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Christine Reh

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Is informal politics undemocratic? Trilogues, early agreements and the selection model of representation

Christine Reh

ABSTRACT Over the last two decades, the European Parliament (EP) has been empowered to make European Union (EU) legislation more inclusive, transparent and accountable. Yet, co-legislation has increased informalization and seclusion, as an ever-larger proportion of legislative acts is pre-agreed between Parliament and Council prior to first reading. This article asks under which conditions informalization is democratically problematic or tenable. So far, 'early agreements' have been criticized for their lack of transparency and accountability, their challenge to deliberation and inclusiveness, and their differential empowerment of '*relais* actors'. Little attention has been paid, however, to the representation of the parliamentary principal in trilogues. This article draws on Jane Mansbridge's selection model of representation to fill the gap; it argues that representation with a strong 'selection core' and a weak 'sanction periphery' is, prudentially, best-suited for bicameral bargaining, and it introduces normative standards that make the selection model democratically tenable. A close analysis of codecision's current practices and institutions shows that these fall short of 'good deliberation at initial selection' and of 'narrative accountability'; 'ease of maintenance and de-selection' is approximated and 'transparency in rationale' is strengthened in the EP's 2012 Rules of Procedure. Future reform should, therefore, introduce two democratically crucial, yet hitherto neglected, measures: open deliberation about the appointment of rapporteurs; and reason-giving and justification (in addition to reporting back) by trilogue negotiators.

KEY WORDS Codecision; legitimacy; selection model of representation; trilogues.

1. INTRODUCTION

The observation that political decisions are taken under conditions of increasing complexity has become commonplace in both academic discourse and public debate. Complexity stems from a variety of sources – the breadth of policy problems and the scientific expertise required to solve them; time-pressure; the plethora of (non-state) actors and stakeholders involved; and the overlap of national, supranational and international governance in the 'de-bordering space' that is modern politics. Complexity has triggered a host of political and intellectual reactions, most fundamentally a re-assessment of the possibility

of parliamentary democracy (Burns 1999) and of established electoral representation (Urbinati and Warren 2008: 389–91, 402–6).

This article looks at the strategies chosen to cope with complexity in established democracies and at their normative consequences. More specifically, the article focuses on informal politics as a 'coping strategy'. Played out as part of, rather than outside of, a formal institutional framework, informal politics is here defined as restricted and secluded decision-making that is structured by informal institutions and that generates outcomes which require formalization (Reh 2012b; Reh *et al.* 2013).

Informal decision-making is a growing trend in national, supranational and international policy-making, where restriction and seclusion – often combined with new forms of participation – challenge established democratic processes and patterns of representation (Bedock *et al.* 2011; Christiansen and Neuhold 2012, 2013; Daase 2009: 294, 300–1; Reh *et al.* 2013). Informalization has been criticized for various reasons: for the risks to political contestation, public justification and open deliberation; for the adverse impact on transparency and accountability; and for the challenge to inclusive representation (Lauth 2012; Lord 2013; Reh 2012b; Stie 2013).

This article investigates the conditions under which informal politics is democratically problematic or tenable. Drawing on the selection model of representation and the normative demands it places on principal–agent relations (Mansbridge 2003, 2005, 2009), these conditions are developed for a concrete empirical case: the informalization of the EU's codecision procedure and, more specifically, the relationship between the European Parliament (EP) and its representatives in first reading 'trilogues'.

This focus is warranted for three reasons. First, the informalization and seclusion of codecision are salient and contested. Over the last two decades, governments have promoted the Parliament to a genuine co-legislator in order to make the EU's legislative process more inclusive, transparent and accountable. Yet, 'early agreements' – *de facto* decided informally between Parliament and the Council of the European Union prior to first reading – have increased to 78 per cent of codecided acts in the first half of EP7 (European Parliament 2012b).[1] This practice is highly controversial inside and outside Parliament. Second, the democratic assessment of early agreements has, so far, mainly focused on the tension between the need for efficiency on the one hand, and the lack of inclusiveness, transparency and deliberation on the other, as well as on actors' differential empowerment. Yet, the representation of Parliament by its negotiators in trilogue has not been evaluated systematically, although the nature of this relationship is key to whether informal politics is democratically problematic or 'normatively tenable' (Mansbridge 2009: 383). Third, understanding the normative implications of long chains of delegation – some into informal arenas – is of more general relevance in the EU, where representative democracy is a 'constitutional principle[s]' (Rittberger 2006: 1212) and a 'meta-standard' (Lord and Pollak 2010: 125), but where the complexity of representation and the reliance on compromise and accommodation

pose a distinct challenge to citizens' (and states') political equality in representation, and to traditional forms of accountability. By applying a model taken from representation theory to distil, and to subsequently trace, the conditions under which the extension of representation into an informal arena within Parliament itself does (or does not) undermine the democratic quality of the EU's legislative process, the article aims to make a wider contribution to the 'representative turn in EU studies' (Kröger and Friedrich 2013: 155).

The article proceeds in the following steps. Section 2 introduces the informal politics of codecision as a 'coping strategy', and discusses the democratic challenges hitherto identified. Secrtion 3 maps the representative relationship inside Parliament; argues that a model of representation with a strong 'selection core' and a weak 'sanction periphery' is, prudentially, best-suited for bicameral bargaining (Mansbridge 2011: 622I); and introduces the normative criteria that make the selection model democratically tenable: 'good deliberation at the moment of authorization', 'ease' of maintaining and removing the negotiators, 'narrative accountability' and 'transparency in rationale' (Mansbridge 2003: 522I-II, 2005: 240II, 2009: 384, 386). Section 4 assesses whether the rules of co-legislation approximate these criteria; it concludes that the current institutions fall short of 'good deliberation at initial selection' and of 'narrative accountability'; 'ease of maintenance and removal' is approximated and 'transparency in rationale' was strengthened in a recent reform. Future reforms should, therefore, introduce two democratically crucial, yet hitherto neglected, measures: (1) open deliberation about the allocation of legislative reports; and (2) reason-giving and justification (in addition to reporting back) by trilogue negotiators.

2. THE INFORMAL POLITICS OF CODECISION

Under the EU's codecision procedure, informalization results from the possibility of concluding legislation 'early'. Since the Treaty of Amsterdam, the Council has been able to adopt a legislative act at first reading 'if it approves all the amendments contained in the European Parliament's opinion' (Art. 294 TFEU); this formal provision offers an informal space that decision-makers can (but need not) choose to fill. Since 1999, the percentage of first reading agreements has increased dramatically (see Table 1).

