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The agenda set by the EU Commission: the result of balanced or biased aggregation of positions?

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Abstract

Substantial theoretical and conceptual advances have been made with respect to agenda-setting as a determinant for policy outcomes. An actor-centred perspective on frames and venues is core to this literature, structure as a single standing category has received less attention. In this paper we argue that these results should be combined with bureaucratic politics in the European Commission to further our understanding of agenda setting processes in the European Union.

Typically, a legislative proposal of the Commission is produced by a lead department which collaborates with a number of other departments on a partly formalized basis before a joint Commission decision is taken. Different services hold different positions on specific policies. We show that structures and rules governing the process yield the potential for some positions to be systematically more strongly represented in the proposals entering inter-institutional decision-making. We complement our argument by providing evidence of interaction patterns when it comes to internal coordination.

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The agenda set by the EU Commission: the result of balanced or biased aggregation of positions?

1. Introduction

Within the policy-making process the agenda-setting phase has recently seen much scholarly attention as an important determinant for policy outcomes. For the EU political system substantial theoretical and conceptual advances have been made (Princen, 2009; Princen and Rhinard, 2006; Baumgartner and Mahoney, 2008). So far agenda-setting is primarily explained by the interplay between venues and framing. Venues are understood as distinct institutional arenas that define which actors get involved into an issue (Baumgartner and Jones, 1993). Frames refer to schemes of interpretation with which a particular issue is attached to extant conflict lines thus amplifying specific interest at the expense of others (e.g. Daviter, 2009: 1118). Thus, the theoretical focus lies on how strategic actors actively move issues to favorable decision-making venues thereby drawing on existing or newly created frames that further their interest (Princen, 2009). Structure as a single standing category seems to be the poor cousin in this literature and if addressed it is easily subsumed under the institutional dimension of ‘venue’. “Bureaucratic politics” (Allison, 1969; Hammond, 1986), however, are typically of little particular concern.

In this paper we do not argue against an actor centred perspective. Rather we claim that *complementing* this approach with bureaucratic politics in the European Commission will further our understanding of agenda setting processes in legislative decision making of the European Union. Hereby we bring together two strands of recent research that emphasizes the value of a disaggregated view of the Commission to explain EU policy making. First, organisational theorists analyse how

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the internal departmentalization influences the individual positions of the internal actors and leads to conflicts within the Commission (e.g. Trondal et al., 2009; see also Egeberg, 2006a). Second, EU agenda-setting literature stresses the multiple venues the Commission's internal fragmentation provides for political actors to upload their preferred choices to the EU agenda (e.g. Harcourt, 1998; Mörth, 2000; Princen and Rhinard, 2006). This research is primarily interested in explaining individual positions and the strategic use that can be made of structure. We view the internal fragmentation as a precondition for our broader argument, which is that the existing rules and structures coordinating different positions systematically favour certain actors and therewith positions over others.

Our approach rests on two assumptions. First, under the umbrella of the European Commission different Directorates General and services (DGs) need to act together. Importantly, they must be expected to hold different positions, e.g. based on frames, perceptions or mandates. Therefore, second, issues and positions on legislative acts do not emerge endogenously but are the outcome of a set of actor choices which are aggregated by institutional structures. To be sure, structures do not pre-determine outcomes, but render some actor behaviour more likely than other (Scharpf, 1997). Looking at the internal process leading to the final legislative proposal by the Commission, we show how some internal actors' positions are more likely to be adopted than others'. Disregarding the influence of organisational structure and institutional rules on position formation within the Commission may ultimately lead to incorrect conclusions on final legislative outcomes.¹ We are interested in understanding whether the Commission's position is the result of an averaging out of different internal positions or whether the internal organisational structure renders some issues more likely to be adopted by the European Commissioners in a

¹ Only where we take structure into account can we fully understand the conditions under which changes in the position with which the inter-institutional process starts are possible. What is more, the choice of inter-institutional settings, such as relevant Council formations or parliamentary committees typically arise from interaction within the Commission (Hartlapp, 2010, forthcoming). And, how issues are asserted in the internal process influences the degree of conflict or the interaction modus of actors involved in the inter-institutional process (e.g. Fougère et al., 2005).

specific form rather than in another. In other words: Is the agenda set by the Commission the result of balanced or biased aggregation?

The argument presented in this paper rests on an author collected data base on the European Commission and on 127 semi structured expert interviews conducted with officials in Brussels from May to December 2009.² These interviews cover officials responsible for drafting proposals, more high ranking officials involved in the successive steps of the process (Directors-General, Cabinet members and Commissioners), as well as officials from the coordinating units in the Secretariat-General.

This paper is structured as follows. In the next chapter we discuss divergences in the characteristics of internal Commission actors related to the process of position formation (2). We then uncover the organisational lines providing for the structure of the internal processes of position formation within the EU Commission (3). Mapping empirical variation in position formation on different dimensions will substantiate our argument (4). We conclude by discussing implications and related questions that will guide the further analysis (5).

2. A multitude of internal Commission actors

This section provides some descriptive evidence indicating that the preparation of legislative proposals involves a range of actors which differ along several dimensions. They follow different logics of legislative action, represent diverging outside interests and stakeholders, and vary in their involvement in the production of European legislation – thereby allowing for a multitude of competing frames (Schön and Rein, 1994; for the Commission: Mörth, 2000; cf. also Princen, 2009: 362).

² In order to preserve anonymity, we refer to these as “interview COM 001”, “interview COM 002”, etc.

2.1. Mandates of internal actors

Much of the substantial work of policy formulation is done at the administrative level which itself is divided into 40 individual sub-organisations. Even the most basic characteristics of these so-called Directorates-General and services (DGs) indicate that the way any given policy problem is approached will vary along these organisational boundaries (cf. also Trondal et al., 2009).

Consider table 1 below which presents a snapshot of the different Commission departments in 2008.³ Initially, even a quick review of the policy mandates in column two provides for a large variance in the breadth and specificity of the different portfolios.

³ Some more technical services are left out from presentation: the offices for translation, interpretation, publication, infrastructure, informatics, data protection, and the payment of individual entitlements, as well as the Bureau of European Policy Advisers, the Bureau for Humanitarian Aid as well as the Joint Research Centre.

