# Choosing an Influential Agenda Setter:

# the Appointment of the Commission in the European Union

Christophe Crombez[i]

Martijn Huysmans[ii]

Wim Van Gestel[iii]

**Abstract**

This paper presents a game-theoretical spatial analysis of Commission appointment in the European Union (EU). In the model the European Parliament (EP) and the member states in the Council look ahead and consider the policy outcomes that result from the appointment of alternative Commissions. In contrast to earlier work we assume that the EP and the member states have incomplete information on the consequences of EU policies, whereas the Commission acquires private information on the link between policies and outcomes. As a result, we generate new insights in the Commission's appointment. In particular, we find that the increased use of codecision in the legislative process gives the Council an incentive to appoint a Commission that is closer to the EP, because the EP then trusts the Commission more. Thus this theory sheds new light on the so-called *Spitzenkandidaten Coup* that preceded the appointment of the Juncker Commission in 2014.

**Keywords**

European Union, European Commission, Agenda Setting, Incomplete Information

[i] Professor of Political Economy, Faculty of Economics and Business, KU Leuven, and Consulting Professor, Freeman Spogli Institute for International Studies, Stanford University. Address: Naamsestraat 69, 3000 Leuven, Belgium. Email: crombez@stanford.edu.

[ii] Doctoral Candidate, LICOS Research Center, Faculty of Economics and Business, KU Leuven.

[iii] Research Affiliate, Faculty of Economics and Business, KU Leuven.

# 1.  Introduction

The Commission plays an important role in European Union (EU) policy-making. It is often referred to as the EU executive body, but perhaps its most striking feature is its monopoly agenda-setting right in the EU legislative process. In the early days after the creation of what later became the EU the Commission was usually considered as a body of technocrats appointed by the member state governments to develop policy initiatives. Over the years its appointment and its role in the legislative process have become more politicized. The European Parliament (EP) now appoints the Commission together with the member states as represented in the European Council. As a result the Commission's composition now reflects the majorities and varieties of political affiliations in both these institutions.

Specifically the Commission appointment process has undergone the following changes since the 1950s. Prior to the 1992 Maastricht Treaty the member states in the Council unanimously appointed the Commission. Since Maastricht the EP has to approve the Commission proposed to it by the Council. As a result the appointed Commission reflects the preferences of both the Council and the EP, since both have a say in the appointment procedure (Hug, 1997, 2003). The 1997 Amsterdam Treaty also gave the EP a veto on the appointment of the Commission President in addition to its veto on the appointment of the Commission as a body. Since the 2001 Nice Treaty the Council has been nominating the Commission by qualified majority voting (QMV) rather than unanimity. The 2007 Lisbon Treaty, finally, states that the Council has to take the results of the EP elections into account when nominating a Commission President. This does not represent a hard constraint on member state behavior, however. For that reason we treat it as inconsequential within the scope of our formal model. We provide a summary of these reforms in Table 1. For a more extensive historical account, see Crombez and Hix (2011).

** Table 1 about here**

As in the Commission appointment process the EP's current rights in the legislative process were not acquired in one discrete jump, but rather there was a stepwise increase through a series of Treaties. Prior to the 1986 Single European Act most EU legislation was passed under the consultation procedure. Under this procedure Commission proposals required Council approval for adoption. The Council decided mostly by unanimity. The EP was merely consulted in the procedure. The SEA introduced two procedures that essentially gave the EP a veto right, the cooperation and assent procedures. More importantly QMV, which was rarely used prior to the SEA, became more common in the Council.[1] The Maastricht Treaty introduced the codecision procedure. Under this procedure the EP could not only veto legislation, but also amend it together with a qualified majority in the Council. Subsequent Treaties extended the use of QMV and codecision. The 1997 Amsterdam Treaty also modified the codecision procedure.[2]

While the Lisbon Treaty left the appointment process essentially unaltered, the extension of codecision to some key policy areas, such as external border controls, asylum, immigration, and judicial and police cooperation, may have had an impact on the Commission's appointment. The Lisbon Treaty made codecision the Ordinary Legislative Procedure (OLP).

In the legislative process the Commission is an agent that is important in two distinct ways. First, as mentioned above, the Commission is the agenda setter. Second, it specializes in the policy issues under consideration, and in the process it acquires information the member states and the EP do not have. By observing the proposal the Council and the EP can infer some of that information. The Commission is thus both an agenda setter and a provider of information to the member states and the EP. Hence, it is in the interest of the member states and the EP to take into account these two roles during the appointment process.

Whereas existing models of Commission appointment assume that the member states and the EP have complete information in the appointment and legislative processes, we obtain novel

predictions by modeling informational asymmetries in the legislative process. Our starting point for the incomplete information model is the work by Gilligan and Krehbiel (1987), which in turn builds on the theory of strategic information transmission by Crawford and Sobel (1982).

Most formal models that study the EU assume an exogenous Commission, i.e. the preferences of the Commission are fixed and unexplained (e.g. Crombez 1996; Steunenberg 1994; Tsebelis 1994, 2002). In the literature on delegation in the EU (Döring 2007; Franchino 2005, 2007; Hug 1997, 2003; Pollack 1997, 2003; Wonka 2007), it is argued that since the Council and the EP appoint the Commission, the Commission can be modeled as an agent.[3] While this literature has focused on the agency role of the Commission as an executive, we focus on the appointment of the Commission and its role in the legislative process.

Crombez (1997b) and Crombez and Hix (2011) are among the few who have put forward models with an endogenous Commission as a legislative agent. They use complete information models to study how institutional changes due to the different Treaties have had an impact on the Commission's appointment. They find that the introduction of QMV in the legislative process in the 1980s allowed the Commission to move policy further away from the status quo. Yet the unanimity requirement in the Commission appointment process still made it possible for the member states to commit to a legislative program that all of them preferred to the status quo. They conclude that the more recent move to QMV for appointing the Commission, combined with the ability of the member states and the EP to amend Commission proposals, has turned the EU into a more majoritarian political system.

Another exception to the exogenous Commission assumption is Napel and Widgrén (2008). Their main finding is that in equilibrium commissioners duplicate the policy preferences of Council representatives. This seems to contradict empirical studies, such as by Konig et al. (2007) and Rasmussen (2003) that suggest that the Commission and EP exhibit a much less conflictual relationship than the Commission and the Council. In response Napel and Widgrén argue that the

Commission's internal decision rules prevent it from being a Council clone. Indeed, the Council operates under QMV, a supermajority rule, whereas the Commission uses simple majority. Given the use of QMV in the Council it can be expected to exhibit a conservative status quo bias. In contrast, the median Commissioner determines the Commission's position. The median's preferences coincide with a moderate Council member under the duplication hypothesis. And because the EP also uses simple majority rule, the pivotal Member of the European Parliament (MEP) tends to be a like-minded political moderate.

The models put forward by Crombez (1997b), Crombez and Hix (2011) and Napel and Widgrén (2008) study the Commission's appointment in great detail, but make the assumption that all players have complete information. Yet in the context of American politics Gilligan and Krehbiel (1987) have shown that one of the main rationales for delegation to a committee is to provide incentives to specialize and acquire better information with regards to the consequences of policies. They construct a formal spatial model of a situation with one sender of a signal, a legislative committee, and one receiver, the United States Congress. Both the receiver and the sender care about the results of policies rather than the policies per se. The sender is assumed to have private information about the link between policies and outcomes. He makes a legislative proposal and sends it to the receiver. Two possible scenarios are then analyzed: an unrestrictive rule, that is, an open rule in which the receiver can amend the proposal, and a restrictive rule, that is, a closed rule in which the receiver can only accept the proposal without amendments or revert to the status quo.

Another relevant reference is the analysis of the United Nations (UN) by Johns (2007). She discusses a scenario in which two principals (UN member states) with diverging preferences collectively appoint an agent (a UN investigator) for informational purposes. The agent provides information with regards to the consequences of policies, and both principals subsequently negotiate a policy outcome. Johns assumes that the negotiated outcome is the Nash bargaining solution, i.e. after receiving the agent's message, the principals pick a policy in the middle of their preferred policies. This in effect reduces the two principals to a single "as-if principal" with an ideal policy halfway

between the two. The resulting game between the "as-if principal" and the agent is identical to the unrestricted rule game of Gilligan and Krehbiel (1987). The conclusion is that, in the absence of outside options, both principals prefer to appoint an agent with an ideal policy halfway between them.

Our contribution is that we model the Commission's private information in the legislative process, and present a model of Commission appointment in which the member states and the EP take this informational asymmetry into account. Our model has some similarities to Johns (2007), but is substantially different because the appointment and legislative processes in the EU are more structured than her model of the UN. In addition to our theoretical contribution we present an empirical analysis of Commission appointment and provide a novel account of the *Spitzenkandidaten coup* preceding the appointment of the Juncker Commission.

The remainder of the paper is structured as follows. In the next section we develop an asymmetric information model of the EU's legislative process and a model of the Commission's appointment. In section three we present the legislative equilibrium, and in section four we analyze the equilibrium in the Commission appointment process. Section five presents data for the past eight Commissions and discusses the Spitzenkandidaten Coup. The final section provides the paper's main conclusions.

We find that in the legislative process, the pivotal player(s) need to trust the Commission's proposals to be willing to abandon the status quo. This requires that the appointed Commission's preferences be sufficiently close to the pivotal player(s) – the pivotal member state(s) or the EP. Since the introduction and extension of the codecision procedure the EP plays a more important role in the legislative process. To the extent that the EP becomes pivotal as a result, the member states in the Council prefer to appoint a Commission that is relatively closer to the EP than before.

Our theory sheds new light on the so-called Spitzenkandidaten Coup, in which the EP, according to some observers, forced the hand of the Council and asserted itself in the appointment of the Commission. We give an alternative explanation why the member states in the Council accepted a

more prominent role for the EP in the appointment process. Under codecision the Council prefers a more informed EP than under consultation. Since the Treaty of Lisbon increased the use of codecision, we argue that under Lisbon the Council prefers a Commission that is closer to the EP than before.

# 2.  The Model

## 2.1. Players and Preferences

The core of our model is a strategic signaling game with one sender, the Commission, and multiple receivers, the member states in the Council and the EP. Since we present a one-dimensional model, and the Commission and the EP both vote by simple majority, we model them as unitary actors, represented by their median voters $C$ and $P$ (Black, 1958). In the Council QMV is used. Hence we represent the Council by its left and right pivots, member states $A$ and $B$, respectively. The legislators $P, A$ and $B$ have incomplete information on policy outcomes, whereas the median Commissioner $C$ has complete information. The actors need to reach an agreement on the policy to be implemented, based on $C$'s proposal and under either consultation or codecision.

