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**The many faces of the Council of the European Union:**

**A study of decision making in the Council**

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**TITLE:** *The many faces of the Council of the European Union: A study of decision making in the Council.*

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Recent research shows that there is a slow but steady decrease in minister involvement in the Council of the European Union. This decrease cannot be explained by contemporary research and recent rational theoretical assumptions rather indicate that the minister involvement should be increasing.

This thesis aims to clarify why the empirical evidence of minister involvement does not correspond with rational theoretical assumptions. The thesis clarifies and develops the theory and also makes a contribution to the on-going research of Council decision making theory and how the minister involvement influence Council and EU politicization.

By using a mixed-method strategy a quantitative data study is conducted and the analyses of its results are used to implement an interview study with relevant DG units within the Council general secretariat. The result of the thesis shows us that underlying variables affecting minister involvement have not been taken into account when performing research into Council decision making. The main identified variable is instead that the clarity of EU-competence within a certain area clearly influences whether or not a minister becomes involved.

These results can be used to further develop and test the theoretical understanding of Council decision making.

**KEYWORDS:** Council of the European Union, decision making, politicization, mixed method, minister involvement, theory development

**NYCKELORD:** Europeiska unionens råd, beslutsfattande, politisering, blandade metoder, ministerbeteende, teoriutvecklande

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**Three waves.  
Roll into port together.  
The trio is home.**

*-Haiku by Herman Van Rompuy*

...  
**I lie in bed in Europe  
alone in old red under  
wear symbolic of desire  
for union with immortality  
but man's love's not perfect.**

*-Extract from 'Paris' by Allen Ginsberg:  
Kaddish and other poems (1961)*

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## Abbreviations

COREPER	Committee of Permanent Representatives
DG	Directorate-General
EC	European Commission
ECJ	European Court of Justice
EP	European Parliament
GS	General Secretariat of the Council of the European Union
TTE	Transport, Telecommunications and Energy Council configuration

## **1. Introduction**

### **1.1 Why the Council of the European Union remains elusive**

The Council of the European Union (hereafter: "Council") is the single most important legislator of the European Union: and even without the classic model of parliamentary rights, including the right to initiate legislation; it is widely regarded as one of the most powerful European institutional actors today. Up until recently the possibility of insight into Council decision making was restricted due to its lack of transparency but since the transparency reform of the European Parliament (EP) and the Council of 2001, this has changed<sup>1</sup>. This has populated an increasing amount of research into the Council and its decision making. Inevitably, this has generated a significant amount of research, provoking scholarly debates on what theory the Council decision making best fits into: scientists often find it hard to fit the institution into any obvious pattern from the inventory of contemporary decision making theory<sup>2</sup>.

This unclear theoretical situation is worrisome in a field of such importance as the leading decision making body of the EU and its implications also influence a larger audience than European studies or political science academics. The EU is struggling with multifaceted democratic problems including falling election turnout in the general European elections (both national and EU) and leading Commissioners<sup>3</sup> and academics are competing to point out the lack of transparency and the general public's limited understanding of how the EU functions<sup>4</sup>. This situation has often been mentioned in a larger context as the de-politicization of politics and it is generally seen as a democratic problem, as the bureaucrats are taking more and more political decisions instead of the elected politicians. Some theorists have even gone as far as claiming causal links between the de-politicization and the EU's failure to create any European identity<sup>5</sup>. Others consider the more bureaucratic take on political decision making as a necessity to come to political agreement in modern state-to-

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1 Hayes-Renshaw & Wallace (2006), p.66-67: A number of increases in Council transparency beginning in the early 90s have been concluded. With the latest major reform being the Ombudsman demand for public Council deliberations in 2004.

2 Naurin et. al(2008), p.20 : Naurin shows us that there is a large ongoing academic debate concerning theory application on the Council and that no single theory has as of yet been able to explain Council voting patterns.

3 [http://ec.europa.eu/commission\\_barroso/wallstrom/priorities/democracy\\_en.htm](http://ec.europa.eu/commission_barroso/wallstrom/priorities/democracy_en.htm)

4 Moravcsik (2004): It is worth mentioning that in the academic field there is some debate concerning whether or not there is a democratic deficit and lack of transparency in the EU. Moravcsik argues that this is not the case, but the amount of academics and politicians that continue to argue the transparency problem still makes it a relevant area of research.

5 Hooghe & Markss (2008)

state institutions such as the Council<sup>6</sup>. In this sense one could claim that the apparent de-politicization of European and Council politics is merely the results of better working methods. Maybe the decreasing political influence is a sign of a healthy distribution of an ever-increasing workload so that ministers can now focus on contentious political issues instead of technical details. Some leading ministers actually consider their efforts directed towards the EU cooperation as rather far reaching and former Swedish Prime Minister Göran Persson has stated that he invested as much as 50% of his minister work-time into EU issues<sup>7</sup>.

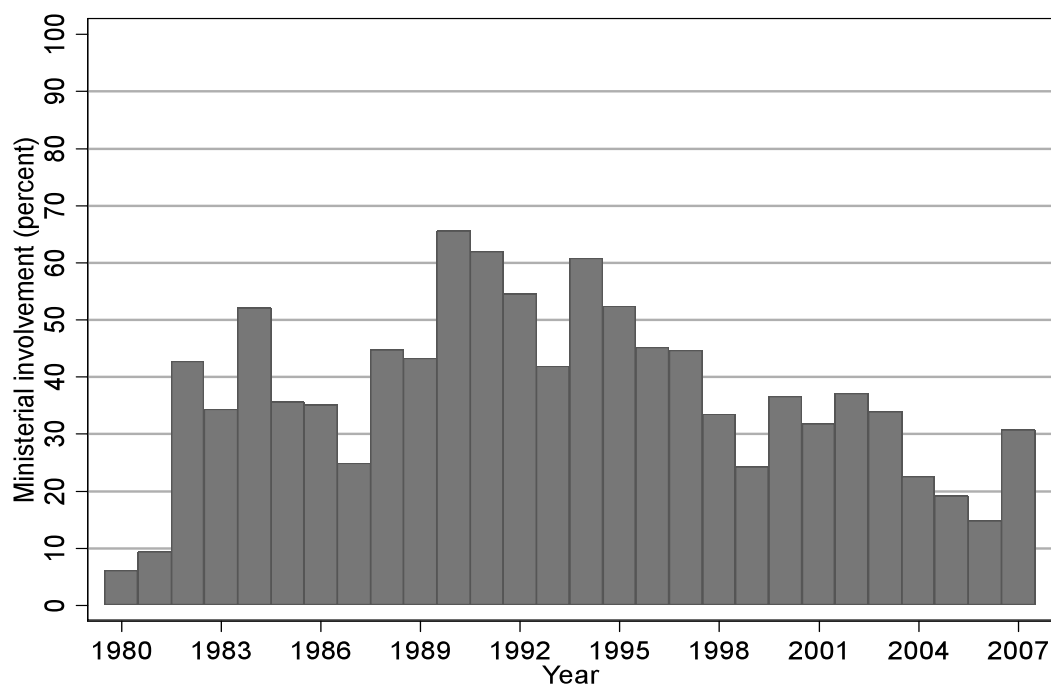
In recent academic work Dr. Frank Häge has done very important efforts in summarizing a rather diverse field of research and both his PhD and later publications convincingly try to falsify different theories of Council decision making (Häge, 2007, 2008 and 2009). We will return in more detail to Häge later when discussing the current research discourse but already at this stage it is essential to understand why Häge's results make this thesis necessary. Häge's work presents the conclusion that the only theoretical claim finding clear empirical evidence is that EP-involvement and a high level of national salience in legislative files does lead to a higher possibility of minister involvement. Since the last 10-20 years have seen a strong increase in EP-involvement (see figure 2:1) we should according to this logic be seeing an increase in minister involvement. Instead Häge presents us with the opposite results.

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<sup>6</sup> Lewis (1998), p.487 : Quote from national representative working in COREPER: "The really frank discussions take place over lunch. The real knives only come out on the table here. They know what is said will not be reported to headquarters."

<sup>7</sup> Free translation from Dagens Nyheter (20 May, 2010), p.4: "At the presentation of the book series Göran Persson stated that he had dedicated 50% of his time as prime minister to EU related issues"

Figure 1:1 - Proportion of Council decisions made by ministers, 1980-2007



**Note:** The bars indicate the percentage of decision making cases in which ministers were directly involved in making the first reading decision of the Council. The variable indicating ministerial involvement includes values explained further in the methodological chapter of this thesis. This figure has been collected from the work of Häge.

**Source:** Häge (2009), p.22, Figure 3

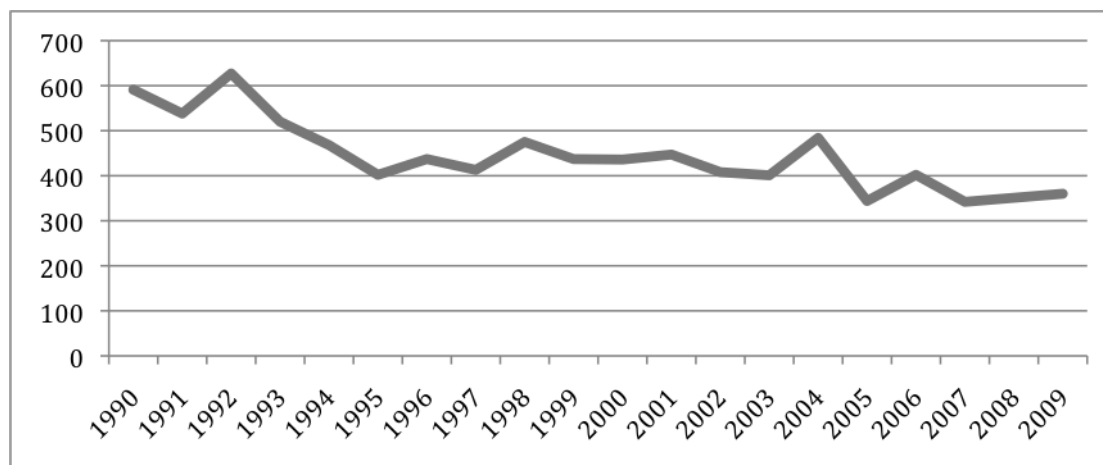
As clearly shown the the number of decisions made by minister have been decreasing since the early 1990s. Of course measuring only the proportion of Council decisions taken by ministers can be somewhat misleading since the proportional decrease in minister involvement could be explained by an absolute increase in the ministerial workload. Ministers only have a very limited amount of time to spend on Council negotiations and it would be coherent to see a decrease in proportional involvement if the total number of acts taken by the Council were to strongly increase. But when looking at figure 1:2 it shows that the Council workload has actually decreased since the 1990's. The figures 1:1 and 1:2 together instead show us that during periods of heavy workload for ministers they actually seem to get even more involved, this also goes well with previous research into minister decision making<sup>8,9</sup>.

8 Ibid, p.17: "One could assume that a larger number of adopted proposals goes hand in hand with a lower proportion of these proposals discussed by ministers, but the opposite seems to be the case. The more proposals the Council adopts during a certain year, the more of them are decided by ministers."

9 Naurin (2008), Chapter 2 : M.Mattila "Voting and Coalitions in the Council after the enlargement."



Figure 1:2 – Number of Council formal adoptions, 1990-2009



**Note:** All formal adoptions taken by Council ministers have been included in this calculation. Earlier research have often only included adoption of act's originating from an Commission proposal. But in our case the importance is seeing the workload of the ministers and therefore all adoptions by the Council have been included. None the less the general trend is the same when compared to earlier research.

**Source:** Prelex – Search on “Formal council adoptions”, current year 1 January – 31 December.

Why do we have this empirical situation? The theoretical assumption that increased EP-involvement should lead to more politicization and minister involvement goes very badly with these results, it seems that there are missing affecting variables. We therefore need to find the missing link between Häge's empirical evidence of a decrease in minister involvement and the rational assumption that an increase in the number of co-decision acts should have been followed by an increase in minister involvement. We thus have a situation where lacking theoretical development presents us with assumptions that do not fit reality.

## **1.2 The purpose and research problem of this thesis**

The purpose of this thesis is theoretical and methodological development in the current academic field of Council decision making. As the above sections have shown empirical evidence does not correspond with our theoretical understanding of how the Council works. Instead the rational assumption would be to see increasing minister involvement and politicization when the EP becomes more involved but instead we have seen that there is an ongoing decrease. This leads us to ask if the theory is incorrect or if there are missing affecting variables that could explain the decreasing minister involvement. For this reason the theoretical background needs to be adjusted and developed in a way for it to correspond and more efficiently explain empirical results. Since theoretical development can impossibly be separated from a methodological debate it is also natural to see this thesis as partly, but secondarily, developing methodological conceptions. But developing Council decision

making theory also brings with it other more public goods than the merely academic ones. Understanding and adding a piece of the puzzle to the question of if, where and why there is a de-politicization within the EU is crucial to the general public. Understanding Council politicization would help in the general politicization debate within other institutions - a debate that some theoretical researchers believe could vitalize the European identity<sup>10</sup>. For this reason the coming theoretical section (Chapter 2:1) will hold a general EU integration theoretical discussion in order to clarify this thesis's position within the school of thought where it seeks to add to the academic debate

Of course this thesis is neither the first nor the last work in this field and giving a complete picture of the complexity of Council decision making would be an overwhelming task. Still I believe this thesis can make a contribution to the development of theory but that this is only possible by continuing the work of contemporary research. As such this thesis is based on how recent work has tackled the problems of de-politicization and seeks to show where relevant missing explaining variables and factors exist and how it can continue to look for useful theoretical insights where others have left off.

**The thesis research problem can thus be summarized.**

*It seems that the increased involvement of the EP together with other positive variables affecting minister involvement have not had a strong enough effect to actually oppose the long-term negative trend of de-politicization. What other variables are affecting Council decision making and are they by current methodological research correctly measured?  
How can we find these variables and hence develop our theoretical and methodological conception in a way for it to more accurately coincide with empirical results?*

When we have now understood the problem at hand it is time to move into the theoretical discussion of how this paradox has come about. But first let us take a moment to discuss the structure of this thesis.

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<sup>10</sup> Hooghe & Marks (2008), p.22 : Hooghe and Marks has a postfunctionalist theoretical framework when discussing the importance that politicization has on European integration.

### **1.3 Composition of thesis**

Before continuing onwards with our theoretical discussion we should take a moment to make clear the composition of this thesis in order to familiarize us with its layout and structure.

**Chapter 1:** The above introduction shows that the paradox between modern Council theory and actual empiric results is no mere coincidence but instead shows us a systematic theoretical error when measuring minister involvement within the Council.

**Chapter 2.1:** After this composition our next step, and the next section, will go through current theoretical discussions on the EU and work our way towards the contemporary theoretical debate around Council decision making. This is important in order to understand in what way Council decision making theory has become what it is today and to discern where the theoretical reason behind the misconception of politicization could be.

**Chapter 2.2:** The section: "Discourse of current Council decision making", will focus solely on theories explaining where Council decision making theory is today. The main aim of this section is to lay the foundation for what could explain the decrease in Council politicization, a groundwork that will be further developed into a concrete method in the methodological section. This debate will also be reconnected to at the finalising chapter of this thesis where a synthesis and concluding theoretical discussion will be presented (**Chapter 5**).

**Chapter 3:** After this theoretical background is laid the thesis will continue with the methodological approach where information regarding gathering, sorting and interpreting relevant data will be discussed and concluded. As mentioned before, the methodological working methods will be based on assumptions derived from the theoretical debate in the previous sections and presented in a clear and easy to follow manner.

**Chapter 4:** Chapter 4 presents the results. In connection to each results section (**4.1 & 4.2**) there will be a short discussion regarding the relevance and importance of the findings; this should facilitate a quick understanding of all the conclusions.

**Chapter 5:** At the end of the thesis there will be a conclusion that discusses the results in a more analytical way, explaining what implications the results have yielded and how this can be continued in future research. This chapter starts with a results summary of the overall content of the empirical results from chapter 4. Since this thesis aspires to develop theory, the concluding part will also include a continuation of the discussion from the previous theoretical parts, together with a brief debate into methodological choices. This part

discusses how to make an addition to theory development within the framework of Council decision making research. The final part of this thesis presents concluding remarks introducing suggestions and ideas for further research.

## **2 Theory**

### **2.1 Theoretical perspectives behind current EU research**

Before continuing with a discussion regarding methodological choice there is reason to look at the different theoretical perspectives that exist in EU-research and position a theory that would explain our above mentioned paradox. In other words we need the theoretical perspective to understand what kinds of explanations exist that could clarify the reason behind the decrease in minister involvement. Before taking on the general description of EU integration theory evolution let us briefly look at the concept of 'politicization'.

Up until now the word 'politicization' has been used rather loosely and not defined its real use within Council decision making. Explaining the concept of politicization is important to better understand whether de-politicization is a problem or a necessity in modern politics, where more and more complex issues are brought up in in day-to-day discussions. Basically the concept refers to the issues discussed in the introduction where more and more political decisions are thought to be taken at administrator, bureaucratic or other non-elected levels. The concept of politicization can be problematized in different ways, ways that could be explained as either dynamic or more static. In his most recent publication Häge uses the static concept where he equals politicization to minister involvement, implying that when a minister is involved in the decision process there is by default more politicization at hand than when the minister refrains from involvement<sup>11</sup>. Other scholars, among them neo-functionalists, have argued that politicization has a more dynamic meaning and that anything that increases the "controversiality of joint decision making" should be seen as politicization<sup>12</sup>. This definition could of course include other factors than mere minister behaviour and theoretically speaking a controversial issue taken at COREPER-level could vitalize politicization and have democratic effects on European integration.

Certainly the assumption of minister involvement being a sign of politicization is not in direct contrast to the dynamic definition since it seems reasonable to assume that a minister will at some point handle any highly politicized act. It could very well be that other factors have begun the politicization process but eventually it should reach the minister simply

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<sup>11</sup> Häge (2009), p.19

<sup>12</sup> Hooghe & Marks (2008), p.6

because of him or her having the member state's highest political position. Since the static definition of minister involvement equalling politicization can in this way be seen as coinciding with the dynamic, this thesis will be using a static definition where minister involvement equal's politicization. Let me for clarity's sake point out that this thesis does not have as its purpose to make a final definition of politicization and as such this discussion is much more extensive than shown here. There will be a follow-up on the politicization discussion in the concluding parts of this thesis (chapter 5).

European theory evolution started out in the late 1950s when several important authors (primarily Ernst Haas<sup>13</sup>) developed a neo-functionalist view towards European integration. This theoretical perspective was based on the idea that an international actor such as the EU and its institutions was created solely for its functionality but that any limit to its scope of influence would be impossible. The idea that the EU could be limited to deal only with coal and steel seemed unattainable to the neo-functionalist school. They predicted that the interaction that the coal and steel trade had with other policy areas would force the EU member states to expand the Union's policy scope in order to make it more efficient. This would in turn create an atmosphere of political integration in Brussels that other political actors (lobbyists etc.) would adapt to, creating ever further acceptance and integration of Europe. The basic concept of neo-functionalism is therefore that actors (including states) tend to maximize economic efficiency<sup>14</sup>. This tendency seemed correct up until de Gaulle put the brakes on the European integration project, thereby showing that the neo-functionalist theory had strongly underestimated the nation-state ability and willingness to withstand further European integration.

