

Parliamentary Control of
EU International Treaty-Making:
Partisan Perspectives

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EU International Treaty-Making:
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Anne Pintz

Aarhus, September 2019

List of Abbreviations

ACTA	Anti-Counterfeiting Trade Agreement
ALDE	Alliance of Liberals and Democrats for Europe
Å	Alternativet
B	Radikale Venstre
Die Grünen	Bündnis 90/Die Grünen
CSDP	Common Security and Defence Policy
CFSP	Common Foreign and Security Policy
CDU	Christlich Demokratische Union Deutschlands
CETA	Comprehensive Economic and Trade Agreement
Commission	European Commission
COP	Conference of Parties
COSAC	Conference of Parliamentary Committees for Union Affairs
Council	Council of the European Union
DF	Dansk Folkeparti
DKF	Det Konservative Folkeparti
EAC	European Affairs Committee
ECJ	European Court of Justice
ECR	European Conservatives and Reformists
EEAS	European External Action Service
EFDD	Europe of Freedom and Direct Democracy
EL	Enhedslisten
ENF	Europe of Nations and Freedom
ENVI	European Parliament Committee on the Environment, Public Health and Food Safety
EP	European Parliament
EPP	European People's Party
EU	European Union
EURA	European Union Readmission Agreement
EUSFTA	EU-Singapore Free Trade Agreement
EUZBBG	Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union
F-Gas	Fluorinated greenhouse gas
Framework Agreement, IIA	Framework Agreement on relations between the European Parliament and the European Commission
FTA	Free Trade Agreement

GG	German Basic Law
Greens-EFA	Greens–European Free Alliance
GUE-NGL	European United Left–Nordic Green Left
HFC	Hydrofluorocarbon
HR	High Representative
ICS	Investment Court System
INTA	European Parliament Committee on International Trade
ISDS	Investor-state dispute settlement
JEFTA	Japan EU Free Trade Agreement
LA	Liberal Alliance
LIBE	European Parliament Committee on Civil Liberties, Justice and Home Affairs
MEP	Member of the European Parliament
MLF	Multi-lateral Fond
MOP	Meeting of Parties
MP	Member of Parliament
ODS	Ozone-layer depleting substances
PG	Parliamentary Group
RoP	Rules of Procedure
S	Socialdemokratiet
SF	Socialistisk Folkeparti
S&D	Progressive Alliance of Socialists and Democrats
SPD	Sozialdemokratische Partei Deutschlands
SWIFT	Agreement on the Society for Worldwide Interbank Financial Telecommunications
TEU	Treaty of the European Union
TFEU	Treaty of the Functioning of the European Union
TPP	Trans-Pacific Partnership
TSD	Trade and Sustainable Development
TTIP	Transatlantic Trade and Investment Partnership
UN	United Nations
UNFCCC	United Nations Framework Convention on Climate Change
V	Venstre

1. Introduction

1.1. Background and Research Aim

“Governments negotiate and conclude international treaties and, when the work is done, Parliaments ratify them. That is the classical division of labour. But things have changed. In today’s world, parliaments don’t stop their work at the national borders anymore. Parliaments have to think about the consequences of international events on their work” (Martin Schulz, 2015).

This quote by Martin Schulz, then-President of the European Parliament, captures aptly the research interest of this dissertation. For a long time, conventional wisdom on foreign policy-making held that the conduct of external relations was an executive prerogative – parliamentary involvement was seen as interfering and harmful. This tradition could already be seen in the Middle Ages, where monarchs and kings had monopolised the handling of relations with external, be it friendly or hostile, partners. With the arrival of the nation state and an international order based on inter-state relations, this tradition continued and persisted, to a certain extent, until today. “The scant focus on public scrutiny has become a systemic feature of diplomacy and a major institutionalised element in the conduct of a state’s foreign policy” (Bajay 2015: 6). For the negotiation of international treaties, the foreign policy prerogative of the government has meant exactly what Martin Schulz observed: The division of labour between the executive negotiating on the international stage with external parties, and the parliament, restricted to the domestic sphere, eventually expected to “rubber-stamp” the concluded agreement, was thought to be the best possible way to conduct external relations. International treaty-making, according to the classic line of argumentation, requires a considerable degree of flexibility, secrecy and fast response in order to successfully and efficiently promote national interests on the global stage. Parliamentary involvement – interference, if you will – would only hinder efficient negotiations and be detrimental to their secret nature (Eeckhout 2011: 210). Legitimacy in international treaty-making was derived from the output of negotiations, and treaty-making had to be “instrumentally efficient” (Batora 2010: 2) rather than open to democratic participation and parliamentary involvement.

In European Union (EU) external relations, international treaty-making had indeed been set up according to this classic division of labour. The decision-making process had been dominated by the EU’s executive actors, the European Commission (Commission) and the Council of the European Union

(Council). The European Parliament (EP) was only marginally featured, and was assigned a minor role in the process, whereas national parliaments had no formal involvement rights at all. However, in recent years, anecdotal evidence has demonstrated that parliaments, both the EP and national parliaments, are increasingly going beyond their traditionally ascribed role in EU international treaty-making.

The European Parliament refuses to see its eventual consent to concluded international agreements in which it did not have say as an automatic process: “The notion that it will be a smooth process is naïve; Parliament will not just rubber-stamp the deal” (Fjellner 2010, cited in Richardson 2012), as a Member of the European Parliament (MEP) stated. In February 2010, the EP vetoed the EU-US Agreement on the Society for Worldwide Interbank Financial Telecommunications (SWIFT), as it regarded the agreement as imposing intolerable restrictions on human rights. Only after re-negotiations of the text did the Parliament grant its consent (Santos Vara 2013). Similarly, it demanded that the Agreements on Passenger Name Records with the US, Canada and Australia be re-negotiated on grounds of a lack in protection of fundamental human rights (Koutrakos 2015: 153f.). In the free trade agreement negotiations between the EU and South Korea, it managed to force the Commission to include a strong safeguard clause to protect European small car producers in the text of the agreement prior before giving consent in 2011. In July 2012, Parliament decided to refuse its consent regard to the conclusion of the international Anti-Counterfeiting Trade Agreement (ACTA) about the enforcement of the intellectual property rights laid down in TRIPS. This led the Commission to withdraw its application in December of the same year.

A similar development can be seen on the member state level, where national parliaments have been following EU international negotiations with increasing interest and attention. Concerned with the lack of transparency and accountability of ongoing EU trade negotiations with third countries, the Conference of Speakers of EU Parliaments issued a statement in April 2015, demanding “that national Parliaments must [...] be accorded greater access to information related to ongoing negotiations, so that they might make their orientations known during the negotiations themselves rather than have their powers of intervention restricted [to ex post measures]” (COSEUP 2015: 4f.). In 2014, 21 chairpersons of European Affairs Committee sent a letter to then-Trade Commissioner De Gucht within the Political Dialogue, demanding the conclusion of two of the most salient trade agreements in recent years, the Transatlantic Trade and Investment Partnership (TTIP) between the EU and the US and the Comprehensive and Economic Trade Agreement (CETA) with Canada as so-called mixed agreements, as this would require their ratification on the international level. “In view of the important role national parliaments

have in the democratic decision making process of the EU, we feel that it is of great importance that trade agreements such as CETA and TTIP are ratified by the national parliaments” (Tweede Kamer 2014: 1). In October 2016, the parliament of Wallonia, a small region in Belgium, voted against approving the Belgian’s government signature of CETA, causing a “polit-drama” to unfold in the aftermath.

As these episodes exemplify, the classic division of labour between executives negotiating international agreements with external parties and parliaments ratifying them no longer seems to hold true when the EU negotiates international agreements on the global stage. Parliaments do not see their participation in treaty-making as constrained to ex-post involvement, but have become increasingly involved in ongoing negotiations by following and scrutinizing the negotiation process actively. As such, parliaments are actors to take into consideration when talking about the in- and output of EU international treaty-making. While most of the examples brought forward here concern the EU’s international trade agenda, they can be claimed to point towards a broader debate within EU international treaty-making.

However, it is important to be aware that within the EU and among its parliaments, there is large variation in the extent, way and strength with which parliaments have been involved in EU international negotiations: not all parliaments follow the same negotiation process the same way; not all parliamentary groups within one parliament do so either; and not all treaty-making processes are controlled the same way. Whilst the above examples were indeed actively accompanied by some means of parliamentary participation, how about the “Agreement laying down the terms and conditions for the participation of the Swiss Confederation in the European GNSS Agency”? The Council authorized the Commission to negotiate this agreement in March 2018, but parliaments do not seem to have taken up the issue. Similarly, the “Agreement between the European Union and the Kingdom of Norway on reciprocal access to fishing in the Skagerrak for vessels flying the flag of Denmark, Norway and Sweden” signed in January 2015, does not seem to have raised extensive parliamentary interest.

Nor do groups within a parliament act the same way. Research on the activities of parliamentary groups in the German Bundestag on the TTIP negotiations has demonstrated large variation in regard to their degree of involvement: Bündnis 90/Die Grünen and Die Linke have been strongly involved in organizing public events on TTIP and speakers affiliated with those two groups dominated in local TTIP debates, whereas the Christlich Demokratische Union Deutschlands (CDU) has shown relatively weak motivation to become involved in parliamentary scrutiny and to engage in the public debate (Bauer 2016: 203f.). Similarly, in the Dutch run-up to the 2016 public, non-

legally binding referendum on country's ratification of the Association Agreement between the EU and the Ukraine, the parliamentary groups in the Tweede Kamer showed different degrees of involvement in the campaigns: strong support of the reject-campaign was found among several opposition parties, such as the Eurosceptic Partij voor de Vrijheid and the Socialistische Partij, whereas other groups had remained more passive or supported the agreement's ratification (Deloy/Joannin 2016: 2). The European Parliament has established a practice of attending multilateral environmental conferences such as the annual Climate Change Conference. However, also here, "the composition of the EP group attending international climate negotiations seems to exhibit a certain selection bias" (Biedenkopf 2015: 100). MEPs of political groups tending to favour a more ambitious climate policy are more likely to express their interest in attending and being active participants in these conferences than MEPs from more climate sceptical and economically oriented political groups.

Hence, there is increasing awareness of the fact that parliaments have started to become more actively involved in processes of EU international treaty-making, going beyond the traditional division of labour, and that there is indeed significant inter- and intra-parliamentary variation as well as between treaty-making processes. Academic literature on the issue is still in its infancy, though slowly evolving (e.g. Jančić 2017; Roederer-Rynning/Kallstrup 2017 for national parliaments; Passos 2011, Ripoll Servent 2014; Conceição-Heldt 2017 for the European Parliament). So far, most studies on the role of parliaments in EU international treaty-making are either descriptive endeavours, mapping formal and informal parliamentary involvement rights or parliamentary control in regard to individual, salient agreements such as TTIP, CETA or ACTA or studying the reasons and the process of parliamentary empowerment in foreign policy-making. Explaining parliamentary control in regard to EU international treaty-making beyond such landmark cases has only been dealt with as a by-product of other studies, if at all, whilst theoretical advancements for engaging with their role in a theoretically informed way are even more scarce. At the same time, whilst the essential role of parliamentary groups in parliamentary control is increasingly recognised in the literature on the role of parliaments in broader EU affairs, and in regard to dynamics in foreign policy, no study has systematically researched the behaviour of groups in regard to EU international treaty-making. Against this background, this dissertation aims to answer the following research question:

How and why do parliamentary groups control EU international treaty-making?

The research question is divided into two parts: the “how” of parliamentary control, and the “why of the how” of parliamentary control. Answering the how question is a somewhat descriptive endeavour. The dissertation aims to identify and describe the scrutiny actions of the parliamentary groups under investigation, the means they use, the patterns that develop and the timing of control that can be observed. Control is understood in the broadest sense possible, referring both to formal and informal control activities as well as to direct and indirect control of the Union negotiator at the various stages of a negotiation process. The dissertation will also make a distinction between control activities aimed at monitoring a negotiation process and those influencing the negotiations. Whilst this research endeavour might seem exploratory in nature, it will be firmly theory-guided by relying on a conceptualisation of parliamentary control based on principal-agent theory and the various dimensions of control derived from that conceptualisation.

Eventually, these elaborations will serve an instrumental aim: to identify the intensity of parliamentary control, consisting of level and function, as the interest of outcome of this study. Only once a phenomenon, an outcome is known is it possible to explain it, hence answer the second part of the research question, the “how” of parliamentary control. Thus, in a second step, the dissertation pursues an explanatory strategy. Building on the results of the descriptive research endeavour, it strives to identify the causes of parliamentary control. It will thereby go beyond studying what happened and try to get as close as possible to the underlying motivations of the political groups exercising parliamentary control over EU international treaty-making. The process of answering this question will be firmly rooted in principal-agent theory and its rationale of control.

A number of sub-questions are related with this research question. First, the thesis will look into the formal control rights of parliaments in EU international treaty-making, asking *what are the formal control rights of parliaments in EU international treaty-making?*. National parliaments’ their formal involvement rights in EU affairs are rather well explored (i.a. Winzen 2012 a; 2012b; Karlas 2012; 2013). However, the few studies dealing on national parliaments’ involvement in EU international treaty-making have relied on the sources of parliamentary influence – influencing the respective executive acting in the Council and the power of the veto in case of mixed agreements – rather than elaborated in-depth on the instruments and control a parliament and its groups can rely on. This dissertation does not aim to develop a comprehensive, cross-country overview of such control rights that makes it possible to build indicators for the formal strength of parliamentary control, but rather to contribute to a better understanding of how parliaments/parliamen-

tary groups can act within the formal framework in executive-legislative relations in EU international treaty-making. The formal control rights of the European Parliament are better explored than those of national parliaments (Di Paola 2003; Passos 2011; Richardson 2012), but with a major focus on trade negotiations and less on other policy-making areas. In the EP, the parliamentary committees are responsible for conducting control of EU international negotiations and have, in many instances, set up special, policy-field specific procedures to parliamentary scrutiny. Procedures for some policy-fields will be further investigated.

Moreover, this dissertation asks whether *parliaments can play a role in making EU foreign policy more accountable and democratic?* The underlying assumption hereby is that strong parliamentary involvement is desirable as it enhances the democratic legitimacy of EU international treaty-making. This assumption is based on the recognition that EU foreign policy has, since its establishment as “an informal intergovernmental ‘gentlemen’s agreement’” (Smith 2004: 11) in the 1970s, evolved into a system of formal obligations, characterized by a growing institutional apparatus with increasing responsibilities (Karolewski/Wilga 2014: 1). The EU has become an important and influential international actor and its external policies have lasting impact outside its realm and inside on EU member states and citizens (Keukeleire/Delreux 2013: 3). It is therefore necessary to link EU foreign policy and EU international treaty-making to the more general debate on the democratic legitimacy and parliamentary control of EU governance: due to its increasing impact, important questions about the democratic character of EU foreign policies arise. However, little is known about the role parliaments can and do play in this regard.

1.2. Introducing the Topic

In the following, the building blocks of the main research question shall be introduced more in-depth: how and why to parliamentary groups control EU international treaty-making? Hence, it is necessary to briefly elaborate on EU international treaty-making, parliamentary groups and the concept of control.

1.2.1. EU International Treaty-Making

The following sections will elaborate on EU international treaty-making and situate the legal instruments in the broader field of EU foreign policy. This is argued to be important due to the multi-faceted and multi-method character of EU foreign policy (Keukeleire/Delreux 2014: 11ff.), in which various sub-policy fields can be distinguished. The sub-chapter will start out by explaining

EU international agreements, place them in the context of the EU's multi-faceted foreign policy and conclude with an overview of the process of EU international treaty-making.

1.2.1.1. EU International Agreements

According to Article 216 of the Treaty of the Functioning of the European Union (TFEU), the EU can conclude international agreements between the Union and a third party, be it a non-EU state or an international organisation. Agreements require the consent of the latter. Once concluded, they “are binding upon the institutions of the Union and on its Member States” (Art. 216 TFEU). The term “international agreement” is to be interpreted in a broad manner, encompassing all forms of international contractual obligations entered into by the EU, be they in the form of a treaty, agreement, convention memorandum of understanding, or any other instrument, irrespective of its formal designation (Eeckhout 2011: 195).

It is well established and accepted by its member states that the EU has acquired the right to exercise a wide-ranging external relations competence on the basis of its express and implied powers. International agreements cover broad areas, such as trade, cooperation and development, or may deal with specific policy areas such as textiles, fisheries, customs, transport, science and technology. At the same time, the EU's treaty-making activities have a global reach, both within the United Nations (UN) and other multilateral organizations, and bilaterally, as the Union has concluded international agreements with its closest neighbours as well as with geographically remote countries.

1.2.1.2. Situating International Agreements in the Multi-Faceted European Foreign Policy

EU foreign policy is understood as “the area of European policies that is directed at the external environment with the objective of influencing that environment and the behaviour of other actors within it, in order to pursue interests, values and goals” (Keukeleire/Delreux 2014: 1). Based on this definition, the multi-faceted nature and “split personality” of foreign affairs soon becomes evident. “The Union – even after Lisbon – suffers from a ‘split personality’ when it comes to the constitutional regime for foreign affairs. It has a general competence for [CFSP and CSDP] within the Treaty of the European Union (TEU); and it enjoys various specific external powers within the TFEU” (Schuetze 2012: 189).

Common Foreign and Security Policy (CFSP) “provides the main platform for developing and implementing the political dimension of EU foreign policy” (Keukeleire/Delreux 2014: 12). It is the European mechanism for adopting

common principles and guidelines on political and security issues, such as the European Security Strategy, or the EU Counterterrorism Strategy. Furthermore, under CFSP, the EU can adopt Common Positions, which define a collectively agreed upon diplomatic approach to a particular region or country. Usually, these Common Positions address a problematic situation abroad and may entail restrictive measures. It also enables the EU to undertake joint actions such as election monitoring or providing financial or other support to an international organization's activities. Common Security and Defence Policy (CSDP) allocates the EU an operational capacity, covering defence and military aspects of EU foreign policy as well as civilian crisis management instruments (Art. 42 TEU). Hence, under the CFSP, the EU sends military and civilian missions and operations to crisis areas abroad, such as EUAM Ukraine and EULEX Kosovo. The EU's external actions are provided for in Part V of the TFEU, which includes trade, association and cooperation agreements, development cooperation, sanctions and humanitarian aid. Last but not least, some of the internal policies of the EU – environment, migration, energy, to name a few – have an external dimension with certain foreign policy relevance.

Whilst CFSP and CSDP can be referred to EU foreign policy *sensu stricto*, foreign policy *sensu lato* includes the EU's external action and the external dimension of internal policies. The relationship between foreign policy *sensu stricto* and *sensu lato* is complex and, in some ways, they are “living apart together” (Schuetze 2012: 191). On the one hand, the *General provisions on the Union's External Action* apply to both of them, meaning European foreign policy is generally guided by the same principles and objectives. On the other hand, Article 40 TEU draws a constitutional dividing line between them (ibid). Importantly, a direct consequence of EU foreign policy's multi-faceted nature is a multi-method character: the foreign policy dimensions are based on a distinct set of institutional arrangements, instruments and decision-making modes. CFSP/CSDP is organized on the basis of the intergovernmental method of decision-making, meaning that decision-making power remains mainly in the hands of the member state governments. In contrast, decision-making in foreign policy *sensu lato* works to a large extent according to the Community method. This method functions on the principle of a common EU interest and is characterized by a strong role delegated to the European Commission, an empowering role for the Council of Ministers, a certain distance from the influence of elected representatives and an occasional, but defining, intrusion by the European Court of Justice (ECJ) (Wallace 2012: 79, but see Keukeleire/Delreux 2014: 15f., who define the Community method as built on an institutional equilibrium between the Commission, the Council, the EP and the ECJ). It follows that the answer to the question “How will the Union act, and which institutions need to cooperate for it to act” has to be “this depends

on which of the two [decision-making methods] applies” (Schuetze 2012: 189). The distribution of power, responsibilities of and interactions between the EU’s foreign policy actors thus depend on the specific sub-policy field, as different actor settings and procedures arguably do have an impact on the means and ways of how decisions are made. Researching any kind of decision-making in EU foreign policy, be it actor- or non-actor-centred, thus entails in a first step the selection and justification of a more specific sub-field or measure of EU foreign policy.

Despite a wide variety of studies on decision-making, actors’ behaviour and to some degree of parliamentary involvement in foreign policy *sensu stricto*, focus on the EU’s external action and the external dimensions of its internal policies has been limited. Therefore, this thesis will depart from previous research on parliaments in EU foreign policy and focus on parliamentary involvement in EU external action characterized by the Community method. More precisely, within this policy field, this thesis will analyse parliamentary involvement in the negotiations of EU international agreements. These need to be distinguished from unilateral acts, which are single-handedly adopted by the European Union but directed at a third party. Unilateral acts can range from the granting of development aid to economic sanctions against a foreign country or entity. Adopting such acts in EU external action mostly follows the ordinary legislative procedure.

1.2.1.3. So what is EU International Treaty-Making?

When talking about negotiations of EU international agreements, or EU international-treaty-making, this thesis refers to the process whereby the representatives of contracting parties discuss and eventually agree upon the content of an international agreement subject to its later signature and conclusion. From an EU perspective, the relevant provisions for the negotiation of international agreements are contained in Articles 207, 218 TFEU. The latter article sets out the ‘ordinary’ international treaty-making procedure, whilst Article 207 TFEU deals with agreements in the area of common commercial policy. In a nutshell, the Lisbon Treaty foresees that the Council, on a proposal by the Commission or the High Representative (HR), authorizes the opening of negotiations and nominates the Union’s negotiator. After the negotiator, potentially supported by a negotiating directive and a special committee, has finalized the negotiations with the third party to an end, the Council, on a proposal by the negotiator, authorizes the signature and, if necessary, the provisional application of the agreement. The conclusion of the agreement by the Council equals ratification on the domestic level. In most instances, the European Parliament has to give its consent to the Council’s conclusion. In contrast to the ordinary legislative procedure, actors’ competences and interactions are

shifted slightly, with a more predominant role of the European Commission as the default main negotiator on the international level.

1.2.2. Parliamentary Groups

A parliamentary group is an “organised group of persons of a representative body who were elected either under the same party label or under the label of different parties that do not compete against each other in elections” (Keman 2000: xiii). Parliamentary groups are the partisan organization units within a parliament, consisting of elected representatives who voluntarily joined in order to enforce political interests and goals. Parliamentary groups commonly enjoy a special status in parliament, as they receive institutional benefits such as access to funding and additional parliamentary rights. Nowadays, the decisive role of parliamentary groups in representative democracies is well accepted, as they constitute the linkage between citizens, parties and parliaments, and are seen as necessary instruments of parliamentary business (Heidar/Koole 2000: 1). Importantly, parliamentary group are to a certain extent independent from their wider party organisation, whereby the precise nature of the relationship between group and party differs between countries. Similarly, the exact way parliamentary groups are set up and function varies, depending, *inter alia*, on a state’s provisions for the formal status of parties, the rights of parliament and Members of Parliament (MPs) and the state’s electoral system (Keman 2000: xiv).

In the EU, every national parliament consists of parliamentary groups, which vary in terms of organization and in number. Since the parliamentary elections in September 2016, the unicameral Croatian Parliament, the Sabor, has 15 parliaments in total; in the unicameral Maltese Parliament, the *Parlament ta’ Malta*, MPs are organized in three groups; and the Senat, the upper house of the Polish Parliament, consists of only two parliamentary groups. The European Parliament, too, is organized in groups; however, these are termed political groups. Somewhat of a *sui generis* nature, MEPs are not organised by nationality, but by political affiliation to one of the transnationally operating Europarties. In order to form a political group, at least 25 MEPs representing more than one quarter of the member states need to come together. Currently, there are eight political groups in the European Parliament.

Hence, European parliamentary democracies today are largely based on party government (Blondel/Cotta 2001: 1). This means that parties are the main strategic actors in parliaments, and parliaments cannot necessarily be perceived as affecting public policy in a unitary way. It is thus necessary to abandon the traditional dualism of government and parliament as two independent, opposing institutions. With regard to domestic politics, it is well-accepted that the bounded understanding of the two institutions as counterparts

is mere fiction and highly misleading. It “forces the study of relations between ministers and MPs into the straightjacket of a two-body image, thereby failing to do justice to the rich variety of interactions within the parliamentary/governmental complex” (Andeweg/Nijzink 1995: 152). Instead, the dominant mode of relations between MPs and the government is the inter-party mode, according to which the main lines of contestation do not run between the members of parliament and the government, but along party lines. “The image evoked by the inter-party mode is not one of two bodies engaged in constitutional checks and balances, but of the parliamentary/governmental complex an arena in which the ideological struggle between political parties is fought out” (ibid.: 153). Treating parliaments as unitary actors is likely to be insufficient and incapable of delivering a complete picture of parliamentary behaviour. Research on parliamentary control should therefore emphasize the decisive role of parliamentary groups in modern democracies.

1.2.3. Parliamentary Control

In modern democracies, parliaments are accorded a number of important tasks and functions. Both classic (Mill 1861; Bahegot 1867) and contemporary (Pakenham 1970; Norton 1993; Patzelt 2003) catalogues distinguish, implicitly or explicitly, between citizen-related functions (representation, interest articulation and communication) and government-related functions ((s)election of the government, legislation, and control of the government). In the context of EU decision-making, not all functions are easily transferrable. This is especially true for the (s)election of the executive and parliaments’ legislative function. Therefore, scholars have argued that the function of controlling the government is of increased importance in EU decision-making: (s)election and direct law-making have been replaced by indirect control of EU decision-making and of the national executive acting on the EU level (Auel et al. 2015: 284). In order to compensate for the loss of power in the parliamentary functions of (s)election and legislation, parliaments have developed and fostered provisions and mechanisms to oversee and to hold the executive accountable in EU affairs. Eventually, they thereby strive to exhibit indirect policy-influence to maximize policy congruence of EU decision-making with national constituency interests.

The dissertation will rely on principal-agent theory to conceptualize parliamentary control. The argument is that parliaments as collective principals have delegated the power for EU international treaty-making to the European level and the Union negotiator as ultimate agent, and now need to employ various means of control to prevent agency loss. The thesis defines parliamentary control as *those mechanisms that a parliamentary group activates to monitor and influence EU international treaty-making in order to reduce the risk*

of agency loss. This definition places greater emphasis on the nature and the purpose of control than on pointing out concrete, empirical control mechanisms. In empirical terms, the standard control instruments in Western parliaments include debates with government representatives in the plenary and the committee, various forms of oral and written questions to ministers, minor and major interpellations and votes of no confidence. As a response to their impeded access to EU affairs, parliaments in the EU have implemented various reforms to improve control of the executive, such as the establishment of European Affairs Committees (EACs), the formalized involvement of (other) standing committees or new sources and procedures of information gathering (Damgaard/Jensen 2005: 397). Moreover, parliaments can make use of informal instruments of control, which lack a legal basis, such as informal contacts with the executive, such as personal conversations and meetings, and informal cooperation with actors outside the legislative-executive realm.

In EU international treaty-making, the Lisbon Treaty has upgraded the role of the EP in EU international treaty-making considerably, and the formal involvement of the EP is now fully anchored in the EU's primary law. According to this, the Parliament has several formal mechanisms of oversight available at each negotiation stage aimed at providing it with information and influencing the Union negotiator, such as special information rights and giving consent to nearly every international agreement that the EU has concluded. Moreover, the EP can rely on its more general control right as stipulated in the Parliament's Rules of Procedure. Examples of such control instruments are meetings and hearings with the Union negotiator, the adoption of parliamentary resolutions and the posing of questions to the Commission.

In comparison, the oversight relationship between national parliaments and EU level institutions is more difficult, as national parliaments largely lack direct access and treaty-based control rights over the Union negotiator. They are to a large extent only able to scrutinize the Union negotiator indirectly by overseeing the national representative in the Council. This means that a member state's constitutional organization and practice determine the national parliament's formal control mechanisms. These hardly specify control instruments to EU international treaty-making. Thus, national parliaments mainly rely on regular and EU-specific means of parliamentary control as well as general domestic control rights. Also here, parliamentary control covers a wide range of parliamentary activities, ranging from parliamentary questions and interpellations to hearings with representatives of the national government to scrutinizing incoming EU documents in committee or mandating the government before the government could act on the European level.

However, beyond formal control rights, the European Parliament and national parliaments can make use of informal mechanisms of parliamentary

control to monitor and influence a negotiation process, for instance interacting informally with executives, civil society organisations and other parliaments.

Lastly, whilst this dissertation uses the term “parliamentary control”, it actually means “control by parliamentary groups”, as these are the unit of analysis. Generally, it is assumed that control does not to be exercised by a parliament as a unitary actor, but rather that groups have incentives to and do control EU international treaty-making individually, independent of the other parliamentary groups. However, some formal control mechanisms might be subject to varying activation threshold and may therefore only be at the disposal of parliamentary majorities.

1.3. Relevance

The following paragraph will substantiate the relevance of this research project both on normative and practical grounds. First, it will elaborate why it is important to analyse parliamentary involvement in European foreign policy in general and why it is important to analyse the negotiations of international agreements. In a third, compound step, the next paragraphs will then lay out why it is important to analyse parliamentary scrutiny of and involvement in EU international treaty-making.

1.3.1. Exemption of Parliaments from Research on European Foreign Policy

Parliaments have been recognized as the key institutions for providing democratic legitimacy of policy-making in modern democracies, as the democratic principle is understood as “the procedural right citizens enjoy as equals to exercise public control over those who make collective decisions binding upon them” (Lord 2011b: 138). However, there is a long tradition of exempting a particular field of political action from parliamentary control: foreign and security policy (Bieber 1990: 151). Policy-making in this field is measured against lower standards of democratic legitimacy and is often considered as the privilege and responsibility of only the executive. Thus, from an institutional angle, conventional wisdom holds that parliaments do not and should not, or only marginally, influence foreign policy decision-making (Kesgin/Kaarbo 2010: 20).

Shifting the perspective to the EU, European foreign policy-making is “situated at the nexus of two fields that have generally been perceived as problematic for parliamentary scrutiny: foreign and security policy, and EU integration” (Huff 2013: 1). Thus, when reviewing previous studies and analyses of European foreign policy, one can identify several major strands of research;

yet, scholarly attention to the role of parliaments in European foreign policy making and legislative-executive relations in this realm has so far been limited. From a conceptual perspective, EU foreign policy has mainly been viewed through the lenses of state-centred neo-realist and intergovernmentalist approaches, underlining the need to understand the fundamental interests of states as unitary actors in foreign policy (Karolewski/Wilga 2014: 9). Research on different actor groups in European foreign policy has so far been dominated by a focus on executive decision-making actors such as member state governments and the Commission in formal inter-governmental settings. The question of parliaments and parliamentary scrutiny has only been marginally featured, and approaches and overviews of European foreign policy have not looked intensively into the role of legislatures in policy-making (Raube 2014: 126).

However, it can be argued that it has become increasingly necessary to recalibrate this focus on executive actors and to take into account the role of parliaments in the making of EU foreign policy. Both normative and practical reasons for that will be brought forward in the following.

1.3.2. The Normative Debate about the Role of Parliaments in European Foreign Policy

The normative debate about the role of parliaments in European foreign policy is closely linked to the overall debate about the democratic legitimacy of the EU's political system, which emerged during the 1990s. Based on the "democratic ideal that those affected by a decision must have an equal chance to influence it" (Peters et al. 2010: 4), parliaments, especially on the national level, have been recognized as an important source of democratic legitimacy in the EU. "National parliaments [...] have increasingly come to be seen as a possible institutional solution to the problem of consolidating and even enhancing the democratic credentials and legitimacy of the EU" (Daukšienė/Matijošaitytė 2012: 33). This has led to calls for their increased involvement in EU decision-making among political scientists and politicians. Within this general debate, the issue of parliamentary actors' involvement in foreign policy was left out of the discussion for quite some time. This initial silence on parliamentary control of European foreign policy is not surprising for three interconnected reasons.

First, as pointed out above, the domain of foreign policy is traditionally seen as belonging to the executive. This conventional wisdom has also been applied to EU foreign policy, as parliamentary involvement could hamper the effectiveness and coherence of the policy (Barbé 2004: 54). Second, it is argued that foreign policy is significantly different from other EU policy fields. "Due to the 'special nature' of foreign policy, it has not been subjected to the

same democratic procedures as [other] politics” (Rosen 2014: 1). This is reinforced by the fact that other EU policy areas are linked with the single market, and as such very much about law-making. The argument here is that foreign policy “is first and foremost about [...] political positioning and setting strategic goals. [...]. In this respect, there is no need to grant [parliaments] a specific role in foreign policy” (Hecke/Wolfs 2015: 292). Finally, opponents of strong parliamentary scrutiny of EU foreign policy argue that the policy area has kept the supranational institutions at distance and remained firmly intergovernmental. Thus, the institutional features fuelling the democratic deficit debate in other policy areas are missing and there simply is no democratic deficit in EU foreign politics, as there is nothing to be legitimized at the European level (Sjursen 2011: 1078).

However, around the turn of the century, a number of authors started to question the democratic legitimacy of EU foreign policy. First, the necessity of measuring policy-making in this field against lower standards of democratic legitimacy has become increasingly disputed. Considering that the EU pursues the declared goal of promoting democracy through its external relations, this raises expectations as to the standard of democratic control of its own policies, including its foreign policy (Peters et al. 2010: 5). Furthermore, “the democratic principle states that everyone should have a say in the making of decisions that have a direct effect on their actions. Foreign and security policy is in this sense not practically different from other policy areas” (Stie 2010: 3). Democratic legitimacy is thus desirable in EU foreign policy matters as these affect the governed, maybe even more so than other policies, e.g. through expenditure of scarce resources outside the polity and deployment of troops in war zones (Peters et al. 2010: 4). Moreover, it reallocates values within the EU – and as such the public’s judgments of the normative standards of their own political system (Lord 2011b: 132). The demand becomes increasingly pressing as the transfer of policy-making competences, processes of Brusselization and the subsequent inaccessibility to decision-making for other actors make it uncertain whether the far-reaching and impactful decisions taken in European foreign policy are actually in line with citizens’ interests (Sjursen 2011: 1072).

Second, the traditional argument that European foreign policy is fundamentally different from other EU policy areas is increasingly being questioned. In the European context, foreign policy is no longer only about political positioning and setting strategic goals. Rather, it can be argued to have a law-making effect (Eeckhout 2011: 193) and therefore not be fundamentally different from other, internal, EU policy areas. This is reinforced by the encompassing *sensu lato* understanding of EU foreign policy. Following from this, the conceptualization of EU foreign policy being purely intergovernmental

does not adequately represent the reality of policy-making in this field. European foreign policy stretches beyond CFSP/CSDP to the wider field of external relations, including other areas of EU competence in which policy-making is characterized by the Community or the supranational mode (Huff 2015: 397). “Hence, there is a certain ‘fuzziness’ about where responsibilities lie and the need democratic legitimacy beyond the nation-state” (Sjursen 2011: 1084). Furthermore, it has been argued that even in the core area of intergovernmental decision-making, in CFSP/CSDP, policy-making is actually carried out at multiple levels comprising intergovernmental and supranational elements (e.g. Lord 2011a; 2011b; Sjursen 2011), to which the processes of Brusselization have added.

Based on these arguments, recent works conclude that there are no principled reasons why EU foreign policy-making should not be subject to the same democratic control as other policy areas (Stie 2010: 2). Some scholars argue that in EU foreign policy, it is sufficient to provide “output legitimacy” through performance (Bickerton 2007: 33f.), but there is increasing consensus that democratic legitimacy requires “input legitimacy” and citizens’ participation in relevant matters (Wouters/Raube 2012: 150). Yet, parliaments are not the only channels through which democratic control may be exercised; so does this imply a need for parliamentary participation in European foreign policy? There are several arguments for why democratic control via parliaments as representative institutions is best suited.

The basic idea of representative democracy is “ultimately, that governments ‘of the people’ can be effectively controlled ‘by the people’ and thus be induced to act ‘for the people’” (Auel 2007: 496). Yet, the people have only a limited range of formal control mechanisms at their disposal and are mainly restricted to the act of voting. Informally, the general public and civil society can play a role e.g. by scandalizing decisions and demanding policy changes. Yet, these informal mechanisms cannot substitute for formal democratic control as they do not lead to binding political decisions. Moreover, since “parliamentary systems offer a procedural solution to the challenge of political equality” (Lord 2008: 38), only parliaments are able to guarantee the principle of political equality in the making and scrutiny of political decisions. Furthermore, they constitute a holistic institution in the sense that every issue parliaments consider can be considered in relation to all others. “This is important if representatives are to have the opportunity to influence and deliberate trade-offs of value across the range of public policy, and control the externalities and cumulative unintended consequences associated with individual actors” (ibid.: 39). Thus, EU foreign policy-making is indeed in need of democratic control, which most appropriately is met by some measure of parliamentary involvement.

Whilst the acknowledgment of the normative demand of parliamentary control of EU foreign policy itself can be considered an important development in the recent decade, it can also be argued to have prompted researchers to engage more with related empirical questions. It has become necessary to analyse actual parliamentary involvement, be it in order to identify the actual level of democratic legitimacy, to understand whether and how parliaments contribute to increasing democratic legitimacy, or to search for new ways and venues if democratic legitimacy is found lacking.

1.3.3. The Empirical and Legal Relevance of EU International Agreements

Research on international agreements and EU international treaty-making is of utmost importance if we want to understand EU foreign policy processes, outcome and impact. First, this is due to the practical relevance and empirical depth of the international treaty-making activities of the EU. The EU is “a party to hundreds of international agreements covering many areas of international law-making and establishing links with countries in all corners of the globe” (Eeckhout 2011: 3). These agreements often have a concrete impact on the life of individuals both in and outside the EU (Passos 2010: 269).

Second, from a legal point of view, the scope and depth of the responsibilities arising from the EU being part to international agreements are such that international-treaty-making can be argued to have become a central instrument of law-making. There are several obvious examples of EU activities, e.g. in development cooperation, environmental protection or international trade, where much legislative work effectively takes place by way of participating in international treaty-making (Eeckhout 2011: 193). Thus, on the one hand, simply due to its empirical as well as the legal relevance, analysing EU international treaty-making is a worthwhile endeavour. On the other hand, it also follows logically that the nature and scope of EU international agreements entail important questions about legitimacy and democratic accountability – if EU international treaty-making is quasi law-making with an extensive and concrete impact on the life of individuals, what about the democratic character of this sub-policy area of European foreign policy, and what about parliamentary control of it?

1.3.4. So what about Parliamentary Scrutiny of EU International Treaty-Making?

After the elaboration on the necessity to analyse parliamentary involvement in EU foreign policy and research EU international-treaty-making, these two strands of argumentation shall now be brought together. Indeed, traditional

division of labour in the making of international agreements – the executive negotiates and concludes an agreement, the parliament ratifies it – has become increasingly questioned. Both normative and practical reasons substantiate this assessment.

From a normative perspective, first, international agreements often raise a number of politically sensitive issues, which necessitate the making of political choices. These choices are contingent upon the preferences and interests of the negotiating partners and on the values that underpin current and negotiated policies. Since these values may differ between and within the negotiating partners, “the question of democratic decision making emerges as an important ingredient of the [agreement’s] legitimacy” (Jančić 2015: 4).

Second, in today’s world, the clear-cut distinction between foreign policy and domestic policy is increasingly challenged. Whilst foreign was meant to apply to policy toward the world outside states’ territorial borders, and domestic to policy made for the internal political system, “contemporary politics and globalization have blurred the line between what is foreign and what is domestic” (Kaarbo et al. 2012: 2). For the making of EU international agreements, this means that many international agreements can and do indeed have consequences for national policies and practices. “Parliaments must therefore step beyond the traditional Executive prerogative in international affairs, and subject governments to the same degree of oversight as in the domestic policy arena” (Beetham 2006: 157).

Third, “the scope and depth of the EU’s treaty-making practice are such that it has become a central instrument of law-making, often of a general normative or legislative character” (Eeckhout 2011: 193). Some scholars even argue that international agreements are the international equivalent to domestic law (Thym 2008: 201f.). Yet, the legislative function is traditionally seen as one of parliament’s most important roles. Based on these arguments, the question to be raised at this point is whether it is “not obvious that the institutions directly elected by the citizens should be associated, as closely as possible, with the [making] of international agreements?” (Passos 2010: 269f.). At the same time, it has to be stressed that EU international treaty-making is even more remote from EU citizens than the creation of “domestic” legislation due to the strong role of the Commission as the main negotiator on the international level and the few treaty-based participation rights of parliaments. Indeed, there is a vigorous debate on the normative dimension of the Commission as executive actor. Critics “emphasize the negative implications of delegation to the Commission, the low legitimacy of this supranational executive, and the virtues of a parliamentarisation of the Commission and the EU” (Tallberg 2009: 120).

The normative arguments brought forward above substantiate convincingly that parliaments ought to scrutinize not only “internal”, but also “external” EU decision-making. From a normative point of view, there is thus a clear need for parliamentary control of the EU’s international treaty-making. Recognizing this, what do we know about the actual parliamentary involvement in EU international treaty-making? How do they act, how do they scrutinize; are there differences between parliaments and how can these be explained? Only once these empirical questions are answered will researchers be able to return to the normative aspects of the topic, disputing whether parliaments actually contribute to increased legitimacy, and whether there are ways and venues to improve that.

On a more practical note, institutional changes in the last 15 years have made it pivotal to take national parliaments and the European Parliament more seriously into account when analysing EU international treaty-making. Most recently, the institutional changes introduced by the 2009 Treaty of Lisbon “cannot be read only as potential tools for improving the coherence and effectiveness of the EU in international relations, but also as an attempt to legitimize the policies by involving the [parliaments] more than before” (Raube 2014: 128). The Lisbon Treaty upgraded the role of the European Parliament in some areas of EU external action; and most importantly concerning the conclusion of international agreements by subjecting the majority of negotiated agreements to parliamentary consent in the ratification stage. A similar development can be seen regarding the involvement of national parliaments. The extent to which parliaments are actually involved depends thereby on national constitutional arrangements (*ibid.*: 127). Yet, as demonstrated by the anecdotal evidence above, national parliaments have proven willing to become actively involved in the negotiations of salient international agreements, indicating to make use of their power of ratification in case of the so-called mixed agreements. As agreements being concluded as mixed have become the norm rather than the exception, the potential empirical influence of national parliaments on EU international treaty-making must not be neglected.

These empirical developments have raised the potential involvement of parliaments in the actual making of EU foreign policy. With the steadily growing significance and impact of the EU as an international actor, it has become increasingly important to understand the governance processes and actor relations behind its foreign policy. This understanding can only be reached by identifying those actors that have the greatest influence over the policy decisions taken and assessing the factors that influence their decisions or policy stance. Hence, the developments outlined above have prompted researchers to take parliaments in the EU more thoroughly into account when explaining the input and outcome of EU foreign policy.

1.3.5. Conclusion: Why It Is Important to Analyse Parliamentary Involvement in EU International Treaty-Making

Summing up, parliamentary scrutiny of EU international treaty-making can be argued to be important for several reasons. First, the making of international treaties is an empirically and legally relevant sub-policy field of European Foreign Policy. Importantly, it follows different actor and decision-making dynamics than the extensively researched CFSP and CSDP. Second, the normative claim about the need for parliamentary involvement for reasons of democratic legitimacy can also be substantiated in the case of EU international treaties. Third, there is indeed increasing involvement of parliamentary actors in EU foreign policy.

From a researcher's point of view, these arguments can substantiate the need to analyse parliamentary involvement in EU international treaty-making in normative as well as empirical terms. As pointed out above, a general acknowledgment of the need to recalibrate the focus in actor-centred research on European Foreign Policy has developed in the recent decade, based on normative as well as practical arguments. On the one hand, assuming that parliaments can contribute to the needed democratic legitimacy of EU treaty-making, we have to ask "how, when and why". On the other hand, if parliaments are already – to some extent – involved, their actions and incentives need to be taken into consideration in order to explain both the input and the output in this important policy field.

1.4. Theoretical Approach and Main Argument

Normatively and practically substantiating the need to empirically analyse parliamentary involvement in EU international treaty-making does not tell us anything about the actual actors in European foreign policy-making, about their actions, their interactions and their choices. Hence, in order to engage with the overarching research questions of how and why parliamentary groups control EU international treaty-making in a theoretically informed manner, it is necessary to approach the topic from a more actor-centred point of view, enabling a theory-based analysis of parliamentary groups' actions in regard to international negotiations.

The dissertation relies on principal-agent theory and takes a two-step theoretical approach: first, it will substantiate that the institutional relationships in the setting of EU international treaty-making can be meaningfully perceived as chains of delegation running from the voters through parliamentary institutions to the Union negotiator on the international scene. In order to

carefully map principal-agent relationships within these chains, the dissertation will combine insights from principal agent applications to legislative-executive relationships in parliamentary democracies with an agency view on EU international negotiations. It will demonstrate that the ultimate agent is the institution that is charged with the task of negotiating an international agreement with a third, external party; hence, the Union negotiator. In a broad understanding of what constitutes a principal, parliaments can be conceptualized as collective principals to the Union negotiator. Parliamentary groups are the constitutive units of the collective principal that can act independently towards the agent. However, instead of simply adding a new link to the chain of delegation, the main domestic principal-agent relationships have become intertwined with the institutions of the European Union, making the chain more complex. As in any principal-agent relationship, parliaments are faced with the risk of agency loss in EU international treaty-making. In light of this, neither national parliaments nor the European Parliament are helpless. According to principal-agent theory, the principals have control mechanisms at their disposal to reduce the risk of agency loss. Building the conceptualization of parliamentary control on principal-agent theory allows a theoretically informed engagement with the question of “how parliamentary groups control EU international treaty-making”.

However, these descriptive elaborations provide only explain why parliaments and parliamentary groups are able to act the way they do, not why they act. A theory-driven analysis of actual parliamentary behaviour is necessary in order to answer the overarching research questions. In the second step of the theoretical framework, this dissertation will thus engage with the underlying rationale of agency control: the rationale of control is based on a cost-benefit analysis.

The main assumption of this dissertation is that parliamentary control of EU international treaty-making is party political. Parliamentary groups are rational actors that make strategic decisions about when, how, and how much to control EU international treaty making based on the costs and benefits that they expect from the involvement. Eventually, as in any cost-benefit analysis, the ideal oversight is a function of what maximizes the expected benefits for a parliamentary group. The dissertation thus assumes that control is a matter of degree, and that parliamentary groups differ in the *intensity of parliamentary control*.

More specifically, parliamentary groups are assumed to be driven by vote-seeking benefits, i.e., electoral incentives, and policy-seeking benefits, i.e., incentives to reduce the risk of policy slippage. At the same time, they are constrained by resource and efficiency costs. However, efficiency costs apply only to parliamentary groups that are supportive of the agreement at hand. The

weight of costs and benefits are affected by seven causal factors. On the one hand, vote-seeking benefits of parliamentary control are expected to be high when the public salience of an agreement is high. Policy-seeking benefits are high when a parliamentary group is an opposition party, when it is in opposition to the agreement under negotiation, and when its likelihood of impact is high. On the other hand, resource costs of parliamentary control are expected to be high when a parliamentary group has low resources on average. Efficiency costs are high when the issue under negotiation is complex and when the negotiation environment is compelling.

These elaborations are connected with two assumptions. First, the cost-benefit calculations are expected to vary from parliamentary group to parliamentary group, as the weight they accord to both benefit and costs varies between them. Parliamentary groups within the same parliament are very diverse in terms of their preferences, resources, functions in parliament and the constraints they face when fulfilling these functions. Approaching parliaments as “party-political institutions, [...] political parties and individual MPs have different motives and opportunities for influencing foreign policy” (Raunio/Wagner 2017: 7). It is therefore unlikely that all groups in a particular parliament follow exactly the same patterns in scrutinizing EU international treaty-making. Moreover, it is expected that the intensity of parliamentary control of EU international negotiations that maximizes the benefits for an individual parliamentary group is not constant in every decision-making process. Rather, there are certain factors external and internal to a single principal-agent relationship that affect these calculations from decision-making process to decision-making process. Therefore, variation in the intensity of control can be expected between parliamentary groups and between negotiation processes.

1.5. Empirical Approach

The dissertation aims to develop a comprehensive explanation for how and why parliamentary groups control EU international treaty-making based on principal-agent theory. It tests this theoretical framework with regard to its ability to explain certain outcomes of parliamentary control and aims to inquire further into the assumed causal mechanisms. The dissertation adopts a deductive research design based on qualitative case studies. The theoretical framework argues that causal processes play out on the parliamentary group * international agreement level. This means that it does not suffice to study control of one parliamentary group in one parliament regarding EU international agreements in general; or to analyse how one international agreement is controlled by the multi-level parliamentary field without a distinction between the various parliamentary institutions, as this would not do justice to

the fine-grained causal framework. The dissertation thus involves case selection on two levels: EU international agreements and parliaments. Parliaments have been approached in a holistic manner in the sense that all parliamentary groups in selected parliaments are studied. Cases were chosen according to the most similar systems design, and nine were selected for further scrutiny: on the parliament-level the European Parliament, the Danish Folketing and the Bundestag; on the international agreement-level, the Economic Partnership Agreement between the European Union and Japan (the EU-Japan Free Trade Agreement/FTA), the Agreement between the European Union and the Republic of Tunisia on readmission (the EU-Tunisia Readmission Agreement), and the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (the Montreal Protocol).

Table 1: Overview of Selected Cases

	European Parliament	Bundestag	Folketing
EU-Japan Free Trade Agreement	EP-JEFTA	BT-JEFTA	FT-JEFTA
EU-Tunisia Readmission Agreement	EP-Readmission	BT-Readmission	FT-Readmission
Kigali Amendment	EP-Kigali	BT-Kigali	FT-Kigali

Data collection is based on a mixed-methods approach, with some quantitative data available from primary and secondary sources. This data will, however, only be analysed as descriptive statistics. Beyond that, most of the data is qualitative. To allow for sufficient triangulation of the data and be able to cross-check different sources of information for inconsistencies and contradictions, the dissertation relies on both primary and secondary data from various sources. Primary data consists of official documents derived from keyword searches in parliamentary databases, and interview data gathered from 30 expert interviews. The keyword search in parliamentary databases was based on parliament- and agreement-specific dictionaries, which made it possible to systematically select parliamentary documents that refer to the agreement under investigation. Essential documents are those giving insight into the parliamentary actors' control activities, but also, if applicable, some information on incentives and constraints of control. These parliamentary documents were minutes of committee and plenary meetings; interpellations and questions, resolutions, other committee documents, press releases and summaries of government meetings and positions. The exact nature of the parliamentary documents depended on the parliamentary chamber. The interview data was gathered via semi-structured expert interviews with parliamentarians, parliamentary assistants and civil servants in the European Parliament,

the Bundestag and the Folketing between June 2016 and October 2017. Additionally, the dissertation relies on data from secondary sources, such as newspaper articles, NGO reports, press releases and previous research on the topic.

The information obtained from the interviews and primary sources was analysed in a two-step process. In a first step, the dissertation carried out comparative congruence analyses covering all parliamentary groups in the three parliaments. These studies served as a first plausibility probe of the theoretical model, investigating whether it indeed has empirical relevance for explaining the intensity of parliamentary control. The dissertation predicted the intensity of parliamentary control for each parliamentary group in a specific EU international negotiation process on the basis of the group's particular combination of the values of all causal factors of the theoretical model. Next, it descriptively identified how parliamentary groups had actually controlled the process. These presentations concluded by determining the intensity of parliamentary control of every parliamentary group. Finally, this made it possible to compare the observed value of the intensity of control with that predicted by the theory. Congruence of prediction and outcome provided support for the validity of the theoretical framework, meaning that it indeed has empirical relevance. This also means that on the basis of these plausibility probes, causal inference were drawn on the level of the theoretical framework; not of individual causal factors.

As congruence analyses generally do not investigate the causal mechanism that is assumed to be at play in detail, establishing the causal significance of the observed congruence is somewhat difficult due to problems of spuriousness, causal priority and causal depth. Therefore, in a second analytical step, the dissertation conducted process-tracing analyses of selected parliamentary groups in every parliament/concerning every international agreement under investigation. These analyses also shed light on instances of non-congruence. Process tracing “attempts to identify the intervening causal process – the causal chain and causal mechanism – between an independent variable (or variables) and the outcome of a dependent variable” (George/Bennett 2005: 206f.) and opens up the black box of causality. This allowed the dissertation to zoom in on the components of the theoretical model and investigate the causal mechanism linking the causal factors to the outcome. On the basis of the findings of the process-tracing studies, it was possible to draw conclusions about individual causal factors, meaning whether they affected the intensity of parliamentary control as assumed. This made it possible to further test the validity of the causal framework but also to revisit and adapt the theoretical model, as set out by the cautiously modifying research aim of the dissertation.

1.6. Findings

The dissertation provides three main findings. First, it demonstrates an increasing amount of parliamentary activity in parliaments during, not only after, EU international negotiations. This applies to both the European Parliament and national parliaments, and, importantly, to different policy-making areas, such as trade negotiations, international agreements in Justice and Home Affairs and environmental negotiations. Parliaments are anything but indifferent and irrelevant in EU international treaty-making but have forged a role for themselves that was unforeseen in the Lisbon Treaty. We can observe an increasing parliamentarization of EU international treaty-making, as parliaments gradually increase their institutional resources, activities and influence on EU international negotiations.

Second, the dissertation shows that parliaments do not act as unitary actors when controlling EU international negotiations, but that partisan, party ideological, dynamics play a much more crucial role in parliamentary control in foreign policy than has been shown in previous work. In all investigated parliaments, the chamber is not a unitary actor, but parliamentary groups use different strategies to exert control over a negotiation process, driven by party political motivations. This finding contributes to the growing consensus in the literature on parliamentary control of EU affairs that the consideration of individual party behaviour is crucial to understand parliamentary involvement in EU affair and demonstrates that this also applies to EU foreign policy. EU international treaty-making does not stop at the water's edge, but political parties differ in regard to motivation, content and strategies of control. This means if we want to understand how and why the European Parliament and national parliaments are involved in EU international negotiations, it is essential to focus on the incentives and activities of parliamentary groups.

Lastly, the empirical analyses result in a modified theoretical framework explaining the intensity of parliamentary control a parliamentary group displays in regard to a particular EU international treaty-making process. The empirical findings largely strengthen the confidence in the validity of the developed theoretical framework; but the empirical reality is also shown to be more complex than assumed by the theoretical model. This does not question the validity of the entire theoretical framework, but made it necessary to revisit and adapt the theoretical framework. The dissertation shows that parliamentary groups are rational actors that make strategic decisions about when, how, and how much to control EU international treaty making based on expected costs and benefits of involvement. They are driven by vote-seeking and policy-seeking benefits, but constrained by resource and efficiency costs. In light of the costs and benefits of parliamentary control, this dissertation

demonstrates that groups control EU international negotiations with high intensity when the topic is highly salient and opposed by the public, when the negotiation environment lacks compellingness and when a group perceives to have a chance of influencing the negotiations. Moreover, groups are driven by their opposition to an agreement as well as their institutional status, whereas scarce parliamentary resources constitute a considerable constraint for parliamentary control. This comprehensive argument can explain the intensity of control of each parliamentary group on a specific international agreement.

1.7. Contributions

This dissertation makes a number of contributions to the parliamentarization literature, to the study of parliaments in European Foreign Policy and to principal-agent theory.

On an empirical level, the dissertation is an important contribution to the nascent literature on the role of parliaments in EU foreign policy, as it for the first time systematically demonstrates the growing role and attention of parliamentarians in the multilevel parliamentary field over various policy-fields. The current body of literature on EU international treaty-making is still largely dominated by a focus on executive actors. Parliaments are, if at all, studied by their formal and informal powers, not their actions. Against this background, the dissertation provides a systematic picture of parliamentary behaviour in several EU international treaty-making processes. It thus supports to the behavioural turn of research on parliaments in EU foreign policy and demonstrates the increasing importance and involvement of parliaments beyond landmark cases. Moreover, this study is the first systematic study centring the empirical analysis on parliamentary groups in EU international treaty-making, and not on parliaments as unitary actors. By doing so, it addresses an important gap in the literature, namely the lack of studies that have an explicit focus on the role of parliamentary groups in EU foreign policy. By demonstrating the relevance of parliamentary groups regarding parliamentary control of EU international treaty-making, the dissertation contributes to the literature on parliaments in EU affairs by taking findings from the national level to EU foreign policy and points out that also here, the role of party political dynamics must not be underestimated.

