

Chapter 2

Analysing Collective Decision-Making in the Council: A Research Design

The method of Political Science is the interpretation of life; its instrument is insight, a nice understanding of subtle, unformulated conditions.

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2.1 The Council of the European Union: A Black Box

In Political Science the term ‘black box’ has been coined by David Easton. He conceives of the political decision-making process, ‘that system of interactions [...] through which [...] authoritative allocations are made and implemented’ (Easton 1965a, p. 50), as a conversion mechanism wherein political inputs (demand and support) are transformed into outputs (policy).¹ The inner workings of this mechanism are not visible. As a result, one does not know by which precise rules it operates other than by systematically comparing variation in input with variation in output.

The Council of Ministers’ decision-making process resembles an Eastonian black box. The inputs and the outputs are known,² but the workings of the conversion mechanism that turns the inputs into policy decisions remains largely invisible.

Nevertheless, some might argue that parts of the transformation process are not surrounded by an impenetrable ‘veil of secrecy’ (Bauer 2004, p. 370). For instance, transparency initiatives adopted by the Treaty of the European Union (TEU) (1993) lifted some of this veil. The TEU provided public access to Council timetables, the minutes of ministers’ meetings, voting records of their decisions taken and

¹See also Easton (1965b). The interplay of interest representation (input), decision-making (black box) and policy decision (output) is also referred to as the politics-polity-policy triad (cf. Keman 1993, 1997).

²Formally, the input are proposals drafted by the Commission. The output are Council acts.

the monthly summaries of adopted Council acts. The Seville European Council (2002) even opened deliberations between ministers to the public, albeit restricted to acts adopted under the co-decision procedure, i.e. co-legislated with the European Parliament.

But these steps, although seeming like a welcoming step in shedding light on the transformation mechanism, are rather superficial. Every act under the co-decision procedure has been ‘pre-cooked’ by the Council’s presidency and the intransparent lower tiers of the institutional decision-making process (see Sect. 2.2), leading towards compromise solutions even before the ministers sit.³ The Council documentation similarly relates only to this ‘staged’ level of decision-making (see Chap. 5 for a discussion as to why this level should be conceived of as staged.)

Thus, despite adding transparency at the surface, the lion’s share of decision-making and brokering in the Council has remained opaque (cf. Gomez and Peterson 2001; Häge 2008a; Hayes-Renshaw and Wallace 2006; van Schendelen 1996). From an academic perspective the Council’s decision-making process largely remains opaque (Sullivan and Veen 2009, p. 113); an Estonian black box.

The majority of scholars assumes that Council decision-making is grounded in ‘diffuse reciprocity, mutual responsiveness, and a culture of compromise’ (Lewis 2002, p. 191–192), where governments ‘are willing to compromise for the sake of reaching common solutions’ (Arregui et al. 2004, p. 152).⁴

To evaluate these assumptions and to be able to understand whether and how these ‘games governments play in Brussels’ (Naurin and Wallace 2008, p. 12) may pertain to the European Union’s political accountability, legitimacy and representation problems (see e.g. Arnall and Wincott 2003; Bovens 2007; Fisher 2004; Moravcsik 2002; Schmitter 2000),⁵ more comprehensive studies aiming at increasing the insights into the Council’s collective decision-making process are certainly needed.

³Observers argue that some negotiations by ministers are genuine (Spence 2004). As yet, however, scholars have not systematically analysed these open debates. If done correctly, this may be an important step forward in deepening our understanding of the Council’s intra-institutional politics.

⁴This pattern persists in the enlarged European Union with its current 27 member states (Lempp 2007; Lempp and Altenschmidt 2008; Puetter 2006).

⁵Governments in the Council are not accountable to any political forum at the European level (Spence 2004; van Gerven 2005). While accountability to domestic constituencies is formally existent, ministers usually are not held responsible for decisions taken in the Council. In some of the states (e.g., the Netherlands), governments must give their national parliaments information about the votes they have cast in the Council. As a domestic practice, however, this is not obligatory in all countries. Isolated from constituencies and without effective legislative oversight, governments have thus leeway to bargain about the substance of important issues without pressure and oversight from the electorate or other EU institutions. The isolation is even reinforced through superficial coverage of Council politics by the mainstream broadcasting channels and newspapers (cf. Trenz 2004). This combined lack of oversight effectively decouples decision-making from the short-term policy constraints the electoral cycle imposes on law-making in the EU’s member states. Representation problems may arise, however, when governments trade-in national preferences to achieve common solutions in the Council.

To this end, the remainder of this chapter introduces a novel design to study Council decision-making. The following section elaborates the organisation of the Council's intra-institutional decision-making process and analyses principal-agent problems between ministers and their governments. Section 2.3 then acknowledges scholarly attempts to understand Council decision-making. Taking stock of that literature, Sect. 2.4 introduces the study's research design, divided into discussions of ontology, epistemology and methodology.

2.2 Intra-Institutional Decision-Making

The Council is the 'institutional heart of the decision making in the EU' (Lewis 2007, p. 153). Although it increasingly 'co-legislates' with the European Parliament (see Kreppel 2002; Rittberger 2005; Scully 1997a,b, 2001), no law can be adopted without its explicit consent (Westlake and Galloway 2004). In some policy areas, it even enjoys exclusive legislative powers.

Accounts of the Council's role in the EU inter-institutional legislative decision-making process are numerous (e.g. Bache and George 2006; Dinan 1999; Hix 2005; McCormick 2008; Nugent 2006; Raunio and Wiberg 1998).⁶ Focussing on intra-institutional Council decision-making, this section discusses an issue that received comparatively little attention so far: party-political policy drift of ministers. However, to facilitate this discussion, some paragraphs are firstly devoted to the Council's institutional division of responsibilities.⁷

In the Council, the ministers only formally discuss and adopt legislative proposals. Most of the preparation and negotiation happens at subordinate levels. More than 250 Council working groups, the Committee of Permanent Representatives (or Coreper, the French acronym for *Comité des représentants permanents*) and senior high-level committees are engaged with these tasks. Hayes-Renshaw and Wallace (1997, p. 78) estimate that about 70% of all legislative proposals are decided upon at the Council's working group level, 10%–15% in Coreper and high-level committees and the rest by the ministers themselves.⁸

The following sketches a simplified account of deliberations within the Council (see also Fig. 2.1): at the lowest level are the working groups, the 'Council's

⁶It is not the Council of Ministers but the European Commission that is generally responsible for drafting EU legislation. The Council and the European Parliament only have the authority to reject, amend or accept legislative proposals.

⁷For general discussions of formal decision-making in the Council, see Westlake and Galloway (2004), Häge (2008a) and Hayes-Renshaw and Wallace (2006).

⁸Häge (2008a) challenges these estimates and argues that the ministers are actively involved in more than 60% of all legislative proposals. However, in cases of involvement the ministers usually focus on only one, two or three major points of contestation within a wider proposal. Thus, although ministers have an input on a considerable proportion of proposals, this input is usually limited to a very small number of issues within these proposals. Only Andersen and Rasmussen (1998) estimate that the ministers' real impact is larger than that of the 'committee levels.'

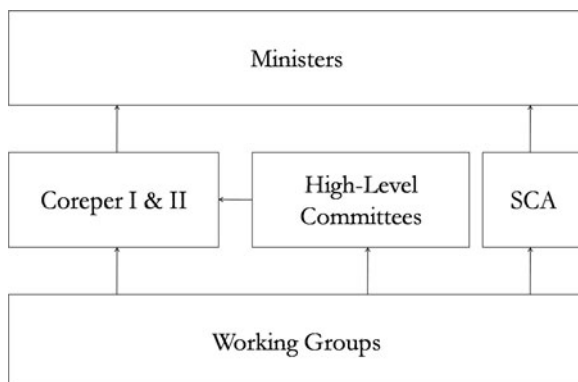


Fig. 2.1 The Council of Ministers: A three-level system of decision-making.

Note: The width of the boxes does not provide an indication for the relative power or importance among and within the three decision-making levels. Moreover, this description is explicitly simplistic. Neither does it make a differentiation between policy domains and EU pillars, nor does it include Coreper's subordinated Mertens and Antici Groups (Lewis 1998). Coreper I consists of deputy heads of the Permanent Representations and deals largely with social and economic issues. Coreper II consists of the Permanent Representatives and deals largely with political, financial and foreign policy issues (Bostock 2002)

lifeblood' (Westlake and Galloway 2004, p. 200). Discussions about legislative proposals received from the Commission are usually initiated here by request of the Council Presidency. The working groups try to reach agreement on as many issues as possible (Fouilleux et al. 2005). This relieves the higher decision-making levels, making the working groups the 'backbone of the entire process of European integration' (Hayes-Renshaw and Wallace 2006, p. 96). The 'precooked' proposals (Larsson 2003, p. 5) are then being forwarded to either Coreper or the so-called 'high-level committees.' The decision whether to send a proposal to Coreper or a committee depends on the policy responsibility (see Bostock 2002). Among the high-level committees, the Special Committee on Agriculture (SCA) occupies a unique position as it is the only committee where proposals prepared for the ministers must not be formally submitted through Coreper. If the middle-tier cannot reach an agreement either, the proposal will be placed as a B-item on the Council's agenda for further discussion. While only the ministers may adopt legislation, the Council's institutional structure permits that many decisions are effectively being taken at lower levels, and passed without further elaboration by the ministers as so-called A-items.⁹

⁹The classification between A- and B-items can sometimes be misleading. In general, an A-item refers to a proposal formally agreed upon at the Coreper level, while a B-item needs to be resolved by the ministers (Lewis 2002). However, there can be also 'pseudo' (de Zwaan 1995, p. 136) or 'false' (van Schendelen 1996, p. 540) A-items. This refers to A-items that were amended or rejected in an earlier Council session. Thus originally these were B-items. Similarly, there are 'false B-items', where Coreper reached agreement but on which it is deemed desirable that the

2.2.1 *Portfolio Holder Policy Drift in the Council?*

An issue that has attracted limited attention is to what extent ministers of coalition governments in the Council represent their parties' rather than their governments' policy positions. This is a typical principal-agent problem (cf. [Thies 2001](#)). The agents (i.e. the ministers) might not share the principals' goals (i.e. the government), at least not exactly.