This critique was strongly put forward by intergovernmentalist theory; they claimed that the EU was still very much a state-to-state cooperation and that the functionalists had exaggerated the power of the EU as a supranational actor<sup>15</sup>. When the European integration once again started to move forward in the 1980s the integration-sceptical intergovernmentalist theory was revised by influential writers such as Andrew Moravcsik<sup>16</sup>, the theory of Liberal intergovernmentalism was born. The simplest way to understand liberal intergovernmentalism theory is to see it as a three parts movement. Firstly, the

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13 Haas (1958)

14 Wallace (2005), p.15-17

15 *ibid.* p.17

16 Moravcsik (1998)

national governments develop their ideal positions based largely on national industries and strong national interest groups. Secondly, they bring this ideal position to the intergovernmental negotiation tables in Brussels. This bargaining will lead to trade-offs between national positions but given the almost exclusive rights of member-states, the EU as an individual actor is almost completely powerless. The third part of the theory tries to answer the question of why transnational institutions, like the EU, would ever be created in the first place. If all negotiations are intergovernmental then what is the purpose of supranational institutions? The main explanation is the need for stability and a safer negotiation climate: in a situation of an anarchic world with little or no possibility of forcing a state to follow what has been agreed it is very hard to make concrete promises and bargains. Instead the states choose to remain in complete control but create an institution where the negotiation rules are known to everyone and where breaking them would imply severe political loss for the included actors<sup>17</sup>. This means that even if the big states would now and then lose a case in the European court of justice (ECJ) they are willing to comply with this because they know that this controlling body could also be to their advantage in a different occasion.

Without downplaying the importance of the above-mentioned theories, the most recently discussed theoretical developments are probably new institutionalism and constructivism. New institutionalism argues that the liberal intergovernmental theory underestimates the importance of the form for negotiation. Instead institutionalists pose that once states have created an international institution they will have to play by its rules this would eventually lead to unplanned situations. Historical institutionalists in particular anticipate that actors eventually become trapped within the institutional framework that they themselves have created, they argue that it is impossible for state actors to identify all future situations that the new supranational institution will create. As Wallace explains:

*"In sum, for both rational-choice and historical institutionalists, EU institutions 'matter'. Shaping both the policy process and policy outcomes in predictable ways, and indeed shaping the long-term process of European integration"*<sup>18</sup>.

Up until recently all theoretical models described above have held a fundamental consensus of accepting the rational idea of actors with preferences and ideal positions that are created by maximizing the actors' current national situation. This is a view that the constructivists of

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<sup>17</sup> Wallace (2005), p.17-19

<sup>18</sup> Wallace (2005), p.22

the 1990s started to question. Constructivism instead claimed that more focus should be placed, not on the states as actors, but instead on the agents that states choose to send to different negotiations. Agents in this case are defined as the national representatives and ambassadors to COREPER and the working parties. Constructivists mean that these agents are indeed rational actors but that their subjective view of what is rational is created in the social context in which they work. This means that a national representative working in a consensus environment of the COREPER would very rarely, even if it would be better for their national government, go against the common ideal of coming to consensual agreement. The agent will thereby help in European integration even if this means their national actors would lose sovereignty<sup>19</sup>. There have been hard struggles between the theoretical views of rational-choice (institutionalism), neo-functionalism and constructivism. Lately this has taken a level of meta-methodological debate as the discussion has focused on whether hypothesis testing and falsification is still a reasonable way to test a theory<sup>20</sup>.

The theoretical situation today seems to have moved somewhat away from what seemed to be questions which no-one could answer to more testable and operational models of theory, but both major theoretical schools still face problems. The rational-choice models, such as new institutionalism and Liberal intergovernmentalism, are trying to deal with the fact that their theories constantly underestimate the Council's ability to come to consensus decisions even in situations where their canon claims this should be impossible<sup>21</sup>. At the other side of the spectrum, the constructivists have found very little (if any) evidence to support the claim of socialization among state agents and the problem of finding falsifiable hypotheses still largely remains<sup>22</sup>.

This thesis will not make any final say on this theoretical discussion but the methodological construction will of course be influenced on what has been explained above. The thesis research problem is based on the assumption that different institutional players, such as the EP and member states, influence the way in which Council decisions are taken. It also assumes that ministers come into direct involvement only when certain external variables

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<sup>19</sup> Ibid. p.22-25

<sup>20</sup> Checkel & Moravcsik (2001) : This debate started with Moravcsik and Checkel criticizing constructivism as being too soft and un-testable since they had none or at best very vague hypothesis in their theory testing.

<sup>21</sup> Wallace (2005), p.31

<sup>22</sup> Häge (2008), p.66-67 & 106



affect them enough to take time out of their very busy schedules. These are all rational theoretical assumptions and as such do not make any claims towards falsifying or strengthening constructivist arguments such as socialization, even though recent research actually rejects it as a factor for decreasing minister involvement<sup>23</sup>. That this thesis has not chosen another approach is mainly based on the lack of concrete methodological ways of measuring constructivist claims<sup>24</sup>. This should not be interpreted as an attempt to downplay the relevance this thesis could have for socialization theory-developing purposes, instead any evidence of socialization will of course be presented and discussed.

## **2.2 Discourse of current Council decision making research**

### 2.2.1 Understanding the Council

The Council decision making can be distinctly divided into three parts: the ministers at the top of the chain, followed by the senior and junior ambassadors to EU at the COREPER and Special Committee level and, at the more technocratic level: national representatives in the working parties. Even though the ministers at the Council level must take the formal decision to adopt any legislative act there is a strong consensus among researchers that actual decisions and negotiation often take place at a lower level, either in the COREPER or in the working parties<sup>25</sup>.

Obviously delegation from ministers to lower level administration is necessary and it would be unreasonable to demand complete interaction in all cases by our nationally elected governments. Instead what can be considered a reasonable demand from voters is that their ministers get involved in those cases and at that moment when their [the voters] interests are at stake. How often this is considered to be is of course an open question and impossible to answer without comparing how involved ministers have historically been.

When trying to prove different theories by using distinct methods the results of Council decision making comes out completely different. One example of this is the comparison of six different papers and theses that all try to measure where political negotiations and decisions actually take place: at minister level or at the committee-level. The results differ enormously with figures claiming everything between 26 – 90 % of decisions taken at COREPER or

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23 Ibid. Table 7.3, p.102

24 Checkel (2005), p.818 : Jeffrey Checkel discusses design and methodological choice when measuring for socialization effects in the EU: "Why did we make this choice? Simply put, we do not yet have a good sense of how, and under what conditions, socialization occurs"

25 See ie works by: Hayes-Renshaw & Wallace (2006); Andersen and Rasmussen (1998); Van den Bos (1991); Van Schendelen (1996)

Committee-level<sup>26</sup>. Evidently there is a huge discrepancy in the field of Council politicization research.

Before dwelling deeper into these figures let us take a minute to explain how the Council adopts legislation. Today the Council has two ways of adopting a legislative act - co-decision and consultation. In Co-decision both the European Parliament and the Council must accept the Commission-initiated legislative act in order for it to be passed. This must be done within three readings (1<sup>st</sup> reading, 2<sup>nd</sup> reading or Conciliation) where the EP and the Council try to come to a common position<sup>27</sup>. Not until this is done is an act adopted under Co-decision. In consultation the EP only has consulting powers and the Council may decide without taking note of its opinions. One of the major differences during the last 20 years is the ever increasing amount of decisions taken by Co-decision (see figure 2:1). Before the Treaty of Amsterdam (1999) the procedure Cooperation also existed, after the treaty of Amsterdam this was very rarely used but officially it was not finally removed until the adoption of the Lisbon treaty (2009). The Cooperation procedure is similar to Co-decision except that a unanimous Council could overrule a negative EP vote, thereby adopting an act against the EP's will.<sup>28</sup>

### 2.2.2 Understanding what influences Council decision making.

In current academic work concerning the Council Häge has tried to clarify the rather immense differences in figures claiming to explain minister involvement. This is done by first clearing up the theoretical conceptions of relevant research and then trying to distinguish why they end up presenting different results. Häge finds that the most important predictor of whether a legislative act is decided on minister or committee/COREPER level is the salience of the act and whether or not they are co-decision acts that include the need for Council-European parliament cooperation (Häge, 2007, 2008 and 2009). Since high-profile politicians are very limited in the amount of time they can spend on different issues and also have national interests, together with a will to be re-elected, to consider they need to limit their work-load. Ministers therefore tend to only get seriously involved in acts that are

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<sup>26</sup> Häge (2008), p.41, table 3.1

<sup>27</sup> This is a very brief explanation of the Co-decision procedure. For more details see:

[http://www.consilium.europa.eu/uedocs/cmsUpload/code\\_EN.pdf](http://www.consilium.europa.eu/uedocs/cmsUpload/code_EN.pdf)

<sup>28</sup> Nugent (2003), chapter 9: This chapter gives an in-detail explanation regarding the Councils working methods and decision-taking. It is advisable to read it in order to understand how the Council works and decides since I will not make any basic explanations in this thesis.

considered of great salience to their national situation<sup>29</sup>. Häge also presents rigid statistical results showing that minister interest in specific act's also increases (thereby decreasing the chance of a decision on lower hierarchical levels) when the EP is involved (co-decision and cooperation)<sup>30</sup>. Häge claims that the main reason behind this behaviour is that the empowered EP in two ways influences national representatives.

The first reason of how the EP influences decision making is that it is an unknown institutional player to the national representative handling the act and therefore its positions are often considered unclear and hard to anticipate. In this way the EP brings forward political standpoints where the representative is unsure of their minister's preferences and cannot easily take a decision. In a situation like this the safest option for the representative is to refer the question back to their minister for further consultation and advice. The second reason is the risk of choosing the wrong policy. If the national representative is unsure of what decision preference their minister have and at the same time knows that an EP-involvement also increases the general public's awareness of the act, then he or she is more likely to turn directly to the minister for fear of "getting caught" taking the non-preferred policy option<sup>31</sup>. Of course we should not take these reasons for influence as clear cut and the cooperation between a national representative and his or her minister is probably more flexible than the agent choosing whether or not to contact the minister. Instead, it is probable that there is always some level of ongoing contact between the home ministerial office and their national representative. But whatever theoretical reason lies behind the empirical evidence, it is clearly statistically proven that EP-involvement actually influences Council politicization by increasing the probability for minister involvement.

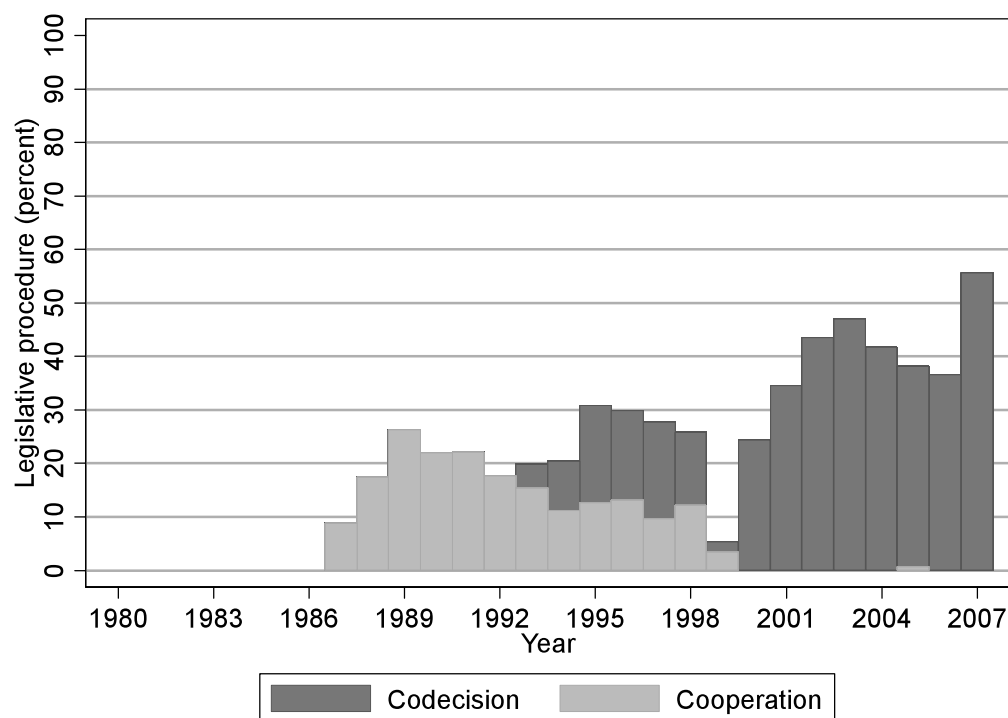
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29 Häge (2007), p.320-323: This does not mean that they do not debate or consider other issues and like Häge has shown the ministers debate a considerably larger amount of act's that were previously believed.

30 Häge (2009), p.30-33

31 Ibid., p.32

Figure 2:1 - Proportions of different types of legislative procedures, 1980-2007



**Note:** The graph only shows the amount of adopted Codecision and Cooperation, in percentage. The proportion of Consultation act's are the differing percentages from the indicated bars up to 100%.

**Source:** Häge (2009), p.19, Figure 2

The above figure 2:1 shows the almost constant increase in EP involvement. This figure, together with the assumption that a stronger EP actually politicizes the Council, should leave us in a situation with less and less delegated control and more minister involvement. This is by itself an interesting assumption since it implies that the newly ratified Lisbon treaty with its rather strong increase in using the co-decision rule into areas such as agriculture, should politicize the Council even further. This is of course only speculation since it's still too early after the ratification to make any data collections or other more qualitative studies. The rational conclusion of Häge's empirical evidence in concert with the increasingly empowered EP (see figure 2:1) is that it will create an increased salience for national ministers - this would in turn lead to a politicization of the Council<sup>32</sup>. But instead of a result, where more and more politicization is seen, the fact is that minister involvement in the Council peaked in the early 1990s and has not returned to these high levels since<sup>33</sup>.

<sup>32</sup> Hayes-Renshaw & Wallace (2006), p.213, table 8.1

<sup>33</sup> Häge (2009) p.33 & Figure 1:1 in this thesis (p.3)

In mail correspondence with Häge he himself admits that the negative trend in minister involvement only partly can be explained by a general decrease in minister activity<sup>34</sup>. By this Häge means that in all legislative procedures there is an ongoing trend towards less minister involvement, but that this trend is stronger within the consultation acts. This would clarify why the general trend of minister involvement is negative at the same time as co-decision increases the chance of minister involvement with up to 30%<sup>35</sup>. Given that the general negative trend is still a fact there must be unknown factors that have not been taken into account. Finding these unknowns is of course no easy task but of great importance to understanding and explaining the general negative trend in Council politicization. Research into cooperation patterns inside the Council has resulted in no significant differences when it comes to varying politicization behaviour between different workings parties and policy fields. Still the previously implemented methods have been largely focused on cooperation patterns around geographical and political aspects and an in-depth analysis of differences between the Councils different policy areas and configurations are still lacking<sup>36</sup>.

One important aspect of change is the transparency and its influence on minister involvement. As mentioned above, one of the major reasons for national representatives to contact their ministers instead of taking direct delegated decisions (which they are very much entitled to do) is the fear that the public's eye will fall on the case; leaving them exposed to criticism from their ministers should they take the wrong policy option<sup>37</sup>. This means that the power of the EP to influence the Council into becoming more politicized rests to a large extent on the EP's willingness to bring the act in question into the public's eye and thus expose national positions. The EP could use this leverage of exposing the Council to gain acceptance into the, for them, closed decision making rooms. The last 20 years have been marked by a movement where the EP has been more internalised in the closed decision makings of the Council, it is very probable that we will see an EP less and less interested in exposing the member states' national positions<sup>38</sup>. This movement is likely to increase further

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**34 Häge (Correspondence) "The apparent paradox comes about because the negative time trend (caused by a number of possible other factors) outweighs the positive effect of the extension of the codecision procedure over time." For the mail correspondence with Frank Häge in its entirety please see appendix.**

**35 Häge (2009), p.32**

**36 Naurin & Lindahl (2007), p.37-38: Naurin and Lindahl come to the conclusion that there is a clear geographical perspective to negotiating behaviour in the council.**

**37 Häge (2009), p.14-16**

**38 Hayes-Renshaw & Wallace (2006), p.217, 323-325**

with the implementation of the Lisbon treaty<sup>39</sup> since this will augment the formal powers of the EP. It can also be argued that the EP is hardly the best platform when raising public awareness and instead it would be the national parliaments which have the largest possibility of bringing public attention to a certain case. In either case the transparency issue is relevant when understanding politicization in the Council and also something that will be taken into consideration as an affecting variable.

The above pragmatic hypothesis also goes well with recent post-functionalist theoretical work discussing the reason why de-politicizing has been an ongoing trend during the last 20 years. Their rationale behind this is that national governments are often run by representatives who have an EU-integration positive ideology. The representatives are aware that the majority of their voters do not share their pro-EU stance and as such the rational behaviour would be to delegate more decisions to the administration and thus decrease the risk of politicizing the EU-debate, a situation where the national elects would be vulnerable to criticism<sup>40</sup>.

Another possible explaining variable is that the enlargement from EU15 to EU25 largely changed the form for negotiation- and decision-taking in 2004. By itself there is little statistical evidence that would support this claim and when looking at previous research this theoretical approach is weakened further<sup>41</sup>. But there is some reason to doubt the methods used for reaching this conclusion. What if the number of adopted acts and official voting records has remained constant but the increase in member states has resulted in a change of administrative work. Could it be that there is an internal shift of working methods that have moved the decision making down to COREPER and Committee level in order to avoid uncomfortable political conflicts? This would explain how an almost doubling of the number of member states has not brought about any obvious changes in decision making behaviour,

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39 [http://www.europarl.europa.eu/news/expert/infopress\\_page/019-51409-068-03-11-902-20090310IPR51408-09-03-2009-2009-false/default\\_en.htm](http://www.europarl.europa.eu/news/expert/infopress_page/019-51409-068-03-11-902-20090310IPR51408-09-03-2009-2009-false/default_en.htm): The parliament and Council have had problems agreeing on the new approach towards public access to documents. An act that will update the 2001 public access act to implement ECJ judgements and the Lisbon treaty is right now under negotiations (interinst.file 2008/0090/COD).

40 Hooghe & Marks (2008), p.10; figure 3: A graphical view of how the EU-voters differ in their stance towards EU-membership and the value of it.

41 Naurin (2008), chapter 2 : Mikko Mattila shows that the enlargement did not decrease Council voting behaviour in any significant way and that the voting-patterns of the new members mostly followed the already existing geographical decision patterns.

a result that otherwise seems very unlikely. As the consensus environment of the Council prevails at the same time as more member states joins the Union, the risk of deadlocks and negative voting becomes larger<sup>42</sup>. This entails a threat of “losing face” in case there are negative results for the member states and accordingly the incitement to delegate the decision to committees and COREPER increases. This does not mean that the political debate and negotiations decrease, on the contrary, we should see a higher political movement in the lower level of the administrative Council (Working parties, committees and COREPER) indicating the more active administration at work.