We assume that actors have Euclidean preferences over the outcomes of policies, not over policies per se. Essentially, they are outcome-oriented rather than position-oriented. In particular, actor $I \in \{C, P, A, B\}$ with ideal outcome $i \in \{c, p, a, b\}$ derives the following utility from outcome $x$:

$$u_I(x) = -(x - i)^2 \tag{1}$$

Furthermore, we assume that both the policy and outcome spaces are one-dimensional. Empirically, Hix et al. (2006, p.509) have shown that "Left-right politics explains an overwhelming

proportion of voting in the EP". The qualitative nature of our results would be unchanged with a multidimensional model, while the analysis and exposition would be complicated considerably.[4]

## 2.2. Information

We assume that there is asymmetric policy information to the benefit of the Commission (relative to the member states and the EP). Several elements here require clarification. First, by policy information, we mean information on the link between policies (encoded in laws) and their real-world outcomes or results.[5] As mentioned above actors have preferences over the results of policies, not over policies themselves. For instance, they do not care whether a tariff is 40% or 50% as such, but they do care about the consequences on imports and welfare. There is some uncertainty about how a law $\ell$ translates into an outcome $x$, however. This is captured by the equation:

$$x = \ell + \omega ; \quad \omega \sim U[0,1] \tag{2}$$

Where $\omega \in \Omega$ represents a random variable drawn from set $\Omega$. For simplicity, we assume that $\omega$ is uniformly distributed over the unit interval: $\omega \sim U[0,1]$, so that its expected value and variance are $\bar{\omega} = 0.5$ and $\sigma_\omega^2 = 1/12$. Additionally, we follow Gilligan and Krehbiel (1987) by assuming that the status quo policy $\ell_0$ is located at $-1/2$. If we define $s = \ell_0 + \omega$ as the "status quo outcome", our assumptions on $\omega$ then imply:

$$s \sim U\left[-\frac{1}{2}, \frac{1}{2}\right] \tag{3}$$

So, if no legislation is adopted, the status quo outcome is distributed uniformly and symmetrically around the origin of the outcome space, implying that its expected value $\bar{s} = 0$ and $\sigma_s^2 = \sigma_\omega^2 = 1/12$. Whereas all players know the distribution of the random variable $\omega$, only the Commission knows its actual realization.

As argued by Gilligan and Krehbiel (1987 p. 287) in the context of the United States Congress: "Specialization by committees can be an efficient way for the parent body to obtain costly information about the consequences of alternative policies". Our claim is that a similar relationship holds in the EU between the Commission and the legislative branch, the EP and the Council. In fact, we suspect this relationship to be even stronger in the case of the EU, since the Commission is not only the legislative agenda setter, but also the EU's executive. As such it monitors the outcomes of policies and watches over the implementation of policies through its specialized divisions called "Directorate-Generals". Arguably this confers the Commission with superior information on the link between policies and their outcomes.

Moreover, the Commission has more resources at its disposal than the EP and the Council. In 2014 administrative spending amounted to 3,262 M€ for the Commission vs. 1,756 M€ for the EP and only 534 M€ for the Council (EU, 2015).[6] This spending reflects the total cost of resources used, including the costs of staff, external experts and data acquisition. Given that its budget is larger than that of the EP and the Council combined, the Commission seems likely to be better informed.

In a game between rational and forward-looking actors, asymmetric information is valuable and can be used strategically. However, the risk of strategic use also limits the amount of information that can be credibly transmitted. Crawford and Sobel (1982) studied the role of preference alignment. They modeled the sending of a message by an informed sender to an uninformed receiver, and showed that the amount of information that can be transmitted in equilibrium depends directly on the difference in preferences. If the sender and receiver have exactly the same preferences, information transmission is complete. Otherwise, the equilibrium takes the form of a partitioning of the space of the unknown variable. In equilibrium, the sender observes the variable and then truthfully signals to which part of the partition it belongs. The closer preferences are aligned, the finer the equilibrium partition is.

## 2.3. The Legislative Process

As discussed in the introduction, the EP has gained more rights in the legislative process, as the consultation procedure has gradually been nearly phased out in favor of the codecision procedure that gives the EP a more prominent role. We study both procedures.

We model the legislative game as follows. Under both procedures Nature first reveals $\omega$ to the Commission. In the second stage the informed Commission drafts a law $\ell$ and offers it to the legislators. What happens next differs under the two procedures. Under consultation the member states then vote on the proposal in the third stage. If the pivotal member states $A$ and $B,$ and thus a qualified majority, approve it, it becomes EU policy.[7] Otherwise the status quo prevails. The EP's vote does not matter formally.

Under codecision the member states and the EP can offer amendments in the third stage. For simplicity we assume that only one actor, the EP, offers an amendment. This simplification does not affect our conclusions. In the fourth stage the pivotal member states $A$ and $B$ vote on the amendment. If they both approve it, it is accepted. In the fifth stage the EP and the pivotal member states vote on the (amended) Commission proposal. If all three actors approve it, it becomes EU policy. Otherwise the status quo prevails.

The appropriate solution concept for the legislative game is Perfect Bayesian Equilibrium (PBE): sequentially rational legislators update their prior beliefs on $\omega$ upon receiving the Commission's proposal. Since all legislators have the same common prior $\omega \sim U[0,1]$ and receive the same signal $\ell$, their beliefs upon hearing $\ell$ can be considered to be identical in equilibrium. A legislative equilibrium under consultation is then defined by the Commission's proposal strategy $\ell^*(\omega)$, the beliefs $g^*(\ell)$ of legislators $A$ and $B$, and their voting strategies $v_I^*(\ell), I \in \{A, B\}$. Beliefs $g(\ell)$ are defined as a correspondence: they give the point or interval in which $\omega$ is believed to be located with uniform density upon hearing proposal $\ell$. Voting strategy $v_I(\ell)$ maps proposal $\ell$ to legislator $I$'s response. If legislator $I$ votes yes, $v_I = 1$; if he votes no, $v_I = 0$.

A legislative equilibrium under codecision is defined by the Commission's proposal strategy $\ell^*(\omega)$, the beliefs $g^*(\ell)$ of legislators $A, B$ and $P$, the amendment strategy $\lambda_P^*(\ell)$ of the EP, the voting strategies $w_I^*(\lambda, \ell), I \in \{A, B\}$ of Council members $A$ and $B$ on the amendment $\lambda$, and the legislators' voting strategies $v_I^*(\ell), I \in \{A, B\}$ on the (amended) proposal.

Under consultation there are three equilibrium conditions for $I \in \{A, B\}$: (1) given $v_I^*(\cdot)$, $\ell^*(\cdot)$ maximizes $E[u_C]$; (2) given $g^*(\cdot)$, $v_I^*(.)$ maximizes $E[u_I]$; and (3) the beliefs $g^*(\cdot)$ are consistent. The three conditions have the following interpretations: (1) the Commission has no incentive to cheat by sending a proposal different from the one prescribed by $\ell^*(\cdot)$; (2) legislators' voting rules $v_I^*(\cdot)$ maximize their expected utilities given their equilibrium beliefs about the value of $\omega$; and (3) in equilibrium the beliefs $g^*(\cdot)$ held by legislators about the value of $\omega$ are correct.

Under codecision the conditions apply for to the EP also, i.e., they should hold for $I \in \{A, B, P\}$. In addition, condition (2) should be modified to: given $g^*(\cdot)$, the strategies of $A, B, P$ are mutual best responses, i.e. each legislator maximizes their expected utility given the others' strategies. $P$' strategy consists of his amendment strategy $\lambda_P^*(\cdot)$ and his final passage voting strategy $v_P^*(\cdot)$. $A$ and $B$'s strategy consist of their amendment voting strategies $w_I^*(\cdot), I \in \{A, B\}$ and their final passage voting strategies $v_I^*(\cdot), I \in \{A, B\}$.

## 2.4. The Commission Appointment Process

We use the simplified model of the Commission's appointment as presented by Crombez and Hix (2011). First, Nature selects a member state $K$ that proposes a Commission with median ideal point $c$. Next, a vote is held according to the rules of the appointment process. Prior to the Maastricht Treaty the Commission was appointed if each member state voted in favor. From Maastricht to Nice each member state and the EP needed to vote in favor. Since the Nice Treaty the Commission is

appointed if the EP and a qualified majority of member states vote in favor. For simplicity we assume that the status quo policy prevails if the proposed Commission is rejected.

When thinking about potential Commissions, legislators are concerned with the policy outcomes that would result from each commission type $c$. What the member states, the EP, and the Commission ultimately care about is the outcome of the equilibrium policy, that is $x^* = \ell^* + \omega$. As will be seen below, the equilibrium outcome is a function of the Commission's ideal outcome $c$. In our model, the parameter $c$ completely defines the Commission's type.[8] In the next section, we derive the legislative equilibrium as a function of $c$.

# 3.  The Legislative Equilibrium

## 3.1. Complete Information

We first briefly consider the equilibrium under complete information. See also Crombez (1996, 1997a). Under complete information the Commission proposes the policy it prefers most from among the policies in the win set, the range of policies that defeat the status quo in the final stage of the legislative procedure. Under the consultation procedure this is the set of policies a qualified majority prefers to the status quo. Under codecision it is the set of policies such that the EP and a qualified majority prefer it to the status quo, and no policy is preferred to it by the EP and a qualified majority.

Figure 1 shows the win sets in the outcome space for two different status quo outcomes, $s_1$ and $s_2$. These status quo results correspond to two different values $\omega_1$ and $\omega_2$ for the random variable $\omega$. The top part of the Figure shows the win sets under consultation, while the bottom part shows the win sets under codecision.

** Figure 1 about here**

If the status quo outcome is on the left, as is $s_1$ in the Figure, member state $A$ is pivotal. Member state $A$ and all member states to its right prefer an outcome that is more to the right, and there are just enough such countries to meet the QMV threshold. The win set under consultation is then formed by all outcomes that are to the right of $s_1$, but not further to the right than the reflection point of $s_1$ across country $A$'s ideal outcome $a$. For a status quo on the right, as is $s_2$ in the Figure, the opposite holds: country $B$ is pivotal and the win set under consultation is formed by reflecting the status quo outcome $s_2$ across $B$'s ideal $b$.

Under codecision the win sets are smaller because proposals to the left of $a$ and to the right of $b$ are successfully amended. In the Figure the EP is located between the Council's left and right pivots. As a result it is never pivotal, whether the status quo outcome is to its left or right.

