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**The EU Conciliation Committee: the role of administrative
players in political decision-making**

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Introduction

The Treaty of Lisbon signifies a peak of evolving history of codecision procedure in adoption of the European Union legislation. Indeed, it becomes a standard practice of passing legislation at the supranational level with official title of ‘ordinary legislative procedure’. Particularly important is the last stage of codecision procedure – the negotiations in the Conciliation Committee (CC). This committee is convened in order to resolve legislative disputes between the European Parliament (EP) and the Council of Ministers (Council) and can exert significant influence over legislative bodies by suggesting compromise text which the EP and the Council cannot amend but have to accept as a whole, unless they do not want new legislation to be adopted. Significance of the results of the Committee meetings for millions of EU citizens and tight time limits within which the agreement has to be reached make the officials, responsible for serving and overall facilitation of the process, important players in this arena. It must be noted that the Parliament and the Council delegations to the CC and also the negotiating team of the Commission are always accompanied by a number of administrators from the Secretariat of each institution. The question, hence, is whether the conciliation civil servants which participate in all the formations of the Conciliation Committee meetings and follow the political debates are in a position to exercise influence over the outcomes of the conciliation negotiations.

Whether they succeed in doing so, however, has not been investigated in the academic literature on the EU Conciliation Committee. Moreover, it is argued that the CC has not attracted yet great attention of the EU integration scholars. Rasmussen (2005b) truly underlines that researchers tend to examine entire codecision procedure not specifically addressing its final phase. As Jørgensen, Pollack, and Rosamond (2007) admit, “the institution of the conciliation committee remains largely unstudied, no doubt in large part due to its comparative youth, but it offers fruitful avenue for further analysis in the future [...]” (p. 187). The existing literature on the Conciliation Committee can be divided into a part which scrutinizes the institutional bargaining and the distribution of power between institutions relying upon formal methods of analysis (Crombez, 1997; Kasack, 2004; König et al., 2007; Kreppel, 2002; Tsebelis et al., 2001), another part that studies the development of the procedure emphasizing its formal and informal aspects (Farrel & Héritier, 2003; Garman & Hilditch, 1998; Rasmussen & Shackleton, 2005; Shackleton, 2000; Williamson, 2006), and a third part which investigates the issues of delegation

in the CC (Rasmussen, 2005a; 2005b; 2008). None of them, however, focuses on the role of the administrative players in the conciliation negotiations.

Thus, this study conducts the first research of such kind. The overall aim of the paper is to uncover the 'black box' of administrative involvement in the Conciliation Committee and to shed a light on its formal and informal aspects. For this purpose conciliation services of the Parliament, the Council, and the Commission were selected as primary units of analysis and the places of generating the interview data. These services are composed with small teams of administrators and their secretaries which form separate units in the structure of each institution's Secretariat¹. With an exception of the Commission codecision unit, conciliation services were created after the introduction of the codecision procedure by the Maastricht Treaty and were called to deal with the legislative files only during this last stage of the legislative process.

The key question that will be answered here is whether the conciliation administrators exert influence over the legislative outcomes in accordance with the common predictions of the principal-agent theory. Based on the assumptions of information asymmetry and the goal conflict between the politicians and civil servants the theory predicts that the agents tend to drift from the preferences of their masters which in practice implies the impact on the policy-making processes. These suppositions will be applied to the relations between the members of the Parliament and the Council delegations, Commission negotiators on the one hand, and the conciliation officials from the respective institutions on the other hand. Aggregated analysis of the resources of administrators and the environment of the conciliation negotiations is offered in order to examine the research question of the paper. In addition, it will be complemented by the case studies of specific legislative dossiers that went to conciliation during the last three parliamentary terms. The paper utilizes the empirical evidence collected from the interview data, official documentation and secondary literature.

The study shows that in spite of high level of resources and partially favourable environment of the negotiations, conciliation civil servants are not in the authoritative position to influence the results of the Conciliation Committee meetings. Even though it was also found that the administrators frequently shape the individual decisions of the negotiators, the lack of a direct influence over the legislative outcomes implies certain restrictions on the explanatory power of

¹ Due to the reform process of the Commission General Secretariat which takes place at the moment the Codecision unit may be dissolved in the nearest future.

the principal-agent theory. The paper starts with providing brief information about the procedure of conciliation. Then the theoretical background and the analytical framework are set up, followed by the discussion of the research design of the paper. Next two sections propose the empirical analysis of the environment of the conciliation negotiations, resources and influence of the administrators as well as the examination of specific legislative dossiers. Finally, findings and their implications are presented in the conclusive part of the paper.

The EU Conciliation Committee

The ordinary legislative procedure, which recently with the Treaty of Lisbon reached 85 policy areas of the Community, starts with the Commission proposal to the EP and the Council and proceeds further through the first and second reading in both institutions. According to the Article 294 of the Treaty, the Conciliation Committee must be convened if the Council is not in a position to accept all the second reading amendments of the EP (TFEU, 2008). It is composed of the equal number of representatives from the Parliament and the Council (after the last enlargement each delegation consists of 27 members), which are entrusted to reconcile the positions of the two institutions within six-week time limit (with a possible prolongation to eight weeks by joint consent). Whereas the Council delegation is fixed for all the conciliation procedures and includes one representative per member state, the Parliament delegation changes on a case-by-case basis. The Parliament guide to the codecision and conciliation procedure reveals that “the Conference of Presidents determines the political composition of the delegation in line with the relative strength of the political groups” (Parliament, 2009a, p. 17). Based on these quotas the political groups decide whom they will send to the Parliament delegation.

Throughout the conciliation procedure the tripartite meetings, or trialogues, between the Parliament, the Council, and the mediating Commission take place with the aim of “resolving outstanding issues and preparing the ground for an agreement to be reached in the Conciliation Committee” (Parliament, Council, Commission, 2007). These are the secretive meetings with restricted access to only several people, key negotiators, from each institution in order to achieve higher efficiency of the negotiations. While the informal trialogues occur anytime during the procedure depending on the will of the sides, the formal dialogue precedes the Conciliation Committee meeting and takes place at the same day (Corbett et al., 2007). The agreement is deemed to be reached when the compromise gets a support of the qualified majority of the

Council representatives and the absolute majority (i.e. 14 out of 27 possible) of the Parliament delegation (Council, 2003; Parliament, 2009a). Furthermore, the agreement in the form of a joint text proceeds to the third reading (with the same 6+2 weeks time limit) where the the Council with the qualified majority and the plenary of the EP with a simple majority have to confirm the results of the Conciliation Committee. Noteworthy, the co-legislators cannot amend the proposed text but have to accept it as a whole. A failure to reconfirm the conciliation agreement in the third reading or a failure of the Conciliation Committee to find a compromise automatically means an ill success for the legislative act.

Theoretical background and analytical framework

There is no unified theoretical perspective which can generate strict predictions and hypotheses concerning the role of the administrative players in political decision-making. This assumption becomes even more robust when one tries to explain the administrative support during the legislative bargaining. The lack of theoretical explanations may be due to a described state of a poor empirical knowledge of the subject. The logic behind this is simple. Being a simplified model of reality, theory is always based on some prior evidence and preliminary data collection; it cannot be developed and refined without constant dialogue with empirical world (King et. al., 1994; Levy, 2007). While setting aside the ambitious aim of presenting new and ‘proper’ theoretical model, the objective of this section is to collect the divergent pieces of existing theoretical accounts and to integrate them into a single analytical framework which will allow to understand the role and the impact of civil servants in conciliation processes.

The principal-agent theory is relevant whilst looking for answer to research question posted. This choice may be substantiated with several reasons. First, the principal-agent theory increasingly became the basis for the analysis of the relationship between elected officials and bureaucracy (Miller, 2005; Waterman & Meier, 1998). Though the research questions of this study has a slightly different angle, it is believed that P-A model may provide some useful insights about the behaviour of administrative players. Second, the theory was chosen following the advice of King et al. (1994) to select “theories that could be wrong. Indeed, vastly more is learned from the theories that *are* wrong than from theories that are stated so broadly that they could not be wrong even in principle” (p. 19). Even though the principal-agent theory is considered to be parsimonious, e.g. expressing things “as simply as possible, but not simpler”

(Rihoux & Ragin, 2009, p. 10), it will be shown later that it is based on a set of restrictive assumptions which may not be plausible for all instances of empirical phenomena. Third, if we assume that the Conciliation Committee as any other political institution can be analysed from the view point of a structure as well as from a process-oriented angle, the principal-agent theory is the one which provides explanations through the lenses of the former: what are the actors involved, what are their intentions, what are their positions in the hierarchy of power (Bendor et al., 2001).

The principal-agent theory originated from the field of economics as a theory of contracts aiming to account for relations between buyer and seller, insurer and insured (Ross, 1973; Miller, 2005). Principal-agent relationship starts when one actor, a principal, enters in a contractual agreement with the other actor, an agent, by delegating part of its functions and responsibilities which the agent is supposed to fulfil now on the principal's behalf (Kassim & Mennon, 2003). It is assumed that such delegation is functionalist in essence: the cause of the delegation is explained by anticipated benefits (Pollack, 2003). Hence, the actors in this settings are rational utility maximizers and their relationship is guided by the logic of consequences (March & Olsen, 1989). In political settings the delegation of competences usually takes place "in order to reduce transaction costs associated with the adoption and implementation of policies" (Pollack, 2003, p. 6). More specifically, principals empower agents under condition of incomplete information, when agents are in better position to provide and secure expertise in areas of high uncertainty and/or complexity. In addition, the benefits of delegation may include an assurance of credible commitments, when agents are assigned to monitor the compliance of the principal(s), more speedy and efficient decision-making, resolving the problem of 'incomplete contracting', and even shifting responsibility for unpopular decisions (Kassim & Mennon, 2003, p. 123-124).

However, the delegation of powers from a principal to an agent does not only presupposes benefits but creates certain risks. The Principal-agent theory almost by definition assumes the ability of an agent to deviate from the scope of competences that were transferred to them. 'Moral hazard' problem (Pollack, 2003; Miller, 2005) may occur when the agent acts contrary to his principals preferences because 1) he tries to minimise his work efforts and resource exploration (slippage); 2) his beliefs are opposed to principal's preferences (shirking); 3) he pursues the interests of a third party (betrayal). Emphasizing a conflictual relationship

between the principal and the agent is, thus, at the core of the theory. Another typical problem in the interaction between principals and agents is one of a 'hidden information' (Shapiro, 2005, p. 264): because of a lack of information the principal may choose the wrong agent which does not possess necessary skills for performing given tasks and does not share principal's preferences. Moreover, the principal is in a disadvantage position, since he is not aware how the agent performs delegated functions. As Perrow (1986) asserted, "the principal-agent model is [thus] fraught with the problems of cheating, limited information, and bounded rationality in general" (p. 224). Thus, it is widely assumed by the principal-agent scholars that agents have distinct information and expertise advantages over principals in the domains of delegated powers. In order to minimize potential agency problems principals adopt number of *ex ante* administrative procedures and *ex post* oversight mechanisms in order to control their agents (Huber, 2000). However, control mechanisms imply costs too: they may undermine credibility and independence of agents, make their functions rigid and inefficient, and, hence, jeopardize the whole sense of delegation which takes place as a rule in order to decrease transaction costs.

To sum up, the existence of a goal conflict and an information asymmetry between the principal and the agent are at the core of the principal-agent theory. Following the attempt of Waterman and Meier (1998, p. 176-177) we can hypothesize the conditions under which an agent would like to pursue preferences which are in contradiction to the principal's interests:

The probability of an agent to deviate from principle's preferences increases with the information asymmetry and the goal conflict between two parties.

The core assumptions of the principal-agent theory were applied in the literature on administrative governance (Peters, 2009; Ball & Peters, 2005, pp. 209-250; Moe, 1995; LaPalombara, 1967; Davis, 1974; Rourke, 1986). Administrative governance approach² strives to explain "the contribution and impact of *non-elected officials* on the continuous political process of setting explicit goals for society and intervening into it in order to achieve these goals" (Duke & Vanhoonacker, 2006, p. 164). It is centered around the dichotomy between politics and administration. Scholars in this field long before abandoned the Weberian notion about clear

² Although boundaries are very blurred, it should be distinguished from the theories of organization and bureaucratic politics. The latter attribute to "the attempts of individuals, groups, and organizations to achieve their goals within a bureaucratic context. [They refer] to the struggle for influence, for power, and for control within bureaucratic organizations" (Davis, 1974, p. 158).

distinction between the duties of politician and civil servant. The study by LaPalombara (1967) begins with suggestion that “the bureaucracy, particularly, in its upper reaches, will always be deeply involved in the political process” (p. 14). After investigating the role of the bureaucracy in different development countries LaPalombara found that “the rule-making” became inevitable part of their tasks. The same conclusions were reached by Davis (1974), Fesler (1986), Marx (1967). The crucial idea which is shared by these studies is that the administrative activity is the part of a policy-making process. As more recent study by Peters (2009) revealed, “[politicians] may set broad parameters of policy, but this still leaves a very large quantity of details to be filled by administrators” (p. 20).

Moreover, scholars acknowledge that the bureaucracy’s ability to have an impact over policy outcomes depends on a level and quality of the expertise they possess (Mosher, 1974; Davis, 1974). Information and knowledge are, perhaps, the strongest leverage of civil servants vis-à-vis their political masters. In addition to that, the opportunities provided by information asymmetry help bureaucratic agents to pursue their own policy ideas which they assumed to have (Peters, 2009, p. 199). As it is precisely summarized by Moe (1995), “bureaucrats are now political actors in their own right: they have career and institutional interests that may not be entirely congruent with their formal missions, and they have powerful resources – expertise and delegated authority – that might be employed toward these “selfish” ends” (p. 143).