Table 1: Internal Commission actors in 2008

		Administrative Setup			Administrative and political leadership				
DG	Mandate	Expenditure (Mio €)	Admin. costs (%)	Staff	Director- General	Nat.	Responsible Commissioner	Nat.	Party Group
Policies									
AGRI	Agriculture and Rural Development	52458,0	0,2	968	Demarty	FR	Fischer Boel	DK	ALDE
COMP	Competition	78,7	99,5	691	Lowe	UK	Kroes	NL	ALDE
EAC	Education and Culture	1342,1	8,4	516	Quintin	FR	Figel	SK	EPP
ECFIN	Economic and Financial Affairs	414,2	14,3	487	Buti	IT	Almunia	ES	PES
EMPL	Employment, Social Affaires and Equal Opportunities	11133,8	0,9	631	van der Pas	DE	Spidla	CZ	PES
ENTR	Enterprise and Industry	533,1	23,6	771	Zourek	AT	Verheugen	DE	PES
ENV	Environment	297,9	29,5	580	Delbeke	BE	Dimas	GR	EPP
INFSO	Information Society and Media	1549,4	8,6	826	Colasanti	IT	Reding	LU	EPP
JLS	Justice, Freedom and Security	552,2	10,9	451	Faull	UK	Barrot	FR	EPP
MARE	Maritime Affairs and Fisheries	808,2	4,8	296	Fotiadis	GR	Borg	MT	EPP
MARKT	Internal Market	61,0	88,2	428	Holmquist	SE	McCreevy	IE	ALDE
REGIO	Regional Policy	30652,6	0,3	576	Ahner	DE	Hübner	PL	--
RTD	Research	4112,3	6,3	1243	Silva Rodriguez	ES	Potocnik	SI	--
SANCO	Health and Consumers	500,6	20,9	704	Madelin	UK	Vassiliou (Health) Kuneva onsumers)	CY BG	ALDE ALDE
TAXUD	Taxation and Customs Union	108,2	48,4	394	Verrue	FR	Kovács	HU	PES
TREN	Transport and Energy	1709,7	8,4	934	Ruete	DE	Tajani (Transport) Piebalgs (Energy)	IT LV	EPP EPP
External Relations									
DEV	Development	1178,7	23,9	282	Manservisi	IT	Michel	BE	ALDE
ELARG	Enlargement	1832,1	5,0	236	Leigh	UK	Rehn	FI	ALDE
RELEX	External Relations	3298,9	11,9	675	Landaburu	ES	Ferrero-Waldner	AT	EPP
TRADE	Trade	77,1	81,1	467	O'Sullivan	IE	Ashton	UK	PES
Horizontal Services									
ADMIN	Personnel and Administration	971,2	95,1	615	Chêne	FR	Kallas	EE	ALDE
BUDG	Budget	274,5	24,7	413	Romero Requena	ES	Grybauskaite	LT	--
COMM	Communication	197,2	54,4	529	Sorensen	DK	Wallström	SE	PES
SG	Secretariat General	177,5	97,4	483	Day	IE	Barroso (President)	PT	EPP
SJ	Legal Service	together w/ SG together w/ SG		365	Durand (acting)	FR	Barroso (President)	PT	EPP

Sources: Presented budget data stem from the EU's line-by-line budget, Volume 4, section 3. Staff figures for October 2008 are available on the Commission's civil service website (http://ec.europa.eu/civil_service/about/figures/index_en.htm; consulted: 24.08.2009). Number of expert groups are part of an author collected database retrieved from the Communities' expert group register - this data have not been available for 2008 and the figures as of August 2009 are shown. Committee figures are as of April 2008 and were drawn from documents available at the respective registry (http://ec.europa.eu/transparency/regcomitology/index_en.htm; consulted: 24.08.2009). All remaining data were individually researched online.

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Within the family of services with internal policy responsibilities,⁴ we find some candidates with a sectoral focus like TREN for transport and energy or AGRI for agriculture, but also DGs with horizontal mandates. The mandate of DG MARKT, for example, lies in the creation and maintenance of the free movement of goods, capital, services and persons. This mandate is not limited to specific policy areas so that MARKT initiatives, for example, will often cross-cut with one of the more sectoral responsibilities of other DGs. Comparable interdependencies can be found for almost all services of the Commission.

While it creates scope for conflicts of interest, the portfolio segmentation should also lead to varying problem perceptions, solution concepts or frames with regard to particular legislative acts. In line with more technocratic or functionalist approaches to sectoral decision-making, we may expect variances in problem definition, solution templates, and measurement of regulatory success across services (Egeberg, 1995). In order to set the agenda for further European decision making, these different perspectives must be accommodated for which in turn the internal coordination structures of the Commission provide the only possible route.

2.2. Administrative setup

Varying preferences on a specific legislative problem can be further underlined by differences in the organisational setup (table 1). The most pronounced variance is found if we consider the budgets of the individual organisational units. The third column shows the overall payments a DG was entitled to in 2008. Unsurprisingly, the clear frontrunner is the Directorate General for Agriculture. On the other end of the continuum we find the services responsible for the internal market (MARKT), for competition (COMP), and for external trade relationships (TRADE), their respective annual payments represent even less than 0.15% of DG AGRI's overall spending.

⁴ The classification into policy, external relations and horizontal services is first and foremost meant to assist the reader in structuring the large amounts of descriptive data provided.

Possible policy consequences of this budgetary variance among DGs become more visible if we consider how the money is spent by the different departments. Column four provides the share of its overall budget a DG uses on purely administrative entries. Again, the spread among the policy-oriented DGs is wide: While some DGs clearly focus on distributive tasks, others operate in a purely regulatory mode. In assuming that ‘policies determine politics’ (Lowi, 1964; 1972), we should expect considerable divergences in the way different societal interests are represented and how policy problems are identified, approached and framed accordingly.

As a final administrative parameter, the DGs differ notably with regard to manpower. Differences in staff figures do not simply mirror the variance in budgets or implementing tasks. Rather, we find disproportionate staff figures which all in all correlate only weakly with the total DG budget (.34 across all services shown) and the share of administrative expenditures (-.20). These figures suggest that internal Commission actors differ with regard to the available human resources they can invest in any given policy formulation process.

Like the mandates outlined above, also the administrative setup of actors within the Commission poses varying hurdles and opportunities for interest aggregation. Different actors work along different policy modes in the regulative vs. distributive dimension and enter legislative drafting with varying levels of administrative resources available. This provides further anchor points in understanding how its different internal actors may influence the agenda set by the European Commission.

2.3. Administrative and political leadership

Moving beyond purely administrative input and output data, other possible sources for varying positions within the Commission rest with the administrative and political leadership of individual DGs (see table 1, panel 3). With regard to administrative responsibility and coordination, each DG is headed by a Director-General, awarded largely on merit-based criteria. However, the influential position

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and the limited number of these posts make their distribution also subject to political considerations (Spence, 2006b).⁵ Looking at the nationality distribution in 2008, we find it limited to ten member states. Countries from the 2004 and 2007 enlargements are excluded completely and the largest members of the EU-15 are represented strongest at this level of action (FR: 5, UK: 4; DE, ES, and IT: 3).

