

TALLINN UNIVERSITY OF TECHNOLOGY
School of Business and Governance
Ragnar Nurkse Department of Innovation and Governance

Jaana Sahk-Labi

**TRILOGUES IN THE EUROPEAN UNION LEGISLATIVE
PROCESS FROM THE PRESIDENCY POINT OF VIEW:
THE ESTONIAN EXPERIENCE**

Master's thesis

Supervisor: Kati Keel, MA
Co-supervisor: Sandra Särav, MA

Tallinn 2018

I declare that I have compiled the paper independently
and all works, important standpoints and data by other authors
have been properly referenced and the same paper
has not been previously been presented for grading.
The document length is 15 874 words from the introduction to the end of summary.

Jaana Sahk

(signature, date)

Student code: 080055HAHM

Supervisor: Kati Keel, MA:

The paper conforms to requirements in force

.....

(signature, date)

Co-supervisor: Sandra Särav, MA:

The paper conforms to requirements in force

.....

(signature, date)

Chairman of the Defence Committee: Erkki Karo

Permitted to the defence

.....

(signature, date)

TABLE OF CONTENTS

ABSTRACT	5
LIST OF ABBREVIATIONS	7
INTRODUCTION	8
1. TRILOGUES AND INSTITUTIONS PARTICIPATING.....	10
1.1. What is a trilogue and who participates in the trilogues?	10
1.2. Institutions participating in the trilogues and their mutual interaction	11
1.2.1. The Commission	11
1.2.2. The European Parliament	13
1.2.3. The Council of the European Union	14
1.2.4. Principle agent theory and relationship between co-legislators	17
1.3. Conclusions	18
2. SMALL MEMBER STATES AND EU PRESIDENCY.....	20
2.1. Small Member States in the CN and the Presidency	20
2.2. Presidency tasks and resources in trilogues	23
2.3. Conclusions.....	27
3. METHODOLOGY	29
4. ANALYSIS OF THE ESTONIAN CASE AND DISCUSSION	31
4.1. Data on organisation of Estonian Presidency	31
4.2. Overview of answer rate to the questionnaire	31
4.3. Analysis of the data gathered with the questionnaire	33
4.3.1. General data and nature of the trilogues.....	33
4.3.2. Commission and its interaction with co-legislators	36
4.3.3. Interaction between co-legislators.....	39
4.3.4. Role of COREPER	44
4.3.5. Estonian Presidency as small Member State Presidency	46
4.3.6. Fulfilling Presidency tasks and use of resources.....	52
4.4. Conclusions and policy recommendations	57
CONCLUSION	61
KOKKUVÕTE	64
LIST OF REFERENCES	68
APPENDICES	73

Appendix 1. Overview of the development of EP powers as a legislative body.....	73
Appendix 2. Questionnaire submitted to Estonian officials	74

ABSTRACT

Trilogues¹ are an important part of European Union (EU) legislative process, especially during the first reading. The Presidency (PRES) of the Council of the European Union (CN) has influence over the negotiation process and outcome of the trilogues. PRES also has a lot of vested interest in achieving the results, as successful deal making is considered a sign of a well conducted PRES. However, PRES is not the only relevant actor to be considered and influence of other actors on the process needs to be taken into account. The main goal of the thesis is to analyse the competencies of the PRES taking into account the factors relevant to small MS PRES, the influence other actors have on the process and the elements that could affect the performance of a PRES in the trilogues on the basis of the 2017 Estonian experience. For that, the elements that PRES has to take into account for maximising its success in trilogues and main elements that influenced the performance of Estonian PRES in the negotiations with the European Parliament (EP) during the trilogues need to be identified. To do that, Estonian experience related to trilogues is analysed on the basis of the answers to the questionnaire distributed to the officials managing trilogues in the Estonian Permanent Representation to the EU during the Estonian PRES. It can be concluded that Estonian PRES was a successful PRES in terms of achieving the goals set for trilogues. Findings of the thesis emphasise the importance of the socialisation aspect in trilogues process. Therefore recommendation is put forward to implement this knowledge in daily work on EU legislative proposals by Estonian administration in order to build up further social capital for future EU negotiations and PRES periods. In addition, data analysed indicates that coalition building was used for consensus building less than could have been expected during Estonian PRES. The underlying reasons need to be explored further and action taken to improve the skills if needed. High level of capability and flexibility to adapt to the situation in hand during trilogues played an important part in achieving outcomes during Estonian PRES. Therefore, it would be advisable to keep that approach in Estonian public administration and to use it in EU negotiations.

¹ A trilogue is a negotiation between the co-legislators, namely, the Council and the European Parliament, held with the participation of the Commission, aiming at finding a compromise between the positions of the co-legislators and agreeing the final text of a legal act to be adopted as EU law.

Keywords: European Union, ordinary legislative procedure, small Member States, Estonian Presidency, trilogues.

LIST OF ABBREVIATIONS

CJEU	Court of Justice of the European Union
CN	Council of the European Union
COM	European Commission
COREPER	Committee of Permanent Representatives of the Governments of the Member States to the European Union
EP	European Parliament
EU	European Union
GSC	General Secretariat of the Council
MS	Member States
OLP	Ordinary legislative procedure
Q	Question in questionnaire in Appendix 2
QMV	Qualified majority voting
PRES	Presidency of the Council of the European Union
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
WP	Council of the European Union Working Party

INTRODUCTION

EU legislative process forms a big part of its policy shaping activities and the outcome of this process, due to its binding nature, is undeniably important for not only to the Member States and some other countries, such as those belonging to the European Economic Area, who have to comply with EU law or parts of it, but also to the whole community governed by the EU legislation from citizens to entrepreneurs doing businesses in the EU. Most of the EU legislative process can be described, while being politically driven, as relatively transparent, inclusive and heavily regulated. This normative environment has been researched extensively.

However, trilogues, especially during the first reading, are a slightly different matter. Although trilogues take place inside certain political and institutional framework, it is an informal negotiation being held behind closed doors between limited number of participants. Trilogues require high degree of flexibility, adaptability and complex problem solving capability from the principal agents negotiating for results to be achieved. Therefore, there is a certain level of ambiguity when trying to understand what are the elements influencing the outcome of the trilogues and what is the impact of these elements.

PRES of the CN is a participant in the trilogues who together with the rapporteur from the EP has most influence over the negotiation process and outcome of the trilogues. PRES also has a lot of vested interest in achieving the results, as effective deal making is considered as a sign of a successful PRES. There is a gap in the existing academic literature on elements influencing PRES success in the trilogues. This type of research would provide valuable insight into one of the most important parts of the EU legislative decision making as today at least 84% of EU legislation under ordinary legislative procedure (OLP) is agreed during trilogues in the first reading (Roederer-Rynning, Greenwood, 2015, 1150).

Estonia has recently faced the challenge of taking on the responsibility of managing the trilogues as a first time. An agreement, or at least provisional agreement with the EP, was achieved on 35 legislative proposals (Files concluded by the Estonian Presidency, 2018) during Estonian PRES.

Therefore, there is a considerable experience gained by the Estonian public sector that can be studied and analysed in relation to the PRES and trilogues, providing a good case to study both in practical and in academic terms.

The main goal of the thesis is to analyse the competencies of the PRES taking into account the factors relevant to small MS PRES, the influence other actors have on the process and the elements that could affect the performance of a PRES in the trilogues on the basis of the 2017 Estonian experience. In order to achieve that, following two research questions will be posed:

- What are the elements PRES has to take into account for maximising its success in trilogues?
- Which were the main elements influencing the performance of Estonian PRES in the negotiations with the EP during the trilogues?

To answer these questions, the thesis is structured into two main parts containing theoretical framework and empirical analysis of the Estonian case. The theoretical part in the first and second chapter gives an overview of the existing research on trilogues, institutions participating in trilogues and their influence over the process and elements relevant for PRES success taking into account small MS context. Methodology concerning the empirical part is presented in the third chapter. The empirical part in the fourth chapter analysis the Estonian experience related to trilogues on the basis of the questionnaire distributed to the officials managing trilogues in the Estonian Permanent Representation to the EU during the Estonian PRES. Finally, discussion, conclusions and policy recommendations on the basis of the theoretical framework and empirical analysis are presented.

1. TRILOGUES AND INSTITUTIONS PARTICIPATING

In order to understand what the relevant elements influencing the outcome of the trilogues are, the definition of trilogues, institutions participating in them and mutual interaction of participating institutions need to be identified and explained first.

1.1. What is a trilogue and who participates in the trilogues?

Since December 2009 legal basis for all actions taken by the EU and its institutions have been stipulated in two Treaties – the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) (Bache *et al*, 2011, 225-226). The Lisbon Treaty in 2009 introduced OLP as the main procedure for the EU legislation (Burns, 2013, 163). Although OLP itself is a relatively new concept introduced by Lisbon Treaty in 2009, the trilogues have been part of its predecessor the co-decision process since it was born in 1993 with growing importance following the growth in policy areas falling under co-decision over time reaching from 15 in 1994 to 85 by 2014 (Roederer-Rynning, Greenwood, 2015, 1149-1150) making OLP the main decision-making procedure adopting EU legislation (The ordinary legislative procedure, 2018).

Trilogue, although taking place as part of the OLP, is an entirely informal practice as there is no legal base in the EU Treaties (Joos, 2016, 452). Since in practice, final compromises in 84% of the legislative proposals under OLP during the first reading are reached between the co-legislators during the trilogue process (Roederer-Rynning, Greenwood, 2015, 1150), it is clear that trilogues themselves have become an additional important decision making layer in the EU legislative process where three institutions – the European Commission (COM), CN and EP – meet to find an agreement on the final text of a specific legislative act (Joos, 2016, 452).

Although trilogues are strictly informal in nature and there are no formal rules, it cannot be claimed that there are no common elements. Some unwritten rules have developed in practice to the extent

that trilogues have been called a “ritualized conflict” by some authors (Roederer-Rynning, Greenwood, 2015, 1153).

The layers of practice, where each following layer is more informal than the previous layer, can be described as follows:

- 1) Political trilogue is the forum where political issues are discussed and compromises in this regard agreed. It also confirms any agreements made in the lower levels;
- 2) Technical trilogue does not normally have political participants and the aim is to take a look at all the differences between the EP and CN amendments. This will ascertain which of the differences are of political nature and therefore have to be solved during the political trilogues;
- 3) Bilateral meetings between EP and CN on different levels of hierarchy is another instrument that can be used to untangle differences between EP and CN during trilogues. Normally, the bilateral contacts between the future PRES and EP start even before the CN or EP have formed their positions. (*Ibid.*, 1153-1156)

1.2. Institutions participating in the trilogues and their mutual interaction

As explained in the previous paragraph, the main actors in the trilogues are CN, COM and EP. Considering trilogues as a “ritualized conflict” (Roederer-Rynning, Greenwood, 2015, 1153) necessitates to take a look at the main powers all these actors have and how they influence each other during the trilogues.

1.2.1. The Commission

When legislation is concerned, COM has the right of the legislative initiative. This means that although there are some political constraints and exceptions to that monopoly under the Treaties (Warleigh-Lack, Drachenberg, 2013, 202) the standard practice of the EU legislative process gives the COM a powerful role of initiating legislation (Bache *et al*, 2011, 231). Powers of the COM have been subject to a heavy academic debate as long as COM has existed.

According to intergovernmentalist view the COM is seen merely as an agent of the MS. In this context the COM is seen as an actor who helps the MS to agree on the details of the direction MS have decided to go, without having any say on the policy direction itself. (*Ibid.*, 262) Therefore,

COM can be viewed as a facilitating body with technical knowledge (*Ibid.*) and its role is insignificant (Egeberg, 2013, 132). Intergovernmentalists presume that actors in the policy context are static, meaning that they concentrate on one political negotiation at a particular time (Haaland Matlárý, 1997, 267). Subset of intergovernmentalists, called liberal intergovernmentalists, do acknowledge that COM has an important role to play. However, in their view the authority that COM has, even when it comes to agenda setting, is merely a derived and delegated authority. (Egeberg, 2013, 131) In addition, COM is seen by intergovernmentalists as driven by national interests where all the staff of the COM is acting motivated by their respective national interests (*Ibid.*, 132).

Alternative views on the role of the COM ascribe it more political leadership powers and autonomy than those of the intergovernmentalists (Bache *et al*, 2011, 263). The neo-functionalists or institutionalists (Egeberg, 2013, 132) see the role of the COM to be the “motor of integration” (Bache *et al*, 2011, 261). One example given by institutionalists to support this claim is the COM (almost) exclusive prerogative to initiate legislation (*Ibid.*, 263) which gives the COM tremendous power over the initial part of the legislative process. Institutionalists argue that successful integration in one policy area will create a “spillover effect” to other areas leading to more policy setting opportunities for supranational players such as the COM, because the policy making has to be seen as a process and not a series of independent negotiations (Haaland Matlárý, 1997, 266). This has been developed in the frame of the so called historical institutionalism, emphasising that all political decisions, regardless of how they have been made, will have unintended consequences and are evolving in unanticipated directions. Furthermore, institutions have resources on top of their formal powers which increases their influence and they outlive the initial interest behind their creation. (*Ibid.*, 280) In addition, institutionalists believe that COM empowers the individual actors within itself, namely the members of the staff, with particular interests and beliefs that eventually will influence them to assume supranational identities over their national ones (Egeberg, 2013, 132).

One reason the debate over the role of the COM in EU policy making has been complicated with views having quite radical difference is the fact that COM is simply neither bureaucracy nor a body practicing political leadership – structurally and functionally it is both (Drake, 1997, 228). Therefore, we can conclude that COM has elements of both intergovernmentalism and institutionalist characteristics (Egeberg, 2013, 140) stemming from its institutional structure (George, 1996, 18). However, COM as the “guardian of the Treaties” and “conscience of the

European Union” can be considered the “voice of collective interest” in EU legislative arena (Bache *et al*, 2011, 255) realising its powers via initiating legislative proposals and therefore can hardly be called insignificant and powerless in the legislative process.

COM also has the right to amend and withdraw the legislative proposal. The right to amend the proposal stems from Article 293 paragraph 2 of TFEU where it is very clearly stipulated that COM may alter its proposal at any time during the legislative procedure as long as the CN has not acted yet. While the Treaties don't say anything about the right to withdraw the legal proposal, it has been enshrined in the EU law by the decision of the Court of Justice of the European Union (CJEU) taken in 2015 in the case C-409/13 where CJEU in paragraph 74 concluded that: “It follows from Article 17(2) TEU in conjunction with Articles 289 TFEU that [...] the Commission has the power, as long as the Council has not acted, to alter its proposal or even, if need be, withdraw it.” CN is considered “acted” in OLP context only after its position has been formally adopted in the first reading after EP has voted, but this only happens after the trilogues in first reading have been concluded (Reh *et al*, 2011, 1120).

Another COM role in the legislative process has significance for the trilogues, namely its mediating role facilitating agreements between CN and EP (George, 1996, 29). Indeed, COM is interested in overseeing that compromises between the co-legislators will not go too far away from COM initial proposal (Costa *et al*, 2011, 16). COM cannot do this in isolation and therefore it takes part of all the formal meetings of the EP and the Council (Goodman, 1996, 298) enjoying far bigger access to information during the legislative process, including trilogues, than co-legislators. Beyond COM interest in defending and preserving as much as possible from its initial proposal, COM role has not been extensively researched in the context of trilogues.

1.2.2. The European Parliament

EP role in the legislative process is to be the co-legislator together with the CN making the final decisions on the legal acts (Burns, 2013, 163).

Compared to the COM and CN, the EP has gone through the biggest transformation over the time in terms of its formal powers it has today as an co-legislator equal to the CN (*Ibid.*, 163) under Article 16 of the TEU. Overview of that transformational path is provided in Appendix 1.

As co-legislator, EP has huge impact on the outcome of the trilogues. Leaving politics aside, some elements have been identified in the existing literature that could have effect on the outcome of the trilogues. The existing studies have mainly concentrated on the rapporteur as the key player on the EP side and his/her influence. The role of being the main negotiator on behalf of the EP makes rapporteur especially powerful during the first reading as rapporteur has privileged access to all the negotiation related information (Reh, 2014, 833). The existing literature identifies the following elements:

- 1) Rapporteur's negotiation abilities and skills matter as it determines the relationship with the shadow-rapporteurs who represent the views of other political groups and how rapporteur is able to find compromises inside EP as this is what matters when getting compromises through the Committee; (Centre of Public Scrutiny, 2006, 7, 9, Costa *et al*, 2011, 28)
- 2) The culture and the way trilogues are approached from EP side varies across Committees and rapporteurs (Roederer-Rynning, Greenwood, 2015, 1161; Roederer-Rynning, Greenwood, 2017, 745-748) having influence on what PRES can expect when dealing with the EP;
- 3) The more rapporteur's rapport is criticised by the members of the Committee, the more time is required for the trilogues and rapporteur has to prove under the watchful eye of his/her peers that he/she drives a hard bargain with the CN (Brandsma, 2015, 316) which in practical terms indicates that there are big political differences inside EP between political groups.

While EP is represented in the political trilogues by politicians for whom political bargaining is a daily *modus operandi*, CN is represented usually by civil servants who are not used to this type of negotiation and therefore EP is seen as having an advantage here. (Roederer-Rynning, Greenwood, 2015, 1155) In principle, the same observation can be made when comparing EP and COM.

1.2.3. The Council of the European Union

While EP has gained its legislative powers over time as discussed in the previous paragraph, CN has been the legislator from the outset of the EU. Similarly to the COM, two main theories on the role of the CN exist – intergovernmental and supranational interpretation (Bache *et al*, 2011, 273).

As the CN brings together representatives of the national governments of the MS, the intergovernmentalist see it as a mere reflection of national interests (*Ibid.*, 273) and “a forum of

hard bargaining” (*Ibid.*, 282). One example given to support this notion is that on the highest level CN brings together top executive powers of the MS including ministers and high ranks public officials. This view neglects the evidence pointing to one underlying process taking place among peers at all levels in the CN - socialisation into shared values as these actors work together frequently across negotiations. (*Ibid.*, 273 – 274)

The supranational viewpoint considers the way power is shared and diffused in the CN (*Ibid.*, 273). Most of the time CN is led by its instinct to proceed consensually and that diverts the protection of the individual interest into discussing solutions to the common problems (*Ibid.*, 282). It has also been pointed out, that the CN as a whole is more than just a sum of MS and has developed a shared sense of responsibility of the work to be done. On top of that, since CN is a forum where continuous negotiations are conducted over a wide range of issues, many actors have the tendency to develop mutual understanding of each other’s issues and will try to help each other in solving certain political problems. (Lewis, 2013, 145-146)

When it comes to CN, the difficulty lays in the fact that CN is a mixed structure containing traits and culture of both intergovernmental and supranational organisation (*Ibid.*, 145).

Research has shown that around 90% of decisions in the CN are made at the level of Committee of Permanent Representatives of the Governments of the Member States to the European Union (COREPER) or below (Edwards, 1996, 135). As COREPER is deciding what will be sent to ministers for decisions making (Lewis, 2003, 100), it has become one of the core powers of CN decision making, including during the trilogues, although it has no such formal power (*Ibid.*, 101).

Studies of COREPER show that its members consider having a dual role – from one hand ambassadors² are executors of the instructions from their capitals and from the other hand they as actors exhibit strong solidarity with their colleagues in COREPER. One explanation to this type of approach to the negotiations can be found in rational choice and game theory. As ambassadors are involved on daily basis in the continuous process of negotiations with the same partners, they are considered to be involved in iterated games and this changes the rationale behind the decisions they are prone to take as what is rational and what not differs a lot between isolated and iterated games. While in the case of the isolated game it is rational to use any means possible to achieve

² The representators participating in its work are high level diplomats of the MS they represent and for the ease of reference term “ambassador” will be used throughout the thesis including both formations of COREPER.

your goal, in iterated games these tactics will not work and will certainly backfire in the next round if the trust in the gaming partner is lost. (Bache *et al*, 2011, 283-284) Another theory on the way COREPER works is based on the social constructivism (*Ibid.*, 284). According to it, COREPER is subject to a set of obligatory social norms seen as “best practices” and “appropriateness” in model state behaviour such as consensus reflex, the culture of compromise, thick trust, diffuse reciprocity³ and mutual responsiveness and understanding (Lewis, 2000, 267-271).

Due to these norms ambassadors are more willing to look at things from the other MS perspectives and try to help to reach a compromise for a common good. One way of doing that is to try to convince their own governments to make a concession and national governments do consider the advice of their COREPER representatives when taking the final negotiation decisions. (Bache *et al*, 2011, 284)

This leads to the notion that in practical terms the power of the decision making is divided between Brussels and the capitals (Goodman, 1996, 16; Edwards, 1996, 137). In addition, it is also true that as the interdependencies between MS in the EU grow, the willingness of making concessions raises in general (Meerits, 1997, 475).

As 90% of decisions in the CN are made at the level of COREPER or below (Edwards, 1996, 135), two levels of negotiations below COREPER should be mentioned to get the full picture of the actors: a) level below COREPER, Mertens and Antici Groups (Coreper I, 2017; Coreper II, 2017) staffed with Brussels based diplomats; b) lowest negotiation level of Working Parties⁴ (WP) (Lewis, 2013, 149-150) staffed with capital based experts and/or Brussels based diplomats (also called attachés). Although these levels have not been addressed much in the academic literature, in practice the same principle of socialisation into shared values can be assumed to apply as these groups work together frequently across negotiations (Bache *et al*, 2011, 274) in the similar manner as ambassadors.

³ Ambassadors will support others where possible, e.g. on issues which are less important to their own MS even if the national position is indifferent in the specific question, for the future support in a similar situation when they will have a problem next week.

⁴ The trilogue process and content of the compromises during the PRES are normally managed by WP Chairs inside CN and with the EP.

1.2.4. Principle agent theory and relationship between co-legislators

As discussed in previous paragraph, while there are three institutions participating in the trilogues, formally the number of co-legislators is limited to two, namely CN and EP. Therefore, the relationship between these two and how they operate together needs separate consideration.

