Negotiations as Usual

Putting Domestic Constraints on the Table in the Council of the European Union

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Figures and Tables

To the memory of my grandparents Gunnel and Fredrik

Acknowledgements

My interest in EU negotiations started during my master studies at the European affairs programme at Lund University. What started with course work on EU negotiations evolved into a deeper interest in the relation between domestic politics and EU relations. I wrote my master thesis on how the Swedish parliament is able to constrain its government before negotiations in the EU. When applying for the PhD program, I proposed to take this a step further by studying how this type of constraints are used in EU negotiations, and with what effect. I believe that I have been able to follow this initial plan surprisingly close, but I also hope that I have sharpened it to this final product. Many thanks to my fellow students at the MEA programme in Lund, and to my supervisor for my master thesis, Malena Rosén Sundström. Big thanks also to the Department of political science at the University of Gothenburg for accepting me to the PhD program and providing an excellent and stimulating work environment.

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Introduction

International negotiations cannot be understood in isolation from domestic political constraints. For instance, when negotiating international environmental agreements, participant governments need not only to consider such aspects as environmental impact and economic costs, but also whether a potential environmental deal will gain domestic acceptance and ratification (Wangler, Altamirano-Cabrera and Weikard 2013). A government's domestic constraints are defined by what is possible to ratify, and shows how international and domestic politics are intertwined. Ratification therefore constrains what governments can agree to, which is expected to affect the terms of international agreements in favour of the more constrained actors, who can argue that "I'd like to accept your proposal, but I could never get it accepted at home" (Putnam 1988, 440). Ratification was for instance a concern when negotiating the North American Free Trade Agreement (NAFTA), where the U.S. Congress could successfully constrain the Bush government, which in the end also affected the terms of the NAFTA agreement (Milner and Rosendorff 1997). The U.S. Congress was also successful in constraining the Carter administration the 1970s when negotiating a deal on human rights improvements with Argentina, in exchange for lifting restrictions on, for instance, foreign assistance and military assistance (Martin and Sikkink 1993).

But international relations are changing, tending towards increased interdependencies and to clusters of more integrated, closer cooperation between states (e.g. Farrell 2005). The primary example of this development is the integration of the member states of the European Union (EU), breaking previous political boundaries and leading to more supranational practices, making the EU less of an international organization and more of a "normal political system" (Kreppel 2012). This means for instance that the intergovernmental decisions made in the EU are not subject to the formal ratification that other international agreements are, and, even more importantly, it is practically very difficult to defect from already concluded agreements. Ratification is a fundamental component of the theory of domestic constraints, since the threat of *ex post* defection is the mechanism for domestic constraints to affect negotiated agreements (Putnam 1988). The fact that there are no ratification requirements for ordinary EU legislation poses questions about whether domestic constraints have any effect on intergovernmental EU negotiations, yet it is a factor that is occasionally included when seeking to explain EU negotiations and outcomes (e.g. Bailer and Schneider 2006; McKibben 2013; Schneider, Finke and Bailer 2010). EU governments are concerned about domestic acceptance, not through

formal but through informal ratification practices. The German government for instance faced increasing political constraints during the Eurozone crisis. This was an effect of the need for domestic acceptance from an increasingly sceptical political establishment and public opinion, for the different rescue packages, but also for the government's hard-line austerity policy (Bulmer and Paterson 2013). Another example of this occurred during the negotiations over a stabilization and association agreement with Serbia, where the Dutch foreign minister Verhagen was concerned with the domestic political acceptance of such agreement from its public, press and parliament, if failing to persuade the Serbian authorities to fully cooperate with the international criminal tribunal for the former Yugoslavia (Smeets 2013, 141). Hence, even in situations where formal ratification of agreements is not required, governments are concerned with domestic acceptance through informal ratification. This puts political constraints on government actions.

The case in focus here is the Council of the EU[1], the institution where representatives of EU member state governments negotiate EU legislation. Given that it is very difficult to defect from negotiated EU agreements, the main aim is to demonstrate why it is both theoretically and empirically meaningful to study domestic constraints in this context, and why it is important to include domestic constraints in order to understand Council of the EU decision-making and outcomes. I argue that in order to understand domestic constraints in EU Council negotiations, it is necessary to consider how this decision-making context differs from traditional international negotiations. I furthermore argue that it is necessary to pay attention to the question of communication of domestic constraints in negotiations, which in empirical studies is largely a missing link in the chain between the domestic constraints and the negotiated outcomes.

The Domestic Constraints Theory and Applications

The relationship between domestic politics and international relations has received much attention after the formulation of Robert D. Putnam's theory on two-level games (1988). A great deal of this attention has been focused on the concept of domestic constraints and how they affect the distribution of gains in international negotiations. Putnam argued that domestic constraints are defined by the set of outcomes that would win domestic ratification (win-sets), and that actors with smaller win-sets would not need to fear being "pushed around" in negotiations (1988, 440). This particular aspect of the two-level game theory got its inspiration from Thomas C. Schelling (1960) and the formulation of what he called "the paradox of weakness".

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[1] The Council of the European Union is the official name of the institution that is often referred to as the Council of Ministers. In the following, the 'Council of the EU', the 'EU Council' and the 'Council' will be used interchangeably.

Schelling argued that national representatives, constrained by domestic level actors, would have an advantage negotiating internationally, because it would hinder them from compromising on their ideal positions and therefore make them more successful in negotiations. The works of Putnam and Schelling form the theoretical basis for the expectation that domestic constraints should make negotiators able to influence outcomes of negotiations, and because of their common logic, they will be referred to as the domestic constraints theory in the following sections.

Two-level games are essential to understanding international negotiations and the actions of state governments. Governments in representative democracies[2] care about the interests of domestic political actors, their constituencies, and are sensitive to their desires. There is an important democratic component to the two-level game theory. It focuses on the extent to which the government and its representatives can voice interests of actors that are important in the domestic democracy. Decision-makers will be sensitive to the desires of different parts of the constituency depending on their electoral base, which also means that they will have different constraints on different political issues. This need for responsiveness to the wills of the decision-makers' constituency is a fact that can be regarded both as a moral obligation and as an act of self-interest when seeking re-appointment. Responsiveness is thus based on political concerns. Domestic constraints are based on domestic actors' ability to limit the government's leeway at the international negotiation table and is as such primarily a theory of international bargaining, stressing the interdependence of the domestic and international levels (Moravcsik 1993). Domestic constraints are believed to affect the negotiations at the international level, and to explain differences in influence. It thus centres on explaining a fundamental component of joint decision-making and reaches issues of power in international negotiations.

Government negotiators need to consider whether potential outcomes of negotiations will be acceptable in a domestic *ex post* ratification game. The interests of the domestic actors involved in the ratification game define what negotiators can agree to and get acceptance for. Domestic actors affect a negotiator's outside options, including the cost of non-agreement, or wrong agreement. Domestic actors that take part in the ratification game can thus change the negotiators' reservation price, defining what is acceptable and not, by increasing the cost of withdrawing from the commitment (Morrow 1999). This means that an actor with strong domestic constraints has a smaller win-set and has less incentive to agree to non-preferable outcomes, than an actor with weak domestic constraints. Domestic constraints can hence improve an actor's BATNA (Best Alternative to Negotiated Agreement), by making the relative cost of non-agreement lower. This is in turn an important factor for being successful in negotiations (Fisher, Ury and Patton 1999). The domestic

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[2] Even if only concerned with democracies here, much of the logic of the domestic constraints theory can apply to non-democratic states too. Ratification would then not primarily be required from e.g. a parliament or the public, but to those domestic actors that maintain the authoritarian system (cf. Milner and Rosendorff 1996, 147n5).

constraints are, in sum, providing the negotiator with a certain degree of commitment to a position that is presumably stronger – but not necessarily completely unalterable – than for an actor that does not have domestic constraints. Domestic constraints are thereby also essentially a commitment strategy that has often been associated with distributive bargaining practices (Schelling 1960; Walton and McKersie 1965).

The expectation that domestic constraints will make negotiators more influential has been tested both theoretically and empirically. Theoretical models that formalize under what conditions the theory holds have been developed (e.g. Hammond and Prins 2006; Iida 1993; Mo 1994; Tarar 2001). Empirical studies have focused on explaining the outcomes of, for instance, intergovernmental trade negotiations and EU treaty negotiations (e.g. Hug and König 2002; König and Hug 2000; Milner and Rosendorff 1997; Slapin 2006). Less work has been done on other types of negotiations, between for instance actors other than states or on legislative decision-making (but see e.g. Bailer and Schneider 2006; Costello and Thomson 2011), despite the fact that many patterns and processes of negotiations will likely show similarities across settings (cf. Walton and McKersie 1965, 2).

This thesis studies the Council of the EU and everyday legislative decision-making between the EU member states, representing a negotiation setting that differs from the traditional two-level game in that there is no ratification requirement. The empirical conclusion from previous studies has been that "in the case of the more frequent Council of Ministers negotiations, a positive effect stemming from domestic constraints on bargaining success has not yet be (sic) confirmed" (Bailer 2010, 747). This conclusion is mainly based on the findings of a study by Stefanie Bailer and Gerald Schneider (2006), testing the domestic constraints theory on EU Council decision-making[3]. This is so far the most elaborated attempt to test whether domestic constraints affect EU Council legislative negotiations and outcomes, and it therefore deserves a more thorough presentation, and scrutiny. Bailer and Schneider use the Decision-Making in the European Union (DEU) data to analyse whether domestic constraints affect a member state's bargaining success. It covers member states' and institutions' initial positions on 66 legislative proposals and 162 conflict dimensions (Thomson and Stokman 2006), which makes it possible to determine the bargaining success for different actors. They use three measures of domestic constraints; one institutional, that considers factors of national parliamentary strength vis-à-vis government, one on the degree of ideological division between member state governments and their national parliamentary EU affairs committees, and one behavioural, consisting of whether the member state has issued any threats in the negotiations. The first two measures are structural and do not contain variation between different proposals, as the third measure does. Bailer and Schneider show that for none of these definitions of domestic constraints is the predictive accuracy of bargaining success in the domestic constraints model significantly higher than for a

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[3] A variant of these models is reported in Schneider, Finke and Bailer (2010).

baseline Nash Bargaining Solution (NBS) model. This means that negotiators with domestic constraints do not strike better deals than they would if they did not have domestic constraints. Bailer and Schneider therefore argue that domestic constraints do not affect the outcomes of the everyday negotiations of the Council.

I argue, however, that their conclusion rests on three shortcomings, casting doubt on the conclusion that domestic constraints do not affect outcomes. Some of these shortcomings are shared with other studies of domestic constraints (e.g. Schneider, Finke and Bailer 2010). First, while domestic constraints are likely to vary on an issue-by-issue basis, Bailer and Schneider (2006) mainly use institutional measures of domestic constraints, which are static for each member state. These measures are based on the national parliamentary strength on EU affairs and on the ideological division between government and parliament in the member states. Since the government does not control these types of parliamentary constraints, they are sometimes argued to be more credible (Pahre 1997). But I instead argue that such measures are unable to capture issue-by-issue variation. Domestic constraints refer essentially to political constraints that are likely to vary between and within proposals, depending on how the interests in the member states are configured (cf. Moravcsik 1993, 24). Bailer and Schneider seek to address this by including a measure on whether negotiators have made threats on different issues in the proposals, as a proxy for domestic constraints. However, their own analysis suggests that the concept of threats has ambiguous meanings for member state delegates in this context, and it is unclear whether they are actually connected to domestic constraints. This points to the second shortcoming in their study: that they do not consider the fact that domestic defection *ex post* agreement is not a realistic possibility. The proposition that domestic constraints should increase an actor's influence builds on the assumption that actors with domestic constraints will use this fact as a threat about domestic defection (Putnam 1988). However, such threats of defection will not be credible if the option to defect is practically absent, which is the case in the Council of the EU. Therefore, if domestic constraints should be expected to have any effect on negotiation outcomes, other theoretical mechanisms and types of communication must be considered. The third shortcoming is that Bailer and Schneider do not fully account for the fact that information about domestic constraints needs to be communicated between negotiators. Admittedly, issuing threats is a way of communication, but as argued above, threats of defection are not realistic in the EU Council. A prerequisite for domestic constraints to influence outcomes is that they are known to other negotiators and thus that they are communicated in the negotiations. This assumption is sometimes made explicit and the usage of domestic constraints is then labelled as strategic (e.g. Bailer 2010, 750), but it is rarely included in a systematic way in empirical analyses (e.g. Hosli 2000; Hug and König 2002; König and Hug 2000). The implication is that if it is not known whether domestic constraints are actually communicated in negotiations, then it is difficult to conclude whether they will have an impact on the negotiated outcomes.

Moreover, there are empirical studies that have shown that what in practice amounts to domestic constraints are considered and accommodated in the EU Council. Mareike Kleine has argued, for instance, that the Council works according to practices of informal governance where an informal norm of discretion adds flexibility to the formal rules and prevents the Council from concluding agreements that "threaten to stir up potentially disruptive conflicts at the domestic level" (Kleine 2013, 3). Without dressing the argument in domestic constraints terms, it is apparent that such potential domestic conflicts would put political constraints on any government. If the norm of discretion that Kleine describes prevents the rest of the Council from outvoting a member state that has these constraints, the logic of the domestic constraints theory seems to be at work. A similar argument is given by Stéphanie Novak (2013, 6) who states that while the majoritarian decision-making rules are generally followed, allowing a qualified majority to outvote member states in minority positions, when a measure endangers a member state's vital interests, then decision-making can be postponed. It is not unreasonable to think that such postponement might also extend to changing the content of a proposal.

The conclusion in Bailer and Schneider (2006) about domestic constraints not having a positive effect on actors' bargaining success can thus be questioned, both on its own theoretical shortcomings, but also based on the arguments of other studies about domestic problems being considered in the Council. There are theoretical as well as empirical reasons to believe that domestic constraints are actually important to consider in order to understand the decision-making and outcomes in the Council of the EU.

The Argument in Brief

In this thesis, I argue that domestic constraints are important in order to understand Council of the EU negotiations and outcomes. The three shortcomings of the aforementioned studies are connected to each other, and can be addressed by redirecting focus to the communication of domestic constraints. Focusing on communication allows domestic constraints to vary on an issue-by-issue basis; it includes the full causal chain from domestic constraints to influence over outcomes; and it allows studying how domestic constraints are communicated and by what mechanisms it can lead to influence, in situations where it is difficult to credibly make a threat about domestic defection. In sum, I argue that this enables a more accurate analysis of domestic constraints in negotiations and the effect of domestic constraints on actors' influence in negotiations. I use three research questions to evaluate these claims: (1) *How are domestic constraints communicated in the Council of the EU?* (2) *Who communicates domestic constraints, and under what circumstances?* (3) *Are actors that communicate domestic constraints more influential?* The first research question is used to evaluate if and how domestic constraints are used, when, in practice, it is very difficult to defect *ex post* agreement. The second and third research

question deal with the issue of whether communication of domestic constraints is relevant to include in order to understand domestic constraints, and their effect on outcomes, in the EU. The second research question also helps with understanding the strategic choice of whether or not to communicate domestic constraints. The third research question evaluates whether the communication of domestic constraints leads to influence, as stipulated by the domestic constraints theory. I evaluate these questions and substantiate the claims empirically in three chapters, relying on 36 qualitative interviews, and a survey of 249 respondents. Both data sources include member state negotiators, working in EU Council preparatory bodies.

The argument that the communication of domestic constraints is an important component of the domestic constraints theory is empirically supported in the thesis. I look at how likely it is that negotiators communicate domestic constraints, in a situation where they have a domestically constrained position, and I show that there is substantive variation between different negotiators. The variation is in part explained by the size of the member states, where representatives of economically small member states are more likely to communicate domestic constraints. Previous studies have often relied on static definitions of domestic constraints, using measures of the institutional power relationship between government and parliament. However, the variation in likelihood to communicate domestic constraints is not explained by variables capturing aspects of national parliamentary strength vis-à-vis their governments. This also means that such static definitions of domestic constraints miss some issue-by-issue variation in domestic constraints. Furthermore, I demonstrate that national parliamentary power can be a determinant of negotiators' influence in Council negotiations, even for actors that do not frequently communicate domestic constraints. But, crucially, without including the communication of domestic constraints it is not possible to capture the full domestic constraints' effect on influence. This shows in sum that there is important variation in the communication of domestic constraints, and that this variation is important to consider when evaluating domestic constraints' effects on negotiators' influence in the Council of the EU.

In the absence of a possibility to refer to ratification problems, I argue that domestic constraints need to be communicated in some other way than as a threat about domestic defection. I therefore theoretically develop the argument that domestic constraints can be communicated and work according to other logics than of distributive bargaining and threats about defection. I show that domestic constraints are primarily communicated according to a logic of integrative bargaining, as a way to signal salience and clarify positions. Clarification aims at logrolling, the process of reciprocally trading support on issues, dependent on how valuable they are to the different actors of a negotiation. There are also some indications of domestic constraints being communicated and working according to a logic of rhetorical action. That is, domestic constraints are also used as an argument to persuade the adversaries in the Council to be accommodating towards one's position. Such rhetorical action builds on an exploitation of a deliberative norm, where others' positions can be

changed, while one's own position is kept rigid. Both this latter, argumentative, logic, and the integrative bargaining logic, are normal practices in negotiations within the Council of the EU. Hence, domestic constraints are communicated according to the usual negotiation practices of the Council, and do not assume some exceptional logic. In addition, it is shown that domestic constraints are communicated irrespective of experience in Council negotiations. Since this means that experienced negotiators do not communicate domestic constraints to a lesser extent than less experienced negotiators, communicating domestic constraints is considered to be uncontroversial in the Council. This finding adds to the image of domestic constraints as part of the normal practice in Council negotiation.

Focusing on the communication of domestic constraints yields other conclusions about their effects over negotiation outcomes than what has been found in previous research. I show that negotiators who frequently communicate domestic constraints are perceived to be more influential in Council of the EU negotiations. This effect of communicated domestic constraints on influence is moderated by some member state and preparatory body characteristics. That is, not everyone is more influential as a consequence of communicating domestic constraints. Communicating domestic constraints has a positive and significant effect on influence for negotiators from member states with medium to large formal voting power, representing majority governments and with weak national parliaments. Communicating domestic constraints has also a higher effect on influence in preparatory bodies that operate under the unanimity rule, as opposed to a majority decision-making rule, in the Council. This domestic constraints' effect on influence is not found in previous studies of domestic constraints in the EU. I argue that while domestic constraints can risk creating gridlock in negotiations, there is also a positive effect for the EU democracy, since it indicates that negotiators are responsive to constituency interests.

Outline of the Study

Following this introductory chapter, a model of domestic constraints in the EU Council is developed in Chapter 2. I argue that studying domestic constraints in the Council of the EU requires further theoretical work, since the mechanism in the domestic constraints theory – that domestic defection *ex post* agreement is possible – is in practice not an option for EU agreements. I also develop a theoretical model of negotiations with domestic constraints in the EU Council. It identifies the three main variables to be included in empirical analyses: *the domestic constraints*, *the communication of domestic constraints*, and *influence*. These variables are also theoretically defined.

In Chapter 3, the design of the study is discussed and the two sources of data are presented. The data is unique primary data, consisting of one set of 36 qualitative interviews and a survey with 249 respondents. Both data types include respondents who work as member state representatives in the Council preparatory bodies. The data

sources are complementary and used to gain a better understanding of domestic constraints in the Council of the EU. The process of selecting respondents is presented and the execution of the interviews described. The chapter ends with a discussion about the operationalizations of the three main variables identified in Chapter 2, forming the basis for the empirical Chapters 4, 5 and 6.

In Chapter 4, the first research question is empirically evaluated, asking: *How are domestic constraints communicated in the Council of the EU?* The qualitative interviews are used for the purpose of responding to this question. I begin the chapter by theoretically arguing that domestic constraints can be communicated in different ways in the Council of the EU, and are expected to primarily be used in other ways than as a threat about domestic defection. I then empirically evaluate this claim. The chapter ends with an empirical discussion about the political character of domestic constraints, and the communication of them.

The second research question is empirically evaluated in Chapter 5, asking: *Who communicates domestic constraints, and under what circumstances?* The chapter begins by theoretically outlining different independent variables that are expected to explain why negotiators choose to communicate domestic constraints. These variables are related to member state characteristics, preparatory body characteristics and individual characteristics. The survey data is used in a statistical model to empirically evaluate these theoretical propositions.

The third research question is empirically evaluated in Chapter 6, and asks: *Are actors that communicate domestic constraints more influential?* For this purpose, the survey data is used. Measures consist of the frequency with which negotiators in the preparatory bodies communicate domestic constraints and which negotiators are perceived as influential. In a first part, different variables are discussed that are expected to have moderation effects on the overall relationship, based on member state and preparatory body characteristics. In a number of statistical models, these theoretical propositions are then evaluated.

In the concluding section, Chapter 7, I synthesise the results, point to areas of future research and spell out arguments about how to regard the role of domestic constraints in the EU democracy.

2
A Model of Domestic Constraints in the Council of the EU

In this theoretical chapter, I develop a model of negotiations with domestic constraints in the Council of the EU, discussing the theoretical definitions of the central variables of the thesis. This model is founded on the domestic constraints theory as developed by Schelling (1960) and Putnam (1988), focusing in particular on the latter's two-level game theory. I use this and other literature about decision-making in the Council of the EU to design the model, containing discussions about what domestic constraints are, their need to be communicated, and what type of effects they are assumed to have on negotiation outcomes. The model thus includes the communication of domestic constraints, functioning as an intermediate variable between the domestic constraints and influence. I develop the argument about domestic constraints needing to be communicated in negotiations in order to conclude whether it has any effects on negotiated outcomes. The components of this model form the basis for the coming empirical chapters.

The chapter begins with a discussion about the Council of the EU as a case, and the particular challenges that the domestic constraints theory faces when applied to this negotiation context. This primarily concerns the question of how domestic constraints should be understood in contexts where *ex post* defection is not a practical option. I argue that since national parliaments do not have veto power through a formal ratification procedure, further theoretical work is needed on how domestic constraints can be used in practice, in a type of negotiation setting where ratification is, instead, informal.

The Council of the EU

The two-level game theory and the paradox of weakness were initially developed for traditional international negotiations. The most pure setting for the domestic constraints theory has been argued to be "circumstances such as trade negotiations in which there are well-defined issues, parties with clear interests and a well-structured ratification process" (Mayer 2010, 62). The European Union shares some features with traditional international organizations but it is different in other ways. It is a far-

reaching organization of sovereign states and has commonly been described as *sui generis*[4], which means that the EU is a one of a kind type of organization showing similarities to both an international organization and, particularly in some respects, also to a domestic political system. Rightly, it has been compared to both (cf. Pollack 2005, 370). By not being purely one or the other, the EU lacks some of the characteristics of a traditional international organization that the domestic constraints theory was initially developed for. In particular, the EU differs from other international organizations in the degree to which the member states have pooled and delegated sovereignty to joint institutions, and thus increasingly begun operating through supranational decision-making practices. Member states are pooling sovereignty by giving up their unilateral veto power over decisions and instead operating through majoritarian decision-making practices in the Council. Member states are furthermore delegating sovereignty, and thus giving powers to the joint EU institutions, as a way to demonstrate a commitment to abide the common rules instigated (Moravcsik 1998, 67-68). This in effect means that the EU member states have given up a substantial amount of their veto power both at the decision-making stage and at the ratification stage. This should in turn affect the expectations about domestic constraints effects in this decision-making setting.

Ratification and Decision-Making Vetoes in the Council of the EU

Putnam (1988) argued in the formulation of the two-level game theory that ratification is the key component in connecting the domestic and international levels, and the mechanism that could credibly commit a negotiator to not make concessions. The idea that eventually any agreement needs domestic ratification was believed to be threat enough to gain concessions from others. What it basically refers to is a threat of defection from an agreement that does not succeed in gaining enough domestic acceptance. Domestic constraints, as defined by the size of the win-set, are thus determined by the anticipation of which agreements are acceptable in a domestic ratification process.

Defection from agreements is a result of a lack of enforcement capacity. This means that Putnam is assuming that enforcement of agreements is not possible if they are not ratified. If governments should have the possibility to effectively use the threat of ratification failure, they must also be sure that without ratification, the agreement cannot be enforced. This is usually also how it works in international relations: if an agreement is not ratified, its stipulated rules will not be applied. This is also true for instance when new treaties are agreed on in the EU. All member states need to ratify the treaties in order for them to take effect. In treaty ratification processes it has been empirically shown that the domestic constraints stemming from ratification

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[4] This exclusive character of the EU has become increasingly questioned, however, as the comparative perspective in EU studies has grown in significance (cf. Kreppel 2012).

requirements can explain some of the variation in bargaining success of member states (e.g. Hug and König 2002; König and Hug 2000; König and Finke 2007). Empirical evidence of this from the everyday decision-making in the EU has also come from the bicameral negotiations between the European parliament and the Council. The parliament's delegation has there shown to benefit from having to ratify inter-institutional agreements by a vote in the parliamentary chamber (Costello and Thomson 2011).

Whereas these are examples where ratifying actors can veto agreements and hence prevent them from being enforced, for a lot of decision-making in the EU Council, the ratifying actors do not enjoy such capacity. Most decisions coming from the EU will become binding, regardless of whether actors in the member states like them or not, and they will be enforced by the Commission and ultimately by the judicial bodies of the EU. Still, it should be noted that defection in terms of non-compliance to agreed-upon rules, or transposition failure, is a reality in the EU (Conant 2012, 1-2; Tallberg 2002, 628). For instance, not all directives are transposed by the member states in due time, and member states also sometimes fail to correctly report implementation measures to the Commission (e.g. König and Luetgert 2009). But this does not take away the obligation to implement and follow agreed-upon rules according to the treaties. The EU compliance system is comparatively effective in securing this (Cremona 2012). Thus, the political system does not give member states any formal possibility to defect by applying a ratification veto. Because of this lack of ratification veto, a threat of defection due to domestic constraints should in practice be irrelevant for influence in legislative decision-making in the Council of the EU.

While ratification focuses on what happens when an agreement has already been reached, another way of stopping agreements from being applied is of course to prevent them during the decision-making stage, and thus not make them available for ratification (cf. Moravcsik 1993, 24-25). Traditionally in international relations, agreements between states are decided unanimously, requiring the consent of all signatory states. This differs from how the bulk of decisions in the Council of the EU are made where Qualified Majority Voting (QMV) is used. It is apparent that the formal powers given to each member state are diminished when introducing majority voting instead of the formal veto power assured under unanimity requirements. Ratification and unanimity voting serve the same function for states in the international system, in that it grants them formal veto power over agreements, but at different phases of the decision-making process. Voting rules apply in the conclusion of international agreements while ratification applies in the domestic acceptance process. For the theory, they share the function of potentially forcing negotiating adversaries into meeting an actor's domestic constraints by a threat of either defection or of blocking decision-making.

There are however at least two reasons why a ratification veto should be more important than a decision-making veto for the domestic constraints theory. Firstly, the negotiating executive is not in control of the ratification veto and can hide behind the

veto players in the ratification game. The domestic veto players in turn are likely not to be under as much pressure by foreign state executives to conclude agreements internationally, as the negotiating executive and domestic veto players can therefore more easily commit to a position (Moravcsik 1993, 29). The decision-making veto, on the contrary, is fully in the control of the negotiator, who can decide whether to strike a compromise and thereby also decide whether it is worth the risk in terms of ratification failure or domestic discontent and potential domestic accountability measures. Secondly, a decision-making veto can be assumed to always be present in negotiations, otherwise there would be nothing to negotiate over. If there would be no actor or group of actors able to block a decision, there would be no relevant conflict and hence it would be possible to make a decision without engaging in negotiations (cf. Iklé 1964, 2). A prerequisite for negotiations under QMV is hence that the coalitions are sufficiently large enough to constitute blocking minorities on some issues of a proposal. The member state representatives always count on the votes in negotiations (Novak 2010, 86), which means that the difference between blocking minorities and winning majorities is important. The decision-making rule should therefore not be regarded as a condition for decision-making veto, which instead can be assumed to always be present. The absence of a decision-making veto should therefore be less severe than the absence of a ratification veto, for the domestic constraints theory in Council decision-making. The absence of formal veto power in the ratification process undermines the theoretical mechanism suggested in the two-level game theory, which thus raises the question of whether domestic constraints have any effect on the distribution of gains in the Council of the EU.

Informal Ratification in the Council of the EU

When there is no veto in a formal ratification process, as in legislative decision-making in the Council of the EU, there is still reason to believe that domestic acceptance of EU agreements will be important for member state governments. The argument developed here is that even in situations where there is no need to formally ratify agreements, some informal acceptance, or ratification, will be necessary. In democratic political systems, governments are accountable for the laws they make and what they deliver from negotiations in the EU. Domestic groups that are dissatisfied with EU outcomes can thus demonstrate this, resulting in political costs for the government. This need for acceptance is at the core of informal ratification (Pahre 2004). The actor suffering the cost of unwanted agreements differs between formal and informal ratification. Under formal ratification, agreements that are unwanted domestically will not win ratification and hence the government will be forced to defect from it. The cost under such circumstances is primarily allocated at the international level where the defecting government might suffer credibility losses, and where the parties need renegotiate agreements. When, on the other hand, ratification is just informal, the government will mainly have costs at the domestic level. The costs will then be borne by the government that is primarily from the dissatisfied part

of the constituency through accountability measures, ultimately through the election ballots (Pahre 2004, 10).

Domestic constraints are based on the political pressure that different domestic actors may put on the government on issues which they deem to be important. Governments need to deliver good outcomes when important domestic interests are at stake, or domestic conflicts will be stirred up, and in the end lead to political costs (Kleine 2013, 3-7). Member state governments are sensitive to what their constituency thinks and should be concerned about being punished when failing in negotiations, which is also one of the reasons why member states are reluctant to register negative votes when the Council decides (Novak 2013). The allocation of costs is crucial. They may be taken by the government at the domestic level, or be taken shared with the other parties at the international level. The executive needs to address the question of why negotiating adversaries would want to consider the domestic costs that they would not themselves suffer in a situation with only informal ratification. This is crucial for domestic constraints to have a role in this decision-making setting. Mechanisms for such alternative ways of using domestic constraints are theoretically elaborated on and empirically evaluated in Chapter 4.

Accountability in informal ratification is exercised by the domestic constituency, in giving its approval or disapproval for outcomes, and by taking actions if dissatisfied. As opposed to formal ratification, informal ratification is less about gaining acceptance from one clearly defined actor – the national parliament – voting up or down on an agreed outcome, and more about acceptance from the parts of the constituency that is most important to the government in the issue at hand. This general acceptance of EU agreements is much more diffuse, unpredictable and potentially long term than the formal type of ratification, but at the same time it puts the government in a better position domestically since it can choose, to some degree, which of these endorsers' preferences to take into account, and can as such partly choose their domestic constraints (Pahre 2004). There is hence an increased element of government control over the domestic constraints under informal ratification, but at the same time they are more uncertain, and might therefore be more difficult to foresee and to claim with credibility. Usually, for international agreements, informal and formal ratification are complementary and both are necessary in the signatory states (cf. Milner and Rosendorff 1996; Putnam 1988). But the emphasis in domestic constraints studies has traditionally been on national parliaments, irrespective of whether formal ratification is necessary or not (e.g. Bailer and Schneider 2006; König and Hug 2000; Pahre 1997; Schneider, Finke and Bailer 2010). There is a discrepancy between the usual application of the theory, focusing on national parliaments, and ratification of EU legislation, which is solely informal and thus comprises a wider spectrum of domestic actors.

What the discussion above has identified is that decision-making in the Council of the EU differs from traditional types of international decision-making primarily in that member states do not have ratification veto. This is crucial since the domestic

constraints theory is founded upon this assumption, and the possibility to defect as a mechanism for influencing outcomes. While it is true that EU member states are exposed to informal ratification domestically, this fact has not been sufficiently reflected when studying domestic constraints in the EU Council. Acknowledging the importance of informal ratification is a move away from the more legalistic understanding of domestic constraints adhered to in the original domestic constraints theory. It is also a step towards including more informal practices of Council decision-making (Kleine 2013). Studying the Council of the EU thus requires further theoretical work in order to determine how domestic constraints can be used in this context. This is further elaborated on in Chapter 4. The inclusion of informal ratification thus furthers the understanding of domestic constraints and decision-making in the Council of the EU, and more generally how domestic constraints can be used to affect outcomes in negotiations where formal ratification is not required.

A Two-Level Model of Negotiations in the Council of the EU

In order to proceed with studying the effects of domestic constraints in the Council of the EU, it is necessary to clearly define some central theoretical concepts. This is done in a model of negotiations in the EU Council developed below (Figure 2.1), structured by Putnam's two-level distinction between domestic level politics (Level I) and international level politics (Level II). These are the main levels of the political system that state negotiators need to be concerned with and that is illustrated by the two-level metaphor. An important feature of this theory is that in order to understand negotiations, it must also be understood that negotiators are operating at both levels. At each level there are constraints; on Level I in terms of what is possible to ratify, and on Level II in terms of what other states can accept. Negotiators hence need to balance these constraints and they can apply double-edged strategies to affect outcomes (Moravcsik 1993, 15-17). The aim here is not to study the whole negotiation process, but to understand how, to what extent, and with what effect domestic constraints are used in the Council of the EU. This means that there is a one-way rather than two-way focus, limiting the scope to the effects of the Level I constraints. The following discussion introduces the intermediate step of communication of domestic constraints, and it theoretically defines the independent variable of domestic constraints and the dependent variables of communication and influence. This discussion forms the basis for the empirical parts of the thesis and the operationalizations of these variables, discussed in Chapter 3. The interaction variables, exemplified in Figure 2.1, are expected to moderate the effects between the independent and dependent variables, and are further discussed in Chapters 5 and 6.

Model Summary

The model (Figure 2.1) suggests that negotiations at the EU level are based on the interests in the domestic political game, and it includes the relevant actors and actions in this process. In the left part of the model – Level I – the executive, as the key national actor, formulates domestic positions based on information about the interests of important domestic actors, and the political consequences of non-acceptable agreements. These interests and political stakes are evaluated by the executive and aggregated into a negotiation position with various degrees of domestic constraints. Important domestic actors are the national parliament, but also constituency in broad terms or interest constellations such as interests groups, businesses and media. Domestic constraints in the model are supposed to be communicated by explicit statements in negotiations at the EU level – Level II – and in the end increase the influence for the constrained negotiator, which in turn affects negotiation outcomes. The variables associated with each step in the model, and which are used in the following empirical chapters, are included below the solid line in Figure 2.1.

Figure 2.1. Two-level model of negotiations with domestic constraints in the Council of the EU, including variables

	Domestic level (Level I)	International (EU) level (Level II)
Actor(s)	Parliament Constituency Interest groups Media ⟶ Government ⟶	Member state delegation in the Council of the EU
Action	Formulating interests — Interest intermediation — Coordinating position	Negotiation Communication
Variables	Independent variable *Domestic constraints* ⟶	Intermediate variable *Communication* *of domestic constraints* ⟶ Dependent variable *Influence*
	Interaction variables *e.g. Member states' size, parliaments'* *power, level of the Council etc.*	Interaction variables *e.g. Member states' size, parliaments' power,* *level of the Council etc.*

Domestic Constraints

One crucial element of specifying the theoretical model is to clarify what a domestically constrained position is. Constraints of various kinds, and with various sources, always permeate negotiations and affect how negotiations are run, whether they will result in agreement and of what kind. They can be based for instance on Level II factors such as institutional rules, time pressure, financial capacity or informal behavioural norms. For instance, an increasingly important institution in decision-making in the EU is the European Parliament, which has become an equal legislator to the Council on most issues. The European Parliament thus by definition constrains what the Council can do, since the Council has to consider the opinion of the Parliament. It becomes even more tangible since the Council and the Parliament to an increasing extent interact from early phases of decision-making, and in practice do not operate in parallel processes (e.g. Costello and Thomson 2013; Rasmussen 2011). Furthermore, the intense contact that the member states' representatives have with each other in the Council also results in socialization and adoption of collective norms, guiding decision-making. This can modify the actions that negotiators are able or willing to make, and in doing so, this puts constraints on member states' actions and decision-making in general (e.g. Lewis 2005, 942-945). These are examples of important constraints on decision-making in the Council of the EU that arguably should not be disregarded in order to understand how the Council decides.

But constraints can also have their basis on Level I, and thus in domestic politics, and the preferences of the member states' constituencies. This type is what is usually referred to as a domestic constraint, and can also be referred to as a type of political constraint. It is defined by what is possible to ratify domestically or, in informal ratification games, what would be possible to accept domestically. In other words, the domestic constraints are based on what is politically possible, as opposed to what is politically impossible. In this sense, it refers to the ability of selling agreements back home and to satisfy one's supporters or electorate, which is necessary in a democracy (cf. Hutt 1971, 1-4). It is important to note that the different types of constraints mentioned are not mutually exclusive, but can coexist and also coalesce.

With this backdrop, I argue that domestic constraints in the EU are based on informal ratification and are determined by the preferences of the domestic actors that the governments care about. This adds salience to positions and provides negotiators with a commitment and an inflexible position. The full argument is elaborated in the following.

Domestic constraints have often been understood as the degree of divided government in previous studies (e.g. Mayer 1992, 2010; Milner 1997; Mo 1994; Pahre 2006). In essence, such conceptualisation captures a difference that exists between pluralist democracies and authoritarian states, where the latter has a harder time claiming that their domestic audience would not accept a particular type of negotiated agreement (Putnam 1988, 449). This observation highlights the fact that it is primarily in democratic systems that different domestic interests have a

constraining effect on the negotiating executive[5]. The common argument has been that divided government is constraining for the executive, since it cannot only consider its own interests (Milner 1997, 37-42). In this way, essentially, divided government refers to the situation when domestic preferences are heterogeneous as opposed to homogenous. Homogeneous preferences are easier to anticipate and the domestic acceptance process will be clearer in the sense that an agreement is either acceptable or not to the domestic audience. Heterogeneous domestic preferences are more diffuse and thus less easy to anticipate, since a negotiated outcome will always please someone and displease someone else (Putnam 1988, 442-446). But when preferences are heterogeneous, the executive might be in a privileged position since it can choose which domestic actors it cares more about, i.e. those that have the most political influence, and align with their preferences in order to find backing for its position. It is therefore potentially equally constraining to be influenced by a set of domestic actors with homogeneous preferences as by a set of domestic actors with heterogeneous preferences. Domestic constraints are in sum determined by the aggregated domestic political stakes, based on the domestic actors' political influence, regardless of whether these are more or less heterogeneous (Moravcsik 1993, 24).

As conceived here, domestic constraints refer to a type of constraint that is based on political concerns and the political support given to the government based on different negotiated policy outcomes. The political costs that the executive has to carry for delivering agreements that do not meet the preferences of important domestic actors are decisive for determining the domestic constraints. If agreements have to be ratified domestically, the executive is forced to consider the ratifying actors' interests and to compose its negotiation position based on this. Following Putnam, domestic constraints are defined as the size of the win-set, determined as "the set of all possible Level I agreements that would 'win' – that is, gain the necessary majority among the constituents – when simply voted up or down" (Putnam 1988, 437). 'Voted' should not necessarily be thought of as explicit and formal voting but rather as acceptance, especially as ratification here is just informal. Win-sets should be understood as containing substantive policy options, but which actors' interests these policy options are based on, and thus whom it is necessary to get acceptance from, must also be known.

The negotiator's – agent's – mandate is in some principal-agent literature argued to be composed of the three components *flexibility*, *autonomy* and *authority*, that put constraints on the agent's ability to act through these agency ties (Nicolaïdis 1999). Flexibility is determined *ex ante* as what an agent is allowed to do in the negotiations and by defining the negotiator's tasks. It refers to substantive policy options and defines the specificity and the rigidity of the positions and thus the margin to strike compromises. The autonomy of the agent in turn refers to the relationship between the

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[5] Some of the logic, however, might apply to authoritarian states too (cf. Milner and Rosendorff 1996, 147n5; Putnam 1988, 436-437).

principal and the negotiating agent during the actual negotiations. It captures to what extent the principal can steer and control the agent while performing its tasks, which can be done through mechanisms of for instance continuous reporting or even the principal's physical presence. The third factor, authority, is traditionally the most important factor for the domestic constraints theory and focuses on whether the agent can commit its principal to a particular negotiated outcome or if the principal can withdraw its support *ex post* agreement. It centres on the ratification process and whether there is a possibility to defect after agreement at the international level.