For the formation of the ultimate Commission agenda, its political leadership – where the power of the final decision rests – is even more important. Though the Code of Conduct swears Commissioners in to impartiality, the scope for party politics in the College can hardly be denied (interviews COM 057, 058, 094): Commissioner posts are occupied by professional and experienced politicians who most often passed through party political careers in their home countries and increasingly often resume these careers after their Commission term (Wonka, 2007; Döring, 2007).

To capture the scope of possible conflicts along party lines, the final column of table 1 provides the political group to which the national party of each Commissioner is assigned to in the European Parliament. According to this measure, the 2008 College is dominated by conservative party members (EPP: 10), followed by liberals (ALDE: 8) and socialists (PES: 6). As it is known from national debates, even these rather crude characteristics may lead to vastly different positions in practical politics. And the scope for political conflict in the Commission becomes even more visible if we consider individual dimensions of party conflict, e.g. with respect to dimensions such as ‘market regulation’ or ‘welfare state’. Depending on the issue at stake, we must expect different distributions of proponents and adversaries of specific policy positions in the College. In conclusion, the leadership level might be a gateway along which further dimensions of conflict enter the agenda setting phase within the Commission.

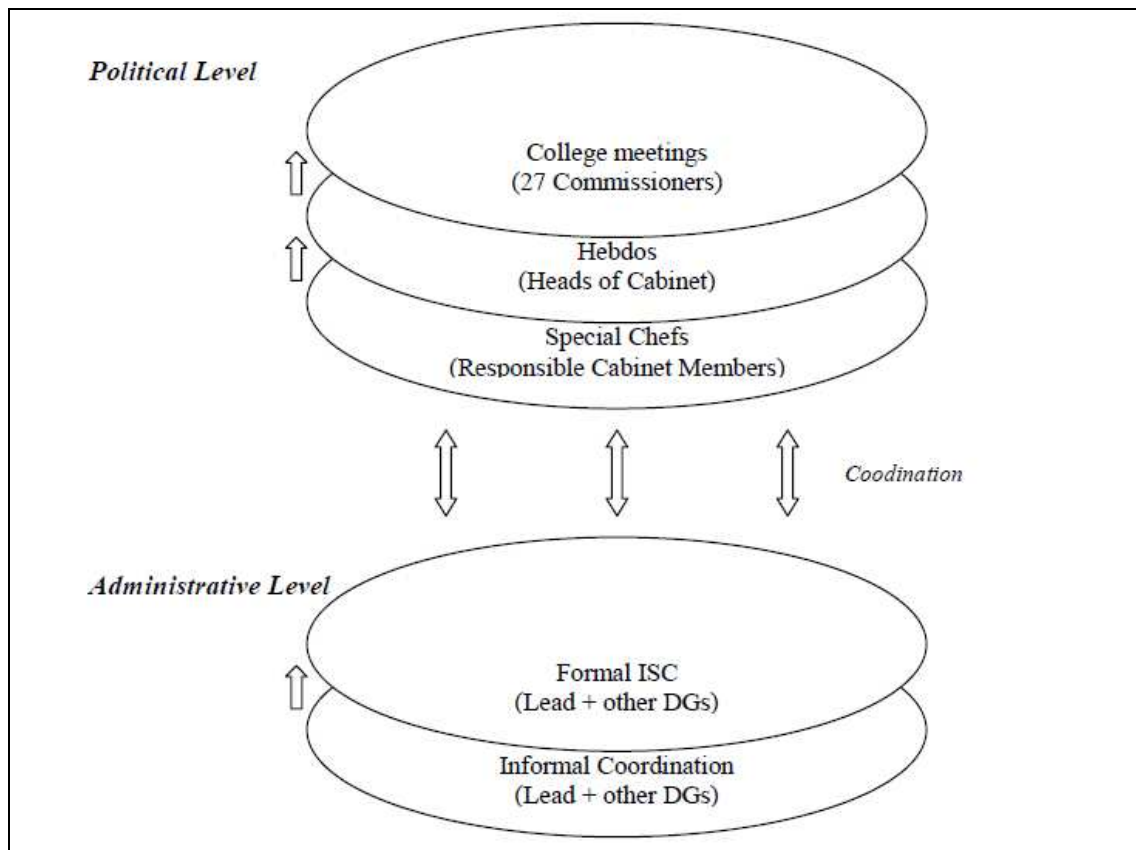
⁵ Especially national interest is a concern and accordance between the nationality of the Director-General and the Commissioner is prohibited since the inception of the Prodi Commission (Kassim, 2004).

This descriptive overview shows that the internal Commission actors vary in mandates, their administrative setup and resources, and in the characteristics of the administrative and political leaders. Actors within the institution and their positions are too diverse to simply assume a particular Commission agenda. Rather, the presented facts let us expect conflicts of interest, varying frames and differing powers to influence the final Commission's agenda. In consequence, we need to understand which processes and organisational structures and rules help to overcome conflict and how they lead to the aggregation of positions.

3. Rules and structures coordinating differing positions

Due to the multitude of internal actors and positions constant coordination is indispensable for the European Commission to form a common position on legislative proposals. Coordination essentially takes place at two organisational levels within the Commission: 1) on the administrative level among the DGs and services, and 2) on the political level among the Commissioners and their Cabinets. The process of position formation is structured in different coordinative steps and is paralleled by vertical exchanges between the two levels (see figure 1).

Figure 1: Coordinative steps of position formation in the EU Commission



3.1. Administrative coordination

The administrative coordination consists of mainly two parts: a more informal phase of DG interaction and the formal, written ‘inter-service consultation’ (ISC) via the database CIS-Net.⁶ It is largely up to the lead department in how far it already coordinates with other DGs in the informal stage. However, this phase is getting increasingly more formalised with ‘inter-service groups’ more and more encouraged by the Secretariat General (SG, interviews COM 057, 092, 113). In addition, the introduction of the ‘impact assessment’ (IA) can be seen as a major contribution to more active and early coordination among the services (Schout and Jordan, 2008; Tholoniati, 2009, also interviews COM 033, 075, 118). Gradually introduced from 2003 on, today an IA accompanying all major legislative proposals is compulsory. Since

⁶ Before the actual administrative coordination of a legislative proposal starts, one DG is assigned lead department primarily in charge of the act, a procedure cutting cross the two introduced organisational levels, (cf. sec. 3.1.2).

2006 it is fully operational with an Impact Assessment Board (IAB) controlling the quality of the IA.⁷ Although there is no direct link to the process of position formation we note that IAs often require early interaction, especially with other DGs e.g. in the regular Impact Assessment Steering Group (IASG, interviews COM 057, 075, 092, 118). Thereby it increases awareness for potential later conflicts and has a positive impact on the smoothness of later interactions. One may even argue that they provide the DGs that are represented in the IAB with considerable insight and influence on proposals from other areas. After informal coordination the legislative proposal goes up the ladder of competences to the Commissioner and his / her Cabinet with the request to agree to inter-service consultation (ISC), the formal part of administrative coordination.