There is a small group representing both co-legislators in trilogues instead of having institution wide negotiations. The principal-agent theory could be useful for understanding how these actors could relate to each other. There are two principle-agent relationships that can be observed in trilogues: a) between the CN and the PRES, and b) between the competent committee in the EP and the rapporteur. In both cases the agent, namely rapporteur or the PRES, has to perform two types of tasks on behalf of its principal - also called acts of delegation. Firstly, the acts of delegation related to the intra-institutional forum of negotiations (rapporteur has to manage consensus building inside EP and PRES inside CN while negotiations between those two institutions are ongoing). Secondly, the acts of delegation related to the inter-institutional negotiations finding consensus between EP and CN while ensuring that the principals later on will endorse the agreement. (Delreux, Laloux, 2018, 302-303, Rassmussen, Reh, 2013, 1010)

Agents are assumed to have an interest in reaching an agreement and “no agreement” comes with the “stamp of failure” costing highly in terms of prestige and reputation for both agents. This stems from the fact that PRES success is often measured by the number of political agreements reached and rapporteur is viewed as a deal seeker by its Committee and the political group. (Delreux, Laloux, 2018, 303) For the rapporteur, as studies have shown, pressure to finalise a deal grows heavier with the approach of the end of the legislative term as EP wants to avoid restarting the whole process with the new EP after elections (Costa *et al*, 2011, 18).

Agents act on the basis of the mandate they have received from the principals. For PRES, the starting point is either the consensus already reached at CN level (called general approach) or mandate agreed by COREPER. During the negotiations, the mandate is normally reviewed before every trilogue at the COREPER level. EP mandate comes from the voted and adopted amendments in the Committee as laid down in the rapporteur’s final report. (Roederer-Rynning, Greenwood, 2015, 1159, Delreux, Laloux, 2018, 304)

Agents have two types of constraints in the negotiations. Firstly, they need to ensure that the agreement will not exceed their ex-ante mandate in a manner which will prevent the ex-post approval of the made deal. For this, they have to ensure support in practical terms by the majority of the principals (depending on the institutional voting rules). Secondly, they need to ensure the acceptance of the deal they need to deliver to their principals also by the other agent. Overcoming this dual constraint, normally indicates that in order to strike a deal, mandate has to be overstepped to a certain degree with the presumption that the principals will not reject the deal due to the political reputational implications it might bring. (Delreux, Laloux, 2018, 304)

The way rapporteur and the PRES have to manage all the demands, constraints and interdependencies during the trilogue indicates the reason why OLP has increased the importance of informal contacts that go beyond the contacts between the EP and CN (Burns, 2013, 164) and the trilogues setting as these contacts start before PRES takes office or trilogues themselves start. This can lead to interpersonal relationships between PRES and the rapporteur playing key role in the outcome of the trilogue negotiations – it can be considered as another effect of the socialisation phenomena building trust and empathy between the agents leading to more inclination towards compromising (Costa *et al*, 2011, 30) as also observed in the case of COREPER.

1.3. Conclusions

The main conclusions that can be drawn from the findings presented in the first chapter are:

- 1) OLP and trilogues have become the centre of EU legislative process (Joos, 2016, 452) and most legal acts are informally agreed during the trilogues before the end of the first reading (Roederer-Rynning, Greenwood, 2015, 1150);
- 2) Trilogues in the OLP first reading contain certain level of agreed unwritten rules and procedures (*Ibid.*, 1153) and are based on informal mandates in the cases of both co-legislators (*Ibid.*, 1159, Delreux, Laloux, 2018, 304). However some cultural differences the way trilogues are approached exist between individual rapporteurs and Committees (Roederer-Rynning, Greenwood, 2015, 1161, Roederer-Rynning, Greenwood, 2017, 745-748);
- 3) Three institutions that matter in the trilogues are EP, CN and COM (Joos, 2016, 452). While first two have more power over the trilogues process and the outcome of the political bargaining, COM can exercise its power to withdraw the proposal before the end of the

- first reading (Reh *et al*, 2011, 1120) which seems to reinforce the view of the institutionalists who see COM having significant powers over legislative process (Egeberg, 2013, 132). COM can also capitalise on its mediating powers (George, 1996, 29);
- 4) Rapporteur is the key player from the EP side and his/her negotiation abilities and skills matter when it comes to facilitating compromises inside EP, (Centre of Public Scrutiny, 2006, 7, 9, Costa *et al*, 2011, 28) but complexity of the politics of a particular legislation do matter as well (Brandsma, 2015, 316);
 - 5) It has been suggested that EP has some advantage in the trilogues compared to CN as it is represented in the trilogues by politicians who are used to political bargaining while CN is represented by civil servants (Roederer-Rynning, Greenwood, 2015, 1155);
 - 6) COREPER plays a central role in facilitating the trilogues process from the CN point of view and it operates on the basis of the rational choice, iterated game theory and social constructivism (Bache *et al*, 2011, 283-284). Socialisation into shared values has been observed in CN on different levels between actors (*Ibid.*, 273-274);
 - 7) In CN MS national interest pay a role during the negotiations, but they are influenced by the Brussels community collective identity (Lewis, 2000, 267-271) and interests (Goodman, 1996, 16);
 - 8) Trilogues have increased the importance of the agents from both CN and EP and the relevance of informal contacts inside the principals and between the agents to achieve results (Burns, 2013, 164). Due to the socialisation phenomena, this could lead the agents becoming more open to making concessions (Costa *et al*, 2011, 30);
 - 9) Overcoming the dual constraint of simultaneously reaching an agreement with the other agent and ensuring the approval of the deal by the principals, agents might need to overstep their mandates (Delreux, Laloux, 2018, 304);
 - 10) Both agents are motivated to reach an agreement (Delreux, Laloux, 2018, 303).

2. SMALL MEMBER STATES AND EU PRESIDENCY

As the aim of the thesis is to analyse the trilogues from the perspective of the Estonian PRES, two relevant areas need to be looked at in this chapter. Firstly, as Estonia is a small MS, this aspect needs to be included in the theoretical framework. Secondly, what available information there is on identifying the competencies or elements relevant for PRES success in trilogues.

2.1.Small Member States in the CN and the Presidency

The debate on the definition of small state will not be discussed in detail in this paper. For the purpose of this thesis, traditional approach based on population and geographical size has been adopted. According to that, MS are divided into two groups: a) big MS including MS belonging to large-state and medium-state categories – Germany, United Kingdom, France, Italy, Spain and Poland; b) small MS including small-states and micro-states – all the rest of the EU MS. (Kutys, 2009, 3) Following this approach, Estonia is a small MS.

The question of how to balance the power between small and big MS in the EU decision-making process has been there from the outset of the EU as there has to be an incentive for everyone to join in this type of pooling the sovereignty. The balance was achieved by establishing a system on weighted votes (qualified majority voting or QMV) in the CN (no MS alone can block a decision), creation of the independent supranational institutions such as COM and establishing the rotating CN PRES. (Magnette, Nicolaïdis, 2005, 86-89) Small MS have a different approach to the relationship with the COM. Their relationship with the COM is much closer than the one big MS form (Bendel, Magnusdottir, 2017, 42) - small MS are viewing the COM as an institution who has the power to somewhat counterbalance the influence of the big MS (Magnette, Nicolaïdis, 2005, 88) and therefore small MS depend more on strong EU institutions (Thorhallsson, Wivel, 2006, 658) and see the COM more as an important ally (Bunse, 2009, 61).

Another element more important for small MS negotiation success is the ability to build coalitions as mentioned before and to get support from other MS (Thorhallsson, Wivel, 2006, 660, Fantini,

Staal, 2018, 214). There have been several examples that have showed the importance and decisiveness of coalition building and gathering support to achieve ones policy goals (Thorhallsson, Wivel, 2006, 660, Fantini, Staal, 2018, 227). In addition, small MS have to be “smart” about how they approach negotiations employing different means. Certainly, a head on conflict with any actor in the EU arena is not a “smart choice” from small MS. Therefore, small MS have employed the strategy of conflict-avoiding (Kajnič, Svetličič, 2010, 88) while big MS have more tendency to put emotional pressure on their opponents (Meerits, 1997, 473). This strategy leads to a) good relationship with all the relevant actors, and b) other actor’s perception of small MS as partners and not competitors. Latter leads to the perception of the small MS being honest brokers and gives more prominence to the occasions when small MS voice big concerns due to the fact that it happens less often. (Kajnič, Svetličič, 2010, 88)

One constraint small MS certainly have, lies in their size, but not in the political sense. The small MS have to prioritise more the issues that are of fundamental importance to them and that they focus their resources on in the negotiations as otherwise they would not have enough “administrative force” meaning human and other resources to achieve their goals. Therefore, it has been observed that small MS tend to be proactive in the areas where they have considerable political or economic interests and reactive in the areas which have less importance while big MS tend to be proactive in all policy areas. (Thorhallsson, Wivel, 2006, 659)

It has been argued that small administrations can be described as having stronger networks of personal relationships inside the administration, more flexible view on administrative rules and informal approach to the administration (Bendel, Magnusdottir, 2017, 39). Studies show that while the size of a small MS national administration limits its capacity to act, in certain cases small administration might also be seen as a benefit because working closely together allows for more effective and efficient decision-making (Meerits, 1997, 473, Kajnič, Svetličič, 2010, 88). This stems from the fact that it is easier to adapt the administration to the situation if you have an overview of all the parts and actors (Bendel, Magnusdottir, 2017, 39). The tendency of small MS to focus mainly on some crucial policy areas, can lead building considerable expertise in those areas. This is relevant, and a good way, to strengthen the position of a small MS. It has been observed that when MS representatives work in WPs continuously together and are aimed at solving common problems, the tendency is rather to assess peers and their influence on the basis of their expertise than on the basis of their nationality. Convincing arguments tend to work better than political weight of a MS or bargaining skills. (Bendel, Magnusdottir, 2017, 286)

There have been numerous studies conducted on the small MS influence in the EU negotiations process. The main conclusions on small MS actual performance in the EU negotiation can be summed up in the following manner:

- 1) small MS are more successful in getting the support of other MS in the EU negotiations than the big MS (Fantini, Staal, 2018, 214);
- 2) although some studies show that voting power matters when pushing the national interest (Warntjen, 2017, 684), there is no evidence that when MS are compared on individual basis concerning day to day policy making, big MS achieve more in terms of their goals than small MS in the EU negotiations (Golub, 2012, 1295).

Several authors have concluded that some elements are important when it comes to small MS and the role of PRES. Firstly, PRES is a unique opportunity for small MS to shape EU policy and it has been said that: *“True genius of the rotating presidency is how it acts as power equalizer between big and small states, giving tiny Luxembourg the same chance to run things as, say, Germany, France, or the UK”* (Lewis, 2013, 151). Secondly, the conflict avoidance that appears to be a usual modus operandi for small MS in EU negotiations, has increased the influence and prestige of the small PRES as they can act as genuine mediators since they are not able to push their national agenda the way the big MS can (Thorhallsson, Wivel, 2006, 663, Magone, 2015, 215). Thirdly, studies show that small MS cope successfully with the PRES tasks, even in the context of constraints from having smaller administrations (Kajnič, Svetličič, 2010, 89). Successful PRES of a small MS requires setting clear priorities to which their limited administrative resources can be dedicated (Edwards, 1996, 140). It has been argued that narrower national interest might limit the understanding and expertise of small MS during the PRES of the policy areas they normally don't prioritise. This has also been raised by Estonian officials in the preparation process of the PRES as one of the issues to be tackled. (Bendel, Magnúsdóttir, 2017, 39) It has also been pointed out that while fulfilling PRES tasks, smaller MS tend to rely more on the GSC help, which might be useful for them to bridge the gap in the expertise, (Kajnič, Svetličič, 2010, 89, Beach, 2004, 430). GSC is normally seen as provider of the technical support (Lewis, 2013, 149), but some research suggests that GSC is interested in expanding its role beyond mere minute writing also to the brokerage in the decision making process in the CN (Dijkstra, 2010, 541). How big of a role GSC plays in the final outcome of the negotiations, depends mostly on the PRES and how much it relies on the GSC in terms of content (Dijkstra, 2010, 536-537). It has been observed that when GSC is seen to pursue its own interest publicly, this damages the trust that PRES has in it

and therefore diminishes the role it is allowed to play by the PRES, regardless of the PRES size (Beach, 2004, 424, 429).

2.2.Presidency tasks and resources in trilogues

In the context of the legislative procedure and trilogues, PRES functions can be described as having the responsibility to negotiate with the EP and simultaneously keeping the agreement between MS in the CN (Edwards, 1996, 140). For that PRES main responsibilities are brokering deals, suggesting and drafting compromises (Lewis, 2013, 152) involving both the CN and EP actors, not forgetting the role of the COM, and keeping in mind both larger EU collective interests and particular national interests (*Ibid.*, 153).

When taking up PRES responsibilities, MS have to decide either to put emphasis on the staff in Brussels (called Brussels-based PRES) or to lead mainly with people travelling between Brussels and the capital (called capital-based PRES). In case of Brussels-based PRES it normally means two essential things: a) better equipped Permanent Representation in Brussels in terms of human resources, and b) broader mandate and more independence to negotiate and make decisions during the PRES for diplomats in Brussels. (Högenauer, 2016, 94, Kajňč, 2009, 3)

In the theoretical literature, a three-tier approach has been proposed to the rotating EU PRES. Main elements of this approach have been divided into three dimensions: functional, behavioural and contingency dimension (Karolewski *et al*, 2015, 669).

The functional dimension consists of specific tasks to accommodate functional demands and this gives the legitimacy to the institution in question. Such functions relevant in the context of trilogues for the PRES include:

- 1) Management of the administrative procedure by preparing and organising meetings;
- 2) Agenda-setting as the tool to emphasise PRES political priorities and giving possibility to decide on the structuring of the discussions. (*Ibid.*, 669-671) As agenda-setting is collaborative endeavour in the EU where other MS and the COM also has a say, PRES influence on that should not be exaggerated (Bunse, 2009, 3);
- 3) Internal mediation for finding a common ground among MS to determine CN position;
- 4) Representing the CN in negotiations with the EP. (Karolewski *et al*, 2015, 669-671)

The behavioural dimension deals with rational behind PRES actions (*Ibid.*, 671). As stated in the GSC handbook for PRES “The Presidency must, by definition, be neutral and impartial. It is the moderator for discussions and cannot therefore favour either its own preferences or those of a particular Member State“ (Handbook of the Presidency of the Council of the European Union, 2015). PRES is expected to enhance the EU common good as an honest broker without preferring any MS to another (impartiality) and even going against its own national interests in order to find a compromise (neutrality; referred also in the literature as disinterest) (Karolewski *et al*, 2015, 671, Metcalfe, 1998, 420). At the same time, there is some ambiguity in the term “impartiality” as PRES can in practice put pressure on MS to compromise on issues where PRES national interest is consistent with the majority of the MS views (Elgström, 2002, 184). Some have even argued that for a good PRES, something has to be at stake also for the PRES as other MS would be to some extent suspicious of a PRES who is pushing a topic it has no interest in (Smeets, Vennix, 2014, 1440).

PRES in principle has the means to prioritise certain issues of national interest, but if it cannot be justified on the basis of the CN common interests, it will be opposed by other MS. Therefore it can be assumed that to some extent the question is not about if PRES has national interest, but rather to what degree and how it pursues them. (Karolewski *et al*, 2015, 671-673, Bunse, 2009, 55)

Contingency dimension means that to some extent the success of a PRES depends on circumstances entirely or partially beyond PRES control. In this dimension, the following elements can be observed where first four represent internal and last four external variables:

- 1) Domestic environment including upcoming elections, (in)stability of PRES MS government and the attitude of its population towards a specific policy or the whole EU;
- 2) Reputation of the MS as a negotiator before PRES as it determines the level of trust linking back to the perceived neutrality and impartiality;
- 3) Timely preparation;
- 4) Special resources as having expertise in the specific policy area;
- 5) Sensitivity of the negotiated subject normally decreases the number of viable compromises in the CN;
- 6) Negotiation phase determines how crucial the PRES role is as the phase of final bargaining gives PRES more opportunity to leverage its influence over the process;

- 7) External shock normally has the most impact on the initial agenda of a PRES and it is a variable which cannot be in any way factored in during the preparation;
- 8) Deadlines restrict the manoeuvring during the negotiations. (Karolewski *et al*, 2015, 673-674)

Beyond being a deal broker, PRES is required to show political leadership (Smeets, Vennix, 2014, 1440) in order to achieve substantial results and moving legal acts forward. These two roles, acting as a mediator and being a leader, are not always easy to combine as there is always a balancing act to be done between pushing hard for achieving the outcome and trying to get everyone on board (Elgström, 2002, 184).

During the negotiations PRES could take different approaches in terms of leadership. PRES can choose between trying to change the zone where the agreement can be found, called directive leadership (also known as directional leadership) approach, or simply finding a compromise inside the existing zone, called facilitative leadership approach. While facilitative leadership is certainly part of PRES “business as usual” and does not contain much controversies, in order to use directive leadership, PRES should be able to create and direct the mood and the willingness in order to be effective transformational leader. This requires PRES simultaneously to shape the environment and assessing it for the next move which will be followed by series of moves from other MS leading to rapid changes in the environment being assessed. (Smeets, Vennix, 2014, 1440, Bendel, Magnusdottir, 2017, 35) For the CN negotiations, building upon directive leadership, another type of leadership could be defined – problem-solving type of leadership based on the skills of a leader as a mediator or honest broker and where leaders are agents themselves aiming at maximising their own interest while finding a common solution. (Bendel, Magnusdottir, 2017, 35) Similar to the previous leadership, is the approach to PRES as political entrepreneur as a form of leadership meaning that while brokering deals and favouring consensus, leader is defending a specific point of view. This leader prefers informal ways of mobilising support and (Bunse, 2009, 40) and if being successful, adapts to institutional environment to turn COM and EP into allies (*Ibid.*, 62). Leadership capacity of a chair (either at COREPER or CN WP level) has been neglected all together in available literature (*Ibid.*, 4).

When it comes to multilateral negotiations, there are six categories of leadership resources (Metcalf, 1998, 416), but only the following five of them are relevant for trilogues context:

- 1) Coercive resources implies putting time pressure at the parties as in this situation they tend to be more willing to compromise and make concessions in the process. PRES has many resources to put pressure on other MS, e.g. using COREPER or ministers or in some cases European Council for direction and pressure, using GSC legal service to argue against objections, organise bilateral meetings on the different level between capitals, or even using private sector to put pressure on the politicians either on national or EU level;
- 2) Socialization resources bring about a common perspective or a shared point of view. The more future encounters can be anticipated between the parties, the bigger is the incentive to find a compromise as already discussed in previous chapter in CN part. Another element to mention here, is that rotating PRES system contributes in building the common perspective as many of the MS representatives in CN have held the PRES before and can therefore identify with the PRES on the basis of the experience;
- 3) Legitimacy of leadership comes from being convinced that leaders' political objectives are legitimate. This clearly has a relevance for the PRES and it links back to the impartiality and neutrality discussion presented previously;
- 4) Expertise in a specific topic is an asset for a leader to be more influential. Here both, process and content expertise matter. This also includes knowing the people you have to lead, their impact on others, their real reservation values (so called "red lines") in terms of content and, if necessary, being able to be the best expert in the room on the technicalities of a proposal to avoid an expert "hijacking" the negotiations;
- 5) Information based resources are crucial as "power lies in information". This is very relevant for PRES, because information is basis for gaining expertise and assessing correctly the situation, context, what is at stake and other parties' role and needs. Being informed is crucial when devising the way forward and defining the zone of agreement. (Metcalf, 1998, 417-426)

Expertise as such in the PRES context can be divided into two groups:

- 1) Hard knowledge represents competencies of facts that can be codified. For example, content of the problem at hand, how EU institutions work, rules of procedure, knowledge about the MS positions etc. It is transmittable formal knowledge expressed in numbers, formulas, manuals;
- 2) Soft knowledge represent the competencies that allow articulate positions and communicate them effectively. It relates to personal experience and characteristics which

cannot be codified and passed on, for example how you communicate, how you build networks, negotiating skills, analytical skills etc. (Kajnič, Svetličič, 2010, 86, 90)

It has been concluded that hard knowledge is necessary, but not sufficient precondition to lead a successful PRES and it is viewed in general as less important than soft knowledge (*Ibid.*, 103).

2.3. Conclusions

The main conclusions that can be drawn from the findings presented in the second chapter are:

- 1) While voting power helps to achieve the policy goals (Warntjen, 2017, 684), there is no evidence that when MS are compared on the individual basis, big MS achieve more than small ones (Golub, 2012, 1295);
- 2) Coalition building is one of the key success strategies for small MS in EU negotiations (Thorhallsson, Wivel, 2006, 660, Fantini, Staal, 2018, 227);
- 3) Small MS applying useful strategies such as conflict-avoiding manage to build good relationships with all relevant stakeholders ensuring support of other MS and creating a reputation of an honest broker (Kajnič, Svetličič, 2010, 88) which is beneficial also for MS role as PRES (Thorhallsson, Wivel, 2006, 663, Magone, 2015, 215);
- 4) Due to the limited administrative capacity, small MS tend to concentrate on most important policy areas and develop considerable expertise in it which helps them to achieve their policy goals by developing convincing arguments (Bache *et al*, 2011, 286), but might be limited during the PRES due to less knowledge on the policy areas they do not normally prioritise (Bendel, Magnusdottir, 2017, 39);
- 5) Although small administrations puts constraints on small MS, it can be counter balanced during the PRES by relying on the help of the GSC (Kajnič, Svetličič, 2010, 89, Beach, 2004, 430) and small administrations tend to be more adaptable to the situation at hand (Meerits, 1997, 473, Kajnič, Svetličič, 2010, 88);
- 6) PRES has several roles as manager, compromise broker and a leader to balance (Smeets, Vennix, 2014, 1440) and leadership resources available (Metcalfé, 1998, 416) to fulfil these roles;
- 7) Brussels-based PRES seems to give more flexibility for adapting to the situations at hand (Högenauer, 2016, 94, Kajnič, 2009, 3) and this could facilitate efficient decision taking during the trilogues (Karolewski *et al*, 2015, 671-673);

- 8) Neutrality and impartiality, or at least a perception of the latter, could be important to conduct a successful PRES as this enforces the PRES role as honest broker (Karolewski *et al*, 2015, 671-673; Bunse, 2009, 55);
- 9) Soft knowledge that is more related to the socialisation phenomena is more important for maximising PRES success in trilogues than hard knowledge (Kajnč, Svetličič, 2010, 86, 90).