In case of legislative conflict between Council and Parliament, such agreements work as follows. Based on the European Commission's legislative proposal, representatives of the three institutions engage in informal trilogues. Their negotiations take place before the EP has issued its formal opinion and before the Council has adopted its common position, which are the first two formal steps. If Council and Parliament reach a compromise in trilogue, the EP accommodates the Council's position in its first reading amendments, which are adopted by simple majority. Subsequently, the Council accepts the Commission proposal as amended by Parliament, with the procedure closed and the act adopted accordingly. Early conclusion, thus, requires a 'rubber-stamp' in the

Table 1 Codecision – stage of conclusion (1999–2011)

Legislature	*Number of concluded files*	*Percentage of files concluded at first reading*	*Percentage of files concluded at second reading*	*Percentage of files concluded at third reading*
1999–2004	403	28	50	22
2004–2009	454	72	23	5
2009–2011	179	78	18	4

Source: European Parliament (2012b).

EP plenary and a Council session, and where agreement does not result from the absence of conflict, compromise must be reached in trilogue.

It is the routine use of trilogues that is at the heart of the political controversy about, and the normative criticism of, the informalization of codecision. Indeed, trilogues differ from the EU's formal legislative arenas in four ways (Reh 2012b: 68–69 Reh *et al.* 2013: 1115–17, 1119–20).

First, membership in trilogues is restricted and non-codified. Parliamentary plenaries and Council meetings include all legitimate decision-makers (even if actors choose not to partake); EP committees involve a formally defined subset. No matter whether membership is inclusive or restrictive, it is publicly known who participates (or is allowed to participate). By contrast, trilogues involve a limited group of actors, and the boundaries of participation are neither codified nor publicly known. When early agreements became a formal possibility – and trilogues a practical necessity – inter- and intra-institutional agreements and guidelines merely mentioned 'appropriate contacts' between the institutions (European Parliament *et al.* 1999); stated that participation was decided ad hoc by the co-ordinators in committee (European Parliament 2004); and foresaw 'case-by-case' decisions on the attempt to conclude early and on the composition of 'the EP's negotiating team' (European Parliament 2008).

Second, trilogues are secluded, and their seclusion has neither been formally decided nor publicly justified. Access is highly restrictive, for members of the public and for Members of the European Parliament (MEPs) who are not party to the parliamentary team. Information on the decision-process is limited to feedback given by negotiators to their respective committees, and documentation on the decision-process is not publicly available. By contrast, parliamentary committees, the EP plenary and the Council, when acting in a legislative capacity, meet in public; where the formal arena is secluded, documentation will be available, or access restrictions must be justified.

Third, the rules specifying what is 'requested, prohibited, or permitted' (Ostrom 1986: 5) in trilogues are informal; as such, they are 'created, communicated and enforced outside the officially sanctioned channels' (Helmke and

Levitsky 2004: 727I). Where these rules are codified, they are very general – such as the 1999 and 2007 inter-institutional *joint declarations* on codecision – or they have limited binding force – such as the EP's internal guidelines on co-legislation (European Parliament, Council and Commission 1999, 2007). In 2009, the *Code of Conduct for Negotiating Codecision Files* was annexed to the EP's codified Rules of Procedure (RoP); previously, behavioural constraints stemmed exclusively from the need to find a parliamentary majority for the pre-agreed compromise.

Finally, the political process cannot be concluded in the informal arena; any agreement reached in trilogue is intermediate until formalized by the EP's plenary and a Council meeting. Indeed, in functioning democracies – and contrary to dysfunctional political systems – the relationship between the formal and the informal arena is one of asymmetrical interdependence: the latter complements but does not substitute the former (Helmke and Levitsky 2004: 727–8). Yet, as shown above, early agreements depend upon a rubber-stamp. Under codecision, the informal process therefore constrains formal decision-making significantly, and MEPs in plenary face considerable political pressure not to re-open the compromise (Rasmussen and Shackleton 2005).

In sum, trilogues are played out as part of the EU's formal institutional framework, but they differ in four ways: participation in trilogues is restricted and non-codified; actors operate in a secluded setting; social interaction is structured by informal institutions rather than codified and enforceable rules; and any outcome reached informally must be formalized.

Informal politics is a successful strategy to cope with the complexity of codecision; discharging a potentially cumbersome procedure, trilogues reduce transaction costs and increase the speed of decision-making. They have therefore been praised for making EU legislation more efficient and promoting inter-institutional co-operation (European Parliament 2012a; Jacqué 2008). The codecision statistics support this view: more than 1,000 legislative acts have been passed since 1999; in the first half of EP7, a first reading dossier took on average merely 14.4 months to conclude, and only 4 per cent of files went up to conciliation (European Parliament 2012b: 4, 6). Yet, trilogues come with democratic costs, and the tension between the 'requirement of efficiency' and 'the principles of openness and democratic accountability' has been at the heart of the EP's debate about early agreements since the early 2000s (European Parliament 2011, 2012a: 10–11; Imbeni *et al.* 2001).

Three democratic challenges have been identified. First, where decisions are *de facto* taken in an inaccessible and undocumented arena, the 'essential transparency of the legislative process' is put at risk (Imbeni *et al.* 2001: 2; Bunyan 2007; European Parliament 2012a; Farrell and Héritier 2003b; Huber and Shackleton 2013; Shackleton and Raunio 2003; Stie 2013). In democratic systems, a lack of transparency is not only a concern in its own right; it has direct repercussions for the accountability of the political process (Reh 2012b); for the possibility of effective parliamentary oversight (House of Lords European Union Committee 2009); and for the losing minority,

who will be treated arbitrarily if 'they are not told what justifications for existing decisions they will need to counter if they are to argue themselves into the majority' (Lord 2013: 1059).

In addition, both scholars and parliamentarians have highlighted the constraints on political inclusion, public justification and parliamentary deliberation where 'open and public debate in the plenary with the full participation of all political groups and members' is 'reduced in importance by informal negotiations taking place elsewhere' (Imbeni *et al.* 2001: 2; Lord 2013; Stie 2013). Trilogues may be well-suited for a problem-solving decision-style; yet they reduce access opportunities for wider societal and political interests (Imbeni *et al.* 2001: 2); curtail open debate (Lord 2013: 1066–8; Stie 2013); and, where Parliament and Council collude, they weaken public control through mutual checks and balances (Lord 2013: 1062–3).

Finally, actors' institutional opportunities and constraints differ between the informal and the formal arena. The restriction of trilogues differentiates access to, and control over, *de facto* decision-making, while seclusion differentiates access to information (Farrell and Héritier 2004: 1200ff.). Such differentiation, it is argued, disproportionately empowers big political parties (and their rapporteurs in particular) as well as big member states (and their Presidencies in particular) at the expense of small political groups and rank-and-file parliamentarians (Farrell and Héritier 2003b, 2004). The *de facto* constraints placed on MEPs' rights in plenary further aggravate differential empowerment (Rasmussen and Shackleton 2005), as do the weaker safeguards informal institutions provide against the potential abuse of political power (Peters and Pierre 2004, quoted in Kohler-Koch and Rittberger 2007: 9).

