

**Hidden Hand or Oiling the Wheels?
The Role of the Council Secretariat in the Day-to-Day Decision-Making Process in the Council of Ministers**

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Abstract

The aim of this master's thesis is to analyse under which conditions the Council Secretariat influences the day-to-day decision-making process in the Council of the European Union (Council). This research question is based on the fact that it is the way in which the member states negotiate in the Council, either according to rational choice institutionalism and/or sociological institutionalism, that provide the room for manoeuvre for the Council Secretariat. Thus, this study is not about European integration, but the actual day-to-day decision-making in the Council. Rational choice institutionalism and sociological institutionalism are applied in order to explain the negotiations in the Council which entail human interactions in institutional settings.

The analysis is carried out based on 14 interviews with policy officers in the Council Secretariat and attachés at national permanent representations in Brussels. Instead of identifying the role of the Council Secretariat in one specific policy area, a horizontal approach is chosen. It is acknowledged that decision-making in the Council varies according to policy area and voting rules and that member states sometimes reach decisions after problem solving and others according to hard bargaining.

It is concluded in this thesis that the member states want the help of a supranational actor in the day-to-day negotiations. In fact, the presidencies appreciate the help of the Council Secretariat even though it is argued that they influence the decision-making and have its own agenda. Based on their vast experience, the Council Secretariat assists the member states in the Council with bringing a proposal forward in the decision-making process, for example, by arguing when it is time to go to Coreper with a file, by agenda setting and by drafting compromise proposals. Furthermore, it is concluded that the Council Secretariat has a substantial role in the decision-making process with knowledge on the issue under discussion and that the Council Legal Service has a political influence when they issue legal opinions.

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Preface and Acknowledgments

When the President of the European Council, Donald Tusk, travelled to various member states ahead of the European Council meeting the 19-20 October 2017 he did it with some of his closest advisors, i.e. Jeppe Tranholm-Mikkelsen and Piotr Serafin, to talk with the Heads of State or Governments. One of the interesting things is that European Council conclusions are discussed and prepared in advance. In fact, the conclusions are discussed at Antici meetings, Coreper II meetings and at the General Affairs Council weeks before the actual European Council summit takes place¹. The Council Secretariat drafts the conclusions which gives them the “power of the pen”, however, the rotating presidency chairs the meetings of the preparatory bodies. In other words, there are several actors involved and what characterizes EU decision-making is that it takes place at various levels among diplomats and politicians.

As *stagiaire* at the Permanent Representation of Denmark to the European Union in the spring of 2017 I had the opportunity to gain access to the Council buildings and the *quartier européen* to witness diplomats and ministers of the member states and civil servants in the Council Secretariat in action. When Ross (1995) studied the then Delors Commission and his cabinet, he shed new light on the everyday workings of the President of the European Commission, his cabinet and the people involved in decision-making through participant observation and interviews and painted a unique picture of a small part of European Union.

I could not have finished this master’s thesis without the participation of the attachés at the various permanent representations in Brussels and political administrators in the Council Secretariat who spoke with great passion about decision-making in the Council. Furthermore, I am grateful to the Danish permanent representation for opening the world of diplomacy, and the discussions I had with the attachés who provided me with personal stories about the role of the Council Secretariat in the decision-making process. Lastly, I would like to express my gratitude to my supervisor Anette Borchorst for commenting on drafts and her critical questions and Andreas Vesterager Hemmingsen for our academic and non-academic discussions.

¹ With regard to the European Council summit the 19-20 October 2017 the first draft guidelines were sent from the General Secretariat of the Council to the Permanent Representatives Committee (Coreper II) the 2 October 2017 (European Union, 2017).

Chapter I – Introduction

Although much research has been carried out on negotiations in the Council of the European Union (Council), we have still little knowledge about what exactly happens behind the closed doors in the Council. How are the meetings managed, what does the Council Secretariat² do and are the negotiations driven by cost benefit calculating member states or by norms and informal practices? Based on 14 interviews and participant observation during Council working parties, Coreper and Council meetings, I will try to uncover the role of the Council Secretariat in the day-to-day decision-making process in the Council.

The EU is a rule-of-law system and has produced certain legal norms that have created a “constitutionalization of the treaty system” (Stone Sweet and Brunell, 1998: 645) in which the ECJ is the supreme interpreter. In other words, the EU is a rule-governed society (Adler, 2013) without anarchy. Rational choice institutionalism and sociological institutionalism are applied in order to explain the negotiations in the Council which entail human interactions in institutional settings, in other words, “institutions matter, but too so do social relations” (Jenson and Mérand, 2010: 80). This thesis seeks to provide an answer for under which conditions the Council Secretariat influences the decision-making process. This research question is based on the fact that it is the way in which the member states negotiate in the Council, either according to rational choice institutionalism and/or sociological institutionalism, that provide the room for manoeuvre for the Council Secretariat. Thus, this study is not about European integration, but the actual day-to-day decision-making in the Council.

When Belgium, Federal Republic of Germany, France, Italy, Luxembourg and the Netherlands signed the Treaty establishing the European Coal and Steel Community in 1951, there was no mentioning of a secretariat that should support the member states in the decision-making. This, however, was written into the first Rules of Procedures of the Council when the Special Council held its inaugural meeting on 8 September 1952. The Special Council established a secretariat with the Luxembourg diplomat Christian Calmes as Secretary-General (General Secretariat of the Council, 2013: 8). The Council Secretariat was mentioned in the treaties for the first time when

² Its official name is the General Secretariat of the Council (GSC).

the Maastricht Treaty was signed in 1992 with article 151(2): “The Council shall be assisted by a General Secretariat, under the direction of a Secretary-General. The Secretary-General shall be appointed by the Council acting unanimously. The Council shall decide on the organization of the General Secretariat”.

With the entry into force of the Lisbon Treaty the same wording is repeated about the role of the Council Secretariat and the Secretary-General in article 240(2) TFEU. Furthermore, the Lisbon Treaty establishes in article 27(3) TEU that the Council Secretariat is part of the European External Action Service, which assists the High Representative, and article 235(4) TFEU that “the European Council shall be assisted by the General Secretariat of the Council”.

1.1. Puzzle and Research Question

Based on the literature (see literature review in chapter two) and observations made in Brussels, I depart from the assumption that the Council Secretariat has the possibility to influence the decision-making process. My aim is to analyse under which conditions the Council Secretariat influences the decision-making. The aim is thus not to analyse whether the Council Secretariat has an influence. It is the interaction with the member states and the way in which the Council Secretariat positions itself that this thesis will deal with. This means that it is the way in which the Council itself negotiates that, according to this argument, creates a possibility for the Council Secretariat to influence the decision-making. It is not the actor (Council Secretariat) that is analysed according to rational choice institutionalism and sociological institutionalism. The overall question that will be answered in this thesis is

Under which conditions does the Council Secretariat influence the day-to-day decision-making process in the Council?

By asking this question, this thesis contributes to the existing literature on negotiations in the Council and the role of the Council Secretariat by applying a different analytical approach to shed light on the Council Secretariat in the decision-making process, e.g. through participant observation of meetings (see e.g. Busby, 2013 for an ethnographic study of the European Parliament).

They are several arguments in favour of analysing this by using rational choice institutionalism and delegation theory (Beach, 2004; Dijkstra, 2011). The prin-

principal (member states) has delegated authority to an agent (Council Secretariat) in order to assist them in the decision-making process. If the agent oversteps its mandate, the principal can limit the agent's room for manoeuvre with political reforms and choices (Moravcsik, 1998). An example is the relationship between law and politics in the EU. The Court of Justice of the European Union has been regarded as a proponent of judicial activism, however, politicians can always overturn court rulings if rulings counteract their political preferences (Martinsen, 2015). Hence, if the member states do not overturn court rulings by making new laws, they have made a choice of not acting. The same can be regarded with the Council Secretariat. If the member states are aware of their influence and they do not act, they have made a choice.

The Council Secretariat is part of the Council decision-making in which I argue that the decision-making is characterized by both intentional actors and norms that are deeper-rooted within the Council due to socialisation of state representatives and a common cultural environment. Moreover, I argue that Council negotiations are more complex than can be captured in a game-theoretical model. Therefore, I have chosen to analyse negotiations in the Council by combining rational choice institutionalism and sociological institutionalism in order to analyse under which conditions the Council Secretariat influences the decision-making.

1.2. What is the Council Secretariat?

The Council Secretariat is a bureaucratic body that is responsible for assisting the European Council and the Council of the European Union, including its presidencies, Coreper and the other Council committees and working parties (Council of the European Union, 2016c). The current Secretary-General is Jeppe Tranholm-Mikkelsen and he is responsible for the overall organisation of the Council Secretariat, including the administrative and financial resources (Council of the European Union, 2016d). The member states appoint politically the Secretary-General whereas the officials and administrators have to pass a recruitment competition (*concurs*), in order to work in the Council. This means that the Secretary-General has a political mandate from the member states and participates in the European Council and Council meetings.

The 3,000 officials have several tasks. First, the Council Secretariat assists and advises the Council and the European Council, including the President of the European Council, the rotating presidency and the preparatory bodies. Second, the Council Secretariat organises and ensures the coherence of the Council's work and the imple-

mentation of trio-programme. Third, it supports the Council presidency in negotiations within the Council and with other EU institutions. Fourth, it provides logistical support, including meeting rooms, document production and translation. Furthermore, it prepares draft agendas, reports, notes and minutes of meetings at all levels. Fifth, the Council Secretariat also chairs some working parties, e.g. Ad hoc Working Party on Article 50 and Working Party on Information (Council of the European Union (2016c)). However, one of the tasks that characterises a national administrative system is that the national bureaucrats are responsible for implementing public policy. The Council Secretariat does not have this responsibility because the implementing power lies within the member states or the Commission (Stevens and Stevens, 2001).

The Council Secretariat also consists of the Council Legal Service which is headed by the Director-General Hubert Legal. The Legal Service is divided into seven Directorates according to policy areas. The Council Legal Service provides the Council preparatory bodies and Council meetings with legal opinions that ensure that legislative acts are lawful and well-drafted (The Council of the European Union, 2016c). Furthermore, it also represents the Council before the European Court of Justice, the General Court and the Civil Service Tribunal. Lastly, the lawyer-linguists ensure the quality of the legislative acts (Guggeis, 2014). The Council Legal Service “has the right and the duty to intervene when it considers it necessary” (Council, 2016: 29 rules of procedure) at all levels and delivers “fully independent opinions on any legal question, whether at the request of the Council or on its own initiative” (Council, 2016: 29 rules of procedure). In 2016 the main activities of Council Legal Service had been inter alia to provide oral and written legal advice; to participate in the meetings of the European Council, the Council and its preparatory bodies; to assist the presidency and the General Secretariat during trilogues and technical meetings and to contribute to identifying legally correct and politically acceptable solutions (Council of the European Union, 2017c). However, what is more interesting is that the Council Legal Service writes in their activity report that “much of their work is done 'behind the scenes', during the discussion process of a file, either orally in briefings and informal meetings or in writing. As a result, the Legal Service's contribution to the deliberations on a particular file is difficult to quantify and easily underestimated” (Council of the European Union, 2017c: 2).

Figure 1.1 depicts the organization of the Council Secretariat. The Council Secretariat is structured around policy areas with an internal hierarchy with policy

officers, heads of units and Director-Generals (Council of the European Union, 2017d). The staff is made up of various nationalities and therefore it is possible to talk about a transnational community of professionals. Furthermore, when the Council Secretariat is structured around policy areas it might also affect the behavioural patterns because each department has its own internal structure (Stevens and Stevens, 2001). In addition, the President of the European Council and the Secretary-General have their own private cabinet which is inspired by the French system. In cabinets it is possible to hire loyal people with detailed knowledge (Stevens and Stevens, 2001). The head of cabinet of Donald Tusk is also from Poland and thereby they share same nationality. The Secretary-General also has a team with people that refers back to him, e.g. within “General and Institutional Policy”, “European Council and Strategic Planning” and “Task Force on the UK” (Council of the European Union, 2017d).



Figure 1.1. Organization of the Council Secretariat (Council of the European Union, 2017d: 1)

The civil servants cannot represent the interests of their home state and must be political neutral (Stevens and Stevens, 2001). In other words, the civil servants thus overtake roles and values from a supranational body. March and Olsen (1989) argue that bureaucrats are considered to have private agendas and preferences which can improve their position within the institution (March and Olsen, 1998: 119). If this is true, they can improve their position if the other players of the game accept their role.

On the one hand, national administrative systems are shaped by the national social and political history (Stevens and Stevens, 2001). On the other hand, a supranational administrative body is different because it has to be created. Thus, when the

member states created the body in 1952, they had to rely on the national bureaucrats from France, Germany, Italy and the Benelux countries which all had different views and systems of policy-making. France adheres to the Napoleonic model with focuses on long careers with promotion paths depending on years of work and a esprit de corps. In Britain the Whitehall model is dominant focusing on routines, customs and practices and in Germany the civil servants act according to a legal framework a clear rules (Stevens and Stevens, 2001). According to Rouban (2012) France, Germany, Spain and Sweden have experienced a politicisation of civil servants with a high professional tradition, whereas the civil servants in Austria, Belgium and the Netherlands also are politically involved, but their professional tradition is low. Furthermore, Svvara (2001: 180) argues that there is interdependence and reciprocal influence between the officials and politicians (Svara, 2001: 180). Hence, the civil servants in the Council Secretariat have different backgrounds which might lead to a different behaviour.

The mission statement of the Council Secretariat states that “In our work, we demonstrate integrity, professional competence, efficiency and commitment. We are active and open-minded in seeking solutions. We are responsible and accountable for our work” (Council of the European Union, 2016c).

The Council Secretariat is a supranational body within an intergovernmental arena in which the member states negotiate. The Council Secretariat is not an official institution of the European Union and is thus not mentioned in the treaties as one. The Council Secretariat has to some degree full information, but is still considered to be neutral and an honest broker (Christiansen, 2002). Furthermore, the Council Secretariat will always be there to assist the member states whereas the member state representatives are normally seconded to Brussels for a period of three or four years. The day-to-day decision-making in the EU involves many thousands of attachés and diplomats from different national ministries and, therefore, the member states need a supranational body with leadership resources and institutional memory that can lower the information costs of reaching an agreement (Dijkstra, 2010). This means that the Council Secretariat can make use of their institutional memory in order to gain influence in the decision-making process.

1.3. Historical Development of the Council and Council Secretariat

In April 1951 France, West Germany, Italy and the Benelux signed the Treaty of Paris creating the European Coal and Steel Community and the Treaties of Rome in 1957

creating the European Economic Community (Nugent, 2010). Today there are 28 member states which makes the decision-making complex with the European Parliament as co-legislator. The first round of enlargement could have taken place in 1963, however, Charles de Gaulle vetoed two UK membership applications in 1963 and in 1967 due to his reservations about the French position in the EU and the close links between the UK and the United States of America (Bevir et al, 2015: 1). Furthermore, in 1965 the President de Gaulle withdrew the French representatives from Brussels and boycotted meetings dealing with new EU policies creating the empty chair crisis (Moravcsik, 1998). De Gaulle was against a transition to qualified majority voting in the Council and that the European Parliament could influence the budget in the area of the common agricultural policy. The member states solved the empty chair crisis in 1966 with the Luxemburg Compromise which was a political deal in which the member states agreed that if any member state had a vital national interest that member state could veto a decision (Nugent, 2010: 155).

In 1986 the Single European Act introduced qualified majority voting as decision principle (Tallberg, 2010). The use of qualified majority voting has been extended for every treaty revision in order to make the decision-making smoother with regard to number of member states and because of more community level policies. Moreover, the role of presidency has been strengthened. Before the Treaties of Rome the presidency lasted for three months, but was extended to six months in order to strengthen the leadership role and continuity of the work of the Council (Nugent, 2010).

