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THE EUROPEAN PARLIAMENT AS A DEVELOPING LEGISLATURE:

COMING OF AGE IN TRILOGUES?

Christilla Roederer-Rynning, University of Southern Denmark, Campusvej 55, DK – 5230,

Odense M – Denmark, tel: +45 65 50 31 92, crr@sam.sdu.dk

Justin Greenwood, Robert Gordon University, Aberdeen, AB10 7QE, United Kingdom,

j.greenwood@rgu.ac.uk

Corresponding author: Christilla Roederer-Rynning

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ABSTRACT This article examines the institutionalization of the European Parliament-as-a-legislature. It draws on the political development scholarship to conceptualize institutionalization and highlight the role of the environment in the development and decay of political institutions. On this premise, we argue that the political significance of the European Parliament (EP) depends on its capacity to develop strong institutions enabling it to ‘exist apart’ from its environment. We identify the embrace of co-decision as a critical moment of the institutionalization of the EP-as-a-legislature and explore the value of the political development perspective in a comparative-historical study of trilogues in the EP. We present a typology of institutionalization of trilogues and argue that a model of generic parliamentary approach to trilogues is taking roots. While substantiating the thesis of the EP as a potentially autonomous institution, our findings also call for research into the resilience and sources of institutional patterns of trilogues.

KEY WORDS: European Parliament; legislature; political development; trilogues

INTRODUCTION

The study of EU institutions reveals an enduring debate between scholars viewing the EU as settled politics and those pointing to ongoing processes of institutional transformation, system differentiation, and deepened integration. This is not just a scholarly debate. Recently, a prominent practitioner has claimed that the EU is ‘facing [its] most serious crisis ... ever’, requiring a rethink of its constitutional and legal order (Piris 2012, 1). This debate shows that we have yet to understand how the institutions making up the EU’s political system evolve, how this process of institutionalization is shaped by broader environmental developments, and what political implications it has for the EU polity.

In this article, we focus more specifically on the development of the European Parliament (EP). The EP is the EU institution that has undergone the most spectacular constitutional development in the union’s lifetime. It is a natural entry point into the broader debate on the nature and development of the EU polity given its emblematic value as an institution of representative democracy. Echoing US

scholars' questioning about US legislative development, half a century ago (Polsby 1968), we ask: How may we regard the EP as an institutionalized organ of representative democracy? This question is fundamental given the baffling complexity of the EU's polity. And yet, we have surprisingly few accounts of the EP's institutional development (Rittberger 2005; Farrell and Héritier 2007). While research agendas on the constitutional empowerment of the EP and on the EP's legislative behaviour have partly converged to highlight the role of the EP as an increasingly 'normal' parliament, recent debates highlight the need to explore more systematically the institutionalization of the EP's legislative power, at the crossroads between constitutional choices and legislative behaviour.

We turn to the scholarship on 'political development' to shed light on these questions. We do not seek to propose a full-fledged political development theory of the EU but, much more modestly, to highlight the heuristic value of this perspective in the study of the development of the EU polity and its institutions. 'Political development' is valuable because: it directs our attention to institutionalization as the fulcrum of political significance; it is attuned to large-scale shifts of authority, it is open to the reversibility of political development; and it highlights the interaction between purposive action and existing culture. These features make it well suited to capture the EU's political development comparatively while taking the unique features of the EU polity seriously. We identify the embrace of co-decision, in practice trilogues, as a critical moment of the institutionalization of the EP-as-a-legislature. Trilogues are a central, albeit informal institution, bridging constitutional provisions for bicameral law-making and everyday politics. They have been the object of intense controversy on the future of the EP as a law-making organ and present us with a fruitful analytical prism to explore the institutionalization of the EP-as-a-legislature.

We proceed as follows. First, we outline the puzzle of 'the EP as a normal parliament'. Second, we sketch out the main components of a 'political development' framework. Third, we examine the type of environment in which the EP must find its place, and which distinguishes the EP from 'normal' legislatures. Finally, we explore how the EP has responded to these environmental challenges, focusing on the institutionalization of trilogues in the EP. Our data come primarily from elite interviews, which we supplement with available written primary sources. We collected the bulk of our data during

repeated short trips to Brussels in the period 2014-2015, representing in all more than 40 semi-structured interviews with trilogues as the main focus: six with MEPs (of which five with committee chairs), 16 with committee secretariats, four with other DG officials from the Directorate General for Internal Policies of the Union (DGIPol), three with Commission civil servants, 10 with Council civil servants and two with members of national permanent representations—allowing for some triangulation of data. We also conducted 11 interviews with civil society organisations where trilogues formed part of the focus of inquiry.

THE PUZZLE OF THE EP AS A ‘NORMAL’ PARLIAMENT

In the last three decades, the field of EU studies has changed character as a result of what we now term the comparativist turn. Until the mid-1980s, research had developed within the field of ‘European integration’ dominated by debates between neofunctionalists and intergovernmentalists (Keeler 2005, 569). In the mid-1980s, pioneering work by legal scholars and comparativists paved the way for construing EU politics as a political system more akin to domestic politics than international relations (Hix 1994; Kreppel 2012). Comparing the EP to national parliaments became an uncontroversial proposition. Assumptions, concepts, and hypotheses were increasingly drawn from the field of legislative studies. These works were influential in changing longstanding perceptions of the EP as a synthetic ‘Mickey Mouse’ parliament. They showed that members of the EP (MEPs) behaved as ‘normal’ parliamentarians, forming stable but issue-specific coalitions and voting along ideological lines to advance ideological positions rather than territorial interests (Hix et al. 2007). They also substantiated the thesis of an EP promoting distinctively ‘popular’ policy agendas independently of intergovernmental politics (Judge 1992; Weale et al. 2000; Burns 2005).

