

"Does Parliamentary Scrutiny Matter? The Autonomy of Federal Executives in the Council of the EU vis-à-vis their Regional and National Parliaments"

Randour, François

ABSTRACT

This paper examines in a comparative perspective the negotiation autonomy of the Austrian, Belgian and German federal executives in the Council of the European Union vis-à-vis their domestic parliaments. The paper thus aims at explaining to what extent, how and why regional and national parliamentary actors scrutinized EU decision-making processes and with what consequences for the executives. Innovatively, this paper includes the involvement of regional parliaments in EU policy-making, whereas most studies limit the scope of their analysis to the involvement of national parliaments. Accordingly, this research aims at offering a multi-level understanding of the European decision-making processes by tracing back the interactions between executives and parliamentary actors acting at three levels of governance. Indeed, in federal countries, the agent (the executive) is not only operating a balancing act in a two level game (the EU and the national levels), but well in a three level game, since interests of subnational actors, and especially regional parliaments, must also be taken into consideration. Relying on semi-structured interviews with representatives of the Council of the EU, administrators and parliamentarians, the paper presents original empirical data on four legislative decision-making processes (period 2011-2014) in the environmental policy sector, a competence that is in part regionalized in Austria, Belgium and Germany. Hence, the paper questions the impact of the scrutiny of domestic parliament(s) on the representatives negotiating in the Environment configu...

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Does parliamentary scrutiny matter? The negotiation autonomy of federal executives in the Council of the EU vis-à-vis their domestic parliaments

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Abstract: This paper examines in a comparative perspective the negotiation autonomy of the Austrian, Belgian and German federal executives in the Council of the European Union vis-à-vis their domestic parliaments. The paper aims at explaining to what extent, how and why regional and national parliamentary actors scrutinized EU decision-making processes and with what consequences for the executives. Relying on semi-structured interviews with representatives of the Council of the EU, administrators and parliamentarians, the paper presents original empirical data on four legislative decision-making processes in the environmental policy sector, a competence that is in part regionalized in Austria, Belgium and Germany. Hence, the paper questions the impact of the scrutiny of domestic parliament(s) on the representatives negotiating in the Environment configuration of the Council. The study conducted a crisp-set Qualitative Comparative Analysis and examined the impact of 5 causal conditions on the negotiation autonomy of executives: (1) the preference homogeneity between federal executives and domestic parliaments, (2) the cohesion of the domestic parliamentary system, (3) the existence of an informational asymmetry in favor of executives (4) the domestic salience of the EU decision-making process, and (5) the implementing powers of domestic actors. The result shows that the level of autonomy of federal executives is closely bound to the presence or absence of homogenous preferences and of the salience of EU decision-making processes.

Keywords: European Union, National Parliaments, Subnational parliaments, Regional parliaments, Environmental Policy, Qualitative Comparative Analysis

Does parliamentary scrutiny matter? The negotiation autonomy of federal executives in the Council of the EU vis-à-vis their domestic parliaments

1. Introduction

Since the pivotal works of Norton (1996) and Raunio (1999) on the role of national parliaments and the European Union (EU), studies on national parliaments have undergone a gradual shift from the analysis of their *institutional* adaptations to the study of their *behavioral* adaptations (Goetz and Meyer-Sahling, 2008, Auel and Christiansen, 2015). In addition, since the introduction of the 'Early Warning system' (EWS), scholars also focused on the adaptations of subnational parliaments to the EU decision-making processes (Bursens, Hogenaueur, 2017). So far, empirical studies on subnational parliaments within federal and quasi-federal Member States mostly analysed their institutional capacities (Abels, Eppler, 2016), and to a lesser extent on their behavioural adaptations (Randour, Wolfs, 2017, Högenaeuer, 2017). Despite the growing literature on national and subnational parliaments and the European Union, Rozenberg and Heffler (2015:25) note that: '*to convincingly address the debate on de-parliamentarisation, research has to focus on the impact of parliaments on the EU policy of their governments and on EU legislation more generally*' (own emphasis). Starting from this observation, the aim of the article is to measure and analyse the negotiation *autonomy* of the Austrian, Belgian and German executives in the Environment configuration of the Council of the European Union vis-à-vis their domestic parliamentary system.

The article's analysis of the impact of the domestic parliamentary scrutiny on the negotiation autonomy of executives in EU negotiations adds two dimensions to the existing research on the topic. First, most studies focusing on (sub)national parliaments and the European Union (EU) rest on the implicit assumption that institutionally strong and active parliaments in EU affairs lead to an improved accountability of their governments, without systemic questioning and empirical measuring of the impact of parliamentary scrutiny towards the negotiation autonomy of executives in EU affairs. One illustration of this trend is that most studies take the formal strength of parliaments (institutional adaptations) or their level of activity (behavioural adaptations) as their outcome variable. By contrast, this paper takes as a starting point the resulting *autonomy* of an executive negotiating at the EU level vis-à-vis his domestic parliaments (i.e. subnational and national parliaments), hence starting from the executive side and including both parliamentary and executive actors in the analysis.