Even though the European Council was first institutionalised in 1974 after the Paris Summit in which they agreed to meet three times a year accompanied by the Ministers of Foreign Affairs (European Council, 1974), the Heads of State or Governments still met in order to provide direction for the European Community. Already in 1961 the Heads of State or Governments agreed “to hold at regular intervals meetings whose aim will be to compare their views, to concert their policies and to reach common positions in order to further the political union of Europe” (European Council, 1961). The European Council did not become a formal EU institution until 2009, however, they still managed to set the direction and meet in their capacities as Heads of State or Governments up to the day where it now has a permanent President who prepares and chairs the meetings (Nugent, 2010).

Negotiations in the Council take place between three levels, i.e. working groups, Coreper and Council meetings (Olsen, 2011). On average, the Council and the European Parliament require 15 months in order to reach a first-reading agreement in the ordinary legislative procedure (Raik, 2015). The Council reaches a common position by sending the legislative acts back and forth between the three different levels of the Council's decision-making hierarchy (Olsen, 2011: 217).

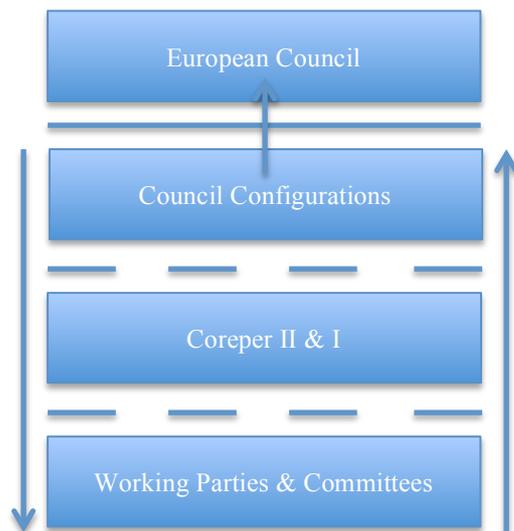


Figure 1.2. The Structure of the Council (own production)

Figure 1.2 displays the structure of the Council and the European Council and illustrates why the decision-making is complex in the Council. When the Council receives a proposal from the Commission, the proposal is first discussed at working party level in which technical discussions take place. When enough agreement has been made or the state representatives need political guidance, the proposal is sent to Coreper where the permanent representatives meet once a week and discuss legislation (Olsen, 2011). Then two scenarios will happen. Coreper can either send the proposal back to the respective working party with political guidance or send the proposal to the respective Council configuration where the ministers meet for adoption or political guidance at ministerial level. In this respect the Council Secretariat plays an important role due to their institutional memory and procedural expertise. The Council Secretariat can inform the presidency when a proposal is ready for Coreper and in that case by what time the presidency needs to put on the agenda. The reason for including the European Council as well is that the General Affairs Council prepares the meetings in the European Council, which then again is prepared by Coreper II and the Antici group, which is the preparatory body for Coreper II (Council of the European Union, 2015;

Council of the European Union, 2016b). The Council Secretariat participates in all of these Council formations.

The Council has always been assisted by the Council Secretariat which has developed much throughout its history. Only 8 people have held the position as Secretary-General which demonstrates a high degree of continuity of their work in supporting the rotating presidency and the Council in general (see table 1.1). The secretary-General is politically appointed by the Council by qualified majority and is responsible for the administration in terms of human and financial resources (Council of the European Union, 2016a: 37). The various secretaries-general have been more or less successful where Nicolas Hommel was seen as a weak secretary-general and Niels Ersbøll one who has an expert in community affairs (Mangenot, 2010). The Secretary-General participates in European Council summits and the General Affairs Council configuration. In other words, the Secretary-General only participates on the highest political level. The multiple areas in which the member states negotiate further strengthens the role of the Council Secretariat and in the 1980s Niels Ersbøll was influential in establishing the Council Secretariat a front seat in drafting European Council conclusions. During the London Council in 1981 the member states could not agree on the conclusions presented by the presidency. Then Ersbøll, who had only advised the presidency, drafted a summary of conclusions based on the member states' positions. It then became official that the Secretary-General would sit next to the presidency of the European Council, which at that time was the rotating presidency that chaired the meetings (Mangenot, 2010: 56). Up to this day the Council Secretariat still drafts the European Council conclusions.

Name of Secretary-General	Length of Position
Christian Calmes	9 September 1952 – 14 June 1973
Nicolas Hommel	1 July 1973 – 7 October 1980
Niels Ersbøll	8 October 1980 – 31 August 1994
Jürgen Trumpf	1 September 1994 – 17 October 1999
Javier Solana (Secretary-General and High Representative for Common Foreign and Security Policy)	18 October 1999 – 30 November 2009
Pierre de Boissieu (Deputy Secretary-General under Javier Solana)	1 December 2009 – 25 June 2011
Uwe Corsepius	26 June 2011 – 30 June 2015
Jeppe Tranholm-Mikkelsen	1 July 2015 – now

Table 1.1. The Secretaries-General of the Council (Council of the European Union, 2016a: 61)

The institutional memory the various Secretary-Generals have after many years in the position is extensive. They advise senior politicians and coordinate internally, thus creating an internal cohesion of the secretariat (Mangenot, 2010).

In 1999 the Secretary-General Jürgen Trumpf and the Legal Adviser to the Council, Jean-Claude Piris, made the ‘Trumpf–Piris Report’ in which they on their own initiative describe their views on “An effective Council for an enlarged union” (Mangenot, 2010). Their ideas were adopted by the European Council in Helsinki of 1999 in which the term advisor is used for the first time and the idea of the Council Secretariat chairing some meetings (Mangenot, 2010).

Furthermore, the number of staff has increased from 11 in 1951 to over 3,000 in 2015 (see table 1.2). When the first round of enlargements came in 1973, the number of staff was at 974. During the years and after successive rounds of enlargement more and more staff has come into the secretariat. The European Union has received more competences each treaty ratification and, therefore, more legislation is adopted in the Council, which means that more meetings are organized.

Year	1952	1973	1980	1994	1999	2009	2011	2015
Number	11	974	1457	2197	2522	3237	3068	3020

Table 1.2. Number of Staff Working in the Council Secretariat (Council of the European Union, 2016a: 61)

1.4. Structure of the Argument

This thesis seeks to answer under which conditions the Council Secretariat influences the day-to-day decision-making process in the Council. The Council Secretariat has both content and process expertise which is important in order to support the member states in the day-to-day negotiations.

Chapter two presents the theoretical framework of the thesis. The theories rational choice institutionalism and sociological institutionalism are presented with the idea that institutional settings and social relations matter in negotiations. Furthermore, I put forward a leadership model which focuses on the available strategies the Council Secretariat can apply in negotiations based on the resources and negotiation context (Beach, 2004) and, lastly, the analytical framework that incorporates the theories and the leadership model.

In chapter three the research design and the data collection methods are explained and discussed. I conducted 14 interviews with policy officers in the Council

Secretariat and Permanent Representations to the European Union in June and July 2017. In addition, participant observation was undertaken in order to see the actors in action during meetings in the Council. The chapter ends with a description of the coding process.

In chapter four the analysis is conducted based on the interviews and observations. The leadership resources, the negotiation context and the leadership strategies are analysed separately.

The conclusion of the study is presented in chapter five with a discussion on the explanatory power of rational choice institutionalism and sociological institutionalism and recommendations for further research.

Chapter II – Theoretical Framework

2.1. Introduction

This chapter introduces the theoretical framework of the thesis by presenting the involvement of the Council Secretariat in the day-to-day decision-making process in which they interact with the member states. Furthermore, it is argued that policy-making is a social phenomenon that is to be explained as the outcome of interactions among intentional actors in which the institutional setting affects the outcome of these interactions (Scharpf, 1997: 1).

First, I present a literature review on the Council Secretariat and place my study within the already existing research on the Council Secretariat. Second, I describe rational choice institutionalism and sociological institutionalism and discuss their different ontologies. Rational choice institutionalists and sociological institutionalists are not ontologically aligned since they see human actions very differently. Rational choice institutionalists adhere to an ontological position that sees people as utility maximizers whereas sociological institutionalists share common positions with constructivists and see people as norm-driven. In other words, they argue that actors see self-interests versus common interests. The theories are part of the “new institutionalisms” and do not seek to explain the whole process of European integration, but seek to explain specific aspects of policy-making and policy processes (Wallace et al., 2015). Third, I discuss different approaches to the study of bargaining in the Council. Fourth, I introduce the leadership model developed by Beach (2004) that consists of leadership resources, a negotiation context and leadership strategies. My argument is that Council Secretariat has the possibility to influence the decision-making process and in order to do so they make use of strategies. Lastly, I combine the theoretical approaches and the leadership into an analytical framework. On the one hand, the thousands of people that work with and within the European Union strengthen the idea that European integration is today largely a socially driven process (Adler-Nissen, 2009). On the other hand, EU decision-making also involves many different actors with preferences and institutional settings in which legislation is discussed.

Tallberg (2010) argues that the institutional context shapes the outcomes of negotiations. In other words, that institutions matter is analytical starting point. Combining the two theoretical approaches, i.e. rational choice institutionalism and socio-

logical institutionalism, has two consequences. First, they differ ontologically. However, this should make it possible to capture different aspects of the decision-making in the Council and, consequently, how the Council Secretariat influences the decision-making. Second, it makes it possible to make a 'micro-oriented' analysis due to focus on the actor-centered theories which capture the everyday interactions between the Council Secretariat and member states in the decision-making process (Adler-Nissen, 2009).

As argued earlier, I depart from the assumption that the Council Secretariat has the possibility to influence the decision-making. However, there is thus a distinction that has to be made between, on the one hand, that the Council Secretariat can influence the decision-making process and, on the other hand, when they influence the decision-making process. The aim of this thesis is to analyse under which conditions the Council Secretariat influences the decision-making. Furthermore, it is how the negotiations in the Council are carried out that creates a room for manoeuvre for the Council Secretariat. The relationship between the presidency and Council Secretariat is important in this regard. The presidency asks often as the agent of the other member states (principal) and in some situations the Council Secretariat acts as the agent of the presidency (principal). The internal design of the Council is therefore important.

2.2. Literature Review on the Council Secretariat

The academic literature has paid extensive attention to, first, the role of the Council Secretariat in treaty revisions and, second, their role in foreign policy. These two parts are based on rational choice institutionalisms. A third line of research analyses the overall institutional development of the Council Secretariat and role perceptions within the Council Secretariat. These are based on historical and sociological institutionalists approaches.

To begin with, the analysis of the role of the Council Secretariat in treaty revisions puts emphasis on the fact that there are more actors in treaty negotiations than only the member states. Drawing on rational choice institutionalism and negotiation theory Beach (2003; 2004) analyses the level of influence of the Council Secretariat and the European Commission in five rounds of intergovernmental conferences. The five case studies provide an interesting insight into the role of supranational actors and their possibilities to influence the process via their bargaining resources. Beach

(2004) concludes that “IGC’s are not purely intergovernmental affairs” and that the role of the Council Secretariat is contingent upon the presidency. Similarly, Christiansen (2002) concludes that the Council Secretariat, European Commission and the European Parliament participate in treaty negotiations, but should not be regarded as having the same powers as national governments. They influence the format and the dynamics of the negotiations and the Council Secretariat is important because they provide the member states with legal advice (Christiansen, 2002).

There are also personal accounts about the role of the Council Secretariat in treaty negotiations. Christoffersen (1992³) presents the negotiations on the Maastricht Treaty from the view of the Council Secretariat. Christoffersen was Head of Cabinet of the former Secretary General of the Council Niels Ersbøll and in his work he describes with great detail the negotiation process which led to the final outcome. Moreover, the former Danish Foreign Minister Uffe Ellemann-Jensen argues that the Council Secretariat had a huge influence in securing the Danish opt-outs that led to the ratification of the Maastricht Treaty in a second referendum in 1993 (Ellemann-Jensen, 1999: 213).

Building on these studies, drawing on delegation and principal-agent theory, Dijkstra (2011) analyses why the member states voluntarily delegate functions to the Council Secretariat and the European Commission and under which conditions the Council Secretariat and the European Commission exercise political influence (i.e. agency) in the area of foreign policy across cases. Dijkstra concludes that “the Council Secretariat has become the main Brussels-based body for the planning and conduct of ESDP operations” (Dijkstra, 2011: 260). Moreover, Dijkstra (2010; 2012) comes to the conclusion that there has been a differentiation of delegation to the Council Secretariat in the first and second pillar policy-making (2010) and that the influence of the Council Secretariat in foreign policy inter alia is high due to their considerable bureaucratic resources (2012). These studies present an overview of the Council Secretariat in one specific policy area, i.e. foreign policy.

According to historical institutionalism, a (rational) political choice made in the past can lead to unintended consequences in the future (Hall and Taylor, 1996). Thus, a rational choice made in 1952 to create the Council Secretariat or nominate a specific Secretary-General can have unintended political consequences. Once institu-

³ The impressive account is only available in Danish.

tions have been created, they are difficult to change. Christiansen and Vanhoonacker (2008) provide us with a historical institutionalist account of the change and continuity of the Council Secretariat and find examples of path dependent changes to the institution. Furthermore, the creation of a dual administration is an unintended consequence while the enlargement process in 2004 and 2007 and the creation of the post as High Representative can be perceived as critical junctures. Drawing on sociology of institutions, Mangenot (2010) concludes that the recent transformations of the Council Secretariat with the introduction of the High Representative and the security and defence policy (later CFSP) should be seen as consequences of its history and successive adaptations. Thus political choices and the historical development from 1952 and onwards have an impact on the way in which the Council Secretariat acts and works in 2017.

With the introduction of the Lisbon Treaty three member states are now grouped together in trios. Raik (2015) argues that the production of the 18-month programme of the Council follows sociological institutionalism because behavioural aspects guide the actors, i.e. the three member states and the Council Secretariat, to reach agreement on the programme. In addition, the Council Secretariat “monitors every single step of the trio programme” (Raik, 2015: 31), e.g. by making draft texts and briefing the participants. Juncos and Pomorska (2010) analyse the role perception of the officials in the General Secretariat based on sociological concepts and conclude that the individual roles of the policy officers differ according to the recruitment procedure and that there are role conflicts between being, on the one hand, a secretariat and facilitator and, on the one hand, policy entrepreneurs.

Based on this literature review, it is evident that the relationship between the member states, which have the formal powers, and the Council Secretariat is close in the sense that the Council Secretariat can provide agency in both treaty negotiations and foreign policy. I incorporate the ideas presented by Beach (2004) regarding the rational choice institutionalism and leadership model. In addition, I also make use of sociological institutionalism because I argue that the member states are not always rational with a fixed set of preferences. Furthermore, Dijkstra (2011) presents convincingly a framework for analysing agency in one area, i.e. foreign policy across cases, based on delegation from the member states. One of the ways in which this thesis differs from that of Dijkstra (2011) is that I do not analyse delegation. In fact, I treat delegation in this thesis as something that has happened. However, delegation

and agency is still important because member states have delegated authority to the Council Secretariat and it is on that background that the Council Secretariat applies strategies.

2.3. Bargaining within the Council

As explained in chapter I, the Council reaches decision by sending the legislative file between the three levels of the Council. However, researchers disagree how one is to explain theoretically decision-making in the Council. Some researchers argue that the Council operates by a consensus-seeking approach and a socialization effect takes place (Checkel, 2005; Lewis, 2005) and others provide evidence for deliberative intergovernmentalism (Puetter, 2012). Naurin (2015) rejects the consensual nature of the Council and concludes that the pooling of power and hard law commitment in various treaty revisions has decreased the degree of norm generosity among member states (Naurin, 2015: 741). Finke (2017) argues that ministers issue veto threats towards the end of negotiations and Warntjen (2017) concludes there is a positive relationship between the number of votes backing a member state request and its success probability. There is thus disagreement to what extent a ‘culture of consensus’ exists in the Council and whether number of votes and relative size of the country matter.