Beyond this, this dissertation contributes with a comprehensive explanation for parliamentary activity in EU international treaty-making that focuses on the rationale of parliamentary groups and is applicable to EU international agreements in various policy-fields. The modified comprehensive framework can explain the intensity of control of each parliamentary group on a specific international agreement. Whereas previous studies have tentatively set out to

explain parliamentary control, this study is the first systematic, theory-guided research endeavour to do so and thus constitutes an important contribution to understanding the input and outcome of EU international treaty-making. It provides a so far largely lacking systematic explanation for the actual behaviour of parliaments and parliamentary groups in EU international treaty-making, thus contributing to the behavioural turn of studies on parliaments in EU international treaty-making. Moreover, as the explanation is applicable beyond landmark cases of EU international treaty-making, it also improves our understanding of the why of parliamentary control in EU international agreements other than the much-studied TTIP and CETA negotiations.

From a theoretical perspective, the dissertation makes a number of contributions. By developing a theoretical model based on principal-agent theory, this dissertation addresses the lack of an explicit theory-based approach to studying parliamentary control in EU international treaty-making. More specifically, the theoretical discussions prepared the ground for being able to use principal-agent theory to investigate the how and why of parliamentary control in EU international treaty-making, both in this, but also in further studies. They improve our understanding how agency theory can be applied to the complex and intertwined empirical settings. Hereby, the dissertation, secondly, demonstrates that the standard model of principal-agent theory, and of under which conditions a principal triggers control, is too simplistic to be applicable to EU international treaty-making. As such, the dissertation also improves our understanding of the usefulness and the limitations of explaining control in empirical principal-agent relationships, and of how agency theory can be adapted to investigate relationships in complex chains of delegation. The dissertation does not confirm or contradict any of the basic assumptions of principal-agent theory, but this was not the goal of this study. Principal-agent theory was, first and foremost, used as a heuristic tool to study the main research interests of this dissertation in a theoretically-informed manner, namely how and why parliamentary groups control EU international treaty-making.

Lastly, this dissertation can also be argued, cautiously, to have a more practical contribution to the dynamics of EU international treaty-making. Understanding the incentives for different parliamentary groups to engage in foreign policy scrutiny serves a practical reason as the findings might be fed back into the policy-making process in this field and improve parliamentary involvement in it. This, in turn, is related to the quest for democratic legitimacy of EU affairs in general and of EU foreign policy more specifically, but also to the increasing politicisation of EU international treaty-making that has been observable in recent years.

1.8. Structure of the Dissertation

Chapter 2 elaborates on the process of EU international treaty-making from a primarily legal but also a practical perspective in order to provide the reader with an understanding of the decision-making procedures and inter-institutional relationships within which parliamentary actions are embedded. Chapter 3 provides an overview of the academic literature to which this dissertation belongs: the role of national parliaments in EU affairs, and in EU foreign policy more specifically; the role of the European Parliament in EU international treaty-making and principal-agent applications to EU international treaty-making. It focuses on demonstrating current trends and shortcomings of the contemporary literature and on exploring the research gap that this dissertation intends to fill. Chapter 4 introduces the theoretical framework and develops principal-agent theory in such a way that it can be used to answer the over-arching research questions in a theoretically informed way. Chapter 5 presents the research design and substantiates the empirical approach of the dissertation in terms of case selection, data collection and data analysis. Chapter 6 introduces the three international agreements selected for in-depth investigation: the EU-Japan Free Trade Agreement/FTA, the EU-Tunisia Readmission Agreement and the Montreal Protocol. Importantly, it elaborates on the agreement-specific causal factors identified in the theoretical framework to have an effect on the intensity of parliamentary control. Chapters 7, 8 and 9 carry out the empirical analyses, investigating the how and why of parliamentary control of the selected international agreements in the European Parliament, the Danish Folketing and the German Bundestag. These chapters follow a similar set-up. They first introduce the parliamentary chamber under investigation, then elaborate on the parliamentary control rights and practices in EU international treaty-making and on the parliament/parliamentary group-specific causal factors identified by the theoretical framework. After that, the chapters analyse parliamentary control of the international agreements one by one in a comparative congruence analysis followed by process-tracing studies. Finally, chapter 10 summarizes and discusses the findings of these studies in light of the relevant literature. Chapter 11 is the concluding chapter of the dissertation, elaborating in-depth on the main findings and contributions of this studies as well as pointing to venues and topics for future research.

2. The Law and Practices of the EU concerning the Process of International Treaty-Making

This chapter describes the legal framework of EU decision-making in negotiations of international agreements and how it functions in practice. This is necessary for two reasons. First, actors in European decision-making in general and European international treaty-making more specifically are constrained by EU law. As Delreux (2011) put it, “decision-making processes in the EU do not occur in a legal vacuum, as primary law in the Treaties and various rulings by the [EJC] constitute the rules of the game, which determine the borders of political decision-making process” (Delreux 2011: 13). Second, a common critique applications of principal-agent theory to the European context is that these applications do not sufficiently consider the legal context in which principal-agent relationships are placed and the actors act (Maher/Billiet/Hodson: 412). To accommodate this criticism and understand the actions of and relationships between the actors involved in EU international treaty-making and its boundaries, it is pivotal to have knowledge of the legal framework governing the process. The legal framework cannot be all encompassing. Rather, the legal boundaries for the making of EU international agreements leave room for political interpretation. “This creates room for political flexibility, which largely determines the decision-making process and the relation between the various actors engaging in this process” (Delreux 2011: 13). Hence, when describing the legal framework in which a particular decision-making process is set, it is also important to describe how the political actors use it in practice.

2.1. Requirements of International Treaty-Making: Legal Personality and Competence

Like other international entities, EU has to fulfil two conditions to be able to enter into international contractual relationships by acting in negotiations and subsequently becoming a party to international agreement: possessing legal personality and competences to make binding commitments. These two conditions relate to “the capacity to act with legal effects in the international system” (Delreux 2006: 233). Importantly, the EU is a supranational organization, not a state. States’ participation in international agreements is not contested, as states are the primary subjects of international law. However, the EU’s actorness has been questioned since the creation of its external politics.

Some authors see the EU as an “actor” (Sjöstedt 1977), or as a “presence” (Allen/Smith 1990); others argue that it is “no autonomous actor” but rather “no more than the sum of what the Member States severally decide” (Hill 1993: 309). However, it is by now well established that the EU has both legal personality and competences that allow it to enter international negotiations and conclude legally binding international agreements.

2.1.1. Legal Personality

Legal personality refers to an entity’s capacity to exercise rights in international legal transactions and to enter obligations over the entire field of its objectives (De Baere 2014: 711). Originally, international public law was conceived as a purely rule-generating system composed of nation states, each with its own sphere of supremacy and jurisdiction. Modern conceptions of international law allow for a more varied approach to the existence and role international actors, meaning that the EU as a supranational organization can also be subject of international public law. Thereby, it is relevant that the Union possesses legal personality. This issue had been a matter of debate for some time, but was settled when the Treaty of Lisbon came into force in 2009. Article 47 TEU explicitly confirms the EU’s legal personality: “The Union shall have legal personality”. This express provision of legal personality removes any lingering doubt about the issue. Thus, although not a state, the EU is a subject of international public law and may act in international fora. It may conclude international agreements and is legally responsible according to international law. However, legal personality is only attributed within the limits of the competences conferred to the Union by the Treaties (Bono 2011: 14). This leads to the second condition: having the necessary competence to enter international contractual relationships.

2.1.2. Competences

According to Article 5 (1; 2) TEU, “the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties” as “the limits of Union competences are governed by the principle of conferral”. This means that the EU may only act in certain areas in which it has been conferred competences by the member states. The EU does not have general law-making capacity, and every single Union action requires a legal basis in the Treaties. This implies that the EU is incapable of extending its own competences unilaterally, as the member states confer them. The principle of conferral also applies to EU external action (Betz 2008: 2f.).

It is important to note that whilst the legal personality of the Union provides the capacity to enter obligations on the international scene, it does not constitute an independent legal basis for the conclusion of international

agreements. Article 216 (1) TFEU holds that “the Union may conclude an agreement with one or more third countries or international organisations”. As such, Article 216 (1) TFEU is the residual competence for concluding international agreements, cutting horizontally across all Union policies (Schuetze 2012: 194).

In addition to residual competence, the Union needs the substantial competence to act in a policy field in general, meaning it can only conclude international agreements if it is substantially authorized by the Treaties to take action in a specific policy field (Delreux 2006: 237f.). Article 216 (1) TFEU grants the EU treaty-making powers in two instances: “a) where the Treaties so provides or b) where the conclusion of an agreement is necessary in order to achieve, within the framework of the Union’s policies, one of the objectives referred to in the Treaties, or is provided for in a legally binding act of the Union or is likely to affect common rules or alter their scope”. The first instance refers to Union competences to act externally which have been explicitly provided for by the Treaties. Basically, this category states that if the Treaties provide for the possibility to conclude an international agreement, such an agreement is indeed possible. The second instance has to be read as a codification of the ECJ’s case law on implied external competences (De Baere 2014: 711f.).

In addition to being classified as express or implied, EU external competences are classified as exclusive or shared. Competences in some policy areas have been conferred exclusively, hence in their entirety by the member states to the Union. Article 2 (1) TFEU holds that in policy areas of exclusive competence, the EU alone is allowed to take action, whereas member states are prohibited from doing so. For external competences, exclusivity means that member states “no longer have the right, acting individually or even collectively, to undertake obligations with third countries” ([1971] ECR 263: para. 17). However, most competences are shared by the Union and the member states (Conference of Parliamentary Committees for Union Affairs (COSAC) 2008: 38). Shared competences are laid down in Article 2 (2) TFEU, and can be exercised by the member states to the extent that the Union has not exercised, or has decided to cease exercising, its competence. The distinction between exclusive and shared external competences is particularly relevant in EU external relations, as it affects the way the EU conducts negotiations of international agreements. In a nutshell, the nature of the competence an international agreement is based on determines the nature of an international agreement as exclusive or mixed. This distinction will be elaborated upon below.

2.2. EU International Treaty-Making

International public law is, in principle, flexible as to the formal and procedural requirements of negotiating and concluding international agreements. The manner and form thereof are governed by the intention of the parties and their internal decision-making rules (MacLeod et al. 1996: 77). However, it is possible to identify several stages that are common to the process of negotiating and concluding most international agreements: the opening of negotiations, the actual negotiations, initialling, signature and domestic ratification. Based on these stages, the procedural legal basis of European international treaty-making will be described chronologically in the following: the stages before, during and after international negotiations. Before taking on this task, important definitions need to be elaborated on.

2.2.1. Definitions and Overview

According to Article 216 TFEU, the EU can conclude international agreements. Once concluded, these agreements “are binding upon the institutions of the Union and on its Member States” (Art. 216 TFEU). The Treaties consistently refer to but do not define “international agreements”. The European Court of Justice has repeatedly interpreted the term broadly, encompassing all forms of international contractual obligations entered into by the EU, be they in the form of a treaty, agreement, convention memorandum of understanding, or any other instrument, irrespective of its formal designation (Eeckhout 2011: 195). Hence, in deciding whether a particular instrument is an “agreement” for the purposes of the application of EU law and procedures, the intentions of the involved parties need to be determined. “If it is to create a relationship governed by, and binding in, international law, the instrument should be regarded as an ‘agreement’” (MacLeod et al. 1996: 76).

Negotiation refers to “the process whereby the representatives of contracting parties discuss and eventually agree upon the content of an international agreement subject to its later signature and conclusion” (Gatti/Manzini 2012: 1704).

Finally, the term conclusion can, in principle, have two different meanings. According to the Vienna Conventions on the Law of Treaties, it refers to the entire process of treaty-making, encompassing, e.g. the phases of negotiation, initialling and signature. Conclusion can also be used as equivalent to the expression of consent to be bound by the specific international agreement. This is how the term is used in the Treaties (Gatti/Manzini 2012: 1704). The conclusion of an international agreement resembles the act of ratification, which is the most common term on the state level (Svilans 2003: 5).

The relevant provisions for the negotiation of international agreements are contained in Article 218 TFEU, which outlines the “ordinary” international treaty-making procedure. Article 207 TFEU covers agreements in the area of common commercial policy. Article 219 TFEU covers provisions on agreements on an exchange-rate system, or on monetary or foreign exchange regime matters. Importantly, Article 218 TFEU refers to agreements negotiated in the area of CFSP and in non-CFSP areas. This unified procedure differs from the ordinary legislative procedure, but can still be characterized as Community method based, whilst actors’ competences and interactions in EU international treaty-making are shifted slightly. Generally, Article 218 TFEU distributes the negotiating power in the case of EU international agreements between the Commission and the High Representative, on one side, and the Council, on the other. Whilst the European Commission gains a more prominent role as the main negotiator on the international level, the central role of the Council in all stages of the procedure is also recognized by Article 218 TFEU.

2.2.2. The Opening of Negotiations

Officially, the process of negotiating a European international agreement starts when the opening of negotiations is proposed to the Council. Article 218 (3) TFEU holds that “the Commission, or the High Representative of the Union for Foreign Affairs and Security Policy where the agreement envisaged relates exclusively or principally to the common foreign and security policy, shall submit recommendations to the Council, [...]”. Hence, the Commission has the prerogative of proposal concerning all agreements that principally deal with non-CFSP matters. This reflects the Commission’s general right of initiative in EU decision-making (Eeckhout 2011: 195). The recommendation takes the form of a communication from the Commission to the Council (MacLeod et al. 1996: 86). The Commission explains the background of the proposal and reasons for the initiative as well as the intended agreement, and why its conclusion would be desirable and beneficial from a European perspective (Delreux 2006: 239). The Commission then proposes that the Council authorizes the Commission to negotiate the agreement. It annexes a draft Council Decision that explains the substantial legal basis as well as a draft negotiating directive (MacLeod et al. 1996: 86f.). Other actors such as member states or private actors can also be involved through lobbying or making recommendations in this initial stage (Delreux 2006: 238f.). Moreover, there are often exploratory talks in the pre-negotiation stage between the Commission and the potential third country treaty partner (De Baere 2014: 732). Thus, depending on the type of negotiation, “there may be a period of reflection prior to the decision to open negotiations” (Eeckhout 2011: 195).

2.2.3. The Authorization to Negotiate

After having received the recommendation, the Council can – but does not have to – authorize the negotiator to proceed with the opening of envisaged negotiations. Article 218 (3) TFEU holds that the “Council [...] shall adopt a decision authorising the opening of negotiations”. Hereby, the Council has a certain discretion as it alone decides whether and on what terms negotiations should be started (MacLeod et al. 1996: 87). The Council can either accept the recommendation as it is, modify or reject it. The Council decision is taken by either qualified majority or by unanimity, depending on the content or the type of the agreement. In principle, the same rules apply to the conclusion of agreements (Eeckhout 2011: 197).

2.2.4. The Nomination of a Union Negotiator

Finally, Article 218 (3) TFEU holds that the Council shall adopt a decision, “depending on the subject of the agreement envisaged, nominating the Union negotiator or the head of the Union’s negotiating team”. Hence, it is the Council’s task to nominate the Union negotiator of the agreement in question. This formulation is ambivalent, as it does not specify explicitly who is to be negotiator. Literally interpreted, it suggests a liberal meaning, seeming to give the Council free choice. Yet, a systematic interpretation of the phrase leads to a more restrictive meaning. First, the Council may not choose a negotiator different from the entity that proposed the opening of the negotiations (Gatti/Manzini 2012: 1708). Second, and maybe more telling, Article 17 (1) TEU explicitly states that, “with the exception of the common foreign and security policy, and other cases provided for in the Treaties, it [the Commission] shall ensure the Union’s external representation”. For CFSP activities, Article 27 (2) TEU holds that “the High Representative shall represent the Union for matters relating to the common foreign and security policy”. Thus, it can be argued that “the absence of an express identification of the Union negotiator in Article 218 TFEU is due to the fact that such identification is provided for in Articles 17 and 27 TEU” (ibid: 1709). Indeed, the provisions should be interpreted to mean that the Commission will continue to act as negotiator for all international agreements, but negotiations that fall under the CFSP will be conducted by the High Representative.

2.2.5. The Negotiation Directive

Article 218 (4) TFEU holds that the Council “may address directives to the negotiator”. These directives restrict the negotiator’s behaviour in conducting negotiations and can thus be understood as “guidelines which serve to convey to the negotiator [...] the general objectives which the latter must endeavour

to achieve in the negotiations” (Hoffmeister 2017: 9). In other words, a negotiation directive is the Council instructions to the negotiator regarding the conduct of negotiations (McLeod 1996: 88). Often, negotiation directives are also referred to a negotiation mandate. Importantly, negotiation directives are not directives in the meaning of Article 288 TFEU, as they are not addressed to the Member States but to the negotiator (Eeckhout 2011: 197).

As AG Wathelet argues in his opinion on Case C-425/13, negotiation directives can “only guide the Commission, as negotiator, in its conduct of the negotiations. It might be argued that, were it otherwise, it would no longer be a negotiating ‘directive’ but a negotiating ‘diktat’, something that would in no way reflect the institutional balance” (AG Opinion on C-425/13: para. 68). He then goes on to substantiate that a negotiation directive by the Council can limit the Commission’s negotiating discretion; yet, that it cannot regulate the conduct of the negotiations on a line-by-line basis. Rather, the Commission’s basic discretion as negotiator remains, albeit within certain limits within which it can negotiate international agreements.

In practice, a directive consists of two parts: one dealing with procedural aspects, the other with substantive provisions the Council wants to see included in the agreement (Delreux 2009: 196). Entailed in the former part, a directive also specifies the scope of authority delegated to the negotiator and elaborates on the mechanisms which allow the Council to monitor the actions of the negotiator on the international level (Conceição-Heldt 2009: 8). The Council can thus set certain limits to the negotiator. The precise nature of the negotiating directive and the set limits are the reflection of many considerations and can be argued to reflect the lowest common denominator between all EU member states (AG Opinion on C-425/13: fn. 21). Negotiation directives vary according from case to case in regard to the specific mechanisms and procedures that the agent is obliged to follow. Generally, negotiation directives are reported to be rather broad and general in character (Eeckhout 2011: 197). In the course of international negotiations, the original negotiation directive is sufficient for the conduct of negotiations. Further negotiation directives are not required, but the Council can freely decide whether it wants to issue further negotiation directives for the same negotiation. If it decides to do that, it does not need a Commission proposal to act (AG Opinion on C-425/13: para. 143). Finally, even though negotiation directives are generally kept confidential, the content of negotiation directives is occasionally found in the press (Eeckhout 2011: 197).

2.2.6. The Special Committee

Whether the negotiation directives issued by the Council are of a more general or more specific character, the Union negotiator is not entirely free in conducting international negotiations. Article 218 (4) TFEU stipulates that “the Council may [...] designate a special committee in consultation with which the negotiations must be conducted”. This means that the Council is able to create a body that enables it to keep a close eye on how negotiations evolve. In practice, the term “committee” is used only rarely; rather, the body is commonly referred to as “EU coordination meeting” (Delreux 2009: 199). Political scientists have argued that despite their mere advisory role, special committees can play a crucial role in the treaty-making process. First, they aggregate the heterogeneous preferences of all member states and resolve potential differences among them. Thus, they can be an important partner for the Commission in communicating member states’ views on what is acceptable for them, facilitating dialogue between them and the Commission (Elgström/Frennhof Larsén 2010: 207). Furthermore, committees act “both as a ‘sounding board’ for the initiatives of the European Commission and as a ‘watchdog’ for the Member States to monitor the Commission” (Gstöhl/Hanf 2014: 737). They are a tool employed by the member states to scrutinize and guide the Union negotiator. On a practical note, a special committee acts in two different environments during the negotiation process of an international agreement: in Brussels and on the spot, i.e., during the weeks of the international negotiation sessions (Delreux 2009: 199).

2.2.7. The Negotiation Sessions

International agreements are usually negotiated in multiple rounds of negotiation sessions, which is where the Union negotiator and her team meets with the negotiating team of the external party/parties. These rounds often last a couple of years, during which there is also contact between the rounds; however, actual negotiations on the text of an international agreement are confined to face-to-face meetings. We also have to distinguish between bilateral (and multilateral) agreements outside an institutional scope and multilateral agreements within the UN framework. Here, the negotiation sessions often take place in scheduled one-week meetings of parties/conferences of parties of overarching framework conventions, such as the United Nations Convention on Climate Change.

2.2.8. Initialling, Signature and Conclusion

Once the Commission and the third parties have finished their substantive negotiations on an international agreement, lawyers will review the draft text in

detail, after which the head negotiators can initial the text. Initialling has “the legal value of [establishing] the text of the agreement as authentic and definitive” (Devuyst 2013: 300).

Once the text has been initialed, it is up to the Council to decide whether the EU will formally sign the agreement upon proposal by the Commission (Art. 218 (5) TFEU). The Council decision authorizing the signature normally designates a Commission representative to sign the agreement on behalf of the EU; this task falls to the High Representative in respect to agreements primarily dealing with CFSP matters (Devuyst 2013: 304). Importantly, the signature of an international agreement does not imply that its provisions are legally binding for the EU or the final consent to be bound by them. Rather, it is a sign of the EU’s political intention to move towards ratification of the agreement. The signatory parties are obliged to refrain from acts that would defeat the object and purpose of the agreement (Eeckhout 2011: 201).

Article 218 (6) TFEU holds that once an agreement has been signed, “the Council, on a proposal by the negotiator, shall adopt a decision concluding the agreement”. In the Treaties, the conclusion of an agreement refers to what is commonly known as the ratification of international agreements. Through this measure, the EU formally expresses its consent to be bound by the international agreement (Devuyst 2013: 306). The Council has developed the practice of concluding international agreements by way of a decision (Eeckhout 2011: 201f.). According to Article 218 (8), the Council shall thereby act by a qualified majority; unanimity is required in four cases.

Importantly, Article 218(6) TFEU states that in most cases, the European Parliament has to consent to the conclusion of an agreement before the Council can conclude it: “the Council shall adopt the decision concluding the agreement: (a) after obtaining the consent of the European Parliament in the following cases [...]; (b) after consulting the European Parliament in other cases”. Consulting the European Parliament hence is the residual conclusion method as it applies to all agreements that do not require consent. It used to be the prevalent mode of concluding international agreements before the Lisbon Treaty went into force. Nowadays, it is merely “a last remnant of the pre-Lisbon arrangement and [...] applies to only a small number of agreements” (Koutrakos 2015: 153). For the conclusion of most agreements, the Council requires the consent of the Parliament. More specifically, the Treaty foresees five categories of agreements requiring parliamentary consent: association agreements; agreements on Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms; agreements establishing a specific institutional framework by organizing cooperation procedures; agreements with important budgetary implications for the Union; and agreements covering fields to which either the ordinary legislative procedure

or the special legislative procedure where consent by the European Parliament is required applies. The last category is considered to have the greatest impact on the Parliament's role in the conclusion of EU international agreements, as the ordinary legislative procedure is applied to most areas of internal decision-making post-Lisbon. The European Parliament's consent is thus required for the conclusion of most agreements.

2.3. Mixity

As a consequence of the EU's complex Multi-Level Governance system, its 28 member states continue to conclude international agreements on their own, sometimes with, sometimes without EU participation (Rosas 2011: 1305). As mentioned, the Treaties enable the EU to negotiate and conclude international treaties exclusively without member state involvement but only in policy areas governed by exclusive EU competences. The international treaty-making practice in the EU is thus generally characterized by what is denoted mixity: international agreements are entered into by the EU and its member states acting jointly.

2.3.1. Definition and Basics of Mixity

Koutrakos defines mixity as “the legal formula enabling the Union and the member states to negotiate, conclude and implement international agreements whose subject matter fall within the competence of both” (2015: 162). Mixed agreements are a special form of European international agreements in which both the EU and its member states participate. They are signed and concluded/ratified by the EU and (some of) its member states on the one side, and by one or more third parties on the other side. Both the EU and the participating member states become parties to the agreement: “in one and the same legal instrument, the EU and its MS express their willingness to be bound towards a third party, and also the third party accepts both the EU and the MS as contracting parties” (Maresceau 2011: 12). The practice of concluding and entering into international agreements jointly has existed since the early days of the Union. Empirically, it is difficult to quantify the phenomenon of mixed agreements, but mixed agreements have become the daily life of the EU's external relations, and “mixity is a hallmark of the EU's external relations. ‘Pure’ EU agreements are more exceptional than one would expect in the light of the legal foundations” (Eeckhout 2011: 212). Although the Treaty of Lisbon widened the scope of EU external powers, mixed agreements remain widely used by the EU (Bono 2011: 29).

From a political science and a legal perspective, mixity can be seen as reflecting the fact that the EU is not a single state for the purpose of international

law but rather “a hybrid conglomerate situated somewhere between a State and an intergovernmental organization. [Hence], it is only natural that its external relations in general and treaty practice in particular should not be straightforward. The phenomenon of mixed agreements [...] offers a telling illustration of the complex nature of the EU and the Communities as an international actor” (Rosas 1998: 125).

2.3.2. Reasons for Mixity: Legal and Political

Mixity exists because the legal framework of the EU requires it. As mentioned, Article 5 (1; 2) TEU elaborates on the principle of conferred power, according to which the EU can only become active in a certain policy field if the member states have transferred competences to do so. The legal justification for mixed agreements is then that the substantial scope of the international agreement in question is not entirely covered by Union competences granted to the EU by the member states in the Treaties. Two scenarios apply here. First, there are international agreements whose provisions fall neither alone in exclusive Union competence nor alone in exclusive member state competence. In these cases, the EU is not entitled to conclude an agreement by itself, but neither are the member states. Hence, member state participation is required for a Union agreement (Betz 2008: 3). Second, there are instances where an international agreement falls within the area of shared competences where the EU generally is obliged to act alongside its member states. “Shared competences are the main reason for an international agreement to be mixed” (Delreux 2006: 237).

In these instances, the mixed nature of the international agreement in question is mandatory. However, beyond that, agreements can also be concluded as mixed for political reasons on a facultative basis. “There are situations in which EU Member States insist on the mixed character of an agreement for political reasons, even if from a purely legal point of view there is no need to make the agreement mixed” (Kuijper et al. 2015: 101). Mixity enables them to stay visible throughout the process of EU international treaty-making (Ehlermann 1983: 6). This is closely connected to the Commission resorting to mixity in order to avoid inter-institutional tendencies (ibid.: 9). Moreover, mixity means that the EU institutions are able to avoid the tough question on the precise division of competences between the Union and its member states as well as premature debates about the legal basis of the envisaged agreements at its outset (Koutrakos 2015: 164). In practical terms, mixity is often made legally required by inserting clauses about the political dialogue in an international agreement to render the participation of the EU Member States uncontroversial. Rosas refers to this as “mixity at all costs” (1998: 125).

2.3.3. The Negotiation Process of Mixed Agreements

Article 218 TFEU and other provisions on EU external action remain silent on negotiation of mixed agreements. Yet, it is a common practice that mixed agreements are negotiated under the ordinary EU international treaty-making method of Article 218 TFEU with a more preponderant role for member states' representatives. This practice will be presented in the following.

As stated above, mixed agreements are concluded by the EU and its member states jointly.¹ As such, mixity applies to all stages in the negotiation of an international agreement, its negotiation, conclusion, application and implementation. "The notion of 'shared competence' stresses that the entire life of a (projected) mixed agreement is the joint affair of the [Union] and the Member states" (Neuwahl 1996: 677). The negotiation of mixed agreements could be divided, in some instances, into two parallel but separate decision-making processes. This never happens, but member states opt to pool their voices in the negotiation of mixed agreements and have an agreement negotiated as a joint venture with the EU (Verwey 2004: 110).

In most instances, the "dividing line between Union and national competence is dissociated from the process of the actual negotiations of a given agreement" (Koutrakos 2015: 170). At this point, it is important to note that the division of competences between the EU and the member states is not always in place before negotiations start.² The allocation of competences on an international agreement can evolve over its lifetime, and even during its drafting. This implies that it is not always determined from the outset whether an agreement will be concluded as an exclusive or mixed EU international agreement (McGoldrick 1997: 86). The following overview applies only to the negotiation of agreements envisaged as mixed agreements at the beginning of negotiations.

2.3.3.1. The Opening of Negotiations and the Authorization of the Negotiator(s)

As for the opening of any other EU international treaty-making process, it is the task of the Commission or the High Representative, depending on the scope of the agreement, to recommend the opening of negotiations to the Council (Delreux 2006: 245). In theory, the Council could nominate the Commission as negotiator for the Union competences of the agreement, and each member state would be free to identify its own negotiator for their parts, but

¹ Conclusion here does not refer to conclusion according to Article 218 TFEU, but according to the Vienna Conventions on the Law of Treaties, referring to the entire process of treaty-making.

² See also above the political reasons for mixity.

this would put too many representatives at the negotiation table. Instead, member states delegate their representation in their areas of competence to the Commission or to the rotating Presidency (Gatti/Manzini 2012: 1713). In most instances, the Commission will be responsible for conducting the negotiations just as in exclusive international agreements. However, this does not determine the allocation of competences between the EU and the member states either (*ibid.*).

Whereas the Commission as the Union negotiator in the negotiation of mixed agreements is the most common approach, member states can furthermore decide to entrust their representation to the rotating Presidency. This would reflect a more “intergovernmental” method in their area of competence. In this instance, there is a duality of representation, as the Commission represents the Union, and the Presidency represents the member states. The principle of the duty of cooperation stipulated in Article 4 (3) TEU implies that member states and the EU institutions are committed to cooperate and do everything that is necessary to fulfil the obligations and objectives derived from the Treaties. Yet, this principle does not imply the duty to take up a common position in international negotiations (Delreux 2006: 243). On a more general level, the duty of cooperation applied to the negotiation of mixed agreements requires in any event requires “close association” between EU institutions and member states (Eeckhout 2011: 256).

Summing up, in most instances the Commission acts as the sole negotiator of the Union and its member states, based on the mandate provided by the Council and also entrusted by the latter to act on its behalf (Koutrakos 2015: 170). One question of importance in this case concerns the legal nature of the authorizing decision from the Council to the Union negotiator. The legal acts entrusting the Commission with the power to negotiate both on the Union’s and the member states’ behalf are, in principal, two separate ones. The empowerment of the Commission within the exclusive competences of the EU is based on Article 218 (3) TFEU, whereas the nature of the act of entrustment adopted by Member States within their competences is more unclear. It certainly is not an act of the Union; rather, it can be argued that it is the sum of 28 internal acts, by which the EU member states “simultaneously confer the full powers on the Commission for the negotiation of the elements of the agreement which fall within their competences” (Gatti/Manzini 2012: 1718). In practice, these acts can be found in the Council Decisions, termed “Decision of the Representatives of the Governments of the Member States, meeting within the Council [...] authorizing the opening of/authorizing the Commission to negotiate [...]” (e.g. Decision 2012/949/EU; Decision 2011/712).

2.3.3.2. The Conduct of Negotiations

In negotiations of mixed agreements, member state representatives play a more preponderant role (Eeckhout 2011: 256). When the Commission is the Union's negotiator, its room of manoeuvre varies according to the competence of the subject, Union or member states it is representing. It can be argued that this room is smaller when the subject under negotiation falls within the area of non-exclusive Union competences and wider in areas related to Union competences. Gatti and Manzini list three methods member states and their representatives can use to monitor the Commission during negotiations of mixed agreements:

During negotiation of issues in areas covered by member state competences, the Commission may be required to coordinate with member state representatives on the spot, and the latter or the rotating Presidency may accompany the Commission in order to monitor the negotiation on behalf of the member states. In negotiations of issues covered by member state competences, the Commission may have to brief the special committee on the "proposed negotiating lines in advance of each set of negotiations" and to report to the committee "on the progress of negotiations after each meeting". Third, the member states can, within their area of competence, threaten to and actually block negotiations on their behalf by withdrawing full power (2012: 1719). Gatti and Manzini also note that despite all these limitations, the Commission usually negotiates effectively and undisturbed (ibid.: 1720).

2.3.3.3. Ratification of Mixed Agreements

As mixed agreements are joint ventures of the EU and its member states, and mixity stretches across all stages of the negotiation process, these agreements have to be ratified by the EU and all 28 member states individually for all of them to become a party to the agreement. There is not one, uniform procedure for ratifying mixed agreements. The EU ratifies the initialed agreement according to Article 218 (6) TFEU, whereas different constitutional procedures are applied at member state level. Hence, mixed agreements are subject to double parliamentary ratification at the European and the member state level. "National parliaments are involved, since by definition mixed agreements need to be ratified by all member states" (Passos 2010: 290).

Increasingly important in the final negotiation stage of mixed agreements is the so-called provisional application of EU international agreements. Generally, provisional application applies to all agreements concluded by the EU, as Article 218 (5) TFEU foresees that once the text of an international treaty has been finalized, "the Council, on a proposal by the negotiator, shall adopt a

decision authorising the signing of the agreement and, if necessary, its provisional application before entry into force”. In practice, the EU consistently follows this practice, in particular with respect to mixed agreements. As they require ratification not only on the EU level, but by all 28 member states, it might take several years before they enter into force. Article 218 (5) TFEU mitigates this risk, allowing an international treaty to be immediately applied after signature (Suse/Wouters 2018: 4).

Importantly, Article 281 (5) TFEU does not require consent by the European Parliament, meaning that *de jure*, the decision on provisional application can take place before an agreement is ratified on the European level. However, in recent years, a practice has developed that a provisional application is only used once the EP’s position on the agreement has either been heard or the EP has even been possible to give its consent (European Parliament 2016a: 6). The picture is somewhat different for member state ratification: the provisional application of mixed agreements takes place as it is intended to circumvent awaiting the completion of all 28 national ratification procedures before being able to apply the international agreement. Therefore, if a mixed agreement is provisionally applied in its entirety, the decision to do so commonly includes a statement expressing that the member states have agreed to this with respect to their competences (*ibid.*: 7). Against this background, it can be argued that no member state’s subsequent refusal to ratify a mixed agreement precludes the agreement’s provisional application by the EU, nor does this mean that a member state can unilaterally terminate a provisional application (Suse/Woters 2018: 22).

2.4. The Treaty-Based Role of Parliaments in EU International Treaty-Making

In the various stages of the negotiations of an EU international agreement, the European Parliament and national parliaments have different involvement and control rights. Whilst the EP is ascribed a role in EU international treaty-making by primary law, the involvement of national parliaments lacks such a legal basis. In the following, the treaty-based role of parliaments in EU international negotiations will be discussed briefly.

2.4.1. European Parliament

The basis for the EP’s involvement rights in EU international treaty-making can be found in Article 218 TFEU and has been further codified in the inter-institutional Framework Agreement on relations between the European Parliament and the European Commission (Framework Agreement, IIA) and case law by the European Court of Justice. Overall, the EP possesses three forms of

parliamentary involvement: information rights, the right to give an opinion and to be consulted, and the right to give consent, hence ratify, a majority of EU international agreements.

According to Article 218 (10) TFEU, “the European Parliament shall be immediately and fully informed at all stages of the procedure”. All stages of the procedure refer to the entire negotiation process, from the *ex ante* stage to the agreement’s conclusion *ex post*. The details are fleshed out in the Framework Agreement between the Parliament and the Commission. Along with the Parliament’s right to give an opinion and to be consulted. Pt. 24 of the Framework Agreement states that the Parliament shall be provided with information in sufficient time to be able to express its point of view and that the Commission should take the Parliament’s views as far as possible into account. Lastly, Article 218 (6a) TFEU lists the international agreements in which the EP has to give parliamentary consent for the agreement to be ratified. It is here where the Parliament can exercise most influence by accepting or refusing an agreement. Since the entry into force of the Lisbon Treaty, this applies to a majority of international agreements (Passos 2011: 49).

Whilst the hard power of giving or refusing consent is, in itself, a rather blunt tool as it does not give the European Parliament possibility and rights to be actively involved in the negotiations themselves and to substantively influence an agreement’s content, the EP has used the “shadow of the veto” over agreements to further develop tools of soft power in earlier stages of a negotiation process (*ibid.*: 50f.).

2.4.2. National Parliaments

In terms of the law and practices of how the various national parliaments in 28 EU member states are involved in the process of negotiating European international agreements, it is important to note that, unlike the European Parliament, national parliaments are nowhere mentioned in Article 218 TFEU. The Treaties do not ascribe them an *ex ante* or *ex post* role in the international treaty-making process. Hence, their involvement in this specific policy area is not directly anchored in primary law.³ Mirroring this lack of an explicit, treaty-based role, there has been little research on “national parliaments, and in particular, on the extent to which they should be associated in the negotiating process of international agreements” (Passos 2010: 269). This does not mean that national parliaments cannot be and are not involved in treaty-making

³ But see the more general references to NPs in primary law. With the 2009 Lisbon Treaty, they are for the first time mentioned and assigned specific roles in the main text of the Treaty. According to Article 12 TEU, national parliaments “contribute actively to the good functioning of the Union”.

processes. “If scrutiny is conducted, the ordinary procedure for scrutiny of EU affairs applies with an added focus on Government reporting of the progress of negotiations between the Commission and third countries” (COSAC 2008: 40). Hence, most parliaments do not have special procedures for EU external action and EU international treaty-making. Instead, scrutiny is conducted according to the standard procedures available to national parliaments in EU affairs and the parliament’s standard means of control. These ordinary parliamentary scrutiny procedures are subject to national law only.⁴ In order to describe the law and practices of parliamentary involvement in EU international treaty-making, it is necessary to refer to the more general role of national parliaments in scrutinizing EU affairs according to the national rules and procedures. In a nutshell, the main channel of control for national parliaments is via the national parliamentary representatives in the Council, for the representatives’ own responsibilities according to Article 218 TFEU and for their control of the Commission as the Union negotiator on the international stage. The precise means of scrutiny a parliament and its groups can rely on will be discussed in the empirical case studies.

⁴ Protocol 9 of the Amsterdam Treaty states that “scrutiny by individual national parliaments of their own government in relation to the activities of the Union is a matter for the particular constitutional organization and practice of each Member State”.

3. Literature Review

This dissertation investigates why and how parliamentary groups control EU international treaty-making. It aims to systematically describe how groups are involved in treaty-making processes, and to offer a comprehensive, theory-based explanation for such involvement. Are all groups in one parliament equally involved in EU international treaty-making? Is every treaty-making process equally scrutinized? Anecdotal evidence suggests, as presented in the introduction, that we can expect considerable variation across groups and across agreements. If so, what drives parliamentary groups to become actively engaged in some treaty negotiations and remain passive in others? What drives one group to exert intense scrutiny, whereas other groups in the same parliament are more indifferent?

With this research objective, this dissertation relates to the emerging literature on the role of parliaments in EU affairs and, more specifically, EU international treaty-making. Academic attention to the role of parliaments in EU international treaty-making has undergone a remarkable change in the last years. Researchers increasingly take the role of parliaments, national and the European, more systematically into account when studying the input and outcome of EU international treaty-making. This chapter will provide an overview of the relevant parliamentarization literature of EU Foreign Policy, investigate how this literature has developed, what its previous research objectives have been and how previous findings offer important insights and impetus into the focal points of this dissertation. The aim of this literature review is to provide the reader with a thorough understanding of the state of the art on parliamentary involvement in EUFP. Beyond that, it will demonstrate that research on parliaments in EU international treaty-making is still in its infancy, with several gaps remaining. These gaps can have important consequences not only for our understanding of the role of parliaments, but also for our understanding of EU foreign policy, its input and outcomes, more broadly. More specifically, this chapter will identify four main gaps that this dissertation is addressing.

First, European foreign policy, and EU international treaty-making, as a research field has been predominately interested in the role of executive actors. This focus is too narrow, as it does not make it possible take the role of potentially relevant actors in negotiations, namely parliaments, into account. Only recently have studies started to analyse the role of parliaments in EU international treaty-making, and systematic investigations that explain parliamentary behaviour in EU international treaty-making are still scarce. Thus,

we lack important insights on how exactly the European Parliament and national parliaments are involved in international negotiations and what their drivers are. Here, the current literature only provides tentative answers. Considering the growing significance of the EU as an international actor and the increasing powers of parliaments, such an understanding is pivotal to get a nuanced picture of the input and outcome of EU international treaty-making.

This is, secondly, closely connected to the lack of studies with explicit focus on the role of parliamentary groups. Instead, most studies have treated parliaments as unitary actors, and analysed their behaviour on the aggregate level. In domestic and EU affairs, it has for a long time been understood that parliamentary groups are the decisive actors in parliament, with different positions, actions and driven by different incentives. Research points towards similar dynamics in EU international treaty-making. However, up to now, the role of groups has not been systematically studied by measuring the activities and positions of the individual groups and incorporating this in the study design. By analysing parliaments as unitary actors, we might thus not only miss a more nuanced picture of parliamentary control. We also run the risk of underestimating the actual amount and the functionality of control, and thereby of reaching wrong conclusions on why parliaments acted as they did in specific cases of EU international treaty-making.

Thirdly, most studies on the role of parliaments in EU international treaty-making focus on a small number of EU international agreements: the landmark cases of recent years, such as TTIP, ACTA and CETA, which all happen to concern trade policy-making. Less is known about parliamentary involvement beyond these cases. This narrow focus entails the risk of selection bias, as the findings derived from these cases do not necessarily offer generalizable insights into parliamentary activities. It is questionable whether their findings about parliamentary control also apply to a broader set of international agreements, such as agreements in the area of Justice and Home Affairs or multilateral environmental agreements.

Lastly, this literature review will demonstrate that to date, a majority of studies that aim to explain parliamentary control of EU international treaty-making lack an explicit theory-based approach. This can, in the worst case, lead to the omission of important factors that affect legislative behaviour and thus a poorer ability to explain parliamentary control of EU international treaty-making. Moreover, not being explicitly theory-based affects the generalizability of the theoretical elaborations and findings to other empirical instances of parliamentary control. This chapter will demonstrate that principal-agent theory has become the standard conceptual tool for analysing both executive-legislative relations and the institutional relationships in EU foreign

policy. However, these two perspectives have yet to be combined in a framework that can be applied to the role of parliaments in EU international treaty-making, that spans from the national to the international level, and that explicitly takes the role of parliamentary groups into account. As such, the emerging empirical research on the role of parliaments in EU international treaty-making has not been accompanied by the advancement of theoretical approaches that explain parliamentary involvement on a firm theoretical basis.

This dissertation will, with its arguments, focus and empirical approach address these four gaps. Before it will elaborate it will do this, this chapter will start out by presenting the literature on the role of parliaments in European foreign policy, first focusing on the European Parliament, followed by national parliaments. After that, it will elaborate on the relevance of political parties and to what extent their role has been taken into account in previous studies. This is followed by an overview of the theoretical approaches used to study and explain parliamentary control in EU international treaty-making. Discussing the relevant literature serves hereby the purpose of presenting how previous research objectives and previous findings offer important insights and impetus into the focal points of this dissertation, providing the reader with a thorough understanding of the state of the art on parliamentary involvement in EUFP and pointing out the remaining gaps in our knowledge of how and why parliamentary groups control EU international treaty-making. The concluding sub-chapter summarizes the four main gaps identified throughout the literature review, and elaborates how this dissertation will address them.

3.1. Parliaments in EU Foreign Policy

Conventional wisdom on foreign and security policy holds that parliaments do not and should not, or only marginally, influence foreign policy decision-making (Kesgin/Kaarbo 2010: 20), as argued in depth above (1.3.). In line with this assumption, a review of previous studies and analyses of European foreign policy soon makes it evident that scholarly attention to the role of parliaments in European foreign policy making and legislative-executive relations in this realm has so far been limited. From a conceptual perspective, EU foreign policy has mainly been viewed through the lenses of state-centred neo-realist (for an overview, see Reichwein 2015) and intergovernmentalist approaches (for an overview, see Bergmann/Niemann 2015: 170-173). These approaches underline the need to understand the fundamental interests of states as unitary actors in foreign policy, as EU foreign policy is regarded as collective action by national governments. This is not surprising, as the former 2nd pillar,

the core of EU foreign policy, has generally been understood as a place for political bargaining between the member states, and was as such outside of the Community method. This, in turn, meant a limited role for supranational institutions (Rosen 2014). More recently, the analytical focus on EU external relations has shifted towards a more supranational perspective highlighting the EU's actorness (Sjöstedt 1977; Allen/Smith 1990; Bretherton/Vogler 2009). Research on different actor groups in European foreign policy has so far been dominated by a focus on executive decision-making actors such as the Commission and member state governments in formal inter-governmental settings (Hill 1998; Hyde-Price 2006; Duke/Vanhoonacker 2006; Wallace 2005).

The question of parliaments and parliamentary scrutiny has only been marginally featured, and approaches and overviews of European foreign policy have not looked intensively into the role of legislatures in policy-making (Raube 2014: 126). A parliamentary turn of studies in EU foreign policy making has only started picking up pace after the entry into force of the Treaty of Lisbon. As argued above in 1.3, it is necessary to recalibrate focus on executive actors and consider the role of parliaments in the making of EU foreign policy, based in both practical and normative reasoning. From a normative perspective, it was clearly elaborated that EU foreign policy-making is in need of democratic control, which most appropriately is met by some measure of parliamentary involvement. This should prompt researchers to analyse actual parliamentary involvement, to identify the actual level of democratic legitimacy, to understand whether and how parliaments contribute to increasing democratic legitimacy, or to search for new ways and venues if democratic legitimacy is found lacking. This is especially important in regard to EU international agreements, as this legal instrument has increased consistently in number and scope over time: the EU is party to hundreds of international agreements with concrete impact on the lives of individuals both in and outside the EU. Importantly, EU international treaty-making has become a central instrument of EU law-making (Eeckhout 2011: 193).

From a practical perspective, institutional changes in the last 15 years have made it pivotal to focus more on national parliaments and the European Parliament when analysing EU international treaty-making. The Lisbon Treaty upgraded the role of the European Parliament in the conclusion of international agreements; a similar development can be seen regarding the involvement of national parliaments. Anecdotal evidence shows that parliaments have proven willing to actively use their powers and become involved in the negotiations of certain international agreements. TTIP, CETA, and ACTA are

some of the examples where national parliaments and the European Parliament have actively attempted to influence negotiations, especially by threatening non-ratification should their preferences be ignored.

With the steadily growing significance and impact of the EU as an international actor, it has become increasingly important to understand the governance processes and actor relations behind its foreign policy. This understanding can only be reached by identifying those actors that have the greatest influence over the policy decisions taken and assessing the factors that influence their decisions or policy stance. As parliaments become increasingly active and willing to use their “veto power”, the potential empirical influence of parliaments on EU international treaty-making must not be neglected. This means that research must take parliaments in the EU more thoroughly into account when explaining the input and outcome of EU foreign policy.

However, as the following literature review on the European Parliament and national parliaments will demonstrate, very few studies deal explicitly with parliamentary involvement in this policy field. Moreover, this emerging literature is still in its infancy. The following sub-chapters will review the literature on the European Parliament and European foreign policy, and on national parliaments. The dominant focus will be on their involvement in EU international treaty-making but they will also look at related policy-making fields. The literature review will point out what we know and explicitly elaborate on the gaps this dissertation seeks to close.

3.1.1. The European Parliament

This dissertation is interested in both levels of the multi-level parliamentary field, the European Parliament and national parliaments, and their involvement in EU international treaty-making. As far as the European Parliament, this sub-chapter will demonstrate that current research lacks answers to the overarching research questions of this dissertation. However, although the European Parliament has not been at the centre of research on European foreign policy, the body of research on the EP in EU international negotiations has been increasing in the last two decades, and important progress has been made. Current research provides impetus and insights for this study, but still exhibits considerable gaps, which underline the need for this dissertation.

This sub-chapter will briefly elaborate on the EP’s role in CFSP/CSDP before discussing the literature on EU international treaty-making. The latter discussion is structured along the two guiding questions of this dissertation: a first sub-chapter will present the literature on how the European Parliament controls EU international treaty-making; a second sub-chapter will review those studies that set out to explain parliamentary control in international negotiations. Lastly, it will conclude on the state of the art and its gaps.

3.1.1.1. The European Parliament in Common Foreign and Security Policy

The literature on the EP's role in EU foreign policy emphasizes the difference between external policy areas in which decision-making takes place: the inter-governmental area of CFSP/CSDP, and foreign policy fields where decisions are made through the Community method. The earliest studies of the EP's role in foreign policy concern – somewhat surprisingly – its involvement in CFSP. Empirical studies find that although its formal competences remain limited, the Parliament seems to be somewhat active and to exert some influence on decision-making in this policy area, despite the supranational nature of CFSP/CSDP, and indeed plays an upgraded role today (see Diedrichs 2004; Crum 2005; Thym 2006; 2008; Rumrich 2006; Herranz-Surales 2011). Explanations for this puzzle mainly point towards the empowerment of the Parliament through informal decision-making (Rosen/Raube 2018: 70) and legitimacy considerations (Rosen 2015, see also Riddervold/Rosen 2015). These studies strongly indicate that the European Parliament can indeed be an active, influential actor in EU foreign policy-making and go beyond its formal competences by empowering itself. However, due to the different nature of CFSP decision-making and international treaty-making, these studies tell us little about how and why the European Parliament might control the negotiations of EU international agreements. They offer little valuable insight into the research interest of this dissertation beyond a general sense that the European Parliament is becoming increasingly attentive to EU foreign policy-making. Thus, it is necessary turn to the burgeoning literature on the EP's role in the conclusion of international agreements.

3.1.1.2. The European Parliament and EU International Agreements

This dissertation is investigating the involvement of the political groups in the European Parliament in EU international treaty-making. What do we know about the European Parliament's role in international negotiations, and are there gaps remaining? Early research has mainly focused on descriptively mapping the EP's formal powers in EU international treaty-making, analysing Parliament's sources of powers and explore its informal powers beyond its treaty-based rights. This was soon complemented by explanatory research on how and why the EP has, and was able to, expands its role and how it was empowered. In light of the research interest of this dissertation, this literature gives important insights into “how” the EP and its political group can act in EU international treaty-making, and potentially might offer some insights into the “why” of parliamentary activity.

From historical point of view, in line with the traditional exclusion of parliaments from international negotiations, members of the European Parliament had, for a long time, only limited access to EU international treaty-making on the international scene. Traditionally, only the Commission and its technocrats as well as members of governments played a decisive role in international negotiations. However, over time, the powers of the EP have significantly increased, starting with the introduction of the then so-called assent procedure with the 1986 Single European Act. The first version of the assent procedure foresaw that the EP was to give consent to the conclusion of association agreements and agreements governing accession to the European Union. The scope for the application of the procedure was extended by all subsequent modifications of the Treaties, most significantly by the Treaty of Lisbon in 2009.

Analysing the sources of the EP's role and power in international negotiations unanimously, scholars agree on the importance of two factors: first, the consent procedure, according to which Parliament has a quasi-veto power over the ratification of EU international agreements and the credibility of the EP's veto power; and secondly, the EP's ability to exploit the positive implications deriving from the veto power. This was emphasized already before the Treaty of Lisbon. Di Paolo (2003) demonstrated how against the background of the consent procedure, the Parliament had started to use the various instruments at its disposal to become more involved in treaty-making processes, but was hereby facing a number of obstacles, such as the requirement to use the veto power constructively, the still privileged position of the executive and the increased parliamentary workload. Nonetheless, she concluded that "the EP has strengthened its position both within the EU institutional triangle (Council-Commission-EP) and vis-à-vis third countries" (Di Paolo 2003: 89). The Lisbon Treaty considerably upgraded the role of the European Parliament in international negotiations by broadening the substantive scope of the consent procedure, i.e., the EP has to give its consent to the vast majority of concluded EU international agreements, and by anchoring its accompanying information rights in the Treaties.

Against this background, most studies on the EP's involvement in EU international treaty-making were published after the entry into force of the Lisbon Treaty. Overall, authors agree that the extension of the consent procedure to the vast majority of international agreements has significantly strengthened the Parliament's power and influence. "There is no doubt that [...] the highest impact is the fact that for almost all international agreements (except those related exclusively to CfSP), Parliament's consent is required" (Passos 2011: 50). Van den Putte et al. (2014; 2015) find that whilst the EP had already acquired a greater informal role in treaty-making before the Lisbon Treaty, the

codification of its involvement enables the Parliament to have a stronger say in trade policy, while it is still not on par with the Council. Similarly, Richardson (2012) shows that the EP's "hard power" of parliamentary consent in the ratification phase of FTAs acts as a sufficient threat to strengthen the EP's "soft power" in the earlier stages of negotiations, enabling it to influence the trade talks.

The distinction between soft and hard powers of the European Parliament is important as the power of consent in itself is a rather blunt tool: the European Parliament can only accept or reject agreements that are already concluded with the external negotiation party, but has no means of actively influencing the text, even though it does have some – limited – parliamentary information rights throughout the negotiation process. However, also here, it is not formally involved in the definition of the negotiation mandate or the actual negotiations. However, according to Passos (2011), Article 218 (10) TFEU on the consent procedure in EU international negotiations should not only be read as giving Parliament the right to accept or refuse an international agreement; but also as giving the Parliament a certain leeway to exercise influence over the Commission and the Council and the content of the final text to be adopted throughout the negotiation process in order to facilitate its eventual consent. This implies that the EP ought to be involved in the negotiations from their very outset. Of particular importance are hereby parliamentary resolutions at the beginning of an international negotiation process, which, backed by parliamentary veto power, actually contain the conditions for parliamentary consent (Passos 2011: 54).

This is a rather legal engagement with the EP's powers in EU international treaty-making. Beyond this, other scholars have been more empirically oriented, demonstrating how the European Parliament has used its new power of consent to have a more active and influential position in EU international treaty-making. In order to explain parliamentary empowerment, they have emphasised the interplay of two causal factors: the importance of demonstrating willingness to use its veto powers, and the ability to use the threat of non-ratification to be involved throughout the negotiation phase.

For a long time, it was unthinkable the EP would actually exercise its veto power and refuse consent to an international agreement, as it was argued that this would undermine the credibility of the EU as an international actor (Di Paolo 2003: 76). This contributed to the consent power being seen as a blunt tool, with parliamentary ratification being a mere formality. Against this background, several scholars have demonstrated how the European Parliament has used its new power of consent by soon after the entry of force of the Lisbon Treaty rejecting several major EU international agreements. The first was the SWIFT agreement. Ripoll-Servent (2014) shows how, after the initial rejection

of the EP, the Commission changed its strategy to satisfy the EP's concerns and demands and how the EP adapted to the new setting in the second round of the SWIFT negotiations. The Council and the Commission included the Parliament much earlier and to a larger extent to avoid parliamentary defection, and the EP increased its capacity to control the outcomes of negotiations by becoming more active in the ex ante and ad locum stage of the second SWIFT negotiations. Ripoll-Servent concludes that, "this case shows how the EP made use of day-to-day decision-making to informally expand its formal veto powers. The EP is now capable of controlling the EU negotiator during both the agenda-setting and the negotiation stages" (Ripoll-Servent 2014: 568). Similarly, Monar (2012) emphasizes the symbolic importance of the EP's initial refusal to ratify the SWIFT agreement, as it meant "that the Council and Commission will have to reckon much more with the Parliament's interests and position in the case of nearly all international agreements, and this is not only at the conclusion stage but already at the negotiation stage" (Monar 2012: 147). Another key international agreement was ACTA, to which the EP refused to give its consent. Van den Putte et al. (2014) show how this enhanced the EP's credibility as a veto actor: "the new EP quickly made it clear that it would be more critical and proactive. [...]. The EP is well aware of its new role in EU trade policy and is eager to use its newly acquired powers" (Van den Putte et al. 2014: 4). Shaohua (2015) and Meissner (2016) reach similar conclusions.

Summing up, by rejecting several EU international agreements shortly after the Lisbon Treaty entered into force, the Parliament has sharpened its shadow of the veto by demonstrating that it is indeed willing to make use of its veto power. This, in turn, informally enabled the Parliament to expand its role to already be involved in the earliest stages of an EU international treaty-making process, by that clearly going beyond the provisions as laid out in the Lisbon Treaty. For the research interest of this dissertation, these studies provide an important backdrop, as they map parliamentary involvement rights, both formal and informal, through a negotiation process. Understanding what Parliament is able to do is important to study what parliament, and its political groups, actually do. However, the scope of the above-mentioned studies was on international agreements that the European Parliament refused consent to. They do not tell us anything about how the EP and its group deal with other EU international treaty-making processes.

Beyond demonstrating the process of the EP's self-empowerment, several scholars have analysed what drove Parliament to take such a pro-active stance to informally empower itself beyond its treaty-based powers. They investigate *why* the EP acted the way it did in these treaty-making processes, which potentially bears important insights for the research objective of this disserta-

tion, why parliamentary groups control EU international negotiations. Generally, scholars agree that the European Parliament is driven by procedural concerns that Parliament is not sufficiently involved in treaty-making vis-à-vis the Commission and the Council. Meissner (2016) demonstrates that the EP was driven by the objective of being involved throughout the EU's negotiation process and of expanding its parliamentary role therein. Studying ACTA, SWIFT and the PNR, Eckes (2014) claims that the EP has been particularly active due to institutional concerns, namely asserting its strengthened role in EU foreign policy. She also concludes, in line with Di Paoa (2003), that the EP is driven not only by institutional concerns but also by substantive interests concerning the content of an agreement. In this vein, Roederer-Rynning (2017) emphasizes another factor that has made the EP more assertive in EU trade policy: the contentiousness of trade, which has provided incentives and enabled the EP to develop leverage beyond its formal constitutional powers.