## 3.2. Asymmetric Information

We first study the equilibrium under consultation, and then under codecision, and focus on Pareto-optimal equilibria. We assume for the exposition that $p < a < b$, i.e. the EP is a left outlier. The case $a < b < p$ is fully analogous with the EP as a right outlier instead. If $a < p < b$, the EP's vote is not pivotal with the introduction of codecision, so this case is not interesting for our purposes, although it can be analyzed similarly.

### 3.2.1. Consultation

Depending on the Commission's location $c$ there are three possibilities. If $a < c < b$, both $A$ and $B$ can be pivotal; we discuss this case below. If $c \leq a$, obtaining $A$'s vote does not represent a

binding constraint for the Commission for any value of $\omega$ in equilibrium, because the proposer $C$ is more to the left. Any rightward move the Commission then wants to propose, is approved by member state $A$. In that case $B$ is the only relevant voter and the equilibrium is as in Gilligan and Krehbiel (1987). The same is true for $b \le c$, but then $A$ is the only relevant voter. Proposition 1 presents the equilibrium for $c \le a$. The proof is in the Appendix.

**Proposition 1** Suppose consultation is used and $c \le a$. For small and large values of $\omega$, the Commission then successfully proposes policies that yield its ideal outcome $c$. For those values of $\omega$ where the Commission is unable to make a credible proposal, the status quo prevails. For the remaining intermediate values the Commission makes a proposal that signals that in expectation the proposal is equally beneficial for the pivotal member state $B$ as is the status quo. Specifically the following strategies and beliefs constitute a PBE[9]:

*The equilibrium proposal strategy*

$$\ell^*(\omega) = \begin{cases} c - \omega & s \le c \\ \ell \in \, ]\ell_0 - 4(b - c), \ell_0[ & c < s < 2b - c \\ \ell_0 - 4(b - c) & 2b - c \le s \le 4b - 3c \\ c - \omega & s > 4b - 3c \end{cases}$$

*The equilibrium beliefs about $\omega$*

$$g^*(\ell) = \begin{cases} c - \ell & \ell \ge \ell_0 \\ ]c - \ell_0, 2b - c - \ell_0[ & \ell_0 - 4(b - c) < l < \ell_0 \\ [2b - c - \ell_0, 4b - 3c - \ell_0] & \ell = \ell_0 - 4(b - c) \\ c - \ell & \ell < \ell_0 - 4(b - c) \end{cases}$$

*The equilibrium voting strategies*

$$v_A^*(\ell) = v_B^*(\ell) = v_P^*(\ell) = \begin{cases} 0 & \ell \in \, ]\ell_0 - 4(b - c), \ell_0[ \\ 1 & \text{otherwise} \end{cases}$$

*The equilibrium outcome is:*

$$x^*(\omega) = \begin{cases} c & s \leq c \\ s = \ell_0 + \omega & c < s < 2b - c \\ s - 4(b - c) & 2b - c \leq s \leq 4b - 3c \\ c & s > 4b - 3c \end{cases}$$

We derive the expected utilities of the actors in the Appendix. They can be characterized as follows:

$$E[u_I^{Cons}] = -(c - i)^2 - \sigma_\omega^2[4(b - c)]^3 \tag{4}$$

An illustration of the equilibrium is provided in Figure 2. In interval $I$ the result of the status quo policy is to the Commission's left. So even the left-wing Commission prefers a right-wing move, and it is willing to perfectly signal the value of $\omega$. Specifically, the Commission in this interval proposes the policy $c - \omega$ that yields its ideal outcome. In interval $IV$ the status quo policy yields results that are so far on the right that $B$ prefers $c$ over $s = \ell_0 + \omega$. The Commission obtains its ideal policy outcome in this interval as well.

** Figure 2 about here **

In interval $II$, $C$ cannot successfully propose its ideal outcome $c$, because in this interval $B$ prefers the status quo outcome $s = \ell_0 + \omega$. In the left half of the interval, $B$ and the Commission want to move in opposite directions away from the status quo. In the right half they want to move in the same direction, but the Commission cannot credibly signal this, because it would pretend to be in the right half even if it were in the left half. The result is that in this interval the status quo prevails.

In interval $III$ both the Commission and member state $B$ prefer the Commission's ideal policy outcome to the status quo outcome. The Commission cannot credibly signal this and obtain its ideal outcome, however, because it would pretend to be in interval $III$ even if it were in interval $II$. The best the Commission can do in this interval is obtain the policy illustrated in the Figure. (5)

Proposition 2 presents the equilibrium for $a < c < b$. The proof is analogous to the proof of Proposition 1.

**Proposition 2** Suppose consultation is used and $a < c < b$. So, both $A$ and $B$ can be pivotal. For small and large values of $\omega$, the Commission successfully proposes its ideal. For those values of $\omega$ where the Commission is unable to make a credible proposal to the left or right pivots, $A$ or $B$, respectively, the status quo prevails. For the remaining intermediate values the Commission makes a proposal that signals that in expectation the proposal is equally beneficial for the relevant pivot as is the status quo. In particular the following strategies and beliefs constitute a PBE[10]:

*The equilibrium proposal strategy*

$$\ell^*(\omega) = \begin{cases} c - \omega & s \leq 4a - 3c \\ \ell_0 + 4(c - a) & 4a - 3c < s \leq 2a - c \\ \ell \in ]\ell_0, \ell_0 + 4(c - a)[ & 2a - c < s \leq c \\ \ell \in ]\ell_0 - 4(b - c), \ell_0[ & c < s < 2b - c \\ \ell_0 - 4(b - c) & 2b - c \leq s \leq 4b - 3c \\ c - \omega & s > 4b - 3c \end{cases}$$

*The equilibrium beliefs about $\omega$*

$$g^*(\ell) = \begin{cases} c - \ell & \ell \geq \ell_0 + 4(c - a) \\ [4p - 3c - \ell_0, 2p - c - \ell_0] & \ell = \ell_0 + 4(c - a) \\ ]2p - c - \ell_0, c - \ell_0] & \ell_0 < \ell < \ell_0 + 4(c - a) \\ ]c - \ell_0, 2b - c - \ell_0[ & \ell_0 - 4(b - c) < \ell < \ell_0 \\ [2b - c - \ell_0, 4b - 3c - \ell_0] & \ell = \ell_0 - 4(b - c) \\ c - \ell & \ell < \ell_0 - 4(b - c) \end{cases}$$

*The equilibrium voting strategies*

$$v_A^*(\ell) = v_B^*(\ell) = v_P^* = \begin{cases} 0 & \ell \in ]\ell_0 - 4(b - c), \ell_0[ \cup ]\ell_0, \ell_0 + 4(c - a)[ \\ 1 & \text{otherwise} \end{cases}$$

*The equilibrium outcome is:*

$$x^*(\omega) = \begin{cases} c & s \le 4a - 3c \\ s + 4(c - a) & 4a - 3c < s \le 2a - c \\ s = \ell_0 + \omega & 2a - c < s \le 2b - c \\ s - 4(b - c) & 2b - c < s \le 4b - 3c \\ c & s > 4b - 3c \end{cases}$$

The derivation of the expected utilities is as for Proposition 1. In particular they can be characterized as follows:

$$E[u_I^{Cons}] = -(c - i)^2 - \sigma_\omega^2 \left[ \left(4(b - c)\right)^3 + \left(4(c - a)\right)^3 \right] \tag{5}$$

### 3.2.2. Codecision

As mentioned above we focus on the case $p < a < b$ in our exposition. For simplicity we assume that $p = -b$ and focus on $c \ge 0$. The equilibria with $c < 0$ are symmetric. We identify four scenarios and show that as $c$ increases, information transmission decreases. In the first scenario $c = 0$, and the equilibrium is analogous to the consultation equilibrium in Proposition 2. As the ideal policy $c$ increases, we end up in the second, third and finally fourth scenarios. In the fourth scenario there is a pooling equilibrium with no information transmission. We give the full equilibrium specification for the first scenario, and provide intuition for the other.

**Scenario 1** Proposition 3 describes the equilibrium in the first scenario where $c = \frac{b+p}{2} = 0$. All proofs can be found in the Appendix.

**Proposition 3** Suppose codecision is used and $p < a < b$, i.e. $P$ is the left pivot and $B$ is the right pivot for the Commission. Further suppose that $c = \frac{b+p}{2} = 0$. For small and large values of $\omega$, the Commission then successfully proposes its ideal. For those values of $\omega$ where the Commission is unable to make a credible proposal to the left or right pivots, $P$ or $B$, the status quo prevails. For the remaining intermediate values the Commission makes a proposal that signals that in expectation the

proposal is equally beneficial for the relevant pivot as is the status quo. The following strategies and

beliefs constitute a PBE[11]:

*The equilibrium proposal strategy*

$$\ell^*(\omega) = \begin{cases} c - \omega & s \leq 4p - 3c \\ \ell_0 + 4(c - p) & 4p - 3c < s \leq 2p - c \\ \ell \in ]\ell_0, \ell_0 + 4(c - p)[ & 2p - c < s \leq c \\ \ell \in ]\ell_0 - 4(b - c), \ell_0[ & c < s < 2b - c \\ \ell_0 - 4(b - c) & 2b - c \leq s \leq 4b - 3c \\ c - \omega & s > 4b - 3c \end{cases}$$

*The equilibrium beliefs about ω*

$$g^*(\ell) = \begin{cases} c - \ell & \ell \geq \ell_0 + 4(c - p) \\ [4p - 3c - \ell_0, 2p - c - \ell_0] & \ell = \ell_0 + 4(c - p) \\ ]2p - c - \ell_0, c - \ell_0] & \ell_0 < \ell < \ell_0 + 4(c - p) \\ ]c - \ell_0, 2b - c - \ell_0[ & \ell_0 - 4(b - c) < \ell < \ell_0 \\ [2b - c - \ell_0, 4b - 3c - \ell_0] & \ell = \ell_0 - 4(b - c) \\ c - \ell & \ell < \ell_0 - 4(b - c) \end{cases}$$

*The equilibrium amendment strategies*

$\lambda_P^*(\ell)$: if in any belief interval the expected outcome of the Commission's proposal $\ell$ is outside

of $[p, b]$, propose the amendment that has expected outcome closest to $p$ and is acceptable to $B$.

$w_I^*(\lambda, \ell), I \in \{A, B\}$: in any belief interval, accept an amendment $\lambda$ if its expected outcome is

closer to $i$ than the expected outcome of the Commission's proposal $\ell$.