In coalition government, while the cabinet is collectively responsible to the parliament for its policies, it must delegate responsibility for specific areas of policy to individual ministers. There lies the risk. When delegating, the principal empowers agents who might have different goals. By virtue of delegation, the agents then may have the ability to undermine the principal's own preferences.

This problem of ministerial drift is also formulated in Laver and Shepsle's 'portfolio allocation approach' ([Gallagher et al. 2001](#); [Laver and Shepsle 1990, 1994, 1996](#)): parties allocate ministers to portfolios to pursue party political goals and policy targets formulated explicitly in a coalition accord. But a minister might place the wishes of her party over the policy goals of the cabinet, resulting into policy drift from the government's ideal point. The logic underlying this behaviour is that 'coalition partners are in some sort of mutual competition for votes' ([Strøm and Müller 2000](#), p. 257).

In domestic politics, the government can 'keep tabs' on its ministers through mechanisms such as cabinet decision-making ([Andeweg 2000](#)), allotments of junior ministerial positions to shadow the other parties' ministers ([Thies 2001](#)) or legislative oversight ([Martin and Vanberg 2004, 2005](#)).

In the Council, these mechanisms are not available. Moreover, the ministers can even position experts from their ministries at key-stages of the Council's decision-making process, which may grant ministers even more leeway to deviate from their principal's position. But to what extent do ministers deviate from government positions in the Council?

Around 70% of the legislative proposals' issues are negotiated at the working group level. The latter consist of clerks that are either based in national ministries or are temporarily seconded to the member states' permanent representations in Brussels. According to [Hayes-Renshaw and Wallace \(1997\)](#), the working groups are a real opportunity for a minister to have her views taken into account (see also [Westlake and Galloway 2004](#), p. 221).

A similar picture can be sketched for the high-level committees that have been established for particular policy fields. These committees are also composed of policy experts from the responsible domestic ministries ([Westlake and Galloway](#)

ministers should deliberate as well ([Hayes-Renshaw and Wallace 1997](#), p. 80). The logic behind A- and B-items has been described by [Noël \(1967\)](#) as 'un certain assouplissement ultérieur a conduit maintenant à interpréter cette procédure plutôt comme une renonciation unanime à une discussion dans le Conseil' (as cited in [Westlake and Galloway, 2004](#), p. 204).

2004, in particular pp. 204–205 and pp. 218–219).¹⁰ They therefore represent ‘the interests of particular government departments in the Council system’ (ibid, p. 219).

However, there is Coreper.¹¹ Being a facilitator between highly specialist policy experts at the working group level and the ministers, Coreper assumes a gate-keeping position: equipped with the power and expertise to make amendments to decisions taken by working groups and committees, it decides which issues are forwarded as an A- or B-item onto the Council’s agenda (Bostock 2002, p. 225). According to article 207 of the Treaty of the European Communities (TEC), Coreper is responsible for preparing the work of the Council and executing the tasks assigned by the Council. In addition, the permanent representatives act in place of the ministers if they are unable to attend a Council meeting. Coreper is therefore conceived of as ‘the real engine for much of the work of the Council’ (Hix 2005, p. 83) and the ‘backbone [...] of Council business’ (Westlake and Galloway 2004, p. 200).

Most importantly, Coreper is a ‘direct, state-led rival’ to the Commission (Westlake and Galloway 2004, p. 203), with the duty of representing the member states’ interests and ‘defending the national position’ (Hayes-Renshaw et al. 1989, p. 130–131). In contrast to the high-level committees and working groups, Coreper does not consist of specialists from individual ministries, but predominantly of staff from the foreign ministry (see also Hayes-Renshaw and Wallace 1997, p. 76). It has a reputation of serving the capital and government rather than taking party political sides (Egeberg et al. 2003; Trondal 2001).¹² Moreover, the leader of the national Coreper delegation is usually an intimate of the head of government.

As decisions taken on committee levels have to be accepted by Coreper before submission to the ministers (Larsson 2003, p. 41), Coreper can thus actively curtail the ministers’ policy drift. It has an incentive to do so due to its institutional role and loyalty to the government.

To conclude this discussion, one may assume that Coreper is not only a gate-keeper, but the governments’ watchdog over their ministers in Brussels. Therefore, when analysing Council decision-making, it seems realistic to focus on government positions rather than ministers’ party positions.¹³

¹⁰See also Hayes-Renshaw and Wallace (1997, pp. 84–96) and Nugent (2006, pp. 200–202).

¹¹For more information, see Bostock (2002), Noël (1967), de Zwaan (1995), Hayes-Renshaw (1990), Lewis (1998), Lewis (2002), Lewis (2000), Hayes (1984), Hayes-Renshaw et al. (1989), Mentler (1996), and Westlake and Galloway (2004).

¹²Some argue that Coreper is Janus-faced as it serves two masters: the national governments on the one hand, and the project of European integration on the other (Lewis 2005, 2008). They maintain that Coreper’s members develop a supranational identity in addition to their role of agents of government (see e.g. Beyers 2005; Egeberg 1999). Perhaps a bit exaggerated, a German Permanent Representative therefore once joked that the ‘ständige Vertreter’ (permanent representatives) are known as ‘ständige Verräter’ (permanent traitors) in the capital (Barber 1995).

¹³As only the SCA can submit its decisions directly to the ministers, ministerial drift may most probably occur in this policy domain. However, agriculture has been a salient policy issue in EU politics since the 1960s. Moreover, it is a policy domain where decisions translate directly into winning or losing a decent share of voters (farmers still have a fair amount of influence on other

A focus on government positions as opposed to party positions constitutes the first contribution to the research design. Its relevance will become clearer when elaborating the calculation of government positions (see Sect. 2.4.2.1.) The discussion now turns to a review of prior Council studies. It only focusses on insights relevant to the research design, however. Findings with relevance to the study's research questions are addressed in the empirical chapters.

2.3 Research on Council Decision-Making

The literature on Council decision-making can be roughly divided into two streams. First, there is the qualitative school stressing that both formal and informal processes have to be taken into account to understand Council deliberations. Most importantly, this approach sees Council decision-making as grounded in a 'culture of consensus rather than a culture of competition' (Lijphart 1998, p.104).¹⁴ The fact that Council decisions are mostly taken unanimously regardless the formal voting rule has been promoted by the repetitive nature of Council deliberations. This has resulted in a 'supranational' socialisation of the involved actors (Beyers 1998, 2005; Beyers and Trondal 2003; Egeberg 1999; Egeberg et al. 2003; Heinisch and Mesner 2005; Lempp 2007; Lempp and Altenschmidt 2008; Lewis 2005, 2008; Trondal 2001, 2002). According to Spence (2004, p.257), negotiations therefore are 'generally positive-sum, rarely about distributive bargaining and almost always about integrative bargaining, where accommodation and rapprochement is the rule.' Apart from socialisation, informal factors such as seniority and experience of actors, their negotiation skills, frequent informal meetings, 'corridor bargaining' and inter- and intra-group dynamics, keep Council decision-making functioning (Hayes-Renshaw and Wallace 2006, p. 28). Usually, these scholars obtain their information from in-depth interviews with actors directly involved in the Council machinery (e.g. Beyers and Dierickx 1998; Elgström and Jönsson 2000; Elgström et al. 2001; Garman and Hilditch 1998; Naurin and Lindahl 2008).

Despite revealing valuable insights on deliberations in senior committees (Lewis 2003, 2008; Niemann 2008), consensus formation in single policy fields (Andersen and Rasmussen 1998; Aus 2008; Miklin 2009), the influence of the Council Secretariat (Beach 2008) or the Council Presidency (Tallberg 2004, 2006, 2008), qualitative studies have so far provided only an incomplete perspective of an extremely complex process of decision-making, that can only be understood by taking into account a very large number of characteristics of actors and context, to

voters in rural areas). It is therefore difficult to imagine that agents have the discretion to deviate from the principal's position unchecked.

¹⁴See Westlake (1995), and Sherrington (2000).

which any particular qualitative researcher can only hope to contribute fragmentary bits and pieces.¹⁵

The quantitative approach sets out to provide a comprehensive and parsimonious account of the Council's decision-making process. Almost all contributions of this 'significantly' growing branch (Naurin and Wallace 2008, p. 2) are firmly grounded in rationalist assumptions and stress actors' strategic and utility maximising behaviour. The 'rich and systematic data analyses' (König et al. 2006, p. 554) facilitates the rigorous testing of assumptions about Council members' behaviour and preferences that have been only put under limited empirical examination before (see Hörl et al. 2005; Sullivan and Veen 2009).

