



Shaping National Voices in the EU

EU policy coordination in Germany, Denmark and
France and lessons for **the Netherlands**

Research commissioned and published by the Policy and Operations Evaluation
Department (IOB) of the Ministry of Foreign Affairs of the Netherlands

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Preface

The Policy and Operations Evaluation Department (IOB) of the Ministry of Foreign Affairs of the Netherlands is in the process of conducting an evaluation of the EU coordination mechanism in the Netherlands.

The central question of this evaluation focuses on the relevance and effectiveness of the Netherlands' coordination mechanism for formulating national positions on EU policy.¹ As part of this evaluation, IOB has commissioned four country experts to examine the functioning of the EU coordination mechanisms in Denmark, Germany and France: Thomas Traguth and Wolfgang Wessels (Germany),² Mads Dagnis Jensen (Denmark),³ and Jean-Michel Eymeri-Douzans (France).⁴

This document presents the research papers written by the country experts. The papers are structured along the lines, and examine the aspects and questions, outlined below:

1. Lessons learned

Section 1 presents lessons that the country studies suggest the Netherlands may learn from the functioning of the EU coordination mechanisms in Germany, Denmark and France, respectively.

2. Characteristics of the coordination system

Section 2 covers the following aspects and questions:

- *The organization of the coordination mechanism.* Is the coordination mechanism selective or comprehensive in terms of EU policy domains covered? Is decision-making centralized or decentralized?
- *The objectives and values of the coordination system.* How important are coherence and inclusiveness? How does the mechanism guarantee legitimacy? Are other values relevant?
- *Actors and strategic capacity.* Which actors are involved in the coordination mechanism, and what role do they play? What role does parliament play? How are divergent stakeholder interests taken into account in deliberations? Has there been a clear political strategy outlining a view and priority-setting regarding EU policy? Do civil servants have sufficient EU- and strategic knowledge and expertise? How is the European Parliament integrated as a co-legislator?

¹ The terms of reference for this evaluation can be found [here](#).

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³ PhD (EUI), Associate professor at Copenhagen Business School.

⁴ President of the European Group for Public Administration and Exceptional Class Professor at Sciences Po Toulouse.



3. Challenges and dilemmas

Section 3 focuses on contextual challenges facing the coordination system and dilemmas inherent in it.

- *Contextual challenges.* In the terms of reference for its *Evaluation on the national coordination of Dutch EU policy, 2015-2020*,⁵ IOB outlines several contextual challenges confronting the Dutch coordination mechanism: an increasingly complex EU playing field (e.g. because of deeper policy alignment in some fields and differentiated integration in others); increasingly varied coalition formation in EU decision-making; the notion that legitimacy and public support are no longer guaranteed; and more frequent EU high-level and crisis politics.⁶ To what extent have these challenges been relevant, and how has the coordination mechanism withstood, reacted to, or anticipated these challenges? To what extent has this been done successfully?

- *Inherent dilemmas.* IOB has hypothesized several opportunities and limitations inherent in the Dutch coordination mechanism as it is currently organized. These relate to the EU channels used for policy shaping; the relevance, functioning and staffing of coordination committees; stakeholder involvement; the role played by the MFA and the embassies; and the role played by the Dutch parliament.⁷ These themes have been fleshed out into 13 hypotheses.⁸ To what extent are these themes relevant, and how have these been dealt with? To what extent has this been done successfully?

4. Main findings

The final section 4 presents the main findings of the country studies.

Note that the views presented in this document are those of the experts and do not represent the views of IOB. The studies' findings will be used as input into IOB's evaluation of the Dutch EU coordination mechanism, which will be published later this year.

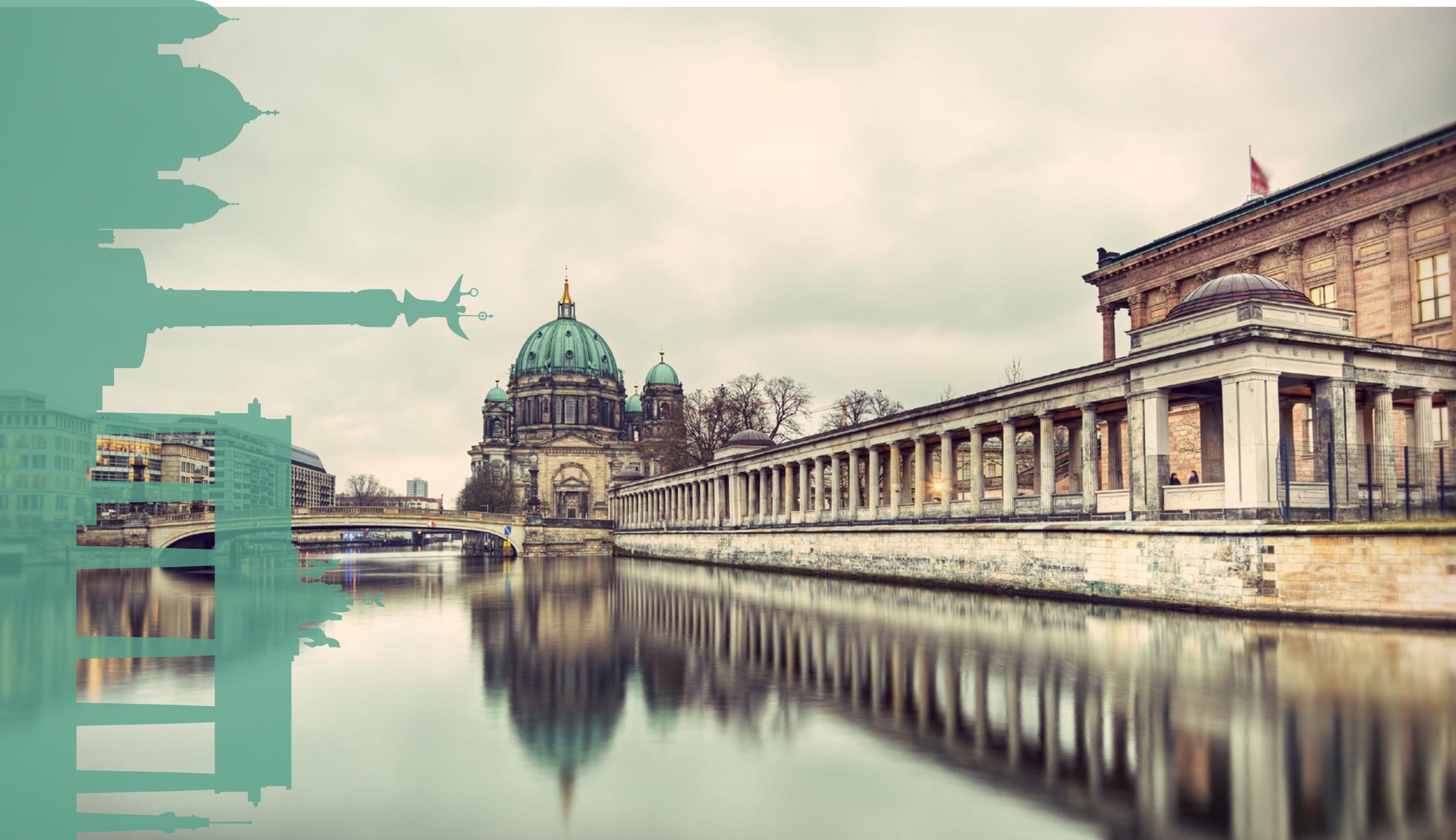
IOB, April 2021

⁵ See fn. 1.

⁶ See section 2.4 of the terms of reference.

⁷ See section 2.5.

⁸ See Annex I of the terms of reference.



EU coordination in Germany

Thomas Traguth and Wolfgang Wessels, Professor at University of Cologne





1. Lessons learned⁹

The following 10 key lessons can be drawn from the process of EU policy coordination in Germany:

- A 'broad flow of information from the first minute' facilitates a comprehensive coordination ambition. In Germany, it has proven helpful that all (but the most sensitive) documents pertaining to EU coordination are administered in a central database ('EuDoX'), which allows all actors to autonomously access real time information on all issues relevant to their dossiers, from the first minute.
- Through their EU coordination units, the ministry of Economic and Energy and the Foreign Office manage the technical and procedural requirements of coordinating instructions, and forward those to COREPER I/II while ensuring reporting to parliament. They serve as alternating facilitating chairs for the rounds of heads of DG and State Secretaries, but are not - and should not be - responsible for substantive questions given the limited resources. The lead ministry's duty to seek positive coordination comes with its ministerial autonomy.
- Consensual positions on instructions are effectively reached through inter-departmental trade-offs negotiated in an upward hierarchical 'escalation ladder', under the strategic guidelines of the Chancellery, with each step requiring unanimity. In the absence of a final arbiter in a decentralised coordination process, if consensus is not reached between units, it is followed up by heads of DG, or consequently State Secretaries and ultimately, but rarely, Ministers. In practice, consensus can almost always be achieved already far below ministerial level.
- Regular rounds of heads of European DGs are held once or twice a month involving the head of European DG of the Chancellery and the Deputy Permanent Representative. It is demanded that all dossiers disclose all interests as early as possible to allow for identification of conflicts and potential alliances at EU level. This configuration allows for the tactical adaptation of negotiation positions.
- Larger strategic questions are addressed in monthly meetings of a designated 'Committee of State Secretaries'. Under the Chairmanship of Germany's 'State Minister for European Affairs', they meet with the head of the Federal Chancellery, which sets the overall guidelines of European policy, and also with the Permanent Representative, who provides his or her expertise from the Brussels arena for 'early warning' and pro-active timely strategic positioning.

⁹ This study was primarily conducted via 8 personal semi-structured interviews with senior officials from the European DG of the German Federal Chancellery, the European coordination unit and litigation units of the Ministry of Economic Affairs and Energy, a senior civil servant of the European DG at the Federal Foreign Office, a senior member of the European Affairs Committee of the Bundestag and the Committee on European Union Questions of the Bundesrat, the Permanent Representation of the Federal Republic of Germany in Brussels, a former MEP (Bündnis90/Grüne) and a senior consultant of an international Berlin-based EU lobbying firm. All interviewees wish to remain anonymous. For further information, please contact the author. The academic literature on the topic is sparse and the last comprehensive monograph was published by Jan Grünhage: 'Entscheidungsprozesse in der Europapolitik Deutschlands', Nomos, Baden-Baden, 2007. Further academic sources consulted include: Göler/Schmid/Zech (eds.): 'Europäische Integration. Beiträge zur Europaforschung aus multidimensionaler Analyseperspektive', Nomos-Verlag, Baden-Baden, 2015; Busse/Hofmann: 'Bundeskanzleramt und Bundesregierung', Carl Heymanns Verlag, 2016; furthermore the annual 'Jahrbuch der Europäischen Integration', Nomos Verlag, Baden-Baden, 2016-2019, and Böttger/Jopp (eds.): 'Handbuch zur deutschen Europapolitik' Nomos Verlag 2020. I would also like to thank the 'Institut für europäische Politik' in Berlin and Prof. W. Wessels of the University of Cologne for their support. The views expressed in this study have been carefully compiled and are those of the author.



- While the Bundestag must be informed immediately and comprehensively, its veto rights are limited to cases of extension of EU competences, changing EU voting procedures (e.g. bridging clauses), amendments to EU primary law and issues concerning the German budget. While the Bundestag has the right to issue opinions on all matters, these are rarely used and their bindingness is disputed. For reasons of efficiency, a procedural balance must be struck between Parliament's role as a veto player and its function of fostering legitimation through public debate.
- There is no structured domestic consultation procedure on EU policy in Germany. A governmental lobby register did not exist until March 2021, with serious consequences for perceived input legitimacy of German EU policy coordination. The Bundesrat, as key implementor, is regularly included in ministerial meetings and acts as negotiator in the Council where its federal competences are concerned. Consultation with civil society remains at the discretion of ministries. While this increases efficiency of coordination, this has favoured powerfully organised interests, decreased domestic politicisation and damaged public legitimation.
- In the Brussels arena, the Permanent Representation and the State Minister for European Affairs are chiefly responsible for relations with the EP and other Member States' positions throughout the policy coordination process. Bilateral embassies may serve to provide regular or targeted country reports, but usually lack specific expertise on single EU policy dossiers. They should be actively used to promote national positions in EU Member States.
- There are no special procedures for crises, but coordination may be initiated at the higher hierarchical levels with stronger involvement of the Chancellery. 'Crisis mode' differs essentially by more top-down procedure, shortening deadlines and civil servants working overtime. Since it relies on the same well-entrenched communication structures and expertise as during regular times, this has proven effective. However, the role of Parliament tends to be weakened as a result.
- In terms of qualification and experience of EU staff in German ministries, generalisations cannot be made easily. There is great variation, however, a horizontal 'Centre of Excellence on European Law' located in the ministry of Economics, assists all desk officers on questions of EU procedure or legal formulation of instructions, also publishing a 'Handbook' with best practices. These services are widely used across government.

2. Characteristics of the coordination system

The German government pursues a comprehensive coordination ambition with respect to all endeavors at EU level. Generally speaking, wherever a position of the government is required, it will be subject to coordination. This applies to all stages of the policy cycle, formal and informal processes, covering all instances of legislation and regulation, primary, secondary and tertiary, as well as governmental positions in all bodies, committees and projects of the EU.

There is no final arbiter in the German coordination mechanism, bestowing great autonomy on the line ministries in the process. This mechanism can be described as decentralized. It is, however, framed by three constitutionally enshrined principles of domestic and EU policy-making:¹⁰

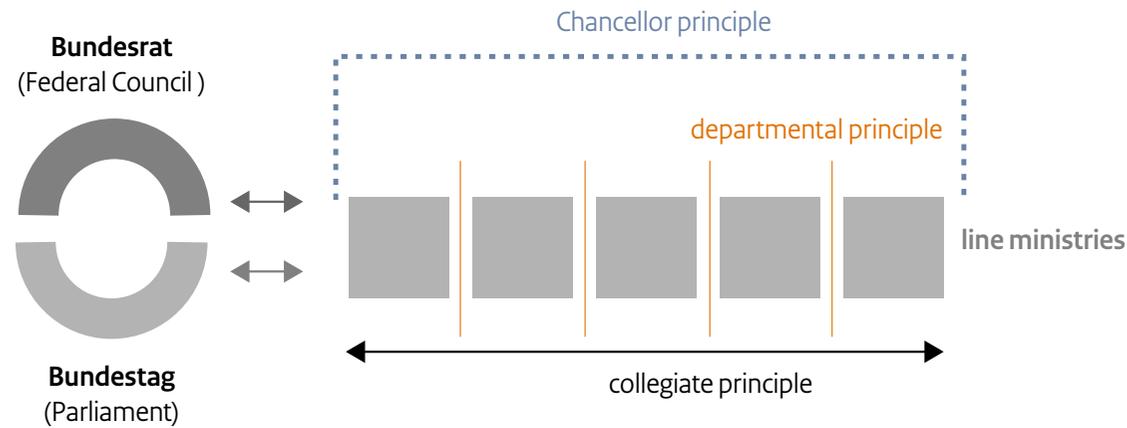
¹⁰ see Art. 65 of the German Basic Law ('Grundgesetz'/ GG)



- the *Chancellor principle* formulating overall strategic and political guidelines of EU policy: *'The Federal Chancellor shall determine and be responsible for the general guidelines of policy'*;
- the *departmental principle*: *'Within these limits each Federal Minister shall conduct the affairs of his department independently and on his own responsibility'*, whereby each Minister must be given his or her own substantial scope for shaping policy. Ministers also have the full power of organisation for their departments;
- the *'collegiate principle'*: *'The Federal Government shall resolve differences of opinion between Federal Ministers'*, which requires inter-departmental consultation in a spirit of compromise and coherence.

Despite his or her authoritative weight to set guidelines, the Chancellor cannot decide a position if none has been reached by responsible line ministries. Ministerial autonomy also means that it is possible for a German EU Council vote to be cast against the express position of other ministries in the coalition government, or even the Chancellery. Finally, both houses of Parliament must be informed throughout the coordination process, thus exercising in-depth scrutiny, but they have limited real powers to influence the final policy outcome.

Graphically, these principles can be represented as follows:



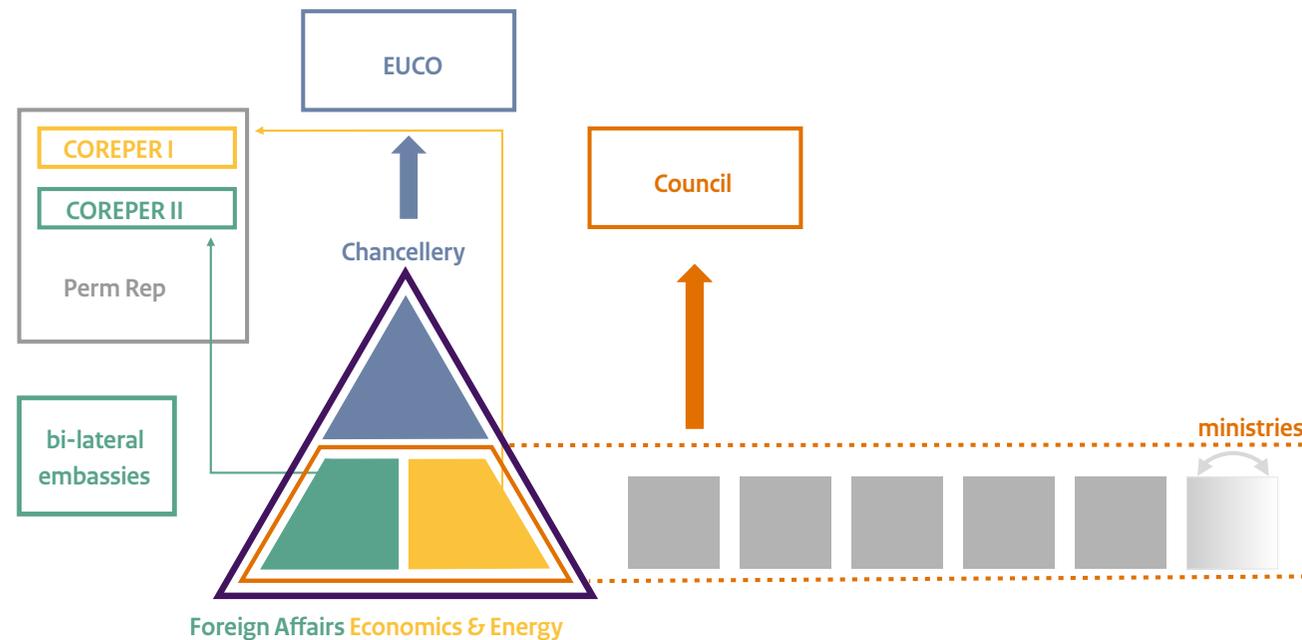


2.1 Actors involved in the coordination mechanism

Following the principle of ministerial autonomy, the line ministries are at the heart of the coordination process, with a special role for the two coordinating units located in the Foreign Office (FO) and the Ministry for Economic Affairs and Energy (ECO). Furthermore, the Federal Chancellery (FC) plays an overarching role in the process, given its competence for overall strategic guidelines and a more pronounced role in times of crisis. The Permanent Representation in Brussels, also

considered as a ‘miniature government’, is continuously involved in the inter-departmental coordination process, working with different hierarchical levels within ministries - directly and on a regular basis. Bilateral embassies may provide regular or targeted country-specific information via their EU Officers, e.g. before a European Council summit, and can also serve to promote German positions among the Member States of the European Union.

Generally, these main actors can be represented as follows:





2.2 Objectives and values of Germany's EU coordination mechanism

In terms of EU coordination, the German government's key objective is effectiveness of coordination, meaning: arriving at a timely, coherent, consensual inter-departmental position. This is expressed in a passage of the rules of procedure regulating the federal government's EU coordination, which states:

'The lead ministry must involve the other ministries concerned ... and the [relevant] bodies as early as possible in order to enable them to participate in a timely and comprehensive review of the endeavour.'

This objective has been further corroborated by the experience of the 1990s and 2000s, when the government often found itself unable to coordinate a consensual position in time for Council negotiations, famously labelled 'the German vote' in Brussels jargon. Following an investigation into the causes, some procedural and institutional amendments were made, such as the introduction of regular 'meetings of the Heads of European DGs' ('Abteilungsleiterrunde') and an overall consensus-forging mechanism, which a senior FO official described as 'a dense intensity of escalating decisions'.

Such a 'timely and comprehensive review of the endeavour' between all affected ministries is intended to secure inter-departmental coherence of EU policy. Specifically, this is witnessed by the fact that all positions between ministries must be resolved, and in some cases even voted on, by unanimity. In practice, this formal voting requirement has been crucial to securing a durable commitment to common decisions throughout the coordination process.

In terms of procedural logic, the two EU coordination units in FO and ECO are charged with managing, monitoring and enforcing the objectives of the process. They follow a strict division of labour, with FO overseeing coordination for COREPER I, and ECO pertaining to COREPER II. Their role is described by German civil servants as ensuring 'technical coordination'. These units can be characterised as a 'guardian' to ensure that all formal and procedural criteria were complied with. In terms of values, the German constitution explicitly states the Federal Republic's dedication to seek further European integration, as stated in Art. 23 (1) of the Basic Law (*Grundgesetz / GG*), also called the 'Europe article'. It was inserted in light of the Treaty of Maastricht and replaced the previous constitutional provision concerning German post-WW II reunification:

'With a view to establishing a united Europe, the Federal Republic of Germany shall participate in the development of the European Union that is committed to democratic, social and federal principles, to the rule of law and to the principle of subsidiarity and that guarantees a level of protection of basic rights essentially comparable to that afforded by this Basic Law. To this end the Federation may transfer sovereign powers...'

This is reflected in Germany's strategic approach to EU policy coordination. Given her historical heritage and central geographical location, a certain 'integration-friendly' European policy has been the general maxim of European policy in the Federal Republic. Notwithstanding 'Realpolitik' and powerful economic interests, national interest is consistently framed as being inextricably linked to a united Europe. More practically, in an interview conducted during the recent German rotating Council Presidency, a senior civil servant from the Federal Chancellery coined this as follows: 'The German strategy during its Presidency is to seek compromise while not allowing herself to be isolated in the [European] Council.'



2.3 (Input) legitimacy of national positions

Input legitimacy is understood here as the processes' responsiveness to public concerns, through either representation or participation. The role of the two houses of Parliament (Bundestag and Bundesrat) is thus central, but also stakeholders and civil society actors need to be involved through consultative processes. In Germany, effectiveness of EU coordination has come at the expense of both inclusiveness and transparency domestically. Firstly, this is witnessed by the fact that both houses of Parliament have only very limited procedural ability through vetoes and summoning members of government. Furthermore, in the pre-legislative phase there are no structured consultations on EU policy positions with either House or the wider civil society. This is further underscored by the fact that a lobby register for the government did not exist until March 2021, with serious consequences for perceived input legitimacy of German EU policy coordination.

According to a senior civil servant, the German government pursues a policy of 'broad information flow'. The backbone of this digital infrastructure is located in a central database ('EuDoX'). It was set up in response to a ruling of the German Federal Constitutional Court (GFCC) in 2013, which strengthened Parliament's informational rights in the aftermath of the financial crisis and the establishment of the EFSE/ESM. While not exhaustive, the following gives a first overview of the documentation that is legally required to be registered in EuDoX:

- all information on the preparation and the course of discussions at informal ministerial meetings, all coordinated German instructions, wire reports from the Permanent Representation, proposals for legislative acts, opinions of the European Commission, European Parliament, preparatory bodies and working groups as well as all opinions, contributions to consultations and explanations of the German and other Member States' governments and the decisions that have been taken;

- in preparation of Councils and European Council summits, the Federal Government shall register each subject of discussion, the main features of the subject matter and the state of negotiations as well as the negotiation line of the Federal Government and its own initiatives and provide written information on their outcome after these meetings.

'EuDoX' further lists information on:

- EURO summits and meetings of the Eurogroup and comparable institutions, preparatory bodies and working groups on the basis of international agreements, including Germany's negotiating mandates for the European Commission in the framework of the common commercial policy, the world trade rounds and matters concerning the CFSP, as well as ongoing infringement procedures and matters before the Court of Justice;
- reports, action plans and policy programmes of the EU institutions, communications, opinions, Green and White Papers and recommendations from the European Commission, inter-institutional arrangements, budgetary and financial plans of the European Union, all proposals and initiatives for treaty amendments and draft international agreements.

EuDoX has become the standard for connecting actors in the coordination process, while ensuring the proper implementation of the informational requirements to Parliament as set out in law and in the government's own rules of procedure. This assessment was shared by government officials and Parliamentarians interviewed.

This 'broad information flow' is further assisted by a very elaborate communication infrastructure – much of which dates back to the EEC – which ensures targeted distribution of information across all ministries. The existence of targeted E-mail distributors, which detail the exact responsible desk officer for particular issues is one such practical

element of distributional efficiency of information and expertise. In the words of one official: ‘while seemingly trivial, they have become practically institutionalised’.

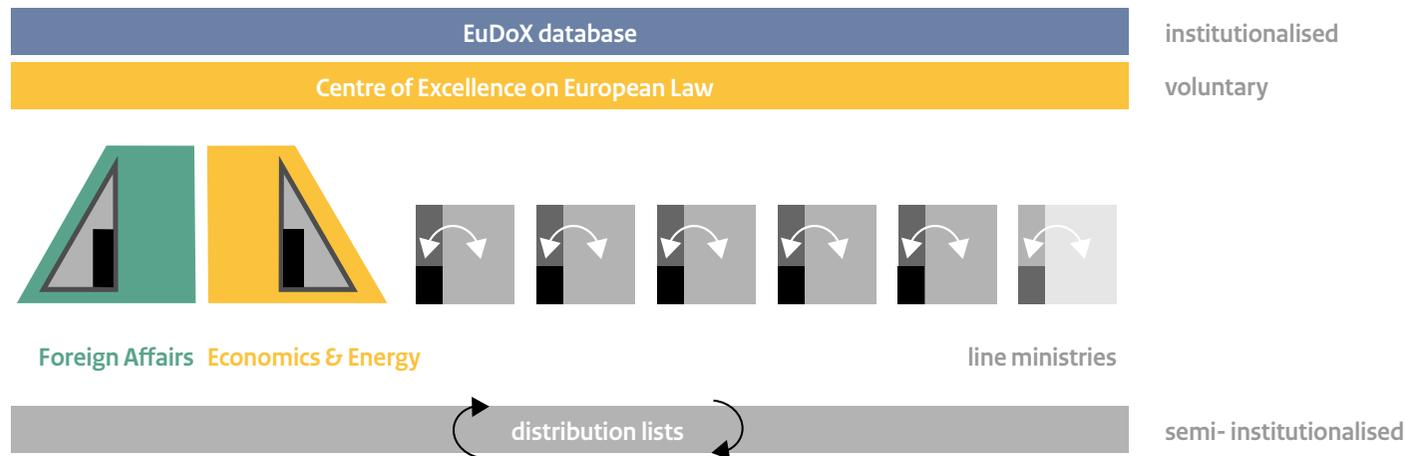
Furthermore, there is a horizontal ‘Centre of Excellence on European Law’ (CE) located in the European DG of ECO. It has existed since the 1960s and its function is to assist all members of the federal as well as lower (*‘Länder’*) governments on institutional and substantive questions of EU policy, for example concerning the fundamental freedoms, taxation or public procurement.

The Centre also advises on procedural issues concerning the adoption of legislative acts, the Council and European Parliament, delegated acts and comitology. It can provide expertise for assessing the effect of Union law on German law (retroactive effect of preliminary rulings, primacy of Union law, State liability for infringements of Union law, etc.) as well as for ongoing infringement procedures and matters before the Court of Justice, without prejudice to the competences of the litigation unit.

It furthermore provides legal advice in the field of Union law, out-of-court settlement of disputes with the European Commission in infringement proceedings, and cross-cutting issues such as the subsidiarity principle, penalty payments, etc.

The CE also publishes a ‘Handbook’ with guidelines and best practices of EU coordination for all ministries and units. It contains detailed descriptions of processes, contacts, deadlines, and it is advised particularly to new or inexperienced civil servants to consult and involve the CE in drafting instructions.

The CE thus enhances the understanding of the legal consequences of any position, and increases the quality of instructions for example with respect to conformity with EU law. Given their autonomy, however, ministries are still free to disregard this legal opinion, and occasionally this has happened, even against express advice to the contrary. The highly specialised EU lawyers hold considerable ‘soft power’ and, while entirely voluntary, their services are actively used through more than 100 issued expert opinions each year.



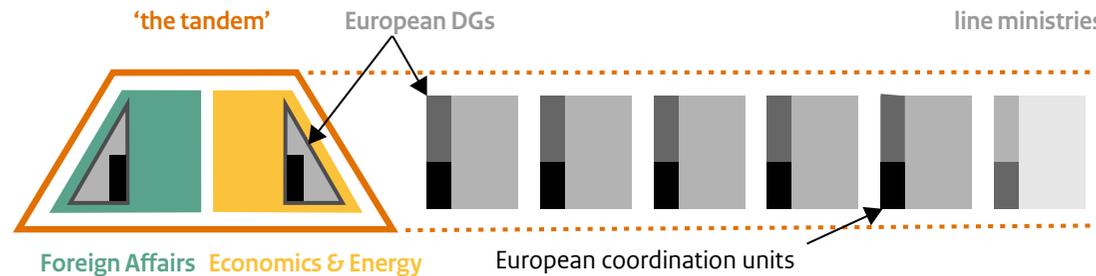
2.4 EU 'products' covered

In terms of products covered by the coordination mechanism, generally, every position of the federal government will have to be coordinated, i.e., in legislative procedures, for European Council summits, in matters of 'soft law', pleadings before the Court of Justice, and where there may be a right to a legal hearing, for example Germany's position on the Commission's guidelines on state aid law ('tertiary law'). This also applies to legal acts of agencies or implementing acts ('comitology'), where national votes are required under the examination procedure or under the advisory procedure, or in expert groups in the context of delegated acts. Also, positions of the government in relation to the ECB bodies will be coordinated, notwithstanding the independence of the central banks.

2.5 How the final decision comes about - players and mechanisms

The Foreign Office and Ministry for Economic Affairs have formed the traditional 'tandem' or 'transmission belt' of coordination through their dedicated 'European coordination units'. With a brief exception to the 'red-green coalition' between Social Democrats and the Green Party from 1998 to 2005, this division of labour has existed for the last 50 years, originally reflecting the need for both foreign and economic policy expertise in the European integration process.