The ISC then starts with the lead department feeding its draft proposal into the electronic document base 'CIS-Net', a procedure mandatory since April 2001. Via the CIS-Net the lead DG must consult all "concerned" DGs for approval (Commission of the European Communities, 2008: 5). Which DGs are considered as 'concerned', however, is up to the judgement of the lead DG and leaves room for strategic considerations and coalition building (interview COM 057, 118). The involvement of the internal horizontal services in contrast is more narrowly specified. Consultation is obligatory for the SG, plus for the Legal Service where legislative acts are concerned. Further, the approval of the DGs for Personnel and Administration (ADMIN), Budget (BUDG), Communication (COMM) and the European Anti-Fraud Office (OLAF) are obligatory in certain cases (Commission of the European Communities, 2008: 5).

The addressed services have to respond within a given time frame, mostly around four weeks. They have the possibility to give three kinds of opinions: 1) agreement, 2) agreement with comments, or 3) a disapproving 'avis négatif'. The agreement with comments is considered the most frequent kind of response by DGs (interview COM

⁷ The IAB is chaired by the Deputy Secretary General responsible for 'Better Regulation', and consists of "one permanent official at Director level from the Directorates-General with the most direct expertise in the three broad dimensions – economic, social and environmental – of integrated impact assessment (DG ECFIN, DG EMPL, DG ENTR, DG ENV)" (Commission of the European Communities, 2006: Art. 1).

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046). It obliges the lead department to draft in the comments of the other services or to attach them as open points to the proposal. In practice the consideration of the others' comments by the lead department is a matter of trust, with defaults most certainly being detected at later stages (interviews COM 015, 115). In contrast a disapproving 'negative opinion' is a break in the system with significant impacts on further steps (interview COM 066).⁸ If the parties cannot reach an agreement on the given text, the lead DG can either take back its proposal and draft a new text; or, the open points are handed up to the political level, i.e. the Cabinet, in order for them to find a solution. Regarding the frequency of handing in a negative opinion a SG official notes substantial differences among DGs, with some rarely handing in a 'non' while others take this road quite often (interview COM 015).

The organisational structures of internal coordination set strong incentives for the SG and the other services to have things sorted out at service level, before a proposal reaches the Cabinet and the College. The SG, being the watchdog over efficient and smooth policy making, aims to keep as much coordination as possible upstream, in order to reduce the work load of the College. And DGs generally prefer solving open points themselves, because at political level "the solutions that they come up with are more [...] sort of superficial, political solutions." (interview COM 057, also 127). Thus, if points are discussed at political level, services risk products of months or even years of intense drafting to be simplified or downluted 'upstairs'. However, we also find examples where points are deliberately kept open to lead to discussion at the political level. This may be the case where a DG considers that its Commissioner has a better chance to assert the DG's position (interview COM 021, 080, 093, 115).

For our argument it should be noted that certain practices introduced in order to simplify the work of an ever growing Commission should lead to biased aggregation. Only a selection of all DGs is actually consulted in the formal ISC. And where a formally consulted DG fails to respond within the given deadline, this is treated as agreement to the document despite the respective DG maybe having had

⁸ First bilaterals among the lead and the disapproving DG follow. If they cannot achieve an agreement, the SG steps in and has meetings with the respective parties in order to settle the dispute (interview COM 65).

disagreed. In sum, the extant organisational structures systematically privilege the lead department as well as the SG as firsts among equals in the process of the Commission forming a common position. In the following section the roles of the SG and the lead department will be addressed in more detail.

3.1.1. The Secretariat General

The SG plays an increasingly important monitoring role throughout the whole internal coordination. Since the Kinnock reforms, and even more so with the Barroso term, the SG enforces early ‘upstream coordination’, by now one of the guiding principles of the current Secretary General Catherine Day (interviews COM 015 and 066). It aims at early steering and screening of the internal processes in order to prevent conflicts appearing at later stages of decision making, and consequently strengthens the role of the SG as the Commission’s watchdog. To achieve this, the SG has introduced the post of ‘policy coordination officials’ looking “at the preparation of the documents, the quality of the documents and the internal coordination, in other words, that all associated or concerned DGs have been properly consulted” (interview COM 066), “so that things do not come jumping on the agenda from one DG which the others do not know about, have not heard about completely” (interview COM 017, also COM 046). To this aim SG officials have various means at their disposal: They may attend inter-service group meetings or may step in whenever they deem it necessary to stop the process, to give it a steer or to act as a broker when conflicts occur (interviews COM 015 and COM 057).

Further, the SG plays a pivotal role in assigning the lead DG for a legislative proposal. Often this is self-evident. Yet, this is not the case for all acts, especially not for more cross-cutting and overarching projects, aiming at solving some of today’s most pressing societal problems.⁹ The assignment is part of the long-term Strategic

⁹ For example, in case of the famous REACH directive the responsibility for the dossier was handed back and forth between DG ENV and DG ENTR.

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Planning and Programming (SPP) cycle of the Commission managed by the SG.¹⁰ As part of the SPP, the operational annual Commission's Legislative and Work Programme (CLWP) defines the concrete initiatives to be launched and which DG is going to be lead, described as "a very bottom-up process" (interviews COM 015 and 066). However it also, and increasingly so over time, entails a very hierarchical component. After bilateral talks, where the SG and the President's Head of Cabinet receive the respective Director-General and discuss the items that the DG proposes, the SG ultimately decides about the timing and more importantly about priorities, necessary cooperation and 'non'-initiatives (interviews COM 066 and COM 015). Thus, the SG is in a distinguished position in setting policy priorities on the internal agenda and influencing how much say a policy portfolios has in a certain legislative drafting.

3.1.2 *Lead Department*

The lead department, the DG primarily responsible for the drafting of a document, is in the strong position of the agenda-setter putting down a first version of a proposal that is to be launched. Thus, it can largely determine the frame and focus of a legislative objective (cf. Mörrth, 2000). The institutional rules allow the lead department to influence the aggregation of positions by channelling the informal and formal involvement of other DGs. In the interviews conducted so far, we find considerable variance in a lead department's decision to allow for co-drafting of another service or to rather inform others at a very late stage, as far as obviously cross-cutting issues are concerned (interviews COM 059 & COM 015). And in the subsequent formal written inter-service consultation it is the lead that decides which policy DGs are consulted.