3. METHODOLOGY

In the centre of empirical analysis is the experience of the Estonian PRES in 2017 in trilogues to identify and assess the elements maximising PRES success and influencing its performance in trilogue setting.

In order to achieve that, a deductive approach has been used starting with formulating general theory that can be tested by an explorative single case study (Yin, 2003). The case study has been chosen as the aim is focusing on a contemporary phenomenon within some real-life context (*Ibid.*, 1). Case study is the best approach for understanding more about trilogues and related elements as it is considered appropriate method to investigate a dynamics of a specific practice. (Welman *et al*, 2005, 25) There has been criticism to the single-case design as there is limited possibility for generalisation of the findings (Gog, 2015). However, as the aim of this thesis is to concentrate on the Estonian experience, using a single case study is well justified. Qualitative research design has been chosen, as it is more sensitive to the social context where the data is being gathered (Mason, 2002, 3).

Methods used for empirical information gathering are: a) document analysis; b) questionnaire, and b) author's insight on the case as one of the trilogue negotiators during Estonian PRES.

Document analysis has been based on the available documentation on outcomes of the Estonian PRES relevant for trilogues.

The questionnaire has been designed mainly as closed questions type of questionnaire to better structure the results. The content of the questionnaire has been built based on the theoretical part and the knowledge of the author. Questionnaire has been distributed to all the Estonian officials who were working in the Estonian Permanent Representation to the EU in Brussels during the Estonian PRES 2017 and who participated in trilogues as they possess the most experience and knowledge across the whole spectrum of elements relevant for the thesis.

The initial invitation to answer the questionnaire was sent to 73 individuals working in the Estonian Permanent Representation to the EU during the Estonian PRES 2017 on the basis of the information possessed by the author on who was responsible for what policy areas and what was the anticipated stage of the negotiations by second half of 2017. When distributing the questionnaire, feedback was requested from the respondents in case they did not take part in trilogues, but received the questionnaire. On the basis of the feedback received from the respondents and other bilateral contacts after distributing the questionnaire, it has been established that 28 of the addressees out of 73 did not participate in the trilogues during Estonian PRES and therefore, responses were expected from 45 respondents. The questionnaire was open for responses from 3 April until 8 May 2018.

When respondents are asked to assess importance of some elements, two different value systems have been used depending on the aim of the question. Numerical values have been used where the importance of a certain element needs to be identified and scale from 0 to 10 has been used to give the respondents a scale wide enough to make the answers as accurate as possible with this type of questions. In some cases verbal scales are used to evaluate either frequency of events or how useful an element has been in the eyes of the respondents giving some pre-set values to avoid open questions as much as possible making it easier to structure the answers to the questionnaire.

4. ANALYSIS OF THE ESTONIAN CASE AND DISCUSSION

4.1.Data on organisation of Estonian Presidency

Estonian Permanent Representation to the EU grew during the Estonian PRES from 75 people to 207, but not all of them are attachés and experts dealing with the content of the legislative proposals. (Personalivaldkonna kokkuvõtte, 2018)

According to the data compiled by GSC, an agreement, or at least provisional agreement with the EP, was achieved on 35 legislative proposals that were in the trilogues stage during Estonian PRES (Files concluded by the Estonian Presidency, 2018). The number of trilogues to reach an agreement for 28 of these legislative proposals was 132 (Files concluded since the entry into force of the Treaty of Amsterdam, 2018). This number does not represent the whole number of trilogues held during Estonian PRES as the number does not contain 6 provisional agreements and legal acts not agreed in trilogues during the Estonian PRES where the trilogues were held nevertheless.

4.2.Overview of answer rate to the questionnaire

35 answers were received to the questionnaire, but 2 of the answers were not taken into account in the final analysis. In one case the respondent added a comment explaining that he/she did not participate in the trilogues and therefore the answers should not be taken into account. The second respondent did not respond to the main questions on the trilogues and responded to some elements in some questions, therefore it is impossible to determine the relevance of these responses in relation to trilogues.

33 responses have been taken into account in the analysis, but not all respondents answered all the questions. In the cases where the answers clearly indicated that a respondent has experiences in trilogues, they were taken into account for a specific question as these answers still give valuable information on some elements related to trilogues and Estonian PRES. In order to follow the logic

and analysis in the next paragraph, in Table 1 number of responses per question (Q) and the percentage they represent in the total expected answers of 45 respondents are presented. It should be noted that numbers in Table 1 reflect how many respondents have assessed at least one of the element in the cases of the questions where multiple elements were asked to be evaluated, therefore the numbers might vary on the element basis in the detailed analysis in paragraph 4.3.

Table 1. Questionnaire answer rate per question compared to the number of potential respondents.

Question (Q) number	Number of respondents	% out of potential respondents (45)*	Question (Q) number	Number of respondents	% out of potential respondents (45)*
Q1	33	73%	Q23	28	62%
Q2	33	73%	Q24	28	62%
Q3	33	73%	Q25	28	62%
Q4	33	73%	Q26	28	62%
Q5	32	71%	Q27	28	62%
Q6	33	73%	Q28	27	60%
Q7	33	73%	Q29	26	58%
Q8	2**	4%	Q30	27	60%
Q9	31***	69%	Q31	27	60%
Q10	33	73%	Q32	27	60%
Q11	31***	69%	Q33	27	60%
Q12	33	73%	Q34	27	60%
Q13	31***	69%	Q35	26	58%
Q14	33	73%	Q36	27	60%
Q15	33	73%	Q37	27	60%
Q16	33	73%	Q38	26	58%
Q17	33	73%	Q39	27	60%
Q18	31	69%	Q40	27	60%
Q19	31	69%	Q41	27	60%
Q20	30	67%	Q42****	26	58%
Q21	31	69%	Q43	27	60%
Q22	28	62%			

Source: Answers to the questionnaire created by the author (2018); author's calculations.

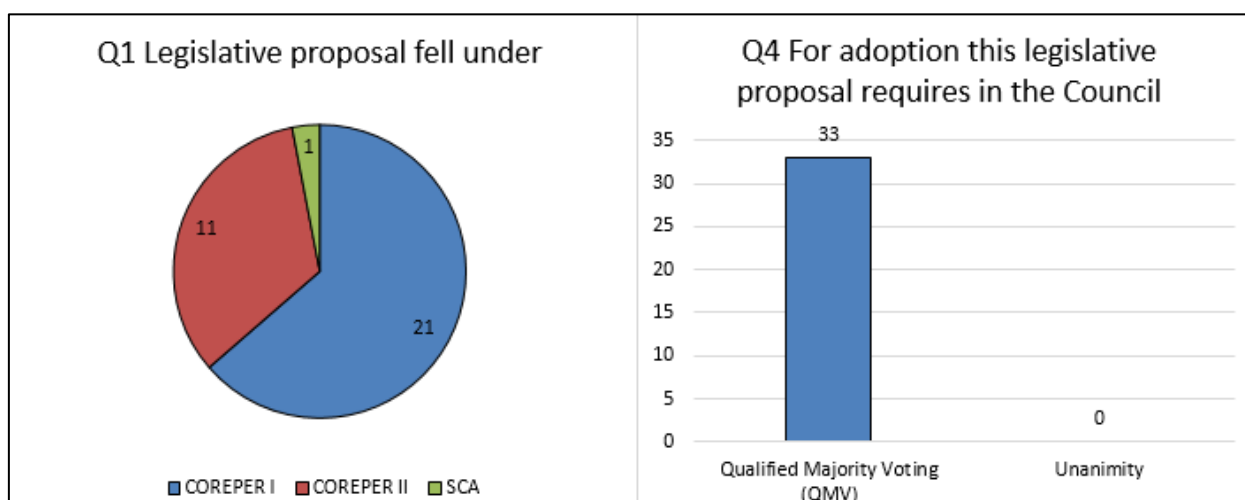
* All numbers have been rounded up to a whole number.
 **Q8 requires an answer only if answer to Q7 has been “0”.
 ***As two respondents have answered “0” to Q7, they have skipped Q9, Q11 and Q13 as there were no technical meetings held during the trilogues.
 **** To be answered only if the set ambition for Estonian PRES as shown in Q15 was to finalise the political agreement with the EP.

4.3. Analysis of the data gathered with the questionnaire

4.3.1. General data and nature of the trilogues

Figure 1 shows that majority of the respondents to the questionnaire worked in the COREPER I policy domain and only 1 respondent chose SCA⁵ (Q1). In addition, all legislative proposals covered by the answers were subject to QMV voting in CN (Q4).

Figure 1. Policy domains chosen by the respondents and applicable voting procedure.

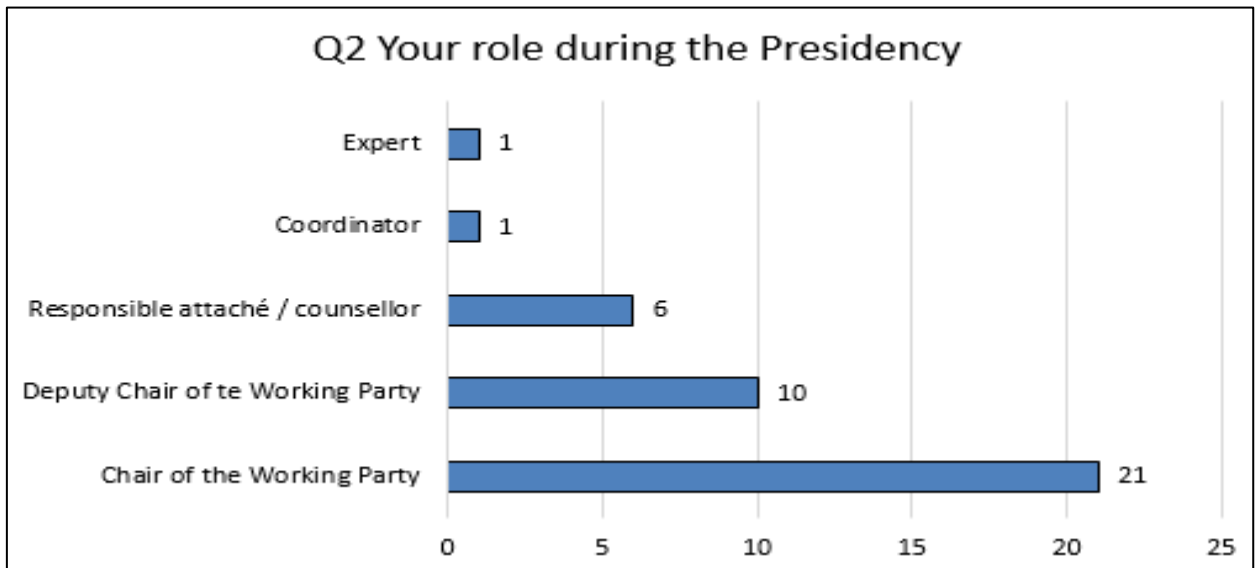


Source: Answers to the questionnaire created by the author (2018).

Profiles of the respondents vary, but in most of cases their responsibilities have included chairing or vice-chairing the WP in CN (Q2). As Figure 2 shows, some respondents have chosen more than one option as they are not mutually exclusive, e.g. responsible attaché can also have the role of a Chair of a WP.

⁵ Special Committee on Agriculture that meets at the level of senior officials of MS and is responsible for common agriculture policy, except in the areas where COREPER I has the competence. (Special Committee on Agriculture, 2018)

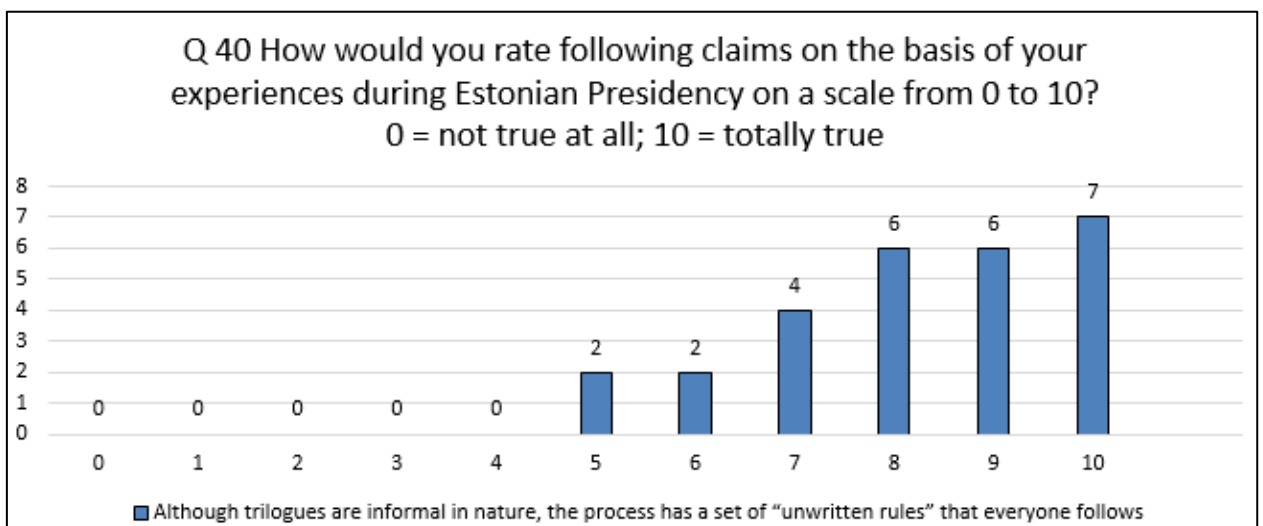
Figure 2. Profiles of the respondents during the PRES.



Source: Answers to the questionnaire created by the author (2018).

Most of the respondents, as can be seen on Figure 3, agree that trilogues, although informal in nature, do follow certain level of agreed unwritten rules (Roederer-Rynning, Greenwood, 2015, 1153) (Q40).

Figure 3. Existence of unwritten rules in trilogues.



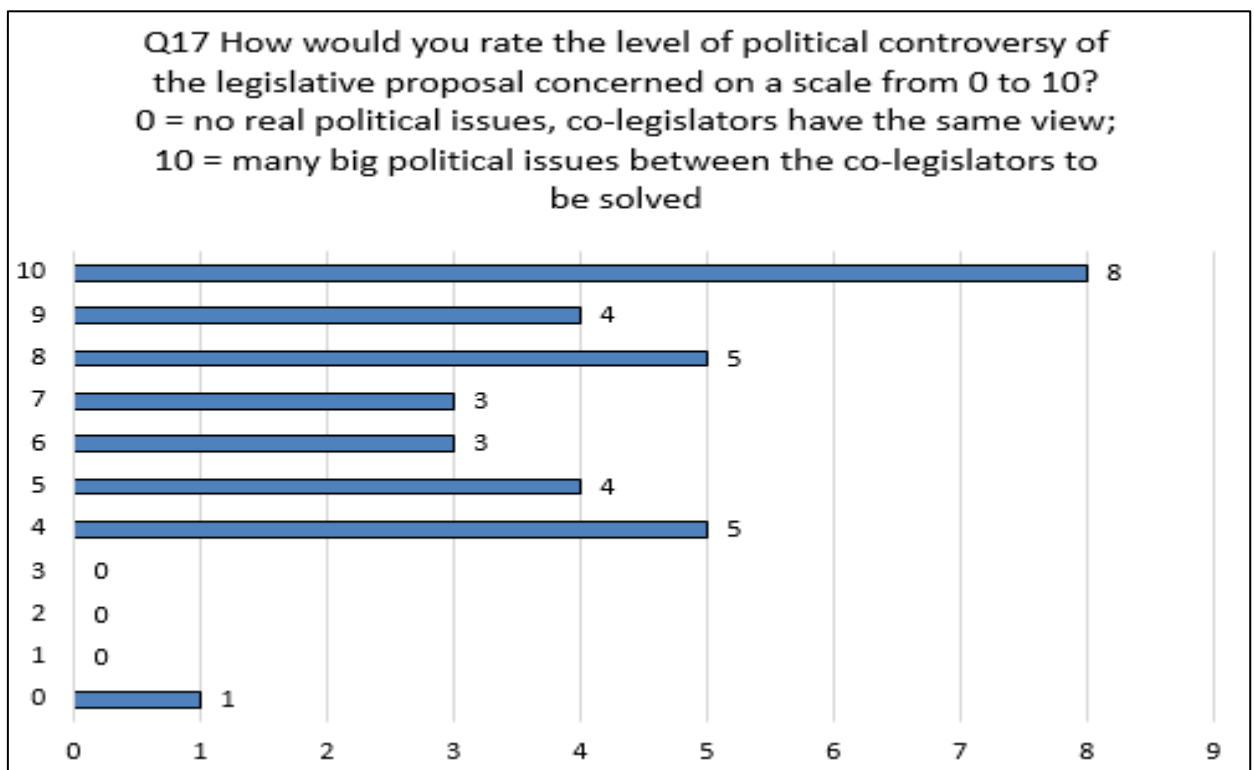
Source: Answers to the questionnaire created by the author (2018).

At the same time, some cultural differences can be observed between individual rapporteurs and Committees as suggested by previous research (Roederer-Rynning, Greenwood, 2015, 1161,

Roederer-Rynning, Greenwood, 2017, 745-748), in particularly when it comes to technical meetings. In six cases rapporteur has led the technical meetings (Q9) although in principle these meetings should not involve leadership at political level. According to one respondent, the EP Committee responsible did not accept any technical meetings at all (Q8) which is not a common practice as in 31 cases out of 33, one or more technical meetings were held (Q7).

Figure 4 shows that 70% of the respondents have rated the political complexity of the legislative proposal in trilogues above average (Q17).

Figure 4. Political complexity of the legislative proposal in trilogues during the PRES.

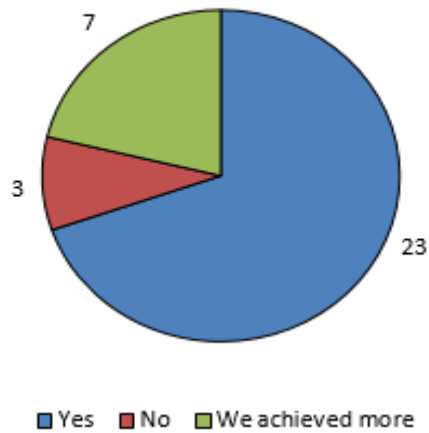


Source: Answers to the questionnaire created by the author (2018).

One general observation could be made on the basis of the answers to the questionnaire. When it comes to achieving the goals set for trilogues, Estonian PRES seems to be successful as only in 9% of the cases ambition set for the PRES was not achieved (Q16) as presented in Figure 5.

Figure 5. Meeting the ambition set by Estonian PRES for trilogues.

Q16 Did you meet the set ambition?

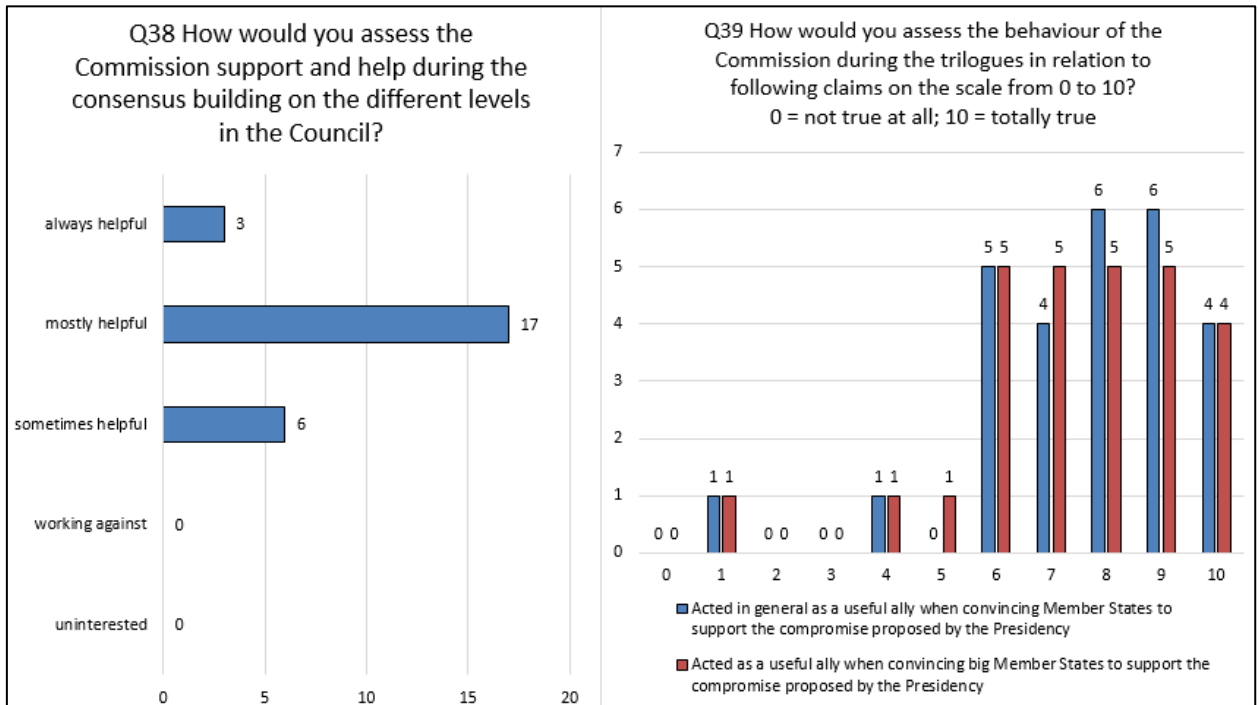


Source: Answers to the questionnaire created by the author (2018).

4.3.2. Commission and its interaction with co-legislators

First observation that can be made from the answers is COM being considered always or mostly helpful by 70% of the respondents when it comes to consensus building in CN (Q38). COM is also considered by vast majority of respondents an ally to convince MS to support PRES compromise, including bringing big MS on board (Q39). These answers, being shown in Figure 6, are indicating that COM is in practice an important ally for PRES as theories on small MS have suggested (Bunse, 2009, 61). However it is not clear from data gathered if this is related to the fact that Estonia is a small MS or that would apply to any PRES.