Some sessions are public available during Council meetings. For instance, during the Environment Council, 13 October 2017, the Maltese minister voted in favour of the general approach for the proposal on binding annual greenhouse gas emission reductions (non-ETS sectors) by stating the following⁴, which supports the idea of consensus-seeking: “Malta has voted in favour, however, we would like to clarify Malta’s vote. Malta has reluctantly supported the text on the table. It is felt that Malta’s concerns have not been addressed properly, but unfortunately it seems that we do not have any other choice. [...] I strongly reiterate that the general approach reached here today will not work for Malta in real terms and we will be facing a really difficult trajectory to 2030” (Council of the European Union, 2017a).

The institutional environment in which national officials negotiate facilitates a “norm-rich, thick trust, consensus-based decision-making process” (Lewis, 2010: 660). Moreover, Juncos and Pomorska (2007) conclude that the consensus-seeking approach was preserved after the 2004 enlargement in the CFSP policymaking process and its working groups. Niemann and Mak (2010) argue that norms, i.e. impar-

⁴ His statement begins at 2:10:45

tiality and neutrality, consensus building and effectiveness, guide presidencies and that there is internalization and a 'taken-for-grantedness' of norms. The question is whether a party that is in the centre of negotiations can be neutral (i.e. presidency and Council Secretariat). Thus neutrality can be relative, i.e. it can clash with the norm of effectiveness. Here we touch upon the role of the Council Secretariat. Considering the politico-institutional space of the European Union, the Council Secretariat can be described as the "centre of the centre" (Mangenot, 2010: 49).

Due to few formal rules in working groups and Coreper, the state representatives adopt supranational behaviour and certain role conceptions, i.e. norms, rules, expectations and prescriptions of appropriate behavior, in order to prioritise policy priorities (Beyers, 2005: 932). Kassim and Guy Peter (2001) point out that Coreper is a small group in which "personal reputation plays a crucial part" and the "codes must be learnt, credibility needs to be built, and an understanding of how the other members of the club operate must be developed in order for the permanent representative to become an effective operator in this most idiosyncratic milieu" (Kassim and Guy Peters, 2001: 307). Since the Council Secretariat also takes part in these meetings, there is a big reason to believe that they also become socialized. During the meetings I have observed in the Council member state representatives tended to say "in the spirit of compromise" or "I do not have instructions from my capital so I have the liberty to speak freely". Olsen (2011) supports this argument by concluding that attachés at the permanent representations in Brussels are far more oriented towards finding common solutions than national experts.

Consequently, when the average time for first-reading agreements are 15 months and the files are negotiated by different presidencies with different priorities (Hayes-Renshaw & Wallace, 2006), the Council Secretariat plays a role because they have the knowledge of the file. Therefore, the production of policy documents to the chair, i.e. note to the chair of Coreper from the Secretariat, with speaking notes and reasons for the position of certain member states (Hayes-Renshaw & Wallace, 2006: 118) can be an important element of influence because if the presidency does not have many resources, the chair can say word by word what the Council Secretariat has written, thus getting a de facto influence.

2.4. Rational Choice Institutionalism

Ontologically, rational choice institutionalists share the view that people are utility maximizers, follow exogenous preferences and actors' behaviour is driven by a strategic calculus (Hall and Taylor, 1996). Following this, institutions are formed as a result of rational agents that have created institutions to lower transaction costs and to enhance the credibility of commitments (Moravcsik, 1998) and, furthermore, institutions are equilibrium ways of doing things (Shepsle, 2006).

Rational choice institutionalists posit that actors have behavioural assumptions, i.e. a fixed set of preferences, and see politics as a series of collective action dilemmas (Hall and Taylor, 1996). Institutions are thus seen as formal rules of the game in which different actors have various choices and preferences (Shepsle, 2006: 24). Rationalists follow the logic of consequentiality in which behaviors are driven by preferences (March and Olsen, 1989: 160) and, moreover, people calculate cost and benefits of their actions. Rational choice institutionalism is thus an actor-centered theory of institutions that relies on game-theoretical assumptions. First, game theory involves at least two decision makers with independent preferences. Secondly, in order to influence behaviour one has to influence the other's expectations about one's own behaviour (Schelling, 2010). In EU decision-making the challenge is thus to reach agreements that are optimal for all member states and the European Parliament due to bicameral system (Hix and Høyland, 2011). However, theoretically, if the outcomes are Pareto optimal, i.e., making one actor better off but no one is made worse off (Rhodes et al., 2006), then the Council Secretariat can help the member states to reach an agreement which is closest to the preferences of all member states.

According to rational choice institutionalists, delegation from the member states to the Council Secretariat happens based on intentional cost-benefit analyses (Dijkstra, 2011). Moreover, delegation also lowers the transaction costs of policy-making, i.e. it increases the efficiency. Thus, the member states (principals) delegate responsibilities to the Council Secretariat (agents) in order to make the policy-making more efficient. Principals can set up a control system in order to get the agent to behave according to their original intentions through a selection procedure and a control procedure (Hix and Høyland, 2011). Agents, on the other hand, are said to have their own preferences. Agents, in this case the Council Secretariat, might want to be more involved in the policy process. This can be seen with the 'Trumpf-Piris Report' in which Council Secretariat afterwards received more power to chair meetings. In addi-

tion, the agent might become socialized into a supranational bureaucracy. However, rational choice institutionalists reject the idea of a socialising effect (see section 2.6). The agent is thus constrained by the preferences of the principals (Wallace et al., 2015). The Secretary-General of the Council is chosen politically by the member states which means they can also control who is chosen. The member states are thus capable of not extending the person appointed if they are not satisfied with the way he or her is carrying out the job. The principal-agent model is thus highly relevant when analysing the role of the Council Secretariat because it is actor-oriented. As has been argued earlier I also argue that negotiations in the Council can be explained by sociological institutionalism. Sociological institutionalism does not provide solid evidence for when member states delegate responsibilities to the Council Secretariat (Dijkstra, 2011), however, it provides good evidence for what happens after delegation, which this thesis seeks to analyse.

2.5. Sociological Institutionalism

Sociological institutionalism is based on the constructivist social ontology that human agents do not exist independently from their social environment (Risse, 2009: 145). Constructivists argue that social reality is constructed. In other words, the social world is not given, it is not natural, it is made and made up by people, it is transmitted by people and, consequently, people can change the world (Guzzini, 2000).

What does it mean then that the world is not given? Let me provide one example. On the one hand, nature is given to us. Nature, like mountains, cliffs or deserts, is not dependent on humans; they exist independently of humans. On the other hand, the social environment cannot exist without human interaction. In other words, the social environment is dependent on human interaction; “social structures, unlike natural structures, do not exist independently of the activities they govern” (Wendt, 1987: 358). Constructivists highlight the role of intersubjectivity and social context, the co-constitution of agent and structure and the rule-governed nature of society (Adler, 2013). Sociological institutionalism derives from sociology (Hall and Taylor, 1996) which is the “the study of the development, structure, and functioning of human society”⁵. Durkheim argued that social phenomena facts should be treated as things and studied empirically (Durkheim, 1982: 46).

⁵ Oxford Online Dictionary - Oxford University Press.

Sociological institutionalists claim that institutional forms are not just the product of rational choices made in the past, but that rules, norms and procedures also affect an institution (Hall and Taylor, 1996). Sociological institutionalists actors are guided by collective understandings of socially accepted behaviour in a given rule structure and within these structure there are certain rules, norms, practices, and structures the actors follow, incorporate and reproduce (Börzel and Risse, 2003). Sociological institutionalists thus define institutions broadly to also encompass “not just formal rules, procedures or norms, but the symbol systems, cognitive scripts, and moral templates that provide frames of meaning guiding human action” (Hall and Taylor, 1996: 947). In other words, institutions guide human action and actors have endogenous preferences. Endogenous preferences are preferences that are internal to negotiations (Bailer, 2004). When actors are negotiating, their positions can change due to arguments by some of the other actors (Risse and Kleine, 2010). Hence, there are alternatives modes of understanding preferences than those that are exogenous. In other words, the cultural environment to which the actors are exposed shape the formation of preferences. The forum in which the member states negotiates is a “transnational community of negotiators” (Christiansen, 2002: 50). Moreover, actors strive to fulfil social expectations in which socialization process takes place where actors learn to internalize new norms and rules (Börzel and Risse, 2003).

The relationship between institutions and individual action follows a cultural approach (Hall and Taylor, 1996) and politics is organized by logic of appropriateness opposed to logic of consequentiality (March and Olsen, 1989). According to logic of appropriateness “behaviors (beliefs as well as actions) are intentional but not wilful” (March and Olsen, 1989: 160-161) and people that act in accordance with logic of appropriateness follow institutional rules “even when it is not obviously in the narrow self-interest of the person to do so” (March and Olsen, 1989: 22).

Sociological institutionalism argues that delegation happens due to concerns of legitimacy and appropriate institutional design not because it is efficient (Wallace et al., 2015). An example of this is delegation to the European Parliament. The European Parliament has become a co-legislator and its powers have been strengthened throughout the history of the EU. This can be explained by that the EU sought legitimacy and established a direct elected institution (Dijkstra, 2011). Sociological institutionalism becomes important after delegation (Dijkstra, 2011) because policy officers might become socialised with the supranational environment and change their prefer-

ences, e.g. by wanting the member states to integrate more. This is opposed to rational choice institutionalism, which argues that delegation from the member states to a supranational authority happens due to lower transaction costs and efficiency of policy-making.

2.6. Combining the Two Theoretical Approaches

This thesis seeks to provide an answer for under which conditions the Council Secretariat influences the decision-making process. This research question is based on the fact that it is the way in which the member states negotiate in the Council, either according to rational choice institutionalism and/or sociological institutionalism, that provide the room for manoeuvre for the Council Secretariat. Theories draw a certain picture of the world. In this case, rational choice institutionalism and sociological institutionalism each paint a certain picture of (EU) decision-making.

According to Hall and Taylor (1996), sociological institutionalists and rational choice institutionalists oppose each other, and one should recognise that these are different analytical approaches when studying institutions (Hall and Taylor, 1996: 936).

Börzel and Risse (2003) incorporate rational choice institutionalism and sociological institutionalism into a framework that analyses domestic change in EU member states (Europeanization) and argue that they are not mutually exclusive because they can occur simultaneously or in different phases of adaptational change. In this case, adaptational change would be changed to different phases in the decision-making process. Tallberg (2010), on the other hand, argues that various theoretical approaches provide different perspectives on a certain topic and, furthermore, that these institutional approaches should be seen as complementary to each other. Blom-Hansen and Brandsma (2009) find that the style of bargaining in the comitology system depends on the nature of the case under discussion, which means that both inter-governmental bargaining and deliberative supranationalism are present.

I think we should see the theories as complementary to each other, and not in opposition. Decision-making in the EU is complex and involves many actors. The ontological assumptions of the two theories and how the institutional setting affects the actors are – of course – different. However, on the one hand, human actors are seldom only self-interest maximizers that pursue an outcome based on cost-benefit calculations and, on the other hand, it is also seldom that human actors act according to the

logic of appropriateness and institutional norms that guide their preferences (Scharpf, 1997).

Rational choice scholars argue that member states have exogenous preferences, act rationally and follow a logic of consequences (Hall and Taylor, 1996). However, if the agent, i.e. the Council Secretariat, can influence the outcome of treaty negotiations (Beach, 2004), do the member states act rationally? Furthermore, if member states with opt-outs and, consequently, no formal voting rights in a policy area (Adler-Nissen, 2009) can influence the decision-making, would not be rational. On the other hand, that member states break norms. For example, a recent break of norms was when the Polish Prime Minister did not sign the European Council Conclusions after the European Council meeting 9 March 2017 to extend the mandate of the President of the European Council, Donald Tusk (European Council, 2017) or when member states do not comply with EU legislation (Panke, 2007). Even though people follow the logic of appropriateness people are “in touch with reality in the sense of maintaining consistency between behavior and realistic expectations to its consequences” (March and Olsen, 1989: 160). Sociological institutionalism has received much criticism from rational choice scholars and, more broadly, from realist scholars which criticise constructivists on their view of rationality and structure and agency and vis-à-vis. The basic argument for combining these two theories is that they perceive differently actors inside an institution and, moreover, that these two theories can shed light on the complex decision-making. In other words, I argue, on the one hand, that decision-making is more than just formal voting patterns and relative size of the member states and, on the other hand, that member states are not only driven by norms.

2.7. Managing Strategies

My argument is that the Council Secretariat can influence the decision-making and in order to do so they apply different strategies. I argue that institutional memory affects the Council Secretariat’s ability to prevent errors during negotiations and increases the effectiveness. Institutional memory is defined as externally expressed shared knowledge among organisation practitioners (Hardt, 2017: 123) in order to find solutions to complex issues at hand, for example reaching agreement in a negotiation. Thus, the collective knowledge resides inside an institution and institutional memory develops through the sharing of knowledge across time and space (Hardt, 2017). Con-

sequently, possession of institutional memory can have significant consequences for the decision-making process because a policy officer can look to past decisions in order to help the member states reaching an agreement.

Beach (2004) developed a leadership model for when EU institutions matter in treaty negotiations. The model consists of leadership resources, negotiation context and leadership strategies. I argue that the same model can be applied to the day-to-day decision-making of the Council because the same resources are necessary, there is an institutional setting that affects the decision-making and based on the resources and negotiation context the Council Secretariat ends up with a room for manoeuvre with some available strategies.

Leadership resources	Comparative informational advantages Reputation of actor, including personality and expertise
Negotiation context	Institutional set-up Nature of the issue Level of complexity
Leadership strategies	Agenda-setting Brokerage

Figure 2.2. Leadership Model (Beach, 2004: 410)

However, the negotiation context is different in day-to-day decision-making than in treaty negotiations. During intergovernmental conferences member states negotiate the primary law of the European Union which all other laws are based on. Furthermore, treaty negotiations do not happen often which means that in the day-to-day decision-making the state representatives interact more and during longer period of time. Treaty negotiations are also characterized by big bangs or grand bargains that result in more integration (Moravcsik, 1998). However, supranational actors such as the European Commission, the European Parliament and Council Secretariat also have a role in these intergovernmental conferences (Nugent, 2010). Day-to-day decision-making is characterized by many actors and a bicameral system where the Commission also plays a big role (Hix and Høyland, 2011). The nature of issues is thus also different because in daily decision-making the member states adopt regulations and directives instead of treaties. The daily decision-making is more technical and detailed because directives and regulations specify rules that are to implemented in national administrations. However, I still argue that the leadership model can be applied since the Council Secretariat has a role in both types of decision-making.

2.7.1. Leadership Resources

First, information is important in negotiations. In the Council, 28 member states have to find agreement on a continuum of different preferences. The Council Secretariat might have a better insight into individual member states' positions (Dijkstra, 2011) because they are a secretariat to whom the member states can tell their position. The Council Secretariat has content and procedural expertise which might produce a comparative informational advantage (Beach, 2004). The council Secretariat attends all formal meetings in the Council and outside the Council, such as trilogues negotiations. However, the Council Secretariat is excluded from some meetings, e.g. bilateral meetings between two member states, which speak against the fact that they should have a comparative informational advantage. On the other hand, the Council Secretariat has profound knowledge of the state-of-play of negotiations because they attend the meetings and due to their institutional memory.