Having discussed the literature on administrative governance, the main hypothesis of the research can be modified in a way which makes it more adjusted to the research problem outlined in introduction:

The probability of a civil servant to influence over policy outcome increases with the level and quality of the expertise on the one hand, and divergent policy preferences on the other.

The principal-agent theory sheds a light on the structure of the institution under research: what are the actors involved, what are their interests, what are their positions in the hierarchy of power. More importantly, it points to the concepts of preference/goal conflict and information asymmetry which are crucial starting point for tracing a degree of bureaucratic influence over legislative outcomes. Yet, in order to pursue this goal the concepts must be integrated into another set of a literature which deals with international negotiations. The choice is based on several arguments. First, negotiation approach contributes to the development of analytical

framework which will allow to test the central hypothesis and to explain the dependent variable. Second, it brings a necessary process-oriented perspective to the Conciliation Committee proceedings by answering the questions how do actors interact with each other over time, how do they translate their resources into influence.

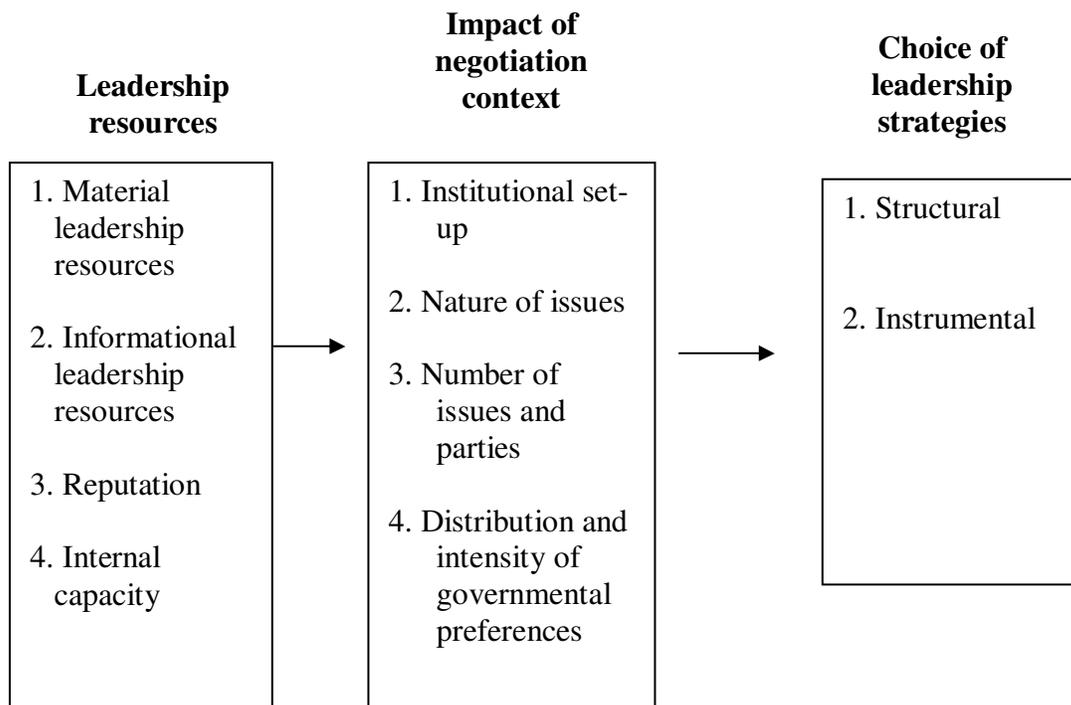
Scholars of negotiation theory adopted a viewpoint on negotiation as one of the limited ways of decision-making. Zartman (1978), for example, perceives negotiation as “a process of two (or more) parties combining their conflicting points of view into a single decision” (p. 70). In other words, it is a joint decision-making process where either side may exercise a veto power. In this process parties communicate with each other, learn from each other, exercise power, make concessions, and build convergent positions. Further, Zartman claims that every negotiation mode must follow the pattern of two stages: formula phase and details phase. If during the first parties are expected to find a common definition of the subject under discussion and identify each others positions, the second one serves for exchange of specific agreements, compromises, and concessions (Zartman & Berman, 1982).

Based on this reasoning, Beach and Mazzucelli (2007) developed a theory of leadership in EU constitutional negotiations which was applied to a number of intergovernmental conferences (IGCs). They claim that negotiations at IGCs “are very complex, unpredictable and messy affairs with high bargaining (transaction) costs. Therefore, leadership is often necessary in order for the parties to find and agree upon a mutually acceptable outcome” (p. 5). The main argument here is that provision of leadership allows one to exercise influence over the outcome of negotiations. It is highly dependent on the capacities of an actor who provides leadership (supply) and negotiation context (demand). Beach and Mazzucelli depict the supply side as resources necessary for providing leadership. They must include material leadership resources (e.g. material wealth), informational resources (both process and content expertise), reputation (“recognition of the utility of actor’s contribution”), internal capacity (the ability to mobilize resources). In order to effectively translate leadership resources into influence, they must be matched with specific negotiation context. The demand side contains such variables as institutional set-up (or structure of negotiations), nature of issues (e.g. the level of technicality), number of issues and parties (e.g. level of complexity), and distribution and intensity of governmental preferences (*Figure 1*). Furthermore, scholars argue that there are two types of leadership strategies. They distinguish between structural leadership (based on material resources

and the ability of actors to change the preferences of other actors) and instrumental leadership (based on information resources). The latter includes "managing agendas, crafting compromises, building coalitions, and brokering deals" (p. 17). Beach and Mazzucelli claim if an actor, be it Commission, Presidency or Council Secretariat, finds a way to provide the type of leadership which is demanded in a specific context, that actor will be in capacity to shape the final outcome.

Figure 1. Leadership model for EU constitutional negotiations.

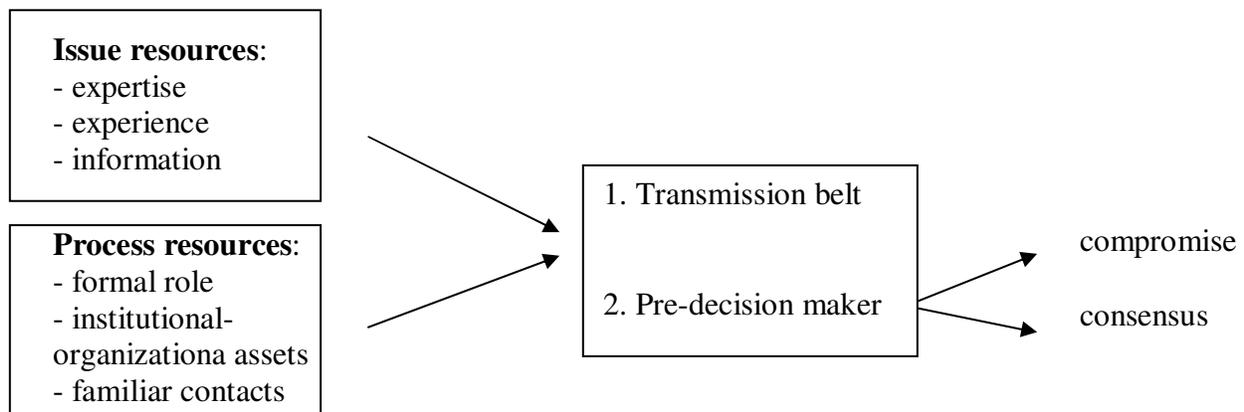
Source: Beach & Mazzucelli (2007, p. 10).



A similar process-oriented approach to intergovernmental negotiations was adopted by Reh (2007). The scholar does not concentrate on the summits per se, but tries to reveal the details of preparatory stage of EU Treaty reform negotiations. She is interested in the pre-cooking of constitutional decisions by governmental officials as well as the type of agreement on the output of the preparation stage. The key question is "whether and under what conditions the preparation to IGCs has effectively limited top-level choice" (p. 1187). 'The politics of preparation' approach, as it was named by Reh, expects that preparatory body can act as a 'transmission belt' and as a 'pre-decision maker'. In the first case the group of officials channel the national positions to international arena and are responsible for facilitation of the agreement at the

political level which would reduce the transaction costs of complex negotiations. “[...] such body would ensure that the agenda is efficiently set and that all problems are on the table, that necessary information is supplied, and that possible solutions and issue-linkages are identified” (ibidem, p. 1188). In contrast, the pre-decision preparatory body does not merely reduce complexity of negotiations but also is capable of reaching an agreement. In order for both to be effective they must possess certain collective resources. Those are issue resources (expertise concerning the issue; experience in negotiations; information about negotiation situation) and process resources (the formal role of the preparatory body; institutional-organizational assets, such as rules of conduct; familiar contacts) (*Figure 2*). Nevertheless, the pre-decision type of preparatory body seems more effective in negotiations preparation due to achievement of an agreement (either consensual or compromise decision). With this respect pre-decision maker will limit top-level choice to a greater extent.

Figure 2. “Politics of preparation” approach. Source: Reh (2007).



Two concepts that were brought about by Reh, are worthy of additional consideration. First, the concept of transmission belt is traditionally used in European integration literature to describe the channel of communication and information exchange (Lindberg et al., 2008; Kohler-Koh, 2002; Risse, 2004). The concept, however, was stretched by Reh in order to incorporate also the ‘facilitation’ element, namely agenda-setting, complexity reduction and issue-linking. In fact, it became similar in substance to Beach’s instrumental leadership. Yet, in this study we ascribe traditional meaning to the notion of transmission belt, setting apart facilitation and preparation functions. Second, issue linkages are essential element of any negotiation as a

necessary instrument for reaching an agreement. They are used in a details phase of negotiation to identify the items which could be trade, to facilitate a package deal, to distribute benefits of an agreement evenly between participants leading to Pareto-optimal outcomes (Dür & Mateo, 2004; 2006; Tollison & Willett, 1979). More importantly, apart from creating a zone of agreement, issue linkages may be used as an instrument of exercising influence. Utilized as a leverage in negotiations, they can empower one party vis-à-vis the other by increasing its bargaining power. As Sebelnius (1983) claims, “adding issues can yield one-sided gains to the exercise of power” (p. 314). Moreover, he notes the cases of ‘strategic manipulation’ when a party can intentionally keep the issues on the agenda or deliberately omit some depending on the stakes in them. Thus, issue linkages may appear to be helpful for tracking down the civil servants impact in conciliation negotiations.

Even though Beach, Mazzucelli and Reh developed their models for EU constitutional negotiations, its analytical categories and variables are applicable to EU conciliation negotiations. Indeed, although conciliation negotiations are not so complex, unpredictable and messy in comparison to intergovernmental conferences, there are number of general factors that explain a need for ‘facilitation’ by officials from the Secretariats of three institutions. First, there is a time pressure in the Conciliation Committee. Whereas first and second readings of the codecision procedure have loose deadlines (no time limit in the first reading, maximum of 8 months in the second – max. 4 months for the Parliament and max. 4 months for the Council), the conciliation stage has relatively tight deadlines (maximum of 8 weeks for the convening of the CC, another 8 weeks are reserved for its work). Second, there are elaborated procedures of conciliation proceedings consolidated in the Treaty, Rules of Procedures of the Commission, the Parliament, the Council, Joint declaration on practical arrangements for the codecision procedure. The officials from the Secretariats must take part in the CC to ensure that complex procedures are followed properly. Third, the number of amendments in conciliation may be still quite high ranging from very technical to very political and depending, of course, on a case (Garman & Hilditch, 1998).

The two models, outlined in detail above, will provide the basis for the the analytical framework according to which the role of the Secretariats officials in the conciliation negotiations will be assessed (see *Figure 3*). We assume the same causal logic here: the ability of administrative players to exercise influence over legislative outcomes depends on a number of

conditions which can be divided into two groups. To begin with, civil servants must possess sufficient degree of resources (supply side) in order to act effectively. First, as it was suggested by principal-agent theory they need comparative informational advantages or *expertise* in order to “grasp both the issue’s [...] problem-structure and its political background” (Reh, 2007, p. 1189). The expertise may be content related (awareness of the substance of the file, of other actors’ positions and attitudes, anticipated effects of certain amendments) and process related (awareness of the procedural rules, possession of necessary analytical skills, ability to identify problems and to anticipate consequences of certain compromises). Second, to be influential administrative players must have an *experience* of participation in Conciliation Committee meetings, dialogues and technical meetings. This allows them to develop negotiating skills, strategic and compromise thinking and increases the possibility that politicians will comply with their advice. Third, *familiarity* with the colleagues from counterpart institutions strengthens trust and reciprocity between officials and contributes to building an image of reliable negotiator. This is essential to the success of the conciliation procedure.