Moreover, the lead DG has the choice to integrate the comments of another service or to attach them and leave them open for discussion at political level, where different

¹⁰ It was introduced with the 'Activity Based Management' of the Kinnock reforms in 1999 / 2000 (Commission of the European Communities, 2000: 13-17).

logics and resources are decisive. Thereby it can deliberately choose the decision-making venue that is most beneficial to its aims – however the available opportunities prescribed are by the structure and rules governing the process.

3.2. Political Coordination

The political coordination of a legislative draft starts after the transferral of the document from the services to the Commissioners and their Cabinets. In terms of political coordination one can distinguish between first, different procedures – i.e. whether a proposal is adopted in written or in oral procedure – and second, between different coordinative steps. A *written procedure* is initiated by the SG at the request of one or more Members of the Commission. All Cabinets receive copies of the agreement and have the opportunity to respond before a given deadline, otherwise their agreement is assumed. If they have objections, however, they enter into bilateral talks and if no consensus can be achieved this way, the initiative is decided under *oral procedure* (Commission of the European Communities, 2005).

In an oral procedure, horizontal coordination on the political level takes place in three consecutive negotiation fora: the ‘Special Chefs’ meetings, the Heads of Cabinet meetings (Hebdo), and the College meetings. A Special Chef is attended by Members of all Commissioners’ Cabinets who have the responsibility within their Cabinet for the subject matter concerned, and is chaired by a Member of the President’s Cabinet. The weekly Hebdo takes place on Mondays, is chaired by the SG and follows the same agenda as the College meeting following two days later. In these meetings Heads of Cabinet seek to achieve consensus on as many points as possible. If they unanimously agree on a document, it is treated as ‘A point’ in the subsequent College meeting, which means an agreement without actual discussion of the Commissioners. If no agreement can be achieved in the Hebdo, the document is

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handed to the College as a 'B point' for oral discussion.¹¹ Here, formally, the Commissioners take decisions by simple majority (Art. 219 TEC), but actual voting in the College is in practice very rare.¹² In addition to discussions in oral procedures, the College may also discuss open points of written procedures that the previous levels could not solve. In general, the earlier stages of the horizontal coordination on administrative and political level are considered an effective clearing house mechanism, trying, before the proposal gets to the table of the College, that the major issues are solved" (interview COM 046, also COM 058).

Looking through our analytical lenses it is important that some of the measures introduced to facilitate decision taking in an enlarged Commission challenge the unitary actor assumption – hereby allowing some actors to be more influential in the internal position formation process than others. This is the case where one or more Commissioners are entitled to take decisions in the name of the whole College via the – albeit rarely used – empowerment procedure or the subdivision of the Commission into thematic Groups. Thematic 'Groups of Commissioners' composed of ca. 5 to 10 Commissioners and set up by the President are another more recent feature to simplify the work of an enlarged Commissioner (Commission of the European Communities, 2005: Annex, Art. 18)..

To sum up, the coordination of position formation within the EU Commission has proven to be an increasingly, but still only partially formalized process. As well the administrative as the political coordination processes leave considerable leeway in drafting a policy proposal, providing for a multitude of access points for interactions among the DGs. Further, the organisational structures and practices seem to favour certain actors, most notably the President's Secretariat General and the lead

¹¹ Related to administrative decisions the 'delegation procedure' exists, which defers from the collegiality principle by assigning exclusive responsibility to a subgroup of Commissioners (Spence, 2006a).

¹² Egeberg (2006b: 8) quantifies the phenomenon to 8-10 formal votes per year in the Prodi Commission as opposed to hundreds of yearly decisions. The Delors Commissions were characterised by more actual votes than ever before or after (Peterson, 1999: 53). The opposite seems to be true for the Barroso Commission with no formal vote taken until November 2009 (interview COM 113).

department. This may possibly lead to a biased aggregation of diverging positions when the Commission forms a common position, as the next section will show.

4. Balanced or biased aggregation?

Our findings have indicated that we must expect considerable variation in actor positions for any given legislative proposal. We have further shown that the internal coordination structures yield different weight to different actors in the process of forming the agenda the Commission sets. In this section we substantiate our argument by presenting empirical evidence on DG variance in legislative output, in level of decision making and in DG interaction.

4.1. Empirical evidence on legislative output

As sketched above, a DG acting in the role of the lead department has structural advantages in putting its position through where diverging opinions among the internal actors of the Commission emerge. On a more aggregate level this means that the overall legislative output of the Commission may be skewed towards those DGs that act more frequently as the lead department than others. Figure 2 provides the relative output of the different DGs across instruments of European secondary legislation for the period 2004 to 2008.

Figure 2: DG shares in legislative output by legislative instrument (2004-2008)

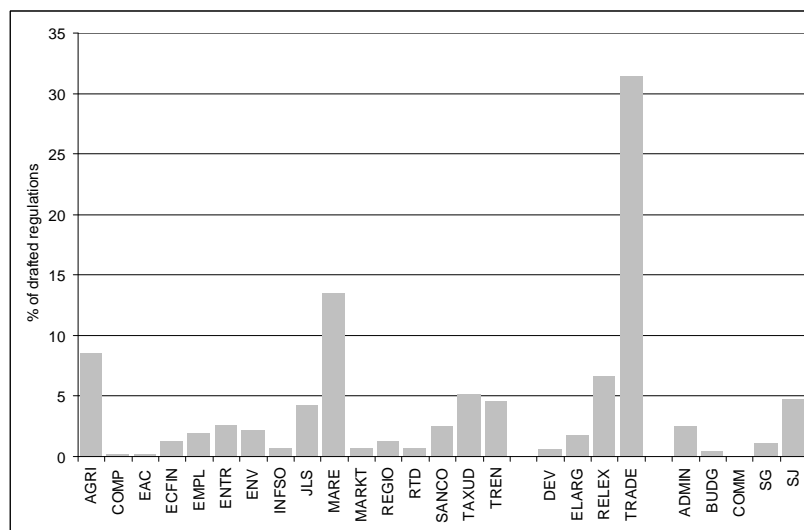


Figure 2a: Regulations (N=805)

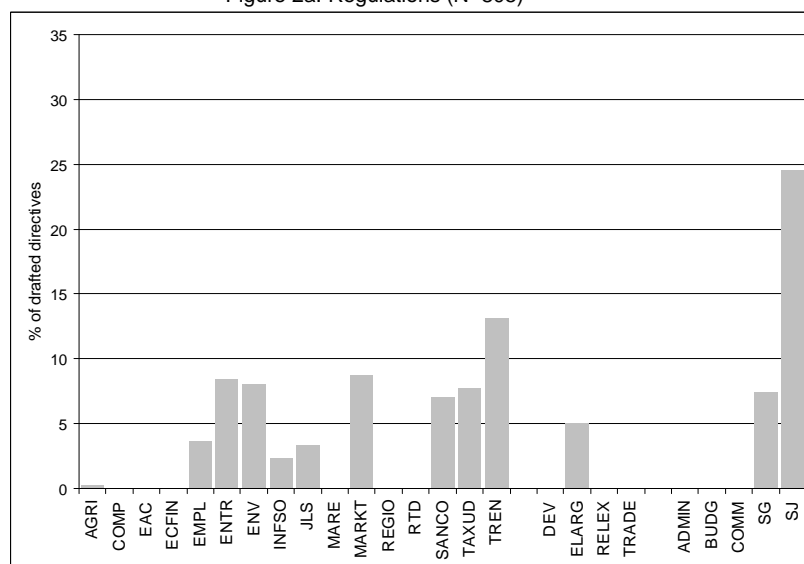


Figure 2b: Directives (N=297)