Second, the reputation of actor, including personality and expertise, also plays a role in Council negotiations. The Council Secretariat is seen as a neutral and impartial player which assists the member states. Furthermore, the people are recognized as knowledgeable and respected due to the fact that they have passed the concurs in order to work in the institution. The rules of procedure of the Council require the Council Legal Service to intervene when it finds it necessary, both by its own initiative and if requested by a delegation (Council of the European Union, 2016e). Therefore, when and how a person from the Council Legal Service intervenes can depend on who sits in the chair during meetings. Furthermore, if the Council Secretariat is not an honest broker that it is perceived to be, then it might also undermine its reputation (Christiansen, 2002).

2.7.2. Negotiation Context

The contextual variables define the range of leadership strategies available (Beach, 2004). The first contextual variable is the institutional set-up, which is related to the bargaining in the Council and which voting rules that are in place. Moreover, the Council Secretariat chairs some working parties and meetings, e.g. the Brexit⁶ working group and Working Party on Information. In addition, the High Representative chairs the Foreign Affairs Council and the Political and Security Committee (PSC) is

⁶ Intention of the United Kingdom of Great Britain and Northern Ireland to withdraw from the European Union

chaired by the EEAS. This might give the Council Secretariat additional strategies and more room for manoeuvre by setting the agenda, brokering an agreement and steer the debate.

Second, the nature of the issue might have an impact on the strategies available for the Council Secretariat. If the issue is very political sensitive (saliency), the member states might limit the scope for the Council Secretariat. On the other hand, if the technical issues are being discussed there might be more room for manoeuvre. Furthermore, when member states discuss new policy areas that the Council Secretariat might influence the process because the member states need judicial guidance. Examples include Brexit, enhanced cooperation and Nord Stream II, the gas pipeline. Regarding Brexit, the Council Secretariat chairs the working party on Brexit and drafted all the negotiation guidelines of the Council (Council of the European Union, 2017b).

Third, and related, the level of complexity of Council negotiations might influence the role the Council Secretariat. The Council Secretariat can translate their informational leadership into influence (Beach, 2004) because there is a need for leadership in complex negotiations.

2.7.3. Leadership Strategies

In order to influence the decision-making the Council Secretariat must convert their leadership resources and institutional position (Beach, 2004).

First, agenda-setting involves the topics which the member states will discuss at meetings. Agenda-setting relates as much to what is not on the agenda and here the Council Secretariat can inform the presidency, which formally sets the agenda, e.g. not to have a working party because the member states have not agreed on their national positions. Thus, agenda-setting deals with the issue of accelerating, decelerating and controlling the agenda (Beach, 2004).

Second, the Council Secretariat can be regarded as an honest broker which support the member states in reaching an agreement. By supporting the member states they obtain opportunities (Beach, 2004) in order to influence the decision-making process. The Council Secretariat possesses extensive and reliable information on the nature of the preferences of the member states and has a strong institutional position (Beach, 2004). They thus can take an active part in brokering an agreement.

2.8. Analytical Framework

I have developed an analytical framework (figure 2.3) that incorporates the theoretical approaches of rational choice institutionalism and sociological institutionalism and the leadership model that argues that the Council Secretariat must convert their leadership resources and negotiation context into a leadership strategy. The theories complement each other, can explain various instances of the decision-making and fit well with the negotiation context and institutional setting of the leadership model. Negotiations can either be driven more or less, on the one hand, by norms in a rich institutional framework or, on the other hand, by fixed preferences. The Council Secretariat is in the middle of the decision-making as the centre of centre of the institutional-politico space. The analysis will thus put forward under which conditions the Council Secretariat influences the decision-making.

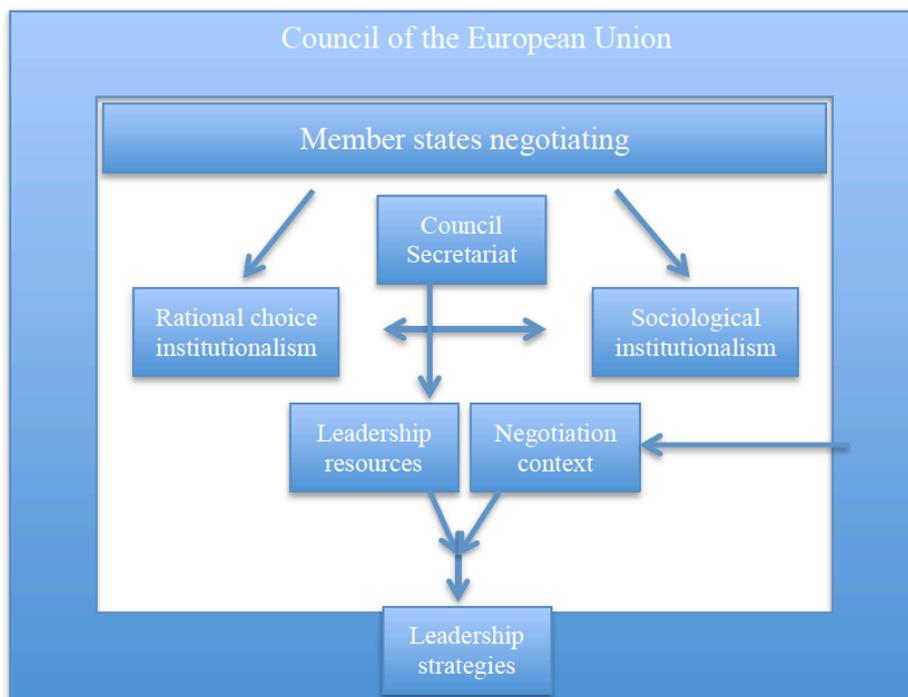


Figure 2.3. Analytical Framework (own production)

2.9. Summary

In this chapter, I have explained the overall theoretical framework of the study. I argue that in order to gain influence in the decision-making process the Council Secretariat uses strategies. Negotiations in the Council have a structure consisting of rules governing the interaction among players and at the same time these negotiations, I

argue, consist of both norm-driven behaviour by the individuals in the meeting room and member states which can provide agency. The average first-reading agreement is reached within 15 months (Raik, 2015) which makes the Council Secretariat important in the continuity of decision-making. Hence, they can use their knowledge of the member states' preferences to gain influence. In addition, I argue that in order to capture the complex decision-making in the EU there is a need to integrate the two theoretical approaches that argue that the institutional setting affects the negotiations. I argue that the Council Secretariat can help the member states under certain conditions to help them reaching an agreement.

Chapter III – Methodology

3.1. Introduction

In the previous chapter I outlined the theoretical framework of the study and argued that negotiations in the Council take place within an institutional setting with actors which have fixed preferences as well as norm-driven actors. The aim of this section is to present the overall research design of the study. I have conducted 14 interviews with people close to Council negotiations and fieldwork in order to observe the participants of a Council Working Group, Coreper meeting and Council meeting. In addition, the focus on everyday decision-making requires an approach that takes into account the everyday interactions between the Council Secretariat and member states in the decision-making process in order to conclude under which conditions the Council Secretariat influences the decision-making.

I used a horizontal approach to see how the Council Secretariat behaves across policy areas instead of identifying how the Council Secretariat acts in one specific policy area. Elgström and Jönsson (2000) argue that the decision-making in the EU is contextually determined and that some policy areas are negotiated according to problem-solving and others according to hard bargaining.

The first part of the chapter explains the research strategy with a focus on the difference between political influence and agency. This is followed by a discussion on data collection and how I entered the closed world of negotiations in the Council, selection criteria and my own role during the meetings in the Council. The last part of chapter discusses the coding process which will lead to the displays in the analysis in order to shed light on the research question.

3.2. Research Strategy

The overall research design is a qualitative one because the aim is to explain under which conditions the Council Secretariat influences the decision-making. Qualitative research can be defined as "a situated activity that locates the observer in the world [...] They turn the world into a series of representations, including field notes, interviews, conversations, photographs, recordings, and memos to the self. [...] This means that qualitative researchers study things in their natural settings, attempting to make sense of, or interpret, phenomena in terms of the meanings people bring to them" (Denzin and Lincoln, 2005: 3).

In this thesis, I analyse one phenomenon, i.e. the Council Secretariat, and I am not interested in analysing whether the role of the Council Secretariat is different or similar to, for example, the Secretariat of the United Nations or other international institutions. The strength of qualitative research is in uncovering and understanding complex phenomena (Yin, 2014). Hence, the institutionalization of the European Union and the socialization in the Council are complex issues. The research question cannot be adequately answered by a quantitative research design because statistical data would not be able to explain under which conditions the Council Secretariat influences the decision-making within the specific institutional setting of the Council. In other words, statistical methods have difficulties in assessing complex contextual factors (George and Bennett, 2005: 18). A quantitative design would, for example, analyse the autonomy of the secretariats of international institutions (Bauera and Ege, 2016). Even though the Council Secretariat attends every meeting and trilogues negotiations, it does not say anything about their actual role in the decision-making process because they do not have any formal powers. Hence, the Council Secretariat should not have any influence. This also demonstrates that the Council decision-making is more complex than just voting rights, size of member state and length of EU membership.

Influence can be regarded as several activities. There can be distinguished between political influence, agency or power. Power is relational in the sense that one of the parties can threaten to invoke sanctions on another part (Bachrach and Baratz, 1963: 635). The Council Secretariat does not have the ability to impose sanctions on another part. Dahl's definition of influence is "A has power over B to the extent that he can get B to do something that B otherwise would not do" (Dahl, 1957 in Beach, 2003: 24). I would call this political influence and not just influence. Agency relates to the fact that the Council Secretariat has the ability to influence indirectly by making speaking notes to the ambassadors or exerting agency in the sense that they can push some issues forward in the working groups they chair (Dijkstra, 2011). Since I argue that the institutional setting and negotiation context has an influence on the decision-making, the definition of influence cannot be fully agency-oriented, but also needs to be structurally-oriented. Actors are the basic unit of analysis based on rational choice institutionalism and the impact of the structure upon the actors from sociological institutionalism. In order to incorporate the two rival explanations these factors have to be taken into consideration.

If the research question had been dealing with the political influence of the Council Secretariat in one particular legislative file in EU decision-making, a study applying process-tracing as research method would shed light on the process and yield a strong conclusion (Beach and Pedersen, 2016). In addition, it would be able to analyse the causal mechanism that link a (set of) cause(s) and outcome(s) in more detail. However, this thesis does not analyse whether the Council Secretariat directly influences the member states during the decision-making and create an outcome the member states would not opt for if there had been no Council Secretariat. This thesis, on the other hand, analyses under which conditions the Council Secretariat influences the decision-making based on the negotiations in the Council in various policy areas.

There are both some inductive and deductive elements in the study. I became aware of the idea when I participated in Council working parties and read memos from working parties, Coreper and Council meetings. In these memos I could read what the Council Secretariat⁷ and Council Legal Service had said during meetings. I then discussed the idea with several colleagues. One of my colleagues knew a person in the Council Secretariat with whom I could talk. I organized a meeting with the desk officer with many years of experience who explained to me in detail the role of the Council Secretariat. Hence, the research strategy is based on both deduction and induction. Furthermore, the assumption that the thesis departs from, i.e. the Council Secretariat has the ability to influence the decision-making process (Beach, 2004; Dijkstra, 2011), demonstrates deduction.

3.3. Data collection

The research question guides the choice of methods in order to answer the research question and the research objective, not the other way around. Therefore, I have chosen to make in-depth semi-structured interviews and make participant observation with the aim of studying people in their everyday activities. In my case, that is the diplomats and policy officials in the Council. When studying negotiations and the people that are part of them, there is one overarching problem, i.e. the secrecy of negotiations (Beach, 2003) and, consequently, a lack of data. Therefore, I made 14 interviews to find out what happens behind the closed doors in the Council buildings. Furthermore, I will make use of the Council documents that are available on their website in order to analyse their role. However, a lot of legal opinions are not availa-

⁷ The Council Secretariat does not normally take the floor in the meetings.

ble in the Public register because they are sensitive to the member states and the Council. This is thus a challenge.

As explained above, I also talked with colleagues about the thesis. These informal conversations also provide background information about the Council Secretariat and Council Legal Service in the day-to-day decision making process. I cannot quote these people, however, I use the information to get a broader picture of the Council Secretariat and Council Legal Service.

3.3.1. Interviews

The interviews provide some of the data for the thesis. Interviewing is a data collecting method which gives you the opportunity to get detailed knowledge of complex systems and processes (Ritchie and Lewis, 2012). The views of the person can provide a detailed account of a process or inside knowledge into a specific working method. In this case, it means how the role of the Council Secretariat comes to expression in the day-to-day decision-making. However, interviewing is also a data collecting method which comes with some trade-offs (Kusenbach, 2003: 462). First, people may not tell all they know. Second, they might not know every detail of a history in the past, for example, in this case, what happened during a presidency. Third, 9 out the 14 interviews were recorded which means that some did not want to talk to a recorder or the interview took place in an environment which was so informal that it was inappropriate to record the conversation, e.g. in the cafeteria in Justus Lipsius on 50th floor which is a place where only delegates and people working in the institution can enter.

In semi-structured interviews you ask the key questions each time, but there is still room for asking different questions and pursuing something specifically if the interviewee says something you find important (Ritchie and Lewis, 2012: 111). The 14 interviews were conducted between 19 June 2017 and 18 July 2017. The interviews varied between 30 minutes to 1 hour. I always started the interview by presenting my thesis and they would normally ask me questions about my role at the Danish Permanent Representation. In addition, I explained that I was interested in knowing more about the role of the Council Secretariat and the everyday working of the Council. Before the interview started I asked whether I could record it. At the end of the interview I asked if they had more to add. Moreover, we usually talked briefly afterwards without the recorder about the Council Secretariat, and they normally had more

to add after the recorder had been turned off. In the table 3.4 I have introduced an extract of the interview guide in order to do the coding of them.

The 14 interviews were conducted with experts. Experts have knowledge that is not accessible to anybody in the field of action under study (Meuser and Nagel, 2009: 18). Furthermore, an expert has comprehensive knowledge and specific knowledge. In other words, an expert has “an overview of a specialist knowledge field and can offer fundamental problem solutions or can apply these to individual problem within this area” (Pfadenhauer, 2009: 82). One of the interviews can be defined as an elite interview, i.e. interviews with specialists or leaders within some area (Brinkmann, 2007: 1132), this is in line with the definition of an expert. However, a person who is related to the elite has more power than an expert (Littig, 2009) (see figure 3.2).

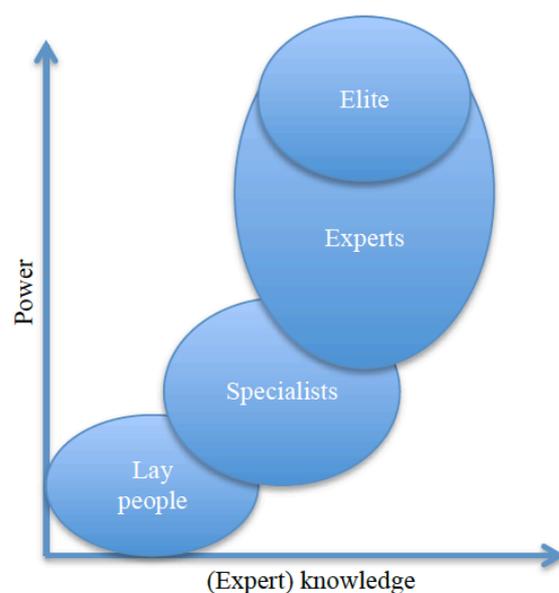


Figure 3.2. Differentiating between Experts and the Elite (Littig, 2009: 108)

In order to get in contact with people who might be interested in being interviewed I talked with a former colleague who mentioned four people in the Council Secretariat which could be interested in talking with me. I wrote an email to them explaining my research project, why I wanted to talk with them and promised to keep them anonymous. Moreover, I contacted attachés from member states which recently held the presidency because I had the assumption that they had knowledge about the relationship between the policy officers in the Council Secretariat. I wanted respondents from various countries within different policy areas. I also wrote an email to other policy

officers in the Council Secretariat, including a lawyer-linguist. The people I contacted were motivated to take part in the interviews which might relate to the fact that they are experts within their fields (Bogner, Littig and Menz, 2009). In other words, they wanted to speak about and share their knowledge with me on their professional work.