A commonly applied theory when studying Council decision making and especially the consensus climate of the Council is the veto player model. The veto player model starts with the assumption that individual actors of an institution will early in any negotiation take up an ideal position and will then accept a proposal for change only if this leaves them closer to their ideal position than voting for status quo<sup>43</sup>. Of course the theory also assumes that the studied institution is one where each player has either veto-rights or the decision making climate is such that a majority decision is practically impossible or highly unlikely. This theory has been further developed during the last couple of years to better suit a European Union negotiation environment and now often includes several dimensions of policy areas. The Commission often bundles more than one area of interest into every legislative act and thereby opens up for cross-interest area negotiations, something that must be taken into account. But even with the more developed veto player model the concrete results are slim: when making adjustments for statistical errors, missing data variables and extending it to involve up to six dimensions of policy interest areas, the theory can still only explain about 75% of all decisions taken in the Council, continuously underestimating the Councils ability for consensus<sup>44</sup>. Even if this seems to somewhat disprove the theory let us not hesitate to draw ideas from it. König & Junge uses the DEU-dataset, which lists expert opinions on member states’ ideal preferences in 66 different Commission proposals. The DEU-dataset with its impressive in-depth expert study of Council negotiation does add important

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42 Hooghe & Marks (2008), p.22 : Increased multi-level governance has a clear influence on how much member states and ministers chose to delegate.

43 Naurin (2008), p.83-85

44 Naurin (2008). chapter 5 : König & Junge makes a strong argument for the veto player model but ends up agreeing that it fails to explain why status quo is seldom a realistic alternative to the involved actors.

empirical testing and falsification possibilities of recent theories and as such quantitative studies like these should not be frowned upon.

Theoretical understanding is important when building a methodological approach but it is also an evolving discussion that will continue in the conclusion part of this thesis.

Nonetheless it is important to understand that this thesis's understanding of the current theoretical framework is mainly based on a rationalist perspective, something discussed already in the previous chapter. A major reason for choosing the mixed method strategy discussed in the coming chapter 3 is that it is a preferred method for both socialisation theory and rational choice researchers, making it ideal for theory development<sup>45</sup>. Let us continue this discussion in the next chapter.

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<sup>45</sup> See eg. Checkel (2005), p.816-819 & Häge (2008)



### **3 Data collection**

#### **3.1 General methodological discussion**

The literature on how to study Council decision making is rather sharply divided into two or perhaps three fractions. There are the ones who argue that qualitative studies are superior at explaining Council behaviour, there are those who defend quantitative studies and a third group sees a combination of the two as having the potential to give the best results.

The researchers arguing for a more qualitative methodological approach consider that the idiosyncratic Council is very hard to measure with statistical methods, claiming it would be false to draw theoretical comparisons with any other international or national institution. Thus, they argue, it would be unwise to measure it as such and a more pragmatic and qualitative approach is preferable<sup>46</sup>. This also implies a number of more concrete arguments that lay behind this critique; its rather few sources of quantifiable information and the still lacking transparency are two of the major nuisances<sup>47</sup>. Measuring such quantitative issues as voting patterns have also proven problematic since states do not always vote in a utility maximizing manner in every individual act. Instead they often tend to bargain with their votes, "selling" votes that are of little importance to them to a partner member state that could in return support them on an issue of greater salience for them. This critique against quantitative and statistical measurements is mostly unwarranted, especially since the main argument against using statistical data analysis is that there is just not enough available data<sup>48</sup>. This argument is to a large degree undermined by the now famous DEU-study. The DEU-study was done as quantification on 66 individual legislative cases<sup>49</sup>. The study collected national experts' opinions regarding preferred national policy outcomes on these acts during 1999-2001<sup>50</sup>. The critics of quantification have argued that the DEU study came to more or less the same conclusion as previous qualitative research had already presented and its quantitative approach towards qualitative methods was harshly criticised. What the DEU-study showed very correctly is that quantification of qualitative claims (or vice versa, as we shall soon see) can strengthen the validity of any analysis. What seems to be the problem

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46 Naurin (2008), chapter 15

47 Naurin (2008), p.261-263

48 Ibid., p.261-262

49 Presented in a special issue of European union politics (2004) & Thomson (2006)

50 Ibid., p.4-5

here is the need for previous research to position itself towards any specific methodological choice even though this is not at all called for<sup>51</sup>. This study will thus use the combined effort of both a qualitative and a quantitative method, let us for simplicity's sake refer to this approach as the mixed method strategy<sup>52</sup>.

It is easily understood that theory developing studies such as the present one often require a qualitative approach: the casual effects are still unknown to us and it is impossible to make any case studies or similar before clarifying where to look for the effects<sup>53</sup>. Choosing a target for our qualitative study therefore requires a clear picture of where the effecting variables of de-politicization should be visible. This thesis will argue for the use of a mixed-method strategy to clarify where these effecting variables could be. The mixed method was first developed in the psychological work of Campbell and Fiske (1959) but has since then, and especially in recent years, gone from a method mostly used in health research to be acceptable and widely used in the social sciences<sup>54</sup>. The mixed method is basically a method combining both qualitative and quantitative studies into one in order to obtain better results. The mixed method does bring with it the problems of having to collect larger amounts of data, which is of course time-consuming work but offers very safe and valid results from situations in which the theoretical background is underdeveloped or where there are unclear empirical results present. The limited amount of time available is an important constraint which will be discussed in the coming methodological section. But even if the time limitation problem is a source of annoyance, the select areas of study will be well implemented and this approach is preferable to having a purely qualitative or quantitative study. Since the area of methodological debate in Council decision making is not properly developed, and given the fact that there is no clear consensus regarding methodological choices, it would be hazardous to limit ourselves to only one methodological strategy. In a situation with more time, additional methodological developments ought to have been made and I implore future research to do this; a more advanced reasoning on the methodological issues and how to make these developments can be found in this thesis's conclusion (Chapter 5:3).

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51 Pahre (2005), 114-115

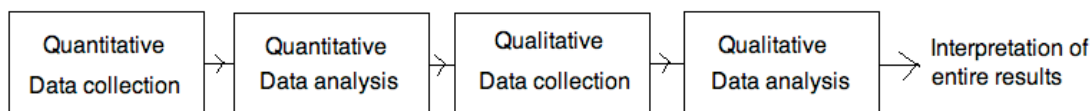
52 Creswell (2009), p.205: "Recognize that many different terms are used for this approach, such as integrating, synthesis, quantitative and qualitative methods, multimethod and mixed methodology, but that recent writings use the term mixed methods"

53 Esaiasson et.al. (2007), p.124-126

54 Creswell (2009), p.203-204: The mixed method has a growing attention among scholars and now has several interesting research journals and a growing number of researchers using it.

In the very well cited research design book by John W. Creswell (2009), the Author presents six distinct strategies to conduct a mixed method<sup>55</sup>. The argument in the thesis introduction shows empirical results differing from what our rational theory would expect. This is a typical situation where a sequential explanatory strategy is very well suited since it is often used in a way that intuitively presents theoretical insight. This strategy is characterized by a quantitative study that presents results, which are then used in order to continue the qualitative study. This means that the methods are connected to each other, the results from the first methodological stage is analyzed and then the results are used in the second stage for collecting qualitative results. Usually this approach gives more weight towards the implementation of the quantitative study but since this thesis purpose is to develop theory, both parts will be given equal weight and attention. The main drawback of this method is of course the time consuming effort that has to be put into the data collection, even more so since the two studies cannot be performed in parallel since the implementation of the qualitative study has to wait until the quantitative collection and analysis is completed. The main strength of this mixed method strategy is usually considered to be the simplicity and minimalism of it. The strategy is intuitive and the connection between the two methods makes it easier to follow the thesis as it develops the theoretical framework.<sup>56</sup>

Figure 3:1 - Sequential explanatory design



<sup>55</sup> Ibid. There are six mixed-method types that are explained below, other methodological researchers have done other classifications but Creswell explains the basic types well, for more details please see chapter ten in his excellent research design book.

**Sequential explanatory strategy**= A qualitative study that builds on the results of a pre-study in quantitative research.

**Sequential exploratory strategy** = A quantitative study that builds on the results of a pre-study in qualitative research.

**Sequential transformative strategy** = Either a sequential explanatory or exploratory strategy but with the main difference that strong theoretical lenses guides the strategy.

**Concurrent triangulation strategy** = The researcher collects a quantitative and a qualitative dataset parallel to each other and compares them in order to find convergence, differences or some combination. Both datasets are given equal weight.

**Concurrent embedded strategy** = This method also collects the qualitative and quantitative data simultaneous but it gives special attention to one of the methods and only uses the second methodological data as support for the primary results.

**Concurrent transformative strategy** = Collects and analyzes both the qualitative and the quantitative data simultaneously and gives equal emphasise to both results. The main difference from the concurrent triangulation strategy is that it approaches the problem with clear theoretical lenses.

<sup>56</sup> Creswell (2009). p.203-224

**Note:** This figure shows the mixed method strategy, sequential explanatory design, applied. The → indicates the sequential direction on which one method builds upon the previous.

**Source:** Creswell (2009). P.208 - figure 10.2a

The connected approach where the selection of a qualitative case-study is driven by a quantitative approach is necessary in order to avoid the qualitative study becoming purely based on guesswork. Recent methodological studies have shown that a mixed method strategy actually determines the scope of qualitative research more accurately than previous methodological debate had suggested<sup>57</sup>. We can also see that the drawbacks of quantification are now well addressed and that an orderly and well performed statistical analysis will equally well present us with fair results<sup>58</sup>. In addition to purely methodological grounds, the consideration of the above mentioned breakthrough by the DEU-study shows us that it is more fruitful to adopt a broad approach, strengthening any claims made, as opposed to being confined to pure qualitative reasoning<sup>59</sup>. The argument for combining these approaches into a mixed model is perhaps most neatly put forward by Robert Pahre:

*“First, formal theory and qualitative methods share many epistemological precepts despite the irrelevant demarcation criteria that seem to keep them apart. Second, they have complementary logics of discovery that should encourage us to use cases to generate puzzles for formal analysis, and to use formal theory to provide theoretical relationships for understanding many cases. Third, case studies can contribute to research designs for formal theorists testing their claims.”*<sup>60</sup>

Let us now continue along the lines of limitation and selection. On which areas should a possible case-study focus? Where are the de-politicization effect assumed to be at its strongest or perhaps weakest? As a general trend the de-politicization we see in the Council is clear but rather weak (see figure 1:1 & 1:2) so in order to find the area in which a case study could be most productive we need to break down the Council into smaller pieces. The main reason for letting the quantitative analysis lead to the qualitative (Sequential explanatory design) is because it is often referred to as the “explorer layout”. Since the aim of

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57 Liberman (2008) : Lieberman makes the claim that recent methodological development have actually made earlier critique against formal nested analysis (Mixed method) obsolete. His paper meets earlier critique with examples of how modern nested analysis can circumvent the central problems of comparative methods.

58 Naurin (2008), Section 5 : The debate between Heisenberg and Schneider shows that both quantitative and qualitative studies have concrete problems and strengths.

59 Lieberman (2008), p.450 : “ The use of the mixed strategy helps to overcome potential sources of bias and to sort out spurious findings that might be produced in either SNA or LNA when carried out in isolation.

60 Naurin (2008). p.138

this thesis is to develop theory the areas where the quantitative divergences explained in chapter 1 are at their strongest must be identified, thus we are searching for extremes in the Council. When these are found the work with our in-depth qualitative case study of these outliers can continue.<sup>61</sup>

Above we have discussed the overall reason and layout for the methodological choices, let us now see in more detail how this can be executed.

### **3.2 – Quantitative minister involvement and politicization trends within different policy areas**

To avoid problems of comparison with previous research and to strengthen the quantitative validity the thesis will primarily develop the dataset of Frank Häge to look for minister involvement in different sections<sup>62</sup>. In order to do over-time checks for decreasing minister involvement it will also look at a second dataset which will be discussed shortly.

This thesis introduction rests to a large extent on both assumptions summarized from (although not exclusively used by) Häge and the upcoming results section is also heavily dependent on results from his dataset. Making this dependency on Häge can be seen critically as a too strict limitation of similar research material but the current situation is such that Council decision making research is currently not well enough developed and the number of usable datasets and sources of recently collected information is very limited. The paradox of contradicting empirical evidence and theoretical assumption is also shown mainly in Häge's works something that of course makes it unrealistic not to put emphasize on his work. For this reasons using the Häge dataset is not only well balanced but it is also a required priority.

By choosing to use the Häge dataset there will indirectly be some limitations on the amount of studied acts and selection criteria. Most noticeably the limitation will include only legislative acts (directives, regulations and decisions) and thus exclude the categories: External policy decisions, non-legislative acts, Member State initiatives, as well as administrative, budgetary, and institutional acts<sup>63</sup>. As shown, the dataset will only include

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<sup>61</sup> Ibid. p.218-220

<sup>62</sup> Häge (2007b), Dataset

<sup>63</sup> This also means that the External relations Council, General affairs Council and Budget Council have been excluded due to them not focusing on substantial matters of internal-EU policy.

acts initiated by the Commission and as such member state-initiated proposals are not included. This method has the advantage of creating a rather homogenous set of acts, thereby reducing the need for control variables<sup>64</sup>. This limitation can mainly be criticized because the variables affecting minister involvement could very well be mostly visible within the excluded sections. Even so, the discussion in my introduction clearly shows that the paradox of decreasing minister involvement is also measurable in Häge's own research and as this thesis imports his sample selection it can be sure that the influencing variables will not be left out.

Using the above mentioned selection criteria, a sample of 439 legislative acts is collected<sup>65</sup>. This must be considered a rather small dataset compared to the roughly 600 formal Council adoptions (figure 1:2) done each year but should be quite enough for this study as Häge argues:

“Arguably, the sample of cases also corresponds most closely to the type of decisions scholars of legislative politics usually have in mind when they devise and test theories of law-making”<sup>66</sup>

As mentioned in the general methodological discussion in the previous section (chapter 3:1), we need to find ways to limit our selection in the qualitative part of our thesis. This was previously referred to as the explorer layout and implies that our quantitative method is performed by looking for outliers in the Council, outliers that would show different minister behaviour. Finding these is done by dividing the Council into its respective Council configurations. The Council configurations role is well described on the official Council webpage:

*“The Council is made up of the ministers of the Member States. It meets in ten different configurations depending on the subjects under discussion. For example, the “Foreign Affairs” configuration is made up of foreign affairs ministers, the “Justice and Home Affairs” configuration of justice and home affairs ministers, etc.”*<sup>67</sup>

This is the most feasible and reliable way of finding outliers since it avoids the perilous work of making policy division on the ‘activity field’ on the PreLex-webpage,<sup>68</sup> which could lead to

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64 Häge (2008), p.83

65 Ibid., p.85-88: For a more detailed overview of the practical collection procedure.

66 Ibid. p.88

67 <http://www.consilium.europa.eu/showPage.aspx?id=427&lang=EN>

68 PreLex is the online search engine for the European Union's institutions or as stated on their official webpage: “PreLex, the database on inter-institutional procedures follows the major stages of the decision-making process between the Commission and the other institutions:”. This is commonly used in almost all quantitative studies of Council research.

false results<sup>69</sup>. It also give us a fairly constant measuring of configurations over time since our only change in configurations was in the Seville declaration 2002 and these changes can be re-coded into post-Seville configurations in order to allow over time comparison. Measuring by Council configuration as such will allow us to compare minister involvement and it is easily comparable between both collected datasets, making it ideal for the explorer's layout.

The first dataset is limited in time from 1 July 2000 – 1 January 2004, a time period recent enough to be reliable. Of course much has happened since 2004 and with 12 new member states and a new treaty in place there is always a risk in comparing. This means that the first dataset will not try to identify any negative trends over time since there would be too few individual cases to draw any reliable conclusions. Instead let us make a single strike in time and look into which Council formations diverge when it comes to politicization.

Even if Häge's dataset is the result of thorough work, there are still the practical limitations and trade-offs that have to be made when working with PreLex<sup>70</sup>. One of these trade-offs is the time limit discussed above and to respond to this methodological problem a second dataset of longer time span will be collected. The second dataset will spread over a period of 10 years, 2000-2009, of course it would be unrealistic and unnecessary to redo Häge's data collection with the same extensive amount of variables and as such this dataset will focus on the variables that show minister involvement. When both datasets are collected they can be compared and analyzed, thereby using their individual strengths to increase the chance of choosing the correct Council configuration to examine for the case-study. Häge uses a Python programming script to collect all his cases and variables and as such he does not have to worry about the time consuming task of manual collection. Lacking the necessary programming skills this was not an option for this thesis and unfortunately Häge's Python script was not available for publication at the time of writing<sup>71</sup>. To make the manual collection process reasonable it had to be done with a stricter and more narrow selection than Häge's. This means that the selection criteria for the second dataset are identical to the

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<sup>69</sup> See correspondence with PreLex helpline in this thesis appendix.

<sup>70</sup> Prelex: PreLex is an evolving database and has a tendency to change from year to year as older files are added or it's content is updated to fit into specific policy field definitions. For a mail correspondence with PreLex-support on this matter please see appendix.

<sup>71</sup> See discussion in Häge correspondence (Appendix)

one created by Häge with the exception of the time span being longer and the limitation to only study the legislative type directives and thereby excluding: regulations and decisions. The limitation to only use the legislative type of directives is thus solely a time-constraint issue. There are of course risks when only looking at one legislative type but there is nothing that indicates that there would be any systematical overrepresentations of using only directives.

From a juridical perspective the difference between directives, regulations and decisions are rather clear and straightforward. Directives are binding for all addressed member states but its implementation are done nationally and thus leaves room for state interpretation. Regulations are of general and binding application and thus it can be applied directly to any of the member states and often contains an abstract provision to allow for general application. The regulations are implemented by the Commission or other EU institution and no national realization is necessary. Decisions are used for mainly technical and administrative issues; they are addressed to a specific member state or individual.<sup>72</sup> However, this official definition does not give justice to the practical use of the three legislative forms. The legislative lines between them are blurred and decisions can be written in a general manner that is very similar to regulations and directives. Similarly directives and regulations overlap each other and most directives are now generally implemented to all member states, drafted to leave minimal room for national interpretation and gives strict deadlines for implementation. The juridical situation is thereby so unclear that any difference in the usage and importance of the three types is highly illegible and they are used interchangeably.<sup>73</sup>

Including all types into our second dataset would of course be ideal but seeing that the mixed method is such a time consuming strategy and that we lack automatic ways to process our data it would be unrealistic to collect all this data. There is no reason to believe that there are any significant difference between the three types and thus the focus will be on directives since the amount of adopted directives are reasonable in comparison with regulations and it is also, juridical speaking, more vital to the Council decision process than 'decisions'<sup>74</sup>.