These three components are vital to defining an actor's domestic constraints, and are also captured by the notion of win-sets as described above. They relate to each other in that authority in the form of ratification requirements, and the negotiator's degree of autonomy during negotiations, are important in order to determine the flexibility of positions and leeway for the negotiating agent. Different ratification requirements, formal or informal, will make different domestic actors important for the government, as previously discussed. The important domestic actors' preferences in turn affect the flexibility for the negotiating agent. Flexibility, at least as it is displayed during a negotiation, will also be affected by the autonomy allowed to the negotiator. Typically, the autonomy and the authority of agents thus describe formal institutions and are as such static predictors of the negotiators' flexibility. The flexibility instead varies issue-by-issue, based on the autonomy and authority, and dependent on the domestic political stakes. The domestic constraints' definition elaborated here is thus based on the flexibility of negotiators, and not only on the more static formal predictors of autonomy and authority.

In studies of domestic constraints, national parliaments are often treated, not only as the main domestic actors able to constrain the government, but also as the only relevant domestic actor able to constrain the government. But when governments seek domestic acceptance for EU agreements through informal ratification, as opposed to formal ratification, national parliaments are formally just one amongst other important domestic actors. National parliaments can no more than any other domestic actor force the government to defect or cause defection at the domestic level, which makes it formally equal to other important domestic actors. The delegated task to the government and its negotiators thus includes the authority to make decisions that are practically binding for the member state. Important domestic actors in informal ratification instead need to be defined more widely, comprising constituency in broad terms, including for instance local constituency and economic or other interest groups (Bailer 2010; Crombez 2002; Hosli 2000; Milner 1997; Moravcsik 1998; Putnam 1988; Tarar 2005; Thomson and Stokman 2006). Such domestic actors' interests are to varying extents important for governments in evaluating the consequences that different negotiated outcomes will have. Domestic actors serve as sources of information, both on substantial policy but also on the political costs for the government if it is not able to deliver desirable agreements. This type of wider definition of constraining actors also yields a less static definition of domestic

constraints, not only allowing variation in constraints between different issues, but also variation in sources of domestic constraints. It is thus a move away from the static parliamentary definitions of domestic constraints, used in previous studies (e.g. Bailer and Schneider 2006; Schneider, Finke and Bailer 2010).

The political influence of domestic actors and their ability to have a constraining effect on the government will in turn differ dependent on what priorities the parties belonging to the government have. For instance, a Green Party will probably be more sensitive to political pressure of environmental groups, while a Social Democratic Party will be more sensitive to political pressure from labour unions. This is of course related to where the government parties have their strong electoral bases and whose interests they share and therefore are willing to fight for (cf. Menz 2011). These domestic actors thus have greater possibilities to reduce the flexibility for the government. The government can in turn rely on its core constituency and to some extent has the possibility to choose how their domestic constraints are formed. This means that some interests will be more constraining for one party than another, which also indicates that the formation of domestic constraints depends in part on who holds government office. There are in addition some domestic actors that will be important for any government, such as the general public, the national parliament or important media. These are all sources of constraints that are difficult to disregard and that represent a broad spectrum of domestic interests. Yet, it is the government that coordinates positions and that needs to assess how constraining the interests are of the various domestic actors, as also indicated in Figure 2.1. Taken together, the potential consequences for negotiators that are not able to deliver domestically acceptable outcomes are that they in different ways risk being punished by the electorate. As in any representative democracy, this can be done by protests or decreased popularity, ultimately shown at the ballot box. There are thus, in addition to substantial interests, also political interests for negotiating governments. This means that a "government is not viewed as a benevolent social welfare maximizer but rather is composed of politicians pursuing political interests: re-election, perhaps" (Milner and Rosendorff 1996, 147).

Following this reasoning, domestic constraints add salience to member state governments' negotiation positions. Knowing that important domestic actors care about an issue and pressure for particular outcomes will increase an issue's importance for the government as well, if it is sensitive to its constituency's preferences. Salience is conventionally defined as "the importance that an actor attaches to an issue […][and] importance can be based inter alia on its (estimated) policy impact, the political sensitivity of an issue or the attention it receives from core constituencies" (Warntjen 2012, 169). Salience thus increases as an effect of domestic constraints. It might therefore be tempting to assume that a domestically constrained position is just the same as a salient position. While it is true that a constrained position is also salient, the salience of a position need not be based on domestic constraints, but can for instance also be based on the substantial impact of an expected

policy (Warntjen 2012, 169). The focus here is thus on a particular type of salient position. Increased salience in turn affects payoffs from different outcomes in the sense that a defeat will be more painful if on a highly salient issue as compared to when salience is low (Golub 2012). Accordingly, on an issue where a negotiator is domestically constrained, an outcome farther away from its ideal position will create greater loss of utility.

Salience has been included in many bargaining models seeking to explain negotiated outcomes in the EU. It then builds on a logic where negotiators that do not care about the outcome of a negotiation, i.e. where their salience is close to zero, would not be interested in taking serious part in the negotiation but instead leave the negotiations to other actors. This logic can then be generalised to mean that negotiators with higher salience will be less likely to give in and instead commit to their position and engage in the negotiations. This in turn should result in greater bargaining success, which has also been empirically shown for member states in the Council of the EU (e.g. Achen 2006a, 2006b; Arregui and Thomson 2009; Schneider, Finke and Bailer 2010). It is thus surprising that empirical studies have concluded that domestic constraints do not explain outcomes, while saliency does.

For the negotiating agent, the salience of domestically constrained positions provides a commitment, which makes the position difficult to deviate from. The domestic constraints commitment is founded on the fact that any discrepancy between the domestically constrained position and a negotiation outcome will result in some political costs domestically. Such a commitment should not be understood as making positions completely unalterable, but rather that flexibility is reduced and the cost of shifting position, or making concessions, can be high.

In sum, domestic constraints are based on the preferences of important domestic political actors and what EU agreements they are prepared to accept. Such acceptance forms the domestic constraints through the anticipation of informal ratification *ex post* agreement. Commonly used definitions of domestic constraints, based on the degree of divided government or the sole focus on national parliaments as constraining actors miss important information about domestic constraints. Instead, I have argued for a more inclusive definition. It is necessary to comprise a wider set of domestic actors as able to constrain government representatives and able to debit political costs and this also allow for issue-by-issue variation in domestic constraints. The importance of different domestic actors for invoking political costs will also differ depending on the governing parties' interests and the actors which they care about. The political constraints will thus be more severe for the government when imposed by more important actors. This implies that domestically constrained positions are also by definition salient positions for the governments, making positions inflexible and providing negotiators with a commitment. It also means that it is difficult to make a general argument about which actors that are most important for member state governments, since this in part will be determined by the governments themselves.

Communication of Domestic Constraints

There is an assumption in the domestic constraints theory that negotiators have information about each other's domestic constraints, which is theoretically, but also empirically, largely left unexplored. The assumption implies that without such information, the domestic constraints could hardly be expected to affect the distribution of gains as suggested by the domestic constraints theory. It is moreover difficult for the analyst to distinguish whether the domestic constraints or some other factors account for variation in the distribution of gains without knowing whether negotiators possess this information. Even though the member states of the EU might know each other and partly each other's interests and domestic constraints, it must also be assumed that information asymmetry is present at the international level, where member states likely know more about their own positions and domestic constraints than do their adversaries[6] (cf. Bailer and Schneider 2006, 158-159; Smeets 2013, 141). Moreover, if domestic constraints are not made explicit, it is quite unlikely that other delegates will believe them to be particularly important. If having domestic constraints is a negotiation advantage, domestically constrained actors must communicate their positions and domestic constraints. This link between domestic constraints and influence is therefore included as an intermediate variable in the theoretical model in Figure 2.1. Since negotiators communicate with each other on an issue-by-issue basis, focusing on communication also makes it possible to study domestic constraints on an issue-by-issue basis. This furthermore helps remedy the problems with statically defined domestic constraints, based on institutionally given authority and autonomy of negotiating governments.

The standard mode of information exchange between negotiators is verbal communication, where negotiators are posing offers and counteroffers in an explicit rather than tacit way (Iklé 1964). If domestic constraints are to be communicated, they must be deemed to contain important information for negotiating adversaries. The choice of sharing the information on domestic constraints is strategic. It follows a basic assumption about rationality that no action, no argument, will be taken or presented for any reason other than to maximize one's own absolute benefit. Strategic should here be understood as a deliberate choice between communicating the domestic constraints and abstaining from doing so, rather than as a concept of fooling or bluffing. This means that it should not be confused with the notion of strategic, meaning deceitful (see Iklé 1964, 3-4).

In a setting where each party has some private information about its motives, often denoted an actor's *type*, sharing this information to the uninformed adversaries serves the purpose of helping them to separate one type from another, and hence make

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[6] This is however not a valuation of the relative importance of informational asymmetries at different levels. It might very well be that internal information asymmetry has larger effects on the distribution of gains than does information asymmetry between states (cf. Milner 1997). In addition, the situation where negotiating agents are not certain about their own domestic constraints, reservation price and payoff function is not addressed here (cf. Lax and Sebenius 1991).

informed decisions about future action (Morrow 1999, 86-87). In this case, the types of actors can be defined in a stylised fashion as either actors who have domestic constraints or actors who do not have domestic constraints. The decision to share information about actor type is deliberate and believed to affect the future actions of others. The type of communication of domestic constraints that is discussed here represents a straightforward way of signalling, which then must be evaluated by the negotiating adversaries (Jervis 1970, 20-25). It is for that reason also related to the credibility of such action and the issue of whether it may be insincerely used. Proving the existence of a domestic constraints commitment is obviously difficult since the associated political costs are paid *ex post*, and might be less tangible than for instance economic costs and other more substantive effects that are easier to foresee. When viewed this way, credibility becomes a matter of expectations and how to affect the adversaries' expectations about future action and future consequences. When compared to an argument of substance, the credibility of communicated domestic constraints might prove more difficult to evaluate since fact checking of political costs will likely be more difficult than fact checking of substantial effects. For instance, demonstrating the economic or environmental impact of some new legislation might be done with higher certainty than an attempt to demonstrate the political costs associated with the same legislation. Therefore, proving the existence of political costs, or at least making adversaries acknowledge the plausibility of them, is a key component in being credible when communicating domestic constraints. This necessity of being credible does not make the communication of domestic constraints any different to other negotiation strategies, but is rather a central feature in any negotiation. Yet the risk of having to back down from a domestic constraints commitment, which would hamper future credibility, should prevent any insincere use, especially in the iterated negotiations of the Council of the EU (Morrow 1999).

The way to transmit information on domestic constraints in this case is assumed to be through verbal statements by the domestically constrained actors. Negotiators having domestic constraints will use these when they argue for their positions, by pointing to their difficulties of accepting certain agreements because of the harm it would cause them at the domestic level. Putnam (1988, 440) for instance refers to arguments going along the following lines: "I'd like to accept your proposal, but I could never get it accepted at home". This type of formulation is repeated in other studies of domestic constraints, with minor variations: "without amendment *x*, the Constitution will be unacceptable to the population (political parties) that I represent" (Lenz, Dorussen and Ward 2007, 133) or "It is clear that my hawkish legislature will not ratify *x*. You will have to offer me something better" (Milner and Rosendorff 1997, 131). In these examples, the presumption is that the national ratifiers – primarily the national parliaments – can veto agreements and force governments to defect. But how should these types of verbal statements be understood in contexts where this possibility is practically absent?

As an empirical indicator of domestic constraints, McKibben (2013) looks at whether member states that issue parliamentary scrutiny reserves [7] in Council negotiations apply more concession extracting behaviour. Entering parliamentary scrutiny reserves should thus be understood as a non-explicit way to communicate or signal domestic constraints. The use of parliamentary scrutiny reserves might give some information about domestic constraints and how they can be used in negotiations. But parliamentary scrutiny reserves are also very unevenly used by the member states, where some member states do not use them at all while others use them more or less by default (Knutelská 2013). The large variations in how parliamentary scrutiny reserves are used must therefore indicate something other than variation in domestic constraints communication. More importantly, parliamentary scrutiny reserves by definition consider only national parliaments as constraining and not the wider spectrum of domestic actors discussed above. Another attempt to include the communication of domestic constraints in an empirical analysis is done by Bailer and Schneider (2006) who uses a definition of domestic constraints based on the issuing of undefined threats in negotiations. They basically ask negotiators whether any threats were issued in a given negotiation process, without further specification, and they use this as an indicator of the existence of domestic constraints. They thereby include explicit communication of domestic constraints, but they also assume that negotiators in the Council of the EU communicate their domestic constraints as threats. Neither this assumption nor whether domestic constraints were communicated in some other way in the negotiations have been empirically tested, however. I argue that the communication of domestic constraints is a crucial link in the causal chain between domestic constraints and influence. In addition, that the active use of domestic constraints in negotiations is better captured if focusing on more straightforward communication and negotiation statements.

In sum, domestic constraints need to be communicated in negotiations in order to affect the outcomes of negotiations, since communication corrects for information asymmetry and highlights that the position presented comes with domestic constraints. Making explicit domestic constraints statements in negotiations is here understood in this instance as a verbal expression of one's position and domestic constraints, and it is based on a deliberate strategic choice. Communication hence provides the link between the domestic constraints and the negotiated outcome and should be included when studying domestic constraints in negotiations.

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[7] In the Council a distinction is made between different kinds of reserves that negotiators can make if their member state is not ready or able to accept a proposal. A parliamentary scrutiny reserve is one such type, where member states are awaiting a standpoint from their national parliaments. Other possibilities are reserve of substance, scrutiny reserves, waiting reserves or language reserves (Statsrådsberedningen 2009, 37).

Influence

Domestic constraints communication is a logical intermediate variable in the domestic constraints model. Communicated domestic constraints are expected to have an effect on influence over negotiated agreements, as indicated in the model in Figure 2.1. The following discussion will conceptually focus on how to regard the notion of influence in order to complete the domestic constraints model.

I discuss domestic constraints effects in terms of the influence it gives negotiators over outcomes. Schelling (1960) on the other hand discussed the effects of domestic constraints on the distribution of gains in terms of bargaining power in his initial theory formulation. What he referred to was essentially that domestic constraints would make adversaries concede and the result would be higher payoffs and preference fulfilment (Moravcsik 1993; Putnam 1988). Influence and power can in many situations be used interchangeably, but will in other situations have different connotations (Dahl 1991). I understand bargaining power as the power to influence other actors in negotiations and thus in the end to influence negotiated agreements. Bargaining power refers to a capability while influence refers to the effect of that capability. It is thus the influence over outcomes and not the power as such that is of main interest here, even though they often mean the same thing.

For actors that are self-interested, the main goal from decision-making is to get an outcome that is as good as possible, in terms of coincidence with one's preferred policy. Such preference fulfilment is often described as bargaining success in empirical studies. But success can easily be mistaken for the luck of holding a mainstream position, or a compromise position (cf. Barry 1980). Measures of bargaining success are therefore often empirically contrasted with measures referring to a baseline model that considers the means of the positions of all actors involved, approximating a Nash Bargaining Solution (e.g. Arregui and Thomson 2009; Bailer and Schneider 2006; Bailer 2010). Such methods deal with the difference between success and real influence, where success as a consequence of luck should be separated from success caused by the power to influence (cf. Barnett and Duvall 2005). Influence implies that there is an element of change, either in the form of changing an outcome, or in the form of preventing anticipated change. An important element of causation is thus inherent in the definition, meaning that influence is exercised if actions taken result in an outcome that would otherwise have looked differently (Dahl 1991). Similarly, definitions of power focus on achievement and have been described by Robert Thomson (2011, 212-213) in this context "as a political actor's potential to realize its policy demands in decision outcomes, even in the presence of opposition from other actors" and by Jonas Tallberg (2008, 687) "as the capacity of the national executive to achieve a distributional outcome that as closely as possible reflects the preferences of the Member State he or she represents".

This element of change is thus an important component when determining influence and it is even more obvious when, as in this case, the analysis focuses on the causal effects of negotiation actions on outcomes. In this respect, the active use of

domestic constraints are no different from other negotiation strategies in that they are made either in order to induce some change, or to prevent anticipated change. The concept of influence is better able to capture this than related concepts such as success or power. There is an expectation in the domestic constraints theory that domestic constraints make negotiators influential, and, as further developed here, that the communication of domestic constraints makes negotiators influential. The increase in influence from communicating domestic constraints should thus help in getting one's preferences fulfilled.

Summary

This chapter has aimed at theoretically developing a model of domestic constraints, suitable for the Council of the EU. The original domestic constraints theory builds on the possibility of domestic defection *ex post* agreement through formal ratification, a possibility that is highly circumscribed in the EU. Yet, I have argued that member state governments should be concerned about the domestic acceptance of EU agreements through processes of informal ratification. This shift in focus to informal ratification can also contribute to making the domestic constraints theory more general, applying also in negotiation settings where formal ratification of concluded agreements is not necessary.

Informal ratification also forms the basis of domestic constraints formation in the theoretical model, illustrated in Figure 2.1. Governments base their positions in domestic politics and will be sensitive to the interests of the domestic actors whose political support they depend on and care about. When important domestic actors have strong opinions, the government's positions will be constrained, which reduces their flexibility. This also provides them with a commitment to the position and adds salience to it. The domestic constraints then need to be communicated in negotiations, in order to become known to the opposing parties in the Council negotiations. The communication of domestic constraints forms a link in the model between the domestic constraints and influence, but has rarely been included in empirical analysis, or has been insufficiently measured. It is included in the theoretical model here as explicit verbal statements, referring to domestic acceptance problems. The communicated domestic constraints are in a final step expected to affect outcomes of negotiations by making negotiators more influential. That is, communicating domestic constraints should make negotiators capable of influencing outcomes, either by changing or preserving them.

This theoretical model of domestic constraints in the EU Council indicates that the step from having domestic constraints to communicating them is an important one, which is empirically studied in Chapters 4 an 5. The step from communication of domestic constraints to influence is empirically studied in Chapter 6. The following section, Chapter 3, lays the foundation for the empirical chapters, by discussing the

research design, data and the operationalizations of the key variables identified in the theoretical model.

3
Research Design and Data

The aim with this chapter is to introduce the empirical data and to discuss how the data contributes to answering the research questions. It thus forms the basis for the coming empirical analyses. It contains three parts: the first focuses on the research design, and how the data – one set of qualitative interviews and one survey with member state negotiators – is suited to answer the research questions. In the second part, the more practical side of data gathering is discussed, which focuses on the sampling of respondents, on the one hand, and the conduct of interviews for the qualitative and quantitative data on the other hand. In a third part, the central variables from the theoretical model introduced in Chapter 2 are operationalized, namely *domestic constraints*, *communication of domestic constraints* and *influence*. These operationalizations will then be used throughout the empirical analyses in the coming chapters.

Two Sources of Empirical Data: Qualitative Interviews and Survey Data

In the introductory chapter, three research questions were developed. The attempts to answer them will follow in the subsequent empirical chapters. The focus here is on discussing how suitable each source of data is to answering each of the research questions. The first research question, dealt with in Chapter 4, is: *How are domestic constraints communicated in the Council of the EU?* The second research question, dealt with in Chapter 5, is: *Who communicates domestic constraints, and under what circumstances?* The third research question, dealt with in Chapter 6, is: *Are actors that communicate domestic constraints more influential?* All three questions add to the understanding of domestic constraints in the Council of the EU, and the circumstances under which this is a relevant variable to include if aiming to understand Council decision-making and negotiation outcomes.

The thesis aims at developing and testing the scope of the domestic constraints theory, following Schelling (1960) and Putnam (1988). The theoretical development began in Chapter 2, with the inclusion of a wider definition of constraining domestic actors, and including the intermediate variable on the verbal communication of domestic constraints. This will be tested in the empirical chapters. The research questions in themselves are formulated in a descriptive way but there is an obvious explanatory side to them in that they ultimately aim at explaining negotiation

outcomes. The theoretical model developed in Chapter 2, which will be evaluated in the empirical chapters, focuses on the expected positive and causal relation between domestic constraints, the communication of domestic constraints and influence. More precisely, the coming empirical chapters use previous research and theories to explain how domestic constraints are communicated, by whom and under what circumstances, as well as for whom and under what circumstances it leads to influence in the Council. As much social science research does, the research questions here contribute defining the boundaries of applicability for theories by identifying different scope conditions (King, Keohane and Verba 1994, 101). In doing this, a contribution to existing literature is made, which can both develop and potentially modify the domestic constraints theory. This should result in a more accurate understanding of domestic constraints in the Council of the EU, and of the workings of Council decision-making.

Two sources of empirical data are used to answer the research questions: a set of qualitative interviews and a survey with member state representatives acting as negotiators in the EU Council. Both data sources are unique primary data, gathered specifically for the purpose of this research. Each source of data has its own benefits, and the nature of the research questions decide which type of data is suitable to use to make relevant inferences (King, Keohane and Verba 1994, 3-7). To answer the first research question on how domestic constraints are communicated in the Council, 36 qualitative semi-structured interviews were conducted with member state negotiators working in two policy areas. The interviews were conducted face-to-face in Brussels during May-July 2012 with counsellors or attachés [8] from the member states' permanent representations to the EU. The survey data, on the other hand, is used to answer the second and third empirical questions on who communicates domestic constraints, and under what circumstances, and whether the communication of domestic constraints leads to added influence for negotiators. The interviews for the survey were conducted during spring 2012 and cover 249 respondents from all 27 EU member states (a response rate of 84 per cent). The survey respondents were chosen from eleven Council preparatory bodies (working groups and committees) covering different policy areas. Interviews for the survey were made by phone.

The first research question asks how domestic constraints are used by negotiators in the Council of the EU negotiations, and is empirically approached through the 36 qualitative interviews. The research question is formulated descriptively but an analytical framework is theoretically developed in Chapter 4 in order to aid the analysis. The empirical options for this type of question depend on the aspect of the how-question which is in focus, but also on the extent to which the theoretical

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[8] The title of attaché or counsellor is used for the civil servants placed at the member states' permanent representations to the EU, working within the different policy areas. In some member states they are called attachés and in others counsellors, but they refer to a similar type of position and status at the permanent representations. For the sake of simplicity, attachés will be used as the notation for these individuals in the following.

groundwork is laid by previous research and whether any clear expectations can be deduced. In this case, the previous research is sparse on the topic of how domestic constraints can be used in a setting without formal ratification requirements, which makes an approach based on such clear expectations difficult to implement. Therefore, the first question asks not for comparisons or sizes of effects, but rather for examples of how domestic constraints can be used, and why domestic constraints should be expected to lead to influence in this setting. Rather than following a strict closed-ended questionnaire, a more flexible approach is better suited, since it allows for more nuanced opinions and thus better response validity (Aberbach and Rockman 2002). This approach with semi-structured qualitative interviews thus provides good data in order to understand how domestic constraints are used in negotiations in the Council.

For evaluating the second and third research questions, asking about whom, and under what circumstances, domestic constraints are communicated, and whether it leads to influence, the survey of 249 respondents is used. While qualitative interviews are better at capturing nuances and allowing exploration in cases where prior knowledge is limited, surveys rely on a broader empirical base and are therefore more able to evaluate hypotheses building on clear expectations (Creswell 2003, 21-22). In order to test explanations for the variation in the communication of domestic constraints and its effect on influence, across actors and issues, a larger dataset is necessary. Only then is it possible to cover a sufficient amount of observations to make relevant comparisons, and in the end inferences. Here, theoretical expectations can be more clearly defined with the use of previous research and the domestic constraints theory and then tested in statistical models.

Qualitative Interviews

The qualitative interviews are used for the empirical analyses in Chapter 4, looking at how domestic constraints are communicated in a setting such as the Council of the EU, where formal ratification vetoes, and thus the possibility to defect, is absent. In this section, the process of selecting respondents and conducting interviews will be described.

Selecting Respondents

The selection of observations, or respondents, is crucial in any study design. The description below on the procedure for selecting respondents for this part of the study will begin with a discussion of what type of actors were targeted, guided by how decision-making in the Council works, and then move on to the more practical part of selection criteria.

The Council decision-making process is built on a division of labour between the different levels in the Council hierarchy. At the top, government ministers, who are the only ones capable of making binding decisions, negotiate over issues that are prepared by the lower level national representatives in preparatory working parties

and committees. In the preparatory bodies, national experts from the government ministries or agencies are preparing the ground, but there are also a lot of negotiations taking place between the Brussels full-timers, based in the member states' permanent representations. National experts are primarily involved in the working parties, while the staff from the permanent representations participate both in the working parties and the more senior committees of the Council (Hayes-Renshaw and Wallace 2006, 97; Olsen 2011). The national experts, serving part-time in Brussels, are primarily involved in the working parties where the attachés usually participate, as well; the latter are sometimes spokespersons alongside the national experts (Olsen 2011). A pilot round of interviews for this thesis was conducted with both technical experts based in the member states and with attachés from the permanent representations (part of the results reported in Johansson 2011). It was found that attachés follow the issues in the preparatory bodies, from working party level, via their own formal meetings in a group called "Counsellors/attachés" in the Council (General Secretariat of the Council of the European Union 2014), and all the way up to senior committees such as Coreper, the Committee of the member states' permanent representatives to the EU. The attaché meetings are located between the working parties and the senior committees in the Council hierarchy and are generally easier to assemble compared to the working parties. The attachés are already in Brussels, which means that the meetings need less preparation, but also that they can be surrounded by less formal rules regarding for instance translation (General Secretariat of the Council of the European Union 2011; Hayes-Renshaw and Wallace 2006, 99). The attachés are thus more accessible to each other, and this fact fosters more informal contacts and discussions between these Brussels full-timers than between the national Brussels part-timers in the working parties.

Since attachés are more likely to be accessible for interviews than the Brussels part-timers and the high level Coreper ambassadors or government ministers, respondents were targeted from this group of member state delegates. Furthermore, since attachés interact more with their equals in the other member state delegations, they are also better placed to reflect on the negotiations than for instance the national technical experts in the working parties (cf. Beyers and Dierickx 1998). Attachés thus have a broader perspective following issues in an intermediate position between the technical level and the political level, and with this broader experience they are able to provide a more comprehensive image of the Council as a whole.

The respondents were chosen from two different policy areas – justice and home affairs (JHA) and agricultural policy – where it can be expected that respondents have experiences from issues carrying a political dimension, which facilitates the study of domestic constraints. But the two policy areas also differ with regard to competences, character, and historical roots. The aim with this selection was not to get a representative sample of respondents from the Council as a whole, but rather to get respondents that have sufficient experience from dealing with domestic constraints in order to be able to reflect on it. This should provide more relevant empirical data. The

aim with the sample is furthermore not to compare the opinions from respondents within these two policy areas, but the choice were made in order to extend the empirical base, by avoid relying solely on experiences from just one policy area. This makes it possible to draw more certain inferences with increased likelihood of being valid for the Council as a whole.

Agricultural policy has deep historical roots, dating back to the Rome Treaty of 1957 and to a large extent has a redistributive character. The agricultural policy has long occupied a large portion of the total EU budget and there are significant economic interests involved. Having this financial dimension makes agricultural policy a sensitive area, almost by definition, one in which domestic political pressure exists and where unwanted agreements can lead to political costs. Several member states have strong opinions about the agricultural policy, whether because of its, according to many, unreasonably large share of the EU budget, or the fact that there are strong farmers' interests that opposes any attempt to make reforms that negatively affect them (Koester and El-Agraa 2011; Nugent 2010, 355-358). In agricultural policy, there should hence be good opportunities to get opinions about domestic constraints and their usage.

Justice and home affairs is a more recent policy area than agriculture and was introduced in the Maastricht Treaty of 1993 as one of the intergovernmental pillars of the EU. The policy area changed name with the Lisbon Treaty and is now called the area of freedom, security and justice, becoming an increasingly important policy area in the EU. Through the treaty revisions after Maastricht it has taken on a more supranational character, placing the decision-making capacity not only with the Council but also jointly with the European Parliament. JHA is more of a regulatory policy area than agricultural policy is and as such makes a contrast to the redistributive character of agricultural policy. As compared to agricultural policy, the stakes for the member states should however be equally high in JHA, since it touches upon issues related to territorial control, security and justice, which are policy domains central to the sovereign member states (Buonanno and Nugent 2013, 226-231). It is also observed that in the JHA area in particular, domestic politics is spilling over into the EU affairs and affecting decision-making (Monar 2013, 136). It can therefore be expected that member state negotiators working in this policy area should also be able to reflect on domestic constraints and their usage.

All EU policy areas are furthermore divided into subfields. For agricultural policy, for instance, these are the Pillar I issues (market support), and the Pillar II issues (rural development) and within JHA it is for instance fundamental rights, judicial cooperation, asylum and migration, Schengen issues and internal security issues. The respondents were, to the extent possible, selected from the same subfields within agricultural policy and JHA respectively. Since experiences of domestic constraints might vary both with member states and policy areas, the aim in this part was to hold the respondents' policy coverage constant while getting a variation of member states, in order to capture the variation in experiences. The respondents are

thus member state attachés affiliated to largely the same subfields and thus preparatory bodies of the Council, within their respective policy areas. However, different member state attachés cover different amounts of issues and hence do not have completely overlapping areas of responsibility. Generally speaking, attachés from small member states tend to cover more subfields within their policy areas than representatives from larger member states, which means that representatives from different member states are involved in different numbers of preparatory bodies and therefore might have a different wealth of experiences.

In order to identify relevant member state negotiators and their contact details the "EU who-is-who" directory and the member states' permanent representations' websites were used. Respondents were first approached with a letter, sent by e-mail, which briefly explained the research project and were then contacted a few days later by phone in order to schedule the interviews. In several cases, repeated contacts were necessary in order to find a suitable time for an interview. To get a broad range of respondents from different types of member states, while also obtaining a manageable sample, the aim was to interview one respondent from around 20 of the 27 member states within each policy area. In total, 47 member state representatives were approached, nine more or less straightforwardly declined or were unable to participate and two had just started their positions in Brussels and were therefore deemed not relevant to interview. In total, 36 interviews were conducted, giving a response rate of 80 per cent, discounting the two non-relevant individuals. Most member states are covered in the sample from at least one policy area but respondents are missing entirely from Romania, Lithuania and the Czech Republic. Table 3.1 displays the full list of respondents from the different member states and policy areas.

The abbreviations used when referring to the interviews are JHA for Justice and Home Affairs attachés and AGRI for agricultural attachés, followed by an abbreviation of the member state that the respondent represents. During the analysis in Chapter 4, I offer quotes and references to the interviews as examples of types of reasoning delivered by the respondents. Quotes have been edited only to the extent it improves their readability, such as removing repeated words or falterings.

Table 3.1 Distribution of interviewees from the different EU member states working in different policy areas

Member state	JHA	Agriculture	Total
Belgium	X	*	1
Denmark	X		1
Germany	X	X	2
Greece	X	X	2
Spain	*	X	1
France	-	X	1
Ireland	-	X	1
Italy	X	*	1
Luxemburg	X	X	2
The Netherlands	X		1
Austria	X	X	2
Portugal	X	X	2
Finland	X	X	2
Sweden	X	X	2
United Kingdom	X	X	2
Estonia	X	X	2
Latvia	X	X	2
Lithuania			0
Poland	*	X	1
The Czech republic	*		0
Slovakia	X	*	1
Hungary		X	1
Slovenia	X	X	2
Cyprus	X	*	1
Malta	X	X	2
Bulgaria	X	*	1
Romania		*	0
Interviewee total	19	17	36

Note: X indicates participation, * indicates declining or unable to participate, - indicates too limited experience, blank indicates not approached.

Conducting Interviews

All 36 interviews were conducted face-to-face in Brussels. Most interviews were conducted at the respondents' permanent representations, but three of them were conducted at nearby cafés. All respondents were asked whether they were willing to be recorded during the interview and in those five cases where respondents declined, extensive notes were taken. Recording interviews comes with benefits as well as drawbacks. For some, recording interviews disturbs the conversation both for the interviewer and for the interviewee (Woliver 2002), whereas for others it aids in focusing on the conversation without fear of forgetting or losing some information (Aberbach and Rockman 2002). It must also be judged compared to what the alternatives are, because there are certainly drawbacks to taking notes rather than recording. One risk with recording interviews is obviously that respondents do not feel that they are able to speak as freely as they would otherwise be. In a few of the interviews conducted, respondents explicitly said that with recording they would not be able to speak as freely as they would otherwise be. In order to avoid making the respondents feeling uneasy, recording was simply avoided in those cases.

The interviews were semi-structured and based on an interview guide with mostly open-ended questions (Appendix 1). The interview guide should be regarded for what it is: a guide with open-ended questions and not a close-ended survey. As is often the case, interviews develop their own dynamics and in this case frequent jumps were made between the questions in the guide. The formulations – discussed below – which are common to the interview guide and the survey used in the Chapters 5 and 6, however, were strictly kept in order to have a common point of departure for the qualitative interviews and the survey, and as such, to be certain to capture the same phenomena.

Survey Data

The survey data is used for the empirical analyses in Chapters 5 and 6, which study which negotiators communicate domestic constraints, and when it is effective in achieving influence. The following section describes in more detail how respondents to the survey were selected and how the interviews were conducted.

Selecting Respondents

The survey data was gathered by telephone interviews conducted during the spring of 2012, and consist of responses from 249 member state negotiators from all the 27 EU member states. The survey is part of a larger research project on cooperation and communication patterns in the preparatory bodies of the Council of the EU and is the fourth in a survey series, with predecessors in 2003, 2006 and 2009. In each of these surveys some questions have been recurrent, while some questions have varied. The questions used here have not been previously included and are included in the survey alongside a wider range of questions to the respondents. Results from previous survey rounds have been reported in for instance Naurin (2010), Naurin and Lindahl (2010), and Häge and Naurin (2013). In the previous rounds of the survey, a fairly consistent set of Council preparatory bodies has been included in the sample and the selection for the 2012 round follows that path. The eleven preparatory bodies included are: C.25 Politico-Military Group (PMG), A.5 Political and Security Committee (PSC), A.18[9] Veterinary attachés (VET), A.8 Standing Committee on Agriculture (SCA), A.11 Economic Policy Committee (EPC), D.4 Working party on tax questions (TAX), A.1 Coreper I (CRP I), A.1 Coreper II (CRP II), J.1 Working party on the environment (ENV), E.25 Coordinating Committee in the area of police and judicial cooperation in criminal matters (CATS) and G.1 Working party on competitiveness and growth (COMP). These preparatory bodies represent a broad sample of policy areas and different levels of seniority, and as such cover a vast set of experiences that

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[9] A.18 is a general constellation for Counsellors/Attachés in the list of Council preparatory bodies (General Secretariat of the Council of the European Union 2014), and is not specifically focused on veterinary issues. It can meet on all kinds of issues and policy areas, which also means that its composition varies. The reason for listing veterinary attachés with this label is that this is an attaché group and not a preparatory body. This is therefore a more correct label.

allows for theory testing. The number of respondents from each member state and preparatory body is displayed in Table 3.2. The population of possible respondents were thus 297 (eleven preparatory bodies with 27 member state representatives in each) and all of them were approached. 249 of them were possible to interview, giving a response rate of 84 per cent. Respondents were identified and contact details were gathered mainly by contacting the member state permanent representations.

Table 3.2 Distribution of respondents from EU member states and in Council of the EU preparatory bodies

Member state	Number of respondents	Preparatory body	Number of respondents
Belgium	11	PMG: Politico-Military Group	22
Denmark	9	PSC: Political and Security Committee	25
Germany	10	VET: Veterinary attachés	21
Greece	9	SCA: Standing Committee on Agriculture	23
Spain	9		
France	7	EPC: Economic Policy Committee	21
Ireland	10	TAX: Working party on tax questions	21
Italy	8	CRP I: Coreper I	22
Luxemburg	11	CRP II: Coreper II	22
The Netherlands	11	ENV: Working party on the environment	24
Austria	10	CATS: Coordinating committee in the area of police and judicial cooperation in criminal matters	24
Portugal	8		
Finland	11		
Sweden	10	COMP: Working party on competitiveness and growth	24
United Kingdom	8		
Estonia	9		
Latvia	11		
Lithuania	9		
Poland	10		
The Czech republic	7		
Slovakia	9		
Hungary	9		
Slovenia	9		
Cyprus	8		
Malta	9		
Bulgaria	7		
Romania	10		
Respondent total	249	Respondent total	249

Respondents were first approached with a letter, sent by e-mail, explaining the research project, which was followed up by a telephone call during the coming days with the purpose of conducting or scheduling an interview. Repeated contacts were often needed to find a suitable time for an interview. The interviews were, with a few exceptions, conducted in English, they were not recorded but the responses were instead directly coded into an answer sheet.

Operationalizations

The operationalization of key variables is always an important component of a research design, securing that theoretical definitions are getting operational

measurements with high validity. Both data sources are based on interviews, and thus the respondents' subjective perceptions of the reality they operate in. This makes issues of validity crucial, and whether respondents' subjective perceptions actually say something about the reality that they are operating in. This is however less of a concern when asking about opinions of the respondents, as opposed to factual events, or the respondent's own impact during such events. If interested in the latter type of questions, it is better to ask about the action and impact of other actors involved (Berry 2002). During both the qualitative interviews and the survey, these principles were considered to be important when formulating questions. In the qualitative interviews, factual questions were used mainly to get a reference point for the respondents, but the important questions were about their opinions regarding how and why they act in different ways. The survey questions also ask about opinions, or about actions and influence of other actors. This should alleviate any potential validity problems.

Below, a discussion will follow on the operationalizations of the key variables, based on their theoretical definitions discussed in Chapter 2. This includes the operationalization of domestic constraints, the communication of domestic constraints and influence. The operationalization of domestic constraints and the communication of domestic constraints are based on the same formulations in the two data sources, whereas the operationalization of influence is relevant only for the survey data. Using the same operationalizations of domestic constraints and the communication of domestic constraints were an essential point of departure when designing the data collection, in order to hold the phenomena being studied constant in the respective data sources.

Operationalization of Domestic Constraints

Previous operationalizations of domestic constraints have relied mainly on the conception of divided government, and looked at national parliaments as the important domestic ratifier that can constrain the government. Two components have been used to measure this: the national parliamentary strength on EU affairs and the preference divergence between national parliament and government (Bailer and Schneider 2006; Pahre 1997; Schneider, Finke and Bailer 2010). This definition is rather limited and stuck with a notion that parliamentary ratification is equally applicable for Council agreements as it is for ordinary international agreements. As I have argued in previous chapters, this image needs to be revised and there is arguably room for a wider definition including other domestic actors. Not least, domestic interests groups have better opportunities to influence their governments, due to their expertise in different policy areas (Schneider and Baltz 2005).

In the survey and the qualitative interviews, a brief description of a situation was used to give the respondents a common reference point as to what a domestically constrained position looks like. This is thus the operationalization used in all

empirical chapters of the thesis. The formulation that describes a situation to the respondents where they have domestic constraints was:

> Think of a situation where there is an issue on which your position has been determined to a large degree by the interests of a domestic actor in your member state, for instance the parliament or an important economic interest group. This particular actor is of great importance for your government, which is therefore interested in defending this position.

In this description, no information was revealed about whether domestic interests behind the position were homogeneous or heterogeneous. Neither was it specified which domestic actors were influencing the government position, although the examples of national parliament and economic interest groups were mentioned. This was a deliberate choice since I did not want to limit the respondents to positions influenced by one particular actor – such as the national parliament – but rather to get them focused on situations where they had constraints that prevented them from agreeing to certain outcomes, regardless of which domestic actor it was based on. Within the description, it is also implicit that the position asked for is one that is salient to the member state government, given that the constraints are imposed by a domestic actor that the government find important to please. By definition, this also makes it a political constraint, since it is based on the aim of pleasing a domestic audience, instead of being primarily about the substance of the issue.

The survey respondents were asked to think about a situation and not a particular legislative proposal. This means that it is not known whether they thought about issues that they had actually experienced, or whether they had to imagine a hypothetical situation with a domestically constrained position. The reason behind this choice was not to exclude respondents who had not been in the type of situation referred to, which for instance could be a consequence of having limited experience. But there was also some uncertainty about how common it is that negotiators have positions with domestic constraints, and I was not ready to risk very low response rates on these questions. The drawback of this approach is that I cannot know whether a hypothetical situation mirrors the actions taken in a real situation. On the other hand, if I instead asked only about real experiences, there would still be variation in the type of issues and severity of domestic constraints between respondents. A general formulation like this will therefore create a more equal reference point.