Second, empirical studies which examine parliamentary scrutiny of EU affairs in federal Member States have rarely included both regional and national parliaments in their analysis. Often, scholars focus on national parliaments or regional parliaments, but not on both. Consequently, the relationship between multiple parliaments from different levels of governance within a Member State is rarely discussed or empirically measured. Yet, to comprehensively analyse the impact of parliaments from federal Member States held in EU decision-making processes, one must study the *combined actions* of regional and federal parliaments (i.e. the parliamentary system), at least for regionalised policies. As a result, this article focuses on the negotiations taking place in the *environment* configuration of the Council of the European Union. This offers the possibility to analyse the interplay between subnational and national parliaments within one Member State, as the environment competence is shared to a certain extent between the federal and subnational levels in Austria, Belgium and Germany (Vara Arribas and Bourdin, 2011).

By looking at the position defended in EU negotiations by executives in light of the parliamentary scrutiny conducted at the domestic level allows to ask the following research question: *What factors influence the autonomy of executives from Austria, Belgium and Germany vis-à-vis their domestic parliamentary system when negotiating in the Council of the European Union?* This research question is particularly relevant as it relates, as noted by Hayes and Wallace (2006), to the development of a trade-off between efficiency of EU decision-making processes and democracy. Indeed, Member States are constrained in many ways when negotiating in the Council of the EU as national representatives have to deal with the logics of two different settings. On the one hand, the executive acts at the *European level*, where he must deal with the win-set of the other 27 Member States. On the other hand, the executive must consider the *domestic level*, where he is under pressure from the potential (threat of) scrutiny led by his (sub)national parliaments. These different logics are not always compatible, since the European setting can drive the executive to sacrifice the national position to hasten compromise, whereas the domestic one might force the executive to strictly defend the national position. This tension further stresses the necessity to study the autonomy of negotiation executives have in the Council vis-à-vis their domestic parliaments.

More precisely, the paper presents original data and compares the negotiations of four EU decision-making processes (see. section 3) in three countries (Austria, Belgium and Germany), hence analysing a total of 12 cases. The data of this research have been collected via four main channels of information. First, I conducted 64 interviews between October 2014 and February 2017 in four different countries with MPs (national and subnational), officials from national and regional ministries and finally, officials from EU institutions and permanent

representations. Second, I analysed the media coverage of the four policy-making processes in Austria, Belgium and Germany. Third, I collected information on all parliamentary actions of the Austrian, Belgian and German parliamentary system using their official websites and the IPEX database. Fourth, I analysed official documents (public and semi-confidential) from the EU negotiations and also consulted the various position papers published by environmental stakeholders.

The rest of the article is organised as follows. Section 2 introduces the definition and measurement of the negotiation autonomy of executives and identify causal conditions that may impact on the autonomy of executives. The identification of causal conditions is largely derived from the principal-agent framework and the literature on national parliaments and the European Union. Section 3 elaborates on the qualitative comparative analysis (QCA) method used to compare the 12 cases under investigation. The section also presents the empirical data and the causal path and mechanisms leading to a particular degree of negotiation autonomy of federal executives. The article ends with a discussion of the results (section 4).

2. Measuring and explaining the negotiation autonomy of executives from a principal-agent perspective

The negotiation autonomy enjoyed by federal executives in the Council of the EU is the result of a delegation of authority from its domestic institutions. In agency theory, the relationship between a parliament and an executive is often depicted as a regime of delegation and accountability between a Principal and an Agent (Bergman *et al.*, 2000; Strom, Müller and Bergman, 2003, Saalfeld, 2005). More precisely, the Principal-Agent literature makes a distinction between the notions of discretion and autonomy (Hawkins *et al.*, 2006). While *'discretion grants the leeway to accomplish Principal-determined goals in the way seen fit by the Agent, autonomy is the range of action available to the Agent, including the ability to set policy goals'* (Niemann & Huigens, 2011: 426). The concept of *autonomy* is thus more encompassing as it considers the whole set of actions of the Agent, including the possibility to set his own policy goals and to weaken the incentives of controls the Principal has.

In this article, the distinction between discretion and autonomy is based on Pollack (2003) who operationalizes discretion as the net of the delegation act and of the control mechanisms activated by the Principal. However, this definition excludes from the operationalization the agent's perspective. Under certain conditions, some parliamentary actions (i.e. parliamentary questions, resolutions etc.) may not impact on the autonomy of federal executives at all. Indeed, depending on the EU negotiation setting and on his own preferences, the Agent

operates a balancing act between different arenas (domestic and European) to obtain the best deal during the EU negotiations. That is why in some cases formal discretion granted by the Principal to their Agent is considered unsatisfactory and can lead to actions which might deviate from the Principal's wishes. Consequently, just looking at the delegation setting and at the formal granted discretion is not enough to measure the '*autonomy*' of an agent. It is also necessary to qualitatively assess the impact of parliamentary actions on the executives' autonomy.