Summing up, these studies concur that the European Parliament has become an actor to reckon with in EU international treaty-making, which is active at all stages of a negotiation process, starting with quasi negotiation mandates in the form of parliamentary resolutions to following talks closely to being involved ex post by means of parliamentary ratification. In line with what was argued above, the increasing formal and informal powers of the EP in EU international treaty-making makes it necessary to take the EP into consideration, and to study its actions, its motivation and its impact on international negotiations. However, the aim of previously cited empirical analyses was to provide a thorough and systematic overview of how the EP has managed to increase its role in EU international treaty-making, and to offer explanations for parliamentary empowerment vis-à-vis the Commission and the Council. They argue that the EP was driven by institutional concerns and, in trade negotiations, by the contentiousness of trade. They offer insights into why the EP controlled few, infamous international agreements. However, they tell us little about the reasons for parliamentary control beyond the studied cases and once the EP had gained these powers. Importantly, they seem to suggest that in the pursuit of institutional concerns, the EP has acted in a non-partisan, unitary manner. Does this mean that the EP agrees internally not only on institutional issues but also in substantive concerns? In light of the research interest of this dissertation, these studies thus lack important answers.

3.1.1.3. Explaining Parliamentary Behaviour in EU International Treaty-Making

Based on the studies reviewed in the previous chapter, we know that the European Parliament has increasing powers in EU international treaty-making, and that it can be inclined to make use of them. However, we do not know

when and why this is the case. In light of the second research question of this dissertation, the “why” of the involvement of political groups in EU international negotiations, it is pivotal to engage with the literature to find explanations for parliamentary control of EU international treaty-making more generally. However, to date, only few studies have examined parliamentary behaviour in EU international treaty-making. This is an important observation, as institutional strength does not always translate into active parliamentary involvement. This literature has not yet systematically investigated which factors are particularly responsible for activating parliamentarians’ will to control EU international treaty-making. The “behavioural turn”, which has taken place in the academic literature on national parliaments in EU affairs (see below) has not yet fully happened in regard to the European Parliament’s involvement in EU international treaty-making.

To date, there is one comparative study that demonstrates that the European Parliament exercises different levels of control over international agreements. Héritier et al. show that “the EP’s influence on the negotiations varies between the agreements and is linked to the EP’s various activities” (2015: 84). They analyse the level of parliamentary control and the means the EP used to exert influence on the ACTA, SWIFT, TTIP and EUSFTA negotiations. They conclude that the Parliament was most active in the ACTA and TTIP negotiations but did not exhaust its formal instruments in the EUSFTA. The finding that parliamentary power in EU international treaty-making can, but does not necessarily, translate into parliamentary control is important for this dissertation. How can variation in parliamentary attention be explained?

Héritier et al. (2015) is the only comparative study of parliamentary control behaviour in EU international negotiations. However, also several single-case studies investigate factors that activate parliamentarians’ will to control. These studies agree on the importance of the salience of an international question. Héritier et al. (2015), whose tentative explanation for the observed variation is based on empirical observations and reasoning, conclude that highly salient, politically extremely important, and publicly controversial international agreements are more likely to be intensively scrutinized by the EP (Héritier et al. 2015). This finding is corroborated by Dür/Mateo (2014), who explain the EP’s refusal to give consent to the ACTA agreement in 2012. They show that interest groups managed to increase the public salience of the issue, which in turn motivated a growing number citizens to mobilize, and that the resulting dynamics made parliamentarians opt against ratification of the agreement (Dür/Mateo 2014: 1213). McKenzie and Meissner’s (2017) case study of the EUSFTA negotiations confirm Héritier et al.’s finding that “the EUSFTA’s lack of public salience and the parallel negotiation of ACTA, in com-

bination with the EP's limited institutional capacity, were significant in shaping the parliamentary passivity in this context" (McKenzie/Meissner 2017: 843). Coremans and Meissner, in their study of the European Parliament's trade committee and its administrative and political capacities, argue that it is the salience of an issue area that triggers the committee's willingness to exploit the latent potentialities of previously developed administrative capacity by turning it into political capacity (Coremans/Meissner 2018: 566).

A second explanatory factor put forward by several studies is the EP's institutional capacity. H  ritier et al. (2015) show that the EP internally coordinated its activities in the TTIP and ACTA negotiations, which resulted in a higher level of parliamentary activity. This was not the case in the EUSFTA negotiations, where MEPs were caught reflecting and commenting on the final text of the ACTA agreement at the time of the negotiations. Monitoring two agreements closely would have meant a very high workload for the few MEPs involved in the INTA Committee (H  ritier et al. 2015: 96). McKenzie and Meissner (2017) come to a similar conclusion about the importance of the EP's resources and internal coordination. Combining the salience of negotiations with the EP's institutional capacity, they show that MEPs are more active in controlling negotiations of high salience, which is even more "intense in situations where players face several external challenges and limited institutional capacity. In these contexts, players have to target their available resources which means that they have to prioritize certain issues" (McKenzie/Meissner 2017: 839).

Thus, despite these explanations of parliamentary behaviour in EU international treaty-making, these studies have largely focused on only two factors: the salience of international agreements and the institutional capacity and resources of the European Parliament. These are clearly important causal factors that influence parliamentary activity and point towards parliamentary control as being influenced both by characteristics of the international agreement itself and by institutional factors. However, the literature has mainly studied them on an ad hoc basis without elaborating much on the underling logic of how they trigger parliamentary control. This also means that other important explanatory factors might have been omitted, such as partisan dynamics and policy preferences of parliamentary actors. These factors have been demonstrated to be at play in literature on the European Parliament's control of EU agencies (Font/Dur  n 2016). This relates to another point regarding these findings: the studies referenced above attempt to provide explanations for parliamentary control perceiving the EP as a unitary actor. This means that the findings are not necessarily transferrable to political groups, which is what this dissertation is interested in. The question why political groups control EU international treaty-making thus remains unanswered.

3.1.1.4. Conclusion: The European Parliament in EU International Treaty-Making

In light of the research interest of this dissertation, the reviewed literature about the powers, the role and the involvement of the European Parliament in EU international treaty-making provides several important insights. We have a good understanding of parliamentary control rights, formal and informal, as well as sources of parliamentary influence. These studies have shown that the EP has extended its power in EU international treaty-making in recent years, going beyond its formal powers provided in the Treaties. Other analyses investigate parliamentary behaviour in EU international treaty-making more or less systematically. They show that the Parliament is increasingly becoming an actor to be reckoned with in regard to negotiations of international agreements. At the same time, they suggest that there is considerable variation in the way the European Parliament controls various international treaty-making processes. The tentative explanations brought forward for this have largely focused on only two factors: the salience of international agreements and the institutional capacity of the European Parliament. Moreover, the few studies explaining the actual behaviour of the EP and variation in control rely on exploratory and ad hoc explanations, lacking a systematic approach. Overall, the literature on the role of EP in EU international negotiations remains largely descriptive and only offers tentative explanations for parliamentary control. Thus, whereas important progress has been made for our understanding of how and why the European Parliament is involved in EU international treaty-making, considerable gaps remain that underline the need for this dissertation.

3.1.2. National Parliaments

As argued above, the dissertation is interested in both levels of the multi-level parliamentary field, thus also in the involvement of national parliament and, more precisely, parliamentary groups on the national level, in EU international treaty-making. Generally, for national parliaments, European foreign policy-making is even more distant, as it is “situated at the nexus of two fields that have generally been perceived as problematic for parliamentary scrutiny: foreign and security policy, and EU integration” (Huff 2013: 1). Nonetheless, a similar development as for the European Parliament’s involvement in EU international treaty-making can be observed, with the body of literature studying national parliaments in EU foreign policy slowly increasing. This subchapter will demonstrate that whereas our knowledge on how national parliaments can control EU international negotiations has been growing in the last

five years, the gaps in our understanding of how and why parliamentary groups do exert control are similar to the gaps in the research on the EP.

This sub-chapter will first briefly review the literature on parliamentary control in EU affairs. This body of literature has been extensively growing in the last two decades and can offer first insights into the role of national parliaments in the EU. This is followed by an in-depth investigation of the literature on national parliaments in European foreign policy, CFSP first, followed by EU international negotiations. Similar to above, the latter literature review is divided into two sub-chapters, following the two-fold overarching research question of this dissertation. The first sub-chapter reviews our knowledge of how national parliament can be and are involved in EU international treaty-making – the “how” question –, whereas the second sub-chapter has a particular focus on those studies researching and explaining parliamentary behaviour – the “why” question.

3.1.2.1. National Parliaments in EU Affairs: Explaining Parliamentary Control?

The literature review on the role of national parliaments will start out by reviewing the literature on national parliaments in EU. This serves the purpose of providing a better understanding of how national parliaments have adapted to the institutional setting that was fundamentally altered by European integration and of what drives parliamentary control behaviour in EU affairs more generally. Attention to the role of national parliaments in the EU political system has undergone a remarkable change since the beginning of European Integration. In the early years, the role of NPs in the EU was rarely examined. After some early descriptive and empirically oriented studies in the late 1970s and 1980s, national parliaments entered the research agenda from the mid-1990s as the emerging debate on the democratic quality of the EU attracted attention to them. Their empowerment was seen as one way to alleviate the EU’s democratic deficit. Politicians and scholars soon started to call for their involvement in EU affairs (e.g. Norton 1995; Raunio 1999).

However, early studies of the impact on Europeanization on national legislatures reached rather disillusioning results. In 1996, Norton concluded that national parliaments are fairly weak institutions, unable to shape EU decision-making according to their own preferences. In EU affairs, “the development of European integration has led to an erosion of parliamentary control over executive office-holders” (O’Brennan/Raunio 2007: 2). Competences have been transferred to the EU level, where decisions are made jointly by national executives with little to no parliamentary impact, whilst the collective nature of EU-level decision-making also means that parliaments can no longer force governments to make ex ante commitments before decisions at the EU level

are taken (Raunio/Hix 2000). Judge (1995) labels this a dual democratic deficit: Decision-making is increasingly allocated at the EU level, which is difficult for national parliaments to control, and they have problems controlling executives within their own state.

The decline of national parliaments' power and concerns about the legitimacy of the Union lead to responses: on the EU level, national parliaments have been addressed in the Treaties since 1992, and their formal role has been strengthened by further Treaty reforms. On the national level, parliaments started to implement reforms, set up European Affairs Committees and EU-specific control mechanisms of their executive to regain some of their powers and to compensate for the shift of legislative competences to the European level. National parliaments have become more willing "to fight back" (Raunio/Hix 2000), should not be perceived as "losers", but rather as "latecomers" to European integration (Maurer/Wessels 2001) and have turned "from 'Victims' of Integration to Competitive Actors" (O'Brennan/Raunio 2007).

These institutional responses attracted academic interest and became the main focal point of studies on the role of national parliaments in the EU in the early 2000s. In a first step, both single-case and comparative empirical studies examined parliamentary formal powers, whereas later studies took a broader approach and aimed at explaining differences in adaption and power of the scrutiny systems. Despite the diversity of methods and data, the studies have generated rather converging results. Most agree on the importance of the following factors for explaining the institutional strength of a parliament in EU affairs: accession timing (Hamerly 2007; Saalfeld 2005), public Euroscepticism (Bergman 2000; Raunio 2005), and the general strength of the parliament (Karlas 2011; 2012; Raunio 2005; Saalfeld 2005).

More recently, the literature has raised concerns that studies of the institutional adaption of national parliaments to European integration does not say much about how parliaments use these formal powers in practice – institutional strength does not necessarily translate into parliamentary action (Auel 2007; Auel/Benz 2005; Hegeland/Neuhold 2002; Pollak/Slominski 2003). In order to remedy this shortcoming, scholars began investigating actual parliamentary control – the behavioural adaption to EU integration, so to say. This strand of research goes beyond describing formal scrutiny procedures by demonstrating the functioning of national parliaments in EU affairs in practice and testing theory-driven explanations and assumptions about parliamentary control. Their findings suggest that national parliaments do not only differ with regard to their formal institutional control provisions, but also in their level of activity in EU affairs.

Early studies hereby argue that strong formal powers and institutional capacity have a positive impact on the general level of parliamentary activities.

Strong parliaments with strong powers of control, wide access to information (Maurer 2008) and a strong scrutiny infrastructure (i.e. via the mainstreaming of parliamentary control, Gattermann et al. 2013) are more active in actually controlling EU affairs. However, Neuhold and De Ruiter (2014), who analyse parliamentary control in the Dutch and British legislatures, find that the formally weaker British parliament exerts more active control. They conclude that this is because British MPs had the will to control and thus were motivated to engage in scrutiny. “Although the classifications [of institutional power] in the literature are useful starting points for studying parliamentary scrutiny of government actions at the EU level, unexpected patterns can emerge in practice” (Neuhold/De Ruiter 2014: 70). Whereas previous research was largely based on single or comparative case studies and anecdotal evidence on the level of parliamentary control in EU affairs (Winzen 2010), a first comprehensive comparative study of different parliamentary activities in EU affairs was presented by Auel/Tacea (2013) and Auel et al. (2015). They find that formal powers of a parliament do have an impact on parliamentary activity in EU affairs as preconditions for control activities. Yet, they only indirectly affect the level of activity, and parliamentarians need additional incentives to exercise control. The authors find that a mixture of institutional and motivational factors provides a better explanation for parliamentary control. Regarding the latter, they found that public Euroscepticism played only a minor role, but found some support for the positive effect of parliamentary Euroscepticism and issue salience. The latter is also argued by Miklin (2012), who shows that the differences between formal rights and actual activity can be explained by the level of politicisation of legal acts (2012). Moreover, focusing on such motivational incentives, Winzen has argued that it is decisive to “look closer at the dynamics of parliamentary control within the legislature, as [...] the use of some formal rules may be in conflict with party political incentives” (2010: 5). Against this background, scholars have started to analyse how party political factors affect how national parliaments make use of their institutional opportunities and formal powers (see sub-chapter 3.2).

This brief review of the literature on the role of national parliaments in EU affairs serves two purposes. First, it provides a better understanding of how national parliaments have adapted to the institutional setting that was fundamentally altered by European integration. We learn that national parliaments have indeed become actors in EU decision-making, albeit with different formal powers and varying levels of involvement. Second, the literature review points towards the importance of studying not only formal powers but also actual legislative behaviour, as the former does not necessarily translate into the latter. Recent studies with focus on analysing and explaining parliamen-

tary control behaviour in EU affairs give first indications into the research objective of this study, pointing out that parliamentary activity is not only related to formal powers and institutional capacity, but that parliamentary actors need additional motivation to activate the available control instruments.

However, the question remains how the findings and explanations developed in this body of literature relate to EU international negotiations, a policy-making area characterized by different institutional relationships, dynamics and means of parliamentary involvement. Thus, whereas knowing that national parliaments have a role in EU affairs is an important pre-condition for this dissertation, the literature reviewed provides only few insights into the research interest of this dissertation, the how and why of parliamentary control in EU international treaty-making.

3.1.2.2. National Parliaments and European Foreign Policy

In order to engage more in-depth with the research focus of this dissertation, parliamentary control of EU international treaty-making, it is necessary to turn to the literature that focuses explicitly on the role of parliaments in EU foreign policy, and EU international treaty-making, more specifically. In a historical perspective, academia only began to discuss potential parliamentarization of EU external relation after the Lisbon Treaty ascribed national parliaments a role in EU foreign policy.⁵ With recent advancements, research on national parliaments in European foreign policy is now at a point where the study of the parliaments' role in EU affairs was about two decades ago: "the problem of marginalization is very well understood but research into strategies of adaptation is yet to emerge. Thus, the examination of how national parliaments cope with the challenge of the Europeanization of foreign, security and defence policy is the natural next step on the research agenda" (Wagner 2015: 368). This sub-chapter will demonstrate that despite the growing body of literature on parliamentary control of EU affairs, only few studies deal explicitly with the role of national parliaments in EU foreign policy. In light of the research interest of the dissertation, these constitute an important starting point, but further research is necessary.

3.1.2.2.1. National Parliaments and Common Foreign and Security Policy

Early empirical studies investigated national parliaments' competences, and activities concerning EU military missions were studied quite extensively (e.g. Hänggi 2004, Bono 2005; Born et al. 2008; Jungbauer 2012; Wagner 2006). More recently, studies of the role of national parliaments in European foreign

⁵ Only in regard to CFSP, Article 10 of the Protocol No 1 on the Role of National Parliaments in the European Union.

policy *sensu strictu* (without military missions) have joined this corpus (Huff 2013; 2015; Herbel 2017). Recent studies have also analysed inter-parliamentary cooperation on CFSP, focusing on specific aspects of the newly established “Interparliamentary Conference on CFSP/CSDP” (Herranz-Surrallés 2014a; 2014b; Liszczyk 2013; Stavridis 2014). However, whilst our knowledge of parliamentary control of EU CFSP/SCDP as well as tentative explanations of control behaviour and cross-parliament variation have advanced considerably in recent years, this is not the case for our knowledge on control of EU foreign policy *sensu lato*, and EU international treaty-making, more specifically. It is of utmost importance to be aware that the underlying policy-making and institutional dynamics in CFSP and CSDP are essentially different from EU international treaty-making, as argued in sub-chapter 1.2.1.2. This implies that the formal control rights of national parliaments and findings on their incentives for and constraints on using these rights cannot be simply transferred from *sensu stricto* foreign policy to EU international treaty-making.

3.1.2.2.2. National Parliaments and EU International Treaty-Making

This dissertation investigates the involvement of the parliamentary groups in national parliaments in EU international treaty-making. What do we know about the role of national parliaments in international negotiations, and are there gaps remaining? It will become evident in the literature review below that studies on national parliaments in EU international treaty-making have followed a similar course as the literature on the EP in this area. Early research has mainly focused on describing the sources and means of parliamentary influence, which has been complemented by a small number of studies investigating actual national parliamentary involvement in EU international treaty-making. In light of the research interest of this dissertation, this literature provides important insights into “how” national parliaments and their groups can and do act in EU international treaty-making. This sub-chapter will also show that substantial gaps remain and that we cannot answer the research questions of this dissertation based on our current knowledge.

Studies of parliamentary control of policy measures in EU external relations *sensu lato* have been almost entirely absent until about two years ago, with one notable exception.⁶ This can be read against the background of national parliaments being perceived as having abdicated their control function.

⁶ This exception is Zanon (2010). She finds that non-legislative EU foreign policy falls largely outside the special control mechanisms that have been established for the scrutiny of EU affairs, and that parliaments have to rely on regular control mechanisms. However, EU international treaty-making qualifies as legislative decision-making due to the legal nature of international agreements. This means that both the

“Most member state Parliaments have never been able – or perhaps interested enough – to provide effective scrutiny of EC external trade policy as they are two steps removed from the real negotiations” (Woolcock 2010: 7). The growing attention to the role of national parliaments in EU international treaty-making can especially be seen in light of the TTIP negotiations on a trade agreement with the US and the CETA negotiations on a trade agreement with Canada. National parliaments seem to be paying increasing attention to these and other recent negotiations, especially in the area of international trade. This has prompted researchers to analyse national parliaments’ involvement in trade negotiations more closely. A small number of studies on the formal and informal powers as well as parliamentary behaviour in this regard have been published.

The few studies all start out by identifying sources of influence and mapping parliamentary control rights. Jančić (2017) shows how the national veto (by the national government in the Council) constitutes a source of influence during the negotiation phase for national parliaments. This enables parliaments to influence their governmental representative in the Council and increase their otherwise limited impact on EU international treaty-making. This is also stressed by Raube and Wouters (2017), who however also emphasize the lack of formal involvement of national parliaments during negotiations: “the national parliaments’ influence is limited to scrutiny of their Government’s position in the Council” (COSAC 2008: 40, cited in Raube/Wouters 2017: 9). Both Jančić (2017) and Raube and Wouters (2017) stress the importance of the potential mixed nature international agreements. As explained above, mixed agreements need to be ratified on both the European and the national level. This gives national parliaments an independent, albeit *ex post*, source of influence due to their *de facto* veto power in the ratification phase (Jančić 2017: 207f; Raube/Wouters 2017: 8f.). In light of the research interest of this dissertation, these studies point out that, unlike assumed until recently, national parliaments are not completely powerless in EU international treaty-making. However, this realization does not mean that parliaments, and parliamentary groups, necessarily follow international negotiations actively, and it does not explain why this is or is not the case. What does the literature say in this regard?

A few studies investigate actual national parliamentary involvement in EU international treaty-making, following, to some extent, the behavioural turn in the study of parliamentary control in EU affairs in the last decade. As argued above, this is an important development, as formal (and informal) power does

formal control mechanisms and their use might be substantially different from the ones observed by Zanon.

not necessarily translate into parliamentary action. Jančić (2017) analyses the behaviour of the British and the French parliaments in relation to the TTIP negotiations and finds that the British and the French parliaments controlled the negotiations in different ways. British parliamentary scrutiny was predominantly evidence-oriented; the French was more influence-oriented (Jančić 2017: 11). Raube and Wouters (2016) empirically trace the involvement of national parliaments in the negotiations of the TTIP agreement. They specifically emphasise the coordinated actions of 17 national parliaments that sent a letter to the Commission to urge the negotiators to consider comprehensive trade agreements such as TTIP and CETA as mixed agreements. This coordinated action, the scholars argue, underlines the awareness and willingness of national parliaments to be actively involved in some instances of EU international treaty-making (Raube/Wouters 2016: 292). In a subsequent publication, Raube and Wouters (2017) demonstrate how in the TTIP and CETA negotiations, several national parliaments have proactively made use of the potentially mixed nature of the two agreements by using their veto threat already prior to ratification in order to acquire information on the negotiations and, to some extent, influence them substantively. Overall, they conclude that, “national parliaments have become more interested and actively involved in following trade negotiations. National parliaments have been keen to ensure that certain agreements, such as TTIP and CETA, would be considered mixed agreements in the first place, allowing them to maximize their influence” (Raube/Wouters 2017: 9). However, the authors also stress that there are horizontal differences in the way parliaments control EU trade negotiations. Not all parliaments are equally actively involved, and the way they scrutinize the negotiations differs considerably (Raube/Wouters 2016: 291; 296f.). This finding is corroborated by Roeder-Rynning and Kallestrup (2017). Based on survey data from the COSAC (2015) on the role of national parliaments in the new EU FTAs, they find that national parliaments are becoming actors in EU trade policy, forging a role for themselves that was unforeseen in the Lisbon Treaty. Hereby, they demonstrate great variation in the level of parliamentary control between the chambers. Moreover, they find that national parliaments have developed a wide range of actions on trade agreements that go beyond pure control of their government, but attempt to policy shape, nurture public debate and develop expertise on trade. However, also here, the parliaments’ use of these instruments differs (Roeder-Rynning/Kallestrup 2017).

Summing up, these studies point to active parliamentary engagement in the TTIP and CETA negotiations. Thus, national parliaments have demonstrated their awareness of and active involvement in some instances of EU international treaty-making. The studies reviewed above also give some insights into the means the national parliaments have used. At the same time, they

claim that there is considerable horizontal variation in how different parliamentary chambers were involved in the two negotiations. These are important insights for the research interest of this dissertation: national parliaments not only have increasing powers, but also make use of them in EU treaty-making processes. Moreover, there is variation in parliamentary attention. As far as “how” national parliaments and their groups control EU international treaty-making, we can cautiously assume that they are not entirely passive and indifferent. Also, variation between parliaments, groups and international agreements can be expected. However, beyond the two agreements studied, TTIP and CETA, we know nothing about their involvement in other EU international negotiations. Thus, the “how” of the research questions remains largely unanswered, pointing towards the need of further systematic studies. This is important, because as long as we do not understand why parliaments exert control and what explains the observed variation, we lack an important piece to comprehend the outcome of international treaty making.

3.1.2.2.3. Explaining Parliamentary Behaviour in EU International Treaty-Making

Beyond investigating the increasing involvement of national parliaments in EU international treaty-making, we know little about why they are engaged in such negotiations, and how we can explain observed variations. Understanding motivation and drivers of parliamentary control in national parliaments might offer important insights for this dissertation, which also aims to answer why parliamentary groups exert scrutiny. In this regard, some tentative, ad hoc explanations have been brought forward regarding the level of and variation in parliamentary control in EU international treaty-making.

Studies concur that the salience of an international treaty has a positive impact on the level of parliamentary control. Jančić (2017) stresses that the TTIP negotiations were characterized by a high political salience, which makes it conducive to politicisation and galvanisation of parliamentary interest (Jančić 2017: 203). Raube and Wouters (2017) offer a similar tentative explanation for the observed horizontal variation in the level and means of parliamentary control of the TTIP negotiations: “The activities of [national parliaments] further depend on the salience and contestation of FTAs” (Wouters/Raube 2016: 297), but do not elaborate further. Roeder-Rynning and Kallestrup (2017) identify the salience of trade issues, the rise of societal concerns and the mobilization of extra-parliamentary groups, as extra-institutional drivers for the national parliaments gaining assertion in the area of trade policy (Roeder-Rynning/Kallestrup 2017: 815f).

Beyond the importance of salience as an explanation, scholars have stressed other motivations for parliamentary control. Raube and Wouters

(2017) show how national parliaments are driven by concerns for input, throughput and to some extent output legitimacy of trade negotiations. However, they also claim that parliaments may control negotiations of EU trade agreements for more self-interested reasons, driven by political gains in the context of institutional politics or domestic party competition. However, they do not elaborate much on those self-interested reasons. Roeder-Rynning and Kallestrup (2017) demonstrate how salience as an extra-institutional driver is complemented by institutional drivers. National parliaments see the new trade agenda as a threat to their capacity to shape regulation (substantive concerns) and ratify international agreements (institutional concerns), causing them to become more assertive in international negotiations. Lastly, Jančić offers tentative explanations for the variation in how the British and the French parliaments controlled the TTIP negotiations, based on both agreement-specific and parliament-specific factors. He argues that in the case of TTIPP, “the key factors of parliamentary influence over the executive in EU external trade relations are the nature of the agreement, information access, and the level of fusion between the government and parliamentary majority” (Jančić 2017: 216). Thus, the designation of an agreement as mixed, giving the domestic legislatures the right to veto it and to condition consent with certain goals, provides parliaments with an incentive to exercise control. The third factor stresses the relevance of trust between government, parliamentary majority and opposition parties. Here, Jančić also demonstrates how parliamentary control was triggered less by the lack of trust in the executive than by the ideological preferences of the political parties.

This brief review of the state-of-the art of explaining parliamentary involvement in EU international treaty-making on the national level has offered several explanatory factors: on the agreement-side, the nature of an agreement and its salience; on the parliament-side, legitimacy concerns, procedural and institutional concerns, institutional rights and partisan competition and ideology. Thus, as in the EP, the identified explanations for parliamentary control are parliament- and agreement-specific. However, these findings are merely based on empirical studies of two EU international agreements and have been somewhat produced as “by-products” of other research questions. In light of the research aim of this dissertation, they can thus be considered an important starting point, but pressing questions about how and why parliamentary groups control EU international treaty-making remain.

3.1.2.3. Conclusion: National Parliaments in EU International Treaty-Making

This literature review has demonstrated an ever-growing body of literature on parliamentary control of EU affairs. However, it is questionable whether the

findings also apply to national parliaments' involvement in EU international treaty-making. In contrast, only few studies deal explicitly with the role of national parliaments in the area. These studies use a rather similar approach: They broadly map parliamentary control rights/sources of parliamentary influence, and then analyse parliamentary behaviour more or less systematically. All studies agree that national parliaments have extended their involvement in EU trade policy-making beyond what is *de jure* foreseen by the Treaties and are becoming actors in EU international trade treaty-making. As such, they follow the "behavioural turn" of studies on parliaments in EU affairs, as formal powers do not necessarily equal parliamentary action and influence. The studies agree that there is considerable variation in the way national parliaments control trade negotiations, across parliamentary chambers and across trade agreements. However, in most studies, parliamentary behaviour and variation in it are not systematically explained. Despite some indications of what might explain parliamentary control in trade policy-making, these findings are not explored systematically. The literature on the role of national parliaments in trade negotiations remains largely descriptive and only offers tentative explanations for parliamentary control, drawing on extreme cases like TTIP and CETA. In light of the research interest of this dissertation, they can thus only constitute an important starting point, but further research is necessary.

3.1.3. Summary: Parliaments in EU International Treaty-Making

To sum up the literature review on the role of the EP and national parliaments in EU international treaty-making, several studies have in the recent decade started to analyse the role of parliaments. However, this literature is still in its infancy. The reviewed studies constitute important starting points for the research objective of this dissertation, namely investigating and explaining control by parliamentary groups in EU international negotiations. By now, we have an improved understanding of the formal and informal powers of both the European Parliament and national parliaments and how they have increased in recent years. We also know that parliaments have started to actively use those powers by exercising influence not only during parliamentary ratification, but throughout a negotiation process. Hence, we have a good understanding of what parliaments can do in EU international treaty-making, and some indications on what they have done in regard to several EU international agreements, such as TTIP, ACTA, and CETA. Yet, systematic investigations of parliamentary control in EU foreign policy are still pending. Moreover, explanations for parliamentary activism brought forward, while laudable, are not

able to fully answer the research questions that this dissertation is investigating. A comprehensive investigation of and answer to the research questions of this dissertation, how and why parliamentary groups control EU international treaty-making, are still missing.

This is unfortunate, as with the steadily growing significance and impact of the EU as an international actor, it has become increasingly important to understand the governance processes and actor relations behind its foreign policy. It has been argued above that this understanding can only be reached by identifying the actors that have the greatest influence over policy decisions and assessing the factors that influence their decisions or policy stance. With parliaments being increasingly active and willing to use their power in EU international treaty-making, research must take the actions, motivations and impact of parliaments into account when explaining the input and outcome of EU foreign policy. The current literature has hitherto not been able to do so.

3.2. The Role of Parliamentary Groups

In light of the research interest of this dissertation, a general shortcoming of the literature on the role of the European Parliament and national parliaments discussed above is its implicit – or explicit – focus on parliament as unitary actors. These studies treat parliaments as single, unified actors that affect public policy in a unitary way, instead of focusing on the various actors within parliament (see below, 3.2.4). This dissertation investigates actions and motivations of parliamentary groups, not parliaments as such. Whereas it has been demonstrated in domestic and EU affairs that how parliaments make use of their powers depends, for the most part, on party political incentives and strategies, it has not yet been explored whether this is also the case in EU foreign policy. Thus, to what extent is it legitimate to put parliamentary groups, not parliaments, as unit of analysis at the heart of an empirical investigation in EU international treaty-making? And if there are good reasons to believe that also in EU international treaty-making, a partisan perspective is decisive to understand how and why parliament is behaving the way it is, what do we already know about party behaviour in EU international negotiations?

The following sub-chapters will review the literature on the role of parliamentary groups in domestic and EU affairs, and elaborate on their relevance in foreign policy more broadly. It will demonstrate that both in domestic politics, in EU affairs and in foreign policy-making, parliamentary groups have different goals and incentives when acting in parliament, which leads them to engage in different strategies and levels of control of the executive. Against this background, this literature review will return to the literature on parliamentary involvement in EU international treaty-making and investigate more

thoroughly how the role and relevance of parliamentary groups have been incorporated in these studies and what implications can be drawn from the point of view of this dissertation.

3.2.1. Parliamentary Groups in Domestic Affairs

Political parties have a pivotal position in modern democracies and are considered to be at the heart of the political system, fulfilling several functions that make democracy work in practice (Aldrich 1995; Przeworski et al. 1999). Political parties recruit politicians for office, articulate the interest of citizens, offer policy alternatives and inform citizens about the offers that are up for election, and thereby mobilize voters. They create government majorities, producing policy output (Dalton et al. 2011). Overall, political decision-making and the organization of political processes is heavily affected by political parties.

This is especially the case within parliament, where political parties structure both organization and behaviour. Indeed, the organisation of many parliaments has institutionalized the relevance of parties, i.e., by giving them privileges such as agenda rights, allocation of seats and speaking time etc. MPs from the same political party usually sit together in parliamentary groups that establish internal institutional arrangements and enforce party discipline to ensure that the group as a collective is pursuing common objectives (Müller 2000). Party discipline thus shapes the behaviour of individuals, with parliamentary groups coordinating their votes in plenary and committees (Sieberer 2006; Russell 2014), their debates (Proksch/Slapin 2012) and their use of control instruments. Moreover, parliamentary groups shape parliament through party competition. This has important consequences for our understanding of executive-legislative relations and the parliamentary activities we observe.

It is a well-accepted fact that the two-body image of executive-legislative relations, which perceives the executive and parliament as two independent, opposing institutions, is mere fiction (King 1976). Rather, the parliamentary/governmental complex is an arena in which the main lines of contestation run along party lines and in which the ideological struggle between political parties is fought out (Andeweg/Nijzink 1995). This is not to say that parliamentarians cannot act in a non-party mode in which members of the government interact with members of the parliament. However, most of the interactions between parliament and government occur in the inter-party mode, in which ministers and MPs from one group interact with ministers and MPs from another group (Holzhacker 2002). This means that parliaments are party political institutions, and parliamentary groups are the main strategic actors within parliament. Consequently, parliaments cannot meaningfully be

studied as unitary actors, and research on legislative behaviour needs to explicitly take the role of parliamentary groups into account.

Generally, the division between the executive and its supportive majority on the one hand, and the parliamentary opposition on the other is the most important cleavage in all European legislatures (Auel 2006; Raunio 2016). Depending on their institutional status vis-à-vis the government, parliamentary groups have varying incentives to become active. Opposition parties have an interest in exercising control to reduce their information deficit vis-à-vis the executive (Döring 1995) and to criticize the executive in order to present itself as an alternative to the prevailing majority (Dahl 1965; Helms 2008). Governing parties have an interest in sustaining “their” executive, while parties in coalition governments can resort to parliamentary scrutiny to control the leading minister in order to enforce the coalition agreement (Laver/Shepsle 1996; Martin/Vanberg 2004, 2005).

Research suggests that, beyond being driven by institutional status, party behaviour in parliament can be perceived as being driven by a rational cost-benefit calculus – the logic of consequences. Early literature explained legislative behaviour with reference to career and re-election goals only. Mayhew (1974) argued that parliamentary actors’ primary preference is to be re-elected – they are “single-minded seekers of reelection” (Mayhew 1974: 5) and that they adjust their behaviour to this fundamental goal (see also Schlesinger 1991: 39f.). Other scholars have criticized this purely vote-seeking approach. Fenno (1973) pointed to three main goals that guide legislative behaviour: re-election, political influence, and good public policy (Fenno 1973; see also Cox/McCubbins 1993). Similarly, Budge/Laver (1986) claim that politicians do pursue policy goals, be it for intrinsic reasons and caring about the policies, or for instrumental ones in order to gain electoral support (Budge/Laver 1986; for a similar argument see Laver/Schofield 1991).

Building on this extension of the parsimonious view of parties as purely-vote seeking, Müller and Strøm argue that “it makes little sense to assume that parties value votes for their own sake. [Votes] can only plausibly be instrumental goals. Parties only seek votes to obtain either policy influence, the spoils of office, or both” (1999: 9). Parties have a small and well-defined set of objectives: office-seeking, policy-seeking, and vote-seeking. These differing goals subsequently influence party behaviour, also within parliament, meaning that they have different implications for overall legislative behaviour and for how both governing and opposition parties approach parliamentary control. Hereby, Müller and Strøm emphasise that parties, which generally have scarce resources, can rarely realize all goals simultaneously, but there are trade-offs between their different goals. Under these circumstances, the moti-

vation of parliamentary groups to exercise control depends “(a) on the electoral (and career) benefits that they expect from their activities and (b) the probability MPs assign to [...] having a policy impact (Auel/Christiansen 2015: 269f; see also Saalfeld 2003). Parliamentarians’ cost-benefit approach to addressing that they face far more issues and activities than they can cope with was also demonstrated in the literature on the US Congress (Scher 1963; Aberbach 1979; Zegart/Quinn 2010; Duffin 2003).

Summing up, it is a well-accepted fact that in domestic affairs, legislative behaviour is for a large part driven by party politics. In parliament, parties organize in parliamentary groups that have differing institutional status, i.e. relationships with the executive. In their control behaviour of the executive, they are driven by this institutional status. Recent literature has taken more general preferences of parties into account to explain legislative behaviour – vote-seeking, office-seeking and policy-seeking. Studies have shown that parliamentary groups also base control on a cost-benefit analysis of preference attainment. Thus, parliamentary groups are driven by different motivations and incentives when they engage in parliamentary control, which subsequently leads to different levels and strategies of control behaviour. This, in turn, provides a theoretical foundation for the argument that parliamentary groups deserve serious attention in the study of parliaments. Nonetheless, questions remain whether these observations also apply to EU affairs and EU foreign policy, and whether the scrutiny of EU international treaty-making can indeed be examined through the lens of parliamentary behaviour. Voters tend to care less about these two policy-making areas than about domestic issues, such as welfare policies. At the same time, intra-coalition conflict is expected to happen on domestic issues rather than on foreign affairs. Thus, can similar dynamics be observed in the empirical realm this dissertation is investigating?

3.2.2. National Parliaments in EU Affairs: The Role of Parliamentary Groups

Shifting the perspective from national parliaments in domestic affairs to national parliaments in EU affairs – thus closer to the research interest of this dissertation – it can be observed that more recent studies increasingly consider political parties as a relevant part of parliamentary EU control. They recognize the need to study parliaments not as unitary actors, but to open them up and analyse the actions and motivations of their constitutive units, parliamentary groups. This literature has studied the impact of EU integration on the preferences and strategic considerations of parliamentary groups and how partisan factors affect the parliamentary control one can observe in affairs.

What insights follow from this in regard to the research interest of this dissertation?

First, the literature has argued that parliamentary preferences and strategic considerations transcend from the domestic level to EU affairs. Holzhacker (2002) shows that parliamentarians in Germany and the Netherlands predominantly act in inter-party mode when controlling EU affairs, which, he concludes, “means that party interactions during parliamentary scrutiny over EU matters are increasingly similar to those over domestic political issues” (Holzhacker 2002: 477, see also Auel 2007). However, the literature also recognises several constraints for both majority and opposition MPs stemming from the multi-level context of the EU. Generally, information about and access to EU policy making is more difficult for parliamentarians than in the domestic political arena, and parliaments need to search for new strategies of involvement (Sprungk 2010, Benz 2004; Auel/Benz 2005). Governing parties have to consider the risk of potentially undermining the effectiveness of EU-level negotiations when exercising overly tight scrutiny (Benz 2004). Opposition parties, in turn, have to be aware that they risk being blamed for undermining the representation of the national interest (Auel 2007; Auel/Benz 2005; Winzen 2010). Thus, governing and opposition parties face different challenges related to parliamentary scrutiny in EU affairs, which can be assumed to affect their control behaviour in EU affairs.

The literature on parliamentary control in EU affairs emphasizes that not only a group’s institutional status provides incentives to control the executive in EU decision-making, but that parliamentary groups have their own and varying preferences that guide their actions. Like their behaviour on domestic issues, their behaviour in EU affairs is driven by vote-seeking, policy-seeking and office-seeking considerations. “MPs are mainly motivated by their interest in maximising their chances for re-election, career development and/or policy influence” (Auel/Christensen 2015: 270). Drawing on rational choice institutionalism, the literature argues that the nature, direction and intensity of parliamentary involvement in EU affairs is linked to cost–benefit calculations (Gattermann/Hefftlar 2015; Saalefeld 2003; Strelkov 2015). It is important to be aware that European integration, and the additional constraints and opportunities that go hand in hand with it, affect how parliamentary groups perceive the benefits of control behaviour, as they need to find new ways to maximise their gains in a new institutional context.

Beyond analysing the preferences of parliamentary groups in EU affairs, the literature has also started, in line with parliamentary turn of parliamentary studies, to focus on the impact of partisan dynamics on the nature, direction and level of parliamentary control. Recent studies have increasingly taken the active use of parliamentary control instruments of individual groups into

account. Generally, there is consensus that the presence of parliamentary groups with strong incentives to exert control tends to increase the level of oversight activity in parliament; and, interrelated, that parliamentary groups do indeed control EU affairs to different extents, with different strategies.

In terms of strategic behaviour in parliament, research has demonstrated that opposition parties rely mainly on committees and other institutional instruments to control EU decision-making (Holzhacker 2002; Auel/Benz 2005; Wonka/Rittberger 2014). Governing parties scrutinize the government in more informal ways (Auel/Benz, 2005, p. 373). In terms of the impact of partisan factors on the level of parliamentary control, Finke and Dannwolf (2013) studied the frequency of scrutiny of all EU draft legislative acts between 2006 and 2009 initiated in the Czech and German parliaments. They find that parliamentary scrutiny most importantly provides means for opposition parties and coalition partners to control the government. Gattermann and Hefftler (2015) show that higher levels of intra-parliamentary political contestation about the EU increase the number of reasoned opinions submitted within the Early Warning Mechanism (Gattermann and Hefftler 2015). Gattermann (2013) demonstrates a similar effect for the participation of parliamentary groups in inter-parliamentary cooperation. This is confirmed by Miklin (2013), who shows that inter-parliamentary cooperation is more important for opposition than for governing parties, as they see it as a means to gather inside information on EU decision-making and coordinate their interests with other parties in order to increase their chances of influence. Wonka and Göbel (2016) explain the varying levels of German parliamentary parties' activities in contesting Euro crisis measures in the Bundestag by their institutional status (opposition parties are more active), their ideology (shaped by their ideological (left–right) positions) and the legal nature of the institutional instrument (all parties are more active on measures where they have formal and binding decision-making powers). With regard to parliamentary debates, research has demonstrated that partisan factors are decisive for the extent to which parliamentarians engage in plenary debates on EU issues (Auel/Raunio 2014; Rauh 2015).

This brief literature overview of the treatment of parliamentary groups in studies of EU oversight has demonstrated that parliamentary control in EU affairs is similar to domestic politics, as EU control rarely follows a non-party mode with parliament acting as a unitary actor. Rather, parliamentary groups have varying preferences and incentives to become actively involved in EU decision-making. This, in practice, leads them to engage in parliamentary control to different levels and using different strategies. In sum, a large body of research suggests that partisan factors play an important role in explaining

parliamentary control of EU affairs, and explicit considerations of the role parliamentary groups in the relevant literature have been increasing in recent years. In light of the research objective of this dissertation, this further supports the argument that parliamentary groups deserve serious attention in the study of parliamentary control. At the same time, they give insight into what drives parliamentary groups in EU affairs: their institutional status, as well as policy-seeking, vote-seeking and office-seeking goals. This provides first indications for how and why groups exercise parliamentary control. Whether and if so, how this also applies to EU foreign policy needs to be further investigated.

3.2.3. Parliamentary Groups in Foreign Policy

As the empirical realm this dissertation is interested in is EU international treaty-making rather than domestic and EU decision-making, we need to ask to what extent the observations about partisan dynamics having a defining influence on legislative behaviour can be transferred to foreign policy. Should parliaments in foreign policy-making not rather be understood as unitary actors?

Indeed, several scholars consider foreign policy fundamentally different from domestic politics. They view foreign policy as “an area where domestic political factionalism is sublimated to the interests of national security” (Alden/Aran 2012: 46). This means that in foreign policy, ideological differences are set aside in favour of the national interest, with political parties forming consensus on international decisions to not undermine international actions (Howell/Rogowski 2013; Milner/Tingley 2015). “Politics stops at the water’s edge”, and partisanship and partisan politics are not decisive factors in a nation’s foreign policy-making. Rather, partisan behaviour is rare on foreign policy (Souva 2005: 151). With scholarly interest largely focusing on the United States, scholars have demonstrated that, historically, there has been greater consensus and greater efforts at bipartisanship on foreign policy issues than on domestic issues (e.g. Meernik 1993; McCormick/Wittkopf 1990; Marshall/Prins 2002). Such notions can also be found in literature on European states (e.g. Hagan 1993). This understanding implies that the role of political parties in foreign policy is inconsequential. However, recent research strongly indicates that parliaments are party-political institutions also in foreign policy-making.

In the literature on the US Congress in foreign policy, research on security policy has demonstrated strong evidence for an ideological divide between Democrats and Republicans (Poole/Rosenthal 1991; Alesina/Rosenthal 1995). Also in other contexts, it has been shown that centre-right parties are more supportive of military operations (Palmer et al. 2004; Schuster/Maier 2006;

Auerswald/Saideman 2014; Mello 2014), whereas leftist parties are more likely to engage in multilateral cooperation and apply a broader conception of the national interest, including the promotion of human rights (Rathbun 2004). Meernik (1993) and Prins and Marshall (2001) demonstrate that in foreign aid and trade votes, voting in congress is more partisan than on security policy foreign (see also Hiscox 2002; Milner/Judkins 2004; Broz 2011; Milner/Tingley 2015).

Against the background of these findings, Raunio and Wagner argue that parliaments cannot be perceived as unitary actors in foreign policy. “Instead, we approach parliaments as party-political institutions where political parties and individual MPs have different motives and opportunities for influencing foreign policy” (2016: 8). Importantly, they emphasise that, just like in domestic and EU affairs, parliamentary groups can prioritise office-seeking, policy-seeking or vote-seeking considerations, which, in turn, has different implications for legislative behaviour and for how governing and opposition parties approach foreign policy issues. They suggest that we can indeed expect party-political contestation in parliament in foreign policy.

Summing up this brief review about the role of parliamentary groups in foreign policy-making, research strongly suggests that in contrast to the “politics stops at the water’s edge assumption”, partisan and ideological disputes can also be observed in foreign policy. Parties do matter in foreign policy, foreign policy does not necessarily generate cross-party consensus. This means that the question of political parties and partisanship deserves more attention in studies of foreign policy and international treaty-making than it has received so far. At the same time, questions remain about what drives parties in foreign policy. The brief elaborations above suggest that political groups might have different priorities when it comes to foreign policy, and that they are policy-seeking in their pursuit of preferred policies. They may also use foreign policy issues to seek votes by outmanoeuvring other parties in the electoral game, which shapes their preferences and actions. This discussion has two implications for the research interest of this dissertation. First, it strongly underlines the need to put activities of parliamentary groups, not of parliaments as unitary actors, at the heart of the empirical analysis. Second, it provides further insights into what drives them in foreign-policy making; namely similar goals and preferences as in domestic policies, adapted to the international context.

3.2.4. Parliamentary Groups in European Foreign Policy

Shifting from the perspective on the role of partisanship in foreign policy generally to EU international treaty-making, the empirical realm analysed in this

dissertation, it seems, based on the arguments brought forward above, conducive to put a strong focus on the role of parliamentary groups in studies of parliamentary behaviour also in EU international negotiations. Yet, reviewing the literature presented in 3.1 on the role of the European and national parliaments in EU foreign policy, this focus is largely lacking.

Herbel (2017) was the first scholar to explicitly explore the role of parliamentary groups in national parliament in EU foreign policy. However, she focused on CFSP, not EU international treaty-making. Based on the argument that scrutiny of EU foreign affairs should be analysed through the lens of parliamentary behaviour in domestic matters, she applies insights from comparative politics on parliamentary oversight. She demonstrates that opposition parties control the government if they have access to strong oversight instruments. This is not important for coalition partners, who exert stronger control when the leading minister is weak. She also finds that the way different types of CFSP issues are scrutinized varies. Issues with potentially direct distributional consequences, such as economic or environmental questions, are subject to more frequent control than military issues. However, as CFSP is succinctly different from EU international treaty-making in regard to institutional relationships and decision-making procedures (see sub-chapter 1.2.1.2), these findings cannot simply be transferred to the research focus of this dissertation.

Beyond that, some of the studies on parliaments' role in EU foreign policy referenced in sub-chapter 3.1 hint at the importance of parliamentary groups in explaining parliamentary control. Jančić analyses party politics in the TTIP negotiations in the French and the British parliaments. He finds that ideological differences between parliamentary groups affects their view on trade and the level of demanded involvement in the negotiations "In trade policy, legislative participation and oversight were triggered less by the lack of trust in the executive and by the mechanics of the system of government, than by the ideological preferences of the political parties" (Jančić 2017: 12). Raube and Wouters (2016) find that national parliaments may control the negotiations of EU trade agreements for self-interested reasons, driven by political gains in the context of institutional politics or domestic party competition. However, they do not elaborate much on those self-interested reasons.

In the European Parliament, the few studies explaining parliamentary behaviour in EU international treaty-making, reviewed in section 3.1, analyse the EP as a unitary actor, referring mainly to the salience of an agreement under negotiation and its institutional capacity to explain the level of parliamentary control. This is somewhat surprising as descriptive research on the EP has demonstrated large intra-parliamentary variation between the various EP po-

litical groups regarding their stance on trade politics. Shaohua (2015) emphasizes that the EP is not a unitary institution, but consists of different political groups that play different roles. He demonstrates intra-parliamentary division lines along party group/ideological lines rather than national division in trade policy (see also Van den Putte et al. 2015; Podgorny 2015). Whereas the emerging literature on the European Parliament and its involvement in international trade negotiations recognizes the intra-parliamentary division lines between political groups with different ideologies and stances on trade issues, investigations of parliamentary behaviour have not yet paid attention to this. Generally, as the EP is organised in strong party/political groups, we can expect to observe partisan conflict, not national, also in other areas of foreign policy-making.

This means that the behaviour of parliamentary groups in EU international treaty-making has never been systematically studied. At the same time, research on parliamentary control of European foreign policy suggests that partisan dynamics have an impact on parliamentary behaviour in EU international treaty-making. However, the few studies that refer to partisan conflict to explain (variation in) parliamentary control, study it in the aggregate. They do not disentangle the actions of the parliamentary groups in one parliament, but pool them together. Nor do they incorporate the positions and incentives of parliamentary groups in their design. This means that partisan explanations are used as one of several explanatory factors to explain control of the parliament as a unitary actor. We may therefore overlook relevant insights into how parliamentary groups influence legislative control in EU international treaty-making. In light of the research interest of this dissertation, the relevant literature neither focuses explicitly on the distinct behaviour of parliamentary groups in EU international treaty-making nor elaborates on the incentives and motivation of parliamentary groups to become engaged in EU international negotiations. Explanations for their engagement in treaty-making processes are lacking. While we have a growing understanding of the importance of partisan dynamics in foreign policy, we do not know how nor why parliamentary groups control EU international treaty-making.

3.2.5. Conclusion: The Role of Parliamentary Groups in EU International Treaty-Making

Summing up, the literature reviewed in this sub-chapter clearly shows that the assumption of parliament and executive as two opposing entities has long been proven wrong. Parliaments rarely act in non-partisan mode; but legislative behaviour and parliamentary control are driven by partisan considerations. More precisely, this means that parliamentary groups pursue different goals and have different incentives when acting in parliament. This leads them

to engage in different strategies and levels of control of the executive. The pivotal role of political parties has been recognized in domestic politics, in EU affairs and in foreign policy-making. From the point of view of this dissertation, we can strongly expect partisan dynamics in EU international treaty-making, and that it is unlikely that all parliamentary groups in one parliament follow exactly the same patterns in their involvement in EU international negotiations.

Parliamentary groups should be explicitly incorporated in the research design of empirical studies on parliamentary control of EU international treaty-making. However, the nascent literature on parliamentary control of EUFP has largely ignored the role of parliamentary groups and neglected intra-parliamentary dynamics. Some of the studies reviewed above do include references to partisan conflict as an explanatory factor of parliamentary behaviour, but do not study them systematically. Moreover, these studies analyse parliamentary control in the aggregate and do not disentangle actions by individual groups. By focusing on national parliaments at the aggregate level we miss a more nuanced picture of parliamentary control and risk underestimating the amount and the functionality of control. We may then reach wrong conclusions about why parliaments acted as they did in specific cases of EU foreign affairs. Overall, if we claim that we need to understand parliamentary control in EU foreign policy but remain satisfied with the simplest level of analysis, that is parliaments as unitary actors, we are unable to understand parliamentary control in EU foreign policy. However, focusing explicitly on the role of parliamentary groups will improve our understanding of the motivation and behaviour of the decisive actors in parliamentary control in EU international treaty-making and overall give us new insights into the functioning of parliamentary control in this policy area.

3.3. The Focus on Landmark Cases

Beyond lacking an explicit engagement with the role of parliamentary groups, a vast majority of the studies of legislative control in EU international treaty-making deal with a limited number of international agreements. The above-cited and presented research has so far focused on few landmark cases for the European and for national parliaments: TTIP (Jančić 2017; Raube/Wouters 2017; Meissner 2016; Roederer-Rynning 2017), CETA (Raube/Wouters 2016; 2017; Roederer-Rynning 2017); ACTA (Meissner 2016; Van den Putte et al. 2014; 2015; Dür/Mateo 2014; Héritier et al. 2015), SWFIT (Ripoll-Servent 2014; Monar 2012; Meissner 2016; Héritier et al. 2015), EUSFTA (Héritier et al. 2015; McKenzie/Meissner 2017; Conceição-Heldt 2017) and the EU-Korea

Free Trade Agreement (Richardson 2012; Conceição-Heldt 2017). Importantly, these agreements, which have been extensively studied in terms of parliamentary control in the last years, all fall into the area of trade policy-making. Less is known about parliamentary involvement beyond these cases, and we do not know how and why parliaments and parliamentary groups control other instances of EU international negotiations in other policy fields.

Explaining parliamentary behaviour in a few landmark cases does not necessarily provide more generalizable insights into parliamentary activities regarding a broader set of international agreements and explain variation in the level and means of parliamentary control. It is possible that the dynamics of parliamentary control in these instances follow their own logic, based on the peculiarities of the negotiations. All these landmark cases have been characterized by high public salience and contestation, leading to some kind of selection bias. They cases were chosen because of their high salience and galvanisation of parliamentary interest, as this increases the chances of observing the assumed effects (Coremans/Meissner 2018: 6). It is, however, exactly these features that make them unique (Jančić 2017: 2), and the conclusions reached on these highly public landmark cases may not apply to other agreements, as parliamentary control here might be driven by a different logic, such as their high salience and publicity. Moreover, the strong focus on trade agreements is challenging in this regard, as international trade is a political realm where policies are redistributive, and the outcome of international negotiations has significant redistributive effects. Thus, to derive findings that are generalizable beyond international trade negotiations, it is necessary to consider international agreements of a more regulatory nature as well.

Summing up, recent research on parliamentary control of EU international treaty-making has focused on a few landmark cases, which all fall in the area of trade policy-making. Little is known about parliamentary involvement beyond those landmark cases and in other policy fields. This narrow focus entails the risk of selection bias, as findings derived from these unique cases do not necessarily provide more generalizable insights into parliamentary activities and explain variation in the level and means of parliamentary control in regard to a broader set of international agreements.

3.4. Theoretical Approaches to the Study of Parliamentary Control in EU International Treaty-Making

Beyond the empirical gaps in the nascent literature on the involvement of parliaments in EU international treaty-making, which suffers from a lack of systematic studies of parliamentary behaviour and focus on political parties,

there also is a shortage of theory-based approaches that can explain parliamentary control. As will be shown in the following, most behavioural studies in EU international negotiations rely on exploratory and ad hoc explanations to explain the actual behaviour of parliaments and detected variation between parliaments. If studies use theories, they use them as a heuristic tool guiding the descriptive empirical analysis.

Whereas normative and empirical developments have indeed prompted a wave of empirical research in the role of parliaments in EU international treaty-making, theoretical models have not advanced at the same pace. This can, in the worst case, lead to an omission of important factors that affect legislative behaviour, meaning these analysis risk to be less able to explain parliamentary control of EU international treaty-making. Moreover, not being explicitly theory-based affects the generalizability of the theoretical elaborations and findings to other empirical instances of parliamentary control.

This means that the current literature on the role of parliaments in EU foreign policy lacks an explicit theoretical approach in order to engage with the overarching research question of this dissertation, how and why do parliamentary groups control EU international treaty-making, in a theoretically informed way. This sub-chapter will review how the current literature on parliaments in EU foreign policy has made use of theory and point out the lack of theory-driven analyses. It will demonstrate that there is demand for more theory-driven analyses of actual control behaviour, which, importantly, takes the role of parliamentary groups into account and allows the researcher to study them as distinct actors, with a distinct control behaviour driven by distinct motivations and incentives. Moreover, it will show that previous studies on parliamentary involvement in EU international treaty-making also strongly indicate that it useful to use principal-agent theory when analysing parliamentary control of EU international negotiations. On this basis, this chapter will then elaborate on applications of principal-agent theory in a) European foreign policy and b) executive-legislative relations. Based on this, a conclusion will be drawn.