*The equilibrium voting strategies*

$$v_A^*(\ell) = v_B^*(\ell) = v_P^* = \begin{cases} 0 & \ell \in ]\ell_0 - 4(b - c), \ell_0[ \cup ]\ell_0, \ell_0 + 4(c - p)[ \\ 1 & \text{otherwise} \end{cases}$$

*The equilibrium outcome is:*

$$x^*(\omega) = \begin{cases} c & s \leq 4p - 3c \\ s + 4(c - p) & 4p - 3c < s \leq 2p - c \\ s = \ell_0 + \omega & 2p - c < s \leq 2b - c \\ s - 4(b - c) & 2b - c < s \leq 4b - 3c \\ c & s > 4b - 3c \end{cases}$$

We derive the expected utilities in the Appendix. In particular they can be characterized as follows:

$$E\left[u_I^{Cod}\right] = -(c-i)^2 - \sigma_\omega^2\left[\left(4(c-p)\right)^3 + \left(4(b-c)\right)^3\right]$$
$$= -\left(\frac{b-p}{2}\right)^2 - 16\sigma_\omega^2(b-p)^3 \tag{6}$$

The interpretation of this equilibrium is similar to the interpretation of the equilibrium under consultation defined in Proposition 1. The difference is that here there are two pivotal legislators instead of one. An illustration of the equilibrium is provided in Figure 3.

**Figure 3 about here**

The interpretation of intervals $I, IV, V$ and $VI$ is the same as in the corresponding intervals $I, II, III$ and $IV$ in Figure 2. In interval $II$ ($III$) the reasoning is similar to that in interval $V$ ($IV$).

**Scenario 2** If $p < a < b$ and a Commission is appointed with $\frac{b+p}{2} \le c \le \frac{8p+4b+0.5}{11}$, we end up in the second scenario. Figure 4 illustrates the equilibrium for this scenario. The Commission is farther away from the EP than it is in scenario 1. As a result it cannot credibly transmit as much information to the EP, and intervals $IV$ and $V$, where the Commission does not obtain its ideal outcome, are larger than their equivalent intervals in Figure 3. Moreover there are two extra intervals, intervals $II$ and $III$. In scenario 1 these two intervals are part of interval $I$. Under scenario 2 the Commission cannot obtain its ideal outcome in these intervals, however. In interval $III$ it proposes the same policy as in interval $IV$, because otherwise member state $B$ would amend the Commission's proposal in interval $IV$. In equilibrium there are no amendments. In interval $II$ the Commission cannot obtain its ideal outcome either, because it would then pretend to be in interval $II$ when it is in interval $III$.

**Figure 4 about here**

We derive the expected utilities in the Appendix. They can be characterized as follows:

$$E\left[u_I^{Cod}\right] = -(c-i)^2 - \sigma_\omega^2\left[\left(4(c-p)\right)^3 + \left(4(b-c)\right)^3 + \left(4(2c-p-b)\right)^3\right] \quad (7)$$

There is more information pooling in scenario 2 than there is in scenario 1. This leads to more variation in the outcomes, and is reflected in the extra term $-\sigma_\omega^2\left(4(2c-p-b)\right)^3$ in the expected utilities of the legislators.

**Scenario 3** If $p < a < b$ and $\frac{8p+4b+0.5}{11} < c \le \frac{6p+2b+0.5}{7}$, we end up in the third scenario. In this scenario the Commission is so far away from member state $A$ that it cannot move policy far enough to the right to obtain its ideal outcome. As a result intervals $I$ and $II$ from Figure 4 disappear under this scenario. The expected utilities can be characterized as follows:

$$E\left[u_I^{Cod}\right] = -[0.5 - 4p + 3c](c-i)^2 - [0.5 + 4p - 3c](-0.25 - 2p + 2.5c - i)^2$$
$$= -\sigma_\omega^2\left[\left(4(c-p)\right)^3 + \left(4(b-c)\right)^3 + \left(4(0.125 + p - 0.75c)\right)^3\right] \quad (8)$$

**Scenario 4**. If $p < a < b$ and $c > \frac{6p+2b+0.5}{7}$, we end up in the fourth scenario. The Commission is so far away that there is no more information transmission. There is a pure pooling equilibrium, and the status quo prevails. The expected utilities then are:

$$E\left[u_I^{Cod}\right] = -i^2 - \sigma_\omega^2 \quad (9)$$

# 4.  The Commission Appointment Equilibrium

We first briefly consider Commission appointment under complete information, as studied by Crombez and Hix (2011). In simplified one-dimensional versions of these multi-dimensional models,

any Commission successfully proposes the policy it prefers most from among the policies in the win set, as seen above. For that reason the member state that gets to propose the Commission median $c$ can do no better than to choose a $C$ with ideal policy equal to its own, whether consultation or codecision is used in the legislative process. Given the absence of binding changes to the Commission's appointment process, the Lisbon Treaty thus has no impact on the type of Commission that is appointed in a complete information world.

In the remainder of this section we study how asymmetric information in the legislative process shapes the preferences of legislators with regards to the type of Commission they appoint. We show that, as the codecision procedure is used more often, preferences over the Commission's type shift in the direction of the median MEP's ideal $p$.

Figure 5 illustrates the legislators' expected utilities as a function of the location of the Commission. The utilities under consultation are represented in the upper part of the Figure, whereas those under codecision are in the lower part. In the Figure the median MEP is the left pivot, i.e. $p < a$. In particular $a = 0, b = 0.05$ and $p = -0.05$.

** Figure 5 about here **

Country B's utility function is indicated by a solid line, Country $A$'s by a grey dotted line and the median MEP's by a dashed line. The horizontal axis shows the median Commissioner's ideal point $c$, whereas the vertical axis reflects expected utilities. As the legislative procedure shifts from consultation to codecision, the ideal Commissions of member states $A$ and $B$ shift toward $p$, because the EP becomes pivotal, and toward a moderate Commission with ideal policy outcome $\frac{b+p}{2}$, because extreme Commissions pool more information to prevent amendments. One can see this illustrated in Figure 5 or directly from the expected utility functions provided in the previous section.

Actor $I$'s ideal Commission under consultation is the maximizer of its expected utility function. The utility functions are the composite of (4) for $c \leq a$ and (5) for $a < c < b$. From these functions, one can see that the ideal Commission of legislator $I$ reflects both the Commission's distributional/agenda-setting role (presence of $(c - i)^2$ in the expressions) and its informational role (presence of the second terms starting with $\sigma_\omega^2$). In a complete information model, only the distributional role matters and legislator $I$ prefers $c = i$. In the presence of private Commission information, a Commission away from the pivotal player(s) leads to decreased information transmission and inefficient variation of the outcomes. This has a moderating effect on legislators' ideal commissions.

The top of Figure 5 illustrates the Commission's two conflicting roles. On the one hand $C$ proposes a policy and legislator $I$ likes this policy to be closer to its ideal $i$. This creates a desire to appoint a Commission that is close to $i$. On the other hand, the Commission's proposals provide information to the pivotal player(s) $B$ (if $c \leq a$) or $B$ and $A$ (if $c > a$). The further $C$ is from the pivotal player(s), the lower the information transmission is in equilibrium. This moderates the incentive to appoint an extreme Commission.

The bottom of Figure 5 is more complex. The discontinuous jumps in expected utility reflect the changing nature of the codecision equilibrium as $c$ changes from scenario 1 to scenario 4. As we have shown in the previous section, equilibrium information transmission decreases as $c$ becomes more extreme. Note that since $p = -b$, the utilities for $P$ and $B$ are mirror images of each other.

Under codecision the median MEP must approve proposals to get them adopted. Therefore both the member states and the EP prefer the EP to be more informed. In addition, the potential for amendments under codecision gives all legislators an incentive to appoint a Commission close to $\frac{b+p}{2}$. More extreme Commissions would pool more information to prevent amendments, leading to inefficient variations in outcomes. Both appointing bodies thus prefer the other to be well informed

over having a Commission that perfectly corresponds to their own ideal outcomes. As under consultation, informational incompleteness has a moderating effect.

Given the expected utilities from each Commission type $c$, deriving the appointment equilibrium is easy. The member state selected to propose the Commission median $c$ will propose its utility-maximizing Commission, which takes into account the informational cost if it appoints an extreme Commission. The proposed Commission will always be accepted: rejecting it leads to the status quo policy prevailing, with a high variance in outcomes and the same minimal utilities as in a pure pooling equilibrium.

The shift in ideal Commissions hence implies that, in the presence of incomplete information, the Lisbon Treaty does have an impact on the appointed Commission – even in the absence of binding changes to the appointment procedure. The equilibrium Commission changes because the increased use of codecision makes it more important for all legislators that the median MEP trusts the Commission so that information can be transmitted in equilibrium. This is achieved by appointing a Commission that is relatively closer to $P$. In addition, the country selected to propose a Commission has an incentive to appoint a Commission close to $\frac{b+p}{2}$ because of the potential for amendments. Our findings are summarized in Proposition 3 and its Corollary.

**Proposition 3** Under incomplete policy information the member states and the EP have incentives to appoint a Commission that is closer to the EP and the midpoint between the EP's position and that of the pivotal member state when codecision is used in the legislative process than when consultation is used.

**Corollary** Since the Lisbon Treaty has expanded the use of codecision, Commissions appointed under the Lisbon Treaty are likely to have ideal outcomes $c$ closer to the EP's median ideal outcomes $p$, for given EP and member state preferences, and for a given proposer in the appointment process.

# 5.  Recent Commissions

In this section we discuss how the empirical reality corresponds with our theory. Given the limited number of appointed Commissions since Lisbon, no statistically significant analyses are possible. First, we discuss how our theory sheds an interesting light on the so-called "Spitzenkandidaten Coup". Second, we study how the ideological positions of EU actors fit with our theory for the past eight Commissions.

## 5.1. The Spitzenkandidaten Coup

*"Klaus Welle (…) [and] Martin Schulz (…) worked to stretch to the widest limit the key – and, crucially, loose – wording in the EU Treaty on choosing the next European Commission president. The new rules – saying the commission president should be chosen "taking into account" the European election results – were to be applied for the first time in the May EU elections. But while member states read the article and assumed a happy continuation of the practice of yesteryear - a behind-closed-doors huddle of EU leaders to pick a president who ruffled the fewest feathers - the parliament had very different ideas."  (H. Mahony in EU Observer, 4 Jan. 2015)*

Our theory offers an interesting perspective on the appointment of the Juncker Commission, and more specifically the way in which Juncker was nominated as President of the Commissionin 2014. In the press the proceedings have been described as the *Spitzenkandidaten Coup* (Mahony, 2015). As *The Economist* wrote: "In a dubious attempt to make the EU more democratic, the main political groups in the European Parliament have decided to promote "lead candidates" (most use the German term, *Spitzenkandidaten*) for the presidency of the powerful European Commission" (Economist, 2014). Juncker was the candidate put forward by the European People's Party (EPP), which emerged as the

largest party from the 2014 EP election. In spite of British resistance the Council indeed nominated Juncker, who was then approved by the EP.