This special coordinating function vis-à-vis the other ministries can be represented as follows:



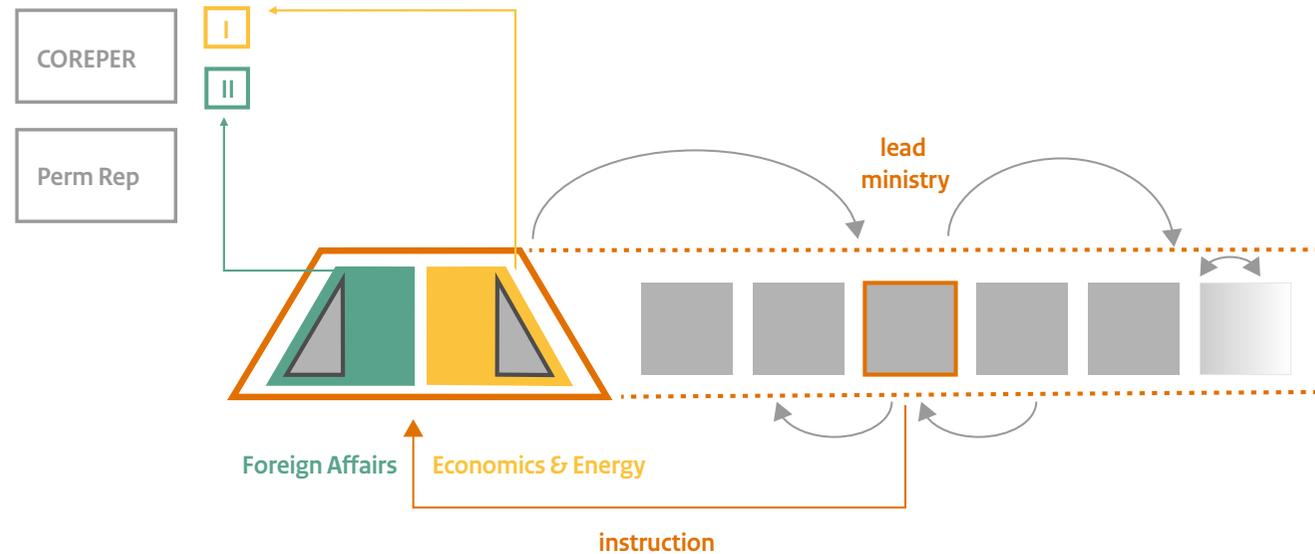


The term ‘technical coordination’ refers to this task of verifying that all formal aspects of the instructions are adhered to before these are submitted to COREPER I / II, tracking the trajectory of the coordination process from the first to the last instance, with the aim of ensuring that a coordinated German instruction exists for every agenda point under discussion. Their coordination function is without prejudice to FO and ECO’s role as either lead or affected line ministries on a dossier falling under their responsibility. Also, in specific policy fields, such as the CFSP or the EMU or agriculture, the Ministries of Defence, Finance and Agriculture will hold additional procedural powers, through their distinct mode of representation in relevant Council bodies (e.g. the PSC/EUMC or EFC, or the SCA acting in preparation of the Agriculture and Fisheries Council).

In the words of a senior government official, both coordinating units ‘neither can, must, nor should’ be concerned with substance of policy, as this would amount to a break with the ‘collegiate principle’ and would even be ‘counterproductive to the highest degree’ for reasons of policy expertise, legitimacy and human resources. The respective lead ministry is responsible for positively ensuring coherence or consensus on policy issues. Consequently, both coordinating units cannot prevent policy conflicts from arising or persisting between different departments (e.g. between ECO and Environment). This also means that technical coordination reaches a limit in particularly controversial policy questions. In the words of a civil servant at ECO: ‘Even if on a Wednesday morning at 9.25 h, when this agenda point is about to be raised in COREPER, neither FO nor ECO can send off an instruction on their own.’ In addition, both coordinating units must ensure that both houses of Parliament are informed in a timely and comprehensive manner which was described by a senior FO as ‘extremely expansive, now forming the second largest task after the Council-related work’.

It is reported that EU policy coordination in Germany is, in essence, ‘no different from national policy making’. A ministry’s EU coordination unit is the first point of contact for specific EU requests, and a relay to the responsible desk officer. For example, after publication of the COREPER agenda by the Council General Secretariat, this will automatically be forwarded to EU coordination units in all ministries to ensure awareness across government ‘from the very first minute’. A dossier taken up by the lead unit, for example the Ministry of Environment (ENV) concerning climate issues in COREPER I will then be responsible for issuing final instructions. Other affected ministries will register their interests and it is reported that the lead ministry will actively consult with other departments, as failure to do so would represent a break of the ‘collegiate principle’, though this has happened in the past. The consultation of stakeholders, e.g. the *Bundesrat*, umbrella organisations or civil society interests is at the discretion of the ministry. Once agreement between the departments has been reached, this coordinated instruction is then forwarded to the coordination unit in ECO, to be forwarded to the deputy permanent representative. Similarly, for example in the framework of the ‘Pact on migration and asylum’, the Ministry of the Interior (INT) may be the lead ministry and coordinate with the Ministry of Justice (JUS), the responsible units for migration in the FO, and all other affected departments. Upon agreement, it relays this instruction to the European coordination unit at the FO, to be forwarded to the Permanent Representative for negotiations in COREPER II.

This process can be represented, as follows:



Generally, all instructions to COREPER will be centrally administered by these coordination units at FO and ECO. However, in order to enhance the efficiency of information flow in practice, very specific empirical information or data for Council working groups (CWG), can be relayed directly by the units without going through the European coordination unit or even the ECO/FO coordination units, provided that this has been coordinated. For example, the Council working group on statistics may work directly with units at ECO, INT, the Federal Statistical Office, etc. According to senior officials in both the FC and ECO, this unmediated communication is 'largely unproblematic', and a well-established practice. Also, the ministers' 'speaking notes' for Council meetings, will be directly issued by the lead ministry and will, with rare exceptions, reflect the government's coordinated overall position.

The Permanent Representation, which is described as a German 'miniature government' in Brussels, also plays a vital role in connecting the EU and domestic levels by drawing on its informational advantage. The (Deputy) Permanent Representative also enjoys a certain discretion in selecting and prioritizing issues on behalf of the government. Given the restricted opportunity to speak in negotiations, in terms of both time and frequency, each ambassador may put forward only the most important interests, which can be significant. The Permanent Representative will commonly justify this selection only after negotiations, while acting in good faith and in the general interest of the government.

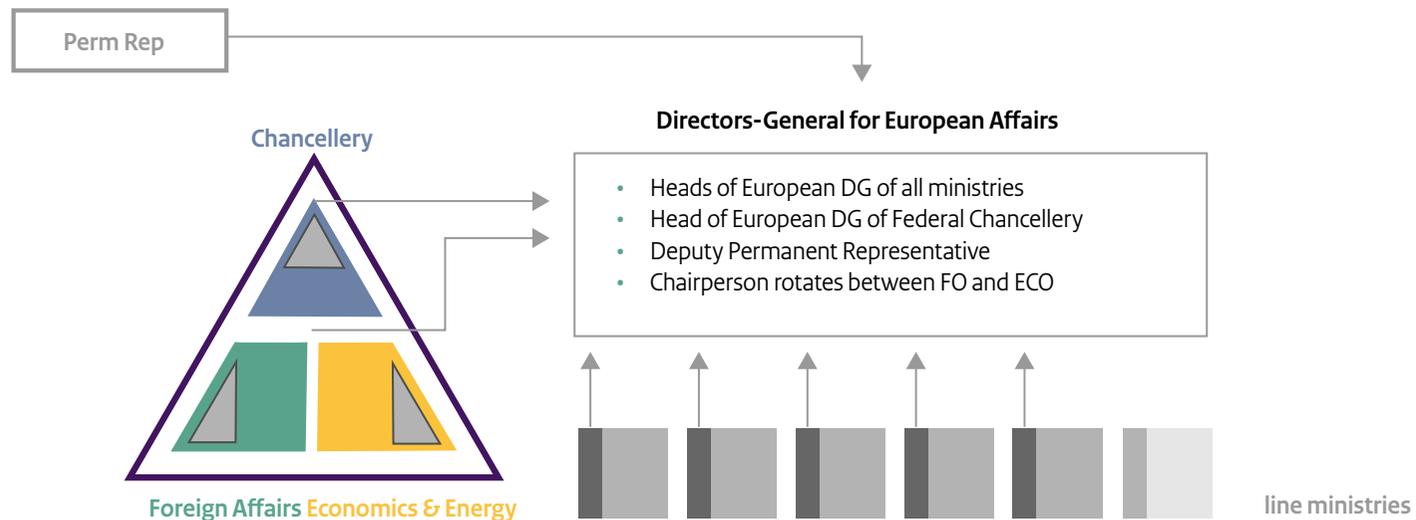


An effective infrastructure allowing for real-time information exchange is, thus, crucial to decentrally identify and select relevant issues for any ministerial unit. This lesson dates back to 1971 when so-called 'European Affairs Officers' had been appointed in each ministry in order to enhance the level of general awareness of everyday European issues. Today, these are effectively the heads of European coordination units across ministries. They serve in the ad hoc clarification of individual issues, often bilaterally across departments, thus resolving everyday inter-departmental conflicts already at working level. There are also joint meetings of all heads of EU coordination at irregular intervals under the chairmanship of the head of unit of the 'European Coordination Group' of the FO, thus facilitating horizontal coherence and consensus at a lower level of hierarchy.

2.6 Underlying mechanisms explaining power relations

The following section will elaborate on the first instance of the 'escalation mechanism' in case of inter-departmental conflict. It also addresses the power relations between the ministries and the Federal Chancellery, as well the integration of the PermRep's expertise. It explains the mechanism's ability for tactical adaptations of positions throughout the coordination process.

The *Directors-General for European Affairs* of all ministries meet once or twice a month, with a view to the European timetable and the monthly meetings of the State Secretaries. These meetings are held under the alternating chairmanship of the 'tandem' with participation of





the deputy PermRep as well as the DG for European Affairs of the Federal Chancellery – possibly the Chancellor’s closest political adviser on EU policy. As political civil servants, heads of DG are charged to unanimously agree on issues of inter-departmental conflict arising from the working level, by addressing all differences of departmental interests and opinions, and seeking their resolution. It is formally required by the rules of procedure to reveal any particular interest. It is reported by a senior official that greater changes of position or ‘hidden agendas’ during the coordination phase, ‘are not appreciated’ by peers, if these endanger timely consensual formulation of coherent German positions.

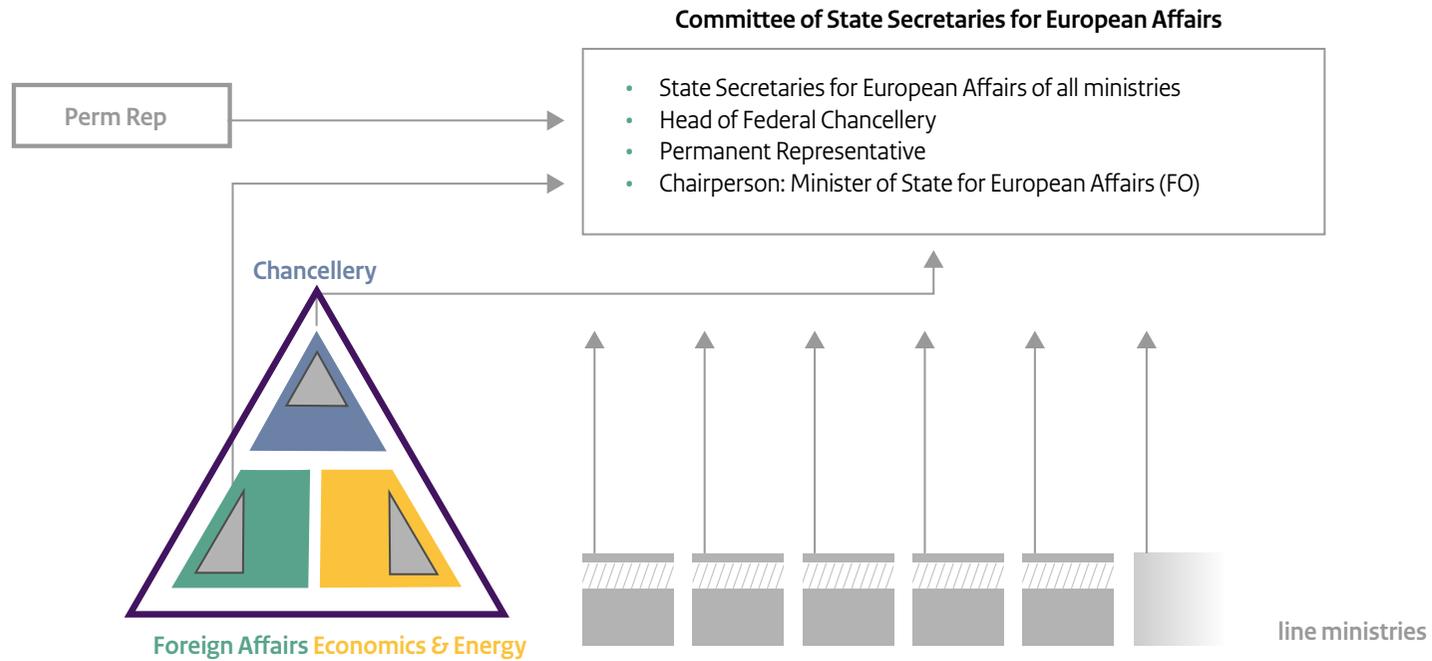
These meetings benefit particularly from the presence of both the PermRep and the Chancellery, in order to ensure that their deliberations take place in the light of current developments at EU level and under the strategic guidelines of the FC. This allows for tactical adaptations and the clarification of the German government’s position at every step of the process. They can also take an anticipatory approach with regard to possible differences of opinion with other EU Member States, while ‘reining in’ departmental autonomy, so as to formulate coherent positions that also have a good prospect of winning a majority at EU level. The specific requirement of unanimity vote in these meetings enforces a durable commitment to these adopted positions, thus reducing subsequent frictions in further coordination. These meetings were formally introduced in 2000 in a step to create an additional intermediate level of conflict resolution, as higher levels of the hierarchy, i.e. State Secretaries and Ministers, had suffered an overload given the ever-growing EU policy spectrum and increasingly more contested policy issues. This group is, thus, the tactical nexus between the operative working level of units on the one hand, and the strategic Committee of ‘State Secretaries for European Affairs’ on the other. Also, if the heads of DG cannot reach unanimous agreement on issues of conflict, they will pass these to the next higher State Secretary level.

2.7 Political strategy and priority setting in EU policy

This section explains the mechanism’s function for strategic positioning of the Federal government. It further outlines the second instance of the ‘escalation mechanism’ in case of persistent inter-departmental conflict.

The *Committee of State Secretaries for European Affairs* was already established in 1963 and, nowadays, convenes roughly every month, in between the rounds of the Directors General and in view of the calendar of European Council meetings. The committee is chaired by the FO’s ‘Minister of State for European Affairs’ (Germany’s quasi ‘Minister for Europe’, a position introduced in 2002) who also takes part in cabinet meetings and is a member of Parliament. ECO acts as the deputy chair. The Head of the Federal Chancellery, as well as the Permanent Representative, take part in this Committee. The Committee is largely removed from the day-to-day business of coordinating instructions dealing with fundamental and longer-term strategic issues of German EU policy in a broader context. They also review the ‘early warning reports’ drafted by the EU Coordinating Group in the FO, which continually analyses the opinion-formation process in the European institutions so as to identify potential conflicts with the EU Commission or other EU Member States already at an early stage. Thereby the ministerial level is relieved from the coordination demands of an ever-wider EU policy arena. They will also address those issues on which the Directors-General cannot reach consensus, seeking to resolve them. State Secretaries are formally required to decide by unanimity. It is reported from practice that this is rarely necessary, as few issues actually reach this level of conflict resolution.

From practical reports of civil servants interviewed, both committees mentioned above deal primarily with questions of higher political



importance and overarching issues (e.g. climate, migration, also digitalization, and more recently BREXIT negotiations), as well as significant structural questions (e.g. infringement procedures, implementation of directives) or sometimes single ad-hoc issues which need to be discussed more strategically. There are also those instances where genuine political differences between coalition partners will be addressed, or where inherently opposed dispositions of departmental interests become apparent (in the words of an official: ‘wanting to spend money in the Ministry of Labour and Social Affairs, and wanting to save money in the Ministry of Finance’). For example, in the preparations for the German Council presidency in 2020, it was reported that significant differences of opinion emerged across different departments, leaving even State Secretaries unable to find consensus. In those cases of highly politicised issues, the final instance of conflict

resolution will then be sought between Ministers directly, in very close cooperation with the FC. While the cabinet itself does not deal with conflict resolution between departments, ministerial crisis resolution would usually take place between the affected ministers directly, depending on the nature of the conflict, after a cabinet meeting usually held on Wednesdays.

The *Federal Chancellery*, thus, enters the picture for Germany’s strategic positioning in what is called internally the ‘triangle of coordination’. The FC’s power lies, firstly, in its guidelines and, secondly, in its participation in the Committees of the Heads of DG and State Secretaries. Notwithstanding this prerogative, the positions expressed by the Chancellor in the European Council (EUCO) will also have been coordinated between the line ministries.



The *Chancellor's power* is further compounded by full access to information, especially through EuDoX, and monitored by most experienced staff. In the words of a senior official, the Chancellor 'is always informed of every step from the very beginning, and selectively chooses to involve herself in the process, also in day-to-day business, when deemed necessary'. The Chancellor's involvement can also target single instructions in matters which are of high political relevance, e.g. to the CWG on climate or migration and asylum reform. However, it is admitted that with around 25 staff in the FC's Europe DG, it does not have the resources to scrutinise all processes, and, as stated above, the Chancellor does not have the formal powers of a final arbiter or the power to dictate instructions – a reality echoed by all senior officials interviewed, both in theory and in living practice: 'The FC cannot pick up the phone and say: You are going to do this'. The FC's power of influence rather lies in working closely with Ministers of both coalition partners. Reportedly, the authority to raise important issues with coalition partners, often in strictly confidential bi-/tri-/quadrilateral settings, may also lead to 'intense and sometimes very hefty discussions, where the voice of the FC will be heard'. Such political deliberations behind closed doors are then often guided by the Chancellor's own ambitions and power calculus.

A somewhat unique example from practice demonstrates the power of German line ministries in this coordination process: in the case of the 'Glyphosate' decision the German Minister of Agriculture of the Bavarian sister party of the Christian Democrats (CSU) single-handedly deviated from a previous consensus, favouring the renewed authorisation of Glyphosate in the EU. All this took place in the context of a merely 'acting federal government' in November 2017, after the general election but before the swearing in of the Chancellor and cabinet, thus making it impossible for the acting Chancellor to sanction the member of

cabinet, e.g. by exercising her constitutional right to dismiss a minister under Article 64 of the Basic Law. It should be noted that the deviation occurred after a major German chemical company had just acquired the US firm producing Glyphosate, Monsanto.

While this unique constellation is not representative of EU coordination more generally, it is a prime example of departmental autonomy in the current process – here in combination with a very particular interest.

In Brussels, Germany's State Minister for European Affairs, together with the FO, have at their disposal a special unit for relations with the EP, and also the PermRep practically conducts the government's relations with the EP and MEPs in Brussels. It is the explicit part of its mandate to consult with influential members of the EP (e.g. rapporteurs) 'on the ground', particularly in the context of 'trialogues'. For example, throughout 2020, given the special circumstances of both the German Council presidency and the negotiations on the multi-annual financial framework and considering the EP's budgetary powers, a more continuous cooperation with the EP was established, both during plenary sessions and outside. This has resulted in a 'great density of meetings and appointments' far beyond the usual extent. This, in turn, translated into a great expansion in the number of staff working on EP affairs, both at the PermRep and at the FO headquarters in Berlin.

Line ministries can connect with their departmental counterparts or 'shadow units' in the PermRep directly. These seconded civil servants from national ministries make up the majority of all PermRep staff, and reflect the scope of policy issues dealt with by government. In practice, this allows for a direct flow of detailed information between ministerial units in the capital and their counterparts in Brussels, especially for the ongoing work of CWGs.



2.8 The role of the Bundestag

Article 23 (2) of the Basic Law essentially foresees a right for both houses of Parliament to participate in EU coordination. Of greatest practical relevance here are the government's duties of timely reporting:

'The Bundestag and, through the Bundesrat, the Länder shall participate in matters concerning the European Union. The Federal Government shall notify the Bundestag of such matters comprehensively and as early as possible.'

This is crucial, because the present government's pre-legislative consultations of the Bundestag in view of an expected Commission proposal, are – in the words of a senior member of the European Affairs Committee interviewed for this report – 'exactly none'. A milestone for these informational requirements was legislation which resulted from the Federal Constitutional Court's ruling on the Lisbon Treaty in 2009.

The 'Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union' (also known as the Cooperation Act – the EUZBBG), again revised in 2013, lays out these notification requirements in meticulous detail. Over and above the documents laid out above in the context of 'EuDoX', they comprise further reports from the government or its Permanent Representation concerning all meetings with EU institutions, sittings of the European Parliament and meetings of its committees, the convening of trilogues and their proceedings and outcome, and decisions of the European Commission.

These must be registered in EuDoX *'in sufficiently good time to form an opinion on the subject of the meetings and on the position of the Federal Government and to be able to influence the negotiating line and voting decisions of the Federal Government'*. The law states further that *'reports of meetings*

must present at least the positions adopted by the Federal Government and other states, the course of negotiations, intermediate findings and final outcomes as well as any decisions for which parliamentary approval is required'.

Moreover: *'information about unofficial documents [the government] has received on matters concerning the European Union [must be made] available on request as early as possible'*. Also, the government must submit *'early-warning reports on current political developments in matters concerning the European Union'* to Parliament *'on at least a quarter-yearly basis'*.

In addition, according to its own rules of procedure, the government must report also the expected consequences of any legislation, and its effects for implementation:

'After submitting a proposal from the European Commission, the lead ministry must present a description of the expected effects of the project on the (gross) revenue and expenditure of the public budgets, including the social security systems; in doing so, the expected implementation-related effects in the Federal Republic of Germany must also be taken into account ... when informing the German Bundestag about EU projects.'

The 'EuDoX' database is managed by the Bundestag administration in a designated team of approx. 30 members of staff, who tag and sort more than 30.000 pieces of information per year. This allows for the filtering of documents according to a range of criteria, thus facilitating the identification of relevant information about ongoing processes, even through automated notifications for relevant dossiers.



Art. 23 (3) GG further enshrines the right for the Bundestag to state a position on government instructions:

‘Before participating in legislative acts of the European Union, the Federal Government shall provide the Bundestag with an opportunity to state its position. The Federal Government shall take the position of the Bundestag into account during the negotiations.’

Such opinions can be expressed by the constitutionally enshrined Committee on Affairs of the European Union (CAE), but require a majority of members. This is rarely achieved, and even when the Bundestag issues an opinion during the legislative process, the Federal Government shall *‘take it into account’* in negotiation instructions by way of announcing a *‘parliamentary reservation’*. There is considerable legal controversy over its bindingness. Some are ready to admit – behind closed doors – that this hardly amounts to more than *‘having to mention it’* in Council negotiations. The law further foresees that if one of the *essential concerns* expressed by the Bundestag is not achievable, the government must immediately inform the Bundestag in a report and *‘seek agreement’* with the Bundestag before the final decision is taken in the Council. However, again, the Federal Government may deviate from the opinion of the Bundestag for *‘good reasons of foreign or integration policy’*. Parliament may, and occasionally does, summon a member of government for debate.

After the final decision at EU level is taken, the Federal Government shall immediately inform the Bundestag in writing of the enforcement or non-enforcement of its opinion. Reports of meetings must present at least the positions adopted by the Federal Government

and other states, the course of negotiations, intermediate findings and final outcomes as well as any decisions for which parliamentary approval may be required. Such reports are administered through pre-formatted forms.

A second law, which resulted from the Constitutional Court’s ruling, was the *‘Act on the Exercise by the Bundestag and by the Bundesrat of their Responsibility for Integration in Matters concerning the European Union’* (also known as the Responsibility for Integration Act – the *IntVG*). It guarantees the Bundestag veto powers, but limited to (simplified) revision of EU primary law, bridging clauses,¹¹ the expansion of EU competences,¹² and the flexibility clause,¹³ in matters affecting the overall budgetary responsibility of the Bundestag, e.g. within the framework of the ESM concerning the granting of loans and guarantees by Germany, or any decision on such measures within the ESM that require the consent of either the plenary or the budget committee of the Bundestag. Also, (both houses of) Parliament may challenge any legal act on the basis of subsidiarity under the same article, but this has remained of limited significance in practice.

The Responsibility for Integration Act also strengthened the *‘Committee on the Affairs of the European Union’* within the Bundestag. It is supported by a secretariat that supports the committee particularly in the organisation and conduct of committee meetings, hearings and committee and delegation visits, and ensures that committee members are kept informed on an ongoing basis. Two other units are responsible for questions of the Bundestag’s involvement in EU affairs and EMU, as well as for analysis and advice for another 21 committees of Parliament.

¹¹ See for EUCO: Art. 31 (3) and Art. 48 (7) TEU also Art. 312 (2) TFEU; see for Council Art. 81 (3), Art 153 (2), Art. 192 (2) and Art. 333 (1 and 2) TFEU

¹² Art 83 (1), Art 86 (4) and Art. 308 (3) TFEU

¹³ Art. 352 TFEU



The Bundestag's liaison office in Brussels, established in 2007, has used its presence to effectively monitor the EU policy arena and support Parliament in exercising their right of control and participation in EU affairs already at an early stage. For example, the weekly 'Report from Brussels' provides Members of Parliament, parliamentary groups and committees with information on current political developments and the status of deliberations at EU level. The liaison office as a parliamentary outpost also serves an important filtering function in the overwhelming information flow – and may provide wider societal groups with additional information in the spirit of an accompanying political opinion-forming process. In doing so, the influential Brussels Liaison Office can rely on an extensive formal and informal network. Furthermore, the PermRep must support the Office in this endeavour.

The Office is composed of staff from the Bundestag administration and the parliamentary groups who reflect the political power distribution in the Bundestag. The Bundestag is also very active in training its staff on EU issues, including the effective use of EuDoX.

Generally, the Parliament's presence in Brussels offers a powerful platform for wider public relations work on the parliamentary dimension and organising interest group meetings (e.g. Protocol 2 TEU), as well as preparing and implementing the interparliamentary conferences especially during Germany's EU Presidency in the second half of 2020. The Office also serves as a point of contact for all inquiries to the German Parliament in Brussels and closely cooperates with the German Länder – the Bundesrat – through a shared office with common staff in what is called 'Bund-Länder-Koordinierung' (the coordination between the federal and state level). Political parties vary greatly in their activities to connect national MPs with EP counterparts.

2.9 Stakeholders and implementors

It is remarkable how far the weighing of stakeholder interests in German EU positions is effectively at the discretion of line ministries and the Federal Chancellery. For EU policy coordination, this is laid down in the rules of procedure, which state:

'[F]or timely participation of central and general associations as well as specialist circles existing at federal level ... [t]he timing, scope and selection are left to the discretion of the lead ministry, unless special provisions exist.'

[For the] participation of Länder, municipal umbrella organisations, professional groups and associations: ... The Federal Chancellery shall be informed of such participation. Its consent must be obtained for draft laws of particular political importance...'

Also, when it comes to implementing actors, such as agencies, the lead ministry will consult at their discretion. It was reported that ministries have long-standing experience with anticipating the challenges of implementation and seek to address those as part of the core coordination process, to work towards their resolution.

The German Länder – represented in the upper house (Bundesrat) – are the key implementing actors of EU policy, and Art. 23 (4) GG foresees that:

'The Bundesrat shall participate in the decision-making process of the Federation insofar as it would have been competent to do so in a comparable domestic matter or insofar as the subject falls within the domestic competence of the Länder.'

Comparable to the Bundestag, the federal government is required to take account of the position of the Länder via the Bundesrat, which is further codified in the 1993 'Act on Cooperation between the Federal



Government and the Länder in European Union Affairs (EUZBLG)', updated again in 2009, following the Constitutional Court's ruling on the Treaty of Lisbon. Given the federal division of powers between state and federal levels, Art. 23 (5) specifies:

'Insofar as, in an area within the exclusive competence of the Federation, interests of the Länder are affected and in other matters, insofar as the Federation has legislative power, the Federal Government shall take the position of the Bundesrat into account.'

Analogously, the law also specifies the government's comprehensive duties of reporting to the Bundesrat and these are further spelled out in a separate 'Agreement between the Federal Government and the Governments of the Länder on Cooperation in Matters relating to the European Union'. In those instances, where an EU act touches upon the exclusive competences of the Länder, Art. 23 (6) requires:

'When legislative powers exclusive to the Länder concerning matters of school education, culture or broadcasting are primarily affected, the exercise of the rights belonging to the Federal Republic of Germany ... shall be delegated ... to a representative of the Länder designated by the Bundesrat. These rights shall be exercised with the participation of, and in coordination with, the Federal Government.'

This means that in those – admittedly rather few – cases where the exclusive federal competences of the Länder are concerned (e.g. education, state police, public broadcasting or culture), the position of the Länder will be binding on the Federal government. In such cases, a Länder representative will be designated as the German negotiator in the Council, or participate in EU negotiations alongside the responsible federal lead ministry. The Bundesrat's approval is further required, when amendments of European treaties or the basic principles of the European Union are concerned.

For the majority of legislative proposals, the Bundesrat will be informed and issue a position, as these opinions may be important to the federal government, e.g. certain technical expertise for implementation may be required for the legislative process. Thus, the lead federal ministry will consult with the Länder to provide details, and only insofar as they would otherwise be involved in equivalent national legislation. The consultation is then conducted by a Bundesrat representative taking part in ministerial meetings, in what has become an established practice. This is so, because in German federalism, the implementation of Union legal acts is 'a responsibility for the Länder' according to Article 84 of the Basic Law. Irrespective of the implementation function of the Länder, however, it is the federal government that remains responsible to the EU for proper implementation of all legal acts in Germany.

The Bundesrat makes more active use of its powers – for example in the context of Protocol No. 1 TEU relating to matters of subsidiarity (19 times in the year 2019) – than the Bundestag (only twice in 2019). The Bundesrat is also a member of the Association of European Senates, which currently comprises 16 second chambers of the national parliaments. In addition, the Bundesrat maintains intensive contacts with the European Parliament at both political and working level. The Bundesrat takes part in interparliamentary conferences, and the 'Conference of Presidents of the Parliaments ... of the European Union and of the European Parliament (EU-PPC)' and in the framework of the Council of Europe.

The German Länder are further represented in the Committee of the Regions, and they maintain sometimes powerful representations in Brussels for their own interest coordination. This enables them – as in the national capital – to forge alliances with regions across Europe that have common interests and directly represent their interests to EU bodies. The Länder offices act rather as 'lobbying agencies' with short lines of communication in the Brussels arena. While they are entitled to do so by the EUZBLG, they are not granted diplomatic status and must exercise their state powers as outlined in the Basic Law.

2.10 Perceived legitimacy of national EU policy positions

It is striking how intransparently governmental consultations are still conducted in Germany today. While it exists for Parliament, an official lobby register for the German government was only introduced in March 2021.

This perception of intransparency is shared by many in the public realm. Transparency has not been a key value or attribute of German governance and political contestation and is not a key feature of its political culture. Rather the term ‘consensus democracy’ has been used in the academic literature, to describe the approach that the ability to forge a common position overrules the desire to involve a large number of opinions in a more deliberative culture. Increasingly, political contestation over EU issues in Germany has been relegated to the public sphere and media, quite outside Parliament and without open consultative processes. However, if contestation emerges only after the legislative process has already begun, the weight of the bureaucratic process will bear down and constrain further opportunities for amendments, thus already foreshadowing the path of development. In other words, the public will be informed, when most has already been decided. This contributes to a perception of de-politicization of EU policy coordination, increasingly evoking significant public resistance and the impression of powerlessness vis-à-vis an ‘elite-process’.

From the point of view of government, as expressed by many civil servants, structured consultations ‘simply cannot be conducted’, given the sheer quantity and speed of processes of coordination. When asked about comprehensive consultation, as is the case in the Netherlands, one official answered: ‘Consultations, as carried out for example in the Polder model – if they work at all – are probably better suited for coordination in a national framework only.’ The FO, however, actively supports structured public consultation with German stakeholders through the

European Movement Germany (EMG), which brings together and informs interest groups and associations who seek to influence the policy-making and public deliberation process. Even there, in his recent publication, the German Secretary General of the EMG labelled the consultation process of the federal government a ‘black hole’ with regard to including interests by civil society actors, or even the governments of the federal states. There are also regular complaints made by the Länder that they are not sufficiently included in the process. Meanwhile, the attitude displayed by many government officials interviewed was in line with the words of an official of the FC: ‘The Länder will be informed. Full stop.’