3. NEGOTIATING IN TRILOGUE: THE CASE FOR 'GYROSCOPIC' REPRESENTATION

The democratic challenges identified are undoubtedly relevant to our evaluation of trilogues and early agreements; they are closely linked to established standards of legitimate decision-making, and they have crystallized the political debate over whether and how first reading negotiations should be regulated and reformed. Yet, they pay insufficient attention to the representative relationship between the codecision principals (the Parliament and the member states in Council) and their agents in the informal arena (the negotiators in trilogue) – although the nature of political representation identified and the model of representation applied are crucial to evaluate whether trilogues are democratically tenable and how they should be reformed.

Originally developed for electoral representation, models of political representation can apply to 'all forms of principal–agent relations' (Mansbridge 2011: 621II). For these relations, informal politics poses a particular challenge: restriction and seclusion differentiate access to both information and *de facto* decision-making, and institutionally empower *relais* actors. Informalization, therefore, aggravates the challenges of 'hidden action and hidden information

... [that] are present in any relation based on specialization and division of labour' (Majone 2001: 105).

In established representation theory, authorization of the representative by the represented, and accountability of the representative to the represented, are key to guarantee responsiveness in principal-agent relations (Pitkin 1967):

> [First], [p]olitical representation involves representative X being authorized by constituency Y to act with regard to good Z. Authorization means that there are procedures through which Y selects or directs X with respect to Z. Ultimate responsibility for the actions or decisions of X rests with Y. ... [Second], [p]olitical representation involves representative X being held accountable to constituency Y with regard to good Z. Accountability means that X provides, or could provide, an account of his or her decisions or actions to Y with respect to Z, and that Y has a sanction over X with regard to Z (Castiglione and Warren, quoted in Urbinati and Warren 2008: 396I).

To evaluate representation in codecision trilogues, we would, therefore, look at the procedures of mandating the negotiator, at the account she needs to give about her action in the inter-institutional arena, and at the sanctions available to the parliamentary principal. Yet, if 'good' representation is understood as 'acting in the best interest of others' (Manin *et al.* 1999: 2), the inherent challenge of 'hidden action and hidden information' can be met in two ways: through sanctions plus control, or through selection (Mansbridge 2003, 2005, 2009, 2011; Rehfeld 2009, 2011). Authorization (based on a promise and/ or a mandate), and accountability (based, ultimately, on the possibility to sanction) capture the control side of the relationship at particular moments in time, but neglect the role of selection.

In a nutshell, the sanctions model of representation assumes that the interests of principals and agents diverge; expects 'that the representative will "shirk," ideologically or in other ways' (Mansbridge 2009: 393); and considers sanctions 'necessary to bring her to heel' (Mansbridge 2009: 393). In this standard model, responsiveness must be 'induced'; the principal gets the representative 'to do what the representative would not otherwise do' (Mansbridge 2005: 237II) by tightening the reins. This is true for both 'promissory' and 'anticipatory' representation, working through (campaign) promises and the anticipation of (voters') preferences respectively (Mansbridge 2011: 627I).

By contrast, the selection model of representation assumes that principals and agents can have aligned preferences; expects that the agent has 'self-motivated, exogenous reasons for doing what the principal wants' (Mansbridge 2009: 369); and argues that it is, therefore, 'more efficient and productive for the principal to spend time and effort *ex ante*, choosing an agent with aligned goals, than to expend those resources *ex post* monitoring and sanctioning an agent' (Mansbridge 2011: 622I). In this model, representation is 'gyroscopic': the agent acts in the best interest of others not because she fears (electoral) defeat, but because she 'already has, internally, a certain direction' (Mansbridge 2005: 238I); her

judgement is self-reliant and open to be updated in the representative process; and she is oriented towards the good of the whole or of the part she represents (Mansbridge 2005: 237II, 2009: 392–3, 2011: 623II). Arguing that tighter reins affect motivation adversely and that the sanction model attracts a particular type of representative to politics, advocates of selection suggest that the model's reliance on intrinsic motivation rather than extrinsic threats improves – rather than risks – good performance (Mansbridge 2005: 235II, 236I, 2009: 393).

Analytically, the two models are clearly distinct. Yet, just as the sanctions model includes a formal element of selection, the selection model includes an element of sanction. Mansbridge's 'gyroscope' is not a Burkean 'trustee' who 'knows better', and de-selection must remain a possibility should the principal's and agent's objectives become de-aligned (Mansbridge 2009: 386–7, 2011). The balance of selection and sanction we choose depends, normatively, on the degrees of actual (non-) alignment, and, prudentially, on the costs and benefits of sanction and selection in a particular context (Mansbridge 2011: 622I, 2009: 370, 2003: 526).

First, the benefits of selection are high 'when agents will face unpredictable future situations, when agents must act speedily, creatively, flexibly, and adaptively, [and] when [agents] must dedicate their powers to an evolving goal' (Mansbridge 2009: 370); a selection model will also be beneficial where negotiation requires discretion and a long-term focus (Mansbridge 2009: 380). Second, selection will be favoured where 'principals and agents prefer relationships based on mutual trust and common goals rather than instrumental relationships' (Mansbridge 2009: 370). Third, selection will be attractive where the 'tools for adequate monitoring and sanctioning are absent and expensive' (Mansbridge 2009: 380) and/ or where the costs of 'good selection' will be low. Costs will be low where principals can choose from a 'pool' of internally motivated agents, where the probability of aligned objectives is high, and where principals have access to accurate information about the potential agent's objectives and motivation (Mansbridge 2011: 622I, 2009: 370, 2005: 237I). When these pre-conditions are met, and when high benefits of selection coincide with high costs of sanctioning, 'gyroscopic' representation is, prudentially, preferable over 'induced' representation.

Trilogues under codecision are such a context. Trilogues allow representatives from Commission, Council and Parliament to pre-negotiate politically urgent legislation. The 2009 'Roaming Directive', the 2009 'Climate and Energy Package' and the 2011 'Six Pack' are just three such examples, all agreed at first reading. Trilogue representatives also need to be creative; to strike a deal, they must accommodate the interests of the EP and of 28 member states (or a qualified majority). Furthermore, negotiators work on an evolving goal: at this early stage, the EP has not yet issued its first reading opinion, and Council has not yet adopted its common position; new evidence is likely to emerge; the assessment of the policy problem and available solutions are likely to change; positions are likely to develop; and coalitions are likely to

shift. Finally, where sensitive national interests are involved and specific domestic concerns must be accommodated, trilogue negotiators need discretion.