Recent scholarship has called into question this picture of settled EP politics by emphasizing the complexity and reversibility of EP development. Some have pointed to the enduring, even possibly growing, role of the ‘national factor’ inside and around the EP (Whitaker 2011; Panke 2012). Others have found evidence that the EP is wavering in its longstanding commitment to championing diffuse interests (Burns and Carter 2010; Burns, Carter, and Worsfold 2012; Rasmussen 2012). Especially, the

development of legislative trilogues has fuelled renewed controversy. Legislative trilogues are the real-world method that EU institutions have evolved to make co-decision work in practice. They can be defined as informal inter-institutional negotiations bringing together the representatives of the European Parliament, the Council, and the Commission. While facilitating early agreements between EU decision-makers, trilogues have been regarded as an opaque and unaccountable form of decision-making (Farrell and Héritier 2004; Héritier and Reh 2012; Rasmussen and Reh 2013; Reh 2014), drawing the EP into ‘responsible’ law-making and commercial diplomacy (Jacqué 2009; Ripoll Servent 2011). Political discontent with the trilogues developed in the EP in the early 2000s (European Parliament 2004 and 2008; Huber and Shackleton 2013), later in the public sphere (*EU Observer* 2014; *International New York Times* 2014). In May 2015, European ombudsman Emily O’Reilly opened an investigation into the EU’s trilogues ‘with a view to boosting transparent law-making in the EU.’

In sum, puzzling evidence and rising controversies over trilogues beg the question anew of what kind of a parliament the EP is, what political significance it has in EU politics, and how it contributes to the maintenance of an EU political order. Exploring the nature and political significance of the EP requires that we pay more systematic attention to the institutionalization of legislative procedures in the EP. Next, we show how a political development perspective can help us address these questions.

BUILDING A ‘NORMAL’ PARLIAMENT: A POLITICAL DEVELOPMENT PERSPECTIVE

While ‘political development’ has recently been associated to research on American state-building (Skowronek 1982; Orren and Skowronek 2004), it is part of a longstanding comparativist scholarship exploring macro-level political processes and considering institutions as the cornerstone of regime formation and maintenance. We draw here specifically on Huntington’s writings from the 1960s (Huntington 1965; Huntington 1968). Huntington wrote in the heyday of the ‘modernization paradigm’ in US comparative politics. His main contribution to the debate was to disentangle modernization from its teleological connotations and root it firmly into an institutionalist account of politics. Political development, he argued, is the ‘institutionalization of political procedures and

organizations' (Huntington 1965, 386); like other institutionalists before him (Selznick 1949), he viewed institutionalization as a process by which formal structures are infused with value and acquire stability (Huntington 1965, 394).

Two key ideas developed by Huntington are especially useful for our purposes. The first is the idea of institutionalization as a reversible process. Huntington insisted on the open-endedness of political change. Institutions come and go. Some polities may never develop while established polities may sink into political decay. The open-endedness of political development reflects the fact that 'institution-building results from the slow interaction of conscious efforts and existing culture' (Huntington 1965, 418), meaning that the environment that institution-builders face is critical for political development. While Huntington considered static environments to lead to institutional sclerosis or rigidity and eventually political decay (and dynamic environments to be more conducive to institutional adaptation and political development), he also pointed out that highly mobilized societies may jeopardize democracy by preventing the development of political rules and organizations from taking root. For a political system to develop, emerging institutions must be able to keep short-term, private interests at bay in order to achieve long-term collective goods (Huntington 1965).

The second idea is the view of institutionalization as a multi-dimensional process involving: adaptability, complexity, autonomy, and coherence (Huntington 1965). *Adaptability* connotes flexibility and resilience. An organization is adaptable if it can deal effectively with challenges in its environment. A political development perspective holds that the more adaptable an organization or procedure, the more institutionalized it is. *Complexity* refers to the differentiation of structures and purposes. An organization, which is complex, or differentiated, is more likely to persist as it can benefit from balancing or compensating effects among its composing elements to offset external or internal challenges. Therefore, the more complex an organization, the more institutionalized it is. *Autonomy* forms the classical themes of studies of institutionalization of political organizations—in domestic as well as in international contexts. Autonomy refers to the ability of an organization and its members to insulate themselves from the influence of non-members, or to 'exist apart' from forces or groups in its environment (Huntington 1965). The more autonomous an organization, the more institutionalized it

is. Finally, *coherence* can best be described as referring to ‘some measure of consensus’ (Huntington 1965, 403). This may be achieved through esprit de corps and discipline. It involves the development of a substantive consensus about the organization—or a collective sense of purpose—and procedures for solving conflicts between parts of the organization (Huntington 1965). These four dimensions offer us a yardstick for gauging political development. Simplifying a lot, the more adaptable, complex, autonomous, and coherent an organization, the more institutionalized it is, and the more ‘developed’ it is. Conversely, an organization displaying low degrees of adaptability, complexity, autonomy, and coherence is little institutionalized, and therefore less developed.

Classic comparative studies have shown how ‘political development’ can help us chart and understand the development of parliamentary institutions (Polsby 1968; Chaffey 1970; Hibbing 1998). These studies have explored large-scale shifts in the development of US legislative authority, revealed how environmental specificities constrained the pattern of institutionalization of legislative authority, and demonstrated the potential of the political development perspective for the study of non-US legislative institutions. In the same vein, we explore the development of the EP-as-a-legislature, first identifying and discussing the specificities of the EP environment, and then analyzing how the EP has responded to these challenges through the institutionalization of trilogue procedures and organizations.