2.1 Measuring the negotiation autonomy of executives

On the whole, the autonomy of negotiation is composed of three key elements: (1) a delegation act which is specific for each of the countries analysed; (2) the amount of controls conducted by the parliaments calculated using a quantitative case-specific measurement and (3), the study also includes the perspective of the agent and assesses qualitatively the impact of parliamentary actions on executives.

The first element in defining autonomy is thus the ***delegation act***: this step looks at the formal institutional strength of (sub)national parliaments in EU affairs. Depending on the country, the formal strength can be observed in formal constitutional amendments, in the adoption of specific laws regulating EU affairs in the Member States (like in Germany and Austria) or simply by adapting the rules of procedures of legislative assemblies (like in Belgium). What matters is that these documents frame the relationship between the domestic parliaments and the executive in EU affairs by defining the rules of the game regarding the access to information of parliaments and the capacity to constrain their executive. Accordingly, the delegation setting can vary between Member States, but it does not vary between policy-making processes¹. To operationalize this first step, I use the *OPAL institutional strength index* of national parliaments in the EU (Auel *et al.*, 2015). The OPAL ranking relies on indicators coding the overall access of parliaments to information on the EU, the type of scrutiny infrastructure developed for EU affairs and the oversight mechanisms.

The second step in measuring the negotiation autonomy of the executive consists in calculating the amount of ***control mechanisms activated*** by the Principal. This step allows for a comparison of the activity of domestic parliamentary systems and gives primary insights on

¹ Case-specific *delegation* can also occur in EU affairs but is the exception rather than the rule. Indeed, parliaments can adopt mandates related to upcoming EU negotiations, specifically directed to the government (i.e. binding mandates). As such, only Denmark and to some extent the Netherlands have this kind of micro delegation mechanisms. In practice, this is not the case in Austria, Belgium and Germany. These three countries can indeed adopt opinions or recommendations for their government, but the latter are not binding and are only used occasionally. These mechanisms are operationalized in the study as ex ante control mechanisms.

their level of involvement. Based on a review of the literature (see Karlas, 2011; Raunio, 2005, Heffler *et. al* 2015; Winzen, 2012, 2012a), 7 parliamentary control mechanisms available at different EU decision-making stages² were identified. These are the classical control mechanisms, such as parliamentary opinions (1), parliamentary questions (2), debates or audition on EU dossiers (3), or more EU specific ones, such as the subsidiarity and political dialogue opinions (4), specific transposition debate for EU policies in parliaments (5), (de)briefings of executives (6) and finally, ad-locum control mechanisms³ (7). Based on this list of control mechanisms, an activity score index⁴ to measure the overall activity of domestic parliaments in EU affairs in a case specific way was developed. Overall, all control mechanisms are weighted the same, except for parliamentary opinions. Doing so, the article follows Auel *et al.* (2015) and Karlas (2011) that stressed the importance of the binding character of parliamentary opinion and give to parliamentary opinion twice the weight compared to other control mechanisms that are weighed the same⁵. Each parliamentary action at both the regional and national levels is then analysed and coded accordingly. At the end of this coding process, an activity score⁶ is given for the entire domestic parliamentary system.

Yet, does a parliamentary control mechanism activated by a federal parliament should be given the same weight as actions from regional parliaments? Following the logic applied previously (doubling or weighing by half scrutiny actions) the study argues that when all actions taken in Belgian parliaments (federal and regional) should be weighed the same way, meaning that their actions have the same impact on the autonomy of executives, regional parliaments in Austria and Germany should be weighed half. This distinction is linked to the type of representation of Member States in the Council of the European Union. In the case of environmental policies, Belgian regional ministers are the ones sitting in the Council, representing the Member State, when in Austria and Germany, regional ministers do not have such direct access to the Council of the EU. In addition, Belgium also added a Declaration (n° 51) to the Treaty of Lisbon explaining that all Belgian parliaments (national and subnational) have an equally say in the Early Warning Mechanism (Delreux and Randour, 2015). This is

² Before the start of the negotiation (coordination stage), during the EU negotiation (negotiation stage) and after the end of the EU negotiation (implementing stage).

³ Some national and subnational parliaments can send officials in Brussels to scrutinize the work of national representatives negotiating in the Council of the EU. For example, in Germany, the Bundesrat can nominate experts that are sent to Brussels to sit together with the national delegation during the negotiations. In addition, national and subnational parliaments now also have a parliamentary 'attaché' staying in Brussels to get first-hand information.