In addition, the relationship between the parliamentary principal and the trilogue negotiator will be based on mutual trust. Inside Parliament, the rapporteur holds 'the most important leadership role on any given proposal' (Costello and Thomson 2010); this involves building compromise inside and beyond the responsible EP committee (Costello and Thomson 2010: 220–4, 2011, 338–9; Yoshinaka *et al.* 2010: 461–4). Yet, selected among fellow parliamentarians, the rapporteur is only 'first among equals', and to deliver a parliamentary majority, she must be committed to representing the EP as a whole. Each specific legislative negotiation plays out in a context of long-term co-operation between and within the EU institutions, and the history of codecision – won in hard-fought battles with Council (Farrell and Héritier 2003a) – will endow the EP's representatives with a strong sense of institutional identity. Research suggests socialization into inter-institutional norms of co-operation and compromise as one explanation for the steep rise in early agreements since 1999 (Reh *et al.* 2013), and such norms are likely to work within, as well as across, institutions.

The tight monitoring and strict sanctioning of *relais* actors in trilogue would not be overly expensive, nor would the parliamentary principal lack adequate tools for control. In the context of bicameral bargaining, a focus on control and punishment would, nevertheless, be costly. Strict monitoring would decrease negotiators' flexibility, and the ultimate sanction – voting down the pre-agreed compromise in plenary – would result in sunk costs and reputational loss for a Parliament still struggling to be seen as a responsible and efficient co-legislator (Huber and Shackleton 2013; Ripoll Servent 2013). By contrast, the conditions are favourable for effective selection. Parliament chooses a representative from its own ranks, with information on MEPs' ideological affiliation, nationality, committee membership, expertise, voting record and professional background readily available.

Finally, both the genesis of Parliament's empowerment and recent empirical research about the relations between rapporteurs and plenary (Costello and Thomson 2011) suggest a pool of self-motivated 'gyroscopes' with closely aligned objectives. As argued above, the recent smooth inter-institutional co-operation notwithstanding, codecision originates from conflict over both competences and policy. Parliament's institutional memory is, therefore, likely to give *relais* actors a strong sense of representing institutional interests, instead of – or in addition to – particularistic ones.

In short, in the bicameral bargaining over early agreements, *relais* actors need flexibility and discretion; the parliamentary principal and its agent will favour a relationship based on mutual trust; and the information required to make an accurate choice about whether objectives are aligned is easily available. The chance of finding a 'gyroscope' in the pool of applicants is therefore high. Under such conditions, it will be more efficient to invest resources into

optimizing selection than into monitoring and sanctioning, and the selection model of representation should therefore be preferred on prudential grounds.

Yet, the fact that selection is more *efficient* does not make the model *normatively desirable*. Democratic desirability will, instead, depend on whether the institutions and practices of representation approximate the model's normative criteria or 'regulative ideals' (Mansbridge 2003: 515II). These differ from 'traditional accountability' and are, first and foremost, 'good deliberation' at the moment of selection, and 'ease' of maintenance or de-selection (Mansbridge 2003: 522I–II, 2005: 239I–II, 2009: 381). Both criteria are crucial to allow for – and to maintain – aligned objectives.

From a narrow selection perspective, 'good deliberation' at the point of authorization gives principals a developed understanding of the interests they wish to see represented, and a basis for making 'accurate predictions of their chosen representatives' future behaviors' (Mansbridge 2003: 522II); this combination should allow for the closest possible alignment of objectives. From a broader democratic perspective, 'good deliberation' about initial selection gives voice to all arguments and perspectives relevant to a decision at least once in the process (Mansbridge 2003: 524I). This is particularly important where decision-making itself takes place behind closed doors, and where negotiation success requires flexibility and discretion. In such a context, deliberation at the point of initial selection can inject elements of openness and inclusion which are otherwise altogether missing from the decision-process (Stie 2013: 75). 'Good initial selection' is, however, demanding: it requires an institutional system that conveys accurate information about the representative's past and, hence, likely future behaviour (Mansbridge 2005: 239I), as well as candidates who do not 'intentionally deceive' (Mansbridge 2003: 522II).

'Ease of maintenance and removal' brings the principal back in at 'periodic intervals' (Mansbridge 2003: 522II), so as to ensure that objectives remain aligned. The weak 'sanction periphery' in the representative relationship is closely linked to the first criterion: the better information and deliberation at initial selection, the less likely representatives will need to be replaced (Mansbridge 2005: 239I). Yet, introducing a sanction element – however weak, 'not systematic' and not 'on-going' monitoring will be (Mansbridge 2005: 240I) – confronts the principal with the familiar challenge of hidden information, and this challenge will be greater at the moment of de-selection than at initial selection itself (Mansbridge 2009: 383). Asymmetries are aggravated where the agent acts pre-dominantly in a secluded setting.

Three conclusions follow. First, in the selection model, elements of control do not censor the 'gyroscope's' behaviour more generally, but merely ensure that objectives remain aligned. Second, where representation plays out in an informal arena, 'good deliberation' at the point of initial selection is particularly important. Third, where representatives mainly act in a secluded arena, with the challenge of 'hidden action and hidden information' aggravated accordingly, two additional standards are required: 'narrative accountability' and 'transparency in rationale'.

Distinct from 'traditional accountability' (Mansbridge 2003: 521II), 'narrative accountability' shifts the focus from monitoring and sanctioning towards justification, and towards an ongoing communication process between principal and representative. Such accountability does not give the principal the power to punish or reward, but obliges the agent to give a full 'account' in the form of reasons that comprehensively show, explain and justify her actions (Mansbridge 2005: 240II, 2009: 384).

Where the decision process itself is inaccessible and non-documented, 'transparency in rationale' (Mansbridge 2009: 386) makes 'procedures, information, reasons, and the facts on which the reasons are based' open and widely known (Mansbridge 2005: 236II). Full transparency can be too costly for motivation and efficiency (Mansbridge 2009: 385–6), and in this case transparency in rationale can ensure that principals have sufficient information to make the best possible initial choice (even if they cannot follow their representative's every move subsequently); know the procedural basis of decision-making (even if they are absent from the negotiation itself); and are familiar with the arguments and reasons underlying negotiation positions (even if they cannot – or may not wish to – control the positions themselves). Such transparency is particularly well suited where representatives are intrinsically motivated, where objectives are aligned, and where negotiators need to engage in perspective-taking to legitimize compromise (Mansbridge 2005: 236II; Reh 2012a).