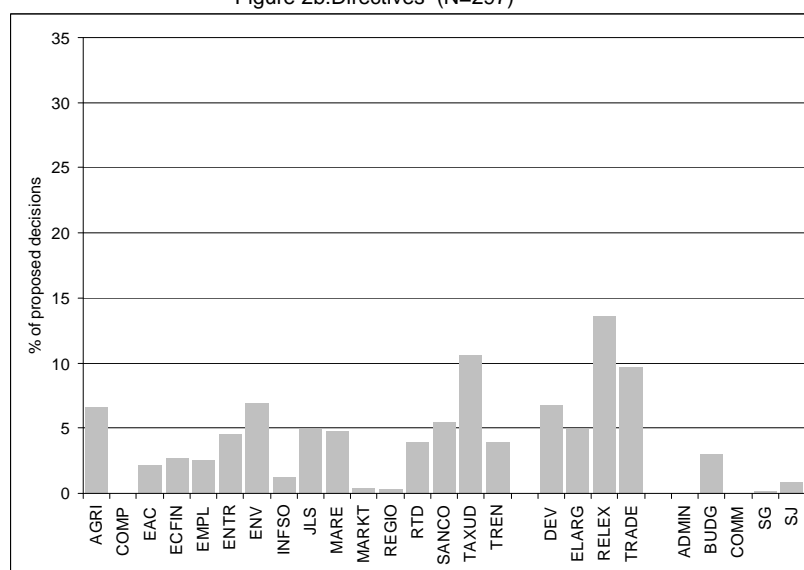


Figure 2c: Decisions (N=709)

First of all, the emerging picture clearly shows that the different actors within the Commission contribute to a vastly varying extent to the number of legislative initiatives proposed by the Commission as a whole.¹³ Regarding regulations in figure 2a, acts which are binding in their entirety and directly applicable throughout the Union, the largest share of about 32% is drafted by DG TRADE closely followed by the about 13% proposed by DG MARE. Both DGs, however, hold rather specific mandates so that one may argue that the scope of their output – for example as measured by the number of directly affected citizens – is rather limited as compared to DGs with broader policy responsibilities.

The variance among other policy DGs depicted in the left panel of the figure is comparatively less pronounced with the notable exception of DG AGRI (about 8% of Commission output). Though their share is small, it should also be noted that the horizontal services such as the Secretariat General (SG) or the Legal Service (SJ) also take responsibility in leading the drafting of 2 and 4 %, respectively, of the regulations proposed by the Commission.

Further, figure 2b shows the distribution of primary responsibility among internal Commission actors for directives. This instrument of European legislation is also binding in its entirety but leaves room to member states how to transpose it into national law. Here, a fewer number of Commission services contribute to Commission output at all. Looking at the policy DGs first, we see that the output of DG MARKT (internal market) more than doubles that of DG EMPL (employment, social affairs and equal opportunities). If the structural advantages of being lead are exploited, this would clearly favour the position of DG MARKT in the overall Commission output. The most eye-catching observation in figure 2b is the large share of the Legal Service (SJ). This horizontal service accounts for almost one quarter of directives proposed by the Commission. One potential origin of this observation is the Better Regulation agenda of the Commission under which the Legal Service is

¹³ Note, that it may be that those DGs having more supranational competences also produce more legal acts and are more often in the lead position. As DGs' portfolios are not as clear cut as the Treaty text, however, and in many cases it is difficult to ascribe a level of competence to a DG per se, we abstain from introducing a measure.

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active in codifying and simplifying extant legislation. Nevertheless, significant policy effects may emerge from the large number of directives primarily drafted in this horizontal service.

Lastly, the picture for decisions – an instrument that directly addresses individuals, firms, or member states individually and thus is somewhat more limited in scope – in figure 2c also tells its own story. The DGs concerned with external relations are more prominently represented and account together for about 35% of the Commission's overall output on this legislative instrument. Within the policy family, the DG for taxation and customs union (TAXUD) provides the largest piece of the pie, followed by environment (ENV) and agriculture (AGRI).

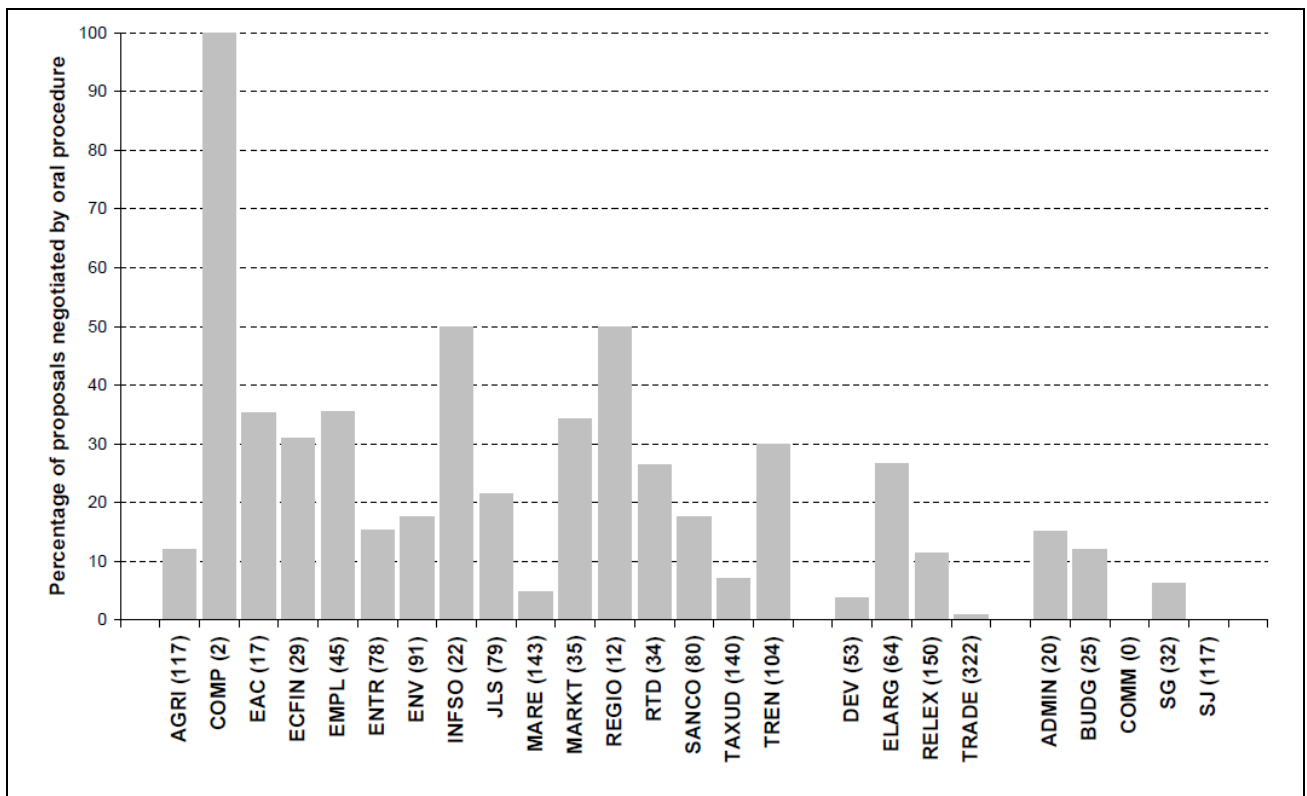
While final conclusions without sufficient theoretical backing and focus on legislative competences would be premature, the overall picture does not provide for a perception of a Commission that systematically balances its overall output across the internal actors it is made up of. Rather, the varying frequencies of being primarily responsible for a proposal must be expected to move the overall Commission position to the benefit of some and at the expense of others.