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72 Definition of: Regulations (Article 249 TEC), Directives (Article 249 TEC), Decisions (Article 249 ETC)

73 Nugent (2003), p.238-241

74 Nugent (2006), Table 13.1, p.288



Neither the DEU nor the Häge (2008) study did any separation between the three forms<sup>75</sup>, nonetheless the reader should be aware of this limitation to the second dataset.<sup>76</sup>

After making the necessary limitations, the total number of examined acts in the second dataset comes to 509. Of these 509 acts 12 are excluded since they were handled by the General affairs Council and thus did not fall within my selection criteria, for the same reason another four are excluded for being budgetary issues. Lastly, 27 acts are excluded because these were handled by a Council configuration before the year 2000, thus leaving us with 466 valid legislative acts. Just like in the Häge-dataset, there are some acts adopted before the Seville Declaration (21 June 2002). These acts' associated Council configuration will be re-coded into post-Seville Council configurations to allow for over time comparison. The remaining 466 directive acts will be sorted into two five-year time categories, 2000-2004 and 2005-2009. This is to make the results more significant - if all acts were presented divided into both respective year of Council adoption and the Council configuration handling it then there would be an average of less than 10acts/category<sup>77</sup>.

Before continuing with the method for the qualitative case-study let us do some last clarifications regarding what is meant by minister involvement. Häge's dataset includes a vast amount of variables, and even though not all variables are collected for all his 439 cases this still means a vast amount of dummy variables that can be used to deepen the understanding of minister involvement. Since this information is available in Häge's dataset it will be used to do an in-depth analysis of the minister involvement definition. This means that minister involvement will be counted in any situation where a minister has been involved in the decision making process. For example, cases where the ministers have discussed the issue (either at a previous meeting as a B-item or informally) but nonetheless finally adopted it as an A-item will still be regarded as minister involvement. This technique inevitably leads to more cases being regarded as minister involvement when compared to

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<sup>75</sup> Naurin (2008), p.89-92: The DEU-study together with the 1984-2004 CELEX study also points out the relative unimportance of decisions. Neither of the studies makes any theoretical claims towards diverging results between regulations and directives although regulations are overrepresented in CELEX statistics.

<sup>76</sup> A Visual Basic macro was created for the purpose of automatically collecting the PreLex acts but was unfortunately not completed in time to be included in this thesis. If you wish a copy of this Visual Basic script then please don't hesitate to contact the author (permagnusnilsson@gmail.com).

<sup>77</sup> 466 examined acts, 10 studied years and 8 council configurations (post-Seville agreement and excluding the General affairs Council).  $466 / 10 = 46,6$ .  $46,6 / 8 = 6$  (approx.). An average of approximately 6 acts / council configuration and year.

theses or essays that use other methods<sup>78</sup>. In some rare cases ministers from several Council configurations gets involved in the same specific legislative act; in these situations only the minister who has primary responsibility for the act will be counted. The purpose is to avoid the confusion of some cases being counted several times and thereby making the statistical results unclear. However, the number of legislative acts where this is an issue are very few and will not effect the final results to any considerable degree.

### **3.3 – Qualitative case-study of specific policy areas**

After the quantitative analysis is complete there will be two reliable datasets representing the development of minister involvement during the last ten years. But this will only show us where de-politicization or low minister involvement is measurable; it will not give us any clue as to why this is and what the underlying variables could be. As such the thesis is at this point merely descriptive and this is not its purpose. The objective is instead to understand and clarify the independent and underlying variables that affect the degree of Council politicization. As mentioned in the introduction of this methodological discussion, there is a rather sharp ongoing debate concerning different ways to study Council decision making. This section will not repeat the arguments for a mixed-model strategy but there are several questions that need to be answered in order to make a valid qualitative analysis: What case or cases should be chosen for good results? What kind of qualitative method should be used on the case/cases? Where in the case/cases should this be applied?

Let us begin by answering the question of what to analyze. All other things equal, a well performed study of several cases is always better at answering questions than a single-case study. The reason for this is rather intuitive and within qualitative and quantitative research having more subjects usually means a higher degree of validity for the analysis<sup>79</sup>. A single-case study is vulnerable since it cannot be sure that the measured minister involvement connects to politicization; for this reason more cases will decrease the risk of misleading results and at the same time increase our generalizability to future research. For the situation at hand a several-case approach is thus the most appropriate. In order to correctly choose our cases it is important to understand the basis of qualitative research; differences

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78 See eg. Table 3.1, p.41 in Häge (2008). Here we can see that van Schendelen measure minister involvement to only 35%.

79 Yin (2007), p.76 & Esaiasson et.al (2007) & Lieberman (2008), p.438 : The indication that more cases are “usually” better is just a clarification that adding theoretically unfounded control variables risks undermining the results. This will of course be avoided, especially in the quantitative method.

are essential. John Stuart Mill has famously created the most different case-study approach<sup>80</sup>. In order to find why a particular result, de-politicization in this instance, exists in some cases but not in others, it is crucial we explore cases of widely diverging nature. This aged method has of course not gone un-criticized and a major fault of this design is the risk of defining which variables should be widely different, where it should strive for variance. In our case we choose cases based on their divergence in minister involvement but of course we do not know if less minister involvement absolutely equals less politicization or if other more institutional factors could play a crucial role<sup>81</sup>. From our previously discussed theoretical understanding of what is politicization it was assumed that when ministers become less involved the political system becomes de-politicized, this assumption will be sufficient when searching for missing variables and is coherent with previous research methods<sup>82</sup>. Based on the most different approach, the “extremes” or outliers of the Council configurations are chosen as our research units. In practice this means that the two cases with the most difference in minister involvement will be selected for our qualitative case-study.

With the varying degree of minister involvement between different research methods (see chapter 2:2) let us not rely completely on the results from our quantitative study. This does not mean that the statistical analysis is slack work or that the chosen ways to measure minister involvement are incorrect. Instead, how to measure minister involvement is an ongoing debate where previous studies has shown significantly diverging results and with PreLex being one of few sources of quantitative information we should be cautious with our results<sup>83</sup>. Thus, let us choose a methodological approach with some room for manoeuvre, where the individual subjects are more important than the whole policy area. By doing this it reduces the risk of our quantitative study being imperfect and takes full advantage of the gains a mixed method design presents. For the purposes of this research, a semi-structured

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80 Mill (1967)

81 Esaiasson et.al (2007), p.130-132

82 Appendix: See Häge’s correspondence in the Appendix.

83 See appendix for discussion with PreLex helpdesk and with Frank Häge. The helpdesk clearly states that basing searches on policy area is perilous work because of the PreLex being constantly updated. Häge also states that using any EU legislative observation tools is quite a “detective’s work” since it does not always show all relevant materials, and with the very varying adoption-rates over longer time periods it is hard to exclude all disturbing variables and thus isolating the relevant independent variables.

respondent interview would be the ideal choice<sup>84</sup>. The questionnaire for the respondents will be implemented by asking thematic questions that are wide enough to be interpreted in different ways by the respondents; as such the questionnaire asks identical questions to all respondents but leave plenty room for subjective interpretation and unfolding. This means that there will not be time for all respondents to answer all questions and thus a priority is made in the questionnaire<sup>85</sup>. Another benefit, of the semi-structured respondent interview is that theoretical fullness is achieved rather quickly and within our limited amount of respondents, respondent interviews are also generally recognized as the ideal qualitative method when looking for unknown variables<sup>86</sup>. A too structured interview that lacks the possibility for respondents to individually reason around politicization and minister involvement would, in the worst case scenario of incorrectly formulated questions, prevent us from tracing important variables<sup>87</sup>. Of course having a more structured interview would give us the possibility to conduct more interviews and perhaps even send out the questions by mail and thereby receive more answers. However, since our main purpose is to identify unknown variables and not to clarify which of these variables have the strongest effect on politicization this approach would not be preferable.

When looking at alternatives to respondent interviews we can promptly rule out informant interviews as unsuitable in a thesis which seeks to explain what affects minister behaviour. Instead an informant interview is more suitable when following a specific sequence of events, such as the limited time-period of a presidency, and then wanting to draw conclusions based on the events that took place during this time<sup>88</sup>. The goal of our interviews is instead to identify and analyze expert suggestions and responses to what affects minister involvement, it is thus not limited to a specific sequence of events. In this situation the respondent approach is superior since it can identify the respondent's subjective

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84 Esaiasson et.al (2007), p.298-300: Esaiasson describes how a well performed semi-structured respondent interview always should leave room for the respondents to feel that they are taking part in a dynamic conversation rather than an one-way question-answer situation.

85 See attached questionnaire in the appendix. Number 1 is the highest priority and number 10 the lowest.

86 Esaiasson et.al (2007), p.238 : "Respondent interviews presents us with a good possibility to register unknown variables" (free translation from Swedish edition)

87 Möller (2000), p.17-18: Möller makes interviews regarding distrust towards politicians and shows that having a too rigid interview structure risks missing the independent variables because the respondents are not open to think and formulate themselves freely.

88 Tallberg (2003): Jonas Tallbergs interviews several Commission administrators and national representative in order to clarify the powers and limitations of the agenda setting presidency.

explanations of minister involvement and from these draw conclusions in areas that seem reasonable for future analysis.

Before continuing with finding appropriate respondents let us once again take a moment to discuss the issue and problems of the Council configurations. Choosing respondents based on Council configuration presents us with the methodological difficulty of equating it with policy area. During the ten years 2000-2009 a number of changes have been introduced to the Council working methods. These include the previously discussed Seville declaration that changed many of the configurations. The datasets used have been re-coded to suit the post-Seville Council configurations, but using policy area as our search parameter would still have been safer and perhaps more fruitful than basing the analysis on configurations. Regrettably, the PreLex-database, which is the only complete database over EU-legislation, does not include any functional way to single out policy areas<sup>89</sup>. This is an unfortunate situation but, given this, equating Council configuration to policy fields is the only feasible option. The quantitative method attempts to minimize this issue by primarily measuring minister involvement only when ministers get involved in the policy field of their government department - this was explained in the previous section (Chapter 3:2).

Finally, let us decide whom our respondents are and, of course, what to ask. As earlier stated theoretical fullness is achieved rather quickly in respondent interviews so seeking a big number of respondents would be unnecessarily time consuming. Many previous respondent interviews in Council decision making have been based on interviewing national representatives as they are assumed to have a central insight into the decision making process<sup>90</sup>. In this thesis, interviewing the national representatives would be superfluous since this thesis is not searching for individual member state preferences. It would also create the risk that procedures and negotiations that were central during any national presidency could affect the respondents' view of how the Council functions over time. Instead, we are looking for expert explanations to the general trends of de-politicization and thereby need respondents who have a central insight into the working practices of the Council over time. The general secretariat of the Council has a central insight into the

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<sup>89</sup> The option "Fields of activity" that are a PreLex search option does not give us reliable results. See appendix for a discussion with PreLex-helpdesk on this issue.

<sup>90</sup> Naurin, Rutger (2009) & Thomson (2006): Both these interview national representatives in working groups, committees and COREPER in order to find member state preferred policy or cooperation patterns.

workings of the Council<sup>91</sup>; it also has the over-time approach and can present this thesis with an analysis that stretches far beyond the scope of a single presidency. Recent research into the secretariat's role confirms the view that it has an important informal, and informed, insight into the decision making of the Council<sup>92</sup>. Of course not all employees of the Secretariat can be expected to have a detailed and long-term view of Council decision making - in order to pick the respondents that are most likely to give us important information it is important to choose cautiously.

In order to make the correct choice of secretariat respondents let us take a moment to understand the Council administrative structure. Every Council configuration has its own Directorate general (DG) in the General secretariat (GS), these are responsible for the smooth operation of the Council work. There are currently seven DG's together with the legal service, the secretary general cabinet and the deputy secretary general. Every DG forms a cell in which the top of the hierarchy consists of a Director-general, under this top position there are a varying number of depending entities, called directions. Every such direction is led by a director. The last hierarchical level is the Unit which is situated below the direction and is led by a head of unit; the head of unit usually has several administrators under her. The figure below will illustrate the described GS-structure<sup>93</sup>.

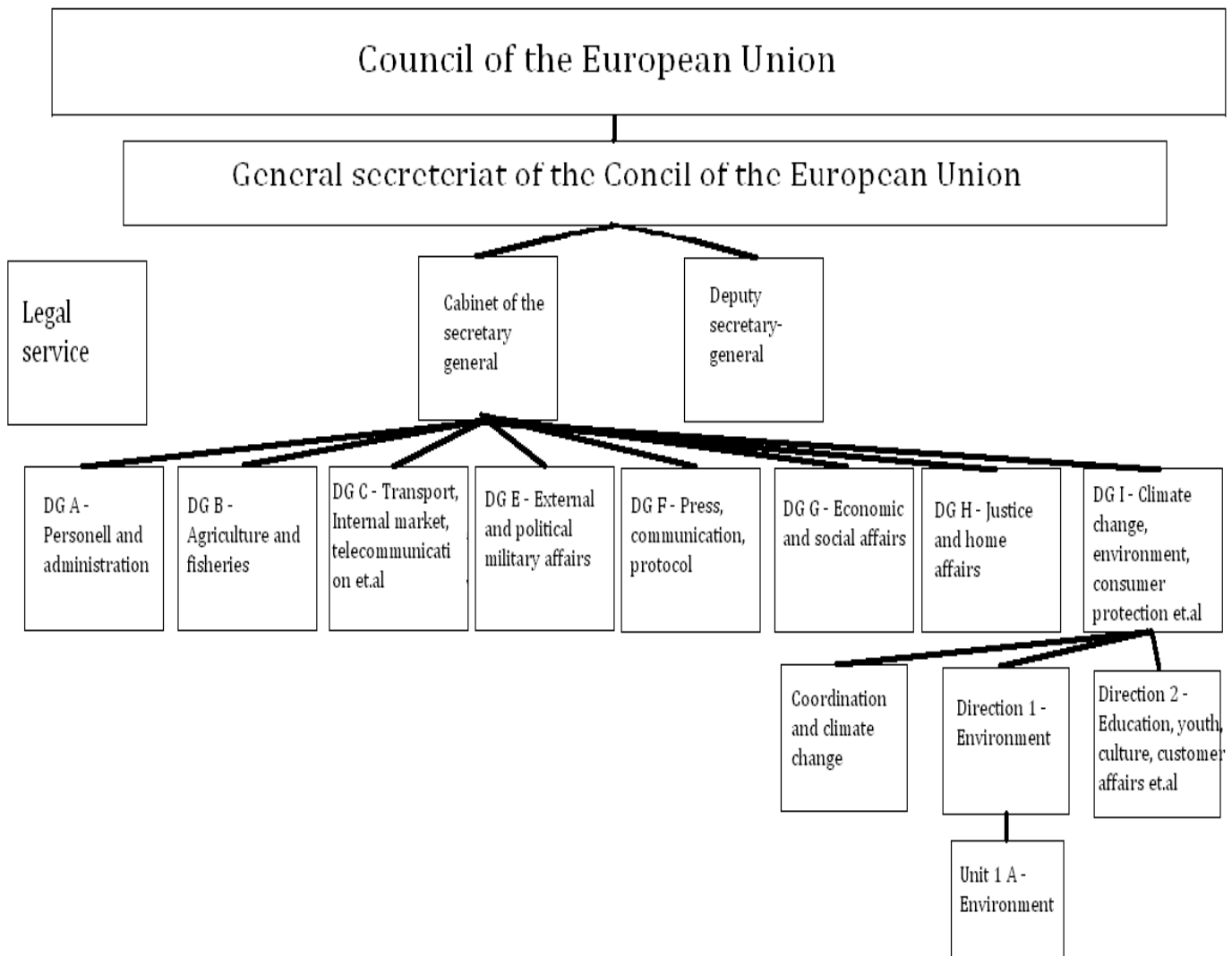
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91 Council's rules of procedure, adopted 22 March 2004: [The general secretariat of the Council of the European union] "...shall be closely and continually involved in organizing, coordinating and ensuring the coherence of the Council's work and implementation of its annual programme."

92 Naurin et.al (2008), chapter 12

93 Who is Who in the European Union : <http://europa.eu/whoiswho/whoiswho.html>

Figure 3:2 – Council of the European Union hierarchical map.



**Note:** Figure 3:2 represents an example of the GS hierarchic structure in 2010. The lower levels shown belongs to DG I but the number of directions (Coordination, Direction 1 and 2) and units (Unit 1A) differ from DG to DG. A Head of unit leads the work of the unit, a director lead the 'Direction's work and a Director General manages the whole DG. Above these are the Secretary General and his deputy secretary. All DGs are assisted by the legal service. The DGs did change with the implementation of the Lisbon treaty but this is of no importance to this thesis since it analyzes the pre-Lisbon Council and the general hierarchical structure remains the same, only the DG configurations changed slightly.

Choosing suitable respondents was done from a pragmatic perspective. Finding interview time for a master thesis from the Secretary General or DG Director Generals is highly unrealistic and there is no reason to believe that this high hierarchical level would be strongly superior in explaining minister involvement trends; Committee, COREPER and

Council meetings are regularly attended by both directors and heads of unit. Therefore, focus will be aimed at the directions and units. Contact will be made with the Head of Units since they often are in close contact with both the Directors work and their own Unit. The heads of Unit will be asked to participate in a 15-20minute interview with guaranteed anonymity and if they decline for any reason they will be asked to forward the question to someone within their unit or direction that would be suitable for an interview. This means that top priority is placed on the heads of unit and if this fails administrators or directors are the next in line to contact. The short time given for each interview of course limits the amount of information that can be gathered but after some preliminary probing it seems the heads of units' time is limited to such a degree that a longer interview would be very hard to carry out<sup>94</sup>.

This explanation of the design for the qualitative case-study concludes our methodological discussion and it is now time to continue with empirical results.