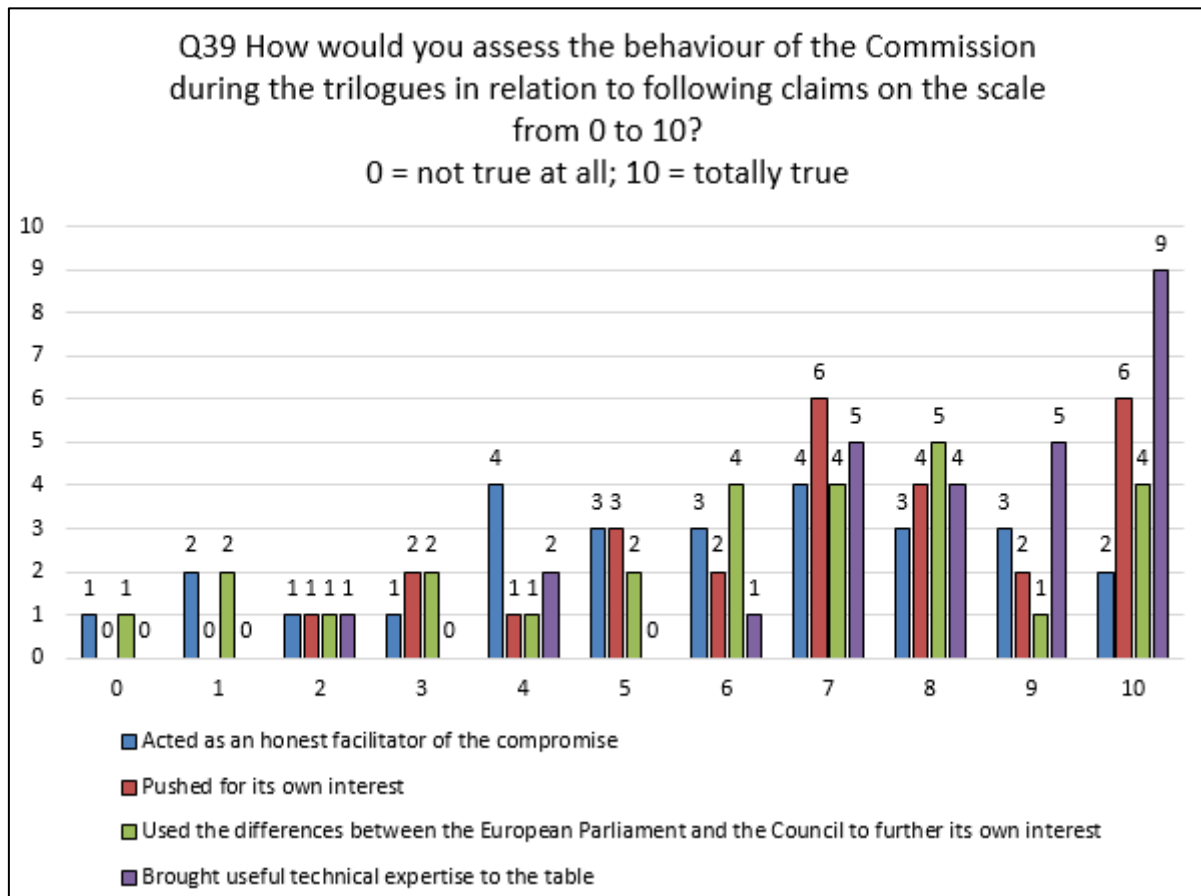
Figure 6. Commission support during the negotiations in CN.



Source: Answers to the questionnaire created by the author (2018).

When it comes to COM behaviour during the trilogues, the answers (Q39) presented in Figure 7 have outlined the following: a) COM has useful technical expertise; b) COM is perceived as pushing its own interest by more than two thirds of the respondents, although more than half of the respondents thought that COM more on the side of being an honest broker; c) it was observed by two thirds of the respondents that COM used differences between CN and EP to further its own interests. This indicates that COM is able to capitalise on its mediating powers (George, 1996, 29) during trilogues.

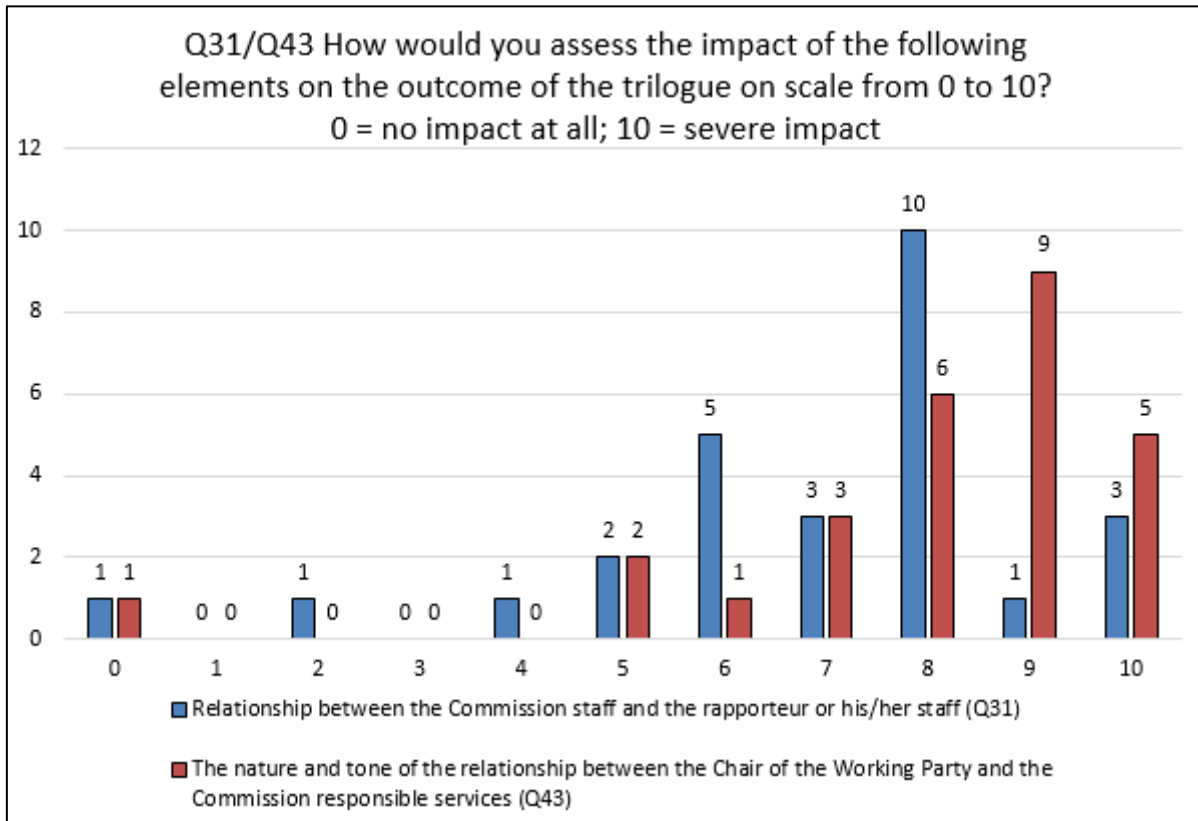
Figure 7. COM behaviour during the triloué negotiations.



Source: Answers to the questionnaire created by the author (2018).

As can be seen in Figure 8, more than 80% of the respondents have ranked above average the impact following elements have on the outcome of the trilogues: a) the relationship of the chair of the CN WP with the COM (Q43); b) the relationship between the COM staff and rapporteur (staff) (Q31).

Figure 8. Impact of COM relationships with the CN and EP.

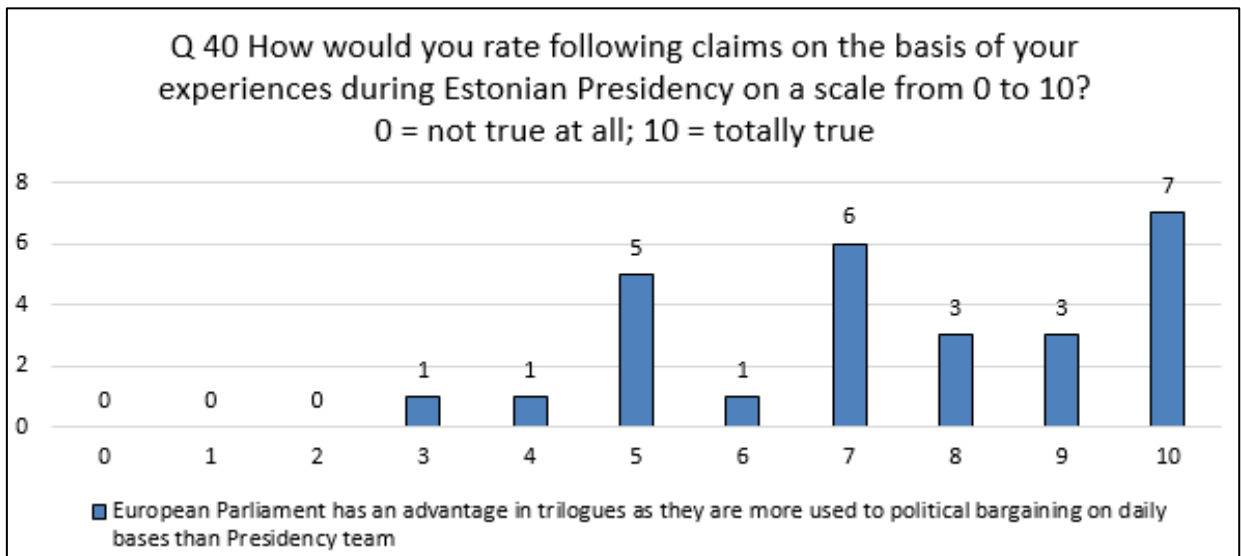


Source: Answers to the questionnaire created by the author (2018).

4.3.3. Interaction between co-legislators

It has been suggested that EP has some advantage in the trilogues compared to CN as it is represented in the trilogues by politicians who are used to political bargaining while CN is represented by civil servants (Roederer-Rynning, Greenwood, 2015, 1155). The experience of Estonia seems to confirm that notion as two thirds of the respondent agreed with it as presented in Figure 9 (Q40).

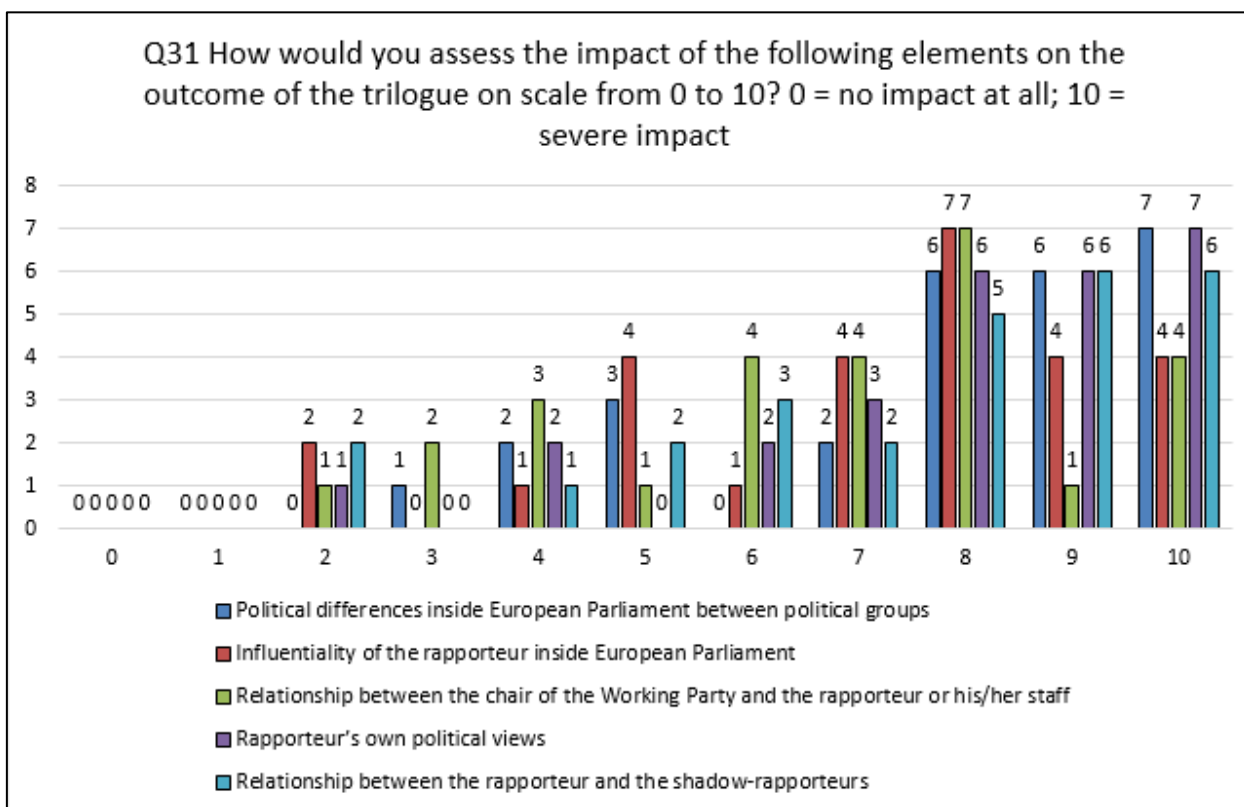
Figure 9. Advantage of EP political experience for trilogues compared to CN.



Source: Answers to the questionnaire created by the author (2018).

From answers to the questionnaire, following patterns emerge for the PRES in terms of the relationship with the EP. Firstly, according to at least two thirds of the respondents, the most efforts were put in building bilateral relationships prior to the trilogues with the rapporteurs, their staff and secretariats of the Committees (Q28) and maintaining these relationships during the trilogues (Q29) – these elements have also been identified by the same amount of respondents as having above average importance for the success of the trilogues (Q43). Secondly, as can be observed on Figure 10, 89% of the respondents found that the biggest impact on the outcome of the trilogues as far as the EP is concerned were the rapporteur’s own political views (Q31). However, political differences inside EP between political groups, influentiaity of the rapporteur inside EP, relationship between the rapporteur and shadow-rapporteurs, and relationship between the rapporteur and the chair of the CN WP, were rated having above average impact on outcome of the trilogues by more than 70% of the respondents (Q31).

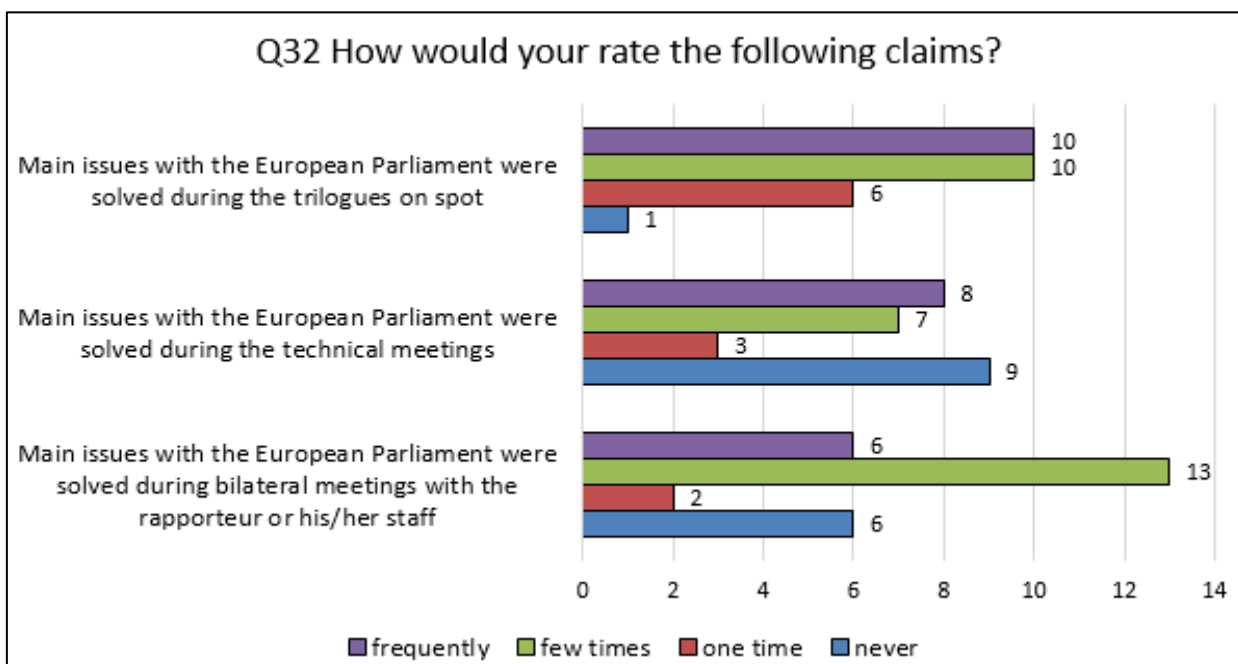
Figure 10. Elements related to EP impacting outcome of the trilogues.



Source: Answers to the questionnaire created by the author (2018).

When it comes to the deal making, as Figure 11 shows, political trilogues seems to be still the forum of main deals between EP and CN as answers show, that was the case at least once for 96% of the respondents. In addition, there seems to be slightly more chances of solving big issues during the bilaterals with the rapporteur and his/her staff than during the technical meetings (Q32). Although as the difference in favour of bilaterals is only 3 cases, it is not significant enough to make solid conclusions.

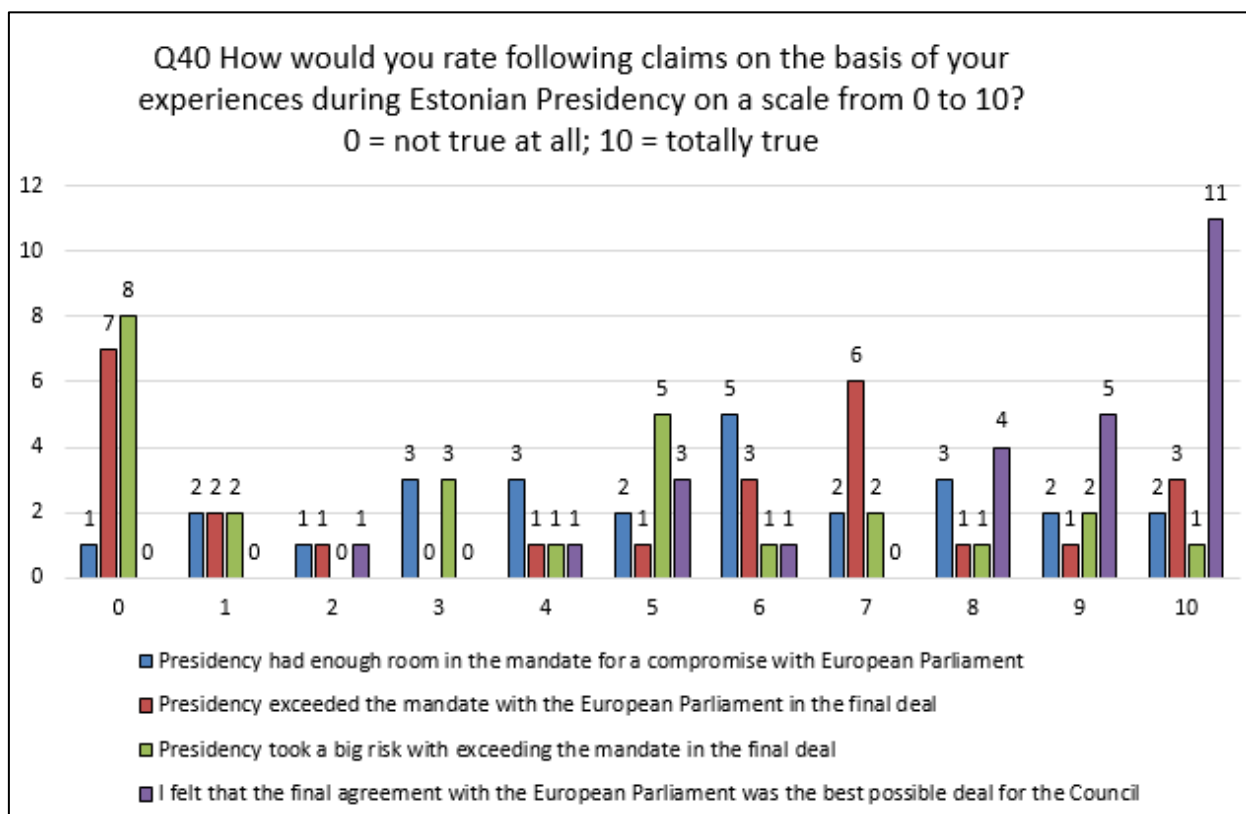
Figure 11. Solving differences between co-legislators during trilogues.



Source: Answers to the questionnaire created by the author (2018).

It has been suggested in the literature that overcoming the dual constraint of from one hand getting an agreement with the other agent and from the other hand ensuring the approval of the deal by the principle, agents might need to overstep their mandates (Delreux, Laloux, 2018, 304). Answers to the questionnaire (Q40) show following results as illustrated in Figure 12: a) the mandate has not enough room to strike a deal with the EP in half of the cases and in the same amount of the cases the PRES does exceed its mandate to achieve results; b) in 73% of the cases the level of risk associated with overstepping the mandate is rated average or below; c) even though mandates are not flexible enough and are overstepped in final deals in more than half of the cases, 81% of respondents evaluate the final deal as being a best possible deal for the CN. Therefore, it could be claimed that overstepping the mandate at least from the CN side is common while it is not possible to evaluate the situation from the EP perspective on the basis of the data gathered and it needs further research.