In the qualitative interviews, I asked the respondent, if possible, to use a real example of when s/he had been in such a situation. If they had an example, this was used in the following discussion on if and how domestic constraints were communicated and what the effect of it was on negotiations and outcomes. If the respondent had not been in such a situation (yet), the discussion was based on a hypothetical scenario where domestic constraints were present. For further details, see the interview guide in Appendix 1.

Operationalization of Communication of Domestic Constraints

The intermediate variable on the communication of domestic constraints is here operationalized here as domestic constraints statements. Previous attempts to capture the signalling of domestic constraints in negotiations based on threats (Bailer and Schneider 2006) and on the issuing of parliamentary scrutiny reservations (McKibben 2013), were argued in Chapter 2 to be inadequate. The focus here is instead on verbal communication through explicit domestic constraints statements, used to give information about domestic constraints and to show commitment to the position. This type of statement was, from the perspective of the respondents, believed to be the most neutral way of phrasing how domestic constraints can be communicated in Council negotiations. The following phrasing was used for the respondents in the survey and with the negotiators participating in the qualitative interviews, following on the aforementioned description of a domestic constraints situation:

> One potential option here is that you would state, in contacts with the other delegates during the negotiations in your working group, that your position cannot be changed due to this domestic constraint.

The respondents to the survey were then asked how likely they were to make such a statement on a five point Likert scale where 1 meant very unlikely and 5 meant very likely. The dependent variable of communicating domestic constraints used in Chapter 5 is measured by this indication of likelihood in the survey.

The respondents to the survey were also asked whether there were any member states that made these types of statements more often than others within their preparatory body. They were asked to, if possible, mention three other member states. Being readily accessible in a respondent's mind for making such statements is assumed to indicate that the actor is making domestic constraints statements most often, and the ordering of other member states is assumed to reflect their descending frequency of making domestic constraints statements. Based on the order that the member states were mentioned, they were assigned scores, where a first mention was given ten points, a second was given nine points and so on. These scores were then summed for each actor in the preparatory bodies and divided by the total scores assigned to the different member state negotiators within the preparatory body. This gives all member state negotiators within each preparatory body a share of domestic constraints statement frequency scores, regardless of whether they themselves participated in the survey. By standardizing the scores in this way, so that they can theoretically vary between 0 and 1, this also makes them comparable across preparatory bodies. This measure is used as an independent variable in Chapter 6, evaluating the relationship between this type of communication of domestic constraints and being influential in the Council preparatory bodies.

In the qualitative interviews, the description of domestic constraints statement was also used. The interviewees were asked to discuss this type of statement, and whether they had or were willing to use it themselves, and to what purpose. The reasoning from these qualitative interviews is used in Chapter 4 to answer the empirical question regarding how and why negotiators communicate domestic constraints.

Operationalization of Influence

I argued in Chapter 2 that the influence of member states negotiators was expected to be higher for those who communicate domestic constraints, and thus that influence functions as a dependent variable. Influence is related to the concept of bargaining power, which is the capability to exercise influence over other actors in negotiations. The independent variable used for evaluating the effect of communicating domestic constraints on influence, is the measure discussed above on the share of domestic constraints statements' frequency scores of the different member state representatives in the Council preparatory bodies. The dependent variable measuring influence is constructed in a similar way, and for that utilizes a question about the influence of different actors in the preparatory bodies. The dependent variable on influence is based on the responses to the following survey question:

> Please think about the influence that other member states have on your member state during the discussions and negotiations in your working group/committee. In general which other member states have the greatest potential to influence the positions you take during the discussions?

Again, the respondents were asked, if possible, to mention at least three other member states. The same scoring principle was then used as for the independent variable, building on the assumption that being readily accessible in a respondent's mind for being influential is assumed to indicate that the actor is the most influential and that other member states would be mentioned in descending order. A first mention was thus assigned a score of ten points, a second was given nine points and so on. The scores were then summed for each actor in the preparatory bodies and then divided by the total number of scores assigned within that body. This gives the different member state negotiators a share of influence scores within the preparatory body that in theory can vary between 0 and 1. This also means that each member state in each preparatory body is included on this measure even if they themselves did not participate in the survey, making the total number of observations 297.

The independent and dependent variable measure which actors frequently communicate domestic constraints, and which actors are influential. Both variables rely on measures that build on actors' reputation. Moreover, they measure aggregated domestic constraints statements and influence. This means that neither of them is related to a specific issue, which in turn has implications for the possibility to draw conclusions about whether it is the communication of domestic constraints that

potentially causes influence. Making causal inferences is always imputed with uncertainty, which does not in itself mean that it should be avoided (King, Keohane and Verba 1994, 76). Doing this does require a good theoretical foundation and knowledge about causal mechanisms in order to be valid. As already argued, the causal mechanism identified in the two-level game theory (Putnam 1988) between domestic constraints and influence, assuming ratification vetoes and the possibility of domestic defection, are not suitable to understand decision-making and domestic constraints in the Council of the EU. In Chapter 4, other theoretical mechanisms will therefore be elaborated and their appearance will be illustrated with the data from the qualitative interviews discussed. This improves the knowledge about theoretical mechanisms, but also gives theoretical expectations about the possibility of a domestic constraints effect on influence in the EU Council context.

4

How are Domestic Constraints Communicated in the Council of the EU?

This chapter is devoted to the question of how domestic constraints can be, and are, communicated in the Council of the EU. It begins with a theoretical part discussing how domestic constraints can be communicated in different ways in the context of the Council of the EU. This section challenges the traditionally held view that domestic constraints are only used as a distributive bargaining strategy. Instead, it is argued that domestic constraints can be communicated with different purposes. The aim here is thus to broaden the scope of the theory, by identifying that domestic constraints can be communicated in different ways which are more pertinent to a context such as the Council of the EU. In the second part, this argument is empirically evaluated, based on the set of qualitative interviews discussed in Chapter 3. The chapter constitutes one part in seeking to understand how domestic constraints may be used in the Council of the EU and it thereby also forms a part in determining the scope of the domestic constraints theory and logic.

In the original domestic constraints theory, it was assumed that domestic constraints should be used as an intergovernmental distributive bargaining strategy where negotiators would fulfil their self-interest by making others concede under a warning about domestic defection, or by the threat of non-agreement (Putnam 1988; Schelling 1960). While the theory was developed for intergovernmental negotiations, there are reasons to believe that domestic constraints are used differently in everyday negotiations in the Council of the EU. This argument is given further clout, not least since Bailer and Schneider (2006, 165-166) concluded that the concept of threats is empirically ambiguous in the EU Council, where some negotiators claim that threats are countlessly used while others claim they are never used. This might also in part explain the limited empirical evidence for a domestic constraints effect in previous studies of everyday decision-making in the EU Council (e.g. Bailer 2010). In addition, since the member states do not possess veto power at the ratification stage, a warning about defection in terms of permanent non-compliance is not particularly likely (cf. Tallberg 2002). Thus, in none of these ways can negotiators force adversaries to concede in accordance with what Schelling (1960) and Putnam (1988) were initially predicting. But I argue that this should not lead to the conclusion that domestic

constraints are never communicated in the EU Council, nor that such communication never leads to influence.

In the following sections, it will be argued that domestic constraints are possible to use in other ways that as a strategy of distributive bargaining. More specifically, I argue that domestic constraints need not necessarily constitute a warning of defection, or a threat of voting no, but that they can also be used as a way to clarify a taken position or to make an argument to persuade adversaries. Thereby, the image of domestic constraints being used as a distributive bargaining strategy is broadened. It will thus be demonstrated that domestic constraints are possible to use, and potentially effective, in a more cooperative environment, but with a maintained preference-fulfilling purpose. This theoretical development echoes the work on informal governance in the EU that limits the impact of formal rules and institutions (Kleine 2013). The following sections will relate domestic constraints communication to general conceptions of negotiation behaviour, which in turn will aid the coming empirical analysis of domestic constraints usage in this context. This theoretical development makes it possible to use domestic constraints in contexts where decision-making and/or ratification veto is absent. The scope of the theory thus becomes broadened.

Negotiation Behaviour

Communicating domestic constraints in negotiations ties in to a broader spectrum of literature on negotiations and the character of negotiation processes. This has been extensively built-upon for the Council of the EU. Often, the character of negotiations refers either to the negotiation behaviour of individuals or, more broadly, to different types of negotiation processes (Elgström and Jönsson 2000, 685). These two however tend to converge in that individual behaviour is what, in the end, defines the full negotiation process and thus the type of negotiations witnessed. In the following, negotiation behaviour will be used to describe actions taken by individuals, whereas interaction modes will be used to describe different types of negotiation processes.

Negotiation behaviour thus refers to what EU member state representatives say and do in the process of Council interaction, including the motives behind their actions. Negotiation behaviour is thus part of the process of negotiation, driven by the anticipation of an outcome and eventually the realization of it (Hopmann 1996). Behaviour, as conceived here, is driven by preference fulfilment, within the frames of what is institutionally possible. Preferences[10] are, in this context, partially determined by the domestic constraints and the various stakes at the domestic level, meaning that

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[10] The term preference is used here to denote what outcome an actor desires in negotiations, that is, the decision they would take if there were no other decision-makers. Preferences are based on the actors' current information, but are founded in some underlying interests about what values a good agreement should be based on (Mansbridge et al. 2010, 68n15). Negotiators are assumed to take actions with the aim of fulfilling the preferences of their member states by acting as agents and not pursuing some own agenda.

"[a]t the international level, national governments seek to maximize their own ability to satisfy domestic pressures, while minimizing the adverse consequences of foreign developments" (Putnam 1988, 434). Negotiation behaviour is based on the deliberate choices that negotiators make, choices over what tactics to employ in order to reach desired outcomes. The choice of communicating domestic constraints forms one such potential tactic for negotiators to employ and it is a choice that the domestic constraints theory is built upon. Communicating domestic constraints is a deliberate act aiming at preference fulfilment but one that can be done in different ways, which will be theoretically elaborated upon in the following.

Different Ways of Communicating Domestic Constraints

The negotiation behaviour literature commonly structures different sorts of actions taken by actors using variations of the ideal types of soft and hard bargaining (Dür and Mateo 2010a). While soft tactics are employed by actors who seek compromises and try to find common ground by being flexible, hard tactics are employed by actors seeking benefits by committing to positions, acting obstructively, criticising and making threats. These ideal types can be conceived of as extreme points on a scale of possible types of negotiation tactics. To increase the analytical stringency, additional categories of negotiation behaviour can be added, located in between the two extremes. The typology used here (Table 4.1) is an adapted version of a typology developed by Naurin (2010, 38), distinguishing between four different types of negotiation interactions. It distinguishes between cooperative and competitive behaviour on the one hand and arguing and bargaining on the other hand. It thus allows four different combinations of negotiation behaviour, or types of interactions, aiming at reaching decision: deliberation, rhetorical action, integrative bargaining and distributive bargaining.

In the original version of the typology, the distinctions between different types of negotiation behaviour did not focus on domestic constraints as such, and it has therefore been adjusted in order to dismantle how domestic constraints can be communicated in the Council of the EU following these distinctions. The interaction type referred to as deliberation is included in the typology but is not in practice compatible with the type of commitment that domestically constrained positions and statements imply. That is, while the domestic constraints theory assumes that actions are taken in order to get one's preferences accommodated, the goal in deliberation is rather to find optimal solutions through genuinely open-minded discussion on merits. This deliberative ideal thus builds on another logic than the domestic constraints theory and therefore functions merely as a reference point; defining what domestic constraints statements are not. It is therefore also put in brackets in Table 4.1.

Table 4.1. Domestic constraints communication in different interaction modes

	Arguing	Bargaining
Cooperative	**(Deliberation)** Communication: Two-way Negotiation goal: Common understanding Intention behind reason-giving: Information exchange, convincing Decision-making mechanisms: Exploration of common good solution, empathy, diffuse reciprocity	**Integrative bargaining** Communication: Two-way Negotiation goal: Preference fulfilment Intention behind reason-giving: Clarification Mechanism of domestic constraints statement effectiveness: Specific reciprocity and logrolling
Competitive	**Rhetorical action** Communication: One-way Negotiation goal: Preference fulfilment Intention behind reason-giving: Persuasion Mechanism of domestic constraints statement effectiveness: Persuasiveness, urging adversaries to consider the collective norms	**Distributive bargaining** Communication: One-way Negotiation goal: Preference fulfilment Intention behind reason-giving: Threatening or warning adversaries Mechanism of domestic constraints statement effectiveness: Power and defection (non-compliance)

Typology adapted from Naurin (2010, 38).

To understand how domestic constraints can be communicated in the Council of the EU, explicit domestic constraints statements will be discussed in relation to the interaction modes distributive bargaining, integrative bargaining and rhetorical action. A common denominator in these interaction modes is that communicating domestic constraints is an act which aims at preference fulfilment. While there is this overarching common goal with communicating domestic constraints, *how* negotiators regard the information that the domestic constraints statement holds differs between the different modes of interaction. The difference thereby lies in the intentions behind communicating the domestic constraints, as a way of giving reason and justifying a position, but also by what mechanisms it can potentially be effective. The typology below is used to make the independent theoretical argument that domestic constraints can be communicated in different ways and that it is possible to make in an interaction marked not only by distributive bargaining, as suggested in the initial domestic constraints theory. The typology will also, in the empirical part of the chapter, be used as an analytical tool to analyse the empirical association between domestic constraints statements and the interaction modes, as a way to evaluate how domestic constraints are used in the Council of the EU. In the coming sections, I will

discuss how domestic constraints can be communicated according to the interaction modes of the typology.

Distributive Bargaining

The interaction mode of distributive bargaining represents a negotiation style that is assumed by Putnam (1988) in the two-level game theory and by Schelling (1960) in formulating the paradox of weakness. Domestic constraints here serve the purpose of demonstrating a strong and credible commitment, binding the negotiator to one position through obligatory domestic ratification. This, in turn, forces adversaries to make concessions in order to avoid risking ratification failure and, in effect, defection. According to this line of reasoning, communicating domestic constraints is an indication that the room for joint improvements and compromise seeking is very limited and, to use the notation from Lax and Sebenius (1986, 32-35), that actions are taken to claim value rather than create value in negotiations. It is solely aimed at getting one's own will through, in order to please a domestic audience, and it constitutes a competitive move in negotiations. The preferences of the actors are fixed and the mode of communication is that of threats and demands, aiming at higher relative gains (Moravcsik 1993; Naurin 2010).

Communicating domestic constraints in international negotiations, as described by Schelling (1960) and Putnam (1988), aims at showing negotiating adversaries the damage that refusing to give concessions might cause them. This can be done either as a threat or as a warning with the difference that the negotiator has control over, and executes, threats, while the execution of warnings is not under the control of the negotiator uttering it (Iklé 1964, 62-63). A warning can for instance be about defection at the domestic level or even about domestic electoral takeovers with unpredictable consequences for the Council as a whole. A threat on the other hand can be made about blocking decision-making or, in the most extreme case, even exiting cooperation (Schneider and Cederman 1994, 637), however unlikely that might be (Bailer 2010, 746). Since the actor uttering a warning of defection is not the same actor that executes it, it is likely to be surrounded by more uncertainty than a threat of voting no. Threats are thus more likely than warnings to be executed. This is an effect of significant credibility loss in the long run if threats are not carried out (Fearon 1997). The original two-level game theory by Putnam (1988) primarily discussed warnings of defection, but warnings can thus be expected to be less credible than a threat of voting no.

In legislative decision-making in the Council of the EU, a domestic constraints statement as a warning about defection would likely be made as a warning about non-compliance or non-transposition, which are possible, yet milder, forms of defection from EU agreements (Hayes-Renshaw and Wallace 2006, 312). It should at the same time be noted that such shirking measures are costly to sustain, and that the effectiveness of the EU compliance system makes it difficult to defect permanently (Tallberg 2002). Regardless of whether a domestic constraints statement is

communicated as a threat or a warning, it is a way to demonstrate commitment and power, which in turn explains why adversaries should be accommodating to the domestically constrained position.

In sum, domestic constraints communicated in a distributive bargaining mode in the Council of the EU would primarily be expected as a warning about non-compliance domestically, or as an outspoken threat about blocking decision-making and eventually voting no. It is a way of saying that "with this agreement, my national parliament will not enforce these rules, you need to offer me something better", or "with this agreement, my domestic constituency would require me to block decision-making and in the end vote no, you need to offer me something better".

Integrative Bargaining

In an interaction marked by integrative bargaining, negotiators are willing to seek compromises that can satisfy other actors, as well. This is done as an exchange of support rather than by convincing through arguments, which makes it a cooperative form of bargaining. In integrative bargaining, support on different issues is traded through logrolling, which implies that a mechanism of specific reciprocity[11] is at work, where specified favours are given and returned. It differs from distributive bargaining, which is based on one-way communication without the possibility of mutual improvements. Integrative bargaining is a cooperative type of interaction in which domestic constraints are communicated as a way to clarify positions and interests, while at the same time keeping them fixed. Clarification of positions and interests is a way to stress importance by pointing to a noteworthy concern that others should consider, and trade for concessions on other issues, and in doing that, secure winning coalitions (Naurin 2010).

To qualify as an integrative bargaining statement, the domestic constraints should be communicated in a way that clarifies the importance of an issue and as such proves how much weight it should carry in the support trading process. It thus signals that this is a salient issue and if accommodated, support can be returned on some other issue. As an example, a domestic constraints statement in integrative bargaining signals that: "it is very important that I get this wording here or I will have to pay significant political costs back home. So if you can support me here I can give my support to you on this other issue that you find important".

Rhetorical Action

While the two bargaining modes discussed above are based on fixed preferences and the division of gains, the two arguing modes are based on the notion that preferences can change. Arguing, just as bargaining, comes in a cooperative and a competitive form, where the former is based on deliberation and the latter on rhetorical action. The two arguing modes of interaction are essentially suggesting similar decision-making

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[11] On the difference between specific and diffuse reciprocity, see Keohane (1986).

mechanisms but differ in how they view the forming of preferences. In deliberation, preferences are formed only after deliberation has begun and sincere information sharing has taken place, whereas in rhetorical action, negotiators come with stable preferences to the negotiations and try to persuade adversaries through argumentation.

In rhetorical action, competition over the distribution of gains is a key feature where the aim is to persuade the adversaries to support one's own position as the right course of action. It is, just as for distributive bargaining, a form of one-way communication but it relies on argumentation rather than threats, warnings and demands. Communicating domestic constraints in this mode is done with the aim of persuading the adversaries to change their minds, but without being open for changing one's own mind. Since domestic constraints are essentially based on political rather than substantial reasons, the persuasiveness has to be based on an evaluation of the severity of political stakes that should motivate adversaries to change their minds. Rhetorical action is similar to deliberation but differs in that it is based on one-way communication and change. This also means that it lacks reciprocity (Naurin 2007, 2010). In rhetorical action, negotiators urge other actors to adhere to some legitimate collective norms, while working egoistically for a solution that suits oneself (Schimmelfennig 2001, 62-63). Domestic constraints statements in rhetorical action are thus a way of stating a concern that, according to a legitimate norm, should be included when concluding negotiations.

A legitimate collective norm can be based on the search for common interests through a culture of compromise (e.g. Lewis 2005), building on a deliberative ideal where information sharing aims at reaching common good solutions. Actors engaging in rhetorical action are not interested in following norms, however, and would thus not partake in genuine deliberation, but rather exploit the fact that other actors might be doing so. In a deliberative ideal, outcomes are formed based on the persuasiveness of the arguments put forth. The persuasiveness of an argument can be based on its substantial merits but there is also potentially room for more empathy based mechanisms, where the ability to put oneself in an adversary's shoes is necessary in order to fully understand an argument and its implications (Mansbridge et al. 2010, 67-68). This has resonance in the norm of discretion, discussed by Mareike Kleine (2013), stating that if an EU decision risks causing domestic political conflicts in a member state, the formal rules allowing outvoting should be set aside. An expectation about reciprocity is likely to also be important, not for the actor relying on rhetorical action, but for the actors that will possibly be persuaded by the communicated domestic constraints. Deliberation builds on an understanding that negotiating adversaries will engage in deliberation too, and in effect that there is some mechanism of diffuse reciprocity suggesting equal treatment (Naurin 2010). An actor engaging in rhetorical action takes advantage of this without being prepared to return the favour.

Domestic constraints should hence be communicated to persuade the adversaries about why, according to some legitimate decision-making norm, one's domestic political costs should be considered when concluding agreement. In line with this, a

domestic constraints statement in rhetorical action should send a signal that, "I face these severe political costs domestically, should the current agreement be final, and I believe that we have a norm saying that I should not suffer these costs under these circumstances".

Expectations on How Domestic Constraints are Communicated

The ways that domestic constraints are communicated according to the four interaction modes discussed is summarized in Table 4.1. The typology contains a theoretical argument in its own, pointing to how domestic constraints statements can carry different meanings, but it also serves as an analytical tool for the coming empirical analysis. The categories of the typology theoretically place the domestic constraints statement in relation to different types of negotiation behaviour and show that it can be used in different ways. The possibility to communicate domestic constraints in different ways should not, however, necessarily lead to an expectation that evidence of all three types will be empirically present. Neither should it be expected that only one of them is exclusively associated with the communication of domestic constraints in EU Council negotiations. What has been seen in previous research is rather that different dynamics can be at work during different phases of negotiations (e.g. Elgström and Jönsson 2000; McKibben 2013; Warntjen 2010). The Council negotiators interviewed for this chapter are involved in Council decision-making at similar phases and might therefore have similar experiences. At the same time, they participate widely in different phases of decision-making due to their position in between the more senior committees and the more technical working parties of the Council, meaning that their impressions are likely to capture a wide spectrum of negotiation dynamics. It would thus not be surprising if domestic constraints would turn out to be used according to more than one of the logics discussed above.

As previously noted, EU negotiations differ from traditional international negotiations in that member states sometimes lack decision-making veto and, more importantly, ratification veto. According to the initial theory formulation (Putnam 1988; Schelling 1960), a domestic constraints statement would primarily be found in the bottom-right corner of the typology, according to a distributive bargaining logic, warning about defection or making threats of blocking decision-making. This is also the corner that Bailer and Schneider (2006) are looking at with their behavioural operationalization of domestic constraints, focusing on the prevalence of threats in the Council of the EU. As discussed above, this only captures part of the scope of the strategy. Since domestic defection or non-compliance comes with other costs, and a unilateral veto is not always possible, it is likely that the association, up to this point, between the domestic constraints statement and distributive bargaining need to be

complemented for the Council of the EU. Most Council scholars also agree that negotiations in the Council are conducted according to a norm of consensus where member states employ cooperative negotiation behaviour and systematically compromise on their ideal positions more than necessary in order to obtain large decision-making majorities (Naurin 2010, 38-39). There are indications in previous empirical studies that warnings about domestic transposition problems can be used and can have an effect in Council negotiations. When describing the negotiations on the Local elections directive for instance, Lewis (1998) argues that the Belgian delegation managed to secure derogations from the proposed directive because they argued to have problems passing the required constitutional amendments in their Flemish chamber. Transposition problems of this kind should however represent a special case of domestic constraints that are very rare in the Council. Yet, such distributive bargaining behaviour could on these very special cases be used, but should not be expected to be the primary mode of negotiation with domestic constraints. The expectation is still, therefore, that domestic constraints statements should not primarily be associated with a traditional distributive bargaining mode of interaction, but rather with any of the other types of logics. This, in sum, motivates searching for domestic constraints statements in other parts of the table, primarily as associated with integrative bargaining or rhetorical action.

The next step is to evaluate the merit of this theoretical development empirically, by looking at whether domestic constraints are communicated in accordance with these interaction modes and in line with the expectations. In distributive bargaining, the domestic constraints are primarily expected to be communicated as an outspoken warning about defection or non-compliance domestically, or as a threat about blocking decision-making. In integrative bargaining, the domestic constraints are expected to be communicated as a way of clarifying the position and to signal salience with the purpose of engaging in logrolling. In rhetorical action, the purpose of communicating domestic constraints is to change the adversaries' minds about the right course of action by pointing to a noteworthy concern that should be accommodated in order to adhere to the common norms which entail searching for common good solutions. This theoretical development extends the scope of the original domestic constraints theory by allowing the domestic constraints to be used in more than one way, which also makes the theory more inclusive and possibly able to explain decision-making beyond traditional international relations, for instance in the Council of the EU.

Evaluation of How Domestic Constraints are Communicated

Understanding empirically how domestic constraints are communicated in different settings is a crucial part of evaluating the scope of the domestic constraints theory,

beyond its traditional confines. This is not least important in the Council of the EU, where defection by means of ratification veto is practically impossible and where previous research has shown very limited effects on negotiated outcomes from domestic constraints (e.g. Bailer 2010). In the foregoing theoretical discussion, it was outlined how domestic constraints can be communicated in different ways and associated with different types of negotiation behaviour. The remaining part of the chapter will be devoted to an empirical evaluation of how the respondents use domestic constraints statements according to these interaction modes. The interviews were conducted using the interview guide in Appendix 1.

The following empirical evaluation contains one section on rhetorical action followed by one section on integrative bargaining and one section on distributive bargaining. The results indicate that (1) there are some empirical indications for domestic constraints being communicated in a rhetorical action mode, (2) that there is clear evidence for them being used in an integrative bargaining mode and (3) that there is no empirical evidence for them being made in a distributive bargaining mode in the EU Council. After the empirical evaluation of how domestic constraints are communicated, a discussion will follow about the political character of domestic constraints statements, based on the findings from the interviews. This is necessary in order to further the understanding of domestic constraints in the Council of the EU and whether the political connotations of domestic constraints statements are also visible in the Council preparatory bodies. It thus adds empirical weight to the theoretical understanding of domestic constraints and domestic acceptance through informal ratification.

Are Domestic Constraints Used as Rhetorical Action?

This section provides a first step in evaluating how domestic constraints are communicated in the Council of the EU, according to the modes of interaction previously discussed. The empirical focus here is on rhetorical action and the extent to which communicated domestic constraints are viewed as an argument for a position aiming at persuading negotiating adversaries. In this case it should be a way of putting forth an argument about the domestic constraints and signal that one's potential domestic political costs should be taken into account, according to some collective norm. The focus is firstly on the general argumentative force of domestic constraints statements; it then moves on to look at the mechanisms of effectiveness of this mode of interaction, as well.

In the interviews, several of the respondents testify to having communicated domestic constraints in negotiations themselves, and several others would be willing to do so it if they were to find themselves in the type of situation. One Austrian interviewee explained, "You use every possibility to float this, it is clear, if you have a problem you need to bring it forward" (AGRI AT). It points to the fact that potential domestic acceptance problems need to be aired and that this can and should be brought forward in negotiations. It also indicates that when an agreement might cause

domestic problems, and it therefore is vital that one gets accommodated, many different arguments can be used in order to fulfil this preference. As further explained by a Maltese delegate, "we normally communicate at this level to our colleagues, it is part of the job, when you are discussing with your colleagues and lobbying, you explain to them what is your position and why" (AGRI MT).

However, there are also interviewees that expressed hesitance to communicate domestic constraints. Several of the respondents would not be particularly willing to make a domestic constraints statement and use it in an argumentation, simply because they believed it to be a poor argument without much power to convince. One respondent from the Netherlands reasoned, "If you say 'my minister will get in trouble' it is not their problem" (JHA NL). Another interviewee reasoned further and added that it is an argument that adversaries do not really have to care about, since it is not their constituency anyway (JHA SE). A Finnish respondent also withheld that it would not be necessary to formulate it explicitly, but would instead just file a reserve of substance[12] on behalf of the member state, which would be understood as a domestic acceptance problem (JHA FI). Some respondents indicated that there are different ways of working for solutions getting what you want, including how to put forth the fact that a particular result will cause domestic acceptance problems. It is not always necessary to present it explicitly in terms of domestic acceptance problems but some respondents would rather phrase it differently and try to achieve what they want by other means, for instance as a French agricultural attaché explained,

> We don't say it [that explicitly], we say that 'it will be really difficult for us, it is a really important political issue'. […] When it is something really important, we don't say 'ok, we won't change and you have to come to us' because that's impossible. […] We don't say 'we don't want to have' or 'we cannot accept not to have quotas on this point', because that's the best way not to have it. But we try to convince the member states and we try to find support from countries. So it is another way to react, even if the goal is the same and we want to have this measure because it is something really important for the population or the stakeholders (AGRI FR).

What this means is that instead of making an outspoken reference to one's domestic constraints, as suggested by the operational definition used in the interview guide, a more subtle indication would be made about the political importance of the issue. This is regarded as a substitute for a more straightforward domestic constraints strategy, making an outspoken reference to one's domestic constraints and potential acceptance problems. The difference between a subtle indication of this kind and an explicit domestic constraints statement should not be exaggerated, however, especially given

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[12] When making a reserve of substance, member states are demonstrating opposition to the substance in parts of, or in the entire, proposal. Other possible reserves are: scrutiny reserves, parliamentary scrutiny reserves, waiting reserves or language reserves (Statsrådsberedningen 2009, 37).

the political character of the domestic constraints. Formulating a statement about political importance might signal to the other negotiators that there are domestic acceptance problems. Even if domestic constraints can be communicated in less explicit ways, it does not take away from the fact that the communication of them, in one way or another, is important. When having a domestically constrained position, the strategy in this example is to build support and coalitions, by means of convincing adversaries with arguments. An argument about political importance of an issue is one aspect that can be included in this endeavour of convincing the other member state delegates to be accommodating, according to some collective norm. Other respondents would phrase it even more explicitly in terms of political problems, saying frankly, "this could cause us political problems" (AGRI SI). One reason that several interviewees point to how a domestic constraints argument would be formulated in terms of the political importance of the issue, rather than referring to domestic constraints *per se*, might be that the persuasive force of an explicit domestic constraints statement is considered to be low.

One recurrent point in the interviews was the view that a domestic constraints statement is not a stand-alone argument, but that it needs to be accompanied with a substantive reason why the actors imposing domestic constraints would have trouble with particular outcomes. One interviewee for instance pointed out that a domestic constraints statement is not a main argument, but rather an argument among others, "This is like using any other argument, to convince our partners that this is really a problem for us and to convince them to support our position. […] We would never use this argument as the main argument, at least in our case and in my field of competence" (JHA LV). The argumentative importance of the domestic constraints is thus also downplayed here and is made only as a secondary argument. Even if the purpose of communicating domestic constraints is said to be to convince adversaries, it appears in reality to be more of a piece of information to put on the table in order to explain why the position is taken and why it is an important point. This piece of information can accompany the substantive arguments as reasons for the position but would thus not suffice as a persuasive argument on its own. There is an apparent logic behind this in that the domestic actors imposing the constraints most likely also have substantial reasons for their interest, which might be more relevant to put forth as a convincing argument. Another interviewee stressed the same point saying that "of course it doesn't work if you only use this argument, so you need more arguments of substance of course, to defend your position" (JHA BE).

There is hardly any indication from the interviews of mechanisms for why domestic constraints should be considered according to a collective norm. The expectation is that negotiators would make an argument pleading to consider one's domestic constraints, according to a norm of searching for common good solutions. Negotiators might consider the domestic constraints information as part of the common good solution for different reasons, and one would be to include it on empathic grounds. A Maltese respondent elaborated briefly on this,

> I think it is better to make it clear from the outset that this is not something I can compromise on. So the presidency that is working on a compromise text knows exactly what room for manoeuvre it has as well. Because if it is just me who says that 'listen, I can't move on this' then the presidency can ignore me but if I say 'listen, I can't move on this' and make it very clear that this is a major issue, then the presidency can also take this into account, because no one wants to put a member state in a difficult position back home ultimately. (JHA MT)

It is clear from this that when emphasising one's domestic constraints in the negotiations and to the presidency, there is an element of trying to make the presidency include this fact in the drafting of compromise texts. One reason for the presidency to do this would be to show empathy and to not put a member state in a difficult domestic situation. This clearly mirrors the norm of discretion, discussed by Kleine (2013), in that member states are reluctant to put each other in difficult situations domestically. In effect, this means that the domestic constraints should be included in the search for a common good by minimizing the political harm an agreement causes to a member state government. What is identified here is both a mechanism for why it might work but also why, in the first place, domestic constraints might be worth communicating. It is thus a hint about why a thorough explanation of a domestically constrained position might be made and also why it might have an effect. However, this mechanism is not encountered explicitly on any other occasion in the interviews, but it could nevertheless point to why the communication of domestic constraints should have an effect on negotiated outcomes.

Taken together, there are indications, although not very strong, of domestic constraints being communicated as rhetorical action. To quite an extent, a domestic constraints statement appears to be perceived as more of an explanation for a taken position, presented alongside other arguments, than carrying a strong persuasive force as a stand-alone argument. There are furthermore not many indications in the interviews of why the domestic constraints should be considered by the negotiating adversaries, according to some legitimate collective norms. There is reasoning about the empathy mechanism where member states do not want to put each other in difficult political positions back home, but it is very rare. Of course, just communicating domestic constraints to explain a position and add weight to it can, by more implicit mechanisms of arguing, be incorporated in the search for an overall common good. An explanation can thus be made as a way to put all available information on the table and this in itself could be an act of encouraging it to be considered. In the reasoning about the empathy mechanism above, this can be discerned since the argument in that case would only be put forth as a thorough and emphasised explanation which, in turn, would send the signal that this should be included. But, as mentioned, the association between this mechanism and how domestic constraints statements are perceived in the Council is not central.

Are Domestic Constraints Used as Integrative Bargaining?

As indicated in the previous section, domestic constraints are often communicated to explain the importance of a position along with a substantive argument. Stressing the importance or signalling salience is a key component when communicating domestic constraints in an integrative bargaining type of interaction, which in turn is a first step in trying to trade support on different issues by means of logrolling. In this section, the empirical evidence for how the domestic constraints strategy is used according to an integrative bargaining logic is presented.

The domestic constraints statement is commonly described as a way of signalling salience in the Council of the EU. One interviewee explained why a domestic constraints statement would be made, "The reasoning would usually be that it is just a very firm agreed UK position, that it is a line that can't be crossed" (AGRI UK). Even if not made explicit, the salience of the position in this signal is clear. Making a domestic constraints statement is then basically a way of demonstrating commitment, where respondents are using the domestic constraints as a way to express salience and to make it clear that it is an issue in which it is difficult to compromise. It is thus a way of demonstrating firmness and that one's mind on the matter will not change and thus, that it will be very difficult to make concessions on this particular issue in the end. In this way it adheres to the bargaining logics of interaction. This logic of commitment and salience was further expressed in an interview with a Belgian attaché, who said,

> This is a kind of argument to indicate how important it is, that it will continue and remain to be an important blocking point until the end of the negotiations, to make it clear to the presidency that 'you should take this into account, this issue, or you will have problems afterwards'. So, this is something you say in order to make this clear. […] It's stressing the argument. It is clear that afterwards, when you have to make compromises yourself, it will be easier to compromise where you don't have these political costs. (JHA BE)

Making a domestic constraints statement as a way to stress the importance of a position can be regarded as an explanation of one's position and it can also be understood as a first step in the process of trading support through logrolling (cf. Warntjen 2012). It should be noted however that there is a demarcation problem in analysing the interview data. This problem centres on how to separate a domestic constraints statement delivered to make a persuasive argument (rhetorical action) from a domestic constraints statement delivered to clarify a position (integrative bargaining). When, for instance, domestic constraints are communicated to signal importance, this could be seen as just an explanation for the position, of the same type as the explanations indicated in the previous section on the arguing logic. Whether such an explanation is attributable to the arguing logics or an integrative bargaining logic is not self-evident, or necessarily mutually exclusive (Naurin 2010; Warntjen 2010). Is it made for persuasive reasons, to be included in the equation leading to the

common good, or is it made as a first step in a logrolling exercise? To understand this, it is of value to determine also how the domestic constraints statement is believed to result in accommodation of the problem, for example through empathy in a rhetorical action or through logrolling in integrative bargaining, and not only that the statement is aimed to indicate importance.

A domestic constraints statement, as described above, means a strong commitment with very limited flexibility to compromise, which can be an opening for logrolling. This was also emphasised by a Slovenian delegate, adding the trading component of the strategy, aiming in the negotiations to "trade this flexibility for rigidness here" (JHA SI). That is, by indicating how a domestically constrained position is inflexible and important, logrolling can be initiated by trading support on issues where more flexibility is held. Similarly, as pointed out by a German attaché:

> If I have a really strong position, usually, what I would do is that I would tell the others that 'I am sorry, this is one of our hard points, it would be a red line. We cannot do anything about this, we are flexible on these different other points but not on this point'. […] [I would try to get] comprehension by the others. [You have,] at least here in Brussels, quite good relations with the other member states, you know them and you really try to explain. (JHA DE)

According to this reasoning, domestic constraints are communicated to explain the inflexibility of the position and demonstrate how more flexibility is held on other issues, thus extending an invitation to logrolling. Several respondents reference this logrolling dynamic. The domestic constraints statement is described to signal that this is an important point on which an actor needs support, which in turn can also be traded for the returning of support on other issues, as the attaché discusses below:

> Sometimes it just helps to focus on the national problem that you are reiterating this position and stating 'it is really a problem for our state'. […] It calls for negotiation packages or somehow 'you do the concession in this case, it was very hard for you to accept the compromise and on other files there was also some difficult issue for you and so maybe there might be other concessions towards you'. (JHA SK)

There is thus a support trading mechanism at work that is based on levels of salience, induced by the domestic constraints. In order to get what you want in situations when you risk suffering political costs domestically, this aspect of support trading might be crucial,

> At some point, member states, including the UK, will say 'ok, on these 10 [issues] where we've ended up we can accept, but this and this and this is so important to me that I really need something or else I cannot sell this deal back at home'. […] You can only have a red line like that as long as you are not isolated and you've got something else to give up.

> Because, you need to be able to say that 'well, I will give you these things as long as I get that'. […] It is only effective if, I think, you have got something, if you are actually going to negotiate, you are not just going to say 'we cannot move, I'm going home'. […] And that's why member states will continue to argue very strongly on things that aren't that important to them, so they have something to give up in the negotiation. […] It is very important to have things to give up when you get to the end point. (AGRI UK)

Communicating domestic constraints in this way thus seems to follow the general logic of Council decision-making where the difficult issues are moved to higher levels of the Council hierarchy and to end game negotiations. When member states hold positions with high salience, they try to build up support for them, while making trades on less important points in order to get the most crucial interests satisfied. Certain issues become prioritised here, while others potentially involve making strategic concessions. As expressed by a Greek delegate, "Sometimes you decide to take back, to withdraw an initial pressure […] in order to take, in the near future, something else, more important. […] Because there is no possibility for the Council to say always 'yes' or always 'no'" (AGRI GR). So if the importance of a position can be defined by the anticipated political costs domestically, one has to evaluate whether it is better to suffer this now and then have political capital for future issues that might yield even higher political costs in case of failure. This is a strategic point similar to the point highlighted by for instance the UK delegate above, that in order to get something, you must also be able to give something during negotiations. This holds a clear support trading aspect and will be effective as long as the other negotiators follow a similar logic.

In sum, this section has focused on the empirical evidence for how domestic constraints are communicated according to an integrative bargaining logic. It has been demonstrated how a domestic constraints statement is used to explain or clarify positions and also how it is associated with a signal that the issue is important. This in turn is a way of adding weight to the position in the logrolling process and as such, the importance of a position constitutes a form of currency in this process (Warntjen 2012, 169). This is also where the reciprocal element of the integrative bargaining logic comes in, where support is traded on issues of diverging importance to the member states, and that concessions towards one actor should be equally compensated by concessions given by that actor. It has also been indicated how domestic constraints cannot always be considered, depending on coalition structures and how much goodwill one possesses from concessions on other points. There is thus an element of strategic priority in this sense and a need to be economical with communicating domestic constraints.

Are Domestic Constraints Used as Distributive Bargaining?

The absence of evidence among the member state negotiators about domestic constraints being communicated according to a distributive bargaining logic is striking. There simply no indication in the interview data of the domestic constraints argument being made as a way to warn about domestic defection, non-compliance, or as a threat about voting no. If anything, making a threat to vote no appears to be norm breaking and only increases the risk of being isolated in the negotiations and thus not considered at all when striking deals (Novak 2013, 8). Instead, it has in the previous sections been demonstrated that domestic constraints are communicated following logics of arguing and in particular integrative bargaining in the Council of the EU. This finding follows the expectation given by the theoretical discussion in this chapter, but it challenges the assumption in the original theory and in previous research about domestic constraints being used as a distributive bargaining strategy. This narrow view of the domestic constraints strategy, held in the original theory and previous research, risks overlooking the true applicability of the strategy and how it can be used effectively by other mechanisms, especially in settings such as the EU Council.