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**94 One of the respondents rebooked an interview due to time issues and two others stated that they would not have been able to participate if the interview would have been longer than 20minutes.**



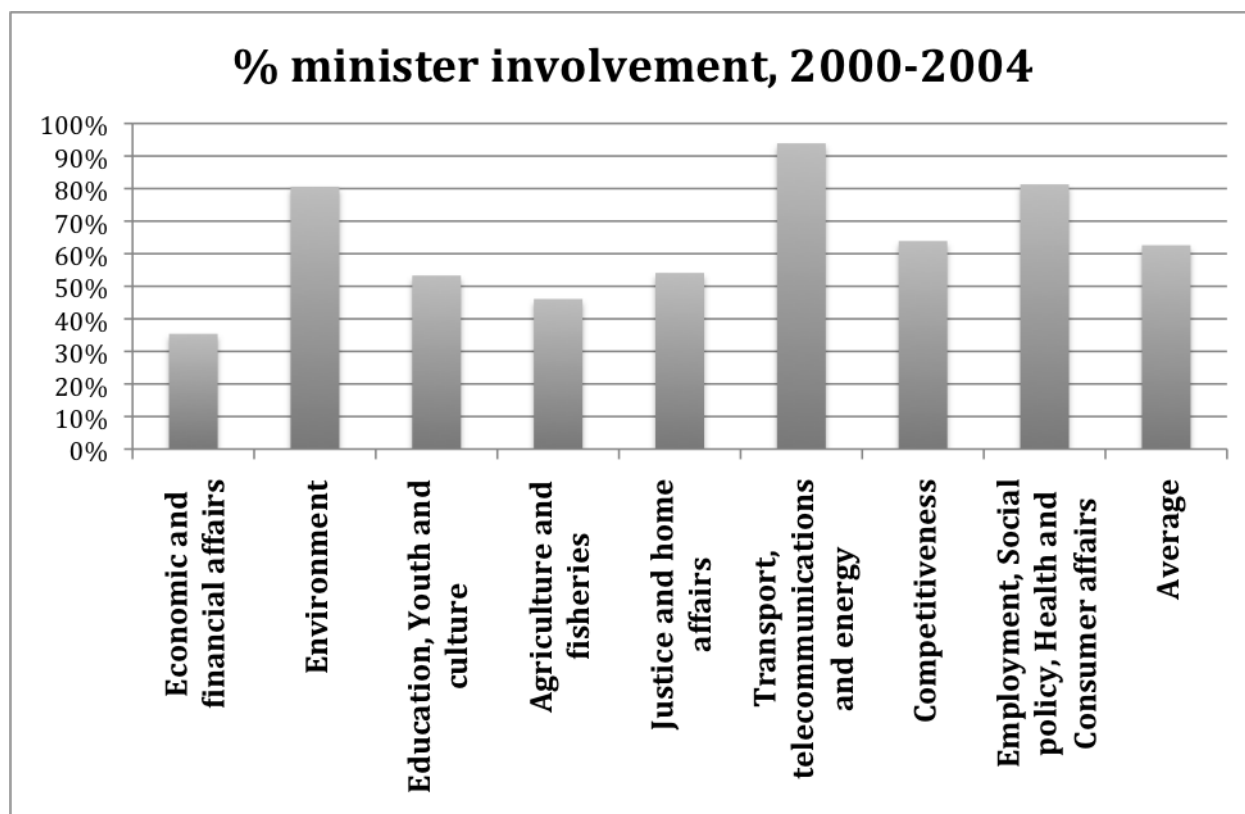
## 4 Results

### 4.1 Quantitative politicization trends within different policy areas

Let us begin by presenting the results from Häge's dataset using the selection criteria discussed in the methods section.

As mentioned earlier in this thesis, all Council configurations may adopt an act from any policy field, this means that, for example, the Environment Council may very well have adopted a Transport-issue case. On the other hand items are rarely *discussed*, although often adopted, by anything else than the competent Council configuration and as such the Environment Council in this case will only make the final formal adoption to a transport A-item and not discuss its content. This is important to understand when comparing the numbers of adopted cases from each Council configuration. Even though these figures can give us an indication of the work burden for each Council configuration, they can also be very misleading. The figures for direct minister involvement are more reliable when comparing cross policy-area work burdens. But let's first take a closer look at the relative minister involvement divided into different Council configurations.

Figure 4:1 - Relative percentage minister involvement, 2000-2004 – Häge dataset



**Note:** This table contains the percentage on minister involvement obtained from the Häge dataset. The definitions of minister involvement is thus the same as mentioned in the method and in Häge's own definition. See ie. **Source:** Häge (2008), p.83

As shown the transport, telecommunication and energy (TTE) Council has the highest average minister involvement. In the other extreme, the Economic and financial affairs Council shows a notably smaller percentage than the average, and when looking at figure 4:2 it shows that it weighs in at almost 30 percentages below the average. Other below-average Council configurations include Education, Youth and Culture, Agriculture and fisheries and Justice and home affairs. But as evident from Figure 4:2 both the Education and Agriculture Councils have measuring problems with their extremely low, or respectively, high, number of adopted cases. This is something that affects the measurement in percentage, thus showing misleading figures.

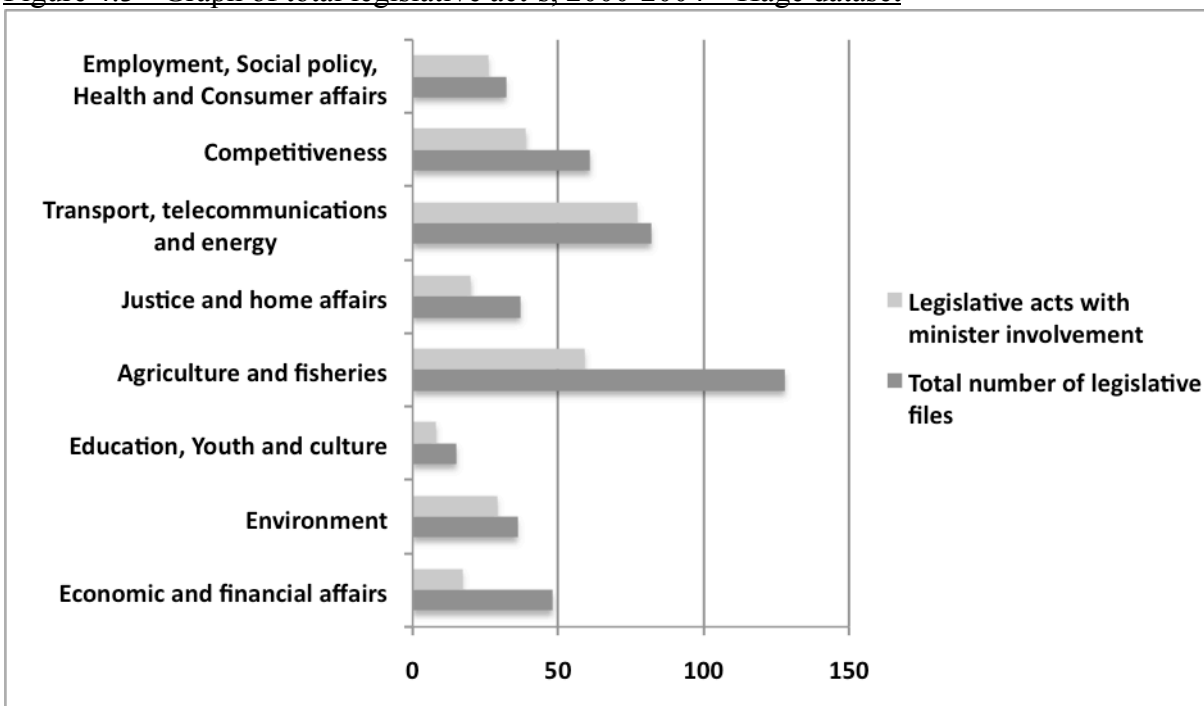
Figure 4:2 - Total minister involvement, 2000-2004 – Häge dataset

	<b>Total number of legislative act's</b>	<b>Legislative act's with minister involvement</b>	<b>% minister involvement</b>
<b>Economic and financial affairs</b>	<u>48</u>	<u>17</u>	<u>35,4 %</u>
<b>Environment</b>	<u>36</u>	<u>29</u>	<u>80,6 %</u>
<b>Education, Youth and culture</b>	<u>15</u>	<u>8</u>	<u>53,3 %</u>
<b>Agriculture and fisheries</b>	<u>128</u>	<u>59</u>	<u>46,1 %</u>
<b>Justice and home affairs</b>	<u>37</u>	<u>20</u>	<u>54,1 %</u>
<b>Transport, Telecommunications and energy</b>	<u>82</u>	<u>77</u>	<u>93,9 %</u>
<b>Competitiveness</b>	<u>61</u>	<u>39</u>	<u>63,9 %</u>

<b>Employment, Social policy, Health and Consumer affairs</b>	<u>32</u>	<u>26</u>	<u>81,3 %</u>
<b>Average</b>	<u>55</u>	<u>34</u>	-
<b>Total</b>	<u>439</u>	<u>275</u>	<u>62,6 %</u>

**Note:** The figures shows the Häge (2008) dataset containing 439 individual cases. Minister involvement is counted when the ministers have at any point during the adoption process been personally involved, see methodological part of this thesis for more clarification. The right column indicating percentage is also shown graphically in figure 4:3.

**Figure 4:3 - Graph of total legislative act's, 2000-2004 – Häge dataset**

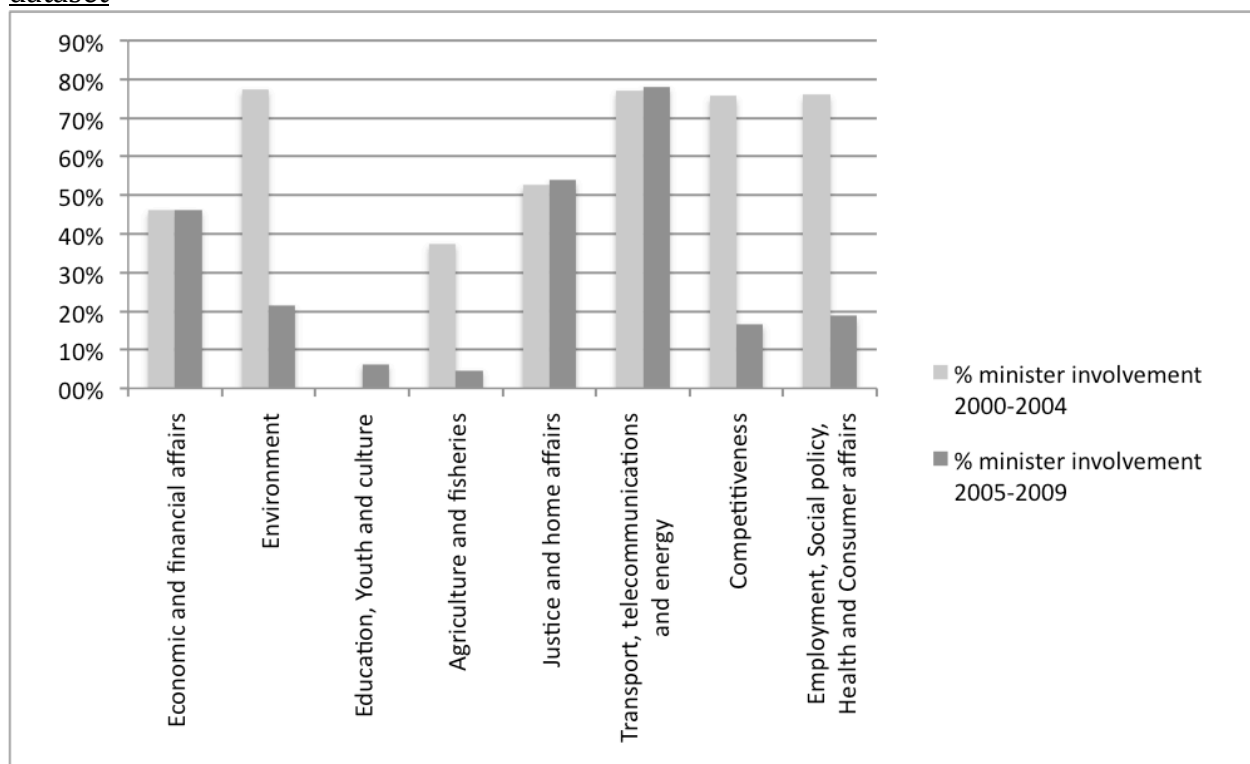


**Note:** The figures shows the Häge (2008) dataset containing 439 individual cases. Minister involvement is counted when the ministers have at any point during the adoption process been personally involved, see methodological part of this thesis for more clarification, This figure is identical to figure 4:2 but excluding percentage and presented in a graphical version.

The Agriculture and Education Councils cannot be safely used in any comparison because of their extreme absolute figures. The Agriculture Council held debates almost twice as often as the average Council configuration and the Education Council discussed less than one fourth of the issues of the average Council configuration. The Justice and home affairs Council can also hardly be seen as an extreme case, even if it is below average on Council discussions it is still almost 20 percentages above the Economic and financial affairs Council.

As such, the two extreme cases that stand out among the eight post-Seville Council configurations are the TTE and Economic and financial affairs Council. In these configurations, the minister involvement seems to differ widely within the decision making process. We can see that the TTE Council has been very active both when compared to total numbers of legislative files and number of acts with minister involvement. On the opposite end is the Economic and financial affairs Council with rather low figures of activity. Before making any further analysis of this situation, let us look at the other collected dataset to see if it is showing similar patterns.

**Figure 4:4 - Graph of minister involvement in percentage 2000-2009 – Newly collected dataset**



**Note:** This figure presents the data from the newly collected dataset. The dataset stretches from 2000-2009 but are divided into two sets to ease comparison, the dataset only includes the legislative type ‘Directives’. Collection methods were discussed more thoroughly in the methodological chapter and the results are presented in percentage. The figures are also shown in absolute numbers in figure 4:5.

The first thing observed when looking at our second dataset is the slight differences between its 2000-2004 period and the Häge dataset from 2000-2004. The reasons for this can be explained mainly by the limitation that Häge makes in time. His time span is counted in terms of Presidency terms so he starts his material collection on 1 July 2000 and ends on 1 January 2004<sup>95</sup>. Since we are not interested in measuring the effects of different

<sup>95</sup> Häge (2008), p.86

presidencies, our selection is done by periods of whole years (1 January – 31 December). Another explaining factor for the slight differences in percentage is that the second selection only includes the legislative form 'Directives' instead of the whole legislative scope 'Directives, regulations and decisions' that Häge uses. But even with these limitations we can see that the divergence between the periods when my dataset and Häge's overlap are rather small and while the average minister involvement percentage in Häge's dataset is 62,6 % this second dataset has an average (in 2000-2004) of 63,4 %. This less than one percentage difference must be deemed as acceptable and this small difference strengthens the procedural choice of only selecting directives, which were made in the methodological discussion.

When looking for differences between 2000-2004 and 2005-2009 we start to notice interesting negative trends. The previously very un-politicized Economic and financial affairs Council seems to have stagnated and stays at the same level of minister involvement. The same, more or less, goes for the Transport Council but the Environment, Agriculture and fisheries, Competitiveness, Employment, social policy, health and consumer affairs Councils now plummet down to very low figures. When looking closer at these four Council configurations we see that the Competitiveness, Employment and Agriculture Councils all underwent major reforms in the Seville declaration of 2002<sup>96</sup>. It is very hard to draw comparable figures between the observed years following this huge change in policy decision making. The only institutionally unaffected Council configuration now seems to be the Environment Council, which makes this observation interesting. The environmental issue is both very salient and its Council configuration has not undergone any major institutional changes in decision making during the observed years. Why would the ministers ignore a policy field that attract such a heavy media attention, EP-interest and is also surrounded by general public awareness? This does not fit well with the claim that salience and EP-involvement are the main reasons for whether or not ministers get involved.

Let us now break down the second dataset to see if these results hold even when looking at absolute numbers of adopted legislative acts.

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<sup>96</sup> Häge (2008), p.28: The most significant changes for this thesis was the general reduction of 21 working parties and 5 Council configurations. COREPER decided to merge 16 groups into seven new groups, abolish 12 groups, and newly establish six groups and to subsume six other groups into already existing groups.

Figure 4.5 - Total minister involvement, 2000-2009 – Newly collected dataset

	Total number of legislative files 2000-2004	Number of legislative files with minister involvement, 2000-2004	Total number of legislative files 2005-2009	Number of legislative files with minister involvement, 2005-2009
<b>Economic and financial affairs</b>	39	18	26	12
<b>Environment</b>	31	24	42	9
<b>Education, Youth and culture</b>	3	0	16	1
<b>Agriculture and fisheries</b>	24	9	62	3
<b>Justice and home affairs</b>	19	10	13	7
<b>Transport, Telecommunications and energy</b>	61	47	32	25
<b>Competitiveness</b>	41	31	12	2
<b>Employment, Social policy, Health and Consumer affairs</b>	29	22	16	3
<b><u>Average</u></b>	<u>31</u>	<u>20</u>	<u>27</u>	<u>8</u>
<b><u>Total</u></b>	<u>247</u>	<u>161</u>	<u>219</u>	<u>62</u>

**Note:** Figures are based on the second, newly collected, dataset that was collected for this thesis. The dataset contains 509 individual cases. Twelve cases were excluded because they were handled by the General affairs Council, four cases were excluded being budget issues, 27 cases were excluded because they were adopted before the year 2000. This means the above presented table includes 466 handled cases. The selection is only of Directives adopted from the years 2000-2009. Minister involvement is counted when the ministers have at any point during the adoption process been involved, see methodological discussion in chapter 3.1 and 3.2. *These figures are also shown in percentage in figure 4:4, the percentage was excluded in this figure for clarity's sake.*

The only real extreme observable divergence in figure 4:5 is the Education, youth and culture Council, which shows only three act's during the years 2000-2004 and no minister involvement at all. In 2005- 2009 the total number of legislative files rises to 16 (still below average) but the minister involvement stays at only one single case. One explaining factor could of course be the 2002 merging of the Education and youth Council with the Culture Council into one single configuration. Other than this observation not much emerges that

had not already been seen when looking at the percentages in figure 4:4 and the Environment Council still appears to be the most interesting example of negative trends in minister involvement.

After consulting and comparing both Häge's dataset from the years 2000-2004 and my own newly collected dataset for the years 2000-2009, a pattern is slowly emerging. At first glance it seemed like minister involvement was low in the Economic and financial affairs Council but after comparing it with the second dataset it shows a negative pattern in completely different Council configurations. By comparing the two datasets for the period of 2000-2004 it is also noticeable that there are only slight dis-similarities between them. This is an important observation because it indirectly strengthens our choice to limit this study to only directives and thus the figures from 2005-2009 should also be applicable. For a longer discussion regarding the methodological trade-offs made please refer to chapter 3:3 where our limitations are more thoroughly discussed.

It is now time to move on to the case-study of this thesis, as mentioned above, the most obvious case of de-politicization and decreasing minister involvement seems to be in the Environment Council. Since this Council configuration shows such a strong de-politicization trend combined with it not being part of any major institutional reform, it is a good candidate for the case-study of this thesis. On the opposite side of the minister involvement spectrum is the TTE Council, a configuration that seems to be much politicized in all our measured data. Even though there are no sharp increases in minister involvement from the periods 2000-2004 to 2005-2009, it remains at a remarkably high percentage level in this Council configuration. In both datasets and during all observed years the minister presence is well above average.

#### **4.2 Qualitative case-study of the Environment and the Transport, Telecommunication and Energy Council configurations**

We have now isolated two individual Council configurations with a clear divergence in minister involvement. The TTE Council shows unusually high minister involvement and the Environment Council unusually low minister involvement; this presents us with two good most different cases. As discussed in the methodological chapter the selection of respondents was based on a priority where heads of unit were contacted and invited to participate, in the cases where they declined they have been asked to send the question

onward<sup>97</sup>. The interviews were done over phone during a time period of seven days (21 April – 28 April), obviously an on-spot interview would have been more rewarding but because of both limitations in time and more extraordinary reasons this idea had to be abandoned<sup>98</sup>. In total five participants accepted the interview and all respondents gave their agreement to have the interviews recorded, something that greatly helped in the transcribing and analytical work<sup>99</sup>. Given that anonymity was guaranteed their names cannot be presented and in order not to be traceable the participators' position in the hierarchical structure and their respective DGs will not be revealed. Nonetheless what can be publicized is that two of the participants were administrators, two were heads of unit and one was a director, presenting us with a total of five respondents. Of these five respondents three were from DG C (Transport, telecommunication and Energy) and two from DG I (Environment).

