different aspects of MEP motivations, it seems to be of

broad agreement is that MEPs are dealing with legislation of a very complex nature, on which they have to determine their position within an increasingly shorter time span, while paying heed to party group dynamics within the EP as well as national party affiliation.

From this context of institutional settings and understandings of the actors, the main assumptions of this paper regarding the actors' preferences and motivations are derived. These assumptions about the actors' behavior are rooted in a (bounded) rational choice institutionalist perspective on actors' behavior, collective as well as individual, which also makes up the theoretical foundation for the hypotheses of this paper (Hall and Taylor:1996). MEPs are assumed to have as their main priority making sure that they do not act in a way which puts them at great odds with their principals (their constituents and national party as primary concern, and European party group as secondary concern), thereby ensuring as best they can to further their career. Although this does not provide a comprehensive explanation of MEPs' behavior and motivations, it is considered the primary guiding principle of the MEPs in this paper.

As for the governments, as aggregated actors, setting aside the concern they may have of not ostracizing themselves in the Council by pursuing their preferences in a too uncompromising way, a general assumption of the paper is that the governments come to Brussels with the goal of having legislation adopted as close as possible to their preferences. Accordingly, the governments, represented mainly by the civil servants involved in promoting the position of their government in EU negotiations, would direct their efforts to where they expect them to yield the most favorable outcome – even if this should mean going expressly against the idea of creating a European Parliament as a counterpart to the national executives in the Council. On this basis, the paper investigates whether the following hypotheses hold true:

**Hypothesis 1: Institutional changes decreasing the relative power of the governments vis a vis the EP have led to increased efforts by governments to influence the EP**

The hypothesis implies that government representatives, monitoring the institutional power balance at EU level, will make informed intentional adjustments to their respective government's relations with the EP, so as to continue to match the given institutional equilibrium of the EU legislative process. In testing this hypothesis, a confirmation of the hypothesis does not imply that all member states should react in a completely identical manner, nor that all governments end up with an identical system of coordination

with the EP.

As for the MEPs, based on the assumptions about MEPs' preferences, combined with the literature highlighting MEPs' challenges in terms of accessing sufficient information on complex legislative cases, the following two hypotheses are formed:

**Hypothesis 2: Only MEPs belonging to a national government party will be interested in the political positions of the government**

**Hypothesis 3: MEPs will be interested in technical information from the government, irrespective of party affiliation**

#### **Data and methodology:**

The questions addressed in this paper are part of a PhD project of mapping and analyzing patterns of bilateral interaction between MEPs and the national governments of the EU member states. The data collected consists of semi structured interviews conducted with officials from selected national governments, MEPs, MEP assistants, and officials of the Commission and the EP, who deal either directly with the interaction between governments and the EP, or who work sufficiently close to the activities to possess substantial knowledge about the interaction. The PhD project also investigates the reasons for an observed variation among the member states' patterns of outreach to the MEPs and, hence, the countries included in the paper, as well as the MEPs and their assistants, were selected according to criteria used for the analysis of the PhD project<sup>1</sup>. Although these factors of distinction between the case studies are not relevant for the purpose of the analysis in this paper, all the country cases will be included in this paper in order provide a broad and varied, and thus more representative sample of cases as a basis for the analysis. The data thus includes interviews with both the government officials, MEPs and MEP assistants from Germany, France, Spain, the UK, Poland, Denmark and Slovakia. Additionally, to answer research question 1, a particular focus is put on the policy area of agriculture, as the recent changes to the legislative procedures of this policy area highlights the shift in competences among the actors.

To answer question 2, interviews are included with MEPs and assistants of MEPs, as both are equally

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<sup>1</sup> Variables include the duration of a member states' EU membership (old><new), the size of member states (large><small) and the political system of the member states (PR><Majoritarian, Federal><non-federal)

involved in contact with the governments, while access to MEP assistants is often easier. MEPs and assistants are chosen according to the likelihood that they will be sought out by their national party. This should enable the analysis to include the aspect of to what extent MEPs will be receptive to input across party lines, both in the most likely cases of the MEPs being receptive to the governments' input and in the less likely instances of MEPs being receptive. The number of EP interviewees from the selected countries is, however, as of yet, biased in favor of certain countries (Denmark, Spain and Germany). Thus, the findings should be seen in this context – as an indicative sample, though a sample from which generalizations should be made only with caution.