One important caveat concerns the question of how to understand domestic constraints statements that are made to explain a taken position. Just as how this can be interpreted both through an arguing and an integrative bargaining lens was discussed in the previous sections, it can of course not be excluded that an explanation of this kind also can be part of a distributive bargaining strategy, holding an implicit threat of voting no or a warning of non-compliance. But it must be noted that there is no indication of this kind of implicit meaning in any of the interviews. Moreover, in contrast to the findings on arguing and integrative bargaining, there is no indication in the interviews of why negotiating adversaries should consider explanations, following the distributive bargaining logic. It must therefore be concluded that the domestic constraints strategy is not a distributive bargaining strategy in the Council of the EU.

Domestic Constraints as Political Statements

The empirical part of this chapter ends with a section on one of the most defining components of domestic constraints, the fact that they are political in nature. This section will be used to explore whether such statements are perceived as also being political in the Council preparatory bodies, and thus whether informal ratification is relevant for these actors. Establishing the political character of domestic constraints statements in the Council preparatory bodies can also affect the circumstances under which domestic constraints can be communicated, and when it can be expected to be effective.

Domestic constraints statements are in essence political, as negotiators are urging their adversaries to consider the domestic political costs that will be borne if one's

interests are not considered. The general theoretical logic builds on the assumption that international agreements need to be ratified domestically and thus that the ratifying domestic actors are determining the domestic constraints of a negotiator. This connection between international negotiations and domestic ratification was pronounced by Putnam (1988). For EU legislation, however, ratification is not a formal process where national parliaments must approve international agreements but instead an informal process where agreements need to get some general domestic acceptance from important domestic actors. A government facing ratification problems in informal ratification will accordingly face political costs, debited by those informal domestic ratifiers who refuse to accept the agreement. In this way, the political costs component is part of the definition of the domestic constraints and part of the general theoretical logic. It is a factor that is furthermore present in any one of the four different interaction modes discussed.

The political cost element is included in the domestic constraints definition used in the interview guide, when respondents are asked to think of an issue in which their position is influenced by some domestic actors that are important for their government to please. In this case, it is implied that there is some pressure from a certain domestic actor and, as in any democratic political system, that the government might suffer political costs if the policies they are part of deciding do not acquire acceptance from important parts of their constituency. The respondents also acknowledged this fact and that the underpinning of a domestic constraints statement is found in its political dimension. Elected representatives are sensitive to the demands of their constituency and this defines their domestic constraints, something that the attachés in the Council are also well aware of,

> If you work in a political environment, you are trying to get, what we say in Dutch, to make sure that there are no banana peels in front of the minister. […] There is no subject in the JHA area that doesn't have a political side, one way or the other, it's not potatoes, it's borders, it's peoples. […] Of course you hear it [domestic constraints statements], especially when you go higher in the hierarchy of groups, 'my minister can't sell this' or if you are a minister 'I can't sell this at home', so it depends also on the context, where you are and in which groups you are. (JHA NL)

The political logic and the concerns for how agreements will be received by domestic groups is one important aspect of the positions that are presented in the Council. As indicated by the quote above, a frequent comment in the interviews was that it is a type of statement that is used at the political level in the Council, and in end game negotiations. A German agricultural attaché said, "That's a political argument […]. I know that on one of the farmer issues the German minister of agriculture has used it, it is for the last discussions the last night I would say" (AGRI DE). The intrinsic logic of Council decision-making is apparent from this. It is built on the premise that most issues should be solved at lower levels, by the non-elected member state negotiators,

and only the really difficult issues, substantially as well as politically, are subject to discussion at the ministerial level as B-points on the Council agenda (cf. Hayes-Renshaw and Wallace 2006, 68). It is also logical that elected politicians are better placed to use the domestic constraints argument since they are the ones concerned with the political costs eventually borne. Another way of expressing this difference between decision-making logics of the different levels of the Council comes from a UK attaché, "When you get to ministerial level, that's where they can sit and say 'I'm worried that my public will be at increased risk of x, y and z' and the ministers around the table, because they are democratically elected, are able to plug themselves into the same mind-set and that's what they're there for" (JHA UK). There may hence be more of a general applicability and understanding of this type of political logic at the political level as compared to in the preparatory bodies of the Council.

While political statements might be more present at the last stages of decision-making, with the involvement of elected politicians, the political concerns are certainly raised at the attaché level too, which has been hinted at in previous sections. Political issues emanate from the negotiations at the lower levels of the Council but can of course recur at all levels,

> It is at our level that the political issues are identified, the presidency gets to know where the political difficulties are, from the discussions that are held at our level. So of course we touch upon them and then at this stage we already know what are the member states' positions [and] very often what is the political motive behind the position. […] We rarely make political statements but of course, when it is important and we want to participate and sensitise other member states, we have to indicate that it is a politically sensitive thing or issue. (AGRI MT)

Even if there are differences in the degree of political logics between different levels of the Council, the political dimension and the domestic constraints logic is present throughout. This difference in logic between the different levels applies not only as a difference between the political level and the preparatory level, but also to the hierarchical levels within the preparatory bodies. A Danish attaché explained how the substance is often more important at the working group level, and as you get higher in the Council hierarchy the political aspects become more prominent, "I think it is more the examples and the policies in the working groups, […] generally spoken, and in the [group of] counsellors, and in particular in coreper, it is more political" (JHA DK). Again, it indicates how the logics differ somewhat between the levels and how issues tend to become fewer but more difficult the higher up in the hierarchy a decision-making dossier moves.

In sum, several respondents point to the difference between the levels of the Council where the domestic constraints statement and its political logic might be both more present and more relevant at higher and more political levels of the Council and of course not least at the ministerial level as compared to the preparatory levels. At

the same time, it is in the preparatory bodies where domestic constraints are first encountered and the civil servants are sensitive to the political motives of their political principals. That the domestic constraints statement has a political character is consistent with the general theoretical logic of informal ratification. It also furthers our understanding of the general decision-making logic and the role of the different levels in the Council of the EU and the actors operating within them. The importance of this distinction between the levels of the Council will be further elaborated on in Chapters 5 and 6, when looking quantitatively at explanations for the communication of domestic constraints, and their effect on influence in the Council. However, it already furthers the understanding of domestic constraints and their applicability to the different parts of the Council of the EU.

Conclusions

In this chapter, I have argued that domestic constraints need not be used as distributive bargaining, where negotiators make threats about blocking decision-making, or warnings about domestic defection. It has been demonstrated how domestic constraints can also be communicated and accommodated in interaction modes marked by integrative bargaining and rhetorical action. This theoretical development paved the way for an empirical evaluation of how domestic constraints are communicated according to these modes of interaction.

On the basis of the qualitative interviews, I have shown that member state negotiators in the Council of the EU are familiar with, and are making, domestic constraints statements, referring to domestic acceptance problems and potential political costs domestically. The empirical evaluation of how domestic constraints are communicated shows that they are used in different ways. One important finding is the lack of evidence for a distributive bargaining logic, which has been an assumption in the theory and in previous research. This is a contribution to the understanding of domestic constraints in negotiations and opens up for a wider applicability of it, not least in settings such as the Council of the EU. This also makes it reasonable to believe that the domestic constraints theory suggests a more general logic, where the refinement developed makes it relevant outside of traditional international relations as well. Even if distributive bargaining behaviour is not present in this context, there might be special cases when it is, as argued above. It might for instance be present on occasions where a directive creates implementation problems in the member states on very sensitive files and thus where domestic constraints statements can be used as a warning about non-compliance. But since this is likely to be a rare occurrence in the Council, it is quite natural that it goes under the radar in the empirical data used here.

One recurrent point in the interviews was that domestic constraints are communicated to explain positions and point to why they are politically important. This also comes with a reasoning about domestic constraints not carrying a strong convincing force in themselves, but that they must be presented alongside a more

substantive argument. This is interpreted as low evidence for domestic constraints being communicated as an argument aimed at persuasion in negotiations. Instead it shows that domestic constraints are primarily used in an integrative bargaining type of interaction, clarifying the position and signalling salience as a preparation for logrolling. Yet, communicating domestic constraints to explain positions can be done solely in order to share information and to be transparent, in an effort to persuade adversaries to consider the argument when searching for collective interests. For this reason, the empirical evidence for different mechanisms by which a domestic constraints statement can be effective has also been presented. There are mechanisms of both arguing and integrative bargaining present in this respect, pointing to an empathy mechanism and a logrolling mechanism respectively. This in turn leads to the conclusion that domestic constraints can be communicated, and be effective, both by mechanisms of the arguing and the integrative bargaining modes of interaction, although the latter seems to be more important.

The political connotations of the domestic constraints were emphasised by the interview respondents, and there were several testimonies about how domestic constraints statements are more suitable for the political levels of the Council and end game negotiations, although often presented at the attaché level, as well. This in turn corresponds to the underlying logic of the domestic constraints theory as well as the sequence of decision-making in the Council where politicians are the ones who are affected by the political stakes and as such are also the ones most concerned. They are moreover in the institutional position of solving remaining difficult issues that have not been possible to solve at lower levels of the Council and which instead have been postponed to the final negotiations. The highest political level, the elected government ministers, has not been included in the sampling of respondents for this round of interviews, but it could be that the domestic constraints logic is even more present at that level. I will return to the distinction between Council levels in Chapter 5 where a quantitative empirical evaluation is done on the communication of domestic constraints in the Council of the EU.

5

Who Communicates Domestic Constraints?

This chapter focuses on the extent to which different actors in the Council of the EU communicate domestic constraints in negotiations, and attempts to launch explanations for the patterns found. The aim is to learn more about by whom and under what circumstances domestic constraints are communicated in the Council. This should improve the understanding of domestic constraints in EU Council decision-making. The following empirical question is addressed in the chapter: *Who communicates domestic constraints, and under what circumstances?*

The communication of domestic constraints is something we know very little about from previous research. The assumption in empirical studies has instead often been that domestic constraints *per se* have an effect on the distribution of gains, without establishing whether the constraints are actually known to the negotiating adversaries (e.g. Bailer and Schneider 2006; Hosli 2000; Hug and König 2002; König and Hug 2000; Schneider, Finke and Bailer 2010). There has thus been an implicit assumption that if an actor has domestic constraints, the negotiating adversaries will also know about them. Such information could be shared in different ways, but it is most likely that it would have to be made explicit through outspoken statements during negotiations, as argued in Chapter 2.

However, as demonstrated in Chapter 4, some negotiators are hesitant to communicate domestic constraints in their working groups, simply because they believe it to have little persuasive force. This in turn points to how it is a strategic decision to communicate domestic constraints, as some negotiators appear to be more willing than others to do so. This strategic component of the communication of domestic constraints is argued here to be an important component to include when evaluating the effects of domestic constraints on negotiations, and it can relax the expectation from previous studies that, when present, domestic constraints should always be a relevant factor in negotiations. It thereby also becomes vital to establish who communicates domestic constraints, and under what circumstances.

This chapter is structured as follows: it begins with a theoretical discussion of different factors that may explain communication patterns of domestic constraints, informed by previous research on negotiation behaviour and general logics of EU decision-making. After this follows a short discussion of the statistical models used

and some descriptive figures on the dependent variable. Thereafter, the empirical evaluation of the outlined theoretical propositions is conducted.

Expected Variation in Communicating Domestic Constraints

The dependent variable for this chapter measures the likelihood that member state negotiators communicate domestic constraints in a situation where they have domestic constraints. The measure comes from the survey data (discussed in Chapter 3) and measures the respondents' indicated likelihood to make a domestic constraints statement on a 5-point Likert scale. It thus provides a measure with variation in the application of this type of negotiation behaviour. The respondents to the survey were asked to:

> Think of a situation where there is an issue on which your position has been determined to a large degree by the interests of a domestic actor in your member state, for instance the parliament or an important economic interest group. This particular actor is of great importance for your government, which is therefore interested in defending this position.

This was followed by the question:

> One potential option here is that you would state, in contacts with the other delegates during the negotiations in your working group, that your position cannot be changed due to this domestic constraint. How likely would you say it is that you would make such a statement?

The literature on when different types of negotiation behaviour can be expected and observed is extensive, and has resulted in the identification of numerous variables which affect the dynamics of negotiations in different ways (Warntjen 2010, 675). Mostly, such variables have been used to explore variation in different negotiators' behaviour, like the ones described in Chapter 4 (e.g. Dür and Mateo 2010b; Elgström and Jönsson 2000; McKibben 2010; Naurin 2010). As was demonstrated in Chapter 4, the domestic constraints strategy transcends these common conceptions of negotiation behaviour and is not distinctly associated with a particular one, which affects the expectations about when and by whom it is used.

But even if domestic constraints can be communicated in different ways and are associated with different types of behaviour, some negotiators might use it more than others. In the theoretical model in Figure 2.1, these variables were labelled as interaction variables but they will all be treated as independent variables in the coming statistical models. The reason for this is that the operational definition of domestic constraints is based on an assumption that all respondents have domestic

constraints, and thus, it does not include any variation. Since it is here assumed that all respondents have domestic constraints, for simplicity it can be given the value 1 (i.e. they have domestic constraint), using this in a multiplicative interaction term would be the same as using the interaction variables as independent variables. Domestic constraints are therefore only included as an independent variable in the theoretical model, but not in the empirical evaluation. It does not affect the overall theoretical logic of the model in Figure 2.1, however, and it does not affect the possibility to evaluate the theoretical expectations about the variation in the communication of domestic constraints, as developed below.

In the following sections the different factors that can be expected to affect the negotiators' likelihood of making domestic constraints statements will be theoretically outlined. The independent variables used in this chapter will also be used in Chapter 6, when looking at whether and when communicating domestic constraints makes negotiators more influential in negotiations. This includes the size of member states' economies, national parliamentary power, minority government, level of the Council and unanimous decision-making. However, the dependent variable is different. The emphasis in this chapter is on what affects communication of domestic constraints, whereas in Chapter 6 the focus is on the effects on influence of communicating domestic constraints. This means that the theoretical role of the variables differ depending on the chapter.

The reasons for the inclusion of each of the independent variables in this chapter are discussed below, and include the expected direction of the effects on the dependent variable. This discussion departs from previous research on negotiation behaviour and decision-making in the EU Council, and each independent variable is also operationalized. The section is divided to focus firstly on member state variables, secondly on the preparatory body variables and thirdly on individual-level variables.

Member State Variables
Size of Member States' Economies
When seeking to explain EU Council negotiations, it is difficult to avoid considering what the effects are of different conceptions of member states' sizes. Some previous research has been done about how member state size affects negotiators' behaviour and choices about strategies to employ (e.g. McKibben 2013; Naurin 2010; Panke 2011). The expectation elaborated upon here is that there should be a negative effect of member state size – measured as the size of the member states economies – on the negotiators' likelihood to communicate domestic constraints, when they have them. The basis for this expectation is that representatives of economically-small member states need to focus their attention on the issues that are really important to them – such as when they have domestic constraints – and will therefore be more active on these issues.

Member state size can mean different things and the measure which is most relevant to include depends on what it is which is attempting to be explained. When

studying the Council of the EU, it is most common to used the member states' voting weights and/or member states' population sizes and/or the size of member states' economies [13] (e.g. McKibben 2013; Panke 2011; Thomson 2011). These three measures are highly correlated. Previous research has shown that representatives from large member states – measured by their economic size and voting power –more frequently use a wider set of negotiation strategies, and are thus more active in negotiations in the Council (Panke 2011). It has also been shown that member states with large populations take clear positions on controversial issues more often, and voice their positions on different issues more often, whereas smaller member states are indifferent more often (Arregui and Thomson 2009). That representatives from large member states are more active on average can thus be a consequence of them having clear positions more often, as well. It can also be expected that representatives of member states which are economically small have fewer resources at their disposal and therefore need to focus their activity on issues when they really want something, for instance when they have strong domestic constraints. Representatives from large member states might hence be more active on average, but given that they more often take clear positions, they might also have less defined priorities than smaller member states with narrower interests (cf. Arregui and Thomson 2009, 670). This also means that a negotiator who represents a small member state – which less frequently takes positions – will be more likely to voice his/her concern and point to his/her domestic constraints, than a representative who often takes clear positions and for whom a situation with a domestically constrained position will be perceived as more ordinary.

Representatives of small member states are thus expected to be more active when they really want something, such as when they have domestic constraints. They might in fact also *need* to be more active, in order to achieve influence, whereas representatives of large member states can rely on their strength from being large (e.g. by possessing more formal power), and thus an ascribed status of being influential (Beyers and Dierickx 1997; Panke 2011). Representatives of large member states can thus count on being influential, which makes it less necessary for them to employ a wide array of available strategies, including communicating domestic constraints.

In sum, the expectation is that negotiators representing small member state economies are more likely to communicate domestic constraints in Council negotiations, when they have them. The economic size of member states is deemed to be most important in this respect, given that the economically small member states are likely to concentrate their resources and activities to a smaller number of important issues, such as when they have domestic constraints.

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[13] Sometimes member state size just refers to binary categories with large member states (often just Germany, France and the UK) constituting one category, while the rest of the member states constitute another (e.g. Beyers and Dierickx 1997; Naurin 2010). But since this does not really measure size but is rather referring to some other form of more or less arbitrary definition of political importance, it will not be used here.

Operationalization

Member state size will be operationalized as the member states' Gross Domestic Product (GDP) and this measure is highly correlated with other size measures such as voting power and population size[14]. The operationalization of GDP comes from Eurostat (2012) and measures GDP in Euros at market prices in 2012. GDP is very unbalanced across member states where the largest economy, Germany, is 387 times larger than the smallest economy, Malta. This huge unbalance cannot be expected to have a proportional negative effect on the communication of domestic constraints. In order to even out the differences somewhat and to correct for this skewed distribution of values and thus approaching a more normal distribution of values, a natural log transformation is used for the GDP variable in the coming empirical analyses.

National Parliamentary Power on EU Affairs

In the Council of the EU, governments act on behalf of their member states, and in the national political systems, parliaments have established practices for controlling or scrutinizing their government's actions in the EU. Such differences in parliamentary strength vis-à-vis governments on EU affairs could account for variation in the frequency and severity of domestic constraints. Parliamentary strength vis-à-vis governments has also been commonly included as definition of domestic constraints in empirical studies (e.g. Bailer and Schneider 2006; McKibben 2013, 424; Schneider, Finke and Bailer 2010). But instead of looking at the national parliamentary strength from the perspective of defining domestic constraints, here it is used to explain variation in domestic constraints communication. It has the primary purpose of gaining a better understanding as to which negotiators communicate domestic constraints, But it is also included to test the merit of the argument developed in the theoretical model in Chapter 2 which states that domestic constraints need to be communicated in order to have any effect on negotiated outcomes. It thus tests whether the static definitions of domestic constraints, based on national parliamentary power, which have been used in previous studies, actually translate into negotiation strategies in the EU Council.

Increasing the strength of national parliaments in EU affairs has been argued to be one way of solving the alleged democratic deficit of the EU (e.g. Auel 2007). Much of the arguments regarding this relate to how the delegation chain from parliament to governments is constructed, and how accountability of the government is secured. The democratic component of national parliaments has also been emphasised in treaty revisions and was not least confirmed in the Lisbon Treaty, where national parliaments were granted new possibilities to control the subsidiarity of EU proposals (Louis 2008). Not only are such scrutiny measures in and of themselves empowering

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[14] R^2 of 0.81 for the natural log of member states' vote weights and 0.83 for the natural log of member states' population sizes, on the natural log of the member states' GDP in Euros at market prices in 2012. The robustness of the results for these alternative measures of member states' sizes is reported in Appendix 2.

national parliaments, they can also increase awareness and general interest in engaging in EU affairs for national parliaments. Even though treaty based rules give member state parliaments equal opportunities to affect EU decision-making, their practices and the organisation of the national parliamentary systems varies.

National parliamentary strength is commonly defined as consisting of three components: (1) access to information, (2) ability to process information by scrutinizing the executive and (3) the degree of control over executive actions. The first category includes indicators on the, often written, information that the parliament has access to on different EU proposals. The second category includes indicators for how such information is processed by the national parliaments, i.e. their scrutiny infrastructure. The last category includes indicators on mandating and enforcement of parliaments' opinions (cf. Auel, Rozenberg and Tacea 2015; Bergman 1997; Winzen 2012). For instance, some national parliaments have full mandating rights *ex ante* Council negotiations while some have more information *ex post* and thus the ability to evaluate whether the government has done its best in negotiations. The common denominator is that measures of parliamentary power in this context should capture "the ability of parliament to make government act according to its preferences" (Winzen 2012, 659).

Having a strong national parliament can potentially affect the likelihood for negotiators to communicate domestic constraints in at least two ways. Firstly, governments with strong national parliaments on EU affairs may be more concerned with demonstrating that they have done all they could, and that they have used all potential strategies and arguments in the negotiations. Secondly, domestic constraints held by negotiators representing member states with strong national parliaments might be more credible than domestic constraints coming from member states with weaker parliamentary scrutiny procedures. Credibility should affect whether adversaries consider one's domestic constraints, but more importantly here, it should also affect the negotiators' choice to communicate domestic constraints in the first place.

Credibility is important, as was argued in Chapter 2, and it can be improved in different ways, most notably through reputation and formal institutions (Morrow 1999, 91-96). Reputation is obviously important since it is based on past experiences or the history of play and it says something about the likelihood of having domestic constraints as well as the likelihood of holding on to the commitment that the domestic constraints create. Formal institutions on the other hand can enhance credibility through dispersion of power and by dividing authority between different actors. Negotiators from member states in which the national parliament has some formal power to constrain its government might thus potentially possess a more credible commitment. Schelling (1960, 29) acknowledged this by discussing how the use of a bargaining agent affects the power of commitment. He essentially argued that a negotiating agent that has domestic principals, with whom the powers are shared, will be capable of making a more powerful, hence credible, commitment. This furthermore means that it is primarily these domestic principals and not the

government agents themselves who can make domestic constraints credible since "executives who can tie their hands can just as easily untie them" (Pahre 1997, 147). That is, a government that does not have these formal constraints from their national parliament have more flexibility to both define and redefine the domestic constraints. It is worth noting that under informal ratification domestic actors in practice do not possess veto power. But as argued above, this does not prevent governments from being constrained by them. This means that under informal ratification, no domestic actors are formally privileged over others, but the possibility that some actors might still be more important than others for debiting political costs of unwanted EU agreements cannot be excluded. Most important in this respect are the national parliaments, who follow the EU issues and whose support the governments require and whom they are directly held accountable to. The national parliaments are thereby also most important for granting credibility of the constraints that they create.

Negotiators from member states with powerful national parliaments on EU affairs are expected to be more likely to communicate domestic constraints. The reason for this is that powerful national parliaments can scrutinize their governments more closely in order to make sure that they do what they can in negotiations, including being active and communicating domestic constraints. The credibility of domestic constraints might also be higher if they come from a member state which has a strong national parliament that can force the government to formally commit to a position. Measuring parliamentary strength on EU affairs should hence provide an evaluation of a parliaments' access to information and the ability to both control and scrutinize its governments. In sum, government negotiators with strong national parliaments would be expected to be more prone to communicate domestic constraints than government negotiators with weaker national parliaments.

Operationalization

Measuring national parliamentary strength vis-à-vis governments in EU affairs can be done in different ways (e.g. Bergman 1997). Parliamentary power scores however tend to have a rather short shelf life, given that the rules governing relations between parliament and government change over time, and also that such scores cover only current EU member states. When the domestic institutional rules change and the EU enlarges, parliamentary power scores become out-dated. In addition, different scores cover different aspects of the parliament-government relationship.

Two up-to-date parliamentary power scores are used here to evaluate whether stronger national parliaments make negotiators more willing to communicate their domestic constraints. The first index comes from Winzen (2012) and the second index comes from Auel, Rozenberg and Tacea (2015). They differ from each other in some respects, but share the fact that they measure power along three dimensions: access to information, institutional set-up, and enforcement capabilities. They correlate with an R^2 of 0.51. Winzen's index covers lower houses of parliament and uses six variables to reach an index that varies between 0 and 3, where 3 means a stronger parliament.

Auel, Rozenberg and Tacea cover both upper and lower houses but only the lower houses are included here. The reason for this is the same as for Winzen (2012, 663); that upper houses are generally more difficult to compare and have different functions in different political systems, compared to the more homogenous functions of lower houses.

Auel, Rozenberg and Tacea include eleven variables in their index and thus comprise more parameters than Winzen's study does, even if they can be sorted under the same dimensions. Auel, Rozenberg and Tacea's index ranges from 0 to 1, where 1 means a stronger parliament. The two indexes thus differ somewhat in the aggregation, but also in the weighting of factors where Auel, Rozenberg and Tacea give higher importance to enforcement capacity and Winzen gives more weight to whether the government supplies explanatory memoranda to the parliament, and thus whether the parliaments get only raw information, or if they also recieve processed information from the government. For the purposes of this thesis, the Auel, Rozenberg and Tacea index appears to be most relevant given that the enforcement capacity is given higher weight and thus that the binding character of the parliaments' opinion is secured and can be made explicit in negotiations. In addition, the Auel, Rozenberg and Tacea index includes one parameter indicating whether governments give *ex post* reports to the parliament, in cases where it might be important for a government to show that it has done its best and used all potential arguments and strategies in negotiations. Moreover, given that the Auel, Rozenberg and Tacea index includes more parameters than the Winzen index, it has the potential to yield a more accurate measure of parliamentary strength. Furthermore, while Winzen's index relies on data from 2010, the index of Auel, Rozenberg and Tacea is more up-to-date, including later institutional changes in some of the member states. Thus it is more relevant for the empirical data used here, gathered in 2012. One strength of the Winzen index, however, is its parsimony, and there is of course a possibility that less is more when it comes to the included parameters. It also has a strong emphasis on information access for parliaments, which is an important factor when scrutinizing the government. Both measures will be used in separate models in the coming analyses.

Minority Government

Whether a government is supported by a majority in parliament might, for largely the same reasons as was developed for the strength of a national parliament in EU affairs above, explain some of the variation in domestic constraints communication. A government that does not constitute a majority in parliament will be put under more scrutiny and pressure than a government that holds a majority in parliament, and thus can count on parliamentary support for its actions. A minority government would therefore be more inclined, or even forced, to show that it has done its best and used all potential strategies and arguments in negotiations. For the same reasons as above, being in a minority in parliament increases the dispersion of power between government and parliament, which can also add credibility to domestic constraints.

Negotiators from minority governments should thus be expected to display a higher likelihood of making a domestic constraints statement in EU Council negotiations.

Furthermore, an interaction term of the national parliamentary power indexes and the minority government variable has been included. The reason for this is that the strength of national parliaments on EU affairs is likely to matter more for minority governments, both in terms of national pressure and in regards to credibility reasons (cf. Pahre 1997, 159-160). The effect of having a strong national parliament should therefore be elevated for minority governments and thus show a positive effect on the dependent variable.

Operationalization

The minority government variable is a dummy variable that distinguishes between governments that hold a majority in parliament (0) and governments that are in minority positions in parliament (1). The information about government type was gathered from the ParlGov database (Döring and Manow 2012) and refers to governments in office during spring 2012. One special case during the first half of 2012 involved the two caretaker governments in Italy and Greece. Being in a very special position, they have been coded as majority governments since, to some extent, they are formed by the need for national political unity, and as such can be assumed to approximate the position of a majority government[15]. The included interaction term is simply the multiplied national parliamentary power score with the dummy variable on minority governments. It models the *added* effect of the parliamentary power score for minority governments on the dependent variable.

Decision-Making Structure Variables
Level of the Council

One of the findings in Chapter 4 was the fact that there is an understanding among member state negotiators that a domestic constraints statement is in essence political. Domestic constraints are founded on political concerns, not least in cases where domestic ratification is informal. Thus, for civil servants – working at a distance from the political level – the domestic constraints might be less relevant than for a political level negotiator. This follows the common understanding that different stages of the decision-making process in the Council are marked by different modes of operation. At lower levels of the Council, member state delegates are introduced to a legislative

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[15] Whether the governments in Italy and Greece should be considered caretaker governments, grand coalitions, technocratic governments etc. is a matter of definition (McDonnell 2012). The definition in this respect is the same as was used in the ParlGov database. What the coding is supposed to capture is the likelihood that a government will be challenged by its parliament and this should be expected to be smaller for caretaker governments than for minority governments. But for the sake of checking the robustness in the empirical analysis below, the results are also tested for the alternative coding of these two governments as minority governments, reported in Appendix 2. This shows that the results are indeed robust for this alternative coding of the caretaker governments.

proposal and are asked to try to resolve as many of the uncontroversial points as possible, while referring controversial points upwards in the Council hierarchy. Sometimes these lower levels are described as technical while higher levels, in the form of senior committees or even ministerial meetings, are described as more political (Elgström and Jönsson 2000; Hayes-Renshaw and Wallace 2006, 99; Häge 2008, 36).

At the same time, it has also been argued that there is considerable blurring between the technical and political in Council preparatory bodies and that this strict division between levels of the Council is often misplaced (Fouilleux, Maillard and Smith 2005). It was also shown in Chapter 4 that this type of political statements is present at the preparatory body level. But it was also indicated in Chapter 4 that there are differences between preparatory bodies where political concerns are more relevant in the more senior committees as opposed to the working parties. Political concerns may therefore be more relevant at the more senior levels of the Council. With the conception of domestic constraints as based on political concerns, domestic constraints are therefore expected to more likely be communicated at senior levels of the Council than at more junior levels. The ministerial level is not included in the dataset, but domestic constraints are expected to more likely be communicated at the level of the Council directly subordinate to the ministerial level than at lower levels of the Council.

Operationalization
The variable on the hierarchical levels of the Council of the EU is based on two categories, creating a dummy variable of higher (1) and lower level (0) preparatory bodies. Since only preparatory bodies are included in the data, the decisive component of this categorization is how proximate each preparatory body is to the political level. Preparatory bodies reporting directly to one of the ministerial level Council configurations are here coded as high-level preparatory bodies while those that are not directly reporting are coded as low-level preparatory bodies. High-level preparatory bodies are Coreper I and II (CRP I and II), the Standing Committee on Agriculture (SCA), the Political and Security Committee (PSC) and the Economic Policy Committee (EPC). Low-level preparatory bodies are Veterinary attachés (VET), Politico-Military Group (PMG), the Working party on tax questions (TAX), Coordinating Committee in the area of police and judicial cooperation in criminal matters (CATS), the Working party on the environment (ENV) and the Working party on competitiveness and growth (COMP). Information about the different preparatory bodies was gathered from the 2012 Danish presidency website describing the different preparatory bodies of the Council (Danish presidency of the Council of the European Union 2012). For some groups this information was complemented by other official documents, such as decisions of establishment, linked in the list of Council preparatory bodies (General Secretariat of the Council of the European Union 2014).

Unanimous Decision-Making

Member state negotiators who have veto power in negotiations are expected to be more likely to make domestic constraints statements. Most decisions in the Council are made by the qualified majority voting rule, but the unanimity decision-making rule has been kept for some policy areas which are considered to be highly sensitive for the member states. This encompasses for instance the traditional high politics areas on foreign and security policy, but also issues such as tax questions and social policy (Nugent 2010, 308-309). In these policy areas, the political stakes can be expected to be higher for the member states and thus a political logic present, to a greater extent. This can also make the communication of domestic constraints more relevant in these contexts since it is expected that decision-making in these contexts is guided more by such political concerns.

When the formal decision-making rule allows member states to unilaterally block decision-making, this may also mean that the logic of the decision-making game gets altered, as compared to majority decision-making bodies (cf. Kleine 2013, 14-16). For instance, when the formal ability for member states to veto agreements exists, the member state negotiators become able to use the threat of blocking decision-making as a way of forcing their adversaries to make concessions, corresponding to the distributive bargaining logic suggested in the original domestic constraints theory. This means that in addition to integrative bargaining and rhetorical action, the unanimity rule potentially extends the possible ways that domestic constraints can be communicated. It is thus possible that if there is an increased number of ways that domestic constraints can be communicated, it would also make member state negotiators more likely to seize the opportunity to make such statements. Consequently, it is expected that domestic constraints are more likely to be communicated in preparatory bodies that make decisions by a unanimity rule as compared to majority decision-making rules.

Operationalization

Three of the included preparatory bodies are operating solely under a unanimity decision-making rule (1): the Political and Security Committee (PSC), the Politico-Military Group (PMG) and the working party on tax questions (TAX). When coding preparatory bodies that deal with issues which fall under the unanimity rule, it is necessary to make a decision about whether to code groups that deal exclusively with unanimity issues as unanimity groups, or to also including groups that deal with such issues, even if only partly. The prime examples of the latter are Coreper I and II, which deal with a wide range of issues and therefore also with issues falling under different decision rules. However, concurrent to the development of the increased use of the ordinary legislative procedure and thus QMV in the Council, the Coreper agendas have also increasingly come to include issues where the QMV rule applies. To control for this, some of the Coreper ambassadors in the survey were asked to estimate which voting rule was used most frequently and they all responded that

QMV most often applies[16]. Coreper I and II have therefore been coded as QMV groups (0) together with the Standing Committee on Agriculture (SCA), the Economic Policy Committee (EPC), the Working party on competitiveness and growth (COMP), Veterinary attachés (VET), Coordinating Committee in the area of police and judicial cooperation in criminal matters (CATS) and the Working party on the environment (ENV). This creates another dummy variable where the high politics groups are coded as 1 and the other groups are coded as 0.

Individual-Level Variables

Years of experience

Member state negotiators have different degrees of experience, from negotiations in general and from the particular context of the Council of the EU. Experience is commonly assumed to affect negotiation tactics through learning processes, leading to the institutionalization of norms as well as socialization. In the EU context, this has been argued to lead to consensus-seeking behaviour (e.g. Elgström and Jönsson 2000, 700-701). It was argued in Chapter 4 that a domestic constraints strategy can be part of such consensus-oriented behaviour, but that does not mean that more consensus-seeking behaviour leads to a higher likelihood of communicating domestic constraints. Conversely, if domestic constraints statements are violating some central norm of the Council (although there was no indication of this in Chapter 4), longer experience should mean lower likelihood of making domestic constraints statements. If it is not norm breaking, more experience might mean greater exposure to different negotiation settings and tactics, potentially also making negotiators more confident in communicating domestic constraints. Of course, more experience might also decrease the likelihood of communicating domestic constraints if it by experience has been deemed an inefficient strategy. In that vein, experience is related to skill but should not be seen as synonymous. The direction of the relationship between experience and likelihood of communicating domestic constraints can, in sum, indicate different things; a positive relationship could indicate that, through experience, it is a strategy that has been deemed effective enough and worth applying, while a negative relationship could indicate that it is norm breaking and as a consequence ineffective.

Operationalization

Here, experience is represented by a respondent's number of years serving as a negotiator in the EU Council. The information about this was gathered in the survey with more than half of the respondents indicating less than 5 years of Council experience, while the respondent with the longest experience had worked 35 years in the Council. The distribution of answers on this variable is thus skewed towards the lower end of the scale, which here is corrected for by using the natural log of years in

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[16] In Coreper I, most respondents said that QMV applies on 80-90 % of the issues while in Coreper II most respondents estimated QMV to apply in around 70-80 % of the issues.

the Council. This follows the theoretical logic that an increase of, for instance, one year in working time means a greater increase in experience for a negotiator who is comparatively new to the negotiation setting, as opposed to someone with longer experience.

Outlier Position

Domestic constraints statements, including a reference to a firm position, are expected to be more likely from negotiators who have an outlier position or even are in isolation. As argued in Chapter 2, domestic constraints can be communicated both with the aim of changing an otherwise likely direction of negotiations, or as a way to prevent change to an otherwise likely outcome. However, that domestic constraints can be communicated both to preserve and to change the proposed direction of a negotiation does not mean that domestic constraints statements are equally likely to be made in both circumstances. It is instead likely that the motivational burden is higher for an actor who has an outlier position, and thus wants to make change, than for an actor who holds a mainstream position, and thus wants to prevent change. Actors with outlier positions would generally be expected to be more active in negotiations (Jensen and Winzen 2012) and respondents with outlier positions would consequently be more likely to communicate domestic constraints when they have them. A domestic constraints statement can function as an explanation as well as an argument for why one has to take an outlier position and why the adversaries should change their course of action. Domestic constraints statements are thus expected to be more likely from a frequent outlier in the Council, and, in that respect, can be made both in order to explain the positions taken, and to convince the adversaries to change their minds, in line with the different types of negotiation behaviour discussed in Chapter 4.

Stretching it further, if assuming that an outlier is more often defeated in Council negotiations, it would make the outlier more concerned with showing that it has done all it can by using its full array of tactics, as a way to mitigate the potential adverse domestic political effects that a painful defeat might cause. In this way it resembles the reasoning about the national parliamentary strength and minority government effect, outlined above. Furthermore, the formulation of the survey question for the dependent variable did not give any information about whether the issue that the respondent was asked to think about was one where s/he held an outlier position, but it is assumed that a negotiator who is a frequent outlier would be more likely to have such an issue in mind. The expectation is thus that negotiators who more often find themselves in an outlier position should be more likely to communicate domestic constraints.

Operationalization

The data for the outlier variable is derived from the following question from the survey: "Thinking about the issues that you are working with in your working group,

how often would you say that you have a different position than most of the other member states, i.e. you have an outlier position among the member states?" The respondents could then indicate on a 5-point scale how often they found themselves in this position representing a range from 1: 'very seldom' to 5: 'very often'. Negotiators that are frequent outliers would thus indicate a higher value while negotiators that are more seldom outliers would indicate lower values.

Summary and Descriptive Statistics

The independent variables discussed above, which will be used to explain who communicates domestic constraints and when, are summarized, along with their measurements, in Table 5.1. This is followed by some descriptive statistics for the variables in Table 5.2. What can be observed in Table 5.2 is that there are 249 respondents included in the dataset. However, there are only 246 respondents included in the analyses, which is a consequence of three respondents not providing any answers to the survey question about their likelihood to make domestic constraints statements.

Table 5.1. Summary of independent variables and measurement

Variable	Measurement
Member state variables	
Member states' economic size	Natural log of Gross Domestic Product at market prices 2012
National parliamentary power on EU affairs	Indexes from Winzen (2012) and Auel, Rozenberg and Tacea (2015)
Minority government	0: majority government, 1: minority government
Interaction term	Parliamentary power score × minority government dummy
Preparatory body variables	
Level of the Council	0: low level, 1: high level
Unanimous decision-making	0: majority decision-making, 1: unanimous decision-making
Individual-level variables	
Years of experience	Natural log of respondent's years of experience
Outlier position	1: very seldom – 5: very often

Table 5.2. Descriptive statistics for independent variables

Variable	Observations	Mean	Std. Dev.	Min	Max
Member state variables					
(log) Gross Domestic Product	249	12.00	1.55	8.84	14.80
Parliamentary power index (Winzen)	249	1.73	0.62	0.33	2.67
Parliamentary power index (Auel, Rozenberg and Tacea)	249	0.52	0.16	0.24	0.84
Minority government	249	0.30	0.46	0	1
Interaction term (Winzen)	249	0.53	0.89	0	2.67
Interaction term (Auel, Rozenberg and Tacea)	249	0.16	0.25	0	0.72
Preparatory body variables					
Level of the Council	249	0.55	0.50	0	1
Unanimous decision-making	249	0.19	0.39	0	1
Individual-level variables					
(log) Years of experience	249	1.45	0.85	-0.69	3.56
Outlier position	249	2.16	0.94	1	5

In the next section, the statistical models used to evaluate the independent variables' effects on the dependent variable are discussed, followed by their empirical evaluation.

Statistical Models

The survey data has a clear hierarchical structure in that respondents are individuals, nested in two independent clusters: member states and the different EU Council preparatory bodies. In addition, the dependent variable is measured through a 5-point Likert scale, which by definition is ordinal. These two facts provide the most important constraints on which statistical models should be used when analysing the data. Given these basic characteristics of the data, the immediate choice would perhaps be to explore the effects on the dependent variable in a multilevel ordered logit model with crossed-effects. However, in this case, it is argued that a standard ordinary least squares regression (OLS) model with clustered standard errors for the two clustering variables yields a more suitable model. The ordinal character of the dependent variable and the hierarchical structure of the data will be discussed next in order to motivate the choice of statistical model for the coming analyses.