Table 3.1 presents an overview of the institution and which country the interviewees are from. The Netherlands, Slovakia and Malta have recently held the presidency whereas the United Kingdom is in a peculiar situation because they should have held the presidency in the second half of 2017, but due to the vote on leaving the European Union, United Kingdom gave up the presidency. However, they had begun to prepare for the presidency. On the other hand, this also means that I did not conduct interviews with people from Germany, France, Spain, Italy nor Poland which all are big countries. In addition, I did not talk with people that deal with all policy areas. However, the Council Secretariat has some main roles which basically stay the same. Therefore, I do not think that this has a profound impact on the results, but I do acknowledge it would be interesting to hear from some of the big countries, other than the UK. Time and possibilities were also a factor when choosing whom to interview. Moreover, interviews have not been carried with all levels in the Council. For example, I did not interview a Permanent Representative. However, which will be seen in the analysis, all the interviewees have at least been at Coreper.

What is also important to note when looking for evidence on the role of the Council Secretariat is what the people claim in the interviews. For example, the political administrators in the Council Secretariat might want to appear to have much influence in order to promote their views during the interviews. It could be, on the other hand, that the member states try to downplay the degree to which they were dependent on assistance from the Council Secretariat (Reykers and Beach, 2017) during the decision-making because they want to send the signal that they were in driving seat. Reykers and Beach (2017) argue that one can strengthen the analysis by using several sources and thereby getting a more nuanced picture of the decision-making process. I systematically asked the interviewees who would draft the compromise proposals and the degree to which the Council Secretariat does that is high, which will be evident in the analysis. Furthermore, other sources might include legal opinions from the Council Legal Service in which they can change things, e.g. with the example of the gas pipeline Nord Stream II. Reykers and Beach (2017) also argue that if the Council Secretariat has asked the presidency to change the negotiating forum, e.g.

by moving it from a working party to Coreper, would be a strong evidence for involvement of the Council Secretariat. This will also be present in the analysis where the Council Secretariat much influence regarding the day-to-day control of agenda setting and knowledge of the administrative procedures.

Organization	Council Secretariat	Permanent Representation of Slovakia	Permanent Representation of Malta	Permanent Representation of the Netherlands	Permanent Representation of the United Kingdom
Number of interviews	5	3 (one interview with two attachés)	2	3	1

Table 3.1. Overview of the Interviews based on Affiliation

The member states have delegated competences to the European Union, normally referred to as either exclusive competences or shared competences. Exclusive competences refer to policy areas where only the EU can adopt legislation, e.g. competition rules and monetary policy for euro area countries. Shared competences refer to policy areas where the EU and the member states can adopt legislation, e.g. environment and transport (Wallace et al., 2015). There are thus differences to the competences the EU has. In table 3.2 it is possible to find an overview of the interviews based on policy area. As can be seen I have not interviewed anyone from the Council Secretariat nor the member states which deal with foreign affairs or enlargement. However, the foreign policy is a special policy area in the European Union where the member states have retained much of their autonomy (Wallace et al., 2015). Dijkstra (2010; 2011; 2012) has analysed the area of foreign policy extensively and finds that the Council Secretariat plays a role in the field. What I have done, which Dijkstra (2011) did not do, was to be present at a Foreign Affairs Council meeting in which I observed the role of the High Representative who chairs the meetings. The High Representative is assisted by the EEAS and the Secretary-General Helga Schmid. There is thus a direct link to the Council Secretariat in the area of foreign policy.

Policy area	Economic Affairs and Competitiveness	Environment	Social Affairs and Health	Brexit	Justice and Home Affairs	Inter-Institutional Relations/ Legal Advisor
Number of interviews	2	2	2	1	2	5

Table 3.2. Overview of the Interviews based on Policy Area

3.3.2. Participant observation

The observations took place in the Council buildings where the meetings took place. Meetings both took place in Justus Lipsius, Europa building and the Lex building. In other words, I did not choose the sites in which the fieldwork was conducted. The reason for choosing participant observation is that I wanted to document patterns of social activity in order to understand the role of the Council Secretariat and how their role comes to expression during the meetings.

This ‘real-life’ research with fieldwork means that “the ethnographer adjusts to the terms and conditions, i.e. the fieldworker must operate and conform to rules and norms set by others” (Agyekum, 2016: 53). In other words, I had to follow the rules, norms and practices that are in the specific Council Working Parties. I did know how one behaves in the diplomatic field, i.e. you are aware of the hierarchy, you do not speak if you do not sit at the table and you dress formally. In other words, I was quiet and observed. Moreover, I knew the role because I followed some working party meetings due to my job in which I did not have the role as researcher. As Busby (2013) argues: “by spending a sustained amount of time living in a field-site among one’s informants, ethnography enables research to focus on everyday activities, routines, and perspectives. It requires the researcher to take a holistic approach to the context and take anything into account participants reveal as important” (Busby, 2013: 206). I thus spent a lot of time in the field, i.e. the Brussels bubble. To be precise I spent almost one year in Brussels and during this period I had direct access to the Council buildings for six months thereby having spent a certain amount of time in the field in order to take into account the context of decision-making.

In order to get access to the place, i.e. “getting into place” (Goffman, 1989), I had the necessary accreditation to enter the Council buildings, i.e. a badge with “DK” that showed I was a representative from Denmark. In order to have a clear rationale for being at the meetings, I asked the attaché and the Mertens, i.e. the high ranking diplomat from the permanent representation in Brussels who assists the ambassador in

Coreper I, at the Danish Permanent Representation to see whether it was okay I attended the meetings. Before, during and after the negotiations they briefed me about what was going on or what had happened during the respective meeting⁸. This was especially helpful during the Coreper I meeting because there were many breaks. During these breaks, the presidency talks with the Council Secretariat and other member states in order to find compromise. Here, the Council Secretariat and Council Legal Service played a big role. In the “getting in phase” trust was not an issue because I had the badge. Furthermore, I did not sit at the negotiating table, I did not represent Denmark and was not able to vote. In other words, I was not part of the negotiations. The limits of participant observation are that you as an outsider know nothing about what happens or what the context is (Kusenbach, 2003). However, as an “insider” in the diplomatic field I could watch the social activity in the room when the diplomats were negotiating.

In three instances, however, my role as both a representative of Denmark and researcher clashed. First, at one meeting, I met one of the persons I had interviewed at a working party meeting in the elevator. The person asked whether I was at the meeting to observe in the role as researcher or as a representative of Denmark. I replied in an ethnical manner that I would be in the room to observe the dynamics and interactions of the Council Secretariat. In a second instance, just before a meeting, my colleague was approached by a delegate from another member state who asked whether I was a national expert. My colleague replied that I was there as researcher because I was doing a thesis on the role of the Council Secretariat. The last instance was at a working party meeting where I encountered a person whom I had interviewed. The person said politely hello and asked no further questions. In other words, this questions my role as “outsider” to the negotiations. I was still not able to vote, but some people knew about my presence. I would, however, still argue that my role was only to observe and not take part in the meetings. Therefore, I do not think this had any consequences for the analysis and the conclusions nor that it did change the negotiations in any way.

Table 3.3 presents the meetings where I conducted the observations. The meetings I chose in order to observe were partly due to availability and time. I did not have the time to participate in many meetings. In the Working Party on Environment I

⁸ It should be noticed that I had participated in several Council working groups so I knew how the procedure is.

managed to see a file that was discussed for the first time and one that had been discussed for a long period of time. Both the Working Party on Environment and Civil Law Matters are EU competences. Furthermore, Coreper is interesting to observe because the ambassadors meet at least once a week and deal with political issues before they are handed over to the ministers in the respective Council configuration. In other words, the chosen observations were partly due to availability and time.

Type of observation	Foreign Affairs Council meeting	Coreper I	Working Party on the Environment	Working Party on Civil Law Matters
Number of times	1	1	2	1

Table 3.3. Overview of Participant Observations

3.4. Coding

In order to analyse the data it is necessary to systematise it, i.e. divide it up and break it down (Ghauri and Grønhaug, 2005). Glaser (1992) argues that it is possible to describe a phenomenon with raw data, but “one cannot relate or talk about it easily without conceptualizing a pattern” (Glaser, 1992: 40). In other words, it is necessary to engage in a coding process that compares the incidents to incidents or concepts (Glaser, 1992). Codes are thus a device to label, separate and organise data (Ghauri and Grønhaug, 2005).

In the coding process it is important to note if, on the one hand, the presidency requests the Council Secretariat for help when brokering an agreement and help with the agenda-setting and, on the other hand, if the Council Secretariat has done it on its own without the guidance of the presidency. In table 3.4 it is possible to see the codes that are derived from the theoretical framework. I have coded the interview transcripts using the codes that are presented in the table. In the analysis these codes are then transformed into displays that encompass sentences from the interviews. If sentences fall outside the definitions, the sentences are coded as diverse. These are statements that do not fit entirely with the other categories, but might be close to the other categories. I have coded the transcripts based on the leadership model and then I will comment on the explanatory power of the theories in the analysis.

Leadership model	Extracts from interview guide	Code (abbreviation)
Leadership resources	How and why the delegations use the Council Secretariat?	LR
Informational advantage	How does your/their bureaucratic expertise/institutional memory come to expression?	LR-IAD
Reputation of actor	Does it mean something whether who is sitting in the chair (personality)?	LR-RAC
Diverse		LR-DIV
Negotiation context	Can you develop on that the Council Secretariat is always present at formal meetings in the Council and trilogue negotiations?	NC
Institutional set-up	Does the role of the Council Secretariat change according to the member state holding the presidency?	NC-INS
Nature of issue	Does the role of the Council Secretariat change according to the issue (technical issues vs. more political issues) in the Council?	NC-NAT
Level of complexity	Does the role of the Council Secretariat change according to the level in the Council?	NC-COM
Diverse		NC-DIV
Leadership strategies	How do you/they advise on ways forwards?	LS
Agenda-setting	Who sets the agenda for meetings?	LS-AGS
Brokerage	Do you have room for manoeuvre when drafting?	LS-BRO
Diverse		LS-DIV

Table 3.4. Coding

3.5. Validity and Reliability

Validity refers to the correctness or precision of the study (Ritchie and Lewis, 2012: 273). In other words, do I measure what I intend to measure. The selection of interviewees generates the empirical data which is crucial in terms of what kind of conclusion one can draw from the analysis. It is important to note that the data set for this

thesis is limited to 14 interviews and 5 meetings in the Council. However, it is the aim to still be able to yield some conclusions on the role of the Council Secretariat. The consistency in gathering data, i.e. selection of interview persons and meetings I observed has been explained. But here, I will say that the 5 interviewees from the Council Secretariat cannot represent the whole body since I have not talked with people from every department nor on every hierarchical level. This is not to say that the insights are not important, but I have to have this in mind as researcher when I draw the conclusions. This relates to the external validity, i.e. the generalization of findings and the debate on small-N in case study research (George and Bennett, 2005; Yin, 2014).

The concept of reliability relates to the operations of the study and whether the study, in theory, can be repeated (Yin, 2014: 49). Here, the goal is to minimise errors and biases of the study which is very important in qualitative research because qualitative research normally relies on less data than large-N research. Furthermore, in order to observe a working party meeting one has to have a badge to access the Council buildings. Therefore, I admit that it can be difficult to replicate the study. To address this I have described how I got in contact with people at the Council Secretariat and the permanent representations as well as how I entered the Council.

3.6. Summary

This chapter has explained the research design of the study. I have conducted 14 interviews and made participants observation in the Council in order to obtain data. Furthermore, I have presented the details of the interviewees and the policy areas which they are attached to. This approach helps to shed new light on the everyday workings of the Council Secretariat. The fact that I have participated in meetings should provide new information and, moreover, the dynamics which exist in the Council are hopefully caught by my observations, i.e. the argument that there is also something deeper-rooted in Council negotiations than actors with fixed preferences. Furthermore, I have explained my own role during the fieldwork in which the relationship between being a researcher and Stagiaire at times was blurred. Lastly, I have presented the process of coding based on the leadership model.

Chapter IV – At Work with the Council Secretariat

4.1. Introduction

In the previous chapters I have presented the theoretical framework and the methodological considerations. In this chapter I will analyse under which conditions the Council Secretariat influences the decision-making process. Based on the leadership model, I will first analyse the leadership resources, then the negotiation context and, third, the leadership strategies. A display is presented for each of the analyses that contain quotes from the interviewees which are representative of the interviews, but also outliners (see display 4.1, 4.2 and 4.3). There is thus no “cherry picking” of quotes since I compare what has been said across the various interviews.

4.2. Analysis of Leadership Resources

The first step of the leadership model is the leadership resources. This relates to the bureaucratic resources of the Council Secretariat. I have coded the overall leadership resources, their level of information, the reputation of the actor and an open category. The Council Secretariat can help the 28 member states to find agreement on a continuum of different preferences because the Council Secretariat might have a better insight into individual member states' positions (Dijkstra, 2011). Furthermore, they have content and procedural expertise (Beach, 2004) and is seen as a neutral and impartial player.

Regarding the overall leadership resources, coded LR in the data material, there is broad acknowledgement by the interviewees on the Council Secretariat. A head of unit in the Council Secretariat says “we have the experience and institutional memory” (Interview 2) and a head of section of a national permanent representation argues that “the Council Secretariat has the institutional memory, they have continuity of things, they know if we start with some topic and it was already done in 2008 they say: well be aware that... that they know much better” (Interview 3). Furthermore, interviewees 2, 3, 5, 7, 9, 12 and 14 all mention that the Council Secretariat has institutional memory. A political administrator in the Council Secretariat who works with the preparation of future presidencies argues that “institutional memory is a benefit for the presidency” (Interview 14). A technical attaché from a permanent representation argues that “the Council Secretariat really helps you to walk. On some instances we had the double problem that we are small and it was the first presidency (Interview

5). The expression “help to you walk” is interesting in the sense that there are many implicit words in the sentence, e.g. assisting, note talking, knowledge of processes. Furthermore, the person argues that “I would say that we need them more than a country like yours [Denmark]” (Interview 5) due to their double problem of being a small country and holding the presidency for the first time. Another example regarding the leadership resources and their experience is the fact that a head of section at a national permanent representation argues that “the Council Secretariat knows when files are ready for Coreper” (Interview 8) which is supported by both interviewee 10, who is Second Secretary at a national permanent representation, and 12, an attaché at a national permanent representation, who said that “they have the knowledge of the administration processes in the Council itself” (Interview 10) and “they guide you on the procedural rules, but since they are sitting there for years and months they also know a lot about substance of the issue” (Interview 12). Member states might sometimes negotiate according to sociological institutionalism because the Council Secretariat through its institutional memory can explain how negotiations normally proceed. Thus, they can create a norm of negotiating as usual because they always assist the presidency.