3.4.1. State of the Art: Theoretical Perspectives on Parliamentary Control of EU International Treaty-Making

While the body of empirical literature on the involvement of both the European and national parliaments in EU international-treaty making has been growing within the last decade, with studies starting to focus on explaining parliamentary behaviour, only little attention has been paid to advancing theoretical models that can be applied to those studies.

One of the major approaches to the control behaviour of national parliaments in EU foreign policy is the concept of authority, ability and attitude developed by Born and Hänggi (2005), which enables the researcher to explore the range of formal powers available to a national parliament and to demonstrate how these are used in practice (Huff 2013; 2015; Wouters/Raube 2017). Raube and Wouters (2016) base their empirical investigation on Schmidt's analysis of input, throughput and output legitimacy, and investigate whether concerns about the legitimacy of EU free trade agreements turn parliaments into "rebels". While they find that parliaments are concerned with the legitimacy of EU international agreements, they also claim that beyond these concerns, parliaments may exercise control for more self-interested reasons. However, these self-interested reasons are not embedded in a theoretical understanding. Yet other studies, such as Jančić (2017), do not explicitly use any particular theory. Overall, these studies agree that there is considerable variation in how national parliaments control negotiations, across parliamentary chambers and across agreements, but their attempts to explain the variation are not theory-based.

A similar observation can be made in the literature on parliamentary behaviour in the European Parliament. As demonstrated above in sub-chapter 3.1.1.3., systematic research of the behaviour of the European Parliament based on a well-defined theoretical framework is limited. The few empirical studies of the EP's role in foreign policy that are based on a defined theoretical framework predominantly use principal-agent theory. Ripoll-Servent (2014) builds on two-level-games' and principal-agent models, but adjusts them to the way the EU negotiates international agreements to analyse the EP's control rights to understand its impact on the roles and strategies of EU institutions in international negotiations. She concludes, "the growing influence of the EP, as well as its capacity to exert control over all stages of decision-making, has the potential to develop into a more stringent relationship where the EP would be able to (informally) delegate tasks to the Commission – converting it into a (informal) principal" (Ripoll Servent 2014: 581). The emerging nature of the European Parliament as a principal to the Commission as Union negotiator in international negotiations was also observed by Elsig and Dupont (2012), who argue that "a newly emerging principal (competing with other principals), the EP, ascended as a key player during the ratification game" (Elsig/Dupont 2012: 502). However, while these two studies attempt to characterize the developing relationships between the EU institutions in European foreign policy as chains of delegation, they offer little insight into parliamentary actions beyond the empirical cases. They do not elaborate on more general theory-based explanations for control in the EP and lack references to partisan dynamics and the role of political groups.

Conceição-Heldt (2017) is the only study to date that investigates the role of the European Parliament as a principal to the Commission in trade negotiations in depth. She argues that as the EP, after Lisbon, has been granted joint powers with the Council in EU trade policy, the Commission-as-negotiator on the international stage acts on behalf of multiple principals: the Council and the EP. Her study sets out to explain the Commission's discretion on trade negotiations and to investigate whether, and if so how, the presence of multiple principals shapes this discretion. Her empirical research interest is thus more focused on the agent than on the principal, meaning that she pays little systematic attention to the EP's control actions and what triggers them. Nonetheless, she offers a first, detailed understanding of how the European Parliament can be perceived as a principal within the chains of delegation in EU international treaty-making and presents the various control mechanism available to the Parliament once the relationship is established. Even though Conceição-Heldt does not analyse parliamentary behaviour as such, her study constitutes a valuable theoretical starting point for the investigation of this dissertation: studying and explaining parliamentary control of EU international treaty-making can be based on insights from principal-agent theory. A similar observation for national parliaments was made by Jančić (2017), who argues that "the principal-agent chain of delegation, therefore, does not stop when authority is passed from voters to parliament and from parliament to government, but carries on when governments gathered in the Council delegate power to the Commission" (2017: 205) in EU international treaty-making. In that vein, Raunio and Wagner (2016) argue that principal-agent theory is a highly useful framework for investigating executive-legislative relationships in foreign policy and how parliament controls the government (Raunio/Wagner 2016: 6f).

Summing up, the majority of recent studies analysing parliamentary behaviour in EU international negotiations lack an explicit theory-based approach that goes beyond using theory as a heuristic tool to structure the analysis. Rather, many empirical studies are descriptive and only offer tentative explanations for parliamentary actions, both on the national and the European level. This also means that the role of parliamentary groups, which was argued above to be of central significance, has not been incorporated in theoretical approaches. Several of the above cited studies point towards principal-agent theory as a useful theoretical approach to systematically study parliamentary control of EU foreign policy, but none of them have developed and adapted agency theory to the setting at hand.

The lack of systematic theoretical approaches to the empirical study of the involvement of parliaments in EU international negotiations has several con-

sequences. Generally, theory gives coherence and meaning to data and findings, and establishes a connection between empirical phenomena that might have remained disconnected and unintelligible without it. Theory enables the researcher to uncover implications and relationships that might otherwise be overlooked by alerting her to all important aspects of her work. Moreover, theory can provide a framework for truly understanding both regularities and irregularities (McClelland 1960). For the research at hand, one of the main consequences of abstaining from using a well-developed theoretical framework is that one might neglect important factors that affect parliamentary groups' control of EU foreign policy making. Making use of an explicit theoretical framework allows the researcher to systematically study not only the actions, but more importantly the motivations of the decisive actors, parliamentary groups, which reduces the risk of omitting important motivational incentives. Establishing a well-founded connection between data and findings based on theory thus delivers a more complete explanation of parliamentary control. In addition, not being explicitly theory-based affects the generalizability of the theoretical elaborations and findings to other empirical instances of parliamentary control, as they are based on ad hoc theory-led explanations of parliamentary control based on few empirical instances.

The review of the state-of-the-art of the use of theory in studies of parliament's in EU international treaty-making strongly indicates that it is possible, and indeed conducive, to use principal-agent theory. The following sub-chapters will elaborate on applications of principal-agent theory in a) European foreign policy and b) executive-legislative relations. Based on this, a conclusion will be drawn.

3.4.2. Principal-Agent Theory

Indeed, most scholars apply a principal-agent approach to theorizing the parliamentary function of holding the government accountable. Parliaments perform as principals for their executives as agents. Agency theory suggests that political parties play an important role in the various stages of delegation, and thus also in parliamentary control of the executive. This makes agency theory a well-suited theoretical framework to study the research question of this dissertation, namely how and why parliamentary groups control EU international treaty-making. However, whereas principal-agent applications to executive-legislative relations are well developed in domestic and increasingly also in EU affairs, this is not the case for executive-legislative relations in EU international treaty-making. Due to the changed institutional setting, the introduction of new and important actors and potentially different institutional dynamics, it is not simply possible to transfer applications of agency theory in

executive-legislative relations to the setting of EU international treaty-making.

At the same time, agency theory has become the central model applied decision-making in EU foreign policy, and, more specifically, EU international treaty-making. Most applications treat the national executives in the Council as principals, whereas the EU negotiator representing them at international level is conceived as the agent, tasked with the negotiation of international agreements. However, the role of parliaments and parliamentary groups has not been incorporated into this perspective of the institutional relationships in EU international treaty-making.

This means that theoretical elaborations on the role of parliaments in EU international treaty-making, spanning from the national to the international level, based on agency theory are lacking. This dissertation argues that it is necessary to integrate the principal-agent perspective on executive-legislative relations with the principal-agent perspective on the institutional relationships in EU international treaty-making. This combination will allow a theoretically informed study of parliamentary control in EU international treaty-making, which also enables the researcher to take the role of political parties into account in the analysis and thus to engage with the research questions of this dissertation based on a sound theoretical framework.

3.4.2.1. Principal-Agent Applications: Parliamentary Democracies

As argued above, agency theory has also become the central model for understanding the relationship between the executive and legislative, and for analysing the parliamentary function of holding the government to account (Strøm 1997; 2000; Müller 2000). According to principal-agent theory, the relationship between citizens and political actors in parliamentary systems can be meaningfully perceived as a chain of delegation, “from the voters to the ultimate policy makers, in which at each link (stage), a principal (in whom authority is originally) delegates to an agent, whom the principal has conditionally authorized to act in his or her name and place” (Strøm et al. 2003: 3). Within this chain, parliament performs both as agent for the voters as ultimate principals as well as principal for the executive, to which they delegate executive power. In studies of legislative-executive relations, the executive is perceived as the agent, parliament as the principal that has delegated certain tasks to the executive and now needs to control the latter to minimize the risk of agency loss. As such, principal-agent theory “highlights a set of useful analytic dimensions for the analysis of executive–legislative relations and identifies the possibility of cooperation and control” (Saalfeld 2014: 346), and is thus well suited to guide empirical studies of the how and why of parliamentary control in EU international treaty-making.

A much criticized assumption of principal-agent theory is that in its simplest form, it argues that both principal and agent are unitary actors (Gailmard 2009; Moe 1984). Waterman and Meier (1998) argued that the US Congress cannot be regarded as a unitary actor, but consists of multiple, competing principles, i.e. individual members of Congress and individual committees (Waterman/Meier 1998). Building on this, Nielson and Tierney (2003), who distinguish between collective and multiple principals, claim that Congress can be treated as one principal, which, however, consists of more than one actor (Nielson/Tierney 2003). Against this background, principal-agent theory increasingly takes the role of partisan actors in executive-legislative relations into account and argues that political parties and parliamentary groups play an important role in the various links of the chain of delegation in parliamentary democracy, and consequently also in parliamentary control (Mezey 1998; Saalfeld 2000; Auel 2007; Sprungk 2010; Proksch/Slapin 2011).

Müller (2000) shows how political parties play a crucial role for delegation and accountability in parliamentary democracies by being integrated in each step of the delegation chain. Delegation is thus structured by the interaction of political parties. In parliament, MPs are organized in different parliamentary groups that mediate and control the delegation process to the executive (Müller 2000; see also Saalfeld 2000; 2005). Considering parliamentary groups to be at the center of the delegation chain in parliamentary democracies implies that one can expect strong differences in the way they control the executive. Hereby, it is especially important to consider the difference between government and opposition parties, as the relationship with the executive a group is scrutinizing has a strong impact on the nature of and incentives for oversight activities. Delegation is dominated by governing parties, as they are selecting and supporting the executive (Laver/Shepsle 1999; Müller et al. 2003). Nonetheless, opposition parties also hold certain rights vis-à-vis the executive and have stronger incentives than governing parties to actively scrutinize the executive (Holzhacker 2005; Saalfeld 2000).

In parliamentary control of EU affairs, scholars have started to integrate principal-agent theory with preferences and goals of parliamentary groups. Auel (2009) argued that it is important to be aware that parliamentarians in parliamentary systems are not only principals to the executive, but also agents to their voters. In order to explain legislative behaviour and parliamentary control, one needs to take their role as both principal and agent into account, as both roles are associated with specific preferences: “As agents, MPs’ most important preference is to secure their re-authorisation, i.e. to be re-selected/re-nominated as the agent of their party and to be re-elected by the voters. As principals, the most important preference is to induce their agent (the government) to act in accordance with their interests, i.e. to minimise

agency loss”, hence policy seeking (Auel 2009: 3, see also Auel et al. 2015). As principal-agent theory is building on rational choice assumptions, she argues that parliamentary groups, when controlling the executive, will choose strategies of minimising agency loss that will advance, or at least not hurt, the realisation of their preferences as agents.

Overall, the applications of principal-agent theory to executive-legislative relations and the theoretical advancements to take the role of parliamentary groups into account make agency theory a well-suited theoretical framework to study the research question of this dissertation, namely how parliamentary groups control EU international treaty-making and, importantly, what drives them in their control actions. Indeed, these theoretical advancements have gone hand in hand with the behavioural turn in the studies of parliamentary control, which investigate actual legislative control behaviour, and hereby open up the black box of parliaments by conducting more detailed analyses of the incentives and actions of political parties. The framework is rather well developed and researched in domestic and increasingly also in EU affairs, but it has not been applied to executive-legislative relations in EU foreign policy, and, especially, in EU international treaty-making.

3.4.2.2. Principal-Agent Applications in European Foreign Policy

Principal-agent theory is also one of the most frequently applied theoretical frameworks to the EU’s role in international negotiations, and, more concretely, the role of the Commission as the Union negotiator on the international stage. The argument is that in EU international treaty-making, the member state governments, acting in the Council as a collective principal, delegate the competence to negotiate EU international agreements with external parties to the Commission, acting as the single EU spokesperson on the international stage, as agent for functional reasons. As delegation always implies the risk of agency loss, the Council has established control mechanisms to reduce this risk, whereas the Commission enjoys a certain discretion in its execution of delegated powers (e.g., Billiet 2009; Elsig 2007; Kerremans 2006; Meunier/Nicolaidis 1999; Mounier 2005 in the area of international trade negotiations; Verslyus 2007 in humanitarian aid policy and Menz 2015 in external migration policy). Later adaptations of this model made it possible to apply principal-agent models to negotiations in which the Commission did not act as Union negotiator or was not the sole negotiator by elaborating on the role of the rotating presidency or a lead negotiating country (Delreux 2008; 2011). Overall, principal-agent theory has been mainly applied to the area of trade politics; but applications also feature cross-border cooperation in competition policy (Damro 2007), EU humanitarian aid policy (Versluys 2007), external

migration (Stetter 2000; Menz 2015), environmental negotiations (Delreux 2009; 2011) and negotiations on chemical conventions (Delreux 2008).

Early applications of principal-agent theory to EU international treaty-making concentrated on mapping the ensuing principal-agent relationship, the control mechanism available to the member states in the Council and, to a certain extent, the implications of these findings for the EU's role on the international stage. In recent years, empirical studies have started focusing on the politics of discretion (Delreux/Adriaensen 2017b: 262), explaining the room of manoeuvre enjoyed by an agent in EU international treaty-making. These studies focus on internal variables such as preference heterogeneity between multiple principals (Elsig 2010; Niemann/Huigens 2011, da Conceição-Heldt 2011; 2017) and factors external to the principal-agent relationship, such as the informality of the institutional environment at the international level and the compellingness of the negotiation environment (Niemann/Huigens 2011; Delreux 2011). However, these studies focus on the agent-side of a principal-agent relationship. This is clearly related to the principals' control actions in the analysed settings, as the degree of discretion to a certain extent depends on the control actions of the principal prior to and after the establishment of the agency relationship, but control is not being analysed. Rather, the principals' actions are studied at an aggregate level in order to determine the outcome of interest – the agent's discretion. Only few principal-agent applications to EU international treaty-making explicitly look into which factors trigger principal's control. They demonstrate the impact of preference heterogeneity between principals (Elsig 2010; Conceição-Heldt 2011), between principals and agent (Kerremans 2006; Coremans/Kerremans 2017) and the administrative capacity of principals to effectively exert control (Adriaensen 2016).

Summing up, we have a well-developed understanding of how the institutional relationships between national governments in the Council and the Union negotiator can be perceived as chains of delegation and of the various control mechanisms the Council as collective principals can use in EU international treaty-making. However, few studies have analysed the conditions that trigger the use of these instruments, and the role of parliaments and parliamentary groups has not been incorporated into this perspective of the institutional relationships in EU international treaty-making.

3.4.3. Conclusion: Theoretical Approaches

Summing up this literature review, most recent studies of parliamentary behaviour in EU international negotiations lack an explicit theory-based approach that goes beyond using theory as a heuristic tool to structure the analysis. This also means that the role of parliamentary groups, which was argued

above to be of central significance, has not been incorporated in theoretical approaches. The lack of systematic theoretical approaches to the empirical study of the involvement of parliaments in EU international negotiations has several consequences. Failure to use a well-developed theoretical framework implies the risk that important factors that affect parliamentary groups' control of EU foreign policy making are missed. Providing a well-founded connection between data and findings based on theory thus delivers a more complete explanation of parliamentary control. In addition, not being explicitly theory-based affects the generalizability of the theoretical elaborations and findings to other empirical instances of parliamentary control.

The review of the state-of-the-art of the use of theory in studies of parliament's in EU international treaty-making strongly indicates that it is possible, and indeed conducive, to make use of principal-agent theory. Indeed, as demonstrated, applications of principal agent theory provide us with two perspectives on the institutional setting of EU international treaty-making. First, the delegation relationship between parliaments/parliamentary groups and the national executive in the Council has been intensively studied; second, the relationship between the national executive in the Council and the Commission as Union negotiator has been analysed by using agency theory. However, without integrating these two perspectives, we will not be able to understand how groups in the European Parliament and national parliaments control EU international treaty-making and the Commission as Union negotiator on the basis of principal-agent theory. By combining those two perspectives on principal-agent relations in chapter 4, this dissertation will allow a theoretically informed engagement with its research question and make broader contributions to our understanding of delegation and control in executive-legislative relations in EU international treaty-making.

3.5. Conclusion: Research Gaps and the Contributions of this Dissertation

This literature review started out by presenting the literature on the role of parliaments in European foreign policy, first focusing on the European Parliament, followed by national parliaments. After this, the relevance of parliamentary groups in domestic affairs, EU affairs and foreign policy was discussed and how their role has been taken into account in previous studies on EU international treaty-making. This was followed a brief in-depth excursion on the EU international agreements that until now have been subject to scholarly analysis. Lastly, the chapter gave an overview of the theoretical approaches used to study and explain parliamentary control in EU international treaty-

making, as well as of principal-agent theory, the theoretical framework commonly used to explain control behaviour in EU foreign policy and executive-legislative relations. The literature review is intended to give the reader a thorough understanding of the state of the art on parliamentary involvement in EUFP. However, it also demonstrated that research on parliaments in EU international treaty-making is still in its infancy, with several gaps remaining. Whereas the current body of research provides first indications for how and why parliamentary groups control EU international treaty-making, hence for answering the overarching research questions of this dissertation, our knowledge is still scarce, and systematic investigations, based on a firm theoretical basis, of these questions are still missing.

The chapter has identified four main gaps. First, research on EU international treaty-making has only recently started to actively consider the role of the European Parliament and national parliaments in EU international negotiations. The nascent literature has studied the formal and informal powers of parliaments at both levels and concluded that they have gained increasing powers in recent years. It has demonstrated that parliaments have started to actively use those powers by exercising influence not only during parliamentary ratification, but throughout a negotiation process. There is considerable variation in between parliamentary chambers and between various international negotiations when it comes to the level and strategies of parliamentary control. However, studies systematically explaining the actual behaviour of the parliaments and variation in control are largely lacking, with only few tentative and ad hoc explanations brought forward. This is unfortunate, as with the steadily growing significance and impact of the EU as an international actor, it has become increasingly important to understand the governance processes and actor relations behind its foreign policy. This understanding can only be reached by identifying the actors with the greatest influence over policy decisions and assessing the factors that influence their decisions or policy stance. Parliaments are increasingly active and willing to use their power in EU international treaty-making, and research must take the actions, motivations and impact of parliaments into account when explaining the input and outcome of EU foreign policy. The current literature has not been able to do so. The behavioural turn in studies of national parliaments in EU affairs has yet to fully unfold in relation to EU international treaty-making.

To address this gap, this dissertation makes parliaments in EU international treaty-making its empirical objective. It will study parliaments on both the national level and at the European Parliament. In this way, the dissertation takes into account the multilevel nature of the EU. In particular, the dissertation moves beyond simply studying formal powers of parliaments in EU foreign policy, and rather paints a systematic picture of parliamentary behaviour

in several EU international treaty-making processes. Hereby, the dissertation's approach is comprehensive, in the sense that the focus is not on a parliamentary group's use of a specific instrument of control, such as parliamentary questions or resolutions, but on identifying all parliamentary activities of a group on a particular agreement.

The first gap is closely connected to the second gap, namely the lack of studies with explicit focus on the role of parliamentary groups. It has been for a long time been understood that parliamentary groups are the decisive actors in parliament, with different positions, actions and driven by different incentives in both domestic and EU affairs, but partisan dynamics have not found serious consideration in studies of parliamentary involvement in EU international negotiations. Groups have not been systematically studied by incorporating their position and activities in the study design. Rather, parliamentary control was studied in the aggregate, perceiving parliaments as unitary actors, with partisan explanations, if included at all, being one of several factors affecting control. This is unfortunate, as research points towards similar partisan dynamics in EU international treaty-making. Not opening up parliaments and studying the motivation, preferences and activities of parliamentary groups as distinct actors means that we miss a more nuanced picture of parliamentary control in EU international treaty-making. We also risk underestimating the actual amount and functionality of control and thereby reaching wrong conclusions about why parliaments acted as they did in specific cases of EU foreign affairs. As argued above, there is a need to understand parliamentary control in EU foreign policy due to the EU's growing influence on the international stage and the increasing powers and level of involvement of parliaments. However, if we remain satisfied with the simplest level of analysis, that is parliaments as unitary actors, we cannot fully understand parliamentary control in EU foreign policy.

To address this gap, the dissertation will explicitly open up parliaments and study parliamentary groups as the unit of analysis. This allows for a more nuanced analysis of parliamentary control, as it enables the researcher to account for the actually decisive actors, i.e. parliamentary groups. Focusing explicitly on the role of parliamentary groups will improve our understanding of the motivation and behaviour of those decisive actors in parliamentary control in EU international treaty-making and overall give us new insights into the functioning of parliamentary control in this policy area. With this approach, the dissertation is the first systematic analysis of the motivation and actions of parliamentary groups' in EU international treaty-making and thus contributes to the literature by taking findings from the national level to EU foreign policy and investigating whether similar dynamics can be observed. The dissertation will thus also contribute to the literature on parties' incentives for

parliamentary control, which, as demonstrated above, has long demonstrated that parties are driven by different motivations and considerations. The approach of this dissertation prevents the risk of studying parliamentary control on an aggregate level, which cannot account for varying preferences and incentives.

The third gap identified in the current body of literature on parliamentary control of EU international negotiations is the focus on a small number of EU international agreements: the landmark cases of recent years, such as TTIP, ACTA and CETA. Less is known about parliamentary involvement beyond these cases. This narrow focus entails the risk of selection bias, as the findings derived on the basis of these unique cases do not necessarily provide more generalizable insights into parliamentary activities and explain variation in the level and means of parliamentary control in regard to a broader set of international agreements.

To address this gap, this dissertation will study selected international agreements that go beyond the dominant cases in the literature. This has several advantages. First, the dissertation is able to study the involvement of parliamentary players in cases that have not been intensively studied. By this, it contributes to a better understanding of European foreign policy beyond the landmark cases. Second, and more importantly, the dissertation uncovers and scrutinizes whether the logic of parliamentary control is the same in landmark and non-landmark cases, meaning that the findings are generalizable to a much broader pool of international treaty-making processes.

Lastly, the literature review showed that to date, a majority of studies that explain parliamentary control of EU international treaty-making lack an explicit theory-based approach. The emerging empirical research has not been accompanied by the advancement of theoretical models explaining parliamentary involvement. Instead, most empirical studies are descriptive and only offers tentative explanations for parliamentary actions, both on the national and the European level. This also means that the role of parliamentary groups, which was argued above to be of central significance, has not been incorporated in theoretical approaches. This is unfortunate for several interconnected reasons. A major consequence of not using a well-developed theoretical framework is that one might neglect important factors that affect parliamentary groups' control of EU foreign policy making. This complicates the systematic study of not only the actions, but more importantly the motivations of the decisive actors, parliamentary groups, which subsequently entails the risk of omitting important motivational incentives. Such empirical analyses are less able to explain parliamentary control of EU foreign policy, whereas establishing a well-founded connection between data and findings based on theory delivers a more complete explanation of parliamentary control. Moreover, not

being explicitly theory-based affects the generalizability of the theoretical elaborations and findings to other empirical instances of parliamentary control, as they are based on ad hoc theory-led explanations of parliamentary control based on few empirical instances.

To address this gap, the dissertation develops a theoretical framework of parliamentary control of EU international negotiations built on principal-agent theory. Principal-agent theory has been recognized as a useful theoretical approach to systematically study parliamentary control of EU foreign policy, but has not yet been developed and adapted to the setting at hand. This theoretical approach allows systematic study of the control behaviour of parliamentary groups and of their motivations for becoming active. This reduces the risk of neglecting important motivational incentives, meaning that this dissertation offers a more complete explanation of parliamentary control. In addition, being explicitly theory-based improves the generalizability of the theoretical elaborations and findings of this dissertation to other empirical instances of parliamentary control. That is, the theory and findings provide a lens through which we can study other cases of parliamentary control of EU foreign policy.

4. Theoretical Framework

Normatively and practically substantiating the need to empirically analyse parliamentary involvement in EU international treaty-making does not tell us anything about the actual actors in European foreign policy-making, about their actions, their interactions and their choices. To engage with the overarching research question of how and why parliamentary groups control EU international treaty-making in a theoretically informed manner, it is necessary to approach the topic from a more actor-centred point of view, enabling the theory-based analysis of the groups' actions in regard to EU international negotiations. In order to do so, this thesis relies on principal-agent theory.

Principal-agent theory builds on the key assumptions of rational choice institutionalism and sees political actors as rational and interest maximizing. Applications follow a three-step reasoning: its analytical core is the existence of an agency relation, i.e., a process of delegation from principal to agent for functional reasons. However, in addition to functional benefits for the principal, delegation implies the risk that the agent does not faithfully execute the delegated tasks. To prevent agency loss, the principal can establish and activate various control mechanisms to hold the agent accountable for their actions (Strøm 2003: 271). Agency theory has fostered a theoretically informed understanding of when, how and why principals control their agents. Based on these insights, the theory offers a promising theoretical perspective to engage with the overarching research question.

Indeed, when unravelling relationships between legislative and executive, scholars often adhere to principal-agent theory. In their seminal volume, Strøm, Bergman and Müller argue that in parliamentary democracies, the relationship between citizens and political actors can be understood in a systematic and theoretically consequential way as a chain of delegation from voters to the ultimate policy makers, mirrored by a corresponding chain of accountability in the reverse direction (Strøm et al. 2003: 3). Within this chain, parliament performs as agent for the voters as ultimate principals and as principal for the executive, to which it delegates executive power. More recently, principal-agent approaches have also become the standard conceptual tool for analysing parliamentary scrutiny of EU affairs. The underlying argument is that parliaments perform as principals for their executives as agents, whom they control in EU decision-making in the Council.⁷

⁷ E.g., Bergman 2000; Saalfeld 2005; Auel 2007; Winzen 2012b; Finke/Herbel 2015.

Principal-agent theory is also a central approach applied to decision-making in EU foreign policy, and, more specifically, EU international treaty-making.⁸ Most studies see the national executives in the Council as principals, and the Union negotiator representing them at international level as the agent in charge of negotiating international agreements. A few studies also study the European Parliament in the role as a principal to the Commission (Trauner 2012; Conceição-Heldt 2017; see also Raube 2013 regarding the EEAS).

Against this background, the dissertation will base its theoretically informed engagement with the overarching research questions on the principal-agent approach. However, due to the lack of theoretical elaborations on the actual role of parliaments and parliamentary groups in EU international treaty-making, spanning from the national to the international level, it will be necessary to combine principal-agent perspectives of executive-legislative relations in EU affairs with the agency view on EU international negotiations.

In order to do so, this theoretical chapter takes a three-step approach. First, a thorough introduction to the basics of principal-agent theory focuses on the three-step reasoning of agency relationship, agency costs and agency control. Second, the chapter sets out to descriptively develop an understanding of how the institutional relationship between parliaments and parliamentary groups, on the one hand, and the Union negotiator, on the other hand, in the setting of EU international treaty-making can be meaningfully perceived as chains of delegation. The basic argument is that parliaments act as collective principals, parliamentary groups are their constitutive units, and the Union negotiator is the ultimate agent. Particular focus is on the notion of parliamentary control, its conceptualization and the various dimensions along one can understand the concept. Third, the dissertation engages with the rationale of control. It argues that the principal's rationale of how to control EU international negotiations and why is based on a cost-benefit analysis. What constitutes costs and benefits as well as their magnitude depends on factors that are internal and external to the principal-agent relationship. Whilst this logic is transferrable to the complex and intertwined agency setting in European foreign policy, the contextual environment in which parliaments act has changed. This, in turn, affects the constraints and incentives that parliamen-

⁸ In regard to trade negotiations (Meunier and Nicolaides 1999; Meunier 2000; Elsig 2007; Kerremans 2004, 2006; De Bièvre and Dür 2005; Reichert and Jungblut 2007; Damro 2007; da Conceicao-Heldt 2011), environmental agreements (Delreux 2009; 2015), negotiations related to cross-border cooperation in competition policy (Damro 2006), EU humanitarian aid policy (Versluys 2007) and external migration (Stetter 2000; Menz 2015).

tary groups need to take into consideration when deploying the control mechanisms available to them, altering the nature and magnitude of both costs and benefits. The principal's cost-benefit calculation is affected by factors that are specific to the parliamentary group (and its relationship with the agent) and to the international agreement under negotiations. Hence, variation in control can be expected from group to group and from negotiation process to negotiation process.

4.1. Principal-Agent Theory: An Overview

“Principal-agent models are employed to model the relationship and strategic interaction between a principal and an agent and ought to help to make sense of the outcomes of such a relationship” (Hawkins et al. 2006: 7). The theory first emerged in microeconomics as a theoretical approach devised to study relations and delegation and control processes in companies (Dür/Elsig 2011: 328). Since the 1980s, principal-agent models have increasingly been applied to the study of political representation in general and to the analyses of the politics of legislative processes more specifically. Initial focus was on relations between the US Congress and the executive branch (Epstein/O'Halloran 1999; Kiewiet/McCubbins 1991). More recently, principal-agent theory was imported to the study of parliamentary democracy (Strøm et al. 2000; 2003), of the EU (Pollack 1997; 2003) and of international organizations more generally (Hawkins et al. 2006; Nielson/Tierney 2003).

The underlying assumptions of principal-agent models resemble each other in all these applications. The models are based on an economic theory of choice and behaviour, and as a particular application of Rational Choice Institutionalism assumes actors to be “interest- [and utility-] maximizing and opportunistic” (Braun/Gilardi 2006: 3). Further assumptions of rational choice theory are generally thought to be applicable as well: preferences are exogenous and a functional logic prevails with regard to institutional design (Delreux 2015: 159f.). In short, principal-agent models follow a three-step reasoning: a) there is a principal and an agent, who are connected by an act of delegation from the former to the latter; b) delegation implies functional benefits and perils for the principals and a risk of agency loss; c) to prevent agency loss, the principal can establish control mechanisms over the agent.

4.1.1. Delegation from Principal to Agent

The analytical core of principal-agent theory is the agency relation. An agency relation is established when one party, the principal, enters into an agreement with a second party, the agent, delegating to the latter authority for carrying out certain tasks or functions on the principal's behalf. Delegation thus implies

that “one person or group, a principal, selects another person or group, an agent, to act on the principal’s behalf” (Lupia/McCubbins 2000: 291). Every act of delegation involves a principal, the actor delegating, and an agent, the actor to whom authority has been delegated (ibid.: 294). Principals and agents are thus mutually constitutive, i.e., an actor cannot be a principal without an agent, and vice versa.

The motivations leading a principal to delegate authority and certain functions to an agent have been explored in depth. In rational choice theory, principal-agent models are based on a functional logic, explaining “institutional choices in terms of the function a given institution is expected to perform and the effect on [...] outcomes it is expected to produce, [...]” (Pollack 1997: 102). From the transaction-cost perspective on which most principal-agent models are built, delegation is usually motivated by the desire to minimize the transaction costs of decision-making. Transaction costs can be informational; others are linked to the transaction itself (bargaining costs); or to its implementation (enforcement costs) (Pollack 2003: 21). “Delegation takes place because the agent has certain kinds of information or skills [...], or simply time, that the principal lacks” (Strøm 2000: 266); “principals delegate to agents in order to benefit from the advantages of division of labour and specialization” (Coleman 1990); “delegation allows the principal to accomplish desired ends with reduced personal costs and efforts” (Lupia 2003: 33); “delegating to experts can yield superior outcomes” (Saalfeld 2005: 349) – all these explanations why a principal chooses to delegate authority to a principal consider the functionality of delegation as decisive. Hence, principals do not delegate authority to an agent for their own sake, but because of the intended and expected beneficial effects of delegation in reducing the transaction costs of decision making. Delegation “is distinctly functional [...] Delegation is explained in terms of the anticipated effects for the delegating party, and is likely to take place when the expected benefits outweigh the expected costs” (Tallberg 2002: 25).

Importantly, a principal only chooses to delegate to an agent when the expected benefits outweigh expected costs. As “there are always agency losses associated with delegation, when choosing whether to delegate and re-delegate, principals must weigh the benefits of delegation against the expected agency cost. Hence, a principal–agent relationship is characterized by a continuous assessment of the costs and benefits of both delegation and control by the principals” (Delreux 2009: 721). Delegation from a principal to an agent can involve two kinds of costs: costs arising from the risk of agency loss and from creating and exerting control mechanisms minimizing such loss. These two kinds of costs will be elaborated upon in the following.

4.1.2. The Perils of Delegation

Delegation means empowerment of the agent, and power can be used and abused for unintended purposes. Thus, delegation entails the potential of unintended side effects that are negative for the principal as “any delegation of authority creates the risk that the agent may not faithfully pursue the interests of the principal” (Strøm 2000: 270). From a principal’s perspective, unintended negative side effects are called agency loss, which arise when the agent acts independently in a way that is undesired by the principal. It can be defined as “the difference between the actual consequence of delegation and what the consequence would have been had the agent been ‘perfect’. [Perfect means] a hypothetical agent who does what the principal would have done if the principal had unlimited information and resources to do the job herself” (Lupia 2003: 35). The central assumption of principal-agent theory that all acts of delegation are inherently problematic is based on two factors: the possibility of conflicting preferences between principal and agent and the possibility of information asymmetries. These two factors are generally assumed to be simultaneously present and substantiate that an agent does not only have incentives but also the opportunity and ability to pursue her own preferences rather than those of her principal, i.e., to execute the delegated tasks at the expense of the latter (Delreux 2015: 160).

Every act of delegation entails the possibility that the two parties have incompatible and systematically different preferences. This can lead to conflict situations between principals and agents, even though the agent is expected to act on behalf of the principal. “There is almost always some conflict between the interests of those who delegate authority (principals) and the agents to whom they delegate it. Agents behave opportunistically, pursuing their own interests subject only to the constraints imposed by their relationship with the principal” (Kiewiet/McCubbins 1991: 5). There are two main types of agency loss: shirking and sabotage (Brehm/Gates 1997: 50). Shirking denotes any form of noncompliance by the agent that results from a conflict of preferences, i.e., “the agent simply fails to act in the best interest of the principal” (Strøm 2000: 270). Sabotage implies that an agent chooses to take positive action that directly contradicts the principal’s desires and will (Lupia/McCubbins 2000: 294).

Moreover, in any principal-agent relationship, the importance of information and of asymmetrically distributed information among the actors in particular cannot be overstated. Information is assumed to be asymmetrically distributed in favour of the agent, which increases the risk of agency loss. Asymmetry can exist with regard to insight into the agent’s preferences and

competences, into the precise demands of the delegated task (hidden information) and with regard to information on the agent's actions (hidden action) (Strøm 2003: 62). Adding to hidden action, there can also be asymmetries regarding information on people and context during the fulfilment of delegated tasks (Lupia 2003: 41). A lack of information on the agent is argued to mainly result in adverse selection, leading "principals to select the 'wrong' agents, who do not have the most appropriate skills or preferences"; whereas the other kinds of information asymmetries may lead to moral hazard, "when agents, once selected, have incentives and opportunity to take unobservable action contrary to the principal's interests" (Strøm 2003: 62).

Summing up, the possibility of preference heterogeneity and the likelihood of asymmetric information in favour of the agent induce the risk of agency loss in any principal-agent relationship. If principal and agent had identical preferences and if a principal was fully informed about her agent's interest, actions and the context of her actions, there would be no reason to worry about agency loss. However, as this is not the case, "conflicts of interest can give agents an incentive to act against the wishes of their principal, while information asymmetries may give the agent the ability to act against her principal without fear of being held accountable" (Lupia/McCubbins 2000: 294). Hence, the transfer of power inherent in any act of delegation may be equivalent to agency loss, and, in extreme cases, to abdication.

4.1.3. Containing Agency Loss

The assumption of the inherent risk of agency loss in any principal-agent relationship might suggest, offhand, that this cost is inevitable and that delegation always equals abdication. However, in a third step, principal-agent theory argues that principals are not helpless in the face of possible agency loss but can establish various control mechanisms⁹ to minimize loss and induce the desired behaviour on the part of the agent. Control tools are commonly differentiated based on when they are applied: *ex ante*, containing agency loss prior to delegation, or *ex post*, containing loss after delegation. *Ex ante* control mechanisms mainly concern agency design; *ex post* control refers to institutions and procedures that check agency actions on a regular basis. Pollack (2003) distinguishes between so-called administrative procedures, applied *ex ante*, and oversight procedures, applied *ex post* (Pollack 2003: 40ff.).

Ex ante administrative procedures are generally set out in the contract delegating authority to the agent and are supposed to guide her activities by de-

⁹ Principal-agent theory uses various terms, often interchangeably, to refer to principals' control over agents, such as scrutiny, oversight, holding accountable etc.

fining “more or less narrowly the scope of agency activity, the legal instruments available to the agency, and the procedures to be followed by it” (ibid.: 40). They may be more or less restrictive and may be altered in response to agency shirking or slippage. They are intended to modify the agent’s behaviour in two ways: requiring the agent to consult and consider the principal’s preferences, and, in executing the delegated task, to disclose information to decrease informational asymmetry between agent and principal (ibid.: 41). Prior to this, the principal can use screening and selection mechanisms “to identify those individuals who possess the appropriate talents, skills and other [...] characteristics prior to the establishment of the principal/agent relationship” (Kiewiet/McCubbins 1991: 30). These mechanisms help the principal distinguish between qualified and non-qualified agents before delegating to them.

Ex post oversight procedures refer to “the various institutional mechanisms that principals can use to (1) monitor agency behaviour, thereby correcting the informational asymmetry in favour of the agent, and (2) influence agency behaviour through the application of positive and negative sanctions” (Pollack 2003: 27). Recall that agency loss can be traced back to two factors: the possibility of asymmetrically distributed information and the possibility of conflicting preferences between principal and agent. Monitoring agency behaviour is meant to correct the informational asymmetries in favour of the agent, whereas influencing agency behaviour refers to the principal’s ability to enforce her preferences vis-à-vis the agent.

In their seminal article, McCubbins and Schwartz (1984) argue that there are two basic types of oversight mechanisms: police patrol and fire alarm. Police patrol oversight refers to active monitoring by the principal of the agent’s behaviour “with the aim of detecting and remedying any violations of legislative goals and, by its surveillance, discouraging such violations” (McCubbins/Schwartz 1984: 166). It is comparatively centralized, active, and direct at the principal’s initiative (ibid.). Fire-alarm oversight is “a system of rules, procedures, and informal practices that enable [interested third parties] to examine [an agent’s] decisions” (ibid.). This way of gaining information is closely connected to institutional checks, which generally refer to subjecting “particularly critical agent decisions to the veto powers of other agents or a third party” (Strøm 2000: 271), due to the involvement of an external third party. Overall, these mechanisms enable the principal to gather information that she might not otherwise receive. “On the basis of information [...], the principal can presumably tie the agent’s compensation more directly to his or her actual conduct” (Kiewiet/McCubbins 1991: 31) and enforce her own preferences in order to mitigate agency loss.

The outcome of delegation to a principal and the use of control instruments is a certain degree of discretion – also called “autonomy”, “room for

manoeuvre” or “leeway” – enjoyed by the agent vis-à-vis her principal. In this dissertation, discretion is understood as depending on the discretionary power allocated to the agent by the principal and the ex ante and ex post control mechanism established and activated by the principal. The more authority a principal delegates, and the less she uses available control mechanisms, the higher the degree of discretion enjoyed by the agent. In slightly different terms, discretion is the range of potential independent action available to an agent after the principal has established and invoked mechanisms of control. Based on the definition offered by Thatcher and Stone Sweet (2002), discretion is here defined as the sum of delegated powers granted by the principal to the agent, minus (b) the sum of control instruments, available for use by and activated by the principals to constrain or annul policy outcomes that emerge as a result of the agent’s performance of set tasks.¹⁰

If these mechanisms of control were costless, a principal could be expected to adopt the full range of ex ante administrative and ex post oversight procedures in every case in order to reduce the risk of and eventually eliminate agency loss. Yet, as noted above, delegation does not only entail costs arising from the risk of agency loss, but also from creating and invoking control mechanisms minimizing such loss. As Kiewiet and McCubbins (1991) succinctly state, “agency losses can be contained, but only by undertaking measures that are themselves costly” (Kiewiet/McCubbins 1991: 27). On the one hand, principals are required to invest time and resources in order to activate and employ control mechanisms. On the other hand, control might actually hinder the agent in performing the delegated task to the best of her abilities, thus contradicting the functional reasons for delegating in the first place and rendering delegation disadvantageous for the principal. In other words, not only the decision to delegate but also the level of control activated by a principal are assumed to be subject to a cost-benefit analysis.

4.2. Principal-Agent Relationships in Parliamentary Democracies

After discussing the basics of principal-agent theory, the approach can now be applied to the institutional relationships in parliamentary democracies. Eventually, this will serve to substantiate the conceptualization of parliaments as

¹⁰ This stands somewhat in contrast to a recent contribution to principal-agent theory, which argues that discretion not only depends on characteristics of the principal-agent relationship, but also on the agent’s actions, as the latter might strategically exploit external factors and circumstances to escape her principal’s control (Delreux/Adriaensen 2018: 263).

collective principals in executive-legislative relations, and of the executives as their agents. The conceptualization is based on Strøm, Bergman and Müller's argument that representative democracies can be perceived as a particular regime of delegation and accountability, "from the voters to the ultimate policy makers, in which at each link (stage), a principal (in whom authority is originally) delegates to an agent, whom the principal has conditionally authorized to act in his or her name and place" (Strøm et al. 2003: 3). One delegation chain consists of several discrete links that are "all constructed from the same basic material – principal-agent relationships that are affected by information and institutions in systematic ways" (Lupia 2003: 52). At each link, a principal, the original holder of authority, delegates to an agent. Consequently, there is a risk of agency loss at each link, which makes it necessary to establish control mechanisms at each link to prevent such loss. The chain of delegation is therefore mirrored by a corresponding chain of accountability running in the reverse direction, enabling control of the agent (Strøm et al. 2003: 20).¹¹ Importantly, in parliamentary systems, each chain of delegation is characterized by singularity and indirectness (ibid.: 21). The chain is a single chain of delegation with multiple links. It is indirect, as the ultimate principal, the voters, only directly elect their parliamentary representatives, whereas all other agents are indirectly elected. It is singular as power is delegated at each link of the chain by a single principal to a single (or multiple non-competing) agents. This implies, vice versa, that agents are accountable to a single principal.

4.2.1. The Role of Parliaments

Within the chain of delegation in a parliamentary democracy, a parliament plays a dual role, performing both as agent for the voters (the ultimate principals) and as principal for the executive, to which it delegates executive power. Thus, parliaments occupy a pivotal position in the delegation process. At least in pure parliamentary systems, they are the only bodies directly elected by the people. Furthermore, due to their position in the political system, they are "uniquely suited to link voters with other agents in the political-administrative

¹¹ A distinction needs to be made between accountability mechanisms and accountability per se. In most principal-agent applications, the two terms are treated interchangeably. However, following Lupia (2003), who generally understands accountability as the effectiveness or efficiency of delegation acts, this dissertation argues that accountability can be conceptualized as a type outcome and as a process of control. From an outcome-oriented point of view, an agent acts in an accountable way if the outcome of her actions meets the principal's preference. From a control perspective, an agent is accountable to her principal if the latter can exercise control over the former and influence her actions (Lupia 2003: 35).

system” (Saalfeld 2000: 354). Hence, research on legislative-executive relations usually focuses on the role of the parliament as the principal, which has to hold its government accountable as its agent (Strøm 2000: 267). Principal-agent theory thus “highlights a set of useful analytic dimensions for the analysis of executive-legislative relations and identifies the possibility of cooperation and control in conditions of ‘informational asymmetry’” (Saalfeld 2015: 346). From this perspective, applying principal-agent relationship makes it possible to engage in a theoretically informed way with the key question of how parliaments respond to power asymmetries and how they scrutinize the policy-making of their respective executive.

4.2.2. The Role of Parliamentary Groups

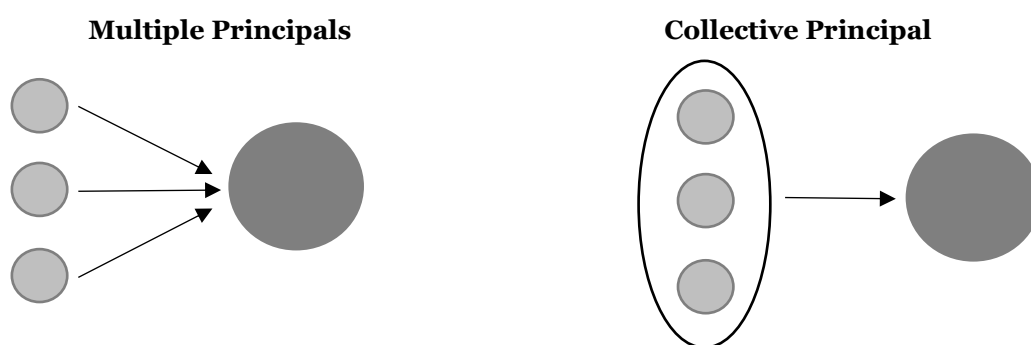
As rational choice theory adheres to methodological individualism, it is important to bear in mind that parliaments are by no means unitary actors when holding the executive accountable. They consist of multiple members of parliament, who are organized in parliamentary groups, who work in a variety of parliamentary committees and who are supported by their respective parliamentary administration. Most importantly, parliamentary democracies are largely based on party government (Blondel/Cotta 2001: 1). It has been argued at length and demonstrated that analyses of executive-legislative relations have to abandon the traditional dualism of government and parliament as two independent, opposing institutions. It is a well-established fact that the bounded understanding of the two institutions as counterparts is fiction and highly misleading. It “forces the study of relations between ministers and MPs into the straightjacket of a two-body image, thereby failing to do justice to the rich variety of interactions within the parliamentary/governmental complex” (Andeweg/Nijzink 1995: 152). Parliamentary groups within one parliament can be very diverse in terms of interests, resources and functions. This means that they are the main strategic actors in parliaments and that parliaments cannot necessarily be perceived as affecting public policy in a unitary way.

From a principal-agent perspective, it is thus necessary to investigate the nature of parliaments as principals for the executive. It can be argued that parliaments should be perceived as collective principals, with parliamentarians being organized in different political parties who mediate and control the delegation process to the government (Müller 2000; Saalfeld 2000: 356).

Principal-agent literature began relatively early on to relax the unitary actor assumption, by going beyond simple principal-agent relationships, which involve a single principal and a single agent, and acknowledging the occurrence of collective and multiple principals. These notions go back to one of the core features of the principal-agent approach, namely to the nature of the delegation contract linking principal and agent. Several, organizationally distinct

principals delegating separately to the same agent in a multiplicity of contracts can be called multiple principals. In contrast, a collective principal refers to an agency setting, where a principal, composed of more than one actor, jointly delegates to an agent with a single delegation contract (Nielson/Tierney 2003: 247). The following figure, adapted from Nielson and Tierney (2003: 248) illustrates the nature of both multiple and collective principals.

Figure 1: Multiple and Collective Principals



Note: Adopted from Nielson/Tierney (2003).

Concerning the nature of the principal-agent relationship between a parliament and its executive, it can, based on this distinction, be argued that the parliament, consisting of more than one parliamentary group, jointly delegates executive decision-making authority to the agent. More precisely, in parliamentary democracies, parliament usually delegates authority to the prime minister (or chancellor etc.), who in turn selects a team of cabinet members who are given specialized tasks within a certain portfolio. Hence, in this situation, more than one actor, the parliamentary groups, designs and has authority over a common contract for a single agent, the executive. When delegating executive authority, it is important that parliaments commonly vote by majority, not by unanimity.¹² If the delegation act required unanimity, each actor within the principal could potentially decide to de-facto veto the delegation of authority, which challenges the notion of a true collective principal. In contrast, under majority voting rules, only a majority within a parliament is required to delegate, i.e., collective action would be necessary to veto a delegation act.

This seems to indicate that parliaments in parliamentary democracies can meaningfully be perceived as collective principals, with parliamentary groups

¹² E.g. in the Bundestag, Article 63 GG holds that “(1) The Federal Chancellor shall be elected by the Bundestag without debate on the proposal of the Federal President. (2) The person who receives the votes of a majority of the Members of the Bundestag shall be elected”.

as their constitutive units, as they jointly enter into a single delegation act, which can only be vetoed by collective action. At this point, however, a second consideration becomes necessary: is joint delegation of authority sufficient to qualify as a collective principal, or is it necessary that the actors within the principal also jointly entertain relations with the agent after the agency relationship has been established? In other words, can the constitutive units of a collective principal act unilaterally towards the agent? Considering that the overarching research questions inquire into the actions of parliamentary groups, this seems an important distinction, as this theoretical framework would otherwise provide little added value to engaging with these questions in a theoretically informed way. On an empirical level, thresholds for the activation of parliamentary control mechanisms towards the executive differ: some control instruments commonly require a parliamentary majority, such as a vote of no confidence; others can easily be triggered by a minority, such as parliamentary questions, or, even more telling, informal control, which is not subject to any kind of voting threshold. Does this mean that parliaments can, after all, not be conceptualized as collective principals?

Some scholars argue that, “the main distinction between a collective principal and multiple principals pertains to the ease by which control can be exerted. Within a collective principal, a majority needs to be constructed among the principals to activate control mechanisms” (Adriaensen 2016: 42), and that only in case of multiple principals, each principal can independently decide to “reward, sanction or monitor the same agent” (Nielson/Tierney 2003:248). However, the dissertation argues that this requirement needs to be viewed somewhat more nuanced: on the one hand, members of a collective principal cannot act independently when they delegated authority in a single contract and when they alter this contract. “In order to re-contract with their agent, members within a collective principal must act as one – usually by majority vote or some analogous decision rule. In other words, the members must form a voting coalition” (Nielson/Tierney 2006: 4). On the other hand, it questions whether such a voting coalition is necessary for the activation of mechanisms of control, which is not aimed at re-contracting with the agent, but more broadly at monitoring and influencing the agent within the at the outset delegated authority. Following this line of reasoning, the dissertation emphasizes the importance of a joint act of delegation, whereas joint control of the agent is not considered to be constitutive for a collective principal; or rather, vice versa, the constitutive units of a collective principal are able to exert control, other than (re-) contracting with the principal, both jointly or unilaterally. On an empirical level, the actors in a collective principal can thus attempt to pursue the individual monitoring and influencing control of the

agent, dependent on the particular majorities that are needed to activate a certain control mechanism.¹³

Being able to conceptualize parliaments as collective principals with parliamentary groups as their constitutive units, which implications does this have for the principal-agent relationship? On the one hand, all groups act within the same institutional setting, towards the same agent and within the same, single, delegating contract. Hence, they face the same institutional constraints and opportunities as the other parliamentary groups within the same parliament. On the other hand, parliamentary groups as policy-seeking organisations have varying preferences and specific organizations, varying tasks and group-specific constraints and incentives in their interaction with the agent. The dominant mode of relations between parliamentarians and their government is the so called inter-party mode, according to which the main lines of executive-legislative contestation run along party-political lines rather than between the members of parliament and the government (Andeweg 2007: 103f.). All parliamentary groups have certain control-rights vis-à-vis their government, meaning that the latter is not exclusively accountable to the parliamentary majority. Yet, due to the different tasks, incentives and constraints of the various parliamentary groups within one parliament, they can be expected to exert control to various extents by drawing on different control mechanisms.

4.3. The next Step of Delegation: Executive-Legislative Relationships in the European Union

EU policy-making represents an additional arena of decision-making, meaning that the process of European integration has extended the parliamentary chain of delegation to the European level. The underlying idea is that member states have delegated power and authority to the EU and its supranational institutions, for functional reasons and in order to reduce the transaction costs of decision-making. Due to the inherent risk of agency loss, they have designed and established a wide range of control mechanisms in order to maximize the benefits of this delegation. This has led scholars to argue that the EU presents “a next step of delegation and accountability” (Bergman 2000: 415). However, this next step does not imply that there was a simple addition of a new link to

¹³ This is closely related to what Adriaensen (2016: 44) terms “hybrid principals”, which refers to principal-agent relationships in which a blocking minority needs to be constructed among the constitutive units of a principal if they wish to control the agent, whilst it can be questioned whether the agent can ignore the signals sent by individual constitutive units.

the chain of delegation in representative democracies. Rather, European integration had and has a fundamental impact on the chain and its relevant actors. The main domestic principal-agent relationships have become intertwined with the institutions of the European Union. Thus, in the EU “the chain of delegation is significantly more complex than in typical parliamentary or presidential systems” (Proksch/Slapin 2011: 54). In the following, these chains will be discussed in more detail; however, not in regard to institutional relationships in the EU more broadly, but to the specific policy field under investigation here: EU international treaty-making.

4.4. Chains of Delegation in European Foreign Policy

Principal-agent theory can be applied not only to European integration and the current institutional relationships in the EU, but also to specific issue and policy domains. It has become a central model applied to EU foreign policy and decision-making within this policy field. Based on the agency perspective on representative democracies, the institutional set-up in EU foreign policy can be perceived as a long chain of delegation, running from the voters through parliamentary institutions up to the Union negotiator on the international scene. This chain of delegation is more complex than domestic ones, and is heavily intertwined with other institutions within the setting of EU international treaty-making.

The issue that has received particular attention is the Commission’s role as EU negotiator in external forums. Most applications of principal-agent theory to EU international treaty-making analyse the relationship between the member states in the Council as principals and the Union negotiator, representing them at international level, as the agent to whom the principals have delegated the task of negotiating an international agreement for functional reasons.¹⁴ One major drawback of these applications is that they only consider one isolated link in the delegation chain in EU foreign policy. Although it is interesting and substantively important, it is, “just one link in what might fruitfully be conceived as a longer chain of delegation. To the extent that the efficacy of prior or subsequent links in a chain of delegation will influence out-

¹⁴ Researchers have pointed out that the exact reasons for delegating decision-making authority in EU international treaty-making can vary between policy fields (Dür/Elsig 2011: 330), such as fostering efficient and fast decision-making, policy-relevant expertise, avoid free riding (Verslyus 2007), providing consistency (Dür/Elsig 2011), increase the EU’s bargaining power and solve problems of incomplete contracting (Kerremans 2004).

comes of interest, [the perception of delegation ought to be broadened] to accommodate these links” (Tierney 2006: 2). At the same time, these applications do not elaborate on the role of parliaments and parliamentary groups as potential principals in this setting.

A shift in focus is therefore necessary to analyse agency relations in EU foreign policy not in terms of isolated links, but as a long chain of delegation, running from the voters through parliamentary institutions up to the Union negotiator on the international scene. This puts emphasis on the role of parliaments, on the one hand, and the Union negotiator, on the other hand. In a first step, the following sub-chapter will discuss in more detail who is the agent and who is the principal in this setting; or whether the Union negotiator can be conceptualized as agent and parliaments as principals. In a second step, the characteristics of the subsequent chains of delegation as well as the role of parliamentary groups as constitutive units of parliaments as collective principals will be studied in more detail. This is followed by an investigation of the risk of agency loss and by a closer engagement with parliamentary control in order to mitigate the risk of agency loss

4.4.1. Agents, Principals and Chains of Delegation

Applying principal-agent theory to any setting requires that an existing principal-agent relationship. It is important to precisely identify who principal and agent are (Delreux/Adriaensen 2017: 12), and this is done in the following sections. After that, the chains of delegation and the role of parliamentary groups are discussed.

4.4.1.1. *The Agent*

It is straightforward to identify the ultimate agent in EU international treaty-making. Generally, agents are “those who govern by exercising delegated powers” (Thatcher/Stone Sweet 2002: 4). In EU foreign policy, the agent is the institution that is charged with negotiating an international agreement with a third, external party; i.e., the Union negotiator. The boundaries for selecting the Union negotiator are set by the Treaties (see section 2.2.4). In most international negotiations, the Commission is the main Union negotiator, tasked with negotiating by the Council (Art. 218 (3) TFEU). In case of mixed agreements, the task can be delegated to the Presidency (see section 2.3.3.1). In the latter instance, member states also have the hypothetical possibility not to transfer decision-making authority for those parts of the agreement that fall within their competence, but to negotiate these aspects for themselves. This would mean that no agency relationship was established.