The first point to address is whether it is appropriate to treat the ordinal level dependent variable as interval level. It is obvious that the variable is ordinal at the outset but in many instances it has become customary to treat ordinal data as interval because it enhances statistical modelling and interpretation of results. The primary problem with treating ordinal variables as interval is the assumption of equidistance between the response options for interval variables. That is, when working with ordinal data, can we be certain that the distance between two values of a variable is the same as the distance between two other values of the same variable? For the dependent variable used here, is the distance between for instance the 'neither likely

nor unlikely' (3) option and the 'fairly likely' (4) option the same as the distance between the 'fairly likely' (4) option and the 'very likely' (5) option? A common argument is that when the number of values an ordinal variable can assume increases, the problem of equidistance gets smaller and it becomes more reliant to treat an ordinal variable as interval. But equidistance cannot really be empirically tested, which makes this issue very difficult to resolve statistically. In line with the reasoning in e.g. Norman (2010) and Carifio and Perla (2007, 2008), standard OLS techniques will be utilized here. The reasons are twofold, first, that there are increased modelling possibilities with linear regression as compared to ordinal regression and, secondly, that linear regression techniques based on Likert scales in surveys are very robust to regression based on ordinal techniques (Norman 2010).

The second point to address is how to deal with the hierarchical structure of the dataset. Multilevel models are often used to account for variability both between individuals (level 1) in a given population, but also between the different groups of a cluster variable (level 2). Multilevel models can thus account for effects both within groups and between groups, in this case by modelling effects between negotiators from the same member state or preparatory body (within-group effects) as well as effects between different member states or preparatory bodies (between-group effects). In order to motivate the use of multilevel models there has to be some resemblance of the individual responses within the groups of the two clusters and at the same time variability between the groups of the clusters. Here, this is estimated by calculating the intra-class correlation coefficient (ICC) for the crossed effects model, with the two independent cluster variables, member state and preparatory body. In its general form, the ICC is given by the population variance between the groups of the cluster variable, divided by the total variance for the dependent variable (Snijders and Bosker 2012, 17-18). When having two independent cluster variables and thus a crossed-effects model, three ICC values are calculated. Two ICCs are given by the within-group variances divided by the total variance of the dependent variables and the third ICC value is given by the two within group variances combined, divided by the total variance for the dependent variable (Snijders and Bosker 2012, 208-209). In order to motivate running multilevel models, an ICC reaching 0,10 is advisable (Snijders and Bosker 2012, 18). In this case, the ICCs are far from reaching this level[17] and thus multilevel models are not called for. Instead, most of the variation is found between individuals and thus single-level models, such as OLS can be applied. In the OLS models which have been applied here, a correction is included for potential clustering of standard errors within groups of the two clusters, which means that a control is included for the dependence of the observations in the two cluster variables specified[18].

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[17] The ICC values are 0.0138 for the member state cluster, 0.0022 for the preparatory body cluster, and 0.0154 for the full model.

[18] The models have been run using the *cluster2* command in Stata 13.

Descriptive Measures of Domestic Constraints Communication

The remainder of this chapter will focus on the empirical evaluation of the expectations developed above on who communicates domestic constraints and when. This evaluation is based on the dependent variable measuring member state negotiators' indicated likelihood to make domestic constraints statements when they have them. In Table 5.3 the likelihood indications for making domestic constraints statements following the survey question are presented. It can be observed that a good majority of respondents (60 per cent) answered that they are fairly likely or very likely to make such a statement. Only about 17 per cent of the respondents indicated that they were very or fairly unlikely to make a domestic constraints statement. The share that indicated unlikeliness to communicate domestic constraints is smaller than the share that indicated they were very likely to communicate domestic constraints. Slightly more than one fifth of respondents indicate that they are neither likely nor unlikely to make such a statement, and the average for all respondents is located in between this and the fairly likely answer. Although it is necessary to be cautious when estimating the size of the positive sign, this is an indication, in line with the findings in Chapter 4, that the argument is not unheard of in the Council and that most negotiators believe it to be worth making on some occasions.

Table 5.3. Frequency table on likelihood of making a domestic constraints statement

Likelihood of making domestic constraints statement	Frequency	Per cent
1. Very unlikely	14	5.7
2. Fairly unlikely	29	11.8
3. Neither unlikely or likely	55	22.4
4. Fairly likely	82	33.3
5. Very likely	66	26.8
Total	246	100.0
Mean	3.64	
Median	4	

It is also clear that even when delegates have domestic constraints, they do not automatically communicate them (as implicitly assumed for instance by Bailer and Schneider (2006), and by Schneider, Finke and Bailer (2010)). There are hence factors, other than the mere existence of domestic constraints that determine whether negotiators are willing to communicate domestic constraints. It shows that it is worthwhile to include this communicative element when studying domestic constraints, as is also indicated in the theoretical model in Figure 2.1. If there is variation in communicating domestic constraints, the expectation does not always need be that having domestic constraints leads to influence.

The distribution of responses is displayed in Figures 5.1 and 5.2, where the averages of the responses for negotiators from the different member states and

preparatory bodies are shown. The data is aggregated to show the mean value of responses within the two clusters, marked in the figures by the hollow circles. In addition, the 95 per cent confidence interval for each member state and preparatory body is displayed with a solid line around the means. What can be observed is that there is some dispersion of responses within and between the different member states and preparatory bodies, although as argued, not enough to motivate multilevel modelling techniques. Neither the differences between member states nor between the different preparatory bodies are significant when running ANOVA tests. However, this does not exclude the possibility of there being pairwise differences in the mean likelihood of communicating domestic constraints between, for instance, two member states or two preparatory bodies, nor that these differences are uninteresting (cf. Golub 2012, 1301). The average indicated likelihood of making domestic constraints statements ranges from 4.3 for Slovenia to 2.7 for the Czech Republic, which is one such statistically significant pairwise difference. The variation between preparatory bodies is smaller. Representatives in the group of veterinary attachés are on average most likely to communicate domestic constraints, with a mean value of 4.0, and representatives in the working party on the environment are least likely with an average of 3.2. This is also a statistically significant pairwise difference.

Figure 5.1. Confidence intervals for the likelihood of making a domestic constraints statement by respondents, grouped on member states
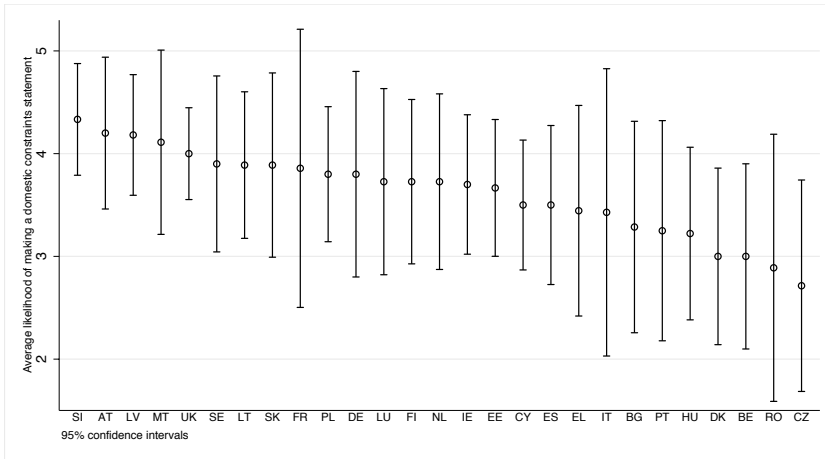
SI: Slovenia, AT: Austria, LV: Latvia, MT: Malta, UK: United Kingdom, SE: Sweden, LT: Lithuania, SK: Slovakia, FR: France, PL: Poland, DE: Germany, LU: Luxemburg, FI: Finland, NL, The Netherlands, IE: Ireland, EE: Estonia, CY: Cyprus, ES: Spain, EL: Greece, IT: Italy, BG: Bulgaria, PT: Portugal, HU: Hungary, DK: Denmark, BE: Belgium, RO: Romania, CZ: the Czech republic.

Figure 5.2. Confidence intervals for the likelihood of making a domestic constraints statement by respondents, grouped on preparatory bodies
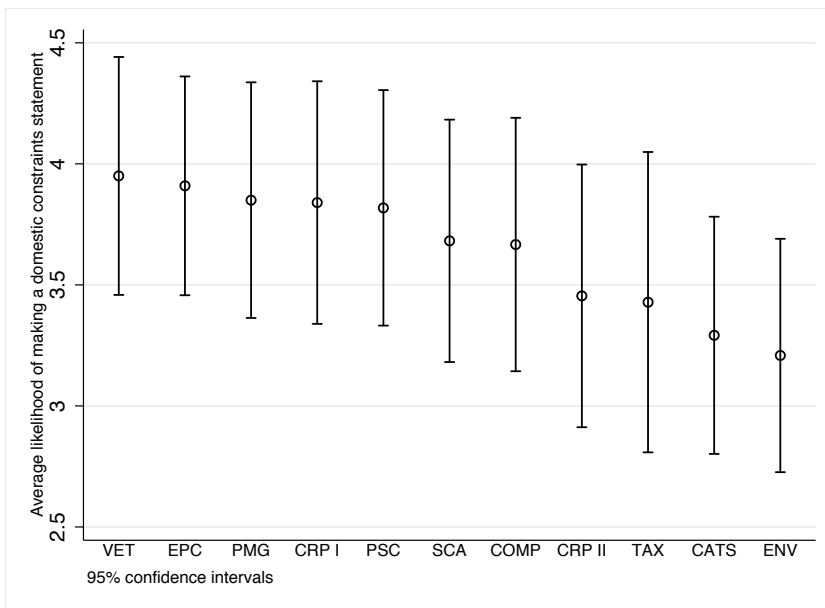
VET: Veterinary attachés, EPC: Economic Policy Committee, PMG: Politico-Military Group, CRP I: Coreper I, PSC: Political and Security Committee, SCA: Standing Committee on Agriculture, COMP: Working party on competitiveness and Growth, CRP II: Coreper II, TAX: Working party on tax questions, CATS: Coordinating committee in the area of police and judicial cooperation in criminal matters, ENV: Working party on the environment

The remaining part of this chapter is devoted to evaluating the effects of the independent variables outlined above on the dependent variable of likelihood of making a domestic constraints statement in the Council of the EU.

Explaining Variation in Communication of Domestic Constraints

The statistical model used to evaluate the relationship between the independent variables and the dependent variable is an OLS model with clustered standard errors, displayed in Table 5.4. In Model 1, the parliamentary power index of Winzen (2012) is included while in Model 2, the parliamentary power index of Auel, Rozenberg and Tacea (2015) is included.

Table 5.4. OLS regression models with clustered standard errors on the likelihood of making domestic constraints statement[19]

	Model 1		Model 2	
	b	s.e.	b	s.e.
Independent variables				
Member state variables				
(log) Gross Domestic Product	-0.05**	0.02	-0.07**	0.03
Parliamentary power (Winzen)	0.20	0.13		
Parliamentary power (Auel, Rozenberg and Tacea)			0.80	0.59
Minority government	0.45	0.30	-0.25	0.43
Interaction parliamentary power index × minority government	-0.34***	0.13	0.22	0.81
Decision-making structure variables				
Level of the Council	0.17	0.12	0.18	0.12
Unanimous decision-making	0.16	0.12	0.15	0.12
Individual-level variables				
(log) Years in the Council	-0.05	0.07	-0.05	0.07
Outlier position	0.13*	0.08	0.13	0.09
Intercept	3.57***	0.37	2.78***	0.39
R^2	0.04		0.04	
N	246		246	

*Note: Standard errors are clustered on member states and preparatory bodies. * Significant at 0.1-level, ** Significant at 0.05-level, *** Significant at 0.01-level.*

The results in Table 5.4 indicate robust significant coefficients on one of the variables included: the member states' GDP. In addition, there is also a weakly significant positive effect of the outlier position variable in Model 1. The significant and negative effect on the interaction term between Winzen's national parliamentary power index and minority governments, however, does not make the parliamentary power index significant for either minority or majority governments, as shown in Figure 5.3 where the confidence intervals overlap 0. The R^2 is in both models quite low, which indicates that the models are not able to explain much of the variation in the dependent variable. The intention was however not to explain as much of the variation as possible, but rather to test whether the independent variables have an effect on the dependent variable. In addition, most of the variation in the dependent variable is

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[19] The robustness of the results in this table has been tested, firstly, for alternative measurements on the member state size variable (using a Shapley-Shubik power Index and member state population size), and secondly, for alternative coding of the caretaker governments in Greece and Italy on the minority government variable. These robustness checks do not alter the results in any fundamental way and are fully reported in Appendix 2.

between individuals, and the individual-level variables are not significant in the models. The low R^2 is therefore, given the limited effects of the (individual-level) independent variables, not very surprising. The results of all included variables in the two models will be discussed in the following, starting with the member state variables, followed by the preparatory body variables and finally the individual-level variables.

For the economic size of the member states the effect on the dependent variable is significant, expectedly negative and robust across the two models, meaning that negotiators from economically small member states are more likely than negotiators from economically large member states to communicate domestic constraints. The theoretical expectation was that negotiators from small EU member states need to employ a wider range of negotiation tactics while their larger counterparts can rely on their material capabilities through their higher voting power (which is highly correlated with economic size), especially in cases where important interests are at stake (cf. Novak 2013, 6). While large member states can rely on their formal powers when building coalitions and striking deals, small member states need to use a wider array of tactics when they really want something, and therefore they communicate domestic constraints more easily in negotiations. This expectation is also based on the fact that small member sates need to concentrate their activities to a limited number of issues and thereby they prioritize these issues more clearly (cf. Arregui and Thomson 2009, 670). Given that the empirics here support the derived expectation, this provides important information about domestic constraints communication. Based on this finding, it can be concluded that negotiators are not equally likely to communicate domestic constraints when they have them, and that the differences between negotiators are, to some extent, systematic. This also means that information about domestic constraints cannot be assumed to automatically reach negotiating adversaries. The communication of domestic constraints is thus important to include when studying domestic constraints' effects on negotiations and outcomes. Interpreting the logged coefficient gives that a one per cent increase in GDP yields a decrease of 0.0005 (0.0007 in Model 2) in indicated likelihood of making a domestic constraints statement. To take the extreme examples of Germany and Malta used above, representing of the largest economy in the EU compared to the smallest economy in the EU, decreases the predicted likelihood of making a domestic constraints statement by 0.30 and 0.42 in the respective two models, on the 5-point scale[20]. This must be interpreted as a fairly small effect, only making a difference of 1/3 or 2/5 scale points, yet it is significant and thus cannot be disregarded.

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[20] The size of this effect between the largest and smallest member state is practically the same regardless of the measures tested in Appendix 2. The Shapley-Shubik power Index gives a difference of 0.40, and the population size of the member states give a difference of 0.42.

None of the parliamentary power indexes, or the minority government variable[21], have any significant effects on the dependent variable. The interaction term in Model 1 is indeed significant, but it is not enough to yield a significant effect for the parliamentary power index for either minority or majority governments on the dependent variable, as shown in Figure 5.3. The predicted effects of the parliamentary power index by Winzen are displayed for majority (0) and minority (1) governments by the dots in the figure, together with the upper and lower bounds of the confidence interval for each predicted effect. In both cases the confidence intervals overlap zero, meaning that the effects are not significant for any type of government. The expectation was that negotiators' likelihood to communicate domestic constraints would be positively affected if their governments were institutionally constrained by their parliaments, either by means of parliamentary powers on EU affairs and/or if governments were in minority positions in parliament. Strong national parliaments were assumed to put the government under more scrutiny and provide more credible domestic constraints, which would make their negotiators more prone to communicate domestic constraints, to demonstrate that they had done all it could in negotiations. The empirics presented here however do not support either of these mechanisms.

This finding however further supports the conclusion, made in relation to Table 5.3 above, including the descriptive statistics on the dependent variable that the mere existence of more static domestic constraints, in this case in terms of a strong national parliament, does not necessarily mean that they are also communicated. It moreover empirically confirms the argument developed in the theoretical model in Chapter 2 that measuring domestic constraints on the basis of the national parliaments' powers vis-à-vis national governments yields an incomplete measure of a potential domestic-constraints effect on negotiation success (as done by for instance Bailer and Schneider (2006), and Schneider, Finke and Bailer (2010)). In addition, the empowerment and increasing involvement of national parliaments in EU affairs has long had a democratic motive, by making them able to scrutinize and not least able to hold their government accountable on EU affairs (e.g. Auel 2007; Norton 1996). From that perspective, it is interesting to note that parliamentary constraints do not seem to be a concern at the Council negotiation table.

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[21] The effects of the parliamentary power indexes and the minority government variable have also been tested without including the interaction term in the models. In neither of the alternative models, do these variables show any significant effects on the negotiators' likelihood to make domestic constraints statements.

It should also be noted that in one of the robustness checks in Appendix 2, using population size instead of economic size, the Winzen parliamentary power index is statistically significant at the 0.10-level for majority governments. It is only significant in one of the models and at the 0.10-level, which is the reason why it is not interpreted as giving any convincing support for an effect of this variable on the negotiators' likelihood to make domestic constraints statements.

Figure 5.3. Predicted marginal effect of the Winzen index on a negotiator's likelihood to make a domestic constraints statement, for minority and majority governments
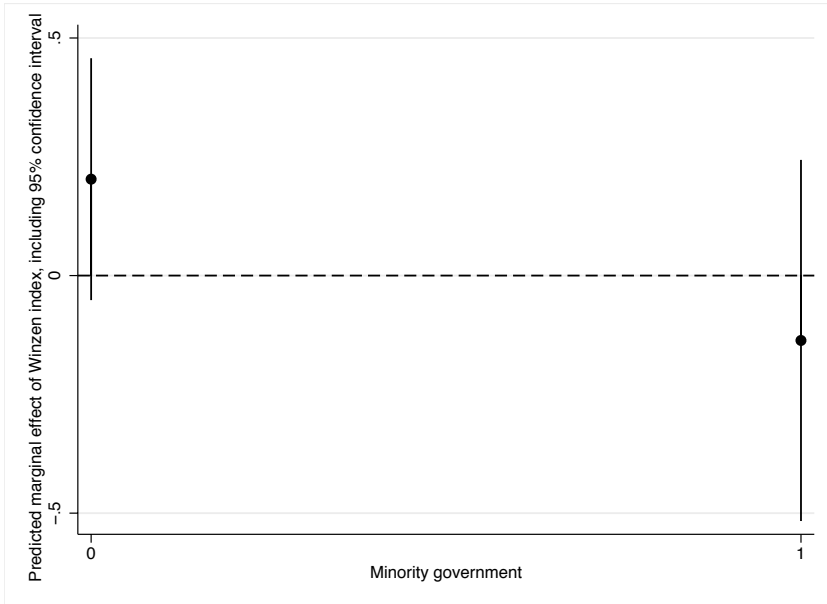
As for the preparatory body variables, no significant effects on the likelihood of making a domestic constraints statement are found for either of the included variables. The effects of both Council level and of unanimous decision-making are positive in both models, but it cannot be established that the sizes of the effects differ from zero. The argument from Chapter 4 that the internal hierarchy of groups in the Council, and thus the political character of groups, would make domestic constraints more relevant higher up in the Council hierarchy, and that they would be more communicated there, are hence not supported in this data. The differences between the levels in the Council would perhaps have been significant if comparing the preparatory bodies to the ministerial level, rather than comparing different levels of preparatory bodies. It has previously been shown that the ministers do, indeed, discuss the more salient issues (Häge 2008). Given that domestic constraints add salience to a position, an effect could have been seen if including this level in the analysis. Therefore a suspicion remains that this variable can have an effect, even if it is not shown in this data.

For the variable measuring the respondents' experience through the number of years they have served in the Council, there is no evidence of a significant effect in either model. Thus, it must be concluded that experience does not have an effect on how likely a negotiator is to make a domestic constraints statement. Based on the expectations discussed above, this in turn means that the communication of domestic

constraints neither violates some central norms of the Council and nor that it, by experience, has been necessarily deemed effective. The variable testing whether frequent outliers are more likely to make domestic constraints statements is positive and significant at the 0.10-level in Model 1, although not significant in Model 2. In Model 1, the indicated likelihood to make domestic constraints statements increases with 0.13 scale points for each scale point (again, on a five-point scale) increase in the indicated frequency of having outlier positions. This does give an indication that outliers might need to be more active if they really want something, such as when they have domestic constraints, and that they are therefore more likely to communicate domestic constraints. However, the result is not robust and the effect in Model 1 is only weakly significant. There is thus a lack of conclusive evidence for an effect from this variable on the dependent variable.

Conclusions

In Chapter 4, a qualitative empirical analysis was made on how domestic constraints are communicated in the Council of the EU and what they mean. In this chapter, the communication of domestic constraints has been further explored, departing from the theoretical model in Chapter 2 (Figure 2.1) and the argument that domestic constraints need to be communicated in order to have the prescribed effects on negotiations and negotiation outcomes. We can see that negotiators are not equally likely to communicate domestic constraints in a given situation where they have a domestically constrained position. This chapter has examined the variation in likelihood to communicate domestic constraints, and sought explanations for the variability. The aim has been to better understand the communication of domestic constraints in the Council, by more clearly defining by whom and under what circumstances domestic constraints are communicated. The empirical analysis here demonstrates that it is necessary to include the component of domestic constraints communication in negotiations, moving away from statically defined institutional constraints. These results can hence explain why no domestic constraints effect on negotiation success has been found in previous studies where this communicative element has been either absent or inadequately measured, as also argued in Chapter 4 (e.g. Bailer and Schneider 2006; Schneider, Finke and Bailer 2010).

A large part of the chapter has been devoted to seeking explanations for the variation in the dependent variable, i.e. the negotiators' likelihood of making domestic constraints statements. These explanations were first theoretically outlined and then empirically assessed in a linear regression model. For most of the independent variables there are no statistically significant effects on the dependent variable and thus, they have no explanatory power. A robust and significant effect was found on the economic size of member states, showing that negotiators from economically-small member states indicated a higher likelihood to make domestic constraints statements. A weakly significant and positive effect was furthermore found in Model

1 on the variable measuring whether or not member state negotiators often find themselves in outlier positions. This indicates that this variable potentially has some explanatory power, although the evidence here is not utterly convincing.

National parliamentary power and minority governments do not have any conclusive effects on the likelihood of making domestic constraints statements. This means that on issues in which negotiators have domestically constrained positions, as described in the survey question, negotiators from member states with strong national parliaments are not more likely to communicate domestic constraints. Hence, having such static institutional domestic constraints do not increase an actor's likelihood of communicating the domestic constraints. If one evaluates the effects of domestic constraints in negotiations looking solely at parliamentary power, as was commonly done in previous studies, thus risks missing information about domestic constraints variation on different issues, which leads to inadequate conclusions. Moreover, this means that the communication of domestic constraints should be included in analyses of the domestic constraints theory, as a logical step through which the domestic constraints can affect negotiation outcomes. As such, it gives empirical merit to a crucial argument in this thesis, which holds that the communication of domestic constraints must be included when studying the effects of domestic constraints on negotiations and outcomes.

Furthermore, no effect was found for either of the two preparatory body variables, measuring how political the different preparatory bodies are. The effects of both these variables were positive and robust, but did not come close to statistical significance and must therefore be refuted. The lack of effect of the variable distinguishing high level preparatory bodies from low level preparatory bodies could be a consequence of the highest political level, the government ministers, not being included in the survey. Considering how this political logic was emphasised by the respondents in Chapter 4, there is a remaining suspicion that this might still be a relevant variable to include, even if it did not have an effect in this data. Lastly, no effect was found for the variable measuring negotiators' experience from Council negotiations, suggesting that the strategy is not norm violating and that there is no particular learning effect about its effectiveness.

In Chapter 4 it was argued that the prevailing idea that domestic constraints can only be used in a distributive bargaining fashion was flawed and that, particularly in the Council of the EU, it is rather used in an integrative bargaining way and as rhetorical action. This added to the understanding of the domestic constraints theory by expanding the ways a domestic constraints strategy can be applied. In this chapter, it has been argued and demonstrated that the assumption that domestic constraints should have a general effect, without controlling for whether they are communicated through explicit statements by the member state negotiators misses a step in the causal chain between domestic constraints and influence, and risks yielding incomplete analyses. Furthermore, given that domestic constraints are not always communicated, one aim of this chapter was to explore the member state negotiators who are more

likely to communicate domestic constraints, and the factors that can explain such variation. This contributes to the understanding of the domestic constraints theory by showing that the communicative component is important to include, and also that this should affect the expectations about when and for whom domestic constraints lead to influence. In the next chapter, the discussion will focus on whether the communication of domestic constraints leads to influence in negotiations.

6

Do Domestic Constraints Give Influence?

While the two foregoing empirical chapters have dealt with the communication of domestic constraints, and the questions of how domestic constraints are communicated, by whom and under what circumstances, this chapter deals with the question of whether such strategies lead to influence. This is obviously an important part of the domestic constraints theory, with the inherent expectation that negotiators who have domestic constraints, and who choose to communicate them, will be more influential and affect negotiation outcomes. The empirical question in focus here is therefore: *Are actors that frequently communicate domestic constraints more influential?*

The actors' aim in negotiations is assumed to be preference fulfilment and their actions, including the communication of domestic constraints, should be seen as attempting to reach that aim, as discussed in Chapter 2. Communicating domestic constraints should make negotiators more influential and increase their preference fulfilment. Preference fulfilment is often measured as the success of different negotiators, commonly as the distance between one's initial bargaining position and a final outcome (e.g. Arregui and Thomson 2009; Bailer 2004; Bailer and Schneider 2006). Measuring success in this way is very accurate, but gathering data for it is also very resource consuming. Moreover, while a measure of success captures goal attainment, it is more difficult to know whether the success is an effect of an actor's influence. That is, whether the communication of domestic constraints is effective for reaching preference fulfilment depends on whether the strategy influences the adversaries in the Council to change an otherwise likely outcome. This is best captured by measuring influence rather than success.

In order to evaluate if communicating domestic constraints makes actors more influential, a quantitative analysis will be performed which uses data from the survey described in Chapter 3. The dependent variable relies on the survey question asking about how the member state negotiators within each preparatory body rank their opponents' influence over themselves within each group. In line with the reasoning above, the question used to measure the dependent variable asks explicitly about influence and not about success, which has been a common measure in other studies of Council decision-making (e.g. Arregui and Thomson 2009; Bailer 2004; Thomson et al. 2006). The survey question was formulated as,

Please think about the influence that other member states have on your member state during the discussions and negotiations in your working group/committee. In general which other member states have the greatest potential to influence the positions you take during the discussions?

Each negotiator was asked to rank his/her opponents (at least three) and then in descending order, these were given values from 10 to 1 depending on their ranking on the list. These ranking scores were then summed up for each actor and standardized to vary between 0 and 1, representing the percentage of the total influence scores allocated to the different negotiators within each group. This was done to get comparable influence scores for the actors across preparatory bodies. This measure is used as a general influence score for the different actors, which is tested against a measure of which member states' negotiators most often communicate domestic constraints, constructed along the same principle. The survey question to measure this was a follow-up question to the question used for the dependent variable in Chapter 5, asking respondents first to,

Think of a situation where there is an issue on which your position has been determined to a large degree by the interests of a domestic actor in your member state, for instance the parliament or an important economic interest group. This particular actor is of great importance for your government, which is therefore interested in defending this position.

Following this description, respondents were asked to indicate how likely they were to make a domestic constraints statement (used as a dependent variable in Chapter 5), but also whether there were any member states that made these kinds of statements more frequently than others in their working group or committee. This latter question was used to construct the independent variable for this chapter, along the same principle as the influence variable. Both the independent and dependent variable vary between 0 and 1 and are constructed to cover the negotiators of all 27 member states within all 11 preparatory bodies, giving a total of 297 observations. This analysis thus looks at whether negotiators who are frequently communicating domestic constraints are also having more reputed influence in their preparatory bodies. But since the share of influence scores given to member state negotiators is not directly connected, on an issue-by-issue basis, to the independent variable on which negotiators frequently make domestic constraints statements, it is impossible to be completely certain about the causality in this relationship. The method for dealing with this is to include a set of contextual variables in the analysis. The purpose of this is both to explain for whom and under what circumstances frequently communicating domestic constraints is associated with reputed influence, but more importantly, also to attempt to secure the validity of the relation between the independent and the dependent variable. I argue that if it can be shown that the variability in reputed influence follows some

expectations about how and when domestic constraints statements should work, the inferences made about whether differences in influence scores are actually related to the variation in the independent variable can be strengthened. It is thus a way of dealing with the potential problems of causality between the independent and the dependent variables.

This chapter begins with providing some descriptive statistics on the main independent and dependent variables and continues by theoretically outlining the contextual variables that might affect the relationship between the communication of domestic constraints and influence. The contextual variables used in this chapter are largely the same as the variables used in Chapter 5 to explain the variation in negotiators' likelihood to make domestic constraints statements, but here they are discussed with an emphasis on explaining when such a communication of domestic constraints leads to influence. The relationship between the independent and dependent variables, and how the outlined contextual variables affect this relationship, are then evaluated using multilevel regression analyses.

Descriptive Statistics on the Main Variables

This section provides some initial descriptive statistics for the main independent and dependent variables. This gives an introduction to the empirical data used for this chapter and functions as a point of departure for the coming empirical analyses. The descriptive statistics on the actors' share of domestic constraints statement frequency scores and the actors' influence within their preparatory bodies are presented in Table 6.1.

Table 6.1 Descriptive statistics on the main independent variable and on the dependent variable

Variable	Observations	Mean	Std. Dev.	Min	Max
IV: Share of domestic constraints statement frequency scores	297	0.04	0.06	0	0.31
DV: Share of influence scores	297	0.04	0.05	0	0.28

The independent variable varies between 0 and 0.31 and the dependent variable varies between 0 and 0.28. The mean for both variables is 0.04 and the medians are 0 and 0.02 respectively, which indicates that there is a substantive number of observations that have a score of 0 or close to 0 on either or both variables. 154 observations of the 297 have a value of 0 on the share of domestic constraints statement frequency scores, and 80 observations have a value of 0 on the share of influence scores. 62 observations have a score of 0 for both variables and thus are not mentioned at one single occasion for either of the variables by the other member state negotiators in the preparatory bodies. No actor has a share of domestic constraints statement frequency scores which exceeds 31 per cent and no actor has a share of influence scores which exceeds 28 per cent. In sum, the distribution of values on both variables is skewed

towards the lower ends and with large amounts of observations at 0. This is logical given how the variables are constructed. The survey questions ask who makes domestic constraints statements *most* often and who is *most* influential: there are limits to how many actors the respondents have mentioned. This means that unless the different respondents have very divergent perceptions of which actors most often communicate domestic constraints in the preparatory bodies and which actors are ones they can influence themselves, a large proportion of the total scores will be assigned to a few actors. It is thus reassuring that the distributions are not normal for these variables. Furthermore, this means that it is not appropriate to make any transformations to correct for these skewed distributions.

The relationship between an actor's share of frequency scores for making domestic constraints statements and the same actor's share of influence scores within the preparatory body is displayed in Figure 6.1. Each observation represents an individual and from this descriptive figure it can be observed what appears to be a positive relationship between frequently communicating domestic constraints and the dependent variable of influence, indicated by the positive slope of the fitted line. At the same time, it is obvious from the figure that negotiators who are pointed to as often making domestic constraints statements may also end up at the low end of the level of influence. There are also negotiators who are influential while not scoring high on the domestic constraints statement frequency variable. This means that the act of frequently making domestic constraints statements is related to influence in the preparatory bodies, but also that there is variation in strength of the association for different actors.

Figure 6.1. Relationship between an actor's share of domestic constraints statement frequency scores and the same actor's share of influence scores within the Council preparatory body
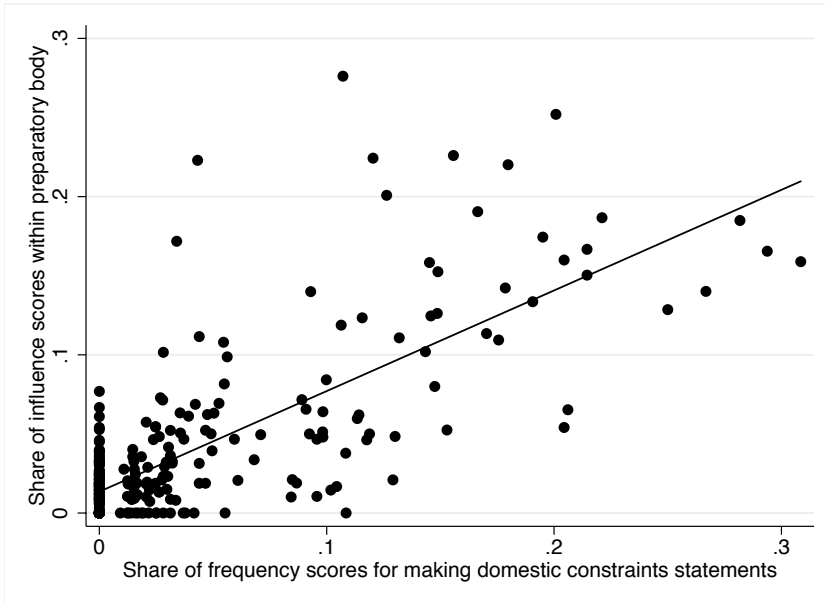
From the very basic descriptive figure presented here, there seems to be some association between communicating domestic constraints and influence, but also that this is no automatic effect. The association between the communication of domestic constraints and influence instead seems to vary between actors and thus depends on other factors. In the coming section, an attempt will be made to outline such potential factors and to provide measurements of them.

Explaining Variation in Influence from the Communication of Domestic Constraints

The figures outlined above are merely descriptive. I will below seek to provide explanations for the empirical patterns in order to further contribute to the understanding of whether negotiators who communicate domestic constraints gain more influential. These explanatory variables will be empirically evaluated using multilevel modelling. Looking at explanations for the empirical patterns should also be seen as an attempt to further validate whether there is a domestic constraints logic in the data and as such make better-informed inferences about the relationship between domestic constraints and influence. This is also a way to avoid relying solely

on descriptive point estimations, as was done in the previous section. The variables that will be discussed in the following are the same as in Chapter 5, with the exception that the individual-level variables are omitted. The included variables are discussed with a different emphasis here than in Chapter 5, since they now are used to explain for whom and under what circumstances the communication of domestic constraints is associated with influence, and not how they are expected to affect negotiators' likelihood to communicate domestic constraints. The individual-level variables are not included here since the data on the independent and dependent variables used in this chapter is not connected to the individual survey respondents, but is instead based on questions about member states in the preparatory bodies. The contextual variables are discussed in the following, starting with the member state variables, followed by the preparatory body variables. All variables are summarized along with their measurements in Table 6.2. This is followed by a short discussion about how the variables are evaluated in statistical models.

Member State Variables
Size of Member States' Economies
For negotiators representing member states that have large economies, the influence effect from communicating domestic constraints is expected to be larger than for negotiators representing economically small member states. The member states' economic sizes are also expected to have a direct positive effect on influence, but a part of this direct effect is expected to come on issues where positions are domestically constrained. This implies that even if it is expected that frequently communicating domestic constraints can positively affect reputed influence for negotiators from small member states, as well, negotiators from large member state are expected to have a higher effect on reputed influence from frequently communicating domestic constraints.

In Chapter 4, I demonstrated that the communication of domestic constraints is primarily associated with an integrative bargaining strategy, in which domestic constraints add salience to one's positions and when this is communicated, it is a first step in a support trading process. The chance of being successful in such a practice is expected to be higher if representing an economically large member state, since larger member states have more resources to trade with, and their support is thus more valuable. Resources are here understood as economic, so economically large member states will have more resources to push their interests and be active in building support and coalitions. Large member states also possess more network capital (Naurin and Lindahl 2008, 71-72). In addition, economic size is related to voting power, where higher voting power means an increased chance of being pivotal under QMV (McKibben 2013, 413; Shapley and Shubik 1954). This should also make actors with more voting power more attractive to trade with. This is in line with the finding of Chapter 5, as well, which shows that negotiators from economically small member states are more likely to communicate domestic constraints than are

negotiators from economically large member states. It was argued that while small member states need to work harder to get what they want, large member states can rely on their size and thus some ascribed status of being influential when striking deals (Beyers and Dierickx 1997). Negotiators representing economically small member states are thus more likely to communicate domestic constraints when they have them, and at the same time, it is expected that negotiators representing economically large member states are more likely to be influential in doing this, since they have more resources in the integrative bargaining game than do small member states.

Member state size is also expected to affect general influence patterns (Golub 2012, 1297-1298), even though it has been impossible to confirm in previous empirical studies. In fact, no effect – positive or negative – has been concluded from any measure of member state size on bargaining success in the Council (e.g. Arregui and Thomson 2009; Golub 2012; Thomson 2011, 249). At the same time, negotiators themselves often acknowledge that "big" member states are more influential than small member states in Council negotiations. Such testimonies do not necessarily mean that the relationship between size and influence is always perfectly linear, but that size can be one component in determining the influence of member states (Panke 2011, 132). It is also possible that the size of the member states matters more in some situations than others, in terms of being influential. In line with the domestic constraints theory, the expected above-average influence of large member states in general, is therefore expected to in part come at the issues where they have domestic constraints. It has also been empirically shown that it is often possible to postpone decisions when large member states oppose an agreement, or when a member state has some vital interests at stake (Novak 2013, 6). It is not unreasonable to expect that these factors also interact and that postponing decisions can translate into changing the content of it, as well. Therefore, when it is a large member state which has domestic constraints and thus vital interests on an issue, it would have better chances of postponing decisions, as well as having a larger impact on influence over the negotiation outcome. Thus, the expectation is that a representative of a large member state which frequently communicate domestic constraints in a negotiation will be more influential than a representative of a small member state applying the same strategy.

In sum, the member states' economic size will be included in the coming analyses as both a control variable for the general patterns of reputation for influence, and as an interaction variable explaining variation in the effect of communicating domestic constraints on influence. Member states' economic size is thus believed to positively affect influence scores in general as well as influence caused by the communication of domestic constraints (see Figure 6.2).

Operationalization

Member states' economic size will be measured as the Gross Domestic Product in Euros at market prices in 2012 (Eurostat 2012). It is a measure that is highly correlated with other measures of member state size, such as voting power and population size[22]. GDP varies a lot between member states where the largest economy, Germany, is 387 times larger than Malta, the smallest economy in the EU. It is not expected that this has a proportional effect on the relationship between domestic constraints and influence, which is why this skewness is corrected for using a natural log transformation of each member state's GDP.

National Parliamentary Power on EU Affairs

National parliamentary power on EU affairs was included in Chapter 5 to explain differences in likelihood of communicating domestic constraints, based on the expectation that it would increase credibility and the scrutiny of government actions. The empirical analyses in Chapter 5 showed that no significant effect of parliamentary power was found. In this chapter, the national parliaments' powers in EU affairs are included primarily because they are expected to add credibility to the domestic constraints and therefore to also make the communication of domestic constraints more credible. This is motivated by the focus here on the decision-making stage, where credibility is potentially more important than it is at the stage where one chooses which negotiation strategies to employ. Even though no effect was found in Chapter 5, the parliamentary power indexes will be included in this chapter too, given that the focus here is on whether communicated domestic constraints affect influence.

The issue of credibility is a particularly important component when analysing negotiations that include communication and negotiation behaviour, and it is always an important feature in negotiations in which there is incomplete information and a lack of trust. Negotiators need to assess the information put on the table by negotiating adversaries in order to know how to respond or act. In doing that, the credibility of the information must be evaluated. The argument developed in Chapter 5 was that the credibility of the domestic constraints, and thus whether domestic constraints are communicated sincerely, increases when powers are dispersed across institutions. The most important institutions for securing credibility of domestic constraints are the national parliaments, since they are the governments' closest principals, and governments have established institutions to discuss EU issues with their parliaments on a regular basis (Auel 2007). The relationship between government and parliament is hence particularly important here.

The dispersion of power is measured here by the powers held by national parliaments vis-à-vis their governments on EU affairs; following the logic that more

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[22] While these examples of different size measures are highly correlated, the empirical regression results presented below are also tested for these alternative measures and reported in Appendix 3. These robustness checks do not alter the results in a way that changes the substantial interpretations.

parliamentary power means less government power and thus autonomy. A government facing a powerful national parliament does not necessarily have tighter domestic constraints, however the credibility of them is likely to be higher. The variables will be the same as were used in Chapter 5. They will be used to determine the power relationship between the national parliament and the government: the two indexes measuring the institutional power of national parliaments on EU affairs. Negotiators from member states where the parliament has more formal powers to tie the hands and closely scrutinize their governments on EU affairs will be more able to credibly claim domestic constraints in negotiations. This is also expected to make the relationship between making frequent domestic constraints statements and reputed influence stronger.