Our theory comports well with the fact that the Council ultimately seems to have accepted the system of the Spitzenkandidaten.[12] Indeed, we have shown that, *irrespective of whether the Lisbon Treaty did or did not change the appointment procedure*, the increased use of codecision means that the legislators have incentives to appoint a Commission that is closer to the EP. This could explain why the member states accepted the EP's "coup". The coup was not a coup at all, but rather an evolution in the appointment process that was in the interest of the EP as well as the member states.

More generally, our theory is an example of how preferences and rules combine to generate outcomes. When studying political decisions, commentators sometimes overemphasize the role of rules and neglect preferences, which may have a countervailing or reinforcing effect.

## 5.2. Data

In this section, we look at data on ideal policies for the past eight Commissions: Delors I (1985-1989), Delors II (1989-1993), Delors III (1993-1995), Santer (1995-1999), Prodi (1999-2004), Barrosso I (2004-2009), Barrosso II (2009-2014), Juncker (2014-present). In particular, we look at the position of the actors in our model on a left-right scale. The data for the Commissions Delors, Santer, Prodi and Barrosso I were taken from Crombez and Hix (2015). The data for Barrosso II and Juncker were derived from the same source data and using the same methods.

While Crombez and Hix (2015) provide an in-depth data description, we provide the most important information only as far as it is needed to reconstruct the data. The source of the data is the ParlGov dataset, which contains information on party and government compositions (Döring and Manow 2014; see parlgov.org).[13] We use the variable "left_right", which estimates the positions of

political parties on a 0-10 left-right scale. For each Commission we determine the positions of the EP and member states just after the EP elections.

First, we compute the position of the pivotal players *A* and *B* in the Council. We assume that each country's position corresponds well to the positions of the parties in government, weighted by their number of seats in the national government cabinet. The pivotal players are then determined using the appropriate QMV threshold. For the EP we assume that the position of each MEP corresponds well to the position of their national party. *P* is the position of the median MEP. For the Commission we assume that the position of each Commissioner corresponds well to the position of his national party. [14] The position of *C* is the median of Commissioner positions. The results are represented in Table 2.

** Table 2 about here**

Given the frequent and gradual institutional changes in the EU, care needs to be taken when interpreting the data in Table 2. Our theory is about the change from consultation to codecision, and the impact this has on legislators' preferences over Commission types. Codecision was introduced with the Maastricht Treaty (first affecting the Santer Commission), and its use was increased until it was made the OLP in the Lisbon Treaty (first affecting the Juncker Commission).

Our theory predicts that over time, ceteris paribus, the legislators' ideal Commissions have shifted in the direction of the EP. The problem with interpreting the data is the ceteris paribus qualifier: there are two types of changes other than the move from consultation to codecision. First, legislators' absolute and relative positions have changed across legislatures. Second, the appointment rules have also changed.

Two additional elements should be taken into account when interpreting the results. First, the data are prone to measurement errors and all usual caveats related to expert judgments. Second, the ideal Commission of each legislator depends not only on legislators' left-right positions, but also on the severity of the information problem. In our model, we have standardized $\omega$ to have a uniform distribution over $[0,1]$. Empirically, no estimates are available about the actual variance of $\omega$.

Due to all of these concerns, it is very hard to draw conclusions from the empirical evidence, especially given the limited number of observations. The only thing that is clear from Table 2 is that the appointed Commission is always in the support of the pivotal legislators. In models with complete information, Commissions outside of this support could also be appointed, although they would be equivalent to Commissions on the boundary (Crombez and Hix 2011). In our model, informational concerns generate moderating effects on each legislator's preferred Commission. Hence the observation that appointed Commissions are always in the support of the pivotal legislators is consistent with our theory.

Looking at Table 2, one clear contrast is between the Commissions Delors III (1993-1995) and Santer (1995-1999). For these two Commissions, the relative positions of $a, p, b$ are the same as in the exposition of our results: $p < a < b$. Comparing Delors III and Santer, the appointed Commission shifted dramatically in the direction of the EP. With the Maastricht Treaty, signed in 1992, the EP gained a veto over the entire Commission – a plausible explanation for the shift in the EP's direction. However, an alternative (and complementary) explanation is the fact that with Maastricht the codecision procedure was introduced. As we have argued, informational concerns produce a shift in the direction of the EP as consultation is replaced with codecision.

# 6. Conclusions

This paper looks into the impact of the legislative procedure on legislators' preferences in the Commission's appointment and the resulting appointment equilibrium. We find that, even though the Lisbon Treaty does not impose binding changes in the appointment procedure, future Commissions are likely to better reflect the EP's preferences versus before the introduction and extension of codecision.

The intuition behind this result is that legislators, the EP and the member states, need information to make decisions. They obtain information about the consequences of policy from the Commission's proposals. The Commission thus fulfills a double role: it is both an agenda setter and an information provider. If the ideological difference between a given legislator and the Commission is large, that legislator will not easily trust the Commission's information and the informational efficiency of the legislative equilibrium will be hampered. Under consultation only the Council votes on the Commission's proposals and therefore only the member states require information to defeat the status quo. Both the EP and the member states thus prefer a more informed Council over a less informed one. The Lisbon Treaty expands the use of the codecision procedure. As a result, both the EP and the member states prefer a relatively more informed EP versus before and hence a Commission closer to the EP than under consultation.

The available empirical evidence, while scarce and difficult to interpret, is consistent with our theory. In addition, our theory may explain why the member states accepted the so-called *Spitzenkandidaten Coup* during the appointment of the Juncker Commission in 2014. In this "coup", the EP claimed more rights in the appointment process than granted by the Treaties. Rather than an exogenous power grab by the EP, this event may simply reflect that under codecision the member states also want the EP to be informed. This requires a Commission that reflects the EP's preferences better than it did before the introduction and extension of codecision.

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# 8.  Tables and Figures

*Table 1. EU reforms and their impact on EP rights in the legislative process and Commission appointment.*