All interviews were conducted on the premise of anonymity. As the PhD project is still a work in progress, and the final manner in which to refer to the interviews has not yet been determined, specific references to interviews will therefore be made in a generalized way to ensure that the anonymity of the interviews is maintained.<sup>2</sup>

### **3. Empirical findings**

Before proceeding to testing the hypotheses, a brief outline will be made of the nature of the contact between governments and MEPs.

From the interviews with government officials from all the country cases, it is established that the governments all engage actively and on a frequent basis with MEPs and, according to the entire sample of interviewees, the same is the case for all the other member state governments. That said, there are variations among the national approaches to exactly in which way to be in touch with the MEPs.

Variations include how comprehensively to seek to influence the EP, the content of the interaction, with whom to be in touch in the EP, and at which point during the legislative process to engage with the EP.

#### **Contact between governments and MEPs – How, Whom, and When**

Based on the collective sample of interviews, it is found that the contact between governments and MEPs' offices takes various forms, and the governments tend to take several of these approaches, as do the MEPs and their assistants. Generally, the types of contact can be divided into categories of information exchanges of a technical nature: explanations of the substance of the legislative proposals

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<sup>2</sup> A more elaborated presentation of the data is expected to be ready to be presented at the EUSA conference.

or information about potential consequences of the proposal; information of a political nature: amendment suggestions or broader political positions and voting recommendations; exchanges of a strategic nature: exchanging information about the status of the negotiations in the respective institutions and/or the possibility of coordinating a common course of action<sup>3</sup>. Furthermore, contact can be initiated by actors from both institutions, and it is not infrequent for MEPs' assistants in particular to contact the governments for information, although in the majority of the cases contact is initiated by the government. Indeed, some governments have a policy of being in contact with their fellow national MEPs to some extent on all legislation passed in the EP. Other governments take a more selective ad hoc approach to their contact with the EP.

Closely connected to the type of coordination is the question of which MEPs the governments seek out to promote their message. The main logic guiding most of the governments is the anticipated gains from the contact. In other words, governments generally aim to channel their efforts in the direction which they believe is most likely to yield the greatest outcome in terms of impact on the legislative process. How this manifests practical varies among the countries. Some governments seek out MEPs and their assistants in cases where they find it necessary to convince them of a position they disagree on. Other governments seek to contact MEPs and assistants that are likely to share their position, in order to increase the likelihood of the message being well received, and not risking wasting efforts on contact with people who are unlikely to listen. Similarly, the governments seek to target MEPs that stand a chance of effectively influencing the legislative output in some way, either directly through amendments and votes, or indirectly, through spreading the message of the government to other fellow MEPs. This results in a general hierarchy of (not mutually exclusive) preferred characteristics of MEPs or MEP assistants of shared party affiliation, shared nationality and a central institutional role of the MEP on a specific case. In other words, an MEP who possesses all three traits is more likely to be contacted by his government than an MEP who possesses neither. However, a peripherally placed MEP is less likely to be contacted much by his or her government in spite of a shared nationality or party affiliation, if the MEP is unlikely to be able to translate this contact into action.

As previously mentioned, the question of when to be in contact is highly significant for what impact this contact may have, and what kind of contact takes place. With an eye to the stages of EP treatment of legislative cases, most governments seek to get in contact with MEPs' offices early enough in the process to provide input of "policy substance" which can be used to shape the formulation of the

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<sup>3</sup> This aspect, which features in the larger project analyzing the relations between governments and MEPs, shall not be elaborated on further in the context of this paper, but is mentioned for explanatory descriptive purposes.

legislative text, rather than just comment on the preferred vote of an MEP on the final draft legislation. This means that most of the contact occurs during the committee stage, although voting recommendations are also not a rare occurrence.

Turning now to answer the first research question – “what caused governments to develop their engagement with the MEPs?”, hypothesis 1 will be tested, beginning with the perspective of changes in the area of agriculture. The interviewees who addressed the question from this angle, whether from national ministries or the countries’ Permanent Representations to the EU (PermReps), agreed across the selected countries that the transition of agriculture policy from consultation to co-decision has changed the manner in which government staff deals with the EP. It should be noted that the preparations for the CAP reform of 2013 began already in 2010<sup>4</sup>, not long after the Lisbon Treaty had entered into force in December 2009. For the EP this presented a good opportunity to flex its muscles, as could be seen with the over 8000 amendment suggestions that were put to the draft legislation<sup>5</sup>. Also for the member states, the CAP reform thus gave a clear and significant importance of dealing with the policy area of agriculture at this point in time, involving a broad area of government policies which the government officials were aware they had to deal with. It would be contra-factual to try to determine whether the awareness and immediate reaction of the government officials in agriculture stemmed from a “practical reaction” of the work they needed to do in connection with a specific legislative case, that might have been different if the political agenda had been less salient at that point in time, or whether it was a decision based more on a “matter of principle” to increase focus on and engage with the AGRI committee. What can be determined, however, is that the change from the consultation procedure to co-decision affected the government officials’ perception of the need to deal with the MEPs, and it provides a solid example of governments’ reactions to how they engage with the MEPs on an issue of salience to them.