4.4.1.2. *The Principals*

The assumption that within a chain of delegation, parliaments can be perceived as principals of the executive has to be justified in the specific case of EU foreign policy, as it is “difficult to analyse directly elected legislatures as transferring policy-making authority to a non-parliamentarian (majoritarian) institution in the sense that it would happen in national political systems” (Curtin 2009: 37). A close look at the setting of EU international treaty-making quickly reveals that in a narrow sense, it is the member states in the Council deciding to authorize the opening of negotiations, tasking the Union negotiator and issuing a negotiation mandate, albeit within the boundaries set by the legal framework of the Union (see sections 2.2.2 and 2.2.3). This requires a more detailed discussion of how national parliaments and the European Parliament can be understood as principals to the Union negotiator in EU international treaty-making.

Some scholars who analyse principal-agent relationships have argued that only the disposal of ex post strategies of a particular institution vis-à-vis the agent is constitutive for the qualification of the institution as principal (Trauner 2012: 788; see also Raube 2013: 6). Others have claimed that principals can only be defined by their ex ante involvement in establishing and delegating to the agent. “The application of the principal agent model requires the definition of a precise act of delegation. [...]. In other words, it is the act of delegation that constitutes an actor as principal and another actor as the agent of that principal” (Delreux/Adriaensen 2018: 264). The dissertation follows this conceptualization in order to substantiate parliaments as principals in EU international treaty-making. Importantly, delegation can be formalized, such as when the Council authorises the Commission to conduct international negotiations. The Council authorization and negotiation mandate constitute a formal act of delegation. Authority can also be transferred in a less formalized and implicit way. “Although a [principal–agent] relationship presupposes the presence of a contract between the actors, this contract need not necessarily be explicit or legalized” (Niemann/Huigens 2011: 421). Informal delegation refers to situations when a principal does not grant a formal mandate to the agent but instead invites her informally to perform certain tasks (Beach/Reykers 2017: 265).

The dissertation claims that two acts of delegation to the agent can be distinguished in relation to negotiation of EU international agreements: macro-delegation of executive authority to the Union negotiator and micro-delegation of the treaty-making authority concerning one specific international agreement. Whilst the former act of delegation linking parliaments as princi-

pals and the Union negotiator as agent is rather easy to identify, the same cannot be said for the latter. Nonetheless, it will be demonstrated in the following that the European Parliament as well as national parliaments are in a principal-agent relationship with the Union negotiator through both macro- and micro-delegation.

On the macro-level, the European Parliament can be argued to be in a principal-agent relationship with the European Commission, the default Union negotiator.¹⁵ According to Article 17 Lisbon Treaty, the EP has a double power of approval of the Commission: “Taking into account the elections to the European Parliament [the President of the European Commission] shall be elected by the European Parliament by a majority of its component members” (Art. 17 (7) ToL). Moreover, the Article holds that the Parliament must also approve the college of Commissioners nominated by the President of the Commission and the Heads of government. Since 1999, the terms of the Commission have been synchronized with the legislative periods of the European Parliament in order to allow the EP to use its powers of assent more effectively. All prospective Commissioners are subject to intense questioning in the respective parliamentary principles, and the Parliament has demonstrated that it does not hesitate to use its power of assent¹⁶ (Chalmers et al. 2010: 87). Hence, there is a clear (macro-) delegation act from the European Parliament to the Commission for the general execution of the latter’s executive authority.¹⁷

The European Parliament can also be argued to be a principal to the European Commission in individual international treaty-making processes, i.e., individual international agreements. As discussed in detail in chapter 2.4.1, the extension of the consent procedure in the Treaty of Lisbon to almost all international agreements has generally improved the involvement rights of the European Parliament in their negotiations. However, whilst the Council is still involved in each stage of the procedure, the EP only has a formal role in the ratification stage. Considering the lack of formal involvement in the ex ante delegation phase, it might be questioned whether the Parliament does indeed constitute a principal to the Union negotiator, as it is not entitled to

¹⁵ Furthermore, the empirical studies of this dissertation investigate only EU international agreements in which the Commission has been the (main) Union negotiator.

¹⁶ In 2004, the EP objected to the proposed membership of the Barroso Commission, being unhappy with the Italian, Latvian and Hungarian nominees. Due to this, Barroso was forced to reshuffle his team before taking office.

¹⁷ The hierarchical relationship between EP and Commission is further underlined by the fact that the EP has powers of disapproval over the Commission, Art. 17 (8); § 5 IIA).

grant the Commission a negotiating mandate. However, as previously argued, the EP's capacity to ratify international agreements has cast a shadow over the entire negotiation procedure, threatening involuntary defection. Already at the outset of international negotiations, the Commission has to inform the EP and the respective parliamentary committee extensively about the state of play, including the definition of the negotiation directives (Art. 218 (10) TFEU; § 23 IIA, see also Annex 3 IIA). This ought to give the EP "sufficient time for it to be able to express its point of view if appropriate, and for the Commission to be able to take Parliament's views as far as possible into account" (§23 IIA, see also Annex 3 IIA). The Commission seems to take the policy preferences of the European parliament into consideration already at the outset and during negotiations to avoid involuntary defection at the ratification stage (Conceição-Heldt 2017: 206). Even though a legal act of agent empowerment is lacking, this can be argued to be an informal delegation, as the European Parliaments informally sets the boundaries of agency behaviour. Such an informal act of delegation is most explicit in EU international trade policy. Here, the EP has started to adopt parliamentary resolutions as quasi-negotiation mandates for the Commission at the outset of trade negotiations. These resolutions set out the Parliament's collective preferences that the Commission has to take into account when negotiating a trade agreement to gather support at the ratification stage. "The EP's routine to adopt a resolution as a surrogate mandate at the start of the negotiations turns it automatically into a principal" (ibid.). Overall, it can be argued that due to the growing influence of the EP, and its capacity to exert influence already at the outset of EU international negotiations, the Parliament is in an informal delegation relationship with the Commission in connection with individual international agreements and therefore qualifies as a principal in the setting of EU international treaty-making.

National parliaments can also be argued to have macro-delegated executive authority to the European level and the Union negotiator. According to the principle of conferred powers, laid down in Article 5 Lisbon Treaty, the EU can only act within the limits of the competences that the EU member states have conferred upon it. In areas of exclusive competence, the member states have delegated all of their powers to the EU. In areas of shared competence, both the member states and the EU are able to legislate (Chalmers et al. 2010: 211 ff.). This also applies to European foreign policy, as the EU and the Union negotiator may only act on the international stage if the member states have delegated the competence to do so within the specific policy area. According to Article 216 (1) TFEU "the Union may conclude an agreement with one or more third countries or international organisations where the Treaties so provides or where the conclusion of an agreement is necessary in order to achieve, within the framework of the Union's policies, one of the objectives referred to

in the Treaties, or is provided for in a legally binding act of the Union or is likely to affect common rules or alter their scope”. Hence, the member states have conferred the general power to negotiate and enter international agreements to the EU. At the same time, every treaty-making process requires a substantive treaty-based competence, meaning that the EU also needs decision-making competence in the specific policy area under negotiation. What does this mean for the role of national parliaments? The member states confer these powers to the EU and its institutions via the European Treaties (Chalmers et al. 2010: 212).¹⁸ From the point of view of national parliaments, these Treaties need to be ratified by parliamentary vote, meaning that parliaments need to give their consent before power can be conferred to the European level, and can potentially veto the transfer (Art. 48 (4) TEU; see also Barrett 2018). It can thus be argued that there is an act of delegation from national parliaments to the European level, in which the parliaments have delegated not only general decision-making power to the European executive, but also the competence to negotiate EU international agreements within specific areas of policy-making.

It is not as easy to identify a direct delegation act of negotiation authority by national parliaments to the Union negotiator in connection with a specific international agreement. After all, the member states acting in the Council formally delegate negotiation of agreement to the Union negotiator, and the Council is therefore usually depicted as a collective principal (Ripoll Servent 2014: 570). However, recall that within the chain of delegation in parliamentary democracies, the national executive is perceived as the direct agent to their parliament, with the former having been delegated executive power by the latter and being accountable in the execution of the delegated tasks (Strøm 2000: 267). When delegating negotiation authority to the Union negotiator by means of a formal Council decision, national parliaments as collective actors have certain control rights vis-à-vis their executive acting in the Council. These control rights are subject to domestic rules of executive-legislative procedures and parliamentary control of EU affairs, so the instruments available to the EU’s national parliaments may vary considerably. However, almost all national parliaments have the rights to early information and access to negotiation documents, already during the authorization stage of an international agreement (see 10th COSAC Report, 2008; Annex 4). Moreover, many parliaments have installed procedures for influencing their government’s negotiation behaviour in Council meetings, e.g., a formal, legally binding mandate by the parliament’s European Affairs Committee, such as in Denmark or Sweden,

¹⁸ The EU’s competences are currently regulated by the Treaty on European Union, the Treaty on the Functioning of the European Union as well as their protocols.

or a more politically binding parliamentary resolution, such as in the German Bundestag. Parliaments thus have the possibility to voice their policy preferences and red lines already at the outset of negotiations, expecting their government to transfer this to the European level and onto the Union negotiator. It can be argued that there is an informal and indirect act of delegation from national parliaments to the Union negotiator in the *ex ante* phase of a negotiation process, running via the member states' governments in the Council.¹⁹ To what extent the Union negotiator is inclined to take a parliament's policy preferences into consideration can be expected to be subject to empirical variation and to depend on the envisaged legal nature of an international agreement, i.e., whether it requires parliamentary ratification on the national level (mixed agreements) or not (exclusive agreements).²⁰ In light of their early involvement rights in the authorization phase of international agreements, national parliaments can be argued to perceive themselves as indirect principals towards the ultimate agent, the Union negotiator in a particular EU international treaty-making process.

Summing up, it was argued that in order to apply principal-agent theory to the setting of EU international treaty-making and before engaging with the role of principals and their relationship with the agent, it is necessary to ensure that a principal-agent relationship exists, i.e., to identify agent and the principals. The Union negotiator has easily been conceptualized as ultimate agent, whereas it was more difficult to substantiate the role of the European Parliament and national parliaments as collective principals. It was demonstrated that parliaments at both levels can be perceived as principals that have

¹⁹ This dissertation assumes that indirect delegation is possible, and that on the micro-level, a direct act of delegation is not necessarily required to conceptualize an actor as a principal acting towards an ultimate agent, with an intermediate actor taking on a double function. If this were not possible, but direct delegation were required to apply principal-agent theory, it is difficult to imagine chains of delegation as they exist in parliamentary democracies, and how one can study such chains going beyond the analysis of a single link.

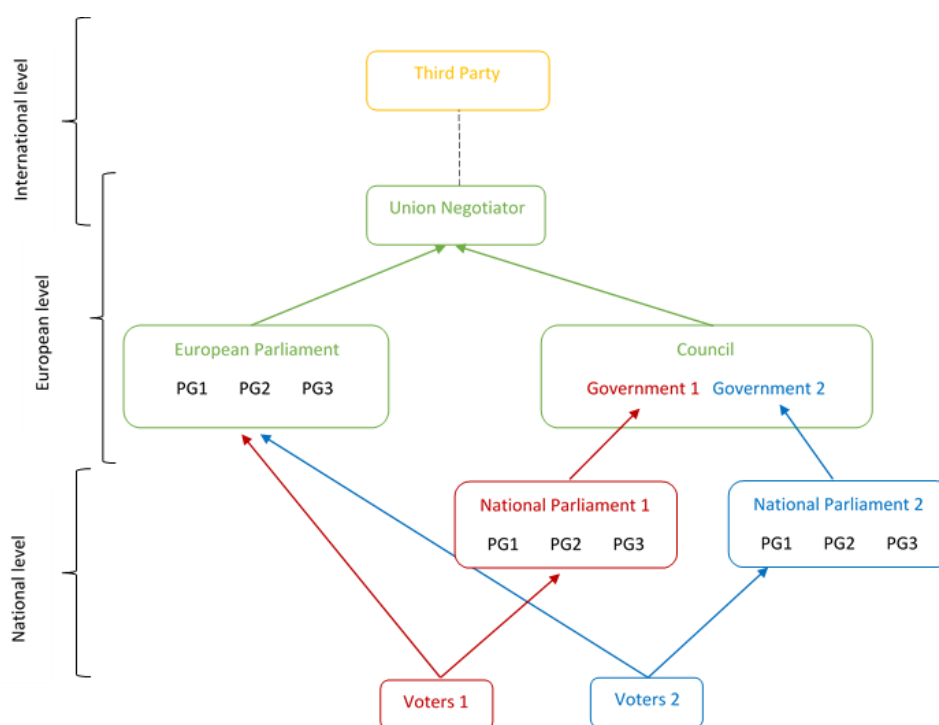
²⁰ Some people might argue that there is qualitative difference between principal-agent relationships of national parliaments and the Union negotiator between mixed agreements and exclusive agreements, as in the former case, the parliamentary chambers have a *de facto* veto power in the ratification stage. However, as the same formal involvement rights of national parliaments apply to the *ex ante* and *ad locum* phase of mixed and exclusive international negotiations (see 10th COSAC Report, 2008; Annex 4), it is argued here that the nature of the relationship is not affected by the legal nature of an international agreement. This is not to say that this does not affect parliamentary control activities both in providing incentives to and means of control. This will be discussed further below.

delegated both macro-level executive authority to the Union institutions, but are also, more informally, in a principal-agent relationship with the Union negotiator in connection with particular EU international treaty-making processes. Hence, it is possible to apply principal-agent theory to the setting under investigation here and to view the actions of parliaments as collective principals, as well as their constitutive units, through this theoretical lens.

4.4.1.3. Chains of Delegation

Extending the chains of delegation from the national level to the European level has some important ramifications. Overall, legislative-executives relations and the chains of delegation in EU international treaty-making are considerably more complex and intertwined than chains of delegation on the national level. Whatever institution acts as ultimate agent, those “that ultimately carry out the EU’s foreign [policies] stand at the end of a long chain of delegation, which comprises several hierarchically organized [principal-agent] relationship” (Dür/Elsig 2011: 324). Compared to a domestic chain of delegation, the chain(s) of delegation in EU foreign policy have certain unique characteristics (see Figure 2).

Figure 2: Chains of Delegation in EU International Treaty-Making



Note: PG = Parliamentary Group.

First, European integration breaks the singularity of the domestic chains of delegation, meaning there is not one, singular chain running from voter to executive anymore. It splits a chain at the origin as voters obtain access to a new line of delegation via the European Parliament, which can directly exert oversight over the European executive institutions, mainly over the Commission – a new legislative principal. This could be termed the European delegation chain. At the same time, European integration multiplies the chains existing in the individual member states. There are currently 28 states joined into a new system of multilevel governance (Winzen 2014: 681), which introduces 28 national parliaments as national level principals.²¹

Within an individual delegation chain, transformations are observable as well. The addition of another level of decision-making extends the chain, which means that there are more links within one chain than in a domestic political system. First, that increases the risk of agency problems, as “a broken link implies a broken chain” (Lupia 2003: 52). Second, for national parliaments, the Union negotiator is only an indirect agent. Largely lacking direct access to the negotiator, they have to transcend several levels in the chain of delegation to control the Union negotiator. As such, an important function falls to the Council and the national executive representatives in it, who take on a double function as individual agent to their national parliaments and a collective principal to the European executive. Furthermore, the role of national parliaments as principals of their governments is significantly transformed.

Lastly, Figure 2 also illustrates the existence of a third level, the international stage, which further alters principal-agent relations. The delegated task, the negotiation of an international agreement, involves interaction with another party to which the delegation and the reverse-running accountability chains do not extend. Yet, this third party is decisive for the outcome of the negotiation process. Overall, these elaborations clearly demonstrate the complexity of the agency relations between parliaments as collective principals and the Union negotiator as ultimate agent in EU international negotiations.

4.4.1.4. The Role of Parliamentary Groups

It is important to bear in mind that parliaments as principals are by no means unitary actors. Although all political actors in one parliament may share similar general interests, “political parties may have different policy preferences

²¹ 41 if one counts the upper houses in bicameral systems. However, as this might further complicate the chains of delegation in EU international treaty-making, subjective to national constitutional rules, this dissertation will merely refer to the lower houses in connection with national parliaments.

regarding foreign [policy]” (Milner 2006: 124) as well as varying institutional relationships with the executives they are controlling. Therefore, parliaments should be broken down to their constitutive units when we study them as principals.

Focusing on the impact of European integration on parliamentary groups, the literature suggests largely the same logic of intra-parliamentary conflict that can be observed in domestic politics transcends EU affairs as well, but that the different parliamentary groups face several additional constraints and incentives. The first wave of empirical research on parliaments in the EU has treated parliaments mainly as unitary, single bodies, instead of focusing on the actors within parliaments. Only recently has research on parliamentary scrutiny of EU politics begun to focus on the role of parliamentary groups. “To get a more comprehensive picture about the nature and quality of democratic representation in the EU – future research on parliaments in EU decision-making should stop treating parliaments as unitary actors but instead look more closely at parties as the main actors within parliaments and at how EU integration affects their standing and power relations vis-à-vis each other” (Miklin/Crum 2011: 2). Indeed, more and more scholars have stressed the relevance of parliamentary groups for parliamentary control of EU affairs and started to focus on actual scrutiny behaviour by breaking down parliaments to their constitutive units (inter alia Holzhaacker 2002; Saalfeld 2005; Winzen 2012b; Finke/Dannwolf 2013; Finke/Herbel 2015; Herbel 2017). However, none of them concentrates on EU international treaty-making.

4.4.2. The Risk of Agency Loss in European Foreign Policy

As in any principal-agent relationship, parliamentary groups face the risk of agency loss in EU international treaty-making. This thesis argues that the risk of agency loss is bigger in EU international treaty-making than in domestic and internal EU politics. The reasons are manifold. Recall that agency loss has been defined as “the difference between the actual consequence of delegation and what the consequence would have been had the agent been ‘perfect’” (Lupia 2003: 35), and that it can be traced back to two factors: the possibility of conflicting preferences between principal and agent and the possibility of asymmetrically distributed information. Both factors are present and exacerbated in EU foreign policy in comparison to domestic politics or EU internal decision-making.

4.4.2.1. Preference Heterogeneity

For an agent to take advantage of its informational asymmetries, the potential of preference heterogeneity between principal and agent is a necessary condition, as principal-agent models typically begin with the assumption that agent's preferences can be distinct from those of their principals.

Rational choice theory does not necessarily say anything about actors' preferences. It is able to "show with great precision how an agent can rationally act, given his or her preferences; one of the theory's shortcomings is that it says little about where these preferences come from" (Dietrich/List 2012: 2) and what they actually are. Therefore, the preferences of the actors in a principal-agent relationship need to be "filled in" by pre-existing theories, assumptions or observations (Hawkins et al. 2006: 7; Frieden 1999). Most principal-agent applications adopt a thick understanding of rationality, which, unlike thin rationality, requires preferences and beliefs in a substantive sense, going beyond mere utility (Elster 1983: 1ff.). This dissertation will follow these applications and assume thick rationality when it comes to the actors' preferences in EU international treaty-making. More precisely, it argues that actors involved in negotiation of EU international agreements are assumed to have a substantive policy-related agenda and with that a substantive policy preference in regard to a specific international agreement and its substance: a substantive policy position.

This appears to be a safe assumption in relation to parliamentary groups as policy-seeking institutions, but it is necessary to elaborate on whether and how the European Commission as default Union negotiator can have substantive policy preferences. The Commission in this capacity is one of the major supranational and non-majoritarian actors in the EU institutional framework. Yet, "given its importance, surprisingly little attention has been paid to the Commission's preferences" (Young 2012: 428). The popular view that bureaucracies are merely expected (and assumed) to serve the public interest has become increasingly questioned (starting with Niskanen 1971). Indeed, it can nowadays be assumed that bureaucracies like the Commission are all but disinterested parties in policy-making. "Supranational institutions are not simply neutral arenas, but are actors with their own preferences" (Conceição-Heldt 2004: 46).

Several key components of the Commission's preferences have been identified in the relevant literature. For a start, the Commission is perceived as a "rational maximizer bureaucracy" (ibid.: 45), with a desire for greater authority. This means that in the context of the EU, the self-interest of the Commission consists of resource and competence maximization, striving to "maximize

its preferences of increasing their power and influence within a given institutional framework. An actor such as the Commission uses every opportunity to expand the scope of its competences, [...]" (Conceição-Heldt 2011: 406). Whilst it is plausible to assume that competence maximization creates a powerful incentive for the Commission to depart from the principal's grip and to engage in agency loss, this is only one part of the story. The second component of the Commission's preferences is assumed to consist of substantive policy preferences. It may be the case, and it is plausible, that the Commission as agent in the EU's external [...] relations may have, and often has, substantive preferences on such policies" (Kerremans 2004: 367). Last but not least, the Commission's preferences may to demonstrate the legitimacy of the Commission as agent by convincing the member states that it can represent the EU credibly (ibid.).

Irrespective of what exactly the preferences of the Commission as the Union negotiator are, be it competence maximization, policy-related interests or legitimacy concerns, the Commission has clear incentives to use the authority delegated to it as the agent in its own favour, and thus for the principals to assume a risk of agency loss (ibid.: 367f.). From the point of view of parliamentary groups as policy-seeking actors with a specific substantive policy preference concerning the international agreement at hand, the fact that the Commission has its own preferences thus potentially causes a risk of agency loss from the perspective of these groups.

Whether preference heterogeneity between parliamentary groups as the constitutive units of the collective principals and the Union negotiator as agent actually exists follows from the precise policy position of a parliamentary group towards the international agreement. As this dissertation researches very specific and concrete decision-making processes, and not broader policy fields or even general executive-legislative relations, it does not seem to suffice to define these positions neither by assumption nor by pre-existing theory (Hawkins et al. 2006: 7). Rather, the preferences of principals and agents will be derived from empirical observations in every international treaty under analysis. It cannot be determined here and now whether preference heterogeneity between the principal, parliament and its parliamentary groups, and the ultimate agent, the Union negotiator, exists. Rather, it shall be argued here that it is only necessary to assume that delegation creates principal-agent relations, in which conflicts are possible, to be able to make use of principal-agent theory, not the particular distribution of preferences. Important it thus "the possibility of conflicting interests. [And] every act of delegation contains the possibility of conflicting interests" (Lupia/McCubbins 2000: 294).

4.4.2.2. Information Asymmetries

The general problem of executive-legislative relations of information asymmetry in favour of the agent can be argued to be increased in European affairs generally and in EU international treaty-making more specifically. “Integration has reinforced the uneven distribution of information in favour of the top end of the delegation chain” (Winzen 2014: 681). Two types of information are relevant for parliamentary activities in the making of EU international agreements: hidden information and hidden action.

Hidden information means “that the agent possesses information that is not available to the principals due to its prohibitively high costs” (Conceição-Heldt 2009: 3). First, it is important to have information about actors in the setting of the principal-agent relationship and the context within which they act. Such information comprises of other actors’ preferences as well as information about their capabilities, skills, and abilities (Lupia 2003: 41). Importantly, this kind of information is not only relevant in relation to a principal’s agent but to all other actors who can affect the outcome of the conduct of the delegated task. Second, information about the policy that is being negotiated as well as about other policy options is important. This means information about the effects of competing policy alternatives and to the set of politically feasible alternatives (Finke/Herbel 2015: 6). Hidden information can be contrasted with hidden action, which refers to information on what is actually going on in the negotiations. Principals cannot fully observe the actions of their ultimate agents and of the other actors involved in the execution of the delegated task (Strøm 2000: 270).

Table 2: Types of Information Relevant in Principal-Agent Theory

Hidden Information		Hidden Action
Information on the relevant actors and the context within which they act	Information on policy options	Information on the actions of the Union negotiator and other actors involved

All three types of information can be argued to be distributed in favour of the Union negotiator and to the disadvantage of parliamentary groups.

Actors: From the point of view of national parliaments, they hardly have direct access to the Union negotiator. This is a sharp contrast to domestic policy-making, where a national legislative shares a direct link with the national executive in the chain of delegation. Hence, due this remoteness, information about the Union negotiator’s preferences and abilities is more restricted than in domestic politics. Moreover, national parliaments also lack insights into the preferences of other parliaments and other member state governments. The same goes for the preferences and capabilities of the third party with whom

an agreement is being negotiated. Here, the Union negotiator is in an advantaged position due to its repeated interaction with this third party. This argument can largely be replicated regarding the European Parliament: it is in a disadvantaged position in regard to information on the Union negotiator's preferences and abilities and of other actors involved, especially of the third parties involved in negotiations.

Policy Options: In terms of information on policy options, the Union negotiator is in an advantaged position in comparison to parliaments. "In contrast to domestic politics, the asymmetry extends to the effects of competing policy alternatives and to the set of politically feasible alternatives" (Finke/Herbel 2015: 6). This is especially relevant as one of the main rationales for delegation to a common negotiator is that the latter possesses substantial expertise, knowledge and information that make a favourable agreement more likely (Rubin/Sander 1988: 396).

Hidden Action: EU international treaty-making constitutes an area with restricted access for parliaments. The Union negotiator negotiates with third parties and therefore has an opportunity to engage in hidden action, as parliaments "cannot directly observe whether the [Union negotiator] is negotiating in their best interest" (Conceição-Heldt 2009: 3). Moreover, parliaments are not in a position to observe the actions of the other actors at the negotiation table and therefore have little insight into what is going on during the negotiations.

One important distinction has to be made concerning information asymmetry between parliaments and the Union negotiator. Whilst the opportunity for the European Parliament to participate directly in international negotiations in order to avoid hidden action is severely reduced, the Parliament has, unlike national parliaments, a direct link with the Commission, the most common Union negotiator, and thereby access to information that the Commission has (see section 2.4.1.). The problems national parliaments face due to their remoteness from the ultimate principal and the lack of a direct relationship does not apply in its entirety to the European Parliament. Yet, the European Parliament is by no means on equal footing with the Council when overseeing the Commission's negotiation activities (Passos 2011: 54).

4.4.2.3. Agency Loss as Policy Slippage

Assuming that parliamentary groups as the constitutive units of the collective principals in the setting of EU international treaty-making have varying substantive policy preferences in regard to the negotiated policies, it is the risk of policy slippage (or policy divergence) that is most decisive. Traditionally, policy slippage refers to situations when the agent does not act according to the policy preferences of its principal (Strøm 2003: 62).

In the complex principal-agent setting of EU international treaty-making, the Union negotiator acting on the international scene is perceived as the ultimate agent that eventually ought to be controlled. The Commission as default negotiator has its own preferences, and pursues them, potentially at the expense of the principals, in the course of international negotiations. The ultimate agent and its preferences are one of the major sources of agency loss. At the same time, it is important recall that the Union negotiator is tasked with creating, not implementing a policy for her principals. In such agency relationships, the creation of policies depends not only on the negotiating agent but also on external pressure and the third party with whom the agent is negotiating. Therefore, even if the agent had been “perfect”, the outcome of the execution of the delegated negotiation task might not meet the principal’s preferences. This means that also the international agreement in itself, or more precisely the interaction of all actors involved in its negotiations, presents a source of policy slippage. Against this background, the term policy slippage in this dissertation refers to situations when the outcome of an EU international treaty-making process diverges from the policy preference of the principal.

4.4.3. Containing Policy Slippage through Parliamentary Control

In light of the increased risk of policy slippage in EU international treaty-making, neither national parliaments nor the European Parliament are helpless. According to principal-agent theory, the principals have control mechanisms at their disposal to reduce the risk of agency loss. Elaborating on the concept of parliamentary control is of great importance, as it constitutes the underlying research interest of this dissertation and the dependent variable of the empirical investigation.

4.4.3.1. Conceptualizing Parliamentary Control in EU International Treaty-Making

In modern democracies, parliaments are accorded a number of important tasks and functions. Both classic (Mill 1861; Bahegott 1867) and contemporary (Pakenham 1970; Norton 1993; Patzelt 2003) catalogues thereof distinguish, implicitly or explicitly, between citizen- and government-related functions. Functions linking a parliament with the citizens of an entity are representation, interest articulation and communication. Functions linking it to its government are the (s)election of the government, legislation, and control of the government. Adapting this national function catalogue to the EU context, it becomes soon evident that not all functions are simply transferrable. This is

especially true for government related functions due to the increasing transfer of decision-making powers to the European level. Scholars have argued that the function of controlling the government is of increased importance in EU decision-making: (s)election and direct law-making has been replaced by indirect control of EU decision-making and of the national executive acting on the EU level (Auel et al. 2015: 284). In order to compensate for the loss of power in the parliamentary functions of (s)election and legislation, parliaments have developed and fostered provisions and mechanisms to oversee and to hold the executive accountable in EU affairs. Eventually, they strive to exhibit indirect policy-influence to maximize policy congruence of EU decision-making with national constituency interests.

Scholarly work on the parliamentary control function in EU affairs has introduced a broad spectrum of terms to describe²² and conceptualize control (e.g., Holzacker 2002: 462; Caballero-Bourdôt 2011: 13f.; Auel 2007: 495). Despite the variety of terms used to describe this function, upon closer inspection, certain similarities become apparent: most contemporary studies of parliamentary control use some, more or less well defined, concept of control which is either implicitly or explicitly based on principal-agent theory. Taking the conceptualization by Pollack (2003) introduced above as starting point, it is thus possible to develop a conceptualization of parliamentary control of EU international treaty-making based on principal-agent theory. Recall that Pollack distinguishes between *ex ante* administrative procedures, applied to constrain agency loss prior to the delegation act, and *ex post* oversight procedures, applied to minimize loss after the principal-agent delegation has been established.

In EU international treaty-making, the original act of decision-making authority, the macro-delegation, has taken place with the transfer of the competence of EU external decision-making to the European level. Based on this “original” delegation act, the Treaties already set the “scope of agency activity, the legal instruments available to the agency, and the procedures to be followed by it” (Pollack 2003: 27) when the agent carries out the delegated function. Neither the European Parliament nor national parliaments are able to select the agent, as the Treaties also regulate who will be Union negotiator in a specific international treaty negotiation process. In this setting, parliaments as principals have to rely on what Pollack terms *ex post* oversight procedures

²² A plethora of terms is used to describe parliamentary activities towards the executive, e.g., supervision, control, scrutiny, oversight. These terms seem to be used somewhat interchangeably. Yet, irrespective of the different labels, the concept is based on agency theory.

to reduce the risk of agency loss. Oversight procedures aim to remedy asymmetrically distributed information and the possibility of conflicting preferences between principal and agent. Due to these two factors, an agent has incentives as well as opportunity and ability to pursue her own preferences rather than those of her principal. Oversight control has thus to include instruments for gathering information on executive conduct as well as instruments to enforce parliamentary preferences if necessary (Winzen 2012a: 659).

This definition of control focuses on the principal's actions towards the agent. An underlying assumption is that the agent's actions are the cause of agency loss and hence of the principal's failure to attain her preferences. In EU international treaty-making, the agent's task is to negotiate, i.e., create and not implement, policies for the principals. The outcome of the execution of the delegated task depends not only on the agent's actions but also on external pressure and the third parties with whom the agent is negotiating. In order for a principal to attain her preferences when she delegates a negotiating task to an agent, her control actions must thus be directed not only at the agent but potentially to the negotiating setting and the course of the negotiations.

Based on this discussion, this thesis defines parliamentary control as *those mechanisms that a parliamentary group activates to monitor and influence EU international treaty-making in order to reduce the risk of policy slippage*.

This definition places greater emphasis on the nature and the purpose of control than on pointing out concrete, empirical control mechanisms. However, based on this definition, several dimensions of control can be identified, which foster a further understanding of what parliamentary control is: control mechanisms can be distinguished by their function, their timing, their directness and their formality.

4.4.3.2. The Function Dimension

As explained above, parliamentary groups have two kinds of control mechanisms at their disposal when they encounter these two problems: monitoring instruments that address parliamentary information deficits and influencing instrument that address parliamentary authority loss.

Monitoring addresses information asymmetries between parliamentary groups, national governments and EU-level actors. These mechanisms give parliaments the opportunity to follow EU-level and international decision-making, to develop an understanding of the processes, to undertake analyses, draw conclusions and form and discuss views. They make it possible to collect information on what is going on in international negotiations (hidden action) as well as on the relevant actors, on the context within which they act and on the various policy options (hidden information). Examples of such infor-

mation gathering control mechanisms are securing access to confidential documents, parliamentary questions and attending briefings before or after negotiation rounds. Moreover, monitoring control refers to activities aimed at processing the collected information in order to arrive at an internal assessment and (political) judgment on the conduct of the executive, on the appropriateness of the decisions made at the international level and on the outcome of the negotiations in correspondence with the policy position of the controlling actor. Such control mechanisms might be the commissioning of external expert opinions, but are often of internal processes of simply reading and assessing new information.

Influencing control addresses parliamentary authority loss. Influence can generally be defined as a causal relation among one actor's preferences and another actor's actions (Dahl 1991: 32). Influencing control thus aims at enforcing the preferences of a parliament or a political group in the negotiations of EU international agreements. Overall, it ought to remedy the fact that it is not a parliament that negotiates at the international level, that the Union negotiator might not act in accordance with the parliament's interests, and that the outcome of the negotiation process might not concur with the parliamentary actor's preferences. Influencing control thus refers to attempts to induce the Union negotiator to change its negotiating behaviour and to redirect the course of the international negotiation process in a way which would not have happened without parliamentary interference. In a first step, such control is *the communication of preferences*, to voice and express one's own views. If you want to have a substantive influence on something, you need to voice your position. However, the communication of preferences can hardly be seen as a goal in itself. Often, such communication goes hand in hand with *the creation of pressure on the agents*. Thus, a second influencing mechanism is creating pressure on the negotiation setting to take into account the preferences of the controlling actor. Creating pressure can be achieved in several ways: A parliamentary actor can instruct the executive (be it the Union negotiator or a national executive) as to the position it should defend in EU decision-making. Making the agent take a (public) position on an issue for which she can then be held accountable and making her justify decision already made can also be a pressure mechanism. Finally, pressure can be created by threatening non-ratification, and eventually sanctioning by rejecting, the agreement that the agent negotiated with third countries.²³ Overall, the right to ratify a particular EU international agreement affects the weight of the other mechanisms of influencing control, as they can be backed up by threats of non-ratification. Yet,

²³ Importantly, only a parliamentary majority can trigger the sanctioning mechanism of non-ratification and the right of ratification only applies to mixed agreements.

it can be argued that although unsanctionable control mechanisms might be less spectacular than a parliamentary veto, they can also be important mechanisms to reduce agency loss (Meny/Knapp 1998: 208-211).

Table 3: Functions of Parliamentary Control

Monitoring Control	Influencing Control
Collecting information	Communicating preferences
Assessing information	Creating pressure on the agent
	Sanctioning

Monitoring and influencing control, as seen in Table 3, are not strictly distinguishable. In a way, they follow a logical sequence, or even a chronological order: “from a positive perspective obtaining access to information is the most important precondition for effectively influencing governments as well as other actors involved in EU policy-making” (Wonka/Rittberger 2014: 625). Influencing control takes account of the evidence found and the judgments reach through monitoring control; or, to put it differently, monitoring scrutiny is conducted to evaluate whether the enforcement of parliamentary preferences is actually necessary. As such, monitoring and influencing control mechanisms are merely two sides of the same coin. However, this does not mean that it is not possible to distinguish between one and the other; and, more importantly, that parliamentary control inevitably follows the logic of monitoring – influencing. It is argued that as parliamentary groups are rational actors, every mechanism they uses is an active and deliberate decision. On the one hand, they might simply stop after acquiring the desired information; on the other hand, some actors might only try to influence the negotiation process on more principled grounds rather than based on a sound monitoring process.

4.4.3.3. The Timing Dimension

Parliamentary oversight can be distinguished according to its timing in regard to the negotiation process. International treaty-making can analytically be divided into three stages: the pre-negotiation (authorization) stage, the negotiation stage, and the post-negotiation (ratification) stage (Kerremans 2006). At every stage, parliamentary groups have the opportunity to control the executive and thus the negotiation process.

EU international negotiations are opened by way of Council authorization of the Union negotiator to conduct the specific task of negotiating the agreement with a third party. Parliamentary control mechanisms deployed during this stage of the negotiation are called *ex ante* control mechanisms. Im-

portantly, these must not be confused with the ex ante administrative procedures as put forward by Pollack (2003). From the point of view of parliaments as principals, the original delegation of authority to the Union negotiator has taken place with the enshrinement of the legal competence to act in a particular policy field on the international level by negotiating legally binding international agreements. This means that traditional ex ante control instruments are not available to parliaments, as many procedural requirements on the agent are already enshrined in the Treaties. Ex ante in the sense of this thesis thus refers merely to the timing of the control activity in regard to micro-delegation, i.e., delegation of negotiation authority in regard to a specific negotiation process and not in regard to the original act of delegation. This also means that parliamentary actors need to rely on already established institutional relationships and control instruments. However, they are not powerless at this stage, but can already use this occasion to monitor the developments at the EU (and the international) level and to try to influence the outset of the negotiation process in line with their preferences.

Parliamentary control taking place during the actual negotiation process on the international level is called *ad locum* control. “The *ad locum* control mechanisms are not deployed before or after the agent executed the delegated task, but simultaneously with the fulfilment of this task, *in casu* during the course of the international negotiations” (Delreux/Kerremans 2010: 361). At this stage of the negotiation process, it is still possible to correct the course of the negotiations in order to prevent policy slippage, whereas this is generally not possible once the international agreement is concluded.

Finally, parliamentary oversight can be performed ex post, after the negotiations have been finalized. The most important ex post control mechanisms “refers to the principals’ ability to reject (politically or formally) the agreement that the agent negotiated with third countries” (ibid.). It is, however, highly unlikely, based on the laws of international treaty-making, that parliaments (or any other institution for that matter) can alter the text of an international agreement once it is finalized. Generally, putting an ex post mechanism to use is not very common, as it usually means discarding the entire negotiation outcome, which may have severe consequences for all the actors involved. Rather, principals prefer to prevent a situation where this would be necessary by relying more frequently on mechanisms of ex ante and *ad locum* control (Keresschoot et al. 2013: 18). Whilst some scholars argue that “ex post accountability [...] is possible but, for legal reasons, virtually useless” (Auel 2007: 488), parliamentary groups can use the shadow of ex-post mechanisms to accompany and provide force to mechanisms of ex ante and *ad locum* control. Moreover, by actually being involved ex post, they can gain a certain ownership and involvement in the negotiations as well as an understanding of the

negotiated policy and how it relates to their preferences, and they can set certain standards for their involvement in future negotiation processes by emphasizing that they cannot be bypassed as the principals in this complex EU international treaty-making set-up.

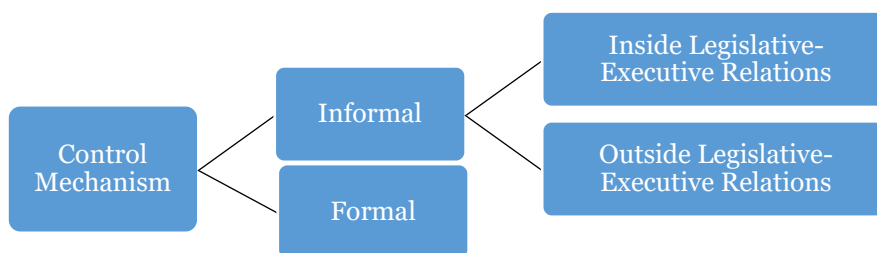
4.4.3.4. *The Formality Dimension*

The third dimension according to which parliamentary control mechanisms can be distinguished is their formality. Formal control mechanisms are established by the formal rules that regulate legislative-executive relations and are thus firmly based on institutional and formal rules, rules of procedure, a constitution, a parliamentary standing order, the Treaty of Lisbon or other (legal) documents.

However, formal control mechanisms are only one part of parliamentary control. Research has demonstrated that parliamentary actors do not only rely on formal control mechanisms to monitor and influence developments at the EU and the international level. They may actually be reluctant to use their formal control rights and often resort to informal control.

Informal control mechanisms lack a legal basis and refer to the more informal activities of a parliament or a political group, e.g., informal contacts with the executive, such as personal conversations and meetings, and informal cooperation with actors outside the legislative-executive realm. See Figure 3 for a depiction of this control dimension.

Figure 3: The Formality Dimension of Parliamentary Control



There is neither a logical nor a chronological order in the formality dimension of parliamentary control, as a parliamentary activity can either be formal, with a legal/constitutional basis, or informal, lacking such. This does not say anything about the character of the next control mechanism that the parliamentary actor is going to use.

4.4.3.5. The Directness Dimension

In the complex and intertwined three-level principal-agent relationships of EU international treaty-making, parliamentary control can also be categorized by its distance from and its directness towards the ultimate agent. At whom is the actual control activity directed: the Union negotiator or another intermediate actor, which in turn ought to transfer the parliamentary request to the Union negotiator? In the former case, control qualifies as direct; in the latter case, control is indirect via intermediate actors. A further distinction can be made between the intermediate actors are: They can be part of one chain of delegation in EU international treaty-making, i.e., of the executive-legislative realm, or they can be outside the chain running from parliament to Union negotiator, for example civil society organizations, other parliaments and public institutions or even the external third party with which the EU is negotiating.

Focusing on direct control, it is only the European Parliament with direct, treaty-based control rights towards the Union negotiator. Yet, national parliamentary actors can also enter the process directly on the European level by bypassing their government and interacting directly with the latter.²⁴ An example of such direct control is the use of the Political Dialogue, in case the Commission acts as Union negotiator.

Regarding indirect control within the actual principal-agent relationship, it is important to be aware that the standing of national parliaments in the chains of delegation in EU foreign policy differs from that of the European Parliament. The European Parliament has direct access to and a treaty-based relationship with the Union negotiator. There is thus no intermediate agent between the Parliament as the principal and the Union negotiator as the ultimate agent; which in turn means that indirect control via an intermediate agent is not possible. In contrast, national parliaments are only indirect principals to the Union negotiator, as this principal-agent relationship transcends several levels in the chains of delegation of EU international treaty-making. They therefore rely, to a large extent, on controlling international negotiations indirectly by overseeing the national representative in the Council; i.e., they rely on indirect control via the intermediate agent “national government”. As the Council can be perceived as a collective principal to the Union negotiator with its own control rights and mechanisms towards the ultimate agent, such indirect control can thus be argued to transcend to the ultimate agent.

Outside of the executive-legislative realm, parliamentary actors can indirectly control the Union negotiator and the course of the international negoti-

²⁴ This does not make them direct principals, as the agency relationship still runs via the national executives as intermediate actors.

ations by invoking the help of other intermediate actors: civil society organisations, other parliaments and public institutions and the third party. These actors are not part of the direct chain of delegation running between a parliament and the Union negotiator, but have their own relationship with the latter. Based on this relationship, they can affect the behaviour of the Union negotiator and the course of the negotiation process, which in turn offers parliaments another channel controlling the international negotiations.

4.4.3.6. Parliamentary Control Mechanisms

When elaborating on the exact control mechanisms parliaments have available in regard to EU international treaty-making, it is important to keep in mind that the standing of national parliaments in the chains of delegation in EU foreign policy differs from that of the European Parliament. The European Parliament has direct access and treaty-based control rights to the Union negotiator. In comparison, there is a more difficult oversight relationship between national parliaments and EU level institutions, hence, also the Union negotiator, and the control instruments available to national parliaments and the European Parliament differ.

Due to the intermediate role of the national governments between national parliaments and the Union negotiator, parliamentary groups on the national level are, to a large extent, only able to scrutinize the Union negotiator indirectly by overseeing the national representative in the Council, irrespective of whether it is aimed at information retrieval or at enforcing parliamentary preferences. Their parliamentary control is (mainly) second order to the control mechanisms of the Council towards the Union negotiator. The formal control mechanisms available to a national parliament are a matter for the particular constitutional organization and practice of each member state, and these provide hardly any specific control instruments in the different negotiation phases. Moreover, formal control mechanisms might be subject to varying activation threshold and may only be at the disposal of parliamentary majorities. Hence, the exact formal instruments available for use by parliamentary groups can differ between EU Member States as well as parliamentary groups within the same parliament. Informally, national parliamentary groups can interact both with their national executive and with civil society organisations and other parliaments in order to monitor and influence the negotiations. Regarding direct control, national parliaments can make use of the political dialogue in regard to EU international negotiations and directly interact with the Union negotiator informally.

Overall, for parliamentary groups, the difficulties of controlling the ultimate agent are exacerbated in EU international treaty-making, in comparison to both domestic politics and the EP. “It is easier to control one’s direct agent

(an agent that is right above you in the delegation chain), than an ultimate agent (for which one needs to transcend one or several levels in the chain of delegation). An ultimate agent is likely to be less receptive to the preferences of principals further down the hierarchy, other than its direct principals” (Kersschot et al. 2013: 19).

Table 4 offers an overview of control mechanisms that parliamentary groups on the national level can use to monitor and influence EU international treaty-making processes. The table is structured along the four dimensions of parliamentary control developed above (Function, Timing, Formality and Directness). Please be aware that this is not an exhaustive overview, but ought to provide an impression of what these groups might be able to do.

Table 4: Control Mechanisms of National Parliaments

	Ex Ante	Ad Locum	Ex Post
Direct		<i>Influencing:</i> Political Dialogue <i>Monitoring & Influencing:</i> Power of the shadow of non-ratification (mixed agreements) directed at European level	
Indirect	<i>Monitoring:</i> <ul style="list-style-type: none"> - Reporting requirements of the national government - Accessing negotiation documents - Informal information exchange with national government - Information exchange with civil society organizations <i>Influencing:</i> Mandating the national government (opening of negotiations)	<i>Monitoring:</i> <ul style="list-style-type: none"> - Reporting requirements of the national government - Accessing negotiation documents - Soft power instruments (hearings, committee meeting, questions) towards the national government - Informal information exchange with national government - Information exchange with civil society organizations - Inter-parliamentary cooperation with the EP/other NPs <i>Influencing:</i> Exerting pressure on national government <ul style="list-style-type: none"> - Exerting pressure on national government - Creation of external pressure via civil society <i>Monitoring & Influencing:</i> Power of the shadow of non-ratification (mixed agreements)	<i>Influencing:</i> Parliamentary ratifications (mixed agreements) Mandating (Council signature and ratification)

Note: Formal control mechanisms in bold.

The picture is slightly different for the European Parliament, where it is somewhat easier to distinguish between the control mechanisms which apply to the various negotiation stages. The Lisbon Treaty has considerably upgraded the role of the EP in EU international treaty-making, and the formal involvement of the EP in these processes is now fully anchored in the EU's primary law. The Parliament has several formal mechanisms of oversight available at each negotiation stage, aimed at providing it with information and influencing the Union negotiator. For example, the Parliament can issue resolutions before the opening of negotiations, which serve as parliamentary quasi-negotiation mandates, has *ad locum* information rights towards the Union negotiator, and is required, *ex post*, to give consent to nearly every international agreement that the EU has concluded. More informally, the political groups in the EP, like in national parliaments, can interact with the Union negotiator directly, and civil society organisations more indirectly, both with the aim of collecting information and enforcing their particular policy preferences. Table 5 provides a non-exhaustive overview of parliamentary control mechanisms in the EP along the four dimensions of parliamentary control in EU international treaty-making.

Overall, the conceptualization of parliamentary control and the discussion of its various dimensions and of how control might look like in practice, both on the national and the European level, enables the researcher to approach further analysis in a structured way and use these considerations as a guide to the empirical investigation in order to answer the question “how do parliamentary groups control EU international treaty-making?”

Table 5: Control Mechanisms of the European Parliament

	Ex Ante	Ad Locum	Ex Post
Direct	<i>Monitoring:</i> <ul style="list-style-type: none"> - Reporting requirements - Accessing documents - Informal information exchange with Commission 	<i>Monitoring:</i> <ul style="list-style-type: none"> - Reporting requirements - Accessing documents - Soft power instruments (hearings, questions etc.) towards Commission - Informal information exchange with Commission 	<i>Influencing:</i> Parliamentary ratification
	<i>Influencing:</i> Parliamentary resolution	<i>Influencing:</i> Parliamentary resolution	
		<i>Monitoring/Influencing:</i> <ul style="list-style-type: none"> - Parliamentary delegation to international conferences - Power of the Shadow of non-ratification 	
Indirect	<i>Monitoring:</i> Information exchange with civil society organizations	<i>Monitoring:</i> Information exchange with civil society organizations	
		<i>Influencing:</i> Creation of external pressure via civil society	

Note: Formal control mechanisms in bold.

4.5. Summing up: The Descriptives of the Principal-Agent Relationships in EU International Treaty-Making

The previous sub-chapter discussed in-depth the chains of delegation in EU international treaty-making, with particular focus on parliaments as the collective principals of the Union negotiator, who have various control mechanisms at their disposal to scrutinize EU international treaty-making and to reduce the risk of policy slippage. There are several key take-away points from this chapter. First, parliaments can indeed be perceived as collective principals, also in regard to EU international treaty-making and in regard to individual negotiation processes. Second, this leads to complex and intertwined principal-agent relationships, in which national parliaments and the European Parliament have a somewhat different standing. At the same time, there is an increased risk of policy slippage from the perspectives of parliamentary groups on both levels due to potential preference heterogeneity and increased information asymmetry in comparison to domestic/internal decision-making. This, as in any standard principal-agent relationship, can be mitigated by parliamentary control. The sub-chapter put strong emphasis on the conceptualization parliamentary control as the main object of the investigation of this dissertation, including an elaboration of several qualitative dimensions of parliamentary control, along which scrutiny activities can be categorized.

4.6. Principal-Agent Relationships in EU International Treaty-Making: The Activation of Parliamentary Control

In the previous sub-chapter, the principal-agent relationships between the European and national parliaments on the one hand, and the Union negotiator on the other hand, have been laid out in a descriptive, yet theoretically informed way. However, these discussions provide only little insight when it comes to answering the overarching research question: why do parliamentary groups control EU international treaty-making? Focusing primarily on the descriptives of formal rules and structures of parliamentary control only captures part of the picture of parliamentary oversight. They only explain why parliaments are able to act instead of why they act. “Parliaments are complex institutions, [...] faced with a number of different opportunities, constraints and incentives. Institutional capacities are thus not necessarily automatically translated into behaviour” (Auel et al. 2015: 283). Thus, a theory-driven anal-

ysis of actual parliamentary behaviour, acknowledging the multiple constraints and incentives that affect the legislatures in their decision to activate mechanisms of parliamentary control, is necessary in order to answer the overarching research question.

4.6.1. The Rationale of Parliamentary Control

At this point, it is necessary to refer back to the underlying basics of principal-agent theory: principals are argued to be rational actors, behaving according to the logic of consequentiality by choosing the best means to maximize their utility and chances of achieving their preferences. Their behaviour is based “on considerations of the consequences of their actions in terms of furthering (their own) preferences” (Auel/Christiansen 2015: 264). Following this logic, they make decisions based on cost-benefit calculations; displaying instrumental rationality and choosing the best means to maximize their utility and chances of achieving their preferences (Colman 2004: 287). Hence, principals are expected to scrutinize agents in a cost-efficient way, i.e., their decisions about whether, when and how to control their agents and the intensity of control by the principal are assumed to be subject to a cost-benefit analysis. Eventually, as in any cost-benefit analysis, the ideal oversight of the principal is a function of what maximizes the expected benefits for the principal (Bawn 1997: 105).

It is important to be aware that when actors make decisions about how to maximize their own benefits, their calculations do not take place in a vacuum but are embedded in a particular environment. It is hence necessary to make a distinction between a) actors with certain preferences and beliefs and b) the environment in which they act. These two elements are considered to be analytically separable. When an actor makes decisions in a certain environment, she is faced with different opportunities, constraints and incentives, which affect her cost-benefit calculation as they influence how she can best achieve her preferences. Actors “will make choices and take actions not in the abstract, but accordingly to what they believe to be rational [...] in the circumstances or context in which they find themselves” (Fenno 2000: 6). An actor’s cost-benefit calculations are highly strategic, taking into account the actor’s preferences as well as the opportunities, constraints and incentives provided by the particular environment in which utility-maximizing behaviour takes place.

In the setting of parliamentary control of EU international treaty-making, the dissertation thus argues that the decision of a parliamentary group to engage (or avoid) parliamentary control of EU international treaty-making depends on its analysis of the costs and benefits, including the groups’ policy

preferences, environment and opportunities, constraints and incentives. Parliamentary groups will only engage in control activities of the executive if the sum of the benefits exceed the costs.

The issue is less a question of whether or not to control an international treaty-making process and more a question of how much control the group should activate. Control is a matter of degree. As the dissertation studies the question “why do parliamentary groups control EU international treaty-making”, the dependent variable is not the existence of control but the intensity of control, i.e., how intense the control mechanisms activated by a parliamentary group are. This measure will be further discussed in sub-chapter 5.5.1.3.1. Here, it is merely necessary to be aware that the following discussions aim at explaining the intensity of control. As such, the above-introduced qualitative dimensions of parliamentary control, function, timing, formality and directness, have more of a descriptive function. They provide theoretically-informed lenses towards the empirical control activities of parliamentary groups, and support a structured answer to the question of “how those groups control EU international treaty-making”. They also help to eventually identifying the intensity of control a particular groups exhibits.

In line with these elaborations, this means that parliamentary groups will control EU international treaty-making processes with a high intensity when the benefits of control are high and when the costs are low; hence in a cost-efficient way. However, this base assumption is only of little substance. It fails to answer when this will actually be the case and will have to be “filled in”.

It is hereby important to note that this dissertation argues that the underlying logic of activating oversight is transferrable from a standard application of principal-agent to the complex and intertwined agency setting in European foreign policy. However, the contextual environment in which parliaments act has changed. Distinguishing between preferences and the contextual environment, this affects the constraints and incentives that parliaments need to take into consideration when deploying the control mechanisms available to them, altering the nature and magnitude of costs and benefits in comparison to standard principal-agent relationships.

It is therefore necessary to systematize the costs and benefits of parliamentary control in EU international treaty-making, thus elaborate on what parliamentary groups consider to be the relevant costs and benefits of scrutiny. At the same time, it is also important to elaborate on how groups assess the size of these relevant costs and benefits, as their size can be expected to vary between groups and international agreements. These elaborations are necessary steps to derive at a comprehensive theoretical framework that can be used to explain the intensity of control that a parliamentary group exhibits in regard to a particular EU international treaty-making process.

This chapter proceeds as follows: It presents the costs and benefits of controlling the agent in a standard principal-agent relationship. It then briefly discusses how the contextual environment has changed in EU international treaty-making, before continuing with an overview of the theoretical approach. It will then in-depth discuss the costs and benefits of controlling EU international negotiations from the point of view of parliamentary groups. Based on these elaborations, it will develop a comprehensive theoretical framework and draw a conclusion of this theory chapter.

4.6.1.1. Costs and Benefits in Standard Principal-Agent Relationships

In a standard principal-agent relationship, the costs and benefits of controlling the principal are straightforward. The benefits of activating mechanisms of scrutiny is the reduction of the risk of agency loss and “to induce her agent to act as much in accordance with her interests as possible, in other words to minimize agency loss” (Auel 2009: 9). As a general rule, principal-agent theory holds the expectation that the principal actually wants to hold the agent accountable. However, that does not mean that they will in practice spend a lot of time and energy on doing so, as delegation entails costs arising from the risk of agency loss as well as from creating and invoking control mechanisms minimizing such loss.

The costs of scrutiny are twofold. First, control consumes the principal’s time, energy and resources, which principals are required to invest in order to activate and employ control mechanisms (Kiewiet/McCubbins 1991: 27). Second, control might actually hinder the agent in performing the delegated task to the best of her abilities, which contradicts the functional reasons for delegating in the first place and renders delegation disadvantageous to the principal. Compared to the cost of investing time and resources into control activities, this cost is not as acknowledged in the literature on principal-agent relationships and needs to be elaborated further.

It is based on the assumption that the very rationale of delegation may prevent principals from establishing and activating rigid control mechanisms, as “certain functions delegated require that agents enjoy substantive levels of discretion in the execution of their powers” (Tallberg 2002: 28). Strict oversight, leaving agents as little discretion as possible, is obviously “not a formula for creating effective organizations, [since] cumbersome, complicated, technically inappropriate structures [...] undermine [the agents] capacity to perform their jobs well” (Moe 1990: 228). In other words, the effectiveness and efficiency of the agent’s conduct of the delegated task is at stake, as the agent needs independence and flexibility to carry out its responsibilities efficiently (Kassim/Menon 2003: 125). This line of argumentation coincides with the ar-

gument that the discretion allocated to an agent is often deliberate, purposefully granted by principals to agents, because it is the best strategy for achieving desired goals (Huber/Shipan 2002: 9). Summing up the costs associated with scrutiny, control measures “are expensive, requiring time, personnel and effort, while [they] also risk limiting the agent’s effectiveness” (Furness 2013: 106).