THE EP AND ITS ENVIRONMENT: THE DEMOI-CRATIC PREDICAMENT

Unlike the polity of nation-states, the EU polity is ‘defined not by a uniform identity—a demos—but by the persistent plurality of its peoples—its demoi’ (Nicolaidis 2004, 101). This community of ‘multiple demoi’ has developed to a point where it cannot escape the need to establish its own democratic legitimacy (Cheneval et al. 2015). At the same time, however, the power of prior national identities and institutions undercut the possibility to simply reproduce familiar nation-state democratic institutions at the EU level. Research into the institutionalization of democracy in the EU has shown that ‘national demoi and citizens’ national-democratic orientations are *dominant* in the EU’ and that, therefore, ‘there is little evidence for a genuine demoi-cratic understanding of the EU or genuine

support for democratic institutional arrangements on the part of its citizens and elites' (Cheneval et al. 2015, 10; our emphasis).

This means that the EP has to deal with environmental challenges that are of a quite different nature than those faced by nascent national legislatures. It must find its place in a political space defined by highly mobilized national constituencies in the Council and European Council, declining voter turnout in EP elections, and the growing mobilization of Euroskeptical publics. These factors complicate the institutionalization of the EP-as-a-legislature by making it difficult for it to 'exist apart' from national institutions. The EP does not control entry into its organization; the 'national factor' undoubtedly plays an important, if unofficial role, in its internal politics; and member-states lobby the EP directly through regular contacts between MEPs and 'their' national permanent representations (Marshall, 2015). Furthermore, Euroskeptical MEPs could be expected to sabotage attempts at EP development given their overall negative stance towards EU institutions.

The democratic predicament also means that the EP, perhaps more than any other legislatures in the democratic world, must 'interpret' politics to ensure its long-term survival. Interpreting means 'influenc[ing] how political processes and outcomes are interpreted and how political reality is constructed'; it is one of the core roles of legislatures besides policy-making, which involves 'mak[ing] choices that affect who-gets-what in terms of substantive outcomes—the distribution of goods and burdens in society' (Olsen 1983, 39). All legislatures must balance policy-making and interpreting roles in order to endure. For the EP, however, this balancing act is complicated by the fact that it is, so to speak, structurally 'cornered' into a policy-making role. Remote constituencies, plurilinguism, low media interest and coverage, competing European 'folk theories' of democracies do not create strong incentives for the EP to act as an interpreter. At the same time, most EU regulation is by nature expert and technical and complicated to communicate to broader publics. And yet, interpreting politics to a broader set of publics is necessary for the EP to develop autonomy from highly mobilized state interests and Euroskeptical movements.

In sum, the EP must find its place in a dominant and dynamic environment, characterized by highly mobilized national constituencies, growing political Euroskepticism, and in general growing

political turbulence associated with the rise of radical movements. According to political development, these hindrances to institutionalization may be overcome by conscious efforts to develop a collective sense of purpose, supported by efforts to devise internal conflict-solving procedures, promote transparent procedures for electing leadership, ensure staff continuity, foster socialization across national lines (party and committees), diffuse best legislative practices, etc. In the remainder of the article, we explore the institutionalization of trilogues in the EP drawing on Huntington's four dimensions: adaptability; complexity; autonomy; and coherence. We start by discussing briefly how we have operationalized these dimensions and accessed the data.

TRILOGUES AS A PRISM OF EP INSTITUTIONALIZATION: DEVELOPMENT OR DECAY?

Huntington proposed to measure *adaptability* as the 'age' of an organization, defined chronologically (lifespan), generationally (succession shifts), or functionally (goal transformation). Applied to trilogues, we operationalize adaptability as the 'tipping point' where trilogues have reached a critical mass of all co-decision files, using 1/3 as a quantitative rule of thumb (Finnemore and Sikkink 1998), using early agreements as a proxy, since early agreements require the use of informal inter-institutional negotiations. For measures of complexity, Huntington referred to the number of nodes, units, levels of hierarchy, etc., making up an organization. Measures of autonomy include control of entry into the organization, the continuity of membership or leadership, the formation of organizational memory (Huntington 1965; Polsby 1968; Sisson 1973). We operationalize *complexity* as the development of an administrative apparatus around trilogues, including secretariat staff and discrete units charged with various organizational and logistical aspects of trilogues; and we reserve *autonomy* to developments or innovations enabling MEPs to develop an independent policy agenda, for example through knowledge building (Furner and Supple 1990) and to insulate EP representatives in trilogues from the pressure of member states, for example by pluralizing the EP representation in trilogues and tightening reporting-back procedures. However, we are aware that complexity and autonomy thus operationalized partly overlap. For example, growing complexity, as illustrated by the development of staff, is intimately

linked to the development of organizational memory (autonomy). Finally, we operationalize *coherence* as the development of uniform committee rules and practices in trilogues.

Adaptability: The tipping point of EP6

Although trilogues have no reference in the Treaties, in EP7 (2009-2014), 1541 trilogues were held for a total of 488 adopted co-decision files (European Parliament, 2014b). All EP committees engaged in trilogue negotiations; but the Economic and Monetary Affairs Committee (ECON) clearly emerged as the single-largest source of trilogues, accounting for 21.5% of all trilogues. The ‘critical tipping point’ (Héritier and Reh, 2012) was reached during EP6 (2004-2009), where by mid-term half of all legislative files were adopted through early legislative agreements. This cursory view at the development of trilogues shows their extraordinary adaptability. While trilogues originally emerged in 1993 as a technique to facilitate conciliation following the Maastricht Treaty, they were then used as standard procedure from 1999 when the Amsterdam Treaty made it possible for EU legislation to be passed at first reading.