⁴ See. Annexes (N)1).

⁵ For the other six control mechanisms, the weight on the autonomy of executive was evaluated according to the publicity of the control mechanisms (committee or plenary level), the form of the control mechanism (written or oral) and the degree of precision of parliamentary opinions.

⁶ An example of the application of this activity score index is available in the annexes (N°2).

not the case in Austria and Germany, where subnational assemblies must act via their upper houses.

The third step in the measurement of autonomy questions the **effectiveness of parliamentary scrutiny** and is qualitative. Indeed, not only the *quantity* but also the *quality* of parliamentary scrutiny matters (see. Sprungk, 2010). For each of the 12 cases, the article discusses qualitatively the autonomy of executive in a three steps process: (1) It start by looking at the overall activity of parliaments in one country and questions what is hiding behind the activity score; (2) It discusses the purpose of the scrutiny (informative or constraining actions) and finally, (3) It analyses how the executive reacted to these control mechanisms⁷.

2.2 Explaining the negotiation autonomy of executives

Which causal conditions could explain whether executives enjoy a high or a low degree of negotiation autonomy vis-à-vis their domestic parliaments? I present in this section five causal conditions and the setting of their QCA thresholds⁸. First, there is broad agreement in agency theory to underline the impact of *conflicting preferences between an Agent and his Principal* (Pollack, 2002, 2003). Discussing the executive-parliament relationship, Saalfeld (2005:355) explains that '*if the principal considers the agent to be an ally with compatible preferences, delegation and a relatively high level of agent discretion is likely to occur* (because the expectation of diverging preferences is low).' It is thus theoretically expected that conflicting preferences between an Agent and his Principal decreases the agent's autonomy. I measured the degree of homogeneous preferences between an Agent and his Principal by identifying the main outstanding issues of the EU negotiation and collecting the positions on these issues of the Principal and of the Agent. A case is considered as non-homogenous when there is a difference in the preferences of the principal and the agent on at least one outstanding issue of the EU negotiation.

Second, not only the degree of preference between an Agent and a Principal can affect the negotiation autonomy, but also the *degree of cohesion within a collective principal* (subnational and national parliaments) (Pollack, 2003; Conceição, 2011). As explained by Winzen (2010) (see. also Sprungk, 2010), not only opposition parties, but also the parliamentarian majority can be affected by the institutional distance of the negotiation taking place at the EU level. In addition, in federal countries, dynamics can also occur between the federal and regional levels

⁷ The results of the measurement of the outcome is available in the annexes (N°3).

⁸ Recapitulative tables presenting the dichotomization process needed for the Qualitative Comparative Analysis are available in the online appendix of the paper (N°4-8).

where different parliamentary majorities can be in power across and within levels of governance. A high degree of cohesion within a collective Principal is expected to decrease the negotiation autonomy of executive. I measured intra-Principal cohesiveness in a similar way as for the causal condition on the 'homogeneity of preferences between the Principal and the Agent. The main outstanding issues of the EU negotiation and the positions of the different parliaments in the parliamentary system, but also *within* parliaments are identified. A case is considered as cohesive when there are no major differences in the preferences between domestic parliaments and within parliaments (i.e. between the opposition and the majority).

Third, it is commonly assumed in Agency theory that asymmetrical information is in favour of the agent (Pollack, 2003; Pollack, 2002; Waterman et al., 1998), a situation that is theoretically expected to increase the Agent's negotiation autonomy. To measure the level of information of the Principal vis-à-vis the Agent, three possible sources of case-specific information are analysed. I identified whether officials working within parliaments produced informational notes on the EU proposals (see. Högenauer and Neuhold, 2015). I also identified whether executives produced informational notes for their parliaments (such as governmental explanatory memorandum of the EU proposal, annual reports on EU affairs or information on the EU negotiations under the form of written reports). Finally, the degree of information provided by third parties is also examined and closely linked to the *fire alarm mechanism* identified in Principal-Agent literature (Lupia, 2003; McCubbins and Schwartz, 1984; Pollack, 2003; Saalfeld, 2016).

Fourth, another factor influencing the autonomy of negotiation of an agent is the saliency of EU issues for domestic parliaments (see. De Wilde, 2008, 2009; de Ruiter, 2013; Delreux, 2009; Saalfeld, 2005; Holzhaecker, 2002; Winzen, 2012). It is theoretically expected that a high salience of a decision-making processes for the Principal decrease the autonomy of negotiation of the Agent. I measured the domestic salience of an EU legislative proposal for the principal by defining for each decision-making process saliency indicators⁹ evaluating the importance of national interests at stake and analysing the domestic media coverage of each decision-making processes. Following the rationale that parliamentarians make cost-benefit analysis before acting, the probability that a MP scrutinize the government is higher if the issue tackles major national interests (saliency indicators) and that the debate is voiced within the public opinion (media coverage). In this scenario, the benefits of scrutinizing the government are higher for the MPs. Consequently, if both dimensions are present, the EU decision-making

⁹ For example, regarding the CO2 cars regulation, I look at the presence of automotive industries in the country. If automotive industries are present in the country, then the issue is considered salient. Another example with the Seveso directive: if the country has a high number of Seveso installations in its territory, then the directive is considered salient, since it may have important impact on its number of installations.

process is considered salient.