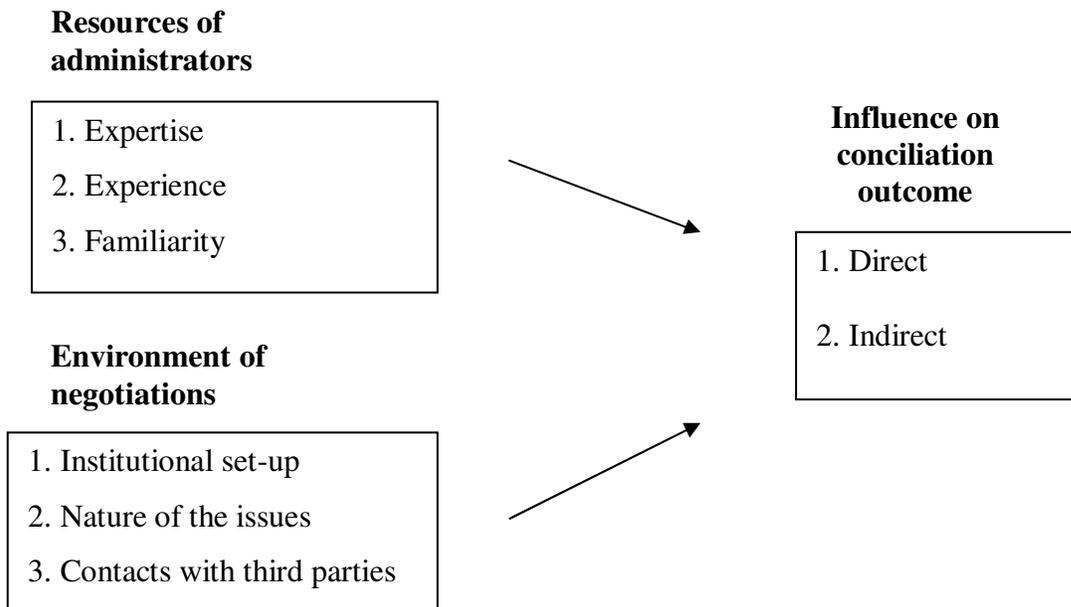
The second group of variables are attributed to the environment of conciliation negotiations (demand side). First, the *institutional set-up*, i.e. the structure and the rules of negotiations, plays important role. As it was put by Beach and Mazzucelli (2007), “how negotiations are structured affects how actor power resources are translated into influence over outcomes” (p. 13). Institutional position vis-à-vis other actors and formal competences (mandate) affect opportunities and constraints on the ability to exercise influence. It is here where the second concept borrowed from the principal-agent theory comes back. Goal conflict/alignment between civil servants and their political bosses is one of the manifestations of the institutional environment. Second, the *nature of the issue* under consideration may have an impact on the officials role. The more complex/technical and important the issue is, the more involvement of Secretariats staff shall be expected (Beach & Mazzucelli, 2007, p. 14). By importance here is meant special implications which the issue holds for an actor. Third, *contacts with third parties*, such as lobbyists and interest groups, may be a prominent indicator of bureaucracy’s position in the hierarchy of power (Peters, 2009).

Finally, as regards to dependent variable, influence is one of the key concepts in political science, but also the one for which “no established consensus on terminology exists” (Rasmussen, 2005a, pp. 13-14). In this study two types of influences are distinguished. The

administrative influence on conciliation outcome may be direct and indirect. Direct impact presupposes that civil servants may alter the balance of conciliation negotiations in a way which determines whether an agreement will be reached or not. This may take form of previously described slippage, shirking or betrayal. For instance, they can favour the other party, draft the compromise document in a wrong way, may hesitate to report back, or may disinform the respective delegation or Parliament's plenary causing the agreement to fail. Direct influence, thus, implies unequivocal causal link between officials' (mis)behaviour and conciliation outcome.

There is also an indirect administrative impact which implies the ability of the civil servants to influence the position and behaviour of main negotiators in dialogues and technical meetings. That is the type of influence which was best described by Cartwright (1969) as a process "when an agent O performs an act resulting in some change in another agent P" (p. 125). Dahl (1957) described it in a little different way: "A has power over B to the extent that he can get B to do something that B would not otherwise do" (pp. 202-203). Both definitions propose that the influence is a subset of a category of power. In other words, giving strategic advice, mapping policy options and recommendations, civil servants alter the beliefs and behaviour of the politicians and, thus, by definition exercise (informal) power over them. Noteworthy, this approach is similar to the one of 'regulation by information' that was adopted by scholars of regulatory agencies. Majone (1997), Shapiro (1997) argued when the experts provide scientific opinions with recommendations of possible actions, they constrain the behaviour of decision-makers by limiting the means and objectives of policy actions. Thus, we will be looking for both direct and indirect administrative impact on conciliation outcomes.

Figure 3. The model of administrative influence on conciliation outcomes.



Research design

The research will be conducted as a hypothesis testing case study with a comparative research design (Levy, 2008). Hypothesis testing (deductive) case study is a research strategy aiming at checking the validity of certain theoretical claims. In contrast to hypothesis generating (inductive) and deviant case studies (see Lijphart, 1971) which contribute to the theory construction and theory replacement respectively, hypothesis testing case studies are more common strategy in social sciences. It is believed that they correspond to the logic of scientific confirmation and not to the logic of discovery which is argued to be unscientific (Popper, 1965).

In order to test the validity of proposed hypothesized claim about the policy-making role of the civil servants three legislative conciliation dossiers were chosen:

- 1) Directive on port services: market access and financing of maritime ports, reference number COD/2001/0047;
- 2) Directive on organisation of working time (amending Directive 2003/88/EC), reference number COD/2004/0209;
- 3) 'Telecoms Package' Directive (amending Directives 2002/19/EC, 2002/20/EC, and 2002/21/EC), 2009/140/EC.

The three legislative files were chosen according to the most different criterion. Such strategy of case selection aims at maximisation of the variation across the independent variables in order to strengthen the hypothesized causal link between explanatory factors and dependent variable and to achieve the highest possible level of generalisation. First, the three conciliation dossiers were concluded during three different legislatures – 5th, 6th, and 7th legislature respectively. In terms of methodology, however, it creates additional problems of contacting respondents, since officials working in the conciliation services during the 7th parliamentary term are not necessarily the same that were in charge of dossiers during the 1999-2004. Second, all three files represent three different policy areas – transport, employment, and information and media respectively. Third, the cases reflect different outcome of the conciliation and third reading: agreement was reached at the conciliation stage but was rejected by the Parliament’s plenary in the third reading (Port Services); no agreement was attained in the Conciliation Committee (Working Time); agreement was reached in conciliation and the joint text was adopted in the third reading (‘Telecoms Package’).

The comparative angle of the research is brought while contrasting the role, resources and influence of the officials from the codecision and conciliation units of Commission, Parliament, and Council Secretariats. The comparison will be performed both on the general level of aggregated activities and within the specific legislative cases presented above. It will be guided by the set of variables outlined previously.

To examine the role of the civil servants in the Conciliation Committee the study relies on different data sources. First, official documents such as interinstitutional agreements, rules of procedure, guides to codecision procedures of the respective institutions were consulted. Furthermore, a number of documents related to specific legislative files were analysed. They are the procedural files of each dossier’s legislative progress, conciliation reports of the Parliament delegations to the plenary and Commission press releases, four-column working documents of the Conciliation Committee, information notes to the Parliament delegations, activity reports of the Parliament delegations. Most of them were retrieved from the PreLex legislative database and the Legislative Observatory of the EP, others needed to be requested from the register of documents of the respective institutions.

Moreover, in order to have more reliable data 7 interviews were conducted. The respondents were the former and present officials of the codecision and conciliation units in the

Secretariats of the Commission, the Parliament, and the Council. They were found by contacting mentioned services as well as through the personal acquaintances. Inclusion of the interviews ensured that the information about practical applicability of the relevant documents was obtained; that the necessary practical insights into the chosen legislative files were gained. After all, limited number of secondary sources were used which provided a general assessment of the role of the administrators in the EU policy-making. Thus, the methodological foundations of this research are based on documentary analysis, interviewing and the analysis of secondary sources. Such a methodological triangulation is essential for increasing the validity of the research, since “using a variety of methods means that one method serves as a check on another” (Marsh & Stoker, 2002, p. 237).

Finally, the operationalisation of the dependent variable must be discussed. It has to be noted that as not easy it is to conceptualise the notion of influence in social sciences, as hard it is to measure it. In this vein the scholars of the principal-agent theory emphasized the difficulties in detecting a deviant behaviour of the agent (Pollack, 2003; Rasmussen, 2005b). They pointed out the phenomenon of ‘observational equivalence’, when agents may rationally anticipate the interests of the principals and adjust own behaviour appropriately. As a result, as Pollack (2003) argued, “the absence of sanctions is consistent with both the obedient servant and runaway bureaucracy scenarios” (p. 8). The proposed solution to the problem was to shift a research focus from the agent’s behaviour to the delegation investigating its conditions and competences allocated to the agent.

Acknowledging possible measurement problems with respect to both direct and indirect influence of the civil servants the objective of explaining the administrative impact in the Conciliation Committee is still pursued in this study. We believe that there is a number of techniques which help to mitigate the measurement obstacle. One of them is a triangulation within methods. As it was explained by Marsh and Stoker (2002), it “involves the use of different tools to measure a particular variable. [... These] different measures provide a form of triangulation” (p. 237). Hence, while giving the interviews for this research civil servants were asked to assess the power of their colleagues from counterpart institutions and to indicate any signs of misconduct on theirs behalf. This measure corresponds to the so-called ‘reputational indicators’ that were used by Rasmussen (2005a) in her dissertation about the legislative

influence of the conference committees in the EU and the USA³. In addition, she suggested to use also certain behavioural indicators of the independent legislative influence. In our case these would be the conciliation reports of the Commission and the Parliament and any other evidence which may indicate that officials have shifted the conciliation outcomes (e.g. sanctioning by principals).

Having said that, it must be recognized, however, that proposed tools have certain limitations too. Reputational and behavioural indicators, for instance, may be of limited use while measuring civil servants' slippage. Indeed, it is very unlikely that respondents would be able (or would be willing to) to point to the facts of own or their colleagues' laziness. Nor triangulation between methods would be helpful. It is believed that the most proper way to measure slippage is direct and/or participant observation. Since neither of them were used in this study due to objective reasons (direct observation was not an option since the most important meetings – trialogues and delegation meetings – are not open to the public; for participant observation one has to be affiliated with EU institutions either as an employee or a trainee), we leave slippage out of the scope of this analysis and focus more on shirking and betrayal.

With regard to the indirect influence, it seems to be less troublesome. If for the measurement of the direct influence we collect the evidence that the administrative players shifted the outcomes of the conciliation negotiations, the measurement of the indirect influence is more intuitive. For this purpose counterfactual analysis is used as another widely acceptable tool for measuring influence (Rasmussen, 2005a; Beach, 2005). Hence, in order to give an assessment whether advices and recommendations of the administrative player changed the behaviour of the main negotiators, one has to ask what would have happened if the civil servant A had not given certain advice to the actor B. As Rasmussen (2005a) argued, counterfactual analysis is the most suitable in situations where the patterns of causal relation are clear. This is not a case, for example, with what is entitled here as direct influence of the civil servants. Indeed, conciliation outcomes may be a result of multiple causal impact of the variables which are beyond the administrative level (e.g. the location of Parliament and Council preferences with respect to each other, cohesiveness of their preferences, Commission mediation, role of the Presidency etcetera)

³ In the USA committees which are responsible for resolving legislative disputes between the Senat and the House of Commons are called 'conference committees'.

and which are not controlled in this study. Thus, the counterfactual analysis is the most suitable for measuring the indirect influence of the civil servants.

Having introduced theoretical and conceptual backgrounds and the research design of the study, we proceed to the empirical analysis of the administrative impact in the Conciliation Committee. It is divided into two parts. The aggregated assessment of the role, resources, and influence of the administrators from the Commission, Parliament and Council Secretariats is introduced first. This analysis is followed by the case studies of the directives on Working Time, Port Services and ‘Telecoms Package’.

Empirical analysis I. Conciliation officials: role, resources, influence.

The structure-oriented perspective provided by the principal-agent theory points at two types of actors in the Conciliation Committee: politicians and administrators. Whereas political part of the CC consists of the official Parliament and Council delegations together with the Commission negotiators, the administrative side is represented by the officials from the specific units of institutions’ Secretariats that deal with codecision procedures. The Parliament unit is called Codecision and Conciliation Secretariat (CODE) which forms a part of Directorate E of the Directorate General for Internal Policies of the General Secretariat. The Council has a similar component in its Secretariat. Both bodies were established after codecision procedure was introduced by Maastricht Treaty, and both undertook serious transformations since then. For instance, Codecision Unit of the Council Secretariat⁴ was in the beginning part of the Directorate General for Press and Protocol, then was allocated for a long time to the Legal Service, and since a few weeks ago was attached to the services of the Secretary General. The composition of the units is also similar. They consist of the heads of units, three (the CODE secretariat) or four (Council’s Codecision Unit) administrators and equal number of assistants. As it was revealed by one of the interviewees, though, the CODE secretariat is missing one more administrator responsible for the comitology procedure, as it was introduced by the Lisbon Treaty to the Parliament competences (PS1, 2010). In that case the composition of the units would have been precisely the same.

Commission conciliation service, however, must be differentiated from its counterparts in the Parliament and the Council. As in the case of ‘codecision dorsal’ of the Council it is officially

⁴ In the lingo of its officials – ‘codecision dorsal’.

entitled as Codecision Unit of the General Secretariat of the European Commission. It is smaller unit composed with a head, two administrators and three assistants. Yet, it is very likely that the composition will be changed and the number of administrators will increase as a result of the general process of restructuring Commission's General Secretariat which takes place at the moment. Interestingly, the unit was established only in 1999, after the Amsterdam Treaty. As the senior Commission official explained, in the beginning codecision was managed by the Directorate for relations with the Parliament, and this task was not even prescribed to a separate unit. *"But in 1999 we established unit which was then taken out from the Directorate for relations with the Parliament and directly attached to the Deputy Secretary General of the Commission to show that this is not just relations with the Parliament but with the Council too. It was completely new unit, it did not exist before"* (Com1, 2010). One has to take into account these preliminary differences in the institutional design of the Commission codecision unit on one hand, and Parliament and Council counterparts on the other, as they will become more apparent while examining specific tasks of the units and their staff.