Empirical principal-agent applications have started to take up the argument that the level of control activated by the principals is based on a cost-benefit analysis, claiming that “principals will adopt a given control mechanism only if the cost is less than the sum of the agency losses that it reduces” (Pollack 1997: 105). Some scholars have thereby rephrased the issue of control as a question of designing discretion, and a question of institutional choice (Epstein/O’Halloran 1994; 1999; Franchino 2007; Huber/Shipan 2002; Pollack 2003). Overall, this research has fostered an understanding of the factors internal and external to the principal-agent relationship that affect the principal’s cost-benefit analysis of activating control mechanisms.

4.6.1.2. The Setting of EU International Treaty-Making

It is not disputable that the underlying logic of how principals make their procedural choices of scrutinizing their agents is transferrable from a standard application of principal-agent to the complex and intertwined agency setting of parliaments in European foreign policy. Rather, it is the contextual environment in which parliaments act that has changed, as Figure 2 has demonstrated. This, in turn, affects the constraints and incentives that parliaments need to take into consideration when deploying the control mechanisms available to them. The following three characteristics of the principal-agent setting at hand have therefore to be considered.

First, parliaments in the chain of delegation in a representative democracy do not only act as the principal towards the executive, but can also be conceptualized as agents to the voters, the ultimate principal. Parliaments assume a dual role by simultaneously acting as principal of the executive and as agent of the citizens. Therefore, any analysis of parliamentary behaviour, also in European foreign policy, needs to take the dual role of parliaments and the preferences of a parliament both as principal and agent into account (Auel et al. 2015: 290).

Second, as discussed above, it is actually not parliaments that delegate international treaty-making power to the supranational level in EU international treaty-making. The member states in the Council decide to authorize the opening of negotiations, issue a negotiation mandate and task the Union negotiator, albeit within the boundaries set by the legal framework of the Un-

ion. Yet, legislative institutions in the EU multi-level system can still be considered as principals of the executive. National parliaments thus act as principal towards a direct agent (an agent that is right above them in the delegation chain) and towards an ultimate agent (for which one needs to transcend one or several levels in the chain of delegation) (Kersschot et al. 2013: 19). Both the direct and the ultimate agent constitute a potential source of policy slippage.

The third important characteristic in the principal-agent relationship between a parliament and the Union negotiator is the specific nature of the task which has been delegated to the latter: the negotiation of international agreements. Most applications of principal-agent theory discuss issues in the context of the delegation of power to implementing agents. “However, negotiating agents have very different tasks. [Implementing] agents act to execute policies (often policies created by the principals) while negotiating agents work to create those policies for the principal” (McKibben 2016: 6). It follows that for the principal, whilst “information, preferences and incentives remain important, [...] other factors come into play” (Mnookin/Cohen 1999: 2). Moreover, and as mentioned above, when an agent is given a negotiating task, the outcome of the execution of said task depends not only on the negotiating agent, but also on external pressure and the third party/parties with whom the agent is negotiating. Therefore, even if the agent is “perfect [in the sense that she] does what the principal would have done if the principal possessed unlimited information and resources” (Lupia 2003: 19), the outcome might still not meet the principal’s preferences.

4.6.2. Theoretical Approach of the Dissertation

Against that background, the next sub-chapters will present the theoretical framework which will eventually guide the empirical analysis aimed at answering “why do parliamentary groups control EU international treaty-making?”. The theoretical elaborations will result in a non-formal theoretical model in the sense that it “is expressed in terms of real things, rather than in abstractions and symbols [and] presented as a [...] set of hypotheses about the real world and the real things that the researcher is interested in explaining” (Morton 2005:35). As elaborated above, the starting point for explaining the intensity of control a parliamentary group engages in in regard to a particular EU international treaty-making process is a cost-benefit assumption. That is, parliamentary groups are rational actors that make strategic decisions about when, how, and how much to control EU international treaty making based on the costs and benefits that they expect from the involvement.

In the following, the dissertation will systematize the costs and benefits of parliamentary control in EU international treaty-making. It will argue that

parliamentary groups are driven by policy-seeking and vote-seeking benefits and constrained by resource costs and efficiency costs when controlling EU international negotiations. Elaborating on the costs and benefits of control in this setting is important because, as argued above, costs and benefits differ from those in standard principal-agent relationships due to the particular setting in which parliamentary groups exercise control, which alters incentives and constraints for scrutiny.

Secondly, it will be argued that not all parliamentary groups consider these costs and benefits to be of same size. Rather, their size is affected by a range of factors specific to the parliamentary group and specific to the EU international agreement that is being negotiated. More specifically, vote-seeking benefits of parliamentary control are expected to be high when the public salience of an agreement is high. Policy-seeking benefits are high when a parliamentary group is an opposition party, when it is in opposition to the agreement under negotiation, and when its likelihood of impact is high. On the other hand, resource costs of parliamentary control are expected to be high when a parliamentary group has low resources on average. Efficiency costs are high when the issue under negotiation is complex and when the negotiation environment is compelling. Efficiency costs apply, however, only to parliamentary groups that are supportive of the agreement at hand.

These seven factors informing the size of the costs and benefits of parliamentary control in EU international treaty-making serve as the components, building blocks, of the theoretical model explaining the intensity of parliamentary control. They affect the intensity of control through their impact on the size of the vote- and policy-seeking benefits and resource and efficiency costs. When presenting them, the dissertation will specify how each factor affects the size of either the cost or benefit it is associated with. In combination with the theoretical assumption of how the cost-benefits calculus affects the intensity of parliamentary control, the causal factors thus have an effect on this intensity. In other words, all else equal, variation in a causal factor can explain variation in the intensity of control that a parliamentary group displays in regard to an EU international treaty-making process. These elaborations will be summarized and visualized in a non-formal theoretical model, connecting the causal factors as theoretical building blocks with the costs and benefits of control and eventually the intensity of control. The developed theoretical framework will then guide the subsequent empirical analysis, providing a theory-based comprehensive explanation for the intensity of control of a parliamentary group in regard to a particular international agreement.

4.6.3. The Benefits of Parliamentary Control of EU International Treaty-Making

As briefly mentioned above, parliaments in the chain of delegation in a representative democracy assume a dual role as principals towards the executive and as agents to the voters, the ultimate principal. “Any analysis of the roles of MPs in parliamentary systems must take into account these two faces of parliamentary life, and must combine ‘representation’ and ‘executive-legislative relations’” (Andeweg 1997: 110). The dual roles of parliaments are associated with specific preferences: as an agent, a group’s most important preference is to secure re-election, i.e., vote-seeking. As a principal, like in any classic principal-agent relationship, the most important preference is to minimize agency loss in a policy-seeking manner. “We can thus assume that the motivation of [a parliamentary group] to use institutional opportunities – i.e. to engage in parliamentary scrutiny of EU affairs – depends on (a) voters’ expectations and (b) incentives that impact their motivation to exert policy influence” (Auel et al. 2015: 290). This argument is taken up in the setting of EU international treaty-making. Parliaments in EU foreign policy are, similar to domestic and EU affairs, both agents and principals. In their role as the former, they are vote-seeking; in their role as the latter, they are policy-seeking. This goals have important consequences for the type of benefits parliamentary groups expect to gain from parliamentary control.

4.6.3.1. *Vote-seeking Benefits*

As an agent, the most important goal of a parliament is the re-authorization as an agent, i.e., to secure the continuation of the principal-agent relationship by being re-elected. From this perspective, parliamentary behaviour can be best understood if parliaments are seen as “single minded reelection seekers” (Mayhew 1974: 5). Whereas re-election is not the only preference of legislatures, it is an important one that can reasonably be considered in isolation. It is important to keep in mind that the goal of re-election is merely instrumental, as a means to another goal. “It makes little sense to assume that [legislatures] value votes for their own sake [...]. Votes can only plausibly be instrumental goals to achieve policy influence and/or the spoils of office” (Müller/Strøm 1999: 9).

To be re-elected, legislatures need to demonstrate credibility and signal to their voters that they actually represent their best interests. They need to be seen to fulfil their duties as already elected representatives, i.e., as agents. Public action is better able to adequately signal trustworthiness to the citizens as principal, as “politicians often get rewarded for taking positions rather than

achieving effects (Mayhew 2001: 251). As public scrutiny of certain policy issues thus helps to signal their trustworthiness, the control of “concrete EU policies can be part of such a vote-seeking strategy” (De Ruiter 2013: 1198).

Importantly, the electoral benefits of scrutinizing EU affairs depend to a large extent on the salience of the respective policy in the domestic arena (Saalfeld 2003: 76). If the issue at hand is salient within the domestic electorate, parliamentarians can expect to be rewarded for their engagement in and their assessment of the respective EU policies. If the issue at hand is not salient, however, parliaments can expect only few electoral benefits from their engagement in EU affairs, and scrutiny is hardly rewarding in terms of vote seeking. Since the electorate pays little attention to parliamentary activities, parliaments are not able to score points with their voters, and devoting too much of time, energy and effort to less-salient EU politics potentially harms re-election prospects (Rozenberg/Hefftlar 2015: 17). At the same time, the incentives for scrutiny of certain EU policies increase with their salience as the higher the latter, the more expensive is policy slippage. “Parliaments start to rein in [executives] as the salience of the subject matter and the risks of governmental agency loss increase” (Winzen 2012b: 301).

Empirically, the relationship between electoral salience and parliamentary scrutiny of EU affairs has been demonstrated by several research projects aimed at explaining cross-national differences in the level of parliamentary control (e.g., Saalfeld 2005; Raunio 2005; Auel/Christiansen 2015; Finke/Dannwolf 2013; see also Miklin 2013). It is argued here that this relationship not only applies to internal EU affairs but also to EU international treaty-making. The basis for this assumption is that foreign policy-making can indeed be salient within the European public. Indeed, the so-called “Almond-Lippman”-consensus was considered conventional wisdom for a long time: the general public is ill-informed about and indifferent on foreign policy (Almond 1950). However, this early wisdom has been seriously challenged by later empirical studies (e.g., Holsti 1992; Peters 2014 for public opinion of CFSP). It can indeed be assumed that foreign policy issues can potentially be publicly salient.

Summing up these elaborations, the public salience of an EU international agreement can be assumed to affect the vote-seeking benefits that a parliamentary group expects from exercising control over that negotiations process. Hereby, higher public salience means higher benefits. As such, public salience is an important component that needs to be part of the theoretical framework explaining the intensity of parliamentary control.

4.6.3.2. Policy-seeking Benefits

As a principal, the major benefit of parliamentary scrutiny for policy-seeking parliamentary groups is to minimize the risk of policy slippage by inducing the

Union negotiator to act in accordance with their preferences. When a group has a reason to suspect an unacceptable negotiation outcome, it needs to be better informed on what is going on at the international level, and to try to influence the negotiation process to ensure that its preferences are taken into consideration (Winzen 2012b: 302f.).

As in any standard principal-agent relationship, the higher the risk of policy slippage, the stricter the control activated by the principal. Recall that policy slippage refers to situations when the outcome of an EU international treaty-making process diverges from the policy preference of the principal. In the negotiations of EU international agreements, this thus means that the policy-seeking benefits of successful parliamentary control depend on a group's risk of policy slippage. A higher risk of slippage means higher policy-seeking benefits of parliamentary control. However, we know at this point little about the risk of policy slippage and how parliamentary groups assess it. That is, when is the risk of policy slippage high and when is it low? A group's risk of policy slippage, as will be argued below, depends on further factors, namely a group's institutional status, its policy position in regard to the international agreement under negotiation and the likelihood of it having substantive impact.

4.6.3.2.1. Policy Slippage: The Executive

In the complex principal-agent setting of EU international treaty-making, the Union negotiator acting on the international scene is perceived as the ultimate agent that eventually ought to be controlled. As argued above, the Commission as default negotiator has its own preferences, and pursues them, potentially at the expense of the principals, in the course of international negotiations. The ultimate agent and its preferences are one of the major sources of policy slippage. This is especially decisive for the European Parliament, as the Commission is its direct agent. From the point of view of national parliamentary groups, the Union negotiator is merely an indirect agent, meaning its actions are not the only source of policy slippage. The Council, the intermediate agent right above the principal in the delegation chain, is also decisive. As the power of parliamentary groups within parliaments does not extend to the collectivity of the Council, they have to rely on controlling their national executive in the Council in order to "transmit" their preferences to the supranational level. Consequently, the relationship between the parliamentary group and the executive becomes relevant, as the latter acts as a "gate-keeper" to the Union negotiator, causing potential policy slippage.

Against that background, it is argued here that the risk of policy slippage for political groups in the European Parliament and parliamentary groups in national parliaments depends on the group's relationship with its executive.

The dissertation does not dispute that the risk of agency loss increases with the magnitude of the substantive policy preference divergence between a parliamentary group and its respective executive. However, it simplifies the argument to say that the risk of slippage depends on the institutional status of the relevant group. As argued above, intra-parliamentary cleavages between parties in domestic politics transcend to the European sphere. These conflict lines run, for the most part, along institutional lines and provide the major incentives for parliamentary groups to scrutinize their executive.

On the one hand, in governing parties, the majority of parliamentarians mostly trusts their executive in pursuing acceptable EU-level policies. However, it is not impossible that EU decision-making might have policy aims that go against the policy preferences of parliamentary groups or is electorally detrimental (Winzen 2012b: 305). Nonetheless, for the governing parties, the major concern in parliament is the stability and maintenance of the executive during a parliamentary period as well as its effectiveness (Holzhacker 2002: 462). They build a “block” with the government, meaning that there is a high degree of incentive compatibility between government backbenchers and governmental ministers and little incentive to mistrust or scrutinize “their” government.

On the other hand, opposition parties need to fear governmental drift (Finke/Herbel 2015: 5). The government-opposition cleavage is argued to be the main engine of parliamentary control as “the main lines of contestation [run] between the opposition parties on the one hand and the governing parties together with the government on the other” (Miklin 2013: 26). Assuming that the policy preferences of governing and opposition party groups vis-à-vis the government diverge along party lines, opposition parties are generally in a disadvantaged position in comparison to governing parties. They lack direct access to the executive and thereby direct access to EU decision-making and the Union negotiator. Hence, parliamentary oversight provides an important avenue for the opposition to monitor and influence policy making. Summing up, for opposition parties, the risk of policy slippage in regard to negotiations of EU international agreements is highly exacerbated due to policy divergence with the national executive and a disadvantaged position in terms of information retrieval and influence.

To sum up, the risk of policy slippage is higher for opposition than for governing parties. As the risk of policy slippage affects the policy-seeking benefits of a parliamentary group, this means that policy-seeking benefits are higher for opposition parties than for governing parties. As such, a group’s institutional status is an important component of the theoretical framework, that feeds into the cost-benefit analysis of parliamentary control, which in turn affects the intensity of control.

4.6.3.2.2. Policy Slippage: The International Agreement

Whilst the executive of a parliamentary group constitutes a major source of the risk of policy slippage, the executive-legislative relationship is not the only one. National parliamentary groups might be an opposition party with preferences that diverge somewhat from their executive's preferences in regard to an EU international agreement under negotiation. This does not necessarily mean that they cannot be overall supportive of the agreement, whose aim and direction have been set out collectively on the European level, and that is being negotiated with external third parties; and vice versa for governing parties. This means that also the international agreement itself can be a source of policy slippage. From the point of view of political groups in the European Parliament, this argument is somewhat more difficult to sustain, as the Union negotiator is the EP's direct agent, to a certain extent aligning the two sources of policy slippage, i.e., executive and international agreement. However, recall that the Union negotiator is tasked with creating, not implementing a policy for her principals. In such agency relationships, the creation of policies depends not only on the negotiating agent but also on external pressure and the third party with whom the agent is negotiating. Therefore, even if the agent had been "perfect", the outcome of the execution of the delegated negotiation task might not meet the principal's preferences. Therefore, also the international agreement in itself, or more precisely the interaction of all actors involved in its negotiations, presents a source of policy slippage. Overall, it can thus be assumed that the risk of policy slippage also depends on a group's policy position towards the international agreement under investigations.

In order to determine this risk, standard principal-agent theory commonly holds that the higher the preference divergence between principal and agent as ideal points on a policy continuum, the higher the risk of policy slippage. This, however, resembles the argument brought forward in substantiating the previous hypotheses and does not allow us to distinguish between the executive and the international agreement as potential sources of policy slippage. Moreover, in this thesis, the preferences of parliamentary groups will not be understood as ideal points along a unidimensional continuum but as relative policy positions in regard to the overall international agreement, to the actions of the Union negotiator, and consequently to the course of negotiations. These policy positions display qualitative differences, which makes it difficult to measure policy divergence along a continuum (see discussion in section 5.5.1.3.4.). This is not to say that a hierarchy between the possible positions cannot be established, i.e., that it is possible to order them along an ordinal scale. However, as preferences are not an ideal point, it is not possible to measure a precise magnitude of the risk of policy slippage along a ratio scale.

Rather, according to this more qualitative approach, the concrete policy position of a principal determines the risk of policy slippage. In other words, parliamentary groups in opposition to an international agreement have a higher risk of policy slippage. As the risk of policy slippage affects the policy-seeking benefits of a parliamentary group, this means that policy-seeking benefits are higher for groups that are in opposition to an international agreement than for those that are supportive of it. As such, a group's policy position towards an EU international agreement is an important component of the theoretical framework, that feeds into a cost-benefit analysis of parliamentary control, which in turn affects the intensity of control.

4.6.3.2.3. Policy-Seeking Benefits: The Likelihood of Substantive Impact

Before this sub-chapter discusses the costs of parliamentary scrutiny of EU international treaty-making, another important expectation needs some attention. As rational actors, parliamentary groups do not only take the risk of policy slippage into account in their cost-benefit analysis of parliamentary control of EU international treaty-making. The size of the "policy slippage reduction benefit" depends also on the "probability [parliamentarians] assign to their chance of making a difference by investing time and other scarce resources into parliamentary oversight. [...] The higher the probability that oversight is efficacious, the higher the probability that [parliamentarians] will engage in such activities" (Saalfeld 2003: 77). In other words, the policy-seeking benefits of parliamentary control also depend on the chances that parliamentarians assign to their control having an impact. Applied to the setting at hand, this means that a parliamentary group will get involved in the scrutiny of EU international treaty-making if they can reasonably expect a payoff in terms of substantive policy influence. In other words, higher chances of substantive policy influence for a parliamentary group also mean higher policy-seeking benefits of parliamentary control. As such, not only a group's institutional status and their policy position on the agreement under negotiation are important components that determine the size of policy-seeking benefits, but also a group's likelihood of having substantive impact. The latter should thus also be included in the theoretical framework.

4.6.4. The Costs of Parliamentary Scrutiny of EU International Treaty-Making

As argued above, in a standard principal-agent relationship, the costs of control are twofold: on the one hand, principal control of the agent negotiating consumes considerable resources; on the other hand, overly strict control can obstruct the rationale of delegation and endanger the effectiveness and the

efficiency of the agent's execution of the delegated task. Whilst the cost category of resources can easily be adapted to the setting at hand, the latter type of costs has to be adjusted and specified.

4.6.4.1. Resource Costs

As in any standard principal-agent relationship, scrutinizing the agent is costly in terms of resources for the principal. This straightforward argument can be adopted from standard principal-agent models. "Costs associated with scrutiny are fairly straightforward: they relate to the resources that need to be invested in oversight activities such as time, costs of information gathering and opportunity costs of not investing resources in other activities" (Auel et al. 2015: 65). Parliamentary scrutiny of EU international treaty-making demands human costs, capital costs and time costs.

These costs are exacerbated as international treaty-making is highly technical and complex. Parliamentary groups face severe challenges in making use of their scrutiny rights. Moreover, it has been demonstrated that due to characteristics of the chains of delegation in European foreign policy, the decision-making processes take place in an arena to which parliaments hardly have formal access. For groups in national parliaments, oversight in EU international treaty-making is more difficult, in comparison to domestic politics and to the European Parliament. This does not imply that controlling the Union negotiator is an easy task for the latter, either. Due to these factors, the scrutiny of international negotiations can be expected to be extraordinarily resource-costly. The control of EU international treaty-making requires creation of a new area of expertise and investment of considerable resources.

Empirical research has demonstrated that in regard to the scrutiny of EU internal decision-making, the more resources a parliament has, the more it is willing to engage in parliamentary scrutiny of EU affairs (Sprungk 2016; Gattermann et al. 2013: 6). In principal-agent terms, the reason is straightforward: as parliaments have only limited resources at their disposal, they need to consider the costs and benefits of spending time and energy on the scrutiny of EU affairs. The more resources are available to a parliament in total, the lower the scrutiny costs in relative terms, which tilts the calculation in favour of scrutiny being net beneficial.

Summing up these elaborations, the overall resources of a parliamentary group can be assumed to affect the resource costs that the group expects from exercising control over an EU international negotiation process. Hereby, fewer overall resources mean higher resource costs. In other words, the less resources a parliamentary group has overall, the higher are the relative resource costs of parliamentary control. As such, a group's resources are an important component that needs to be part of the comprehensive theoretical

framework explaining the intensity of parliamentary control, as it feeds into a group's cost-benefit analysis, which in turn affects their intensity of control.

4.6.4.2. Efficiency Costs

Principal-agent theory holds that certain functions delegated require that agents enjoy substantive discretion in the execution of their powers. Constraining actions aimed at making the agent act according to the delegating principal's preferences can have the unintended side effect of an inefficient and ineffective performance on the agent's side and thus inferior outcomes from the delegating principal's perspective. Indeed, "in the EU, the member state governments have delegated the authority to negotiate agreements to an actor with its own interests and stakes in the outcome. Simultaneously, they have refrained from establishing mechanisms of complete control, as the [Union negotiator] must be able to negotiate with some flexibility in order to arrive at external agreements. The discretion accorded to the [agent] serves the general interest of EU governments when permitting the [Union negotiator] to conduct and conclude efficient negotiations with third parties" (Tallberg 2006: 141f.).

This cost of scrutiny is of particular importance, as the agent in EU international treaty-making is tasked with forging an agreement with external third parties on the international level in the name of the EU. Most standard applications of principal-agent theory discuss issues in the context of the delegation of power to implementing agents. As mentioned, "negotiating agents have very different tasks. [Implementing] agents act to execute policies (often policies created by the principals) while negotiating agents work to create those policies for the principal" (McKibben 2016: 6). As the negotiation outcome also depends on the external negotiating partner with quasi-veto power, the negotiating agent's degree of discretion which is likely to help fulfil the principal's best interests differs in comparison to implementation tasks: it is bigger (ibid.).

Based on these elaborations, we can assume that the efficiency costs of parliamentary control of EU international treaty-making depend on the EU negotiator's need for discretion in order to foster the best-possible agreement. The costs are higher, the higher the need for discretion. However, what is the negotiator's need for discretion, which factors determine when this need is high and when it is low? This theoretical chapter argues that the ideal level of discretion for the Union negotiator varies from negotiation process to negotiation process, and depends on two factors external to the principal-agent relationship, namely the complexity of the issue under negotiation and the compellingness of the negotiation setting.

4.6.4.2.1. The Complexity of the Issue under Negotiation

It is a standard argument in principal-agent theory that the degree of discretion allocated to an agent should vary as a function of the complexity and uncertainty inherent in an issue area. “Even the earliest principal-agent literature recognized that the [...] incentives to exercise control vary with levels of uncertainty” (Eisner et al. 2000: 29).

This can be explained on grounds of a second order functional argument referring back to the functional reasons of delegation in the first place, and claiming that the degree of discretion is positively related to the initial reasons for delegating (Tallberg 2006: 199; see also Pollack 2003). One of the main reasons for delegating the task of conducting negotiations to an agent is that negotiations often take place in areas where the principals do not have sufficient expertise. The agent, in contrast, possesses the necessary background, information and experience that make the agreement – particularly an efficient, favourable one – more likely (Rubin/Sanders 1988: 396).

The more the negotiation environment is characterized by uncertainty and complexity, the more important becomes the agent’s expertise. And in order to achieve the best possible impact of this expertise on the outcome of negotiations, it is necessary that the agent is subject to as little interference as possible. “Discretion is most useful when and where uncertainty is high and thus flexibility is necessary and valued” (Cooter 2000: 94) and when the delegated task requires highly specialized knowledge possessed only by the agent. However, imposing strict control on the agent would reduce this necessary flexibility on its part, be it whether this control aims at information retrieval or the enforcement of parliamentary preferences. This subsequently is likely to lead to inefficient outcomes, as due to the parliamentary interference, the Union negotiator is not able to make the best use of its expertise.

Summing up, the Union negotiator’s need for discretion is higher when the issue and the policy area under negotiation is complex. Subsequently, as the Union negotiator’s need for discretion affects the efficiency costs of parliamentary control, efficiency costs are higher when parliamentary groups are controlling an EU international treaty-making process in a complex policy area. As such, the complexity of the issue under negotiation is an important component of the theoretical framework, informing the size of efficiency cost and thus feeding into the cost-benefit analysis of parliamentary control, which in turn affects the intensity of control.

4.6.4.2.2. Compellingness of the Negotiation Environment

The political pressure stemming from the international level must not be underestimated in any negotiation process. International agreements are not

unilateral foreign policy acts but require the negotiator to interact with external third parties. The negotiator therefore has a Janus-like role, to reach an agreement that the other party and the negotiator's principal will accept.

Negotiating international agreements becomes more difficult the more compelling the negotiation environment is. This means that something is at stake for the EU in international negotiations, that there is a large number of negotiation partners and that the EU has comparatively little bargaining power in relation to the external third parties. "The more parties involved and the larger their relative bargaining power, the larger the degree of compellingness" (Delreux 2008: 1076). Under such circumstances, the cost of no-agreement increases (Delreux 2009: 724), whilst reaching a best-possible agreement becomes more difficult for the Union negotiator. Thus, the Union negotiator requires extensive discretion, and activating extensive control mechanisms potentially endangers the efficiency of the negotiation process and with that the negotiation outcome.

In conclusion, the Union negotiator's need for discretion is high not only when the issue under negotiation is complex, but also when the negotiation environment is characterized by compellingness. As efficiency costs depend on the Union negotiator's need for discretion, these costs are thus higher when parliamentary groups are controlling on EU international treaty-making process in a compelling negotiation setting. As such, the compellingness of the negotiation setting is an important component of the theoretical framework. It informs the size of efficiency cost, impacts thus the cost-benefit analysis of parliamentary control, and in turn affects the intensity of control a parliamentary group is exhibiting in regard to this negotiation process.

4.6.4.2.3. Inferior Outcomes – Why Should Parliamentary Groups Care?

Before concluding on the inefficiency costs of parliamentary scrutiny, a second specification needs to be made: Why should parliamentary groups care about the risk that their actions might cause inferior outcomes from the delegating principal's perspective?

On the one hand, research has demonstrated in regard to Council decision-making that if national "parliaments tie the hands of their governments when they negotiate at the European level, effectiveness of policy-making is jeopardised and national interests may be defeated. Realising this dilemma, members of national parliaments develop strategies to deal with conflicting requirements of national party politics and European policy-making" (Benz 2004: 875). On the other hand, in the complex and intertwined delegation chains in EU international treaty-making, parliaments as principals have been conceptualized as collective actors, in which parliamentary groups as constitutive units can reasonably be assumed to have heterogeneous preferences.

This implies that some groups might not have been supportive of the act of delegation decided by a parliamentary majority. Thus, the functional reason for delegation as increasing the efficiency and effectiveness of decision-making (Rubin/Sanders 1988: 295ff.; Thatcher/Stone Sweet 2002: 4) does not necessarily apply to all parliamentary groups within one parliament. Consequently, it cannot automatically be assumed that parliamentary groups have an interest in efficient and effective negotiations that eventually lead to the best possible negotiation outcome from the perspective of the “delegator”.

However, under certain circumstances, inefficiency does constitute a cost from the point of view of groups: whether a parliamentary group takes the risk of inefficient outcomes into consideration depends on the group’s policy position on the envisaged agreement. On the one hand, groups that support an agreement can generally be expected to have an inherent interest in efficient and effective negotiations. On the other hand, parliamentary groups that oppose the international agreement under negotiation are not expected to fear that the outcomes are not line with what the parliamentary majority would have regarded as best possible outcome, as they oppose the agreement on principled grounds. Hence, the risk of inefficiency negotiations applies only to parliamentary groups that are supportive of the international negotiations. In other words, only groups in a supportive policy position consider the efficiency costs of parliamentary control.

4.7. The Theoretical Framework

Based on these theoretical elaborations of the costs and benefits of control and of the causal factors that affect their size, it is now possible to summarize the comprehensive theoretical framework with all its components. This theoretical model is the main theoretical argument put forward by the dissertation for explaining the “how” of control, meaning the intensity with which parliamentary groups control EU international treaty-making. The main assumption of this dissertation is that parliamentary control of EU international treaty-making is party political. Parliamentary groups are rational actors that make strategic decisions based on the expected costs and benefits. Eventually, as in any cost-benefit analysis, the ideal oversight is a function of what maximizes the expected benefits for a parliamentary group.

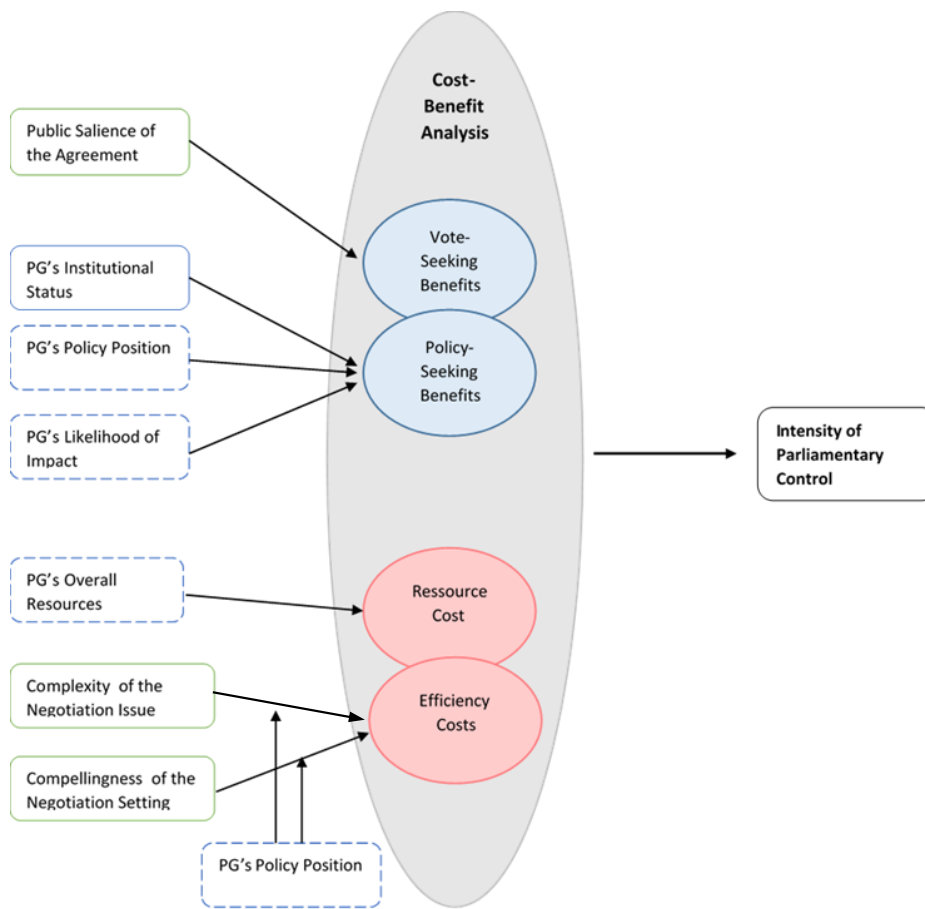
More specifically, parliamentary groups are assumed to be driven by vote-seeking benefits, i.e., electoral incentives, and policy-seeking benefits, i.e., incentives to reduce the risk of policy slippage. At the same time, they are constrained by resource and efficiency costs. However, efficiency costs apply only to parliamentary groups that are supportive of the agreement at hand. The weight of costs and benefits is affected by seven causal factors. On the one

hand, vote-seeking benefits of parliamentary control are expected to be high when the public salience of an agreement is high. Policy-seeking benefits are high when a parliamentary group is an opposition party, when it is in opposition to the agreement under negotiation, and when its likelihood of impact is high. On the other hand, resource costs of parliamentary control are expected to be high when a parliamentary group has low resources on average. Efficiency costs are high when the issue under negotiation is complex and when the negotiation environment is compelling.

In combination with the theoretical assumption of how the cost-benefits calculus affects the intensity of parliamentary control, these seven factors have an effect on the intensity of control. In other words, all else equal, variation in a causal factor can explain variation in the intensity of control that a parliamentary group displays in regard to an EU international treaty-making process. The theoretical argument of dissertation is summarized in the non-formal model in figure 4 below.

As argued, the size of costs and benefits is affected both by parliamentary group and international agreement specific causal factors. This means that the assessment of costs and benefits varies both from parliamentary group to parliamentary group, but also from treaty-making process to treaty-making process. Subsequently, the intensity of parliamentary control of EU international negotiations that maximizes the benefits is not constant for all parliamentary groups and in every decision-making process. In other words, we can expect variation in the intensity of control from parliamentary group to parliamentary group, and from negotiation process to negotiation process.

Figure 4: Illustration of the Argument



Note: Colour Coding: Green = International Agreement (IA) Specific Factors; Blue = Parliamentary Group (PG) Specific Factors; Dashed = PG and IA specific factors)

4.8. Conclusion

This theoretical chapter offers a theoretically informed answer to the overarching research question of how and why parliamentary groups control EU international treaty-making. It combined two perspectives of principal-agent applications: executive-legislative relations and agency relations in EU foreign policy. After presenting the basics of principal-agent theory, the chapter applied principal-agent theory to parliamentary democracies, more specifically European foreign policy. The second sub-chapter discussed the nature of parliaments as collective principals and the role of parliamentary groups as their constitutive units, and substantiated that within the chains of delegation in EU international treaty-making, parliaments can meaningfully be perceived as principals for the Union negotiator as agent. This has important ramifications for the characteristics of the chains of delegation. The sub-chapter concluded with a qualitative conceptualization of parliamentary control, includ-

ing a discussion of the various dimensions of control. Overall, these descriptive, yet theoretically informed discussions explained why parliaments are able to act, not why they act. The third sub-chapter offered a theory-driven approach to actual parliamentary behaviour.

In line with principal-agent theory, it was argued that a parliamentary group's decision whether, when and how to control the Union negotiator is subject to a cost-benefit analysis. However, in the complex and intertwined agency setting in European foreign policy, the contextual environment in which parliaments and parliamentary groups act differs from that in standard principal-agent relations, altering the precise nature and magnitude of benefits and control of parliamentary control. Figure 4 above depicts the costs and benefits of parliamentary control in the setting under investigation.

More specifically, parliamentary control of EU international treaty-making is assumed to be partisan. Parliamentary groups are driven by vote-seeking benefits, thus by electoral incentives, and policy-seeking benefits, meaning by incentives to reduce the risk of policy slippage. At the same time, they are constrained by resource and efficiency costs. Efficiency costs apply, however, only to parliamentary groups that are supportive of the agreement at hand. The weight of costs and benefits is affected by seven factors. On the one hand, vote-seeking benefits of parliamentary control are expected to be high when the public salience of an agreement is high. Policy-seeking benefits are high when a parliamentary group is an opposition party, when it is in opposition to the agreement under negotiation, and when its likelihood of impact is high. On the other hand, resource costs of parliamentary control are expected to be high when a parliamentary group has low resources on average. Efficiency costs are high when the issue under negotiation is complex and when the negotiation environment is compelling.

5. Research Design

The previous chapter argued that parliamentary control can be viewed through the lenses of principal-agent theory. It is therefore necessary to develop a research design that makes it possible to use the principal-agent approach and draw causal inferences about the presented assumptions in order to answer the overarching research question: how and why do parliamentary groups control EU international treaty-making? This chapter will now present the research design of this dissertation.

5.1. Purpose of Research

Based on the research question, the purpose of the empirical research of this dissertation is twofold.

First, it pursues a simply descriptive endeavour, answering the “how” question of parliamentary control. It aims to identify and describe the scrutiny actions of the parliamentary groups under investigation, the means they use, the patterns that develop and the timing of control that can be observed. Eventually, this serves the identification of the intensity of parliamentary control as the dependent variable of this study. This step has to be accomplished before we can move on to the second part of the research question, the “why” of parliamentary control. Only once a phenomenon, an outcome, is known, is it possible to explain it. Therefore, secondly and importantly, this dissertation pursues an explanatory strategy. Building on the results of the descriptive research endeavour, it strives to identify the causes of parliamentary control. It is thereby necessary to go beyond studying what happened, but try to get as close as possible to the underlying motivations of the political groups exercising parliamentary control over EU international treaty-making. Bearing in mind that chapter 4 argued that parliamentary groups base their control on a cost-benefit analysis, these calculations, the nature of the costs, benefits and their magnitude ought to be further explored, from a theoretical as well as an empirical perspective.

It is somewhat difficult to place the purpose of this research endeavour on either the outcome- or the factor-centric side of research. This study does not aim to test one or two independent variables, and to try to make causal inference about the explanatory power of individual causal factors, so it is not purely factor-centric. Nor is its goal to explain a single important event, a single important instance of parliamentary control, or a single particularly puzzling occurrence of parliamentary control, and is therefore not outcome-centric. Rather, the dissertation develops a comprehensive explanation for how

and why parliamentary groups control EU international treaty-making based on theory and now tests this theoretical framework in terms of its ability to explain certain outcomes. It is thereby important to be aware that based on the underlying theoretical framework, variation in the intensity of control can be expected from parliamentary group to parliamentary group and from negotiation process to negotiation process. It is thus necessary to account for this variation. “The goal is to comprehensively assess potential [...] explanations by considering many independent variables, X_i , that in toto try to account for variance in the dependent variable, Y , as completely as possible” (Gschwend/Schimmelfennig 2007: 8). The dissertation can be argued to have an *effect of causes* approach, as opposed to an *effect of a cause* approach to explanation (Goertz/Mahoney 2012: 41).²⁵ Beyond this, the dissertation also wants to inquire further into the causal mechanism the framework has proposed. Overall, it wants to identify and validate the causal relationship between the proposed causal factors in the theoretical framework and the dependent variable, the intensity of parliamentary control. The dissertation understands a causal relationship to entail that “a certain cause (X) has a causal effect on an outcome (Y) and is connected to it via causal processes and one or more causal mechanisms in a specified population of cases” (Rohlfing 2012: 2). The research design has to account for these purposes, and the data analysis strategy will have to be carefully chosen to be able to meet them.

5.2. Use of Theory

The theoretical basis of this dissertation is the principal-agent framework, on whose basis the previous chapter derived expectations about the costs and benefits of parliamentary control, the political groups’ strategic analyses thereof, and propositions about “how and why” they control EU international treaty-making. Principal-agent theory is the starting point of the analysis, and the theoretical lens through which the empirical material will be viewed. The thesis follows overall a theory-guided, deductive approach in the sense that “an explanation of an event is derived from a theoretical hypothesis about the process that brought it about” (Heritier 2008: 63).

5.2.1. The Use of Principal-Agent Theory

The theoretical framework should not be considered with the formality of grand theories in social sciences, but should be understood as “a [hypothetical] story about why acts, events, structures and thoughts occur” (Sutton/

²⁵ This is not to say that the identified causal factors do not have an autonomous causal effect (see the sub-chapter on causality). However, these autonomous causal effects will not be investigated in this study.

Straw 1995: 378). Principal-agent theory serves does not serve an end in itself but has the instrumental purpose of providing a lens through which the control of parliamentary control of EU international treaty-making can be viewed. The theoretical model serves as the starting point of the design of the study, the data collection, the data analysis, the interpretation of the results and the drawing of causal inferences. In the approach of this dissertation, principal-agent theory thus serves the reduction of complexity in real-life political processes and enables the researcher to focus on key factors to answer the overarching research question. In line with most applications of principal-agent theory to EU studies, the model is thus applied in a pragmatic manner, meaning that many of the rigid and canonical requirements of the model as initially developed in economics have been relaxed (Delreux/Adriaensen 2017: 10).

How exactly principal-agent theory is used in this study depends on the exact research question under investigation. Recall that this study has both a descriptive and an exploratory aim. To “describe” how parliamentary groups control EU international treaty-making, the theory will provide the structure needed to approach a complex reality: the underlying concepts and dimensions of control derived from principal-agent theory, developed in the theoretical chapter, will serve as guiding blocks for the empirical analysis, enabling a systematic and well-structured, theoretically-informed approach. To answer the explanatory “why”-question, principal-agent theory has served the instrumental purpose of crafting a comprehensive explanation of parliamentary control of EU international treaty-making that can now be tested. The dissertation makes use of a research design that overall follows a theory-testing approach, having deduced a theoretical framework with seven causal factors from the existing literature and now setting out to gather data that will allow the confirmation or disconfirmation of these. However, despite following a theory-testing research design, this is not an end in itself. The dissertation neither sets out to confirm or disconfirm principal-agent theory per se. Rather, it uses the approach instrumentally to draw causal inferences about the “how and why” of parliamentary control.

Moreover, it is important to be aware that whilst the use of principal-agent theory is clearly led by ideas of deductive research, this does not mean that this thesis will not make use of inductive ideas. “In practice, theory-testing has inductive elements, [...]” (Beach/Pedersen 2013: 14). The dissertation does not start from a pure empirical investigation of the phenomenon of interest without the use of theory; however, the application of a qualitative case study design and the use of certain inductive elements will allow for the flexibility and adaptability needed to answer the research questions. Inductive elements thus allow the researcher to go beyond the somewhat narrow confines of the

theoretical prediction based on principal-agent theory and to investigate actors' motivations and perceptions beyond the assumptions of theory. Moreover, not every single building block of the theoretical framework has been explicitly theorized, as will be argued below. Inductive elements, yet still guided by the overarching framework, are thought to support the empirical investigation and to foster a better understanding of the outcome of interest of this dissertation – parliamentary control of EU international treaty-making.

5.2.2. Causal Inferences

With such a deductive approach, in the continuum between theory-centred and case-centred research, this dissertation falls somewhat closer to its theory-centred end, aiming at arriving at a general statement that answers the overarching research questions, meaning that the formulated explanations ought to be generalizable to a broader range of scrutiny instances. In case-centred research, the goal is to formulate a comprehensive explanation of a single case without the aim of further generalization. As such, the empirical cases under investigation are instrumental for producing general theoretical statements extending beyond the cases that one examined empirically. The theory also serves an instrumental purpose, as explained above; however, not for explaining a single case of parliamentary control. Indeed, the underlying goals of theory-centred research and case-centred research “are compatible. The formulation of general inferences on the basis of qualitative case studies does not preclude one from also gaining a comprehensive understanding of the examined cases” (Rohlfing 2012: 2), as it will be the case in this thesis.

If the empirical research demonstrates that the causal relationships between the causal factors and the intensity of control were present and functioned as expected, this dissertation is able to make causal inferences about the proposed explanation of parliamentary control: it supports the validity of the developed causal framework and that it has empirical relevance, and makes it possible to draw conclusions about individual causal factors, meaning whether they indeed impact the intensity of parliamentary control as assumed. Moreover, ideally and depending on the exact built of the research design, these findings should also be able to be cautiously generalized. Vice versa, if the assumed causal relationship could not be found to be present, the endeavour has ended with a disconfirming finding. However, the overall goal of this research is not necessarily to reject the entire theoretical model if it does not fit the data, hence falsification, but rather to enable the reformulation of the theoretical considerations that help to explain how and why political groups control EU international treaty-making. As such, the present study moreover serves a cautious purpose of modifying the theoretical framework if necessary.

5.2.3. Causality

Before continuing to elaborate on the research design, it is necessary to say a few words about this dissertation's understanding of causality.

Overall, the dissertation argues that causation takes place on the case-level, not on the population level. This implies that the study adopts a deterministic understanding of causality, as opposed to a probabilistic one. The central idea of probabilistic causality is that causal relationships are trends (e.g. mean causal effects) between causes and outcomes, meaning that causes change the probabilities of their outcomes, all else being equal. However, there can be many reasons why the relationship does not hold in individual cases (Beach/Pedersen 2016a: 20). This means also that “it can even be argued that studying probabilistic causal relationships at the case level makes little sense, given that we then always can discount a negative finding with the claim that the found relationship in the single case was a chance occurrence” (ibid.: 22). Against this background, this dissertation follows the understanding of causality as a deterministic causal relationship and argues that the effect always follows the cause. It thereby aligns with Beach/Pedersen (2016a), who claim that “only a deterministic oncology is compatible with case-based research [...] anything else makes the study of individual cases a secondary exercise used to substantiate what variance-based researchers perceive as the more important causal trends at the population level” (ibid.: 19). However, whilst this case-based dissertation indeed perceives causality to operate at the case level, i.e., to be deterministic, this does not mean that it is not possible to study cross-case patterns.

Moreover, the dissertation assumes that causality is symmetric, meaning that it attributes causal effects to different values of the causal factors across cases. In a nutshell, symmetric causality captures the differences that values of a cause have for values of the outcome. An increase in the value of a causal factor prompts an increase in the value of the outcome, whereas a decrease coincides with a decrease of the outcome, or the other way around. This contrasts with asymmetric causality, meaning that causal power is only ascribed to the positive pole of a concept (Beach/Pedersen 2016a: 23). Beach/Pedersen argue that “because of the need for variation, [...] symmetric causal claims cannot be made about within-case causal relationships unless we transform a single case into a set of cases by either disaggregating temporally or spatially, [...]. All of the claims we are making in case-based research are arguably asymmetric” (Beach/Pedersen 2016a: 26). However, this dissertation does not follow this line of argumentation, and does indeed perceive causality to be symmetric, e.g. high salience increases the vote-seeking benefits of parliamentary

control, whereas low salience decreases them. By doing so, it sides with Rohlfsing (2012), who claims, without choosing a side in this ontological dispute, that whether a researcher adopts a symmetric or an asymmetric conception of causality should follow the chosen theory. It is then of crucial importance that the research design does indeed allow for the investigation of the causal relationship (Rohlfing 2012: 16). As such, it is necessary that the following design allows for the necessary variance in order to study symmetric causality, i.e., that it includes more than one case in its investigation and, to a certain extent, makes use of cross-case evidence.

Lastly, the dissertation argues, at its outset, that the causal factors identified in the theoretical framework have an autonomous causal power, i.e., that they produce an effect independently of the other causal factors. The various causal factors are assumed to work together by additivity. Overall, it is assumed that the “effects of [the causal factors] are independent of each other and that these effects add up” (Rohlfing 2012: 48). This is opposed to configurational causality, according to which two or more causal factors produce the outcome only if they are simultaneously present, and in which causal factors are often thought to have an interaction effect. The assumption that the causal factors have autonomous causal power is argued to be a sensible starting point. However, this does not mean that the empirical analysis will not take the possibility of configurational causality into account. This can be done by paying close attention to within-case evidence (Blatter/Haverland 2012: 41).

5.3. Research Method: Qualitative Case Studies

The empirical test of this dissertation will be conducted through several case studies. Case studies are non-experimental empirical inquiries conducted in order to derive an “in-depth understanding of a single or small number of ‘cases’, set in their real-world contexts” (Yin 2012: 4). Often, case studies serve the aim of shedding light on a smaller population of cases, in which instance an individual case is viewed as a case of something broader, enabling inference from the sample to the population. At the same time, the choice of case studies as the applied research method does not impose any limits on data requirements, techniques of data collection, or data analysis, meaning that case studies, theoretically, can be both qualitative and quantitative (Gerring 2007: 10f.). This dissertation will follow a qualitative case study design in the sense that, whilst it might rely on the use of quantitative numbers and figures in its analysis, it does not analyse the data with statistical means exclusively. This dissertation is opting for qualitative case studies for several reasons. Overall, case studies are the best possible research strategy considering the research

question, theoretical assumptions and practical issues such as data availability and the relevance of real-life actors whose activities cannot be manipulated.

First, it aims to analyse the “how and why” of parliamentary control. As argued above, this dissertation assumes that causation takes place at the case level, and not at the population level in the form of more general trends. To be more explicit, the strategic decisions about parliamentary control are made by parliamentary groups in every single instance of control, based on the costs and benefits thereof. This calls for a research strategy that enables the researcher to study those decisions, and the preceding actor calculations and decisions in-depth and in their real-life context, and to “deal with operational links needing to be traced over time, rather than mere frequencies or incidence” (Yin 2009: 9). Moreover, in this setting, it is not possible to manipulate the relevant causes and outcomes and to draw causal inferences based on an experimental set-up (Rohlfing 2012: 3). Against this background, case studies of parliamentary control are assumed to be the best-suited research strategy, as they are highly informative in terms of identifying the underlying motivation of the involved actors and provide the opportunity to gain a deep holistic view of the research subject.

On a more practical note, research on parliamentary control of EU international-treaty-making is yet in its infancy.²⁶ As such, there is an intrinsic value in investigating the topic in-depth and comprehensively, rather than analysing mere trends and correlations. Indeed, the case study research method may not be the best choice in situations where the phenomenon of interest is mature and well-understood, where there is little interest in how or why a phenomenon occurs, and where the real-life context is irrelevant (Darke et al. 1998: 280). Vice versa, case studies can bring substantial added value when deployed in developing research fields. Yet, it is important to keep in mind that overall in this dissertation, the case studies will have an instrumental value, as they are used to accomplish something other than an understanding of a particular situation; the cases under investigation are of secondary interest.

Finally, there are several data-issues that will make it very difficult to collect enough systematic data for a large-N analysis of parliamentary control of EU international treaty-making. Foreign policy is (still) a field characterized by secrecy, speed and a reluctance to share sensitive information – even meta-

²⁶ This does not apply to the CFSP/CSDP (see literature review). However, the underlying dynamics here can be expected to be different from the ones in international treaty-making.

level information.²⁷ Furthermore, collecting data on actors' motivations and calculations requires a qualitative collection approach, focused on the depth of the information. The same goes for the nature of parliamentary control itself: whilst it is possible to derive data on formal parliamentary control in a systematic manner from parliamentary databases, much of what is going on in terms of parliamentary control is informal, email exchanges, conversations in the corridors or over lunch. Exhaustive insight into parliamentary control thus needs to be gained via in-depth data collection. It is evident that there is a trade-off between the depth and the breadth of data that can be collected in order to answer the overarching research questions. In light of the issues listed here, however, the dissertation opts for an in-depth data collection strategy. This, in turn, implies that a statistical analysis of the collected data will not be feasible, and that it is best analysed via qualitative case studies.

5.3.1. Case Selection

Whilst this research design does not per se aim at theory-testing, it follows a theory-testing set-up in order to draw causal inferences about the overarching research question. As such, the selection of appropriate cases is a crucial element of the research design, as the ability to provide unbiased results and to validly assess the propositions of the theoretical framework depends largely on the properties of the selected cases.

5.3.1.1. *What is a Case?*

Before selecting cases for further investigation, it is necessary to define what a "case" is. The academic literature on case study methods offers a variety of definitions (see, e.g., Gerring 2006: 19; George/Bennett 2005: 5). This dissertation follows Beach/Pedersen (2016a), who argue that "a case is defined as an instance of a causal process playing out, linking a cause (or a set of causes) to an outcome" (Beach/Pedersen 2016a: 16). Hence, a case is the unit in which the hypothesized causal relationships are playing out. Importantly, Beach/Pedersen note that in practical terms, the delineation of what a case is and the identification of the population of cases²⁸ are contingent upon the theoretical claims an analysis is making.

²⁷ In the sense that it is information about thoughts and actions about the executive's foreign policy and not about foreign policy itself.

²⁸ "The population of cases is then the sum total of all comparable individual cases in which the causal theory plays out in a similar fashion" (Beach/Pedersen 2016a: 6).

This dissertation studies parliamentary control of European international treaty-making, and assumes variation in the intensity of control in two regards: from parliamentary group to parliamentary group, and from international agreement to international agreement (see section 4.6.1.). As such, a causal process is expected to play out on the parliamentary group * international agreement level. It does thus not suffice to study parliamentary control in one parliamentary group in one parliament in regard to EU international agreements in general, as this would not allow for the agreement-specific causal factors to play out. Neither is a mere study of how one international agreement is controlled by the multi-level parliamentary field without a distinction between the various parliamentary institutions sufficient to do justice to the fine-grained theoretical framework.

The dissertation involves two levels of case selection: EU international agreements and parliaments. The latter level of case selection will make it possible to study all parliamentary groups within one parliament. This does not contradict the fact that the unit of analysis, the abstract entity of interest in an empirical case that is being studied, is parliamentary groups. Nonetheless, parliaments will be approached in a holistic manner in the sense that all parliamentary groups within a selected parliament will be studied; the case selection thus takes place on the level of parliament.²⁹

5.3.1.2. Case Selection Method

As stated above, this study aims to investigate the validity of the developed theoretical framework, i.e., to test the developed comprehensive explanation of the intensity of parliamentary control, and to analyse the causal mechanism leading to a particular intensity of control in more detail. Based on the understanding of causality as symmetric causal relationship, it follows that in order to draw valid causal inference from the empirical investigation, it is necessary to examine more than one case and to select cases with sufficient variation (Beach/Pedersen 2016a: 26). As discussed below, the case studies follow a

²⁹ The main reason for this decision is that whilst the cases under investigation mainly serve an instrumental purpose in order to answer the overarching research question, approaching parliaments in a holistic manner still serves a goal in itself in terms of gaining a comprehensive understanding of the examined cases. If the case selection was too scattered by studying single political groups all over Europe, valuable insights into particular parliaments as a whole might get lost. This was also a practical decision to increase the synergy effects of studying background information about only a couple of parliaments and to decrease the costs of information collection (see below).

two-step data analysis process to accommodate for the specifics of this dissertation; first, a comparative congruence analysis, then within-case process tracing.

The dissertation follows the guidance of Blatter/Haverland (2012) to select cases on the parliament * international agreement level for the first empirical investigation. Blatter/Haverland argue that if a cross-case co-variation study was to be followed by in-depth process-tracing, “case selection follows the logic of the [co-variation] approach, which means that we have to select more than one case and that the cases should be as similar as possible in all respects except with respect to the causal factor of interest, for which we need strong variance” (Blatter/Haverland 2012: 103). Whilst in the following, it will be demonstrated that the most appropriate cross-case study method is not a controlled comparison, as intended by Blatter/Haverland, but rather a comparative congruence analysis, this dissertation argues at this point that the underlying logic of case selection still applies: the cases should be chosen according to the technique that enables valid inferences based on the cross-case comparison, as the evidence used to draw causal inferences is, to a certain extent, based on cross-case comparison.

The dissertation chooses cases on the parliament * international agreement level using the most similar systems design (Przeworski/Teune 1970).³⁰ This approach “is based on a belief that a number of theoretically significant differences will be found among similar systems and that these differences can be used in explanation” (Przeworski/Teune 1970: 39). Causal inferences can thus be drawn on the basis of covariation between the factor(s) of interest in the outcome, whilst all other factors that might have an effect on the latter are kept constant, and therefore cannot explain the variation. In more practical terms, cases are selected “in such a way as to maximize the variance in the independent variables and to minimize the variance of the control variables” (Lijphart 1975: 164); in other words, cases that express strong differences with respect to the main independent variables of interest and are as similar as possible with regard to background variables associated with other potential explanations. This is not to say that the factors that are controlled for do not have a causal influence on the outcome, but rather that the causal factors that are studied have an influence under the specific circumstances that are described by the control variables that are held constant. Whilst this reduces the scope for generalization, it makes the claim that it is indeed the causal factors under

³⁰ With slight variations in the underlying logic, this case selection approach has also been termed the “method of difference” (Mill 1875), or the “comparable cases” approach (Lijphart 1975).

investigation that make a difference within the population of very similar cases very plausible (Blatter/Haverland 2012: 40).

Important in this dissertation is that the case selection will not take the values of the outcome, the dependent variable, into account for two reasons. First, it follows Blatter/Haverland, who argue that “cases are selected based on the score of the independent variable and not based on the score of the dependent variable [as the] the dependent variable or outcome must vary ‘freely’ to identify the causal effect” (Blatter/Haverland 2012: 43). Second, there are more pragmatic considerations at play: it is simply not possible to select on the outcome of the “intensity of parliamentary control”, as the identification of these values is part of the empirical research endeavour; i.e., not known to the researcher at the outset of the empirical investigation. This means that cases with similar scores on the background characteristics, which might have an effect on the outcome, and demonstrate variation on the theorized causal factors should be selected. Similarities on background characteristics of the selected cases cannot simply be assumed. Similarities on background characteristics of the selected cases cannot simply be assumed. It is necessary to (1) identify the relevant characteristics and (2) to demonstrate the similarities (Blatter/Haverland 2012: 54). Prior to that, in a first step, it is necessary to identify the population of cases from which the cases for further analysis can be selected.