4.2. Empirical frequencies of interaction at the political level

Empirical evidence on coordination at the political level (section 0) suggests that only 13.2% of all Commission proposals between 2004 and 2008 were actually negotiated in the College.¹⁴ In other words, a rather large share of legislative proposals was already agreed among the services prior to the political level. Figure 3 shows that the variation in the likelihood with which a proposal was negotiated in the College varies with the DG that was primarily responsible.

¹⁴ The period chosen is left censored by the availability of data on the College decision procedure in the PreLex database.

Figure 3: Percentage of DG proposals decided by oral procedure (2004-2008)



Notes: Overall number of proposed acts during the period provided in brackets.

Source: Author compiled data from the PreLex database.

Without case by case knowledge about the acts we can not conclude whether this is related to differing shares of political sensitive acts proposed by different DGs (interview COM 118). Yet, we do have evidence that the likelihood of having a proposal discussed among the Commission's political leaders varies clearly among the DGs.¹⁵ DG INFOS and DG REGIO both have half of their proposals discussed in College while there is a broad midfield of policy DGs where the proposals reach the political level in about one third of the cases. This comprises education and culture (EAC), employment, social affairs and equal opportunities (EMPL) as well as internal market (MARKT). The proposals of others, in contrast, are less often discussed at political level (DG AGRI, MARE and TRADE). They may either induce less political conflict, may be less cross cutting in nature or can be more easily resolved between the administrative actors for other reasons.

¹⁵ DG COMP, the service with the highest rate of proposals discussed orally, only drafted two proposals in the period shown.

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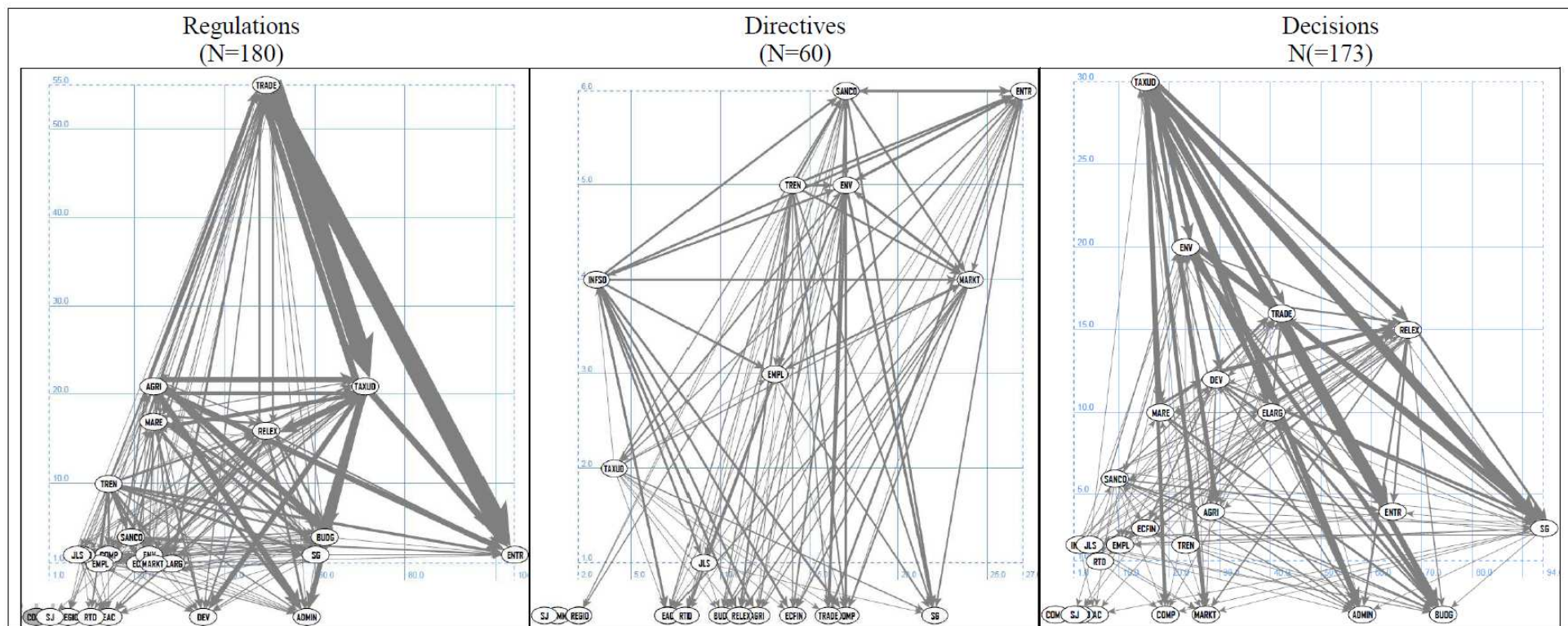
In line with chapter 0 on the internal coordination processes the proposals drafted by DGs that reach oral procedure more often should present, *ceteris paribus*, more settlements along party political or nationality driven cleavages (cf. section 0). If the proposal reaches the political level we may also expect that functional and sectoral concerns play a minor role compared to proposals finalised at the administrative level. In turn, for proposals from the group of DGs where discussions in the College are less likely, we may expect sectoral and administrative conflict lines to play a relatively larger role (cf. sections 0 and 0). In the next section we turn to the dimension of DG interaction and consider how the systematic DG interaction during the drafting process looks in empirical terms.