The analysis of the implemented respondent interviews is crucial for understanding the perceived reason behind decreasing minister involvement in the Council. Because of the short interview time and the limited amount of recorded responses it would be unwise to make any profound quantification of answers; quantification of interviews is otherwise the common mark of an informant interview. Instead, the interviews are presented in a graphical way by presenting summarized responses from both DG C and DG I in two separate columns in figure 4:6. With help of quotes and explanations from the interviews it is possible to understand the transcription of information from question to answer. The purpose of this approach is to find common ground between DG C and DG I, this is a common way to identify the collective core between two entities and thereby finding where the two entities coincide or differ<sup>100</sup>.

In cases where identical or very similar answers were given by several respondents the number within parentheses shows how many of them answered identical. This can of course be regarded as some sort of quantification but it should rather be seen as a way to make the

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97 Faugier (1997): This kind of "Snowballing"-method is not uncommon in situations where the ideal respondent is unknown or hard to identify.

98 <http://news.bbc.co.uk/2/hi/europe/8578576.stm>: On the 15th of April 2010 the Icelandic volcano Eyjafjallajökull erupted, causing airtraffic all over Europe to be delayed or cancelled during several days. This made any attempt to make interviews on-spot in Brussels virtually impossible.

99 Three ethical questions regarding the usage of answers were asked. These questions can be found in the questionnaire in the Appendix.

100 Esaiasson et.al. (2007), p.308



graphical table more reader friendly by avoiding duplication and will not be used in any quantitative analysis. Since it is clear that the DG:s responsible Council configurations differ in minister involvement, it is vital to comprehend when responses to my questions are similar and when they differ in order to grasp how the secretariat perceives the minister involvement. It is first when understanding this common predisposition between those Council configurations that show statistically diverging behaviour in minister involvement that we can begin to understand the reason behind politicization.

The presentation will not answer all questions from the questionnaire - this is because not all respondents answered to the whole set. As stated in the methodological part, not all questions were of the same priority but this was not the only reason to avoid being too rigid in my interview approach. Grounding the interview on the questions - but deliberately departing from the questionnaire when it seemed appropriate - was done in order to gain a better understanding of my research problem. This approach also included confronting the respondents with my statistical claims and following their response, as such these interviews should be seen as recorded discussions rather than only presenting a series of questions<sup>101</sup>.

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**101 Kvale (2009), p.174-176: This technique of confrontation interviews was mostly done by presenting parts of my quantitative study to the respondents in order to monitor their responses.**

**See also methodological chapter 3:3 for further discussion on this issue.**

Figure 4:6 - Summary of respondent interviews

DG C: Transport, telecommunication, energy		DG I: Environment	
Question	Response	Question	Response
<u>C1</u> : What would you say is the primary reason for high minister involvement?	<p><i>Whether a minister gets involved or not is largely based on how clear the EU competence is in the area discussed.</i><sup>102</sup></p> <p>-</p> <p>The national importance of the act. If the national parliament is involved then it is very likely ministers will get involved.<sup>103</sup> (2)</p> <p>-</p> <p>The agenda setting and efficiency of the presidency.<sup>104, 105</sup> (2)</p> <p>-</p> <p>Ministers will attend to show their presence and meet their colleagues, not necessarily to discuss a specific act.</p>	<u>I1</u> : What would you say is the primary reason for high minister involvement?	<p>The national importance of the act.<sup>106</sup></p> <p>-</p> <p><i>If there is no clear blocking majority then decisions seldom go to minister discussion. With more majority decisions this means less minister involvement.</i><sup>107</sup></p> <p>-</p> <p>Sometimes involvement increases in order to fake interest to national voters.<sup>108</sup></p>
<u>C2</u> : When do ministers not get involved?	National representatives are better at understanding EU-politics and Council negotiation than the ministers and therefore the minister delegate. <sup>109</sup>	<u>I2</u> : Can you explain the general negative trend of minister involvement?	<p>There is no negative trend only varying fluctuation. (2)</p> <p>-</p> <p>A minister can be deeply involved even if he/she do not attend Council</p>

102 Quote: “[Regarding high minister activity in the TTE-council] “It is an area where the dividing line of the competence of the union and the member states are very thin and not so clearly defined.”

103 Quote: “Not everything that is high-profile is nationally important”

104 Quote: “When there is a more fluent agenda that changes every six months with the rotating presidency then of course ministers remains aside if they don’t have very strong national points to make”

105 Quote: “The style of the Presidency can make a huge difference. An effective Presidency tries to get the work done without fuss and gains the trust of delegations by being straightforward and transparent.”

106 Quote: “If there is a high stake for the respective member state on the dossier then the minister will get involved”.

107 Quote: “The consensus climate has more or less gone out the window these days”.

108 Quote: [Sometimes ministers come to meetings just so that they can say] : “look I have been to this and this meeting in Brussels”

109 Quote: “The permanent representative has a very high status because this is a person who has a very broad view of European politics. This is a person who can be trusted with the interdisciplinary understanding of the EU complexity.”

			meetings. <sup>110</sup>
<b>C3:</b> The <b>TTE</b> Council has an unusual <b>high</b> amount of minister involvement. Why do you think that is?	<i>It is hard to do comparatively study Council configurations because their composition is so different.</i> - <i>It is because of the high national interest in the TTE policy. Important industry issues that often overlap with environment<sup>111</sup>. Also often high-budget issues<sup>112</sup>. (2)</i>	<b>I3:</b> The <b>Environment</b> Council has an unusual <b>low</b> amount of minister involvement. Why do you think that is?	<i>It is hard to do comparatively study Council configurations because their composition is so different.<sup>113</sup></i> - Environment is very hard to distinguish and many environment issues are related to, and handled by, other Council configurations. <sup>114</sup> - Some environment discussions always go to ministers. Environment is too diverse to only measure activity in the configuration as a whole. <sup>115</sup>
<b>C4:</b> How would you say that minister involvement has changed during the last years?	There is more political substance and activity moves in fluctuation. <sup>116</sup> - No clear decline in minister involvement. - <i>Ministers get involved in every legal file, often several times.</i>	<b>I4:</b> How often would you say that the ministers get involved?	Hard to say because the member states differ a lot in institutional powers. In some countries ministers have to go to Council but in others they can send their secretaries. - Ministers try to visit as many Council meetings as possible. <sup>117</sup> - There is always minister

110 Quote: "Involvement does not equal presence at the Council, there are situations where ministers can't participate even when the dossier is very important for different reasons"

111 Quote: "It is very hard to draw a line where environment issues are."

112 Quote: "Because Transport, Telecom and Energy issues are high-visibility and high-budget items that are strongly covered by the media."

113 Quote: "One shouldn't [...] look at the TTE Council as one, of course it is one Council, but functionally speaking this is three Councils". (This discussion appeared when the respondent compared the Environment to the TTE Council configuration).

114 Quote: "A big change is how much the environment Council now influences other policy areas, such as cars CO2 limitations and its impact on the industry."

115 Quote: "GMO and Climate change always go to ministers even if it isn't absolutely necessary"

116 The minister involvement moves in cycles. In ie. Justice and home affairs they move in cycles of activity, every five years they adopt an action plan (current: The Stockholm program).

117 "If the ministers are not involved from the beginning it makes your position more rigid and there is bigger risk that you find yourself isolated"

			involvement at some point in all cases. <sup>118</sup>
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**118 Quote: "Speaking from personal experience, On all the environment files I have dealt with I can't think of anywhere where there wasn't a Council discussion at any point"**

<p><u>C5</u>: Would you say that EP-involvement effects whether or not a minister gets involved?</p>	<p>Not at all or not very much<sup>119</sup>. (2) - <i>A large EP-involvement will probably influence the minister involvement.</i></p>	<p><u>I5</u>: Would you say that EP-involvement effects whether or not a minister gets involved?</p>	<p>Not very much. - Most Council meetings are not very useful.</p>
<p><u>C6</u>: Do you think some policy areas have more minister involvement than others?</p>	<p>Ministers are always present when there are national interests at stake.</p>		

**Note:** This figure is a table that systematically orders all relevant answers from the respondent interviews, the answers is an abridged construction often validated by a quote. When answers are in *Italic*, this means that they will be analyzed in the text following the table. A figure in (parentheses) indicates that several respondents have given this response. In order to make the table easy to comprehend the questions are not presented in their complete form, instead see appendix for full questionnaire. In front of all questions a 'C' or 'I' will indicate which DG the question relates to and a number so that the following discussion can easily refer back to this table. The quotations are direct from the interview and no grammatical corrections have been made.

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119 Quote: "It is very likely that involving the EP will bring with it a new perspective but this does not necessarily affect the minister involvement"

As shown in figure 4:6 there are some recurring opinions and answers that require a deeper discussion and reasoning to understand.

In the first questions C1 and I1 there are two answers from both DGs that coincide. Two respondents in DG C and one in DG I agreed that the national importance of a file does make minister involvement more likely. There was also one respondent from each DG that agreed that the negotiation on the agenda was not always of prime concern to the ministers and sometimes it is for domestic/election or other reasons that ministers show up.

One respondent from DG I commented that the ministers now rarely show up if they are not sure that they have a concrete chance to influence the policy by having a clear backing majority. This opinion was also taken up at the end of a DG C respondent interview which claimed, quote:

*“Ministers can come for extraordinary events [three TTE-visits during the Icelandic volcano eruption] and the meetings they attend are not legislative but very important. This is also politicization.*

...

*Sometimes there are a lot of policy debates which do not conclude to any policy results. When there are no political substance ministers do not show.*

...

*There is less and less “rubberstamping” more meetings are today filled with concrete political substance when in the past they would just come because it looked good.”*

This indicates a view of a more effective Council but not a less politicized one. It also indicates that minister involvement have gone from what the respondents refer to as “rubberstamping” to being a more effective and executing arena for political decisions.

There is another attention-grabbing answer from one of the DG C respondents that was brought up several times during the interview, claiming that what attracts minister involvement more than anything else is whether the area is newly introduced to the EU competence, quote:

*“I mean the telecom-package and the energy initiative is frontier areas in the sense that the EU has never exercised its competence on these areas before but is doing it now. However environment is a hardcore competence.”*

...

*“The union has a complete competence in environment. To what level the EU can decide in environment is already clear. This is not a democratic problem because the ministers are aware that the environment policy area is at a stage where they feel safe in delegating responsibility.”*

...

*"Let's take an example. Climate change and the VAT-revision system for example. I am positively convinced that even if climate change is a much sexier subject I am convinced that the ministers would be meeting more often on the issue of tax-measure than on the climate-issue. This is because the climate-issue is a community competence but fiscal and VAT are areas in which they have to be very careful that the EU never exceed its powers and on how it will affect their national system"*

This is an interesting approach that would entail that the importance of a file does not per se equal high minister involvement. Instead it is whether the file is situated under an area of clear EU-competence that decides the minister involvement. This would explain how we can see low minister involvement in Environment but not in the TTE Council, since the EU-competence in Environment is so clear. It would also give a possible explanation to the general negative trend of minister involvement, assuming that the EU competences have become clearer during the last 20 years.

When considering question I2 and C4 there seems to be a general consensus among DG I and C that they have not noticed any devolving rate of minister involvement. Instead they talk about a fluctuation that can be explained partly by some Council configurations making long-time plans that stretch over several years (see quote in footnote 116, p.50) or that ministers tend to take several quick decisions at the end of the EP and Commission term to clear unfinished work of the table before the start of a new term, quote:

*"But the involvement is a bit cyclic. For example in the end of 2008 we had a lot of 1<sup>st</sup> reading adoptions because there was a strong political will to move the climate packages through parliament before the next election. This of course pushed down the minister involvement."*

Regarding the question of high or low minister involvement in the different configurations there also seems to be a DG C and DG I consensus as to the effects. When looking at C3 and I3, both agree that it is unwise to compare between different Council configurations because their policy scope is so different. For example, Environment issues sometimes affect national industries to such a degree that they are usually handled by DG C and industry ministers. In the TTE Council three of the respondents agreed that their Council configuration should be seen as two or maybe even three configurations, one respondent specifically pointed out that it is very unusual to see an energy minister, an industry minister and an infrastructure minister that visit the same Council meeting. For this reason, it might be hard to measure minister involvement in a Council configuration as a whole without understanding its complexity. Even so, higher minister involvement in the TTE Council seems to stem from a

number of reasons that all relate to national sovereignty: It is a high-budget issue, it is mainly outside EU-competence, and for some member states it involves high media coverage and so on. In other words, it seems like several coinciding factors interact to create the high participation in the TTE Council. To show this interaction of factors let us take this respondents example, quote:

*“The high level is basically based on the Energy issue. It has played a very important role for ministers. Also the Continental countries are interested in the Transport sectors, because they believe this is a growing economical sector. “*

On the question regarding the intensity of minister participation over time (C4/I4) there is also consensus among the view that most ministers do everything they can to get involved in all acts. Two of the respondents, one from each DG, actually went as far as to argue that they could not remember a single act that had not at any point been discussed by ministers. If this is correct it points to the fact that even the most recent publications in Council decision making research continually underestimate the minister involvement and that the current methodological approaches is not reliable.

There seems to be little evidence that EP-involvement raises the minister interest in a particular act. Only one respondent agreed that the EP-involvement under co-decision could raise minister awareness of a case, this is contrary to the view of three respondents who believed this plays either none or a very small role. One of the participants went as far as to say that minister involvement under the current and simplified co-decision mode will probably decrease due to its decrease in 2<sup>nd</sup> reading adoptions, quote:

*“There has been a constant evolution of the co-decision  
[...] If you go to 2<sup>nd</sup> reading then you must involve ministers because you have to have a common position, adopting as an A-point is no longer possible.  
[...] Before 2004 the percentage of first reading was something like 20% the rest was 2<sup>nd</sup> reading or conciliation. After 2004 the share of first reading increased to around 70%. The procedure has been greatly simplified. This means that with an increase in 1<sup>st</sup> reading adoptions the amount of A-points, and minister involvement, would decrease.”*

This quote ends the collecting of interview material and moves us on to a summary of the complete quantitative and qualitative results. In order to avoid double analytical discussions, both here and in the coming results summary, the analysis in this interview section has consciously been laconic in order to keep the chapter relatively short.



## **5 Synthesis and conclusion**

### **5.1 Results summary**

After 27 pages of results it is high time for a summary in order for our readers to more smoothly understand the upcoming conclusion and synthesis. The results started by quantitatively and statistically explaining how and where we can observe decreasing minister involvement. This was done after our introduction showed that there is a general negative trend in Council minister involvement, a trend that has led us to assume there was a de-politicization of the Council.

After showing that there are methodological differences in measuring minister involvement we settled on measuring using Häge's dataset and comparing this to a second, newly collected, dataset. This was done in order to increase the validity of any conclusions made and to more clearly distinguish minister involvement over time. The results from these datasets showed us that it was particularly the Environment and TTE-Council that diverged in minister involvement. The Environment Council showed relatively high involvement in 2000-2004 but thereafter plummeted in 2005-2009, something that was surprising considering the high amount of attention environment issues have attained during the last couple of years. The TTE Council showed an over time all-high when it came to minister involvement and was thus an excellent choice when comparing two Council configurations. The other configurations did either not include any noteworthy departure from the average minister involvement or their institutional changes during the examined time period were too complex to make any safe estimates.

After the relevant areas for the respondent interviews were chosen, the interviews were conducted and information concerning possible explaining factors for the measured divergence was gathered. After figure 4:6 presented all collected answers, the following text in the results section explained in more detail how the respondents had reasoned concerning the most striking answers. In the list below is a summary of the three variables that was discussed as possible explanations of varying minister involvement and to the question of de-politicization. Under each variable is an in-detail description of the respondents' reasoning.

## Possible explaining factors

### **1. National salience of a legislative file**

- National importance and an act's salience are crucial to if and to what degree a minister chooses to become involved.
- In some member states showing EU interest also signals to the voters that their ministers are participating in important international situations.

### **2. The influence of EU-competence**

- There is a big difference in competence clarity between the TTE and the Environment Council. An issue under new EU competence tends to attract more minister involvement since there is a fear of losing control over national sovereignty.
- Ministers have decreased the number of less important meetings and now primarily attend when clear political substance can be shown in the Council agenda.
- When political substance is not present and the EU competence is clear then ministers have become more comfortable in delegating responsibility to national representatives.

### **3. The European parliament effect**

- There was no clear response to whether the increase in EP powers has affected the minister involvement.

A very interesting picture of the complexity of Council politicization is beginning to emerge. The first affecting variable above is in line with previous research and the importance of the national salience of a file fits well with the liberal intergovernmental theory and rationalist approach that the nation state and its interests are still the dominating influence on decision making<sup>120</sup>. This also goes well with the second variable of how the EU-competence influences minister involvement. Where the national sovereignty and EU competence areas come in conflict, then there is lack of clarity over who should get involved, and there is a clear rationale for ministers to intervene to protect their perceived national interest. This also shows that the connection between minister involvement and politicization is not as clear as previously assumed, instead a political issue of high salience could see low minister involvement if it is in an area of clear EU competence. Lastly, the effect of increasing co-decision adoptions and growing EP involvement did not present any clear results; most respondents claimed no effect at all and two respondents gave contradicting answers. Two respondents pointed out that it affected the national representatives and their daily work but not the amount of minister involvement.

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<sup>120</sup> Moravcsik (1998): In Moravcsik's work "The choice for Europe" he systematically presents his arguments for the liberal intergovernmentalism. The most prominent cause of state behaviour in the EU is stated as national preferences created based on national interests such as; national interest groups, industries, upcoming elections but also long time effects to the nation's structure and institutions. This fits well with many of the interview respondents' view of what influences minister involvement.

The three factors discussed above were central in explaining minister involvement but there also emerged several methodological problems during the study. These factors are not central when explaining minister involvement but they are absolutely vital in explaining the very varying results shown in previous research measurements of the Council activities. For this reason they are included below and in the coming sections there will be a methodological debate (see chapter 5:3).

### **Methodological problems when measuring politicization**

- Measuring legislative files (directives, regulations and decisions) are not enough to determine politicization in the Council. Instead, both legislative as well as non-legislative files are important indicators.
- None of the respondents agreed that minister involvement was on the decline; instead some spoke of a cyclic behaviour where institutional variables (eg. Elections, new treaties, long-time plans etc.) influences the amount of minister involvement during short recurring periods.
- Hard to compare minister involvement between Council configurations since they differ too widely in policy scope. Some configurations may include several ministerial departments as some policy issues overlap; this causes a situation that makes quantification of ministerial behaviour complex.
- Numerous respondents pointed out that in their experience ministers are always involved at some point in the adoption process of all legislative acts. This shows a systematic underestimation of minister involvement.

The above list clearly show that quantifying politicization without taking several variables into account is extremely hazardous work that includes many sources of error, among other things: overlapping policy areas, cyclic adoption behaviour, and the issue of a file's legal status (legislative or non-legislative). This methodological lack of clarity could probably explain the divergence between measured minister involvement and the respondents experience in the matter, but this will be discussed further in the concluding discussion.