Empirical evidence collected through the interviewing, documentary analysis and literature review suggests that the officials of the Conciliation Committee perform number of functions which were aggregated in three categories – *preparatory body*, *transmission belt*, and *strategic facilitator*. They can be ranged on the scale of significance from the most technical (preparatory body) to the most substantial (strategic facilitator) role. The proposed categories constitute a part of the findings of the study, but at the same time they play an important role of the tools for structuring the empirical analysis of the research and making it coherent. In each category the role of the officials from the Parliament, Council, and Commission Secretariats will be assessed against the criteria of resources and environment⁵ developed in the conceptual part of the study. Noteworthy, the proposed categories are not restrictive; they include the tasks and functions of the conciliation officials which are closely interconnected and may overlap with each other.

Preparatory body

Conciliation secretariat as a preparatory body is highly logistic in its work. It performs technical role of organisation and providing support for the meetings of respective delegations,

⁵ Except from the nature of the issue; an explanatory power of this variable will be examined in the next section.

formal and informal dialogues, joint technical meetings, and Conciliation Committee meetings. It derives its strength from the awareness of procedural requirements and a necessity to conclude within strictly defined time limits. Officials of conciliation secretariat acting as a preparatory body take care about all the procedural guidelines and formal obligations consolidated in the Treaty, interinstitutional agreements, and rules of procedures of respective institutions. Hence, this section will assess mainly the role of the procedural expertise and the institutional set-up and their impact on the ability of the civil servants to shift conciliation outcomes.

One of the first tasks outlined in the mission statement of the **Parliament** Codecision and Conciliation Secretariat is “to prepare, organise and follow up all conciliation-related meetings (Parliament delegations, dialogues and Conciliation Committees)” (Parliament, 2009a, p. 28) The preparatory work of the CODE starts when it is clear that the Council is not in a position to accept all Parliament second reading amendments and the Conciliation Committee has to be convened. At this stage officials from the CODE make sure that the proper arrangements for the appointment of the Parliament delegation begin according to the Rule 68 of the EP Rules of Procedure (Parliament, 2010). First, they inform responsible Vice-Presidents that the conciliation is coming and that they should meet between themselves and decide who will chair the particular delegation. As the Parliament guide to codecision and conciliation procedures reveals, there are three Vice-Presidents responsible for conciliation which are appointed at the beginning of new legislative term and are ex officio members of every delegation, but only one of them chairs (Parliament 2009a, p. 18). Second, the CODE administrators invite political groups to appoint their members of the Parliament delegation to the Conciliation Committee and their substitutes according to the quotas each political group has. In contrast to the Council, Parliament delegation is appointed separately for each legislative file requiring conciliation procedure.

After initial procedural steps, the tasks of the CODE officials acting as a preparatory body follow similar pattern for all subsequent meetings beginning from the very first, or constituent, meeting of the Parliament delegation. As it was described by the Parliament administrator, “*our work mostly consists in defining the meetings, meaning to decide when the meeting will take place, reserve the meeting room, reserve the interpretation and prepare the documents. And take care that the documents go to translation and come back in time for a meeting. I would love to have more power and competences, but this is what we actually do, to be honest*” (PS1, 2010).

The other respondent was even more brief in describing his role: “*The civil servants have always*

the same functions. We have to ensure that the deadlines are respected, [...] we have to make sure that all formalities are fulfilled” (PS2, 2010). Without a doubt, this is not an exhaustive list of the Parliament conciliation administrators’ tasks. As it will be shown later in the paper, besides that officials perform quite distinct and more substantial functions which will be described as ‘transmission belt’ and ‘strategic facilitator’ roles. What these reflections demonstrate, however, the officials perception of themselves, what do they consider typical and essential in their work: “*We are the masters of procedural and practical matters*” (ibidem).

The constituent meeting of the Parliament delegation is necessary to have a first exchange of views concerning the institution’s position in the conciliation and authorize the negotiating team to start the negotiations with the Council at the trialogue meeting. At this stage the important task of the administrators is the provision of documentation. There are two types of documents which are prepared by civil servants: a ‘basic document’ and a ‘working document’. The former contains original Commission proposal, Parliament’s first reading position, Council’s common position, the EP’s second reading amendments. This is done only once for the whole procedure. More important is the working document, which is a document with four columns based on which the negotiations at the trialogues take place (see Parliament, Council, 2003; Parliament, Council, 2009). The first column shows the Council’s common position, and the second one – the Parliament’s position at the second reading. These two columns remain unchanged during the conciliation process. The third and fourth column represent the Council position at conciliation, i.e. the Council’s reaction to the Parliament’s second reading amendments, and the Parliament’s position vis-à-vis Council’s reaction. As the CODE official explained, “*at the constituent meeting of the delegation we have the basic document, we have also four-column document, but not necessarily with any remarks in the third and the fourth column. [...] Normally, when the Parliament delegation is constituted, we don’t know the official Council position at conciliation yet*” (PS1, 2010). Nevertheless, the constituent meeting of the Parliament’s delegation is a necessary step before proceeding to the trialogue.

Checking the members presence and their votes is another ‘preparatory’ prerogative of the conciliation officials. In the words of the CODE official this is not so simple as it may sounds: “*We organize the meetings, we make sure that all the people are there at the same time in the meeting room. It is major challenge. Sometimes the composition of the delegation may change in the course of the procedure from one delegation meeting to another, depending who is there who*

is not” (PS2, 2010). The same applies to trialogues which are the meetings of restricted access, where Parliament is represented by a small negotiating team consisting of the Vice-President (chair of delegation), rapporteur, the chair of the relevant committee, and, sometimes, shadow rapporteur. As it was revealed by interviewees, there is an informal interinstitutional agreement that the number of representatives from each institution in one room may not exceed 10 people. Though the Commission usually follows this rule, for the Parliament and the Council delegation it is nearly impossible due to a big number of staff. Four main negotiators usually bring their individual assistants, the CODE is represented by four or five officials, political groups send their own staff, and, in addition, people from the committee secretariat may attend the meeting as well.

Nevertheless, conciliation officials have to make sure that at least the proper number of political figures in the trialogue is maintained. Indeed, the respondents mentioned some cases where the members of the delegation, which were not in the negotiating team, came to participate in the trialogue. Interestingly, in that situation the chair of the delegation asked the head of the CODE to inform the person that he was not allowed to attend the meeting. This example demonstrate that not only the conciliation officials possess distinctive procedural expertise, but that their reputation of guardians of procedural guidelines is acceptable by others. Moreover, this empirical example may be interpreted as an indicator of non-conflictual relations between civil servants and their political bosses contrary to the predictions of the principal-agent model. Furthermore, the trialogue meetings call one’s attention to the importance of the institutional position of the actor, i.e. institutional set-up of the negotiations. Civil servants from the CODE are not in an exclusive position in the conciliation. The presence of other administrative actors, especially ones from the relevant committees and political groups, may decrease the ability of the CODE officials to exercise an influence over conciliation outcomes.

There is a number of other responsibilities which are allocated to the conciliation officials and which may be labeled ‘preparatory’. What is distinct about the European Parliament in comparison to other institutions is its language regime. All the documents disseminated to the delegation meeting and to the plenary must be translated into the languages of 27 member states. The official of the Parliament explained why “keeping the language machinery moving” is important: *“We make sure that these documents are available at the meetings at the right time in all the languages. That could also be a problem. Usually people are flexible, but if they can use the formal ground, for example, if they do not have the documents available in their own*

language, they can use that as an excuse in order not to vote” (PS2, 2010). Certainly, translation is done by respective Parliament services, but sometimes the CODE officials perform the role of translators themselves in order to make sure that the members of the delegation know what they are voting on. It is particularly the case when the members of the delegation do not speak other languages than their own and the translation of the documents is not available.

Sometimes joint meetings of the officials from three Secretariats are organized, so-called ‘joint technical meetings’. They are also essentially preparatory and are convened in order to agree on technical details of the dossier. As it was argued in the secondary literature, such meetings “[break] the ground for compromise on a whole host of amendments, thus amounting to simplification of procedure without compromising each institution’s involvement in legislative decision-making” (Garman & Hilditch, 1998, p. 278). However, the interviewees claim not to exaggerate the importance of these meetings. First, officials from three institutions are authorized to meet in order to complement political agreement that is already reached. More than that, they do not have final word even on technical details which they supposed to finalise. Everything must be resubmitted back to negotiators for their final approval. Second, technical meetings being a common arrangement in the first days of conciliation procedure eventually became rare events since it is possible to agree on all the details of a compromise deal in the trialogue on the basis of working document. The Parliament official perfectly illustrated these arguments: *“In the past there were few cases where we had a general political agreement and then the officials were asked to meet and to finalise the details. [...] there were technicalities. Technicalities means to agree on a concrete text, but not take a political decision, it was already taken at the trialogue. [...] It used to happen more often in the past, it does not happen very often now, because we have improved proceedings”* (PS1, 2010). Thus, one has to be skeptical about the possibility of the members of technical meetings to engage in trading the issues, looking for compromise solutions and issue linkages. Furthermore, the ability of technical meetings to set the agenda for the subsequent debates is also limited. The rules of conciliation negotiations, i.e. its institutional set-up, therefore, imposes a number of constraints on the capacity of civil servants to shift the political agreement.

The preparatory role of the **Council** officials to a great extent mirrors the responsibilities of their colleagues in the Parliament. Council officials organize meetings of the Council delegation, provide necessary documentation and technical support, take care about the trialogue

and Conciliation Committee meetings in case if the conciliation takes place at the Council's premises. Additionally, the Rules of Procedure of the Council contains a clause about general preparatory role of the Council secretariat: "The General Secretariat shall be closely and continually involved in organising, coordinating and ensuring the coherence of the Council's work and implementation of its 18-month programme" (Council, 2009). Both respondents from the 'codecision dorsal' agreed that in general terms the functions of the Parliament and Council conciliation services are similar. For example, with regard to joint technical meetings, the Council civil servant explained his role there in similar terms as the Parliament officials and added that "*the result of a technical meeting could never go against political meeting*" (CS2, 2010).

The differences, however, arise from the distinct nature of the institutions. First, the Council officials are not involved in the appointment of own delegation in the same vein as Parliament officials are. The Council delegation does not change from one procedure to another and normally is composed with the Deputies Permanent Representatives (Coreper I) from each member state. It is chaired by the relevant minister from the Presidency who presides the Conciliation Committee meeting together with the Vice-President of the Parliament. At the trialogue level Council's negotiating team is headed by the chairman of the Coreper (Council, 2003).

Second, types of the documentation which is handled by administrators of the Codecision unit of the Council differs from those used in the Parliament Secretariat. As it was revealed by the interviewees, while performing their duties of administrators they use four-column working document as well as briefing notes to the Presidency. The latters have an advisory character and are not open to the public. Third, Council officials do not have to maintain the 'language machinery' working. In contrast to the Parliament, relevant documentation do not have to be translated into all official EU languages. The number of languages used in the main documents is limited.

Notwithstanding these differences, the preparatory work of the Council officials in general terms resembles the duties of the CODE secretariat. It is based on the profound knowledge of the procedural requirements and perception of strictly defined time limits of the conciliation procedure.

In contrast to the administrators from the Parliament and from the Council, the officials of the Codecision unit of the **Commission** play profoundly different job. In order to understand the differences one has to consider the role of Commission as a whole in the process of conciliation negotiations. In the conciliation phase of the codecision procedure the powers of the Commission are limited (Rasmussen, 2003). In contrast to the first and second readings, for example, the Commission cannot withdraw or amend its proposal in conciliation. Here the most legislative work is done by the Parliament and the Council. Article 294 of the Treaty, though, encourages Commission “to take part in the Conciliation Committee’s proceedings and [to] take all necessary initiatives with a view to reconciling the positions of the European Parliament and the Council” (TFEU, 2008). Thus, Commission representatives are not involved in drafting the working document, although they attend all relevant meetings.

As a result of described institutional differences, civil servants of the Codecision unit of Commission Secretariat General do not act as a preparatory body in that sense as Parliament and Council officials do. The interviewed Commission administrator was quite explicit about this: *“We don’t have to put the negotiating text in four columns. We don’t have to prepare rooms for meetings, we don’t have to provide interpretation, we don’t have any of, what I call, executive tasks, the technical work for preparing meeting, for preparing the documents”* (Com1, 2010). Instead, they are in charge of the meetings of the Interinstitutional Relations Group (GRI). It was established recently on the initiative of the Commission President by merging two previously existing groups: on relations with the Parliament and on relations with the Council (Commission, 2004a). It is highly political body, composed of the members of Commissioner’s cabinets and chaired by the representative of the President’s office, where civil servants from the Codecision unit perform secretarial tasks. According to the Commission guide to internal procedures, GRI monitors interinstitutional relations and ensures the consistent Commission position in codecision (Commission, 2007).

Some parallels may be drawn between meetings of the GRI and Parliament and Council delegation meetings in conciliation. All the meetings are the fora for discussion of the dossiers which enables to grant the mandate to the respective negotiating teams in the trialogue meeting. The big difference, however, arises from the fact that in contrast to the Parliament and Council delegation which deal with specific file in conciliation, the GRI monitors all the files under codecision procedure. The preparatory role of the administrators in this setting is limited. Since

the members of the GRI meet on a regular weekly basis, the time and place of the meetings are fixed in the internal documents, the civil servants from the Commission Codecision unit are not concerned about the room reservations, meeting attendance, or language machinery. In contrast, they give an evaluation of the accuracy of the documents submitted to the GRI meetings and their timely circulation among the members. This is not to say that the level of procedural expertise of Commission administrators is poor. Commission civil servants are entrusted to check whether the compromise proposals or any other documents are well-written and in accordance with the special institutional role Commission plays in the EU legislative process, e.g. as a guardian of the Treaty and a promoter of European interest. Thus, they must possess the profound knowledge of the Treaty and Joint declaration of the three institutions. Indeed, like their colleagues from other institutions Commission administrators perceive themselves as procedural experts: *“We are the ones who control the procedures are correctly followed. We are the ones who can say, you must do this, it is in procedure”* (Com1, 2010).