In sum, representation with a strong 'selection core' and a weak 'sanction periphery' is, prudentially, best suited for negotiations at first reading under codecision. Yet, the model's democratic core – representatives act in the best interest of others because their objectives are aligned – is realized and maintained only when the two regulative ideals of 'good deliberation at initial selection' and 'ease of maintenance and removal' are approximated. Where decision-making is informal, approximation is facilitated by the ancillary standards of 'narrative accountability' and 'transparency in rationale'.

4. 'GYROSCOPES' AND EARLY AGREEMENT: ARE THE NORMATIVE CRITERIA OF THE SELECTION MODEL APPROXIMATED?

The relationship between the EP and its trilogue negotiators is structured by three sets of practices and institutions: (1) the appointment of a rapporteur for each legislative dossier by the responsible committee; (2) Rule 70, RoP ('Interinstitutional Negotiations in Legislative Procedures') and Rule 70a ('Approval of a Decision on the Opening of Interinstitutional Negotiations Prior to the Adoption of a Report in Committee'); and (3) Annex XXI, RoP (*Code of Conduct for Negotiating in the Context of the Ordinary Legislative Procedures*).

Before looking at these in more detail, two explanations are in order. First, since the *Code of Conduct* is less visible and less binding than Rules 70 and 70a, I restrict my analysis to the Rules themselves. I focus on the Rules'

current versions rather than on their evolution from the unregulated context in 1999, and the adoption of Rule 70 and the *Code of Conduct* in 2009, to the reform and introduction of Rules 70 and 70a in 2012. Second, I consider the rapporteur to be the EP's main representative in trilogue. Rule 70§3 talks about a 'negotiating team', 'led' by the rapporteur and 'presided over' by the committee chair. Hence, the rapporteur is not the only MEP present in the informal arena, and probably not the only MEP negotiating with Council. Yet, it is widely suggested that the rapporteur not only leads on her legislative dossier inside Parliament, but is also the EP's most important *relais* actor in trilogue (Farrell and Héritier 2004; Yordanova 2011; Yoshinaka *et al.* 2010). To evaluate early agreements from the perspective of representation theory, I therefore focus on how rapporteurs are (de-) selected, authorized and held to account.

As a dossier's 'primary legislator' (Yordanova 2011: 100), the rapporteur organizes the committee's discussion on a proposal; presents a draft text; builds compromise around her report; presents the report in plenary; and comments on the plenary amendments on behalf of the committee (Corbett *et al.* 2011: 158, 161–3; Yordanova 2011: 100). At second reading, the rapporteur prepares a recommendation, and at third reading she is a member of the EP's delegation to the Conciliation Committee (Corbett *et al.* 2011: 158, 237; Yordanova 2011: 100). The rapporteur is also Parliament's main negotiator with Council. This role makes her particularly powerful at first reading, where the informal, secluded nature of trilogues gives her privileged access to information about the negotiation process, and where the legislative compromise with Council can be formalized by simple majority in plenary (Farrell and Héritier 2004; Rasmussen 2011). Given the rapporteur's key role, other political groups appoint so-called 'shadows', whose importance has increased in recent years (Corbett *et al.* 2011: 159).

Rapporteurships are assigned in a two-step 'auction-like system' (Kaeding 2004: 354): first, political groups within EP committees are assigned a number of reports; second, parties select their rapporteurs for those reports. Co-ordinators compete for reports in closed-door meetings where they bid with 'points' assigned proportionately to their parties' size (Bressanelli *et al.* 2009; Corbett *et al.* 2011: 158; Yordanova 2011: 101). Once a report is 'won', the co-ordinator appoints a full or substitute committee member from within the group; there are no rules on how this intra-party allocation is decided (Yordanova 2011: 101), but it is considered strategically advantageous 'to submit the name of the proposed rapporteur as early as possible', especially 'if the suggested rapporteur is recognised as a specialist on the issue' (Corbett *et al.* 2011: 158). In sum, rapporteurs are selected by their co-ordinators in an allocation process that is largely consensual but varies between committees (Bressanelli *et al.* 2009), follows an 'unclear and complex set of rules' (Yordanova 2011: 100), takes place behind closed doors, and is characterized by 'general informality' (Corbett *et al.* 2011: 158).

As argued above, the rapporteur leads on a dossier and is institutionally empowered where legislation is adopted early. Perhaps unsurprisingly, the

gradual regulation of first readings since 1999 has, therefore, progressively tightened the control over trilogue negotiators. Institutionalization – and the committee's and plenary's ability to authorize and monitor the rapporteur in particular – has, however, been fiercely contested inside Parliament (Farrell and Héritier 2004; Héritier and Reh 2012; Obholzer and Reh 2012).

The reformed Rule 70 comes down firmly on the side of control. To open negotiations with Council, Rule 70§2 now requires a 'case-by-case' majority decision in committee. 'That decision shall determine the mandate and the composition of the negotiating team'. More specifically, the mandate shall take the form of a 'report adopted in committee and tabled for later consideration by Parliament'. '[O]bjectives, priorities or orientations' – the basis for the mandate before the reform – are now only possible '[b]y way of exception' under 'duly justified' conditions. The new Rule 70§3 stipulates that the 'negotiating team shall be led by the rapporteur and presided over by the Chair of the committee responsible or by a Vice-Chair designated by the Chair. It shall comprise at least the shadow rapporteurs from each political group.' Finally, the new Rule 70§4 requires that '[a]fter each trilogue the negotiating team shall report back to the following meeting of the committee ... Documents reflecting the outcome of the last trilogue shall be made available to the committee'. Contrary to authorization (via mandating by the committee) and monitoring (via membership in trilogue), accountability is strongly hedged; where reporting back to the full committee is 'not feasible' for reasons of timing, 'the negotiating team shall report back to the Chair, the shadow rapporteurs and the co-ordinators of the committee, as appropriate'.

The latest reform of the RoP clearly strengthens the 'sanction periphery'. As part of the EP's wider strife to increase the perceived legitimacy of legislative 'throughput' where the vast majority of acts are agreed early, the new Rule puts a premium on authorization and monitoring. The provisions make it difficult for the rapporteur to 'run away' and to begin negotiation without authorization by the committee; they require open deliberation on a report which subsequently serves as the negotiation mandate; and they increase accountability by moving the provisions on feedback and documentation from the annexed *Code of Conduct* into the main body of the RoP.

Yet, if we approach political representation in trilogues from a selection rather than a sanction perspective – as, I argued, the specific context demands – the current institutions and practices fall short of approximating 'good deliberation at initial selection' and 'narrative accountability'. 'Ease of maintenance and removal' is approximated, and 'transparency in rationale' was strengthened in 2012.

Turning to initial selection first, the systemic and individual pre-conditions are met under codecision. Rapporteurs are chosen in an information-rich context, and the way reports are allocated discourages candidates from intentionally deceiving about their negotiation objectives: in the repeated 'bidding game' of report allocation such action would harm both the candidate's and her party's future chances to secure salient reports.