We have now observed the summarized picture of the collected results and the above discussed variables will follow us as a thread into our conclusion, there it will be tied to our research problem and its implications on Council decision making theory explained.

### **5.2 How the presented results influence the theoretical discourse**

In the theoretical introduction we discussed several schools of thought and finally settled on a rationalist approach to this thesis. Even though the thesis kept a small emphasis on the importance of socialisation theory, this was neither our main theoretical approach nor will it

be this synthesis key point in explaining. Among the rational theories, the results summary and list of possible explaining variables instead gives us rather solid evidence for a slightly modified liberal intergovernmental approach with elements of neo-functionalism. In an attempt to explain the rationalist school's misleading figures of predicting minister involvement, the next section will clear out methodological misconceptions that have been present both in this and previous research.

Early in the interview stage it became apparent that there was a break in the discourse understanding of how the Council functions. When presenting the respondents with information of the minister over time decreasing involvement they responded in a sceptical way. None of the respondents felt comfortable with my analysis of decreasing minister involvement and its link to de-politicization of the Council. It seems that an apparent situation of the Foucauldian concept of *formation of discourse* was at hand in this situation<sup>121</sup>. My respondents did not share the conception that low minister involvement equals a democratic and de-politicizing problem. Instead they seemed to disagree in two main ways. *Initially*, none of the respondents accepted the view that minister involvement was decreasing at all, even though some of the respondents had worked in the Council for over 15 years they did not concur to the statement that overall minister involvement was on the decrease. Their statements should of course not be seen as an absolute and it is not at all unlikely that the respondents are unable to perceive such a slow negative trend as the Council has seen (See figure 1:2). It could also be that by presenting the claim of negative minister involvement the respondents interpreted this as criticism towards their organization and thus reacted in a defensive way towards the statement<sup>122</sup>. *The second argument* in their disagreement is that minister involvement would not affect the level of politicization. Here the respondents claimed that the meetings today were more efficient, showing overall stronger presidency leadership and clearer agendas. Consequently the decrease in minister involvement was not seen as a democratic problem of de-politicization but rather as a signal that the EU was functioning more efficiently and with less unnecessary meetings and conflicts.

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121 Foucault (2002) explained in Kvale (2009), p.170-173: According to Foucault the formation of new discourse comes about when opposing discourses clash, thus creating new discourses with which we understand and analyse our surroundings.

122 Esaiasson (2007), p.301-303: Reacting critically towards negative statements from the interviewer is not at all uncommon and is regularly referred to in qualitatively methodological discussions.

As mentioned in the end of the results summary, this thesis finds no evidence supporting the Häge claim that an act's salience alone would affect the chance of minister involvement. Instead, there is a correlation between an act's salience and which policy area it is situated in. An act with high salience will still have low minister involvement if it is not situated within an area of unclear EU-competence. This shows us a classical liberal intergovernmental approach - it is not enough to only look at the act's respective national importance, it is more central to understand how the decision will affect the national influence in future similar cases. In cases where an act's salience is high but the EU-competence is clear, ministers will still ignore it to a large extent because they are sure that delegating the task will present the best possible outcome<sup>123</sup>. This is of course not to say that other factors such as media attention, the salience of an act, or EP-involvement, do not affect the chance of minister involvement but these variables are of secondary importance and the underlying variable is EU-competence.

The effect of less meetings but not less politicization is likely also determined by the transformation from EU15 to EU27 and the increased political as well as administrative burden this has implied. It does seem more than reasonable to assume that those meetings with less political substance will decrease as the number of member states and participants at the minister meetings increase<sup>124</sup>. This of course does not imply that the politically sensitive discussions decrease, it is rather the less important meetings that are first to go. Consequently, the incitement to delegate responsibility in situations of less importance increases, something that was reinforced by our respondents.

We can also renounce several of the other rational theoretical approaches that were discussed in the theoretical section. The New-institutionalism approach predicted the creation of a supranational institution that would indirectly force nation states to adhere to its structures. Instead, ministers of all policy areas seems to move their interest very freely between different Council configurations and policy issues depending on where the EU-competence is most keenly discussed, both the high fluctuation among our statistical data and the response from the interviews strengthens this claim. There is nothing in the results

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<sup>123</sup> Quote from interview: "The permanent representative has a very high status because this is a person who has a very broad view of European politics. This is a person who can be trusted with the interdisciplinary understanding of the EU complexity."

<sup>124</sup> Nugent (2003), p.175: A regular minister meeting can have around 100 participants in the meeting room.

that indicate that the ministers have tied hands and several respondents actually responded negatively to such a claim.

The Häge assumption that EP-involvement and increased co-decision would affect the minister involvement does not show any strong results but neither is its effects disproved. Instead what is a probable premise is that an empowered EP will heavily affect the Council decision making process but not necessarily in a way that increases minister involvement. This means that COREPER and working group meetings in the future will have to take the EP into account already at an early stage of an act's preparation. A further verification of the liberal intergovernmental approach is the respondents' highlighting of national parliamentary effects, when questioned regarding the EP. They claimed that the effects of bringing an issue to the general public's attention, thus exposing uncomfortable minister views, places more impetus on the national parliaments than on the EP. Thus, once again the national importance comes before supranational institutional behaviour.

An interesting trait here is how the evidence of an EU-competence variable affecting minister involvement indirectly creates a bridge between neo-functionalism and liberal intergovernmentalism. That there would be any direct pro-EU integration behaviour among ministers finds no proof in this thesis but neither is it properly examined, what instead is interesting is the indirect strengthening of functionalism that is implied by the EU-competence variable. If indeed the level of EU-competence does influence minister involvement, then this would indicate that a high level of Commission proposals directed at unknown EU-competence areas would spur a high intensity of minister involvement. This is precisely the kind of self-generating integration that neo-functionalism has been advocating for years<sup>125</sup>. By accepting this we also see a rapprochement between the rationalist and functionalist schools, the national interest is still the main deciding factor for minister involvement but by accepting the Commission as a legislative initiator the involvement can be directed, as implied by functionalists. To conclude, one can say that rationalists and liberal intergovernmentalists have belittled the possibility of the supranational institutions agenda setting power but on the other side the neo-functionalists are still faced with the

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125 Peterson (1995), p.84: "By contrast, neo-functionalism teaches that political integration can develop its own momentum and regenerate itself. Successful common policies cause 'spillover' pressures to develop common policies in separate but related sectors."

overestimation of leading politicians being pro-European integration, something that finds little or no evidence. This debate will be continued further in the concluding remarks but for now let us leave it aside.

Lastly, let us briefly mention the socialisation theory. Those respondents who underline the importance of informal meetings and national representatives going on “team trips” to the presidency home country do give some piecemeal evidence that ministers and administrators become “socialised” into a more pro-European way of thinking.<sup>126</sup> Still the original falsification problem from the theoretical discussion remains and any clear evidence of socialisation could not be identified.

This chapter has presented the theoretical connection between the clarity of EU-competence in a specific policy area and the liberal intergovernmental and neo-functionalist approach. The balance between these two, at first glance conflicting, schools will be further discussed in the concluding remarks but before this we are still struggling with the methodological difficulties of the rationalist school continually underestimating the minister involvement rate and the probability for Council adoptions. This under-measurement was several times pointed out by respondents and the volatility in collected data both in this thesis and previous work, shows us that a methodological discussion is absolutely vital to comprehending and validating our newly found affecting variable. This clarification will be the aim of the next section.

### **5.3 Methodological misconceptions and how to approach them**

One of the major problems when validating a rational approach, in this case liberal intergovernmentalism, is the continuing underestimation of Council adoption rates and minister involvements. This has been discussed on several occasions in this thesis, in order to make claims towards the strengthening of any theoretical approach we need to explain how this thesis has developed the research area to better present results that coincides with theory.

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<sup>126</sup> Quote from interviews’ performed between 19 – 28 April 2010: “COREPER get better involved than ministers because they see each other every day. This is a very social thing and every presidency always have several social activities in order for the national representatives to better understand each other.”

As was mentioned by several respondents during the interviews, the choice to analyse policy areas by looking at Council configurations is not a helpful way forward. This is because it includes several potential risks: policies differing in scope among the configurations (ie. the TTE Council can be seen as up to three policy areas), the overlapping of policy areas into several Council configurations<sup>127</sup>, the problem of ministers not always arriving to a meeting in order to discuss what is on the specific agenda, and the increasingly blurred line between legislative and non-legislative files. These are hard methodological problems that demand attention but the core problem is that using PreLex to quantitatively collect large datasets does not seem to leave us closer to the answer of why, when and where ministers get involved<sup>128</sup>. Of course PreLex is not a useless source of information and can give some empirical backings to claims made but it is hazardous to make it a primary source of information. If PreLex is used then one way of increasing the validity is to evaluate and evolve the collection procedures, one example of this is the Häge Python-script used for collecting legislative acts, another is the Visual Basic macro that was developed for this thesis but which was never implemented<sup>129</sup>, also the Ruby programmed web-crawling tool “Law Leecher” can be used to collect certain information<sup>130</sup>. By extending the reaches of collection methods with computer based automatic search-tools it can be made possible to collect larger and more specific datasets, some warning is still warranted and every future attempt at using PreLex-datasets should be aware of the complexity that is Council decision making and how this can distort even the widest selection of quantitative cases.

A more reliable method would be to study individual act’s adopted by the Council. This has partly been done in the large DEU-study conducted by interviewing national representatives connected to 66 different Commission proposals. Another way would be to follow the example of Häge’s (2008) qualitative method and make in-depth analysis of a number of select cases, following the minister activity during the entire process in order to track changes in behaviour. Like Häge himself mentions, a case study does indeed become

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127 Among other things Industry issues are often discussed by both environment and industry Council configurations.

128 Many files are still not available and must be requested in order to access. Also the possibility of searching by policy-field is unusable due to the unclear scope of many files.

129 The time issue made it impossible to implement this macro but it is a working program that collects specific files and breaks down information from them. For more information on this macro-script please contact the author (permagnusnilsson@gmail.com)

130 <http://lawleecher.sourceforge.net/>



problematic if not all relevant independent variables are known but this does not make it irrelevant; instead, it is in order to find the independent variables that a case-method can be useful<sup>131</sup>. By systematically tracking behaviour in specific acts future research could most likely discern what variables affect more than others, even more so there would be room for both quantitative and qualitative methods to evolve new ways forward. Also in the qualitative research there is room to develop new methodological ways and as the number of known affecting variables increases there are many reasons to use DEU-like methods in order to interview informants regarding minister behaviour in specific cases. By combining and quantifying the information given by informants from either interviews or sent out questionnaires, programs such as yED can make graphical and algorithm based diagrams that show us how different studied acts and informant answers correlate and where minister behaviour similarities can be found<sup>132</sup>.

As shown the research field's methodological choices must be clarified when it comes to developing and understanding dependent and independent variables, otherwise the results will continually underestimate Council behaviour<sup>133</sup>.

The conclusions of methodological preferences may at first glance seem contradictory to the method used in the present thesis: this apparent contradiction is a falsification of that choice. The thesis methodological summary is that the method used was indeed not the best choice; the blame for this can mainly be attributed to PreLex. The choice to use PreLex rested on the assumption that Council configuration could be used as closely similar to policy areas; this turned out to be not the case. Instead, many of the Council configurations held several policy areas, making cross configuration comparison hard. Nonetheless, this falsification is in itself useful and I encourage future researchers in Council and EU decision making to use the PreLex database with care because of its underdeveloped possibility of policy search. It seems that the most viable way forward is using an approach of combining interview studies, document analysis and in-depth analysis of specific acts. The interview studies conducted by

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131 Häge (2008), p.112-114: Häge explains the risks of a nested (or mixed) method. He explains the risk of using quantitative results we do not methodologically trust in order to choose cases for a case-study. Even so there are no other liable alternative to choosing case-studies since a limitation must be made.

132 This is a method currently being developed within Computer science at at eg. Lunds Faculty of engineering. More information on the yED project can be found here: [http://www.yworks.com/en/products\\_yed\\_about.html](http://www.yworks.com/en/products_yed_about.html)

133 At least two long time employees of the Council have confirmed that they have not participated in the work of a legislative file without minister involvement at some point. This indicates that current research underestimates the minister involvement.

this thesis, together with other recent research, show us that the response frequency in the Council is ideal for interview or survey methods<sup>134</sup>. In-depth case-studies and document analysis could be precluded by the fact that transparency is unfortunately still lacking in Council documentation. It is sometimes hard to realise or recognize if a list of documents is complete or something is missing, this makes Council decision making studies into something of a detective work<sup>135</sup>. This is an area where future methodological discussion must be done and hopefully the ongoing update of the “public access to documents” will present us with an extended access to documents that will make this task easier<sup>136</sup>.

The only viable way forward is therefore a deepening of case-studies into different policy areas and legislative areas, this could be done both as part of a grand study or by several smaller independent studies. In order to bring academic inquiry forward, I also encourage future research to try and falsify the following hypothesis and to develop a working method of in-depth analysis that does not rely heavily on PreLex-data.

**Falsifiable statement for future research to consider.**

*The main reason for a minister to get directly involved in his or her policy field at Council level is decided by the clarity of EU-competence in that policy area. A policy area of new and unsettled EU-competence will thus attract more minister attention than areas where either the EU or its member states has very clear deciding competence.*

**5.4 Concluding remarks**

As shown there are no evidence and neither any claims from my part that the EU-competence variable is the only independent variable that affects minister involvement. Instead, it is proven by previous research that variables such as EP-involvement and an act’s salience among the general public and strong national industrial interests all affect minister behaviour. I have presented evidence showing that a high salience policy area (Environment) can have low minister involvement even when it is considered to be a hot-topic. This is further supported by respondent interviews which point out that national

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134 Naurin & Linadhl (2009), p.4

135 Häge correspondence (Appendix): Häge has used the Council public register (<http://www.consilium.europa.eu/showPage.aspx?id=1279&lang=EN>) in order to follow legislative files in-depth. Unfortunately not all documents are represented here and thus the collection is incomplete. Making enquires regarding missing documents can sometimes be time consuming.

136 <http://www.europarl.europa.eu/oeil/FindByProcnum.do?lang=2&procnum=COD/2008/0090>: An ongoing proposal repealing the transparency rules (Regulation: 1049/2001 ) was introduced in 2008 and is under negotiation between the EP and the Council.

sovereignty and the clarity of EU-competence within an area is crucial when understanding minister involvement. Both my methods thus lead towards strengthening this variable. The purpose of this thesis was to find new affecting variables and prove that there are still unknown variables affecting minister involvement.

The problems that were presented in the beginning of this thesis questioned why the effects of increased EP-involvement and an act's salience had not yet been strong enough to counter the over time negative effects over time that were measurable on politicization and minister involvement. We asked ourselves how to go about finding these variables and how the results found would evolve theoretical conceptions about the Council in a way for it to more accurately perceive empirical results. Both the question of theory and the more narrowly methodological issue have been addressed in the thesis. I would like to focus these concluding remarks to further discuss and develop a proposal for combining liberal intergovernmentalism with neo-functionalism into a functional/rational school of thought that I believe have been disregarded because of the unfortunate entrenchment of the two's respective positions. I have also chosen to focus some final words on the matter of politicization and EU integration theory.

Let us return to the theoretical scene once again. With no concrete results supporting the Häge-hypothesis of EP-involvement increasing the chance of minister involvement the theory developing aspiration of this thesis has taken its main step forward in the presentation of the EU-competence variable. This variable states that other variables, such as the salience of a file, are by themselves not independent factors, even though they are not in any way irrelevant. Instead, it is the correlation between national salience and the clarity of EU-competence within a given policy area that decides whether or not a minister becomes involved. This means that the bundling of minister involvement with politicization was a rash decision.

What a decreasing minister involvement seems to imply is that more and more policy areas are falling under what are now clear EU-competences, the Union has been clarifying where its own and the member states areas of influence are located<sup>137</sup>. If this assumption is indeed correct, we should be seeing a drastic increase in minister involvement during the near

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137 Nugent (2006), p.53: The EU has steadily expanded and clarified its policy scope over the years since the 1990s.

future after the implementation of the Lisbon treaty since it is likely to disrupt the clarity of where EU-competence lays. After these introducing years of chaotic and unclear competence situations, the Council is very likely to see a sharp decrease in minister involvement that brings down the figures of involvement to levels below today's. This will of course only happen if the Lisbon treaty does indeed clarify EU and member states competence areas, something it was designed to do<sup>138</sup>. As mentioned earlier in this section this presents us with an interesting theoretical connection between the rationalist and functionalist schools. Two major affecting variables towards minister behaviour and involvement have been presented.

- 1. How high the general national interest is in a given act. Strong national interests from eg. National industry or other strong national organisations also influences the general national interest.**
- 2. How clear the EU-competence is within a given policy area. More un-clarity means more minister involvement.**

Let us connect the first variable to rationalism, especially liberal intergovernmentalism, and the second as being partly neo-functionalism and partly rationalism.

The first variable states what was shown in our previous theoretical discussion, namely that national interests and an act's salience are still highly important influencing variables. The importance of salience was showed in both previous research and was also strongly emphasized by several respondents in this thesis interview section. The national importance must therefore be considered an important affecting variable and it coincides well with the liberal intergovernmental approach of the nation state rationale, this was also discussed more thoroughly in the theoretical section (chapter 5:2) above.

The second variable can be said to be both rationalist and functionalist. Rationalist in the view that ministerial involvement is affected towards more involvement when transferring new policy areas from the member states to the EU-competence level and thus the nation state (and its ministers) reacts in order to defend their national sovereignty. But it can also be seen as a neo-functional proof, because the EC knows that certain policy areas are hot-spots for minister involvement they are also indirectly in control of how to bundle acts. This is something that goes for both legislative and non-legislative files *thus contradicting*

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138 [http://europa.eu/lisbon\\_treaty/take/index\\_en.htm](http://europa.eu/lisbon_treaty/take/index_en.htm) : The official webpage for the Lisbon treaty states: "The Treaty of Lisbon defines what the EU can and cannot do, and what means it can use. It alters the structure of the EU's institutions and how they work. As a result, the EU is more democratic and its core values are better served."

*contemporary focus on only studying legislative acts.* With this knowledge of the importance of agenda setting the EC can slowly steer European integration into new policy areas and thereby widen the EU-competence. This is not to imply that the nation states would be powerless to stop this, quite the opposite, instead the nation states have a functionalist reason to clarify unclear EU-competences and to state whether the responsibility should lay on the EU or the member state level. This should simplify future handling of similar cases, presenting the states with a better point of departure into negotiations. As mentioned in the results above, ministers almost always prefer to delegate EU issues to the national representatives since they are more knowledgeable both in the given technical situation and in the social situation that is COREPER and negotiation work.