In sum, preparatory functions of the conciliation civil servants constitute a great part of their overall work, although it varies among institutions. Whereas the Parliament and the Council officials are responsible for the plethora of executive duties concerning organisation of meetings, provision of documents, following members presence, the distinct role of the Commission in the conciliation implies special institutional functions on its administrators. ‘Preparatory body’ is technical in essence, is based on the rich procedural expertise, yet, barely entails the influence over outcomes. In the words of Parliament official *“it is important, but not substantive. Without us preparing all that meetings, it would not be possible to have an agreement. But the actual agreement is political agreement, it is not because I booked a meeting and prepared the working document”* (PS1, 2010).

Transmission belt

Conciliation secretariat acts as a transmission belt when it is a center of information exchange and communication between three institutions. Officials are responsible for liaison with their colleagues from counterpart Secretariats, they inform, brief, and report back to their political superiors. The internal coordination role is also a part of the responsibilities of the administrators acting as a transmission belt. Procedural expertise and the institutional environment are continued to be assessed in this section. In comparison to previous section, though, this part introduces the

variable of familiarity – to what extent are the contacts between administrators of three institutions developed in the course of conciliation procedure and what impact does it have on the outcomes.

Within a set of transmission belt functions of the **Parliament** officials from the CODE secretariat one of the outstanding is to enhance the understanding and communication between the secretariats of the institutions. It is embraced, inter alia, by the mission statement of the CODE secretariat which binds it “to maintain and develop contacts with the service’s counterparts in the Council and the Commission” (Parliament, 2009a, p. 28). Except from the joint technical meetings, such contacts are developed largely through the exchange of documentation as well as informal personal communication. If the Commission wants to make a compromise proposal or the Council wants to familiarize Parliament with the third column of the working document, they do not send the documents to the members of the delegation. All the documentation must be sent to the CODE secretariat which subsequently dispatches it to the Parliament delegation. It works the same in a reverse way: the Parliament delegation sends its proposals only through the Secretariat. This evidence induced one of the interviewee to portray the CODE secretariat as “*a focal point of exchange of documents*” (PS2, 2010).

Both respondents from the Parliament emphasized the importance of good interpersonal relations between officials for the sake of success of the conciliation procedure: “*You cannot develop relationship well if you don’t know people*” (PS1, 2010). The fact that codecision units in three Secretariats are quite small allowed to develop close informal contacts between officials, with no personal conflicts. Moreover, it was pointed out that for smooth conciliation procedure it is essential also to be familiar with the personalities of the MEPs.

The other primary responsibility of the Parliament officials from the CODE Secretariat within a set of transmission belt functions is keeping the Parliament delegation well-briefed and well-informed. For this purpose administrators from the CODE are present in the trialogue room and take notes of each meeting. The contents of the notes are described by the Parliament guide to codecision and conciliation procedures: “Before each delegation meeting, the secretariat draws up a note for the members, summarising the aims of the meeting, the situation concerning the amendments, the stage of negotiations with the Council, and procedural aspects” (Parliament, 2009a, p. 19). The notes, of course, do not include any recommendations of what strategy should be adopted further in the dialogues. Purely informative, they constitute the basis for discussion

among the members which results in revising mandate of main negotiators, approving compromise text, suggesting new compromise proposals etcetera.

Similar informative nature is inherent to the conciliation plenary reports. They are drawn up by the rapporteur and the chair of the delegation, and the part of the CODE secretariat mission statement (see Parliament, 2009a, p. 28) is to assist them in drafting the report. The procedure requires that the report should elaborate on the stages of the procedure and the progress of the dossier, the record of vote of the delegation, outlines main points of disagreement and the result of the negotiations. It bears some recommendation character by suggesting the plenary to adopt agreed joint text, but this is decided by the rapporteur and Vice-President, not by administrators.

The part of ‘reporting back’ function which one may expect from the Parliament administrators is following the mandate of the main negotiators. As it will be discussed later in this section, the officials from the Council and the Commission revealed their involvement in the process of checking whether the Presidency or Commission DG experts stick to the negotiating line agreed at the Coreper or at the GRI meeting. It seems, however, that it is not part of the CODE secretariat’s business. The Parliament official provided specific *raison d’être* of why it is not necessary for them to follow the negotiating mandate: *“The fact is when we have a meeting of some 40 or 50 people in the room, its not confidential anymore [...] There is no need to do something like this. Even though a trialogue is called meeting with restricted access, but so many people is present, so everything that was discussed in the trialogue, everybody knows afterwards”* (PS1, 2010). Apart from the information leak, one could think of other reasons. Since the Presidency of the Council must represent in the trialogue divergent positions of 27 member states, the Coreper has an incentive to ask the ‘codecision dorsal’ to follow the Presidency’s mandate. As regards to Commission, special role of ensuring the collegiality and institutional mission of the Commission may explain why the officials of the Codecision unit check the negotiating mandate of Commission representatives. There is no need to do the same in the Parliament delegation, since the number of political groups, i.e. the number of different political positions, is not so big as in the Council. Furthermore, as it was admitted by respondents the four Parliament negotiators usually represent at least two different political forces which creates certain mechanism of checks and balances.

Council Secretariat transmission belt role corresponds to the CODE Secretariat. ‘Codecision dorsal’ is a central point of documents exchange both for external and internal

communication. For instance, it is responsible for filling in the third column of the working document prior to sending it to the Parliament. By the same token, if the Parliament wants to respond to it or the Commission is eager to suggest compromise proposals, they do it through the Council officials. Internally, Codecision unit performs coordinative functions by ensuring timely legal-linguistic finalisation and distribution of the documents.

Joint declaration on practical arrangements for the codecision procedure states that “the Secretariat of the European Parliament and the General-Secretariat of the Council shall act jointly as the Conciliation Committee’s secretariat, in association with the Secretariat-General of the Commission” (Parliament, Council, Commission, 2007). Although the respondents emphasized that in practice the actions of Secretariats are far from being joint, they did admit close cooperation and dense contacts between officials with no personal conflicts. It is interesting to note that Parliament officials pointed out to the importance of familiarity not only between officials but also between administrators and politicians within institution. To build trust and reciprocity will be more difficult in the case of the Council with six-month rotating Presidency than in the Parliament where MEPs stay for five years. The low level of familiar contacts may be one of the reasons why Presidency may prefer to work with officials from the capital over the Council Secretariat administrators.

One of the specific tasks of the Council officials is to ensure that the member states and their ambassadors are well-informed and well-briefed concerning the details of negotiation process. They are present on all conciliation related meetings and perform the role of note-takers. As it was pointed out earlier, Council administrators are entrusted to follow the mandate of the main negotiators authorized by Coreper for the trialogue negotiations. This was explicitly mentioned by the interviewees and also found support in the secondary literature. Farrel and Héritier (2004), for example, argue that ‘codecision dorsal’ is “specifically intended to address the possibility that the presidency may overstep the consensus among the member states” (p. 1207). This may indicate that member states tend to trust and rely upon Council Secretariat officials undermining the principal-agent claims about conflictual relations between politicians and civil servants.

The distinct institutional role of the Commission in conciliation also has left a mark on responsibilities of the **Commission** administrators acting as a transmission belt. In comparison to counterparts from the Parliament and the Council, the internal coordination role of the

Commission civil servants is much more salient. As a part of a Secretariat General, they have to ensure that the Commission acts as a collegial body. Thus, the documents which are submitted by the DGs to the GRI meetings will not only be checked on their conformity to the Treaty and Joint declaration; they will be also evaluated from the possibility of getting an approval of the College of Commissioners: *“For us the institutional role of the Commission is very important, as well as coordination of policies within the Commission. We have to ensure that everything that comes out of the Commission, is coherent”* (Com1, 2010). In other words, the mandate, compromise proposals, or any other issues discussed at the GRI meeting must have been agreed with others DGs involved and later been submitted to the Commissioners for their approval as a college. It is important to note, though, that while performing institutional and coordination role administrators usually sit silent at the GRI discussions and *“do not speak unless are asked to”* (Com1, 2010).

The familiarity was recognized as a key asset of the administrators. The trust and reciprocity between the civil servants are needed in order to ensure the success of the conciliation procedure. Both Commission respondents underlined the regular daily-based contacts as well as social meetings which help to avoid the potential problems in the legislative dossier and reinforce good relations between civil servants. Interestingly, being a third party in observing the interaction between the Parliament and the Council, senior Commission official admitted slight disagreements that may occur between officials of these institutions: *“We have always worked well and closely together, although there may be differences of view from time to time, especially between the Council and the Parliament on the finalisation of texts”* (Com1, 2010). Nevertheless, on the level of built trust and familiarity conciliation civil servants score high.

Ensuring collegiality and institutional role would not be possible without up-to-date information about negotiation progress. For this purpose Commission administrators take part in the trialogue meetings as note-takers and advisers of the DG experts but do not participate in negotiations. They are responsible for informing the experts about the timing of the meetings, their agenda and participants. Moreover, civil servants report to the President of Commission and its cabinet about the progress of negotiation, difficulties of the file, the position that was taken by the Commission negotiators in the dialogues. Clearly, ensuring collegiality of the Commission actions requires constant monitoring of the negotiators mandate and its reinforcement at the GRI meetings. As it is with the Council administrators, the fact that Commission civil servants are

entrusted to be the ‘eyes and ears’ of their political superiors in the trialogues serves as an indicator of the trust between politicians and civil servants and the absence of the goal conflict between them.

In sum, all the codecision units represent centers of information exchange and communication between three institutions. This is reinforced by the high level of familiarity among the civil servants, among them and politicians, although it is complicated in the Council due to rotating Presidency. Certainly, there is a variation in transmission belt functions among three Secretariats. The coordination role is the most salient in the work of the Commission officials. Similar to their colleagues from the Council Secretariat, they are entrusted to follow the mandate of the negotiation team. By means of these differences, however, it was not intended to demonstrate that the Council and Commission officials have more powers vis-à-vis their colleagues in the Parliament. The aim of this discussion was to reveal the constraints which the institutional environment of the Conciliation Committee imposes on civil servants. Even though they are able to control the information and documentation flows, which by definition implies the opportunities to exercise influence, their institutional position of note-takers, the structure of trialogue negotiations which enables information leaks, and the presence of other actors limit the possibilities of the conciliation administrators to shift the legislative outcomes. This argument may be effectively corroborated with the words of the Parliament official: *“As the secretariat of the Conciliation Committee, we don’t have the possibility to influence things. Because we are not the ones who negotiate, we are there to listen and take notes. The only thing one could say is to inform, to report back. But it is not necessary, because everybody would know afterwards what has been discussed in the trialogue”* (PS1, 2010).

Strategic facilitator

‘Strategic facilitator’ is the highest in the hierarchy of conciliation secretariat tasks. It comprises those responsibilities which are the most substantial in their essence and, thus, have better chances to be translated into influence over outcomes, both direct and indirect. First, civil servants are entrusted to draft the four-column working document which is later transformed into a joint text of the Parliament and the Council. Second, officials provide ‘strategic advice’ to the main negotiators with regard to both the process and the content. In addition to the procedural expertise and institutional set-up, the assessment of remaining variables is offered. Content

expertise, experience and contacts with third parties are analysed and their impact on the ability of administrators to exercise influence over legislative outcomes is estimated.

As it was argued earlier in this paper, **Parliament** officials are responsible for preparing the four-column working document. More precisely, they fill in the first and second columns which remain unchanged during the procedure, take care about the fourth column which is the Parliament position in conciliation, but have no rights with respect to drafting the Council's third column. In general terms, the document is supposed to facilitate and smooth the debates during conciliation negotiations. As regards to this, the Joint declaration on practical arrangements for the codecision procedure states that "this working document should enable users to identify the issues at stake easily and to refer to them efficiently" (Parliament, Council, Commission, 2007). Officials, thus, are responsible for editing the document, summarizing Commission's compromise proposals, prioritizing amendments etcetera. *"And this helps, because if you have a working document that is different from one the Council has, or not the same numbering of pages, and it is not properly done, with a lot of text, very big etc, people have to go forth and back – this does not help the discussion"* (PS1, 2010). Furthermore, an extreme view was expressed by one of the interviewee that since the working document proved to be an efficient tool, there may be no need for technical meetings and trialogues, and an agreement on compromise text could be reached through the constant exchange of working document between institutions.

The empirical evidence, however, suggests that civil servants do not merely perform editorial functions with regard to working document. Being masters of procedural and practical matters, officials possess a great deal of substantive knowledge of the files discussed in conciliation. Several indicators may be brought to support this argument. First, the CODE administrators start to deal with files in conciliation phase, but they also follow the dossiers throughout the first and second reading, "including through participation at committee meetings and tripartite meetings with Council and Commission" (Parliament, 2009a, p. 28). Thus, when particular file enters into conciliation, officials are already aware about the issues at stake and political background of the file.