Operationalization

The operationalizations for parliamentary power are the same as those used in Chapter 5, when seeking explanations for how likely member state negotiators are to communicate domestic constraints. Parliamentary power on EU affairs will thus be measured using the indexes by Winzen (2012), ranging from 0 to 3, and by the index presented by Auel, Rozenberg and Tacea (2015), ranging from 0 to 1. The most crucial component of these indexes, for proving the credibility of domestic constraints coming from national parliaments, is whether the parliaments can formally tie the hands of their governments to a negotiation position. That is, the credibility of the domestic constraints commitment depends on if the parliament can actually force the government into a position. If the national parliament does not possess such power, the negotiators cannot credibly claim that they are bound to the same extent by the parliament's opinions. The index by Auel, Rozenberg and Tacea (2015) puts greater emphasis on this particular aspect of national parliamentary strength and is potentially thus a more relevant measure for the credibility of the domestic constraints, and the communication of them, than the index by Winzen (2012).

Minority Government

Negotiators representing member states with minority governments are also expected to be more credible when communicating domestic constraints, following the argument that minority governments also have dispersed powers with their national parliaments. Minority governments are expected to be institutionally weaker and can therefore be tied to a position by their parliaments, which is expected to make the communication of domestic constraints more credible and hence increase their effect on influence. The minority government variable was also included in Chapter 5, where no effect was observed on negotiators' likelihood to make domestic constraints statements. But credibility is, as argued above, potentially more important at the decision-making stage than when deciding what strategies to employ. Domestic constraints are thus expected to be more credible if communicated by negotiators representing minority governments, which should also make the relationship between

domestic constraints statements and influence stronger. In addition, an interaction variable between government type and parliamentary power scores will be included, as it also was in Chapter 5. The expectation is that this combination of factors will increase credibility even further. The interaction variable tests if any added effect from communicating domestic constraints on influence is present, when one has a strong national parliament while also being in minority government.

Operationalization

The variable separating minority and majority governments is coded 0 for majority governments and 1 for minority governments, based on information from the ParlGov database (Döring and Manow 2012). The two caretaker governments in Italy and Greece are coded as majority governments.[23] The interaction term is constructed by the multiplication of the parliamentary power scores and the minority government variable, which is the same coding as in Chapter 5, meaning that a variable is constructed including the parliamentary power scores only for member states with governments holding a minority position in parliament.

Preparatory Body Variables
Level of the Council

In Chapter 5, the placement of the preparatory body in the Council hierarchy was argued to affect negotiators' likelihood to communicate domestic constraints: it was expected to be more likely at senior levels due to the political character of the domestic constraints and associated statements. Even though it did not show any significant effects in Chapter 5, it has been included here, but with a clearer emphasis on the decision-making stage. Domestic constraints are communicated to make negotiating adversaries aware of some domestic acceptance problems and the political effects of some unwanted agreements. One common way of dealing with these kinds of issues on the EU Council agenda is to move them to a higher level of the hierarchical decision-making system, leaving the decision to either appointed ambassadors or governmental ministers (Smeets 2013, 65). This follows the general working logic of the Council in which the less contentious issues are solved at lower levels. However, when the stumbling blocks become too large, issues are moved up in the Council hierarchy (cf. Hayes-Renshaw and Wallace 2006, 68). It is thus at these higher levels that the more difficult or controversial points are resolved, and where domestic constraints statements should also be expected to have the greatest positive effect on outcomes. At the same time, it should be noted again that the ministerial level is not included in the dataset and that the largest effect could be seen between this level and the preparatory bodies included here. It might be that domestic constraints have the largest effect at the ministerial level, not least because ministers

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[23] The robustness of the results for this coding is tested and reported in Appendix 3. The alterations of the results for this coding are discussed below.

tend to discuss and decide on the more salient issues (cf. Häge 2008). This follows the reasoning from Chapter 5 where it was speculated that the explanation for the lack of effect from this variable on the likelihood of making domestic constraints statements was that the ministerial level is not included in the data. Nevertheless, the variable is included here to see if an effect of the hierarchy of preparatory bodies on the association between communicating domestic constraints and influence can be established.

Operationalization

The variable on hierarchical levels of the Council of the EU is operationalized the same way as was done in Chapter 5. It distinguishes between high-level and low-level preparatory bodies of the Council where the high-level preparatory bodies are those that report directly to one of the ministerial level Council configurations and low-level preparatory bodies are those below that. High-level preparatory bodies are Coreper I and II (CRP I and II), the Standing Committee on Agriculture (SCA), the Political and Security Committee (PSC), the Economic Policy Committee (EPC) and low-level preparatory bodies are Veterinary attachés (VET), Politico-Military Group (PMG), the Working party on tax questions (TAX), the Coordinating committee in the area of police and judicial cooperation in criminal matters (CATS), the Working party on the environment (ENV) and the Working party on competitiveness and growth (COMP). Information about the different preparatory bodies was mainly gathered from the 2012 Danish presidency website describing the different preparatory bodies of the Council (Danish presidency of the Council of the European Union 2012), which, for some groups, was complemented by other official documents such as decisions of establishment, linked in the list of Council preparatory bodies (General Secretariat of the Council of the European Union 2014).

Unanimous Decision-Making

Domestic constraints have been described above as being based on commitments, where the communication of domestic constraints should be understood as a way to signal that it will be difficult to change one's mind or make concessions on an issue. When member states have the possibility to formally veto agreements, such a commitment might be easier to hold on to than in a situation where the majority can outvote an actor with domestic constraints. Under qualified majority voting, member states operate under a shadow of being outvoted, and revealing too much opposition might hamper one's possibility of striking a good deal (Novak 2010). Due to the formal rules, this risk of being outvoted should not to the same extent be a concern when operating on issues where a unanimity rule applies. Being institutionally able to hold on to a commitment is argued to extend the possible ways that the communication of domestic constraints can lead to influence. It is therefore expected that the effect of communicating domestic constraints on influence will be higher in preparatory bodies operating under the unanimity rule.

The possibility to unilaterally veto decision-making makes a commitment based on domestic constraints easier to sustain. In Chapter 4, it was shown that domestic constraints are primarily communicated according to an integrative bargaining logic, signalling salience and initiating logrolling. In the support trading process, the possibility to demand trades and concessions on different issues is enabled under the unanimity decision-making rule, and negotiators can secure a good trade more easily than when they operate under the shadow of the vote. When the unanimity rule applies, each member state can offer its valuable support if a trade is initiated, and thereby has a better possibility to get accommodated. It is sometimes argued that the unanimity rule also makes negotiators engage more in each other's arguments and avoid taking blocking positions (e.g. Naurin 2010, 34-35), which would point in the direction of negotiators working more according to an argumentative mode of interaction in these policy areas. If negotiations with domestic constraints work according to a rhetorical action logic, the unanimity rule thus makes it possible to hold on to a commitment and argue for one's position, and as such exploit the adversaries that engage in more sincere argumentation. This can increase one's chances of getting accommodated by adversaries as an act of empathy or with expectations about reciprocity, as suggested in Chapter 4. Finally, the unanimity rule also makes it possible to communicate domestic constraints as a threat regarding unilaterally blocking decision-making, and thus allowing negotiators to apply a distributive bargaining type of behaviour. The unanimity rule thus extends the possible ways in which domestic constraints can be used, which means that the communication of domestic constraints is also expected to have a higher effect on influence in these preparatory bodies.

As was argued in Chapter 5, the policy areas applying unanimous decision-making are also by definition highly sensitive areas, over which the member states have decided that they will not give up their formal ability to unilaterally veto agreements. In Chapter 5, this was argued to make these policy areas more guided by political concerns than other areas, and that domestic constraints, as defined by political stakes, are more relevant. When communicated, they can thus lead to higher influence in these preparatory bodies. No effect from this variable on negotiators' likelihood to communicate domestic constraints was found in Chapter 5, but it is still possible that there is a moderating effect on the relationship between communicating domestic constraints and influence.

The expectation about the moderation effect of the unanimity decision-making rule is thus based both on the formal rules and the institutional power it gives member states, and on the political concerns underpinning the domestic constraints and the preparatory bodies operating under the unanimity rule. Since the unanimity rule has been argued to extend the possible ways that the communication of domestic constraints can lead to influence, the expectation is that the effect of communicating domestic constraints on influence should be higher in preparatory bodies operating under the unanimity rule.

Operationalization

Unanimous decision-making will be operationalized the same way as it was in Chapter 5. This means that Coreper I (CRP I), Coreper II (CRP II)[24], the Standing Committee on Agriculture (SCA), the Economic Policy Committee (EPC), the Working party on competitiveness and growth (COMP), Veterinary attachés (VET), Coordinating Committee in the area of police and judicial cooperation in criminal matters (CATS) and the Working party on the environment (ENV) have been coded as QMV groups (0). Three groups are coded as unanimity groups (1) in the sample: the Political and Security Committee (PSC), the Politico-Military Group (PMG) and the Working party on tax questions (TAX).

Summary and Descriptive Statistics

The variables discussed above which will be used in the coming empirical analyses are, together with their measurements, summarized in Table 6.2. The descriptive statistics for the included variables are, in turn, displayed in Table 6.3. The expected effects of the moderator variables are graphically displayed in Figure 6.2. In the following section, the statistical models used to test the relationship between the communication of domestic constraints and influence, as well as variation in effects will be discussed, followed by the empirical evaluation.

Table 6.2. Summary of moderator variables and measurements

Variable	Measurement
Member state variables	
Member states' economic size	Natural log of Gross Domestic Product at market prices 2012
National parliamentary power on EU affairs	Indexes from Winzen (2012) and Auel, Rozenberg and Tacea (2015)
Minority government	0: majority government, 1: minority government
Interaction term	National parliamentary power × minority government
Preparatory body variables	
Level of the Council	0: low level, 1: high level
Unanimous decision-making	0: QMV groups, 1: unanimity groups

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[24] Coreper I and Coreper II are coded as majority decision-making bodies, even if they operate under both rules. The reason for this is that majority decision-making rules are predominant in these groups, as argued in chapter 5.

Table 6.3. Descriptive statistics for moderator variables

Variable	Observations	Mean	Std. Dev.	Min	Max
Member state variables					
(log) Gross Domestic Product	297	12.00	1.58	8.84	14.80
Parliamentary power index (Winzen)	297	1.72	0.61	0.33	2.67
Parliamentary power index (Auel, Rozenberg and Tacea)	297	0.52	0.15	0.24	0.84
Minority government	297	0.30	0.46	0	1
Interaction term (Winzen)	297	0.51	0.88	0	2.67
Interaction term (Auel, Rozenberg and Tacea)	297	0.15	0.25	0	0.72
Preparatory body variables					
Level of the Council	297	0.45	0.50	0	1
Unanimous decision-making	297	0.27	0.45	0	1

Statistical Models

The choice of statistical modelling technique is crucial when evaluating effects of independent variables on a dependent variable. In this chapter, multilevel linear regression models with crossed effects will be applied. The dependent variable varies between 0 and 1, measuring an actor's share of the total influence scores assigned to different member state negotiators in a given preparatory body, which means that, by construction, it is an interval variable, and will be treated as such.

As discussed in Chapter 5, multilevel modelling can be motivated if there is a sufficient amount of variation between the level 2 groups to yield a large enough intra-class correlation coefficient (ICC) for the dependent variable. The ICC is found by calculating the within group variance, divided by the total variance of the model, including the two independent cluster variables. When one has two independent clusters and thus a crossed-effects model, two ICC's are calculated by dividing the within-group variances with the total variance of the dependent variables, and the third ICC value is calculated by the two within group variances combined, divided by the total variance for the dependent variable (Snijders and Bosker 2012, 208-209). In this case, the ICC exceeds $0,10$[25], which motivates running multilevel models (Snijders and Bosker 2012, 18).

In the coming multilevel models, the variables discussed above will be modelled as interaction variables with the independent variable on domestic constraints statement frequency. This is done to test if these variables moderate the effect between the independent and dependent variables. The expected effects of the variables are portrayed in Figure 6.2 below where level 1 (individual level) is separated from level 2 (the group level) by the dashed line. That is, the natural log of the Shapley-Shubik power Index, the parliamentary power scores, the minority government variable, the interaction terms between the parliamentary power indexes

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[25] The ICC values are 0.8462 for the member state cluster, 6.72e-9 for the preparatory body cluster, and 0.8462 for the full model.

and the minority government variable, the Council level variable and the unanimous decision-making variable are believed to positively affect this relationship as cross-level interaction effects (solid arrows in Figure 6.2). The two-way interaction term between the parliamentary power scores and minority government will thus be modelled as a three-way interaction when adding the domestic constraints statement frequency scores in the cross-level interaction. In addition to this, the natural log of the member states' GDP will be important as control variable (dotted arrow in Figure 6.2), and thus the direct cross-level effect of it on the dependent variable will be observed. Both the independent variable and the interaction variables are modelled as fixed effects in these multilevel models.

Figure 6.2. Modelled effects of the included variables in the multilevel crossed-effects model on the dependent variable
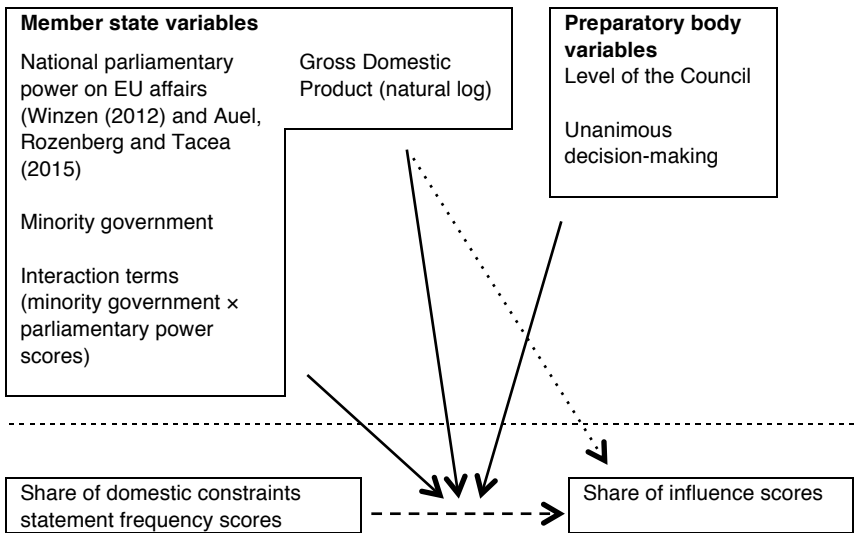
Note: Member state variables and preparatory body variables are modelled as fixed effect cross-level interaction variables, while the independent variable on the share of frequency scores for domestic constraints statement and the control variable are modelled as fixed effects.

Empirical Effects of Communicating Domestic Constraints on Influence

The models with the effects of the outlined variables described above in Figure 6.2 are displayed in the regression table below (Table 6.4). The independent variable measures the share of domestic constraints statement frequency scores while the dependent variable measures a share of influence scores, and thus the actors'

reputation for influence in their preparatory body. The aim of the empirical evaluation in this chapter is to assess the overall relationship between communicating domestic constraints and the influence of the different member states in negotiations, and also to see if any significant interaction effects can be found from the variables discussed above. The primary result of the multilevel regressions is the fairly robust indication of a positive effect of frequently making domestic constraints statements on reputation for influence in Council of the EU negotiations. The results of the models with the interaction terms will be discussed in the following.

Table 6.4 includes nine total models with the dependent variable of the share of influence scores assigned to different actors within the different preparatory bodies. All models include the main independent variable on domestic constraints statements frequency and also the control variable on the member states' GDP. Model 1 includes only the independent variable on domestic constraints statement frequency while Models 2 to 9 includes the different interaction terms on negotiation setting characteristics. Models 2 to 7 include the member state variables with the GDP in Model 2, the parliamentary power index from Winzen (2012) in Model 3, and the parliamentary power index from Auel, Rozenberg and Tacea (2015) in Model 4. Model 5 includes the minority government variable and Models 6 and 7 include the two parliamentary indexes and minority governments, in the three-way interactions described above. Model 8 tests whether the relationship is stronger at higher levels of the Council and Model 9 tests whether it is stronger in preparatory bodies working under a unanimity decision-making rule. The predicted effects of the share of domestic constraints statement frequency scores are displayed for the different values of the interaction terms in Figure 6.3. These predicted effects are based on the multilevel models 2-9 in the regression table below (Table 6.4). The solid (in Model 6 and 7 also the dotted) line in each graph represents the predicted effect of domestic constraints statement frequency on the influence score variable, for different values of the interaction terms. The shaded area surrounding the solid lines represents the 95 per cent confidence interval for the predicted effects and it indicates significant effects as long as it does not overlap zero.

What can be observed from the regression models and the plotted marginal effects in Figure 6.3 is that the effect of the main independent variable – the frequency with which an actor makes domestic constraints statements – on each negotiator's share of influence scores within their preparatory body, is found to be positive and significant for some values of the interaction variables in all models. These effects indicate that, for some actors under some circumstances, there is a positive relationship between frequently communicating domestic constraints and having a reputation for influence in the EU Council. The effect of the economic sizes of member states is also significant and robust across the models, which follows the expectation that larger member states are perceived as more influential than smaller member states. The included interaction terms give further information about the circumstances under

which the relationship between communicating domestic constraints and reputation for influence holds.

In the first, most parsimonious model there is a significant effect of the actors' share of frequency scores for making domestic constraints statements on their share of influence scores in their preparatory body, under control for member states' economic sizes. This means that even when including member state size, there remains an additional positive effect on influence for actors who make domestic constraints statements more frequently. The effect is 0.14, which means that a one-percentage point increase in the share of domestic constraints statement scores increases one's predicted share of influence scores with 0.14 percentage points. Consequently, the difference between getting 0 per cent of the domestic constraints statement frequency scores and getting 30 per cent of them – which is the highest share any negotiator in the data has received (see Table 6.1) – is an increase in the predicted share of influence scores of close to 4.5 percentage points. In terms of predicted increase in influence scores, the size of this effect is similar to the effect of the control variable on member state size, in which moving from being a negotiator in a member state like Austria to being one in Germany also yields an increase of around 4.5 percentage points in influence scores. The effect of communicating domestic constraints thus, at most, accounts for 15 per cent of the total variation in influence. This means that domestic constraints must be regarded as important when studying EU Council negotiations. This first model will function as a reference model when making inferences about both the size and direction of the effect in the models, including the interaction terms displayed in Figure 6.3.

Table 6.4. Multilevel random intercept models with crossed-effects on the share of influence scores within preparatory bodies[26]

	Model 1 b (s.e.)	Model 2 b (s.e.)	Model 3 b (s.e.)	Model 4 b (s.e.)
Independent variables				
Domestic constraints statement frequency	0.14*** (0.04)	-0.42 (0.34)	0.21* (0.11)	0.29** (0.14)
(log) Gross Domestic Product	0.02*** (3.7e-3)	0.02*** (3.3e-3)	0.02*** (3.4e-3)	0.02*** (3.4e-3)
Parliamentary power (Winzen) (0-3)			4.5e-3 (0.01)	
Parliamentary power (Auel, Rozenberg and Tacea) (0-1)				0.08** (0.03)
Minority government (dummy)				
Minority government × parliamentary power				
Level of the Council (dummy)				
Unanimous decision-making (dummy)				
Cross-level interactions				
Domestic constraints statement frequency × (log) GDP		0.04* (0.03)		
Domestic constraints statement frequency × parliamentary power			-0.04 (0.06)	-0.25 (0.23)
Domestic constraints statement frequency × minority government				
Domestic constraints statement frequency × minority government × parliamentary power				
Domestic constraints statement frequency × level of the Council				
Domestic constraints statement frequency × unanimous decision-making				
Intercept	-0.20*** (0.04)	-0.18*** (0.04)	-0.21*** (0.04)	-0.23*** (0.04)
Random-effects parameters				
Variance (preparatory body)	2.4e-26 (1.7e-25)	7.2e-26 (4.5e-25)	4.1e-26 (3.8e-25)	2.8e-26 (1.5e-22)
Variance (member state)	6.9e-4 (2.1e-4)	5.9e-4 (1.9e-4)	6.9e-4 (2.1e-4)	5.9e-4 (1.8e-4)
Variance (residual)	4.2e-4 (3.6e-5)	4.2e-4 (3.7e-5)	4.2e-4 (3.6e-5)	4.2e-4 (3.6e-5)
Wald chi-2	63.34	74.84	63.42	78.62
Log likelihood	694	695	694	697
N	297	297	297	297

[26] The robustness of these results has been tested, firstly, for alternative measurements on the member state size variable (using a Shapley-Shubik power Index and population size), secondly, for alternative coding of the caretaker governments on the minority government variable and, finally, for an alternative scoring principle for the independent and dependent variables, relying not on scores from 10 to 1 but instead on counting the number of times they were mentioned and then calculating a share of these times they were mentioned. These robustness checks do not alter the results in any fundamental way and are fully reported in Appendix 3.

| Model 5 | Model 6 | Model 7 | Model 8 | Model 9 |
b (s.e)	b (s.e.)	b (s.e.)	b (s.e)	b (s.e.)
0.21*** (0.05)	0.46*** (0.16)	0.52*** (0.17)	0.13*** (0.04)	0.10*** (0.04)
0.02*** (3.2e-3)	0.02*** (3.3e-3)	0.02*** (3.1e-3)	0.02*** (3.4e-3)	0.02*** (3.4e-3)
	0.01 (0.01)			
		0.12*** (0.04)		
-2.0e-3 (0.01)	0.02 (0.03)	0.05 (0.04)		
	-0.02 (0.02)	-0.11 (0.07)		
			-1.7e-3 (2.8e-3)	
				-0.01** (3.1e-3)
	-0.16* (0.09)	-0.55* (0.29)		
-0.14* (0.07)	-0.49** (0.22)	-0.64** (0.28)		
	0.22* (0.12)	0.88* (0.46)		
			0.05 (0.04)	
				0.17*** (0.05)
-0.19*** (0.04)	-0.22*** (0.05)	-0.25*** (0.04)	-0.20*** (0.04)	-0.20*** (0.04)
6.8e-26 (1.7e-22)	1.7e-26 (4.8e-23)	5.3e-26 (1.1e-23)	3.8e-26 (5.4e-25)	2.1e-26 (1.4e-25)
5.9e-4 (1.8e-4)	6.1e-4 (1.9e-4)	5.1e-4 (1.7e-4)	6.9e-4 (2.0e-4)	7.0e-4 (2.1e-4)
4.2e-4 (3.6e-5)	4.1e-4 (3.6e-5)	4.1e-4 (3.6e-5)	4.2e-4 (3.6e-5)	4.0e-4 (3.4e-5)
76.63	78.10	99.35	64.89	76.40
696	698	702	695	701
297	297	297	297	297

*Note: * Significant at 0,1-level. ** Significant at 0,05-level. *** Significant at 0,01-level.*

Figure 6.3. Predicted marginal effects of domestic constraints statement frequency on the influence score variable, for models 2-9
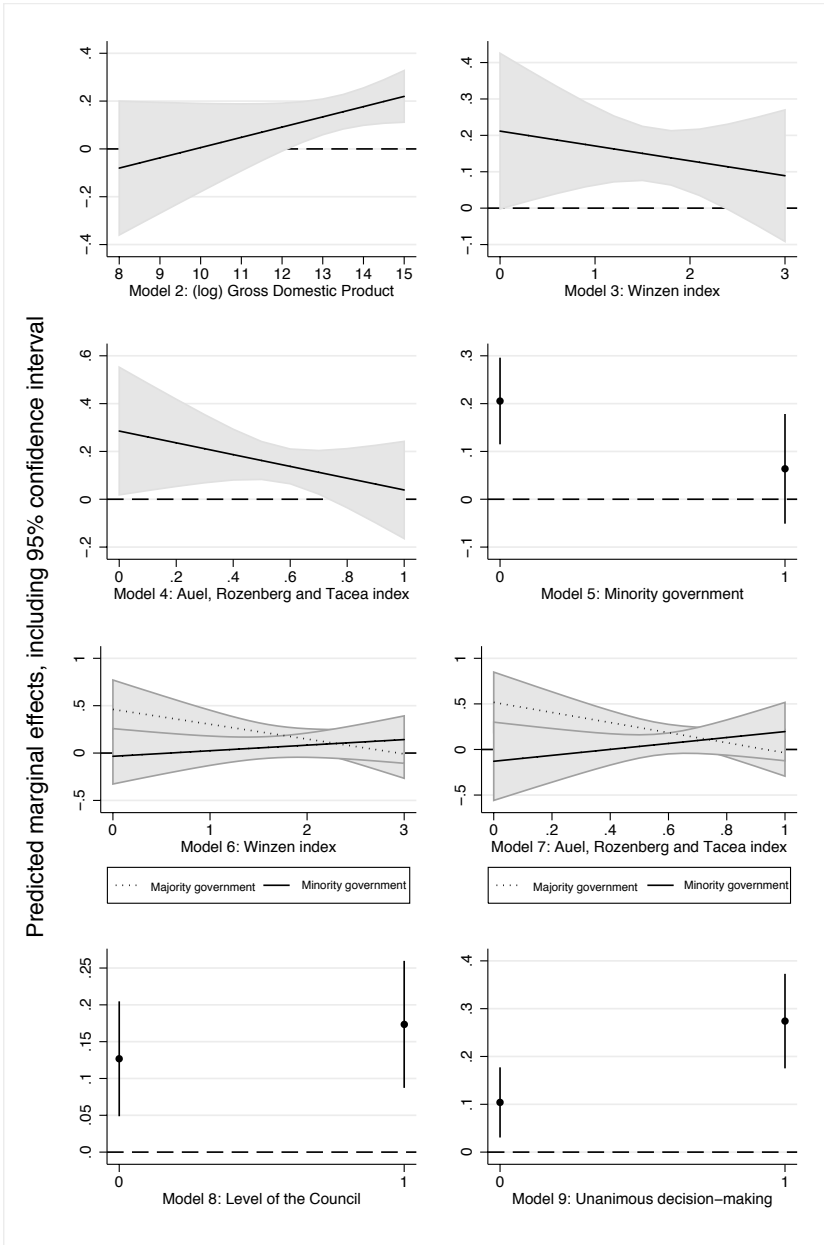
No Effect for Small Member States

In Model 2, the effect of being an actor who frequently communicates domestic constraints on the share of influence scores in the preparatory body is tested for different values of the interaction term on the log of the member states' GDP. It shows that the effect of the independent variable varies for different values of GDP and that the effect is only significant and positive for member states with larger economies than Finland, as displayed in the first graph in Figure 6.3. The effect of frequently communicating domestic constraints on an actor's reputation for influence is not significant for member states with smaller economies in this model and thus can be concluded as only valid for medium to large member states. The effect is positive and increasing for member states with larger economies, and varies from around 0.10 for Finland to around 0.21 for Germany. The slope of the predicted effects line is significant at the 0.10-level (the interaction term in model 2), meaning that the differences in effects between differently sized member states is statistically significant at the 0.10-level.

The results from this variable follow the expectation that economic size should positively affect the relationship between communicating domestic constraints and influence, but it should be noted that the effect completely vanishes for economically small member states. The effect of the control variable of the economic sizes of member states, which is included in the other models, has shown that member states with larger economies have higher reputation for influence. The result in Model 2 shows that some of this effect seems to come from the issues where they have domestic constraints. For example, a German or French domestic problem might be more important to accommodate for the other member states in the Council, than a comparable problem for Luxembourg or Latvia (for whom no significant effect is found). That is, large member states can count on the attractiveness of their greater resources when it comes to trading support on issues where they really want something. This follows the expectation derived above that representatives of larger member states are able to push for their interests, and it is their support which is most attractive to obtain.

Even though the results did not show any significant effect on influence for smaller member states, this does not mean that communicating domestic constraints is never effective for smaller member states. Instead, it is likely that the lack of a significant effect for these member states is caused by the fact that the frequency with which negotiators communicate domestic constraints and their reputed influence is measured at an aggregated level. As mentioned above, for 62 out of the 297 observations included, there is a registered value of 0 for both the independent and the dependent variables, which means that they have not been mentioned by any of the other negotiators on the questions of domestic constraints statement frequency or reputation for influence. This does not mean that they are never communicating domestic constraints or that they are never influential. But these qualitative differences are not captured by the measures used. 48 of these 62 observations

represent member states with below-average sized economies, which might at least in part explain why no significant effect can be observed for the member states with the smallest economies. This could potentially change if the number of observations (297) or the number of survey respondents (249) had been larger.

The effect of communicating domestic constraints on influence in the Council of the EU is dependent on the economic sizes of the member states, which in itself is an interesting finding that adds to the discussions in previous research on whether and when there is an effect of member state size on bargaining success (e.g. Arregui and Thomson 2009; Golub 2012; Novak 2013, 6; Thomson 2011, 249). It also means that even if negotiators from small member states indicate a higher likelihood of communicating domestic constraints when they have them, as was shown in Chapter 5, negotiators from large member states can, to a larger extent, be influential in communicating them. It follows the arguments from previous research that representatives of small member states might need to be more active in order to achieve something in negotiations, whereas large member states are able to rely on an ascribed status of being influential (Beyers and Dierickx 1997; Panke 2011).

Moderation Effects of Parliamentary Power

The models including the parliamentary power variables – parliamentary power indexes by Winzen (2012) and by Auel, Rozenberg and Tacea (2015), and the minority government variable – will be treated together below, since they rely on similar logics. For each of these variables there are important moderation effects on the overall relationship. That is, the effect of frequently communicating domestic constraints on an actor's reputation for influence is conditional on the values of these interaction variables. It is also apparent that the direction of the interaction effects does not follow the theoretical expectations outlined above. It was argued above that for increasing values on each of these variables, which measure the formal strength of a national parliament vis-à-vis its government in different ways, it should be expected that the credibility of the communication of domestic constraints would increase. A positive moderation effect was therefore expected from these credibility-inducing variables, on the relationship between the communication of domestic constraints and influence. The results in Figure 6.3 however indicate the opposite, where the effect of domestic constraints statement frequency on reputed influence either disappears or diminishes for higher values of the interaction terms. The results for each model will be discussed in due order.

In Models 3 and 4 the interaction terms are modelled using the independent variable on domestic constraints statement frequency scores and the two parliamentary power indexes. There is a positive and significant effect of the independent variable on the dependent variable for almost the full range of values on each index in these two models. The confidence intervals start to overlap zero at a value of 2.38 and 0.75 respectively and the slope of the line predicting the marginal effects in each model is slightly negative but not significant. This means that for

negotiators representing member states with national parliaments that score lower than these threshold values on the respective indexes, there is a positive and significant effect of frequently communicating domestic constraints on reputation for influence. However, for negotiators representing member states that score higher on these indexes, no effect can be established. For the Winzen index in Model 2 this includes negotiators from Denmark, Finland, Lithuania and Slovakia and for the Auel, Rozenberg and Tacea index this includes negotiators from Germany and Finland.

Further moderation effects are found when looking at Models 5, 6 and 7, including the minority government variable and the three-way interactions between the independent variable on domestic constraints statement frequency scores, minority government and parliamentary power indexes. In Model 5, it is shown that there is no significant effect of domestic constraints statement frequency scores on reputation for influence for minority governments. This finding is confirmed and further qualified in Models 6 and 7 using the three-way interactions, also including the parliamentary power indexes.[27] In the graphs of Models 6 and 7 in Figure 6.3, displaying the predicted marginal effects of the independent variable on the dependent variable, the effects are shown separately for different values of the parliamentary power indexes for minority governments and majority governments. The solid lines indicate the predicted effects for different values of the parliamentary power indexes for minority governments, while the dotted lines indicate the effects for majority governments. It is apparent in these models that there are no significant effects for minority governments, irrespective of how the national parliaments score on the parliamentary power indexes. The slopes of the lines predicting the marginal effects for majority governments in each model are negative and significant at the 0.10-level. The confidence intervals start to overlap zero at a value of 2.15 and 0.72 on the respective parliamentary power indexes. This further qualifies the findings of Models 3 and 4 – which did not include the minority government variable – showing that a positive and significant effect of making domestic constraints statements on an actor's reputed influence only exists for representatives of majority governments with low values on the parliamentary power indexes. A positive and significant effect of domestic constraints statement frequency scores on a negotiator's reputation for influence is thus found for representatives of majority governments, with lower parliamentary power scores than Denmark, Finland, Estonia, Lithuania and Slovakia on the Winzen index and lower than Germany, Finland and Lithuania on the Auel, Rozenberg and Tacea index.

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[27] The result on the lack of effect for minority governments changes if one codes caretaker governments as minority governments instead of majority governments. Using the alternative coding, there is a significant effect between the independent and dependent variables both for majority and minority governments and there is also a significant effect for some values of the parliamentary power indexes for minority governments. However, these alterations do not change the results to the extent that they give any support for the theoretical expectations held, which thus do not change the substantial interpretations. These robustness checks are fully reported in Table A3.3 and Figure A3.3 in Appendix 3.

There is thus no evidence based on these analyses supporting that these factors, believed to make explicit domestic constraints statements more credible, have a positive effect on the relationship between the communication of domestic constraints and influence. Since credibility, on theoretical grounds, must still be believed to be important for having influence in negotiations, the inclusion of these variables does not seem to have been able to capture different levels of credibility. The reason for the lack of a positive effect from these variables should thus be sought in their theoretical logic for inclusion. For instance, the minority government variable might also trigger other mechanisms, not necessarily related to credibility, which at least in part would explain these findings. Rather than indicating credible domestic constraints, being a representative from a minority government could make one's domestic constraints less credible, since minority governments have the possibility to rely on alternative parliamentary majorities. This would thus result in a weaker commitment and give a more flexible position than coming from a majority government, where one's parliamentary support is fixed and not as easily altered for temporary coalitions. Representatives of majority governments can thus come to negotiations with positions that present a *fait accompli* for adversaries, which thus imply that the commitment is more credible. Furthermore, representatives of minority governments also risk being forced to take positions that the majority wants but that are not fully shared by the government party(-ies). This can result in a less active and more concession-oriented negotiation approach from these actors, making them act less like loyal agents. This is what, in the agency literature, is sometimes referred to as moral hazard, which in the end might result in agency loss (Müller, Bergman and Strøm 2003, 23). Such alternative mechanisms could partially explain these unexpected results.

The lack of significant effects of frequently making domestic constraints statements on reputed influence for majority governments with strong national parliaments may in addition be a consequence of these negotiators being influential without communicating domestic constraints. The significant effect of the Auel, Rozenberg and Tacea index in Model 7 deserves a special mention in light of this. It shows the effect from this parliamentary power index on a negotiator's reputation for influence for negotiators who score 0 on domestic constraints statement frequency scores, and who represent a majority government. There are a substantial amount of observations included in these categories: there are 114 of the 297 included member state representatives who score 0 on the domestic constraints statement frequency variable and who are also representatives of a majority government. This means that for these member state representatives, the effect of the Auel, Rozenberg and Tacea index in itself has a positive and significant effect on the negotiator's reputation for influence. Negotiators who represent majority governments and who are backed by strong national parliaments might thus not need to make their domestic constraints explicit in negotiations, but can count on a positive effect from them anyway. This also implies that these types of commonly used static institutional measures of domestic constraints can actually have a positive and significant effect on reputation

for influence for some portion of negotiators. This is an effect that has not been possible to establish elsewhere (e.g. Bailer and Schneider 2006; Schneider, Finke and Bailer 2010). At the same time, it is apparent that the static parliamentary constraints do not capture the full variation in domestic constraints effects on influence.

Moderation Effects of Preparatory Body Variables

Model 8, testing the interaction term on decision-making levels in the Council, shows that it has a very small and insignificant moderating effect on the overall relationship between the independent variable on domestic constraints statement frequency, and the dependent variable on reputation for influence. The argument from Chapter 4 that the domestic constraints strategy is political and thus might be more relevant at higher and more political levels of the Council was not confirmed in Chapter 5. The analysis here shows that it does not affect whether the communication of domestic constraints leads to influence. Instead, the predicted effect of domestic constraints statement frequency scores on an actor's reputation for influence is positive and significant, regardless of whether it is done in a senior or more junior preparatory body. The same caveat as was made in Chapter 5 should be made here as well, that the highest political level, i.e. government ministers, is not included in the dataset and that the difference between Council levels identified in Chapter 4 thus might be more important in distinguishing the preparatory levels from the political level, and not between the different levels of preparatory bodies.

In Model 9, an expected positive and significant effect is found from the interaction variable on unanimous decision-making, showing that the communication of domestic constraints has a statistically significant larger effect on influence in unanimity bodies than in majoritarian bodies. Model 9 shows that the positive effect in QMV bodies is 0.10 and significant, while in preparatory bodies where member states have veto power, the combined effect of the main independent variable and the interaction term is 0.27. The larger effect in preparatory bodies where a unanimity rule applies is statistically significant and larger than in the baseline Model 1. It confirms the expectation that having veto power in decision-making would, regardless of whether domestic constraints are communicated according to an integrative bargaining or rhetorical action logic, make a commitment easier to hold on to, and thereby increase the effect of communicating domestic constraints on influence. In unanimity preparatory bodies, negotiators thus have a better chance of getting what they want from a vote trade according to an integrative bargaining logic, but it also makes it possible to exploit an otherwise prevailing norm about not blocking decision-making and instead engage in each others arguments, according to a rhetorical action logic. The unanimity rule also means that it is possible to make threats to block decision-making, according to a distributive bargaining logic, which means that there is an extended number of ways that domestic constraints can be used in these bodies. Whether such threats are applied or not are not known, but the mere possibility can be part of explaining the difference in effects between unanimity and majoritarian

preparatory bodies. Policy areas operating under the unanimity rule are also sensitive by definition which makes domestic constraints, and their political connotations, more relevant in these groups.

The two variables on Council level and unanimous decision-making, capturing parts of the decision-making structure, vary between preparatory bodies of the Council, and it must be noted that the variance between preparatory bodies is very low for the dependent variable on influence scores. The basis for the low variance lies in the construction of the dependent variable, which gives member state negotiators a share of the total influence scores within the preparatory bodies, constraining the values of the dependent variable within preparatory bodies to be equal to one. This lowers the variance between preparatory bodies, compared to the variance between member states, which is not constrained and thus larger by construction. There is thus less variation to explain between preparatory bodies, compared to between member states. Given the low variance, any test including variables on some preparatory body characteristic will therefore be inherently conservative. The lack of an effect from the variable on Council levels should thus not be too surprising, while the effect between preparatory bodies operating by different decision-making rules is all the more convincing.

Conclusions

The aim of this chapter was to empirically evaluate whether communicating domestic constraints has an effect on actors' influence in negotiations. The main basis for this empirical evaluation has been the independent variable on how frequently member state negotiators are perceived to make domestic constraints statements in negotiations and the effect on the dependent variable on the same actors' share of influence scores within their preparatory body. Since these measures are less than perfect, as argued above, attempts have also been made to substantiate the results with the help of the outlined negotiation context variables, sketching expected moderation effects on this overall relation. This was done to test whether the relationship between the communication of domestic constraints and influence follows a theoretical domestic constraints logic, and in doing so seeking to add validity to the overall relationship. The results of these analyses will be briefly recapitulated below and implications for the domestic constraints theory discussed. The combined result from the chapter is that there are reasons to believe that domestic constraints, when communicated, have a positive effect on actors' influence in negotiations, but also, that this effect depends on the circumstances in which it is used and by whom. This is in part a finding that is contrary to findings of previous studies (e.g. Bailer 2010; Bailer and Schneider 2006; Schneider, Finke and Bailer 2010), where no domestic constraints effect has been found. It furthermore shows that studying domestic constraints as a strategy can yield different results than if studying the effects of more static domestic constraints on negotiation outcomes.

It must first be noted that frequently making domestic constraints statements has an effect in all tested models on the share of influence scores received by the fellow negotiators in one's Council preparatory body, even when controlling for the economic sizes of the member states. The effect is conditional in several models on the value of the interaction terms and, in some models, the effect varies significantly in size for different values of the interaction terms. Several important conclusions can be drawn regarding for whom, and in what preparatory bodies, the communication of domestic constraints can be effective. Frequently making domestic constraints statements leads to a significantly higher reputation for influence for negotiators from medium to large member states, representing majority governments and not too powerful national parliaments. The effect is higher for actors working in unanimity bodies as compared to majority decision-making bodies. The interaction terms thus moderate the effects of the domestic constraints statement frequency scores on an actor's reputation for influence in the EU Council preparatory bodies. Some of the interaction terms follow the expectations which were developed based on the logic of the domestic constraints theory. These expected effects are primarily found in respect to voting rule and the economic size of the member states, and these results add validity to the overall relationship between communicating domestic constraints and influence. But for the other variables, the parliamentary power variables, the minority government variable and the Council level variable, the results point less clearly to a domestic constraints theoretical logic. Alternative explanations for these unexpected results have been suggested in previous sections.