5.3.1.3. Level of Case Selection: Parliaments

Developing the population of parliaments from which the specific cases for analysis can be chosen is not as easy as one might consider at the outset. Rozenberg and Heffler (2015) provide a good overview of (national) parliaments in the EU, arguing that parliaments in the EU are a broad “family” of institutions, which are very heterogeneous both at a quantitative and qualitative level. In a minimal definition, they are united by the characteristics of election, equality, speech, pluralism, legislation. Beyond that, however, “it is hard to find any feature common to all the parliaments in Europe” (Rozenberg/Heffler 2015: 2). Nonetheless, the 2009 Lisbon Treaty has united this heterogeneous family by recognizing them as representative institutions of the European Union (Art. 10 (2) ToL). The official IPEX website lists an overview of “National Parliaments and the European Parliament”³¹, a compilation consisting of 41 parliamentary chambers in 28 member states, plus the European Parliament. However, this dissertation only includes unicameral parliaments and

³¹ <http://www.ipex.eu/IPEXL-WEB/parliaments/neparliaments.do>. Be aware that this list also includes the parliamentary chambers of candidate countries. These are not part of the population of cases.

lower houses in bicameral systems, as well as the European Parliament. The reason is that in bicameral parliamentary systems, the lower chamber usually has the better opportunity to enquire into the work of the executive, and thus into European foreign policy. In contrast, the upper houses usually play a reduced role in EU affairs and are even more heterogeneous than the entirety of the lower houses (MacCarthaigh 2007: 35). It is argued that the structural differences between lower and upper chambers are too great as that they could jointly represent the population of cases for potential closer investigation in this dissertation.

This leaves 28 national parliaments plus the European Parliament for the case selection. The European Parliament will be included for analysis not on the basis of a sound case selection technique, but because its analysis can be seen as a goal in itself. In a case selection based on the most similar system design, it is highly unlikely that the European Parliament would have been chosen, as it is structurally so different from national parliaments, that the important background characteristics do not align.

What are these background characteristics that the most similar systems design should control for, i.e., keep constant? It is factors that can potentially explain variation in the dependent variable, hence factors that have been found to have a causal effect on the intensity of parliamentary control and/or can be expected to have such an effect. As there is only little research, on parliamentary control of EU international treaty-making, this dissertation will control for factors that have previously been demonstrated to affect the strength of parliamentary control. The last two decades have seen the development of a large body of cross-national, explanatory studies that seek to explain cross-parliamentary variation in the institutional strength of control of EU affairs.³² Despite the diversity of the methods employed and the data used, the studies have generated rather converging results. Most of them agree on the importance of the following factors: accession timing (Hamerly 2007; Saalfeld 2005); public Euroscepticism (Bergman 2000; Raunio 2005) and the general strength of the parliament (Karlsson 2011; 2012; Raunio 2005; Saalfeld 2005). Therefore, this dissertation selects parliaments which demonstrate similar background characteristics in these regards. Additionally, the case selection will control for strength in EU affairs, as “there is a rather strong and highly statistically significant, positive correlation between the institutional strength of the chambers in EU affairs and their level of activity” (Auel et al. 2015: 78).

³² The strength refers to the institutional capacities of national parliaments in EU affairs, not actual behaviour. Research on the latter is still in its infancy.

As regards to having variation on the causal factors of interest, this dissertation claims that this is not a necessary (or even possible) endeavour: this case selection selects parliaments for further analysis; yet, the actual unit of analysis are the parliamentary groups within parliaments. The theoretical framework is aligned to this unit of analysis, focusing on explanatory factors discerning the costs and benefits of parliamentary control on the group level, and not on the parliament level. Thus, there are no “parliament-specific” explanatory factors that need to be included in this case selection. It suffices to select parliaments that are as similar as possible in regard to the above-mentioned background factors.

Based on these considerations, the following parliaments were selected: The German Bundestag (BT) and the Danish Folketing (FT). Additionally, as justified above, the European Parliament (EP) is included in the sample for the empirical investigation. The following discussions will demonstrate more in-depth how the Folketing and the Bundestag are comparable on the identified background factors, domestic strength, strength in European Affairs, public Euroscepticism and the timing of EU accession.

Timing of accession: Germany is a founding member of what is today known as the European Union, as the country, together with Belgium, France, Italy, Luxemburg and the Netherlands, signed the Treaty of Rome in 1957. Denmark acceded the EU in the first wave of enlargement in 1973. Although Germany has been a member longer than Denmark, the dissertation claims that both countries have been members of the EU long enough that their parliaments have adapted to European integration, installed EU-specific control mechanisms and familiarized themselves with EU decision-making.

Institutional Strength: As “domestic parliamentary strength” remains a contested concept in political science research, there is high number of classifications, measurements and data sources trying to capture the concept empirically (e.g., Fish/Kroenig 2009; Karlas 2012; Raunio 2005). Looking at how these various indices rank the domestic institutional strength of the Bundestag and the Folketing, overall, the findings seem to corroborate one another: in all studies, the two parliaments are listed as some of the stronger medium-powerful or strong parliaments. Raunio (2005), who used Döring’s ranking of the agenda power of legislatures, distinguished between several groups of national parliaments. He considered both Denmark and Germany to be in the second less-influential group, as opposed to the most influential and the weak group (Raunio 2005: 331). Karlas (2012) developed a rank order based on a more general measure of the strength of parliamentary committees, for which he used the work of Martin/Depauw (2009) and Yläoutinen/Hallerberg (2009). Out of the then-27 national parliaments, he ranked Germany number 13, Denmark 19 (increasing rank means increasing power) (Karlas 2012:

1104). Here, Denmark is slightly stronger than Germany, but both parliaments are somewhere in the midfield. In contrast to this order, the Parliamentary Power Index (PPI) developed by Fisher/Kroenig (2009) claims that the Bundestag is somewhat more powerful than the Folketing. As the PPI is designed for global analysis, it does not distinguish the parliaments of the EU Member States as precisely as some of the other indicators. On a scale from 0 to 1, with one being the highest, the domestic strength of EU national parliaments ranges from 0.41 (for Cyprus) to 0.84 (for Germany and Italy). Denmark scores 0.78 and thus also ranks among the stronger EU parliaments. Whilst the precise measures used and the composition of the indicators in these rankings vary considerably, it can be concluded that the Bundestag and the Danish Parliament have similar institutional strength in domestic affairs.

Parliamentary Strength in EU Affairs: A number of studies have classified and ranked national parliaments according to their strength in EU affairs (e.g., Bergman 2000; Raunio 2005; Winzen 2012; Karlas 2011; 2012; Saalfeld 2005; Hamerley 2007). There is little consistency in terms of the specific indicators used to measure parliamentary strength in EU affairs. Importantly, it is necessary to distinguish between institutional strength in EU affairs, focusing on institutional provisions and formal rules, and actual parliamentary activity. “Parliamentary rules and institutions are crucial, because they provide formal constraints and opportunities for parliamentary activity. However, they do tell only part of the story, because institutional opportunities remain latent until they are actually used” (Auel et al. 2015: 64). It is thus important to use a ranking that combines indicators measuring the strength of formal rules with comparative empirical data on the level of actual parliamentary activities in regard to EU affairs. So far, the only comprehensive empirical ranking combining these two building blocks is offered by Auel and her colleagues (Auel/Tacea 2013; Auel et al. 2015). According to their *OPAL EU score*, the Bundestag scores 1.12, the Folketing 1.08 and they are ranked 3 and 4, and are, just after Finland and Sweden, the overall strongest parliaments in the EU (Auel/Tacea 2013: 17).

Euroscepticism: Data on Euroscepticism for cross-country studies is commonly drawn from the biannual Eurobarometer surveys. The question “I would like to ask you a question about how much trust you have in certain media and institutions. For each of the following media and institutions, please tell me if you tend to trust it or tend not to trust it: The European Union” is used as a proxy. Euroscepticism is measured as the percentage of citizens stating that they “do not trust the EU” per year (Auel et al. 2016: 163; see also Kimmerle 2013). Table 6 provides an overview of these answers for Denmark and Germany between November 2013 and November 2017.

Table 6: Citizens Who Do “Not Trust the EU” in Denmark and Germany (per cent)

EB	Denmark	Germany
80	47	59
81	48	58
82	40	53
83	32	48
84	41	63
85	45	60
86	46	53
87	35	45
88	37	42
Average	42.2	53.4

Note: Data taken from Eurobarometer (EB)

Table 6 indicates that the percentage of people who do not trust the EU is somewhat larger in Germany, but the dissertation argues that, considering the average percentage over time, the two countries are similar enough on this background factors.

5.3.1.4. Level of Case Selection: International Agreements

Even more difficult than defining the population of parliaments, is it to identify the population of international agreements from which the cases for in-depth investigation can be selected. For reasons of simplification and analysis, the dissertation only considers international agreements whose negotiations started after the entry into force of the Lisbon Treaty in December 2009. This makes it problematic to identify the opening date in a systematic way, as the common databases for EU international agreements³³ only include international agreements once their negotiations are finished and the text is signed. As negotiations can last years, and these databases do not refer to when they were opened, it cannot be ruled out that negotiations started before the Lisbon Treaty went into effect. The dissertation therefore used the Council Document Register³⁴ and extracted all “Council Decisions authorizing the Commission to

³³ EUR-Lex (<https://eur-lex.europa.eu/collection/eu-law/inter-agree.html>), the Council Database of Agreements and Conventions (<http://www.consilium.europa.eu/en/documents-publications/treaties-agreements/>) and the Treaty Office Database of the EEAS (<http://ec.europa.eu/world/agreements/Login.do?message=SessionExpired>).

³⁴ <http://www.consilium.europa.eu/register/en/content/int?lang=EN&typ=ADV>.

negotiate ...” issued after 1 December 2009.³⁵ With this strategy, it was possible to systematically build a population of international agreements whose negotiations started after the Lisbon Treaty, as every EU international treaty-making process ought to start with such a Council decision (Art. 218 TFEU). The search resulted in a list of 78 international agreements, which is by no means exhaustive. It is quite possible that the search omitted international agreements, but this strategy enabled the researcher to get as close as possible to a systematic identification of the population of international agreements.

Three agreements were selected for further analysis: the Economic Partnership Agreement between the European Union and Japan (the EU-Japan Free Trade Agreement/FTA), the Agreement between the European Union and the Republic of Tunisia on readmission (the EU-Tunisia Readmission Agreement) and the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (the Montreal Protocol). As this dissertation argues that cases should be selected based on the most similar systems design, the following discussion will briefly demonstrate that these international agreements are indeed comparable on certain background characteristics and vary sufficiently on the causal factors.

Since the literature on parliamentary control of EU foreign policy is still in its infancy, there is little to no research that points to important causal, international agreement-specific factors that might affect how parliaments and parliamentary groups control their negotiations. The dissertation therefore claims that it is important to select cases that are as comparable as possible from an institutional perspective: they have been negotiated under the same EU Treaty (the Lisbon Treaty); negotiated in the supranational, not the intergovernmental policy area (which excludes CFSP-agreements), and negotiated by the same Union negotiator (the Commission). This is chosen as the institutional framework might provide constraints and opportunities for the control of parliamentary groups, in addition to the causal factors identified in the causal framework. It is therefore important to keep them constant.

The Council decision authorizing the opening of negotiations of the EU-Tunisia Readmission Agreement was adopted on 15 December 2014 (16063/14 DCL 1); of the EU-Japan FTA on 29 November 2012 and of the Kigali Amendment on 29 April 2015 (Council Decision (EU) 2015/798). All three negotiations were opened once the Lisbon Treaty had entered into force and under the same institutional framework. Moreover, none of the three agreements fall within the area of CFSP/CSDP. Finally, according to Article 1 of the

³⁵ The precise treaty-selection procedure from the Council Document Register can be found in appendix 1.

Council decision authorizing the opening of the readmission negotiations between the EU and Tunisia, the Commission is the Union negotiator acting on the international stage. The Commission was also the Union negotiator in a free trade agreement with Japan. In regard to the negotiations of the Kigali Amendment, Article 1 of the Council decisions only provides that “The Commission is hereby authorised to negotiate, on behalf of the Union, as regards matters falling within the Union’s competence” (Council Decision (EU) 2015/798). However, whilst the rotating presidency did negotiate for the EU in some regards, the largest part of the negotiations was conducted by the Commission, which can be seen as EU main negotiator (EP03). In sum, the three agreement are largely similar on the investigated background factors.

The theoretical framework has identified several agreement-specific causal factors that are assumed to have an effect on the intensity with which parliamentary groups control EU international treaty-making: salience, the groups’ likelihood of influence,³⁶ complexity of negotiations, and compellingness of the negotiation setting. According to the most similar systems design, the chosen cases should exhibit a large degree of variation on these factors, and the factors will be discussed below. The dissertation uses rather crude, preliminary findings of the values of the causal factors based on commonly used proxies in its case selection process, but the empirical, qualitative case studies elaborate on and substantiate the value of these factors more in-depth.

Public Salience: To identify the public salience of the three agreements, the dissertation used their EU-level media salience as a proxy. This is somewhat problematic as “the observed behaviour might reflect, but is not conceptually equivalent to salience” (Beyers et al. 2015: 6), but it is a commonly used indicator to measure the salience of particular issues in a particular context. Keyword searches in the online search engines of three large EU-level online newspapers, the EUobserver, politico.eu and Euractiv for the period 2012-July 2018, came up with the following number of articles (see Table 7).

Table 7: EU-level Media Salience

	EU-Japan Free Trade Agreement	EU-Tunisia Readmission Agreement	The Kigali Amendment
Search term	Japan free trade	Tunisia readmission	Montreal Protocol HFC
EUobserver	93	9	1
Politico.eu	437	4	1
Euractiv	264	7	9

³⁶ Strictly speaking, this causal factor is agreement-group-specific; however, as the nature of the agreement provides an important cue for assessing the groups’ likelihood of influence, this factor is included here.

These findings provide a first indication of how publicly salient the three agreements are. The EU-Japan FTA is clearly the most salient of the three, and the EU-Tunisia Readmission Agreement seems only somewhat more salient than the Kigali Amendment. It is important to keep in mind that the overarching policy field of the readmission agreement, EU migration policy, has been one of the most debated and prominent areas of EU decision-making in recent years. It can therefore be argued that the EU-Japan FTA is highly publicly salient, the EU-Tunisia readmission agreement is of medium public salience and the Kigali Amendment of low salience.

Likelihood of Impact: In order to determine the likelihood that political groups ascribe to having substantive impact on a negotiation process based on characteristics of the international agreement, this dissertation used the legal nature of the latter (mixed or exclusive) as a proxy. As explained above, national parliaments only have to ratify mixed agreements, which gives them a credible veto power and thus increases their likelihood of influence. Important is hereby the assumed legal nature at the time of the opening of the negotiations, which does not say anything about whether and how these considerations have changed with developments during the negotiations or with legal advancements. Readmission agreements are commonly concluded as exclusive agreements (Cassarino 2010: 17). This also applies to the EU-Tunisia readmission agreement. In contrast, the EU-Japan FTA was initially opened as a mixed agreement. On 26 November 2016, the Council made use of the so-called double mechanism of authorization: the Council as a whole authorized the Commission to negotiate, on behalf of the EU, the provisions of an agreement that fall within the competence of the Union, whereas The Representatives of the Governments of the member states, meeting within the Council authorized the Commission to open negotiations on and negotiate, on behalf of the Member States, the provisions that fall within the competences of the Member States (ST 15866 2012 INIT). This procedure is commonly used to open the negotiations of international agreements of mixed nature (UK Government 2014: 30f.). Thus, the use of this mechanisms strongly hinted at the mixed nature of the EU-Japan FTA. Lastly, the Kigali Amendment was also negotiated as a mixed agreement, as Article 3 of the Council Decision to authorize the opening of its negotiations states “to the extent that the subject matter of the amendments referred to in Article 1 falls within the shared competence of the Union and of the Member States, [...]”.

Complexity: Complexity of negotiations here means the technical complexity of and uncertainty in the policy area under negotiations, i.e., the degree

to which specialized technical knowledge is necessary to understand and negotiate on the policy area, rather than procedural complexity.³⁷ Empirical studies on legislatures, especially principal-agent applications, entailing complexity or related concepts as part of the causal framework have used a variety of indicators and proxies to measure the complexity of legislative processes (e.g. the number of laws cited in a given bill (Krehbiel 1991), the number of Congressional committee meetings or hearings in an issue-area (Epstein/O'Halloran 1999a: 206ff.), and the length of a piece of legislation (Franchino 2000a: 74)). For the sake of selecting cases for in-depth analysis, this dissertation made use of the last proxy, the length of a piece of legislation, but adapted it to the setting at hand: the longer the Council's negotiation directive on which the international treaty-making is based, the more complex are the negotiations. The negotiation directives for the EU-Japan FTA, published by the Commission in September 2017, comprises 15 pages and 47 articles. In contrast, the Kigali Amendment's negotiation directive is only two pages long, consisting of four articles in total. The negotiation directive of the EU-Tunisia readmission agreement has not yet been published, but assumptions about its length can be made: a partially declassified negotiation directive of a readmission agreement comprised nine pages (18045/10 EXT 1, December 2010). "The negotiation directives [of EU readmission agreements] follow a uniform format and use almost identical wording. Their content has remained largely unchanged since the Commission received the first directives after the entry into force of the Amsterdam Treaty" (Colemann 2009: 96). Thus, the negotiation directive of the readmission agreement under consideration here can be expected to have a similar length. The EU-Japan FTA negotiations, with the longest directive, are argued to be the most complex, followed by the readmission negotiations, which are of medium complexity, and lastly the Kigali Amendment, with a rather short negotiation directive, as the least complex negotiations.

Compellingness: According to Delreux/Kerremans (2010), a compelling external negotiation context is characterized by a) a large number of negotiation partners and b) fairly small relative bargaining power of the EU (Delreux/Kerremans 2010: 359). To determine the compellingness of the negotiation settings under consideration here, it was necessary to engage, first, with their "laterality". The EU-Japan FTA and the EU-Tunisia Readmission Agreement are both bilateral agreements, whereas the Kigali Amendment is multilateral. The Montreal Protocol, the auspices of the negotiations, was the first international agreement to achieve universal ratification. The number of

³⁷ Procedural complexity relates to the concept of the compellingness of the negotiation setting.

negotiations parties for the Kigali Amendment is thus potentially 196 countries plus the EU. Second, as a rather crude proxy for the EU's bargaining power, the dissertation used the economic power of the EU relative to one of the negotiation partners at the time of the opening of the international agreement. As such, in the EU-Japan negotiations, the EU has a medium bargaining power, whereas its bargaining power is high in regard to the EU-Tunisia readmission agreement. In contrast, it was simply assumed that the EU's bargaining power in the multilateral Kigali Amendment was of medium size.

Summing up the case selection on the level of international agreements, Table 8 demonstrates that the EU-Tunisia Readmission Agreement, the EU-Japan FTA and the Kigali Amendment are indeed similar on the relevant background factors and provide sufficient variation on the identified causal factors.

Table 8: Case Selection on the International Agreement Level

	EU-Japan Free Trade Agreement	EU-Tunisia Readmission Agreement	The Kigali Amendment
Post-Lisbon	+	+	+
Commission as Negotiator	+	+	+
Non-CFSP	+	+	+
High Salience	+	+-	-
Mixed Agreement	+	-	+
High Complexity	+	+-	-
Bilateral Agreement	+	+	-
High Bargaining Power	+-	+	+-

5.3.2. Summing Up: Case Selection

As argued above, the dissertation understands a case in the narrow sense to be on the parliamentary group * international agreement level, as this is where the causal mechanisms are thought to be at play, but case selection took place on the parliament * international agreement level. In the empirical analyses, it take every single parliamentary group in the selected parliaments under investigation. Table 9 summarizes the parliament * agreement cases that will be analysed.

Table 9: Overview of Selected Cases

	European Parliament	Bundestag	Folketing
EU-Japan Free Trade Agreement	EP-JEFTA	BT-JEFTA	FT-JEFTA
EU-Tunisia Readmission Agreement	EP-Readmission	BT-Readmission	FT-Readmission
Kigali Amendment	EP-Kigali	BT-Kigali	FT-Kigali

5.4. Data Collection

Although case studies are usually considered a qualitative research design, they can involve both qualitative and quantitative data (Dawidowicz 2011: 6) and use multiple data collection techniques and sources (Yin 2012: 10). Data collection for this study is based on a mixed-methods approach. Quantitative data from primary and secondary sources will only be analysed as descriptive statistics, and most of the data will be qualitative. In case research, the goal is, “to acquire an empirical picture of the process and phenomenon of theoretical interest that is as complete as possible. The collection and evaluation of sources is the means of putting the picture together” (Rohlfing 2012: 169). It is therefore important to rely on more than a single source of empirical evidence. Sources should not be selected at random but be based on the type of evidence that is best suited to enable the researcher to engage in a critical test of the proposed theory (Beach/Pedersen 2013: 132). This dissertation relies both on secondary and primary data, derived from different data sources.

5.4.1. Primary Data

Primary data was collected from two data sources: official documents identified in keyword searches in parliamentary databases, and interview data gathered in expert interviews.

5.4.1.1. Database Search

Essential documents derived from the keyword search in parliamentary databases were those documents giving insight into the control activities by the parliament under investigation, the relevant committees and, most importantly, the parliamentary groups. Beyond that, some document also provided information on the incentives and constraints as control. These parliamentary documents were minutes of committee and plenary meetings; interpellations and questions, resolutions, other committee documents, press releases and summaries of government meetings and positions. The exact nature of the parliamentary documents depended hereby on the parliamentary

chamber; as there is variation in regard to which documents are publicly accessible and to formal scrutiny mechanisms, hence those control instances that left on “official” trace in the databases. Importantly, as this dissertation investigates how and why parliamentary groups controlled specific instances of EU international treaty-making, only parliamentary documents with a reference to the agreement under investigation were included in the analysis. There is no doubt that public records seldom provide a complete picture of political events and rarely provide insight into actors’ motivations (see below), but it is fair to assume that the information contained in those documents is indeed accurate. “What would be the point of keeping records if those records were not even meant to be accurate?” (Trachtenberg 2006: 147).

In order to select parliamentary documents for further analysis, the dissertation developed dictionaries on the parliament * international agreement level, which contained the relevant search terms for every international agreement (see appendix 2 for the nine dictionaries). For the European Parliament, the dictionaries were compiled in English, for the Bundestag in German and for the Folketing in Danish. The researcher is knowledgeable of these three languages and could thus use the parliamentary databases and read the collected documents in their original versions without language support.

Importantly, it was not sufficient to translate the title of the agreement under investigation into the relevant language; the dictionaries had to account for country and language specifics, as well as alternative terms and context-related concepts. Therefore, contextual information from secondary sources such as newspaper articles was collected to support the development of the dictionaries. Moreover, the initial searches were rather broad, which enabled the further development of the dictionary to include more refined and previously omitted search terms. Generally, the searches in the parliamentary databases were done manually, without computer-assistance. Every hit was manually crosschecked for whether it referred to the agreement under investigation. Whilst this dissertation does not claim to have collected an exhaustive list of parliamentary documents referring to the international agreements under investigation, this strategy offered the most systematic approach to extracting the necessary data.

5.4.1.2. Interviews

The dissertation draws on 30 interviews with parliamentarians, parliamentary assistants and civil servants in the European Parliament, the Bundestag and the Folketing. There are two major reasons for complementing the analysis of parliamentary documents with data collected via expert interviews. First, “important political processes often lack an accompanying body of documenta-

tion, [...]. [Furthermore], by presenting the official version of events, documents often conceal the informal processes and considerations that precede decision making” (Tansey 2007: 767). Merely investigating formal documents might not provide a complete picture about “how” parliamentary groups controlled EU international treaty-making. This is especially relevant as the broad conceptualization of parliamentary control in this study refers to formal as well as informal instances of parliamentary control. By definition, these are not captured by official parliamentary documents. Second, the dissertation investigating both the “how” and the “why” of parliamentary control. It is thus necessary to gather insight into the motivations and the perceived incentives and constraints of the various parliamentary actors. Some of this information could be collected from database research, but elite interviews are generally better suited to uncover such underlying considerations. Overall, “while documents and other sources may provide detailed accounts, there is often no substitute for talking directly with those involved and gaining insights from key participants. The nature of interviewing also allows interviewers to probe their subjects, and thus move beyond written accounts that may often only represent an official version of events, and gather information about the underlying context [...]” (ibid.).

5.4.2.1. Sampling

Sampling of interviewees for the data collection was based on a purposive strategy, as opposed to a random or representative sampling. The latter would have been appropriate if the aim had been to generalize the collected data to the full population of political actors. Here, the goal of the sampling strategy was to identify the “key political actors that have had most involvement with the processes of interest” (Tansey 2007: 765), the EU international treaty-making process. This allows to include the most important political players that have participated in parliamentary control in the sample and to obtain the required insights. Moreover, the sample should be representative of the wider population to the extent that it does not systematically exclude actors who played an important role (ibid.: 769).

The sampling strategy thus aimed to uncover the identities of the most relevant and involved actors in parliamentary control of the three international agreements under investigation, both on the political and the administrative level. It was therefore necessary to investigate parliamentary structures and positions, such as rapporteur-ships and parliamentary group spokespersons, but sampling insights were also drawn from parliamentary documents, newspaper articles and the snowball system, meaning that some of the interviewees were recommended by colleagues/other interviewees. Overall, more than 110 interview requests were sent out.

To be able to answer the overarching research questions concerning the actions and motivations of parliamentary groups, it was desired to conduct at least one interview with every parliamentary group on each international agreement under negotiations, plus civil servants working on the issue. Unfortunately, this was not feasible, but the cases are still sufficiently covered to merit a qualitative in-depth investigation; especially as there is at least one interview in every parliament on every international agreement. Table 10 provides an overview.

Table 10: Overview of the Conducted Interviews

Position	Topic	Political Affiliation	Date of Interview	Length of Interview	Language	Medium
Bundestag						
Parliamentary Assistant	EU-Tunisia Readmission Agreement	CDU	June 2017	Approx. 60 min	German	Face-to-face/notes
MP	EU-Tunisia Readmission Agreement	Die Linke	June 2017	1:00:23	German	Face-to-face/audio
MP	EU-Japan FTA	Die Linke	June 2017	59:45	German	Face-to-face/audio
Civil Servant, Wirtschafts-ausschuss	EU-Japan FTA		June 2017	Approx. 45 min	German	Face-to-face/notes
MP	EU-Japan FTA	Bündnis 90/Die Grünen	July 2017	1:00:54	German	Skype/audio
Political Advisor	Kigali Amendment	Bündnis 90/Die Grünen	October 2017	Approx. 30 min	German	Phone/notes
European Parliament						
Parliamentary Assistant	EU-Japan FTA	S&D	October 2017	1:09:55	English	Face-to-face/audio
MEP	EU-Tunisia Readmission Agreement	Greens-EFA	October 2017	Approx. 40 min	English	Phone/notes
Civil Servants, ENVI	Kigali Amendment		October 2017	45:55	English	Face-to-face/audio
MEP	EU-Japan FTA	GUE/NGL	October 2017	52:18	English	Face-to-face/audio
MEP	EU-Japan FTA	Greens-EFA	October 2017	39:02	German	Face-to-face/audio
Political Advisor ^{a)}	EU-Japan FTA	S&D	October 2017	46:17	German	Face-to-face/audio
Civil Servants, INTA	EU-Japan FTA		October 2017	1:05:07	English	Face-to-face/audio
Parliamentary Assistant	EU-Tunisia Readmission Agreement	ALDE	October 2017	55:28	English	Face-to-face/audio
Civil Servant, LIBE	EU-Tunisia Readmission Agreement		October 2017	Approx. 45 min	English	Face-to-face/notes
MEP	EU-Japan FTA	GUE/NGL	November 2017	33:14	German	Face-to-face/audio

MEP	EU-Tunisia Readmission Agreement	EPP	November 2017	1:32:04	German	Face-to-face/audio
Parliamentary Assistant	Kigali Amendment	Greens-EFA	November 2017		English	Email
MEP	Kigali Amendment	EPP	November 2017	14:20	German	Face-to-face/audio
Political Advisor	EU-Tunisia Readmission Agreement	S&D	November 2017	Approx. 35 min	German	Face-to-face/notes
MEP	Kigali Amendment	Greens-EFA	November 2017	36:28	English	Face-to-face/audio
Folketing						
Civil Servant, Miljøudvalg	EU Environmental Agreements		June 2016	1:07:07	English	Face-to-face/audio
Civil Servant, EAC	Folketing's Scrutiny System of EU Affairs		August 2017	Approx. 40 min	English	Face-to-face/notes
MP, Political Advisor	EU-Tunisia Readmission Agreement	Enhedslisten	August 2017	51:59	English	Face-to-face/audio
MP	EU-Japan FTA	Alternativet	August 2017	35:53	English	Face-to-face/audio
Political Advisor	EU-Japan FTA	Enhedslisten	August 2017	42:34	English	Face-to-face/audio
MP	EU International Agreements	Socialdemokratiet	September 2017	32:23	English	Face-to-face/audio
MP	EU Environmental Agreements	Alternativet	September 2017	52:55	English	Face-to-face/audio
MP	EU-Tunisia Readmission Agreement	Det Konservative Folkeparti	September 2017	39:11	English	Face-to-face/audio
MP	EU International Agreements	Dansk Folkeparti	September 2017	51:27	English	Face-to-face/audio

a. Interviewee EPo6 explicitly stressed that the information provided in the interview express personal views, not the ones of S&D.

5.4.1.2.2. Description of the Interviews

As Table 10 shows, 30 interviews with parliamentarians, political advisors, parliamentary assistants and civil servants in Berlin, Brussels and Copenhagen were conducted between June 2016 and October 2017. 26 took place face-to-face, one via skype, one per email and two on the phone. Most interviews were audio-recorded with prior consent of the interviewee and subsequently fully transcribed. Seven interviews were recorded using notes and transcripts were produced immediately after the meeting. All interviews were conducted in English or German, which often was not the first language of the researcher or the respondent. The interviews took place on the condition of anonymity, i.e., no information would be attributable to the interviewees. Interviewees are therefore referred to by an abbreviation of their institutional affiliation and their chronological order (see Table 10).

All interviews were conducted following a semi-structured questionnaire, i.e., they were shaped by a certain focus, yet flexible (Yates 2003: 165). Prior to the interview meetings, a general interview guideline was developed (see appendix 3), which served as the starting point of the interviews. During individual interviews, it was possible to deviate – sometimes considerably – from the interview guide, depending on the situation to allow the interviewees to deepen their responses in a “conversational flow” (Aberbach/Rockman 2002: 674) and to allow the researcher to adjust questions during and between individual interviews. This strategy ensured the gain of as much information as possible from the interviewee, whilst providing some form of standardization for better comparability.

5.4.2. Secondary Data

In addition to parliamentary documents and interview data, the dissertation relies on data from secondary sources, such as newspaper articles, NGO reports, press releases and existing research on the topic. However, there was no systematic sampling process to derive these insights. Moreover, it is often difficult to assess the accuracy of secondary data, as they often lack objectivity, repeating “the justifications of governments or the conventional wisdom of the moment without providing much with which to judge the nature or reliability of the source. Second and more important, even [...] if reliable, their sheer number and diversity means that the ability of an analyst to present such evidence tells us little or nothing” (Moravcsik 1998: 81). Whilst secondary sources can indeed provide important background information and foster a better contextual understanding, triangulation with other data sources is necessary (Beach/Pedersen 2013: 135f).

5.4.3. Triangulation

It is generally important to critically assess and weigh the value of collected data in light of potential pitfalls, which may limit the usefulness of the information. As mentioned, all data sources used in this dissertation, be it parliamentary documents, interview data or data from secondary sources, have flaws. Official documents often provide an incomplete picture of events and only little insight into actor's motivations and considerations, and the accuracy of secondary sources has to be cautiously questioned. Interviews can often compensate for the distortions that may exist in written primary and secondary sources, be it by misrepresenting one's own position, not giving correct accounts of previous events, deliberately or due to lapses of memory, and omitting important information. The reliability of interview data should not be taken for granted (Tansey 2007: 771). Such source coverage problems and potential biases pertain to all types of sources used in this dissertation.

“Because of this and the fact that the empirical picture becomes clearer the more observations one gathers from disparate sources, it is [necessary] to triangulate sources” (Rohlfing 2012: 170). Triangulation across sources means that no data is considered in isolation, but that a researcher relies on information derived from a diverse set of independent sources. This makes it possible to cross-validate information to ensure the accuracy of the information, to increase the robustness of the findings and their credibility and reveal the weakness of some sources that might otherwise have been viewed as reliable (Beach/Pedersen 2013: 135f.). Since this dissertation relies on insights gathered from a variety of independent data sources, the data collection approach increases the reliability of the gathered information. This is not to say that doubts about the potential source coverage problems and bias have been eliminated, and these uncertainties have to be taken into account when drawing causal inferences.

5.5. Data Analysis Strategy

Recall that this dissertation aims to investigate the validity of the proposed theoretical framework as well as the assumed causal mechanism linking the causal factors with the outcome. In order to account for these two interconnected research goals, the dissertation will use two strategies of data analysis: First, a comparative congruence analysis tests, in a first plausibility probe, whether the theoretical predictions are congruent or non-congruent with the outcomes of the cases. This makes it possible to draw inferences about the validity of the theoretical framework and whether it has empirical relevance in explaining the intensity of parliamentary control. Second, an in-depth pro-

cess tracing approach zooms in on the individual causal factors and investigates whether the causal mechanism linking the causal factors to the outcome is present and functions as posited by the theoretical framework. These two approaches have strengths that complement each other (see below), and a combination of congruence analysis with process-tracing studies has been recommended as it increases the leverage of the research (George/Bennett 2005: 201; see also Blatter/Haverland 2012).

5.5.1. Comparative Congruence Analysis as a Plausibility Probe

In a first step, the dissertation will test the theoretical model in a plausibility probe, as a first analysis of the theoretical framework in order to see whether a more thorough investigation is warranted. This will be done in a comparative congruence analysis³⁸ on the level parliament * international agreement, taking all parliamentary groups within one parliament into consideration.

According to George/Bennett (2005), a congruence analysis aims to assess the ability of a theoretical framework to explain situations and processes in the empirical world by correctly predicting the outcome of a dependent variable in a particular case, based on the applied theory. Therefore, such an analysis requires a theory that predicts outcomes on the basis of specific initial conditions. Based on this theory, the researcher establishes the values of the causal factors, followed by a deductive prediction about the outcome of the dependent variable. After having identified the value of the outcome based on empirical research, the researcher then compares the observed value of the dependent variable with that predicted by the theory. If the outcome is congruent with the theory's prediction, the possibility that the relationship between the causal factors and the outcome exists as assumed is strengthened (George/Bennett 2005: 181).

5.5.1.1. *Controlled Comparison or Comparative Congruence Analysis?*

An alternative to conducting a congruence analysis to determine the validity of the assumed causal relationship is a controlled comparison, which investigates co-variance between one independent variable of interest and the dependent variable and draws causal inferences from the co-variance. However, in small-n research, it is hard to meet the requirements of a truly controlled

³⁸ There is some confusion about the term congruence analysis, as different scholars refer to different data analysis strategies under this name. Here, the method as developed by George/Bennet (2005) and Van Evera (1997) will be followed, and not the ones of Blatter/Haverland (2012) or Beach/Pedersen (2016).

comparison, as the characteristics of the paired cases for comparison are almost never nearly identical. This is especially true in the cases at hand. Commonly, the case selection process supports the researcher in controlling for all other potentially relevant causally important variables. However, in this dissertation, the case selection took place on the level of parliaments, and all parliamentary groups within one parliament as the actual unit of analysis will be studied. On this basis, it is not possible to compare the parliamentary scrutiny of the various groups in one parliament concerning one EU international treaty-making process in a controlled manner: it is simply not feasible to hold all identified causal factors but the one of interest constant.

Moreover, the theoretical model is built on seven components. The high number of causal factors makes solid comparative predictions in a controlled comparison based on a single causal factor, while holding all others factors constant, almost impossible. Thus, the dissertation will not engage in a controlled comparison in the first step of the empirical investigation, as it cannot rely on systematic cross-case variation to draw valid and reliable causal inferences. A more holistic, qualitative assessment is needed – a comparative congruence analysis.

Congruence analysis does not focus on co-variation between variables but on correlations between the predicted and the actual values of the dependent variables. Whilst it is “a close cousin of controlled comparison” (Van Evera 1997: 61) and “has much in common with statistical regression analysis” (Hawkins 2009: 56), it does not require the strict conditions of a controlled comparison.

Moreover, a controlled comparison is variable centred in the sense that it enables the researcher to discern the causal effect of an individual variable of interest (Blatter/Haverland 2012: 9). However, this dissertation is not primarily interested in the causal effect of individual independent variables but wants to offer a coherent explanation of “why parliamentary groups control EU international treaty-making”. The theoretical model developed in the previous chapter postulates a complex and interwoven theoretical argument, about how the plurality of causal factors work together to produce the outcome of interest, namely the intensity of parliamentary control. In view of this research aim, the congruence approach seems particularly well suited to build the basis for the cross-case comparison, as it does not focus on the analysis of variables across case, but on the causal path in the individual cases. Moreover, it is “is theory-oriented, but note that theories are not reduced to single independent variables, but treated as comprehensive explanatory frameworks that are specified through a set of constitutive and causal propositions” (ibid.: 10). As such, congruence method can be used to study not only a single variable or factor but also a comprehensive theoretical explanation. Overall, a congruence

analysis, approached in a comparative way, is best suited to study the research questions and the theoretical framework at hand in as a plausibility probe in a first step of the empirical analysis.

5.5.1.2. Applying the Congruence Method

The dissertation will conduct nine comparative congruence analyses of how and why all parliamentary groups in one parliament controlled the negotiations of an individual EU international treaty-making process.

Before elaborating the empirical approach, it is important to say a few words about the comparative nature of a comparative congruence analysis. Similar to a controlled comparison, congruence analysis uses comparative observations across cases to test theories, meaning the approach does not only entail within-case comparative elements, but also cross-case comparisons: “any such deductive exercise [to determine the values of the dependent and the independent variables] must rest on comparisons to [...] values in other cases and on expectations about the study cases that are calibrated to these typical values. Hence it rests on cross-case comparison” (Van Evera 1997: 61)³⁹. Following this understanding, the dissertation will draw both on cross-case and within-case evidence in one analysis in order to make causal inferences by determining both the predicted outcomes as well as the value of the independent variables and the dependent variable for one unit of analysis by comparing them with the other units of analysis.

The congruence method will be applied in a three-step process. In a first step, it is necessary to deductively generate predictions about the intensity of parliamentary control that the various groups will display regarding the international treaty-making process under investigation. This is done by analysing the proposed causal factors and establishing their value from the perspective of every parliamentary group. This analysis does not dive into the micro-process of a single case but focuses on the observable implications at the meso-level, i.e., that is relies on data-scoring/variable-scoring observations. Variable-scoring observations refer to “a cluster of empirical information that is used to determine the score or value of a case for a specified and operationalized variable, [...] guided by indicators and measurement scales for the variables that are determined ex-ante”, with the research process being in-depth and iterative “with respect to specifying indicators and measurement scales,

³⁹ This understanding contrast with the ones by George/Bennett, who argue that congruence analysis is a pure within-case exercise, as it does not operate according to the structure and the causal logic of experiments, and because congruence is established by deduction and not by comparison across cases (George/Bennett 2005: 181).

and collecting empirical information” (Blatter/Haverland 2012: 23). This means that the analysis will not use causal-process observations, which are commonly used in within-case analysis (Collier et al. 2010: 184). Importantly, in line with the comparative approach, the values of the various causal factors will be determined a relative rather than an absolute way, i.e., in relation to the other parliamentary groups (group-specific causal factors) or to the other international agreements under negotiation (agreement-specific causal factors).

Having identified the values of the causal factors, the researcher can then predict the intensity of control each parliamentary group is expected to exhibit. Similar to identifying the values of the causal factors, the prediction is done in a comparative way by investigating which group(s) are assumed to gain the highest benefits and the lowest costs from control, and vice versa. The lower the cost-benefit ratio in the setting at hand in comparison to the cost-benefit ratio of the other parliamentary groups, the higher the intensity of control is expected to be – also in comparison with the other parliamentary groups. Hence, the intensity of parliamentary control will always have a relative value. The key to predicting the intensity of control is thus all cost-benefit ratios within one congruence analysis. This, in turn, means that the predictions are not easily transferrable out of the context of the comparative congruence analysis as the relative perspective is not easily transferrable to other settings.

In a second step, the comparative congruence analysis then presents the “how” of parliamentary control for each group in the parliament under investigation. The findings will be descriptively presented, however, to a certain extent structured by the four dimensions of parliamentary control developed in chapter 4.4.3.: function, timing, formality and directness; i.e., based on principal-agent theory. These presentations will conclude by determining the intensity of parliamentary control of every parliamentary group by comparing the control actions of the different parliamentary groups. Also here, the dissertation assumes a comparative perspective, determining the observed value of the intensity of parliamentary control relative to the control activities exerted by the other parliamentary groups included in the congruence analysis.

Finally, a comparative congruence analysis concludes by comparing the predicted outcomes, i.e., the predicted intensities of parliamentary control for every group, with their actual values in order to test the (non-)congruence between the deduced predictions and the actual data. If congruence can indeed be found, “the possibility of a causal relationship is strengthened” (George/Bennett 2005: 179). In other words, the theoretical assumptions are not disconfirmed; nor can they be viewed as confirmed due to inherent shortcomings in the chosen case study method (see discussion below). Outcomes

not consistent with the predictions and expectations of the theory do not necessarily contradict the theoretical framework; however, they should receive special further attention (ibid: 201).

5.5.1.3. Causal Inferences based on the Comparative Congruence Analyses

With the comparative congruence analysis chosen as the first step of the empirical investigation, it is important to keep in mind that the causal relationship that is being tested is not the relationship between an individual causal factor and the dependent variable of this study, the intensity of control. Rather, the intensity of parliamentary control of each parliamentary group in a particular EU international negotiation process is predicted on the basis of the group's particular combination of the values of all causal factors of the theoretical model. These predictions will, in the empirical analyses, serve as observable implications of the theoretical framework that can be empirically tested as to whether it is congruent with the observed intensity of control. This approach is more holistic than a controlled comparison and has important implications for the causal inference that we can draw from the empirical findings.

First, this means that the empirical analysis does not investigate individual causal factors separately by deriving predictions about the intensity of parliamentary control in a particular case based on an individual causal factor, as we would in a controlled comparison. This, in turn, implies that the level of causal inference of the comparative congruence analysis is not on the level of the individual causal factors of the theoretical model. In cases of congruence, we can only draw indicative inference about the validity of an assumed causal relationship between a single causal factor and the intensity of parliamentary control; and in cases of non-congruence, it is not possible to know which causal factor/factors are the source of incongruence.

Secondly, this means that if predictions are congruent with the observed intensity of parliamentary control, we can draw indicative positive inferences about the validity of the causal framework. In other words, congruence supports the theoretical argument of this dissertation that it is indeed the identified seven factors that affect the size of the costs and benefits of parliamentary control, and thus the intensity of parliamentary control. It provides support that the theoretical model has empirical relevance and warrants further research.

However, and this is necessary to be aware of, the comparative congruence analysis do not amount to much more than a plausibility probe, given the lack of control factors. In cases of a low prior confidence in a causal relationship, "the congruence case study acts as a form of "plausibility probe" to update our

low prior confidence. If the congruence case study finds some [...] evidence of a causal relationship, we can then employ a more robust but also more time-consuming process-tracing case study” (Beach/Pedersen 2016a: 176). This means that the empirical analyses in the comparative congruence analysis do not constitute a test in the strict sense, but only a first indication of whether the developed causal framework has any value for explaining the intensity of parliamentary control in EU international treaty-making. On this basis, we need to zoom in on the individual causal factors in a systematic manner, which will be done via process-tracing as the second empirical analysis strategy of this dissertation.

5.5.1.4. Operationalization of Key Concepts

Before continuing with the second empirical approach, another crucial step in the analysis is necessary: to further conceptualize and operationalize the causal factors identified in the theoretical framework, as well as the studied outcome, the intensity of parliamentary control. This is necessary at this point, as in the comparative congruence analysis, the individual score of a case on the causal factors and the outcome is of crucial importance: unlike in large-N studies, causal inferences in this case study approach depend much more on the correct scoring of each factor. “As a result, case study researchers invest heavily in making sure that each score is valid and tend to employ a large number of empirical observations for this task” (Blatter/Haverland 2012: 22). This has two consequences. First, concept validity, whether the predicted observation correctly expresses the meaning of the abstract conceptualization, is crucial. It is necessary to ensure that scores of the causal factors and the outcome are based on indicators that best represent the theoretical concept intended to measure. Second, linking these abstract concepts to observations is at the very core of a congruence analysis. It is very important to carefully transform “the information that we find ‘out there’ in the social world into scores for individual variables” (ibid.). This means that much more time and intellectual energy must be invested in this step than in large-N studies, and that explicit and extensive justifications of the identified values are necessary.

In this step, some important decisions about how to measure the relevant concepts need to be made. First, the dissertation will use binary and multicategorical rather than continuous measures. This is a common choice in case study research, as “continuous measurement makes sense only in a multicasel comparison, and all the more so the larger the number of cases” (Rohlfing 2012: 137), which means that there is little added value of using such measures in small-N case study research. Moreover, such a choice implies that the scale of measurement is either nominal or ordinal, as any higher scale relies on continuous data. Finally, this choice implies that the causal concepts should be

understood in categorical terms, focusing on differences in kind. “Differences in kind are central when a correlation includes nominal and ordinal variables because nominal and ordinal measurement establishes qualitative differences and similarities between cases” (ibid.: 63).

5.5.1.4.1. Outcome of Interest: The Intensity of Parliamentary Control

The theoretical chapter discussed the concept of parliamentary control at length, concluding with the following definition based on principal-agent theory: parliamentary control is those mechanisms that a parliamentary group activates to monitor and influence EU international treaty-making in order to reduce the risk of agency loss. Moreover, several dimensions along which control can be categorized were presented: function, timing, formality and directness. Such an understanding is essential for this dissertation, but the causal framework is not aimed at explaining control in its broadest possible sense, but in more narrow terms, i.e., *the intensity of parliamentary control*. As argued above, the issue is less a question of whether or not to control an international treaty-making process, but rather of how intense the control mechanisms activated by a parliamentary group are. How can the intensity of parliamentary control be conceptualized and measured, and to what extent is it possible to rely on previously developed measures?

In recent years, the burgeoning literature on the role of (national) parliaments in EU affairs has offered a variety of scales, indices and rankings to measure “parliamentary strength in EU affairs”, aimed at enabling a systematic cross-country comparison of national parliaments (e.g., Bergman 2000; Raunio 2005; Winzen 2012; Karlas 2011; 2012; Saalfeld 2005; Hamerley 2007). However, most of these studies of parliamentary strength focused on the control systems of EU affairs, i.e., parliaments’ formal powers. The indicators used in these studies mapped the “the institutional design of control and reflect[ed] more the capacities of control than its operation” (Karlas 2012: 1101). Against that background, increasing concern has been voiced in the academic literature that scientific studies overly address institutional adaption of national parliaments and disregard actual control activities (Auel et al. 2015: 64). The distinction between parliamentary strength and parliamentary behaviour is also essential for this study: the object of interest is not what parliamentary groups can do but what they have actually done. In short, it is not possible to rely on previously developed scales for measuring *the intensity of parliamentary control*.

This criticism has inspired a behavioural turn in studies of parliaments in EU affairs, as scholars have started to investigate actual EU control activities. The *OPAL activity score* (Auel et al. 2015) is the most comprehensive indicator of parliamentary control activities in EU affairs to date. It considers five

different indicators, focusing on quantitative information about the number of mandates/resolutions, committee meetings, debates, reasoned opinions under the early warning system and hearings with the prime minister (ibid.: 71). However, as the authors acknowledge, their activity score has certain caveats: first, the data does not provide a complete overview of parliamentary control. The score neither covers all formal control instruments (e.g. written questions are omitted), nor informal control activities. Moreover, the score is not able to address the content of control action and distinguish between the different parliamentary groups (ibid.: 73). Additionally, from the perspective of this study, the OPAL activity score is a general measure on parliamentary activity on EU affairs, which does not differentiate between activities on different law proposals and other files. Although this index is comprehensive, it cannot form the basis for measuring the intensity of parliamentary control in EU foreign policy. However, this dissertation agrees with the authors' assessment that the omission of some important means of control as well as studying the content of control "is, unfortunately, part of the trade-off between large and small N studies" (ibid.: 74).

This requires a comprehensive operationalization of the intensity of parliamentary control that takes the following factors into account: it needs to be a behavioural, not an institutional measure; both formal and informal scrutiny mechanisms need to be identified; all possible control mechanisms need to be taken into consideration; the measure needs to be agreement-specific and make it possible, to some extent, to take the content of control into account. It is the qualitative nature of this research endeavour that makes such an operationalization possible.

The first step is a definition of intensity, as this concept differs from strength of parliamentary control and level of parliamentary control used in previous studies. Intensity can be defined as "the quality of being felt strongly or having a very strong effect".⁴⁰ The dissertation argues that it does not suffice to study level or strength of activity in isolation, as the intensity of parliamentary control has both a quantitative and a qualitative dimension: the level of control and the function of control.

The level of parliamentary control refers to how much a parliamentary group has controlled a specific EU international treaty-making process. The measure will not be based on a pre-defined index, due to the danger of omitting important control activities but on a two-step process: First, based on the in-depth description of the parliamentary control activities of all groups in one parliament in regard to one international treaty-making process along the identified dimensions of parliamentary control, the relative level of control

⁴⁰ <https://dictionary.cambridge.org/dictionary/english/intensity>.

will be determined by the researcher herself by comparing the groups' activities. Importantly, these in-depth descriptions strive for completeness. This is claimed to be a feasible endeavour due to the qualitative nature of the research, as only a small number of cases need to be covered. However, in order to validate the researcher's own judgment, this assessment is complemented with expert opinions on the issue, derived from interview data with actors having been closely involved in the parliamentary activities. This means that the level of parliamentary control is either high or low, following a binary measure on an ordinal scale.

The function of parliamentary control refers back to the conceptualization of control in the theory chapter: whether the activities mainly aim at monitoring or at actively influencing the EU international negotiation process. Monitoring control addresses information asymmetries between parliamentary groups, national governments and EU level actors, whereas influencing control addresses parliamentary authority loss. Influencing control is "stronger" than monitoring control, and can thus be claimed to be more intense. As discussed above, some scholars view monitoring and influencing control mechanisms as two sides of the same coin, following a monitoring-influencing logic. However, it is still possible to distinguish between them; parliamentary control activities can clearly be distinguished by their function (see Table 3). Every mechanism a parliamentary actor uses is assumed to be an active and deliberate decision, and activities do not follow a pre-defined sequential order. Whether a parliamentary group controlled an EU international negotiation process with a monitoring or an influencing aim will be determined by identifying whether the majority of control activities was aimed at one or the other. This will be done by the researcher, based on the descriptive overview of the group's control and on self-assessments by the groups if this data is available. Hence, a group's control activities have either a mainly monitoring or a mainly influencing function.

Determining the intensity of parliamentary control a group has displayed in regard to a particular process of international treaty-making thus rests on those two indicators, which will be combined as demonstrated in Table 11 below. The intensity of control can be either low (low monitoring), medium (high monitoring, low influencing) or high (high influencing).

Table 11: The Intensity of Parliamentary Control

Function \ Level	Low	High
Monitoring	Low	Medium
Influencing	Medium	High

Influencing control is stronger, i.e., more intense, than monitoring control. Combined with a high level of parliamentary activity, this constitutes a high intensity of parliamentary control. In contrast, low monitoring control denotes to a low level of activity with little force, i.e., low activity. A medium level of intensity consists of low influencing and high monitoring control, made up of high force/low level and low force/high level of activity. As the different intensities of parliamentary control are assumed to display differences in kind, not in degree, different causal paths may lead to similar outcomes. It is important in the empirical analysis to be aware of this possibility, and this dissertation will, to some extent, explore that more in-depth. However, this will be done exploratorily and will not be explicitly theorized.

Finally, it should be noted that the dissertation attempts to capture the intensity, and not the impact, of parliamentary control a group has displayed in a particular process of EU international treaty-making. The impact of parliamentary control concerns whether a group managed to monitor and influence the executive effectively and successfully. The dissertation will follow Auel et al. (2015), who argued that “since the actual impact of parliamentary activity in terms of influence is impossible to measure, we can only measure what parliaments do in EU affairs – but not whether they are successful” (ibid.: 74).

5.5.1.4.2. Causal Factor: Public Salience

Screening has been conceptualized and operationalized in very different ways in political science literature. However, there is broad consensus that salience is best understood as the relative attention actors pay to a specific political matter (Thomson 2011: 234, Warntjen 2012). Hence, salience has an actor-specific and an issue-specific component, with the latter being relative to other matters. The actor-centred conceptualization of salience asks for the specification of the actor(s) whose salience assessments shall be captured. As salience here refers to public salience, the relevant actor is the European public. The issue-specific component of public salience refers to the salience of a particular international agreement, relative to the other international agreements under investigations here. In this dissertation, public salience is thus conceptualized as the attention the European public pays to an EU international agreement, relative to the other agreements under investigation in this study.

Salience can be measured in several ways, relying on different indicators and using different sources (for an excellent overview, see Warntjen 2012). This dissertation will rely on three sources to score the public salience of the three EU international treaty-making processes. First, it will rely on data from the biannual Eurobarometer survey. Public opinion surveys can indeed be used to gauge the relative salience of different policy fields (Warntjen 2012:

172). However, the relative attention paid to different policy fields, in which the agreements under investigation are placed, does not say anything about the salience of the specific international agreements or about their salience within the domestic electorate, i.e., on the national level. Second, to counter the first point of criticism, the dissertation will rely on secondary sources. “Expert judgements might also be available in the form of secondary sources, [...]”. However, they offer only a crude (binary) measure of salience” (Warntjen 2012: 171).

Whilst this is done on a European level, i.e., the dissertation first investigates the European public salience of the three agreements under investigation, it will also look at the national level salience in order to bolster – or correct – the findings from the European level for the two countries under investigation. This is done, third, by relying on insights into the media salience of the three international agreements on the national level for the national parliaments/the European level for the European Parliament. Media coverage of specific law proposals has widely been used as an indicator of their salience based on the argument that they represent the public demand for information on the issue. Indeed, “there is a strong correlation between the salience of an issue in media coverage and the importance attached to it in public opinion” (Oppermann/Viehrig 2013: 2). Some scholars caution against the use of media salience, arguing that it merely refers to the relative importance the media ascribes to the issue, which could potentially stem from other factors than public salience, such as general complexity or conflict on the political level. However, it is claimed here that complementing insights from media salience with information from other sources cautions against such pitfalls.

Due to all inherent problems of the three indicators and sources, the dissertation argues that combining them is the best strategy in order to measure the public salience of the three international agreements.

An agreement can be of high, medium or low public salience, i.e., the measure is multicategorical, based on an ordinal scale. The actual salience of an agreement will be determined in a comparative approach, by contrasting it with the salience of the other agreements under negotiation. As this is an agreement-specific factor, the public salience is primarily expected to vary between the international treaties under investigation. However, should national and European salience diverge, one can also expect variation between the three parliaments under investigation.

5.5.1.4.3. Causal Factor: Institutional Status

Recall that the theoretical framework of this thesis has argued that in the chains of delegation in EU international treaty-making, parliaments are perceived as direct collective principals to their respective executive, to whom

they delegate executive authority; and that in turn, the executive is accountable to government. This means that conflict lines in executive-legislative relations normally run between government and opposition, rather than between the executive and the legislative branches of government. Against this background, this thesis has argued that the various parliamentary groups should be considered the constitutive units of the collective principal, as they have different relationships with their government as the agent to which power is delegated: they have different international statuses. Their status is hereby determined by the representation in the executive: the partisan composition of the executive constitutes the foundation for the government-opposition dynamics in parliament: parliamentary groups represented in the government are understood as governing parties, whereas groups that are not represented in the institution act as the opposition (see Ringe 2005: 685).

Since a group is either an opposition or a governing party, the measure is binary, based on an ordinal scale. The institutional status of a parliamentary group is group-specific, i.e., there is variation between the groups in the parliaments under investigation. However, there may also be some variation between the groups' status in regard to the various agreements if the negotiations fall into different legislative periods.

5.5.1.4.4. Causal Factor: Policy Position

Parliamentary groups as political actors are assumed to have substantive policy preferences in regard to a specific international agreement and its substance: a policy position.

Most political science principal-agent applications measure policy positions, or most-preferred policies, as ideal points in a policy space. Such an understanding of policy positions is a very simplified picture of a complex reality, as it indicates that an actor has a single preference that maximizes its interests. Rational actors want to bring the policy outcomes as close as possible to their ideal point, therefore, for any two policies, prefer the one closest to this point. Furthermore, this understanding allows for a systematic description of an actor's preferences and for conceptualization of preference distances to the preferences of other actors that are involved in the same decision-making process. "An actor has an ideal or most preferred point, which can be depicted as a point on a line, with regard to a particular issue, and that other policy options can be systematically compared to this ideal point in terms of their closeness to it" (Conceição-Heldt 2004: 52).