Second, administrators follow all the political discussions at the trialogue and Conciliation Committee meetings. This allows them to absorb all the information related to the substantive sides of the dossier. In contrast to so-called lawyer-linguists of the Parliament

Secretariat which deal with proper legal and linguistic formulation of the clauses, officials perceive themselves as those responsible for the substance of the text: *“The Parliament has a specific service [...] which is a unit composed of lawyer-linguists for every language, and their actual work is to look at the wording, not to look at the substance, we look after the substance. [...] but we are not negotiating. Politicians are negotiating, but of course, we are following”* (PS1, 2010). Another respondent was also quite explicit: *“We have to be on the top of the subject matter during the Conciliation Committee meetings and also afterwards”* (PS2, 2010). The final reports of the Parliament delegation to the plenary which are drafted with a support of the Secretariat may be a perfect illustration of the civil servants’ content expertise.

Third, officials may be involved in suggesting the compromise solutions. As it was argued by the Parliament official, *“At very least responsible for typing or printing out the rapporteur’s proposal is the Secretariat, but usually we also propose alternatives what the members want to present as their compromise. Drafting is the part of the work, but we do not have an independent role in this. We are in the service of the EP delegation”* (PS2, 2010). The claim that drafting as a function of administrators is not equal to wording is also corroborated in the secondary literature (Neuhold & Radulova, 2006; Neuhold, 2001).

Fourth, administrators provide strategic advice to the politicians in conciliation. This is especially relevant with regard to Vice-President/chair of the delegation since he does not follow the progress of the file prior to conciliation. The fact that Vice-President is not much attached to the file was also recognized by the interviewed Council officials (CS1, 2010). Officials, therefore, brief him about the political context, the positions of the Council and the member states, the line taken by Commission. Advisory role is relevant also with regard to the members of the delegation: *“The Secretariat role is there to facilitate the process, to make sure that the politicians, when they decide, they are aware of what the consequences are and what are the alternatives”* (PS2, 2010). Leaning upon strategic thinking and analytical qualities, civil servants advise what is better to discuss first in the dialogue, what is better to include into an agreement, what is a perfect time for convening Conciliation Committee meeting. Strategic advice of the civil servants illustrates the best an indirect administrative impact in the conciliation. Using counterfactual method it may be assumed that politicians’ choices would be different or they would not be able to make any if the administrators did not advised them. The ability to shape politicians’ decisions, certainly, rests on the comparative information advantages of the civil

servants. To a great extent it also depends on the personal qualities of the adviser, including his experience of conciliation procedures.

Thus, civil servants of the Conciliation Committee apart from being guardians of procedural guidelines are in possession of distinctive strategic thinking and of substantive knowledge of the files. Certainly, this makes Parliament administrators important and powerful players in the conciliation. The possibilities to use the content and procedural expertise in order to change the legislative outcome are, however, limited. First, suggesting compromise alternatives is rather an exception from the rules, is done at the level of informal private talks and, of course, must be approved by political bosses. At the negotiation level administrators are not allowed to participate in the discussions. One may find it difficult, though, to draw a clear borderline between participation in the negotiations and informal advising, but what sounds straightforward is the official's comment on it: *"I don't put my comments, I just put the text that has been decided, in our case, by the Parliament delegation. I am, or my colleagues are, the ones who put in the text. But the text is not decided by us, this is clear"* (PS1, 2010).

Second, even though officials usually provide their bosses with opinions on the whole spectrum of issues which may change their behaviour and attitude, it is up to the politicians to decide: *"It is not that [Vice-President] will decide on the basis of it. He may decide on the basis of it, he may also decide on the basis of other advices, from each group staff, or from his assistant advices"* (PS1, 2010). Third and most important, as it can be inferred from the evidence suggested above and from the conducted interviews, it is very unlikely that the goal conflict between the MEPs and civil servants occurs. The officials share the preferences and interests of the parliamentarians: *"Our job is to always achieve the compromise as closer as possible to the Parliament's position. We are bound by the Code of conduct"* (PS2, 2010). Hence, there is no need to deviate trying to shift the legislative outcome away from the principal's preferences. Finally, with regard to the contacts with third parties, one of the respondents mentioned that he was approached by the journalists who asked about the results of the triologue meeting. Both respondents pointed out that the lobbyists are not motivated to contact Secretariat officials since they are not in a position to determine the legislative results.

Administrators of the 'codecision dorsal' are responsible for drafting the four-column working document on the **Council** side. General perception of the working document by the Council officials is not new: it contributes to the smooth negotiation process and facilitates an

agreement. Following the same logic as with the analysis of the Parliament officials' facilitating role, one may claim that drafting the working document by Council civil servants implies the substantive knowledge of the legislative file under consideration and suggestion of the compromise solutions which can be transformed into the influence over outcomes. The empirical leverage of these claims is increased by the secondary literature which underlines the influential role of the Council Secretariat in the EU constitutional negotiations (Beach, 2004; Beach & Mazzucelli, 2007) and in the Union's foreign, security and defence policies (Christiansen & Vanhoonacker, 2008; Duke & Vanhoonacker, 2006).

Several indicators of the content expertise and capacity to exercise influence are generated. First, as it is a case with the CODE secretariat, the officials of 'codecision dorsal' are familiar with the files which enter the conciliation. They follow the progress of the dossiers throughout the first and second reading. However, these civil servants do not push the dossiers at these early stages as it is done by the Secretaries of the Council working groups: "*We are present, but do not lead*" (CS2, 2010). Second, Council officials follow the political discussions during all conciliation related meetings which contribute to their awareness of the substance of the files. Like civil servants from the Parliament, they contrast themselves to the lawyer-linguists by stating that they "*care about the substance of the texts*" (CS1, 2010).

By the same token, administrators from the Codecision unit are engaged in giving strategic, procedural and substantive advice. It is interesting to note that the Rules of Procedure of the Council explicitly states that "under the responsibility and guidance of the Presidency, [Council Secretariat] shall assist the latter in seeking solutions" (Council, 2009). For this reason, perhaps, one of the interviewed officials perceived himself as a "*procedural and negotiating specialist*" (CS1, 2010). He revealed that being experienced in hundreds of trialogues, he can engage sometimes in the negotiations with the chairman of the Coreper during the trialogue meeting. Furthermore, in their advices civil servants may identify inter-related amendments, i.e. issue linkages, which later may be incorporated in the Council compromise proposals. The advices can be made orally or can be a part of the briefing notes to the Presidency. According to the Guide for producing documents for the Council and its preparatory bodies, "the purpose of a brief is to offer tactical advice to the Presidency alone and in confidence on the handling and substance on points to be tackled" (General Secretariat of the Council, 2006). Such briefing notes

provide the Presidency with alternatives for actions and are not open to the public. As it was underlined by the respondents, the Presidency usually complies with Secretariat advices.

The evidence presented above suggests that Council officials possess necessary instruments for shaping the behaviour of the main Council negotiators in the Conciliation Committee. By no means, however, this implies that civil servants determine the legislative outcome of the conciliation. Even though they provide alternative solutions, the last word to decide always remains with politicians. More importantly, officials do not give advices which contradict or undermine the preferences of the Council. The interviewees emphasized that their mission is “*to help the Presidency to get the best deal*” (CS1, 2010) and “*to work in the Council interest*” (CS2, 2010). As was the case with Parliament officials, civil servants of the Council Secretariat align with the goals of their principals. By the same token, the Council officials rejected the cases of being contacted by lobbyists and doubted its rationale.

Moreover, even the possibilities of indirect influence over the results of negotiations are severely limited due to several institutional factors. First, the officials of the Council Secretariat are not the only administrative players assisting member states representatives in the Conciliation Committee. Indeed, in dealing with the conciliation files the Presidency is much assisted by officials from the capital. As it was admitted by the Council administrator, in comparison to the Presidency officials “*we don’t know dossier very well*” (CS1, 2010). In addition, it was admitted by the senior official from the Commission that within the Council there is the rivalry between Codecision unit and those Directorates of the secretariat which deal with the policy areas. Second, the margin of the Council Secretariat in each individual conciliation dossier depends on the strength of the Presidency. This was recognized by the Council respondents and was even more explicitly emphasized by the Parliament official: “*Council Secretariat traditionally has more technical role, because of the role of the Presidency. For example, Council officials seldom draft the compromises, sometimes, but usually not. They are really much more technical, because the rotating Presidency takes the negotiating role*” (PS2, 2010). Thus, the structure of conciliation negotiations and institutional position of the Council’s codecision unit vis-à-vis other actors hinder the ability of officials to exercise influence over legislative outcomes.

The Parliament and the Council officials equally underlined the ‘power of the working document’ as their advantage in comparison to their colleagues from the Commission. Indeed, **Commission** administrators lack the important function of drafting the working document, e.g.

the potential tool of having an impact on the legislative output. However, this deficiency does not undermine their role of strategic facilitators. In contrast to their counterparts, Commission officials do not just follow the files in the first and second reading, they work with those files in the same manner as in the conciliation phase. For example, in addition to following the political debates in the conciliation, they participate in all the first and second reading trialogues. Therefore, one may expect even more profound content expertise available on the side of the Commission administrators.

The expertise, both procedural and content, is most effectively utilized in the advisory functions of the Commission officials. The advices given to the political figures vary depending on the context, the substance and their recipients. First, civil servants from the Codecision unit provide recommendations to the DG experts on what is the best way to handle the file from the procedural point of view: *“The Sec Gen together with the experts and the cabinet of the Commissioner sat many times around the table looking at possible text and we advised them not so much on the substance but on the timing: when should you produce the text, how do you do it, who transmit the text”* (Com1, 2010). The procedural or strategic advices may address the GRI meetings as well as the trialogues and Conciliation Committee meetings. Second, the officials may be asked by the members of the negotiating team about their opinion on a specific compromise proposal. The content advice, as it was revealed by the interviewees, may be given directly during the trialogue negotiations.

What is more important, apart from procedural and content recommendations Commission administrators usually provide advice on institutional matters. The need for institutional advices is explained by the necessity to ensure the Commission’s role in the legislative process in accordance with a Treaty and interinstitutional agreements. This kind of advices is given not only to the DG experts, but also to the President of the Commission. As it was explained by the senior official, the distinct feature of the Commission Secretary General is that it operates under the authority of the Commission President: *“We have access to the President at any time, through his cabinet of course. If we want to block something, if something is wrong, we go to the President’s cabinet and advice them, and say this is wrong. They can decide of course to ignore our advice, but most of the time they accept our advice”* (Com1, 2010). Thus, using counterfactual method, one may assume that the decision of the College with regard, for instance, granting authorisation to certain type of text would be different, or there would be

no decision reached at all, if the administrators from the Codecision unit did not provide their institutional assessment.

Another Commission interviewee was more explicit as regards to the role of the Commission officials vis-à-vis the Parliament and the Council administrators: *“We, inside the Commission have more possibility to have a certain influence on the evolution of the dossier”* (Com2, 2010). The direct link to the GRI and the President allows to raise a problem immediately at the political level. As a senior Commission official explained, *“we are in a better situation because we are the office of the President, and we have GRI which is very strong to have influence and authority over the experts, precisely because we sitting beside the Presidency”* (Com1, 2010). However, not only the institutional position plays important role here. The possibility to shape the politicians’ decision depends also on the experience of the adviser: *“That is coming from my own experience. It is a bit personal. If you have somebody in my job who has not gone a lot of experience than they can really give technical advice. The margin of manoeuvre within the Commission Secretariat General for people to act on their own initiative and to offer advice because of their background and experience is quite large”* (Com1, 2010). The experience of the conciliation negotiations, therefore, determines whether an official can intervene in the dossier and resist the political pressure.

Nonetheless, one does not have to exaggerate the influence of the Commission officials. Even though their institutional position of the President advisers empowers them significantly, administrators do not participate in the conciliation discussions, do not draft the working documents and perform the role of note-takers: *“We are not in the position to say yes or no to that kind of compromise”* (Com2, 2010); *“If something happened in negotiations, and Parliament asks about amendment, we cannot say whether this amendment is ok, we ask our experts”* (Com1, 2010). Moreover, as it can be inferred from previous discussions there is no goal conflict between Commission civil servants and the politicians from DGs and Commissioners’ cabinets. Administrators are concerned with the promotion of European interest and correct institutional role of the Commission in the legislative process and are not motivated to shift the legislative outcomes from Commission’s preferences.

In sum, conciliation civil servants play significant role of the facilitators of the negotiations progress. They shape the politicians’ decisions by providing advices on a range of procedural and content related issues. In addition, Parliament and Council officials are

responsible for drafting the four-column working document which may imply suggesting the issue linkages and compromise alternatives. Although Commission administrators do not enjoy 'the power of the working document', their distinctive institutional position of the President advisers and caretakers of the Commission institutional role makes their indirect influence, e.g. influence on the decisions of the DG experts, even more profound. Furthermore, the evidence presented above suggests that the ability to shape politicians' decisions depends on the experience of administrators: the more experienced they are, the higher is the possibility that politicians will follow their opinion. However, the capacity of the civil servants to exercise a direct influence, e.g. the influence over the legislative outcomes, is severely limited by the institutional environment of the Conciliation Committee. Officials' institutional position of the note-takers and not negotiators, the structure of the negotiations which imply the presence of the other administrative players, the rules of the negotiations which leave the last word to decide for politicians, the alignment with the preferences of the respective political bodies rule out the administrative impact on the result of the conciliation negotiations (see *Table 1*). The lack of contacts with third parties additionally indicates that the civil servants are not in an authoritative position to shift the legislative outcome and, therefore, points to the invalidity of the central hypothesis of this study.

Table 1. Conciliation civil servants: role, resources, influence.