But admittedly, there are also reasons to be open to alternative interpretations of the relationship between the independent variable and the dependent variable. It is possible, for instance, that there is some reversed causality at work, making negotiators, if they know that they are perceived as influential, more willing to communicate domestic constraints rather than the other way around. Such interpretation would however strengthen the results, since it would confirm that influential negotiators deem it useful to communicate domestic constraints, and thus show that they rely on domestic constraints in their negotiation strategies. In sum, even though the results do not uniformly point in expected directions, there is reason to believe that the communication of domestic constraints does have a positive effect on influence in negotiations.

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Conclusions

Domestic constraints are fundamental to understand international negotiations and outcomes. Domestic constraints are sometimes believed to be an advantage for negotiators, and can be a helpful device in influencing negotiated outcomes. The foundation for this claim is Robert D. Putnam's (1988) theory about two-level games, which is based on Thomas Schelling's (1960) formulation of the paradox of weakness. Putnam and Schelling's ideas were developed for traditional international relations where negotiated agreements need to be formally ratified in signatory states, and thus where a warning about ratification failure and domestic defection can be credibly employed. While this condition is easily met in international negotiations between sovereign states, in many other settings where negotiations are conducted, and where domestic defection is not a viable option, other, more informal, forms of domestic acceptance will still be required. In this thesis, I have argued that in situations where formal ratification is not necessary, such as for EU legislation, negotiators should use their domestic constraints in some other way in order to be accommodated and thus to avoid having political costs back home. The preceding chapters have sought answers to the questions of how domestic constraints are used in this setting, which negotiators that should communicate domestic constraints when they have them and under what circumstances they should be communicated. I have also analysed whether communicating domestic constraints leads to influence, for whom and under what circumstances.

The contributions of this thesis have been theoretical as well as empirical. Large parts of the previous chapters have been focused on theoretical development, elaborating on how domestic constraints can be, and are, used and how they lead to influence in a context which differs from international relations. These theoretical developments have been followed by empirical evaluations, which have sought to refine the conceptions about domestic constraints in contexts such as the Council of the EU, where domestic defection is improbable. I developed a theoretical model of domestic constraints in Chapter 2, arguing that in order to accurately capture the effect of domestic constraints in negotiations, the communication of domestic constraints is crucial to include. I have shown that this claim is empirically valid in the Council of the EU, by demonstrating that static definitions of domestic constraints – based on formal institutions and without issue-by-issue variation – neither grasp the extent to which negotiators communicate domestic constraints, nor the full effect of domestic constraints on influence. I have also shown that domestic constraints are not

communicated as threats about domestic defection in the EU Council, but rather according to logics of integrative bargaining (in particular) and rhetorical action. The results showing that domestic constraints primarily lead to influence for negotiators from large member states, and that the effect is higher in preparatory bodies working under a unanimity rule, should be understood in light of this. Since integrative bargaining suggests that agreements are based on support trading, larger member states are more attractive actors to gain support from, since they have more resources, whereas the unanimity rule gives all negotiators equally high formal power resources, since everyone has veto. The full implications of these results are further discussed below.

This concluding chapter consists of four parts. The first briefly recaps of what was previously known about domestic constraints in the Council of the EU, and discusses the general contribution of this thesis. Secondly, it synthesises the empirical results by highlighting the most important theoretical arguments and empirical results from the preceding chapters of the thesis, pointing out the contributions made. Thirdly, the chapter points to research areas where there is room for improvement in the study of domestic constraints, building on prior knowledge and the results discussed. Finally, it indicates to some general implications of the findings for the Council and for the EU as a democratic political system.

The Domestic Constraints Theory: What Have We Learned?

Previous research on domestic constraints in the EU's everyday negotiations has focused on the relationship between domestic constraints and bargaining success, concluding that no positive effect has been found (Bailer 2010). The research problem dealt with in this thesis takes this analysis further by directing attention to the communication of domestic constraints as a strategy in EU Council negotiations. Even if the domestic constraints theory is often understood as suggesting a bargaining strategy (cf. Bailer 2010, 750), the strategy of communicating domestic constraints is largely ignored in previous studies on the effects of domestic constraints in EU Council negotiations. When developing the theoretical model in Chapter 2, I argued that, in absence of a perfect information assumption, domestic constraints need to be communicated, and this communication must also be included in empirical studies analysing domestic constraints' effects on negotiations. In the previous empirical study by Bailer and Schneider (2006) the strategic use of domestic constraints was analysed by including a domestic constraints variable measuring the prevalence of non-specified threats made by member state negotiators. I argued, and empirically demonstrated in Chapter 4, that domestic constraints are not primarily communicated in the form of threats in the Council, but are rather expressed to clarify one's positions and signal the salience of them, but also to seek to persuade adversaries.

In addition to under-theorizing the strategic communication component, the definition of domestic constraints in previous studies was based either on the formal institutions governing the relationship between a parliament and its government and/or the ideological divergence between government and parliament (e.g. Bailer and Schneider 2006; Pahre 1997; Schneider, Finke and Bailer 2010). Neither of these definitions contains any variation in domestic constraints between different issues. This means that such definitions instead give a static measure of domestic constraints for each member state. In Chapter 2 it was argued that domestic constraints, not least if also considering informal ratification, are in fact likely to vary on an issue-by-issue basis, depending on the political importance of various domestic actors (Moravcsik 1993, 24). Adding the communication of domestic constraints to the theoretical model is not only theoretically sound, but it also better captures the issue-by-issue variability in domestic constraints. Focusing on the strategic use of domestic constraints picks up the issue-by-issue variation in domestic constraints, and is also a more relevant focal point given that negotiations are carried out in a setting with imperfect information. The prior knowledge about if and how domestic constraints are used in the Council, and whether the strategic component of domestic constraints communication is relevant to include when analysing domestic constraints effects was scarce at best. The theoretical discussions and empirical analyses in the preceding chapters have made an effort to address this, and in doing so have also enriched the literature on domestic constraints and made improvements to the domestic constraints theory.

The three empirical chapters have focused on different aspects of the communication of domestic constraints as a strategy, starting with the question of how domestic constraints are communicated, followed by the question of who communicates domestic constraints and under what circumstances, and finishing with the question about whether or not the communication of domestic constraints leads to influence. All three questions deal with different aspects of the communication of domestic constraints in the Council of the EU, seeking to improve the understanding of domestic constraints in this context, and whether it is worthwhile to include domestic constraints when seeking to understand EU Council decision-making and outcomes. The brief answer to this question is that domestic constraints do have relevance for EU Council decision-making, when looking at their strategic use. This was shown in Chapter 4. The variation in domestic constraints communication was examined in Chapter 5, and the relationship between the communication of domestic constraints and influence was empirically evaluated in Chapter 6.

The empirical results from the quantitative analyses in Chapters 5 and 6 are summarized in Figure 7.1 below, building on the theoretical model developed in Chapter 2. It displays, on the one hand, the effects of the independent variables used Chapter 5 to explain member state negotiators' likelihood to communicate domestic constraints, and, on the other hand, the moderation effects of the interaction variables used in Chapter 6 to test whether the effect of frequently communicating domestic constraints on reputation for influence varies for different negotiators. Each variable

in the figure is followed by either a 0, + or -. A designation of 0 indicates that the variable has no effect, either because it is an insignificant independent variable[28], or, when it is an interaction variable, because it does not affect the relationship between the independent and the dependent variables. A significant independent variable is assigned either a + or -, depending on whether the effect is positive or negative. An interaction variable which has a moderation effect on the relationship between the independent and dependent variables is assigned a + if the predicted effect of the independent variable on the dependent variable increases with higher values of the interaction variable. A - is conversely assigned if the predicted effect decreases with higher values on the interaction variable. These results are more elaborately discussed in Chapters 5 and 6, but the figure here gives a parsimonious summary of the results.

The full set of empirical results from Chapters 4, 5 and 6 is further elaborated on and synthesised in the following discussion. It is divided into one section on the relevance of including communication when studying domestic constraints, and one section on how domestic constraints are part of the everyday negotiation practices of the Council of the EU.

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[28] The outlier variable, used in Chapter 5, is given a 0 in this summary, although it was significant at the 0.10-level in one of the tested statistical models. The reason for this is its weak significance, and that the effect is not robust across the models.

Figure 7.1 Summary of empirical results from Chapters 5 and 6

Independent variables

(log) Gross Domestic Product	-
Parliamentary power (Winzen)	0
Parliamentary power (Auel, Rozenberg and Tacea)	0
Minority government	0
Interaction parliamentary power index (Winzen) × minority government	0
Interaction parliamentary power index (Auel, Rozenberg and Tacea) × minority government	0
Level of the Council	0
Unanimous decision-making	0
(log) Years in the Council	0
Outlier position	0

→ **Communication of domestic constraints** → **Influence**

Interaction variables

(log) Gross Domestic Product	**+**
Parliamentary power (Winzen)	**-**
Parliamentary power (Auel, Rozenberg and Tacea)	**-**
Minority government	**-**
Parliamentary power index (Winzen) for minority government	**+**
Parliamentary power index (Winzen) for majority government	**-**
Parliamentary power index (Auel, Rozenberg and Tacea) for minority government	**+**
Parliamentary power index (Auel, Rozenberg and Tacea) for majority government	**-**
Level of the Council	**0**
Unanimous decision-making	**+**

The Relevance of Including Communication When Studying Domestic Constraints

Throughout this thesis I have theoretically argued that the domestic constraints theory suggests a negotiation strategy for negotiators, and that negotiators need to put their domestic constraints on the negotiation table if it should be possible to draw conclusions about whether domestic constraints affect negotiation outcomes. The basis for this claim was spelled out in Chapter 2, where I argued that negotiations are conducted under imperfect information, and that the information about domestic constraints must therefore be transmitted to negotiation adversaries, if one expects them to be considered when concluding agreements.

In Chapter 4, the point of departure was that domestic constraints can be communicated in different ways and need not be uttered as warnings about defection, as was suggested in the original formulation of the two-level game theory (Putnam

1988, 444). The empirical findings also supported this and showed how domestic constraints in the EU Council are communicated primarily to clarify positions and signal salience, but also to persuade adversaries with arguments. Given that domestic constraints are used in these ways, the communicative component becomes even more relevant, compared to if the domestic constraints were to hold an inherent threat or warning. Including communication in the analyses of domestic constraints thus provides further information about how domestic constraints work, and illuminates variation which has previously been unaccounted for.

In Chapter 5, it was shown that there is substantial variation in how likely negotiators in the Council are of making domestic constraints statements, when facing a situation where they have domestic constraints. Other important findings from the quantitative empirical Chapters 5 and 6 are the effects of the variables measuring the division of power between national parliaments and governments. The included variables used to capture this division of power were a minority government dummy variable as well as two indexes measuring the national parliaments' power in EU affairs in the member states. In previous studies, similar variables have been used to explain variation in bargaining success or strategies employed (e.g. Bailer and Schneider 2006; McKibben 2013, 424; Schneider, Finke and Bailer 2010). The main expectation from these variables, measuring the division of power between government and parliament, was that there would be a positive effect on both the likelihood of communicating domestic constraints and on the influence from communicating domestic constraints. The reason for this was largely that a strong national parliament was expected to boost the credibility of domestic constraints. The credibility of actions and strategies is important in negotiations and it was expected that such institutional dispersion of power between the government and parliament would be an important component of securing the credibility of domestic constraints. It also controls whether these static definitions of domestic constraints, commonly used in previous studies, also translate into a negotiation strategy.

The findings of the empirical chapters largely support the idea that including the communication of domestic constraints makes a difference when studying effects of domestic constraints on negotiations. The lack of effects from both the parliamentary power indexes and the minority government variable on the negotiators' likelihood of making domestic constraints statements in Chapter 5 indicates that such definitions of domestic constraints are not in fact able to predict whether negotiators choose to communicate their domestic constraints. Given the argument that the communication of domestic constraints is important, these types of static domestic constraints measures are insufficient to fully grasp how domestic constraints affect negotiations. The empirical results in Chapter 6, on the effects of the minority government variable and the parliamentary power indexes on the relationship between frequently making domestic constraints statements and being perceived as influential, lend further support to this claim. Firstly, frequently making domestic constraints statements was shown to have no significant positive effect on reputation for influence for negotiators

representing minority governments. Instead, a significant effect was found for majority governments. This was unexpected given the theoretical argument that a majority government would not to the same extent be able to blame domestic constraints on its parliament. In discussing these results, an alternative mechanism was suggested, namely that negotiators from minority governments will fight to a lesser extent for a constrained position imposed by the national parliament. A minority government negotiator's likelihood to communicate domestic constraints would not necessarily be lower than someone representing a majority government, as indicated by the lack of negative effect in Chapter 5. However, it could make negotiators from minority governments less likely to be persistent with the domestic constraints in the negotiations. National parliaments with minority governments would thus face a form of moral hazard problem (to borrow terminology from the principal-agent literature), in which negotiators can choose between acting as a loyal agent of the parliament and pursuing the government's interests (Müller, Bergman and Strøm 2003, 23). This can thus explain the finding that there is no measurable positive effect on influence for these actors when communicating domestic constraints.

Secondly, the frequent communication of domestic constraints only affected the reputation for influence for negotiators from governments that did not have any strong national parliaments in EU affairs. It was also shown that parliamentary power could affect on an actor's reputation for influence, even when domestic constraints were not communicated. But when domestic constraints are communicated, they often have a positive effect on influence. The results also showed that the static measures of domestic constraints, used in previous studies, are not capable of capturing the full effect of domestic constraints on reputation for influence. This furthermore means that if the communication of domestic constraints is not included in the analysis, part of the domestic constraints effect on negotiations is missing. It can therefore be concluded that including this communicative component in the analyses of domestic constraints effects, which is a novelty in this thesis, matters for the results.

Communicating Domestic Constraints as an Everyday Negotiation Practice

The domestic constraints theory has previously been understood as suggesting that domestic constraints should be used as a distributive bargaining strategy, where the lurking threat of domestic defection would prompt negotiating adversaries to make concessions to the domestically constrained actor (Putnam 1988, 444). This was probably also the underlying reason behind including the prevalence of threats as an indication of domestic constraints in the study by Bailer and Schneider (2006, 165-166). This prevailing focus on threats, and the communication of domestic constraints as being part of a distributive bargaining strategy, was challenged in Chapter 4 where it was theoretically argued, and empirically shown, that the communication of domestic constraints in the Council of the EU is not done as a threat, but instead

primarily according to an integrative bargaining logic, and also to some extent according to rhetorical action logics. This finding shows that the domestic constraints theory is more generally applicable and not limited to the realm of traditional international relations, where defection *ex post* agreement is possible. This development of the domestic constraints theory thus extends to, but also beyond, the EU Council. More importantly, this shows that the communication of domestic constraints is not following its own logic in the Council, but rather following the ordinary practices of Council decision-making (e.g. Naurin 2010). Studying a negotiation setting where domestic defection through ratification veto is practically impossible requires that domestic constraints can be communicated for partly different reasons and with other expectations about their effectiveness.

In the empirical analyses in Chapter 4, I showed that domestic constraints statements are often associated with a signal about salience and perceived as a first step in a logrolling process. There was also evidence of domestic constraints being communicated in a more argumentative way, as rhetorical action. In addition to this, some respondents also argued that the communication of domestic constraints was not a persuasive argument in negotiations. In a sense, this lies at the very centre of what domestic constraints are, and what domestic constraints statements refer to. Domestic constraints statements are primarily about political concerns and not about substantial concerns. Some interview respondents argued that domestic constraints cannot be used as stand-alone arguments, but that they need to be accompanied by substantial arguments related to why the domestic constituency imposing the constraints has such a vested interest. But the domestic constraints in and of themselves are political, and refer to the domestic acceptance problems and thus the political consequences of certain agreements. This non-substantial character of domestic constraints statements implies that it might have lower convincing force than arguments about the substantive consequences of an agreement. It also means that even if domestic constraints can initially be used in a negotiation to argue for one's position on certain issues of a proposal, the risk is that this is not considered and that a deadlock is created. When negotiators have difficulties in compromising, and interests do not overlap, which indeed might be the case if domestic constraints are present, then one must attempt to trade support on other issues. The different logics might thus apply at different stages of the negotiation process, as explained in Mansbridge et al. (2010, 68), "when interests or values conflict irreconcilably, deliberation ideally ends not in consensus but in a clarification of conflict and structuring of disagreement, which sets the stage for a decision by non-deliberative methods, such as aggregation or negotiation among cooperative antagonists." Methods of integrative bargaining might thus be closer at hand when interests conflict and room for compromises is limited, for instance in situations where negotiators have domestically constrained positions.

The political basis for the domestic constraints was discussed in the qualitative interviews presented in Chapter 4. In those qualitative interviews it was declared that domestic constraints hold a political dimension and, because of this, they are more

relevant for actors at later, more political, stages of decision-making, thus in the more senior committees and at the ministerial level. When testing whether domestic constraints are more likely to be communicated or are more effective in senior committees in the quantitative analyses of Chapters 5 and 6, no such effect was found. One reason for the lack of positive results on the variables distinguishing Council levels could be that the highest political level – the ministers – was not included in the data, and that the possibility therefore remains that an effect could be seen if extending the empirical basis in future studies. It was correspondingly concluded that there might indeed be an effect of the Council hierarchy which is not captured by the quantitative empirical data presented here. Moreover, senior committees must deal with many different proposals, not just those which are at late stages or end game negotiations. Rather, proposals tend to move up and down in the Council hierarchy, between junior and senior committees (Häge 2008, 20). This could also explain the lack of difference between Council levels. If domestic constraints statements can be proven to be most relevant at the late stages of decision-making, this would also further the argument made here that domestic constraints statements are primarily associated with integrative bargaining behaviour. That is, when conflicts have been established in early stages of the negotiation process, and constrained positions are irreconcilable, one must trade support with other negotiators and thus engage in logrolling. This would thus happen in late stage or end game negotiations.

In negotiations where integrative bargaining practices are prominent, there is an element of vote aggregation and coalition building, where the sizes of member states might be important in order to obtain consideration for the domestic constraints. When trading support in integrative bargaining, the actors' salience functions as the currency in negotiations, and it works as long as the actors' levels of salience differ between issues (Naurin 2010, 43). But since integrative bargaining is based on the trading of support on the variously salient issues, the resources that the member states in the Council possess must also have an important function, and this means that the support of certain actors can be more important than others. When trading support for a domestically constrained position, the chance of being successful increases with the size of the member state. It was also shown in Chapter 6 that the effect of frequently making domestic constraints statements on an actor's reputation for influence was positive and significant only for member states with economies larger than Finland's. The communication of domestic constraints does not systematically affect influence for negotiators from smaller member states. This does not mean that it is never effective for negotiators from small member states, but rather that no effect can be observed when the variables are measured at an aggregated level. This result is thus a logical consequence of domestic constraints being commonly used to initiate logrolling, where the size of member states matters for coalition building. This positive effect of the economic size of member states should thus be understood as a consequence of that domestic constraints are communicated to signal salience, and in the end trade support on issues.

Another aspect affecting whether the communication of domestic constraints affects influence, used in an integrative bargaining way, is according to what rule decisions are made. In Chapter 6, I showed that there is a significant difference between preparatory bodies operating under the QMV rule rather than a unanimity rule, when it comes to the effect of communicating domestic constraints on an actor's perceived influence in the Council. There is a significant and positive effect of frequently communicating domestic constraints on the reputation for influence for negotiators in all preparatory bodies, but the effect is larger in preparatory bodies operating under unanimity rule as compared to bodies that make decisions by QMV. The formal possibility to block decision-making and veto agreements exists in unanimity groups, and even if domestic constraints are not being explicitly communicated in order to make a threat, it *de facto* makes it impossible to ignore a member state which has a domestically constrained position. This should in turn be an advantage when seeking compromises and trading support on different parts of a proposal.

Domestic constraints give negotiators a commitment to a position that builds on political concerns. The domestic constraints are then supposed to be communicated with the aim of meeting these constraints and reaching preference fulfilment. These facts could be seen as making the communication of domestic constraints controversial. For instance, it could be perceived as unsuitable to make political statements in more technical working parties in the Council. A conflict could be perceived between domestic constraints commitments and working toward common good solutions, or domestic constraints statements could be perceived as a cheap excuse for one's inability to deal with the domestic audience. But there are no indications in the empirics presented here which suggests that the communication of domestic constraints is controversial, or frowned upon, in the Council. Instead, domestic constraints are communicated in the Council and also appear to be effective, at least for some actors. They are a component that is part of the everyday negotiations in the Council and do not seem to be conspicuous or norm challenging. In addition, in Chapter 5 I showed that experience did not significantly increase or decrease a negotiator's likelihood of making a domestic constraints statement. This means that a negotiator's prior Council negotiation experience does not factor into how likely s/he is to communicate domestic constraints. Since there was no significant negative effect of experience, domestic constraints statements does not seem to violate some central norm of negotiations in the Council, such as the commonly asserted consensus norm (e.g. Lewis 2005). Communicating domestic constraints is hence not by definition controversial, but rather a part of the ordinary decision-making practices of the Council.

In sum, domestic constraints statements are primarily associated with integrative bargaining and can work under circumstances where conflicts are established, and the possibility of engaging in support trading on different issues remains. The results of the size of member states as well as veto power on the influence effect of domestic

constraints statements should be understood in this light. The communication of domestic constraints does not represent a distinctly different type of negotiation practice in the Council of the EU, but is rather used according to ordinary negotiation practices. Domestic constraints build on political concerns and provide negotiators with a commitment to a position which can be used to gain influence in negotiations, aiming at preference fulfilment. This does not make the communication of domestic constraints controversial, but rather part of the everyday EU Council negotiations.

The Domestic Constraints Theory: What Do We Not Yet Know?

The findings presented in the preceding chapters have continued the work of previous research, scratching the surface on the communication of domestic constraints in negotiations, and its effect on influence in negotiations. There are indeed more things to learn about how domestic constraints can be used in different settings and when communicating domestic constraints is most effective to gaining influence. Some suggestions for future research will be highlighted in the following section, focusing on areas that can further improve the knowledge about domestic constraints. The first point raises further questions about how domestic constraints are defined and by whom; a second point focuses on how to improve empirical strategies and how to make better inferences about the effects of domestic constraints on negotiation outcomes; a third point focuses on the generalizability of results, and whether the results in this thesis extend to other negotiation settings.

1. One important aspect of domestic constraints formation, relied on in this thesis, is that domestic constraints vary on an issue-by-issue basis. This represents a move away from static definitions of domestic constraints, which are based on the relationship between national parliaments and governments, toward a more inclusive definition which also reflects informal ratification. Extending the definition of domestic constraints thus allows them to be based on a larger set of domestic actors who are able to charge political costs. In the preceding chapters, this broader definition has been reflected in both when developing the theoretical model and in the operational measures of domestic constraints. It also paves the way for further studies of domestic constraints formation, including how domestic constraints are shaped through this process of informal ratification.

One component of domestic constraints formation is how information about domestic constraints reaches government negotiators and to what extent the negotiators perceive domestic interests as constraining. In the previous chapters, it has been argued that domestic constraints by definition include a political dimension, and that the failure to recognize the domestic constraints and to deliver acceptable agreements would invoke political costs. But which domestic actors that are *de facto*

capable of charging political costs to the government, and whether the government has any discretion to choose which domestic actors to consider, will also determine the shape of the domestic constraints. Governments are arguably also affected by the negotiation setting at the international level and the constraints provided by the international level negotiation space. Information about this is reported back to the governments from their EU representatives and this can also be a way for national representatives to seek to adjust government positions which are perceived as unrealistic (Kassim and Peters 2001; Larue 2006, 316). Such attempts at shaping the domestic constraints are referred to as cutting slack, and they build on the government's ability to exploit the information asymmetry in relation to its domestic constituency (Moravcsik 1993, 28). By similar mechanisms, there is a degree to which the government can seek to shape the preferences of the domestic constituency, and as such try to mitigate the potential political costs of what could otherwise be suffered for poor international agreements (Putnam 1988). This can thus be a way to avoid taking the blame for unwanted EU agreements, by scapegoating other actors (Hood 2007), in this example by "blaming Brussels". The mechanism is similar to that employed when the member states avoid registering negative votes in the Council in order to avoid publicity and scrutiny, and thereby also blame (Novak 2013). Shifting focus to informal ratification means that acceptance is required from a larger set of domestic actors, and who these actors are define the domestic constraints. It therefore becomes important to learn more about which actors are capable of charging political costs, but also the governments' discretion to manipulate these domestic actors. Focusing on these issues can contribute to a more refined image of domestic constraints, including their effect on negotiations and outcomes, in Council of the EU negotiations.

2. A repeated argument in this thesis has been that in order to study the effects of domestic constraints, the parameter of communication and negotiation behaviour must be included. The communication of domestic constraints has been shown in the preceding empirical chapters to be important to include when studying domestic constraints in the Council of the EU. In Chapter 4, it was shown that the behavioural definition of domestic constraints applied by Bailer and Schneider (2006), such as the prevalence of threats, was not realistic in EU Council negotiations. In Chapter 5 in turn, it was shown that domestic constraints are not always explicitly communicated by negotiators who have domestic constraints, whereas it in Chapter 6 it was shown that static institutional definitions of domestic constraints, based on national parliamentary power, do not capture the full effect of domestic constraints on actors' influence in negotiations. Introducing this element of communication is hence both theoretically motivated and empirically shown to make a difference when evaluating the explanatory power of domestic constraints on influence, and thus the domestic constraints theory itself. Demonstrating the importance of communication also paves the way for further studies focusing on the effects of domestic constraints in

negotiations, but also for improvements in the empirical strategies employed. It has in been demonstrated in the preceding chapters, for instance, that it is practically possible to study domestic constraints in survey-oriented research.

One option for establishing better knowledge about the effects of domestic constraints during negotiations in the EU Council would be to include such negotiation process variables in a repeated DEU type of data gathering process. One of the main arguments presented here against the findings of previous empirical studies, which have concluded that domestic constraints do not affect bargaining success in the Council of the EU (Bailer and Schneider 2006; Schneider, Finke and Bailer 2010), was their limited focus on the explicit use of domestic constraints in negotiations. Overall, the DEU dataset that they rely on is a very suitable type of data for the study of domestic constraints and their effects on specific legislative dossiers. It contains the negotiation positions of all member states on a number of conflict dimensions in each legislative dossier under study and spatially locates these on a policy scale together with the proposal and the outcome. The structure of the data thus allows for very precise modelling and evaluations of bargaining success, and influence, for different actors. It thus relies on real policy proposals, as compared to the aggregated reputation measures used in this thesis. But as argued before, the DEU data lacks, firstly, information about domestic constraints of the different member states on the various issues within the legislative dossiers and, secondly, it has insufficient information about which member state negotiators communicated domestic constraints in the negotiation processes. More accurate empirical knowledge about the effects of domestic constraints on negotiations and negotiation outcomes could thus be gained if including negotiation process variables in DEU type of data and analyses.

3. The domestic constraints theory was aimed at explaining international negotiations between state governments, but the general logic and the results presented here might apply more broadly, to other types of negotiations, as well. The domestic constraints theory has also been tested on other types of negotiations, for instance on the bicameral negotiations between the European Parliament and the Council (Costello and Thomson 2011). In such negotiations, the Parliament and Council negotiate on a mandate from their respective chambers, which in the end also has to cast a vote on the negotiated agreement through what corresponds to a formal ratification procedure. The case studied in this thesis is the Council of the EU, whose decisions are not subject to such formal ratification at the domestic level. A domestic constraints strategy cannot work by a threat of defection, as argued in the initial theory. It was instead argued, and demonstrated in Chapter 4, that formal ratification is not a necessary condition for the overall logic of the domestic constraints theory to hold, but that domestic constraints can be communicated in other ways than as a threat about domestic defection.

Given this, there might be room to develop a more general theory of domestic constraints, applicable across different negotiation settings. Negotiations are conducted in different settings across society, and domestic constraints are potentially relevant in many of the situations where decisions are made between agents (cf. Lax and Sebenius 1991; McKibben 2013, 416). When groups of people are part of a decision-making process and represented by agents, there will certainly be limits to what these agents can agree upon and get acceptance for in their constituencies. Such required ratification – be it formally required or just informally – should also affect negotiators' strategies and achievements. Domestic constraints can thus be important in aiming to understand many forms of decision-making, including for instance in family life, work life, organizational life and of course political life, and are thus pertinent to more than just negotiations between governments of states. Given this, further theory testing would be welcome in settings where formal ratification, through a binary vote in the constituency or by some elected assembly, is not necessary. This could for instance be in new regionalism initiatives in other parts of the world, to the extent that these institutions adopt more supranational decision-making procedures, in internal coalition government negotiations between political parties and in labour negotiations, to take a few examples. It could basically be tested in any decision-making situation where formal ratification is not required and where agents are interested in re-appointment. Studying other decision-making contexts would thereby also test the generalizability of the results from previous chapters and allow us to see whether the findings transcend decision-making contexts. It would furthermore help to make better inferences about potential variation in how domestic constraints are used and to what extent they lead to influence in different types of negotiations.

Domestic Constraints as Part of a Well-Functioning (EU) Democracy

One defining part of the domestic constraints theory is that the domestic constraints of governments are formed in a democratic political system in which the governments need to take into account the interests of its domestic constituency. This is what makes domestic constraints matter more for democracies than for authoritarian states (cf. Putnam 1988, 449). This means that domestic constraints have a natural place in democracies and especially in negotiations between democratic states. In this thesis, domestic constraints have been treated as one factor that matters for understanding the EU decision-making process and outcomes, but in this final section, I will develop the normative argument that domestic constraints *should* matter in the EU.

In previous studies, one conclusion in relation to the lack of effects of domestic constraints on bargaining success was that this is a result of malfunctioning domestic control mechanisms, due to a lack of transparency in the Council. Governments have thus been able to strike EU agreements without taking into account the interests of

their domestic audiences, and this contributes to the alleged democratic deficit of the EU (Bailer and Schneider 2006, 176). Indeed, more openness in decision-making should make negotiators more sensitive to the demands of their constituencies (cf. Stasavage 2004). But given the results presented in the preceding chapters, showing that government negotiators communicate domestic constraints and that, to some extent, this leads to influence, such an argument about lack of transparency must be questioned. This leaves two options: either transparency in the Council is sufficient to securing representation of domestic interests, or, the negotiators are sensitive to domestic interests, regardless of the level of transparency.

If the Council is transparent enough to make effective domestic scrutiny possible, it should have been confirmed in positive effects of the parliamentary power variables, and/or the minority government variable, included in the empirical analyses in Chapter 5. Because, if scrutiny is facilitated by transparent decision-making procedures, negotiators representing minority governments who also have strong national parliaments would be expected to be more likely to communicate domestic constraints, to demonstrate that they do what they can in negotiations. Moreover, if the Council was sufficiently transparent, a positive effect of having a strong national parliament should also have been possible to observe in the relationship between the communication of domestic constraints and influence (Bailer and Schneider 2006, 176). The reason for this is that negotiating under transparency would enhance the credibility of actors with domestic constraints, prevent them from conceding vital interests, and also prevent adversaries from disregarding the domestic constraints of an opponent. But in most of the statistical models tested, these variables show either no effect or negative effects on the likelihood of communicating domestic constraints and the relationship between communicating domestic constraints and influence. The only exception is the analysis in Chapter 6 on the reputation for influence where the parliamentary power index by Auel, Rozenberg and Tacea (2015) shows a significant positive effect for representatives of majority governments who do not frequently make domestic constraints statements. Transparency is expected to mainly affect what negotiators do (Stasavage 2004) and the very limited effects of these variables indicate that transparency does seem to be insufficient in the Council. At the same time, this lack of transparency does not necessarily mean that the representation of domestic interests, and consequently representative democracy, is absent (cf. Moravcsik 2002, 613).

Good representation of domestic interests is in turn an important aspect of securing legitimacy for the outcomes of EU decision-making. This reflects a common argument that decision-makers should be responsive to the demands of their domestic constituencies, and in particular to those parts of the constituency which are most affected by the decisions made (Kleine 2013, 165). Such responsiveness should also be important in securing the output legitimacy of the EU political system, by delivering outcomes that the domestic constituencies desire. Some level of responsiveness is part of any democratic ideal, and it is the domestic actors holding

the decision-makers accountable who are supposed to guarantee the legitimacy of public power (Grant and Keohane 2005, 31). This way of legitimising decision-making might be facilitated by active participation of the domestic actors who are affected by decisions at the input side, but it is not an absolute requirement. Governments and their representatives can be responsive, even when domestic actors are inactive, if they know their interests by other means. The effects of domestic constraints studied here are therefore primarily located on the output side, looking at the effects on communication in negotiations and influence. Legitimacy from domestic constraints would thus mainly be expected to stem from how domestic constraints are used and what they produce. Securing output legitimacy has in turn been argued to be more important and realistic than input legitimacy, for securing the legitimacy of the EU democracy (e.g. Scharpf 1999).

But responsiveness to the interests of affected domestic actors also comes with the risk that decision-making becomes over-governed by special concerns, which can result in legitimacy problems if domestic constraints are also unequally spread across actors. This is true both in the relationships between governments and their constituencies, but also between member states. There is a common argument in EU studies that it is important for member states to win equally often in order to survive as a legitimate political system (Golub 2012, 1296-1297), which implies that too much imbalance in influence between actors, including influence coming from communicating domestic constraints, can negatively affect the legitimacy of the EU political system. This argument rests on an idea of what type of political system the EU is, and what it should be. Legitimacy that builds on equal success for member states, regardless of population size, relies on an ideal of traditional intergovernmental cooperation, with continuing sovereignty for the member states. The opposite view, which is more in line with a federalist ideal, would rather suggest that a legitimate political system is one in which influence corresponds to the member states' population sizes (cf. Follesdal 2012; Laruelle and Widgrén 1998, 321). The latter thus favours a legitimacy principle based on equality between citizens (across member states), rather than between member states. What constitutes a legitimate balance between responsiveness and unbalanced influence is thus a matter of dispute and depends on one's ideal of the EU democracy.

Based on these two aspects of legitimacy – responsiveness to domestic interests and the balance in influence – the empirical results presented in Chapter 6 come with both positive and negative legitimacy effects. Whereas it was shown in Chapter 6 that frequently making domestic constraints statements had an effect on actors' reputation for influence, it was also shown that large member states were more effective than medium-sized member states when communicating domestic constraints, while the communication of domestic constraints is not effective at all for small member states. Legitimacy should increase if decision-makers are responsive to the interests of their domestic constituencies, and the positive effect on influence mentioned in Chapter 6 is thus believed to be positive for the legitimacy of EU decision-making. But since the

empirical results also show that the effect of domestic constraints depends on the size of the member state, and particularly that the effect for small member states is not statistically significant, there is a risk that this also creates a negative effect on legitimacy. This argument builds on an interpretation of the lack of significant effect for small member states being an expression of low responsiveness to small member states' domestic interests. Moreover, another risk when negotiators have domestic constraints is that the bargaining space at the international level – the area of overlapping interest – becomes too narrow, and thus prevents agreement (Putnam 1988, 437-438). Such a risk for gridlock is apparent and can impede the ability of decision-makers to deliver outcomes, which in turn can negatively affect output legitimacy. This highlights the need to strike a balance between using and misusing domestic constraints statements. Cooperative negotiation practices, such as integrative bargaining, help to avoid these risks when communicating domestic constraints (see Chapter 4).

Member state negotiators are constrained by the interests of their domestic constituencies, and they choose to communicate this to negotiating adversaries in the Council of the EU. This should mainly be regarded as a sign of a healthy representative democracy in the EU, since it means that negotiators are responsive to the interests of those they represent. Frequently making domestic constraints statements positively affects actors' reputation for influence, even though some uncertainty remains of whether this effect on influence also applies for small member states. This effect is not caused by negotiation transparency, but should nonetheless positively affect legitimacy at the output-side, by being responsive to domestic interests and delivering output that domestic actors want. At the same time, responsiveness to domestic constraints can conflict with a norm of balanced influence between negotiating parties, and it also risks creating gridlock. This can counteract the positive legitimacy effects. While some level of responsiveness is necessary, negotiators must strike a balance between using and misusing domestic constraints in negotiations. In sum, this means that domestic constraints matter – and to some extent should matter – for the functioning of representative democracy in the European Union.

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Sammanfattning på svenska

I den här avhandlingen utvecklas argumentet att förhandlingar i Europeiska Unionens råd inte kan förstås som isolerade från den interna politiken i medlemsstaterna. Med bas i Robert Putnams teori om *two-level games* och det faktum att de nationella regeringarnas förhandlare är angelägna om att överenskommelser i EU får stöd bland viktiga nationella stödgrupper, kommer regeringarnas förhandlare att vara begränsade med avseende på vad de kan enas om. Detta utgör en viktig del i demokratiska politiska system, där regeringar bör vara mottagliga för önskemål från de grupper vars stöd de är beroende av. Utöver att begränsa förhandlares handlingsutrymme föreslås det i *two-level game*-teorin att politiska begränsningar i medlemsstaterna även gör förhandlare mer inflytelserika, eftersom de får en rigidare position och hindras från att godkänna ogynnsamma överenskommelser. Avhandlingen behandlar denna relation mellan politiska begränsningar i medlemsstaterna och inflytande i EU:s råd.

Avhandlingen fokuserar på förhandlingsprocessen i större utsträckning än vad tidigare forskning har gjort, och särskilt på betydelsen av att kommunicera sina begränsningar. Ifall förhandlares politiska begränsningar ska kunna påverka deras inflytande så måste informationen om begränsningarna också nå de förhandlande motparterna. I avhandlingen utvecklas resonemang om den teoretiska skillnaden mellan traditionella internationella förhandlingar och förhandlingar mellan EU:s medlemsstater. Ett viktigt antagande i teorin om att förhandlares politiska begränsningar påverkar deras inflytande är att det är möjligt att avfalla från överenskommelser som inte ges stöd i, för regeringen, viktiga inhemska grupper. Detta faktum ger begränsade förhandlare en möjlighet att också hota om att avfalla från överenskommelser som inte möter de önskemål som inhemska grupper har. I det här avseendet skiljer sig förhandlingar i EU från andra internationella förhandlingar, eftersom den här möjligheten att avfalla från överenskommelser i praktiken inte existerar efter att ett beslut är fattat i EU. I avhandlingens första empiriska del används kvalitativa intervjuer med förhandlare från EU:s samtliga medlemsstater för att undersöka hur politiska begränsningar i medlemsstaterna kommuniceras i EU-förhandlingar, när ett hot om att avfalla i praktiken inte kan göras. I den andra och tredje empiriska delen av avhandlingen används en enkätundersökning, som även den besvarats av förhandlare från EU:s samtliga medlemsstater, där det testas vilka förhandlare som är mest sannolika att kommunicera sina begränsningar, samt ifall förhandlare som ofta kommunicerar att de har politiska begränsningar är mer inflytelserika i rådet.

Avhandlingen kommer fram till två huvudsakliga resultat. För det första visas att det har betydelse att studera ifall begränsningarna kommuniceras, om det ska vara möjligt att dra relevanta slutsatser om relationen mellan politiska begränsningar i medlemsstaterna och en förhandlares inflytande. För det andra framkommer det att begränsningar kommuniceras och leder till inflytande, även i situationer där det i

realiteten saknas en möjlighet att avfalla från redan fattade beslut. Detta är möjligt enligt samma mekanismer som förhandlingar i rådet normalt fungerar, och slutsatsen är att politiska begränsningar kommuniceras som en del av de dagliga förhandlingarna i EU:s råd.

Nederlandstalige samenvatting

In dit proefschrift wordt aangetoond dat onderhandelingen in de Raad van Ministers van de EU niet los kunnen worden gezien van de binnenlandse politiek in de lidstaten. De logica van Robert Putnam's *two-level game* en de steun die onderhandelde EU-overeenkomsten moeten krijgen van cruciale delen van de achterban van de onderhandelende regeringen, maken dat nationale onderhandelaars beperkt worden door allerlei binnenlandse politieke belangen. Dit maakt deel uit van het nationale democratische politieke systeem waarin regeringen rekening dienen te houden met de wil van hun achterban. Hoewel er geargumenteerd kan worden dat deze binnenlandse beperkingen de vrijheid van de onderhandelaars zou beknotten, kan het ook hun onderhandelingspositie versterken. Het belet hen onder meer in te stemmen met voor hen nadelige overeenkomsten. Deze relatie tussen binnenlandse beperkingen en de invloed van lidstaten in de Raad van Ministers is de centrale focus van deze thesis.