| Treaty | Effect | Legislative process | Commission appointment | Commissions |
|---|---|---|---|---|
| Pre-SEA | | Consultation | Council appoints by common accord | |
| SEA[15] | 1987 | Introduction of cooperation and assent (EP veto), and QMV | - | Delors II (89-93)<br>Delors III (93-95) |
| Maastricht | 1993 | Introduction of codecision and increased use of QMV | EP gains veto on Commission | Santer (95-99) |
| Amsterdam | 1999 | Increased use of codecision and QMV, and modification of the former | EP gains veto on Commission President | Prodi (99-04) |
| Nice | 2003 | Increased use of codecision and QMV | Council nominates by QMV | Barroso I (04-09)<br>Barroso II (09-14) |
| Lisbon | 2009 | Increased use of codecision (now OLP) and QMV | Council nominates "taking into account" EP elections | Juncker (14-...) |
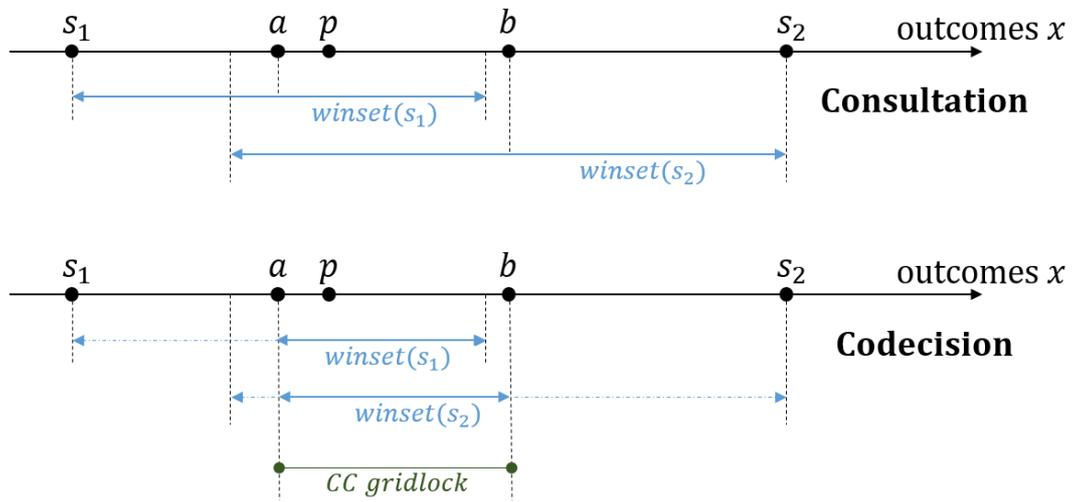
*Figure 1. Win sets under consultation and codecision.*
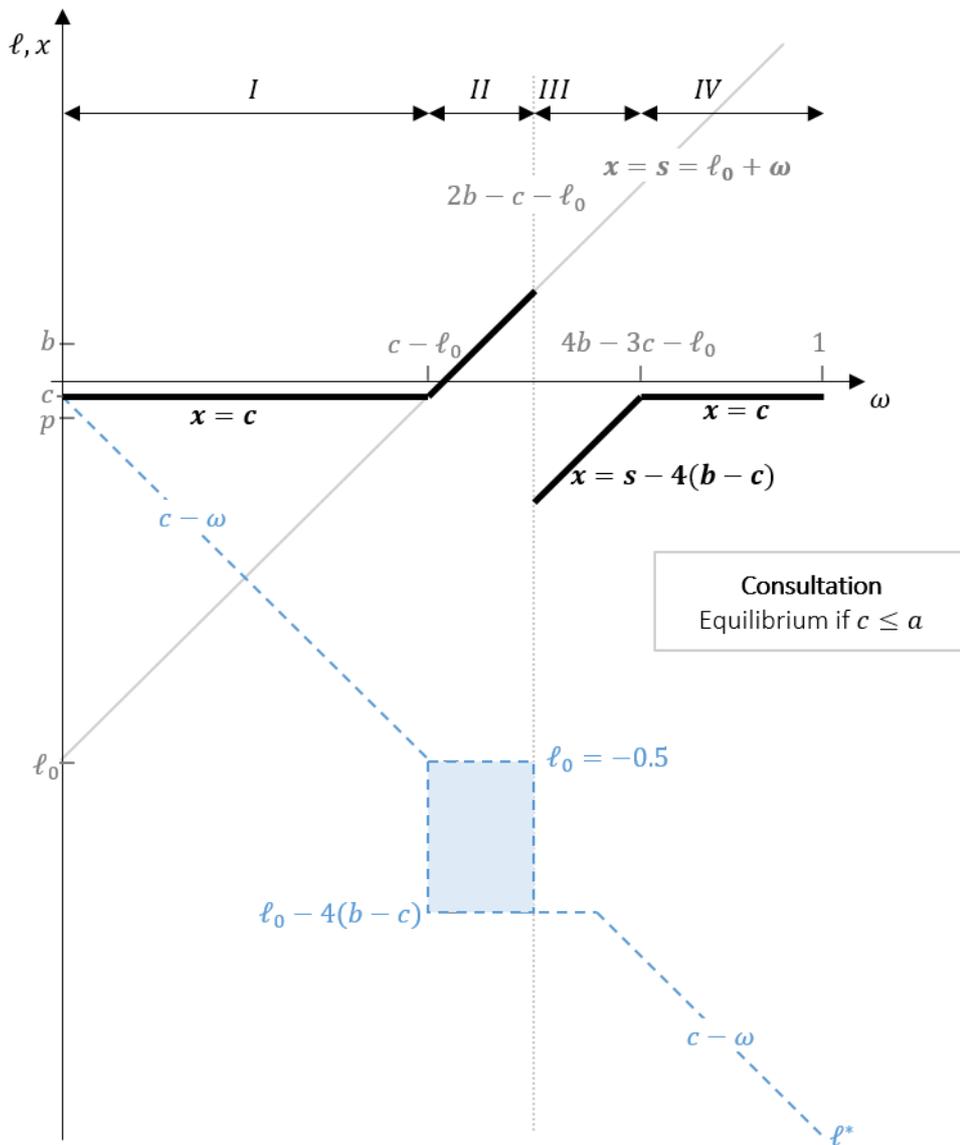
*Figure 2. Legislative equilibrium under consultation, $c \leq a$ so that only B is pivotal.*
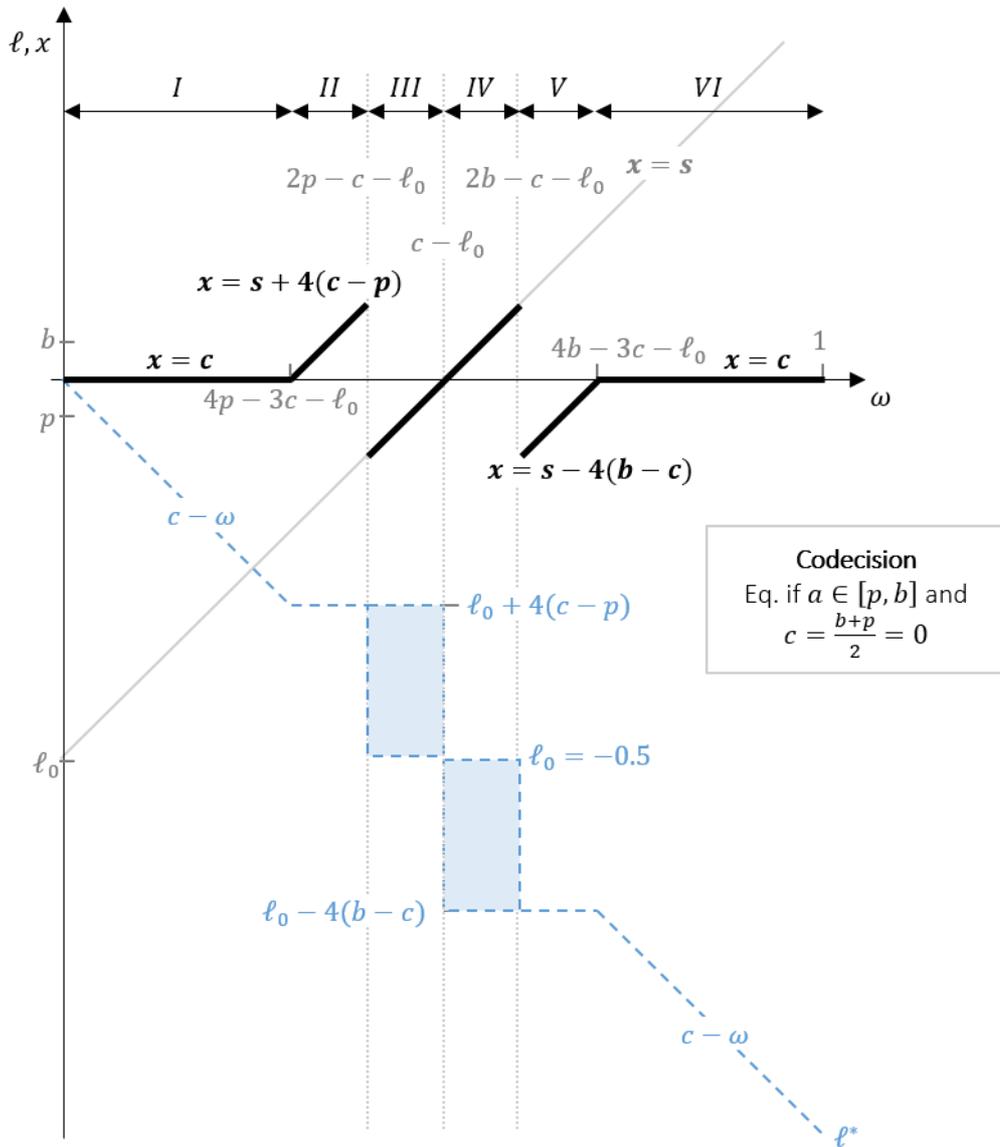
*Figure 3. Legislative equilibrium under codecision scenario 1.*
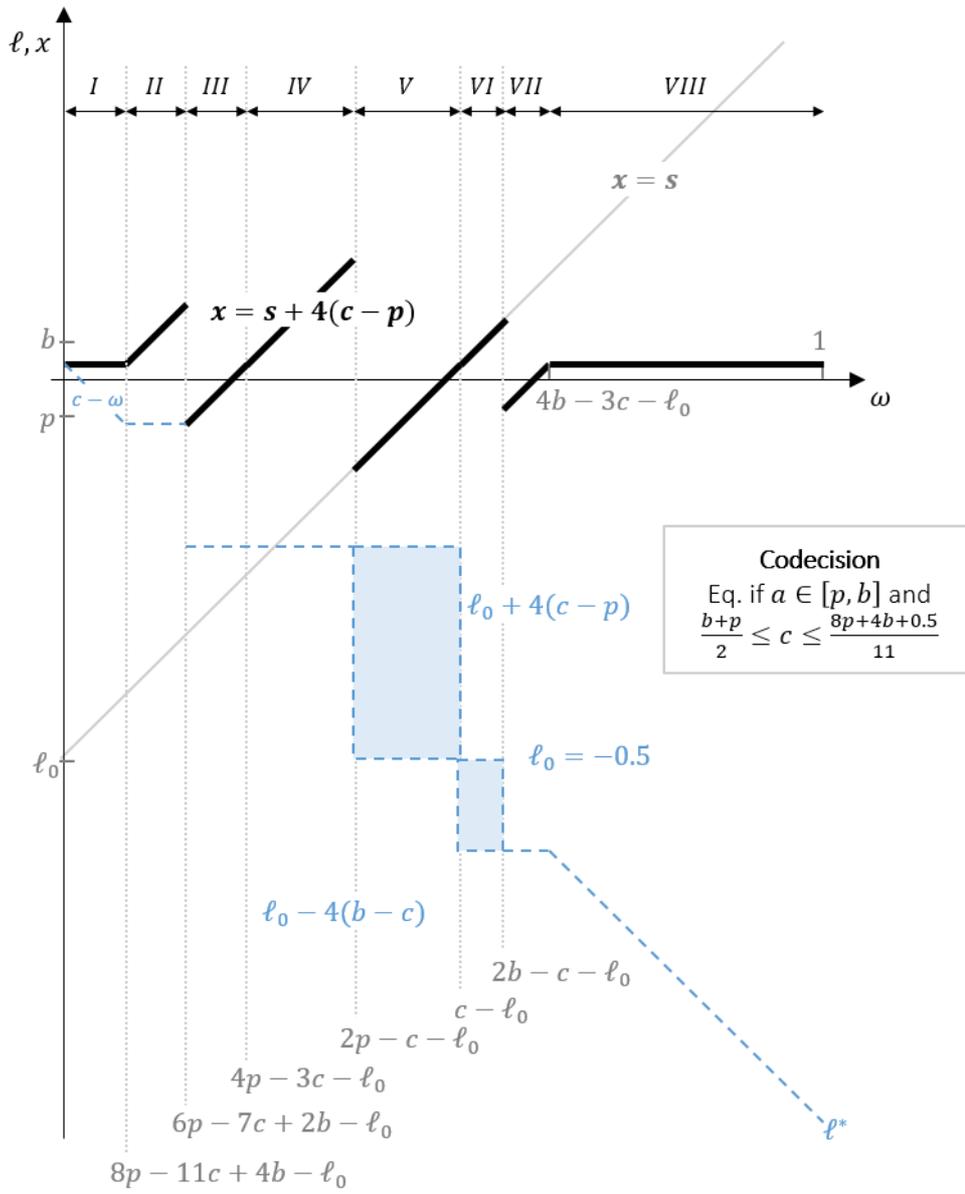
*Figure 4. Legislative equilibrium under codecision scenario 2.*
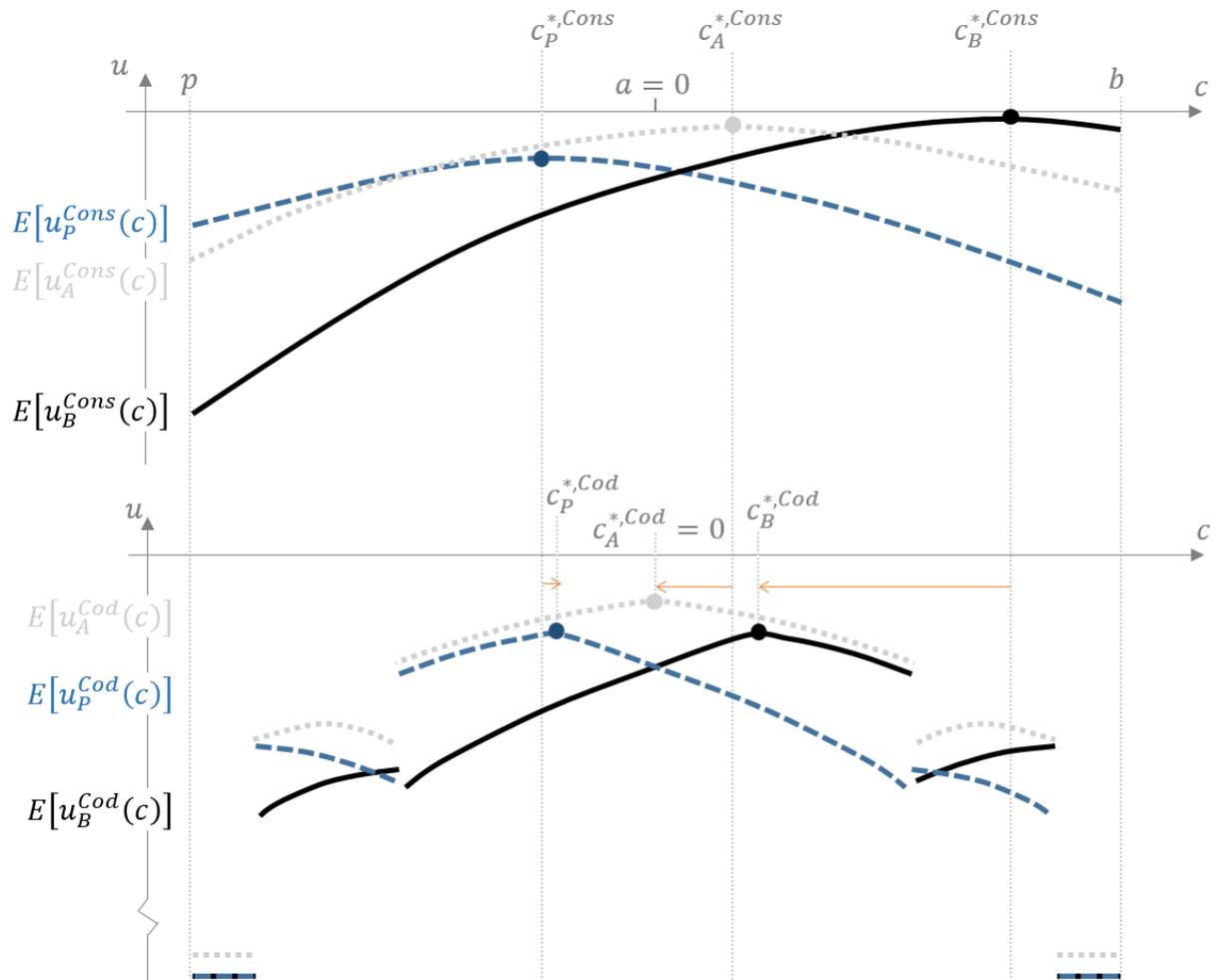
*Figure 5. Expected utilities and ideal points under consultation and codecision.*