When it comes to reaction by the governments at large, the picture is less consistent. All interviewees of both national ministries and Permanent Representations<sup>6</sup>, attributed their respective government’s decision to increase efforts to engage with MEPs to the growing influence of the EP. However – they did not all attribute the same importance to the same events and moments in time in terms of what led

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<sup>4</sup> [http://ec.europa.eu/agriculture/policy-perspectives/policy-briefs/05\\_en.pdf](http://ec.europa.eu/agriculture/policy-perspectives/policy-briefs/05_en.pdf) (5/1/15)

<sup>5</sup> [http://www.ceps.eu/system/files/article/2014/06/EP\\_Amendment\\_Analysis%20Case%20Study.pdf](http://www.ceps.eu/system/files/article/2014/06/EP_Amendment_Analysis%20Case%20Study.pdf), (6/1/15)

<sup>6</sup> With just one exception, notably from a different national ministry than the others

them to increase their attentions towards the EP. In other words – different trigger points prompted the member states to boost their involvement with the EP at different periods in time.<sup>7</sup>

However, this does not provide the full picture of why the member states have organized coordination with the EP as they have. Curiously, in spite of the shared recognition by governments of these changes in institutional rules being significant, only some of the governments have *reacted directly to the changes* by setting up structures to engage with the EP according to these changes. Germany, the UK, Spain, and to a certain extent France and Denmark characterize their choice to coordinate with MEPs as a direct reaction to the treaty induced increase of EP power, the Lisbon Treaty in particular. Other governments have taken a less proactive approach and did not adapt their relations with the EP as a *direct response to the institutional changes*. Poland and, in part, Slovakia, Denmark and France do not list this as the primary turning point that brought them to rearrange their relations with the EP.

Although the power increase of the EP was the underlying reason for the changes implemented by the governments, what triggered the considerations and decisions to change their approach to the EP was not an institutional analysis of how to best react to the formal treaty changes increasing the power of the EP. While treaty changes thus directly caused some countries to upgrade their efforts towards the EP, this factor alone cannot explain the trajectory of all countries' relations with the MEPs.

With the knowledge of the institutional changes equally available to all governments, this discrepancy of reactions to the institutional changes suggests that there are additional dynamics that factor in to the decision of governments to change their approach to the EP. On the ministerial level of the countries, the move of the policy area of agriculture from one decision making rule to another had a direct impact on how these national ministries view and deal with the EP. Why did this change then not have an equally immediate and direct effect on all governments' general approach to relations with the EP? If they were not affected at all, one might have assumed that they simply found their system to be adequate to remain in place in spite of the changes the Lisbon Treaty brought. However, as all the

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<sup>7</sup> That nearly all government officials interviewed point to the Lisbon Treaty as a significant turning point for their contact with the EP, in spite of the EP having been involved in co-decision on several policy areas long before the Lisbon Treaty, is perhaps not surprising, considering that this treaty change was most recent in the minds of the interviewees. Adding to this the fact that the interviewees often rotated within the government and had been working on different issues when earlier treaty changes took place. As the testing of the hypotheses revolve around the causal mechanism of “reacting to institutional changes”, rather than the specific point in time and specific treaty change, detecting and evaluating the governments' reaction is the main point of the analysis –and the fact that these changes may not be unique to the Lisbon Treaty, and may have manifested themselves differently in earlier years when other government officials were at the helm, therefore does not hold significant importance.

countries of the analysis did react by increasing their efforts towards the EP at some point after the Lisbon Treaty, why did some countries take longer than others to react? What triggered the decisions of the countries to change at different points in time?

### **Direct reactions**

The German government set up their current system as a direct reaction to the increase of power of the EP. The government has employed staff with the particular purpose of promoting the focus and awareness of the EP within the government, and they have stepped up this effort following the Lisbon Treaty (interviews with German diplomats, August 2012). The same is to a certain extent the case for the French government, which has periodically evaluated the EU legislative system, including looking to their fellow national governments, in order to determine whether their efforts at EU level are appropriate and up to speed with the current state of affairs of the EU system. What distinguishes the French approach from the German approach is, firstly, that the periodic checks are not necessarily in direct correlation with the Treaty changes and developments of the institutional balance of power. Secondly, France was originally lagging behind other member states in terms of engagement with the EP from a position of a matter of principle, based on a more “traditional” fixed perception of the EP as an institution (interview with French diplomat, May 2014). Still, the logic of the French government’s approach is to monitor institutional developments and adjust the governmental processes accordingly, which places France primarily in the category of countries that have “reacted directly”.