There is also a stark contrast between the level of information provided to both houses of Parliament on the one hand, and their real participation in the process on the other. The measure of participation remains a delicate balance. It is argued by governmental officials that strong veto powers, following the example of Denmark or Austria, could compromise the federal government’s own room for negotiation at the expense of efficient coordination. On the other hand, especially the Bundestag should be more active in expressing its views to politicize EU issues and using its powers of review of subsidiarity and the powers of Protocol 1 and 2 TEU in cooperation with other European Parliaments.

It is also widely acknowledged that a new deliberative element of EU policy – in what has been described as ‘listening mode’ – will need to be addressed in the future. At EU level, this is exemplified in the envisaged Franco-German proposal of a ‘Conference on the Future of Europe’, which may yield first results in this respect. Domestically, the president of the Bundestag is now the patron of a ‘citizens’ assembly’, which currently discusses ‘Germany’s role in the world’ by a group of randomly selected citizens in moderated discussions, flanked by inputs of experts. These are first tentative steps, and it is fair to say that Germany still has a long way to go in terms of consulting its citizens and civil society in the EU policy coordination process.



2.11 EU knowledge and expertise among staff

There remain big differences in the approach of German ministries to European policy. Some ministries are considered thoroughly ‘Europeanised’, such as ECO (which calls itself the ‘Europe Ministry’) or the Ministry of Agriculture. More specifically, for ECO, it can be said that the entire ministry deals intensively with European questions and there tend to be many relatively younger civil servants with a strong European affinity or with some European experience, or others who have rotated through different EU-related divisions.

Other ministries are reported, in the words of a senior official, to display ‘a staggering mental distance from Europe’, such as the Ministry of Transport, and even certain units in the Ministry of Finance in questions of taxation. Reportedly, also the FO repeatedly displays a ‘total lack of knowledge and experience’ of European procedures, which are extremely structured. The FO generally subscribes to an approach of ‘generalists’ where the expertise in the FO’s European DG is quite variable. The merits of a generalist approach have clear limitations where civil servants with little to no knowledge of specific EU procedures are rotated into the EU division from country-specific units dealing predominantly with bilateral issues. In addition, only few members of staff at the FO’s European DG previously served at the PermRep [or had other significant EU experience]. According to respondents, as a result, ‘they sit in the headquarters, but do not really understand what’s happening in Brussels’.

Some ministries (e.g. Labour) spread European expertise more widely across many units. Those line units can reportedly be very insistent on resolving conflict themselves, or even be hesitant to ‘surrender’ their powers for conflict arbitration to either their European coordination units, heads of DG or even the State Secretaries.

It is observed by some, that German ministries have increasingly engaged in what could be considered a ‘parallel foreign policy’ with their European colleagues. The contact persons for European governments and also EU institutions are increasingly actual desk officers in national line ministries, as well as parliamentarians and representatives of special interest groups or umbrella organisations. Therefore, it is necessary that EU competence must be strengthened more widely among the civil servants dealing with European dossiers. For the German EU coordination process, it can be said more generally, that the effectiveness of any line ministry to exert its influence depends greatly on this EU policy competence and staff.

A notable exception in this picture is the Chancellery, whose members of staff at the European DG have been hand-picked from their previous ministerial positions, and all of whom have significant previous experience in European Affairs, domestically and also in Brussels. This European competence is the heartbeat of the Chancellery’s European DG and is another explanation for the Chancellery’s effectiveness; however, with only 25 staff, it remains rather small.

As regards the PermRep, with approximately 100 officials from federal ministries and federal states, this core staff is responsible for coordinating negotiations in the approximately 250 working groups of the Council of the European Union, in which Council decisions are prepared. The PermRep is staffed with about 40% diplomats from the FO – and according to some officers still excessively so, with too large a section reserved for foreign policy affairs. These diplomats are often assisted in negotiations by officials from the line ministries, and in some cases also by representatives from the German Länder. As mentioned above, the ‘shadow units’ in the PermRep make up the majority of all PermRep staff.



3. Challenges and dilemmas

3.1 An increasingly complex EU playing field

The federal government seeks to adopt a position on every endeavour at EU level. A senior FO official described this as being ‘in close dialogue with Germany’s EU partners, but especially with its neighbouring Member States on all important European topics, particularly security and foreign relations’. This is a methodical and consistent process. At EU level, this takes place directly in Brussels through the PermRep. The latter serves as the central point of contact in preparation of any significant EU project. In the case of the German Council presidency, it is reported that a ‘one-on-one with all delegates’ was organized in Brussels to elucidate positions. In very practical terms ‘delegates were just called one by one and asked about every single point’ (‘How do individual MS position themselves with respect to the policy agenda? Where are your pain points? Where do you have leeway, where is the like-mindedness? Please have a look to see who else shares our opinion! Are we close to a blocking minority?’). In this vein, also the system of the ‘trio-presidency’ (Germany, Portugal and Slovenia) offers a platform for formulating the more longer-term European issues to be placed on the agenda.

In Berlin, the European Coordination Group in the FO attempts to analyse the opinion-forming process in the EU institutions, as well as the positions of other EU Member States and to prepare for future adjustments in ‘an early warning mechanism’. Every 6 months, the Foreign Office requests reports from their embassies on the larger political scene in other Member States. Also, shortly before EUCO meetings, there is an intensified exchange with bilateral embassies to gauge latest developments. The designated European Officers in all German bilateral embassies (such as the heads of the political units or even ambassadors themselves) report to the FO on which points

there might be ‘like-mindedness’ and where there are difficulties. An impression given by a senior official at the Chancellery was that the early warning mechanism was helpful, but not crucial, because they reveal ‘little to nothing new’ which could not be identified already in daily cooperation with European counterparts. Thus, bilateral embassies are of limited value as ‘eyes and ears’ on the ground. According to the FO, bilateral embassies are less used for specific policy expertise, because often, they may not be as closely involved in the details of an EU dossier. Rather, it is reported that ‘personal contacts on the ground’ in bilateral embassies are used for actively promoting Germany’s policy positions across the EU.

3.2 Increasingly varied EU coalition formation

While compromise and consensual decision-making in the Council is the aim of German European policy in Brussels, Germany – arguably more than other Member States – walks a fine line. Given the widening EU policy arena, the coordination process experiences increasing pressures to reconcile the domestic coalition with possible EU coalitions. In a constant balancing of strongly divergent domestic interests, this has occasionally led to ambiguity and incongruence between the government’s declarations and its real action vis-à-vis its EU neighbours. The coalition agreement may serve to find compromise, but even then, a great number of issues are simply not addressed, let alone resolved – certainly not unexpected events at European and global level.

For example, while pushing an environmental agenda, powerful industry and agricultural interests have effectively constrained the governments’ ability to negotiate. While solidarity with other EU members is emphasised in principle, a pronounced fiscal conservatism aligns with interests of yet other alliances, such as the ‘frugal four’. This



also means that Germany has changing alliances also at EU level and statistics show that Germany, in the past, has indeed been outvoted in areas of Social Policy more often (around 15%), if less so in economic and financial areas. More importantly, the German government has been rather weak in positioning itself vis-à-vis other EU Member States with regard to a clear future vision for the European Union.

3.3 More frequent EU high-level and crisis politics

It may be surprising that there are no designated EU coordination procedures to deal with crises, rather the same procedures apply as they do during the normal coordination process. In the words of all senior officials interviewed in the process, it appears that crisis simply means ‘more and longer work’. In the words of one civil servant: ‘There is no other switch to flip than that from ‘normal’ to ‘fast’ civil servant mode’. There is no handbook for dealing with crises, and there remains great discretion at the hands of the responsible units.

If, in crisis situations, there is no inter-departmental agreement between units, or the heads of unit, then the party who seeks to escalate, passes the issue to the head of unit, or the level of DG who may negotiate a compromise position on another point, usually via tight deadlines (e.g. ‘tomorrow at noon’, or ‘in 30 minutes’). Tactics also include the formation of ‘camps’, based either on technical expertise or party-political affiliation. Just as in regular processes of policy coordination, if the units do not agree, the issue will be moved to the level of State Secretary, or if all else fails, to the Minister directly.

Depending on the urgency of decisions, these escalation steps described above are used more or less readily. In a sense, the ‘upward escalation mechanism’ can also be reversed in favour of a more ‘top-down approach’ during a crisis. The decision-making process will then be initiated at the level of head of DG, State Secretary, or if necessary,

at ministerial level. Ultimately, the Chancellor will assume a more influential role in times of crisis by exerting the full weight of his or her competence by authority in her discussions with ministers.

Also concerning the involvement of the Bundestag – which is notoriously uninvolved by the German government in moments of crisis – the rules of procedure merely state: ‘*In the case of urgent proposals, the time limits defined ... shall be shortened so as to ensure timely notification of the Bundestag and the opportunity for the latter to deliver an opinion*’. As described above, the Bundestag has been struggling to get more involved in these moments of crisis and the opposition parties lack the resources and channels of information which are available to the members of the governing majority. Again, this lack of deliberation may be justified for reasons of urgency, but is symptomatic of a more general bypassing of Parliament. Over and above the mobilisation of public opinion, the German Federal Constitutional Court has so far proven to be the most reliable guarantor of formal parliamentary involvement – but remains a tool for judicial review only rather than a direct influence on the day-to-day operations of the Bundestag.

3.4 Agenda setting

Germany’s power to set the agenda through the European Council or to influence the Commission in the run up to a legislative proposal is very restricted – according to the perception of many civil servants interviewed. With regard to the pre-legislative process, a distinction should be made between the influence of the German government on draft legislation by the Commission and the role of the European Council.

It is reported that at EU level, the federal government has only limited possibilities to influence the work programme because the European Commission acts as the gate-keeper. In terms of the government’s



pro-active positioning, the Commission's work programme will be evaluated in detail by all ministries in the process of coordination and strategic positioning – but by then the programme is already much progressed in terms of what the Commission seeks to do 'and what matters then, is how this process is designed and filled with specific contents'.

There may be some room for manoeuvre and the possibility to set agenda points or 'twist some arms', but really only at a very early stage and only directly with the Commission.

It is not possible to discern a clear influence of the German government as a whole on the workings of the Commission, as this is dependent on a myriad of factors, including rather trivial ones, such as entertaining a good relationship with a civil servant at the Commission. This impression was expressed by different senior officials but cannot be ascertained in a general sense, as this depends heavily on the policy area, the intensity of personal exchange of Commission staff with the government and the FC, as well as the nature of the decision concerned and its importance to the government.

While good personal relations and the presence of German representatives at working level can go a long way, Germany's power of coordination is owed greatly to each ministry's ability to exert influence, against the background of the country's powerful economic players and aggregate resources, and, not least, the political style conducted by its long-serving Chancellor, which is often one of seeking compromise, if at the expense of speed and initiative.

The impression was shared that also the Council presidency, while allowing for a much greater degree of influence, has lost its teeth with the Treaty of Lisbon and the introduction of the European Council president and the High Representative of the Union for Foreign Affairs

and Security Policy. Negotiations in the Council also take place in a system of 'equal rotation' of presidents – here too, the government is for the most part dependent on decisions and priorities set by others. The role of the Council presidency is now relegated to that of helping to find compromise, as opposed to setting the agenda, as this is now done by the EUCO president and his Sherpas. Even ordinary Council resolutions, according to a high-level official, are not really of practical relevance or consequence most of the time.

At the Federal Chancellery, EUCO is seen as a very different kind of tool, from what can be achieved in direct contact with the Commission. EUCO plays an important role in initiating legislation and according to a senior official at the FC responsible for preparing German EUCO meetings, the preparation and conclusions of EUCO are certainly a driving force (sometimes even to some degree of detail), not least because the COM president takes part in these meetings. The detailed provisions to be elaborated will, however, not run via EUCO or the preparation of its meetings, but will take place directly via the line ministries and the Commission, thus relying on a functioning coordination process as outlined above.



4. Main findings

4.1 Characteristics, objectives and values of German EU policy coordination

The German government pursues a comprehensive coordination ambition in a mechanism covering all ‘EU products’. This covers the legislative process, positions in the European Council, soft law, tertiary law, comitology and governmental representatives in EU institutions and bodies. There is no final arbiter in the German coordination mechanism, bestowing great autonomy on the line ministries in a decentralized process, much resembling that of the Netherlands.

However, in Germany, there are three constitutionally enshrined principles framing policy-making: firstly, the ‘Chancellor principle’ formulating overall strategic guidelines of EU policy; secondly, the ‘departmental principle’ which attributes autonomy to the lead ministry and, thirdly, the ‘collegiate principle’, which requires inter-departmental consultation in a spirit of compromise and coherence. Despite his or her authoritative weight, the Chancellor cannot enforce a position contrary to that formulated by the responsible line ministry, which can – if rarely – lead to German EU Council votes against the express position of all other ministries or even the Chancellor (see e.g. the EU Glyphosate decision, or the German road tax – which was a domestic policy but of direct EU relevance). Notwithstanding, the tradition of German European policy, as referred to in Art. 23 of the Basic Law and practiced consistently by all Chancellors of the Federal Republic, has been the commitment to further European integration, understood as seeking compromise solutions in a united Europe.

The German government’s main objective is effectiveness of coordination, meaning: forging coherent inter-departmental consensus

through compromise in a timely manner, so as to have a negotiation position for all agenda points in Council negotiations. This is explicitly laid down in rules of procedure, and results from the experience of the 1990s and 2000s, when Germany was unable to coordinate a consensual position. Amendments were made to the mechanism, most prominently the introduction of regular rounds of ‘Heads of European DGs’ for tactical adaptation of positions, so as to unburden the higher levels of the hierarchy, such as State Secretaries and Ministers. It may be considered for the Dutch mechanism, how such involvement of lower and intermediary levels can facilitate effective inter-departmental consensus.

In Germany, the emphasis on effectiveness has come at the expense of both inclusiveness and transparency, as both houses of Parliament have only a very limited ability to influence the process. Also, there are structured consultations with neither Parliament nor civil society, and only very recently a lobby register was introduced, rendering German EU policy coordination still effectively a ‘black box’.

4.2 Key actors and processes

EU coordination units within two ministries are responsible for the technical aspects of coordination: the Foreign Office pertaining to all policies negotiated in COREPER I; and the Ministry of Economics (and presently Energy) with regard to COREPER II. These ministries ensure that all affected departments have been consulted in the process and check that the instructions meet all formal requirements, before relaying them to Brussels. However, in this function, these units merely serve as a ‘secretariat’, ‘watchdog’ or at best ‘facilitator’. They are deliberately not concerned with the content of instructions or with forging consensus, because policy expertise lies with the line ministries and undue influence by the coalition party leading the coordinating



ministry is to be avoided – which does, however, occasionally occur. Put differently, in German EU coordination, autonomy for the lead ministries comes with their duty to seek effective compromise in a collegiate spirit. Regarding the role of the coordinating unit in the Dutch MFA, policy makers may wish to assess its role in overcoming inter-departmental conflict and seeking positive coordination, which is advisable in terms of unburdening the coordinator by dividing responsibilities.

The two ministries also serve as (alternating co-) chairs for the regular inter-departmental meetings at the levels of Heads of DG and State Secretaries, which deal with tactical adaptation of positions and larger strategic questions, respectively (see also below). The two coordinating ministries are also charged with the resource-intensive tasks of the government's reporting obligations to Parliament, and registering all documentation pertaining to the coordination process, inter alia all instructions, wire reports from Council working groups and governmental communication with EU bodies, in the central governmental database (EuDoX). Without prejudice to their coordination function, both ministries will act as lead ministries, or line ministries to be consulted, whenever their dossiers are affected, thus feeding their foreign or economic policy expertise into the substantive policy coordination process.

The central 'EuDoX' database was established in 2013 and is administered, sorted and tagged by designated Parliament staff. The vast number of EU-related initiatives, projects and proposals, all available documentation and government communication with all EU bodies and other EU Member States (exempting only the most sensitive governmental positions, e.g. on matters of the CFSP) at all stages of the policy cycle, are registered decentrally by different actors in the coordination process. This one-stop-shop of information allows all units to independently identify relevant issues from the first minute,

allowing them to position themselves early on and retrace all actions of other players in the process. To the extent that this does not exist in the Netherlands, it is worth considering such a central point of information for horizontal use by all actors of government and Parliament.

Such a centralized information infrastructure further enables the Chancellery to closely monitor all processes, including even draft instructions. Given the unparalleled expertise of EU staff in the Chancellery, this allows them to selectively identify any part of the process, where direct involvement of the Chancellery is deemed necessary. Given the Dutch PM's lack of final authoritative powers, such extensive informational access, where it does not yet exist, may allow for additional targeted interventions and for seeking discussions with members of the coalition.

Also, the horizontal 'Centre of Excellence on European Law' exists as a horizontal service for all desk officers, assisting them in all EU procedural and legal questions – and even the formulation of instructions. This is a commendable practice, because while European coordination units in German ministries tend to employ EU experienced staff, the actual EU competence of desk officers in lead units varies greatly, with some being very qualified (e.g. Economics and Environment), and others displaying striking deficits (including the Foreign Office, Finance with regard to EU taxation issues, or Transport). While difficult to generalize, this results also from 'generalist' or 'specialist' cultures in ministries. A 'Handbook' detailing best practices and contact persons, issued by the German Ministry of Economics, is a helpful tool for more inexperienced civil servants dealing with EU coordination.

In case of (persistent) inter-departmental conflict, the German mechanism is based on an upward hierarchical 'escalation ladder'. Beyond the level of head of unit, there are regular meetings of 'heads



of European DGs' together with the Chancellery, and the deputy Permanent Representative, under alternating chairmanship of the FO and ministry of Economics. The heads of DGs decide on tactical adaptation and resolve conflicts stemming from the lower level. A 'Committee of State Secretaries for European Affairs' is entirely removed from daily coordination and charged with formulating larger strategies together with the head of the Chancellery and the Permanent Representative under the chairmanship of the FO's Minister of State for European Affairs. They also resolve issues which were unresolvable at DG level. Both committees must decide unanimously to foster consensus from the 'bottom up' and enhance commitment to these positions throughout the process. Rarely will ministers be involved in questions of operative EU coordination, and it is noteworthy that the German cabinet does not discuss matters of EU coordination. For Dutch policy makers, it may be worthwhile to examine to what extent such regular horizontal meetings at all levels of hierarchy take place with participation of representatives of the PermRep and the Prime Ministers' Office - and possibly even a representative of the Dutch Parliament's European Affairs Committee.

The German State Minister for European Affairs at the FO has a special unit for relations with the EP, and involvement of the PermRep at levels of DG and above is crucial as it is 'on the ground' and practically conducts the government's relations and consultations with EP (rapporteurs) and MEPs in Brussels. Furthermore, bilateral embassies are involved less in EU policy coordination, but used more actively for promoting the government's positions in other EU Member States, going beyond other channels of influence.

Over and above their rights under Protocol No.1 TEU, both houses of Parliament enjoy extensive constitutionally guaranteed information rights, while on the other hand, only non-binding powers to issue opinions and rather limited veto powers for reasons of efficiency.

The lower chamber (Bundestag) can veto in case of (simplified) revisions of EU primary law, bridging clauses, the expansion of EU competences, the flexibility clause, and budgetary matters. Dutch policy makers may wish to review the role of Parliament and consider in which cases parliamentary agreement is necessary (e.g. for instructions), where vetoes are warranted, and where non-binding consultations in good faith may be sufficient for timely and effective coordination. Also, the very pro-active Bundestag liaison office in Brussels serves as a crucial point of contact and information on EU policy processes and as a facilitator of inter-parliamentary work (e.g. Protocol No 2 TEU). It is effectively used as a parliamentary 'EU early warning mechanism' without prejudice to the parties' own relations to their MEPs, which are conducted either directly in the party, or through the Bundestag's liaison office in Brussels.

Regarding the upper chamber (Bundesrat), it plays an active role as a supplier of necessary information on implementation in ministerial working groups. The Bundesrat will also designate a representative for negotiations in the Council of Ministers, where its federal competences are concerned (e.g. education, culture and state police).

4.3 Challenges and dilemmas

The German coordination process has been very successful in using centralized information, decentralized decision-making and bottom-up consensus-seeking between departments in regular meetings at different hierarchical levels linking the national and Brussels policy arena, so as to allow for early identification of policy issues in an *increasingly complex playing field*. This practice can be recommended to Dutch policy makers for enhancing their strategic capacity and pro-active engagement.



Germany has occasionally been seen to be ‘playing both sides’ in *increasingly varied coalition formations at EU level*, with ever greater divergences of interests across Member States. This is because Germany’s EU strategies must square her central geographic location, economic interests and unique historical heritage with great ministerial autonomy while seeking further EU integration. Here, the German Chancellor uses her prerogative of ‘overarching strategic guidelines’, to effectively constrain departmental interests so as to enable coalitions with other EU Member States. It may be worth considering to what extent the Dutch Prime Minister may be entitled to use such an instrument to effectively ‘rein in’ coalition partners and departmental interests to make EU coalitions possible.

The lack of inclusiveness and transparency in German EU policy coordination has negatively impacted on the *perceived legitimacy among implementing and civil society actors*, leading to a further depoliticization and often resistance to European positions taken by the government. Neither stakeholders nor houses of Parliament are formally involved prior to any EU legislative proposal. Transparent lobbying is essentially relegated to the consultations conducted by the Commission and European Parliament or consultations entirely at the ministry’s discretion. Germany may have much to learn from the Netherlands with regards to successful modes of public consultation, and regarding where politicization may be helpful or harmful.

Despite *more frequent high level and crisis politics*, there are no special ‘crisis procedures’ in Germany, but coordination is simply initiated at the higher hierarchical levels (heads of DG or State Secretaries) in a ‘downward’ coordination with stronger involvement of the Chancellery. Crisis simply means shorter deadlines and working overtime, while building on the existing infrastructure and procedures. This has proven effective, and is advisable for securing efficiency, expertise and legitimacy.

Notwithstanding its efficient coordination, the German mechanism has exposed limits with regard to developing a greater vision for the EU. Germany’s hesitancy to position itself vis-à-vis bold initiatives or to be a more pro-active agenda setter for EU reform is owed greatly to the political style of the long-serving Chancellor, who has tended to favour second-best solutions and compromise over bold steps. In what has been labelled a ‘listening mode’, the Franco-German initiative of a ‘Conference on the Future of Europe’ appears to be a first tentative step.

EU coordination in Denmark

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1. Lessons learned¹⁴

- The formalized, centralized and comprehensive nature of the coordination system helps Denmark establish positions timely and coherently. In the system, the Danish Ministry of Foreign Affairs acts as meta-coordinator by connecting the various parts and safeguarding that the coordination procedure is followed.
- The inclusive coordination process generates support from domestic stakeholders and also facilitates the identification of areas with regard to where Denmark can exercise proactive influence. The support of domestic actors extends to the implementation of EU legislation.
- Though the Ministry of Foreign Affairs is challenged when it comes to generating EU-specific knowledge, there is increased focus on matching employees with relevant competences and maintaining them through career tracks.
- The bilateral embassies are systematically involved in the coordination process prior to Council meetings, where they obtain information and they are also used to form an overview of specific cases where Denmark may have overlapping interests with other member states.
- The Danish parliament plays an active role in the daily coordination process, where ministers are obliged to obtain a mandate in certain important cases and in relation to changes in the coordination system itself. In general, the need for democratic legitimacy and consideration for the government's freedom of manoeuvre is balanced.
- The European Parliament is systematically considered in the coordination process, where the government's policy briefs map its position, and where in recent years more staff have been allocated to exercise influence with regard to key actors.
- The existing Danish coordination system has proven to be robust and flexible in relation to the challenges of recent years as a result of, for example, the Lisbon Treaty and Brexit.

2. Characteristics of the coordination system

The Danish EU coordination system operates in accordance with a detailed EU coordination procedure that ensures the involvement of sector ministries, the Danish parliament and relevant interest groups (Andersen, 2020; Jensen and Nedergaard, 2020). Though not legally

¹⁴ The paper makes use of three types of sources. Interviews with key personnel including a.) one employee from the MFA at the Danish Permanent Representation in Brussels and one from the MFA in the EU-coordination unit in Copenhagen; b.) the chair of the Parliament's European Affairs Committee and one parliamentary case officer; c.) one employee at a sector ministry in Copenhagen working in their EU-coordination unit. The order of the interviewees here is not the same as in the paper due to confidentiality reasons. In total five people have been interviewed. In addition to these recently conducted interviews, the paper draws indirectly on more than 30 interviews conducted over the years in connection with research on the subject and a series of publications written by the author (Jensen, 2011, 2014, 2017; Jensen, Jopp and Nedergaard, 2016; Jensen and Nedergaard, 2020). Primary documents have been used in terms of internal government procedures and reports from the Parliament's European Affairs Committee. Finally, secondary sources comprising academic articles on the topic have been consulted. The use of different empirical material supports empirical triangulation where findings are substantiated through the use of diverse sources.



binding, the procedure is highly structured for the EU coordination process. In the process of determining Danish interests in relation to negotiations in the EU institutions, the Danish Ministry of Foreign Affairs (MFA) assumes the role of meta-coordinator. The role of meta-coordinator implies that the MFA connects the various parts of the coordination system and ensures that the involved actors follow the EU coordination procedure.

In comparative literature on EU coordination, Denmark is classified as having a centralized and comprehensive system (Kassim, 2003; Gärtner, Hörner and Obholzer, 2011; Jensen, 2014, 2017). This is because there is a central actor in terms of the MFA responsible for the overall process and that negotiation positions are established on all relevant draft legislation being negotiated in the Council of the European Union. Thus, the system deals with all cases being negotiated in Brussels, but not the subsequent implementation phase. The centralized and comprehensive structure of the coordination system can be attributed to the fact that Denmark is a unitary small state with a high degree of concentration of power at the centre and the perception that it needs to be well coordinated in order to exercise influence (Jensen, 2011).

From a historical perspective, the system has undergone three significant changes since its establishment in relation to Denmark's accession to the European Economic Community in 1973 (Esmark, 2002; Jensen and Nedergaard, 2020). Although the coordination system in comparative terms can still be classified as centralized, it has over time become more *decentralised*, as the sector ministries have acquired a greater role in determining the Danish negotiating positions within their areas and also have received the competence to instruct their attachés at the Permanent Representation in Brussels. The coordination system has also been *parliamentarised* over the years as the Parliament's European Affairs Committee (EAC) has assumed a significant role by mandating ministers prior to negotiations and by being a key driver of

change with regard to when and how to involve the parliament. Finally, Danish EU coordination has been *transnationalised* through the creation of linkages to EU-related units in other member states and through direct connection to the EU institutions. In that sense the coordination systems have been integrated into a wider European administrative space. In addition to these broader changes, the system has been continuously optimized over the years on the basis of initiatives from the MFA and the Parliament's European Affairs Committee in order to strengthen it (Andersen, 2020).

This paper maps and evaluates the current Danish EU coordination system with regard to five key dimensions. The first dimension concerns the description of the system which focuses on the *organization* of a highly formalized EU coordination procedure which mirrors the Council of the European Union's organization. The second dimension relates to the system's *strategic capacity* in terms of delivering clear and consistent positions on time, which takes into account the negotiation situation in the Council as well as domestic concerns. The third dimension focuses on the *personnel* involved in the coordination process and whether they have the necessary competencies and seniority. The fourth dimension addresses *inter-institutional cooperation*, both at the domestic level between the various actors involved including sector ministries and the parliament, and the European level vis-à-vis the Commission and the European Parliament. The fifth and final dimension deals with the implementation process where it is highlighted that the Danish coordination process generally facilitates a smooth implementation process. The paper is organized according to these five dimensions.



2.1 Actors and procedure

The Danish EU coordination system consists of a number of different components that are expected to produce various documents with the purpose of establishing the Danish negotiating position in relation to draft legislation being negotiated in the Council of the European Union and European Council (Jensen, 2011; Jensen and Nedergaard, 2020). The different components and processes are specified in the EU coordination procedure which is a non-binding administrative act (Jensen, 2014; Andersen, 2020).

A case in the coordination system normally begins with a proposal from the Commission, though it may occasionally also be Council documents or proposals from the European Parliament, which is sent to the MFA and the national parliament. The MFA forwards the proposal to the sector ministry most relevant to the case. The responsible ministry will normally convene one of its Special Committees (*Specialudvalg*), bringing together other affected ministries and interest groups, to disclose the Danish society's interest in the case. The concrete composition of the Special Committees depends on the nature of the case and the sector ministry in charge. Thus, within some ministerial areas and cases, it is normal to invite a fixed set of stakeholders; while in relation to other cases and portfolios, it varies as to which actors are invited. Regions in Denmark do not have a special status in the coordination system as they do in Germany. The regions, together with municipalities, are represented in special committees in the same way as interest groups. However, because regions and municipalities are responsible for transposing a significant part of EU legislation, their organisations speak with a special weight.

The Danish interest is mapped by looking at the proposal's political, legal, and economic consequences for Denmark. There are approximately 30 special committees in the Danish central administration focusing on diverse policy areas such as environment,

internal market and health (Andersen, 2020). The MFA participates in all special committees where it observes that the coordination procedure is followed and provides information on the positions of other member states, but the responsible lead ministry acts as secretariat and chair. Based on the scrutiny that takes place in the Special Committee, the responsible ministry draws up a 'foundation brief' (*Grundnotat*) describing the following aspects of the case: (1) its legal bases according to EU law; (2) legal and budgetary consequences for the Danish state; (3) whether the proposal is in accordance with the principles of subsidiarity and proportionality; (4) the position of the European Parliament; (5) the different positions of the actors in the Special Committee; and (6) the government's initial position. The 'foundation brief' will serve as the basis of the government's initial negotiation position. Decisions in the special committees are made by consensus, while issues that cannot be agreed upon are pushed higher up in the system, cf. the following.

According to the coordination procedure, the foundation brief must be sent to the parliament's European Affairs Committee (EAC) (*Europaudvalget*) within four weeks after the proposal is available in Danish (Europaudvalg, 2004; Jensen and Nedergaard, 2020). The foundation brief is distributed to the members of the EAC for information. In conjunction with drawing up the foundation brief, the MFA will make a 'framework brief' (*rammenotat*) that is used for the internal governmental process. The framework brief is more detailed than the foundation brief as it clearly spells out the government's position, which is then used as a framework for the negotiators in Brussels. Only government actors who are relevant to cases have access to the framework briefs.

After the proposal has been launched by the Commission, negotiation will begin in the working groups in Brussels. At some point, the proposal will be placed on the Council's agenda. When this happens, the MFA draws up a 'compiled brief' (*Samlenotat*) which contains information about the government's positions and other member



states' positions. The compiled brief is sent to the EAC for information (Europaudvalg, 2004). The compiled brief will be updated and sent to the EAC every time the proposal is on the Council's agenda. If the impact of the proposal is estimated by the government to be *considerable*, the government is obliged to ask the EAC for a 'negotiation mandate', whereas in *significant* cases it must inform the committee about it. When judging whether or not a case has considerable impact and, consequently, must obtain approval from the committee of the government's negotiation position, the government looks at the proposal's legal and economic consequences for the Danish society and its political sensitivities. The government does not inform the Folketing about matters that are neither considerable nor significant, which are often cases that are less political and more technical in nature.

At the point where the EAC in the parliament requires a compiled brief, an 'annotated agenda' (*kommenteret dagsorden*) is drawn up by the MFA for the government's own purposes (Jensen and Nedergaard, 2020). The annotated agenda contains much of the same information as the compiled note but is more detailed regarding the state of the negotiations and the government's own position. When approved by the government, the annotated agenda constitutes the position that the negotiators in Brussels must follow. Where the framework brief creates a framework within which the Danish negotiations must remain, the annotated agenda clarifies the specific negotiating position of Denmark.