Capitalising on this burgeoning literature, the following sections critically discuss its contribution to the understanding of Council decision-making, drawing lessons for this study's research design.

2.3.1 *Council Voting Studies*

The quantitative analysis of Council voting records has provided empirical support of the existence of the 'culture of consensus' that was inferred in the qualitative literature from fragmented evidence (Hayes-Renshaw and Wallace 1997; Sherrington 2000; Westlake 1995).¹⁶

Mattila and Lane (2001) have been the first to demonstrate that the majority of Council decisions technically subject to QMV are not contested at the voting stage. Heisenberg's (2005) analysis reveals a similar pattern, with ca. 80% of all decisions under QMV rule taken unanimously (see also Hayes-Renshaw et al. 2006). Heisenberg (2005, p. 79) therefore argues that the scarcity of explicit majority voting 'undermines the fundamental assumptions in the rational institutionalist (RI) as well as the power index models,' and that therefore 'the biggest embedded assumption of EU spatial models that decision-making in the Council is concerned more with inter-institutional dynamics than with the substance of the proposal at hand' (ibid., p. 80) is flawed. In other words, she contends that informal bargaining processes that result in consensus voting cannot be captured by these models, rendering them inappropriate for research on Council decision-making. The implications of this critique will be addressed in Sect. 2.3.2. To anticipate, while her critique be relevant for models that place exclusive emphasis on formal decision-making rules, it does not apply to those that are based on cooperative game-theory (cf. Schneider 2008).

¹⁵State-of-the-art reviews of that literature can be found elsewhere (e.g. Hayes-Renshaw and Wallace 2006; Naurin and Wallace 2008; Westlake and Galloway 2004).

¹⁶The Council voting records have been collected systematically by the Council Secretariat since 1998 and can be accessed through the Council Minutes and the Monthly Summaries of Council Acts.

But Council voting studies also reveal other important aspects of Council politics (see also Chap. 5, Sect. 5.2). Analysing roll-calls from 1995 to 1998, [Mattila and Lane \(2001\)](#) find that abstentions or explicit ‘no’ votes are most likely to occur in the policy sectors agriculture, internal market and transport. This finding has been corroborated by [Hayes-Renshaw et al. \(2006\)](#) for the period between 1998 and 2004. [Mattila \(2004\)](#) in turn looks at the factors associated with dissent and finds that leftist governments tend to vote less against the majority than their right-wing counterparts (see also [Hagemann and Høyland 2008](#)). Moreover, governments from countries that benefit financially from the EU are less likely to vote against the Council majority than governments from countries that are net-contributors to the EU budget. Larger countries as well as Northern countries are also more likely to vote against the majority ([Hagemann and De Clerck Sachsse 2007](#); [Hayes-Renshaw et al. 2006](#); [Heisenberg 2005](#); [Mattila 2004, 2009](#); [Mattila and Lane 2001](#)). Countries that hold the Council Presidency oppose majoritarian decisions less frequently than other governments ([Mattila 2004](#)). Eastern enlargement in May 2004 did have no significant impact on the extent of consensus voting ([Hagemann and De Clerck Sachsse 2007](#)). With a percentage of uncontested decisions at around 90%, this even outperforms consensus behaviour in the EU-15 ([Mattila 2008, 2009](#), p. 844). When comparing explicit votes by country, the new member states appear to vote less often against the majority than old member states (*ibid.*, but compare [Hagemann 2008](#)). This exceeds pre-enlargement expectations, where the CEECs were assumed only to ‘partly adopt the norm [...] not [to] allow the smooth functioning of the EU [...] [to be] impeded by their desires’ ([Field 2001](#), as cited in [Mattila, 2009](#), p. 844).

However, despite valuable insights revealed by voting studies, the findings have to be taken with a grain of salt. Although consensus behaviour has been demonstrated at the voting stage, this leaves scholars non-the-wiser with regard to the ‘real’ contestation in Council decision-making. This relates to a serious problem of roll-call data: only legislation that has been ‘pre-cooked’ successfully at previous bargaining stages enters the arena of the ministers. At this stage, any potential vote trades have usually already been decided upon. [Stokman and Thomson \(2004b, p. 7\)](#) therefore correctly argue that if ‘actors shift initial positions during the pre-legislation bargaining process, then voting records do not properly indicate who won and who lost.’ Also, only legislative proposals that have not been withdrawn at an earlier stage of the institutional process are voted on ([Sullivan and Veen 2009](#), p. 118). The data are thus effectively subject to censoring bias, providing a downwards biased estimate for disagreement and conflict in the Council (see also [Mattila 2004](#), p. 31).¹⁷

¹⁷This is a wider problem of studies of decision-making that has not been addressed clearly in Council research, however. The literature on ‘non-decisions’ argues that the manifest absence of conflict and disagreement cannot be seen as conclusive evidence for the absence of actual conflict (see [Bachrach and Baratz 1962, 1963](#)). This idea has been formulated by the German political scientist [Friedrich \(1963\)](#) as the ‘law of anticipated reactions.’ It maintains that actors condition their behaviour according to what they believe is the preference of the principal. They try to

But there is another problematic issue with voting data. For various reasons, states opposed to a legislative proposal often decide not to show their dissent by abstention or an explicit ‘no.’ Heisenberg (2005, p. 82), for instance, speculates that unanimity enhances the credibility of the Council in the eyes of citizens when losers of Council decision-making are not made explicit. With regard to the implementation of Council decisions, Hayes-Renshaw et al. (2006, p. 163) maintain that consensus voting also enhances governments’ compliance. This similarly masks real dissent in the data (cf. Mattila 2008).

Most scholars unequivocally acknowledge these limitations of roll-call data (cf. Hagemann 2008; Hagemann and Høyland 2008; Mattila 2008; Mattila and Lane 2001), yet often tend to leave the probably most important issue undiscussed: the significance of an explicit vote. Simply because decisions have been ‘precooked’ and consensus is the modal outcome, an abstention from the vote or an explicit ‘no’ is a highly significant event. These may be used to signal external constituencies that the negotiators did their best but failed eventually, or to expose governments as being uncompromising. In other words, dissent in the Council of Ministers is likely to be highly strategic. Accordingly, because of the strategic element to any explicit vote, the voting literature ought to limit its conclusions to the peculiar voting stage, and not generalise about the Council’s decision-making process (see also Chap. 5).

2.3.2 *Theoretical Models of Council Decision-Making*

Models of Council decision-making focus explicitly on the decision-making process, seeking to predict decision outcomes.¹⁸ Although diverse in scope and application, all models are unified by their rational choice assumptions of human behaviour and the use of concepts derived from game theory. They conceive of collective decision-making as decision-making on controversial issues about which actors hold single peaked preference functions (e.g. Black 1958; Bueno de Mesquita et al. 1985). Decision outcomes are seen as the result of interactions between goal-oriented actors operating within institutional constraints. A broad distinction can be made between models that emphasise the formal procedural aspects of EU decision-making (institutional constraints such as voting rules, decision rules, etc.), or the informal bargaining that takes place prior to the adoption of legislative proposals. This distinction gives rise to procedural and bargaining models, respectively.

conceive how the principal would behave in their situation, and adjust their behaviour accordingly. This may lead to behaviour different to situations where there would have been no principal. ‘Non-decisions’ therefore relate to the limitation in scope of actual decision-making to decisions that are cast under the ‘shadow’ of the principal’s anticipated preference. In the Council, the existence of the ‘culture of consensus’ may similarly condition actor behaviour since they feel that they ought to behave in accordance with this guiding principle of institutional bargaining. Consequently, the observable degree of contestation that is manifested in Council decision-making is relatively low, but it does not allow for the conclusion that there is low or no political conflict.

¹⁸Their prediction is actually often ‘postdiction.’

Procedural models see institutions as constraining behavioural opportunities. They determine the identity of players, the strategies available to them, the sequence of play and the aggregation rules whereby players' choices are translated into decision outcomes (Shepsle 1989; Shepsle and Weingast 1981).¹⁹ This class of model is rooted in non-cooperative game theory²⁰ and spatial voting theory. It stresses both the sequential features of the legislative process and the decision-making powers that actors can utilize to affect the bargaining outcome. Most procedural models applied to the EU focus on inter-institutional rather than intra-institutional bargaining, yet some make explicit assumptions about deliberations amongst Council members (see König 1997; König and Proksch 2006; Widgrén and Pajala 2006).

The structure of a procedural model depends on the legislative procedure under investigation. In a non-cooperative game setting, actors are differentially empowered in accordance with their procedural position (e.g. *agenda-setter* see Kingdon 1984; Niskanen 1971) and voting power (e.g. *veto-players* see Tsebelis 2002). Given the complexity of EU decision-making, scholars choose their specifications in accordance with the specific procedures operative in the decisions they want to model (Dijkstra et al. 2008).²¹ Since procedural models are highly sensitive to the sequence of play and the number of moves of the game, applications have suffered greatly from inconsistent predictions (Hörl et al. 2005; Steunenberg and Selck 2006). Moreover, the procedural models have come under increased fire from the qualitative Council literature, that argues that this class of models is unable to explain the informal negotiation culture in the Council (see especially Heisenberg 2005).