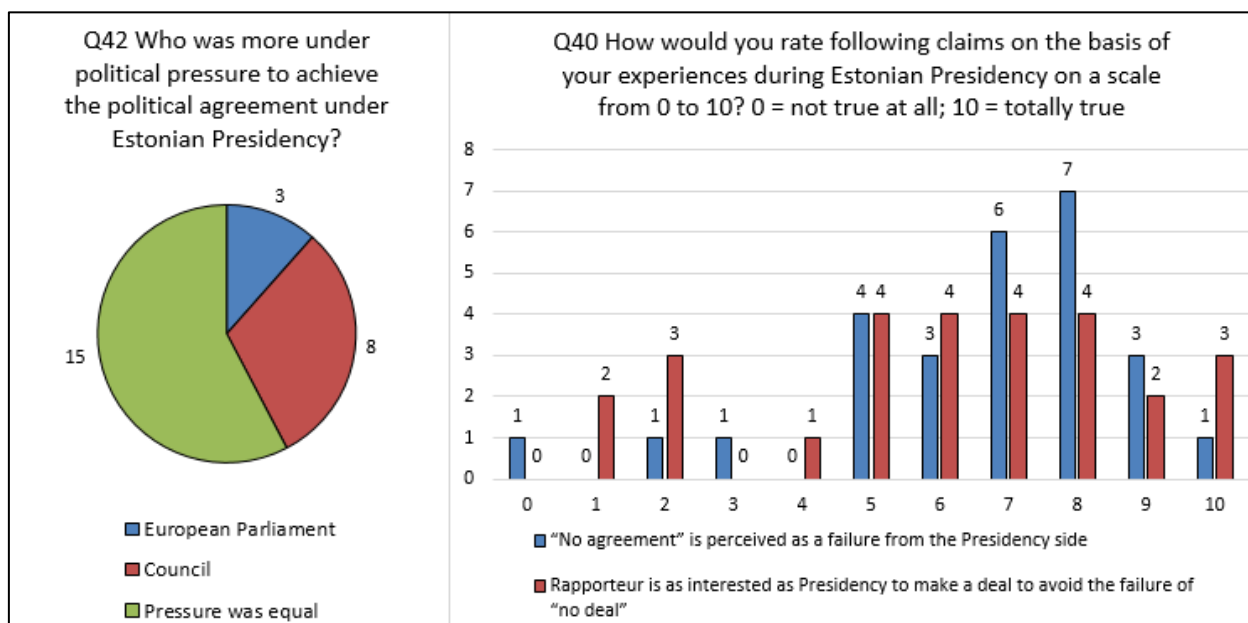
Figure 12. Mandate limitations.



Source: Answers to the questionnaire created by the author (2018).

When it comes to motivation of reaching an agreement, answers, as presented in Figure 13, show that in 58% of cases co-legislators are under the same amount of political pressure to achieve the agreement. However, while in 31% of cases CN was identified as the one having more pressure, in EP case this was the situation only in 11% of occasions (Q42). In addition, more than two thirds of the respondents did identify that “no agreement” is perceived as a failure form PRES side. At the same time, 63% of the respondents also evaluated rapporteur as being as interested in making a deal as PRES (Q40). These findings seem to indicate, that although on the institutional level, CN is perceived to be slightly more under political pressure, both agents, namely rapporteur and PRES, are motivated reaching an agreement (Delreux, Laloux, 2018, 303) on relatively equal level.

Figure 13. Pressure of reaching an agreement on co-legislators.

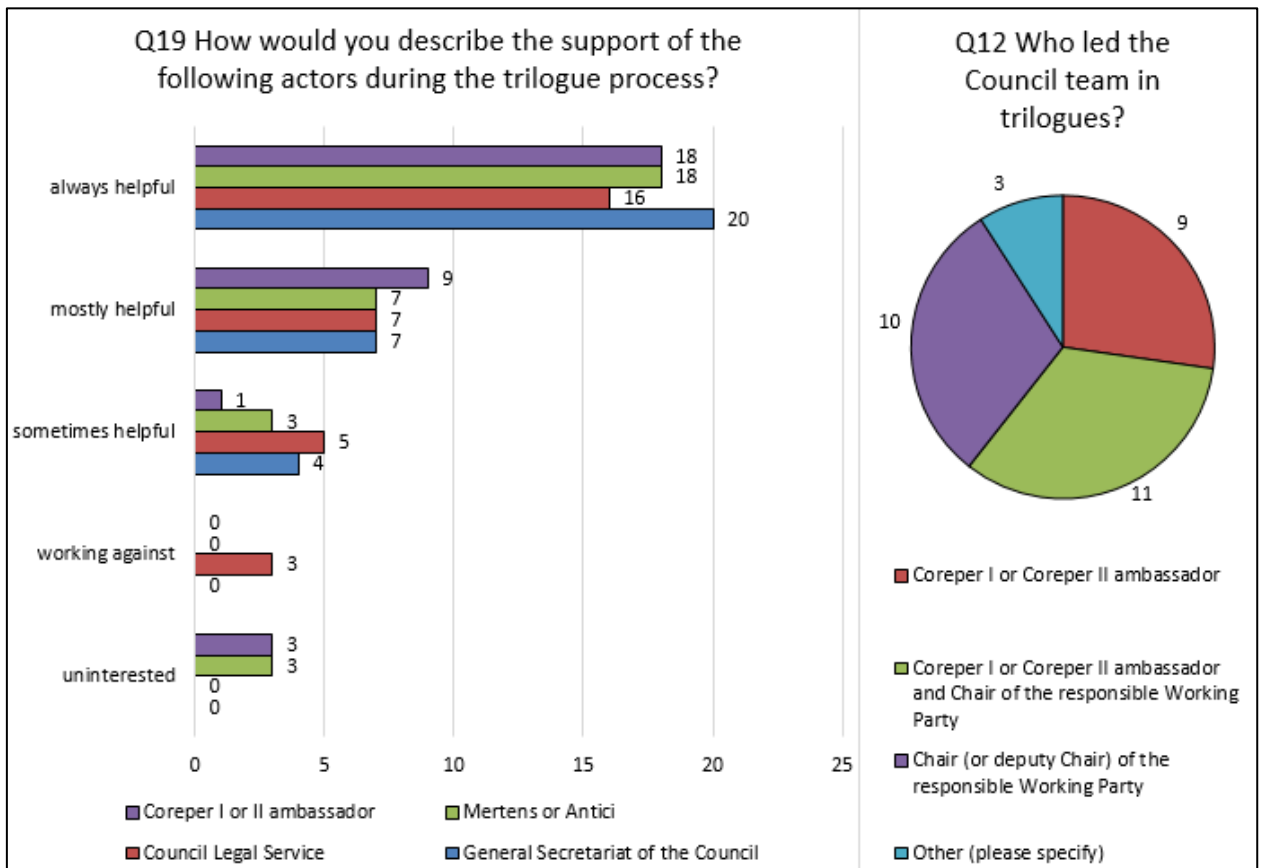


Source: Answers to the questionnaire created by the author (2018).

4.3.4. Role of COREPER

It has been suggested that COREPER plays a central role in facilitating the trilogues process from the CN point of view and it operates on the basis of rational choice, iterated game and social constructivism (Bache *et al*, 2011, 283-284) theories. Answers to questionnaire shown in Figure 14 indicate that COREPER ambassador's support in the trilogues has been seen as helpful by most of the respondents with three exceptions, where COREPER has been described as uninterested (Q19). In addition, Mertens/Antici, Legal Service of the CN and GSC have received positive feedback in terms of their helpfulness in the process (Q19) as more than 90% of the respondents found these actors helpful at least sometimes. CN team has been led in political trilogues by the ambassador alone in 9 occasions and by WP Chair (or deputy Chair) alone in 10 cases. More interestingly, the answers show that in 11 cases leading the CN team in trilogues has been shared between ambassador and Chair of the WP (Q12). This type of dual leadership was characterised by one of the respondents in the following manner: "COREPER ambassador was there to set the tone and to make opening remarks, the Chair of the WP did the rest" (Answers to the questionnaire created by the author, 2018). This seems to indicate, that when it comes to trilogues, not only COREPER ambassador matters, but the Chair of the WP has an important role to play.

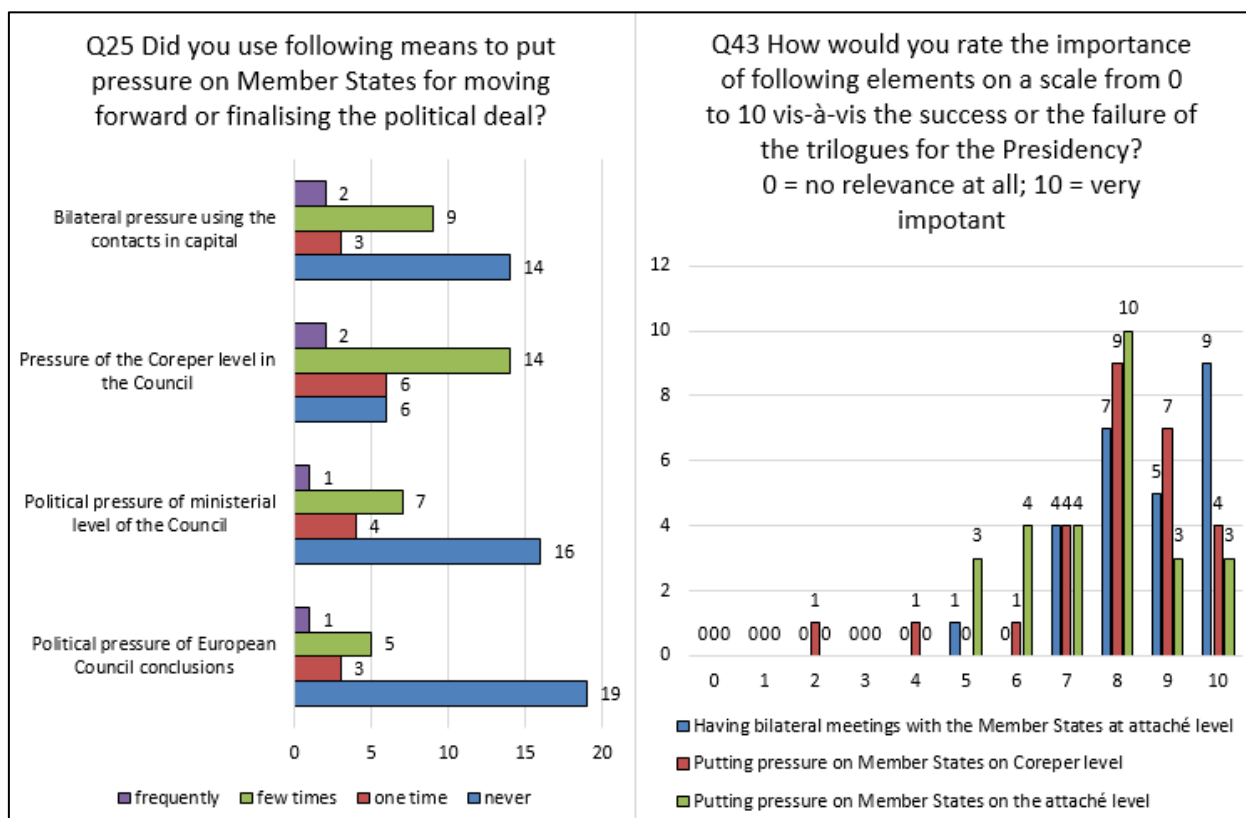
Figure 14. Support and leadership in trilogues in CN.



Source: Answers to the questionnaire created by the author (2018).

When it comes to consensus building inside CN, four means used the most by PRES are bilateral meetings with other MS attachés, attaché meetings of 28 MS, bilateral contacts between Mertens/Antici colleagues and bilateral contacts between COREPER ambassadors as these means were used over 70% of the respondents (Q23). Furthermore, as shown in Figure 15, pressure on the COREPER level on other MS to proceed was used by 76% of the respondents at least once (Q25) and 92% of the respondents rank it as an above average strategy for successful trilogues (Q43). In addition, bilateral meetings (96%) and putting pressure on MS at the attaché level (89%) have been evaluated having above average importance for the successful trilogues by vast majority of the respondents (Q43).

Figure 15. Putting pressure on MS by the on COREPER and WP level.



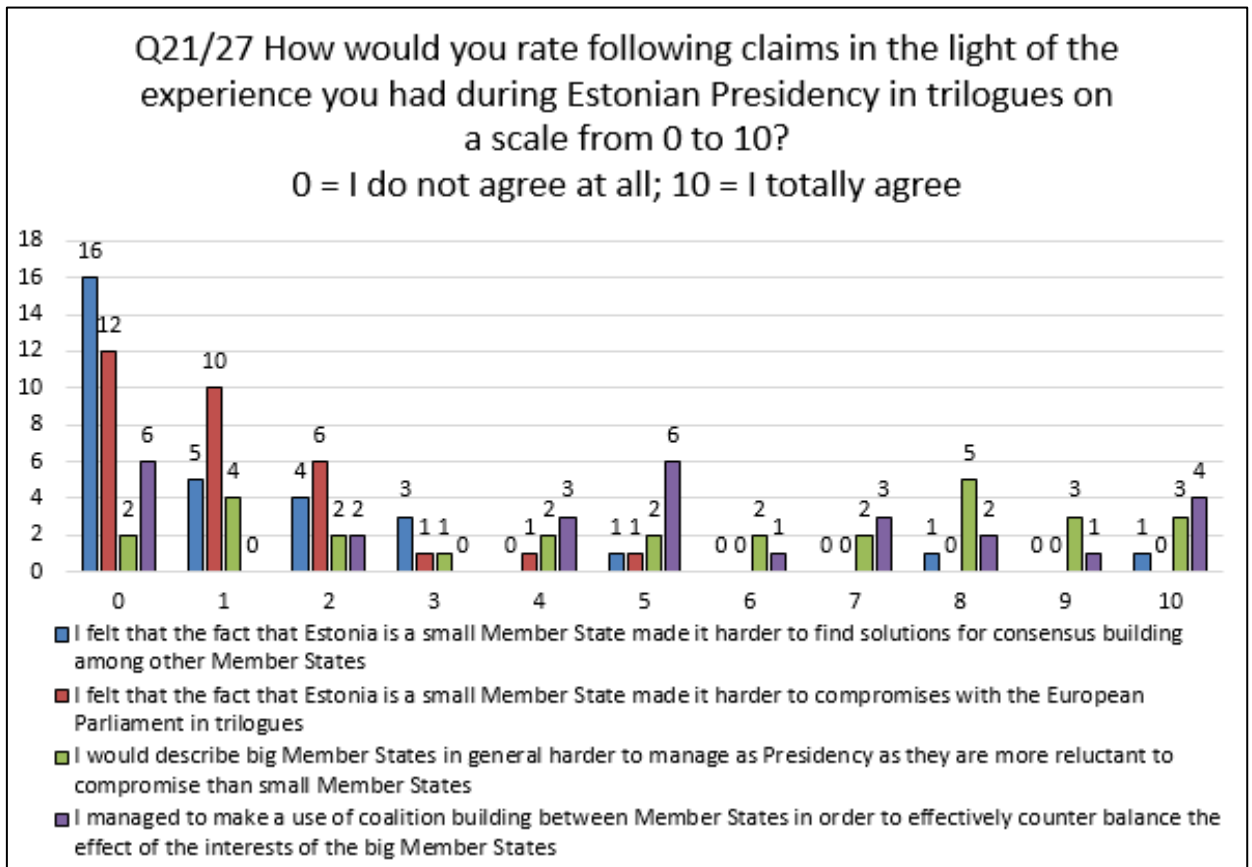
Source: Answers to the questionnaire created by the author (2018).

COREPER therefore seems to matter when it comes to facilitating trilogues process inside the CN and with the EP, however the importance of the WP level and the role of the WP Chair in trilogues can be observed on the basis of data gathered.

4.3.5. Estonian Presidency as small Member State Presidency

In terms of the difference in dynamics between small and big MS from PRES perspective, answers to the questionnaire show, as illustrated in Figure 16, that 90% of the respondents do not consider Estonia being a small MS had considerable negative effect on their consensus building capabilities inside the CN and 97% responded the same way in relation to EP (Q21). More than half of the respondents considered big MS showing more reluctance to compromise and in general harder to manage as PRES than small MS (Q27). Equal amount of respondents evaluated the capacity to make use of coalition building between MS to effectively counter balance the effect of the interests of big MS below and above average (Q27). This seems to indicate that big MS do defend their interest more intensively, but in the end in most cases there are strategies available for PRES to counterbalance their influence.

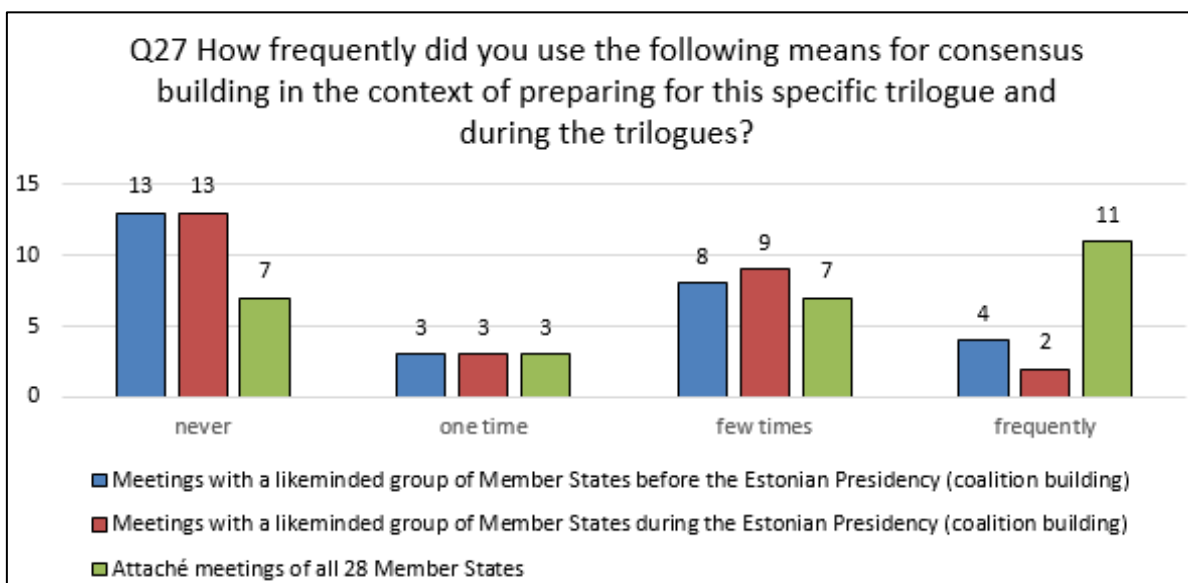
Figure 16. Estonia as small MS PRES and big MS.



Source: Answers to the questionnaire created by the author (2018).

When it comes to coalition building that has been identified as one of the key success strategies for small MS in EU negotiations (Thorhallsson, Wivel, 2006, 660, Fantini, Staal, 2018, 227), as already pointed out, equal amount of respondents evaluated the capacity to make use of coalition building between MS to effectively counter balance the effect of the interests of big MS below and above average (Q27). Although, one of the most frequently used means to prepare for trilogues were attaché meetings of all 28 MS used by 75% of the respondents, meetings with the likeminded group of MS before and during PRES were not used as much raking around 50% of the respondents using it at least once as shown in Figure 17 (Q23). Also, when looking at the responses on the question of how important coalition building was for the success of the trilogues, the importance has been assessed above and below average almost on equal occasions (Q43). All presented data together seems to indicate that while coalition building is important for small MS strategy, it has not been used during Estonian PRES as much as it could have been on the basis previous research.

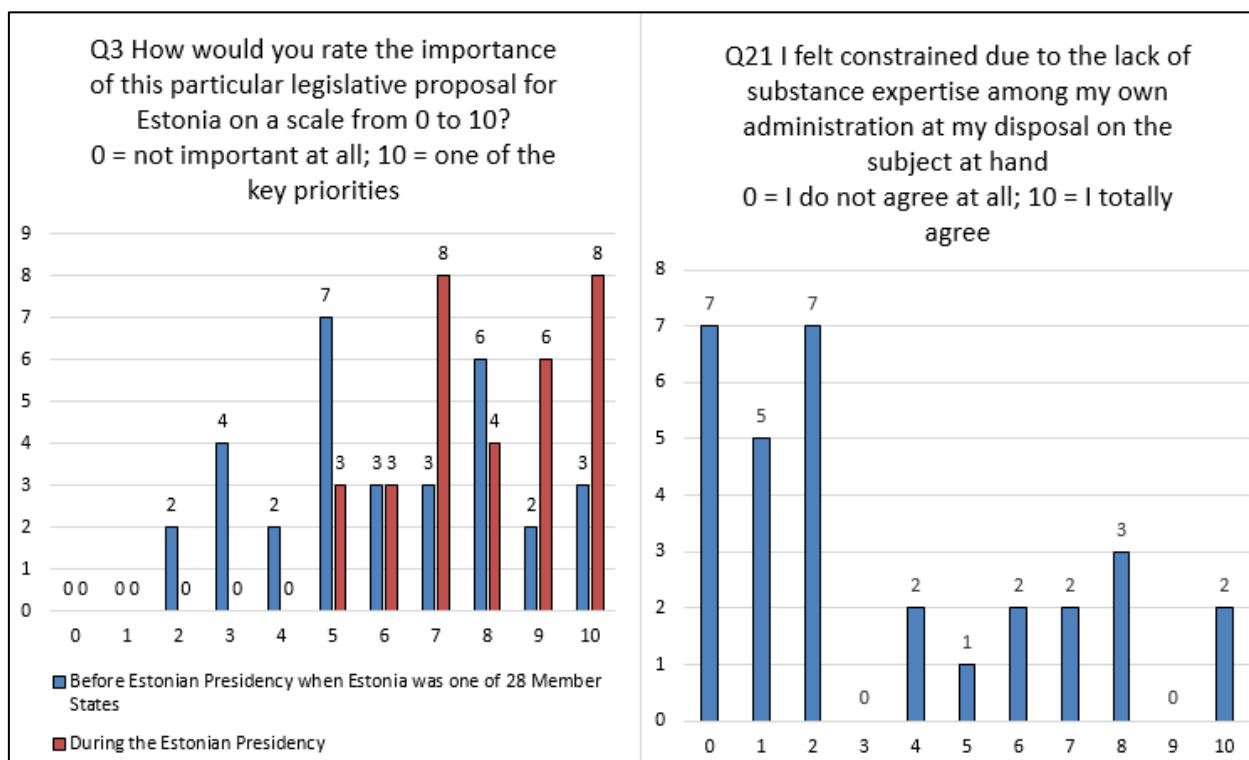
Figure 17. Usage of coalition building means for finding consensus in CN.



Source: Answers to the questionnaire created by the author (2018).

There are two questions stemming from the literature when considering the small administrations as PRES. Firstly, it has been found that due to the limited administrative capacity, small MS tend to concentrate on most important policy areas and develop considerable expertise in it which helps them to achieve their policy goals by developing convincing arguments (Bache *et al*, 2011, 286), but might be limited during the PRES due to less knowledge on the policy areas they do not normally prioritise (Bendel, Magnusdottir, 2017, 39). On this aspect, the answers to the questionnaire illustrated in Figure 18 could be summed up as follows: a) it can be observed that the general priority level of a legislative proposal raises during the PRES (Q3); b) more than two thirds of the respondents did not feel much constraint due to the lack of substance expertise among Estonian administration (Q21). 93% of the respondents evaluated the importance of the chair of the WP having good expertise on the subject above average for the outcome of the trilogues (Q43). As Estonia in general achieved its set goals for the trilogues during the PRES as shown in Figure 5 (Q16), it seems to suggest that lack of expertise was not a problem for Estonian PRES.