*Table 2. Left-right positions of EU actors on a 0-10 scale.*

| | $p$ | $a$ | $b$ | $S$ | $c$ |
|---|---|---|---|---|---|
| Commission | EP median | Council Left Pivot | Council Right Pivot | Support of pivotal legislators[16] | Commission median |
| Delors I | 5.7 | 3.3 | 7.3 | (3.3,7.3) | 5.7 |
| Delors II | 5.7 | 4.3 | 6.6 | (4.3,6.6) | 5.8 |
| Delors III | 4.3 | 4.7 | 6.4 | (4.7, 6.4) | 6 |
| Santer | 4.2 | 4.9 | 6.9 | (4.2, 6.9) | 4.3 |
| Prodi | 4.8 | 3.5 | 4.7 | (3.5, 4.8) | 4.2 |
| Barrosso I | 5.8 | 3.7 | 6.4 | (3.7, 6.4) | 5.7 |
| Barrosso II | 6.0 | 4.4 | 7.2 | (4.4, 7.2) | 6.3 |
| Juncker | 6.0 | 3.4 | 6.3 | (3.4, 6.3) | 6.3 |

# 9. Appendix

## 9.1. Lemma 1

**Lemma 1** (Euclidean utility with symmetric outcomes). Assume agent $I$ has ideal outcome $i$ and derives Euclidean utility from outcomes $x$, so that $E[u_I] = E[-(x-i)^2]$. Further assume that over an interval of width $d$, outcomes have slope 1 and are symmetric around outcome $\alpha$. Define $\omega \sim U[0,1]$ so that $\sigma_\omega^2 = \frac{1}{12}$. Then $E[u_I] = -d(i-\alpha)^2 - \sigma_\omega^2 d^3$, i.e. the expected utility has two components: (i) a penalty for the distance between the ideal outcome and the average outcome, proportional to $d$ and to $(i-\alpha)^2$ and (ii) a penalty for the variation of the outcome, proportional to $d^3$.

Proof of Lemma 1

$$\int_{\alpha-d/2}^{\alpha+d/2} -(x-i)^2 dx = \int_{-d/2}^{d/2} -\left(x-(i-\alpha)\right)^2 dx = -\left[\frac{x^3}{3} - x^2(i-\alpha) + x(i-\alpha)^2\right]_{x=-d/2}^{d/2}$$

$$= -\frac{d^3}{12} - d(i-\alpha)^2 = -d(i-\alpha)^2 - \sigma_\omega^2 d^3 \quad \text{[QED]}$$

## 9.2. Proof of Proposition 1 [consultation with one pivotal voter]

There are three equilibrium conditions (based on Gilligan and Krehbiel, 1987 p.330): (1) given $v_I^*(\cdot)$, $\ell^*(\cdot)$ maximizes $E[u_C]$; (2) given $g^*(\cdot)$, $v_I^*(\cdot)$ maximizes $E[u_I]$; and (3) the beliefs $g^*(\cdot)$ are consistent.

Crawford and Sobel (1982, p.1437) show that for (1), it is necessary and sufficient that the proposer be indifferent at the boundary points between intervals. In the proposed equilibrium, the equilibrium outcome has only one jump at $s = 2b - c$; it jumps from $2b - c$ to $2b - c - 4b - 4c =$

$-2b + 3c$. Since $2b - c$ is symmetrically across $c$ from $-2b + 3c$, it is clear that $u_C(2b - c) = u_C(-2b + 3c)$, which proves (1).

For (2), we prove that it is optimal for legislator $I$ to vote as in the proposed equilibrium. Under consultation, $P$'s vote has no impact so he is indifferent between voting yes or no. Hence we need to show optimality only for $I = \{A, B\}$:

- For $\ell \geq \ell_0$ or $\ell < \ell_0 - 4(b - c)$, $g^*(\ell) = \ell_0 + c - \ell$ which implies $s \leq c$ or $s > 4b - 3c$. It is optimal to accept ($v_I^*(\ell) = 1$) since under the equilibrium beliefs $u_I(c) \geq u_I(s)$.

- For $\ell_0 - 4(b - c) < l < \ell_0$, $g^*(\ell) = ]c - \ell_0, 2b - c - \ell_0[$ and it is optimal for B to reject ($v_B^*(\ell) = 0$), given that the status quo $\ell_0$ maximizes $\int_{c-\ell_0}^{2b-c-\ell_0} -(\ell + \omega - b)^2 d\omega$ as a function of $\ell$. Given B's rejection, A's vote is indifferent.

- For $\ell = \ell_0 - 4(b - c)$, $g^*(\ell) = [2b - c - \ell_0, 4b - 3c - \ell_0]$ and $\int_{2b-c}^{4b-3c} -(s - 4(b - c) - i)^2 ds \geq \int_{2b-c}^{4b-3c} -(s - i)^2 ds$ with equality for $I = B$ and strict inequality for A.

Condition (3) is fulfilled since the equilibrium beliefs have been specified as $g^*(\ell) = \{\omega | \ell = \ell^*(\omega)\}$.

Since conditions (1), (2) and (3) are satisfied, the proposed combination of strategies and beliefs constitutes a Perfect Bayesian Equilibrium.    [QED]

### 9.2.1. Utility under Proposition 1 [consultation with one pivotal voter]

We integrate expected values over $s \sim U[-0.5, 0.5]$ instead of over $\omega \sim [0,1]$. For utility under Proposition 2, the derivation is similar to Gilligan and Krehbiel (1987, p.333). Our Lemma 1 facilitates the computations and interpretation.

$$E[u_I^{Cons}] = E[-(x - i)^2] = E[-(x - i)^2]$$
$$= -\int_{-0.5}^{c} (c - i)^2 ds$$
$$- \int_{c}^{2b-c} (s - i)^2 ds - \int_{2b-c}^{4b-3c} (s - 4(b - c) - i)^2 ds - \int_{4b-3c}^{0.5} (c - i)^2 ds$$

$$= -(c - i)^2[c + 0.5 + 0.5 - 4b + 3c] - \int_{-2b+3c}^{2b-c} (s - i)^2 \, ds$$

By applying Lemma 1 to the last term,

$$= -(c - i)^2[1 - 4b + 4c] - (c - i)^2[4b - 4c] - \sigma_\omega^2[4(b - c)]^3$$
$$= -(c - i)^2 - \sigma_\omega^2[4(b - c)]^3 = -(c - i)^2 - \frac{16}{3}(b - c)^3$$

## 9.3. Proof of Proposition 3 [codecision Scenario 1]

The equilibrium conditions are the same as for Proposition 1, augmented for $P$ and for optimality of the amendment strategies. The proof is similar to the proof of Proposition 1 since in equilibrium no amendments will be proposed.

In the proposed equilibrium, the outcome has two jumps: one at $s = 2p - c$ and one at $s = 2b - c$. The outcome jumps from $-2p + 3c$ to $2p - c$, and from $2b - c$ to $-2b + 3c$. Since both jumps are symmetric across $c$, the Commission has no incentive to cheat, which proves (1).

For condition (2), we first show that no amendments will be proposed in equilibrium. In intervals $I$ and $VI$, the outcome is equal to $c$, which is clearly in the Conciliation Committee gridlock interval. For the remaining belief intervals, the expected outcome is also always in the gridlock interval: it is exactly $b$ in intervals $II$ and $IV$, and exactly $p$ in intervals $III$ and $V$. This is also the reason why the equilibrium is only valid for $c = \frac{b+p}{2}$. Otherwise the expected outcome in belief interval $II$ or $V$ would be outside of the Conciliation Committee gridlock interval $[p, b]$.