The coordination procedure for passing the different briefs begins in the Special Committees and they are afterwards sent to the EU Committee (*EU udvalget*) under the auspice of the MFA. The EU committee is comprised of high-ranking civil servants and meets normally every Tuesday in the MFA, where it approves all cases on which the government has a position. The EU Committee is a horizontal problem-solver that performs four key functions (Jensen, 2011). First, it assesses the quality of the work in the special committees.

Second, the committee examines whether the special committee has taken a comprehensive approach in its scrutiny that corresponds to the government's overall EU strategy. This is done in order to ensure coherence across ministerial portfolios regarding the same case, and coherence across cases so they are aligned with the government's overall EU policy. Third, it makes it possible to follow cases within other ministries' jurisdictions that might have a spill-over effect. Against this background, it rarely happens that additional ministries or stakeholders are added because it turns out that they have a share in the case. Fourth, it functions as a problem-solver concerning critical aspects that could not be solved in the Special Committees. This happens typically in cases where two or more ministries cannot reach an agreement. In such cases, the MFA will often take the role of broker to secure a compromise. As a last resort, controversial proposals can be referred to the political level within the government, but thorny cases are often resolved in the shadow of hierarchy through direction from the Prime Minister's Office. After processing in the EU Committee, all cases are sent for formal approval by the government. In case of disagreement at the political level, the Prime Minister, usually together with eventual party leaders from other governing parties, has the final say.

The Danish coordination system reflects the structure of the Council of the European Union, where the special committees in functional terms, similar to the working groups, aim to clarify as many of the technical aspects of a case as possible. It is estimated that around 95% of all aspects are solved in the special committees (Jensen and Nedergaard, 2020). When the special committee is finished, the case is sent to the EU Committee, which can be compared to COREPER and is responsible for the residual issues.

The special committees and the EU Committee function – much like working groups and COREPER for the Council of the European Union – as filtering organs to ensure that as many aspects as possible



are solved early on so the government focuses only on a few politically controversial issues. Previously, the government dealt with EU cases in a designated Foreign Affairs Committee; but nowadays, important EU cases will be discussed in the general committees of the government including the powerful coordination committee. These government committees address different policy areas, while the coordination committee deals with matters of political importance to the government, which are often of a cross-cutting nature. The abandoning of the Foreign Affairs Committee about ten years ago signifies that EU policies are no longer considered as foreign but rather as part of domestic policies.

The following table shows the intra-governmental coordination system in Denmark:

Body	Chair	Frequency	Purpose
The Government's EU procedure / Mirrors the Council	The Minister of Foreign Affairs	Ad hoc – most cases are handled in written procedure	To approve the government's position, solve conflicts and determine Denmark's EU policy
EU Committee (<i>EU udvalg</i>) / Mirrors COREPER	Ministry of Foreign Affairs	Meets every Tuesday	To approve the work of the special committees and secure consistency, solve inter-ministerial conflicts, and formulate the overall EU policy strategy
Special Committee (<i>Specialudvalg</i>) / Mirrors Council Working groups	Officials in lead ministry	Continually	To disclose the Danish society's interest in the case and outline it in foundational briefs

Source: Jensen, Jopp and Nedergaard, 2016



As mentioned, the MFA takes on the role of meta-coordinator in the coordination process. Specifically, the MFA ensures that the process is streamlined across the ministerial portfolios of the central administration. In cases concerning the MFA's own area, it will coordinate, but if the case spans across different ministerial areas, where foreign policy is only one sub-area, a plan will be made to designate who takes care of which parts of the substance. The parliament's EAC has played a significant role, as it has been the driving force directly or indirectly behind much of the standardization that has been introduced in the coordination procedure over the years. A recent example is the introduction of weights in relation to mandates, where the EAC has wanted a streamlining in terms of three degrees: place crucial emphasis on, place great emphasis on and place emphasis on (Int2 2020: 18:00-18:50). The wording forms a scale for what the government is obliged to do in the negotiations, where 'place crucial emphasis on' something means, that the government will ultimately have to vote against the draft bill if the terms are not accommodated by the member states in the negotiations. The MFA is considered a good process facilitator through the entire coordination process but rarely when it comes to the substance of the cases (Int2 2020: 16:30-17:30). However, it is an important source of information on what is going on in Brussels and within other ministerial areas that are part of the coordination system.

2.2 Objectives and values

The purpose of the Danish coordination system is to secure internal and external coherence, meaning that the position presented in negotiations should be consistent both vertically (between the different levels in the Council) and horizontally (between the different policy areas). In other words, the position must not differ between the working group, COREPER, and the level of the ministers, or across different working groups and different compositions of the Council. This

follows the doctrine of the Danish EU coordination system dating back to the accession to the European Economic Community in 1973 as characterised by the three 'Cs': coordinated, coincident and cooperative (Jensen and Nedergaard, 2020). The cases are presented in the Danish Parliament's EAC which has the purpose of achieving a negotiation mandate.

3. Challenges and dilemmas

3.1 Strategic capacity

The formalized, centralized and comprehensive nature of the system

The high degree of formalization of the Danish EU coordination procedures and the comprehensive nature of the coordination system, both in terms of inclusivity, i.e. the number of actors involved, and the number of processed cases, does not immediately hamper its effectiveness measured in terms of delivering timely, clear and consistent negotiation positions (Int1 2020: 1:30-2:33). Looking at the time aspect first, the system requires early warning with regard to cases on the Council's agenda in order to have sufficient time to determine the Danish position prior to the negotiations in the Council. Although it may sometimes be perceived as irritating by the other member states' negotiators that Denmark needs to know what is on the agenda long in advance, this does not cause Denmark to determine its position later than other member states in the negotiations (Int2 2020: 0:00-2:20). The formalized and centralized nature of the coordination system might counterintuitively mean that Denmark establishes its position faster than other countries with decentralized systems (Ibid.). The reason being that the Danish system clearly defines who should do what, when, and how in the coordination process, including how problems must be resolved (Andersen, 2020). This also has implications for the clarity and consistency of negotiations positions where Denmark scores high (Jensen, 2017). Therefore, the formalized and centralized nature of the



Danish coordination system helps to illuminate the cases and facilitates the establishment of clear, consistent negotiating positions on time. The result is that Denmark has time to address problematic issues in draft legislation at a time in the negotiations where it is still possible to shape the proposal (Int5 2020: 8:30-9:15). This resonates well with a Large-N study which demonstrates a high correlation between coordination systems' degree of formalization, comprehensiveness and also centralization and the quality of negotiation positions measured in terms of timing, coherence and consistency (Jensen, 2017).

Proactive interest representation

The nature of the coordination process and system has, at least historically, created a kind of tunnel vision as it focused on reactively establishing positions with regard to cases on the Council's agenda, rather than proactively trying to shape proposals within the Commission before they are officially launched (Jensen and Nedergaard, 2020). This systemic defect has, however, been the centre of attention in recent years where a proactive approach has been encouraged by the MFA among the actors in the coordination system (Int1 2020: 4:25-5:00). This implies that the system, in terms of the MFA together with ministries with considerable EU legislation, takes stock of dossiers in Brussels approximately every half year, with a particular focus on the ones where it is important to exercise early interest representation (Int2 2020: 6:40-7:00). To secure parliamentary support and thus democratic legitimacy of the proactive interest representation, the government may engage in an early ongoing dialogue with the EAC to discuss how to upload Danish interests to the Commission (Int1 2020: 5:35-6:00). However, early interest representation is normally not a matter of national parliamentary scrutiny, as it is based on informal contacts and dialogue with the Commission and like-minded Member States (Int2 2020: 7:00-7:30). The early advancement of interests has recently taken place prior to the inauguration of the Von der Leyen Commission, where a catalogue has been prepared in terms of what

Denmark will work for. There is also an ongoing process, where the ministries are in dialogue with domestic interest groups about what they would like to see in terms of EU regulation (Int5 2020: 13:30-17:00). To promote specific EU regulation, the Danish government will team up with like-minded members of the European Parliament to put pressure on the Commission to propose specific legislation in the identified areas of interest. However, the EU coordination procedure and system is by design reactive as it is focused on proposals which have already been drafted and landed on the Council's agenda; and though there is an increased focus on proactive interest representation, it is not at the same level in this regard, compared to some of the leading member states such as Germany. This may at least partly be ascribed to the formalized and comprehensive nature of the system which absorbs energy that could have been spent on proactive interest representation. This is not to say that there is an inherent tension between formalized and comprehensive coordination on the one hand and proactive coordination on the other hand; but given a limited amount of resources, the former might take energy away from the latter.

The openness of the system

The Danish coordination system can also be characterized as relatively open because there is access at the bottom for stakeholders via the administration's Special Committee, and at the top via the Parliament's EAC, where meetings are normally livestreamed and where many documents are publicly available. However, transparency may be limited if matters of strategic importance are addressed such as issues where significant economic or geopolitical interests are at stake. More specifically, it is possible to close the meetings if the government and the parliament agree. This can happen, in relation to the entire discussion of the proposed negotiation mandate if for instance it touches upon the negotiating position in the Council, or in relation to a single issue in the deliberation, or if, for instance, it touches on the position of one or more other member states (Int5 2020: 11:00-11:40).



The formal track in the internal government coordination process may also be combined with a more informal track, where, for example, input from interest groups is not noted formally in publicly available documents, as other member states may thereby become aware of domestic pressure on the government, which could be utilized in the negotiations (Int2 2020: 4:30-4:50).

The openness of the system may have unwanted effects perhaps not so much in relation to the strategic capacity of the government, but in relation to the parliamentary control with the government and thus democratic legitimacy. This confirms the so-called transparency paradox according to which decisions that are made more transparent actually become less transparent (Erkkilä, 2012). This is the case for the Parliament's EAC which in 2006 decided to make its meeting open to the public and video streamed; but as a consequence of that, the government has become more reluctant in terms of what information it provides to parliament. The reason for this is that other member states may keep an eye on the mandate and for strategic reasons it may be necessary to withhold some of the nuances or close the doors. Thus, according to an observer, the ministers are aware that what they say can be heard by ministers and civil servants in other countries, which has resulted in the information they provide being superficial and perhaps even trivial (Int3 2020: 10:10-11:00). As a consequence, the chair of the EAC has suggested that it should be standard that when a mandate is given, the meeting will be closed to the public. However, it is difficult to make a procedure that has previously been opened up more closed, even though it is a parliamentary wish, as this will be interpreted as a democratic step backwards. This is especially so, since openness is associated with legitimacy, both of which are important values in the Danish political system (Int5 2020: 10:00-10:40).

3.2 Personnel

Staffing

When it comes to staffing in the Danish EU coordination system, there is an imbalance between the MFA on the one hand and sector ministries on the other. The MFA is characterized by having a relatively large number of younger people with limited EU knowledge and experience, who after some time, due to the principle of rotation, are assigned to other policy areas or sent to embassies in countries where EU issues might not be the primary focus (Int1 2020: 8:00-8:45; Int2 2020: 8:45-9:55). This acts as a barrier to the development of competencies and to the accumulation of institutional memory on EU affairs. Like with the issue of proactive vs. reactive coordination there is an awareness of the issue and the MFA has a process of creating so-called career tracks where it is possible to follow an EU path (Int1 2020: 9:00-9:40). Although the EU track has been on the agenda for some years, it has never been fully institutionalized and therefore there are few cases where individuals are allowed to dedicate themselves to EU affairs throughout their career (Int2 2020: 8:45-9:55). Nevertheless, there is an increasing focus in the MFA on mapping the employees' competencies to match them in relation to the areas where they will make the best use (Int5 2020: 21:20-22:30).

By contrast, many of the sector ministries have a better mix of younger unexperienced and older experienced staff in their EU units, who will often work with EU affairs for many years and therefore are able to build up considerable experience. Civil servants working on EU affairs in the sector ministries will often be sent to the Permanent Representation in Brussels as attachés. Taken together, this facilitates knowledge transfer and accumulation of institutional memory within the sector ministries. This difference between the sector ministries on the one hand and the MFA on the other can also be attributed to how much the EU takes up in the ministerial area (Int2 2020: 8:45-9:55). The



ministries with the most EU legislation are the Ministry of Trade and Industry due to the regulation of the internal market; the Ministry of the Environment and Food due to the EU's importance in those areas; increasingly the Ministry of Climate due to the growing priority of this topic in the EU; and the Ministry of Transport which has a number of areas which are highly regulated by the EU. Together, these ministerial areas cover about 90 percent of all EU legislation, whereas the MFA has comparatively few proposals, which they themselves are responsible for negotiating pertaining to the EU's foreign and trade policy.

A potential problem that weakens inter-ministerial coordination in Denmark, not only when it comes to EU cases, but more generally, is the limited inter-ministerial mobility. Compared to, for instance, the Netherlands which has an inter-ministerial job market most civil servants in Denmark tend to stay within a given portfolio throughout their career. The advantage of this silo approach is that Danish officials achieve a high-level of specialization within their ministerial resort but the disadvantage is the lack of understanding of other areas (Holm-Hemmingsen, 2016).

Bilateral embassies

The bilateral embassies are included in the EU coordination system in three ways, which partly follows from the EU coordination procedure (Int1 2020:10:00-11:30). First, before meetings in the Council key embassies are included in the EU member states and if it is an extraordinarily important Council meeting, the embassies in all EU member states are included. Their role is to prepare material and act as eyes and ears on the topics on the agenda in their particular EU member state. As a general rule, the embassies in the large capitals will always report in advance of Council meetings, while the smaller embassies will be involved only in case it is deemed particularly relevant (Int5 2020: 24:42-26:25).

Second, they are often involved early in the preparation of individual cases, where consultations are sent out to form an overview of a case and identify positions and key issues of other member states. The embassies also receive the government's position in order to create awareness about it in other member states and try to exercise influence.

Third, the sector ministries make use of the Danish embassies depending upon the type of case. If a specific case is being negotiated that requires detailed substantive knowledge, the embassies will normally not be used based on the assessment that it is not worth the effort. In these cases, the sector ministries assess that they will not be able to brief the embassies well enough about the technical details for them to be able to extract relevant information (Int2 2020: 11:45-12:50). Moreover, due to the transnationalisation of the Danish EU coordination system over time, the sector ministries have comprehensive networks in Brussels and within other Member States so it is easier and more efficient to utilize these connections to gather information and perhaps exercise influence (Ibid). By contrast, if the Danish sector ministries are in need of an overview in relation to some general trends concerning whether member states want more or less regulation in a particular area, the bilateral embassies are utilized as a part of the coordination system. Here, the bilateral embassies are useful to quickly map the positions of several different member states.

More generally, the EU Representation is a key source of information and strategic advice, as it has knowledge of the negotiating situation in Brussels and of other countries' negotiating positions, and because it has direct contact with the negotiators at the other representations (Int5 2020: 24:42-26:25).



3.3 Inter-institutional cooperation

National Parliament

The Danish Parliament and more specifically the European Affairs Committee (EAC) is famous for its active role in controlling the government in EU affairs, and in particular regarding the right to issue negotiating mandates to the plenipotentiaries of Denmark (Jensen and Martinsen, 2015). The ability to issue mandates is not least important because Denmark has a tradition of minority governments, and it is therefore vital for the Danish negotiators that they have parliamentary support for what they bind Denmark to in the negotiations (Ibid.). Ministers are required to ask for a mandate if the case is assessed to have a considerable impact for Denmark, and will normally obtain one from the EAC if the person responsible has done the homework by securing support from EU spokespersons of political parties in Parliament, representing at least 90 members of Parliament which is the required threshold to form a majority.

However, it happens regularly that a majority in the EAC changes the government's mandate after the negotiations in Brussels have started. This is especially the case in relation to weighing different elements, where the government may have to place decisive emphasis on a particular issue, which means that it must vote against the proposal if the outcome of the negotiations does not accommodate the view of a majority in the Danish parliament. In a few cases, the government has withdrawn its draft mandate and had to return to the committee with a revised proposal, or the EAC has formulated the mandate directly at the meeting (Jensen and Nedergaard, 2020). The government is not required to involve the EAC in cases which are not deemed to be considerable or significant.

From the perspective of the parliament, there is substantial asymmetry in its relationship with the government as it is up to the latter to

estimate whether a case falls within the perimeter set by the EAC. A recurring debate over the years around its involvement in the coordination process concerns the timing, as the EAC must enter into the negotiation process at a time where it can make a difference (Jensen and Nedergaard, 2020). According to the EAC report from 2006, the government must obtain a negotiating mandate before defining its own negotiating position (Europaudvalgets beretning af 23. juni 2006). The EAC interprets this as relatively early in the negotiation process, but according to a correspondence between the parliament and the government following the report in 2006, it can in principle be when the minister negotiates in Brussels (Int4 2020: 7:00-7:30). This can, however, be rather late in the negotiation process as civil servants will have clarified much in advance in the Council working groups and in COREPER.

The EAC would prefer if the government already were present at the level of the Council working groups; but as the model is built up, it is ultimately at the government's discretion. The chair of the EAC would like the committee to be able to discuss matters with government officials who deal with them at working group level (Int3 2020: 13:15-13:30). However, the government has been hesitant to allow this as it sees the officials as its servants, who should not serve the parliament (Ibid.). In one of the most recent EAC reports however, it has been established that in cases of considerable impact, where the government must obtain a negotiating mandate, it must have presented the case to the committee at least once prior to the meeting where the mandate is given (Int4 2020: 8:30-9:00).

Another ongoing debate concerns the internal division of labour in Parliament in relation to controlling the government in EU matters. Ever since the establishment of the EAC at the accession of Denmark back in 1973, there has been a desire to involve the parliament's sectoral committees more in the control process. However, this has proved



extremely difficult for two main reasons (Int4 2020: 14:30-16:00): Firstly, there are limited power incentives on the part of the sector committees to spend time on EU affairs as long as mandate-giving competencies are placed in the EAC. Secondly, there are limited voter incentives to spend time on this, as voters do not have a considerable interest in EU affairs compared to domestic politics.

However, several initiatives have been taken to involve the parliament's sectoral committees more. Among other things, staff from the EAC now participates in the sectoral committee meetings, where they inform the members about important issues on the agenda within their domain. Moreover, members of the sector committees may participate in EAC meetings concerning cases of relevance to them. Although various things have been done and could be done to involve the sectoral committees more, it is also very person-dependent. It is difficult to solve the issue of sectoral committee involvement through rules and procedures as it is a complex equation which contains the power to mandate, voter incentives and personal interests as well as preferences. Therefore, it is an issue that has been on the agenda ever since Denmark's accession to the European Economic Communities and over the years, and will continue to be so in the future (Jensen, 2011).

For the sector ministries, the Folketing and in particular its powerful EAC are key players in the coordination system (Int2 2020: 19:00-20:35). Presenting cases to the EAC can be considered an exam in which it becomes clear whether the sector ministries have prepared well enough and done their homework. This is where they receive the validation of the government position or an amended mandate. The sector ministries not only submit cases for mandate, but also for information, and here the EAC is also heard. Even if cases are presented for information only, parliamentary reservations are referred to in the Council. In this way, the sector ministries listen to the views of the EAC and in cases where members represent a majority, informal consultations are conducted

with representatives from the parties and adjustments are made to the negotiation position.

There is generally broad support for the EU policies between the government and the mainstream opposition parties, but majorities can also be formed with supporting parties alone, depending upon the wish of the government. While the government is required to inform and, in some cases, obtain mandates during the negotiations in the Council, it is less clear when and to what extent it has to inform about the subsequent outcome of the negotiations. Previously, it was mandatory for the government to report to the EAC on the outcome of Council meetings, but this is no longer the case. Not least because there has been greater openness in the Council, which now itself issues press releases and sometimes also has open meetings. It happens, however, that the ministries report from the meetings of the Council, especially in relation to matters of great importance to Denmark economically and/or politically, such as the reform of the Common Agricultural Policy, Brexit and the Multiannual Financial Framework negotiations (Int2 2020: 19:00-20:35).

European Parliament

The European Parliament's position is included as a fixed heading in the briefs produced by the government (Int5 2020: 26:30-28:45). This helps to ensure that it is taken into account in the determination of the Danish negotiating position. The European Parliament may also change the negotiating situation through, for instance, the trialogues so it becomes necessary for the government to obtain a new mandate in parliament. In general, personnel dealing with the European Parliament has increased both at the EU Representation in Brussels and elsewhere in the system in recent years. This means that more information about the European Parliament is present in the system than before (Ibid.). Also, ongoing informal contacts at both ministerial and official level have increased.



The European Parliament is formally involved via the parliament's EAC, which have meetings with Danish Members once a month (Int2 2020: 14:00-16:30). At these meetings, current issues are discussed on the European Parliament's agenda. EAC officials also draw up annotated agendas based on the European Parliament's meetings, where they keep an eye on the various deliberations concerning draft EU legislation. In relation to the sector ministries, there is increased contact with the European Parliament, which goes through direct liaison with assistants and through the attachés at the EU Representation in Brussels, which makes contact with relevant people (Int2 2020: 14:00-16:30). However, this is not institutionalized. The extraordinary emergence of Covid-19 has reduced the transaction costs for contact to the European Parliament, as Danish civil servant and ministers can now set up virtual meetings via Teams.

Over time, Danish civil servants' and ministers' understanding of the powers and modus operandi of the European Parliament have increased. Having said that, there is still a lack of understanding of the European Parliament, not just in Denmark but in general for people working with or in the Council, and vice versa (Int2 2020: 14:00-16:30). This pertains especially when it comes to understanding each other's internal procedures and modus operandi. Thus, the notion that the Council is from Mars and the European Parliament is from Venus still applies.

There seems to be an agreement among the interviewees that the European Parliament is not given sufficient priority in the Danish coordination system despite its increased importance in the legislative process. To integrate the European Parliament even better into the Danish EU coordination system, there is a need for further knowledge of decision-making forums and processes, key actors within the institution, and the timing of interest representation.

3.4 Implementation

The existing literature has highlighted how the comprehensive coordination process prior to Council meetings, which involve many national stakeholders, results in a high degree of support in the subsequent implementation process (Bursens, 2002). This historical finding which dates many years back is backed by the empirical evidence collected for this paper: the formalized and comprehensive nature of the system means that various experts in the ministries and interest groups take part in the establishment of the Danish negotiating position and thereby gain knowledge of what is being negotiated in the EU (Int1 2020: 18:00-19:00).

The reason why Denmark is one of the leaders when it comes to implementation of EU legislation is that it creates awareness and preparedness of what is on the way. This is despite the fact that it is a different set of civil servants who are involved in establishing the Danish position in the negotiation's ex ante and ex post implementation phases - even though the former asks for input from the latter (Int2 2020: 25:00-26:30). It is the ordinary ministerial units dealing with specific policy sectors that are responsible for implementing EU legislation within their given area. The finding that there is awareness and support only in the implementation phase nowadays applies to the government and interest groups, and less so, as was previously the case, to the parliament. The reason being, that the EU has become more politicized, which means that there is no one-to-one relationship between what the political parties in the parliament support when it comes to giving negotiating mandates ex ante and what they support when it comes to subsequent ex post implementation phases (Int2 2020: 25:00-26:30).



3.5 Contextual challenges

The following picture emerges regarding the contextual challenges of domestic coordination.

The *increasingly complex playing field* in terms of policy areas is perhaps less of a challenge for the Danish coordination system due to a number of opt-outs, especially pertaining to economic integration. Nevertheless, it has affected the system. As for the increased number of policy areas dealt with at the European level this has been resolved within the framework of the existing system by extending its scope. With regard to the Brexit negotiations a specific system has been created, which, however, significantly overlaps with the existing system's organization and modus operandi (Jensen and Kelstrup, 2018). Overall, the system's formalized, centralized and comprehensive structure has proven robust in terms of handling an increasingly complex EU playing field, not just pertaining to recent developments, but also historically (Jensen and Nedergaard, 2020).

The need to form new *coalitions in the wake of enlargement and Brexit* has not been difficult to accommodate within the system (Jensen and Snaith, 2018). The role of the Ministry of Foreign Affairs as meta-coordinator has supported this, although it has not been an easy process. This has been done directly where the MFA has organized contacts at ministerial level in relation to new potential coalition partners, and more organically through the formation of the Frugal coalition pertaining to the MFF and the NextGenerationEU negotiations which has now become more permanent (Jensen and Kelstrup, 2018). Moreover, the sector ministries' highly institutionalized role through the special committees has made this a natural outlet for finding policy-specific coalition partners pertaining to particular policy areas. Thus, the system's both centralized and decentralized features work well in terms of forming new coalitions.

When it comes to *legitimacy and public support*, these are important elements in a Danish context; not least because Denmark, historically, has been a Eurosceptic member state. However, public support has not been a key driver in changing the coordination system over the years. Rather, changes in the coordination system have been a focus of a tradition of minority governments, which requires a majority of parliamentary parties to support the government's EU policies (Jensen, Jopp and Nedergaard, 2016). Nevertheless, as discussed previously there has been an increased focus on the European Parliament. Yet, this is perhaps not so much from a legitimacy point of view, but more from an efficiency point of view with a view to optimizing Danish interest representation. More generally, legitimacy has been ensured historically as well as presently by the system being relatively inclusive and involving many stakeholders from Danish society, which helps to ensure their support.

Changes brought about by the Treaty of Lisbon - but also more situation-specific crises - have increased the focus on *high level and crisis politics*. Again, the Danish EU coordination system has proven to be both flexible and robust. The increased politicization of EU affairs has strengthened the Prime Minister and her office, but even though this, *prima facie*, seems to be at the expense of the MFA, this is not the case (Jensen, 2011; Jensen and Nedergaard, 2020). The Prime Minister's office has several posted employees from the MFA which means that cases are handled from a foreign policy point of view and in close coordination with the MFA, although seconded personnel from other ministries are also involved. The current Covid-19 crisis has increased work pressure in the system, but this is considered temporary. At the same time, it has as highlighted helped to reduce transaction costs by contacting representatives from other countries and the EU institutions through electronic means. It is quite conceivable that this relationship will to some extent continue after the crisis, although representatives will have less time after it becomes easier to meet physically.



4. Main findings

This report has mapped the Danish EU coordination system in relation to five predefined dimensions. The first dimension concerns the *organization of the system*, where it was highlighted that the system consists of a number of committees, which mirror the Council's structure through a number of standardized policy briefs that define the Danish negotiating position. At the lowest level, there are the Special Committees corresponding to Council Working Groups, which normally comprise various sectors' ministries and stakeholders affected by the draft EU proposals and review the impact of the proposal on Denmark from a technical point of view. Above is the EU Committee corresponding to COREPER under the auspice of the Danish Ministry of Foreign Affairs comprising high ranking civil servants, who checks the work of the Special Committees and solves thorny issues. Finally, there is the government corresponding to the ministers in the Council, which mostly via written procedure approves the work of the lower levels and deals with political issues.

The system is highly inclusive, as it hears relevant stakeholders in society before the Danish position is determined. Overall, the system is formalized through an administrative coordination procedure, centralized as the Ministry of Foreign Affairs takes on the role of meta-coordinator, and comprehensive, as the Danish position is determined in relation to all negotiated cases. The main objective of the system is to ensure that Danish negotiating positions are coherent and timely. This means that there must be no difference in what Danish negotiators say across different Working Groups and levels in the Council, and that the representation of interests must take place at a time when it is still possible to shape the negotiated proposal in Brussels.

The second dimension regards the system's *strategic capacity*, where it was argued that the system's organization does not constitute a hindrance in relation to the negotiations in the Council. In fact, the system counter-intuitively successfully secures that proposals are thoroughly elucidated so potential problems can be dismantled during the negotiations and that Denmark in general establishes coherent negotiating positions in a timely manner. This is a function of the formalized, centralized and comprehensive system described in the previous section, which supports the fact that all EU proposals are thoroughly scrutinized at several levels, according to standardized parameters in policy briefs set out by the coordination procedure. In this process, problematic issues from the vantage point of Denmark are highlighted so they can be dealt with during the negotiations in the Council. However, the system could be better calibrated in terms of proactive interest representation as it centres on the negotiations in the Council and does not have sufficient focus on early interest representation vis-à-vis the Commission before proposals are officially launched.

The third dimension concerns the *personnel* in the system, where an imbalance was found between the sector ministries, which have built up significant EU competencies in their EU units, and the Ministry of Foreign Affairs, which has been challenged in that regard. However, there are a number of factors in the Ministry of Foreign Affairs that facilitate the accumulation of EU competencies through so-called EU tracks and in relation to self-selection, where people with EU interests choose the EU units within the ministry. When it comes to involving the bilateral embassies, the system is successful in relation to using them as sources of information and as representatives of Danish interests. Yet, when it comes to specific policies within the domain of the sector ministries the bilateral embassies are used less as they lack technical knowledge. Due to the transnationalization of the Danish administration because of many years of membership to the EU, the



sector ministries have considerable linkages to officials from other EU member states within their fields, both in Brussels and in the national capitals. Combined with the fact that EU policy is no longer regarded as traditional foreign policy, the Ministry of Foreign Affairs' foreign policy competencies are less in demand than before by the sector ministries.

The fourth dimension concerns *inter-institutional cooperation* in the system, where it was found that the system has successfully increased awareness of and involvement of the European Parliament, but this can be consolidated further with regard to enhancing the understanding of the institution's *modus operandi*. A characteristic of the Danish system is that members of the Parliament's European Affairs Committee and Danish members of the European Parliament hold monthly dialogue meetings where common issues are discussed.

It was also found that the Ministry of Foreign Affairs is considered a well-functioning meta-coordinator, although it might place too much emphasis on procedural coordination with the sector ministries rather than substantive support. More specifically, the Ministry of Foreign Affairs is important in relation to information distribution and systematization in the system, as well as in ensuring the coordination procedure is adhered to. Yet, the Ministry of Foreign Affairs is less significant in relation to sparring around the substance of draft EU proposals, but provides support regarding the strategic positioning in the Council negotiations.

Finally, it was determined that the Danish parliament is an important actor in the coordination system both in relation to the daily work, where in some cases negotiation mandates must be obtained, and in relation to changes in the overall system through committee reports in terms of what should be presented and when. Most recently, the Parliament's European Affairs Committee has been behind the introduction of a standardized scale in connection with the issuance of

mandates, which graduates what the government must do in Council negotiations with regard to specific issues. From the point of view of the sector ministries, the parliament's European Affairs Committee is important, as it democratically validates the government's negotiating position.

However, parliamentary involvement in the coordination system is challenged in two respects. First, it was found that the openness of deliberations in the European Affairs Committee has had a negative impact on type and level of government information provided to the parliament, which, according to an observer, has become more superficial. However, it is possible to close meetings to the public where issues of strategic interest to Denmark and/or concerning other member states' negotiating positions are being discussed. Second, over the years, it has proved difficult to involve the sector committees in the parliament systematically in scrutinizing EU cases, due to a lack of interest and as the final power to issue mandates is vested in the European Affairs Committee.

The fifth and final dimension addressed is the *involvement of the implementing actors* in the system, where, in accordance with previous studies, it was shown that their inclusion in the ex-ante coordination process provides them with knowledge of forthcoming EU legislation and provides the government with support in the subsequent ex-post implementation process. Although it is a different set of actors negotiating in the EU and implementing the outcome of the negotiations domestically, there is a good exchange of information between the two groups of actors, which does not warrant changes in the coordination system.