Denmark does not fall clearly into this category, but is placed both this category and the category of indirect reactions is that the system which the Danish government follows was established in connection with the previous Danish Presidency in 2002. Since then the system has not been altered, and seeing as the logic of the system is that the case attachés in the government with responsibility of handling a case substance-wise determines for themselves the extent to which they should engage with the EP – and they are informed about the great significance of this effort by the government when they take the position of responsibility of a case\_(interview with Danish diplomat, April 2013) – the system has adapted to the Treaty changes by adding the new policy areas as they changed from one decision making procedure to the next. The process has been “adapting organically”, based on the detected need of the cases in the day to day activities on the ground – not through a government decision to upgrade the government’s system of involvement, but rather an incremental increase through “learning by observing” the need for involvement in the day to day situations (interview with Danish diplomats,

August 2012 and October 2014). It is thus a less “direct” form of institutional adaptation than e.g. the German government’s reaction.

Comparing systems that are inherently different by nature is not a straightforward task. In this connection, it should be noted, that, while Denmark already had an “EP person” at the PermRep prior to the Lisbon Treaty, Germany did not have this coordinated effort. Therefore, for Germany the need for an upgrade could be seen as more pressing. However, since the idea is to see what triggers the upgrades, the point is not to compare countries’ efforts to each other, but rather, it is to analyze the changes the countries make relative to their previous modes of involvement with the EP, and what triggered these changes.

### **Indirect reactions**

The interviews with government representatives from Poland and Slovakia, reveal that more “functional” causes, rather than strategic institutional analysis, were behind these countries’ organization towards the EP. One such key factor mentioned is having the EU Presidency. For Denmark in 2002 taking over the presidency was also a key moment for the country to establish a system of monitoring of and coordination with the EP. With the latest Danish Presidency in 2012 more manpower was added during the Presidency, which was then scaled back again after the Presidency, but the system from the 2002 Presidency remains in place to this day. The Polish government describes how they did take notice of the changes the Lisbon treaty brought to the division of power between the Council and the EP in the legislative process, but this was not sufficient cause for them to adjust their model of interaction with the EP. For Poland it was taking over the Presidency in 2011 that made the government realize the need to step up efforts towards the EP, and triggered their substantial reorganization and expansion of focus on the EP. Although they have scaled back their efforts post-Presidency, their attention is now much keener regarding taking the EP into account in the government’s efforts to influence the legislative negotiations. Having the Presidency and being responsible for finding an agreement with the EP and, increasingly, being responsible for representing the Council in the informal trialogue meetings and finding early agreements, has induced the governments to become aware of who in the EP they need to deal with, and to try to understand how the internal dynamics of the EP works so that they can build the necessary alliance to obtain the best possible deal for the Council. Similarly, at the time the interviews were carried out (spring 2013 – spring 2014) the Slovakian government, which has a relatively low scale system in place for coordinating with the EP, had begun considering how to increase its organization vis a vis the EP, looking to their fellow member states for

inspiration (interview with Slovakian diplomat, April 2013 and October 2013). One Slovakian government official anticipated that further changes were likely to take place in the near future in connection with the upcoming Slovakian Presidency in 2016 (interview, April 2013).

In addition to the boost which having the Presidency can give to a government's investment in establishing relations with the EP, learning from each other can also prompt governments to change their approach to the EP. In the early phases of the increase in EP influence, France lagged behind its fellow large member states in terms of extent of influence sought through the EP. Having originally had a more hesitant approach to the EP, France had restricted its contact to the EP significantly, not advocating for specific positions. However, when observing the higher activity level of the other larger member states (e.g. UK, Germany) which mirror France's conditions in the EU legislative system, the French government decided to step up its activities. France has since adjusted its efforts "en courant", and indeed France is the only country which mentions making fine tunings "en courant" to its activities just to be sure they are optimized, even without major treaty reforms. In their interviews, French government officials note that France has not altered its method of coordination post-Lisbon (interview with French diplomat, May 2014). However, the interviewees do note that, as the Lisbon Treaty brought more policy areas under the co-decision procedure, this has automatically meant that the government deals with more EP related activities in these newly added policy areas. Additionally, France was, at the time of the interviews being conducted, planning to once again look to its fellow member states to evaluate whether these countries are ahead of France in their relations with the EP and, accordingly, whether France should increase its EP efforts. Conversely, the Danish government has given presentations to other governments about the Danish approach to the EP, and interviews with the German and the British PermRep also show that the governments do indeed discuss their approaches to the EP with each other – not to mention that they discuss and coordinate common "campaigns" towards the EP (interviews with Danish, German, and British diplomats, August 2012-May 2014).