Complexity and autonomy: Organizing a ‘new normal’ in trilogues

Initially, the organization and conduct of trilogues revolved primarily around the rapporteurs, i.e., the committee members designated to draw up the committee’s legislative report. When trilogues began being used in relation to co-decision, the rapporteurs thus became double-hatted: at once drafting the legislative position of the committee and negotiating the EP position in the trilogue meetings with Council and Commission representatives. Following an internal reform process going back to 2004, the organization of trilogues was adapted to give a range of EP actors a greater say in the negotiations and the ability to enforce their institution’s position. Thus, in virtue of the latest 2012 reform of the EP Rules of Procedure, the committee chair (or designated vice-chair) now is a *de jure* member of the EP negotiating team in trilogues (Rule 70 continued as Rule 73 in EP8) and the chair of the trilogue meetings when they take place in the EP. The 2012 reform also strengthened the role of EP

committees by: 1) conditioning the opening of trilogue negotiations to the adoption of the legislative report in committee); 2) pluralizing the EP representation in the trilogue negotiations (now called an “EP negotiating *team*” including the shadow rapporteurs and the committee chair); and 3) obliging the EP team to report back to the committee in order to inform members of the progress in the negotiations and refresh the mandate if necessary. Finally, the reform gave members the possibility to ask the EP plenary, instead of the EP committee responsible for legislation, to adopt the mandate and thus open the trilogue negotiations (Rule 70a, continued as Rule 74 in EP8). The 2012 reform reflected a long search for regulating the trilogue in the EP; it specified and made binding the *Code of Conduct for Negotiating in the Context of Codecision Procedures* established as Annex (XX) to the Rules of Procedure at the end of EP6 (Héritier and Reh 2012). Critically, these rules were further strengthened by a concomitant—but overlooked—change in EP procedure, providing for public disclosure of *committee* roll-call voting data, which means that members can be held to account in the subsequent trilogue process.

On the administrative side, we can trace the growing complexity of trilogues as a growing number of actors have been involved in the organization and conduct of the trilogues in the EP. First, committee secretariats have become a key actor in the process. Their role has become multiple and continuous. Secretariats organize and attend the bi-annual series of ‘speed-dating’ meetings that open the mandate of rotating Council presidencies, and in which EP and Council representatives identify legislative priorities for the ensuing six months. Secretariats plan and staff the technical trilogues, which precede and follow the political trilogues. The EP’s capacities to Committee Secretariats have experienced significant growth, with the staff of DGIpól responsible for servicing most of the key co-decision committees, increasing by 12% between 2011 and 2012 (European Parliament, 2014c). Secretariat sizes of 20-30 for the 22 Standing Committees of the EP are now commonplace. Secretariats do not just smoothen the logistics of the trilogues. They may also play a key role in forming the institutional memory of EP committees by gathering information and formulating procedures and guidelines for use in trilogues. However, it is important to note that rules of staff mobility constrain secretariats’ ability to act collectively. Under current EP rules, new secretariat

members are required to move twice in their first seven years, and once thereafter, which provides for both a loss of institutional memory, as well as an influx of new experiences. Nonetheless, this rule was not retroactive, such that continuous secretariat members – often now Heads of units - have become the *alter ego* of committee chairs in trilogues, supplying them with substantive as well as procedural memory and advice (e.g., whether to obtain a committee or plenary mandate (interview 1, 3.2.2015), and sometimes even replacing absentee chairs and negotiating on behalf of a committee in trilogues (interview 2, 2.2.2015).

Besides committee secretariats, two horizontal EP units have grown in importance in trilogues. The horizontal Conciliations and Codecision Unit (CODE) of the EP, currently 6 administrators and 6 assistants, has become a central actor in providing committees and their staff with procedural strategic advice in trilogues. This now (from EP8) involves the assignment of a project support team for each trilogue, comprising lawyer-linguists (described by one seasoned participant as ‘brilliant’, a remark echoed by other sentiments expressed during secretariat interviews), a member of the research service, and a co-ordinator from the co-decision unit to act in an advisory capacity where required. The unit also provide comprehensive training in organizing and conducting trilogue meetings for members of the secretariat, comprising courses, intranet documentation followed by refresher elements and an ongoing regular co-decision network to participate inter-committee best practice fora. Finally, the unit for coordination of legislation (CORDLEG) of roughly equivalent staff serves the Conference of Committee Chairs (CCC) while coordinating the workflow of EP committees. For the first time at the end of EP7, it published summary statistics on various aspects of the committee’s legislative work, including trilogue activities, challenges of referral decisions, organization of public hearings, etc.

Finally, on the knowledge side, recent internal reforms, principally involving the establishment of the Economic Governance Support Unit in 2012, and the European Parliament Research Service (EPRS) in 2013 have considerably stepped up the EP’s in-house expertise. In addition to a library, the EPRS comprises a Members’ Research Services Directorate, and an Impact Assessment Directorate, whose internal services are supplemented with outsourced commissioning, and which anticipates the need for such assessments to accompany EP amendments introduced relatively late into the legislative

process. Whilst committees continue to receive regular technical briefings from the European Commission, members are now increasingly equipped to form their own independent assessments, assisted by an allowance for up to four assistants (European Parliament, 2015).

In sum, the embrace of trilogues has coincided with the development of an already complex organizational structure and the adoption of measures aiming at strengthening the autonomy of EP negotiators, and enhancing institutional capacity for a collective sense of purpose. These rules can be seen as an important source of EP resilience and autonomy in the trilogue process since they improve the structural conditions for the EP negotiators to ‘exist apart’ from the member-states and insulate themselves from intergovernmental interests by strengthening internal exchange of information, internal monitoring, and political coordination among MEPs. They are a step in restoring the central position of the EP committees in the legislative process, which the early years of trilogue practice had undermined. Finally, since institutional autonomy is also the capacity of the EP to articulate independent goals and developmental strategies, it is remarkable that the embrace of trilogues also coincided with the substantial development of reliable and high-quality in-house expert knowledge. Few national parliaments, with the exception of US Congress, enjoy access to knowledge and expertise on the scale displayed by the EP.