This behaviour of slow functionalist integration is thereby likely to continue until one of the member states pulls the emergency brake (as France did during the empty chair crisis 1965-1966) and for the moment stops further European integration. What separates this explanation from institutionalism is mainly that it rejects the institutionalist conception that the nation states are actors unable to see what happens within the supranational institutions in which they are assumed to be caught. Instead, we can see that there are no contradiction between the rational approach where nation states act with clear preferred outcomes based on national interests and the functionalist idea of a European supranational Commission acting to maximize the common good. The national self-interest seems to be what drives the functionalist EU-integration approach forward and the nation states are very much aware of in the direction in which they are moving. By constantly wanting to maximize national outcomes and with the knowledge that national representatives will do a more efficient work in the negotiation process, the rational minister behaviour is to avoid getting involved if it is not absolutely necessary. These situations are of course more frequent when national sovereignty issues at stake and consequently a higher risk of the minister being blamed for losing national power when the next election comes around.

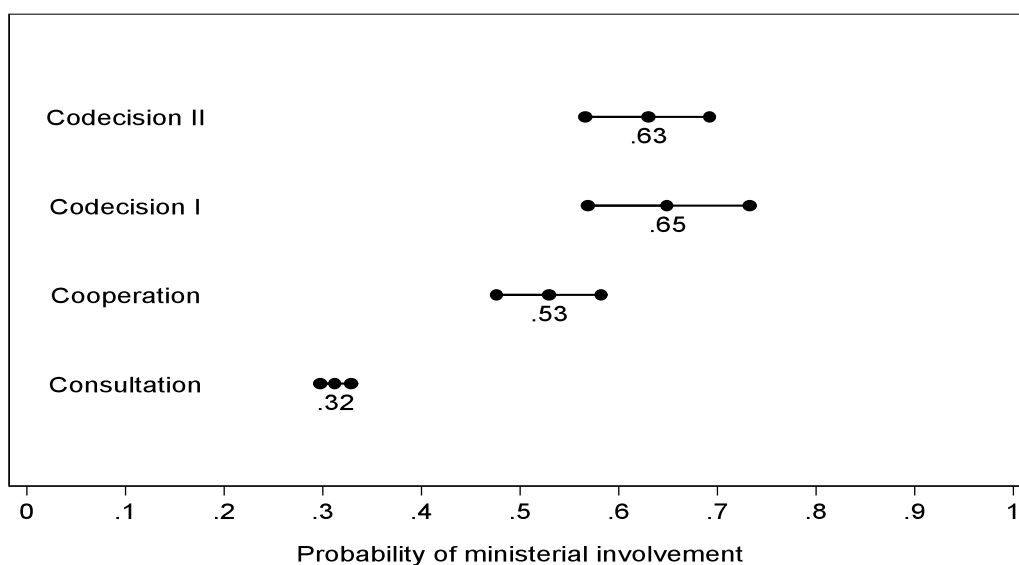
These assumptions on how individuals react in a rational way when uncertain of future consequences of their actions also go well with the Häge (2009) conclusions on why bureaucrats react and choose to delegate in certain situations<sup>139</sup>. What Häge has faultily misinterpreted as national bureaucrats reacting to unknown EP-behaviour are actually

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139 Häge (2009), p.31-33

ministers that choose to get involved in new and unclear EU-competence policy areas. This also explains why figure 5:1 below shows us that EP involvement under Co-decision and cooperation adoption procedure increases the chance for minister involvement. What this shows is not a result of national bureaucrats being unsure of minister preferences; this is on the contrary something they are very aware of. Instead, it is a result of the EP being more actively involved in areas of unclear EU-competences since this presents a situation in which they can disperse their influence onto new areas of competence<sup>140</sup>, thus attracting minister attention.

Figure 5:1 - Predicted probabilities for ministerial involvement



**Notes:** The figure indicates the probability of minister involvement under different legal procedure of Council adoption. The figure indicates the means and 95% confidence intervals for the predicted probabilities.

**Source:** Häge(2009), p.31 : Figure 5

In this way the EP and the EC can indirectly influence minister involvement but their actual involvement is purely secondary and the underlying and independent variable is actually the EU-competence variable.

If we take a step back and take a last minute to try and grasp what we are witnessing. What does it really imply that minister involvement is on the decrease? What does it mean for politicization, democracy, the nation state's influence and the general public's insight and

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<sup>140</sup> See ie. Tsebelis (1994) Who argue that the EP cooperation patterns are run by ways in which the EP maximizes EU-integrations processes by integrating new policy areas into the EU-competence.

transparency into EU decision making? As previously discussed let us not overstate the decreasing minister involvement as being absolute equal to de-politicization and it is not evident that the ministers lessened interest in Council meetings constitutes that the political discussions are actually on the decrease.

Jürgen Habermas has discussed the fear of a future administrative European state that is merely an instrument to adjust the dissymmetry's of modern market economy and where political and democratic decisions are pushed aside when the political decision making were unable to make the transition from nation state to supranational institution<sup>141</sup>. Is this what is happening? If the adjustments of previous research are correct then the Council should, within a few years, be seeing a sharp decline in minister activity with the pretext that the national representatives will do a better and more efficient job. But even if this de-politicizing movement would be the case it might not be problematic if the increased powers of the EP continues and the national voters, politicians and parties starts to see this as their main arena of influence and political debate, overtaking the previous more political role of the Council. Unfortunately even if the Lisbon treaty did strengthen the EP this institution still lacks the vital powers of creating an executing branch. All in all the main problem rests in the ministers tendency to see the Council as mainly an intergovernmental institution where diplomatic relations are carried out, they therefore fail (or choose not to) to see the democratic deficit it could produce when it is put on par with other supranational institutions.

Although let's for clarities sake state that this is no problem for the governments, they are still very much in control of their national representatives, it's rather a problem for the national parliaments whose ability of insight continuously decreases, maybe even further so with the Lisbon treaty<sup>142</sup>. The suggestion of increasing transparency and its implications should perhaps also be seen with a sceptical eye, because without a transparent and clear democratic system the people of Europe may very well find themselves in a situation where all documents are available but no-one knows what to look for<sup>143</sup>.

What truly is the solution to the EU democratic problem is far beyond the reach of this thesis but it is clear that the removal of the tool for European citizens to "kick out" their un-popular

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141 Habermas (2000), chapter 2

142 When the EP is integrated in the day-to-day work of the Council administration it is very likely that their interest in confronting the national governments with uncomfortable truths will decrease. This will most likely influence the national parliament's capacity to gain information of the Council work.

143 Weiler (2005): chapter 10

governments and thereby try other political options does decrease when administrators and national representatives are relied on to such a degree that firing them would be an efficiency problem to any minister, disregarding political colour. As such I tend to agree with writers such as Dorothee Heisenberg that the Council is indeed a sui genesis which neither should nor can be equalled to other institutions and that studying it and its implications towards national politics and politicization should be done with utmost care<sup>144</sup>.

The European Union and its institutions truly are creatures of complexity and perhaps even more so the Council. The Council is an institution that started out as something expected to slowly evaporate but has instead evolved into what seems to be the main player of EU integration<sup>145</sup>. As seen in this thesis, it is no easy task to isolate what influences minister involvement or if minister involvement can even be seen as a measurement for politicization. Future research into the Council decision making has great tasks at hand and my main hope is that someone takes on the task of trying to falsify whether EU-competence is the main determinant of minister involvement, following the findings of this thesis. Only by systematic and methodologically efficient falsification of this and previous variables can we slowly close in on what truly is Council politicization. What the next step of the Council evolution will be is of course impossible to anticipate but to end with a cliff-hanger I would like to quote one of the interview respondents take on this question:

*“The politicization changes with the Lisbon treaty. We now have an implementing Council, we have executing Council configurations which not only decides on ad-hoc basis but also implements what the European Council decides.*

...

***The Council is now becoming more of an executing part for the European Council.”***

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144 Naurin (2008), chapter 14

145 Nugent (2003), p.150: During the 1950s many believed that the Council would only be in place during a transition period before the other supranational institutions took its role.



## **Summary**

This thesis has examined decision making and politicization in the Council of the European Union. The thesis introduction showed a divergence between the theoretical assumption that we should be seeing increasing minister involvement in the Council and the empirical fact that is actually showing a steady decrease in the number of legislative acts with direct minister involvement. The question posed was if known affecting variables were enough to explain ministerial behaviour or if other still unknown variables were needed to supplement them. The thesis thus had a theory developing aspiration since the ambition was to clarify the divergence between theory and observed reality.

To achieve results with high validity, and thereby to identify the unknown variables, there was need to have clear selection criteria and the mixed method was selected as the most appropriate. By quantitatively collecting data from all levels of Council decision making and analyzing minister involvement in the European Commission (EC) initiated legislative acts, the thesis made it possible to distinguish the Council configurations where ministerial behaviour most obviously departed from the average pattern.

This quantitative study was implemented partly with the help of Frank Häge's recently collected dataset, together with a newly collected dataset which involved a longer time-span but was limited in the number of subjected legislative types (only the legal type: directives). With the results pointing to two outlying Council configurations (Transport, energy and telecommunications & Environment), the thesis continued by conducting interviews looking for the unknown explaining variables.

In the implemented qualitative interview study employees from the Council general secretariat were interviewed in order to gain insight into what influences minister involvement. Five interviews were conducted and the aim was to have minimal variation on factors other than which policy sector the respondents were working for. The results were transcribed and systematically analyzed in order to compare similarities between the two Council configurations.

The thesis results pointed to a situation where minister involvement is most clearly influenced by what policy area is affected by the legislative act, in the cases of a clear EU-competence area the tendency of minister behaviour decreases. If the legislative act is under unclear competence areas the member state ministers will feel more obliged to participate directly in order to avoid loss of national sovereignty. There was also evidence that supported the rational theoretical assumption of national interest to be a decisive factor. These results presented a framework for developing the rational and functional schools of thought into an interaction between the two that could explain how the EC can partly control minister involvement by setting the agenda on legislative act's. It also showed that the national governments are still very much in control of the situation and that they sometimes welcome EC-steering into unclear EU-competence areas so that they can be clarified and future workloads delegated from direct minister control.

A call for future research into the area of Council decision making is to more clearly focus analysis on specific acts (both legislative and non-legislative). By doing this, future researchers can carry out case-studies and compare results from specific acts, thereby developing and explaining in which way the identified variables are affecting Council behaviour and to what extent.

## **Sammanfattning**

Denna uppsats har behandlat och undersökt beslutsvägar i Europeiska unionens råd. Uppsatsens inledning visade på att det finns en diskrepans mellan det teoretiska antagandet kring ökande ministerinblandning i rådet samt att man de senaste åren istället kunnat observera en avtagande trend i densamma. Frågan var huruvida redan givna variabler var tillräckliga för att beskriva och förklara ministrarnas beteende samt nivån av ministerinblandning, och om inte, identifiera vilka variabler som saknades. Uppsatsen hade således en teoriutvecklande ambition då målet var att klargöra skillnaden mellan teori och verklighet.

För att nå resultat med god validitet och finna de påverkande variablerna så krävdes en tydlig avgränsning av undersökta områden, metodvalet föll på en så kallad "mixed method" strategi. Genom att kvantitativt gå igenom samtliga av rådets nivåer och eftersöka ministerinblandning i kommissionens lagförslag så kunde vi urskilja de rådskonstellationer där ministrarnas beteende tydligast avvek från genomsnittet.

Denna kvantitativa studie gjordes dels med Frank Häge's tidigare insamlade datamaterial samt ett eget insamlat dataset som till skillnad från det första sträckte sig över en längre tidsperiod, på grund av arbetsbelastningen så avgränsades en smalare del av lagförslagen (Endast "directives"). Genom denna metod kunde de två mest avvikande rådskonstellationerna identifieras (Transport, energi och telekommunikation samt Miljö). Uppsatsen fortsatte därefter med att genomföra intervjustudier på jakt efter de okända förklaringsvariablerna.

I den kvalitativa samtalsintervjustudie som genomförts har anställda på rådets generalsekretariat intervjuats för att få insyn i vad som kan påverka ministerinblandningen. Fem stycken intervjuer, med så liten variation av anställningsgrad som möjligt, genomfördes och resultaten från dessa transkriberades och systematiserades för att kunna urskilja vilka skillnader samt likheter som finns mellan de två undersökta rådskonstellationerna.

Det tydligaste resultatet som framkom i uppsatsen var att graden av ministerinblandning påverkas av huruvida det behandlade lagförslaget ligger under ett tydligt område av EU kompetens eller om det ligger i ett politikområde dit kommissionen nyligen utökat sitt

inflytande. Om lagförslaget är på osäker fördragsmark så kommer medlemsstaternas ministrar vara mer benägna att delta i det direkta arbetet. Bevis som stärkte tidigare forskningsantagande om en stats nationella intressen hittades också. Detta resultat gav en grund för en vidare förståelse av de rationella teorier som använts för att förklara ministerbeteende i tidigare forskning. Genom ett samspel mellan rationella och funktionella teoriskolor så kunde en förklaring ges som visade på hur kommissionen kan använda ett lagförslags känslighet för att delvis styra ministerbeteende. Det visade också hur ministrarna var medvetna om denna situation och lät sig styras eftersom de på sådant vis kan klargöra oklara kompetensområden och på så sätt få en bättre möjlighet i framtida förhandlingar. Detta samspel mellan nationella avvägningar och EU:s kompetensområden är således en rationell/funktionell förklaring av rådets beslutsvägar.

En uppmaning till framtida forskning på området bör vara att djupanalysera specifika förslag (både bindande och icke-bindande) och undersök hur de ovan beskrivna variablerna från denna samt tidigare forskning påverkar specifikt undersökta fall. En systematisk och metodisk uppställning av undersökta fall i förhållande till ministerbeteende skulle kunna visa vad som påverkar ministerbeteende samt i vilken utsträckning.

## **Appendix**

### **Email correspondence with Frank Häge:**

**Magnus Nilsson <permagnusnilsson@gmail.com>**

**25 February 2010 17:43**

To: frank.haege@ul.ie

**Dear Dr. Häge.**

My name is Magnus Nilsson and I'm a master student of European studies at the Gothenburg University in Sweden. Right now I am working on my master thesis in the field of Council decision making and your recent work on the subject was suggested to me by my supervisor Dr. Daniel Naurin.

Your work on the Council decision making turned out to be highly interesting and also very inspiring for me to continue on the subject but I did stumble upon some questions that I did not quite know what to make of and so Dr. Naurin suggested that I should contact you and see what your thoughts regarding this was.

I have read all your publications and PhD thesis regarding the councils work and found that your conclusion on EP empowerment and it's resulting effects on the level of minister involvement is very methodologically solid and I cannot find any reason to doubt the effects that you find. But it still strikes me as odd that the number of co-decision act's continue to increase each year while the proportion of minister council decisions have decreased since the 90s, a trend that logically should point in the opposite direction. I know that you yourself point out that that further research into the field of the negative Council politicization trend is warranted and this is why I am writing to you.

In my own thesis I hope to find some way to explain why and how the EP empowerment and it's positive politicization effect can be seen in relation to the decreasing minister involvement. Since I can see in your conclusions that you yourself are aware of these two parallell trends I would very much like to hear what your thoughts regarding this is since it would be of great interest to me when developing my own theoretical background and methodological approach.

**With kind regards.**

//Magnus Nilsson

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**Frank.Haege <frank.haege@ul.ie>**

**26 February 2010 15:04**

To: Magnus Nilsson <permagnusnilsson@gmail.com>

Dear Magnus,

There seems to be a general trend towards less involvement of ministers in Council decision making over time. This trend exists equally in areas where the codecision procedure applies and in areas where the consultation procedure applies. At the same time, comparative differences between the two institutional regimes continue to exist as well. In other words, the proportion of files adopted by ministers fell over time under both procedures, but the proportion of codecision files adopted by ministers continues to be larger than the proportion of consultation files adopted by ministers. The apparent paradox comes about because the negative time trend (caused by a number of possible other factors) outweighs the positive effect of the extension of the codecision procedure over time. The codecision effect is not strong enough and/or the extension of codecision was not large enough to counter-act the negative time trend. The recent huge extension of codecision to the agricultural field might change this picture somewhat in the future, but that's just speculation.

I hope this sheds some more light on the issue. Please get in touch if you have any further questions.

questions.

Best wishes,

Frank

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#### **Email correspondence with PreLex-Support:**

Dear Sir/Madam,

Thank you for having contacted the Eur-Lex Helpdesk.

To base your search on the field of activity is rather dangerous as this description has been evolving and has changed over the year, and then in some cases there is no information at all concerning the field of activity (see example below):

[http://ec.europa.eu/prelex/detail\\_dossier\\_real.cfm?CL=en&DosId=192659](http://ec.europa.eu/prelex/detail_dossier_real.cfm?CL=en&DosId=192659)

It is maybe better to base your search on the "Body" field.

Kind regards,

Nuno Mesquita  
Publications Office  
Eur-Lex Helpdesk

#### **Questionnaire for the qualitative study**

At the beginning of the interview all respondents were asked the following ethical questions:

- Would it be acceptable to record the interview in order for me to more easily repeat it during my thesis analysis?
- If there after the interview is over is anything unclear regarding your answers would it be possible for me to email you with questions of clarification?
- Would you like to preview and approve the summarized use these interviews before they are handed in to my university as part of my thesis?

All five respondents answered **YES** to all three questions but pointed out that the preview (point 3) was not necessary before publication, but was only requested out of curiosity.

*Prioritized questions:*

1. What would you say is the primary reason for ministers, at any point of the process, to get directly involved in the discussion of a legislative act?
2. Often a legislative act can move up and down in the Council hierarchy several times before a decision is finally taken. Could you estimate the intensity of minister involvement in the negotiation of a legislative file? (ie. When ministers are involved are they often involved several times or mostly only at one point of the decision-making)
3. Do you think that certain policy areas have more minister involvement than others and if so, why do you think that is?
4. When looking at decision-making patterns from different Council

configurations it seems that the **TTE/Environment** Council has an unusual **high/low** amount of minister involvement. Why do you think that is?

5. Would you say that the salience / importance of a legislative act increase or decreases the chance for minister involvement? Why?

*Less prioritized questions:*

6. Would you say it is easier to come to early agreements depending on which country is holding the presidency? And if so, what constitutes an effective presidency?

7. Would you say that certain policy areas are harder to negotiate when certain member states are holding the presidency?

8. How often would you say that the ministers get involved? (ie. Approximately once per file, or once every ten files and so on)

9. Would you say that parliament involvement affects whether or not a minister gets involved in the discussions concerning a legislative act?

10. What role does the General secretariat play in the decision-making process? Is the general secretariat an important player in coming to early agreements?

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## Conducted interviews

- Council of the European Union -General secretariat official, Director: 23<sup>rd</sup> of April (Telephone)
- Council of the European Union -General secretariat official, Head of unit 1: 21<sup>st</sup> of April (Telephone)
- Council of the European Union -General secretariat official, Head of unit 2: 28<sup>th</sup> of April (Telephone)
- Council of the European Union -General secretariat official, Administrator 1: 22<sup>nd</sup> of April (Telephone)
- Council of the European Union -General secretariat official, Administrator 2: 26<sup>th</sup> of April (Telephone)

Detailed information regarding the interviews cannot be presented due to guaranteed anonymity. All interviews were conducted by telephone from the Gothenburg University (Political science department) and all interviewees were located in Brussels.

## Electronic sources

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- Frank Häge official webpage: <http://www.frankhaege.eu/>
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