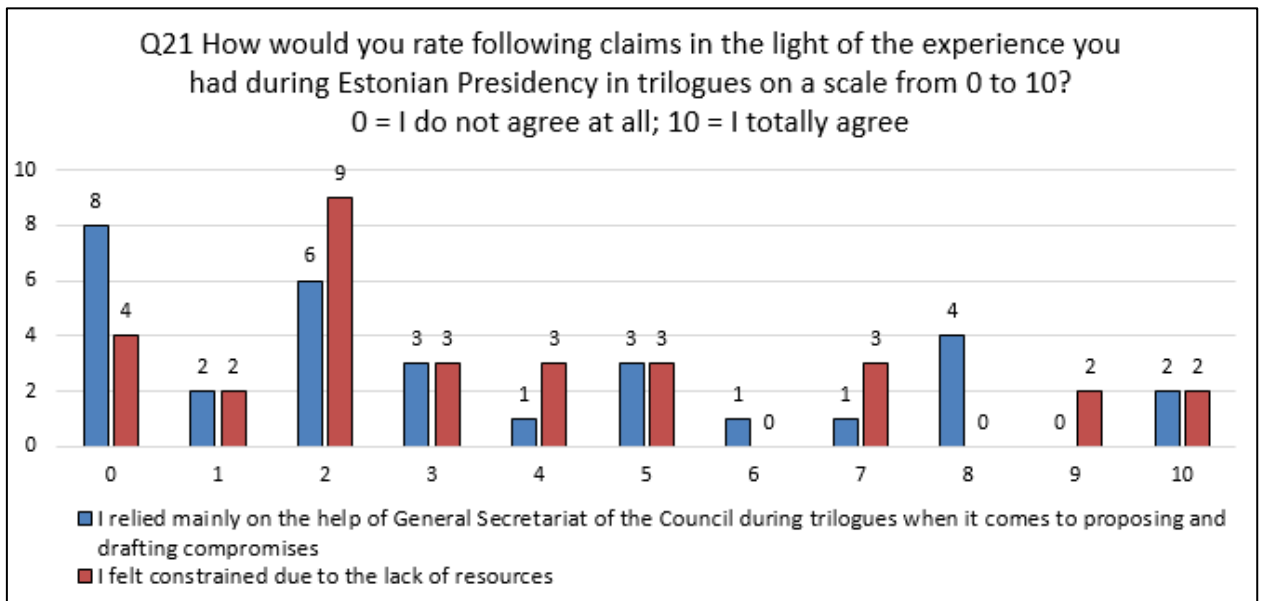
Figure 18. Importance of particular legislative proposals and substance expertise.



Source: Answers to the questionnaire created by the author (2018).

Secondly, it has been suggested that although small administration puts constraints on small MS, it can be counter balanced during the PRES by relying on the help of the GSC (Kajnič, Svetličič, 2010, 89, Beach, 2004, 430) and small administrations tend to be more adaptable to the situation at hand (Meerits, 1997, 473, Kajnič, Svetličič, 2010, 88). On the resources side, two thirds of respondents did not feel much constraint due to the lack of resources available to them (Q21). When it comes to the GSC role, it has been evaluated positively by all the respondents as demonstrated in previous paragraph in Figure 14 as being helpful when managing the trilogues process (Q19). However, as illustrated by Figure 19, answers also show below average reliance on GSC help on 65% of the cases when proposing and drafting compromises during trilogues (Q21). 96% of the respondents evaluated good co-operation with the GSC above average in terms of the success of the PRES in trilogues (Q43). Therefore it could be concluded that Estonian PRES did not suffer from lack of resources and did not rely significantly on GSC for content, but had a good enough relationship with GSC to have strong administrative support and to be effective.

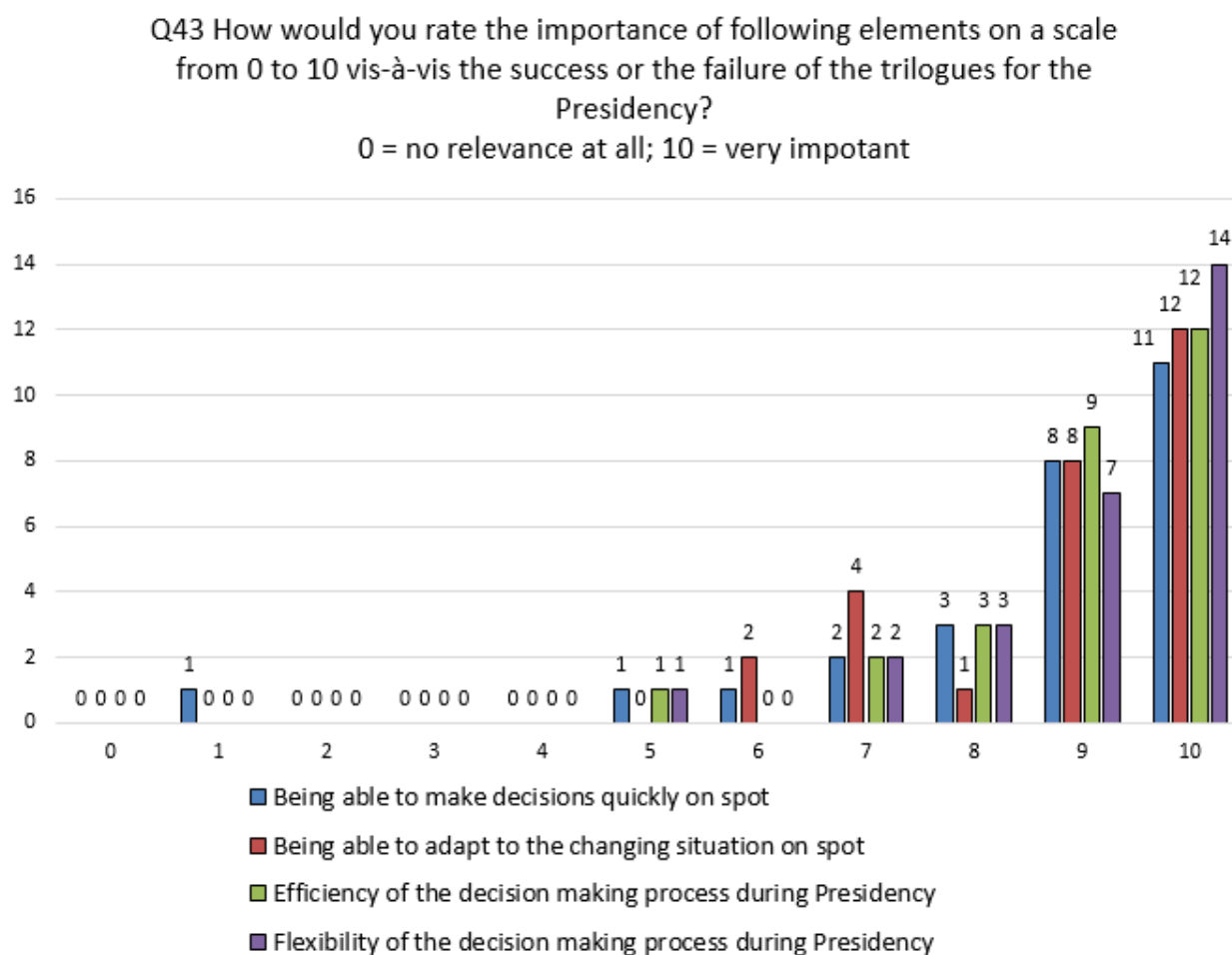
Figure 19. Resources during Estonian PRES and reliance on GSC in terms of content.



Source: Answers to the questionnaire created by the author (2018).

The respondents evaluate highly the efficiency and flexibility to adapt quickly to the changing circumstances of decision making within Estonian PRES – 100% of the respondents marked these elements above average (Q21). Identifying the people who needed to be contacted in Tallinn and contacting them directly was easy according to 84% of the respondents (Q21). In addition, following elements were considered above average by more than 90% of the respondents in terms of influence it had on the outcome of trilogues (Q43): a) being able to makes decisions quickly and adapt to the situation on spot; b) efficiency and flexibility of the decision making process during the PRES. These results, illustrated in Figures 20 and 21, seem to indicate that in the case of Estonian PRES the level of capability to adapt to the situation in hand during trilogues was above average as suggested by the literature.

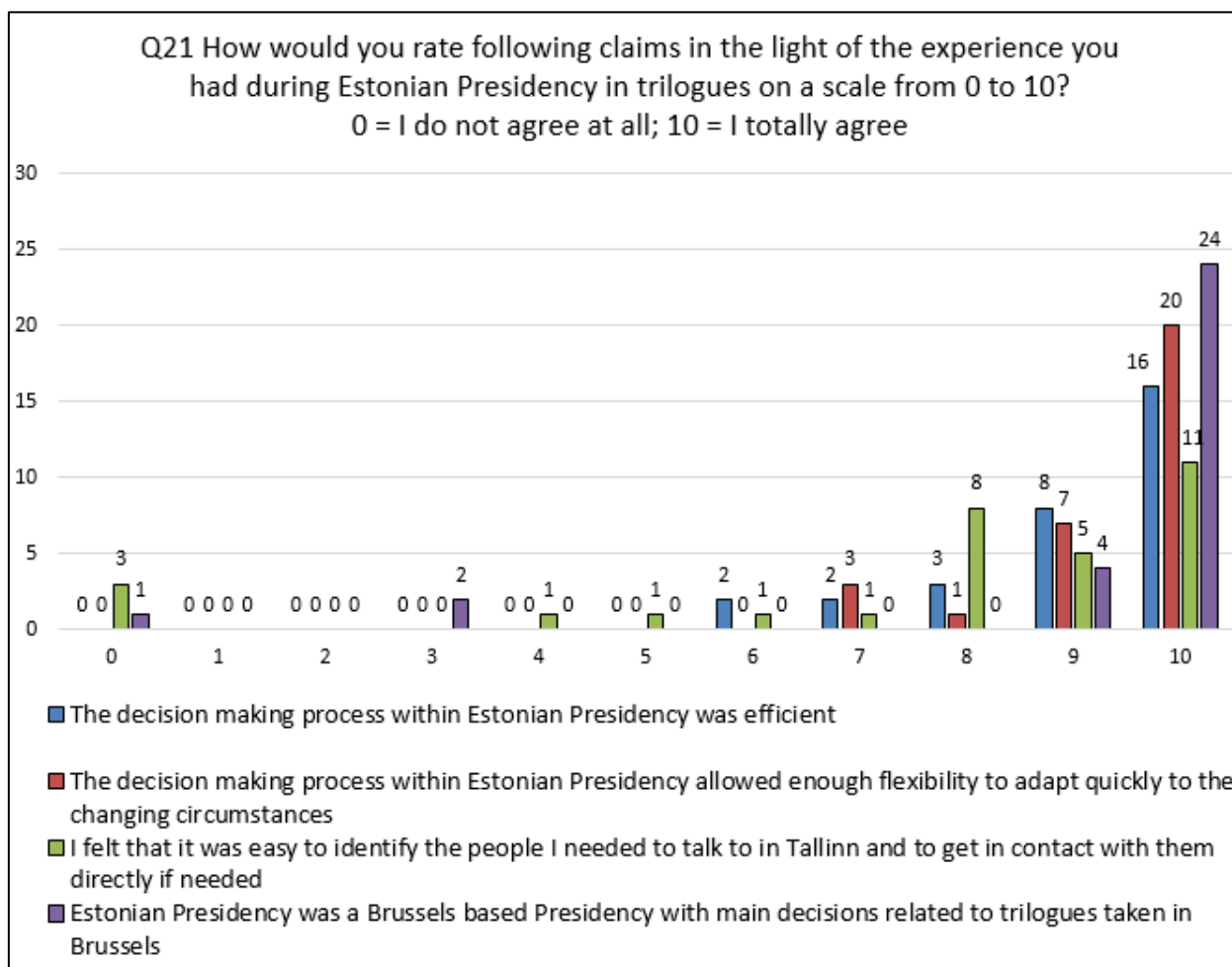
Figure 20. Importance of the efficiency and flexibility of decision making.



Source: Answers to the questionnaire created by the author (2018).

This brings the discussion to another element, namely it has been suggested that Brussels-based PRES seems to give more flexibility for adapting to the real situations (Högenauer, 2016, 94, Kajně, 2009, 3) and this could facilitate efficient decision making during the trilogues (Karolewski *et al*, 2015, 671-673). When it comes to the question of where most of the decisions were made during the Estonia PRES, as can be seen in Figure 21, 90% of respondents strongly agreed that Estonian PRES was Brussels based PRES and main decisions in relation to trilogues were taken in Brussels (Q21). When combining this finding with the indication that in Estonian PRES case the level of capability to adapt to the situation in hand during trilogues was high (Q21), it seems to confirm that Brussels-based PRES gives more flexibility for adapting to the real situations and can facilitate efficient decision making during the trilogues.

Figure 21. Efficiency and flexibility of decision making during Estonian PRES.



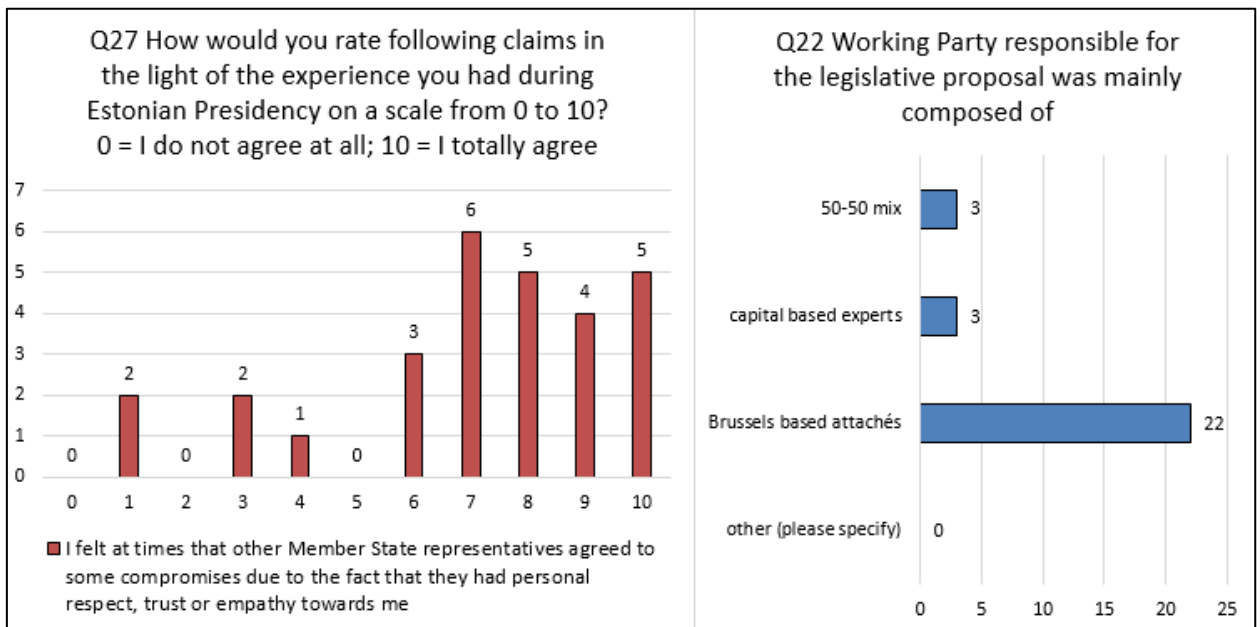
Source: Answers to the questionnaire created by the author (2018).

4.3.6. Fulfilling Presidency tasks and use of resources

Building good relationships has been identified as an important coercive resource for PRES (Metcalfe, 1998, 417-426). In general, it can be observed that in most cases, considerable effort was put in building informal relationships with other MS representatives (Q23), EP, where particular importance was allocated to building a relationship with the rapporteur and his/her staff (Q28), and COM (Q34) before and during the trilogues. In most cases Estonian PRES started building the relationships before the PRES with both EP (Q30) and COM (Q35). 93% of the respondents describe their relationships with colleagues in the WP (Q26) as sympathetic which seems to confirm that rotating PRES system contributes in building the common perspective as many of the MS representatives in the CN have held the PRES before and can therefore identify with the PRES on the basis of the previous experience (Metcalfe, 1998, 417-426).

Furthermore, when it comes to the CN negotiations, 82% of the respondents used their own influence on the colleagues in CN for pushing through compromises on the basis of personal respect, trust or empathy colleagues had towards them (Q27). Using your own authority seems to be a useful strategy for success as putting pressure on MS at attaché level has been evaluated above average in importance for the successful outcome of the trilogues for the PRES by 89% respondents (Q43) as illustrated in Figure 15. It should also be noted that, as shown by answers in Figure 22, 89% of the negotiations in the CN WP preparing the trilogues were conducted involving Brussels based attachés (Q22) to whom the socialisation aspect of Brussels applies as well as actors in CN have the tendency to develop mutual understanding of each other's issues and will try helping each other in solving certain political problems (Lewis, 2013, 145-146).

Figure 22. Empathy rates towards peers and composition of WPs in CN.

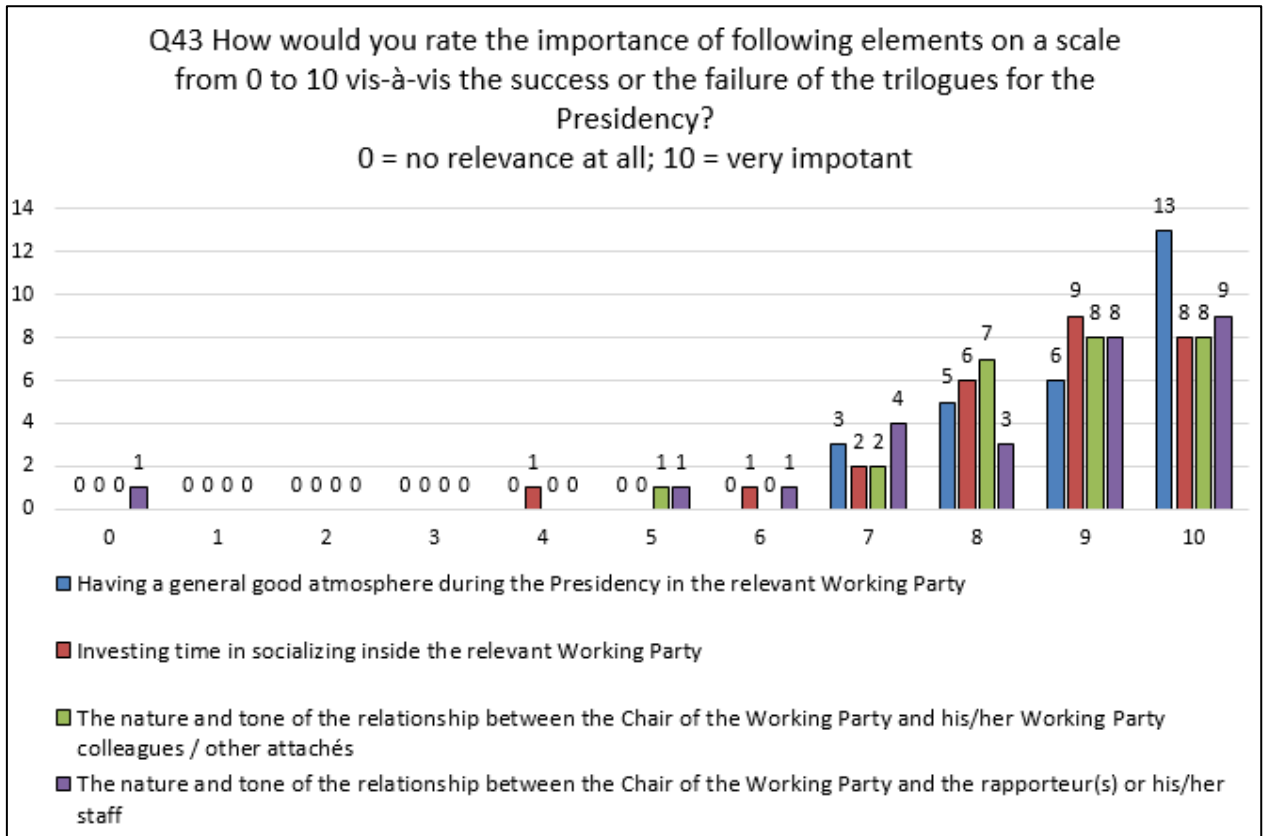


Source: Answers to the questionnaire created by the author (2018).

When evaluating, what was the relevance of socialisation and relationships in the success of the trilogues from PRES perspective, following elements can be presented illustrated by Figure 23: a) having a good atmosphere inside WP (100%), investing time socializing with the colleagues in the WP (96%) and the nature and tone of the relationship between chair of the WP and colleagues around the table (96%) have all been evaluated as having above average importance by the respondents (Q43); b) the nature and tone of the relationship between chair of the WP and the rapporteur or his/her staff has been evaluated as having above average importance by two thirds of the respondents and in 89% of the cases same applies to the relationship between the chair of

the WP and COM responsible services (Q43) as already shown in Figure 8. Therefore, the socialisation aspect as pointed out by some authors could be one of the most important success factors for PRES and applying to all of its relationships – including MS, COM and EP.