Coherence: The ‘new normal’ in practice

‘Institution-building,’ Huntington (1965, 418) reminds us, ‘results from the slow interaction of conscious efforts and existing culture.’ Nowhere is this point more clearly illustrated than in the pattern of committee practices. Early in our research, we became aware of a basic tension shaping committee practices in trilogues (Roederer-Rynning and Greenwood 2015, 14). On the one hand, as EP committees early on developed their own compass in inter-institutional negotiations, we expected to find enduring internal variation in the EP, reflecting different committee cultures. On the other hand, as the EP entered the 2000s puzzling out its role in trilogues, we saw the proliferation of conscious EP efforts to forge a common public culture of trilogues. What was the result of this interaction between conscious efforts and existing culture?

We found a dominant ideal-type of parliamentary approach to trilogues, which we call ‘generic type’, resting on two main historical features: 1) the centrality of the chair as an integral part of the EP negotiating team, and 2) a sharp division of labour between technical and political trilogues. Within this generic ideal-type, we find three sub-types: a gladiatorial approach; a problem-solving approach; and an arm’s length approach. These approaches differ mostly in the extent to which they balance policy-making and interpreting roles—the gladiatorial approach representing the clearest effort by EP negotiators to fulfill symbolic functions by seeking visibly to create and maintain the fiction of representation. As our research progressed further, we found alternative ideal-types of committee approaches to trilogues, where one of the features associated with the generic type was absent or only weakly developed: we label these alternative types ‘variants.’

ECON developed a distinctive *gladiatorial* approach to first-reading agreements under the chairmanship of Berès (EP6) and then Bowles (EP7) (table 1). This approach was centered on a conception of the role of the committee chair as a central figure in the institutionalization of trilogues, entrusted with the responsibility to keep short-term, private interests at bay in order to achieve long-term, collective goods (Roederer-Rynning and Greenwood 2015, 10). Accordingly, ECON chairs acted as negotiators in trilogues, insisted on a clear separation and hierarchy between political trilogues and technical trilogues, and relentlessly sought to promote the political trilogues as the real venue for negotiations. Furthermore, they regulated bilateral contacts between MEPs and the presidency so as to control the flow of informal negotiations; demanded high-level Council representation; and claimed (and gained) control of the strategic 4th column of the trilogue documents containing inter-institutional compromises. Finally, they made tactical use of logistical arrangements. ECON’s approach was often dramaturgic. While it regularly inflamed Council, it also earned ECON respect and prestige both inside and outside the EP by highlighting its skills as a policy-maker and an interpreter. Not only could ECON claim to have won important concessions from the Council; it also succeeded in generating public debate and media attention on rather arcane issues.

Table 1 here

Other EP committees actively involved in trilogue negotiations tended to display a *problem-solving* approach. This group contains a mix of both ‘old’ and ‘new’ co-decision committees. Committees IMCO (interview 6, 27.8.14), REGI (interview 1), INTA (interview 4), and (to some degree) LIBE (interview 3) illustrate this approach. Under this approach, the committee chair also plays an important role as a negotiating chair but the style is kept neutral, or business-like. Dramaturgy does not enter so much into the picture. The chair attends trilogues assiduously, at the risk of creating scheduling complications for the committee staff in charge of planning trilogue meetings. Not only does the chair attend virtually all trilogues, it ‘gets into the fight’ as part of a collective strategy. Key elements of the trilogue etiquette include helping forge compromise and not defecting from the collective strategy. The chair’s command of expert knowledge is repeatedly cited as an element of her / his ability to reach compromises. In addition, the chair does not shy away from enforcing committee positions. In this category, we find a mix of (often flexible) attitudes towards the format of the trilogues. A number of committees ‘hold the pen’ to fill in the 4th-column of the trilogue documents, but this is far from universal. Some do it in the technical trilogues, where progress is sometimes projected on a screen during the course of discussions (interview 4, 2.2.15). Others claim to use a variety of methods for filling up the 4th-column depending on the progress of the negotiations (interview 11). Yet, others, like LIBE, have been known to trade the venue at the Council in exchange for holding the pen of the 4th column of the trilogue documents (interview 4; interview 3). Not all these committees insist on a high-level of Council representation.

In the *arm’s length* approach, dramaturgy comes back to enhance the role of the committee chair, although in an unexpected way, in the staging of the chair’s absence. TRAN illustrates this approach. As an exception, TRAN chair Simpson made a point of attending trilogues only at a late stage in the negotiations. By the chair’s own account, this practice was aimed at conveying the message that ‘when the Chair comes, the Council knows it’s getting serious’ (European Parliament 2013; interview 7, 20.5.14). Critically, this practice went hand-in-hand with a continued reliance on second-reading agreements in EP7. Although the debate on the desirability of first-reading agreements surfaced in several EP committees (interview 7; interview 4), only in TRAN did second-reading agreements

represent a substantial committee practice in EP7: TRAN concluded ‘only’ 63% of co-decision agreements in first-reading, compared with 84% for ENVI, 89% for IMCO, or 98% for ECON (European Parliament, 2013). As the plenary tended to be more involved in TRAN legislation, Simpson could better afford to be selective about trilogue participation. As a result, far from being interpreted as absenteeism, the chair’s selective attendance became accepted as the signature component of a patient, arm’s length approach to trilogues.