By contrast, Council bargaining models privilege behind-the-scenes negotiations rather than institutional formalities (e.g. Arregui et al. 2006; van den Bos 1991; Bueno de Mesquita 1994; Stokman and Oosten 1994). In conceptualising Council deliberations, they primarily base their predictions on cooperative game theory without any specification of the sequence by which decision outcomes are reached.²² Instead, the bargaining process is conceived of as a black box into which actor positions, the importance they attach to the relevant issues and their capabilities are entered (Granger and Newbold 1986, p. 36). Formal decision-making rules are still incorporated into bargaining models, as they channel actors' interests and partially define actors' evaluations of other stakeholders' capabilities (Arregui et al. 2004). But institutions and procedures 'don't determine behaviour, but set the boundaries within which the action takes place' (Stokman and Thomson 2004b,

¹⁹See Sect. 2.4.1 for a detailed analysis of institutions' impact on Council decision-making.

²⁰A well-known model in this tradition is the Baron-Ferejohn model (1989). With its clear sequence of moves and the multi-session character it has been used to explain coalition formation, law-making and pork-barrel.

²¹There are for instance different perspectives regarding which actor has the first mover advantage leading to conciliation in the co-decision procedure. Some argue it is the European Parliament (e.g. Crombez 2000a; Steunenberg 1997), others speculate it is the Council (e.g. Crombez 1997a; Garrett 1995; Tsebelis and Garrett 1997).

²²The most prominent example being the Nash Bargaining Solution (Morrow 1994; Nash 1950; Schneider et al. 2006, p. 301).

p. 19). The theoretical advantage of this model class is that consensus voting can be accounted for while simultaneously including institutional constraints (Achen 2006b, especially pp. 100–104).²³

2.3.2.1 Evaluating Theoretical Models' Predictive Power

Much of the knowledge about theoretical models of EU decision-making stems from the *Decision-making in the European Union* (DEU) group. Their research project, coordinated by Frans Stokman and Robert Thomson, designed, tested and evaluated a range of procedural and bargaining models (Stokman and Thomson 2004a; Thomson et al. 2006).²⁴ Bueno de Mesquita (2004, p. 126) refers to it as 'the finest work done thus far in applying rigorous standards to the empirical evaluation of competing explanations of decision-making.' The team compiled a dataset containing 162 controversial issues related to 66 controversial legislative proposals that were negotiated between 1996 and 2002. These issues were selected from different policy areas and only politically 'important' proposals were included. For a piece to be 'important', at least five lines of coverage had to be devoted to it in the daily newspaper *Agence Europe*. The data was gathered by conducting more than 150 semi-structured interviews with decision-makers from the Commission, Parliament and Council. For each issue, the respondents were asked to position actors on a uni-dimensional policy scale ranging from 0 to 100. A similar scale was used to derive estimates of the importance actors attributed to a policy issue. Finally, the respondents were required to locate the actual policy outcome on the policy scale.²⁵

The observed outcomes as stated by the interviewees were then compared to the models' predictions. Subjected to these empirical tests, Thomson et al. (2006) find a substantive discrepancy between model predictions and observed outcomes; even the best-performing models fail to predict the observed outcomes very accurately. However, bargaining models consistently and decisively outperform their procedural counterparts (Kauppi and Widgrén 2004; Schneider et al. 2006). Moreover, those bargaining models that include actor interaction during the negotiation process in cooperative terms are the best performers overall (Achen 2006a, pp. 293–294).²⁶

²³These cooperative modes of actor behaviour also include coalition building amongst actors with similar interests (e.g. Axelrod 1970; Van Deemen 1997).

²⁴The DEU project's research design was greatly inspired by the volume *European Community Decision Making: Models, Applications, and Comparisons* (Bueno de Mesquita and Stokman 1994), a similar project that applied two alternative explanatory bargaining models to Council decision-making on five legislative dossiers containing 16 controversial issues. Recently, Arregui and Thomson (2009) and Hertz and Leuffen (2010) carried out a data collection exercise that includes 22 legislative acts complementary to the DEU dataset adopted after the 2004 enlargement, to allow analysis of bargaining before and after Eastern enlargement.

²⁵For details see Thomson et al. (2006), and especially Thomson and Stokman (2006, pp. 36–43).

²⁶Cooperative models also slightly outperformed the null-model that simply estimated the median voter's position in the Council, which itself had a better predictive power than the procedural models.

These results can be interpreted as supporting the conclusions of studies employing qualitative techniques, namely that unanimity is ‘a strong norm in the EU,’ where the highly iterative nature of day-to-day decision-making, combined with a lack of stable patterns of coalition formation, ‘strongly facilitate the universally inclusive, compromise mode of decision-making’ (Schneider et al. 2006, especially pp. 302–308). However, while bargaining models can correctly diagnose consensus decision-making as the Council’s modal outcome and provide theoretical explanations for such behaviour, their low predictive accuracy remains a problem (Hörl et al. 2005).

Sullivan and Veen (2009) argue that the problem lies in the input data that are used to test the models. Most model evaluations rely on data generated by elite interviews,²⁷ an expedient choice given the models’ data requirements. But it is one that suffers from scaling problems and post-dictive bias (Bueno de Mesquita 2004; Schneider et al. 2006). The latter refers to the issue of estimates of policy positions being tainted by knowledge of policy outcome. Inferences of models’ reliability made with retrospective data can thus be misleading. Evaluating the ex ante and ex post predictions of a cooperative bargaining model that was also tested by the DEU project,²⁸ Feder (1995), as cited in Bueno de Mesquita (2004, p. 128), shows that when the model’s predictions disagree with the predictions of experts whose data have been used to generate the model’s results, the model almost always proved right and the expert predictions proved incorrect.²⁹

In general, the literature evaluating the ‘fit’ of models concerned with bargaining and with the process (as distinct from the procedures) shows that the actual performance of the models in predicting outcomes is better than evaluations with retrospective estimates suggest (Arregui et al. 2006; Bueno de Mesquita 2002; Ray and Russett 1996; Rojer 1999; Stokman and Oosten 1994). The class of bargaining models, that already performed best in the DEU group’s tests based on retrospective estimates, should therefore have a better predictive accuracy than the team’s evaluations suggest. Indeed, it is usually assumed that the predictive accuracy of bargaining models is very good across policy domains, with 85%–90% of outcomes predicted correctly (Mokken et al. 2000; Stokman 1995; Stokman and Oosten 1994). Therefore, the use of models as a tool to analyse dynamics of Council decision-making should not be discarded. Instead, more systematic attention needs to be devoted to the input data in order to increase the predictions’ validity.

²⁷For a detailed critique of the interviewing approach, see e.g. Berry (2002).

²⁸This model is the ‘challenge’ or expected utility model (Bueno de Mesquita 1984, 1994). It is described in detail further below.

²⁹According to calculations of the United States’ Central Intelligence Agency (CIA), the expected utility model was correct in 90% of the cases even when experts were wrong (Westerfield 1995).

2.4 Research Design: Understanding the Black Box

Although qualitative and quantitative research have generated important and extremely valuable insights into Council decision making, the basic question of ‘who gets what, when and how’ in the Council has been answered neither sufficiently nor comprehensively. The Council still remains an ‘opaque institution’ (Sullivan and Veen 2009, p. 113). Hagemann (2008, p. 39) is therefore right in pointing out that there is ‘room for many more quantitative explorations.’ Following from the discussion above, this study builds upon a quantitative research design to provide an parsimonious and comprehensive account of Council decision-making.

However, instead of resorting to existing data such as roll-call votes or expert judgements from the DEU project, a completely new dataset on Council decision-making is employed. There are various reasons for collecting new data. First, all existing and suitable data have been subjected to extensive analyses already. The added value of using them in this context would be limited. Second, there may be a slight inference problem. Neither roll-call nor DEU data are valid to make generalisations about ‘ordinary’ Council decision-making. They are restricted to highly politicised issues (see Sect. 2.4.2.1).

This new dataset comprises estimates of governments’ power, their positions, the salience of these positions for the governments and the policy outcomes on ten policy domains of central importance to the Council. The period of investigation ranges from 1998 to 2007. Positions and salience have been computed from European party manifestos. Each point estimate comes with estimates of uncertainty. The outcomes of Council decision-making on each domain are calculated using a theoretical model approximating the Nash bargaining theorem.

The following paragraphs elaborate further the research design. In doing so, attention will be devoted to data generation, model choice and the selection of policy domains.

2.4.1 *The Ontological Point of Departure*

Traditional theories of European integration have little to say about how decisions are being brokered within the EU’s institutions. Liberal Intergovernmentalism (LI) as advocated by Moravcsik (e.g. 1993, 1998) focusses primarily on explaining integration by analysing the negotiations resulting in the major ‘grand bargains’ (Moravcsik 1999, p. 268), the EU treaty framework.³⁰ Grounded in the ‘two-level’ game notion (e.g. Mo 1994, 1995; Putnam 1988), LI conceives of integration as the result of national preference formation and inter-state bargaining at intergovernmental conferences. The institutional day-to-day decision-making process is only

³⁰See also Moravcsik and Nicolaidis (1999).

of little or no significance.³¹ Neo-Functionalism (e.g. Haas 1958, 1964; Lindberg 1963; Lindberg and Scheingold 1970) and its quasi successor, ‘Supranational Governance,’ (e.g. Bache and Flinders 2005; Eising and Kohler-Koch 1999; Hooghe and Marks 2003; Sandholtz and Stone 1998; Sweet et al. 2001)³² conceive of integration as the result of the influence of non-state actors and supranational institutions on politics. Yet, while the emergence of institutions and the increased influence of non-state actors is explained neatly, scholars of this school have little to say about how outcomes are reached within the institutional environments.