Anders dan in voorgaand onderzoek kijkt dit proefschrift naar het onderhandelingsproces zelf en de manier waarop binnenlandse beperkingen aan bod komen tijdens de onderhandelingen. De achterliggende reden is dat als binnenlandse beperkingen de onderhandelaars invloedrijker maken, de informatie over deze binnenlandse beperkingen tijdens het onderhandelingsproces overgebracht moet worden aan de onderhandelingspartners. Ook een andere theoretisch argument werd uitgewerkt met betrekking tot het verschil tussen traditionele intergouvernementele onderhandelingen en onderhandelingen tussen de lidstaten van de EU. Een cruciale aanname in bestaande onderhandelingstheorieën is dat tijdens het onderhandelingsproces onderhandelaars kunnen dreigen om zich te onttrekken aan afspraken die niet worden gesteund door de binnenlandse achterban. Echter, EU-onderhandelingen verschillen van andere internationale onderhandelingen omdat het onmogelijk is zich *ex post* te onttrekken aan EU-overeenkomsten. In een eerste empirische deel van de thesis wordt op basis van een set van kwalitatieve interviews met onderhandelaars in de Raad bestudeerd hoe binnenlandse beperkingen aan de orde komen worden in een situatie waarin *ex post* terugtrekkingen in de praktijk onmogelijk zijn. In een tweede en een derde empirische deel wordt op basis van een survey bij onderhandelaars in de Raad bekeken welke onderhandelaars het meest geneigd zijn binnenlandse beperkingen aan te kaarten en of het frequent communiceren van binnenlandse beperkingen leidt tot meer invloed in de Raad.

Twee belangrijke resultaten komen voort uit de empirische analyses. Ten eerste toont het onderzoek aan dat er inzake binnenlandse beperkingen belangrijke conclusies kunnen getrokken worden door te kijken naar de communicatieprocessen binnen de Raad van Ministers. Ten tweede stelt het proefschrift vast dat, zelfs indien *ex post* onttrekking onmogelijk is, de onderhandelaars actief allerlei binnenlandse beperkingen op tafel leggen en dat dit eveneens tot meer invloed leidt. Deze conclusies hebben vooral betrekking op aangelegenheden die te maken hebben met

alledaagse onderhandelingen in de Raad. Als slotsom geldt dat praten over binnenlandse beperkingen een inherent deel uitmaakt van het courante onderhandelingsproces in de Raad van Ministers van de EU.

Appendix 1

Interview Guide

Project description/purpose: This project is about decision-making in the EU Council preparatory bodies and communication between member state delegates during decision-making. The topic is general in the sense that I am not in particular interested in the substantive issues of your field, even if your experience and examples obviously will come from it. I am interested in your personal view and experience, so I want you to depart from yourself unless I ask you not to. I would also like to ask you if it is ok that I record the interview, for my personal memory only? It will be handled with care and as with the rest of the interview, it will be handled to secure your anonymity.

Part A: On communicating domestic constraints
1. Issue identification
Think of a situation where there is an issue on which your position has been determined to a large degree by the interests of a domestic actor in your member state, for instance the parliament or an important economic interest group. This particular actor is of great importance for your government, which is therefore interested in defending this position.

a) Can you mention any recent issue that you have been involved in as an example of this type of situation? [If no or never: use the hypothetical situation and jump to question 2]

b) Can you describe the background to this issue and your position? [Is it finished? Coalitions, conflicts? Note the characteristics of the background and pick up on it when discussing communication]

c) Would your government have suffered any consequences if it did not negotiate a 'good' agreement, in view of the domestic interests?

d) Did you get any instructions about how to act if you were not successful in reaching you position on this issue? [Would it be possible to make concessions from it or would you need to proceed towards a no vote?]

I would like you to keep this issue in mind for the following questions and try to respond to my questions based on the experience from this issue.

2. Form of statements

a) One potential option when you have this type of position is that you would state, in contacts with the other delegates in the Council, that your position cannot be changed *due* to this domestic constraint. Did you make such statements during the negotiations over this issue?

b) If no: why not?

    c)   If <u>no</u>: do you ever make such statements? [<u>If no</u>: jump to question 5]

    d)   How would you yourself formulate or phrase such statement?

    e)   Is this action and communication different compared to cases where you do not have these domestic constraints?

3. Reasons for statement

    a)   With what purpose did you make the statement? What did you want to achieve by doing it? [This formulation needs to be adjusted according to the response on question 2a-2c]

    b)   Did you have any other reasons to make the statement? [This formulation needs to be adjusted according to the response on question 2a-2c] [Information giving, persuasion etc.]

    c)   Which reason would be the most important?

Part B: On perceiving communication of domestic constraints
4. Accommodation of positions

    a)   Was your statement met with some kind of accommodation by the other delegates? [This formulation needs to be adjusted according to the response to question 2a]

    b)   <u>If it was not accommodated</u>: was it met with some other form of compensation, a compromise or the like?

    c)   Why (not)? [probe with asking about whether it for instance provided new information or if it was more locking of the position (power based)].

5. Consensus/compromise culture

    a)   Are there any risks involved making this type of statements?

    b)   Is it something that is accepted among the delegates?

    c)   Are these kind of statements seldomly or frequently possible to use?

6. When others communicate domestic constraints

I would now like to ask you a few questions with the perspective from the other side of the negotiating table. I thus want you to think of the situation when you are faced with another delegate making the type of statements we have up to now discussed.

    a)   Did some other delegate make this kind of statement on the issue we have now discussed? Which?

    b)   <u>If not</u>: can you mention any other issue when someone has done this?

7. Perception of reason

    a)   When facing this statement, what purpose did you think the other delegate had for making it? What did s/he want to achieve by doing it?

8. On accommodation and evaluation of statements

a) When facing this statement, were you accommodating towards it, was it met with some offer or some kind of compromise?
b) Why? What was your reason?
c) <u>If no on a)</u>: do you ever do this?
d) How did you evaluate whether the statement and its position was worth taking into account?
e) Do you tend to accept and accommodate such statements more from some MS than others? Who? [probe by using net receiver/contributor and border/non-border member states and Size/experience]
f) Do some other member states tend to be more accepting towards this than others?

Position/title: Years at position: Group(s)/committee(s):

Appendix 2

Robustness Checks Chapter 5

In this appendix, the robustness of the results from the statistical models in Chapter 5 is reported for alternative measurements of two of the independent variables: for alternative measures of the size of member states, using the Shapley-Shubik power Index (SSI) and population sizes of the member states', and for the alternative coding of the caretaker governments as minority governments instead of majority governments. The results of the tests for the alternative coding of member state size are reported in Table A2.1, the results for the tests using alternative coding for caretaker governments are reported in Table A1.2.

The alternative coding of caretaker governments, used in Table A 2.2, means that the Greek and Italian governments are coded as minority governments, as opposed to being coded as majority governments in Chapter 5. The alternative measures of the member state size variable, used in Table A 2.1 and A 2.2, are, firstly, the Shapley-Shubik power Index, which indicates a probability of each member state to be pivotal in a voting game. The SSI closely follows the voting weights given to the member states but yields a more relevant measure when it comes to forming coalitions, for instance. The voting weights ranges from 3-27 and the SSI from 0.82 to 8.67. Secondly, the member states' population sizes will be used, gathered from the Council rules of procedure (Council of the European Union 2011).

As evident in the tables below, the results from the regressions presented in Chapter 5 are at large robust across the different models and coding. The coefficient on the GDP variable in Model 1 in Table A2.2 changes to become significant only at the 0.10-level (p-value 0.07). This indicates some volatility on this variable when caretaker governments are coded as minority governments instead of majority governments. In the other models presented in this appendix, the member state size variables are significant at the 0.05-level at least and negative. Another difference worth noting is the effect of the parliamentary power index by Winzen (2012) in Model 3 in Table A2.1. The weakly significant effect of the parliamentary power index in this model shows a positive effect of parliamentary power for majority governments, whereas the effect for minority governments remains insignificant.

Table A2.1 OLS regression models with clustered standard errors on the likelihood of making domestic constraints statements, using alternative measures of the size of member states

	Model 1 b (s.e.)	Model 2 b (s.e.)	Model 3 b (s.e.)	Model 4 b (s.e.)
Independent variables				
(log) Shapley-Shubik power Index	-0.18***	-0.17***		
	(0.06)	(0.06)		
(log) Population size			-0.08***	-0.08***
			(0.03)	(0.02)
Parliamentary power (Winzen)	0.21		0.24*	
	(0.13)		(0.14)	
Parliamentary power (Auel, Rozenberg and Tacea)		0.75		0.82
		(0.61)		(0.62)
Minority government	0.48	-0.12	0.48	-0.12
	(0.34)	(0.43)	(0.32)	(0.41)
Interaction parliamentary power index × minority government	-0.36**	0.04	-0.35***	-0.02
	(0.14)	(0.79)	(0.14)	(0.77)
Level of the Council	0.18	0.18	0.18	0.18
	(0.12)	(0.12)	(0.12)	(0.12)
Unanimous decision-making	0.16	0.16	0.16	0.16
	(0.12)	(0.12)	(0.12)	(0.12)
(log) Years in the Council	-0.05	-0.06	-0.05	-0.06
	(0.07)	(0.07)	(0.07)	(0.07)
Outlier position	0.14*	0.13	0.14*	0.12
	(0.08)	(0.08)	(0.08)	(0.09)
Intercept	3.15***	3.15***	4.23***	4.26***
	(0.34)	(0.40)	(0.48)	(0.52)
R2	0.04	0.04	0.04	0.04
N	246	246	246	246

Table A2.2 OLS regression models with clustered standard errors on the likelihood of making domestic constraints statements, coding caretaker governments as minority governments

	Model 1 b (s.e.)	Model 2 b (s.e.)	Model 3 b (s.e.)	Model 4 b (s.e.)	Model 5 b (s.e.)	Model 6 b (s.e.)
Independent variables						
(log) Gross Domestic Product	-0.05* (0.03)	-0.06** (0.03)				
(log) Shapley-Shubik power Index			-0.17** (0.08)	-0.16** (0.07)		
(log) population size					-0.08** (0.04)	-0.08*** (0.03)
Parliamentary power (Winzen)	0.19 (0.17)		0.21 (0.18)		0.24 (0.18)	
Parliamentary power (Auel, Rozenberg and Tacea)		0.78 (0.86)	-0.32 (0.13)	0.74 (0.87)		0.82 (0.89)
Minority government (including caretakers)	0.34 (0.25)	-0.15 (0.43)	0.40 (0.29)	-0.05 (0.47)	0.41 (0.28)	-0.04 (0.46)
Interaction parliamentary power index × minority government	-0.29** (0.12)	0.05 (0.73)	-0.32** (0.13)	-0.16 (0.80)	-0.32*** (0.12)	-0.15 (0.78)
Level of the Council	0.17 (0.12)	0.18 (0.12)	0.18 (0.12)	0.18 (0.12)	0.18 (0.12)	0.18 (0.12)
Unanimous decision-making	0.16 (0.12)	0.16 (0.12)	0.16 (0.12)	0.16 (0.12)	0.16 (0.12)	0.16 (0.12)
(log) Years in the Council	-0.05 (0.07)	-0.05 (0.07)	-0.06 (0.07)	-0.06 (0.07)	-0.05 (0.07)	-0.05 (0.07)
Outlier position	0.13* (0.08)	0.13 (0.08)	0.14* (0.08)	0.13 (0.08)	0.14* (0.08)	0.13 (0.08)
Intercept	3.57*** (0.40)	3.71*** (0.40)	3.15*** (0.40)	3.14*** (0.53)	4.20*** (0.48)	4.19*** (0.48)
R^2	0.04	0.04	0.04	0.04	0.04	0.04
N	246	246	246	246	246	246

Appendix 3

Robustness Checks Chapter 6

In this appendix, the robustness of the results from the statistical models in Chapter 6 is reported for alternative measurements for two of the independent variables: the member state size measure and the caretaker government coding. The alternative measures of the member state size variable tested here are firstly member states' voting weights under QMV, as measured by the Shapley-Shubik power Index (SSI). The SSI assigns a probability for each actor that it will be pivotal in a voting game. The second alternative size measure used is the member states' population sizes, gathered from the Council rules of procedure (Council of the European Union 2011). The alternative coding of caretaker governments means that the Greek and Italian governments are coded as minority governments, as opposed to being coded as majority governments as they were in Chapter 6.

In addition, an alternative coding for both the main independent variable measuring the share of domestic constraints statement frequency scores and the dependent variable on the share of influence scores is tested. Instead of relying on the scoring principle discussed in Chapter 3, giving descending scores starting with 10 for a first mentioning, 9 for a second mentioning and so forth, this measure does not give different scores to the member state depending on in which order they are mentioned, but gives all member states that are mentioned a score of 1. These are then summed and standardized to vary between 0 and 1, representing the proportion of times they were mentioned for each member state in each preparatory body. This recoding yields a very closely related result for both the domestic constraints statement frequency variable and for the influence reputation variable, with an R^2 0.996 and 0.994 respectively.

In Table A3.1 and A3.2, the results for the alternative measures of member state size are displayed. In Figure A3.1 and A3.2 the marginal effects for the different interaction terms from these models are displayed. In Table A3.3, the results for the alternative coding of caretaker governments are displayed and in Figure A3.3, the predicted marginal effects for the interaction terms from these models are displayed. In Table A3.4, the original model is run using the alternative coding for the independent variable on the dependent variable and the predicted marginal effects for these different interaction terms are displayed in Figure A3.4[29].

As evident in the tables below, the main results from the regressions presented in Chapter 6 are robust across the different models and coding. But there are also some

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[29] The models included in this appendix do not display all potential combinations of these different alternative measures and coding of the different variables. The results are robust, however, for other combinations and do not make any additional alterations that change the substantial interpretations of the results, which is the reason why those models are not displayed in their entirety.

results which are volatile to the alterations made. The different member state size measures – SSI and population size – do not make any large alterations of the results, but they do have other substantial meanings. Using these other measures, frequently making domestic constraints statements has a significant effect on reputed influence for member states with higher SSI scores than Austria, Sweden and Bulgaria, or for larger populations than Slovakia, as compared to a significant effect for member states with larger economies than Finland in Chapter 6. In the models using the alternative coding of caretaker governments, there is a significant effect of frequently making domestic constraints statements on reputed influence, both for majority and minority governments, while a significant effect was only found for majority governments in Chapter 6. The alternative coding of the independent and dependent variables – not relying on a degressive scoring principle but rather on the number of times each actor was mentioned for each variable – does not create any substantial alteration of the results.

Table A3.1. Multilevel random intercept models with crossed-effects on the share of influence scores within preparatory bodies, using SSI as member state size measure

	Model 1	Model 2	Model 3	Model 4
	b (s.e.)	b (s.e.)	b (s.e.)	b (s.e.)
Independent variables				
Domestic constraints statement frequency	0.15***	0.02	0.20*	0.29**
	(0.04)	(0.09)	(0.11)	(0.14)
(log) Shapley-Shubik power Index	0.04***	0.03***	0.04***	0.04***
	(0.01)	(0.01)	(0.01)	(0.01)
Parliamentary power (Winzen) (0-3)			3.4e-3	
			(0.01)	
Parliamentary power (Auel, Rozenberg and Tacea) (0-1)				0.11***
				(0.03)
Minority government (dummy)				
Minority government × parliamentary power				
Level of the Council (dummy)				
Unanimous decision-making (dummy)				
Cross-level interactions				
Domestic constraints statement frequency × (log) SSI		0.09*		
		(0.05)		
Domestic constraints statement frequency × parliamentary power			-0.03	-0.25
			(0.06)	(0.23)
Domestic constraints statement frequency × minority government				
Domestic constraints statement frequency × minority government × parliamentary power				
Domestic constraints statement frequency × level of the Council				
Domestic constraints statement frequency × unanimous decision-making				
Intercept	-0.01	-3.5e-3	-0.01	-0.07***
	(0.01)	(0.01)	(0.02)	(0.02)
Random-effects parameters				
Variance (preparatory body)	4.1e-26	3.6e-25	4.3e-26	4.2e-26
	(8.4e-25)	(5.1e-25)	(1.7e-24)	(3.0e-25)
Variance (member state)	9.1e-4	8.1e-4	9.2e-4	6.8e-4
	(2.7e-4)	(2.5e-4)	(2.8e-4)	(2.1e-4)
Variance (residual)	4.2e-4	4.2e-4	4.2e-4	4.2e-4
	(3.6e-5)	(3.6e-5)	(3.6e-5)	(3.6e-5)
Wald chi-2	43.46	50.44	43.28	66.43
Log likelihood	690	692	690	695
N	297	297	297	297

| Model 5 | Model 6 | Model 7 | Model 8 | Model 9 |
b (s.e)	b (s.e.)	b (s.e.)	b (s.e)	b (s.e.)
0.20***	0.46***	0.53***	0.13***	0.11***
(0.05)	(0.16)	(0.17)	(0.04)	(0.04)
0.03***	0.04***	0.04***	0.04***	0.04***
(0.01)	(0.01)	(0.01)	(0.01)	(0.01)
	0.01			
	(0.01)			
		0.13***		
		(0.04)		
-2.9e-3	-0.01	0.02		
(0.01)	(0.04)	(0.04)		
	-0.01	-0.03		
	(0.02)	(0.07)		
			-1.7e-3	
			(2.8e-3)	
				-0.01**
				(3.1e-3)
	-0.16*	-0.58**		
	(0.09)	(0.29)		
-0.13*	-0.49**	-0.65**		
(0.08)	(0.22)	(0.28)		
	0.22*	0.89*		
	(0.13)	(0.47)		
			0.05	
			(0.04)	
				0.17***
				(0.05)
-3.7e-3	-0.02	-0.07***	-0.01	-0.01
(0.01)	(0.02)	(0.02)	(0.01)	(0.01)
3.5e-26	4.5e-26	5.2e-26	4.8e-26	4.1e-26
(3.8e-25)	(3.4e-24)	(3.5e-25)	(5.2e-23)	(2.7e-25)
8.1e-4	8.6e-4	6.5e-4	9.1e-4	9.3e-4
(2.5e-4)	(2.7e-4)	(2.1e-4)	(2.7e-4)	(2.7e-4)
4.2e-4	4.1e-4	4.1e-4	4.2e-4	4.0e-4
(3.6e-5)	(3.6e-5)	(3.5e-5)	(3.6e-5)	(3.4e-5)
50.74	52.11	76.72	45.01	57.24
692	693	699	691	697
297	297	297	297	297

*Note: * Significant at 0,1-level. ** Significant at 0,05-level. *** Significant at 0,01-level.*

Figure A3.1. Predicted marginal effects of domestic constraints statement frequency on influence scores, using SSI
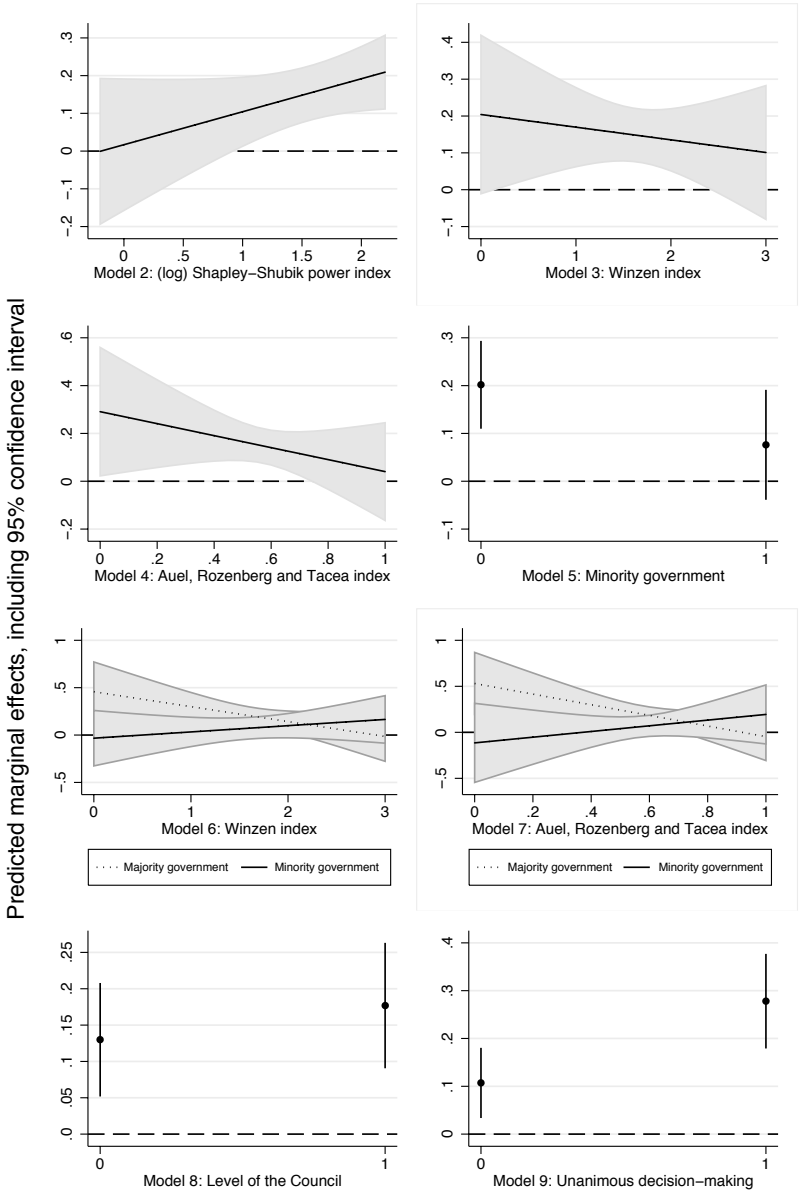
Table A3.2. Multilevel random intercept models with crossed-effects on the share of influence scores within preparatory bodies, using population size as member state size measure

	Model 1 b (s.e.)	Model 2 b (s.e.)	Model 3 b (s.e.)	Model 4 b (s.e.)
Independent variables				
Domestic constraints statement frequency	0.15***	-0.50	0.20*	0.30**
	(0.04)	(0.44)	(0.11)	(0.14)
(log) Population size	0.02***	0.02***	0.02***	0.02***
	(4.2e-3)	(4.1e-3)	(4.3e-3)	(3.9e-3)
Parliamentary power (Winzen) (0-3)			-2.5e-3	
			(0.01)	
Parliamentary power (Auel, Rozenberg and Tacea) (0-1)				0.10***
				(0.04)
Minority government (dummy)				
Minority government × parliamentary power				
Level of the Council (dummy)				
Unanimous decision-making (dummy)				
Cross-level interactions				
Domestic constraints statement frequency × (log) population size		0.04		
		(0.03)		
Domestic constraints statement frequency × parliamentary power			-0.03	-0.26
			(0.06)	(0.23)
Domestic constraints statement frequency × minority government				
Domestic constraints statement frequency × minority government × parliamentary power				
Domestic constraints statement frequency × level of the Council				
Domestic constraints statement frequency × unanimous decision-making				
Intercept	-0.26***	-0.24***	-0.26***	-0.30***
	(0.07)	(0.07)	(0.07)	(0.06)
Random-effects parameters				
Variance (preparatory body)	1.6e-26	1.1e-25	2.3e-26	6.0e-27
	(7.4e-23)	(7.9e-25)	(1.6e-25)	(4.3e-26)
Variance (member state)	9.1e-4	8.1e-4	9.2e-4	7.5e-4
	(2.7e-4)	(2.5e-4)	(2.8e-4)	(2.3e-4)
Variance (residual)	4.2e-4	4.2e-4	4.2e-4	4.2e-4
	(3.6e-5)	(3.7e-5)	(3.6e-5)	(3.6e-5)
Wald chi-2	43.58	49.85	43.48	58.56
Log likelihood	690	691	690	694
N	297	297	297	297

Model 5 b (s.e)	Model 6 b (s.e.)	Model 7 b (s.e.)	Model 8 b (s.e)	Model 9 b (s.e.)
0.20*** (0.05)	0.45*** (0.16)	0.54*** (0.17)	0.13*** (0.04)	0.11*** (0.04)
0.02*** (4.0e-3)	0.02*** (4.1e-3)	0.02*** (3.8e-3)	0.02*** (4.2e-3)	0.02*** (4.2e-3)
	1.4e-3 (0.01)			
		0.11*** (0.04)		
-0.01 (0.01)	0.01 (0.04)	0.02 (0.04)		
	-0.01 (0.02)	-0.04 (0.08)		
			-1.7e-3 (2.8e-3)	
				-0.01** (3.1e-3)
	-0.16* (0.09)	-0.60** (0.29)		
-0.13* (0.07)	-0.49** (0.22)	-0.65** (0.28)		
	0.22* (0.13)	0.90* (0.47)		
			0.05 (0.04)	
				0.17*** (0.05)
-0.24*** (0.06)	-0.25*** (0.07)	-0.30*** (0.07)	-0.26*** (0.07)	-0.26*** (0.07)
2.0e-26 (1.3e-25)	1.2e-25 (9.4e-25)	5.2e-26 (6.5e-25)	4.0e-28 (3.1e-23)	8.6e-26 (5.7e-25)
8.0e-4 (2.4e-4)	8.5e-4 (2.6e-4)	7.1e-4 (2.3e-4)	9.0e-4 (2.7e-4)	9.2e-4 (2.7e-4)
4.2e-4 (3.6e-5)	4.1e-4 (3.6e-5)	4.1e-4 (3.5e-5)	4.2e-4 (3.6e-5)	4.0e-4 (3.4e-5)
51.91	53.21	69.14	45.13	57.47
692	694	698	691	697
297	297	297	297	297

*Note: * Significant at 0,1-level. ** Significant at 0,05-level. *** Significant at 0,01-level.*

Figure A3.2. Predicted marginal effects of domestic constraints statement frequency on influence scores, using population size
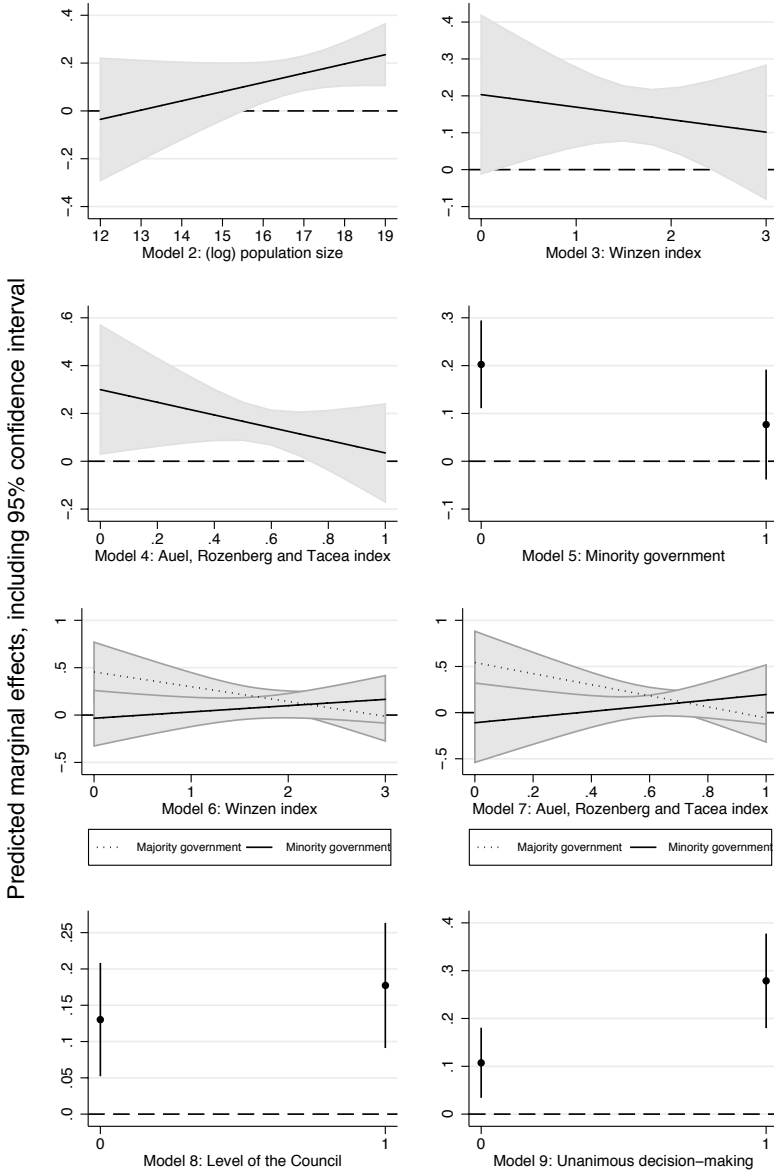
Table A3.3. Multilevel random intercept models with crossed-effects on the share of influence scores within preparatory bodies, coding caretaker governments as minority governments

| | Model 1 | Model 2 | Model 3 |
	b (s.e.)	b (s.e.)	b (s.e.)
Independent variables			
Domestic constraints statement frequency	0.19***	0.51***	0.58***
	(0.05)	(0.17)	(0.20)
(log) Gross Domestic Product	0.02***	0.02***	0.02***
	(3.2e-3)	(3.3e-3)	(3.1e-3)
Parliamentary power (Winzen) (0-3)		0.01	
		(0.01)	
Parliamentary power (Auel, Rozenberg and Tacea) (0-1)			0.12***
			(0.04)
Minority government (dummy)	-0.01	0.01	0.04
	(0.01)	(0.03)	(0.03)
Minority government × parliamentary power		-0.01	-0.10
		(0.02)	(0.06)
Cross-level interactions			
Domestic constraints statement frequency × parliamentary power		-0.19**	-0.67**
		(0.10)	(0.33)
Domestic constraints statement frequency × minority government	-0.08	-0.49**	-0.53**
	(0.07)	(0.22)	(0.27)
Domestic constraints statement frequency × minority government × parliamentary power		0.25*	0.76*
		(0.13)	(0.46)
Intercept	-0.19***	-0.21***	-0.25***
	(0.04)	(0.05)	(0.04)
Random-effects parameters			
Variance (preparatory body)	3.9e-26	4.3e-26	1.1e-25
	(5.7e-25)	(3.2e-25)	(8.2e-25)
Variance (member state)	5.8e-4	6.2e-4	5.2e-4
	(1.8e-4)	(2.0e-4)	(1.7e-4)
Variance (residual)	4.2e-4	4.1e-4	4.1e-4
	(3.7e-5)	(3.6e-5)	(3.6e-5)
Wald chi-2	76.46	77.09	94.81
Log likelihood	695	697	700
N	297	297	297

*Note: * Significant at 0,1-level. ** Significant at 0,05-level. *** Significant at 0,01-level.*

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Figure A3.3 Predicted marginal effects of domestic constraints statement frequency on influence scores, coding caretaker governments as minority governments
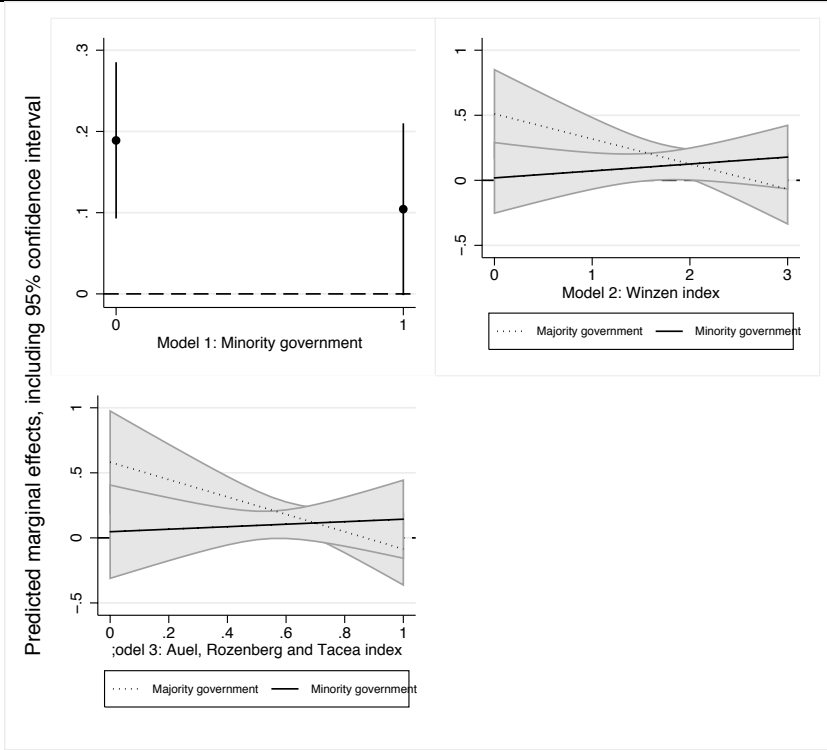
Table A3.4. Multilevel random intercept models with crossed-effects on the share of influence scores within preparatory bodies, using alternative coding for the independent and dependent variables

	Model 1 b (s.e.)	Model 2 b (s.e.)	Model 3 b (s.e.)	Model 4 b (s.e.)
Independent variables				
Domestic constraints statement frequency	0.14*** (0.04)	-0.45 (0.34)	0.18* (0.11)	0.25* (0.13)
(log) Gross Domestic Product	0.02*** (3.1e-3)	0.02*** (3.0e-3)	0.02*** (3.2e-3)	0.02*** (2.9e-3)
Parliamentary power (Winzen) (0-3)			4.6e-3 (0.01)	
Parliamentary power (Auel, Rozenberg and Tacea) (0-1)				0.08*** (0.03)
Minority government (dummy)				
Minority government × parliamentary power				
Level of the Council (dummy)				
Unanimous decision-making (dummy)				
Cross-level interactions				
Domestic constraints statement frequency × (log) SSI		0.04* (0.02)		
Domestic constraints statement frequency × parliamentary power			-0.03 (0.06)	-0.20 (0.22)
Domestic constraints statement frequency × minority government				
Domestic constraints statement frequency × minority government × parliamentary power				
Domestic constraints statement frequency × level of the Council				
Domestic constraints statement frequency × Unanimous decision-making				
Intercept	-0.19*** (0.04)	-0.17*** (0.04)	-0.20*** (0.04)	-0.22*** (0.04)
Random-effects parameters				
Variance (preparatory body)	6.8e-26 (4.2e-25)	3.3e-26 (3.1e-25)	3.7e-26 (2.5e-25)	5.3e-26 (4.0e-25)
Variance (member state)	5.7e-4 (1.7e-4)	4.8e-4 (1.6e-4)	5.7e-4 (1.7e-4)	4.8e-4 (1.5e-4)
Variance (residual)	3.9e-4 (3.4e-5)	3.9e-4 (3.4e-5)	3.9e-4 (3.4e-5)	3.9e-4 (3.4e-5)
Wald chi-2	66.96	80.82	67.22	85.85
Log likelihood	705	707	706	709
N	297	297	297	297

| Model 5 | Model 6 | Model 7 | Model 8 | Model 9 |
b (s.e)	b (s.e.)	b (s.e.)	b (s.e)	b (s.e.)
0.20***	0.43***	0.47***	0.13***	0.09**
(0.05)	(0.16)	(0.16)	(0.04)	(0.04)
0.02***	0.02***	0.02***	0.02***	0.02***
(3.0e-3)	(3.0e-3)	(2.8e-3)	(3.1e-3)	(3.2e-3)
	0.01			
	(0.01)			
		0.11***		
		(0.03)		
-9.2e-5	0.02	0.05		
(0.01)	(0.03)	(0.03)		
	-0.01	-0.09		
	(0.02)	(0.06)		
			-9.2e-4	
			(2.7e-3)	
				-0.01**
				(3.0e-3)
	-0.14	-0.49*		
	(0.09)	(0.28)		
-0.14**	-0.47**	-0.61**		
(0.07)	(0.21)	(0.27)		
	0.20*	0.80*		
	(0.12)	(0.45)		
			0.02	
			(0.04)	
				0.18***
				(0.05)
-0.18***	-0.21***	-0.24***	-0.20***	-0.19***
(0.04)	(0.04)	(0.04)	(0.04)	(0.04)
4.3e-26	3.4e-26	2.1e-26	4.7e-26	5.4e-26
(1.1e-24)	(3.5e-25)	(1.4e-25)	(3.9e-25)	(2.9e-23)
4.9e-4	5.0e-4	4.0e-4	5.7e-4	5.9e-4
(1.5e-4)	(1.6e-4)	(1.4e-4)	(1.7e-4)	(1.8e-4)
3.9e-4	3.9e-4	3.8e-4	3.9e-4	3.7e-4
(3.4e-5)	(3.4e-5)	(3.3e-5)	(3.4e-5)	(3.2e-5)
81.45	83.35	108.76	67.30	80.90
707	709	713	706	713
297	297	297	297	297

*Note: * Significant at 0,1-level. ** Significant at 0,05-level. *** Significant at 0,01-level.*

Figure A3.4. Predicted marginal effects of domestic constraints statement frequency on influence scores, using alternative coding for the independent and dependent variables
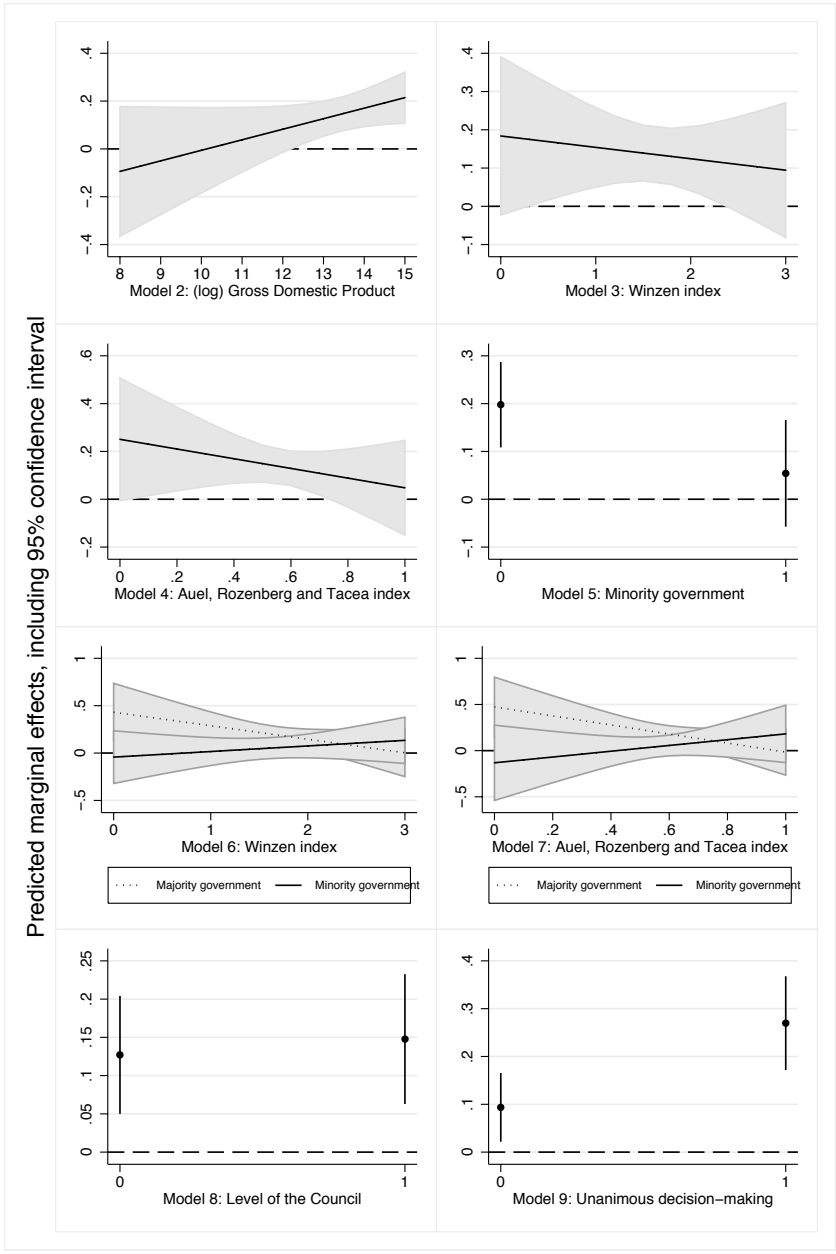
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