Examples of variants include the Committee on Agriculture and Rural Development (AGRI), Committee on Development (DEVE), the Budgetary Control Committee (CONT). A large-scale reform of the Common Agricultural Policy (CAP) was for the first time negotiated in co-decision in EP7, involving more than forty trilogues. In these trilogues, the AGRI chair adopted a different approach than that described above: relying to a greater extent on secondment by a vice-chair and keeping himself to a presiding role. The modest role of the AGRI chair in trilogues contrasted with his role in ordinary committee meetings ‘where the chair is on the floor all the time’ (Interview 8, 19.05.2014). The trilogues took place in the shadow of the European Council’s involvement and under pressure of a tight calendar. Towards the end of the Irish presidency, EP negotiators headed by the AGRI Chair even traveled to Luxembourg to hold political trilogues during the session of the Agriculture Council (24-25 June 2013).

In the Committee on Development (DEVE), the commitments of the committee chair in domestic politics limited her participation throughout the trilogue process in EP7. What is nonetheless striking is the ability of the combined capacity of the EP secretariat to deliver its institutional perspectives on administrative process. One key element involved the Head of the secretariat, whose long-standing position with the committee pre-dating rotation rules provided for strong institutional memory and executive involvement providing for a degree of control comparable to the role of a Chair, together with the Rapporteur (Interview 2). This role was facilitated by the limited degree of involvement of DEVE in co-decision files, its status in the EP as subordinate to the role of INTA, and to the long(est)-standing and highly coordinated ‘family’ structure of NGOs in the Development field, which are skilfully deployed by DEVE as lobbyists for its positions in inter and intra-institutional

negotiations. This ease of deployment is facilitated by long-standing networks of institutionalized parliamentary dialogue for NGOs in the development field (Carbone, 2008) (interview 9, 2.2.15; interview 10, 3.2.15; interview 11, 6.2.15). A rapporteur led model was also apparent in the Committee on Budgets (BUDG), which has a comparable level of involvement to DEVE in trilogue files (interview12, 2.2.15).

Finally, in the Budgetary Control Committee (CONT), we found that the chair did play a central role in the trilogues; however, the distinction between technical and political trilogues tended to disappear as the chair participated in the technical negotiations too (interview 13). The chair had developed an idiosyncratic role as a micro-managing negotiator. This tendency appears to reflect the reluctance of the chair to delegate detailed discussions to the committee staff. As a result, under her chairmanship, technical meetings have become so-called ‘informal trilogues,’ where staff involvement remains limited and all shadow rapporteurs are invited.

CONCLUSION

This article took its point of departure in the baffling complexity of EU politics and the enduring need to understand how the individual institutions making up the EU’s political system develop. Focusing on the EP, our primary aim has been to explore the institutionalization of co-decision in the EP—in practice, trilogues—as a means of assessing the development of democracy in the EU.

Our study is embedded in a broader debate on the political significance of this body as a supranational organ of representative democracy. In the wake of the comparativist turn in the EU scholarship, it has become conventional to view the EP as ‘a normal parliament’. Recently, however, puzzling evidence on the EP’s legislative behaviour has rekindled the debate on the political significance of the EP while placing legislative trilogues to the analytic center. While there is consensus on the pivotal importance of trilogues, there is disagreement as to whether trilogues are a harbinger of the EP’s political decay or the *modus operandi* of a legislator coming of age. Picking up the debate in this state of affairs, we have recast the (largely behavioural) debate of the EP as a ‘normal parliament’ into a (largely institutional) debate on the EP as a ‘potentially autonomous’ actor. We view institutions as the

building-blocks of political systems and argue that the political significance of the EP-as-a-legislature rests on its ability to develop strong rules and procedures that make it possible to ‘exist apart’ from the member states while becoming a visible ‘interpreter’ of EU politics.

The institutionalization of trilogues in the EP, we find, can best be understood as an evolutionary process resulting from a growing awareness of the expanding scope of trilogues as well as growing unease as to potential implications of the phenomenon for the broader EP community. Throughout the first half of the 2000s, the *ancien regime* of trilogues grew ever more at odds with the EP’s central mission and institutional assertion, triggering a normative assessment and institutional reform. Our study of EP7 committee approaches revealed how important the role of the committee chair has become in the institutionalization of a plural politics of trilogues. In many committees, a type of parliamentary approach to trilogues is taking roots, which gives a greater say and influence to a greater range of actors. This approach is based on two central features: an active committee chair as an integral part of the EP negotiating team, and the division of labour between technical and political trilogues. Within this approach, we found different ways of balancing the ‘interpreting’ and ‘policy-making’ functions of the EU’s legislature. Of the three sub-types we identify—gladiatorial, problem-solving, arm’s length—the gladiatorial approach represents the clearest attempt to ‘interpret’ politics: exporting the tribunicien style of parliamentary debates into trilogues and connecting trilogue negotiations to public politics. All three sub-types show how EP delegations regularly enforce collective positions in trilogues while keeping with parliamentarian norms of transparency and plurality at the core of trilogues.

These findings are significant because in the real-world of EU politics characterized by a high degree of informal politics (Christiansen and Neuhold 2013), external affairs have sometimes appeared to be the most likely domain, where the EP can possibly fulfill its role as a ‘normal parliament’: representing EU citizens and harnessing decisive decision-making coalitions (Eckes 2015). We find that the EP has been able to carve out a growing space of institutional autonomy even in the least likely domain of parliamentary development: the inhospitable soil of trilogues, where the EP is involved in behind-the-scene decision-making and where national we-feeling is more frequently mobilized against a

bigger European collective. As a result, MEPs have not only become credible and respected legislators; they have occasionally also achieved some degree of public notoriety for their legislative work.