In one of the more unexpected findings from the interviews, the learning that takes place between governments is not automatically guaranteed to happen within the governments themselves; in several of the countries, knowledge and approaches to the EP do not transcend the entire governmental organization in a coherent manner. Several interviewees point out how the focus on the EP at national level is much lower than in Brussels. While one could explain this by simply noting that the staff in Brussels tend to interact with the EP on a daily basis, which the national ministries do not, this cannot be accepted as the full explanation; interviewees of the UK, Spain, Slovakia, Poland report that the

developments have not been immediate on all fronts within the government. One Spanish and one UK government official (interviews May 2013) noted that it had taken some time to spread awareness of the significance of the EP, and to mobilize a sufficient corresponding activity level by the governments vis a vis the EP. A Spanish government official adds that this awareness had also not been evenly dispersed throughout the sectorial ministries, even among those subject to the same EU legislative process (interview with Spanish diplomat, May 2014), and as added by the interviewee, and seconded by the a French governments official, it can have a notable effect on a ministry if the minister puts a large emphasis on dealing with the EP (interviews, May 2014) Interviews with Polish and Slovakian officials suggest that these countries' national ministries, in spite of dealing with areas under co-decision, are less attentive to the EP than some officials would find optimal (interview with Slovakian diplomat April 2013, and Polish diplomat May 2014). While one Slovakian official's evaluation of the level of government awareness and involvement with the EP was that parts of the government was still to some degree lagging behind, a second Slovakian government official, working in a government ministerial department responsible for EU and EP affairs, went one step further and expressed almost no interest in focusing on the EP, whereas this is not the stated position of the Slovakian government on the issue.

In the case of Spain, the UK, and France, some interviewees were of the opinion that this learning process is still ongoing, while other interviewees, placed elsewhere in the governments, were of the perception that this seemed to have been ameliorated by now (interviews April 2013 – October 2014). The interview data shows that at least some parts of all the governments possess knowledge of the potentially advantageous impact the MEPs may have on EU legislative negotiations for those governments that understand to engage successfully with the MEPs, as well as the possible problems an adverse position of the MEPs can pose for the governments.

The asymmetric spread of awareness of the importance of relations with the EP across countries, ministries and PermReps, a lag of adaption, and an only gradual change in approach to relations with the EP. Even taking bounded rationality's allowance for limited knowledge into account, this is surprising. The awareness of the power of the EP, and the significance of this, was expected to be more consistently spread throughout all relevant parts of the governments involved with the EP, given that the powers and activities of the EP are either formal and very publicly addressed – or informal but clearly identifiable in the statistics (i.e. the rapidly growing number of early agreements made). Given the importance of influencing the political negotiations at EU level, following the logic of rational choice

institutionalism, the governments were expected to match their efforts more systematically to the larger role played by the EP .

The resulting picture that emerges is that awareness of institutional change and reactions to it are an uneven and in some cases slow process, and that institutional changes to the power balance affecting the individual member state do not necessarily prompt changes in activity. In spite of differences between the member state governments in terms of the speed at which they adapt to the changing institutional system of the EU, the countries seem to be converging toward a common perception of importance of engaging with the EP. In some cases, however, awareness has to grow by way of experiences of a more practical and “externally induced” nature, before habits and old organizational patterns will change.

It is thus confirmed that the growing power of the EP has prompted countries to invest more in influencing the EP, and thus the change in formal and informal institutional rules have had a direct effect on how the government staff “on the ground” deals with the EP. Furthermore, some countries’ approaches to the EP have been rather directly linked to the increase in power of the EP following treaty change. However, on the part of most of the governments this has not been a comprehensively linear process of rationally calculated institutional adaptation to continuously monitored and evaluated institutional changes. Hypothesis 1 *“Institutional changes decreasing the relative power of the governments vis a vis the EP have led to increased efforts by governments to influence the EP”* is thus partially supported.