The review of the coordination system in relation to the five generic dimensions shows that while it is successful in most respects, there is a particular need for optimization in three areas. Firstly, the



Ministry of Foreign Affairs and sector ministries can be even better at facilitating proactive interest representation in the EU with a view to balancing efficiency and legitimacy. That is uploading own regulatory models to the EU that have the support of the parliament and stakeholders. Secondly, the system can be calibrated even further with regard to taking into account the European Parliament in the legislative procedure. Although the system is set up according to interest representation in relation to the Council, more effort can be done as regards the involvement of the European Parliament, including understanding its modus operandi and who to contact such as rapporteurs, shadow rapporteurs, committee chairs, and group coordinators. Thirdly, more can be done to cultivate and maintain the necessary EU competences in the personnel working in the EU coordination system, not least in the Ministry of Foreign Affairs. A radical solution would be to strengthen the internal job market across the central administration, making it easier for civil servants to apply for jobs and move across different ministerial portfolios.

In terms of how the system has dealt with the contextual challenges, the mapping showed that it is both robust and flexible. The challenges have mostly been absorbed by the system within or by means of the existing structures and processes or in the case of Brexit by mirroring these.

Determining the negotiating position in relation to negotiations in the EU is a challenging equation to solve, as it must identify and take into account the government's interest, a majority in the parliament's interest, and the interest of other member states in the Council. To solve this difficult equation on an ongoing basis, the Danish government has established a centralized comprehensive EU coordination system under auspice of the Ministry of Foreign Affairs. The system is inclusive as it involves relevant ministries, interest groups, and the parliament when determining the Danish interests. Looking at the three elements

in the equation, there is a widespread recognition that Denmark as a small state will have to place great emphasis on other member states' interests in negotiations (Jensen, 2011; Jensen and Nedergaard, 2020). Thus, there is general agreement that Denmark should be placed within the win set of the Council in order to exercise influence on the negotiation result. Nevertheless, the system manages to also factor in interest of stakeholders and the parliament as well as the government's own interest. The system serves Danish interests well, as it is considered to be both efficient and effective and supports the perception that Denmark is small but mighty when it comes to exercising influence in Council negotiations (Jensen and Nedergaard, 2020).



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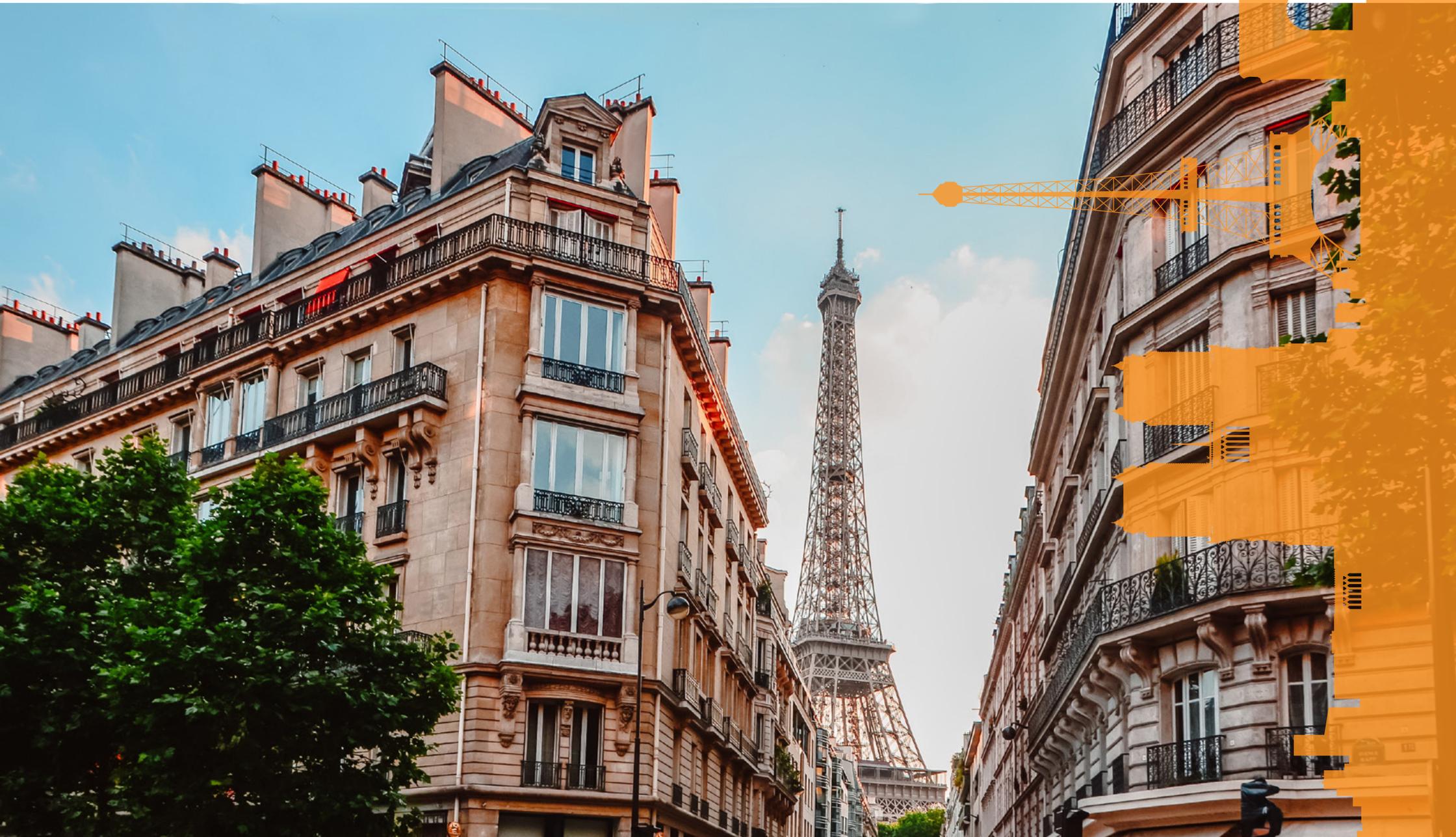
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EU coordination in France

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1. Lessons learned

There is no ‘one-best-way’ to organize and process national coordination on EU affairs. Each national system is enshrined into a given polity, with its constitutional rules and political practices. Our in-depth case study of France reveals that its EU coordination system – controlled by the Executive and very centralized, with a dedicated inter-ministerial organ in Paris, the SGAE, and the French PermRep in Brussels as powerful ‘mirrored’ gatekeepers, while Parliament has a consultative role only – is very efficient, but not transferable to the Netherlands, with their fragmented party politics and coalition government polity.

However, considering the main contextual challenges at stake, and without imagining an unrealistic ‘model transfer’ of the French system in The Hague, a more modest and practical perspective of ‘lesson-drawing’ from the French case could possibly conduce Dutch authorities to envisage the following:

- Increase the financial capacity and personnel dedicated to EU policies so as to maintain the Dutch systematic coverage of a constantly growing number of EU dossiers – a systematic coverage which contributes decisively to the much stronger political influence of the Netherlands in EU governance than the size of its population and economy justifies.
- Increase consistency in the system by strengthening the capacities to steer-and-control at Prime Minister’s level (new legal provisions, more resources and personnel).
- Reinforce the Prime Minister’s role by reinstalling a Secretary of State for European Affairs alongside him and missioned to chair, on behalf of the Prime Minister, all committees, instead of the MFA: BNC Committee, CoCo, EU High Administrative Commission, while the Prime Minister chairs REIA and MCEU.
- Reposition the Dutch PermRep, no longer ‘belonging’ to the MFA but depending upon/reporting to the Prime Minister, as a strong ‘gatekeeper’/‘watchdog’ over the coordination process, working hand in hand with the Secretary of State, so as to ensure consistency and adaptability of Dutch positions at all stages, from early-stage consultations on European Commission proposals, to Council Working Parties, to COREPER, sessions of the Council, and even European Councils.
- Create a Dutch equivalent of the ‘Saturday Meetings’ at the Elysée, which bring together informally the ten or so persons who really count in the steering of the European policy of the country so as to adjust their actions for the next (couple of) week(s).
- Develop more systematic strategic thinking, conducted by the Secretary of State and, on major policy dossiers identified in advance, mission him/her to animate a network with the Dutch PermRep and bilateral embassies aimed at mapping the various national interests and positions, identifying the circle of ‘like-minded’ States, and infuse the results into the coordination process.
- Ensure regular contacts and strengthen cooperation between the Dutch PermRep, Dutch MPs and Dutch MEPs, especially vice-presidents, rapporteurs, shadow rapporteurs, and mission a second Deputy-Permanent Representative to interact with the European Parliament and intervene in trilogues.
- Borrow from France the writing and diffusion of an exhaustive ‘Presidency Dossier’ each semester, so as to share knowledge, Dutch strategy and tactics among stakeholders.
- Avoid involving more stakeholders or implementers and ask line ministries to ‘filter’ and represent their views in the coordination procedure so as to avoid ‘overcrowded policy-making’.
- Draw inspiration from the French system of discussions and votes on EU affairs taking place in specialized committees for European affairs in Parliament, more than in ordinary standing committees, so as to reduce wider inter-party bargaining and have more ‘specialists talking to specialists’.



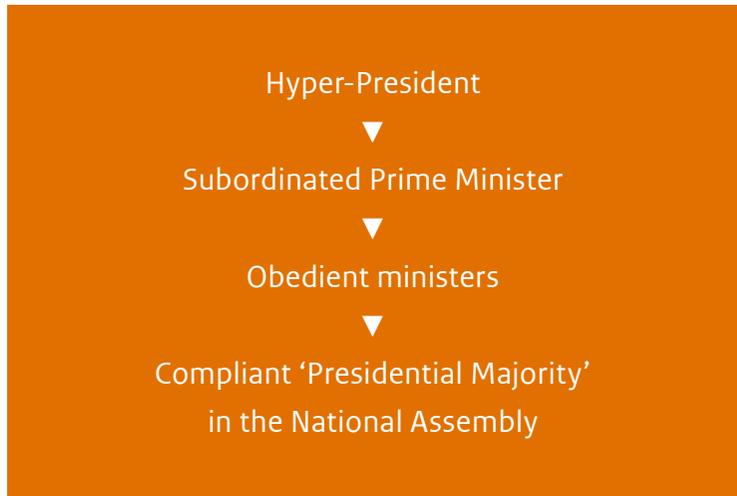
- Eventually, reconsider the degree of control of the Dutch party system on the very details so as to let Dutch negotiators negotiate in Brussels?
- For sure, adopt proactive HRM strategies to increase in the foreseeable future the attractiveness of the European ‘stream’ and careers for new generations of Europhile civil servants.

2. Characteristics of the coordination system

For a good comprehension of this report, the main features of the French polity must be clarified for Dutch readers, since they are decisive for our subject matter. These features embody historicity. Like the Netherlands and almost all EU Member States, France used to be, from 1870 to 1940 (Third Republic) and from 1946 to 1958 (Fourth Republic), a classic parliamentary regime, with a strong Parliament, more or less stable coalition governments headed by a ‘President of the Council’ (of ministers), dependent on the Chambers’ support, and a modest Head of State with a marginal role in governmental crises. Becoming instable over time, with no clear majority or opposition and major deadlocks, the two regimes collapsed on the occasion of wars (German invasion in May-June 1940; decolonization war in Algeria May 1958). As a result, the ‘Saviour of the Nation’, General de Gaulle, supported by many political leaders, decided to establish, in 1958, a regime, the Fifth Republic, often pictured by observers as a ‘Republican elective monarchy’, which combines democracy with a strong authority, a formal maintenance of the parliamentary regime (existence of a Prime Minister and a collegial Government appointed by the President and/but responsible to Parliament whose lower House can censure them at any moment) with the instauration of an overarching President, strongly legitimized as the ‘Chosen One of the Nation’ through direct election by universal suffrage.

The subtlety of the regime is that the Constitution, while entrusting major powers to the President, states in art. 20 and art. 21 that ‘the Government determines and conducts the policy of the Nation’ and that ‘the Prime Minister directs the action of the Government’: in theory, the Executive Branch is thus a double-headed eagle. Yet, real political equilibrium is different: except for three short periods when French Presidents had to compose with a hostile majority in the National Assembly and thus were obliged to appoint opponents in Government (*cohabitation*), usually the victory of the President’s party (or coalition) at parliamentary elections scheduled one month after presidential elections generates a ‘conjunction of the presidential majority and the parliamentary majority’. As a consequence, ‘my presidential programme is the charter of your legislative action’, as President Mitterrand once said to MPs, and the same is true under the current presidency and legislature (2017-2022), with President Macron and his newly created party, LaREM (along with its allies of MoDem, UDI, Agir). The absolute majority in the lower House is therefore very compliant to the President. The President can discretionarily appoint (and revoke) whomever he wants to become ‘his’ Prime Minister, entrusted with a role of ‘second-in-command’, from that majority or from higher civil service (Prime Minister Jean Castex is a technocrat who never served in Parliament). The same goes for ministers, many coming from public administration and ‘the civil society’, i.e. not from political parties which play a feeble role in the governing of France.

Quite differently from the Dutch experience of coalition politics and multi-partisan governments, with the Prime Minister being a *primus inter pares* who must moderate debates and accommodate disagreements inside the government and between the strong parties of the coalition, France enjoys – or suffers from – a very cohesive and vertical exercise of supreme power:



In such a French context, the political programme of the hyper-President becomes *ipso facto* the programme of the government and of the whole legislature, in a 'top-down' power relation leaving little room for negotiation to the Parliament, and dissuading the Executive to seek (unnecessary) compromises with political parties, in both Houses (the Senate being outside the presidential majority). Two empirical indicators of such an 'imbalance of powers' between Parliament and Executive are that the *major pars* of legislative projects under the current legislature are subject to the so-called 'emergency procedure' – meaning that the discussion is shortened to a sole reading in each Chamber, with the last say given to the National Assembly – and that 95% of all laws adopted in France are not 'propositions' (MPs' initiative), but 'projects' of governmental origin, drafted at the request of the Elysée Palace (Presidency) and under the close supervision of the Matignon Palace (Prime Minister's cabinet and central administrative services), by the top civil servants of the competent ministerial departments, under the lead of their minister(s) and 'ministerial cabinets' (ministers' staff of politically appointed special advisors).

In other words, the French decision-making process on (domestic) legislative matters, and the whole governing of France as a matter of fact, is mastered by the Core Executive (Elysée, Matignon, ministries, Council of State as internal legal advisor of the State); while the Parliament is *de facto* limited to a power of amendment coming rather late in the process of legislative production – unlike the Nordic and Scandinavian EU Member States where the 'preliminary cooking' of draft legislation substantially involves the MPs and Standing Committees of the Houses. If one adds that the French Constitution (art. 34 & 37) restricts the 'domain of the law' so as to guarantee an autonomous regulatory power to the Executive in the form of decrees, and that Parliament may delegate legislative power to the President and Government, for a limited time and programme, in the form of 'ordinances', it becomes clear that the French ecosystem is centred on and controlled by the Core Executive.

Let's add that, from a sociological point of view, this Core Executive consisting of the political masters, their large ministerial cabinets (politically appointed special advisors), and the higher public officials in inter-departmental organs and ministerial departments, compose a rather integrated and closed politico-administrative elite made up of high-flyers who often share common social and educational backgrounds and are dominated by alumni from the ENA (National School of Administration), and to a lesser extent State engineers from *Ecole polytechnique*; while MPs often have other (on average more modest) backgrounds which usually do not allow them to access the inner circle of this elite. To make things even more complex, this politico-administrative governmental elite is animated by enduring conflicts, constant and strong rivalries, futile or meaningful 'palace wars' between organs and institutions, especially between the major ministerial departments (and sometimes between DGs within the biggest and strongest one, the Ministry for the Economy, Finance and the Recovery, usually called 'Bercy', after its location in Paris).



2.1 Typology of the French coordination system and main actors involved

The French system: the archetype of a centralized/systematic model... with a few notable exceptions

Such prolegomena explain why the French system and mechanisms of domestic coordination of EU Affairs, established concomitantly with the foundation of the Fifth Republic, were designed in a very centralized and very systematic/comprehensive way, according to the classic typology proposed twenty years ago by our fellow colleagues Hussein Kassim, B. Guy Peters and Vincent Wright, *The National Co-Ordination of EU Policy: The Domestic Level* (OUP, 2000). Despite the expansion of the EU and the development of its competences from the Treaties of Rome to the Lisbon Treaty, and the Europeanization of so many policy fields to the finest detail (competition legislation, to quote only one), the model has remained unchanged for the essential... but with some exceptions in principle or concessions in practice made because of the growing complexities of EU governance.

In a nutshell, the French model is a centralized and systematic system, placed under the sole command-and-control of the two masters of the Executive Branch and their political entourages (Elysée and Matignon), and operationally delegated to a dedicated central administrative organ, responsible for coordinating and ‘arbitrating’ the inter-departmental work of a web of top civil servants and political advisors from all ministerial departments, in constant connection with the very influential French *Représentation permanente auprès de l’UE* (RPUE) in Brussels, and also with the Minister Delegate for European affairs within the MFA, while a consultative role is consented to the national Parliament (in application of the Maastricht and Lisbon Treaties). Let us develop on these characteristics, starting by the latest – and most surprising one from a Dutch point of view.

No ‘mandate’ but ‘instructions’: The Executive and administrative nature of a coordination process which gives only a modest consultative role to Parliament

The French Fifth Republic is a parliamentary regime only *de jure*. *De facto* it is a presidentialist system. Therefore, there is never a solemn and binding ‘mandate of negotiation’ given by the House(s) to the ministers and Prime Minister after political debate and a vote, as is the case in certain parliamentary Member States. The preparation and adoption of French official positions in EU negotiations fall under the sole responsibility of the Executive Branch: the political masters and their obedient and faithful public administration. Note that the French public administration reports to and obeys only the Government, the latter being responsible to Parliament (in theory) and to the President (in practice). Therefore, the notion of a ‘negotiation mandate’ is unfamiliar to French authorities: the French negotiation positions are expressed in documents significantly called ‘Instructions’, signed by/ on behalf of the Prime Minister, and addressed to the French RPUE and to the French delegate/head of delegation going to Brussels for a given meeting, including ministers in person, who receive ‘instructions’ as well. The whole process takes place inside the Executive Branch.

What about the Legislative Branch, then? From the Paris Treaty, then the Rome Treaties until the Maastricht Treaty, the role of the French Parliament was marginal. Yet, the 1992 Constitutional revision introduced an article 88-4, whose provisions oblige the Government to submit any proposition of EU legislation from the European Commission having a ‘legislative nature’ (in French constitutional terms) to the two chambers of the French Parliament, National Assembly and Senate, so that they can adopt ‘resolutions’, i.e. political statements with no binding value. More recently, the 2008 revision of the Constitution has refined article 88-4 and enhanced the consultative role of the French Parliament to ‘all projects or proposals of legal acts of the EU’,



and added an article 88-6 about the ‘subsidiarity checks’ introduced by the Lisbon Treaty. As a consequence, a dedicated standing committee for European Affairs has been set up in each House, which receives the hundreds of projects of legislation and other documents issued by the EU each year (816 examined in 2018, 661 in 2019, see Annex hereafter) and meets twice a week to examine them and select the ones for which its wants to adopt ‘conclusions’ and/or recommend the House in plenary to adopt ‘resolutions’, later on transmitted to the Executive. These ‘conclusions’ and ‘resolutions’ are not legally binding, and the politico-administrative masters of the procedure can consider them with great interest, or simply ignore them in writing the instructions. At the end of the day, the French delegates entering the Council Working Parties in Brussels are exclusively civil servants, who follow only the Government’s instructions, and pay very little attention to the Parliament’s resolutions. The same is true for the Ambassador at COREPER II and his deputy at COREPER I. That is why the author argues, in academic publications, that the more the legislative competencies of the EU have developed since the 1980s, the more the real power at home has shifted from the elected politicians in the French Parliament to the top civil servants involved in EU affairs, these ‘technocrats-legislators’.

The central role of the SGAE, the Secretariat-General for European Affairs

To give more historical background, practical substance and political salience to such minimal wording, one should recall that the SGAE – under its previous name of SGCI – was established as early as 1948, as a compromise to the inter-institutional quarrel of jurisdiction, in the times of the Marshall Plan, between the Ministry of Foreign Affairs and the Ministry of the Economy and Finances, with both claiming their right to prepare the French positions in the OEEC – later on in the OECD. The Prime Minister ended the dispute by wisely deciding that the mission should be exerted by a Secretariat-General belonging to his

services and reporting directly to him. *Bis in idem* in 1951: when the Paris Treaty created the ECSC and started the European construction, the coordination and preparation of instructions for the French delegations going to the Council of Ministers were also entrusted to SGCI. This was repeated a third and fourth time in 1957, when the EEC and the Euratom were set up by the Treaties of Rome.

As a result, nowadays the SGAE, like its ‘elder brother’ the Secretariat-General of the Government (SGG) which is responsible for handling the whole inter-departmental coordination and ‘governmental work’ in all matters, belongs to the Services of the Prime Minister. Unlike in the Netherlands and the vast majority of EU Member States, it is neither the MFA, nor the Minister Delegate for European Affairs that is in charge of European coordination and writing our negotiation positions, but a distinct organ, the SGAE, depending directly on the Prime Minister, and indirectly on the President.

Several noticeable features of this French system must be stressed:

- Since France has no coalition governments, there is no (political) need for the ‘Inter-ministerial Committee on Europe’ established by article 1 of the abovementioned decree to be regularly convened. Its actual meetings are thus very rare, limited to solemn occasions, especially French Presidencies. The effective coordination is entrusted to the SGAE, the secretariat of the Committee.
- The SGAE is not a diplomatic service but an interdepartmental administrative service of the Prime Minister with the widest jurisdiction.
- The SGAE enjoys strong HR capacities, with no less than 200 meticulously selected civil servants working there (the staff is augmented for French Presidencies). However, these very



competent specialists of EU affairs are not permanent staff: they are seconded, for a limited period, from their belonging ministries, and 'rotate' back there, and/or join the RPUE in Brussels, or the EU institutions. Such a 'blend' of competencies and regular turn-over ensures that the 3 deputy-secretaries-general and the 20 or so 'heads of sectors' (and their adjuncts) at the SGAE embody the diversity of expertise of the whole central State machinery, and that they have close connections with the senior officials at all ministerial departments.

- The SGAE is headed by a Secretary-General who wears two hats simultaneously – which is a unique case in the whole French State apparatus: s/he is both the administrative head of a central administration and the politically appointed special advisor for Europe within the 'cabinet' (political staff) of the Prime Minister (Ms. Sandrine Gaudin, at present) or sometimes the President (Mr. Léglise-Costa, her predecessor under President Hollande), depending on the political context. This ad hoc exceptional arrangement, initiated under President Mitterrand in 1985, gives to the Secretary-General, and by delegation to his/her three deputies and all collaborators of the SGAE, a direct and unique political legitimacy coming from the Top, which is decisive when handling difficult coordination processes on delicate topics with sometimes reluctant ministerial departments.
- The SGAE is thus an institutional hybrid, administrative by its legal status and its staff, but political (in a governmental sense and not a party politics one).
- The SGAE's real mission goes much farther than 'preparing the positions' – an understatement of the abovementioned decree. The very notion to be introduced here is the one of '*arbitrage*', arbitration. Considering the nature of the French regime, the

Minimal legal provisions

Decree no 2005-1283 dated 17 October 2005 (extracts)

Art. 1. An inter-ministerial committee, known as the Inter-ministerial Committee on Europe, is hereby established under the chairmanship of the Prime Minister, and is responsible for examining questions relating to France's participation in the European Communities and the European Union. This Committee comprises the Minister for Foreign Affairs, the Minister for the Economy and Finance, the Minister responsible for European Affairs and other members of the Government interested in its agenda.

Art. 2. A Secretariat-General for European Affairs is hereby established which, under the authority of the Prime Minister, shall exert the following attributions:

1. With the exception of the responsibility of the Minister for Foreign Affairs regarding the Common Foreign and Security Policy:
 - a. It examines and prepares the positions to be expressed by France within the institutions of the European Union, as well as in those of the OECD. It ensures the inter-ministerial coordination necessary for this purpose. It shall transmit the Government's instructions to the agents in charge of expressing French positions to these institutions;
 - b. It shall ensure the implementation, by all ministerial departments, of the engagements taken by the Government within the framework of the European institutions;
 - c. It ensures, together with the Secretariat-General of the Government, the implementation of the procedures that fall to the Government for the application of Article 88-4 of the Constitution;
 - d. It shall provide the secretariat of the Inter-ministerial Committee on Europe.
2. It ensures, in liaison with the Secretariat-General of the Government, the inter-ministerial monitoring of the transposition of EU directives and framework decisions.
3. It coordinates, with the Minister for European Affairs, the inter-ministerial mechanism allowing for informing the European Parliament about the Government's negotiating positions.
4. It coordinates the inter-ministerial mechanism for monitoring French presence within the European institutions.

Government is much less collegial and much more hierarchical than in the Netherlands. As a consequence, the Prime Minister, even if submissive to the President, rules over ministers and ministries. He enjoys a legal and political authority to ‘arbitrate’ among them in case of persisting disagreements on any dossier. As the French politico-administrative culture favours conflict, a significant amount of time is spent on arbitration about domestic issues, an activity conducted by both the Prime Minister in person and his ‘director of cabinet’ (chief of staff). Since EU affairs have expanded so much and become very technical, the existence of the SGAE with its boss wearing two hats is an ideal arrangement to protect the Prime Minister from daily EU business: the SGAE is established as a strong and solid gatekeeper. To ensure that, for the preparation of the French instructions to our delegates, the arbitration power of the Prime Minister is explicitly delegated to the SGAE boss, and even sub-delegated to her three deputy secretaries-general – quite a unique case in the whole State, because political arbitration is never delegated on domestic matters.

- Therefore, it is highly unlikely that a displeased minister/ministry would contest what is arbitrated ‘on behalf of the Prime Minister’ during the coordination ‘Inter-Service Meetings’ (RIS) at the SGAE, chaired by one of the Deputy Secretary-Generals, and where the representatives of the ministries are all civil servants. However, in such an unlikely case, the contested project of instructions would go up to Matignon, where the complaining minister/ministry would confront in a higher arbitration ‘Inter-Ministerial Meeting’ (RIM), comprising for each concerned ministry a civil servant-political advisor from the minister’s cabinet, with the co-chairs, an administrative servant of the SGG, and the SGAE head, co-chairing in his/her capacity as special European advisor of the Prime Minister or President. Such a ‘locked game’ strongly dissuades anyone to contest the SGAE arbitrations, and fosters compromise between ministries at a lower level.

The decisive role in Paris of the RPUE, the French Permanent Representation to the EU

In the case of several Member States, especially those which have a low administrative capacity and a poor quality of domestic coordination of EU dossiers in their capital city, the PermRep in Brussels works more or less in isolation, the councillors and attachés often self-writing the negotiation mandates they have not received in due time to enter a Council Working Party. The French system works in exactly the opposite way. Like the UK before Brexit, with its remarkably professional UKREP in Brussels and the European Secretariat of the Cabinet Office perfectly ‘plugged’ together, the French RPUE and the SGAE servants are seamlessly related and constantly interacting ‘*en miroir*’ (in a mirrored way). The RPUE, acting at the forefront, in the midst of the negotiation games in Brussels, is not seen as being ‘abroad’. The RPUE is deliberately anchored inside the domestic coordination machinery in Paris, as a central actor, by many ties:

- The SGAE and the RPUE officials, at all levels of seniority, constantly write and speak to each other. They often ‘rotate’ in the course of their career and ‘know the other side’ very well;
- No coordination meeting, RIS or RIM, takes place in Paris without the colleague in charge of the dossier at the RPUE attending via videoconference, with a decisive say in the final wording of Instructions that are to be addressed to him/her.
- The relations with Paris of the Ambassador and the Deputy-Permanent Representative are not ‘filtered’ by the MFA: since they are both President’s liege-men, appointed and dismissed by him, their authority is very high and they have daily decisive phone calls on sensitive dossiers with the SGAE, MFA, Matignon and also the Elysée – especially under the current mandate, Emmanuel Macron being a passionate European who is said by all our interviewees to personally follow more EU dossiers than any of his predecessors. The Ambassador comes to Paris every two weeks for high level meetings.



The limited and specific role of the MFA and the Minister Delegate for European Affairs

Since (a) France maintains its ambition to be a Great Power in International Relations, (b) most of European coordination is entrusted to the SGAE, (c) European dossiers are more and more technical and fall under the competence of technical ministries, (d) and for the most political ones the President, a member of the European Council, exerts direct leadership, it is no surprise that the French MFA, both at the political level of the minister plus cabinet, and the administrative level of the central services and our vast network of embassies around the world, mainly focuses its activity on international ‘high politics’ (United Nations, Middle East, relations with the USA, Russia, China, Turkey, Africa). They have very little time and energy for EU matters. Thus, European affairs are a ‘niche’ within the MFA, handled by a small ‘*filière*’ (stream and career) of specialists who populate two structures: the Directorate for the European Union (the DUE), and the Minister Delegate for European Affairs with his cabinet.

The Directorate for the European Union is the administrative structure of the MFA dedicated to the EU, and the place where young diplomats who want to specialize in EU matters start their careers, serving as a reservoir of talents before going to work at the SGAE, the RPUE, etc. Thirty years ago, when the Minister for Foreign Affairs used to accompany the French President to European Councils (which is no longer the case since the Lisbon Treaty), the DUE was more influential than today: the DUE was then in charge of preparing European Councils, which were much less technical and more political than today, with the succession of Inter-Governmental Conferences and the constant re-writing of the Treaties from the Single European Act to the Nice Treaty; meanwhile the SGAE was in charge of preparing the Council of Ministers’ meetings. This is why, when the Maastricht Treaty created the ‘Second Pillar’, the preparation of the French positions regarding the

Common Foreign and Security Policy (CFSP) was naturally entrusted to the MFA. This is still one of the three main missions of the DUE:

- The DUE, after taking written advice from any other relevant institutions (e.g. Ministry for Defence), prepares and sends, on behalf of the Minister for Foreign Affairs, the instructions for the specialized Ambassador, Permanent Representative for the CFSP, who represents France at the Political and Security Committee (PSC), and for the delegates attending the Working Parties preparing it (RELEX Group, etc.). The DUE then prepares with the specialized Ambassador the Minister’s dossier for the sessions of the Foreign Affairs Council of the EU. It means that the DUE is involved in co-writing all ‘EU declarations’ (about elections in Colombia, the poisoning of Alexei Navalny, etc.). Of course, on many dossiers, such as economic sanctions related to the CFSP, or the relations with Turkey, the jurisdictions of the DUE and the SGAE overlap, and they work closely together.
- The DUE, being the ‘custodian’ of what was agreed by France in the succession of Treaties, in the negotiations of which it was involved in the past decades, has a leading role in EU long-term strategic thinking, and especially institutional matters. For instance, in the current context of the Conference on the Future of the EU, to be concluded under the French Presidency in 2022, it is the DUE which ‘holds the dossier’, under close supervision of the delegate minister for European Affairs, Clément Beaune.
- The DUE is in charge of all bilateral relations of France with the other EU Member States, and coordinates our network of bilateral embassies.

Placed within the French MFA and with no legal autonomy, the Minister Delegate for European Affairs (now Mr. Clément Beaune, who was previously the President’s advisor for Europe and is very close to him) is always a junior minister, supported by his own cabinet



of special advisors, and reporting to the Foreign Affairs Minister. The junior minister and his cabinet have authority over the DUE. Since, unlike what can be found in other Member States, the junior minister has no coordinating mission, it might be difficult for foreign readers to understand his role, which is actually manifold and evolving. To summarize, the French delegate minister for European Affairs (with his staff):

- Makes sure to have an overview of all European dossiers and delivers a weekly brief to his colleagues in each French council of ministers;
- Represents France at the General Affairs Council in Brussels;
- Monitors the main cross-cutting hot European dossiers of the moment, e.g. the Brexit or the negotiations on the long-term budget and the Recovery Plan;
- On behalf of the President, he coordinates the preparation of the future French Presidency: visits to all capitals, proactive role to give an impetus to the Conference on the Future of the EU, etc.;
- Exerts, on behalf of the French President, lots of discreet diplomatic influence: visits to all EU capitals, phone calls to foreign ministers to convince 'like-minded' colleagues to enter into votes' coalitions in Council;
- Is the privileged French interlocutor of the European Parliament, especially French MEPs, and of the French Parliament (regular hearings by the two committees of the French Parliament for EU Affairs, especially before each European Council);
- Is in charge of 'selling Europe to the French people' (as young Pierre Moscovici used to say pleasantly, when he held this portfolio).