The comparative informational advantage demonstrates that the Council Secretariat normally is excluded from bilateral meetings, i.e. meetings between the presidency and a delegation; however, the presidency would normally inform the Council Secretariat afterwards. During these bilateral meetings the presidency seeks to understand the preferences of various delegations. A head of section argues that “I think in our case, most bilateral meetings, if you wanted to discuss something specifically with a country, it was more presidency-country. Then we would have follow-up meetings with the Council Secretariat” (Interview 5). This is supported by the head of unit in the Council Secretariat who states the following “[if] they have a difficulty to close a file and to find a compromise and they talk bilaterally to certain delegations... there we are often not present; but would like to be present” (Interview 2). These bilateral meetings are thus held between the presidency and a delegation in order for the presidency to try to find the various positions of the delegations. The Council Secretariat is excluded from these, which lowers their informational advantage. This means that the member states act rationally according to rational choice institutionalism. The presidencies also exclude the Council Secretariat when they do not behave appropriately. Interviewees 4 and 12 have experienced this from two different presidencies and two

different policy areas. The third secretary of one of the permanent representations argues that they had to exclude the Council Secretariat from some of the decision-making because some of the were leaking information “I had to consult him [desk officer] and not the boss because he was leaking our ideas to other member states. We also kept something just for us or I just said to the desk officer just keep this for yourself” (Interview 4). Interviewee 12 experienced the same during their presidency. Here, they needed to agree on a set of Council conclusions on enlargement, which was a high priority of the presidency, but also very sensitive “for meetings where the Council Secretariat wanted to be there and that would be good for the administrative point of view, my ambassador decided not to have them there because we needed to treat this with care. So it is up to each presidency to handle this. With the Council Conclusions you needed to go to Coreper twice. The first time, we met with the ambassador and recommended him to have the Council Secretariat there as well and he appreciated it, but for the second time he did not want them to be there. So we briefed him alone” (Interview 12). Here it is possible to see that the presidencies have made some political choices of not being assisted by the Council Secretariat, which means that the Council Secretariat’s level of information is lowered.

Sometimes the Council Secretariat also has a comparative informational advantage, e.g. regarding trilogue negotiations. The rotating presidency lasts six months and a legislative file takes on average 15 months to conclude (Raik, 2015) which means that the Council Secretariat has followed the whole process and the presidency only a limited period of time. A policy officer in the Council Secretariat remembers a recent case on roaming where “I remember that the first mandate was about let us start at ten years and some people wanted it much lower, but we knew that most countries could start lower, but they wanted to start higher because they knew that the Parliament was going to ask for very low prices. So they wanted to start higher from a tactical point of view which was not the political red line” (Interview 6). Here, the policy officer argues that “we knew” that the years proposed by some delegations were only due to tactics. Thus, the Council Secretariat had knowledge of member states’ positions. Furthermore, a second secretary claims that the Council Secretariat has an advantage regarding trilogues negotiations vis-à-vis the presidency because “they are in trilogues constantly and they know the files from beforehand so when a presidency takes over you have a handover with the previous presidency but obviously you have not been in the trilogue’s room and now you are negotiating on

behalf of the Council. And in that sense the Council Secretariat instead has been in the group so they know mainly the previous conversations on trilogues how those went and the conversations that were there and the informal things that were not on mic [microphone]. So that is an useful tool for the presidency to have” (Interview 10). There are two things that are interesting here. First, that there is a lack of information between presidencies. Second, the fact that the Council Secretariat is always there is a useful tool. There is thus an expectation that the Council Secretariat passes information from one presidency on to the next, thereby acting according to logic of appropriateness. It is reasonable to suggest that the Council Secretariat in this case acts as a gatekeeper in order to pass information on from meetings.

It is possible to distinguish between political and legal aspects of decision-making. Interviewee 1 argues that you have to distinguish between the Council Secretariat and Council Legal Service, which only works with the legal aspects of decision-making. Interviewee 1 is legal advisor and first secretary at a national permanent representation and states “from the legal perspective it is difficult to disagree with the Council Legal Service because law is something different than politics. And if you have sophisticated legal arguments by the lawyers who have worked for 20 years in the Council Legal Service then it is pretty hard to disagree” (Interview 1). This means that if a lawyer of the Council Legal Service presents legal arguments to the member states then they find it hard to disagree thereby giving them a comparative informational advantage.

The reputation of the actor demonstrates that, on the one hand, the policy officers are very hardworking and their work is appreciated by the national delegations and, on the other hand, that the personality affects the decision-making process which means that the Council Secretariat is excluded from some phases of the decision-making. During working parties, the member states can ask the Council Legal Service for clarifications. Interviewee 9, a technical attaché, argues that the “Council Legal Service has a lot of French connections” and the fact that “Hubert Legal is from France can play a role” (Interview 9). That nationality plays a role does also come forward when the presidency drafts proposals together with the Council Secretariat, e.g. “when we were negotiating Council Conclusions we really sent something to them every night and sometimes we sat around pizza and drafted the text. There you can see what place and nationality of the person and that was really funny. You can have an Italian: why do we not incorporate the proposal from the Italians” (Interview

12). This is supported by interviewee 3 and 4 which state that the personality is important “every presidency is dealing with people which have another style. We had this Finnish lady and I liked her very much [...] she has another style than her German or French colleagues” (Interview 3) and “the officer was lazy, not very helpful. When I drafted the progress report, I had to do it myself” (Interview 4). If a policy officer in the Council Secretariat is not neutral, the Council Secretariat can block the promotion of a person which interviewee 6 is aware of has been the case: “he had favoured one country over another. That is a case of not professionally behaviour” (Interview 6). In the cases where this happens the reputation of the Council Secretariat might lead to less information in the sense that they are excluded from the policy processes, i.e. those which take place outside the meeting room. Interviewee 4 had experienced both that the Council Secretariat leaked information and that one of the policy officer was lazy. In the end, the attaché and the ambassador tried not to involve the Council Secretariat, e.g. the attaché drafted statements to his ambassador on his own or when he consulted the Council Secretariat “I did not follow everything [...] In the end, we were lucky that we did not follow all their advice” (Interview 4). Moreover, the internal hierarchy provided the attaché with problems because he had to talk to the desk officer and not his boss because the boss was leaking information. As stated above, interviewee 12 had experienced that the ambassador did not want the Council Secretariat to be present during the discussion on Council conclusions. Hence, there are some cases where the reputation of actor leads to less information. However, bad reputation of the actor can also affect the legislation. A lawyer-linguist in the Council Legal Service argues that there has been concluded legislation “the quality of the legislation can be affected by bad relations” (Interview 11). This is in line with Guggeis (2014), head of unit in the Council Legal Service, who argues that the lawyer-linguists work under pressure and that the quality of legislation might be influenced if there are too many proposals or if there is a big political pressure to finish the job faster.

The last category of the leadership resources that have been coded is the open category. A legal advisor at a national representation argues that “my colleagues in the Council Secretariat said that we do everything; psychology, we help you with content, with the procedure, with everything. And it is true” (Interview 7). Here, the advisor develops on the relationship between the Council Secretariat and the presidency. Some of them become very close because they work together so intensely and after a

presidency the member state representatives still see them in meetings. Interviewee 4 says about the personal network that “some of them [Council Secretariat] are Dutch so they know very well the Dutch perm rep and they had some information so they feed us” (Interview 4) which means that a Dutch person in the Council Secretariat provided them with information about the Dutch positions because he/her knew them due to nationality. A senior policy officer and Director in the Council Secretariat states that the “Council Secretariat is a centre of gravity, objective and impartial” (Interview 13). This is of course said about the person’s own work place and how the person sees the role of the Council Secretariat, but it is in line with Mangenot (2010) who describes the Council Secretariat as the “centre of the centre” (Mangenot, 2010: 49).

In display 4.1 on the next page it is possible to find the quotes from the interviewees in the categories according to the coding process.

Leadership resources	LR	<ul style="list-style-type: none"> • “We have the experience and institutional memory” (Interview 2). • “The Council Secretariat has the institutional memory, they have continuity of things, they know if we start with some topic and it was already done in 2008 they say: well be aware that... that they know much better” (Interview 3). • “The tactics and ways forward come from their experience and the memory of the file they have” (Interview 5). • “The GSC really helps you to walk. On some instances we had the double problem that we are small and it was the first presidency. So the GSC... I would say that we need them more than a country like yours” (Interview 5). • “The GSC knows when files are ready for Coreper” (Interview 8). • “They have the knowledge of the administration processes in the Council itself” (Interview 10). • “They guide you on the procedural rules, but since they sitting there for years and months they know also a lot about substance of the issue” (Interview 12).
	LR-IAD	<ul style="list-style-type: none"> • “I can bring the GSC, but actually I don’t. I do it myself. If you are dealing as a presidency, it is quite good to act as a presidency when there are counterparts” (Interview 3). • “In that sense, the GSC holds the pen a bit in the administration and help you deliver on time your objectives or give you a bit an inside on how a previous Presidency had played a particular smart move to get something through” (Interview 10). • “When we met with other delegations, we would not take them around” (Interview 12).
	LR-RAC	<ul style="list-style-type: none"> • “If you have a certain person working for GSC they have certain views, they are human beings, they have their bosses and I believe they have meetings where they discuss the best way have to go ahead” (Interview 1). • “I mean us as a secretariat should be politically neutral. But of course we all have our views. Most of us have our views. So some people including my self I would say... I do not find it satisfactory not to have an influence on the substance” (Interview 2). • “And every presidency is dealing with people with have another style. We had this Finnish lady and I liked her very much, and I still do, because I know her very well, she has another style than her German or French colleagues” (Interview 3). • “So in the other file the officer was lazy, not very helpful. When I drafted the progress report, I had to do it myself” (Interview 4). • “Overall, I think it is really about the character of the desk officer supporting the presidency. Some people are more proactive and that plays a role for the presidency” (Interview 6). • “I think it is worthwhile to invest in CLS and GSC for the presidency because you work very close together” (Interview 7) • “The CLS has a lot of French connections” (Interview 9).
	LR-DIV	<ul style="list-style-type: none"> • “But, for instance, some of them are Dutch so they know very well the Dutch perm rep they had some information so they feed us. They do not have real formal bilateral meetings, but they have information which is useful” (Interview 4). • “My colleagues in the GSC said that we do everything psychology, we help you with content, with the procedure, with everything. And it is true” (Interview 7). • “The history of the files is longer than six months, but with the trio programmes it becomes more structured” (Interview 8). • “We as lawyer-linguists are not visible, but have an important job to create equality of the legislation in all languages. So we have an essential role” (Interview 11). • “GSC as centre of gravity, objective and impartial” (Interview 13).

Display 4.1. Leadership Resources

4.3. Analysis of Negotiation Context

The contextual variables define the range of leadership strategies available to the Council Secretariat (Beach, 2004). Regarding the overall negotiation context, coded NC in the data material, the interviewees acknowledge that the overall negotiation context can have an impact on the Council Secretariat. The head of unit within the Council Secretariat claims that “in trilogues the Commission plays a strong role, knows the file best because they have proposed it and normally has a dozen of people working on it” (Interview 2). According to this statement, the Council Secretariat and the member states have a less active role in trilogues because the Commission has the resources and knowledge to help reaching an agreement. In the day-to-day decision-making, trilogue negotiations between the European Commission, European Parliament and the Council are common under the ordinary legislative procedure (Reh, 2014), however, trilogues are first initiated when both the Council and European Parliament have agreed on their positions. On the one hand, more trilogues can limit the influence of the Council Secretariat in the decision-making in general because there are more actors but, on the other hand, it can strengthen its role internally in the Council vis-à-vis the member states and various presidencies because the Council Secretariat is always attending the trilogues whereas the presidency changes. A lawyer-linguist states that the overall negotiation context also has an impact on the decision-making because “a vague text is a political choice due to political issues and different legal systems” (Interview 11). Thus, the member states’ different legal systems has an impact on the negotiation context because there are less room for manoeuvre since the member states have to act within different political and legal systems.

The first contextual variable is the institutional set-up. Here there is agreement that the role of the Council Secretariat changes according to the size of the presidency. A first secretary who recently held the presidency argues that the Council Secretariat has a “developing role according to the size of the member state, but my personal view also according to the length of the membership and the number of previous presidencies held” (Interview 1). This is supported by interviewee 14 who has advised many presidencies and who argues that new member states rely more on the Council Secretariat and, furthermore, it also changes how much the member states ask for help according to the policy area (Interview 14). Another political administrator argues that there is a difference between whether the presidency is Brussels-based or more nationally-oriented, e.g. “the Dutch presidency started very much as Brussels-

based and we [Council Secretariat] were very neutral and did our job with the team. And then it became very political in the end of the presidency and they always had to refer back to the national parliament” (Interview 6). The consequence is that it complicates the decision-making process at EU level if the presidency keeps it more nationally oriented. The presidency should be neutral and pursue the interests of the Council, it can thus be argued whether a nationally oriented presidency acts according to the norm of neutrality. I also argue that the Council Secretariat has more difficulties in influencing the decision-making if the presidency is nationally based because then more decisions are taken without the knowledge of the Council Secretariat. Interviewee 6 argues further that the Council Secretariat adjusts to the competences which a presidency has, e.g. “depending on the qualities of the people, some are stronger on the organization site, some are stronger on the content on the file, some are stronger with the relationship with the people” (Interview 6). Thus the question is not only whether the presidency is a new or old member state, but also the size of the member state is important, whether it has held the presidency before and the quality of the people. Following this, a senior diplomat in the Council Secretariat argues that “the relationship with the presidency can depend on whether the person in the presidency is weak or strong” (Interview 13). The institutional set-up in the Council is established so the presidency changes every sixth month, and since it does that, there are many different chairs of the meetings.

The institutional set-up also includes the way the meetings are conducted and voting rules. A head of section argues that “most working groups work in a consensus way” (Interview 3) and a senior diplomat adds that “there are unwritten habits and norms in the Council” (Interview 13). From another person it is stated “we rarely ever vote, but in the back of our minds we have of course the voting rules” (Interview 2). On the one hand, this supports sociological institutionalism due to the consensual style of negotiating, but, on the other hand, just because the member states do not vote, does not mean that they are not rational. In interview 12 the attaché has been dealing with more working parties and she compares how it is in both “the COLAC working party [Working Party on Latin America and the Caribbean] meets at least twice a week so the presidency is really very present and guiding everything. But here in GAG [Working Party on General Affairs] we are meeting twice a month, so there is a big hole where nothing is happening. It is more that the Council Secretariat maintains this continuity and I have the impression that they are using the situation. They

are almost imposing something on the member states and the presidency” (Interview 12). Thus the frequency of meetings is also a factor, and according to the attaché it gives the Council Secretariat the opportunity to influence the decision-making if there are fewer meetings.

Regarding the nature of the issue under discussion interviewees 1, 3, 5 and 11 argue that the role of the Council Secretariat changes according to whether the issue at hand is more technical than political sensitive “it also depends on the topics. If you look at how my prime minister and my minister will be treated by the Council Secretariat, that is a different system than what I get for example” (Interview 3). Hence, interviewee 3 states that the role of the Council Secretariat changes according to topic and level in the Council hierarchy. Interviewees 2, 6 and 10 argue, on the other hand, that the role does not change “I think they play a role in both. If it is technical, it is much more scope for manoeuvre” (Interview 10). This is supported by the political administrator who states that “the overall role does not change, but the importance of tasks goes up and down depending on the presidency you have in front of you” (Interview 6). According to them, the role does not change, but the Council Secretariat has more room for manoeuvre in technical issues. The head of unit of the Council Secretariat also argues that the role does not change, but “when it really comes to big conflicts and political questions then it is clear that delegations have to express their views. We do not count as somebody having an opinion. But then you can implicitly and indirectly with all your talks to the presidency, I am sure you can have an influence” (Interview 2). They acknowledge that there is a difference between the issues, but that the role of the Council Secretariat stays the same.

Regarding Council conclusions, a technical attaché claims that “they [Council Secretariat] have more experience when it comes to Council conclusions and maybe also because legally it does not have the same weight”. This person thus implies that the Council Secretariat should have more knowledge when assisting the presidency in producing Council conclusions than when assisting in negotiations on regulations and directives. Even though legislation is complex and can be difficult for the member states to reach agreement on, a presidency might not want the Council Legal Service to intervene during meetings as a legal advisor states “it might also be for you as presidency that on certain matters you do not want the Council Legal Service to intervene because it might complicate things for you if the Council Legal Service says “please be aware that this might be institutional challenged before the Court of Justice” that is

something that you do not want to hear” (Interview 7). Here it is interesting to note that the presidency always bears the political responsibility and therefore may act in such a way in order to promote certain interests. This would also leave the Council Secretariat out in cold.