In spite of these different trigger points that have caused for the member states to step up their activity in relation to the EP, the promotion of the EP to its now predominantly equal status to the Council, has heightened the member state governments’ sense of importance of monitoring and influencing the EP. All governments officials interviewed mention the Lisbon treaty as a significant moment of institutional change increasing the power of the EP, and agree that the Treaty – and the EP’s very proactive interpretation of its new role – has made it clear that the EP is now an institutional player to be reckoned with. How does the EP then in turn view the attentions by the governments? Before testing hypotheses 2 and 3, a brief overview is presented of the perception of this by the interviewed MEPs and MEP assistants.

Before proceeding with the analysis, it should be noted that not all MEPs address the question of the extent to which they find the input they receive from their government useful, and some only address whether they find the technical input helpful in their work. Adding to this, as mentioned previously, the sample of interviewees is limited. Although the data makes up a relatively small sample of the full body of MEPs and MEP assistants, and generalizations should be made with caution, the findings seem to point cohesively in a clear direction. The information from the collective set of interviews regarding the general patterns of interaction between the governments and EP actors at large, does not indicate that the interviewees of the sample in this paper is likely to be outliers.

The interviews with government officials, MEPs, and MEP assistants show that the latter two are indeed open to engaging in all the categories of interaction described, although the interviewees differ as regards what kind of information they find useful, as well as which type of information they seek out themselves – and in which situations.

#### **Political input:**

A small majority of the EP interviewees confirm that they receive political input from their government, and several interviewees affirm the added value of political input from the governments – knowing their own government’s position especially – though not exclusively. Government MEPs and assistants in particular mention the importance of this form of input, and tend to attribute more value to this information than their counterparts from the national oppositions. However, also opposition MEPs and assistants expressed interest in knowing the government’s position on legislative cases, as well as potential national implications of the proposals, and found the information useful, whether or not the parties agreed on the policy position. Hence, being open to policy input from the government is not a matter purely of belonging to the camp of “government MEPs” or “opposition MEPs”. However, the frequency of interaction on political positions and the extent to which this is taken on board does trend more towards the offices of MEPs belonging to national government parties.

#### **Technical input:**

How does this compare to the reception of technical information from the governments?

All EP interviewees confirm to receive technical information from the governments, and MEPs and their assistants hold a predominantly positive attitude towards receiving technical information from the governments. The interviewees agree largely to the usefulness of the information, albeit also in this category some variation is found according to government/opposition affiliation. Some interviewees, though in the minority, even value receiving information regarding the political positions of the

government when being in the opposition, to remain informed, while not wishing to rely on technical information from the government. Additionally, several interviewees mention how the government/opposition divide matters to the likelihood of them seeking out and receiving technical information. That said, being in the opposition does not prevent the EP interviewees from doing both. Several interviewees point to the usefulness of the technical information, which they find helpful in their work irrespective of party affiliation due to the ample, ready and “objective” nature of it.

### **Receptiveness**

MEPs and their assistants are thus open to both categories of interaction with the government, in so far as it assists them in their work in the EP and contributes to helping them stay in tune with the national dimension of the impact of the legislative proposal, and the perception of this nationally, and generally find the contact with governments helpful in their work. Assistants particularly find the technical assistance useful, and they appreciate knowing the positions of the governments.

Indeed, some MEP assistants find the governments’ approach to the EP less effective than it could be, and in fact less than what the MEPs would be open to receiving, as they find the contact useful in their work – the political as well as the technical (in particular interviewees from France, Denmark and the UK). Hence, the governments are not yet as active as they could be, but were the governments to increase their efforts (or adjust it better to the needs and working rhythm of the EP), it is probable that this would be well received by parties within the EP.

In continuation of this, interviewees from all countries made a strong point of emphasizing the voluntary nature of the interaction, and that they would not be pressured into merely doing the bidding of the governments, but that they engage with the governments because they find it benefits their work. The MEP’s office might work with the government if they found that they shared preferences and priorities, or they might try to find common ground with governments to seek to establish the best possible legislative solution, likely to gain broad acceptance. However, the interviewees emphasized their independence, both in terms of which parts of the information they received from the governments they chose to use and the extent to which they would include it in their work.

When it came to the general tendency among their colleagues, several interviewees added that there are MEPs who are more significantly affected by the pressure from their governments to further the interests of the government, and that some national systems are more “disciplinary” in their relation with the MEPs, and it is possible that these MEPs are swayed by the will of their government. This

echoes the statements by several government interviewees, who were careful to point out that they, themselves, did not pressure the MEPs into complying with the government's view – but that they knew of other member states' government officials who would put substantial pressure on their MEPs.