Finally, the fifth causal condition looks at the extent to which domestic parliaments and executive authorities are involved in the transposition and implementation of the EU legislation. According to Auel and Hüttmann (2016), besides policy-making, the implementation of EU policies also needs to be subject to democratic norms. With this in mind, Randour and Wolfs (2017) showed that domestic media coverage and political salience of an EU negotiation associated with important implementing powers of regional parliaments have a positive effect on the level of scrutiny conducted by Belgian regional assemblies. The analysis of Högenauer (2017) goes in the same direction as she found that in regional parliaments, most of the parliamentary questions focused primarily on the implementation stage. Therefore, MPs motivation to engage in scrutiny depends, among other things, on their perceived implementing powers. In this setting if domestic actors anticipate important modifications in their practice due to a forthcoming EU legislation, they will tend to get informed and scrutinize the executive during and after the EU negotiations, consequently diminishing the degree of negotiation autonomy enjoyed by executive. The measurement of this causal condition is policy-making specific: it varies between policies but not between Member States. Most specifically, I looked at the type of legislative acts resulting from the EU negotiations and I discussed the margin for manoeuvre of Member States to implement the EU legislation. The more domestic actors have implementing powers, the more parliaments scrutinize the executive. On the contrary, if a negotiation does not primarily concern an issue on which parliaments can exert influence during the implementation process, parliamentary control activities are expected to stay relatively low.

3. Cases and Method

To measure and explain the negotiation autonomy of executive, I studied 4 EU decision-making processes and focused on three federal Member States, making a total of 12 cases. A case is defined in the study as a *Principal-Agent relationship between the executive from a Country A before, during and after an EU policy-making process*. Most specifically, the article analyses the directive Seveso III (2012/18/EU) and the directive dealing with priority substances in the field of water policy (2013/39/EU) as well as the regulation to define the modalities for reaching the 2020 target to reduce CO2 emissions from new passenger cars (No 333/2014) and the regulation on the establishment of a Programme for the Environment and Climate Action 'LIFE' (No 1293/2013). All EU-decision making processes were negotiated between 2010 and 2014, followed the Ordinary Legislative procedure (OLP) and were adopted at first reading after trialogues negotiations. In addition, in the Commission, all policy proposals

were piloted either from DG Environment or DG Climate action and in the European Parliament, the lead committee was the always the Environment committee. The environmental policy field was chosen for two main reasons: **(1)** its high level of activity in terms of adopted legislative acts (Häge, 2008) and **(2)**, the division of the competences regarding environmental policies between the national and subnational levels (Vara Arribas, Bourdin, 2011). As indicated in the introduction, the emphasis on the negotiations of environment policies offers the possibility to analyse the interplay between subnational and national parliaments within one Member State.

To compare these cases, I use the Crisp Set Qualitative Comparative Analysis (QCA) as QCA allows for systematic cross-cases comparison, while at the same time giving justice to within case complexity (Rihoux, Ragin, 2009). Crisp Set QCA is also particularly suitable to analyse a situation of small to intermediate N of cases, which is the case of this study but is also, the most used form of QCA so far (Rihoux *et al.* 2013). The original objective of this form of QCA was to '*simplify, using Boolean logic, complex configurations, and to discover configurations models of multiple causal configuration*' (Tierno, *et al.* 2017). Indeed, the main logic behind QCA is multi-configurational (Ragin, 1987). Applied to this study, it means that a particular degree of negotiation autonomy of executive can be explained by a combination of causal conditions (also called *causal path*) but also that multiple combination of conditions can cause a particular outcome.

More specifically, there are three main steps in a crisp-set QCA (CsQCA) procedure (Rihoux and Ragin, 2009). The first step requires to dichotomize the outcome and causal conditions using '1' and '0' value, when '1' signify the presence of the condition and '0' its absence. The second stage of a CsQCA procedure is the Boolean minimization, a process that must be completed for both the '1' and '0' outcome since QCA '*does not assume symmetrical causality between 1 and 0*' (Delreux, 2009: 138). This minimization process leads to minimal formulae that are presented according to Boolean terminology. The last stage consists in the interpretation of the minimal formulae in order to unpack the causal mechanisms behind the formulae. The QCA procedure was conducted using the software Tosmana (Cronqvist, 2017) and included logical remainders¹⁰. The empirical data used to apply the QCA procedure are available in the online appendix of the paper.