The wide autonomy enjoyed de facto by the Ministry for the Economy and Finances within the ECOFIN and Eurogroup sector

France is not Germany, with its shared command on the domestic European coordination by the MFA and the Ministry of the Economy and Energy. However, considering the centrality of economic and monetary matters (ex-'First Pillar'), it is no surprise that 'Bercy', the powerful Ministry for the Economy and Finances, is officially given, as well as the MFA, a special role and administrative jurisdiction concerning EU affairs, distinct from any other 'sectorial ministries' (in the French administrative architecture). Even though all Bercy DGs are (more or less) impacted by European integration (think about the Directorate-General of Customs and indirect taxes, DGDDI, which enforces legislation which is 100% Brussels made), there are two 'strategic' and very prestigious DGs, working very closely with the minister's cabinet, that are entrusted with a major role in the production of French positions for EU negotiations.

The first one is the Budget Directorate (DB): this very powerful DG in charge of preparing the State's budget and monitoring its execution, is responsible for the preparation of the French positions in all EU budgetary matters: Multiannual Financial Framework, French contribution, 'European Semester', and nowadays the Rescue Plan, of course. The DB works in constant interaction with its counterparts/delegates within the SGAE and the RPUE, and of course Matignon and the Elysée.

The second and 'brother' one (in both high influence and prestige), the Directorate-General of the Treasury, '*le Trésor*', is in charge of the macro-economic strategy of the country and the financing of the French economy. As regards the EU, '*le Trésor*' is responsible, also in constant interaction with its counterparts/delegates within the SGAE (the Secretary-General herself, Ms. Gaudin, comes from the Treasury),



the RPUE, and of course Matignon and the Elysée, for elaborating the long-term doctrine, as well as the daily French negotiation positions to be defended in the ECOFIN sector, from the level of Working Parties to COREPER, the ECOFIN Council and European Council. ‘Le Trésor’ has also the lead for the monetary aspects of the EMU, and thus the Eurogroup domain and the Euro.

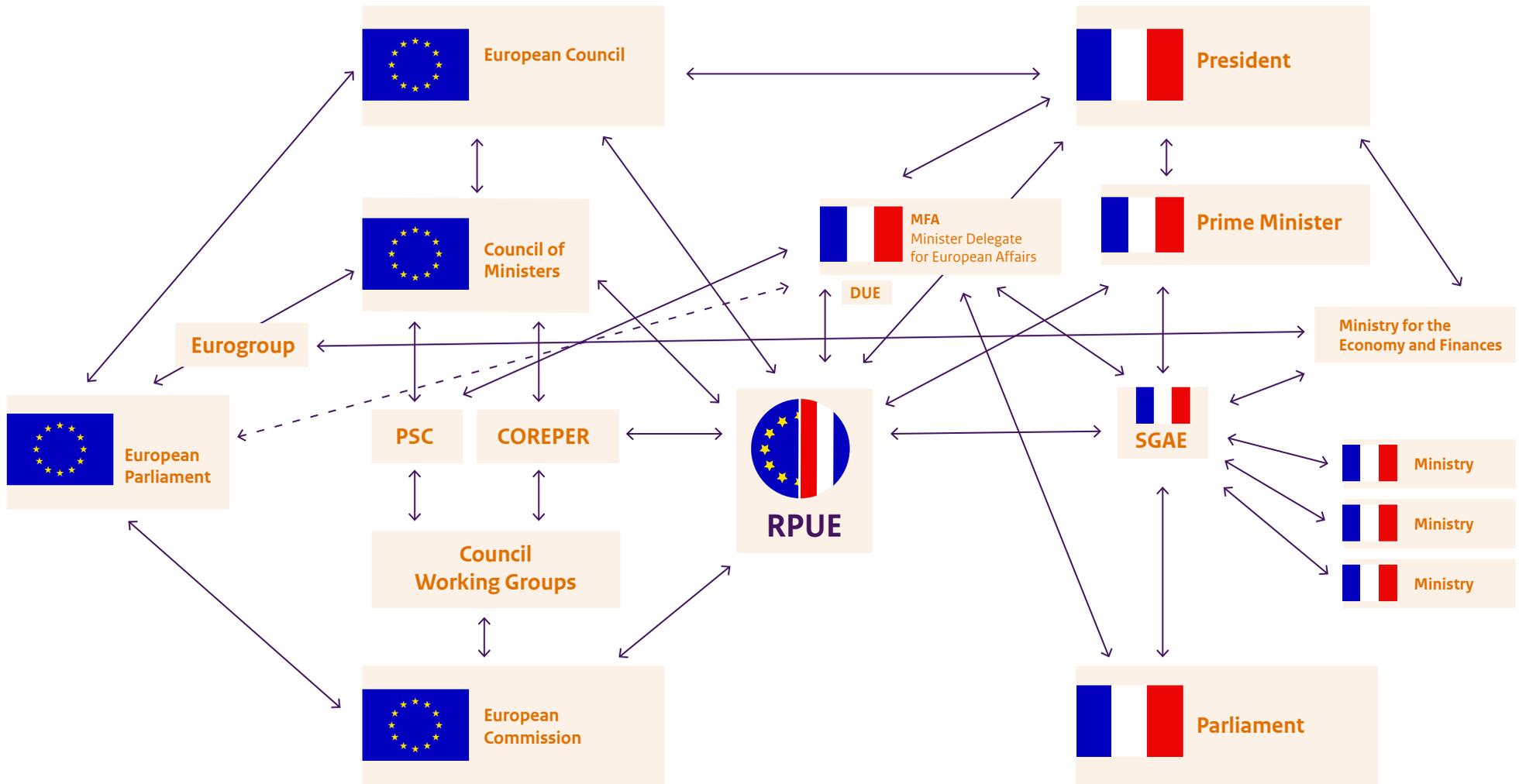
To conclude this sub-section, let us once again recall that the above-mentioned key actors always interact within the frame of the overall French strategy defined by the President with the help of his small staff (usually 5 high-flyers) of special advisors for EU matters, informally referred to as ‘la cellule Europe de l’Elysée’, and under the command-and-control of that team.

*‘On all major European dossiers, it is the Elysée that decides!’
(former minister and MEP) ¹⁵*

The major players of European coordination in France: a synthetic view

The following figure intends to visualize in a synthetic and simplified way how the abovementioned key actors are engaged in the inter-institutional configuration of power and processes of production of the ‘*politique européenne de la France*’. The detailed analysis on how these institutional actors interact strategically and tactically throughout the stages of the coordination process shall be presented in the section: ‘The interplay of actors in the French coordination mechanism and their strategic capacity’.

¹⁵ In this document, we insert as Verbatim some extracts from the 19.45 hours of 19 very rich interviews carried out with top officials from September to November 2020. For deontological reasons, sometimes their (former) positions, ranks or qualities are specified, sometimes not, depending on the sensitive/critical nature of what they say. The author is extremely grateful to these 19 overworked individuals, who have been very generous and open-minded. The quality of our study is the fruit of their goodwill.





2.2 What are the differences between the objectives, values and ‘coverage’ of the French coordination machinery in comparison with the Netherlands?

In the ToR for this study, IOB coined a working definition: ‘The national coordination mechanism aims at developing, in mutual agreement (inclusiveness), both cross-departmentally with regional levels of government (municipalities and provinces), and with national Parliament, a coherent policy position and negotiation tactics (‘mandate’), which enables representatives of the Dutch government to reach favoured policy outcomes for the Netherlands in negotiations in the framework of the European Union’. Coherence means ‘formulating a coherent policy position to use as a mandate in EU policy negotiations (‘speaking with one voice’), and developing coherent negotiation tactics. Coherence has two aspects: coherence within a dossier, and coherence across dossiers’. Inclusiveness means ‘developing a policy position together, and in mutual agreement, with a variety of stakeholders (Ministry of Foreign Affairs, line ministries, parliament and regional levels of government)’.

What about France, then?

The obsessive objective of the French coordination machinery

As all major features of a politico-administrative culture, the objectives of the French coordination system are laid down in writing for some parts, and the rest are made of oral traditions and non-verbal mimetic transmission of values-in-action from seniors to young subordinates.

Surprisingly enough, the current French coordination machinery is still organized by a text adopted a quarter of a century ago, a simple circular (‘*circulaire*’) by Prime Minister Edouard Balladur, dated 21st March 1994, ‘on the relations between French administrations and the institutions of the European Union’, the third paragraph of which is written as follows (our translation):

‘The place, identity and interests of France must be defended with conviction in European negotiations. The French positions in all the bodies of the European Union must be expressed with clarity and with the greatest coherence. Moreover, the administrative activity must fully integrate the European dimension. The organisational principles of the inter-departmental work exposed hereafter and detailed in the annexes are defined for that purpose. The unity of the French positions is a condition of the efficiency of our action. Any French minister or delegate speaking in the frame of the EU Institutions engages France.’

As a direct and essential consequence of these principles, the absolute rule is that any French minister or delegate at any level of the Council machinery in Brussels shall speak on behalf of the French State as a whole, and shall not express the limited views and sectoral interests of one single ministry. That is precisely why the SGAE is entrusted with the authority to provide all French delegates with precise written instructions, the content of which, duly arbitrated after inter-departmental coordination, and signed on behalf of the Prime Minister, is binding for them.

The overarching objective of the whole French system of European coordination is thus crystal clear. It is usually expressed in the form of two mottos, constantly repeated to and by practitioners:

- A generic motto of French diplomacy: ‘*La France ne se contredit jamais*’ (France never goes back on what it says).
- A specific motto for EU matters: ‘*La France doit parler d’une seule voix à Bruxelles*’ (France must speak with one voice only in Brussels).

It is obvious that all the civil servants involved in coordination, constantly or occasionally, are well aware of its supreme objective of coherence, whose institutional grand custodians are the two ‘gatekeepers’ of the process: the SGAE in Paris and the RPUE at the forefront.

As expressed with clarity by one of the Ambassadors interviewed:

'Our constant doctrine is that French positions must be coherent in all dossiers, at all levels, at all moments in the process. Honesty obliges to say that it is not often the case in other Member States. The SGAE and the RPUE are the guardians of that coherence.'
(Ambassador-Permanent Representative)

The values that are central to the French coordination mechanism

Coherence: This is the core value of the French system. Such prominence is the logical consequence of the already exposed vertical nature of the Fifth Republic: how could the French President maintain a strong presence in the European Council if French delegates at lower levels of EU governance were to contradict one another? Yet, foreign readers must keep in mind that producing and maintaining such coherence and consistency on all dossiers – at all the stages of a negotiation which, for EU regulations and directives in OLP often last 3 years through 6 Presidencies of the Council – is not an easy task at all. This is true for all Member States, but maybe more for France because of specific features of the French administrative culture, marked by constant rivalries and mutual disdain between 'silo' ministries which engage in palace battles on any occasion, to defend their views and their jurisdictions. A former boss of the SGAE and then European Commissioner, Yves-Thibault de Silguy used to draw the difference between the Commission where the DGs engaged in inter-service consultations seek compromise; while Franco-French negotiations in Paris are often controversial, making it all the more necessary to have two strong central organs as the SGAE and the RPUE, obsessed with coherence and equipped with an uncontested delegation of arbitration authority from the Top Executive.

Europeanism: Since not all Member States are committed to advancing EU integration, and one has even 'Brexit', it is worth underlining France's Europeanism. While ordinary French citizens are divided about

Europe and strong Europhobic parties have gained increasing support (as in the Netherlands), Europeanism is a strongly shared value among the social elites, from among which high-level officials, both politicians and top civil servants, are recruited. This is all the more so for those who join the '*filière européenne*' (political stream/career), who share very strong common beliefs that can be freely phrased as follows: 'France is not and shall never become a Member State among others of the EU'; 'Since the Schuman Declaration and the 1951 Paris Treaty, France is (with Germany) the driving force of European integration'; 'Consequently, even though tactical disagreements occur with the European Commission, the position-in-principle of the French diplomacy is to support the Commission's initiatives'; 'In a longer-term perspective, France shall always act in favour of deepening and strengthening the EU so as to avoid the half-failure of a single market with the Euro, a few common policies, structural funds, and nothing else'.

Defence of French 'Grandeur': Without any contradiction, since 'France is our motherland, Europe is our future' as coined by President François Mitterrand in 1989, French diplomats and higher officials active in EU coordination are committed to defending the national interest. French national interest wears the quite specific form – refined from King Louis XIV to General de Gaulle – of French '*Grandeur*' (foreigners may call it 'French arrogance'), whose practical consequences for the involvement of French delegations in EU governance are twofold: either French delegates take the co-leadership, hand in hand with Berlin as a 'Franco-German couple' or, if this is not an option, France tries to become part of the winning coalition when it comes to votes in the Council, after appropriate trade-off, according to the doctrine that '*La France ne doit jamais être minorisée au Conseil*' (France should never end up in the minority in Council), a doctrine that used to be stronger within the EU-15 and has lost importance within the enlarged EU-27.



And what about *inclusiveness*? If ‘inclusiveness’ is defined in a very ambitious and embracing manner as in the Netherlands – ‘developing a policy position together, and in mutual agreement, with a variety of stakeholders, including the Ministry of Foreign Affairs and line ministries, parliament and regional levels of government’ –, it is obvious that the typical ‘consociational’ (in Arend Lijphart’s terms) understanding of parliamentary, multi-level, processual, compromise-oriented democracy is irrelevant in France, for many cumulated reasons:

- The most important (already mentioned) one is that the French Fifth Republic is a majoritarian and presidentialist regime, where Legislature and Executive are both submissive to the President, especially in Foreign and European affairs (while domestic socio-economic matters can be more disputed within the majority).
- An additional constitutional reason is that France is a ‘one and indivisible Republic’ whose regional, provincial, local authorities (even though enjoying a high degree of ‘decentralization’ since the 1980s) have not the slightest piece of legislative power (except the very few Overseas Territories), and do not participate in the exercise of State sovereignty (opposite to the *Länder* in federal Germany).
- The strict principle of a unitary State also implies that ministries are not self-standing legal entities: they have no legal capacity on their own, and their ministers have very little regulatory power on their own (in complete contrast to the German *Ressortprinzip*): it goes so far as all ministerial departments being often reorganized, merged, split or abolished by presidential decree each time a new Government is appointed (two or three years, on average).

Compared to Dutch ‘inclusiveness’, inclusiveness *à la française* is thus:

- More formal than substantial: the SGAE has to associate sectorial ministers and ministries and to consult the two houses of

Parliament, but their views can be ignored by the Core Executive if the SGAE, the RPUE, Matignon and Elysée are well aligned.

- More limited in scope: only institutions and organs belonging to the central apparatus of the State (in Paris) are involved in European coordination. Local, provincial and even regional layers of governance are excluded. However, since politics is an art that sometimes emancipates from strict legal provisions, territorial decision-makers may be consulted informally by the President’s or Prime Minister’s cabinets, in particular the presidents of the 18 Regions, which are strong implementers of EU policies, notably structural funds.

The French centralized coordination system guarantees the legitimacy of the national positions since vertical legitimization comes ‘top-down’ from the President

There is nothing to add to what has already been exposed: while in the Dutch system, legitimacy stems from the Parliament’s involvement in the coordination mechanism, in France the legitimacy of the top officials involved, especially the SGAE boss and the Ambassador (plus deputy) heading the RPUE, comes directly from the trust and confidence put in them by a President elected by universal suffrage, who can appoint and dismiss each week by decree taken in the (French) Council of Ministers these ‘*fonctionnaires à la discrétion du Gouvernement*’ (equivalent of the German ‘*politischer Beamten*’).

Even in the systematic French coordination system, the widening variety of EU ‘products’ is not dealt with in the same manner

As mentioned previously, the coordination machinery centred on the SGAE was originally set up to deal with EEC and Euratom affairs according to the initial competencies set out in the two Treaties of Rome. Since then, the SGAE-centred machinery has constantly developed its institutional capacities and refined its procedures so as to master the production of French positions at all steps of Brussels



decision-making regarding the OLP for the adoption of legislative acts (EU regulations and directives). This includes the ‘communiticised’ aspects of the former Third Pillar, i.e. Borders, Asylum and Migrations, or Cooperation in Penal and Civil Justice, topics which are now controlled by dedicated ‘Sectors’/units within the SGAE and one of the Deputy Secretaries-General. Nevertheless, some interviewees mentioned that, in Brussels at the RPUE, the team in charge of following and negotiating matters pertaining to the European Area of Freedom, Security and Justice, or police cooperation, etc., being traditionally headed by a seconded Prefect, tends to work in a somewhat isolated manner with their homologues.

As mentioned above, within the former ‘First Pillar’, the EMU, the Eurogroup, the relations with and between the independent Central Bank of France and the European Central Bank, and also the budgetary aspects of the EU governance, are *de facto* a small world in itself. The SGAE is kept informed, but positions are prepared by Bercy highest officials, in connection with Matignon and the Elysée. To illustrate that autonomy, while the RPUE is located at Place de Louvain in Brussels, the Trésor representatives are meaningfully located in another building, at Rue de la Loi. As attested by several interviewees:

‘Things go differently for the ECOFIN and the Eurogroup. The preparation of the ECOFIN Council is inter-departmental: the SGAE and the RPUE are in the loop. For the Eurogroup, it’s another story. It is the place where the Member States and the ECB dialogue on the exchange rates, the value of the Euro, etc. Thus, it is not inter-departmentalized. It is the Treasury that writes the positions to be defended by Bruno Le Maire [current minister] and I don’t see how any other ministry would claim to have a say in it.’
(one Secretary-General of the SGAE)

In addition, the very technical affairs related to the Common Agricultural Policy (this great share of the EU budget) are dealt with in a

rather ‘silos’ manner by the RPUE Agriculture Councillor, the French delegate to the Special Committee on Agriculture (SCA), and his team of specialists, seconded from the French Ministry for Agriculture, with the exception of the ‘package deals’ that involve agricultural dossiers, which are closely scrutinized by the Ambassador and his Deputy in connection with Paris.

When the Commission is allowed to produce ‘implementing acts’ of EU legislation, then the ‘comitology’ procedure applies and the control is ensured by committees consisting of EU countries’ representatives and chaired by a representative of the Commission. The French delegates in comitology committees, the dossiers of which are highly technical, obviously come from the ‘sectorial’ ministries. The proliferation of comitology committees to more than 200 over the past two decades had ended up in a progressive loss of control by the SGAE and the RPUE over French delegates going to seat without validated instructions. After a national ‘scandal’ (a French delegate accepting that rosé wine could be made by blending red and white wine – which is nonsense to French winemakers – growers oenologists and amateurs ended up with a comitology act being adopted that had to get rewritten to state the contrary), the awareness was raised. In recent years, the SGAE and the RPUE have been working very hard in order to rationalize, restore control and ensure good procedures in that matter. The SGAE considers that ‘80% of the dark comitology is again under control’.

In addition, the former ‘Second Pillar’ remains under the competency of the MFA. The instructions for the specialized Ambassador, Permanent Representative for the CFSP, who represents France at the Political and Security Committee (PSC), and for the delegates attending the Working Parties preparing it (RELEX Group, etc.), are not written by the SGAE, which is kept ‘in the loop’, but by the MFA. It is the same for the meetings of the political directors of the Member States’ MFAs and the preparation of the sessions of the Foreign Affairs Council. In addition,



as far as the Common Security and Defence Policy (CSDP) is concerned, with its Military Committee of the EU (EUMC), the Defence Ministry is in charge. The French Chief of the Defence Staff (CEMA) gives instructions (oral and/or classified) to his permanent Military Representative (MilRep) in Brussels, usually a three-star general. All these military issues remain under close scrutiny of the French President (supported by his 'Particular Chief of Staff'), who is not a theoretical 'Commander-in-chief of the Armed Forces' (like sovereigns are in many countries) but an effective one, including the highest-level control of the French nuclear deterrence forces. However, the 'community dimensions' of the CSDP, for instance the European Defence Fund, which is managed by the Commission, fall within the basket of the SGAE, in which one Sector now follows Defence issues.

As regards non-traditional governance instruments of so-called 'soft law' such as Communications to the College, Guidelines published by the Commission, and other 'Open Method of Coordination' products, the rule that the SGAE is the sole recipient of all official documents produced by the EU and then dispatches them to the relevant ministry applies rigorously. Then, as for the feedback from French ministries, the classic 'loop' and writing in common applies, and the degree of investment of the SGAE officials/the discretion they leave to their colleagues in concerned ministries depends on the importance of the topic.

In addition, in the emergency context of the COVID-19 crisis, the European Commission created 'contact points' in the technical ministries of all Member States and started to convene them in Zoom meetings while these persons were teleworking from home (e.g. DG SANCO initiatives to co-ordinate masks experts). Unsurprisingly, the whole process created lots of confusion under the Croatian Presidency. Following its DNA, the SGAE reacted by sending messages to all commissioners' cabinets and all French ministries to: (a) remind them of the rules; (b) produce an official list of these contact persons; and (c)

compel them to contact the SGAE prior to Zoom meetings to get their written instructions from the competent SGAE Sector.

Finally, for atypical actions, such as acts, declarations or conclusions of the European Council, the ordinary mechanisms of coordination by the SGAE are short-circuited, since nobody is entitled to give 'instructions' to the President, who relies on his staff of European specialists for 'drafting' documents, and on the Secretary-General of the SGAE/the special advisor on that structure, as well as on the Ambassador and the RPUE, who are part of the delegation supporting him in Brussels during the sessions.

2.3 Actors' interplay in the French coordination mechanism and their strategic capacity

The French coordination mechanism is processed by the main actors involved so as to meet the objective – as coined by the interviewed Ambassador – of being 'coherent in all dossiers, at all levels, at all moments in the process'. To ensure such a cross-cutting and enduring coherence, stakeholders are not allowed to behave to their liking at early stages, with consistency coming only at COREPER level as observed in many Member States, or inconsistencies coming back at Council level because ministers are under tight control of their parliaments and have to change the national position at that later stage.

'The other Member States usually do not have such elaborated and integrated national positions at the level of Council's Working Parties as we have, and things improve at COREPER level. As a consequence, many of our partners may significantly change their position between CWPs and the COREPER, which is very painful for us.'
(former legal councillor at the RPUE)



The whole French coordination mechanism, at all stages from the very start, is organized as a continuum, with regular ‘check-points’ in Paris as well as Brussels. That continuum is both politically and technically controlled by the two strong mirrored ‘gatekeepers’, the SGAE and the RPUE, faithfully (over-)working at the service and on behalf of an ‘all-seeing-eye’, the Presidency, which monitors carefully ‘from the sky’ until dossiers climb to the European Council stage.

‘Let’s be frank. There are 10 persons who pilot and control the whole thing: The President, his special advisor for Europe and his team, the special advisor to the Prime Minister/the Secretary-General of the SGAE, the Ambassador-Permanent Representative, his deputy for COREPER I, the junior minister for European Affairs, the director of cabinet of the MFA, the director of the DUE, plus the director-general of the Treasury and the governor of the Bank of France for the EMU of course. The others, all the others, follow and obey.’
(former Ambassador)

‘The Secretary-General of the SGAE and the Permanent Representative are the President’s (wo)men. It is risky to try and bypass the SGAE. As for the Permanent Representative, his authority is never contested in the French system.’
(former Prime Minister and Minister for Foreign Affairs)

A strategic interplay between the main actors throughout the French coordination process

Let us analyse the process throughout the stages (also shown in the box on the following page).

The crucial early stage: how does the French coordination system handle new proposals of EU legislation?

The absolute procedural rule of all documents coming from the SecGen of the Council entering into the French system through the RPUE and the SGAE applies. The SGAE is not a ‘postman’ but a ‘watchtower’: since the Commission’s proposals come after a long maturation process, from the first ‘non-paper’ to the public consultation during impact assessment exercises, the RPUE and the SGAE are well aware of the salient and sensitive aspects of any coming proposal many months in advance. Thus, upon arrival of the proposal, a first RIS meeting is convened so as to set the scene, to define the strategy on the dossier, and to identify the ‘red lights’ and ‘green lights’ of all ministries on the major aspects of the proposed directive/regulation. The competent SGAE sector writes the synthesis, sent to the RPUE, where French diplomats analyse our chances to convince other PermReps to share our red and green light points. The RPUE feedback is integrated into a consolidated document, validated by the Secretary-General, and distributed to all interested ministries as an agreed roadmap, while the RPUE and Deputy Minister for EU Affairs start their building of alliances and future voting coalition on the very dossier.

N.B.: In the (few) cases of major dossiers or hot topics, the RIS meeting is replaced by a RIM meeting in Matignon, chaired by the Prime Minister’s director of cabinet, seconded by the SGAE boss/special advisor for EU affairs, with all directors of cabinet of involved ministries present, and the Elysée European team. On average, such high-level meetings occur twice or thrice a year. If the topic justifies, three or four times a year, it can even be a ‘réunion de ministres’, chaired by the Prime Minister in person, with the ministers in person involved in a given dossier (e.g. the topics of the latest ones were on migration, Brexit, Brexit with no deal and the border issue, or the Rescue Plan). The strategic capacity of the French European diplomacy is guaranteed by such high-level meetings when needed.

Daily work at Council's Working Parties or specialized committees' stage

When the lengthy cycle of Council's Working Parties goes on over months, the daily work in Paris follows the steps presented in the box on this page.

N.B.: In 2019, the SGAE held 1500 inter-services meetings (RIS), out of which 600 in videoconference with the RPUE, meaning 4 to 5 RIS per working day. The total number of inter-ministerial meetings (RIM) in Matignon is comparable, but no statistics are available on their distribution by topics. Practitioners converge in estimating that RIM meetings in Matignon on EU affairs are limited in number: one or two per week in the year 2020.

It is worth underlining that, to monitor such a heavy workload in a cross-cutting manner, and also to ensure the link with the MFA which writes the instructions for the CFSP, there is a weekly meeting between the team of European advisors to the President, the team of European advisors to the Prime Minister headed by the Secretary-General of the SGAE, the Minister Delegate for European Affairs in person, and the director of the Directorate for the European Union. No serious issue can escape, thus.

At COREPER I and II stage

When the current Presidency and the Secretariat-General of the Council terminate a dossier at CWPs and pass it to COREPER I or II, the networks of Mertens or Antici councillors are activated to prepare them while the abovementioned RIS or RIM meetings take place again in Paris, and the instructions are written by the SGAE and sent to the Ambassador or Deputy, with precise indications on their margins for negotiation and breakpoints.

In addition to that formal proceeding, an informal yet systematic monitoring of the agendas of forthcoming COREPER meetings is ensured, at highest level, by the mysterious 'Saturday morning meetings' at the Elysée Palace. Convened twice a month, they bring together the Secretary-General of the Presidency or the diplomatic

Coordination in practice

SG of the Council, on behalf of the Presidency, sends revised or new documents.



The RPUE and the SGAE receive and analyse them.



The SGAE dispatches them with a calendar and clear deadlines for responding.



Ministries concerned are activated and must react in due time.



If the dossier is non-controversial (most of the time), written procedure applies: ministries (after consulting stakeholders in their policy field such as businesses and NGOs) submit written remarks to the SGAE; the SGAE Sector in charge drafts the instructions, they are circulated again for approval before a deadline, then signed by one Deputy Secretary-General.



If some aspects are sensitive, the SGAE convenes an inter-services meeting (RIS) composed of civil servants only, to find compromise under the chair of a Deputy Secretary-General: if consensus is reached, instructions are validated. If not, call for arbitration.



In Matignon, the SGG (Secretariat-General of the Government) convokes an inter-ministerial meeting (RIM) where involved ministries are represented by a civil servant and a political advisor of the minister, under the co-chair of an the SGG official and of the SGAE boss in her capacity as special advisor to Prime Minister or President for EU affairs: she arbitrates conflicts on behalf of them and instructions are validated. If a ministry refuses, call for arbitration of the Prime Minister in person (quite rare).



Arbitration by the Prime Minister and his director of cabinet, after discussions with the Presidency and instructions adopted.



In any case, the SGAE sends, on behalf of the Prime Minister, the instructions to the RPUE, which is responsible for good compliance by the French delegation sitting in Council Working Parties.



Sherpa, the President's European advisor, the President's economic advisor, the director of cabinet of the Prime Minister, the Secretary-General of the SGAE, the director of cabinet of the MFA, the director of cabinet of the Minister Delegate for European Affairs, the director of the Directorate for the European Union, the director of cabinet of the Ministry for the Economy and Finances, the director-general of the Treasury, and the Ambassador-Permanent Representative. The latter sends a memo the day before the Saturday meeting, revealing all the sensitive points to be arbitrated regarding the COREPER I and II meetings for the two forthcoming weeks. He then goes back to Brussels with clear and agreed answers.

Such a high-level monitoring, combined with the direct link between the Ambassador and the President in person – since they meet regularly and can easily have discussions over the phone – ensures the strong strategic capacity of the French diplomacy in Brussels. It is a well-known observation that there are differences between the two COREPERs.

'Our tactics to approach COREPER I and COREPER II are different.

There are many reasons for that:

- a. The qualified-majority voting is the rule at COREPER I, while at COREPER II the imprint of consensus remains strong.*
- b. Administrative sociology, since at COREPER I we are not all diplomats while the Ambassadors at COREPER II are.*
- c. Ambassadors have the direct hotline to Presidents or Prime Ministers, which is not my case for COREPER I.*
- d. Thus, the margin for negotiation at COREPER II is wider. Of course, our Ambassador works 'under instructions' but he can deviate from them easily.*
- e. Especially since it depends on topics: when the Ambassador negotiates on our discussions with India, he can have intuitions at the moment. When we discuss at COREPER I very technical dossiers on the size of bearings in car engines, we read the technical instructions sent by the SGAE or we shut up!' (PRUE official involved in COREPER I)*

Nevertheless, since the French Ambassador must be in a capacity to have an overview of both COREPERs and master 'the expertise of the expertise', the French diplomacy has adopted the custom that no one shall be appointed as Ambassador at the RPUE if s/he has not previously served as Deputy-Permanent Representative to COREPER I, or at least as Mertens Councillor. This is the simplest manner to make sure that the French Ambassador 'masters the whole chain' and can play his role as main custodian of the coherence in the system.

'There are two civil servants in our country who have more power than almost all ministers and are unknown from the general public: the director of the Budget Directorate in Bercy, and our Ambassador-Permanent Representative in Brussels' (former Minister of Telecommunications, Housing and Urbanism, Transport and Infrastructure, the Interior, National Defence – previous interview)

Q. President? A.: President Macron wants to be informed of all what is political. He is interested in the COREPERs' big dossiers, including State aid, glyphosate, etc. He reads a lot! And he comes to Brussels all the time, or sends me messages. So, I know precisely what he thinks!' (the RPUE official involved in COREPER II)

At Council of Ministers sessions stage

The French system being very systematic, and the French government very cohesive, there is no way for ministers in person to escape the 'watchdogs'. The RIS and RIM machinery also apply for the writing of the instructions provided in person to ministers who go to Brussels for a session of the Council, and shall defend a 'French position' and not the one of their own ministries, or their personal views. In the good old days, the French delegations could include an SGAE official, precisely missioned to control this or that turbulent minister on behalf of Matignon. The presence of the Ambassador or his Deputy next to ministers (even replacing them at the chair from time to time) is a sufficient guarantee now, for 'ordinary' (so to speak) ministers in charge of a technical portfolio.