Receptiveness can thus be seen to manifest in two ways: 1) As the mutually profitable exchange of information and political views by the two groups of actors, with the purpose of finding common ground, promoting shared views and strengthening the arguments used in the legislative negotiations to further this purpose. In this form of interaction, the input provided by the governments must be targeted to the MEPs and their assistants in a way which is most likely to be useful for them, and for an attempt to convince an MEP of forwarding a political position to succeed the government must interest the MEP in listening to its message; and 2) As a more strict one-way relation with the characteristics of a Principal/Agent type power structure in which the MEP is obliged to take on board the preferences of his/her government and promote these in the EP. This does not preclude that the MEP might very well happen to share the position of the government. However, it does indicate that the outcome – whether the MEP is receptive to the government's message – will depend less on the content of the input from the government or the manner in which the message is delivered, and more on the pre-established power relation of the government and the MEP, as well as the insistence on independence and personal ambitions of the individual MEP.

The MEPs and assistants interviewed largely express positive attitudes towards contact with the governments, agreeing that it is helpful for their work in the EP to be in touch with the governments. The main points that are emphasized as the useful information for the MEPs' offices are a) being able to receive quick, easily accessible, and easily applied technical information from the government administration, and b) knowing what the political positions are nationally. Hypothesis 2 *"Only MEPs belonging to a national government party will be interested in the political positions of the government"* is thus disconfirmed, while hypothesis 3 *"MEPs will be interested in technical information from the government, irrespective of party affiliation"* is largely supported.

For MEPs that belong to a national government party, being open to receiving input from their government party does not seem surprising. From a typical understanding of the MEPs as belonging to national parties and getting their electability from their national parties, they should wish to prevent unintentionally acting in a way that either contrasts significantly with their national political message. For MEPs and their assistants that are part of the national opposition, however, the finding is more

surprising. Why would MEPs – even from traditionally staunchly majoritarian member states – be interested in close contact with the government with which they would normally not be in touch in a national context? The answer is, this paper suggests, to be found in the particular features of the multi-level system to which the MEPs and their assistants belong, and the two factors that must be taken into account: 1) The need for political information about consequences of legislation at national level, 2) The need for information of the MEPs. While point 1 may not be possible (nor, arguably, desirable) to remedy at present time, since it is a function of the electoral system currently in place in the MS, point 2 is possible to affect, and should be looked at more closely.

#### **4. Looking to the US Congress**

With these findings in mind, turning to question 3 – what can be learned from looking to the US Congress? Few will protest the notion that the US Congress and the EP as institutions differ in many ways. They have different functions and competences, and are populated by representatives that are elected on very different terms. However, as legislative bodies with representatives drawn from a large number sub-central (nation) states, the two institutions also share many commonalities, and challenges which both members of the US Congress and the EP face, maneuvering within the two complex legislative systems. The many similarities and differences has lead to a substantial amount of literature comparing the EP to the US Congress and more broadly, comparing the EU to the US. One of these traits, both of similarity and difference, are particularly relevant to compare in the context of this paper.

It is the case for MEPs as well as members of Congress that they have to deal with a lot of highly complicated legislative proposals, that are to be applied to a very varied territory – and which may have significant implications for their home (member) state, not to mention their specific electorate. Both groups of members also have to ensure that they stay in tune with the people who are in charge of ensuring their election – whether that be local constituents (in the case of the US) or it be national parties (as for the MEPs). It could easily be argued that there is a difference in kind between the platforms of the EU and the US representatives. However, assuming they are seeking to remain in office, both parties have to cater to their constituents to some degree, and they need to be informed about impact of policy at their home base.

Both institutions receive a lot of information from external sources, such as lobby groups, and in both institutions members can draw on in-house information (Corbett et al:2011, Smith et al:2009). To help

them in their work, both institutions provide assistants to aide the members. Here there is a substantial difference between the two institutions. Members of Congress have the possibility of hiring up to 18 permanent employees, as well as 4 additional employees on non-permanent contracts<sup>8</sup>, by far exceeding the amount of staff MEPs are able to employ (Corbett et al:2011). As in the Congress, there is of course more staff employed in the EP as a whole, staff that is available in the EP committees and EPGs to assist the MEPs in their tasks, but this staff is not available for the individual MEPs in their daily work of positioning themselves in relation to a case, suggest amendments and determine how to vote. With so little staff available, the MEPs rely on information they can obtain in a short amount of time, as they have too little time available to look through everything themselves and, as described in the above, an easy and quick way to obtain this information is to receive it from the national government.