Empirical research supports this argument: rapporteurs acted in their principals' 'best interest' even when institutionalized control was absent (1999–2004) or weak (2004–2009). Parliament is less successful in the inter-institutional game when a rapporteur holds an extreme position (Costello and Thomson 2011: 351–2); in EP5, early conclusion was less likely when a rapporteur deviated from the median legislator in a big group (Rasmussen 2011: 19–21); and early agreements do not priviledge *relais* actors' preferences, as they should do if empowered representatives systematically pushed their self-interests (Rasmussen and Reh 2013). More generally, rapporteurs are unlikely to defect from an EP position that deviates from her preferences, as happens when a committee report is amended in plenary (Costello and Thomson 2011). Scholars have therefore identified a 'strong norm that rapporteurs should serve the interests of the plenary as a loyal agent, not their own parochial or party interests' (Costello and Thomson 2011: 353). These findings, combined with the absence of control in EP5 and EP6, strongly suggest that 'gyroscopic' representation is at work in trilogues.

However, the current procedure of report allocation falls well short of 'good deliberation'. Where *de facto* decision-making takes place *in camera*, such open deliberation at initial selection would add much-needed inclusiveness at an early stage – even though it cannot fully address the criticism levelled against the intransparency of first reading deals. However, under the current practice neither the committee nor the plenary debates openly which MEP should lead on a dossier internally and represent Parliament *vis-à-vis* the Council. Rule 45§2, RoP merely states that 'the committee shall appoint a rapporteur'; formal votes on rapporteurships are rare (Corbett *et al.* 2011: 159); and rank-and-file group members have no or little say. Well-educated and senior MEPs are particularly likely to become rapporteurs (Daniel 2013), but it is unclear whether and how widely the likelihood of aligned objectives and responsive representation are debated in the process of report allocation.

The assessment is more positive when it comes to 'ease of maintenance and removal'. Successful and specialized rapporteurs are often re-appointed, especially on non-salient dossiers (Corbett *et al.* 2011: 158) – albeit in the above-described closed process. Rapporteurs who are ineffective in the inter-institutional arena, or who push outlier preferences and niche interests without co-operating with their 'shadows' have met with either active or *de facto* de-selection; the first was the case in the 2009 amended regulation on 'Social Security: Co-ordination of the National Systems to Promote the Free Movement of Persons' (author's interview data); the latter happened with the 'Advanced Therapies Regulation' (Judge and Earnshaw 2011: 63–6). Stipulating that the EP's 'negotiating team' shall 'comprise at least the shadow rapporteurs from each political group', the new Rule 70§3 reduces information asymmetries at the level of political groups as well as in committees, thereby adding an additional layer of control and making it easier for the principal to assess whether objectives continue to be aligned.

Turning to the two ancillary standards – 'narrative accountability' and 'transparency in rationale' – the reformed Rules approximate the latter but disappoint on the former.

The core of 'transparency in rationale' – procedures, information, reasons and their underlying facts are widely known – is bolstered, as key provisions are now part of the RoP rather than 'hidden' in the annexed *Code*. More specifically, Rule 70§2 requires a majority decision in committee to open negotiations, 'notified to the President, who shall keep the Conference of Presidents informed'. The Rule also requires a 'mandate' consisting of 'a report adopted in committee'. These provisions strengthen the committee in authorization and, thus, in tightening the representative's reins.

At the same time, they greatly increase 'transparency in rationale'. A debate in committee about whether early conclusion should be attempted also implies an open discussion about the reasons for, and the implications of, using a secluded trilogue. MEPs' understanding of the substantive and procedural consequences of early agreement is improved accordingly, while the involvement of the President – and, in turn, the Conference of Presidents – allows information to travel beyond the lead committee, potentially to rank-and-file parliamentarians across all political groups. Intra-parliamentary transparency is, therefore, improved 'in rationale', even if the negotiations themselves continue to be secluded. The new Rule 70a§1 strengthens internal transparency further, requiring that the committee's decision to open 'negotiations prior to the adoption of a report' be 'translated into all the official languages, distributed to all Members of Parliament and submitted to the Conference of Presidents'. Finally, the need to mandate via a committee report implies wider interest consultation, and broader debate about the reasons for and the rationale of the committee's position; extra-parliamentary transparency is, in turn, increased.

Read against this backdrop, the Rules aim less at control through authorization than at a better grasp of the reasons for, procedures of and rationale behind early agreement. The same can, in fact, be argued about the negotiating team's more explicitly regulated composition; here, the main value-added is not (only) broadened access but a wider and more reliable knowledge of who represents Parliament in the informal arena.

My conclusions are more sceptical with regard to 'narrative accountability'. To be sure, the new Rule 70§4 introduces a number of measures designed to strengthen accountability: at least 48 hours (24 hours in case of urgency) before trilogues, the negotiating team is to be informed about 'the respective positions of the institutions involved and possible compromise solutions'; after trilogues, documents 'reflecting the outcome . . . shall be made available to the committee', and the negotiating team 'shall report back to the following meeting of the committee'. Yet, if we take seriously the conceptual shift from accountability as control to accountability as 'giving an account', these provisions are less promising. Their emphasis is on summarizing (rather than justifying) and on informing (rather than explaining), and they allow little time for deliberation even within the negotiating team. Compared to the rules on

authorization and monitoring, the provision on feedback is also more restricted: where timing is tight, reporting back 'to the Chair, the shadow rapporteurs and the co-ordinators' (rather than to the full committee) suffices. Yet, it is less the *in camera* feedback that is questionable – seclusion can be justifiable under the selection model – than the lack of a deeper quality of justification: this provision, too, focuses on monitoring and controlling, rather than on the explaining and justifying of narrative accountability.

In sum, a selection model of representation is best suited for first reading negotiations under codecision; the pre-conditions for 'good selection' are met in this context; and empirical research, tentatively, supports a 'gyroscopic' reading of representation in trilogues. Parliament's current practices and institutions are strong on the 'sanction periphery': the repeat 'bidding game' of report allocation encourages rapporteurs to align with the parliamentary principal; rapporteurs can be easily maintained and, *de facto*, removed; and plenary needs to formally endorse each informal compromise. Yet, they fall short of the selection model's main and ancillary standards: rapporteurs are not selected through 'good deliberation', and although 'transparency in rationale' has been strengthened by the latest reform, 'narrative accountability' is insufficiently guaranteed.

5. CONCLUSION

The academic and political debate about the democratic consequences of trilogues and early agreements has, hitherto, mainly focused on the tension between efficient and transparent law-making. This article, instead, assessed the relationship between Parliament and its negotiators in trilogue, and argued that representation with a strong 'selection core' and a weak 'sanction periphery' is one condition for making the informal politics of codecision normatively tenable.