As for Eurogroup and ECOFIN Councils, the equilibrium of powers is more balanced, considering the political seniority of the Economy minister, the prestige of the Treasury and the technicity of the issues: the RPUE keeps a lower profile there, even though things are slightly normalizing.

'At a given period, with a peak during the 2009-2012 crisis, all the Treasury DGs of the Member States agreed to qualify all economic issues as 'monetary policy' so as to close the power game in an endogamic way: the Eurozone summit was prepared by the Eurogroup, which was prepared by the network of Treasury DGs. Things have gotten much better: the Eurogroup sector is less autonomous. The Treasury DGs prepare the Eurogroup, but we, in COREPER II, we really prepare the ECOFIN Councils. It is all the more so now, with the Recovery Plan going up the European Councils, so PermReps cannot be bypassed.'
(the RPUE official involved in COREPER II)

Finally, as for Foreign Affairs Councils, where France is represented by a Minister for Foreign Affairs, who is so busy with global international relations that he needs the support of the Ambassador to understand the state-of-affairs in Brussels, and the General Affairs Councils, where France is represented by the Minister Delegate for European Affairs who is constantly in the loop with the Ambassador, everything goes very smoothly between gentlemen who are strategically well in line and whose competencies and skills complement each other.

At European Council stage

Q. Which dossiers go up to the President, and which do not?
A: Everything! (laughs). He reads enormously. 70% of the dossiers go up to him. Since he is passionate about Europe, he masters everything, remembers very well, asks us for more and more details, and links and connects aspects which are transversal to all dossiers.'
(SGAE official)

'The European Council takes care of an increasing number of issues. Now, in the European Council, half of the time, we are talking of internal policies of the EU climbing from COREPER II.'
(one of the Ambassadors interviewed)

Once it has been made clear that the President, and his personal advisors, are kept informed and intervene at all stages of the coordination mechanism, and do not 'discover' the topics inscribed on the agenda for the European Council, what can be said about that supreme stage of EU policy-making from the French perspective?

Firstly, the mechanism of the SGAE coordinating the production of written instructions is obviously suspended, since nobody within the Executive can give instructions to the President, and he is neither responsible nor answerable to Parliament, so there is no such thing as a 'mandate' from Parliament, as is the case for the Prime Ministers of Nordic countries.

However, the SGAE and the DUE are closely associated with the small European team of 5 special advisors to the President (compared with the 30 backing Federal Chancellor Merkel) in the writing of the memos and other documents which constitute the substantial 'dossier' for the President. In addition, as for political aspects, foreseen negotiation tactics, and strategic issues to be validated in advance, the closest Saturday meeting prior to the next European Council is dedicated to clarifying them all. In addition, the President's European special advisor may convene, in the Green Room of the Palace, whatever meeting is needed, and in the few days before European Councils, he will carry out lots of videoconference meetings with the chief-of-staff of the European Council President, with the chief European advisor of the German Chancellor, and with the French Ambassador.

Then, the French President going to Brussels is supported by a strong team, ensuring him strong institutional capacities.



'You know, the beauty of the European Council is that Presidents and Prime Ministers are alone at certain moments and we don't really know what they say, even though the Antici is doing its best rushing in and out. All that is fine when they talk about strategic orientations. But when they come to take precise decisions and the European Council becomes a super-ECOFIN Council, as it was during the Euro crisis, and as it is now with the COVID-19 crisis management and the Recovery Plan, then we have to do craftwork and improvisation, with the European advisor, the economic advisor, the director-general of the Treasury and the Ambassador giving their best to feed the boss in real time. It's tricky!'

(former President's European advisor)

'I was one of the co-authors of Article 88-4 of the Constitution. Its purpose was to organize the control by our Parliament over the European policy of the Government. Then, I became minister for European Affairs, and with the sovereigntist President of the National Assembly, we picked up important projects of directive or regulation in the Council phase and organized once per month a debate in plenary with the vote of a resolution, so as to influence the writing of the instructions by the SGAE. It lasted two years, then the procedure progressively faded away. Now, the work is done at the level of the European committees of the two Chambers. They are very competent, but specialists talking to specialists!'

(former minister for European Affairs, former MP and MEP)

The limited consultative role of the two French Assemblies

'Between our two countries, it's day and night. My colleague, the Dutch Permanent Representative, is called for hearings in the Dutch Parliament each week (sic). He starts all his speeches by 'The position of the States-General of the Netherlands is...' I went thrice to the National Assembly during my many years as Ambassador. Full stop (smile)!

(former Ambassador)

'To be honest, our system has nothing in common with Nordic countries, where national parliaments adopt 'mandates' and it is very difficult for the PermRep or a minister to deviate from it. In France, the relations with the Houses remain informative.'

(a RPUE official)

It is in the context of the revision of the French Constitution prior to the ratification of the Maastricht Treaty (through a referendum organized) in 1992 that the procedure of consultation of the national Parliament about projects of EU legislations was negotiated between pro- and anti-Maastricht political leaders and introduced by article 88-4 of the Constitution. One of the actors remembers:

Article 88-4 was enhanced by the 2008 revision of the Constitution: since then, it is an obligation for the French Government to submit to the two Houses all the projects and propositions of EU acts transmitted to the Council of the EU, and as a consequence to French authorities. Since 2009, a dedicated standing Committee for European Affairs is active in both Houses to handle the procedure. To be succinct, these committees are said to be 'semi-permanent' and do not have the same prestige and powers as the old 'permanent standing committees' (on Foreign Affairs, Defence, Economic Affairs, etc.), their members also belong to one of the latter, they are elected for the whole legislature, on the basis of proportional representation of all political groups in the House and also representation of all permanent committees. French MEPs are invited members, with no voting rights. The National Assembly's EU Committee has 48 members, and the Senate's 41. These committees meet once a week, sometimes twice. They have three core missions in practice: the article 88-4 procedure; the article 88-6 procedure ('subsidiarity checks' provided by the Lisbon Treaty and introduced in France by the 2008 revision of the Constitution); and being kept informed and performing official hearings.



As for the article 88-4 procedure, it is the SGAE which is charged, for the Government, to submit the 500-to-800 projects of EU legislation a year to both Committees (see the Annex). They work in parallel and have 8 weeks to produce an advice, or not. The Bureau of each Committee – working with the Senate’s or Assembly’s administrative services – examines the projects:

- Most projects are said to be ‘of minor importance’, are not examined further and are subject to ‘tacit approval’;
- More important ones are subject to the appointment of rapporteurs in both the European Committee and the standing committee competent for the domain, who instruct and present their reports to the Committees, which adopt two kinds of documents, depending on the importance;
- For medium important projects of EU legislation, it is the European Committee alone that adopts ‘conclusions’ (20 to 30 cases a year in each Chamber);
- For EU projects of higher salience (e.g. major legislative texts, reform of the CAP, delocalization of pharma industries, etc.; 10 to 15 cases a year in each Chamber), a ‘Proposal of Resolution of the National Assembly (or Senate)’ is adopted by the European Committee, then transmitted to the main competent Standing Committee, which either approves it and it becomes a Resolution, or rephrases it and votes and it becomes a Resolution.
- That Resolution, as if it had been discussed and voted in the plenary of the House, is then signed by the President of that House, and transmitted to the SGAE.

N.B.: In an ideal world, the Resolutions should be reported to the plenary to be discussed and adopted, as used to be the case in 1993-95. But the interest in EU affairs happens to be low among French MPs; the same being true for the article 88-6 procedure on ‘subsidiarity checks’, with ‘yellow cards’ and ‘red cards’ to distribute, which did not really take off.

Both presidents of the Committees we have interviewed would like to see both Houses more involved in EU affairs:

‘Under the previous socialist legislature, only one Resolution went to plenary. Under the current legislature, none for the moment. But I don’t despair to succeed.’

(President of the National Assembly Committee for European Affairs)

‘We would like some of these resolutions to really be discussed and adopted in plenary, to give them more political strength, but the EU calendar and the national Parliament calendar do not match.’

(President of the Senate’s Committee for European affairs)

It must be made clear for Dutch readers that the French Parliament plays only a consultative role in the EU policy cycle. Moreover, the French Parliament doesn’t enter into the details and its involvement remains sporadic:

‘The article 88-4 and 88-6 procedures are working better and better. But the Assemblies are only associated to strategic thinking, not at all to the coordination and actual negotiation, in which, let’s be serious, the SGAE and the RP work without the National Assembly and the Senate.’

(an SGAE official)

‘To summarize, in a three-year process to adopt a directive, the French Parliament is consulted, according to article 88-4 at an early stage about the overall strategy, and is active again at the end, when it comes to the transposition of the directive. In between, during the three years of negotiations in Council, trilogues, etc., the French National Assembly and Senate are out of play.’

(an SGAE official)



'Our Parliament really intervenes when it comes to the production of laws transposing directives, in close interaction with the SGAE which is missioned to monitor the proper transposition in due time.'
(RPUE official)

All our interviewees, civil servants as well as politicians, agree that the most valuable dimension of the interplay between Government and Parliament regarding EU affairs relates to the fruitfulness of the informal exchanges of views and more formal public hearings held by the Committees. As for the former, the Minister Delegate for European Affairs, the SGAE head and the Ambassador in Brussels have regular conversations on the phone with the presidents of the parliamentary Committees and never leave their queries without an answer (according to a parliamentary respondent). More systematically, 48 hours before each European Council, the SGAE head spends two hours with the two presidents so as to explain to them all the items on the agenda and what will be the line followed by the French President.

As for the public hearings regularly held by the two Committees, which include European Commissioners, European Parliamentarians and foreign high-profile politicians, there is a systematic session to hear the Minister Delegate Clément Beaune, one week before and after each European Council, giving him the opportunity to clarify the French strategy and objectives, and to debrief afterwards. The SGAE Secretary-General is also called (4 times a year), as well as the Ambassador, to discuss with the European Committees as well as the Standing Committees for Foreign Affairs. The Deputy-Permanent Representative is heard even more frequently. To summarize, the Presidents of the European Committees and the SGAE head agree that 'the dialogue is constant' between them.

In addition, it is worth underlining that the French Houses of Parliament, as 37 other Chambers of national parliaments, have established 'antennas' in Brussels, with one official representative of the National Assembly (since 2003) and Senate (since 2005), each supported by a tiny team (4 persons). These antennas have their offices in the European Parliament, where they interact with the 'Directorate of the relations with national parliaments' and with MEPs, political groups, standing committees, rapporteurs, as well as offices within our RPUE building. These delegates of the French Parliament are *de facto* 'integrated' in the workflow of the SGAE-the RPUE: they have access to classified documents, especially the instructions sent by the SGAE, to the agendas and minutes of COREPER, and to the documents for Council sessions. These antennas are active in developing the embryo of a 'parliamentary diplomacy' between national houses and the European Parliament. As one of these representatives states:

'Since European law is now more and more decided in the 'black box' of trilogues, our resolutions and daily action tend more and more to influence not only the French Government, but also the European Commission and the European Parliament, which is a real co-legislator.'
(Representative of the French National Assembly to the EU)

How are divergent stakeholder interests weighed in deliberations and how does the final decision on a national policy position come about?

This issue is very sensitive in the Dutch context of coalition politics – a formerly 'pillarized' society and multi-level governance – but has little to no salience in the French socio-political culture. Whether or not stakeholders are satisfied about the ways in which they are consulted (or not) and whether or not their views are reflected in the instructions written by the SGAE, the final decision on the national policy position is always taken at the centre and at the top (or by delegation of the)



Executive, as described in detail above. The legitimacy of such a system is not seriously contested.

The extent to which there has been a clear political strategy outlining a view and priority setting on EU policy

This topic has already been addressed extensively above, and is detailed under Section 3.2 hereafter. To avoid repetitions, we can concisely stress that the overall strategy for European matters under the current as well as the previous presidential mandates is defined by the President himself, and the different steps are refined with the small ‘epistemic community’ of decision-makers already described. The current President, Emmanuel Macron, revealed his strategic vision on 26 September 2017, in his ‘Initiative for Europe’ speech given at the Sorbonne.

The way in which French Presidencies of the Council are prepared and handled are good examples. For the 2008 French Presidency, President Sarkozy chaired many meetings in person in order to set the agenda, define the objectives of the Presidency, and monitor their realization. For the forthcoming 2022 French Presidency, the central players are already activated:

- On 4 November 2020, Minister Delegate Clément Beaune described to the French government ‘the major issues of the French Presidency’.
- The three ‘core notions’ for that Presidency have been announced: ‘*Relance, Puissance, Appartenance*’.
- The objective of ‘a more united and sovereign Europe’ has been reasserted, in full compliance with the ‘Sorbonne agenda’.
- The main dossiers to conclude under the French Presidency are already identified: digital sovereignty, European defence, social topics, ecological transition (carbon tax at the external borders), etc.

- The ‘Conference on the Future of Europe’ main events shall take place in Strasbourg.
- A small Secretariat-General for the French Presidency is set up within the Matignon services, alongside the SGAE, in charge of practical and non-strategic aspects, and headed by an experienced Ambassador.

The extent to which civil servants within the coordination body have...

Sufficient EU and strategic knowledge and expertise: As for the officials belonging to the DUE, seconded to the SGAE, appointed within the Elysée European team, and sent to the RPUE, and who constitute a special European ‘*filière*’ (stream and sector) within the French higher Civil Service, the knowledge on the EU, skills and competencies of these high flyers, who often ‘rotate’ throughout their careers between the different organs, are very high.

The same cannot be said about the civil servants working for sectorial ministries: All ministries now have a European service, where a transversal expertise is gathered, but this expertise does not necessarily diffuse so well to all the DGs composing each ministerial department. The ‘technicians’ at these DGs often have an insufficient understanding of how Brussels decision-making works. That is the reason why French authorities are so attached to the prominence of the SGAE in defining French positions and writing instructions.

Enough seniority and a true mandate to make compromises on behalf of their ministries: In France as in other Member States, one can sometimes observe dilatory tactics of sending ‘under-staffed’, young bureau heads to interdepartmental coordination meetings on European matters so as to ‘save time for reflection’ and delay a final decision. Yet, in the long run, such unfaithful behaviour from some sectorial ministries is not a winning strategy, since the SGG and the SGAE can call a RIM in Matignon, where ministries are obliged to send high-level officials, and arbitration is made.



A limited association of the European Parliament and French MEPs with the coordination process

In order to properly assess that topic, it is worth mentioning that, with very few remarkable exceptions (Simone Veil, Valéry Giscard d'Estaing, Nicole Fontaine, Alain Lamassoure, Jean-Pierre Cot...), French politicians are usually not very interested in the European Parliament, and French parties have not invested a lot in it, unlike German parties which organize proper and enduring careers as MEPs. As a consequence, French officials were not accustomed to paying much attention to the European Parliament, and to French MEPs in particular, and even tended to consider them with disdain, as illustrated by the following remarks from two interviewees:

'At the European Parliament, the French are draws! Our political parties are responsible for that. We do not send the best to Strasbourg. As a consequence, we have little influence in the EP.'
(former MEP)

'French political parties are not doing well in setting a clear line to our MEPs on what to vote for and against. The CDU-CSU and SPD, or the Spanish PSOE and Partido Popular, are very impressive in that. We are not. That's a pity!'
(former MEP)

That is probably the reason why the Executive has traditionally not felt the need to formally associate French MEPs in the drafting of French positions by the French system of coordination. The inherited model is more a one-way communication in which the responsible authorities provide information and recommendations to French MEPs. The main instruments in that regard are the so-called '*notes de commission*': these are memos provided in advance to all French MEPs about all legislative texts coming soon on the agenda of the European Parliament, written by the SGAE's 'Parliament Sector' with the help of the relevant ministries. These '*notes de commission*' mention what is the

national interest and position on each topic, and French MEPs are free to take them into consideration or ignore them, according to their own personal or political positions.

Moreover, by tradition, each Monday morning of the weeks when the European Parliament sits in plenaries in Strasbourg, the Minister Delegate for European Affairs convenes with French MEPs and presents to them the French strategy regarding the texts on the agenda, and the French views and interests about the amendments brought by the standing committees.

In recent years, the situation has moved forward:

'Since the Lisbon Treaty came into force, the Common Agricultural Policy escaped to the European Council and became ordinary legislative procedure. Our Ambassador at that moment, Pierre Sellal, immediately understood what such a switch meant: the RPUE should invest much more in influence games with MEPs.'
(former MEP, former minister)

'The current Ambassador Philippe L glise-Costa is making enormous efforts to involve more French MEPs and to influence the European Parliament.'
(delegate of French National Assembly to the EU)

In practical terms, such proactivity of the French diplomacy towards the European Parliament is illustrated by the following 'ways of doing things':

- A dedicated team of 5 persons (to be enlarged soon in the perspective of the coming 2022 French Presidency) within the RPUE in Brussels acts as a constant interface with all MEPs and their assistants, be they French or friends;



- French MEP rapporteurs and shadow rapporteurs are supported in their mission as strongly as possible by French officials;
- The French Ambassador organizes regular social events to freely interact with French MEPs and exchange views with them over a nice glass of champagne; etc.

3. Challenges and dilemmas facing France

This section (covering research questions 2 and 3 of the ToR for the country studies) presents and analyses the ways and means in which the French coordination is challenged, like the Dutch one, by contextual or more essential challenges and problematic issues.

3.1 4+1 contextual challenges

In Section 3 of the ToR for the country studies, IOB identifies four main ‘contextual challenges’ facing the Dutch coordination system. France has these in common with the Netherlands, as well as facing an additional one.

The four contextual challenges identified by IOB are as relevant for the French as for the Dutch authorities

The increasingly complex EU playing field: It is true for France as for any Member State, that some EU policy fields are integrating, while some are differentiating, resulting in a variation of scope, speed and actors that is complex to navigate, with negotiation positions differing from one field to another, and defended in different Council formations.

The increasingly varied coalition formation among Member States in EU decision-making: (Old) Coalition patterns are evolving, while alliances among Member States are increasingly less stable and more ad hoc on each and every dossier.

Legitimacy and public support no longer guaranteed: This is less of a concern in France than in the Netherlands, since legitimacy in EU matters stems from the President and does not come from the national Parliament or the European Parliament members, which are less legitimate since the abstention of French voters at European elections is usually very high and French parties do not invest that much in the European Parliament.

The more frequent EU high-level and crisis politics: The EU has been going from crisis to crisis since 2007-2008, and the EU is having to deal with more and more geopolitical and essential issues (migrants’ crisis, climate change and ecological transition, COVID-19 crisis and related recession), which put the French coordination mechanism under pressure to the same extent as the Dutch one.

An additional challenge: how to deepen European integration so as to strengthen the EU?

As already mentioned, French authorities and officials do believe that France, as a co-founder – with Germany, Italy, and the Benelux countries – of what has become the EU, is not a Member State among others. Since almost all French Presidents since De Gaulle, especially Valéry Giscard d’Estaing and François Mitterrand, have decisively contributed to advancing European integration always a step forward, there is a strong (self-)pressure in that regard on the shoulders of any new French President and his Government. This is even more the case nowadays in the context of a more continental and less Anglo-Saxon EU after Brexit, and maybe an even less neoliberal EU after the COVID-19 crisis which demonstrates the crucial importance of welfare and public

health programmes, of which France has always been a champion. So, what can we actually do to realize a ‘Union that strives for more’ and a Union that ‘take[s] the global lead on the major challenges of our times’, to quote President Ursula von der Leyen’s *Agenda for Europe*?

How do French politico-administrative policy-makers face these challenges?

The increasingly complex EU playing field: French authorities take into account that evolution. They seek effective solutions in three complementary directions:

- Increased strategic thinking (at the President’s level, in interaction with the abovementioned small group of high-level ‘minders’ on EU affairs) so as to remain one of the few leading countries which really shapes the EU agenda (see link with the fifth challenge below);
- ‘More of the same’ of a strict control of the two ‘gatekeeping’/ ‘watchdog’ organs, the SGAE and the RPUE, over all stages of the coordination process to ensure both the consistency and adaptability of French positions, from the first reactions to a Commissioner’s communication, to (several years later) the final negotiations, after several trilogues between Council and European Parliament on the final wording of this or that directive.
- Increased influence in the domestic coordination game in Paris recognised by the Ambassador-Permanent Representative, who is, with the President, one of the two persons in the whole French State machinery system who enjoys an (almost) full, cross-cutting picture of the complex power games of EU governance.

The increasingly varied coalition formation among Member States: French authorities also take into great consideration that evolution. Many interviewees stated along similar lines that: ‘We can no longer rely on the sole Franco-German couple as we did in the good old days of Mitterrand and Kohl, or even Merkozy’ (former special advisor to the President). In addition to ‘revitalizing’ the Franco-German couple (which is an explicit

objective in the perspective of Chancellor Merkel’s succession), the French diplomacy also focuses on maintaining established alliances with strategic partners in the Northern (Ireland), Eastern (Romania) and Southern (Greece) Member States. More tactically, on each important dossier, the Minister Delegate for European Affairs is missioned by the President to chart national interests and positions, to identify the circle of ‘like-minded’ States, and to go and convince them one by one (e.g. for the future Pact on Migration and Asylum, there is already a strong influence game going on).

Legitimacy and public support no longer guaranteed: Under that item, p. 14 of the ToR for the Dutch study refers practically to ‘if and to what extent the coordination system could integrate the European Parliament’, i.e. the national MEPs, into the coordination process. Truthfully speaking, the French officials we interviewed consider that Dutch authorities are already doing very well in keeping Dutch MEPs informed and well connected with the coordination system. They humbly consider that France has no lessons to give to the Netherlands in that regard, and should even learn from what Dutch authorities are achieving in terms of smoother and richer exchanges of information and views with ‘their’ national MEPs.

The more frequent EU high-level and crisis politics: In order to withstand the increasing pressure exerted by such evolutions on the French coordination system, there are no other practical solutions than: regularly increasing the workforce of the SGAE and the RPUE (up to more than 220 officials employed by each organ); expanding working hours and days in a ‘commando style’; increasing individual productivity; saving time by concluding more inter-departmental agreements on positions at written procedure level without convening too many RISs and RIMs; and even entirely delegate to the SGAE and the RPUE, in contact with the Elysée, the writing of French positions in emergency cases, bypassing sectorial ministries – an emergency *modus operandi* that happens more often now than in the past, our interviewees say.



In addition, more crisis politics at EU level implies a decisive re-inforcement of the European Council. Such a trend is very fine from a French perspective, since the European Council is a French creature (it is a heritage of the summits initiated by De Gaulle and Adenauer; President Giscard d'Estaing played a role in its foundation, and President Mitterand played a role in its progressive institutionalisation in successive Treaties). French Presidents are at ease in the European Council, where they enjoy precedence and *de facto* prominence, especially when emergency decisions are to be taken, because the strong team of European advisors and the whole French delegation are able to mobilize in real time, day and night, any relevant expertise in the State apparatus in Paris, thanks to the verticality of the Fifth Republic. As a consequence, France performs very well in a European Governance under constant crisis.

The desired deepening of European integration to strengthen the EU: Following Jean Monnet's incremental method '*à petits pas*' or making bigger steps (like François Mitterrand, Jacques Delors and Helmut Kohl in the 1980s-90s), despite quicker alternations in power than in the past (presidential mandates being shortened to 5 years), France's European strategy remains constant and twofold. On the one hand, French Presidents and State officials always commit themselves to maintaining the existing EU achievements: see e.g. a decade ago the hyperactivity of Sarkozy's France, hand in hand with Germany, to save the Euro and rescue Greece or other Member States at risk of bankruptcy. On the other hand, almost all French Presidents since Valéry Giscard d'Estaing and François Mitterrand in the 1970s-1990s have taken the lead of ambitious politico-institutional initiatives to deepen European integration, with great success – more or less (Jacques Chirac's proposal of a constitutional Treaty failed, and we got the Lisbon Treaty). Driven by a strong ambition for Europe, President Macron started his mandate with an important speech at the Sorbonne on 26 September 2017, entitled 'Initiative for Europe', whose key message was: 'The only way to assure our future is the

renewal of a sovereign, united and democratic Europe' (our translation). That 'Sorbonne speech', often mentioned by interviewees, is the 'backbone' of the current French diplomatic strategy in/for the EU, in the frame of the 'Conference on the Future of Europe' exercise, as launched by the Commission and the European Parliament last year, with a foreseen climax during the forthcoming Spring 2022 French Presidency (concomitant to the French presidential elections). In the daily EU domestic coordination process by the SGAE, this strategy is the 'meta text' to which the content of the positions defended by each sectorial ministry are assessed, and the justification for their quick rejection if they do not fit.

3.2 So many dilemmas in common with the Netherlands... minus a few

The hypotheses formulated by IOB in the terms of reference for its evaluation of EU coordination in the Netherlands imply mostly inherent challenges or dilemmas facing the Dutch coordination process. When adopting a comparative view of the French case, and building from our very rich interviews, we find that French authorities are confronted with many of these dilemmas. Yet, not all of them are relevant in the French case, considering the differences between our countries. This section exposes how French authorities cope, more or less successfully, with these dilemmas. Note that all of IOB's 13 hypotheses will be considered in a clustered manner under slightly re-arranged thematic themes.

How to maintain highly strategic and tactical capacities to produce an effective EU policy (H.1, H.2, H.3)?

From a tactical point of view, it is undeniable that handling such a comprehensive Dutch 'polder model', made of extensive deliberations with so many stakeholders, from the very start of any EU dossier, is very time- and energy consuming; it might also be difficult to sustain



in the future, since it limits the system's effectiveness. On the contrary, the French coordination system is more modest in scope and less comprehensive in a processual sense: it mainly involves ministries, each of them 'filtering' and integrating positions of their policy fields' main stakeholders. It is thus more workable on a daily basis. In addition, the strong arbitration capacity of the SGAE, Matignon and the Elysée allows inter-departmental arguments to be quickly terminated in Paris. The effectiveness of the French coordination process is thus guaranteed. Helpful is also the modest consultative role conceded to the French Parliament, especially the absence of negotiation 'mandates' from Parliament that would bind French delegates in Brussels, along with the strictly governmental/administrative nature of the 'instructions' to French delegations, allowing wide room for manoeuvre, especially at COREPER level, where Ambassador (and Deputy) can ask for new instructions almost on the spot by calling Matignon or the Presidency on the phone. In that regard, the fact that French 'instructions' for our negotiators are not made public to Parliament and remain internal administrative documents, as opposed to the Dutch 'BNC fiches', is also a precious uncertainty resource in the Council Working Parties' and committees' negotiation games, since a dose of secrecy is necessary to any fruitful diplomatic negotiation.

From a strategic capacity point of view, honesty requires stating that the French SGAE system is sometimes self-criticized by our interviewees as being 'excellent but rather reactive to the European Commission initiatives', quite the same fault as H.2 stresses about the Dutch 'polder model'. Our interviewees even have the perception that Dutch officials are doing well in proactively engaging at earlier stages of the EU policy cycle to promote their views and interests. The best practices in that regard are: intense discussions with our 'national' Commissioner and his cabinet; making the best of our seconded national experts placed in all DGs of the Commission; informal contacts and ties by the French RPUE with the French directors-general, directors and heads of unit within

the European Commission (although the presence of French people, which is systematically monitored by one of the SGAE units, tends to decrease), etc.

Moreover, as far as strategic capacity in EU affairs, defined as a 'forward thinking capacity [...] to set priorities and shape the EU agenda', is concerned, France's demonstrated strategic capacity (in so many cases) is due – apart from its intrinsic 'weight' as the second biggest Member State – to strong political leadership at the very top of the Executive. Since it is one of the most important missions of the French President to define and conduct our foreign and European policy, all the holders of the mandate devote lots of political energy and intellectual capacities to that mission, considering it their duty to launch great political initiatives regarding the EU. French Presidents are supported in this by a sort of collective brain, a small 'policy community' working altogether with a very high level of trust and confidence. Based on the composition of the informal but essential 'Saturday meetings' held at the Elysée every two weeks, this 'policy community' comprises the President's diplomatic Sherpa, the President's European advisor (supported by his small team), the President's economic advisor, the Secretary-General of the SGAE, the director of cabinet of the MFA, the director of cabinet of the Minister Delegate for European Affairs, the director of the DUE, and last but not least the French Permanent Representative. While the SGAE and the RPUE are focused on the short term and on tactics, it is the DUE which is missioned with maintaining the memory and consistency of French positions throughout time, and with developing prospective thinking on the strategic objectives of France for the future of Europe, inspiring the President and 'his' minister for Foreign Affairs. In addition, on major future institutional developments of the EU, French Presidents also consult from time to time a few external 'minders' (e.g. former President Valéry Giscard d'Estaing and former European Commission President Jacques Delors have often been consulted, since the 1990s, when major institutional initiatives were envisaged).



As for the ‘good practices for achieving strategic or policy coherence and consistency across ministries’, our interviewees observed that the French system of European coordination is precisely designed for that very purpose.

*‘Coherence and consistency are the DNA of the SGAE and the French RPUE machinery! A French delegation never contradicts another one, something that often happens, at Working Parties level, or between Working Parties and COREPER, to our German friends, not to mention the Italians.’
(One Deputy-Permanent Representative)*

Among the examples to illustrate such an ‘obsession with coherence’:

- The monopoly of the RPUE and the SGAE over any exchange of documents between EU institutions and French governmental institutions.
- The role of ‘watchdog’ entrusted to the SGAE so as to ensure not one day is lost in the process, from the release of any document by the Council. The French information system called SAPHIR is fully interoperable with the Council’s information system, so as to circulate in real time all documents to relevant French stakeholders. The SGAE sets a reverse agenda with deadlines for reactions from all departments on the draft instructions, and it convenes a RIS or even a RIM if needed in due time to have the instructions signed and delivered by e-mail to both the councillor in charge at the RPUE and the head of the French delegation travelling to Brussels, at the latest the evening before the scheduled meeting in Consilium.
- The production by the SGAE, each semester, of a thick and exhaustive 400-page ‘Presidency Dossier’, sent to all French ministers and their chiefs-of-staff, to all secretaries-general and directors-general within French ministries, to all the members of the French Parliament and to the French MEPs. This document comprises a detailed one- to four-page ‘fiche’ on as many ongoing EU legislative procedures as possible

(on average, 70-80 % are covered), summarizing the state-of-affairs of the negotiations, exposing the positions taken by French delegations, listing our enemies and allies among other Member States, etc.

N.B.: Several interviewees, wondering if H.1 could possibly mean that the Netherlands could, in the future, abandon its systematic coverage of all EU policy fields because of a lack of resources, stated that this would go against the Dutch national interest and would be detrimental since the Netherlands enjoys a much stronger political influence in EU governance than the size of its population and economy justifies.

*‘The Netherlands is a founding Member State. It would be impossible that the Netherlands does not have an opinion about space industries or sports or any EU policy, something which happens for small Member States. The Netherlands has no other choice but to maintain its own institutional capacities so as to be able to monitor properly, and intervene effectively in the 167 Working Parties of the Council.’
(one SGAE official)*

The essential issue of staffing: current problems and future needs (H.4)

As regards the issues of staffing, knowledge and expertise, even seniority identified by IOB, it is undeniable that France shares these common concerns with the Netherlands. These are very complex issues, as often for HRM within public administrations, with several explanatory variables.