Curiously, the reverse – having too much powerful staff – has also been suggested to be potentially problematic for members of Congress, as it risks removing the representative from a conscious and involved decision making, by allocating too much work and decision making competences to the assistants (Malbin:1980) (A concern which, however, it is worth adding, was also mentioned on occasion during the interviews for this project in relation to the MEPs and their assistants).

Even though the federal states' governors are less directly involved in the legislative process at the federal level in the US than the member states' governments are in the EU, there may still be interests at stake for the states at federal level, as seen for instance with ObamaCare or immigration policies in the US. In fact, although the institutional structure is different, and the governors of the federal states do not engage with Congress in the legislative process as the EU member state governments do through the Council, the NGA does seek to affect federal policies, in the same way as the EU member states, only within a less institutionalized framework than the EU's. The NGA's Office of Federal Relations seeks to coordinate the efforts of the states to affect federal legislation with relevance for the governors, and the NGA seeks to help governors engage with the federal level (National Governors Association: 2013). Thus, the same tendency is found among US states, and though the system does not require the state governors to find a compromise with members of congress, governors may still have very strong preferences regarding legislation proposed at the federal level, which they may voice in Congress. A key difference between the two systems is, therefore, that with the higher number of staff working for each members of Congress, these have greater resources available to enable them to search for information

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<sup>8</sup> "A Member may employ up to four additional employees if they fall into one of the following categories:19 1. part-time employees, 2. shared employees, 3. interns receiving pay, 4. employees on leave without pay, and 5. temporary employees." (Congressional Research Service)

and determine which sources to include in their work; in contrast to the MEPs, they are likely to be less dependent on the easy access to factual information which MEPs' assistants in particular mention as one of the reasons for their contact with the national governments.

### **Future considerations**

At present, the EP is working on expanding the informational resources available to each MEP from within the EP itself. It will be worth observing whether this will free the MEPs to some extent from their reliance on information from national governments, or whether the preference for “nationally rooted” information channels will prevail.

It is possible, in this connection, to ponder whether it is normatively problematic that the information MEPs receive is derived from the national governments. As the data presented above indicates, in many cases MEPs are interested in the specific national information the governments can provide. However, one could argue that representatives elected to engage in EU level legislation that affects as wide an aggregate electorate as that of the entire EU's population, should be more free from the pressure of necessity, in terms of whether they wish to rely on information derived from the sub-entity level or not.

## **5. Conclusion**

As a consequence of the increased role of the EP in the EU's legislative process, the national governments have taken to increasingly seek to engage with MEPs and MEP assistants in order to maximize their influence on the legislative process. For the governments, the aim is to promote, as best they can, their position within the EP. They do this either through straight out attempts to convince MEPs of their position, by seeking to convince MEPs to vote according to the government's preferences, or through supplying amendments to the MEPs in order to deliver a message the government supports, or to just make MEPs aware of technical aspects of cases which MEPs might not be aware of, and which might not be problematic for MEPs to promote in the EP negotiations

As for the MEPs' and their assistants' perspective on the interaction, they all have a need for information due to the lack of time and resources to collect this themselves. They also have an interest in receiving this information, as knowledge about potential policy implications in their member state is important for their work. Time will tell whether the changes to the EP's internal information infrastructure will affect these two aspects.

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### **Interviews**

- Interview with Danish diplomat, September 2012
- Interview with two German diplomats, September 2012

Interviews with government officials, carried out in the period of April 2013 - February 2015, including:

- 4 Danish diplomats
- 3 German diplomats
- 3 Polish diplomats
- 3 French diplomats
- 3 Spanish diplomats
- 5 British diplomats
- 3 Slovakian diplomats

Interviews with MEPs and MEP assistants, carried out in the period of April 2013 – October 2014

- 2 Danish MEPs, 3 assistants to Danish MEPs, and 1 former assistant
- 1 German MEP, 8 assistants to German MEPs
- 1 Polish MEP, 2 Polish MEP assistants
- 1 French MEP, 2 assistants to French MEPs
- 1 Spanish MEP, 1 former Spanish MEP, 2 assistants to Spanish MEPs
- 3 assistants to British MEPs
- 3 assistants to Slovakian MEPs

• Informal interviews with national Parliament and Government staff connected to the work of the British, Finnish and Danish Permanent Representations, conducted during internship in the European Parliament 2006-2007, as well as regular follow-up discussions.

**Websites**

- “European Parliament Conciliations and Codecision website”, Statistics on concluded codecision procedures (by signature date), [http://www.europarl.europa.eu/code/about/statistics\\_en.htm](http://www.europarl.europa.eu/code/about/statistics_en.htm), Feb. 2015