Back to ‘political development’, our findings show the value of conceiving political development as the open-ended and multi-dimensional institutionalization of political procedures and organizations. In line with previous studies within this perspective (Polsby 1968), we find that the development of parliamentary institutions need not go hand-in-hand with the internal centralization of power, or the muzzling of political conflict. As trilogues show, the increasing prominence of committee chairs in trilogues is necessary to help build strong and inclusive parliamentary institutions empowering a range of actors beyond the EP rapporteur and restore the role of committees. We also find that the development of parliamentary institutions brings in their wake new professional norms of legislative behaviour. At the same time, we find that the development of the EP-as-a-legislature is uneven and possibly reversible. Departing from the ‘generic’ ideal-type of parliamentary approach to trilogues, individual EP committees continued to rely predominantly on the rapporteur (rapporteur-led), or the committee secretariat (secretariat-led), or had practically abolished the distinction between technical and political discussions. These committees are part of a world of fragile institutionalization. Even in committees where trilogues are more institutionalized, political development may be reversed as new committee chairs and members take over.

As we pursue our exploration of trilogues, we need to probe further into the resilience of institutional patterns of trilogues. Will ECON’s striking gladiatorial style persist with new generations of chairs and members? Will a new TRAN chair carry over the committee’s longstanding commitment to patient law-making, and its concomitant endorsement of an arm’s length approach to trilogues? Furthermore, we also need to account for institutional variation. Why are trilogues more institutionalized in some EP committees than others? Why do patterns of institutionalization of trilogues display different attention to the (symbolic) interpretive and (institutional) policy-making dimensions of parliamentary development? As we set out to address these questions, we will certainly find in the political development perspective a continuing source of insights and inspiration, helping us bridge constitutional choices and legislative behaviour.

BIOGRAPHICAL NOTES

Christilla Roederer-Rynning is associate professor in the Department of Political Science and Public Management, University of Southern Denmark. Justin Greenwood is professor at the Aberdeen Business School, Robert Gordon University.

REFERENCES

- Burns, C. and Carter, N. (2010) 'Is Co-decision Good for the Environment? An analysis of the European Parliament's Green Credentials', *Political Studies* 58(1): 123-143.
- Burns C., Carter N., Davies G. and Worsfold N. (2013) 'Still saving the earth? The European Parliament's environmental record', *Environmental Politics* 22(6): 935-954.
- Carbone, M. (2008) 'Theory and Practice of Participation: Civil society and EU development policy', *Perspectives on European Politics and Society* 9(2): 241-255.
- Chaffey, D. (1970) 'The Institutionalization of State Legislatures: A Comparative Study', *The Western Political Quarterly* 23(1): 180-96.
- Cheneval, F., Lavenex, S., and Schimmelfennig, F. (2015) 'Demoi-cracy in the European Union: Principles, Institutions, Policies', *Journal of European Public Policy* 22(1): 1-18.
- Christiansen, T. and Neuhold, C. (2013) 'Informal Politics in the EU', *Journal of Common Market Studies* 51(6): 1196–1206.
- Eckes, C. (2015) 'How the European Parliament's Participation in International Relations Affects the Deep Tissue of the EU's Power Structures', *International Journal of Constitutional Law* 12(4): 904–29.
- EU Observer* 2014 'Secret EU lawmaking: the triumph of the trilogue', <http://euobserver.com/investigations/123555> accessed on 5 February 2016.
- European Parliament (2004) 'Guidelines for First and Second Reading Agreements under the Codecision Procedure', Brussels: European Parliament.
- European Parliament (2008) 'Working Party on Parliamentary Reform. Part B: deliberations and

conclusions', Brussels: European Parliament.

European Parliament (2013) 20 Years of Codecision: Conference report, Luxembourg: Conciliations and Codecision Secretariat, <http://www.europarl.europa.eu/code/events/20131105/report.pdf> accessed on 24 March 2016.

European Parliament (2015) About MEPs...staffing arrangements, <http://www.europarl.europa.eu/meps/en/about-meps.html> accessed on 5 February 2015.

Farrell, H., and Héritier, A. (2004) 'Interorganizational negotiation and intraorganizational power in shared decision-making: early agreements under codecision and their impact on the European Parliament and Council', *Comparative Political Studies* 37(10): 1184-1212.

Farrell, H. and Héritier, A. (2007) 'Codecision and Institutional Change', *West European Politics* 38(2):285-300.

Finnemore, M. and Sikkink, K. (1998) 'International norm dynamics and political change', *International Organization* 52(4): 887-917.

Furner, M. and Supple, B. (1990) 'Ideas, Institution and State' in the United States and Britain: an introduction', in M. Furner and B. Supple (eds.), *The State and Economic Knowledge: American and British Experiences*, New York: Cambridge University Press, pp.1-39.

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.

Hibbing, J. (1988) 'Legislative Institutionalization with Illustrations from the British House of Commons', *American Journal of Political Science* 32(3): 681-712.

Hix, Simon (1994) 'The Study of the European Community: The Challenge to Comparative Politics', *West European Politics* 17(1): 1-30.

Hix, S., Noury, A.G. and Roland, G. (2007) *Democratic politics in the European Parliament*, Cambridge: Cambridge University Press.

Huber, K. and Shackleton, M. (2013) 'Codecision: a practitioner's view from inside the Parliament', *Journal of European Public Policy* 20(7): 1040-1055.

Huntington, S (1965) 'Political Development and Political Decay', *World Politics* 17(3): 386-430.