The level of complexity in EU decision-making is high. The Council Legal Service guides the member states and the Council on legal issues that are often very complex. Obviously, some issues are both very technical and political sensitive, e.g. enhanced cooperation within the framework of the treaty, which is also a new area of influence for the Council Secretariat along with more recent cases of Brexit and the gas pipeline, Nord Stream II. The nature of issue and level of complexity is intertwined and therefore difficult to separate from each other. Regarding the complexity of decision-making a second secretary argues “they [Council Legal Service] define the legal basis and one of the most frequent questions in working groups especially in justice and home affairs is where we have different levels of integration in the EU system” (Interview 10) and it is further argued that “the Council Legal Service plays a particularly important role when disputing exclusive or concurrent competence and that has a major impact” (Interview 10). In these very technical questions, the Council Legal Service can issue a legal opinion either orally during the meeting or a written statement, which then becomes the legal opinion of the Council. The European Commission, the European Parliament and the Council all have legal services and a legal advisor dealing with inter-institutional issues and Brexit states that “it ends often in a discussion between experts” (Interview 3) because there are different views on competences. The European Commission can argue that a competences is exclusive, whereas the Council Legal Services might argue that the competence is shared which has an major impact on the procedure and the member states’ influence.

The Council Legal Service issues most statements during meetings “it is only on specific issues or where it gets more complicated that they provide a legal opinion” (Interview 2). Moreover, a technical attaché argues that the “Council Legal Service is there to clarify things for you, to give you options and legal options” (Interview 5). When the Council Legal Service issues a legal opinion, it can change the decision-making and thus give them a political influence. In the words of s senior diplomat “the CLS can close debates” (Interview 13) thus their opinions have political implications. The Council Secretariat and Council Legal Service have had much influence in the drafting of the guidelines to member states’ position on Brexit. Furthermore, since

it is the first time article 50 (TEU) has been triggered by a member state, the “Council Legal Service has been very important in the first stages of Brexit” (Interview 13) because they had to analyse the process of withdrawal from the European Union and provide the Council with legal opinions.

Interviewee 1 points to the fact that “if you have a purely political debate, there you do not need the Council Legal Service” (Interview 1), which means that there is a difference between the Council Secretariat and Council Legal Service with which they can assist the member states. As mentioned above, the Council Legal Service can provide legal options during the decision-making and at the same time close debates if they dismiss arguments about competences. This is clearly seen regarding the political sensitive issue with the gas pipeline Nord Stream II, which is to start in Russia and run to Germany through the Baltic Sea. In its proposal for a Council decision authorising the opening of the negotiations with Russia the European Commission proposed that the Commission should negotiate on behalf of the European Union vis-à-vis Russia based on article 218(3) TFEU. However, in its legal assessment, the Council Legal Service argues that this is not an exclusive competence, but a shared competence, which means that the Council Legal Service does not accept the legal arguments presented by the European Commission (Council of the European Union, 2017e). This is an example of the political influence the Council Legal Service has since it can create a situation where the legal basis of a proposal, according to them, is not sound.

The last category is the open category in which two people agree on the help that the Council Secretariat provides within the negotiation context. Interviewee 12 argues that whatever the issue, the Council Secretariat needs to know what is going on because “there is always an aspect which needs to be worked on by them” (Interview 12). This is supported by interviewee 14 which argues that “some think that the Council Secretariat is a competitor, but it is more an extension of the national team” (Interview 14). Thus, the presidencies should see the Council Secretariat as help during negotiations and act according to the logic of appropriateness.

In display 4.2 on the next page it is possible to find the quotes from the interviewees in the categories according to the coding process.

Negotiation context	NC	<ul style="list-style-type: none"> • “In trilogues the Commission plays a strong role, know the file best because they have proposed it and normally have a dozen of people working on it” (Interview 2). • “A vague text is a political choice due to political issues and different legal systems” (Interview 11).
	NC-INS	<ul style="list-style-type: none"> • “A developing role for the GSC according to the size of the member state, but my personal view also according to the length of the membership and the number of previous presidencies held” (Interview 1). • “Most working groups work in a consensus way” (Interview 3). • “My experience was that if the presidency is too ambitious, it somehow annoys the GSC” (Interview 4). • “The GSC can definitely advice because they are in trilogues constantly and they know the files from beforehand” (Interview 10). • “The relationship with the presidency can depend on whether the person in the presidency is weak or strong” (Interview 13).
	NC-NAT	<ul style="list-style-type: none"> • “If you have on the agenda some kind of policy relating to energy, home affairs or finances, there it is the presidency and member states who are really doing it. But then there are some inter-institutional issues where the member states have little knowledge about the functioning of the EU institutions” (Interview 1). • “I would not say that it changes. Of course there are different people acting at the different levels” (Interview 2). • “When it is political and sensitive, the more restricted a meeting is the better” (Interview 5). • “The overall role does not change, but the importance of tasks goes up and down depending on the presidency you have in front of you” (Interview 6). • “If it is a technical issue it should not be dealt with by Coreper. Coreper would be more a political issue or if there is a complex split on a technical issue (Interview 6). • “The higher level in the Council, the more political it gets also regarding the CLS” (Interview 9). • “If it is technical, it is much more scope for manoeuvre. The CLS has the expertise behind them to be quite strong about their opinion or have a good argument or reasoning” (Interview 10).
	NC-COM	<ul style="list-style-type: none"> • “In case you have a complicated legal text which should address very technical issues you will need the CLS in order to work out legal text which is compatible with provisions and primary law” (Interview 1). • “Most of the expertise is given orally. It is only on specific issues or where it gets more complicated that they provide a legal opinion” (Interview 2). • “The Commission can give an opinion and the CLS as well. It ends often in a discussion between experts” (Interview 3). • “The CLS is there to clarify things for you, to give you options and legal options” (Interview 5). • “Working parties really focus on the content and technical aspects. Coreper has a different role and there the role of the CLS changes because they are part of a more political body” (Interview 7). • “In one of my working groups we do a lot internationally [...] so that is where the CLS plays a particularly important role when disputing exclusive or concurrent competence and that has a major impact” (Interview 10). • “The CLS can close debates” (Interview 13)
	NC-DIV	<ul style="list-style-type: none"> • “Dependency starts very much if you do not have a lot of capacity in a country to do certain things which are actually meant to be done by the presidency” (Interview 3). • “They [GSC] need to know what is going on. There is always an aspect which needs to be worked on by them” (Interview 12). • “Some think that the GSC is a competitor but it is more an extension of the national team” (Interview 14).

Display 4.2. Negotiation Context

4.4. Analysis of Leadership Strategies

Before analysing the agenda setting and leadership brokerage, the overall leadership strategies, coded LS in the data material, demonstrate the activities of the Council Secretariat when entering the phase of finding a solution. Interviewee 6 states that “we are there to find compromise between the 28 member states” (Interview 6), however, according to a legal advisor “they [Council Secretariat] have their own agenda, but that is inside the Council” (Interview 7). A third secretary has experienced that the Council Secretariat “pushed the interests of some member states, so they were not neutral” (Interview 4). Two persons from the Council Secretariat disagree on the degree of influence. On the one hand, the senior diplomat argues that “in some working groups during some presidencies, the presidency relied 100% on the Council Secretariat and the Council Secretariat almost took over” (Interview 13) and, on the other hand, a political administrator states that the “Council Secretariat can influence the decision-making, but it is not political influence” (Interview 14). When the Council Secretariat assists the member states in reaching a solution, they can try to push forward their solution, thus behaving rationally in the sense that they want to push their own agenda. Moreover, if the chair in a working party allows the Council Secretariat to take over, then it can be due to less skills and resources and then the presidency needs the skills of the Council Secretariat. In that sense, a member state can act rationally by allowing the Council Secretariat to intervene because they need their expertise. However, when the Council Secretariat tries to impose something on the member states, then they are not neutral. It could be that the Council Secretariat does not behave according to the norm of impartiality.

The European Parliament is co-legislator which means that the Council Secretariat, according to a technical attaché (Interview 5), talks with the European Parliament in order to know what is happening with legislative files and the European Parliament’s position. In addition, the Council Secretariat can also represent the Council before the European Parliament through the Secretary-General or senior officials of the Council Secretariat. The presidency will instruct the Council Secretariat, however, “the instructions do not need to be formal; a clear and precise statement of the presidency’s intention is sufficient” (Council of the European Union, 2016e: 72). A legal advisor argues that “it is also the role of the Council Secretariat to help develop a position which might not aggravate the European Parliament too much” (Interview 1). Here, it is interesting to note that the Council Secretariat should help to develop a po-

sition which means that they use their knowledge of trilogues negotiations when assisting the presidency. Thus, sometimes the Council Secretariat acts as the agent of the presidency.

The role of the Council Secretariat “depends on the role, expertise and knowledge of the presidencies and the member states. [...] but how much influence they have with regards to agenda-setting has mainly to do with the knowledge and expertise within the member states itself” (Interview 3). The agenda is formally set by the presidency, however, this is a joint undertaking in which the Council Secretariat has much influence, as explained by interviewee 2 “it is up to us here [Council Secretariat] to know what should be on the agenda and also remind the presidency that this should not. I think it is very much our work and it is formally approved by the Presidency” (Interview 2).

Regarding the agenda setting in the Council, there is overall agreement that the Council Secretariat “assists with setting the agenda in the day-to-day work” (Interview 8). However, sometimes the presidency sets the agenda if they want a specific topic to be discussed. Interviewee 12 argues that in the working party she was chairing “they [Council Secretariat] did the very basics of the preparation of the agenda, they prepare the first draft based on the discussion, they send it to you as a chair and you tell them what you want to delete or change” (Interview 12). The technical attaché from a small member state explains a recent situation where they had a legislative file that involved a number of ministries in every member state, including the Ministry of Transport and Ministry of Finance, “if the attachés need to consult more than one ministry [...] In such instances they [Council Secretariat] might tell you that “if you have a working party next week, member states would not have done a proper consultation”. So you go to the working party and the delegations say “we are still contacting the capital” and then you do not achieve anything concrete. In such instances, they might tell you to delay it so member states have time for proper consultation and it is even better sometimes” (Interview 5). The control of the calendar is really important in decision-making and, moreover, decisions that involve a number of cross cutting issues also complicate the process, including when to discuss what and at which meetings. I argue that there is a norm between the presidency and Council Secretariat in that the Council Secretariat helps with the agenda as well as proposes which days to hold a meeting. Furthermore, interviewee 10 supports interviewee 5 in that the Council Secretariat can use their leadership resources and turn them into a

leadership strategy “so they will be able to advise the next available Coreper is this one and before this date that would not be possible. If you bring it to the Council within your presidency, this is your time frame and the time frame is essential in Council decision-making” (Interview 10). Furthermore, since the Council Secretariat has the knowledge of the administration processes, they can use this to advise the presidency with controlling the agenda. The principals (member states) have delegated tasks to the agent (Council Secretariat) in order to control the procedure. Hence, the Council Secretariat can exploit this room for manoeuvre. However, there are also cases where the principal (presidency) controls the agent (Council Secretariat) and does what it finds the best. Interviewee 4, which knew that the Council Secretariat leaked information to the other member states, tells that the presidency wanted to have “an extraordinary Council meeting” (Interview 4), which the Council Secretariat did not want. Rational choice institutionalists can argue here that the principal does what it wants to do and take the control of the decision-making process.

A legal advisor explains that the presidency in some cases helps the Council Secretariat with agenda setting. In this case, the legal advisor argues that “I had another working party which I was chairing with my colleagues from the Council Legal Service and he had sometimes problems with his hierarchy. He would say “can you please put this on the agenda” so I was also helping them [...] It can be a two way treat. It is not only that they help us, but we can also help them in their program to put something on the agenda or to help in guidance” (Interview 7). This exemplifies the sociological approach in which the presidency and Council Secretariat are socialized and engage in a cultural environment where they want to help each other. If a presidency would be strict and act 100% rationally, they would maybe not do something only to help the Council Secretariat. Thus, it seems to be the case that the Council Secretariat handles much of the day-to-day agenda setting in the Council. Furthermore, by having the knowledge on administrative procedures they can delay or accelerate some issues. However, when the presidency wants to discuss a certain issue, they bring it forward.

Regarding the leadership strategy brokerage it is interesting to note that the presidency and member states acting as the principal can limit the role of the agent (Council Secretariat) if they act rationally. A legal advisor (interview 1) and a third secretary (interview 4) from the same member state agree that “they might advise to us that maybe this is not the best idea, maybe you should do something differently,

but at the end of the day, it is always the presidency who decides” (Interview 1) and “it is your presidency and it is your tactics and if you diverge from their advice, you are free to do it. That is my experience and know-how” (Interview 4). There are thus some instances where the presidency can limit the influence of the Council Secretariat. The head of unit agrees with this stating that “if they [presidency] have their own views and ideas, they do not even want our advice” (Interview 2). However, even though the presidency can follow their own pieces of advice, the Council Secretariat will still be an important player because they have followed the whole process. Interviewee 3 argues that “in many cases they can either give advice or prepare the ground for you because they have their own networks of course” (Interview 3), which is supported by interviewee 2 “de facto we also decide many things because we prepare them for the presidency and advise them” (Interview 2). The statement “prepare the ground” is interesting because it implies that much has been prepared by the Council Secretariat in order to help the presidency, thereby the Council Secretariat influences the process. The Council Secretariat makes briefing material for the ambassador in Coreper and the political administrator in the Council Secretariat tells that in “those briefs we tend to have the background of the file, speaking points and then alternatives for different issues for the negotiation to proceed” (Interview 6). When a legislative item comes to Coreper, it has been discussed at various working party meetings where the ambassador has not been present. Then the ambassador’s own attaché can advise him/her and the Council Secretariat. The ambassador can then rely 100% on the background material which the Council Secretariat makes. Furthermore, when the Council Secretariat includes a section on how to proceed with the negotiations, they have the “power of the pen” and can push the ambassador into different situations. An attaché argues that “they always push you into a situation that is quite standard, but you can have exceptions” (Interview 12) which means that the Council Secretariat tries to stick to what it knows best. Furthermore, the attaché uses the word push. If the Council Secretariat literally pushes the presidency, then they influence the decision-making process by influencing the presidency itself.

An interviewee remembers a very recent case under the Maltese presidency where there was a split within the Council in which “they asked five member states; two were very much in favour and three very much against things, to get in the presidency rooms with the Council Secretariat to discuss and negotiate” (Interview 3). Here, the Council Secretariat takes a central role in reaching an agreement. Further-

more, it might clash with the norm of impartiality if they are to take a position in order to reach an agreement. On the other hand, there are also elements that seem to fit with sociological institutionalism since decision-making is a long process in which the actors are socialised and gain mutual trust.

The Council Secretariat has a more political role than that of the Council Legal Service. However, the legal opinions and advice which the Council Legal Service provides to the Council can change things. Thus, the Council Legal Service can change things, as argued above regarding the Nord Stream II gas pipeline. However, the Council Legal Service does also behave politically according to a second secretary “I would say that the Commission has a trend to try to require some competences that are linked to an exclusive one [competence] and claim that they are exclusive and that is not necessarily the view of the member states all time. And in that sense the role of the Council Legal Service is to strike that balance from a Council perspective [...] but sometimes obviously they have the perspective of furthering Council work in terms of their dynamics with the other institutions in town which is a different dynamic because all the three institutions are protective of their own role” (Interview 10). The second secretary discusses the dynamics between the institutions and it is argued that the Commission sometimes try to gain more competences. But what is more interesting is that according to the second secretary the role of the Council Legal Service is to strike a balance from a Council perspective. If the Council Legal Service has to have the positions of the member states in mind when issuing a legal opinion, then they act politically. Furthermore, if they at the same time try to further the work of the Council, then they also act politically. There can be rational reasons for the member states to try to convince the Council Legal Service to issue a legal opinion that takes their considerations into account, e.g. if a number of member states are in minority in the Council.