¹⁰ Logical reminders are empty cells in the property space and are used to obtain more parsimonious results. In practice, when including logical remainders, QCA attributes to them a *simplifying assumption*. One problem with using logical remainders is the possibility that the same simplifying assumption would be attributed to both the '0' and '1' outcomes, thus leading to *contradictory simplifying assumptions*' (CSA). The QCA procedure conducted in this study identified one CSA. The problem was solved using the method proposed by Delreux and Hesters (2010).

4. Analysis: Comparing the negotiation autonomy of federal executives

4.1 Boolean minimization, minimal formulae and preliminary observations

After having proceeded to the dichotomization of the outcome and of the causal conditions (see. appendix for a recapitulative table), the second step of a QCA procedure is the Boolean minimization. By minimizing the 1 and 0 outcomes values of ‘autonomy’, the study examines respectively the causal paths leading to a ‘high degree of autonomy’ and the causal paths leading to situations with a ‘low degree of autonomy’. Table 1 presents the minimal formulae and the cases covered by the formulae for both the ‘1’ and ‘0’ outcome.

	Formula	Cases covered	Outcome
Causal path 1	$HOM_PA \{1\} * SAL \{1\}$	Austria <i>Water</i> + Germany <i>CO2 cars</i>	High degree of autonomy
Causal path 2	$HOM_PA \{1\} * INTRA \{1\}$	Austria <i>Seveso</i> , Austria <i>LIFE</i> , Austria <i>CO2 cars</i> , Belgium <i>Water</i> , Belgium <i>Seveso</i> , Belgium <i>LIFE</i> , Belgium <i>CO2 cars</i>	High degree of autonomy
Causal path 3	$HOM_PA \{0\}$	Germany <i>Water</i> , Germany <i>LIFE</i>	Low degree of autonomy
Causal path 4	$INTRA \{0\} * SAL \{0\}$	Germany <i>Seveso</i>	Low degree of autonomy

Table 2: Minimal formulae

The results show that the level of autonomy of federal executive is closely bound up to the presence or absence of homogenous preferences (coded ‘HOM_PA), a causal condition that appears in 3 out of 4 minimal formulae. Indeed, the absence of homogenous preferences between the executive and the parliamentary system is a sufficient and necessary condition for two out of three cases explaining a lower level of autonomy for executives (**causal path 3**). On the contrary, the presence of homogeneous preferences between the Agent and the Principal is a necessary condition (but not sufficient) to explain a higher level of autonomy. However, the causal condition ‘HOM_PA’ does not explain the whole picture. Indeed, in situations where executive enjoy a high level of autonomy, the presence of homogeneous preferences must be combined whether with **(a)** the presence of a cohesive Principal (coded ‘INTRA) (**causal path 2**) or **(b)** a high domestic salience of the EU decision-making (coded ‘SAL) (**causal path 1**).

Most particularly, the causal condition 'salience' offers interesting (counter-intuitive) results. Contrary to what was expected, a higher level of salience does not necessarily mean a lower level of autonomy for federal executives. Indeed, results show that in some cases, the domestic salience is so high that it diminishes the parliamentary scrutiny, hence increasing the autonomy of negotiation of executive (**causal path 2**). On the contrary, a lower level of salience leads to a lower autonomy of negotiation. Interestingly, a lower domestic salience creates a favorable context for political contestation within parliaments, by allowing both majority and opposition parties to discuss the content of the EU proposal. The causal condition '*cohesiveness Intra_Principal*' also matter to explain the degree of autonomy given to federal executives, but only combination with a low level of domestic salience (**causal path 4**). Finally, the informational asymmetry' (INFO_ASY) and 'Implementing powers' (IMP_POW) conditions are not included in the minimal formulae.

4.2 Interpreting the formulae

The third step is a crisp-set QCA procedure is the discussion of the minimal formulae. The objective is to unpack the causal mechanisms of the formulae.

To begin, the article discusses the links between the presence of homogenous preferences among executive and the domestic parliamentary system combined with high domestic salience on one side, and a high degree of autonomy for federal executive on the other (**causal path 1**). The Principal and the executive have similar preferences, and EU decision-making touches upon major national interests with a moderate to high media coverage. With this in mind, the rationale leads parliaments not wanting to negatively affect the negotiation autonomy of their executive vis-à-vis the other EU Member States. As a result, the executive enjoys a higher level of autonomy in the negotiations of the EU proposal.