Type of function and variables assessed	Parliament officials	Council officials	Commission officials
<p>Preparatory body</p> <p>Procedural expertise</p> <p>Institutional set-up</p> <p>Influence</p>	<p>Organisation of meeting rooms, provision of documents, following the members presence, maintaining the language machinery, participation in joint technical meetings.</p> <p>Presence of other administrative players; rules of conciliation negotiations constrain the room for manoeuvre in the technical meetings.</p> <p>None.</p>	<p>Organisation of meeting rooms, provision of documents, participation in joint technical meetings.</p> <p>Rules of conciliation negotiations constrain the room for manoeuvre in the technical meetings.</p> <p>None.</p>	<p>Organisation of GRI meetings, evaluation of the documents and their distribution to the members, participation in joint technical meetings.</p> <p>Rules of conciliation negotiations constrain the room for manoeuvre in the technical meetings.</p> <p>None.</p>
<p>Transmission belt</p> <p>Procedural expertise</p> <p>Familiar contacts</p> <p>Institutional set-up</p> <p>Influence</p>	<p>Center of documentation exchange, information notes to the delegation, reports to the plenary.</p> <p>Close informal contacts with officials from other institutions. Rare personal conflicts. High familiarity with political figures.</p> <p>Institutional position of note-takers; presence of other actors; information leaks.</p> <p>None.</p>	<p>Center of documentation exchange, informing MS ambassadors, following the mandate of the Presidency.</p> <p>Close informal contacts with officials from other institutions. Rare personal conflicts. Low familiarity with politicians.</p> <p>Institutional position of note-takers and informers.</p> <p>None.</p>	<p>Center of documentation exchange, special coordination role, information supply, following the mandate of the negotiators.</p> <p>Close informal contacts with with officials from other institutions. High familiarity with politicians.</p> <p>Institutional position of note-takers and informers.</p> <p>None.</p>
<p>Strategic facilitator</p> <p>Procedural expertise</p> <p>Content expertise</p> <p>Experience</p> <p>Contacts with third parties</p> <p>Institutional set-up</p> <p>Influence</p>	<p>Drafting the working document, strategic advice.</p> <p>Following the file from the 1st reading. Following political debates at all meetings. Substantive advice.</p> <p>Determinates the strength of the ability to shape politicians' decisions.</p> <p>Journalists.</p> <p>Institutional position: not negotiators. Rules of the negotiations: politicians decide. Structure of the negotiations: presence of other administrative players. Alignment with politicians' preferences.</p> <p>Indirect: high.</p>	<p>Drafting the working document, strategic advice.</p> <p>Following the file from the 1st reading. Following political debates at all meetings. Substantive advice.</p> <p>Determinates the strength of the ability to shape politicians' decisions.</p> <p>None.</p> <p>Institutional position: not negotiators. Rules of the negotiations: politicians decide. Structure of the negotiations: officials from the capital and the Presidency constrain. Alignment with politicians' preferences.</p> <p>Indirect: medium.</p>	<p>Strategic and institutional advice.</p> <p>Dealing with a file from the 1st reading. Following political debates at all meetings. Substantive advice.</p> <p>Determinates the strength of the ability to shape politicians' decisions.</p> <p>None.</p> <p>Institutional position: not negotiators, access to the President of Commission. Rules of the negotiations: politicians decide. Structure of the negotiations: no other administrative players. Alignment with politicians' preferences.</p> <p>Indirect: very high.</p>

Empirical analysis II. Administrative influence in the Conciliation Committee: Port Services, Working Time, ‘Telecoms Package’.

The second part of the empirical analysis develops the propositions suggested in the previous section. It looks at how the conciliation civil servants utilized their resources throughout the negotiations on specific legislative files, what was the role of the institutional environment in this process, were the conciliation administrators able to exercise influence over conciliation outcomes. In addition, this section examines the role of the remaining factor – nature of the issue – and its impact on the dependent variable. Based on the documentary analysis and interview data it suggests the reconstruction of negotiations on the Directive on Market Access to Port Services (reference number COD/2001/0047), the Directive on Organisation of Working Time (reference number COD/2004/0209), and the ‘Telecoms Package’ Directive [amending Directives 2002/19/EC, 2002/20/EC, and 2002/21/EC] (registration number 2009/140/EC).

Port Services Directive

In February 2001 the European Commission submitted a legislative proposal to the Parliament and the Council on a new legislation for the port services market. The purpose of the proposal was to establish a legal framework which will guarantee “a fair chance of entering the port services market” in the Community (Parliament, 2001; Commission, 2001). In the long-term perspective new legislation had to encourage the use of shipping as an alternative type of transport in the EU. The proposal undertook several modifications throughout first and second reading, but its general aim remained intact.

The Parliament introduced 39 amendments to the modified Commission proposal in its second reading in March 2003. Although the formal reaction of the Council was given only in July, as it can be inferred from the CODE notes to the Parliament delegation, already in March there were signs that the Council was not in position to accept Parliament’s second reading and there was a need for a constituent meeting of the Parliament delegation (Parliament, 2003a). At the first informal trialogue at July 7 it became clear that the Council “is not at present able to accept any of the Parliament amendments” (Parliament, 2003b). Thus, in September the file entered in the conciliation phase.

Disagreement between institutions was centered around the issues of the aim and scope of the directive, compensations to former service providers in the ports, authorisation mechanism,

competition between ports etcetera. The most controversial point, however, was not about regulatory or financial matters, but was related to the employment issue. The negotiators were divided upon the problem “whether workers from boats and not merely professional dock workers should be allowed to load in ports” (Rasmussen, 2005, p. 1021). In addition to a big political discrepancy the legislative file became publicly salient. Starting from the Parliament second reading port workers have been organizing several street protests in Brussels (Euractiv, 2006; ITF, 2006). As it was revealed by the Parliament official, “*we had two major demonstrations in front of the Parliament of port workers, they broke some windows, here and in Strasbourg. And really violent, we used to demonstrations, but we seldom see people throwing stones in the Parliament. [...] There was a huge political pressure from outside, on both sides*” (PS2, 2010).

In a situation of extreme politicization the negotiators on both sides were eager to conclude conciliation procedure as soon as possible. After the official opening of the procedure in the beginning of September “as a point without discussion” (Parliament, 2003c) there was only one triologue meeting held before the final Conciliation Committee meeting on 29 September. In this case advice of the officials from the Parliament’s Codecision and Conciliation Secretariat was to continue negotiations in order to reach a better agreement for the Parliament taking into account a surplus of time. However, due to the sensitivity of the file the rapporteur Jarzembowski and the Vice-President Embeni preferred to conclude earlier and to go for a vote in the plenary. The Parliament interviewee interpreted this moment as an example of limitation of the administrators’ advisory role: “*We give the strategic advice, we provide them with compromise texts, but they take the responsibility, the politicians decide*” (PS2, 2010). Additionally, Parliament officials took care about the appropriate timing of the documentation. In order to avoid the information leak to media the compromise texts were distributed among the members of the delegation not in advance, but in the afternoon of the very conciliation day. It was explained by the official that “*if [the documents] went public, it would be the end of the possibility to reach an agreement on that evening*” (ibidem). This is an example when the purely technical, preparatory function played a key role with regard to ensuring the completion of the conciliation procedure.

Commission officials also admitted that they performed their usual tasks of reporting, informing, advising on procedure during the Port Services file. Yet, an extreme politicization of

the issue has left its mark on administrators' work: "*When the political situation became more tense as a result of the protests, the Commissioner responsible, Mrs. De Palacio, and her team took over and the SG role became largely just one of providing information on developments to the College of Commissioners*" (Com1, 2010). It should be noted, though, that the conciliation took place before the time of President Barroso and of the GRI, when there was a greater degree of delegation to individual Commissioners than has been the case since 2004.

The compromise reached in the conciliation negotiations was supported by a narrow majority in the Parliament delegation of 8 votes against 7 and was rejected later by the plenary (Parliament, 2004a, p. 48). The Parliament, therefore, remained very much divided upon the issue even after the conciliation negotiations. Neither official Parliament report to the plenary (Parliament, 2003d) nor the Commission press-release (Commission, 2003) indicated any kind of administrative misbehaviour which may have an impact on the final legislative outcome.

Working Time Directive

The legislative process on the issue of working time in the EU which ended up in a recent conciliation started as a Commission proposal to amend the current Directive 2003/88/EC. The review of some provisions of the directive, precisely the possibility for the member states to opt out from the 48-hour weekly working limit, was imposed by the document itself (Parliament, 2004b). Although the Commission submitted its proposal in 2004, it took 3,5 years for the Council to adopt its common position which was later modified by the Parliament with 22 amendments. As notes to the Parliament delegation disclose, the amendments were grouped mostly around three issues: the opt-out, an interpretation of on-call time, and multiple employment contracts (Parliament, 2009b). MEPs, carrying about the high standards of protection of workers' health and safety, were convinced in a necessity of a gradual abolition of the opt-out. The Council, in turn, preoccupied with the competitiveness of the Community industry, was interested in keeping the status quo and allowing the possibility of not applying the 48-hour working limit in the member states. Commission's initial position was in the middle: it allowed for an opt-out only by collective agreement of social partners (Commission, 2004b).

The first trialogues held in February-March 2009 showed the difficulties in finding the compromise between the Parliament and the Council. Both parties were continuously rejecting each others compromise proposals regarding the opt-out and other troublesome issues. As it was

explained by the Parliament official, *“there was very strong blocking minority in the Council, and at the same time the Parliament had very strong political views and was not ready to accept a compromise that would go far beyond what had been acceptable”* (PS1, 2010). Similar to the Port Services file, CODE administrators provided strategic advice to the negotiators on a range of issues. Given a big number of items under discussion, they were asked, for instance, by the Vice-President on their opinion of what is the best to start negotiations with in the trialogues: to begin with the most difficult ones in order to facilitate further progress or to start with the easy ones. Officials also were constantly informing the rapporteur Cercas about the place and the date of new trialogues, and advising on the messages to be brought to the attention of the delegation members. In addition, they ensured an appointment of the shadow rapporteur, Mr Silva Peneda who represented European People’s Party (EPP), the member of the negotiating team in order to counterbalance the political representation, since the chair of the delegation, the rapporteur and the chair of the committee belonged to the socialist political group of the EP.

Council administrators indicated that during the ‘Working Time’ negotiations they performed traditional tasks of preparation, informing and strategic facilitation. However, Parliament respondents noted the unexpectedly high number of officials from the home ministry of the Czech Republic which was holding the Presidency at the time. To the mind of Parliament officials, they were much more active in assisting the Presidency in negotiations than the administrators from the Codecision unit. As a result, *“people in the Council Secretariat were a bit lost”* (PS1, 2010).

In contrast to the Parliament and the Council conciliation services, the legislative file had some particular implications on the work of the Commission administrators. As the original legislation was not followed by more than a half of the member states, the Commission, as a guarantee of a correct application of the EU law, had a special interest in getting an agreement which will bring the existing legislation in line with a situation that national governments would agree to implement. The interviewee explained that the Commission was reluctant to start the infringement procedures against majority of the member states who were acting against the rules: *“We badly want it to succeed because we did not want to start the infringement procedures. Europe will start to look ridiculous if it adopts the law and then 24 countries do not follow the law”* (Com1, 2010). Therefore, special legal/institutional implications of the Working Time file induced the Secretary General and the President of the Commission take a direct interest in the

progress of the negotiations. That implied an extra work for the conciliation civil servants, since now they had to inform and advice not only the DG experts, but also them.

The main recommendation that Commission officials were constantly repeating to the negotiators and the President was a need to keep producing compromise ideas before new trialogues as much as possible, trying to reconcile the positions of co-legislators in order to get a result and to ensure the Commission's role as a mediator under the Treaty. Further, knowing the background of the rapporteur and taking into account his inflexible position, the administrators were advising the negotiators to talk to the other members of the Parliament delegation and convince them to accept the deal that was at that moment at the table. Finally, apart from institutional and procedural advice, officials provided an 'substantive' suggestion to use a review clause concerning the opt-out with monitoring procedures and member states' reporting obligations as an argument for compromise package deal. *"Review clauses of this sort, mostly instigated by the Commission's services, are often features of compromise packages; but on such a sensitive and political issue, it was not enough to bring the co-legislators together"* (Com3, 2010).

For the first time since the Amsterdam Treaty the Parliament and the Council were not able to reach an agreement in the Conciliation Committee. As the CODE activity report discloses, after the three full Conciliation Committee meetings and many trialogues "the positions of the two institutions were too far away and reconciliation was not possible" (Parliament, 2009c, p 17). Neither this report nor press reports (Euractiv, 2009; Europeanvoice, 2009) indicated the misbehaviour of conciliation civil servants that may have led to the failure of the negotiations.

'Telecoms Package' Directive

The latest conciliation procedure which was concluded during the 7th parliamentary term related to the field of electronic communications. In 2007 the European Commission submitted a proposal for improving the existing legislation on the regulatory framework for, access to, and authorisation of electronic communications networks. The proposal aimed at strengthening competition and consumer rights "with a view to completing internal market for communications" (Parliament, 2007). It is interesting to note that the file ended up in the conciliation phase unexpectedly. At its second reading in May 2009 the EP adopted pre-negotiated with the Council compromise package together with one amendment which was tabled

at the last moment and was not a part of the agreement. The issue (so-called amendment 138) concerned the possibility to cut off the internet access in cases of illegal downloading. Some of the national governments were much in favour of such action, while for the MEPs it contradicted to the Charter of Fundamental Rights of the European Union in part of the citizens' rights of access to information.