That institutions matter not only for the facilitation of inter-state bargaining and international organisation by lowering transaction costs and increase information and trust (e.g. Cornett and Caporaso 1992; Keohane 1989), but also by structuring political actions and outcomes, has been acknowledged by the ‘New Institutionalism’ (March and Olsen 2006; March and Olson 1984, 1989).³³ This theoretical approach comprises three distinct schools of thought (cf. Aspinwall and Schneider 2000; Hall and Taylor 1996): historical – (e.g. Bulmer 1993, 1998, 2009; Thelen and Steinmo 1992), sociological – (e.g. Finnemore 1996), and rational-choice – (e.g. Calvert 1995; Nørgaard 1996; Shepsle 1989) institutionalism. While these branches all agree that ‘institutions affect outcomes,’ their understanding of *how* outcomes are affected by institutions differs significantly (Aspinwall and Schneider 2000).

This study embarks from a rational-choice institutionalist point of view.³⁴ Ontologically,³⁵ it thus adheres to the precepts of methodological individualism (see Elster 1982, 1986). The concept claims that social phenomena are a result of individual actions. These can be explained through the motivational state, or

³¹LI only explains why institutions are important in facilitating cooperation between states: institutions stem primarily from the desire to lock-in credible national commitments to efficient decision-making and compliance in areas where governments have invested special assets and are vulnerable to foreign defection (Moravcsik 1998). Moravcsik (1999, p. 270) moreover argues that the supranational institutions’ role in shaping European integration is being exaggerated and that their influence on shaping actor’s preferences is negligible.

³²For a critique of this approach, see Hix (1998).

³³But see also Moe (1990, 1991) or DiMaggio and Powell (1991). The also called ‘Neo-Institutionalism’ arrived in EU studies during the 1980s, and accumulated increased scholarly interest from the 1990s onwards (Pollack 1996).

³⁴Rational-choice institutionalism not only informs most analytical studies on the Council, but provides the groundwork for EU studies explicitly interested in inter- and intra-institutional behaviour. In addition to the studies discussed in Sect. 2.3, the remaining literature can be roughly divided into research that assesses the effects of different EU legislative decision-making procedures on decision-making outcomes among institutions (Corbett 2000; Crombez 1996, 1997a, 2000a; Kardasheva 2009; Moser 1996, 1997a,b; Steunenberg 1994; Steunenberg et al. 1999; Tsebelis 1994, 1996; Tsebelis and Garrett 1997, 2000), the effect of these procedures on intra-institutional cooperation (Kovats 2009; Kreppel 1999, 2002; Kreppel and Tsebelis 1999; Tsebelis et al. 2001) and their effect on EU legislative decision-making speed (Golub 1999, 2007, 2008; König and Junge 2008; Schulz and König 2000; Sloot and Verschuren 1990; Zorn 2007).

³⁵Wendt (1999, p. 38–40) defines ontology as ‘the kind of ‘stuff’ the world is made of and how we should think about ‘what’s going on.’

preferences, of an actor. An actor's behaviour reflects the choices made as she seeks to maximise her utility while minimising her costs. She can rank her priorities in accordance with fixed, exogenous preference scales. In other words, she adopts a 'strategic action' behaviour. The 'action frame of reference' (Parsons 1937, p. 43) is therefore the key element of this class of social science enquiry. This can be illustrated with an imaginary example from the Council. In this example, countries are unitary actors and preferences are exogenous. During Council negotiations, member states will always seek to broker an agreement that is as close to their policy position as possible. However, as sometimes a policy issue is less important than another, say France is rather indifferent about free movement of capital but places great importance on the price of milk, France will pursue the latter negotiations with more rigour than the former.³⁶

For rational-choice institutionalists, institutions provide a framework for individual action. They regulate and inform human interaction and are *a priori* given.³⁷ According to Nørgaard (1996, p. 39), institutions are 'legal arrangements, routines, procedures, conventions, norms and organisational forms that shape and inform human interaction.' In this respect, institutions function as 'government structures' of the game (Shepsle and Bonchek 1997, p. 311). But they not only provide formal structures. The 'rules of the game' are also influenced by informal structures. Aspinwall and Schneider (2000, p. 4) argue that in the European Union, voting and legislative procedures are among the formal structures. The consensus voting pattern in the Council, on the other hand, is an important informal rule informing bargaining behaviour in the Council.³⁸

2.4.1.1 Interlude: Differentiating Between Policy Position and Preference

The terms 'policy position' and 'policy preference' are used interchangeably in the mainstream literature. Yet, they denote two related, but not identical concepts. To avoid confusion, this section provides a definition of both concepts, differentiating between them by using the debate between proximity and directional voting as a point of reference.

³⁶Granted, this example disregards the repetitive nature of Council decision-making that is so important in understanding policy outcomes (cf. Chap. 6). However, the aim of the example is to make the reader familiar with the basics of the rational-choice paradigm.

³⁷Despite the assumption that institutions are *a priori* given to a bargaining situation, this does not mean that rational-choice institutionalism ignores their creation. According to Calvert (1995, p. 218), institutions are the strategic outcome of a game, the institutionalised equilibrium patterns of rational behaviour. They are primarily erected to reduce transaction costs between actors (Shepsle 1989). Institutions thus evolve through bargaining processes. In this perspective, the notion of the creation of institutions resembles quite closely that of Liberal Intergovernmentalism (see Pollack 1996).

³⁸While not originally intended for this purpose, Plott's (1991) succinct equation 'institutions times preferences equals outcomes' appears to be an outstanding synthesis of the rational-choice institutionalism.

Models of proximity- or distance voting are based on the classical work of Hotelling (1929), Downs (1957) and Black (1958).³⁹ The most important concept derived from the proximity voting model is Black's median voter theorem. In its simplest form, it assumes simple majority voting rule and a uni-dimensional policy space. The theorem maintains that the opinion held by the median voter will become the game's outcome. In an election game with only two parties, where all voters vote deterministically for the parties closest to their own ideal point, a party must commit to the policy position preferred by the median voter in order to win an election. The model has been advanced and formalised in particular by Davis and Hinich (1966), Davis and Ordeshook (1970) and Hinich and Munger (1994). It is based on the assumption that voters have single-peaked preferences. These 'ideal points', or 'policy positions', constitute that there is only one policy option of an ordered set of policy options that provides the maximum utility for the policy-oriented voter. The utility function is thereby decreasing monotonically to both sides as distance to the ideal point increases. The probability of choosing a party increases with the proximity of the parties ideal point and the voter's ideal point. This requires the conditionality that the voter can differentiate and order parties' ideal points along the set of policy options (Black 1958, p. 18). More formally, the underlying assumption about voting behaviour is that party preference, i.e. the decision which party to choose, is a function of the Euclidean distance between the ideal points of parties and the ideal point of the voter in the multi-issue space. Whether a party attracts or loses votes thus depends upon the positions it adopts on the different issues that are at stake as well as on the positions adopted by competing parties (van Cuilenburg et al. 1980; Downs 1957; Jessee 2009; Shapiro 1969; Tomz et al. 2006).

The major alternative to proximity theory is Rabinowitz and MacDonald's (1989) directional model (see also MacDonald et al. 1991). In essence, it conceptualises voters' utilities as being determined by the intensity and communality of direction of their own and the parties' positions on policy issues. This model stands in contrast to the proximity model which represents utility as a declining function of distance between voter and parties' ideal positions. Moreover, it is an explicit critique of the proximity model. Rabinowitz and MacDonald (1989) argue that thinking of a voter's attitude towards an issue as a specific position on a scale of ordered policy options is illogical. Rather, the attitude should be interpreted as a *diffuse preference*, not a position but a disposition in one direction or another (Rabinowitz 1978, pp. 810–815).

In this model, a voter is confronted with an issue environment with three possible attitudes: consent, dissent or neutrality. Choosing either of these options, the voter then evaluates which position a party takes on the issue. If they share the attitude, the voter registers this positively and vice versa. Salience, or intensity, impacts on the voter's evaluation.⁴⁰ If she feels strongly about an issue, and a party takes on opposite attitude, she will feel more strongly against the party than with an issue

³⁹See also van der Eijk and Franklin (2009).

⁴⁰Proximity models can also incorporate salience by so-called 'weighted distances.'

that has lower salience for her. The degree of support for a party is then the product of the voter's and the party's intensity.⁴¹

Where does this excursus leave this study in terms of the differentiation between 'policy position' and 'policy preference'? When it refers to 'policy position,' it is talking about an actor's ideal point. This is the only one policy option of an ordered set of policy options that provides the maximum utility. The term 'preference' on the other hand is used to describe the relative utility of the policy options, irrespective whether the most preferred option represents the ideal point.

2.4.2 *The Epistemological and Methodological Point of Departure*

The rational-choice paradigm does not lend itself for a debate on epistemology. It is by definition positivist. The methodology used in this study is grounded in game-theory and spatial analysis.⁴²

2.4.2.1 On Power, Positions and Salience

To estimate member states' power, this study develops a new measure that not only takes into account formal voting power, but that considers the powers that come with the rotating Council Presidency (see [Schalk et al. 2007](#)). The measure incorporates both formal and informal sources of power, contributing to existing voting power estimates in the Council literature (see Chap. 3 for details).