This situation is described by Auel and Benz (2005) as one of the dilemma that parliaments face when controlling their government in EU affairs. Control of the executive is necessary, yet total control leaves no room for the executive to have some degree in autonomy to successfully negotiate and reach a deal. In other words, the issue at stake is so important that it is better to leave the government to handle the EU negotiation how it sees fit. The 'Germany CO2 cars' case is a perfect illustration of this causal path. Following a blockage in the European negotiations, the Bundesrat tried to adopt a second statement but failed to do so. The blockage in the EU negotiations was mainly the result of Chancellor Angela Merkel who broke down the first result of the trialogue negotiations. In the unadopted motion of the Bundesrat, the following can be read: '*The Federal Council deplors the continuing disagreement in the negotiations to reduce the average CO2 emissions of passenger cars*' (Bundesrat, 2013a). With this sentence,

the Bundesrat Environment committee is specifically targeting the federal government negotiating stance in Brussels. Yet, the plenary of the Bundesrat, on the advice of the EAC, decided not to follow the opinion of its Environment committee. The main reason behind this choice is the willingness to give enough space to the government to negotiate in Brussels strongly motivated this decision (Interview 19 – An official of the Bundesrat).

Second, what are the links between the presence of homogeneous preferences between executive and domestic parliaments combined with a high cohesion intra-Principal on the one hand, and a higher degree of autonomy for federal executive on the other hand? (**causal path 2**). The rationale goes as follows: since the Principal and the Agent have similar preferences (or, in some cases, do not have a position at all) and that the parliamentary system is cohesive (in the sense that there are no disagreement within and across parliaments), there are no reasons for the agent to worry about a potential control of the Principal on his action. Consequently, the Agent enjoys a high degree of autonomy.

This formula is well illustrated, among others, by the 'Austria *LIFE*' case. In Austria, there was a collective *action* of a parliament at the coordination stage but without a collective *result*, in the sense of a parliamentary opinion. In the case of the LIFE negotiation, the EAC of the Austrian Federal Council held a short collective debate on the LIFE proposal with a member of the executive (i.e. a civil servant). The members of the EAC held a debate focusing mostly on gathering information on the consequences of the EU proposal for Austria (i.e. budget, national allocations, and the performance of Austria). Following the answers of the executive, the parliamentarians did not see the necessity to adopt a written statement. Since they were all cohesive and that MPs (even the opposition) agreed on the position defended by the executive, there is no more reason to scrutinize the policy-making process. In other words, even when some parliamentary control exists, the likelihood of additional scrutiny decreases if the answers of the minister satisfies the RMP.

The third minimal formula is now discussed. What is the link between the absence of homogeneous preferences between executive and parliaments on the one hand, and situations with lower degree of autonomy for executive on the other hand (**causal path 3**). The causal path relates to situations in which non-homogenous preferences are observed between the executive and their parliaments. By taking a clear position, German parliaments highlighted differences in their understanding of the EU proposal vis-à-vis their executives. In light of these parliamentary opinions, the German executive had to modify its negotiation position or to explain to the parliaments the reasons why they negotiated the way they did. Consequently, these statements acted as a *position-taking* instrument of parliaments towards their executive.

In light of these preferences, executive had to adopt a more cautious negotiation strategy to avoid potential resistances of parliaments or additional parliamentary scrutiny.

The case 'Germany *Water*' offers interesting insight on the formula. In the case of the PS in the field of water policy directive, there is a clear observable impact of the Bundesrat opinion on the German negotiation position. When the Bundesrat adopted its opinion, the federal executive had already taken position on some of the outstanding issues of the negotiation. Moreover, at the start of the negotiations the German executive was the only Member State in favor of including the three pharmaceuticals in the list of priority substances. The opinion of the Bundesrat, adopted a few weeks later (still at the coordination stage), favored the inclusion of these new substances in the *watch list mechanism*, but not in the list of priority substances. Interestingly, after the opinion of the Bundesrat, one can observe a change in the position of the German executive. Indeed, an official of the delegation explains that it is after the opinions of the Bundesrat and of the ministry of Economy (that were both against the inclusion of pharmaceutical in the watchlist) that the German negotiators had to change their position during the EU negotiations (Interview 25 – A German official)

Indeed, in the case of water policies in Germany, the main bulk of the concrete implementation of the directive (monitoring, scientific analysis) is situated at the Länder level. As the opinion is expressed by the Bundesrat, – which represents the Länder – not listening to the parliament's opinion and expertise (especially when the Finance ministry is on the side of the parliament) creates important risks regarding the concrete implementation of the directive at the regional level. Consequently, the German agent enjoys less autonomy in EU negotiations vis-à-vis his domestic parliaments.