In contrast to previously discussed dossiers, negotiations on 'Telecoms Package' were less politicised. The debates were concentrated around the legal basis of the decision to restrict internet access. Comparing this conciliation to the cases of Working Time and Port Services Council civil servants admitted that "*the work was less in terms of quantity, but in the Telecoms Package it was so difficult to find appropriate wording*" (CS2, 2010). Although it was only one amendment on the agenda of the Conciliation Committee, four trilogues and one full Conciliation Committee meeting were eventually needed in order to reach an agreement. It is important to note that Parliament and Council administrators played typical roles of preparation, informing and strategic facilitation, but the key administrative actors in this particular case were the Legal services of both institutions. Indeed, the nature of the issue under negotiations required a big input of legal expertise which was provided by the lawyers of the Parliament and the Council Secretariat. Commission officials were also fully involved in performing their usual tasks of preparation and information supply of the GRI meetings, but without any special advisory role: "*The responsible commissioner, Mrs. Reding, and her cabinet were very active and would not have needed the help of the Secretariat General directly*" (Com1, 2010).

The compromise solution was agreed that the restriction on the internet access by the citizens may be imposed only as a result of "a prior, fair and impartial procedure" (Parliament, 2009d) with a right for a possible judicial review. The outcome of the conciliation talks was confirmed by the Parliament's plenary and the Council meeting in November 2009, and the procedure was successfully completed. Neither Parliament delegation's report to the plenary (ibidem) nor the Commission press release (Commission, 2009) indicated any kind of administrative misbehaviour which may have influence on the final legislative outcome.

In sum, the second part of the empirical analysis has demonstrated how the conciliation administrators perform their functions of preparatory body, transmission belt, and strategic facilitators on the examples of specific legislative files. It pointed to the evidence that contrary to the predictions of the principal-agent theory civil servants of the Conciliation Committee are not

in a position to exercise influence over the legislative outcomes. Yet, they affect the individual decisions of the negotiators via institutional, procedural and content advice. This section suggested that the indirect influence of the civil servants may vary depending on the nature of the issue under negotiations: the greater the institutional implications of the file, the higher is a demand for the strategic advice of the administrators. The level of complexity and political salience of the file, however, appeared to have no explanatory power with regard to the degree of informal influence. Finally, the section has also shown the limitations which the institutional environment (set-up) of the Conciliation Committee imposes on the ability of administrators to shape politicians' decisions. Their institutional position does not allow them to adopt decisions as such and to take direct part in the negotiations. Furthermore, the presence of other administrative players ('Telecoms Package' dossier) undermines the ability of conciliation officials to exercise indirect influence via their advisory role.

Conclusions

This paper aimed to set out the role of the administrative players in the Conciliation Committee negotiations with a specific account of their influence over the legislative outcomes and factors which may facilitate or constrain this process. Against this backdrop, the above analysis demonstrates that conciliation administrators play crucial role at this stage of codecision procedure. Their functions were aggregated in three categories – preparatory body, transmission belt, strategic facilitator – which on the scale of significance range from the most technical (preparatory body) to the most substantial (strategic facilitator). Certainly, within each category there are some variations and differences between officials' work implied by the distinct nature of the Parliament, the Council, and the Commission and their unique role in the EU legislative process, but they do not undermine the salience of the similarities.

As the preparatory body, conciliation officials perform technical role of organisation and providing support for the meetings of respective delegations, joint technical meetings, trialogues, Conciliation Committee meetings based on the procedural guidelines consolidated in the Treaty, interinstitutional agreements, rules of procedure of the institutions. Furthermore, conciliation secretariat is a center of information exchange, coordination and communication between three institutions throughout the conciliation procedure. This type of activities is entitled 'transmission belt' since the administrators are engaged in briefing, informing and reporting back to their

political superiors. Finally, conciliation civil servants act as strategic facilitators when they draft working document and provide negotiators with advices on procedure, content, and institutional issues. The last category comprises activities which are most likely to be translated into the influence over legislative outcomes. The most different criterion that was used to select the legislative cases allows to generalise these findings on all the files under Article 294 of the Treaty.

The empirical analysis of the administrators' resources and the environment of the negotiations, corroborated by the case studies of the specific legislative dossiers, suggests, however, that conciliation officials are not in a position to shift the results of the negotiations. Based on the methodological triangulation between documentary analysis, interviewing, and secondary literature review the study demonstrates that contrary to the expectations of the principal-agent theory, administrative influence over policy outcomes is not likely to occur. Thus, the hypothesis of the research proved to be a false statement. First, assumed causal relation between the level and quality of the expertise and the dependent variable was not found. Even though conciliation officials indeed possess distinct procedural and content expertise which contributes to the information asymmetry between administrative and political actors, this does not allow them to determine the outcome of the conciliation talks. Second, in contrast to the information asymmetry, another pillar of the principal-agent theory, the goal conflict between political masters and their agents, is not intrinsic to the Conciliation Committee. Indeed, the empirical analysis points to the evidence that the conciliation officials share and are willing to defend the interests and negotiating positions of their respective political superiors in the interinstitutional bargaining. The goal alignment, therefore, precludes any incentive for the civil servants to shift the legislative outcome away from the principal preferences (shirking) or to pursue the interests of third parties (betrayal).

The convergence of interests between political and administrative players in the Conciliation Committee is a manifestation of the institutional environment of the negotiations. It was found that the variable of institutional set-up has the most explanatory power with regard to the lack of administrative impact on the outcomes of conciliation negotiations. First, the formal institutional position of conciliation officials does not allow them to take direct part in the dialogue negotiations and Conciliation Committee talks. Instead, they enjoy the role of note-takers and advisers during these meetings. Second, the rules of the negotiations prescribe that the

final agreement must be a political agreement, e.g. based on politicians' and not administrators' choices. Furthermore, conciliation officials, while fulfilling their duties, are bound by codes of conduct and several other legal documents. Finally, civil servants from the codecision (and conciliation) units of the institutions' Secretariats are not exclusively represented in the Conciliation Committee. The structure of the negotiations implies the presence of other administrative players (in the Parliament – officials from the committee secretariats, in the Council – officials from the capital of member state holding the Presidency) which may infringe upon their responsibilities and weaken their institutional positions.

The above analysis, nevertheless, put forward the issue of the indirect administrative influence. Using counterfactual analysis it was shown that conciliation civil servants are able to change a position and behaviour of key negotiators via the institutional, procedural, and content advice. The ability to shape politicians' decisions depends on a number of factors. Experience of the officials and nature of the issue under negotiations proved to have an explanatory value with regard to the latter. Indeed, the empirical analysis of the administrators' resources and the environment of the negotiations proposed that the higher prior experience of participation in conciliation meetings and the greater the institutional implications of the file, the higher is the demand for the strategic advice of the administrators.

On the other hand, the institutional set-up of the Conciliation Committee also limits the possibilities for the indirect administrative influence. As it was demonstrated by the case studies of the three conciliation dossiers, it is always up to politicians to agree or disagree with the strategic advice of their agents. Moreover, main negotiators may take an advantage from the presence of other administrative players in the conciliation negotiations by asking their opinions about the problems of the file and compromise solutions. Yet, it must be noted that there is a variation on the extent to which the institutional environment constrains civil servants. For example, a relatively higher indirect influence of the Commission officials may be explained by their distinct institutional position which grants them an access to the President of the Commission, while great involvement of the Presidency officials in the conciliation bargaining accounts for a relatively lower administrative impact of the Council civil servants. Thus, the variable of the institutional set-up of the Conciliation Committee appeared to have the biggest explanatory power with regard to the findings of this research.

In sum, variety of the functions conciliation officials perform as a preparatory body, transmission belt and strategic facilitators, lack of the direct influence over the legislative outcomes while shaping the individual decisions of the negotiators imply that the conciliation civil servants are in the authoritative position to settle on the time and the way conciliation path is walked, but not the destination of this path. In other words, an examination of the role of the administrative players in the Conciliation Committee negotiations may help to answer the question of *how* they happen, but not *what* happens as a result of the talks. In the same vain the role of the conciliation secretariat was summarized by one of the interviewed officials: “*The secretariat is the oil of the machinery. It is necessary, but it does not make the product itself. The machinery is the members of the Conciliation Committee*” (PS2, 2010). Clearly, conciliation secretariat is there to facilitate the process of searching a compromise, but not to determine the compromise itself.

Since the hypothesis of the study was not verified during the process of empirical analysis, it is necessary to consider the implications of these empirical results for the explanatory power of the principal-agent theory as a dominant approach to the analysis of relations between elected politicians and unelected civil servants in the literature of administrative governance. Not only the hypothesized causal mechanism between the information asymmetry and agent’s deviation from the principal’s preferences was not in place, but also the theory’s core assumption about the goal conflict between two parties was not found. Thus, the principal-agent theory may be challenged for presenting rather one-sided interpretation of the relations between politicians and administrators which does not apply for all the instances of empirical phenomena.

This leaves support for the alternative accounts provided by the recent studies on administrative governance. For example, Waterman & Meier (1998) point out that goal conflict and information asymmetry are not inevitably present in all political-bureaucratic settings. They reveal the examples of formations where bureaucrats and politicians share the same goals, and even where information asymmetry persists in favour of principals. In addition, Waterman & Meier indicate the necessity “to relax unrealistic unitary actor assumption” (p. 178) and to include in the model the concepts of ‘multiple principals’ and ‘multiple agents’. It is interesting to note that both concepts find support in the empirical reality of the Conciliation Committee. Whereas the occurrence of the multiple principals was the most evident in the case of the Commission officials (DG experts, Commissioner’s cabinet, President of the Commission,

Secretary General), the multiple agents triggered by the institutional set-up of the Conciliation Committee was typical for the Council ('codecision dorsal' administrators, Presidency officials) and the Parliament (CODE administrators, officials from the committee secretariat, political groups staff).

Other studies do not only challenge the key assumptions of the theory, they question the fundamental logic of relations between politicians and civil servants. Theorizing on the issue of consensual rather than confrontational bureaucratic process, Shapiro (2005) emphasizes the importance of mutual learning and building reputations which impels principal and agents to become embedded in the same social network. "Indeed," she claims, "the salience of policy commitments undermines our expectation of goal conflict between principals and agents, who may sometimes share policy goals" (p. 268). Furthermore, Rasmussen (2005b) in her assessment of delegation in the EU conciliation processes points to the logic of appropriateness which dominates the environment of the negotiations. She concluded that it may not be the control and sanctions that constrain the delegations behaviour, but rather their positions "are driven by a desire to do what is appropriate to their legislative body" (p. 1029). The logic of appropriateness could be indeed an alternative explanation of why conciliation civil servants are not motivated to deviate from the principal's preferences. Although we did not specifically intend to test it in this study, some supporting moments were found while analysing the institutional set-up of the Committee and the familiarity of the contacts among officials, between them and politicians.

Thus, the findings of this study suggest to refine the 'scope conditions' of the principal-agent theory in line with the revealed critical accounts. Undoubtedly, there are instances of principal-agent relations which comply with the main assumptions of the framework. However, this research demonstrates the other type of interactions, more consensual ones, where civil servants are not inclined to maximize their individual goals diverging from the politicians' wishes. The propositions of the theory which were mainly developed for the administrative structures in the national settings should be adjusted to the context of interinstitutional bargaining in the multinational formation which resembles the EU. It is not to propose that dichotomy between politics and public administration is viable. On the contrary, the study of the Conciliation Committee shows a great degree of officials' involvement in the political negotiations. Keeping the bureaucracy out of politics is, indeed, a vain hope (LaPalombara, 1967). Yet, as findings of the paper imply, blurred boundaries do not necessarily mean that civil

servants exercise influence over policy outcomes according to their own preferences or pursuing the interests of third parties.

One may argue, though, that the Conciliation Committee is an unusual exception from the plethora of settings where the politicians and administrators remain in the antagonistic positions to each other. Such a claim may cast a hindrance on the generalisation possibilities and give a rise to the N=1 problem, similar to one with which the theorists of the EU as a *sui generis* organisation encountered in the European integration debates. However, we do not share this skepticism. First, following the Popper's terminology this 'non-white swan', even though it is the only one found, inevitably questions the explanatory leverage of the theory. Second, it would be reasonable to assume the N=1 problem only after the findings of this study were tested on the larger sample of empirical instances. Therefore, future research should expand in more detail on the role of the administrative players in the bicameral bargaining process (e.g. in the USA, Germany) while critically scrutinizing principal-agent theory.

Indisputably, the research has certain limitations. Even though earlier we have indicated several techniques which are called to mitigate the problem of observational equivalence, they are not without drawbacks. For instance, as regards to the reputational indicators, some interviewees did not find themselves competent enough to judge the power of their colleagues from the counterpart institutions. Furthermore, a complete picture of the administrative players' role in the Conciliation Committee cannot be achieved without interview data from the principals. Yet, the interviews with the relevant rapporteurs, Coreper representatives, and DG experts were not conducted due to lack of resources and individual capabilities. Lastly, such a micro-level investigation of the conciliation civil servants requires participant observation in order to arrive to more reliable conclusions.

As a final point, the findings of this study should be tested against other theories. Procedural politics approach developed by Joseph Jupille (2004; 2007) claims that actors tend to engage in the fights over procedures and strategically select the rules which benefit them most. Choices of rules that arise from the disputes over legal basis of particular legislative act, according to Jupille, may have certain implications on the final legislative outcomes. Since the conciliation civil servants possess distinct procedural expertise and are, in fact, the guardians of the procedural guidelines, this makes them an interesting subject of investigation for the procedural politics model. If the result of such study came to the same conclusions with regard to

the influence of the administrative players in the Conciliation Committee, reliability of the findings of this research would be significantly increased.

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