During the last phase of decision-making, when it is time to reach an agreement, the Council Secretariat also helps the presidency with the drafting of compromise proposals. A political administrator in the Council Secretariat (interview 6) explains that they draft based on three different styles. The first one is what the Council Secretariat hears in the working parties. Then they know which member states opposes or which that can accept. Second, the Council Secretariat will get written comments from the member states and the third style is based on inputs from the presidency about the direction which the presidency wants to go. According to the member

states, drafting is based on a mandate from the presidency, however, there is room for manoeuvre for the Council Secretariat to find compromise. Interviewee 4 argues “I was about to draft it myself, but then she [policy officer] prepared it for me. Then I made some changes, but the Council Secretariat made the draft” (Interview 4) and interviewee 5 “in some cases, the Council Secretariat entirely redrafted it for us. In other cases, you might have a joined exercise. You might also have the Commission helping you out” (Interview 5). A technical attaché from a small member state claims “the presidency always gave the green light, but Council Secretariat drafted maybe 8,5/10” (Interview 9). Thus, if the Council Secretariat drafted 85% of the texts during their presidency within a certain policy area, then it held the power of the pen in a lot of instances.

Interviewee 3 and 7 are from a member state which has held the presidency many times and both claim that “we would not say to the Council Secretariat to just write a text which is a compromise between all the positions we have been hearing” (Interview 3) and that the Council Secretariat gets a mandate from the presidency “the mandate is the most important thing because if you do not have a mandate the member states lose trust in you. So the Council Secretariat knows their mandate and it us as a presidency to develop a mandate but also to work together with the Council Secretariat but also that they keep us in line so we do not overstep” (Interview 7). There are thus more layers to it than just the mandate. If the presidency wants to go in a certain direction, then they dictate that to the Council Secretariat. However, the consequence is that the presidency is not acting according to the norm of being neutral. All texts that go out of the Council have to have the green light of the presidency. There is thus a control system built into the system. However, if the Council Secretariat has drafted much of the text and the presidency agrees to it, then the Council Secretariat has been the actual author of the document. On the other hand, the Council Secretariat might do not agree what they have written because it is based on the mandate and then they do not have any influence.

The political administrator has several important inputs regarding the relationship between the presidency and the Council Secretariat in this phase of decision-making. He argues that “it is also our role to provoke that the presidency gives us that input [information]” (Interview 6) and, furthermore, “they [member states] do not care whether it is the presidency that is drafting or the Council Secretariat [...] for example, in Malta during a trip with the Spanish they tell you “this is important you

should delete this” and you talk with the presidency saying that the Spanish are trying to get a blocking minority maybe you should talk to them. That is kind of a game that is happening” (Interview 6).

Regarding trilogue negotiations, a second secretary argues “there is a download to the working groups on how the trilogues are going. And obviously the Council Secretariat helps the presidency in the drafting of reports from that. They can definitely advise because they are in trilogues constantly and they know the files from beforehand so when a presidency takes over you have a handover with the previous presidency” (Interview 10). The head of unit in the Council Secretariat claims that the Council Secretariat has an important role in trilogues and can help with reaching an agreement “I always tell my people: you should be at the heart of the process, and you should be the one that coordinates everything and also provide ideas for compromises [...] I always push my people to play a role in this compromise seeking. How it plays out depends on the person acting. Formally we have all the freedom to do it. I could ask 10 people to think about compromises, I do not have the resources, but formally I could it” (Interview 2). Here, it also becomes evident that the limited resources of the Council Secretariat have an impact on their level of influence.

The last open category demonstrates that the more resources a presidency has the higher the risk for the Council Secretariat to be side lined (Interview 2) and when the Council Secretariat tries to influence too much in the decision-making the presidency can choose to cut them from the decision-making (Interview 4). Furthermore, interviewee 10 argues that the Council Secretariat “sometimes encourage member states to see the wider picture if there is a way of reaching agreement” (Interview 10). If this is true, it fits with the idea of endogenous preferences according to sociological institutionalism in the sense that the Council Secretariat influences the preferences of the member states.

In display 4.3 on the next page it is possible to find the quotes from the interviewees in the categories according to the coding process.

Leadership strategies	LS	<ul style="list-style-type: none"> • “Their involvement is a must when you draw up a trio programme and they are actually your advisor vis-à-vis the Commission” (Interview 3). • “They pushed interests of some member states so they were not neutral” (Interview 4). • ”Behind the scenes it is maybe talking with the EP to know what is happening in the EP with dossiers” (Interview 5). • “We are there to find compromise between the 28 member states” (Interview 6). • “Sometimes they have their own agenda but that is inside the Council” (Interview 7). • “In some working groups during some presidencies, the presidency relied 100% on the GSC and the GSC almost took over” (Interview 13). • “GSC can influence, but not political influence” (Interview 14).
	LS-AGS	<ul style="list-style-type: none"> • “It is up to us here to know what should be on the agenda and also remind the presidency that this should not” (Interview 2). • “They can help you out with timings of working parties. Calendar is very important” (Interview 5). • “GSC assists with setting the agenda in day-to-day work” (Interview 8). • “Related to my working party they did the very basics of the preparation of the agenda, they prepare the first draft based on the discussion, they send it to you as a chair and you tell them what you want to delete or change” (Interview 12).
	LS-BRO	<ul style="list-style-type: none"> • “They might advise to us that maybe this is not the best idea, maybe you should do something differently, but at the end of the day, it is always the presidency who decides” (Interview 1). • “They can anticipate future reaction of the member states” (Interview 1). • “De facto we also decide many things because we prepare them for the presidency and advise them” (Interview 2). • “If they have their own views and ideas, they do not even want our advice” (Interview 2). • “We would not say to the GSC to just write a text which is a compromise between all the positions we have been hearing” (Interview 3). • “Under the Maltese presidency they asked five member states; two were very much in favour and three very much against things, to get in the presidency rooms with the GSC to discuss and negotiate” (Interview 3). • “I was about to draft it myself, but then she prepared it for me. Then I made some changes, but the GSC made the draft” (Interview 4). • “In some cases, the GSC entirely redrafted it for us. In other cases, you might have a joined exercise. You might also have the Commission helping you out” (Interview 5). • “Those briefs we tend to have the background of the file, speaking points and then alternatives for different issues for the negotiation to proceed” (Interview 6). • “I can draft alone or we can sit in a room together” (Interview 6). • “Sometimes in the context it can very important legal advice, their legal advice can change things” (Interview 7). • “The presidency always gave the green light, but GSC drafted maybe 8,5/10” (Interview 9). • “They always push you into a situation that is quite standard, but you can have exceptions” (Interview 12). • “Presidency calls the GSC to prepare trilogues and informal meetings where the CLS can play a big role” (Interview 13).
	LS-DIV	<ul style="list-style-type: none"> • “The more people they have, the bigger the risk they will side line us” (Interview 2). • “The moment they step over their mandate and they actually start to play the game of the member states then it starts to be tricky” (Interview 3). • “There were these leaks. That is why we had to cut the GSC from every decision-making” (Interview 4). • “Sometimes they do encourage member states to see the wider picture if there is a way of reaching agreement” (Interview 10).

Display 4.3. Leadership Strategies

4.5. Summary

What is evident from the first part of the analysis is that the Council Secretariat is acknowledged for their institutional memory and their knowledge on rules within the Council. If the member states act rationally, it happens that they exclude the Council Secretariat from meetings which leads to a lack of information. This can happen, first, if the presidency has bilateral meetings with another delegation in order to seek ways forward and to know their red lines and, second, if the reputation of the Council Secretariat is bad, e.g. when they leaked information to the other delegations or if the ambassador for some reason excludes them from meetings. The level of available information thus has an impact under which conditions they influence the decision-making because they are, on the one hand, sometimes excluded from meetings and they have, on the other hand, sometimes more information due to their institutional memory.

The relationship between the leadership resources and strategies is intertwined and in the words of a head of unit in the Council Secretariat there is not doubt that they have an influence because “we have the experience and institutional memory, and also the knowledge about all the Rules of Procedure. And that puts you actually in a quite strong position. So that is why I would say often de facto; we also decide many things because we prepare them for the presidency and advise them. They formally take the responsibility because they are politically responsible. That does not mean that we without influence and power” (Interview 2). Hence, the institutional memory and knowledge on the rules of procedure can influence the decision-making.

Furthermore, the Council Secretariat is aware of the positions of the member states, knows where the voting lines are as well as provides the presidency with choices to choose between proposals. The Council Secretariat also takes an active part regarding agenda setting and management of the calendar. In some circumstances the Council Secretariat is excluded from the decision-making process due to the negotiation context. If a presidency has many resources, they are in a position where they do not need the Council Secretariat as much as small member states. The size of the presidency and the people who chair the meetings have an impact on the strategies available for the Council Secretariat. Furthermore, the issue under discussion is also relevant because if it is very political sensitive then normally the member states control the decision-making.

Chapter V – Conclusions

5.1. Introduction

This final chapter will provide an answer to the research question: under which conditions does the Council Secretariat influence the decision-making in the Council? This research question is based on the fact that it is the way in which the member states negotiate in the Council, either according to rational choice institutionalism and/or sociological institutionalism, which provides the room for manoeuvre for the Council Secretariat. The analysis was based on the leadership model as well as the theoretical framework of rational choice institutionalism and sociological institutionalism. The data material consisted of 14 interviews with people close to negotiations in the Council and participant observation of the Council Secretariat during meetings. These observations are of course single observations at a certain point in time and, moreover, interviews have not been carried out with all state representatives from all member states, not with all levels in the Council and not all policy areas are represented. With these reservations I draw the following conclusions.

5.2. Conclusions and New Insights

The Council Secretariat is a supranational body within an intergovernmental arena in which the member states negotiate. It is confirmed in this thesis that the member states want the help of a supranational actor in the day-to-day negotiations. In fact, the presidencies appreciate the help of the Council Secretariat even though some argue that they influence the decision-making and have its own agenda. This thesis has not dealt with the impact it has on the democratic legitimacy, but in general it can be argued that, on the one hand, the influence of the Council Secretariat can make decision-making smoother and result in better legislation and, on the other hand, it might be seen as undemocratic if the member states are not always in the driving seat.

As was written in chapter II, one has to make the distinction between, on the one hand, that the Council Secretariat can influence the decision-making process and, on the other hand, when they influence the decision-making process. In other words, is the Council Secretariat a hidden hand or oiling the wheels in the decision-making. First, sometimes the various member states contact the Council Secretariat during the last phase of decision-making when they draft compromise proposals. Second, there is no doubt that the member states and the presidency are politically responsible for the

decisions that are agreed. Based on their vast experience, the Council Secretariat proposes and helps them move forward in the decision-making, e.g. by arguing that it is time to go to Coreper with a file. This is in line with the mission statement of the Council Secretariat which states “in our work, we demonstrate integrity, professional competence, efficiency and commitment. We are active and open-minded in seeking solutions. We are responsible and accountable for our work” (Council of the European Union, 2016c). This is interesting in the sense that the Council Secretariat is active and open-minded in seeking solutions, while at the same time is impartial. As has been argued through examples, the Council Secretariat is not always neutral and an honest broker because they are aware of member states’ preferences or that the personality and attachment to a member states play a role. Third, during trilogue negotiations it seems that the Council Secretariat plays an important role and seeks to promote the interests of the Council. Trilogue negotiations, however, are different than negotiations in the Council because there are three institutions present. The Council Secretariat supports the presidency with its extensive knowledge on the procedures as well as plays an active role in proposing compromises.

According to rational choice institutionalism actors’ behaviour is driven by a strategic calculus with a fixed set of preferences and institutions are formed as a result of rational agents that have created institutions to lower transaction costs and to enhance the credibility of commitments (Hall and Taylor, 1996). It is concluded that when the member states and presidencies do not want the Council Secretariat to intervene, they are able to control the decision-making process. Furthermore, the fact that a Council Secretariat has been created fits well with rational choice institutionalism because the member states have delegated authority to the Council Secretariat in order to lower transaction costs so all the member states, for example, do not have to provide a legal opinion, thus ending with 28 different legal opinions. The member states often need the guidance of the Council Legal Service in the decision-making. When the Council Legal Service has been asked to provide a legal opinion, they have a lot of power because they can change the legal basis of a proposal and sometimes the Council Legal Service has its own agenda as well as listens to some member states. In some circumstances the presidency might not want the Council Legal Service not to intervene because it complicates decision-making. Thus the presidency can also act rationally in the sense that they somehow try to exclude what they do not want to hear. It is evident that the member states can limit the role of the Council Secretariat.

However, even though the Council Secretariat is excluded from some parts of decision-making, they still attend every meeting and provide background papers and speaking points to the presidency and prepare the ground for decision-making.

Sociological institutionalism claims that actors are guided by collective understandings of socially accepted behaviour and arguments can change negotiations (Börzel and Risse, 2003; Risse and Kleine, 2010). The idea of sociological institutionalism is that actors who are exposed to each other during a long period of time find common understanding. In working parties and Coreper the state representatives meet more or less once a week. The presidency and Council Secretariat becomes socialised and sometimes act according to logic of appropriateness when the presidency puts an item on the agenda which the Council Secretariat has proposed. The member state representatives negotiate in a supranational environment in which the policy officers work. Furthermore, the preparation of a presidency and the trio-presidency starts years before it actually takes place. This process is monitored by the Council Secretariat which assists the member states. Therefore, it is also possible to talk about a socialisation process of the trio-presidencies. Moreover, since the average decision-making process is longer than a presidency, the Council Secretariat provides the member states with the continuity of things and knowledge sharing from previous presidencies. When the Council Secretariat drafts compromises to proposals, these are based on an informal mandate given by the presidency which strengthens the idea of there being room for manoeuvre by the Council Secretariat. In conclusion, the two theoretical approaches complement each other and should not be seen as competing approaches. Where rational choice institutionalism lacks explanatory power, sociological institutionalism provides with theoretical arguments and the other way around.

The role of Council Secretariat is the same across policy areas. However, how the Council Secretariat behaves across policy areas changes. It is also concluded that if it is a very politically sensitive area, then the member states are in control. This can, however, be disputed by the fact that the Council Secretariat and the Council Legal Service have a substantial role in the Brexit negotiations. Brexit is both a politically sensitive policy area and a very technical one. The Council Secretariat chairs the working party on Article 50 as well as drafting the guidelines which the Heads of State or Government adopt. I argue that more research is needed within three areas. First, there is a need for more research on how the Council Secretariat acts when the member states decide to integrate more within new policy areas. In other words, how

does the Council Secretariat act within new areas of influence, e.g. enhanced cooperation. Second, it would be interesting to analyse from where the Council Secretariat's preferences stem. Third, more academic research is needed in order to better understand how the civil servants and lawyers act behind the scenes in the Council. It would be very interesting to make an analysis of a proposal in various policy areas using process tracing to analyse which causal mechanisms and actors that drive the decision-making forward in the Council from the proposal is received by the Council until when it is reached agreement in the Council. The presidencies have different preferences and objectives of their presidencies and since it has been concluded that the Council Secretariat behaves differently according to the size of the member state holding the presidency and the fact that some presidencies lack organisational skills or policy-making skills then it would be very interesting to analyse which actors drive decision-making.

I end this thesis with the following quote by interviewee 5 “the Council Secretariat really helps you to walk” because it implies what the Council Secretariat is and what it does. The Council Secretariat helps the member states with all aspects of decision-making.

Chapter VI – References

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