Contrasting the selection and sanction models of representation, I suggested that the context of first reading negotiations under codecision – with its requirement of flexibility and discretion, the availability of rich information about candidate representatives, and the likelihood of finding aligned 'gyroscopes' – makes it more efficient for the parliamentary principal to invest in optimizing selection than in tightening the reins. At the same time, the model's democratic core – representatives act in the best interest of others because their objectives are aligned – can only be preserved if the two normative criteria of 'good deliberation at initial selection' and 'ease of maintenance and removal' are approximated; in informal politics this approximation further requires 'narrative accountability' and 'transparency in rationale'.

An analysis of the EU's legislative practices and institutions showed that the EP's reformed RoP strengthen the 'sanction periphery' of the representative relationship as well as 'transparency in rationale'. The reformed Rule 70 puts a premium on authorization (through more specific and tighter mandates) and on control (through 'shadows' in trilogue); it also increases traditional –

if not narrative – accountability (through mandatory feedback and the committee's improved access to documents). Empirical examples also demonstrate that de-aligned rapporteurs can be removed or side-lined, and the recent reform further facilitates de-selection as broadened participation in trilogue reduces information asymmetries. Furthermore, the rationale of early agreements is made more transparent in Rule 70 (through the required majority decision to open negotiations), and Rule 70a (through Parliament-wide information where this decision is taken before the committee's report).

Yet, the current practice flaunts the core normative standard of 'gyroscopic' representation: 'good deliberation' at the moment of selection. Although rapporteurs are the EP's main *relais* actors in trilogue, they are selected behind closed doors by co-ordinators in committee. Considering that *de facto* decision-making is secluded, openly debating about the best possible representative would be a decisive, yet hitherto entirely neglected, democratic improvement on the procedural *status quo*. One possibility to do so would be an early – and widely deliberated – appointment of rapporteurs on the basis of the annual Work Programme (Corbett *et al.* 2011: 159). This would not only allow rapporteurs to prepare in advance of the Commission's formal legislative proposal (Corbett *et al.* 2011: 159); it would also make their selection more central and more visible; it would instil new and much-needed openness and inclusion; and it would, thereby, improve representation in the now dominant informal arena, without pre-judging flexibility and discretion in bicameral bargaining.

Biographical note: Christine Reh is senior lecturer in European politics in the Department of Political Science, University College London.

Address for correspondence: Christine Reh, Department of Political Science, University College London, 29–31 Tavistock Square, London WC1H 9QU, UK. email: c.reh@ucl.ac.uk

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NOTE

1 This article discusses 'early agreements' with a focus on conclusion at first reading. For a more nuanced definition, see Reh *et al.* (2013: 1117–19).

REFERENCES

Bedock, C., Mair, P. and Wilson, A. (2011) 'Institutional change in advanced democracies: an exploratory assessment', Paper presented at the ECPR General Conference, Reykjavik, 25–27 August.

Bressanelli, E., Costa de Sousa, J., Detourbet, C., Kramer, G., Pirnay, E., Vasco, R. and Villari, F. (2009) *Etude sur le système d'attribution des rapports dans les Commissions parlementaires: 6ème legislature 2004–2009*, Brussels: Directorate for Relations with the Political Groups, European Parliament.

Bunyan, T. (2007) 'Secret trilogues and the democratic deficit', available at http://www.statewatch.org/analyses/no-64-secret-trilogues.pdf (accessed 4 April 2013).

Burns, T. (1999) 'The evolution of parliaments and societies in Europe: challenges and prospects', *European Journal of Social Theory* 2(2): 167–94.

Christiansen, T. and Neuhold, C. (eds) (2012) *International Handbook on Informal Governance*, Cheltenham: Edward Elgar.

Christiansen, T. and Neuhold, C. (2013) 'Informal politics in the EU', *Journal of Common Market Studies* 51 (6): 1196–206.

Corbett, R., Jacobs, F. and Shackleton, M. (2011) *The European Parliament*, 8th ed., London: John Harper.

Costello, R. and Thomson, R. (2010) 'The policy impact of leadership in committees: rapporteurs' influence on the European Parliament's opinions', *European Union Politics* 11(2): 219–40.

Costello, R. and Thomson, R. (2011) 'The nexus of bicameralism: rapporteurs' impact on decision outcomes in the European Union', *European Union Politics* 12(3): 337–57.

Daase, C. (2009) 'Die Informalisierung internationaler Politik: Beobachtungen zum Stand der internationalen Organisation', in K. Dingwerth, D. Kerwer and A. Nölke (eds), *Die organisierte Welt: Internationale Beziehungen und Organisationsforschung*, Baden-Baden: Nomos, pp. 289–307.

Daniel, W.T. (2013) 'When the agent knows better than the principal: the effect of education and seniority on European Parliament rapporteur assignment', *Journal of Common Market Studies* 51(5): 832–48.

European Parliament (2004) *Guidelines for First and Second Reading Agreements under the Codecision Procedure*, Brussels: European Parliament.

European Parliament (2008) *Code of Conduct for Negotiating Codecision Files*, Brussels: European Parliament.

European Parliament (2011) Committee on Constitutional Affairs, *Working Document on Revision of Rule 70 of Parliament's Rules of Procedure on Interinstitutional Negotiations in Legislative Procedures*, PE472.201v01.00, Brussels: European Parliament.

European Parliament (2012a) Committee on Constitutional Affairs, *Draft Report on Amendment of Rule 70 of Parliament's Rules of Procedure on Interinstitutional Negotiations in Legislative Procedures*, PE473.959v03.00, Brussels: European Parliament.

European Parliament (2012b) Delegations to the Conciliation Committee, *Activity Report 14 July 2009–31 December 2011*, DV\903361EN.doc, Brussels: European Parliament.

European Parliament (2013) *Rules of Procedure*, 7th Parliamentary Term, Brussels: European Parliament.

European Parliament, Council and Commission (1999) *Joint Declaration on Practical Arrangements for the New Codecision Procedure (Art. 251 of the Treaty Establishing the European Community)*, OJ C 148/1, 28.5.1999, Brussels: European Parliament, Council and Commission.

European Parliament, Council and Commission (2007) *Joint Declaration on Practical Arrangements for the Codecision Procedure (Art. 251 of the EC Treaty)*, OJ C 145/5, 30.6.2007, Brussels: European Parliament, Council and Commission.