First, mechanically, since the number of inter-departmental meetings on European matters at the SGAE (RIS) has been multiplied over decades in proportion to the expansion of EU competencies, the hierarchical level of the civil servants who are sent to these meetings has tended to decrease, or more precisely to broaden, over time. It ranges from deputy-bureau chiefs (the lowest level of responsibility)



to chiefs of service, and includes bureau chiefs and under-directors, depending on the topic and its salience, on the impossible ubiquity of human beings within the central machinery of the State, and also sometimes on tactics and tricks (sending junior staff on purpose). Of course, all these civil servants must behave as representatives of their own ministry, and express a ministerial position (usually) validated prior to the RIS meeting with their superiors. However, the (sometimes) low level of seniority of the participants may end up causing difficulty to ‘make a deal’ because juniors may be afraid to engage their department. In addition to the intrinsic importance of a dossier, that is the second major reason why some delicate matters climb the ladder to the higher level of RIMs (interdepartmental meetings at Matignon). These meetings are convened two or three times per week on average under the chair of the SGAE secretary-general/European special advisor to the Prime Minister, with each ministerial department being represented by a politico-administrative duo – the director (general) and a member of the political cabinet of the minister – whose common discourse truly commits their department and minister. This is the French ‘way of doing things’ to try and ensure that ‘the weight of matters to be decided on is matched by the weight of individuals in committees’ (to quote IOB’s ToR).

Second, such a high number of civil servants with variable seniority and from all ministries involved daily in the RIS, even though they are very competent in their own specialisms thanks to the great selectivity of recruitments in the French higher civil service (ENA, Ecole Polytechnique, etc.), implies that many of them are not experts on EU affairs and often misunderstand Brussels’ power games. The practical solutions to that problem are manifold: systematic presence of the colleagues from the European department of each ministry in the e-mail loop about the project of instructions circulated before the meeting, who can thus contribute to (re-)shaping the views of their fellow colleagues; great professionalism and knowledge of all the aspects of each dossier by the head of sector and colleagues in charge at the SGAE,

who draft the project of instructions and assist the deputy Secretary-General of the SGAE who chairs the RIS; and constant interactions with the councillor following the dossier at the RPUE, including his/her systematic participation through videoconference in the RIS – and RIM if needed – so as to prevent the writing of unrealistic instructions.

Third, much broader and societal factors also have an indirect negative impact on staffing: in short, while the generations educated in the 1990s, and whose members are now at the top of the State apparatus, were (and are still) Europhiles, the younger generations of French university graduates, both exposed to the growing level of scepticism and even Europhobic opinions promoted by populists, often manifest a form of indifference and disaffection for European integration, as well as criticism towards the actual functioning of the EU. As a consequence, one can already observe that the newcomers entering the Civil Service are less interested in joining the European ‘stream’, and that the average level of good will towards EU policy-making is already decreasing within the French central administration, while there are also fewer French people among the top administrators of the European Commission. Some interviewees cautiously used the notion of ‘vocations crisis’.

In the current context of increasing competition for young talents on the job market of high-profile graduates between PA and other (more) attractive employers (net economy, start-ups, consultancies, lobbies, etc.), it is highly recommendable that proactive HRM strategies are quickly adopted to ensure the attractiveness of the European ‘stream’ and careers, considering that to be a strategic investment in human capital to ensure the future ‘defence’ of national interests. Measures to be envisaged could include: an explicit mentoring of young civil servants devoting themselves to European affairs by prestigious top-level officials from the MFA and the PermRep; well-designed career plans (more or less contractually agreed) ensuring regular mobility between Brussels, the capital, different European divisions in all ministries, and even agreed



secondments to agencies and NGOs active in European governance; all combined with life-long training (master classes, etc.) to constantly upgrade their specific knowledge and competencies about a constantly evolving EU, EU legislation, case law, etc.

'A weakness of our system is the staffing. The whole European machinery of France relies on too few persons involved in the European 'filière' (stream).'
(a RPUE official)

In search of a better involvement of bilateral embassies

Regarding the tactical need to increasingly involve our bilateral embassies to other Member States in the process of producing the negotiating positions that our delegates shall defend in the Council, the French officials we have interviewed regard French bilateral embassies as precious 'eyes and ears' to better comprehend the views of our potential coalition partners, and the interests and arguments of opposing Member States. Thus, bilateral embassies should be integrated in a more institutionalized manner into the whole coordination machinery, which is not yet the case in Paris. In recent years, the consultation of our bilateral embassies was rather informal, not systematized, carried out by either the SGAE directly or by the line ministries involved when they have a delegate in (big) bilateral embassies (financial attachés for Bercy, security attachés for Defence and the Interior, agriculture attachés, etc.) or by the MFA. Under the current Castex government, with Clément Beaune, former special advisor to the President promoted as Minister Delegate for European Affairs, a clear objective has been set for the DUE and for its new director, a former ambassador to Sweden: the DUE must become the nexus of a more formalized network with our bilateral embassies in EU capital cities, so as to allow the DUE to have decisive input into the writing of French instructions, especially for COREPER level and Council

(with ministers in person) meetings. Such a more 'political craft' input, even into rather technical dossiers, is considered as one of the key success factors of the future 2022 French Presidency.

'We need to involve more our bilateral embassies, since the EU has changed. A Franco-German agreement is no longer sufficient as it used to be in the EU-12. We need to know about all countries.'

'Asking bilateral embassies is very good. It offers other information which corrects the tendency of the PermReps to work on their own... the EU bubble!'

'It works. We learn many things when our ambassador, on the basis of interpersonal trust, goes to the minister of Foreign Affairs of the targeted country, who often reveals much more political aspects than what will be written in the official mandate issued by the MFA of the country.'

'Our diplomats in the bilateral embassies are the only persons able to tell us what the majority in the Danish Parliament, e.g., thinks about a given topic.'

'We want to reposition the DUE in a capacity to produce negotiable French positions for COREPER, after taking the temperature in Rome, Copenhagen, Lisbon, Warsaw, Bucharest, etc.'

Interinstitutional dilemmas: lack of integration of the European Parliament into the process even higher in France than in the Netherlands (H.6)

The present paragraph will be kept very short, since the tactics used and strategy deployed by French authorities towards the European Parliament in general, and French MEPs in particular, have already been detailed in section 2.3 above.

No dilemmas in the French vertical system on who chairs and has the final word (H.7, H.8, H.9)

The present paragraph will also be kept very succinct, to avoid repetitions, because the differences between the Dutch ‘way of doing things’ (on which hypotheses 7, 8 and 9 of Annex 1 of the ToR are culturally grounded) and the French ‘way of doing things’ are crystal clear after reading the 30 previous pages. The design of the French coordination system has remained almost constant since 1958. The role of the MFA is important but not decisive; this being said, the RPUE, which is formally an Embassy and is always headed by a diplomat, is in practice – like the SGAE in Paris – of an interdepartmental nature in terms of its staff, as well as its missions.

The right of the French Parliament to be informed and consulted does not hamper the effectiveness of a coordination machinery mastered by the Executive (H.10, H.12).

As for H.12, even if the Parliament’s involvement in the French coordination machinery is more modest than the Dutch one, the abovementioned 400–page ‘Presidency Dossier’ produced by the SGAE for each semester Presidency, and sent to all the members of the French Parliament, can be considered as an equivalent to the Dutch ‘quarterly overviews of ongoing legislative dossiers’.

As for H.10, very differently from the Dutch States-General, the mission of the French Parliament in the coordination mechanism is limited by art. 88-4 of the Constitution to a consultative role, situated at an early stage in the EU law-making process, while for the rest the French parliament has a right to be informed (prior to European Councils, e.g.) about the state of affairs in Brussels, but has no formal right to contribute to the French Executive’s official positions and actual positioning. Such a political equilibrium, which mirrors the whole balance of powers of the Fifth Republic, is not seriously contested by elected politicians in Parliament, is considered by French officials as the

‘normal’ way of doing things, and is even considered by them to favour the effectiveness, timeliness and demonstrated quality of the French coordination system and mechanisms. Such an opinion is reflected in the following extract:

‘Article 88-4 and the association of our national Parliament to the elaboration of the French official positions remains modest (smile). After the initial advice voted by the European committees of the two Houses, we should invent a system of rapporteurs and shadow rapporteurs from our national Parliament who would follow each project of EU legislation throughout the years and years of negotiations in Council, trilogues, etc. I am dreaming! Such improvements are not on the agenda (smile). But what we, or any other Member State should absolutely avoid, is to fall into the excessive system of Denmark, with ‘mandates’ from Parliament... and such closed mandates that, if all Member States would behave like the Danes, there would be no European negotiations possible anymore! Or we would have to dissolve COREPER and negotiate EU legislations between the presidencies of national parliaments (smile).’
(former European advisor to a French President)

Adaptability and ‘high politics’ first! The wide room for negotiation entrusted to a Permanent Representative and Deputy appointed by the President – constantly reporting to the President, and assisting the President in the European Council – allows compromise with other Member States (H.11).

Once again, considering the very different natures of the Dutch and the French regimes, it is no surprise that ‘Dutch EU policy coordination focuses on reaching consensus in The Hague [which] detracts from the time and energy to [...] find compromises with the other EU capitals’; in a nutshell, the Dutch system is too ‘domestic’, while the French one is geopolitical, preventing Franco-French divergences by strong SGAE arbitration and focusing on cross-country influence strategies and power games played rather freely at the RPUE and the President’s



levels. As such, the French system combines strong centralization, vertical authority of the President, high level of trust and confidence between the 10 persons who effectively control the *'politique européenne de la France'*, and a very wide room for manoeuvring and compromising with their homologues in COREPER and the European Council, as given to the French Ambassador and the French President – these two persons who have (almost) an overview of EU governance.

'I consider that the Dutch partners are very strong. They are active on all big dossiers in Brussels. I can see that their Parliament makes it complicated for their MFA and PermRep. I don't think that we have a better system than them: we have a system adapted to our regime. The Netherlands will never have something like the SGAE. But the Dutch people and politicians should understand that the negotiation phase in Brussels will always belong to the Government and the diplomats. Their national Parliament mustn't restrict negotiators from being agile and adaptable. The Dutch Parliament should be involved in the definition of the negotiation strategy of the Netherlands, but not in the tactics, which should remain the sole prerogative of the Government, the MFA and the PermRep.'
(a top-level interviewee)

A low and indirect involvement of implementing actors (H.13)

'If the issue behind question 13 is the one of minimizing the risk of infringement procedures, I can tell you something. While we have two very different systems, the Dutch and us, we are on an equal footing: the Netherlands has 47 infringement procedures running, out of which 20 for non-transposition of directives; France has 66, with 22 for non-transposition. So, three remarks: we have no lessons to give to the Dutch! We are both serious countries, very legalistic, with a very high sense of the rule of law, yet there is room for improvements. But many others are doing worse (laughs)! You know that we have an EU law network, in which we exchange a lot, do benchmarking, etc.'
(a SGAE official)

As already mentioned before, and quite differently from the Netherlands, the French coordination system is limited to the Core Executive and central administration institutions (plus Parliament for consultation). The involvement of stakeholders in the French coordination mechanism is thus low and indirect.

As regards territorial authorities, they are formally excluded (unlike Dutch municipalities and provinces which are represented in the 'BNC working group'). That rule does not exclude the possibility of ad hoc political consultations. Moreover, the cabinet of the Minister Delegate for European affairs, in the perspective of the 2022 French Presidency, indicated its willingness to better involve 'the territories' (as we say in France), especially the presidencies of the regions (which are the managing authorities of the EU's cohesion policy), into a sort of 'national comitology of the French Presidency' (probably for electoral reasons of 'blame avoidance' since the presidential campaign and French Presidency shall be concomitant).

As regards other stakeholders at national level, we shall make a distinction. As far as *'autorités administratives indépendantes – AAI'* (independent administrative authorities), such as the *'Défenseur des droits'* (ombudsman), the AMF (regulating authority of financial markets) or the CSA (regulating authority of radio and television) are concerned, the very principle of their independence makes it very delicate to associate them like a Ministry is. However, in case a piece of EU legislation to be negotiated would have an impact on them, informal talks are engaged with the cabinet, or the minister in person of the pertinent ministry, and the views expressed are reflected in the reactions, comments and demands of that ministry during the consultation prior to the writing of instructions by the SGAE.

As for the more or less autonomous *'organismes et établissements publics'* (French equivalent of public agencies), some of them being huge and



powerful such as the CNRS (the national research agency) or the CEA (Commissariat for nuclear energy), the law says that they are placed under the tutelary control (*'sous la tutelle'*) of a parent ministry. As a consequence, the parent ministry consults them and reports their positions when responding to the SGAE queries, or sometimes the delegates of the parent ministry sent to RIS meetings held at the SGAE ask them to accompany them. Anyway, the views and interests of the important national agencies are taken into great consideration in the SGAE machinery, and also at the RPUE.

French officials interviewed confess that the current and admittedly modest situation is the mini-maximum they can do in terms of stakeholders' consultations without hampering the promptness and efficacy of the coordination procedure. That's why their strong recommendation to Dutch authorities is to remain cautious and not enlarge the number of stakeholders formally involved in assessing Commission proposals and formulating negotiating instructions.

'Wanting to involve implementing actors in the negotiation phase is a dream! Things are quite complicated enough! Our Dutch friends should not overload the boat.'
(an SGAE official)

4. Main findings

The central question for the country study was: which lessons can be learned from domestic EU policy coordination in France for future developments of the Dutch coordination mechanism? Let us develop three paragraphs in that regard.

4.1 A main conclusion: a very positive perception from abroad of the Dutch system

The French top officials we have interviewed share a common nuanced, yet very positive, assessment of the Dutch EU coordination and diplomacy:

'Dutch partners are very strong. They are active on all big dossiers in Brussels. I can see that their Parliament makes it complicated for their MFA and PermRep. I don't think that we have a better system than them: we have a system adapted to our regime. The Netherlands will never have something like the SGAE. But the Dutch people and politicians should understand that the negotiation phase in Brussels will always belong to the Government and the diplomats. Their national Parliament mustn't restrict negotiators from being agile and adaptable. The Dutch Parliament should be involved in the definition of the negotiation strategy of the Netherlands, but not in the tactics, which should remain the sole prerogative of the Government, the MFA and the PermRep.'
(top-level interviewee)

'The Netherlands play above their category, in COREPER I and II, and in the European Council. They are active on all dossiers, which is not the case for other Member States of the same size. Their negotiators are very good, and they are very well organized, for instance their information management in real time is amazing: they know everything, right away. Moreover, given the small size of the Dutch diplomacy, they all know each other. So, the guy at the Dutch PermRep who needs something during a meeting can call the First Councillor of the Dutch Embassy in Rome to get immediate help. We, the French, with our enormous administrative apparatus, we can't operate as such. That's why we need all that watch mechanism, the SGAE and all the gears.'
(RPUE official)



'The Dutch system, as I experience it, combines two aspects. Their domestic EU coordination system is not perfect: too heavy, too many stakeholders, too many non-cooperative games between ministries, too much party politics in there. But they are saved by the very high quality of the personnel in charge of EU affairs in the Prime Minister's staff, in the MFA, at their PermRep, in the European services of their line ministries. These persons are truly remarkable and it is a pleasure to work with them! This is because the Dutch have for long conceived it as a strategic issue to give excellent education and training to their guys, and to handle their careers so as to always put the right person in the right place. The Netherlands is among the very few Member States capable of doing that, and that's why they are strong!'
(RPUE top official)

'Mark Rutte is a strong leader. He is good. He is determined. He weighs in the European Council. He has been there for ten years. Chancellor Merkel is going to leave. Italy and Spain are unstable. In the European Parliament, his party and LaREM, we are together in the Renew Group, and the Dutch MEPs are much better than us at power games in the European Parliament. We can count on each other to build the future of the EU.'
(a top-level interviewee)

4.2 Summary of the main findings on the French coordination system and mechanisms

The French Fifth Republic is *de jure* parliamentary but *de facto* presidentialist: the majority in Parliament, Prime Minister and Government are obedient to an overarching President, strongly legitimized through direct election by universal suffrage. It is also a country where a very strong and influential administrative elite (from which Presidents and Prime Ministers often come) co-governs the

country in practice. Such a national context explains why the French coordination of EU affairs was designed in a very centralized way.

In brief, it is a centralized and systematic system, placed under the command and control of the two masters of the Executive (President, Prime Minister) with their political entourages (Elysée and Matignon), and operated by a dedicated organ, the SGAE, responsible for coordinating and 'arbitrating' the inter-departmental work of a web of top civil servants and political advisors from all ministerial departments, in constant connection with the very influential French *Représentation permanente auprès de l'UE* (RPUE) in Brussels, and also with the Minister Delegate for European Affairs within the MFA, while a consultative role is consented to the national Parliament (in application of the Maastricht and Lisbon Treaties).

Unlike the Netherlands, it is not the MFA which is in charge of European coordination, but a distinct organ: the SGAE is not a diplomatic service but an interdepartmental administrative service of the Prime Minister. The SGAE enjoys strong HR capacities: no less than 200 carefully selected civil servants work there for a limited period, on secondment from their own ministries. The SGAE is headed by a Secretary-General wearing two hats: the administrative head of a central administration and the politically appointed special advisor for Europe of the Prime Minister, or sometimes the President. This *ad hoc* arrangement gives all the SGAE collaborators a direct and unique political legitimacy coming from the Top, which is decisive for handling difficult coordination processes on delicate topics with sometimes reluctant ministerial departments. The SGAE is thus an institutional hybrid, administrative by its legal status and staff, but political (in a governmental sense and not a party politics one) by its activity, since the arbitration power of the Prime Minister is explicitly delegated to the SGAE boss, and even sub-delegated to her three deputy secretaries-



general. It is therefore highly unlikely that a displeased minister/ ministry would contest what the SGAE has arbitrated ‘on behalf of the Prime Minister’.

This is all the more so since the RPUE is seamlessly related to the SGAE and constantly interacts ‘*en miroir*’ (in a mirrored way). The RPUE, placed in the midst of the negotiation games in Brussels, is not seen as being ‘abroad’: it is anchored within the domestic coordination machinery in Paris as a central actor.

As for the French MFA, it plays a limited and specific role, assigned to the DUE, which is notably in charge of preparing the French positions for the CFSP; and to the Minister Delegate for European Affairs, a junior minister with no coordinating mission, but a role of diplomatic influence and a specific role for the preparation of the 2022 French Presidency.

In addition, one should mention the wide autonomy enjoyed *de facto* by the Ministry for the Economy and Finances as regards the ECOFIN and Eurogroup domains.

But one should also bear in mind that these key actors interact within the framework of an overall French strategy defined by the President with his small staff (usually 5 high-flyers) of special advisors for EU matters, called ‘*la cellule Europe de l’Elysée*’ and under their constant command and control.

As far as the differences in the objectives, values and ‘coverage’ of the French coordination machinery in comparison with the Netherlands are concerned, the overarching objective, and core value of the French system, is coherence. It is expressed by two mottos, constantly repeated to and by practitioners: the generic motto of the French diplomacy: ‘*La France ne se contredit jamais*’ (France never goes back on what it says), and the specific motto for EU matters: ‘*La France doit parler d’une seule*

voix à Bruxelles’ (France must speak with one voice only in Brussels).

The other main values of the French European diplomacy are Europeanism (as a founding country of the ECSC, then EEC and Euratom) and the defence of French ‘*Grandeur*’, whose practical consequences on the involvement of French delegations in EU governance are twofold: either French delegates take the co-leadership, hand in hand with Berlin as a ‘Franco-German couple’ or; if this is not an option, France tries to become part of the winning coalition when it comes to votes in Council, after an appropriate trade-off, according to the doctrine that ‘*La France ne doit jamais être minorisée au Conseil*’ (France should never end up in the minority in Council), a doctrine that used to be stronger within the EU-15 and has lost importance within the enlarged EU-27.

As regards the value of inclusiveness of all stakeholders, which is so important in the Dutch parliamentary, multi-level, processual, compromise-oriented democracy, it appears to be irrelevant in France, with its vertical, centralized system mastered by the Executive.

The interplay of the abovementioned actors allows their strategic capacity throughout the process, with the objective of being ‘coherent in all dossiers, at all levels, at all moments in the process’. To ensure that ministries are not allowed to behave however they like at early stages, with consistency coming only at COREPER level, as observed in many Member States, or inconsistencies returning at Council level because ministers are under tight control of their parliaments and have to change the national position at that later stage, the French coordination mechanism is organized as a continuum, with regular ‘check-points’, in Paris as well as in Brussels. This continuum is both politically and technically controlled by the two strongly mirrored ‘gatekeepers’, the SGAE and the RPUE, faithfully (over-)working at the service and on behalf of an ‘all-seeing eye’ – the Presidency – which monitors ‘from the sky’ but carefully, until dossiers climb to the European Council stage.



The two Houses of the French Parliament play a limited and strictly consultative role in the EU policy cycle, in accordance with the provisions of articles 88-4 and 88-7 of the Constitution. Moreover, the French Parliament doesn't enter into details and its involvement remains sporadic. All our interviewees, civil servants as well as politicians, agree that the most valuable dimensions of the interplay between Government and Parliament regarding EU affairs relates to the fruitfulness of the informal exchanges of views and more formal public hearings held by the two special Committees for EU Affairs.

As for the issue of how divergent stakeholder interests are taken into account in the process, which is very sensitive in the Dutch coalition politics and multi-level governance, it has little to no salience in the French socio-political culture. Whether or not stakeholders are satisfied about the ways in which they are consulted (or not) and whether or not their views are reflected in the instructions written by the SGAE, the final decision on the national policy position is always taken at the centre and at the top (or by delegation) of the Executive.

The overall strategy for European matters under the current as well as the previous presidential mandates is defined by the President himself, and the different steps are refined with the small 'epistemic community' of the ten or so top officials who are the true decision-makers in that very domain.

The extent to which civil servants at the coordination body have sufficient EU expertise is very satisfying among the specialists who serve at the DUE, the SGAE, the Elysée and the RPUE, who constitute a special European stream within the higher Civil Service. The same is not true for civil servants at sectorial ministries: all ministries have a European service, but the 'technicians' at the DGs comprising each ministerial department often lack a sufficient understanding of how Brussels decision-making works. That is the reason why France is so attached to the prominence of the SGAE in defining French positions.

The engagement of the European Parliament and French MEPs in the coordination process is very limited. That is probably the reason why the Executive has traditionally not felt the need to formally associate French MEPs in the drafting of French positions by the French system of coordination. The inherited model is more a one-way communication in which the responsible authorities provide information and recommendations to French MEPs.

France has to respond to many challenges and dilemmas (IOB's 13 hypotheses) in common with the Netherlands, as well as a few specific ones. The four contextual challenges facing our coordination systems (more complex EU playing field; more varied coalition formation; legitimacy problem; more frequent EU high-level and crisis politics) are similar, but France also faces a fifth and additional one: how to deepen European integration so as to strengthen the EU after Brexit and COVID-19? These are 'threats' as well as 'opportunities', depending on how our countries will adapt.

On how to maintain high strategic and tactical capacities to produce an effective EU policy (H.1, H.2, H.3), France has a more workable coordination system than the Netherlands because it is more modest in scope and less comprehensive in a processual sense: it mainly involves ministries, each of them 'filtering' and integrating positions of 'their' stakeholders. In addition, the strong arbitration capacity of the SGAE, Matignon and the Elysée allows inter-departmental arguments to be quickly terminated in Paris. The effectiveness of the French coordination process is thus guaranteed. As for France's demonstrated strategic capacity (in so many cases), it is due, apart from its intrinsic 'weight' as the second biggest Member State, to strong political leadership at the very top of the Executive. Since it is one of the most important missions of the French President to define and conduct our foreign and European policy, all the holders of the mandate devote lots of political energy and intellectual capacities to that mission, considering it their duty to launch great political initiatives



regarding the EU. French Presidents are supported in this by a sort of collective brain, a small ‘policy community’, all working together with a very high level of trust and confidence.

As regards the essential issues of staffing, expertise, and seniority (H.4), it is undeniable that France shares these common concerns with the Netherlands. These are very complex issues, as is often the case for HRM within public administrations, with several explanatory variables. It is highly recommendable that proactive HRM strategies are quickly adopted to ensure the attractiveness of the European ‘stream’ and careers, considering that as a strategic investment in human capital to ensure the future ‘defence’ of the national interest.

Regarding the tactical need to involve more bilateral embassies to other Member States in the production of negotiating positions (H.5), the French officials we have interviewed regard French bilateral embassies as precious ‘eyes and ears’ to better comprehend the views of our potential coalition partners, and the interests and arguments of opposing Member States. Thus, bilateral embassies should be integrated in a more institutionalized manner into the coordination machinery, which is not yet the case in Paris: the DUE is missioned to become the nexus of that more formalized network with our bilateral embassies.

As for interinstitutional dilemmas (H.6), the lack of integration of the European Parliament into the process is even higher in France than in the Netherlands.

On the contrary, there are no dilemmas in the French vertical system regarding who chairs and has the final word (H.7, H.8, H.9). The SGAE and the cabinet of the Prime Minister are chairing, while the role of the MFA is important (the CFSP) but not decisive. This being said, the RPUE, which is formally an Embassy and is always headed by a diplomat, is in practice – like the SGAE in Paris – of an interdepartmental nature by its staff as well as by its missions.

In addition, the right of the French Parliament to be informed and consulted does not hamper the effectiveness of a coordination machinery mastered by the Executive (H.10, H.12). The mission of the Parliament in the coordination mechanism is limited by art. 88-4 of the Constitution to a consultative role, situated at an early stage in the EU law-making process; while for the rest the French parliament has a right to be informed (prior to European Councils, e.g.) about the state of affairs in Brussels, but not a formal right to contribute to the French Executive’s official positions and actual positioning. Such a political equilibrium, reflecting the balance of powers of the Fifth Republic, is not seriously contested by elected politicians, is considered by French officials as the ‘normal’ way of doing things, and is even considered by them to favour the effectiveness, timeliness and demonstrated quality of the French coordination system and mechanisms.

Adaptability and ‘high politics’ (H.11) are prime concerns. The wide room for negotiation entrusted to a Permanent Representative and Deputy appointed by the President, constantly reporting to him and assisting him in the European Council, allows compromise with other Member States. The high level of trust and confidence between the 10 or so persons who effectively control the ‘*politique européenne de la France*’ allows a very wide room for manoeuvring and compromising with their homologues in COREPER and the European Council given to the French Ambassador and the French President – these two persons who have (almost) a full overview of EU governance.

As regards H.13, and quite differently from the Netherlands, the French coordination system is limited to the Core Executive and central administration institutions (plus Parliament as consultation). The involvement of stakeholders and implementing actors (such as territorial authorities) in the French coordination mechanism is thus low and indirect.



4.3 The French case as a possible source of inspiration for Dutch authorities

Since EU Member States are ‘united in diversity’ (*In Varietate Concordia*), there is no ‘one best way’ to organize and process the national coordination on EU affairs in each country. Each national coordination system fits a given polity, with its constitutional rules, core beliefs and values, political arrangements and practices. In that regard, it is obvious that the French system analysed in the present study, controlled by a prominent Executive and centralized with the SGAE and the RPUE as ‘mirrored’ gatekeepers of the whole process and a marginal Parliament, is very effective and efficient, but couldn’t be transferred to the Netherlands. However, in a perspective of wise benchmarking and sound emulation, Dutch authorities could possibly envisage taking inspiration from or borrowing some of the good practices illustrated by the French ‘way to do things’. A tentative list of these possible inspirations is proposed in Section 1 (above) of the present report as ‘Practical recommendations to Dutch authorities’.

Annex: The European coordination in facts and figures

Information provided by the SGAE.

Number of inter-service meetings (RIS)

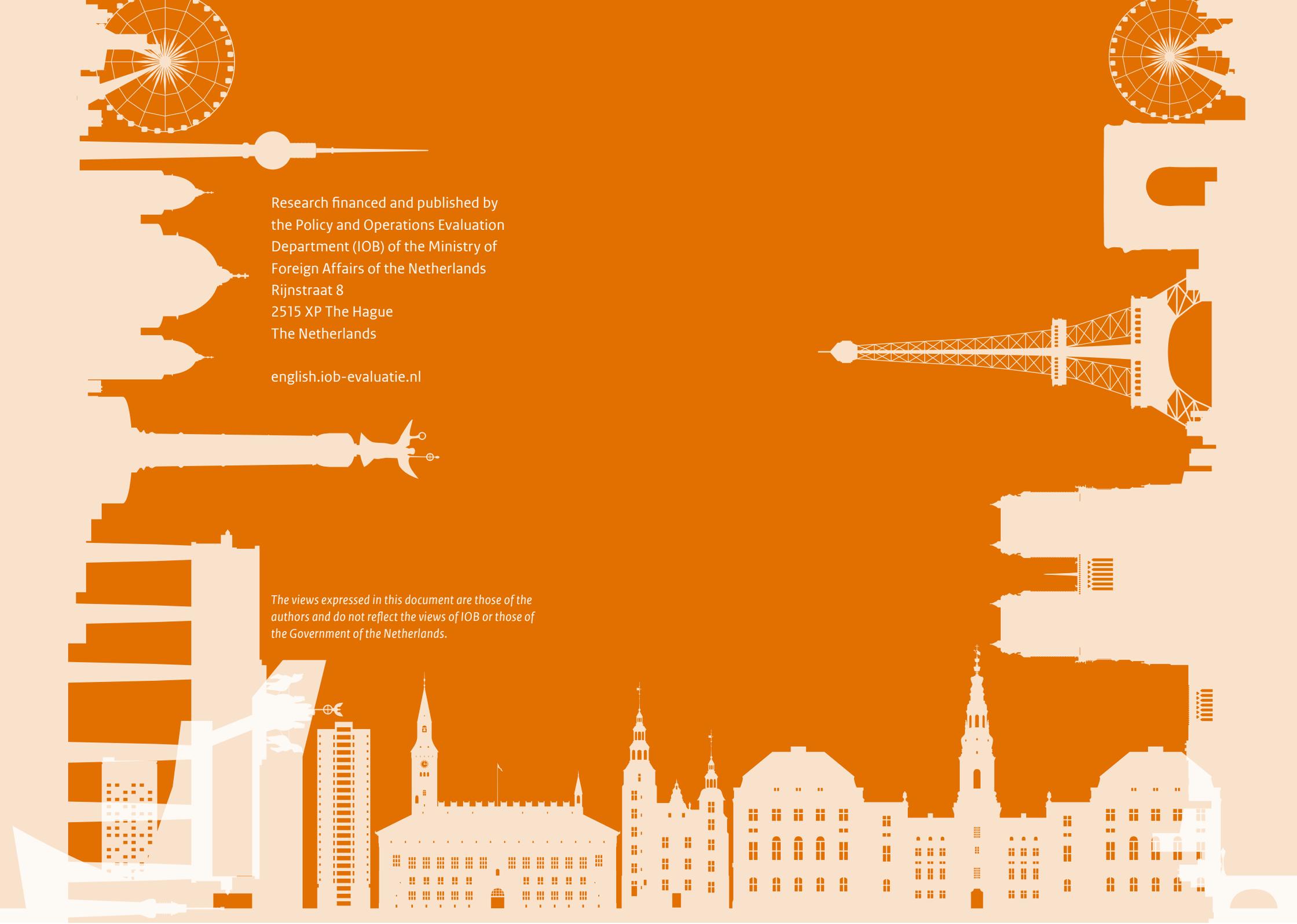
- 2018 & 2019: 1500 RIS per year organized by the SGAE, of which around 600 videoconferences with the PermRep in Brussels.
- 2020: 800 RIS, of which 300 videoconferences.

Drafts of European legislative acts and other drafts of or proposals for acts of the European Union sent to the French Parliament (art. 88-4)

- 2018: 816
- 2019: 661 (electoral year for the EU)
- 2020: 515 (by October 2020)

Parliament’s resolutions

	2018	2019	2020
National Assembly	11	6	1
Senate	25	14	15



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