- International New York Times* (2014) 'E.U. chided for lack of openness' 24 April 2014, <http://news-business.vlex.com/vid/chided-corruption-growing-distrust-507432674> accessed on 16 June 2014.
- Jacqué (2009) 'Une vision réaliste de la procédure de codécision' in Collectif, *Mélanges en hommage à Georges Vandensanden*, Brussels: Buylant, pp.183-202.
- Judge, D. (1992) 'Predestined to Save the Earth: the Environmental Committee of the European Parliament', *Environmental Politics* 1(4): 186-212.
- Keeler, J.T.S. (2005) 'Mapping EU Studies: The Evolution from Boutique to Boom Field 1960–2001', *Journal of Common Market Studies* 43(3): 551-82.
- Kreppel, A. (2002) *The European Parliament and Supranational Party System: A Study in Institutional Development*, Cambridge: Cambridge University Press
- Kreppel, A. (2012) 'The Normalization of the European Union', *Journal of European Public Policy* 19(5): 635-45.
- Marshall, D. (2015) 'Explaining Interest Group Interactions with Party Group Members in the European Parliament: Dominant Party Groups and Coalition Formation', *Journal of Common Market Studies* 53: 311–329.
- Nicolaidis, K (2004) 'We, The Peoples of Europe ...' *Foreign Affairs* 83(6): 97-110.
- Olsen, J. (1983) *Organised Democracy: Political Institutions in a Welfare State – The Case of Norway*, Oslo: Universitetsforlaget.
- Orren, K and Skowronek, S (2004) *The Search for American Political Development*, Cambridge: Cambridge University Press.
- Panke, D (2012) Lobbying Institutional Key Players: How States Seek to Influence the European Commission, the Council Presidency and the European Parliament, *Journal of Common Market Studies* 50(1): 129-150.
- Piris, J.C (2012) *The Future of Europe*, Cambridge: Cambridge University Press.
- Polsby, N. (1968) 'The Institutionalization of the U.S. House of Representatives', *American Political Science Review* 62(1): 144-168.

- 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.
- Reh, C. (2014) 'Is informal politics undemocratic? Trilogues, early agreements and the selection model of representation', *Journal of European Public Policy* 21(6): 822–41.
- Ripoll Servent 2011 (2011) 'Co-decision in the European Parliament: Comparing Rationalist and Constructivists Explanations of the "Returns Directive"', *Journal of Contemporary European Research* 7(1): 3-22.
- Rittberger, B. (2005) *Building Europe's Parliament: Democratic Representation Beyond the Nation State*, Oxford: Oxford University Press.
- Roederer-Rynning, C. and Greenwood, J. (2015) 'The culture of trilogues', *Journal of European Public Policy* 22(8): 1148-1165.
- Selznick, P. (1949) *TVA and the Grass Roots: A Study in the Sociology of Formal Organization*, Berkeley, CA: University of California Press.
- Sisson, R. (1973) 'Comparing Legislative Institutionalization: A Theoretical Exploration', in A. Kornberg (ed.), *Legislatures in Comparative Perspective*, New York: McKay, pp.1-16.
- Skowronek, S. (1982) *Building a New American State: The Expansion of National Administrative Capacities, 1877-1920*, Cambridge: Cambridge University Press.
- Weale, A., Pridham, G., Cini, M., Konstadakopulos, D., Porter, M. and Flynn, B. (2000) *European environmental governance*, Oxford: Oxford University Press.
- Whitaker, R. (2011) *The European Parliament's Committees: National Party Influence and Legislative Empowerment*, Oxon: Routledge.

INTERVIEWS CITED

Interview 1 with a member of a committee secretariat of the European Parliament, 3 February 2015.

Interview 2 with members of a committee secretariat of the European Parliament, 2 February 2015.

Interview 3 with a member of a committee secretariat of the European Parliament, 21 May 2014.

Interview 4 with a member of a committee secretariat of the European Parliament, 2 February 2015.

Interview 5 with the Chair of a committee of the European Parliament, 9 September 2014.

Interview 6 with the Chair of a committee of the European Parliament, 27 August 2014.

Interview 7 with members of a committee secretariat of the European Parliament, 20 May 2014.

Interview 8 with a member of a committee secretariat of the European Parliament, 19 May 2014

Interview 9 with a development NGO, Brussels, 2 February 2015

Interview 10 with a development NGO, Brussels, 3 February 2015

Interview 11 with a development NGO, Brussels, 6 February 2015

Interview 12 with a member of a committee secretariat of the European Parliament, 2 February 2015

Interview 13 with a member of a committee secretariat of the European Parliament, 4 February 2015

Table 1 – Institutional patterns of trilogues in EP committees

<p>Generic parliamentary approaches (active chair <i>and</i> classic division of labour between technical and political trilogues)</p>
<p><i>Gladiatorial</i>: Emphasizes both interpretive and policy-making roles of the EP; adversarial style; chair-enforced collective strategy; regulation of bilateral contacts; control of 4th column document; dramaturgic format of trilogues with staging of committee chair’s preponderance; control over logistical aspects; insistence on high-level Council representation. Leading ex: ECON in EP6-EP7.</p> <p><i>Problem-solving</i>: Emphasizes the policy-making role of the EP; chair-enforced collective strategy with hierarchy of issues; mixed control of 4th column document; mixed approach to Council representation and logistics (preference for EP venues). Leading ex: IMCO, INTA, REGI in EP7</p> <p><i>Arm’s length</i>: Emphasizes the policy-making role of the EP; patient approach to trilogues; role of the chair is consciously staged; chair negotiates at a distance with selective chair attendance in the concluding game; continued reliance on 2nd reading agreements; preference for involvement of plenary. Leading example: TRAN in EP7</p>
<p>Variants</p>
<p><i>Rapporteur-centered</i>: Presiding chair; negotiating rapporteur; Council influence expressed in venue and timing of trilogues; Leading ex: AGRI in EP7</p> <p><i>Micro-managing chair</i>: Negotiating chair; high degree of political involvement in technical details; technical meetings reserved for administrative staff of three institutions are replaced with so-called ‘informal trilogues’ with systematic presence of all political actors; mixed control of 4th column document; preference for EP venue. Leading ex: CONT in EP8.</p> <p><i>Secretariat-led</i>: Erratic chair attendance; negotiating secretariat; high involvement of CODE unit; committee as co-decision lobbyist. Leading ex: DEVE in EP7</p>

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