Farrell, H. and Héritier, A. (2003a) 'Formal and informal institutions under codecision: continuous constitution-building in Europe', *Governance* 16(4): 577–600.
Farrell, H. and Héritier, A. (2003b) 'The invisible transformation of codecision: problems of democratic legitimacy', *SIEPS Report No 7*. Stockholm: Swedish Institute for European Policy Studies.
Farrell, H. and Héritier, A. (2004) 'Interorganizational negotiation and intraorganizational power in shared decision-making', *Comparative Political Studies* 37(10): 1184–212.
Helmke, G. and Levitsky, S. (2004) 'Informal institutions and comparative politics: a research agenda', *Perspectives on Politics* 2(4): 725–40.
Héritier, A. and Reh, C. (2012) 'Codecision and its discontents: intra-organisational politics and institutional reform in the European Parliament', *West European Politics* 35(5): 1134–57.
House of Lords European Union Committee (2009) *Codecision and National Parliamentary Scrutiny: Report with Evidence*, London: House of Lords European Union Committee.
Huber, K. and Shackleton, M. (2013) 'Codecision: a practitioner's view from inside the Parliament', *Journal of European Public Policy* 20(7): 1040–55.
Imbeni, R., Provan, J. and Friedrich, I. (2001) *Improving the Functioning of the Co-Decision Procedure: Discussion Document Presented by the Vice-Presidents Responsible for Conciliation*, available at http://www.statewatch.org/news/2001/mar/codecision.pdf.
Jacqué, J.-P. (2008) 'Une vision réaliste de la procédure de codécision', in A. De Walsche (ed.), *Mélanges en hommage à Georges Vandersanden: promenades au sein du droit européen*, Brussels: Bruylant, pp. 183–202.
Judge, D. and Earnshaw, D. (2011) 'Relais actors' and codecision first reading agreements in the European Parliament: the case of the Advanced Therapies Regulation', *Journal of European Public Policy* 18(1): 53–71.
Kaeding, M. (2004) 'Rapporteurship allocation in the European Parliament: information or distribution?' *European Union Politics* 5(3): 353–71.
Kohler-Koch, B. and Rittberger, B. (2007) 'Charting crowded territory: debating the democratic legitimacy of the European Union', in B. Kohler-Koch and B. Rittberger (eds), *Debating the Democratic Legitimacy of the European Union*, Lanham, MD: Rowman and Littlefield, pp. 1–29.
Kröger, S. and Friedrich, D. (2013) 'Introduction: the representative turn in EU studies', *Journal of European Public Policy* 20(2): 155–70.
Lauth, H.-J. (2012) 'Informal governance and democratic theory', in T. Christiansen and C. Neuhold (eds), *International Handbook on Informal Governance*, Cheltenham: Edward Elgar, pp. 40–64.
Lord, C. (2013) 'The democratic legitimacy of codecision', *Journal of European Public Policy* 20(7): 1056–73.
Lord, C. and Pollak, J. (2010) 'The EU's many representative modes: colliding? Cohering?', *Journal of European Public Policy* 17(1): 117–36.
Majone, G. (2001) 'Two logics of delegation: agency and fiduciary relations in EU governance', *European Union Politics* 2(1): 103–22.
Manin, B., Przeworski, A. and Stokes, S.C. (1999) 'Introduction', in A. Przeworski, S.C. Stokes and B. Manin (eds), *Democracy, Accountability, and Representation*, Cambridge: Cambridge University Press, pp. 1–26.
Mansbridge, J. (2003) 'Rethinking representation', *American Political Science Review* 97(4): 515–28.
Mansbridge, J. (2005) 'The fallacy of tightening the reins', *Österreichische Zeitschrift für Politikwissenschaft* 34(3): 233–48.
Mansbridge, J. (2009) 'A "selection model" of political representation', *The Journal of Political Philosophy* 17(4): 369–98.

Mansbridge, J. (2011) 'Clarifying the concept of representation', *American Political Science Review* 105(3): 621–30.
Obholzer, L. and Reh, C. (2012) 'How to negotiate under co-decision in the EU: reforming trilogues and first-reading agreements', *CEPS Policy Brief No 270*, Brussels: Centre for European Policy Studies.
Ostrom, E. (1986) 'An agenda for the study of institutions', *Public Choice* 48: 3–25.
Pitkin, H.F. (1967) *The Concept of Representation*, Berkeley, CA: University of California Press.
Rasmussen, A. (2011) 'Early conclusion in bicameral bargaining: evidence from the co-decision legislative procedure of the European Union', *European Union Politics* 12(1): 41–64.
Rasmussen, A. and Reh, C. (2013) 'The consequences of concluding codecision early: trilogues and intra-institutional bargaining success', *Journal of European Public Policy* 20(7): 1006–24.
Rasmussen, A. and Shackleton, M. (2005) 'The scope for action of the European Parliament negotiators in the legislative process: lessons of the past and for the future', Paper presented at the EUSA Biennial International Conference, Austin, 31 March–2 April.
Reh, C. (2012a) 'European integration as compromise: recognition, concessions and the limits of cooperation', *Government and Opposition* 47(3): 414–40.
Reh, C. (2012b) 'Informal politics: the normative challenge', in T. Christiansen and C. Neuhold (eds), *International Handbook on Informal Governance*, Cheltenham: Edward Elgar, pp. 65–84.
Reh, C., Héritier, A., Bressanelli, B. and Koop, C. (2013) 'The informal politics of legislation: explaining secluded decision making in the European Union', *Comparative Political Studies* 46(9): 1112–42.
Rehfeld, A. (2009) 'Representation rethought: on trustees, delegates, and gyroscopes in the study of political representation and democracy', *American Political Science Review* 103(2): 621–30.
Rehfeld, A. (2011) 'The concepts of representation', *American Political Science Review* 105(3): 214–30.
Ripoll Servent, A. (2013) 'Depoliticising the European Parliament: policy shift in the Data Retention Directive from consultation to codecision', *Journal of European Public Policy* 20(7): 972–87.
Rittberger, B. (2006) '"No integration without representation!" European integration, parliamentary democracy, and two forgotten communities', *Journal of European Public Policy* 13(8): 1211–29.
Shackleton, M. and Raunio, T. (2003) 'Codecision since Amsterdam: a laboratory for institutional innovation and change', *Journal of European Public Policy* 10(2): 171–87.
Stie, A.E. (2013) *Democratic Decision-Making in the EU: Technocracy in Disguise*, London: Routledge.
Urbinati, N. and Warren, M.E. (2008) 'The concept of representation in contemporary democratic theory', *Annual Review of Political Science* 11: 387–412.
Yordanova, N. (2011) 'Inter-institutional rules and the division of power in the European Parliament: allocation of consultation and co-decision reports', *West European Politics* 34(1): 97–121.
Yoshinaka, A., McElroy, G. and Bowler, S. (2010) 'The appointment of rapporteurs in the European Parliament', *Legislative Studies Quarterly* 35(4): 457–86.