Whilst computing member states' capabilities is relatively straightforward, estimating policy positions and policy salience poses bigger problems.

The DEU project, for instance, uses expert interviews to derive these measures. But expert interviews appear not to be the best choice in the context of the present study, for reasons discussed in the next paragraphs.⁴³

First, positional data derived from experts are likely to have missing values ([König et al. 2005](#)). In addition, [Achen \(2006b, pp. 120–121\)](#) posits that the top Council decision-makers are usually unavailable for these rather technical interviews. Therefore, the reconstruction of positional and salience data by subordinates may result into incorrect estimates. Third, interviewees may have the tendency to (explicitly) overestimate their countries' role in the decision-making process,

⁴¹With regard to policy advice, the two models differ extremely. The distance model argues that successful issue campaigns develop clear and strong messages to attract voters to a party while the proximity model recommends that parties must support centrist policies to be successful at elections.

⁴²This methodological choice turns into a tacit ontological choice (cf. [Ruggie 1983](#)).

⁴³See [Thomson \(2006\)](#) for a defence of expert interviews as indispensable sources for Council decision-making research.

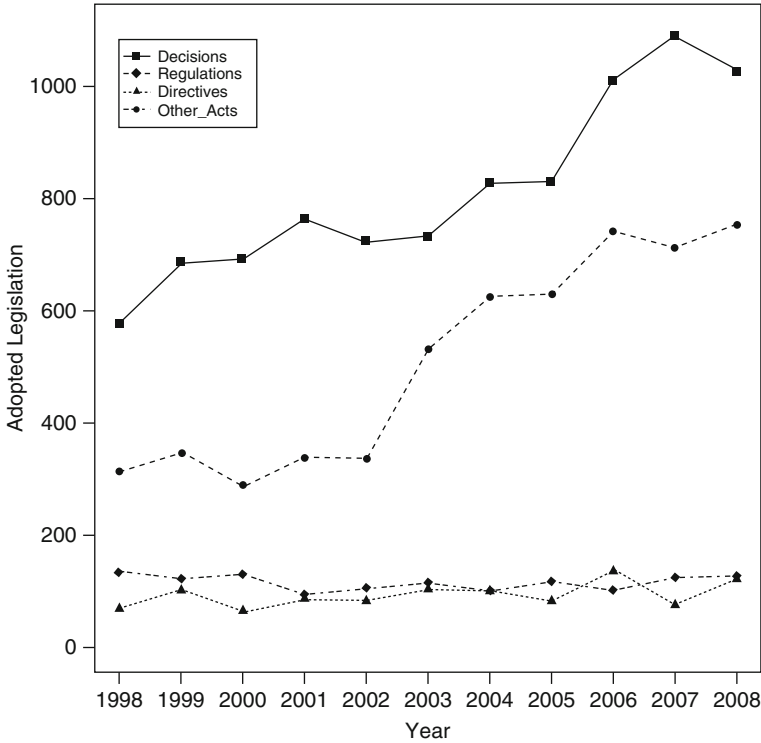


Fig. 2.2 Legislative output in the Council of Ministers (1998–2008).

Source: Data retrieved from Eur-Lex

again introducing error. But perhaps most importantly, expert information becomes increasingly unreliable with increasing time between the event and the moment of their judgement. Over time, judgements become tainted by events that took place since the initial event. Consequently, an expert becomes gradually incapable to provide an accurate and reliable estimate. Considering that the data-collection for this project started in late 2009, seeking to estimate the positions of all member state governments from 1998 onwards, one may cast serious doubts on the validity of the estimates that would have been obtained from experts.

Finally, expert interviews are not used due to their cost. Even the DEU group, with more than a dozen members, could originally collect data on 62 legislative proposals for the period 1998 and 2002 ‘only.’⁴⁴ Considering that the Council on average adopts approximately 1,000 pieces of legislation per year (see Fig. 2.2), any generalisation about the Council’s decision-making process based on a similar number of cases may thus remain rather ambitious (Sullivan and Veen 2009).

⁴⁴After 2004, data on twenty-odd legislative proposals were added to assess decision-making after Eastern enlargement (Arregui and Thomson 2009; Thomson 2009).

Another way to estimate policy positions in the Council has been proposed by Hagemann (2007). Capitalising on Council documentation and procedural data directly accessible via the EU's legal databases *Eur-Lex* and *Celex*, she gathered roll-call data from the Council and supplemented it with procedural information of earlier negotiation stages. To derive at positional estimates, Hagemann (2007, 2008) uses the NOMINATE method for roll-call data.⁴⁵ However, while this approach cannot yield estimates of salience, Sullivan and Veen (2009) also argue that the validity of the positional scores remains questionable because these are fundamentally based on bias-prone voting data (cf. Sect. 2.3.1).

A potential alternative to estimate policy positions and salience could be the analysis of newspaper articles. These are readily available and potentially contain information leaked by actors directly involved in the Council's decision-making process. However, the feasibility of extracting relevant information from newspapers has been questioned by Veen and Sullivan (2009). First, they argue that there is no appropriate content analytical tool available to fulfil such a task.⁴⁶ Second, even if the right tool was available, the 'newsworthiness' of EU politics is conceivably too low to provide sufficient material from which specific positional and salience information can be extracted (cf. Trenz 2004); let alone over time and across policy domains.

A more promising way of measuring member state governments' policy positions has been suggested by Franchino (2007) in his study of delegation in the EU. He estimates the positions of Council members from measures of party positions that were coded from domestic election manifestos (see also Mastenbroek and Veen 2008). Franchino's approach has also been employed successfully by other EU scholars (König 2008b; Warntjen et al. 2008).

⁴⁵NOMINATE was developed by Poole and Rosenthal (1997) (see also Poole 2005). To yield valid results, cohesion within the institution that casts the votes should be relatively weak. NOMINATE therefore enjoys ample application in the analysis of the US Congress, where party cohesion is not as strong as in West-European Democracies. The technique has also been applied to study voting behaviour in the European Parliament (e.g. Hix et al. 2007).

⁴⁶Content analytical tools such as for instance *Wordscores* (Benoit and Laver 2006a; Benoit et al. 2005; Laver et al. 2003; Lowe 2008) or *Wordfish* (Slapin and Proksch 2008) are unsuited. These methods are geared to analyse political text where the *de facto* author – a politician or party – is clearly identifiable. A newspaper article, on the other hand, does not generally explicate the journalist's policy preference, but instead reports the interactions of political actors. For this reason, event data research, which typically focuses on conflict and provides measures of the type and intensity of actor interactions (Azar 1970; Bond et al. 2003; King and Lowe 2003; McClelland and Hoggard 1969; Schrodtt and Gerner 1994), is one of the few techniques for which newspaper articles are well suited. But this technique is of limited use in the context of bargaining and decision-making models. Although promising advances in the field of semantic network analysis have successfully yielded estimates of party policy positions and salience during recent Dutch elections (van Atteveldt et al. 2008), estimating actor positions from non-Dutch-language texts is currently out of reach for the existing software.

In general, research on manifesto data has convincingly shown that positions on policy issues can be inferred from party manifestos, particularly for government parties (Gabel and Huber 2000; Pennings 2002).

Although manifesto data are not without problems (see the discussion in Chap. 3, Sect. 3.4), manifestos are a generally reliable and objective source of positions (Laver and Garry 2000) and ideal for longitudinal analyses (Marks et al. 2007). Moreover, they contain not only positional, but also salience information (see Chap. 3).⁴⁷

Electoral platforms or party programmes constitute unique political texts. They are written manifestations of a parties' political motives and ambitions; a 'set of key central statements of party positions [...] subject of extensive prior debate and negotiations inside the party' (Budge et al. 1987, p. 18). Manifestos are generally not designed to inform voters about a party's goals and ambitions. That would be a waste of resources, since only a minority of voters does indeed consult these documents. Manifestos are rather 'contracts' that define party lines within and amongst parties. Presumably, manifestos are therefore sincere in that they are not geared towards the median voter.⁴⁸ As party wings have given their consent, parties are committed to comply with the manifestos content (van der Brug 1996). This might explain why parties are mostly observed as trying to realise their election pledges when in office (see e.g. Budge and Hofferbert 1990; Costello and Thomson 2008; Gallagher et al. 2001; Klingemann et al. 1994; Naurin 2009; Rallings 1987; Thomson 2001).⁴⁹

This study seeks to build upon the developments in manifesto research and to derive estimates of policy positions and salience from European election manifestos. While the next chapter elaborates the practical measurement issues involved in this, the following shall provide a brief and critical overview.

The European Manifesto Project (EMP) coded European election manifestos of domestic parties in all European countries covering a period from 1974 to 2009. The EMP employs a coding scheme consisting of 125 thematic coding categories, comprising the Comparative Manifesto Projects's (CMP) (Budge et al.

⁴⁷There are different types of party manifestos: party election programmes represent a party's political agenda for certain period of time, usually for the next electoral term. They address recent socio-economic developments. They can be conceived of as the plan of action for the next electoral term. The second type are ideological party programmes. These are usually disconnected from time and short-term societal contexts. Instead, they represent a party's ideological foundation.

⁴⁸Although manifestos may be sincere, this does not always exclude them from being geared towards the median voter. This depends on whether a party is policy/ideology driven (irrespective of costs in terms of power) or power driven (irrespective of costs in terms of policy) (see e.g. van der Eijk and Franklin 2009).