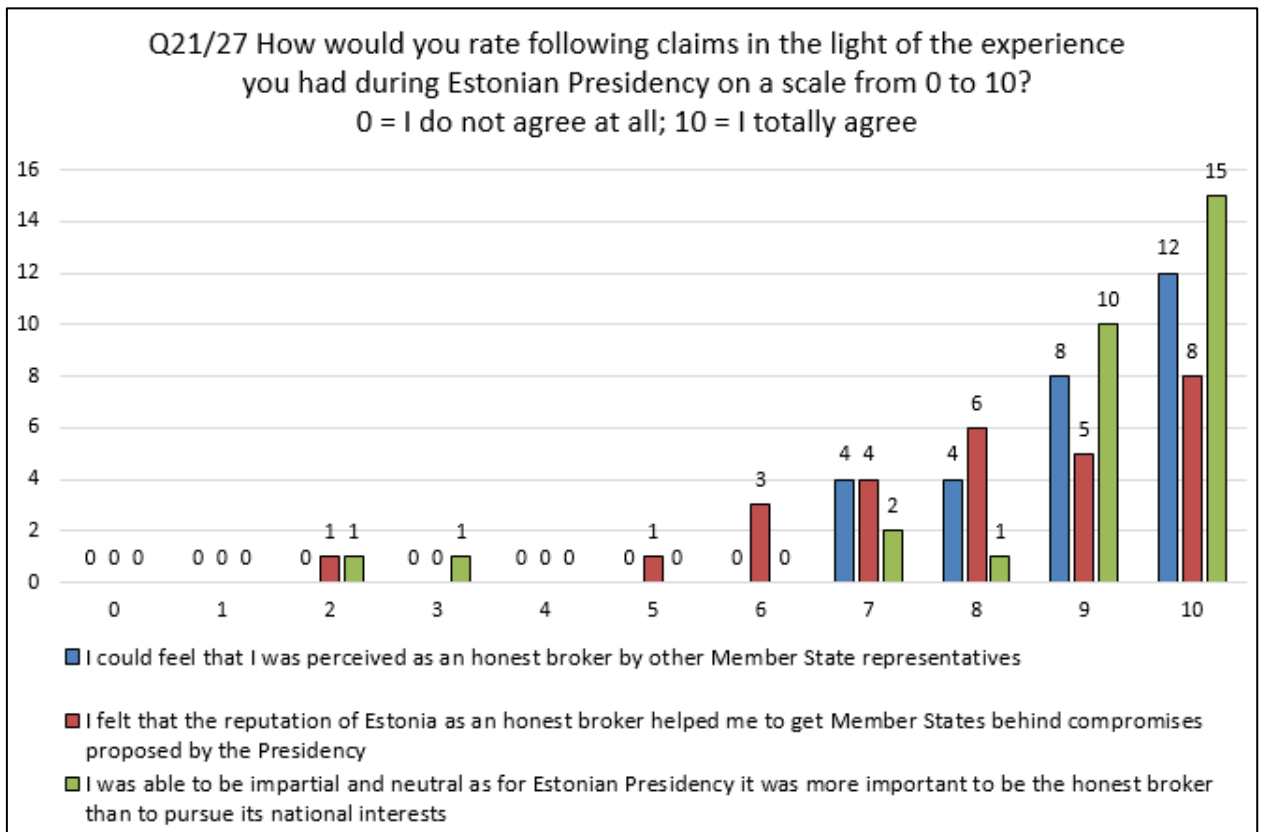
Figure 23. Relevance of the socialisation aspect to success of trilogues.



Source: Answers to the questionnaire created by the author (2018).

When it comes to Estonian reputation as honest broker, answers to the questionnaire in Figure 24 show the following: a) all respondents felt that they were perceived as honest brokers by other MS and 93% of them identified Estonian reputation as honest broker helping them building compromises with other MS (Q27); b) 82% of the respondents evaluated positively their capability of managing conflict between other MS (Q27); c) 93% of the respondents agreed that they were able to be neutral and impartial as for Estonian PRES it was more important to be the honest broker than to pursue national interests (Q21); d) 88% of the respondents ranked the importance of the reputations of the PRES as being an honest broker vis-à-vis other MS with above average importance when it comes to success of the trilogues for PRES (Q43).

Figure 24. Being an honest broker as PRES.



Source: Answers to the questionnaire created by the author (2018).

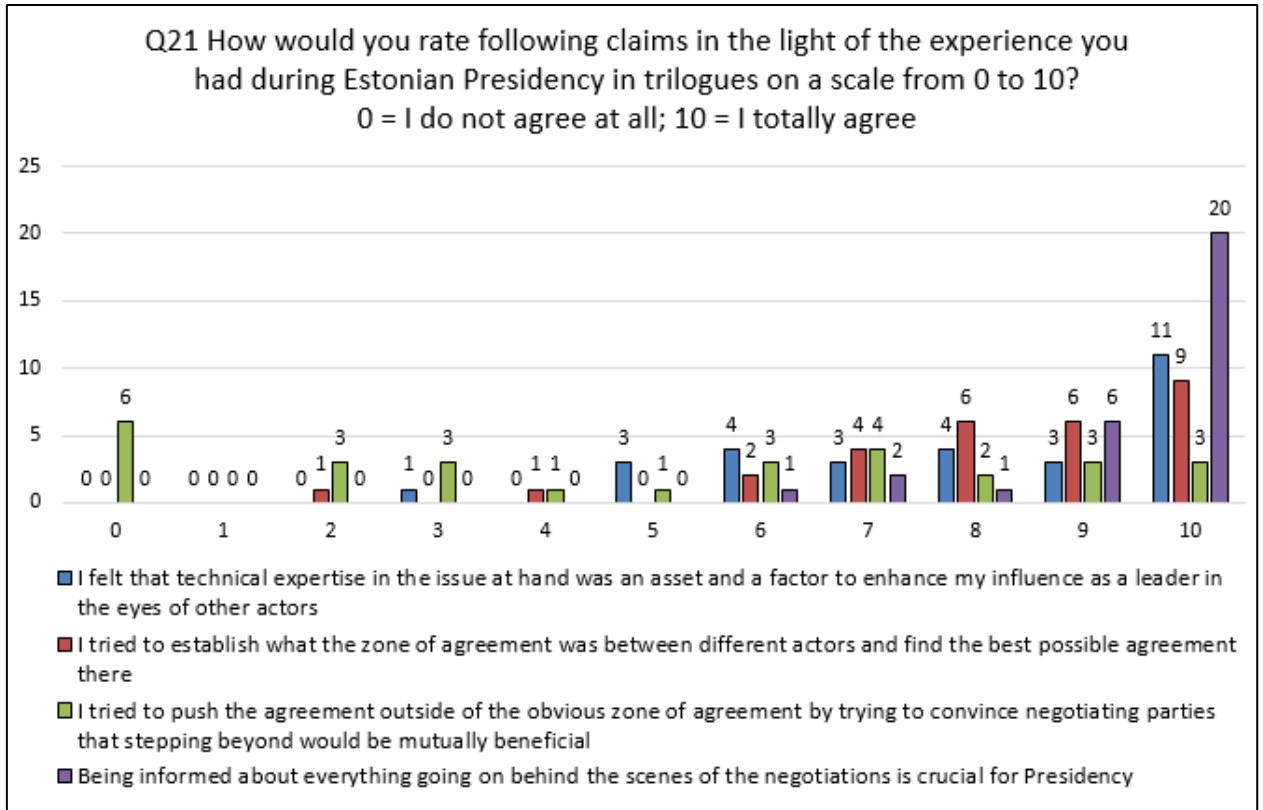
PRES has several roles as manager, compromise broker and a leader to balance (Smeets, Vennix, 2014, 1440), and leadership resources (Metcalf, 1998, 416) to fulfil these roles.

From PRES leadership perspective, 86% of the respondents evaluated the knowledge of technical expertise in the issue at hand as an asset to enhance their influence as a leader in the eyes of other actors (Q21). While 93% of the respondents have confirmed that they used facilitative leadership by trying to establish the zone of agreement and find the best possible agreement in that zone, directive leadership has been used by 52% of the respondents (Q21). Therefore, it can be observed that facilitative leadership was a preferred strategy used by the respondents during Estonian PRES.

When it comes to resources available for the PRES, resources related to expertise, coercive resources, socialisation resources and legitimacy of leadership have already been discussed previously in this chapter. Therefore, information based resources need additional analysis. (Metcalf, 1998, 417-426) When it comes to information related resources, possessing the relevant information about what is going on behind the scenes is considered crucial for the PRES

with all the respondents weighting its importance above average (Q21). These findings have been summed up in Figure 25.

Figure 25. Use of leadership resources during Estonian PRES.

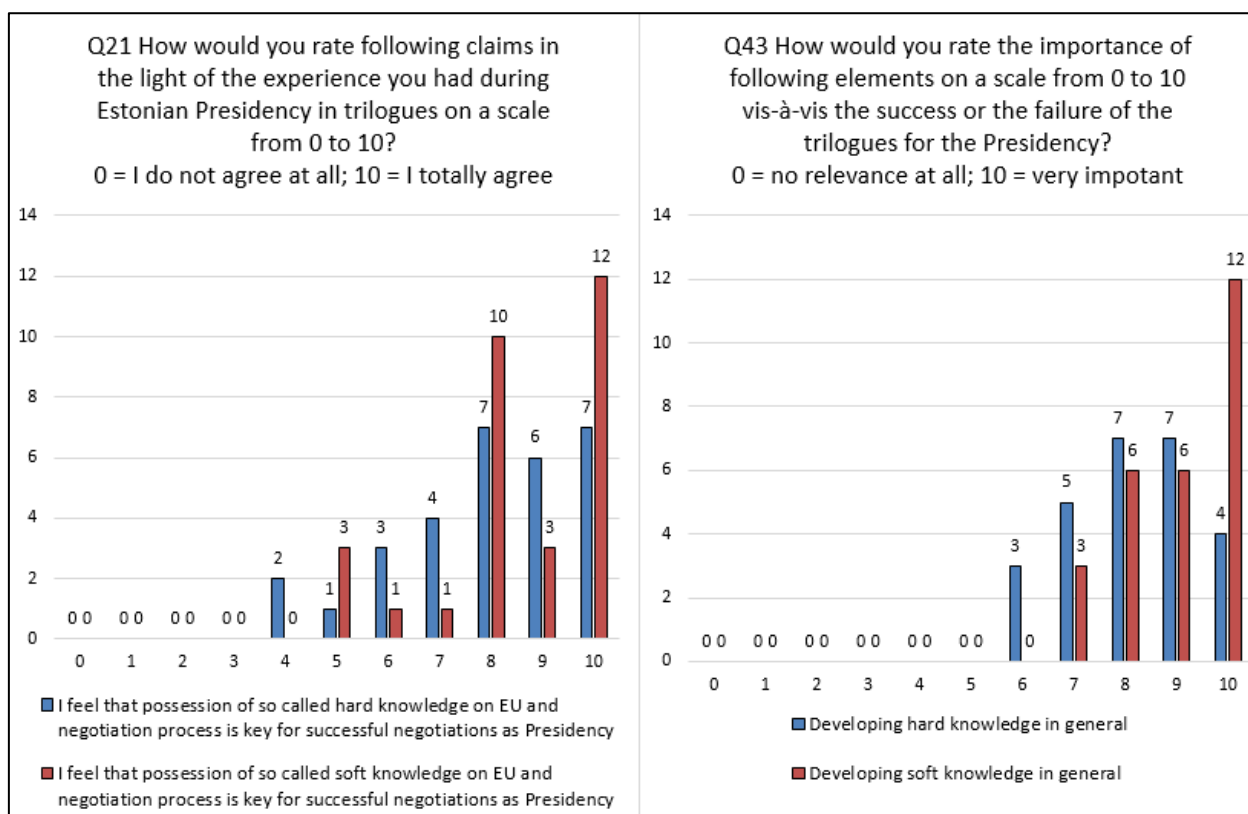


Source: Answers to the questionnaire created by the author (2018).

Finally, it has been suggested that soft knowledge, as being more related to the socialisation phenomena (in particular communication and negotiation skills, networking and socialisation abilities), is more important for maximising PRES success in trilogues than hard knowledge of facts and procedures (Kajnič, Svetličič, 2010, 86, 90). Answers to questionnaire have given very similar importance to both soft and hard knowledge with small variations. Both types of knowledge have been assessed above average importance by 90% of the respondents. However, when comparing the highest end of the scale, importance “8”, “9” and “10” has been given to soft knowledge on 25 occasions and to hard knowledge on 20 occasions, making the difference of 20% in favour of soft knowledge (Q21). When it comes to assessing the importance of both types of knowledge for the outcome of the trilogues, the results show that 100% of the respondents evaluate both above average importance while in the highest end of the scale, importance “8”, “9” and “10” has been granted to soft knowledge on 24 occasions and to hard knowledge on 18 occasions, making the difference of 25% in the favour of soft knowledge (Q43). Therefore, as Figure 26

illustrates, although there is slight indication of considering soft knowledge more important, the data gathered does not conclusively confirm that hard knowledge is viewed in general as less important than soft knowledge.

Figure 26. Importance of hard and soft knowledge for trilogues.



Source: Answers to the questionnaire created by the author (2018).

4.4. Conclusions and policy recommendations

Following most important conclusions can be made on the basis of the Estonian experience:

- 1) COM is an important ally for PRES and can be useful when gathering support from other MS. As the questionnaire does not bring out a difference between big and small MS, it cannot be confirmed or denied that COM is more important as an ally to small MS than to big MS. Furthermore, answers show that COM has an agenda of its own and both, willingness and resources, to push for it. Therefore, answers seem to confirm that COM is both a bureaucracy (Drake, 1997, 228) as it has considerable technical knowledge and a body practicing political leadership (*Ibid.*) as it is capable of influencing the negotiations between MS and the co-legislators.

- 2) The experience of Estonia seems to confirm the notion that EP has some advantage in the trilogues compared to CN as it is represented in the trilogues by politicians who are used to political bargaining while CN is represented mainly by civil servants (Roederer-Rynning, Greenwood, 2015, 1155). Furthermore, data suggests that indeed, rapporteur is perceived by PRES as being the key player from the EP side and his/her negotiation abilities and skills matter when it comes to facilitating compromises inside EP (Centre of Public Scrutiny, 2006, 7, 9, Costa *et al*, 2011, 28). However, complexity of the politics of a particular legislation is also important (Brandsma, 2015, 316) as political views of the rapporteur and political differences inside EP between political groups have a considerable impact on the outcomes of the trilogues. In addition, the relevance of informal contacts between the agents to achieve results (Burns, 2013, 164) cannot be underestimated and there is evidence on the basis of the answers that socialisation phenomena (Costa *et al*, 2011, 30) is important between the agents.
- 3) In relation to overcoming the double constraint of an agent in trilogues, it could be claimed that overstepping the mandate at least from the CN side is common practice to achieve a compromise. The thesis does not provide insight into the situation in EP and further research is needed to determine what is the frequency of overstepping the mandate by EP.
- 4) In terms of interest in outcomes both agents are motivated reaching an agreement on relatively equal level as suggested by previous research (Delreux, Laloux, 2018, 303), although on the institutional level, CN seems to be slightly more under political pressure.
- 5) Role of the COREPER seems to matter a lot when it comes to facilitating trilogues process inside the CN and with the EP. However, while COREPER plays an important role in getting political deals inside CN and with EP made, the Chair of the CN WP or attaché responsible seems to have high impact on the success of the trilogues as the main facilitator of all the processes and relationships. Interestingly enough, the influence of the chair in general (including the PRES chair of COREPER), and CN WP chair in particular, has not been discussed in the literature before and its impact has not been evaluated in detail. It has to be pointed out, that the way COREPER operates was not subject of this thesis as this would require a different choice of respondents, namely the ambassadors of the MS.
- 6) When it comes to big MS, the results seem to indicate that big MS do defend their interest more intensively, but in the end in most cases there are strategies available for PRES to counterbalance their influence.
- 7) Findings on coalition building in the framework of trilogues are ambiguous. All presented data together seems to indicate that while coalition building is important for small MS

strategy, it has not been used during Estonian PRES as much as it could have been on the basis previous research. Its modest use could indicate that it is perceived as somewhat contradicting the rule of being an honest broker. On the other hand, this could also indicate that those who managed the trilogues during Estonian PRES did not know how to make more use of coalition building as a tool and there might be a gap in skills. This element needs further research.

- 8) Being perceived as an honest broker is important for the PRES to achieve desired outcomes in trilogues. Estonia has, at least on the basis of the evaluation by Estonian officials, managed to live up to that expectation successfully. Of course, to get a full picture, asking an opinion from other MS representatives would be beneficial as the results of the thesis are based on a self-evaluation and does not include an outside perspective.
- 9) As Estonia in general achieved its set goals for the trilogues during the PRES, it seems to suggest that constraints stemming from being a small MS were not a problem although it has been indicated so in the literature. Looking at results, there seemed to be an adequate level of expertise, enough resource and Estonia did not rely significantly on GSC during the trilogues in terms of content. On the positive side, results seem to indicate that in Estonian PRES case the level of capability and flexibility to adapt to the situation in hand during trilogues was high as suggested by the literature on small MS and it played an important part in achieving outcomes in trilogues. Estonian PRES experience on efficient decision making seems to confirm what has been suggested by the literature on Brussels based PRES, namely that Brussels-based PRES seems to give more flexibility for adapting to the real situations (Högenauer, 2016, 94, Kajnič, 2009, 3) and this could facilitate efficient decision taking during the trilogues (Karolewski *et al*, 2015, 671-673).
- 10) As indicated by the data gathered, the socialisation aspect, as pointed out by some authors, meaning building and maintaining good personal relationships with all the actors, could be seen as one of the most important success factors for PRES applying to all of its relationships – including MS, COM and EP. The socialisation aspect seems to be a predominant factor in terms of PRES success in trilogues and should be studied further in the context of other PRES to confirm the findings and its applicability across PRES as there is a good probability that it could be universally applicable due the fact how strongly it is supported by the data gathered.
- 11) When it comes to leadership resources, five resources identified, namely coercive resources, socialisation resources, legitimacy of leadership, expertise and information

based resources (Metcalf, 1998, 417-426), all seem to be elements that have a high impact on the success of trilogues for the PRES when used by the PRES.

- 12) In terms of leadership, it can be observed that facilitative leadership was a preferred strategy used by the respondents during Estonia PRES over directive leadership. This is not surprising and seems to confirm the discussions so far as while facilitative leadership is certainly part of PRES “business as usual” and does not contain much controversies, in order to use directive leadership, PRES should be able to create and direct the mood and the willingness (Smeets, Vennix, 2014, 1440, Bendel, Magnusdottir, 2017, 35). Of course, another element to consider might be the question of how to align the directive leadership with the PRES need to be perceived as an honest broker as there might be some controversy here. However, this alignment needs further research to establish what the contradictions might or might not be.
- 13) Finally, although there is a slight indication of considering soft knowledge more important than hard knowledge, the results of the Estonian PRES do not conclusively confirm that.

On the basis of the conclusions, following policy recommendation can be made:

- 1) Estonian experience has confirmed and emphasised the importance of the socialisation aspect in trilogues process. Therefore, it would be advisable to use the knowledge on importance of the socialisation aspect in EU negotiations by Estonian administration in daily work on EU legislative proposals in order to build up further social capital for future EU negotiations and PRES periods;
- 2) Coalition building was not as widely used by the Estonian officials in the context of consensus building during trilogues as could be presumed on the basis of literature available. The reasons should be investigated further and if necessary, additional attention should be turned improving the relevant skills among Estonian officials dealing with the EU negotiations as coalition building is an important part of small MS negotiations strategies;
- 3) High level of capability and flexibility to adapt to the situation in hand during trilogues played an important part in achieving outcomes during Estonian PRES. Therefore, it would be advisable to keep that approach in Estonian public administration and to use it in EU negotiations.

CONCLUSION

EU legislative process forms a big part of its policy shaping activities and the outcome of this process, due to its binding nature, is undeniably important. Most of the EU legislative process can be described, while being politically driven, as relatively transparent, inclusive and heavily regulated. This normative environment has been researched extensively. However, trilogues, especially during the first reading, are a slightly different matter – although it takes place inside certain political and institutional framework, it is an informal negotiation being held behind closed doors between limited number of participants.

The main goal of the thesis is to analyse the competencies of the PRES taking into account the factors relevant to small MS PRES, the influence other actors have on the process and the elements that could affect the performance of a PRES in the trilogues on the basis of the 2017 Estonian experience. For that, the elements that PRES has to take into account for maximising its success in trilogues and main elements that influenced the performance of Estonian PRES in the negotiations with the European Parliament (EP) during the trilogues need to be identified.

Discussion based on the theoretical framework and empirical analysis leads to the conclusion that in general Estonian PRES was a successful PRES in terms of achieving the goals set for trilogues. It seems to suggest, as results of the analysis showed, that constraints stemming from being a small MS were not perceived as a problem.

In terms of COM as an actor in the trilogues, three main conclusions have been drawn from the analysis. Firstly, COM is an important ally for PRES. Secondly, COM has an agenda of its own in trilogues and both, willingness and resources, to push for it. Thirdly, the data gathered did not confirm or deny that COM is more important as an ally to small MS than to big MS.

The experience of Estonia seems to confirm that rapporteur is perceived by PRES as being the key player from the EP side and his/her negotiation abilities and skills matter when it comes to

facilitating compromises inside EP. However, complexity of the politics of a particular legislation inside EP and political views of the rapporteur are also important.

In relation to overcoming the double constraint of an agent in trilogues, overstepping the mandate at least from the CN side, is common practice to achieve a compromise. The thesis does not provide insight into the situation in EP and further research is needed to determine what is the frequency of overstepping the mandate by EP.

Data gathered on CN internal operations confirm that the role of the COREPER matters. However, it also highlighted the important role of the Chair of the CN WP or attaché responsible for the legal proposal as the main facilitator of all the processes and relationships. Interestingly enough, the influence of the chair in general (including the PRES chair of COREPER), and CN WP chair in particular, has not been discussed in the literature before and its impact has not been evaluated in detail.

In terms of resources used by PRES findings on coalition building in the framework of trilogues are ambiguous. All presented data together seems to indicate that while coalition building is important for small MS strategy, it has not been used during Estonian PRES as much as it could have been on the basis previous research. It modest use could indicate that it is perceived as somewhat contradicting the rule of being an honest broker. On the other hand, this could also indicate that those who managed the trilogues during Estonian PRES did not know how to make more use of coalition building as a tool and there might be a gap in skills. This element needs further research.

Gathered data seems to indicate that in Estonian PRES case the level of capability and flexibility to adapt to the situation in hand during trilogues was high and it played an important part in achieving outcomes in trilogues.

As indicated by the data gathered, the socialisation aspect, meaning building and maintaining good personal relationships with all the actors, could be seen as one of the most important success factors for PRES applying to all of its relationships – including MS, COM and EP. The socialisation aspect seems to be a predominant factor in terms of PRES success in trilogues and should be studied further in the context of other PRES to confirm the findings and its applicability across PRES as

there is a good probability that it could be universally applicable due the fact how strongly it is supported by the data gathered.