To finish the proof of (2), we prove that it is optimal for legislator $I$ to vote as in the proposed equilibrium. Under codecision, we need to show optimality for $I = \{A, B, P\}$:

- For $\ell \geq \ell_0 + 4(c - p)$ or $\ell < \ell_0 - 4(b - c)$, $g^*(\ell) = c + \ell_0 - \ell$ which implies $s \leq 4p - 3c$ or $s > 4b - 3c$. It is optimal to accept ($v_I^*(\ell) = 1$) since under the equilibrium beliefs $d(c, i) \leq d(s, i)$.

- For $\ell = \ell_0 + 4(c - p)$, $g^*(\ell) = [4p - 3c, 2p - c]$ and $\int_{4p-3c}^{2p-c} -(s + 4(c-p) - i)^2 ds \geq$

  $\int_{4p-3c}^{2p-c} -(s - i)^2 ds$ with equality for $I = P$ and strict inequality for $A$ and $B$.

- For $\ell_0 < l < \ell_0 + 4(c - p)$, $g^*(\ell) =]2p - c, c]$ and it is optimal for $P$ to reject $(v_P^*(\ell) = 0)$,

  given that the status quo $\ell_0$ maximizes $\int_{2p-c-\ell_0}^{c-\ell_0} -(\ell + \omega - p)^2 d\omega$ as a function of $\ell$. Given

  $P$'s rejection, $A$ and $B$'s vote are indifferent.

- For $\ell_0 - 4(b - c) < l < \ell_0$, $g^*(\ell) =]c, 2b - c[$ and it is optimal for $B$ to reject $(v_B^*(\ell) = 0)$,

  given that the status quo $\ell_0$ maximizes $\int_{c-\ell_0}^{2b-c-\ell_0} -(\ell + \omega - b)^2 d\omega$ as a function of $\ell$. Given

  $B$'s rejection, $A$ and $P$'s vote are indifferent.

- For $\ell = \ell_0 - 4(b - c)$, $g^*(\ell) = [2b - c, 4b - 3c]$ and $\int_{2b-c}^{4b-3c} -(s - 4(b-c) - i)^2 ds \geq$

  $\int_{2b-c}^{4b-3c} -(s - i)^2 ds$ with equality for $I = B$ and strict inequality for $A$ and $P$.

Condition (3) is fulfilled since the equilibrium beliefs have been specified such that $g^*(\ell) = \{\omega | \ell = \ell^*(\omega)\}$.

### 9.3.1. Utility under Proposition 3 [codecision Scenario 1]

$$E\left[u_I^{Cod}\right] = E[-(x - i)^2] = -E[(x - i)^2]$$

$$= -\int_{-0.5}^{4p-3c} (c - i)^2 ds - \int_{4p-3c}^{2p-c} (s + 4(c-p) - i)^2 \, ds - \int_{2p-c}^{c} (s - i)^2 ds - \int_{c}^{2b-c} (s - i)^2 ds$$

$$- \int_{2b-c}^{4b-3c} (s - 4(b-c) - i)^2 \, ds - \int_{4b-3c}^{0.5} (c - i)^2 ds$$

$$= -(c - i)^2 (1 + 4p - 4b) - \int_{2p-c}^{-2p+3c} (s - i)^2 ds - \int_{-2b+3c}^{2b-c} (s - i)^2 ds$$

By applying Lemma 1, we find:

$$E\left[u_I^{Cod}\right] = -(c - i)^2 - \sigma_\omega^2 \left[(4(c - p))^3 + (4(b - c))^3\right]$$

Given that $c = \frac{b+p}{2}$, this reduces to: $E\left[u_I^{Cod}\right] = -\left(\frac{b-p}{2}\right)^2 - 16\sigma_\omega^2 (b - p)^3$.

## 9.4. Codecision Scenario 2

The proof is analogous to the proof of Proposition 3; we omit the fully analogous steps. The structure of this equilibrium is such that the expected outcome over belief interval $III - IV$ is just within the Conciliation Committee gridlock interval, i.e. in $[b, p]$. Indeed, it is easy to check that the middle of $[6p - 7c + 2b, 2p - c]$ is $[4p - 4c + b]$, and that the outcome at this point is $4p - 4c + b + 4c - 4p = b$.

For the equilibrium to be valid, the starting point of interval $II$ has to be greater than $-0.5$. That is: $8p - 11c + 4b \geq -0.5 \Leftrightarrow c \leq \frac{8p + 4b + 0.5}{11}$.

### 9.4.1. Utility in Scenario 2

The overall expected outcome is $c$. As under Proposition 2, Lemma 1 can be applied to the intervals $II - III, IV - V$ and $VI - VII$. The result is $E\left[u_I^{Cod}\right] = -(c - i)^2 - \sigma_\omega^2 \left[\left(4(c - p)\right)^3 + \left(4(b - c)\right)^3 + \left(4(2c - p - b)\right)^3\right]$.

## 9.5. Codecision Scenario 3

The proof is again analogous to the proof of Proposition 3. For this equilibrium to be valid, the expected outcome over belief interval $I - II$ has to be within the Conciliation Committee gridlock interval, i.e. in $[b, p]$. The middle of $[-0.5, 2p - c]$ is $-0.25 + p - 0.5c$, and the outcome at this point is $-0.25 + p - 0.5c + 4c - 4p = -0.25 - 3p + 3.5c$. For this outcome to be within $[p, b]$, it has to be the case that $-0.25 - 3p + 3.5c \leq b \Leftrightarrow c \leq \frac{6p + 2b + 0.5}{7}$.

### 9.5.1.  Utility in Scenario 3

The expected outcome is $c$ over intervals $II - VI$. Over interval $I$, the expected outcome is $-0.25 + 2p + 2.5c$. The width of interval I is $4p - 3c - (-0.5) = 0.5 + 4p - 3c$. Lemma 1 can be applied to intervals $I, II - III$ and $IV - V$, with the following result:

$$E\left[u_I^{Cod}\right] = -[0.5 - 4p + 3c](c - i)^2 - [0.5 + 4p - 3c](-0.25 - 2p + 2.5c - i)^2$$
$$- \sigma_\omega^2 \left[\left(4(c - p)\right)^3 + \left(4(b - c)\right)^3 + \left(4(0.125 + p - 0.75c)\right)^3\right]$$

## 9.6. Codecision Scenario 4

If $c > \frac{6p + 2b + 0.5}{7}$, only a pooling equilibrium remains. Looking at the equilibrium under Scenario 3, as the expected outcome over interval $I - II$ goes above $b$, the equilibrium unravels.

### 9.6.1.  Utility in Scenario 4

By applying Lemma 1, it is easy to see that $E\left[u_I^{Cod}\right] = -i^2 - \sigma_\omega^2$.

[1] The member states in the Council can also unanimously amend Commission proposals under both consultation and codecision. For simplicity we ignore this in our model. This does not affect our conclusions.

[2] It could be argued that due to the Amsterdam reform of codecision the Commission no longer has formal powers under this procedure, because the Commission and its proposal no longer play a role when representatives of the Council and EP meet to work out a compromise in the Conciliation Committee. See, for example, Garrett and Tsebelis (2000). In light of this it is important to stress the Commission's informational role, as we aim to do in this article.

[3] The work on delegation in the EU developed out of principal-agent analyses of United States politics. See, for example, Epstein and O'Halloran (1994).

[4] As argued by Crombez and Hix (2015): "Multidimensional models of policy-making would lead to similar conclusions. Commission proposals would need to satisfy the same conditions to be adopted. The analysis would be more intricate, however, because the pivotal member states, MEPs and Commissioners would be different depending on the direction of policy change considered. […] For the purposes of our analysis no additional insights would be gained, however."

[5] This contrasts with what Krehbiel (1992) calls "political information", which is information on the preferences of other politicians. While in reality information may be incomplete regarding both policies and politics, we will assume complete political information, and only model information asymmetries regarding policy outcomes. We believe political information is usually relatively complete given the public character of party affiliations, voting records and public statements made by politicians.

[6] Council spending includes both the Council of the EU and the European Council, which is the meeting of the heads of state. Figures for 2014 final adopted budget.

[7] On some issues unanimity is required in the Council for approval of a proposal. In such instances our model still holds, with the most extreme member states being pivotal in the Council.

[8] Richer models could include more parameters, such as the Commission President's nationality or perceived competency, or the allocation of portfolios to the various member states. In our model the allocation of portfolios does not matter because the Commission takes decisions as a college (i.e. Commissioners are not dictators in their policy domains).

[9] For this equilibrium to hold, it is required that $4b - 3c < \ell_0 + \max(\omega) = 1/2$, i.e., the random variable can take on values that are extreme enough to swamp the ideological differences between $B$ and $C$. Otherwise a different equilibrium holds with less information transmission.

[10] For this equilibrium to hold, it is required that $4b - 3c < \frac{1}{2}$ and $4a - 3c > \ell_0 + \min(\omega) = -1/2$, i.e., the random variable can take on values that are extreme enough to swamp the ideological differences between $B$ and $C$ and between $A$ and $C$. Otherwise a different equilibrium holds with less information transmission.

[11] For this equilibrium to hold, it is required that $4b - 3c < 1/2$ and $4p - 3c > \ell_0 + \min(\omega) = -1/2$, i.e., the random variable can take on values that are extreme enough to swamp the ideological differences between $B$ and $C$ and between $P$ and $C$. Otherwise a different equilibrium holds with less information transmission.

[12] While the Council as a whole seems to have accepted the Spitzenkandidaten system, the UK opposed it. Considering that either the EPP or the Party of the European Socialists (PES) would win the election (Economist 2014), this seems logical. For the UK, a left-wing PES President was likely too extreme. In addition, the UK's opposition was also related to the second dimension of EU politics, i.e. pro- vs. anti-integration (Hix et al., 2014). For reasons of domestic politics, this dimension was especially salient to the UK (Economist, 2014). This explains why Juncker was not an acceptable candidate to the UK. All in all, it seems clear that the UK's opposition to the Spitzenkandidaten system does not disprove our theory, given that the Council as a whole seems to have accepted it.

[13] Döring and Manow have aggregated data from multiple expert surveys into a position on a 0-10 left-right scale. The data used come from Castles and Mair (1983), Huber and Inglehart (1995), Benoit and Laver (2006) and Hooghe et al. (2010).

[14] Note that, as argued by Crombez and Hix (2015, p. 13): "We do not believe that each commissioner has exactly the same positions as his or her party. Nevertheless, because almost all commissioners are career party

politicians, it is not unreasonable to assume that the left-right location of a commissioner's national party is correlated with his or her position".

[15] Single European Act.

[16] Under consultation: $S(a, b)$. Under codecision: $S(a, p, b)$.