⁴⁹However, different factors might lead to deviation from the realisation of the policy goals (Pennings and Keman 2002). These might be due to coalition pledges during the government formation process or arising from unforeseen economic and political circumstances (see also Keman 1997; Schmidt 1996).

2001) original coding categories and extending it by 69 categories relating to the political system and policies of the EU. EP elections present identical timing for all parties and a similar context to measure preferences. Given that European election manifestos designed to define party lines within and amongst parties, criticism that these documents consist only of ‘cheap talk’ should be rejected.⁵⁰

The Euromanifestos are aggregated and scaled into ten policy domains of central importance to Council decision-making. These are constructed from the EMP coding categories according to the standard manifesto research procedure (Budge et al. 2001). Positions and salience are quantified using a log-ratio and proportional scaling approach, respectively, that provide better estimates than previous scaling techniques (see Lowe et al. 2011).⁵¹

The portfolio holders’ room for discretion to pursue party- rather than governmental goals in the Council was discussed earlier. It was argued that this problem is generally minimal due to Coreper’s role as the capitals’ watchdog. Therefore, this study assumes that the government is a unitary actor and that there is no principal-agent problem between cabinet and ministers. The governments’ positions and saliences X_g are thus computed as the average of each coalition party’s i out of n position p on a policy scale weighted by its seats in parliament (Kim and Fording 2001, p. 161).

$$\sum_{i=1}^n \text{position or salience}_i \times \frac{\text{power}_i}{\text{total power}} \text{ for } i = 1, \dots, n. \quad (2.1)$$

Power can be defined as either the government parties’ relative share of seats in parliament or the number of portfolios each government party has been allocated. According to Gamson’s Law (Gamson 1961) there is a proportional relationship between the relative share of seats and the number of portfolios allocated to the party (for empirical proofs, see e.g. Browne and Franklin 1973; Schofield 1976).⁵²

To get a sense of noise in the data, estimates of uncertainty for all scores were computed. The procedure follows Benoit et al. (2009), who proceed to reconstruct the stochastic processes that generate manifestos by way of simulation. Hence, here

⁵⁰This criticism can arise since very little is at stake in EP elections and that there is also very little media coverage of these documents.

⁵¹The scales are constructed by grouping coding categories containing positive mentions of the desired policy dimension on one side and negative mentions on the other. Thus the balance of mentions of each side does express the party’s position on an underlying continuous policy scale.

⁵²According to Browne and Franklin (1973), the two variables correlate extremely well ($r = 0.926$), and a regression analysis yields an intercept of almost zero and a slope coefficient of nearly one. This is why Laver (1998, p. 7) labels it ‘one of the highest non-trivial R-squared figures in Political Science.’ Portfolio allocation appears to be informed by a distinct sense of ‘fairness’ (Müller and Strøm 2000, p. 22). This relationship does even hold when controlling for portfolio salience (Laver and Hunt 1992; Warwick and Druckman 2001, 2006), formateur advantages (Browne and Franklin 1973; Browne and Frendreis 1980; Bueno de Mesquita 1979; Schofield and Laver 1985) and replacing seat shares by game-theoretic measures of bargaining power (Ansolabehere et al. 2005; Strauss et al. 2003).

the analysis of each coded manifesto was bootstrapped, based on re-sampling from the set of issue categories in each manifesto.

This data collection exercise is based on assumptions not necessarily grounded in theory. To assume a linear relationship between parties' policy goals for EP elections and their behaviour as members of governments in the Council may be problematic: conceiving of parties' weighted positions as government positions could perhaps not mirror government preference-formation particularly well. But there is also support for this decision. Using the model with CMP estimates, [Kim and Fording \(2001, 2002\)](#) show that resulting government positions exhibit a surprisingly high resemblance to actual behaviour. Similarly, in the context of the EU Council, both [Franchino \(2007\)](#) and [König \(2008b\)](#) successfully study decision-making processes with government positions from CMP data. Moreover, the validity tests in Chap. 3 seem to confirm that although the model's theoretical basis is relatively weak, it produces encouragingly accurate positional estimates on all Council policy domains tested.

Another problematic issue may relate to the fact that the data is collected once in five years only, i.e. with EP elections, under the assumption that the preferences of parties do not change. Only the composition of the national governments changes during these intervals, either due to national elections or changes in government composition. However, this may underestimate the dynamics of preference configuration in the Council. While there appears to be no remedy to this problem when using EMP statistics, the study's government estimates nonetheless seem to exhibit good face validity over time (see Chap. 3).

A final caveat concerns the influence of the EU agenda on positions as articulated in manifestos. Key-issues such as enlargement or the constitutionalisation process of the Constitutional Treaty occurring at the time of writing may have biased the texts' content. Similarly, one could argue that statistical inferences are therefore biased in favour of the constitutional agenda of the EU. However, since mainly legislative coding categories of the manifestos have been used to construct the policy scales, the impact of the latter problem might be relatively small. With regard to the influence of salient agenda items, one can argue that these have had an impact on EU politics for several years. Hence, a possible temporal bias introduced by these items should not distort the study's inferences significantly since these issues also remained valid for a longer period of time.

2.4.2.2 The Model: An Approximation of the Nash-Bargaining Solution

In predicting the outcome of Council negotiations, the choice of the correct model is paramount considering that even slight adjustments to a model's specification can considerably change its predictions ([Steunenberg and Selck 2006](#)). To provide valid estimates, the model must therefore be able to capture the peculiar bargaining *modus operandi* of Council decision-making while showing outstanding predictive accuracy. Since 'bargaining matters more than the official decision-making rules' in

the Council (Achen 2006a, p. 298), the following discussion is limited to models of cooperative bargaining.

Among the models evaluated by the DEU project are three cooperative bargaining models (see Arregui et al. 2006): the compromise model (van den Bos 1991), the challenge model (Bueno de Mesquita 1984) and the position exchange model (Stokman and Oosten 1994; Stokman et al. 2000).

The compromise model is a mean-voter model weighed by actors' voting power and the importance they attach to an issue. The compromise model does not model the process through which decisions are reached (Arregui et al. 2006, p. 133). In other words, it treats the decision-making process exclusively as a black box. In contrast, the challenge model and the position exchange model distinguish between two stages of the decision-making process. The first is the 'influence' stage, during which actors try to exert influence on another to realise decisions close to their ideal point. The second is the 'decision stage,' where actors agree upon a decision-making outcome. The position exchange model is nothing more than the compromise model supplemented with a cooperative position exchange model (see Arregui et al. (2006) for details). Or, put differently, the position exchange model allows for log-rolling between issues on a legislative proposal. The challenge model expects that the outcome is close to that of the median voter whereby positions are weighted by actors' capabilities and the levels of salience they attach to the positions. In contrast to the other two models, the challenge model sees the influence process in terms of challenging positions rather than as a search for compromise.

All three models have in common that they compute some sort of the mean or median of the policy positions of governments. This acknowledges that each actor's position is taken into account when the Council agrees upon a decision. Extreme policy positions are therefore accommodated for rather than ignored by other actors. All of these models also incorporate estimates of capabilities and salience. This allows for determined and important actors being conciliated beyond the formal necessity in Council deliberations (Achen 2006a). By bargaining, actors may have more influence on the outcome when they are relatively more powerful or when they care more about certain policy goals than other actors. Most importantly, all these models exceed their procedural counterparts in predicting Council policy outcomes (ibid., p. 293).

But which model to choose for predicting Council decision outcomes? Because the challenge model sees the influence process in terms of challenging positions rather than of a search for compromise, it appears unsuited for predicting Council decision-making outcomes in this study.

This leaves the position exchange model and compromise model. There are two reasons to prefer the compromise over the position exchange model⁵³: most importantly, there is no empirical evidence regarding when and how Council

⁵³The predictive power of the position exchange model is enhanced when including externalities. Positive externalities mean that third actors profit from bilateral deals, whereas negative externalities mean that bilateral deals hurt third actors. These have been included in the externalities exchange model (EEM), which yielded better estimates than the compromise model (Dijkstra et al.

members shift positions. The position exchange model thus models a stage with concrete assumptions about its dynamics for which there is no empirical evidence at all. Second, it is impossible to distinguish between initial- and final bargaining positions based on the positional estimates collected here (cf. Chap. 3). This study must thus rely on a one-stage model.

Therefore, the compromise model is used. This model is firmly grounded in the literature on influence processes that assumes that agreement is more important than diverging interests. Finally, it also outperforms the other models in nearly all of the DEU project's evaluations (Schneider et al. 2006, p. 305).⁵⁴

The input variables are common knowledge for all actors in the game, a reasonable assumption in the repetitive and close environment in Brussels (Arregui and Thomson 2009). The model computes the bargaining outcome P on policy issue x as

$$\text{Policy Outcome } P_x = \frac{\sum_{i=1}^n \text{Policy Position}_{xi} \text{Saliency}_{xi} \text{Voting Power}_{xi}}{\sum_{i=1}^n \text{Saliency}_{xi} \text{Voting Power}_{xi}} \quad (2.2)$$

This weighted mean model thus takes the sum of the product of each actor's (i out of n) most preferred position, the saliency of the issue in question for her, and her voting power and divides it by the sum of the product of all saliences and voting powers. In other words, the model predicts the pareto optimal outcome. Achen (2006b) maintains that the CM is therefore an approximation of the Nash-Bargaining Solution (Nash 1950).⁵⁵ This, however, only holds true when the reverse point is highly undesirable and the actors are risk averse.⁵⁶ These conditions are met in the Council, as the governments cultivate joint- and continuous problem solving. The break-down of negotiations is highly unwanted since failure to reach an agreement is more costly than just going back to the reverse point. Being extremely risk-averse in this context, negotiators place a great deal of commitment to make issues agreeable to all governments (Hayes-Renshaw and Wallace 2006). This is because in the Council, it is common practice 'to exclude the possibility of not reaching an agreement at all' (Lindberg 1963, p. 285).