On the bases of elements identified, three policy recommendations could be proposed:

- 1) It would be advisable to use the knowledge on importance of the socialisation aspect in EU negotiations by Estonian administration in daily work on EU legislative proposals in order to build up further social captial for future EU negotiations and PRES periods;
- 2) The reasons why coalition building was not as widely used by the Estonian officials in the context of consensus building during the trilogues should be investigated further. If necessary, additional attention should be turned improving the relevant skills among Estonian officials dealing with the EU negotiations as coalition building is an important part of small MS negotiations strategies.;
- 3) As high level of capability and flexibility to adapt to the situation in hand during trilogues played an important part in achieving outcomes during Estonian PRES, it would be advisable to keep that approach in Estonian public administration and to use it in EU negotiations.

KOKKUVÕTE

TRILOOGID EUROOPA LIIDU ÕIGUSLOOMEPROTESSIS EESISTUJA PERSPEKTIIVIST VAADATUNA: EESTI KOGEMUS

Jaana Sahk-Labi

Euroopa Liidu õigusloomeprotsess moodustab suure osa Euroopa Liidu poliitikakujundamisest ja selle protsessi tulemid on vaieldamatult olulised tulenevalt Euroopa Liidu õiguse siduvusest. Suuremat osa Euroopa Liidu õigusloomeprotsessist, mis oma olemuselt on alati poliitilistest motiividest juhitud, võib kirjeldada kui küllaltki läbipaistvat, kaasavat ja tugevalt reguleeritud protsessi. Seda normatiivset keskkonda on palju uuritud. Samas, triloogide,⁶ eriti kui need toimuvad õigusakti esimese lugemise kontekstis, puhul see ei kehti – kuigi triloogid on osa teatud poliitilisest ja institutsionaalsest raamistikust, on see oma olemuselt informaalne protsess, mis leiab aset kinniste uste taga piiratud osalejate vahel.

Euroopa Liidu Nõukogu eesistuja on üks osaleja triloogides, kes koos Euroopa Parlamendi raportööriga mõjutab ühest küljest läbirääkimiste protsessi ja tulemust kõige enam ning teisest küljest omab suurt huvi kokkuleppe saavutamiseks, sest edukas kokkulepete sõlmimine on märk õnnestunud eesistumisest.

Magistritöö põhieesmärgiks on analüüsida eesistujale vajalikke kompetentse võttes arvesse väikese liikmesriigi eesistumisele olulisi faktoreid, teiste osapoolte mõju protsessile ja elemente, mis võivad mõjutada eesistuja poolt saavutatud tulemusi triloogides Eesti eesistumise kogemuse pinnalt. Selleks esitatakse kaks uurimisküsimust:

- Mis on need elemendid, mida eesistuja peab arvesse võtma selleks, et suurendada oma edukust triloogides?

⁶ Triloog on kaasseadusandjate, kelleks on Euroopa Liidu Nõukogu ja Euroopa Parlament, vaheline läbirääkimine, milles osaleb ka Euroopa Komisjon, et leida kompromiss kaasseadusandjate seisukohtade vahel ja leppida kokku Euroopa Liidu õigusena vastuvõetava õigusakti lõplikus tekstis.

- Millised olid põhilised elemendid, mis mõjutasid Eesti kui eesistuja tulemuslikkust triloogides Euroopa Parlamendiga läbi rääkides?

Selleks, et nimetatud uurimisküsimustele vastata, on magistritöö jaotatud kahte põhilisse ossa, mis sisaldavad teoreetilist raamistikku ja Eesti juhtumi empiirilist analüüsi. Teoreetiline osa annab esimeses ja teises peatükis ülevaate olemasolevast kirjandusest triloogide kohta, nendes osalevatest institutsioonidest ja nende osapoolte mõjust protsessile ning elementidest, mis omab tähtsust eestistumise edukaks läbiviimiseks võttes arvesse väikeste liikmeriikide konteksti. Kasutatud metodoloogia on eraldiseisvalt kolmandas peatükis. Eesti triloogidega seotud kogemust analüüsitakse neljandas peatükis tulenevalt vastustest küsimustikule, mis jagati nendele Eesti ametnikele, kes tegelesid triloogidega Eesti Vabariigi alalises esinduses Euroopa Liidu juures Eesti eestistumise ajal 2017. a.

Analüüsi tulemusena võib järeldada, et üldiselt oli Eesti eesistumine edukas ja triloogideks seatud eesmärgid üldjuhul saavutati. Seega võib järeldada, et väikese liikmesriigi spetsiifikast tulenevaid takistused ei olnud Eesti puhul probleemiks.

Komisjoni rolli kohta triloogides saab teha kolm järeldust. Esiteks, komisjon on oluline liitlane eesistujale. Teiseks, komisjonil on omad huvid ja olemas nii soov kui ka ressursid neid huvisid edendada. Kolmandaks, kogutud andmed ei kinnitanud ega lükanud ümber väidet, et komisjon on liitlasena olulisem väikestele liikmeriikidele kui suurtele liikmesriikidele.

Eesti kogemus paistab kinnitavat, et raportööri nähakse eesistuja poolt kui võtmeisikut Euroopa Parlamendi poolt ja tema võimekus läbirääkimis pidada ning oskused on olulised selleks, et Euroopa Parlamendi siseselt kokkuleppeid sõlmida. Siiski, laual oleva õigusettepanku poliitiline keerukus ja raportööri poliitilised vaated on samuti olulised.

Agentide kahetasemelise surve ületamiseks triloogides kasutab eesistuja laialdaselt mandaadi ületamist kokkulepete sõlmimisel Euroopa Parlamendiga. Kogutud andmed ei käsitle Euroopa Parlamendi poolseid mandaadi ületamisi ja see vajab täiendavat uurimist, et teha järeldusi mis ulatuses seda praktikas tehakse.

Kogutud andmed Euroopa Liidu Nõukogu siseste protseduuride kohta kinnitavad COREPER-i rolli olulisust. Siiski, andmed rõhutavad ka töögruppide juhtide või ettepanekute eest vastutavate atašeede rolli olulisust, sest nemad koordineerivad kogu protsessi ja haldavad suhteid teiste protsessis osalejatega. Huvitaval kombel ei ole Euroopa Liidu Nõukogu eesistuja töögruppide juhtide (kaasa arvatud COREPER-i eesistuja juhtide) mõju läbirääkimistele eelnevat uuritud ja selle kohta puuduvad detailsed hinnangud.

Tulemused, mis puudutavad koalitsioonide loomist kui eesistuja poolt kasutatavat ressursi, ei ole üheselt selged. Kogutud andmed näitavad, et kuigi koalitsioonide loomine on väikestele liikmesriikidele oluline strateegia, ei ole seda Eesti eesistumise ajal kasutatud nii palju kui võiks oletada eelnevate uuringute alusel. Koalitsioonide loomise tagasihoidlik kasutamine võib viidata, et see võib olla oma olemuselt teatavas konfliktis nõudega olla nõ aus vahemees eesistumise ajal. Eksisteerib ka võimalus, et ametnikud, kes trilooge juhtisid, ei omanud piisavalt oskusi koalitsioonide loomist rohkem kasutada. See aspekt vajab täiendavat uurimist järelduste tegemiseks.

Kogutud andmed osutavad, et võime ja paindlikkus kohanduda muutuvatele oludele triloogides Eesti eesistumise ajal oli kõrge ja see mängis olulist rolli triloogidega seotud tulemuste saavutamisel.

Kogutud andmete põhjal on sotsialiseerumise aspekt, mis tähendab heade personaalsete kontaktide loomine ja hoidmine kõigi osapooltega, üks kõige olulisemaid edufaktoreid eesistuja jaoks. See kehtib kõigile eesistuja suhetele, sh teiste liikmeriikidega, komisjoniga ja Euroopa Parlamendiga. Sotsialiseerimise aspekt on kõige olulisem faktor, mis mõjutab eesistuja tulemuslikkust triloogides ja seda peaks selles kontekstis lähemalt uurima, et kinnitada saadud tulemusi ja selle rakendumist ka teistele eesistujatele. Arvestades kui tugevalt kogutud andmed seda kinnitavad, on olemas tõenäosus, et see on universaalselt rakenduv sõltumata eesistujast.

Tuvastatud faktorite põhjal saab pakkuda välja järgmised poliitikasoovitused:

- 1) Mõistlik oleks võtta sotsialiseerumise olulisust arvesse Eesti ametnike igapäevases töös Euroopa Liidu õigusloome protsessis osalemisel, et koguda täiendavat sotsiaalset kapitali tulevasteks läbirääkimistes ja eesistumise perioodideks;
- 2) peaks uurima lähemalt põhjuseid, miks koalitsioonide loomine ei olnud Eesti ametnike poolt laialdaselt kasutatud kokkulepete saavutamiseks triloogide ajal. Kui vajalik, peaks

pöörama täiendavat tähelepanu asjakohaste oskuste arendamiseks Eesti ametnikkonna seas, kes tegeleb Euroopa Liidu läbirääkimistega, sest tegemist on laiemalt võttes olulise osaga väikeste liikmeriikide Euroopa Liidu läbirääkimiste strateegiast;

- 3) Kuna kõrge võime ja paindlikkus kohanduda muutuvatele oludele triloogides aitas oluliselt kaasa triloogidega seotud tulemuste saavutamisele Eesti eestistumise ajal, siis on soovitatav hoida seda lähenemist Eesti avalikus sektoris ja kasutada seda Euroopa Liidu läbirääkimistes.

LIST OF REFERENCES

- Bach, I., George, S., Bulmer, S. (2011). *Politics in the European Union*. 3rd ed. New York: Oxford University Press Inc.
- Beach, D. (2004). The unseen hand in treaty reform negotiations: the role and influence of the Council Secretariat. - *Journal of European Public Policy*, Vol. 11, No. 3, 408-439.
- Bendel, J., Magnúsdóttir, G, L. (2017). Opportunities and Challenges of a Small State Presidency: The Estonian Council Presidency 2017. – *Administrative Culture*, Vol. 18, No. 1, 27-52.
- Brandsma, G, J. (2015). Co-decision after Lisbon; The politics of informal trilogies in European Union lawmaking. – *European Union Politics*, Vol. 16, No. 2, 300-319.
- Bunse, S. (2009). *Small States and EU Governance: Leadership through the Council Presidency*. United Kingdom: PALGRAVE MACMILLAN.
- Burns, C. (2013). The European Parliament. – *European Union Politics*. (Eds.) M. Cini, N. Pérez-Solórzano Borragán. Oxford: Oxford University Press, 159-171.
- Centre for Public Scrutiny. (2006). *Rapporteurs in the European Parliament*. Available: <http://www.aalep.eu/sites/default/files/documents/Rapporteurs%20in%20the%20European%20Parliament.pdf>, accessed 13.3.2018.
- Consolidated versions of the Treaty on European Union and on the Treaty on the Functioning of the European Union, OJ C 202, 7.6.2016, p 1-388. Available: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2016.202.01.0001.01.ENG&toc=OJ:C:2016:202:TOC, accessed 28.2.2018.
- Coreper I*. (2017). The Council of the EU. Available: <http://www.consilium.europa.eu/en/council-eu/preparatory-bodies/coreper-i/>, accessed 13.3.2018.
- Coreper II*. (2017). The Council of the EU. Available: <http://www.consilium.europa.eu/en/council-eu/preparatory-bodies/coreper-ii/>, accessed 13.3.2018.
- Costa, O., Dehousse, R., Trakalová, A. (2011). Codecision and “early agreements”: An improvement or a subversion of the legislative procedure? *Notre Europe*. Available: http://www.notre-europe.eu/media/codecisionearlyagreements_costadehoussetrakalova_notreeurope_nov2011.pdf?pdf=ok, accessed 27.2.2018.

- Delreux, T., Laloux, T. (2018). Concluding Early Agreements in the EU: A Double Principal-Agent Analysis of Trilogue Negotiations. – *Journal of Common Market Studies*, Vol. 56, No. 2, 300-317.
- Dijkstra, H. (2010). Explaining variation in the role of the EU Council Secretariat in first and second pillar policy-making. – *Journal of European Public Policy*, Vol. 17, No. 4, 527-544.
- Drake, H. (1997). The European Commission and the Policy of Legitimacy in the European Union. – *At the Heart of the Union: Studies of the European Commission*. (Eds.) N. Nugent. New York: MACMILLAN PRESS LTD, 226-244.
- Edwards, G. (1996). National sovereignty vs integration? – *European Union: power and policy-making*. (Eds.) J. Richardson. London: Routledge, 127-147.
- Egeberg, M. (2013). The European Commission. – *European Union Politics*. (Eds.) M. Cini, N. Pérez-Solórzano Borragán. Oxford: Oxford University Press, 129-141.
- Elgström, O. (2002). Evaluating the Swedish Presidency. - *Journal of the Nordic International Studies Association*, Vol. 37, No. 2, 183-189.
- Fact sheets on the European Union*. (2018). European Parliament. Available: http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU_1.3.1.html, accessed 13.3.2018.
- Fantini, M., Staal, K. (2018). Influence in the EU: Measuring Mutual Support. - *Journal of Common Market Studies*, Vol. 56, No. 2, 212-229.
- George, S. (1996). *Politics and Policy in the European Union*. 3rd ed. New York: Oxford University Press Inc.
- Gog, M. (2015). Case Study Research. – *International Journal of Sales, Retailing and Marketing*, Vol. 4, No. 9, 33-41.
- Golub, J. (2012). How the European Union does not work: national bargaining success in the Council of Ministers. – *Journal of the European Public Policy*, Vol. 19, No. 9, 1294-1315.
- Goodman, S. F. (1996). *The European Union*. 3rd ed. United Kingdom: MACMILLAN PRESS LTD.
- Handbook of the Presidency of the Council of the European Union*. (2015). The Council of the EU. Available: https://riigikantselei.ee/sites/default/files/content-editors/Failid/EL/presidency_handbook_en.pdf, accessed 13.3.2018.
- Haaland Matlary, J. (1997). The Role of the Commission: A Theoretical Discussion. – *At the Heart of the Union: Studies of the European Commission*. (Eds.) N. Nugent. New York: MACMILLAN PRESS LTD, 265-282.

- Högenhauer, A-L. (2016). Luxembourg's EU Council Presidency: Adapting Routines to New Circumstances. – *Journal of Common Market Studies*, Vol. 54, 91-100.
- Joos, K. (2016). *Convincing Political Stakeholders: Successful lobbying through process competence in the complex decision-making system of the European Union*. Germany: Wiley-VCH.
- Judgement of the Court (Grand Chamber), 14.4.2015, Council v. Commission, C-409/13, EU:C:2015:217. Available: <http://curia.europa.eu/juris/document/document.jsf?text=withdraw%2Ba%2Blegislative%2Bproposal&docid=163659&pageIndex=0&doclang=EN&mode=req&dir=&occ=firs&part=1&cid=231937#ctx1>, accessed 28.2.2018.
- Kajnič, S. (2009). Channels of Cooperation: A Case Study of Slovenia's Presidency of the EU. EPIN Working Paper, No. 21. Available: <https://www.ceps.eu/system/files/book/1788.pdf>, accessed 13.3.2018.
- Kajnič, S., Svetličič, M. (2010). What it Takes to Run an EU Presidency: Study of Competences in Slovenia's Public Administration. – *Halduskultuur – Administrative Culture*, Vol. 11, No. 1, 84-109.
- Karolewski, P., Mehlhausen, T., Sus, M. (2015). The Polish EU Council Presidency in 2011: Master or Servant? – *Journal of European Integration*, Vol. 37, No. 6, 667-684.
- Kutys, P. (2009). Small states inside the EU: strategies for pursuing their national interests. – *TILTAI*, Vol. 4, 1-11.
- Lewis, J. (2000). The methods of community in EU decision-making and administrative rivalry in the Council's infrastructure. – *Journal of European Public Policy*, Vol. 7, No. 2, 261-289.
- Lewis, J. (2003). Institutional environments and everyday EU decision making. Rationalist or Constructivist? – *Comparative Political Studies*, Vol. 36, No. 1/2, 97-124.
- Lewis, J. (2013). The Council of the European Union and the European Council. – *European Union Politics*. (Eds.) M. Cini, N. Pérez-Solórzano Borragán. Oxford: Oxford University Press, 142-158.
- Magnette, P., Nicolaïdis, K. (2005). Coping with the Lilliput Syndrome: Large vs. Small Member States in the European Convention. – *European Public Law*, Vol. 11, No. 1, 85-104.
- Magone, J, M. (2015). The Portuguese presidency of the EU in 2000: An ambitious Enterprise. – *International Journal of Iberian Studies*, Vol. 28, No. 2/3, 209-234.
- Mason, J. (2002) *Qualitative Reserching*. 2nd ed. London: SAGE Publications.
- Meerits, P. (1997). Negotiating in the European Union: Comparing Perceptions of EU Negotiators in Small Member States. – *Group Decision and Negotiation*, Vol. 6, 463-482.
- Metcalfe, D. (1998). Leadership in European Union Negotiations: The Presidency of the Council. - *International Negotiations*, Vol. 3, 413-434.

- Ordinary Legislative Procedure. Files concluded by the Estonian Presidency.* (2018). General Secretariat of the Council of the European Union. Available: <http://www.consilium.europa.eu/media/32582/180130-final-results-ee-presidency.pdf>, accessed 13.3.2018.
- Ordinary Legislative Procedure. Files concluded since the entry into force of the Treaty of Amsterdam.* (2018). General Secretariat of the Council of the European Union. Available: <http://www.consilium.europa.eu/media/32583/180131-general-overview.pdf>, accessed 13.3.2018.
- Personalivaldkonna kokkuvõte.* (2018). Riigikantselei EU2017.EE veebileht. Available: <https://www.eu2017.ee/sites/default/files/Personalivaldkonna%20kokkuv%C3%B5te%20180131.pdf>, accessed 20.04.2018.
- Rasmussen, A., Reh, C. (2013). The consequences of concluding codecision early: trilogues and intra-institutional bargaining success. – *Journal of European Public Policy*, Vol. 20, No. 7, 1006-1024.
- Reh, C. (2014). Is informal politics undemocratic? Trilogues, early agreements and the selection model of representation. - *Journal of European Public Policy*, Vol. 21, No. 6, 822-841.
- Reh, C., Héritier, A., Bressanelli, E., Koop, C. (2011). The Informal Politics of Legislation: Explaining Secluded Decision Making in the European Union. – *Comparative Political Studies*, Vol. 46, No. 9, 1112-1142.
- Roederer-Rynning, C., Greenwood, J. (2015). The Culture of Trilogues. - *Journal of European Public Policy*, Vol. 22, No. 8, 1148-1165.
- Roederer-Rynning, C., Greenwood, J. (2017). The European Parliament as a developing legislature: coming of age in trilogues? - *Journal of European Public Policy*, Vol. 24, No. 5, 735-754.
- Special Committee on Agriculture (SCA).* (2017). The Council of the EU. Available: <http://www.consilium.europa.eu/en/council-eu/preparatory-bodies/special-committee-agriculture/>, accessed 28.02.2018.
- The ordinary legislative procedure.* (2018). The Council of the EU. Available: <http://www.consilium.europa.eu/en/council-eu/decision-making/ordinary-legislative-procedure/>, accessed 26.3.2018.
- Thorhallsson, B., Wivel, A. (2006). Small States in the European Union: What Do We Know and What Would We Like to Know? – *Cambridge Review of International Affairs*, Vol. 19, No. 4, 651-668.
- Vennix, J., Smeets, S. (2014). ‘How to make the most of your time in the Chair’: EU presidencies and the management of Council Debates. – *Journal of European Public Policy*, Vol. 21, No. 10, 1435-1451.

- Warleigh-Lack, A., Drachenberg, R. (2013). Policy-making in the European Union. – *European Union Politics*. (Eds.) M. Cini, N. Pérez-Solórzano Borragán. Oxford: Oxford University Press, 199-2012.
- Warntjen, A. (2017). Do votes matter? Voting weights and the success probability of member state requests in the Council of the European Union. – *Journal of European Integration*, Vol. 39, No. 6, 673-687.
- Wleman, C., Kauger, F., Mitchell, B. (2005). *Research methodology*. 3rd ed. South Africa: Oxford University Press Southern Africa.
- Yin, R, K. (2003). *Case Study Reserch: Design and Methods*. 2nd ed. London: SAGE Publications.

APPENDICES

Appendix 1. Overview of the development of EP powers as a legislative body

Year	Treaty	Main changes for EP
1951 (application: January 1952)	The Treaty of Paris	<ul style="list-style-type: none"> • Created European Parliamentary Assembly; • Members were appointed from their national parliaments of the MS. • Consultation procedure - EP tables amendments to be considered and taken into account by CN, but the latter can ignore them.
1979	Not applicable*	<ul style="list-style-type: none"> • EP became a directly elected body.
1986 (application: July 1997)	The Single European Act	<ul style="list-style-type: none"> • EP gained its first functions as a legislative body. • Co-operation procedure that introduced two readings of legislation, but left the CN with the power of taking the final decision. • Assent procedure that made accession and association treaties subject to EPs consent.
1992 (application: November 1993)	The Maastricht Treaty	<ul style="list-style-type: none"> • Introduces co-decision procedure that does not leave the last word to the CN. • Introduced a Conciliation Committee aimed at reconciling the differences at the end of the legislative process.
1997 (application: January 1999)	The Treaty of Amsterdam	<ul style="list-style-type: none"> • Broadened the scope of co-decision procedure to most legislative areas. • Reformed the co-decision procedure introducing the EP as the equal co-decision partner to the CN.
2007 (application December 2009)	The Lisbon Treaty	<ul style="list-style-type: none"> • Co-decision became the centre of OLP that is used for most legislations in the EU.

Sources: Bache *et al* (2011, 234, 226, 240-243), George (1996, 28-29), Goodman (1996, 82, 283), Fact sheets on the European Union of European Parliament.

* The Summit Conference held in Paris on 9 and 10 December 1974 determined that direct elections 'should take place in or after 1978' and asked Parliament to submit new proposals to replace its original draft convention of 1960. (Fact sheets on the European Union of European Parliament).

Appendix 2. Questionnaire submitted to Estonian officials