4.3. Empirical evidence on overall DG interaction

Uncovering patterns of systematic DG interaction is difficult, as the Commission withholds respective data from the public.¹⁶ Based on data on ‘associated’ DGs, figure 4 provides a map of legislative drafting in the year 2000.

¹⁶ After 2000 the SG has stopped publishing those services that contributed to the drafting of a proposal in one way or the other.

Figure 4: Mapping legislative interaction among DGs in 2000



Notes:

Y-axis indicates the absolute number of proposals a DG was primarily responsible for in 2000 (lead DG). The x-axis, in-turn, shows the absolute frequency with which a DG contributed to a proposal without being in the lead (associated DG). Further, links describe relationships between two specific DGs where outgoing arrows indicate that the origin DG had the lead in the interaction while incoming arrows indicate that the DG served as an associate in this relationship. Finally, the width of this links reveals the frequency with which both DGs interacted in legislative drafting during 2000.

Source:

Author compiled data from the PreLex database.

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We distinguish the different types of secondary legislation. On the vertical axis, the internal Commission actors are ordered by the absolute frequency of being lead department. The horizontal axis, in turn, denotes the absolute frequency with which a DG was associated to specific drafting processes. The arrows indicate interactions between specific DGs and are the wider the more often these two DGs have worked together on a legislative proposal.

First of all, the figure confirms what has been assumed before: Interaction between the departments of the European Commission is the norm rather than the exception. For all three legislative instruments, the variation across the frequency of being associated to a proposal is higher than the variation in being the primarily responsible department. This is hardly surprising as responsibility presumably involves much more effort than being associated. Nevertheless the figure indicates that nearly all DGs do influence proposals primarily drafted by other DGs and that a lot of interaction takes place. This emphasises that one must not only look at the positions of the internal actors, but also at the coordination structures that monitor the various actors in order to understand the agenda the Commission sets.

5. Conclusion

The lack of attention paid to structure and “bureaucratic politics” (Allison, 1969; Hammond, 1986) in explaining the Commission’s agenda was the starting point for our paper. Combining literature from the area of organisational studies and agenda setting in the EU with empirical information on internal Commission decision-making we address these weaknesses. By concentrating on the Commission’s organisational structure and its institutional rules we argue that their ignorance ultimately risks to inadequately conceptualise EU decision-making more broadly. Only where we take the internal structure into account we can fully understand the Commission’s agenda; that is “the set of issues receiving serious consideration” (Princen, 2009: 21) the Commission feeds into the inter-institutional process. What is more, the choice of inter-institutional venues, such as Council formations or

Parliamentary committees, typically arises from this interaction within the Commission. And, how issues are asserted in the internal process influences the degree of conflict or the interaction modus of actors involved in the inter-institutional process.

The look inside the Commission reveals that its internal actors – the Directorates-General – are remarkably diverse in mandates, administrative setup and resources. Accordingly, we can assume them to hold diverging positions on most policy problems which then have to be coordinated in order to generate a common Commission position. Uncovering the respective coordination structure, however, leads to the conclusion that certain actors are favoured over others. Most notably, at the Commission's administrative level the lead department can influence the number and constellation of other internal actors that may have influence on its initial legislative draft. What is more, in the case of conflict with other Directorates-General this department can decide whether the diverging positions should be resolved at the administrative or at the political level of the Commission. Hereby, it can select the internal arena that will produce its most favoured outcome.

Comparably skewed influence grants the internal structure of the Commission only to the Secretariat-General, a DG that is politically led by the Commission President. Through the more recent mechanisms of impact assessments and programming, this service can interfere early on in the process at administrative level. Next to assigning the lead department, it may intervene in the lead department's discretion in assigning other internal actors - and thus issues, frames and different interests – to a particular proposal. However, whether this has a balancing effect remains to be seen and should be a question of further empirical research.

All in all, Schattschneider's (1960: 30) dictum that "organization is itself a mobilization of bias in preparation for action" appears to hold for Europe's central agenda-setter. Our descriptive data on empirical variation of internal actors' involvement in decision-making speaks against a perception of a Commission that can systematically balance its overall output across the varying interests of the internal actors it is made up of. Even at the most basic level, we find variation in the

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frequencies with which DGs act as a lead department for proposed pieces of legislation, in the frequencies with which DG proposals are debated at the political level, and in the patterns of interaction between different DGs.

Admittedly, a pure recourse to these structural variables is only one part of the story. While structurally privileged positions within the Commission add to our understanding, they remain somewhat bloodless as long as we do not link them to relevant policy issues and dimensions – such as market liberalization versus regulatory intervention – and complement them with other power resources internal Commission actors might hold. Nonetheless, this paper shows that future research needs the organisational structure and the internal rules of the European Commission as an indispensable building block in explanations of the EU's political agenda.

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Annex: Groups of Commissioners

The Lisbon Group

- President (Chair)
- Commissioner for Enterprise and Industry
- All Commissioners may participate in this group

The Competitiveness Council Group

- Commissioner for Enterprise and Industry (Chair)
- Commissioner for Science and Research
- Commissioner for Health and Consumer Protection
- Commissioner for Competition
- Commissioner for the Internal Market and Services
- Commissioner for Trade

The External Relations Group

- President (Chair)
- Commissioner for External Relations (Vice Chair)
- Commissioner for Economic and Monetary Affairs
- Commissioner for Enlargement
- Commissioner for Development and Humanitarian Aid
- Commissioner for Trade
- Commissioner for Financial Programming and Budget (ad hoc basis)

The Fundamental Rights, Anti-Discrimination and Equal Opportunities Group

- President (Chair)
- Commissioner for Justice, Freedom and Security (Vice Chair)
- Commissioner for Institutional Relations and Communication Strategy
- Commissioner for Administration, Audit and Anti-fraud
- Commissioner for Information Society and Media
- Commissioner for Education, Training, Culture and Multilingualism
- Commissioner for Enlargement
- Commissioner for Development and Humanitarian Aid
- Commissioner for External Relations
- Commissioner for Employment, Social Affairs and Equal Opportunities

The Communications and Programming Group

- Commissioner for Institutional Relations and Communication Strategy (Chair)
- Commissioner for Transport
- Commissioner for Information Society and Media
- Commissioner for Regional Policy
- Commissioner for Financial Programming and Budget
- Commissioner for Education, Training, Culture and Multilingualism
- Commissioner for Trade

Source: Commission of the European Communities (2004: Annex).

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