However, current EU legislation to some extent revises existing legislation rather than establishing new laws. In this respect, it is debateable whether the reverse

2008). But, as explained above, because there is no empirical evidence about when and how actors exchange positions, the EEM is not used in this study.

⁵⁴ Achen (2006a) argues that the compromise model also outperforms the exchange and the position exchange model in the first model evaluation study in EU politics (i.e. the *European Community Decision Making: Models, Applications, and Comparisons* volume by Bueno de Mesquita and Stokman (1994).)

⁵⁵ Nash (1950) came up with the bargaining solution to provide an answer to the question what two players should receive in a situation where they must collaborate for mutual benefit. The answer is that the game's outcome is the point where both receive maximal utility.

⁵⁶ The reverse point in the Council can be conceived of as the status quo, i.e. the rejection of the issue under discussion in the Council and returning to the state in which it was before.

point is still undesirable under this condition. The rational choice literature would suggest that the reverse point indeed is no longer undesirable. But from a long-term perspective on Council decision-making, which constitutes a cobweb of agreements and vote-trades, spanning across time as well as policy domains and issues, one may argue that the reverse-point remains undesirable. Particularly due to the dependence of decisions in the Council, resorting to the reverse point on one issue could jeopardise negotiations on another issue. Moreover, the hypothesis of a desirable reverse point in the Council moreover implies that the institution would become (partially) grid-locked. For this, however, there is no empirical indication, neither from the analysis of decision-making speed (e.g. [Golub 1999, 2007](#); [König 2008a](#)), from the quantity of roll-calls taken ([Hagemann 2008](#); [Mattila 2008](#)) nor the overall output of Council decisions (see [Fig. 2.2](#)).

2.4.3 *Period of Investigation and Policy Domains*

The period covered by this study spans the years from 1998 to 2007. This period allows to investigate the impact of Eastern enlargement. The latter not only increased the number of governments in the Council from 15 to 25, but also necessitated the adaptation of the institution's decision rules (Treaty of Nice), making it particularly interesting to study enlargement's effect on collective decision-making.⁵⁷ Moreover, the systematic publication and collection of Council roll-call votes started in 1998 ([Westlake and Galloway 2004](#)). Future studies can thus neatly supplement this study's data with information from the Council's official documentation.

Over the period of investigation, the Council adopted a staggering number of 7.662 pieces of secondary EU legislation.⁵⁸ To estimate actors' positions and saliences as well as to compute the policy outcome for each individual law is certainly a mammoth task exceeding the resources of this study. As a remedy, it analyses the Council on a 'policy domain'-level of decision-making. While this inhibits an investigation of the micro level of Council decision-making, it enables the comprehensive analysis across time and policy areas. This will yield additional insights to Council decision-making, because such focus has not been exercised systematically so far.

But what are the Council's policy domains and how to classify them? As yet, studies are united in their disagreement over this question. The most straightforward way has been proposed by [Thomson et al. \(2006\)](#), who resort to the official Council

⁵⁷The Treaty of Nice' objective was to anticipate potential policy conflicts in the EU-25, to propose a status quo bias in policy making to cope with these conflicts and to grant veto-power to the large member states ([Giering 2001](#)).

⁵⁸This number has been calculated using the Council's legal database *EUR-lex*. The secondary legislation is based on the founding and accession Treaties and includes various forms of EU legal acts, adopted by individual or several EU institutions.

configurations.⁵⁹ Another possibility is using the classification scheme employed by the EU's official legislative databases *Eur-lex* and *Celex*. However, this approach is prone to yield fuzzy borders between domains as the scheme has not been applied consistently over time. Other studies disaggregate the Council configurations into different policy fields. Based on roll-call data from the Council, [Hayes-Renshaw et al. \(2006\)](#) identify 19 different policy fields.⁶⁰ Also based on Council voting data, [Mattila and Lane \(2001\)](#) identify thirty-seven policy fields.⁶¹ On the other end of the spectrum, [König \(2008b\)](#) melts down EU policies to four policy fields,⁶² while [König and Junge \(2008\)](#) employ seven.⁶³

This study's primary objective is to provide an analysis of Council decision-making within the EU's Community pillar. That excludes the fields of Justice and Home Affairs and Common Foreign and Security Policy. The domains should capture as many policy areas as possible while maintaining exclusiveness, i.e. they should not exhibit unnecessary overlap or fuzzy borders. In identifying and selecting the study's policy domains a data-driven approach was employed. First, all domains that were scalable from the EMP coding scheme were identified (see Chap. 3, Sect. 3.4). Second, each domain was subjected to rigorous validity tests of the positional estimates and rejected where validity was unacceptable. An example for the latter was the field 'Cohesion Policy,' where estimates only showed very low validity when compared to existing Council research. This approach yielded ten final policy domains as described in Table 2.1.⁶⁴ These cover most important policy areas of Council decision-making under the Community pillar apart from the aforementioned cohesion policy. Detailed accounts of the domains, including their estimation and validation, can be found in Chap. 3.

⁵⁹These are General Affairs and External Relations; Economic and Financial Affairs; Cooperation in the fields of Justice and Home Affairs (JHA); Employment, Social Policy, Health and Consumer Affairs; Competitiveness; Transport, Telecommunications and Energy; Agriculture and Fisheries; Environment; Education, Youth and Culture.

⁶⁰Agriculture; Trade; Economic and Finance; Education; Culture; Development; Energy; Environment; Fisheries; General Affairs; Health; Health and Consumer Affairs; Internal Market; Justice and Home Affairs; Research; Social Policy; Telecommunication; Transport; Transparency.

⁶¹Economic Policy; Statistical System; Internal Market; Industrial Policy; Education; Vocational Training and Youth; Economic and Social Cohesion; Measures for the most Remote Regions; Trans-European Networks; Transport Policy; Information Society and Telecommunications; Environment; Agricultural Policy; Regional Policy; Fisheries; Employment and Social Policy; Equal Opportunities; Information; Communication; Audiovisual Media and Culture; Common Commercial Policy; Development Policy; Relations with Mediterranean Third Countries; Financial Assistance; Budget; Action to Combat Fraud; Administration and Management; Institutions; Research and Technological Development Policy; Public Health; Consumer Policy; Enlargement; Energy Policy; Nuclear Safety; European Citizenship; Transparency; EMU; Competition policy; General questions; External affairs.

⁶²Agriculture; Internal Market; Trade; Common Rules. These categories were aggregated from policy sectors based on Eur-Lex' (formerly Celex) policy sector classification.

⁶³Agriculture; Internal Market; Fishery; ECOFIN; JHA; Common Rules; Other.

⁶⁴Council policy domains were constructed from the EMP's coding scheme according to the standard additive dimension approach as advocated by the CMP (see Chap. 3).

Table 2.1 Ten important Council policy domains under the Community Pillar

Field	Narrative
Common Agricultural Policy	Fisheries, agriculture & protectionist issues
Common Market	Policy of the Single Market. Includes competition and labour migration
Centralisation	Transfer of Power to the EU. Covers the debate regarding the EU constitution
Enlargement	Issues surrounding Enlargement. From 2004 onwards, it includes the Turkish application to EU membership
Environmental Protection	Harmonisation of these policies at the Community level
European Integration	Competences of EU institutions. Complexity of law-making Democratic deficit and support of EU Integration
Monetary Policy	Role of European Central Bank & policies regarding Economic and Monetary Union
Competences to European Parliament	Role of Parliament as co-legislator
Research & Development	Harmonisation of R&D expenditures & Lisbon Agenda
Welfare & Social Security	Harmonisation of social policies at the Community level

2.5 Conclusion

Easton's system theory, with the black box at its core, has always suffered from one fundamental issue. Its level of abstractness prevented effective theory-testing. Easton himself employed it once (see [Easton and Dennis 1969](#)), yet eventually it served descriptive purposes only. That it has been so frequently invoked is because its concepts help to order and understand a wide variety of empirical studies, hypotheses and data ([Garson 1976](#), p. 65).

The concept of the black box similarly helps to describe the nature of collective decision-making in the Council of Ministers. In the research design section, a way to study the Council's conversion mechanism was then introduced.

Since it is impossible to directly observe collective decision-making in this institution, this chapter prepared the basis to study these processes by focussing on the input (positions, importance, power) and output (policy outcomes) of Council decision-making in the study's analytical parts.

Having reviewed the pertinent Council literature and elaborated the research design, the next chapter turns towards measurement of the input variables. This constitutes the natural extension of the present chapter, addressing various methodological issues brought up by the research design. Inter alia, it discusses the use of political time for dividing the period of investigation, elaborates upon the estimation of policy positions and salience from hand-coded text and presents various validity tests that prove the estimates' accuracy.

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