Finally, what do we learn from the fourth minimal formula. Indeed, what is the link between a lower domestic salience of the EU decision-making process combined with a lower cohesion among the parliamentary system on the one hand, and situations with a lower degree of autonomy for executive on the other hand? (**causal path 4**). The rationale goes as follows and only concerns the 'DE Seveso' case: the low mediatization of the policy proposal – yet with major industrial interest at stake – allowed for a political polarisation of the debates. The parliaments within the parliamentary system had divergences in their positions, notably on how to implement Seveso III directive and on the 'safe distance' issue. Moreover, Seveso is clearly a policy that needs to be implemented by national and regional actors, so as to reduce the room for manoeuvre of the executives. Indeed, with the divergences of preferences within the principal, the executive must adopt a cautious negotiation position to ensure the implementation of the policy.

Most specifically, Germany faced important disagreement during the coordination process of the transposition and implementation of the Seveso III directive. More precisely, the problem concerns specific articles regarding 'land-use' planning and the notion of 'safe distance rule' and was both observed at the federal and regional levels. An official that participated in the coordination process explained that there were difficulties in agreeing on a common position both at the federal and regional levels (Interview 16). Since Germany already had problems regarding the implementation of the Seveso II directive (Interview 37), these implementation problems were clearly expected and anticipated by the German federal executive, hence diminishing its autonomy of negotiation.

Conclusion

This article examined from a comparative perspective, the negotiation autonomy of Austrian, Belgian and German federal executives in the Council of the European Union vis-à-vis their domestic parliaments. In particular, it aims at explaining to what extent, how and why regional and national parliamentary actors scrutinize EU environmental decision-making processes, as well as the consequences on the negotiation autonomy of federal executives. The study used the *Qualitative Comparative Analysis* (QCA) method and assesses the impact that five causal conditions have on the negotiation autonomy of federal executives: (1) the preference homogeneity between federal executives and domestic parliaments, (2) the cohesion of the domestic parliamentary system, (3) the existence of an informational asymmetry in favor of federal executives, (4) the domestic salience of the EU decision-making process, and finally, (5) the impact from the implementing powers domestic actors own.

Against this background, the results show that federal executives enjoy an important level of negotiation autonomy vis-à-vis their domestic parliaments. More specifically, the level of autonomy of federal executives is closely bound to the presence or absence of homogenous preferences, and to the salience of EU decision-making processes. On salience, the analysis depicts interesting results. In reality, a high level of salience (combined with homogenous preferences between the Agent and the Principal) is leading to increased negotiation autonomy for the executive. However, the configurational analysis reveals that, combined with a non-cohesive Principal, a lower level of salience leads to less negotiation autonomy. Contrary to what was found in previous studies (see for example de ruyter, 2013 or Saalfeld, 2005), domestic salience for an EU proposal will not always lead to higher scrutiny from domestic parliaments.

This article also emphasised that the degree of autonomy of executives in EU affairs is to a large extent country-specific. In fact, Austrian and Belgian executives enjoy a high degree of autonomy in EU negotiations whereas the German executive has less room for maneuver vis-à-vis its domestic parliaments. As such, this finding confirms previous results from scholars focusing on the institutional strength and degree of activity of domestic parliaments in EU affairs. However, this article goes one step further by highlighting the fact that the formal strength and degree of activity by parliaments is also affecting the room for maneuver federal executives have in EU negotiations. In turn, the article invites scholars to open a new research agenda focusing not only on the strength and activity of parliaments, but also on the quality and effectiveness of their actions.

In light of the debate on the re-parliamentarisation of the European Union and on the democratic deficit, this finding has strong outcomes. In fact, if parliaments conduct inefficient scrutiny, then domestic parliaments must go beyond the mere control of their executive in order to be active. In other words, it is not only the *quantity* of actions that matters, but also the *effectiveness* of parliamentary scrutiny. On this aspect, the article highlights the fact that an important amount of the scrutiny conducted by parliaments does not fill the classical functions of parliaments (i.e. informational, control or communicating functions). When dealing with EU affairs, domestic parliaments also have as a function to *support* their executive in EU negotiations vis-à-vis other Member States and EU institutions. Hence, the input of domestic parliaments in EU governance and decision-making processes must not only be understood as a way to increase the legitimacy of EU decision-making processes, but also as an opportunity for the executive to secure domestic support in EU negotiations.

Finally, the article offered a first empirical analysis on the relationship between several parliaments (regional and federal) within one Member States. The empirical data showed that the involvement and activity of regional parliaments in Austria, Belgium and Germany on EU affairs is relatively modest, even when EU proposals touched upon shared or regionalised policies. Nonetheless, an interesting finding is the role upper houses have played in these Member States (at the exception of Belgium). Upper houses were the most active parliaments in scrutinizing EU environmental policies in Germany and Austria. In light of the debates on the effect of bicameralism in Western democracies, this paper shows that stronger parliamentary systems - such as the ones in Austria and Germany - tend to seize benefits and opportunities derived from the post-Lisbon era more frequently. In particular, upper houses reinforce their position within the domestic parliament system at the expense of regional parliaments. Further analysis the role of upper chamber in EU affairs seem also a promising ground for further research.

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