However, this dissertation will not follow this conceptualization of policy positions as ideal points, which are seen as relative to the ideal point to the agent/some other actor for two reasons. First, it was argued above that the executives in EU international treaty-making are not regarded as the only

source of agency loss but rather that the agreement itself is a source of agency loss. It is therefore necessary to present the policy position of a parliamentary group relative to the agreement itself rather than to other actors. Second, and more pragmatically, due to the lack of research and general data on EU international treaty-making and the role of parliaments in it, it is not possible to measure groups' policy positions in a quantitative way and place them on a continuum. This is a problem especially since policy positions should be measured in relation to the specific international agreement under negotiation and not concerning EU foreign policy in the broader sense, or a specific policy field. Based on these considerations, this dissertation conceptualizes a policy position not understood as ideal points, but as relative policy positions in regard to the overall international agreement itself, to the actions of the Union negotiator and consequently to the course of negotiations.

Importantly, these policy positions have to be perceived as a matter of kind. This means that the possible policy positions of the parliamentary groups have certain substantive qualities that differ between the various positions. As such, there are differences in kind, and not differences in degree (Sartori 1991) between the possible policy positions on an EU international agreement. This also adds to the difficulties of measuring policy divergence along a continuum. It can be expected that these qualitative differences in kind may inform the incentives and constraints of agency control in different ways. This is not to say that a hierarchy between the possible positions cannot be established; it is possible to order them along an ordinal scale. Policy positions are specific to and therefore vary between parliamentary groups and international agreements, meaning that they vary both between groups and international agreements.

Three policy positions can be distinguished:

1. **Specific Support:** this policy position refers to a principled support of the goals of the international agreement and the course of the negotiations *per se*; it is specific in that it supports the general practice of the negotiations, although minor points of criticism might exist;
2. **Complementary Criticism:** this policy position is not an objection of the international agreement and the course of its negotiations on principled grounds, but is a qualified, complementary opposition to the agreement, emphasising the need to improve and alter the course of negotiations due to concerns about one/several specific issues under negotiation;
3. **Specific Opposition:** this policy position is a principled objection to the international agreement and the course of its negotiations in their current set-up; yet, there is no principled opposition to negotiations with the same third party on the same issue under different conditions and circumstances.

All these positions entail certain costs of no-agreement, meaning that the failure of the negotiations will be costly for the principal. In theory, a fourth policy position is imaginable, namely fundamental opposition, which is a principled opposition to any kind of negotiations with the respective third party on the respective issue, regardless of the set-up of the negotiations and the conditions. It is highly unlikely to exist in praxis in the current setting of the EU and was not encountered in the empirical analysis.

The policy positions of the various parliamentary groups on the three international agreements under investigation in this study will be empirically identified in a qualitative way along the definitions set-out above. The data is mainly taken from primary sources, but ideally not from the same data used in the second step of the empirical analysis, the process-tracing studies. When data is lacking, the dissertation will resort to secondary data.

5.5.1.4.5. Causal Factor: Likelihood of Impact

The likelihood that a parliamentary group will have influence on an EU international treaty-making process is conceptualized as the group having a credible threat of vetoing a given agreement. With the final word to consent to or veto an international agreement, parliamentary groups can pressure the negotiation partners to give them information and take their policy position into account. Should these requests not be adequately responded to, the groups might withhold consent, which eventually might lead to a failure of the international agreement as a whole. With this “shadow of the future”,⁴¹ actors can use their veto power strategically in regard to a certain international agreement to exercise considerable influence before and during negotiations (Magnet/Nicolaidis 2004: 399f.). However, the credibility of a veto threat is not the same for every parliamentary group. A group needs to be sufficiently large to constitute a credible threat, i.e., its veto of an international agreement would lead to failure. Smaller groups with relatively few parliamentarians cannot be expected to have an equally credible non-ratification threat. Overall, it thus follows that the larger a parliamentary group, the higher its chances of having substantive policy influence, i.e., the higher the likelihood of impact.

The likelihood of a parliamentary group having a substantive impact is measured in a two-step process. First, it is necessary to determine whether the parliament as a whole has the right to ratify an international agreement once it is concluded. This differs between the European Parliament and national parliaments. For the EP, it is decisive whether an agreement falls under the scope of Art. 218 (6a) TFEU. As mentioned, after the Lisbon Treaty went into

⁴¹ The ability to influence negotiations *ex ante* and *ad locum* due to decision-making powers in the *ex post* stage.

force, a vast majority of international agreements require the consent of the European Parliament. For national parliaments, legal nature is decisive, i.e., whether an agreement qualifies as mixed or exclusive. National parliaments can only ratify/veto the former type. If an agreement is exclusive, a low likelihood of impact is assumed for every parliamentary group. The first step it thus to clarify whether a parliament and its constitutive units have a veto power. The second step, in the EP and national parliaments, is to determine whether groups are large enough to constitute a credible threat to the conclusion of an international agreement.

Summing up, a group's likelihood of having substantial influence on negotiations is either low or high, i.e., the measure is binary, based on an ordinal scale. This measure is specific to parliamentary groups and international agreements and is expected to vary on both dimensions.

5.5.1.4.6. Causal Factor: The Overall Resources

Parliaments in the EU vary extensively in terms of the resources they can resort to in various dimensions: size of the relevant committees, institutional capacity, organizational capacity and materialistic resources – expertise, support staff, finances and time. Resources can be distributed at different levels within a parliament: to the entire parliament, a specific committee, a parliamentary group or a single parliamentarian. Based on these considerations, this dissertation conceptualizes “overall resources” as materialistic resources – expertise, support staff, finances and time – on which a parliamentary group can rely to control decision-making in a particular policy field. There are several reasons for this: as groups are the unit of analysis, the measure needs to be group-specific, i.e., some of the broader conceptualizations, such as a Gattermann/Heffler (2013) “institutional capacity” index, cannot be used as it includes parliament-level indicators. The underlying argument of this causal factor is that parliamentary control is costly – in terms of manpower. The conceptualization of the overall resources of a parliamentary group as the materialistic resources the group can use to control a particular EU international negotiation progress seems the most appropriate.

When measuring a group's overall resources, this dissertation will resort to two indicators: the number of parliamentarians in the responsible committee relative to the total number of seats in the committee, and the number of political advisors a group has working on the respective policy field, relative to the highest number any group has. These measures make it possible to only take a group's resources in parliament into account and circumvent having to rely on broader measures of the party's resources outside of parliament, such as party funding. The group's financial resources inside parliament are not

used as an indicator due to a lack of accessible data, and the number of parliamentary assistants the parliamentarians of a group have is not included because their work tasks are too diverse. Data from these measures is taken from the parliaments' and the parliamentary groups' websites.

In the empirical analysis, it will become evident that despite these rather broad measures, the required data is not necessarily openly available. This is mainly because the data ought to be agreement-specific: number of MPs in the respective committee; number of political advisors working in the policy field. As a consequence, the measures developed here have to be somewhat adapted (see the respective country chapters in the empirical analysis).

However, a common approach is that the resources a parliamentary group has available will be determined in a comparative perspective, relative to the resources the other groups in the same parliament have at their disposal. The measure is multicategorical, based on an ordinal scale, and resources are either low, medium or high. Resources are expected to vary between groups within one parliament. If the measure is also policy field-specific, this adds to the variation between the international agreements under investigation.

5.5.1.4.7. Causal Factor: Complexity

As argued above, the complexity of an agreement and the policy field in which it is placed does not refer to procedural complexity, i.e., the complexity of the negotiation setting,⁴² but to content complexity: “the degree to which a given problem is difficult to analyse, understand or solve” (Klüver 2011: 487). Some EU international agreements are relatively simple, confined to a particular policy field, whereas others are highly complex, dealing with extremely technical matters and affecting multiple policy fields. Negotiations of the latter kind of agreement require in-depth knowledge and expertise. Hence, the complexity of an international agreement is conceptualized as the expertise the Union negotiator needs in order to negotiate the best possible international agreement. However, when is the need for expertise high? As already hinted at two sentences ago, the need for expertise depends on two factors: the technicality of the issue under negotiations, i.e., the use of technical and specialized concepts and terms, novelty and technical know-how, and the envisaged scope of the agreement, i.e., whether it contains multiple sub-topics covering multiple policy-fields.

Measuring the complexity of a legislative endeavour has proven rather difficult, as “the actual complexity of an issue-area is impossible to measure di-

⁴² The procedural complexity of an international agreement is closely related to the compellingness of the negotiation setting (see below).

rectly, and the various proxies proposed by various scholars may in fact measure factors other than the issue-specific demand for information” (Pollack 2003: 62f.). Quantitative studies have made use of a variety of indicators to measure complexity, ranging from the number of laws cited in a bill (Krehbiel 1991) to the length of a piece of legislation (Franchino 2000a) and the presence or absence of committees in a piece of legislation (Franchino 2001). As Franchino put it, “the operationalisation of [complexity] can be less than ideal, especially if the researcher does not want to forgo quantitative analysis and needs variables that assure objective cross-policy and cross-issue comparability” (Franchino 2000b: 35). However, this dissertation does not rely on statistical analysis to draw causal inferences but on in-depth case studies, and it shall be argued here that it is feasible to use more qualitative indicators. More precisely, complexity is operationalized as the technicality of the issue under negotiation and the scope of the envisaged international agreement. Data for measuring the two indicators is taken from secondary sources and expert opinions.

An agreement can be of high, medium or low complexity (see above). The complexity of an agreement will be determined by contrasting it with the complexity of the other agreements under negotiation. Complexity is an international agreement-specific factor and is expected to vary between the international treaties under investigation.

5.5.1.4.8. Causal Factor: Compellingness

Compellingness refers to an attribute of the negotiation environment, not the policy area and is as such closely related to procedural complexity. The degree of compellingness is related to the political costs of failing to secure the international agreement. The more compelling the negotiation environment, the higher the political pressure to come to a successful conclusion of the international negotiations with the third party (following Delreux 2011: 37). Overall, a compelling negotiation environment implies that something is at stake for the EU. However, which factors determine the compellingness of a negotiation process? This dissertation argues that there are two sources of compellingness of EU international negotiations: the international level, i.e., the external negotiation environment, and the EU level, i.e., the internal negotiation environment. “A compelling external negotiation environment is a negotiation setting with quasi-global participation, low relative bargaining power for the EU and high pressure [...] not to jeopardize the a long and labourious negotiation process [...]” (Delreux 2014: 1020). External compellingness increases with the number of negotiation partners, and other international factors creating a political pressure on the EU to conclude the given agreement, but decreases with

the relative bargaining power of the EU. High bargaining power can be attributed to actors with large structural and economic power and a high intensity of preference⁴³ (Dür/Mateo 2010: 683). The degree of internal compellingness, in turn, depends on the political pressure of successfully concluding an agreement stemming from inside the EU. High internal pressure also increases the preference intensity to successfully conclude the trade agreement.

How can a compelling negotiation environment be operationalized and measured? First, some of the above-mentioned factors can easily be extracted: the number of negotiation partners and the EU's relative economic power. In contrast, "pressure" stemming from inside and outside the EU is a more subjective factor. To determine the compellingness of the three international agreements under investigation here, this dissertation will rely on secondary data and in-depth, qualitative reasoning, in addition to the more quantifiable indicators. Similar to the complexity of an international agreement, the compellingness of the negotiation setting is either high, medium or low, which is determined in a comparative approach. Compellingness is thus also an agreement-specific factor.

5.5.2. Process-Tracing

Congruence between a theory's predictions and empirical outcomes is taken as providing initial support that the theoretical explanation holds and that the causal mechanism has been effective. However, as a congruence analysis merely provides evidence of correlation across causes and outcomes, and does not investigate the causal mechanism in more detail, the establishment of causal significance of the observed congruence is somewhat more difficult, as there might be problems of spuriousness, causal priority and causal depth. "Although consistency between a theory's prediction and case outcomes is often taken as providing support for a causal interpretation (and, for that matter, for assessing deductive theories in general), researchers must guard against unjustified, questionable imputation of a causal relationship on the basis of mere consistency, just as safeguards have been developed in statistical analysis to deal with the possibility of spurious correlation" (George/Bennett 2005: 183). To compensate for these limitations of the comparative congruence analysis method, the researcher has to establish a plausible connection between the cause and the effect. In order to do so, the dissertation will complement every comparative congruence analyses with one or several process-tracing studies. Process-tracing studies attempt to identify the causal path by

⁴³ The question of preference intensity is closely related to the political pressure to successfully conclude a particular international agreement, referring to both external and internal pressure do to so.

depicting how a set of causal factors leads to the outcome of the dependent variable (ibid.), I.e., they go beyond mere correlation by actually tracing the causal mechanisms assumed to be at play. A process-tracing study can serve a twofold purpose: it helps to check the causal mechanism that is supposed to link the causal factors with the outcome; and it can help to shed light on instances of non-congruence, i.e., to investigate closer why observed and predicted outcomes are not necessarily congruent.

The process-tracing analysis approach in this dissertation will follow what Beach/Pedersen (2016a) have termed congruence analysis. This is not to contradict their methodological advancements, but merely a pragmatic choice, as it would otherwise be difficult to distinguish between the comparative congruence analysis in step one and the congruence analysis in step two. The term process-tracing will be used in the following, but the underlying logic and practical guidance are taken from Beach/Pedersen's congruence analysis method (Beach/Pedersen 2016a, chapter 8).

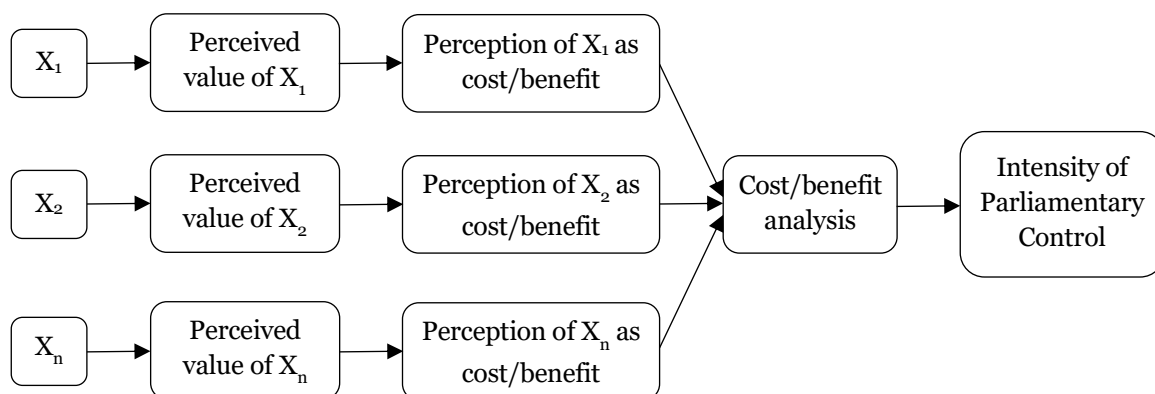
Process tracing is a research method for tracing causal mechanisms using detailed, within-case empirical analysis of how a causal process plays out in the case under investigation. It goes beyond merely studying co-variation, establishing congruence or producing detailed, descriptive narratives of the events between the occurrence of a cause and an outcome. Rather, the method "attempts to identify the intervening causal process – the causal chain and causal mechanism – between an independent variable (or variables) and the outcome of a dependent variable" (George/Bennett 2005: 206f.). Process-tracing opens up the black box of causality and enables the researcher to probe "the theoretical causal mechanisms linking causes and outcomes together, enabling us to get somewhat closer to actual causal processes operating in cases" (Beach/Reykers 2017: 261).

5.5.2.1. Mechanistic Evidence, Causal Mechanisms and Causal Inference

As process-tracing is a method of within-case analysis, causal inference is based on mechanistic evidence. Whilst causal mechanisms are "ultimately unobservable" (George/Bennett 2005: 137), their traces can be observed. Process-tracing then draws inference from the within-case evidence left by the operation of the causal mechanisms. Importantly, the fingerprints a mechanism is expected to leave depend on the underlying understanding of a causal mechanisms, whether the theory refers to a minimalist or a systems understanding of causal mechanisms. This dissertation uses a causal mechanism in its minimalist form, as opposed to a causal mechanism as a system. Mechanisms can be understood as minimalist when the causal process in between the cause and the outcome is not explicitly unpacked theoretically. Rather, the

mechanisms are treated as factors between a cause and an outcome. Minimalist causal mechanisms are often described as a form of intervening factors between an independent and a dependent variable (Beach/Pedersen 2016a: 33f.). Figure 5 schematically demonstrates the causal mechanism expected to be at work in this dissertation.

Figure 5: Schematic Display of the Hypothesized Causal Mechanism



As Figure 5 demonstrates, the causal mechanism leading from the causal factors to the outcome, the intensity of parliamentary control, is only minimally hypothesized. In order to trace whether parliamentary groups followed the hypothesized causal mechanism, the dissertation will thus use mechanistic evidence by asking “if causal mechanism M exists, what observables would it leave in a case?” (Bennett/Checkel 2014, cited in Beach/Reykers 2017: 263). More precisely, the process-tracing analysis will look for the following fingerprints of the causal mechanism: did the parliamentary group perceive the value of the causal factor as claimed in the congruence analysis? Did they perceive this as a cost/a benefit? Did this incentivize/constrain them to engage/from engaging in parliamentary control? Finally, based on the previous findings, has the group indeed controlled the negotiations in a cost-efficient way, in line with the base assumption?

As demonstrated by these questions, the process-tracing analyses will rely heavily information about the actors’ perceptions and motivations and therefore be somewhat interpretative. Whilst the overall approach is theory-guided, based on the causal mechanism described above as “a [hypothetical] story about why acts, events, structure, and thoughts occur” (Sutton/Staw 1995: 378), it is more flexible than the congruence analysis, aiming to understand parliamentary behaviour from the actors’ point of view. This means that so-called “confessions”, explicit statements of actors in which they reveal why they acted the way they did, become important. These statements can contain

information about all elements of a full-fledged mechanism-based explanation: information about how the actor perceived the situation [...], indications about driving motivations [...], and reflections about the anticipated consequences of specific actions” (Blatter/Haverland 2012: 117f.).

This research endeavour should enable the researcher to make further claims about the assumed causal relationship between the causal factors and the outcome: was the proposed causal mechanism present in the individual case, and did it function as predicted, or were only some parts of the mechanism present (Beach/Pedersen 2013: 14). More precisely, the investigation enables three kinds of inferences. First, it is possible to draw conclusions about individual causal factors, whether they indeed impact the intensity of parliamentary control as assumed and whether the causal mechanism has been at work as assumed. Second, process-tracing can detect technical flaws, such as measurement errors and defect operationalization of the causal factors as used in the comparative congruence analysis. Third, it can uncover theoretical flaws, which refer to defects in the proposed theoretical framework. Overall, as the mechanism is not unpacked theoretically in more detail and the process-tracing analyses therefore cannot engage in a detailed, empirical tracing of the causal process, the mechanistic evidence produced in this study is somewhat superficial. “The analytical result of gray-boxing in congruence case studies is that the causal claims about mechanisms linking C to O are based on weaker evidence about the causal process than they would have been if the mechanism had been explicitly unpacked and then studied empirically, as in the systems understanding” (Beach/Pedersen 2016a: 34). Nonetheless, this type of process-tracing allows for some causal inferences about the causal relationship because causal processes are studied to some degree.

5.5.2.2. Case Selection

The process-tracing analyses will be conducted on the parliamentary group * international agreement level. Whilst the comparative congruence analysis was conducted on the parliament * international agreement level, hence covering all parliamentary groups’ control actions in regard to the specific international agreement under negotiation, this is simply not feasible in the process-tracing analyses due to time, data and space restrictions. It is therefore necessary to select cases for the process-tracing analysis, and case selection method will follow from the goal of the in-depth analysis. Recall that it was argued above that process-tracing can serve a twofold purpose.

On the one hand, it helps to check the causal mechanism that is supposed to link the causal factors with the outcome, i.e., to probe the causal validity of the findings of the congruence study. This can be done by selecting so-called typical cases, i.e., cases that are well-predicted by the comparative congruence

analysis, as the causal relationship can be assumed to be at work here. “We argue that typical cases are the only type of case where it makes sense to test whether a hypothesized causal mechanism was present [...]” (Beach/Pedersen 2016b: 14).

On the other hand, process-tracing can help to shed light on instances of non-congruence, i.e., to investigate closer why observed and predicted outcomes are not necessarily congruent. Process-tracing studies with this aim help the researcher to determine at which point in the assumed process the results failed to follow the predictions, supporting a refinement of the theoretical framework. It follows logically that it is necessary to study deviant cases, i.e., cases where non-congruence was observed (Rohlfing/Starke 2013: 494f.).

Case selection for the process-tracing analyses will thus follow either the typical or the deviant case selection method, based on the findings of the comparative congruence analysis, but there is another factor that is essential to take into account: the availability of data. Recall that process-tracing draws on within-case, mechanistic evidence, in this study mainly in the form of confessions, i.e., in-depth insight into actors’ motivations and perceptions. This data is primarily taken from the expert interviews conducted in the course of this study, but it was not possible to conduct interviews with all parliamentary groups on all international agreements. “Any case chosen for in-depth analysis must afford enough data to address the question of interest. If sources are unreliable, scarce, or for one reason or another unavailable, the case is of little value” (Gerring/Christensen 2015: 221).

5.6. Limitations of the Research Design

Even though this research design has been carefully crafted to enable the best-possible empirical investigation of the overarching research questions, it is, as in all research, necessary to address concerns about the research design’s validity, whether the study’s findings are true and certain and can be generalized beyond the cases studied.

This research design puts strong emphasis on the internal validity of the findings, i.e., on the accuracy of the causal claims made. Whilst it does not make use of an experimental research design or a controlled case-comparison, it does combine a comparative approach testing the predictions of the causal framework with process-tracing analyses identifying the link between causal factors and outcome. This combination makes it possible to enhance the internal validity of a causal claim (Blatter/Haverland 2012: 79), as argued at length above. However, another danger stems from the deductive approach. Alternative causal factors other than those hypothesized might be neglected, as the possibility of equifinality is always present (Bennett/Checkel 2014: 2).

However, it was argued above that whilst generally deductive in nature, this research endeavour does use inductive elements, which are more interpretative in nature and leave open the scope for generating unintended findings beyond the proposed ones.

However, obtaining a high degree of internal validity through a few in-depth case studies is the expense of external validity, which means that it is questionable whether the findings can be generalised to a larger population which was not empirically examined. One of the key challenges of qualitative case studies is the ability to make generalizations (ibid.: 82). Generally, it is thought that careful case selection can remedy this problem to a certain extent. As the cases in this dissertation were chosen on the most similar case selection method, the findings can, in the strictest version of generalization, only be generalized to cases exhibiting similar characteristics in the variables controlled for – the timing of accession, the level of Euroscepticism, and the parliament's institutional strength in domestic and in EU affairs on the parliament level; on the international agreement level that the agreement was negotiated under the Lisbon Treaty; in the supranational, not the intergovernmental policy area, and by the Commission as Union negotiator. Strictly speaking, the generalizability of the findings of this study is rather limited, but they might provide further insights into potentially similar dynamics and actors' considerations in other parliaments and in regard to other international agreements. It is important to be aware that the aim of this dissertation is not to enable the researcher to claim statistical generalization, which is equated with the representativeness of the analysed sample (Yin 2009: 43). Rather, as this multi-case study includes several cases, this allows for contingent, analytical generalization and some kind of replication logic: "If two or more cases are shown to support the same [theoretical reasoning], replication may be claimed" (ibid.: 38f.). Against this background, the findings can be very cautiously generalized beyond the cases studied, but further studies of other parliamentary chambers, going beyond Western European countries, and into new policy fields of EU international treaty-making are needed.

Another caveat is that cases are selected on the parliament level (the European Parliament and two national parliaments). The empirical investigation will apply the same theoretical framework to these two levels, to a certain extent expecting dynamics to be similar. The aim is not to test whether dynamics, parliamentary groups' actions and their motivations are the same on both levels but rather to explain why and how parliamentary control of EU international treaty-making takes place. The fact that this research design allows for same level of inductive analysis of the empirical material enables the researcher – if necessary – to take different dynamics at these two levels into account. Similarly, on the parliament level, one case belongs under European

trade policy, a very well-researched policy area, which some people might argue has its own dynamics. Also here, the possibility of going beyond the theoretical framework in a more exploratory approach counters this caveat. Moreover, this dissertation has deliberately not chosen one of the “two landmark trade agreements” in recent years, TTIP and CETA. As demonstrated in chapter 3, they have already been subject to intensive research investigations, but due to their peculiarities, the generalizability of findings based on these two cases are severely limited. Despite these potential pitfalls, the research design can be argued to be the best possible version to empirically examine how and why parliamentary groups control EU international treaty-making.

6. Introducing: The International Agreements

As discussed in depth in the research design chapter, the dissertation will conduct nine qualitative case studies, selected on the international agreement and the parliament level. The case studies will be presented on the parliament level, and the empirical investigation will be conducted in three chapters, one on the European Parliament, one on the Bundestag and one on the Folketing. Each chapter will introduce the relevant parliament and its formal control mechanisms and practises in regard to EU international treaty-making. First, this chapter will briefly introduce the three international agreements selected for further analysis. The chapter concludes by identifying the values of the agreement-specific causal factors, which is done in a comparative perspective with the other agreements under investigation (see section 5.5.1.3).

6.1. The Economic Partnership Agreement between the European Union and Japan

The negotiations for the Free Trade Agreement between the EU and Japan date back to May 2011, when both sides agreed to start preparations for a bilateral trade agreement “against a backdrop of several years of persistent low growth in both the European and Japanese markets, and a broader long-term trend of declining bilateral trade and investment flows” (Hallinan 2015: 1). Following the conclusion of the agreement in principle in July 2017, the finalization of the negotiations was announced in December 2017. The EU-Japan FTA is a “deep and comprehensive Free Trade Agreement”, addressing all issues of shared interest in order to stimulate economic growth in Japan and in the EU.⁴⁴ As such, it has a broad scope, covering trade in goods and services as well as trade-related areas such as sustainable development, investment and public procurement.⁴⁵ Yet, as any Free Trade Agreement, its overall aim is to overcome obstacles to trade between the negotiating parties by reducing tariffs on specific goods and existing regulatory and non-tariff barriers. It is expected to have a beneficial impact on the economies in the EU and Japan, according to several studies analysing its potential effect. The 2016 Trade Sustainability Impact Assessment indicated that agreement is expected to boost

⁴⁴ http://europa.eu/rapid/press-release_IP-13-276_en.htm.

⁴⁵ <http://www.ictsd.org/bridges-news/bridges/news/malmstr%C3%B6m-eu-japan-trade-talks-near-end-stage-though-obstacles-remain>.

the European economy in the long term by 0.76 % of GDP. In 2017, the Commission estimated that European companies could save up to 1 billion € annually, and a Bertelsmann Stiftung study the same year assumed a total income gain in the EU of about 11 billion € per year. Germany, France, the Netherlands and the UK are expected to gain most in absolute numbers (EPRS 2018: 6f). The negotiations are likely to result in one of the most significant free-trade areas ever created, and the agreement is expected to have a greater economic, socioeconomic and geostrategic impact than the recently concluded CETA.

6.1.1. Economic Ties between the EU and Japan and Obstacles to Trade

The EU and Japan combined account for approximately a quarter of the world's GDP and have been important bilateral trading partners for a long time, even though their relative significance to each other has tended to decline. In Asia, Japan is the EU's second biggest trading partner after China, and in 2017, it was the sixth largest destination market for exports of goods from the EU. Imports from the EU to Japan traditionally focus on motor vehicles, machinery, pharmaceutical and medical instruments. In 2017, the EU was Japan's third largest trading partner, with imports into the EU commonly dominated by (electrical) machinery, motor vehicles, optical and medical instruments and chemicals. Whilst the trade relations have been characterized by a trade deficit on the Union side, the trade picture has become increasingly balanced in recent years as the EU has increased its export to Japan (EPRS 2018: 2).⁴⁶ Nonetheless, obstacles to trade remained, both in the EU and Japan.

From a European perspective, the Japanese market has been rather closed-off for foreign economic partners, constituting one of the OECD's least penetrated markets in terms of exports and FDI (Kleimann 2015: 4). This is due to particular characteristics of the Japanese economy and society, such as the local business culture and a difficult legal system and to a complex set of behind-the-border measures. This large number of regulatory measures, acting as non-tariff barriers, constituted the main obstacle to EU's trade with Japan (Hilpert 2016: 3; Kleimann 2015: 4). Tariffs did not play an important role in the Japanese trade policy toolbox (EPRS 2016: 4). The EU's interests therefore focused on a few specific areas: reducing regulatory and non-tariff barriers, which affected several key EU exporting sectors, including the automobile sector, chemicals, processed food, medical devices, as well as telecommunications and financial services (EPRS 2016: 5); opening up the Japanese public

⁴⁶ <http://ec.europa.eu/trade/policy/countries-and-regions/countries/japan/>.

procurement market for European companies, especially in regard to railways, electricity and gas (Nakanishi 2016: 20); and thirdly, protecting intellectual property rights, particularly geographical indications. Lastly, the EU strived to liberalize tariffs in sectors like agricultural products, processed food, and items like textiles, clothing and footwear, where tariffs are still high (Gaens 2017: 5).

For Japanese companies, the main obstacles to access to the European market were tariffs on a variety of goods and services imported to the EU. Import tariffs were still comparatively high in some Japanese key sectors, such as on automobiles (10 %), electronic devices (14 %) and machinery, and removal of these tariffs was therefore Japan's top priority (EPRS 2016: 5). Japanese businesses also faced some regulatory problems in the EU (Bertelsmann Stiftung 2017: 2), and Japan demanded more "transparency and improvement of the operation of regulations".⁴⁷

6.1.2. Content of the Negotiations and the Free Trade Agreement

It is evident that the two parties' demands were asymmetrical: the EU was seeking a reduction in non-tariff barriers that protect the Japanese market, while Japan wanted the EU to lower its import tariffs. One of the main contentious issues during the negotiations was agriculture. Throughout the negotiations, the EU emphasized its demand that Japan open up its market by reducing tariffs on the import of European agri-food products, such as dairy products, beef, pork, and wine. Japan, however, was eager to protect its farming sector. In contrast, within the EU, the idea of opening up the automobile market to Japanese car manufacturers met opposition, especially from member states with considerable automotive production (De Koning 2012: 15f.). Negotiations also proved difficult on more specific issues, such as animal welfare, public procurement, geographical indications and especially investment protection (EPRS 2016: 8). The EU proposed the Investment Court System (ICS) as a dispute resolution mechanism between investing companies and the host government.⁴⁸ This system, which replaces the former ad hoc system of Investor State Dispute Settlements (ISDS), has been included in CETA and the EU-Vietnam Free Trade Agreement. It is supposed to remedy some of the flaws of ISDS, which has been subject to loud criticism in the EU. Japan, however, "has expressed reservations towards the need for the new courts to replace the current arbitration procedures in disputes" (Gaens 2017: 6).

⁴⁷ http://www.meti.go.jp/policy/trade_policy/epa/epa_en/eu/.

⁴⁸ <http://eptoday.com/towards-the-eu-japan-free-trade-agreement-an-ambitious-deal-to-boost-jobs-and-growth/>.

The concluded agreement foresees that 86 % of tariffs on exports from the EU to Japan will be removed, which will rise to 97 % 15 years after the entry into force of the agreement. Japanese imports will reach a removal of 99 % by the same time. From an EU perspective, the Union has gained improved export possibilities for agri-food products to Japan, managed to open up the Japanese procurement and service market and to protect specific industrial sensitivities, such as the automotive sector. The agreement also includes a comprehensive chapter on trade and sustainable development (TSD); sets environmental and labour standards, which cannot be lowered to attract further business, and, for the first time in an EU trade agreement, emphasizes the parties' commitment to the objectives of the Paris Agreement on climate change (EPRS 2018: 5f). However, the EU and Japan could not agree on the precise form of the investment protection dispute resolution, and the EU will not return to the ISDS system, which Japan continues to favour. The parties decided to leave investment protection out of the free trade agreement, but to continue negotiations in a separate international agreement. The negotiations have not yet been finalized, but both parties are committed “to reach convergence in the investment protection negotiations as soon as possible, in light of their shared commitment to a stable and secure investment environment in Europe and Japan”⁴⁹.

6.1.3. The Negotiations

Economic and political relations between the EU and Japan date back to the 1970s and have been considerably upgraded over the years. In 1991, EU-Japan summits were established. In 2011, the two partners decided to upgrade their economic relation by negotiating a new framework for bilateral trade relations.⁵⁰ At the 20th EU-Japanese summit in May 2012, the two parties agreed on a scoping exercise in order to analyse the potential for, to define the scope of coverage and the level of ambition of the envisaged trade agreement (EPRS 2016: 7). In the scoping exercise, the parties listed all non-tariff barriers between them and other issues to be discussed during the negotiations. By doing so, they created an ambitious negotiation agenda for how to tackle identified issues and dismantle listed barriers in the various sectors. Moreover, the EU and Japan agreed on roadmaps for an upfront commitment from Japan. Whilst the parties had not been able to resolve all major issues of concern during the scoping exercise, this exercise does mark an intensive pre-negotiation stage, during which both sides demonstrated “their willingness and capacity

⁴⁹ <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1767>.

⁵⁰ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/-122303.pdf.

to establish a common platform for the substance of future agreements” (Tyszkiewicz 2013: 3). The scoping was concluded in May 2012.

On this basis, the Commission asked the Council to authorize the opening of negotiations between the EU and Japan for a Free Trade Agreement on 20 July 2012, by submitting the “Recommendation for a Council Decision authorising the opening of negotiations on a Free Trade Agreement between the European Union and Japan” to the Council (ST 12825 2012 INIT). The EU Foreign Affairs Council adopted its decision authorizing the Commission to open negotiations on 29 November 2012 and approved the negotiation mandate. After Greenpeace Netherlands leaked the mandate in July 2017, the Council decided unanimously to make the document publicly available on its website in September the same year, a step supported by the Commission.⁵¹ The mandate prescribes a strict and clear parallelism between the elimination of European tariffs and non-tariff barriers in Japan and entails a safeguard clause for the protection of sensitive EU sectors. Moreover, it included, on member state request, a 12-months review clause, according to which the Commission, one year after the launch of negotiations, would review and report on Japan’s progress on the roadmaps agreed upon in the scoping exercise. Reviewing the negotiation process in May 2014, the Commission decided, despite some concerns, that the negotiations should continue (Nakanishi 2016: 19).

The Free Trade Agreement negotiations between the EU and Japan were officially launched on 25 March 2013. The first round of negotiations was held from 15 to 19 April 2013 in Brussels. In total, 18 rounds of negotiations on the political and technical levels have taken place. The negotiations were conducted in 14 working groups, which cover market access, regulatory issues and non-tariff barriers as well as more general trade rules (EPRS 2016: 8).⁵² Initially, the parties intended to conclude the negotiation process by 2015⁵³ followed by 2016 as new aspired conclusion date.⁵⁴ However, the process slowed down during 2015 and 2016, and almost collapsed in 2016.⁵⁵ However, at the 24th EU-Japan Summit in July 2017 the negotiation parties announced that they had reached an agreement in principle on the main elements. This agreement in principle covered most aspects of the trade treaty, but some technical

⁵¹ <http://www.consilium.europa.eu/en/press/press-releases/2017/09/14/eu-japan-trade-negotiating/>.

⁵² <http://trade.ec.europa.eu/doclib/press/index.cfm?id=979&title=Progress-reached-at-the-3rd-Round-of-EU-Japan-Trade-Talks>.

⁵³ <http://www.spiegel.de/politik/ausland/freihandelsabkommen-zwischen-eu-und-japan-merkel-draengt-auf-abschluss-a-967028.html>.

⁵⁴ http://europa.eu/rapid/press-release_IP-17-303_en.htm.

⁵⁵ <http://www.japantimes.co.jp/news/2017/03/21/business/japan-pm-brussels-pushes-eu-trade-deal/#.WOeJB2nyhaQ>.

details still needed to be negotiated, e.g., regulatory cooperation and the introductory chapter. After several rounds of technical discussions, in which the remaining issues were debated and clarified, the consolidated text of the EU-Japan Free Trade Agreement was finalized in December 2017. Following a legal verification of the text and translation to all EU official languages, the Commission submitted the agreement for signature and conclusion to the Council in April 2018. In July 2018, the agreement was signed by both parties at the 25th EU-Japan summit. Parliamentary ratification in the EU and Japan is expected to be given within the next year, so that the agreement can enter into force in 2019.

6.1.4. The Legal Nature of the Agreement

For a long time, it was generally assumed that the EU-Japan free Trade Agreement was to be concluded as an agreement of mixed nature. First, the agreement belongs to the new generation of so-called “comprehensive Free Trade Agreements”, which go beyond the narrow focus on trade in goods and services and include trade-related areas such as sustainable development, investment and public procurement.⁵⁶ Touching on this variety of policy fields, the majority of recent EU new generation Free Trade Agreements are considered as mixed agreements.⁵⁷ Second, in 2012, the Council and the EU Member States made use of the “double decision mechanism” to authorize the Commission as Union negotiator: the Council authorized the Commission to negotiate, on behalf of the European Union, the provisions of an agreement that fall within the competence of the Union. The Representatives of the Governments of the Member States, meeting within the Council, authorized the Commission to open negotiations on and negotiate, on behalf of the member states, the provisions that fall within the competences of the Member States. In recent years, the EU has increasingly resorted to this double decision mechanism when authorizing negotiations of mixed agreements as well as agreements where the legal nature, exclusive or mixed, cannot be determined at the outset. Generally, however, the double decision mechanism strongly hints at the mixed nature of the authorized agreement (UK Government 2014: 30f.). Lastly, the opinion of the Advocate General of the European Court of Justice

⁵⁶ <http://www.ictsd.org/bridges-news/bridges/news/malmstr%C3%B6m-eu-japan-trade-talks-near-end-stage-though-obstacles-remain>.

⁵⁷ For example, the Free Trade Agreement with South Korea, the Free Trade Agreement between the EU and its Member States, on the one part, and Columbia and Peru, on the other part, as well as the EU-Canada Comprehensive Economic and Trade Agreement.

(ECJ) on the nature of the Free Trade Agreement with Singapore from December 2016 concluded that the EU-Singapore FTA is not covered as a whole by exclusive Union competence and therefore has to be additionally ratified by national parliaments (AG Opinion in Opinion procedure 2/15), which was also seen as an indicator of the legal nature of the EU-Japan FTA. Summing up, until Summer 2017, it was considered most likely that the EU-Japan FTA was to be concluded as a “‘mixed agreement’, which means that some areas will fall under exclusive EU competence, whereas others will be under the competence of the Member States” (Gaens 2017: 6f.).

The ECJ’s judgment on the legal nature of the EUSFTA concluded that whilst large parts of the agreement fall under exclusive EU competence, the portfolio investment and dispute settlement between investors and the state require member state consent, meaning that the agreement as a whole was of mixed nature, requiring ratification on the European and the national level. However, the judgment left open the possibility of splitting a trade agreement into two halves, one containing all provisions over which the EU has exclusive competence, and one that would need double ratification. The EU and Japan have removed aspects from the FTA that are considered to be of mixed nature; most notably, the investment dispute settlement mechanisms, which, as mentioned, is currently being negotiated in a separate agreement⁵⁸. Against that background, the EU-Japan Free Trade Agreement has indeed been put forward as an “EU-only”, exclusive agreement.

6.2. The Agreement between the European Union and the Republic of Tunisia on the Readmission of Persons Residing without Authorisation

In September 2016, the Commission and the High Representative addressed a Joint Communication to the European Parliament and the Council which emphasized that strengthening EU support for Tunisia’s democratic transition was a strategic priority for the EU. In light of the current migration crisis in the Southern Mediterranean and the Middle East, which puts increasing migratory pressure on the EU from outside its borders, the communication identified effective management of migration as a political priority. It stressed the importance of improving joint efforts to prevent irregular migration, tackle root causes of migration (Commission/High Representative 2016: 11) and to conclude an EU-Tunisia Readmission Agreement regulating the return of irregular migrants from the EU to Tunisia (ibid.: 12). This was already envisaged

⁵⁸ <https://hsfnotes.com/publicinternationallaw/2018/05/03/eu-japan-epa-presented-to-the-european-council-ratification-begins/>.

in the EU-Tunisia Mobility Partnership from March 2014, and the Commission had obtained the necessary Council authorization to open negotiations in December 2014. Nonetheless, it took until October 2016 for the two parties to gather around the negotiation table for the first time. The following sub-chapter provides a brief overview on the background and negotiations of the EU-Tunisia Readmission Agreement.

6.2.1. EU Readmission Agreements

After the foundation of the Schengen area, the EU and its member states realized that they were no longer able to adequately react to irregular migration on a domestic level. Acknowledging the need to combine European efforts on migration, asylum and return policies, the EU has since 1985 started to gain competence in these policy fields (Kruse/Trauner 2008: 1). From 1992 onwards, these competences have gradually been institutionalized. In 2005, the EU adopted the so-called Global Approach to Migration (GAM, re-named the Global Approach to Migration and Mobility (GAMM) in 2012), which constitutes the EU's current overarching political framework for dialogue and cooperation with non-EU countries in the fields of migration and asylum.

Within the GAMM, European Union Readmission Agreements (EURAs) are the primary instrument of the external dimension of the EU migration policy. Readmission refers to acts by a state accepting the re-entry of an individual, be it an own national, a third-country national or a stateless person who has illegally entered, is present or resides in another state. Thus, Readmission Agreements set out “reciprocal obligations on the contracting parties, as well as detailed administrative and operational procedures, to facilitate the return and transit of persons who do not, or no longer fulfil the condition of entry to, presence in or residence in the requested state” (Noll 2011: 7). The EU started using EURAs in 2004 and has so far concluded 17 of 22 issued negotiation mandates. Generally, the EU is trying to reach a high number of Readmission Agreements with all states around its borders, and even with more distant origin and transit countries. In the 2015 Action Plan, the Commission acknowledged that whilst “the EU's Eastern flank is now well covered through readmission agreements, its Southern side, [...], is not, [...]" (Commission 2015a: 11). Hence, the EU started to shift its focus to North Africa.

This shift needs to be read against the increasing migratory pressure on EU from the Southern Mediterranean and the Middle East in recent years, as growing numbers of people have been fleeing from a variety of origins and seeking asylum in EU Member States (Wild 2015: 1). EU's action initially focused on distribution of asylums seekers and securitization of the EU's external borders. However, it became increasingly evident that these policies were neither adequate nor sufficient to deal with the flow of migrants. Rather, the

EU started stressing the importance of an effective system to return irregular migrants and enhancing cooperation on readmission with countries of origin and transit (ibid.).

6.2.2. Country Background: Tunisia

In 2011, the year of the Arab Spring and the Tunisian Revolution, Tunisia ousted the autocratic regime of former President Ben Ali and has since then been going through a critical transition towards democracy. This development is supported by the EU (Commission 2016a: 1).

Tunisia has a long tradition of labour migration, and approximately 10 % of its total population live abroad. Yet, Tunisia is not currently present a key country of neither origin nor transition for irregular immigrants into the EU. The number of Tunisians irregularly crossing over to the EU has continuously decreased over the past few years. In 2011, the number peaked at approximately 28000 Tunisian refugees arriving in Europe, but already in 2012 the number decreased to approximately 2000. In 2014, Frontex reported 1077 illegal border crossings of Tunisian nationals compared to 1740 in 2014 (Commission/EEAS 2016: 2). In 2015, only 0.5 % of all irregular migrants arriving in the EU via the Central Mediterranean route departed from Tunisia. Yet, despite the low number of irregular migrants leaving from Tunisia itself, the country is said to constitute an important strategic partner for the EU and its Member States, and in 2014, the EU took first steps towards the negotiation of a Readmission Agreement with the country.

6.2.3. The EU-Tunisia Readmission Agreement

Concrete details on the envisaged readmission agreement are still scarce. However, it is known that the Commission strives to conclude uniform EURAs. Most importantly, every readmission agreement sets out the readmission obligations of the third contracting party and, in an identical manner of the European Union, both with regard to nationals and third-country nationals who have transited the requested party. Moreover, it lists exceptions to these obligations. A EURA also elaborates on the concrete operational readmission procedure by setting time limits, an application procedure, means of evidence and presumption of nationality and transit, the modalities of transportation, their costs and transit operations. A EURA also prescribes the establishment of a Joint Readmission Committee (Noll 2011: 50; Andrade et al. 2015: 38).

In regard to the EU-Tunisia Readmission Agreement, the EU's key interest is the "return of irregularly staying nationals to their country of origin [...], in relation to the current migration crisis" (Commission/EEAS 2016: 7). As for any EURA, the idea is that the conclusion of a readmission agreement will help

to avert the risk of irregular immigration from Tunisia and manage its consequences. At the same time, the EU stresses the need to significantly step up engagement with Tunisia in the domain of migration and to improve practical cooperation on readmission.

Tunisia, in turn, wants to continue being recognized as a privileged EU partner, i.e., having a “special status” among the EU’s partners in the Southern neighbourhood and receiving more EU support to tackle its socio-economic crisis and security problems (Commission/EEAS 2016: 6) and other benefits. EURAs are commonly accompanied by a provision of compensatory measures; so-called “incentive packages” or “deal sweeteners” (Wild 2015: 1). In regard to EU-Tunisia relations, the EU is considering various options, such as visa liberalization (Commission 2016b), further legal migration channels and financial, technical and capacity-building support for the establishment of a national policy on migration in light of the continuing migration pressure Tunisia is experiencing from the neighbouring, war-torn Libya. Moreover, the EU supports the democratic transition in Tunisia by providing assistance in the field of democratic reforms and financial assistance (Commission/EEAS 2016: 4). Since October 2015, the EU and Tunisia have been negotiating a Deep and Comprehensive Free Trade Agreement. The prospect of preferential trade access to the EU internal market and possible further EU concessions can be seen as another important compensatory measure. These broader incentives provided by the EU are not *de jure* part of the Readmission Agreement between the EU and Tunisia but are likely to be brought up in the negotiation process. Expected contentious issues in the Readmission Agreement negotiations are the third country national’s clause and Tunisia’s demand for an attractive visa facilitation agreement (Commission/EEAS 2016: 4).

6.2.4. Negotiation History

Political relations between the EU and Tunisia date back to 1976 (Commission/High Representative 2016: 4). The 2011 Arab Spring and the Tunisian Revolution the same year constituted a turning point. In view of the challenges Tunisia is facing and the democratic transition it is undergoing, the EU set out a new approach aimed at supporting the country’s democratic and socio-economic reforms, promoting human rights, strengthening civil society and improving security. In 2012, the EU and Tunisia entered into a Privileged Partnership, which led to intensified political contacts, higher levels of financial assistance and significant progress in many areas including security sector reforms, education, and trade relations. Within this framework, Tunisia, the EU

and ten of its member states⁵⁹ concluded a Mobility Partnership in 2014, a flexible, non-legally binding agreement aimed at effective management of the movement of people between the EU and Tunisia (Commission 2014). The partnership foresaw the conclusion of a Readmission Agreement between the EU and Tunisia (in parallel with a Visa Facilitation Agreement).

On 30 July 2014, the Commission submitted to the Council a “Recommendation for a Council Decision authorising the Commission to open negotiations on an agreement between the European Union and the Republic of Tunisia on readmission” (COM(2014) 493), accompanied by a draft negotiation directive. After examination of the recommendation for a Council Decision and the negotiating directive by the Justice and Home Affairs Counsellors on 20 October 2014, the Permanent Secretariat of the Council suggested on 5 December 2014, that the Council adopts under the “A” part of the Council Agenda, in one of its forthcoming sessions, the Decision authorizing the Commission to open negotiations on a readmission Agreement, alongside with the negotiation directive (15141/14 MIGR 143 TU 22). The Council adopted both acts on 15 December 2014 (16063/14 DCL 1). In the authorizing Council Decision, it is provided that the Commission shall be the sole Union negotiator (*ibid*). The special committee, which the Commission is required to consult during the negotiations according to Article 218 (4) TFEU is the Council Working Party on Integration, Migration and Expulsion (16063/14 DCL 1). Whilst the Council Decision has been declassified (16063/14 DCL 1), the negotiation mandate is still confidential. It has not been leaked and parts of and instructions contained in it have not become public.

Despite repeated requests from the EU (Commission/EEAS 2016: 4), the negotiations between the EU and Tunisia started close to two years after the adoption of the Council authorization on 12 October 2016. Since then, three rounds on the negotiations have taken place, and a fourth is scheduled for September 2018 (Commission 2018). Overall, the negotiations with Tunisia have not “progressed as needed” (Commission 2017a), and a date for the conclusion of the Readmission Agreement has not been set.

Concerning the ratification procedure, it is likely that the agreement will be concluded as an exclusive EU agreement, meaning that individual member state ratification is neither necessary nor allowed. Generally, the issue of the competence to conclude EURAs has been subject to controversy between the Member States and the Council on one side and the Commission on the other. Whilst the Commission “claimed exclusive Community competence to negotiate and conclude readmission agreements” (Coleman 2009: 75), the Member

⁵⁹ Belgium, Denmark, Germany, Spain, France, Italy, Poland, Portugal, Sweden and the United Kingdom.

States and the Council view readmission as an issue of shared competence. This disagreement is formally unresolved. However, it is generally accepted that whilst the EU and its Member States share the competence to conclude readmission agreements, “the qualification of readmission as a [shared] competence implies that this EU power may become exclusive once exercised with regard to a particular country” (Andrade et al. 2015: 19). Thus, readmission agreements are to be ratified as exclusive EU agreements, i.e., only on the European level. It can thus be expected that the EU-Tunisia Readmission Agreement will not be ratified by the individual Member States and their parliaments.

Yet, from the shared nature of the competence to conclude EURAs follows a different legal peculiarity, which also applies to EU-Tunisia Relations, namely that Member States can conclude their own, bilateral, readmission agreement with a particular country, if the Union has not yet exercised its power to do so (Andrade et al. 2015: 20). Austria, France and Italy already have bilateral agreements on migration or police cooperation, which touch upon readmission aspects with Tunisia. Bulgaria, Greece, Malta and the United Kingdom had ongoing negotiations for bilateral agreements (Commission/EEAS 2016: 5). Another legal peculiarity is that not all EU member States participate in the common readmission policy. Denmark does not take part in the actions under Title V of Part Three of the Treaty of the Functioning of the European Union (Art. 1 Protocol No. 22). This also means that “no provision of any international agreement concluded by the Union pursuant to that Title, [...], shall be binding upon or applicable in Denmark” (Art. 2 Protocol No. 22). Therefore, Denmark is not a party to readmission agreements concluded by the EU (Noll 2011: 51), and will not become part of the EU-Tunisia Readmission Agreement. The United Kingdom and Ireland have a similar opt-out but have, unlike Denmark, the possibility to opt in to any international agreement. In practice, the United Kingdom participates in every readmission agreement concluded by the Union, whereas Ireland only participates in the agreement with Hong-Kong (ibid.: 52). The United Kingdom notified the Commission of its participation in the EU-Tunisia Readmission Agreement shortly after the negotiation mandate was given.

6.3. Agreement to Amend the Montreal Protocol on Substances That Deplete the Ozone Layer (The Kigali Amendment)

After 7 years of negotiations, a new international climate agreement, the so-called Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, was agreed on by the 197 parties of the Montreal Protocol on

15 October 2016 in Kigali, Rwanda. The agreement sets out global targets for phasing down so-called hydrofluorocarbons (HFCs), very potent greenhouse gases used in refrigerator equipment, such as solvents, isolating gases, foam-blowing agents and as aerosol propellants. Phasing down HFC production and consumption could prevent up to 0.5°C of global warming by the end of the century, which means that the agreement provides a large contribution to the global fight against climate change. The amendment complements the efforts under the UN Framework Convention on Climate Change (UNFCCC) by supporting countries to meet the emission reductions set out in these accords. The EU thus sees itself at the forefront of ozone layer protection under the Montreal Protocol and in the fight against climate change. The following sub-chapter discusses the Kigali Amendment in more detail.

6.3.1. The Montreal Protocol

The Montreal Protocol on Substances that Deplete the Ozone Layer, which entered into force in 1989, is widely considered one of the most successful environmental agreements to date. It regulates the phasing-out of major ozone-layer depleting substances (ODS), whose release into the atmosphere has been shown to destroy the ozone layer, hindering its ability to prevent harmful solar ultraviolet rays from reaching the Earth's surface. The failure of the ozone layer as a protection shield "would have been devastating to all life on the planet"⁶⁰, harming the health of humans as well as adversely affecting animal population, aquatic ecosystems, and agricultural productivity (Brack 1996: 8). The Montreal Protocol sets out binding obligations for the gradual, progressive phase-out of major ODS and establishes a financial and technical support program that aids the transition to new substances and technologies. Especially developing countries argued that they would require such support in conversion (ibid.: 18), and in 1990, the Multilateral Fund (MLF) was introduced, which financially supports developing countries to meet their phase-out obligations under the Protocol. The Montreal Protocol is considered one of the most effective international agreements having achieved universal ratification by 197 parties (196 states and the EU) and so far having phased out more than 98 % of ODS.

The success of the Protocol gave rise to another issue: due to the prescribed phasing out, ODS have been replaced by HFCs, which do not harm the ozone layer but are powerful greenhouse gases, "a family of super greenhouse gases

⁶⁰ <https://eia-international.org/montreal-protocol-success-spurs-ambitious-hfc-deal>.

hundreds to thousands of times more potent than carbon dioxide”⁶¹ that survive in the atmosphere for many years. “With growing demand for refrigeration and air-conditioning, especially in developing countries, HFCs could account for 8 % of global GHG emissions by 2050 (up from 1.3 % in 2004)” (European Parliament 2016b).

6.3.2. The Kigali Amendment

The Montreal Protocol entails unique provisions on amending the Protocol’s text, enabling its parties “to respond quickly to new scientific information and agree to accelerate the reductions required on chemicals already covered by the Protocol”⁶². Proposals to amend the Protocol by regulating HFCs under its auspices were already brought up at the 21st meeting of parties (MOP) of the Montreal Protocol in 2009. Before formally starting negotiations, the contracting parties needed to discuss whether the Montreal or the Kyoto Protocol was the appropriate framework to manage HFC production and consumption. Towards the end of 2014, the parties eventually agreed that HFCs should be addressed under the Montreal Protocol, as the rapid growth of the substance was a direct consequence of compliance with the Protocol (Deol et al. 2015: 22). The negotiations were formally launched in 2015. Before concluding the Amendment in 2016, several contentious issues needed to be overcome, such as reforming the MLF to ensure sufficient funding for phasing down HFCs and transition to substituting substances, country-specific phasing-down demands and specific baselines, freeze dates and phasing-down schedule, for developing and developed countries.

The approach of the Kigali Amendment is rather straightforward: it adds HFCs to the list of substances that are controlled under the Montreal Protocol, and mandates the gradual reduction of HFC consumption and production in a legally binding manner. Overall, the amendment plots a gradual 80 % to 85 % phase out of HFCs by the late 2040s, with a staggered implementation of the HFC reduction. It thereby distinguishes, like the Montreal Protocol itself, between developing countries (Article 5 or A5 countries) and developed countries (non-Article 5 or non-A5 countries). These groups have varying freezing dates and phasing-down schedules (for a detailed table, see EIA 2016: 2). Moreover, the Amendment includes a support package in order to reach the

⁶¹ <https://eia-international.org/hfcs-the-greenhouse-gas-the-world-is-finally-talking-about>.

⁶² <http://ozone.unep.org/en/treaties-and-decisions/montreal-protocol-substances-deplete-ozone-layer>.

set out phasing-down objectives. The negotiating parties agreed to provide financing for the reduction and substitution of HFCs under the Montreal Protocol Multilateral Fund.

According to UNEP, the Kigali Amendment is the “single largest contribution the world has made” towards keeping the global temperature rise “well below” 2 °C, a target which was agreed at the 2015 Paris climate conference.⁶³ The Amendment is expected to avoid more than 70 billion tons of CO₂e HFC emissions by the 2050, which in turn can prevent up to 0.5 °C of global warming by the end of the century (Velders et al. 2015).

6.3.3. The Negotiations of the Kigali Amendment: Multilateral Perspectives

Calls for a phasing-down of HFCs in an amendment to the Montreal Protocol in 2007 have been voiced since 2007 by NGOs and international agencies.⁶⁴ Proposals to amend the Protocol have been submitted to the annual MOPs since 2009. The first proposal was submitted by the Island States, led by Micronesia and Mauritius; the second proposal was North American, submitted by Canada, Mexico and the USA. Both proposals were submitted six years in a row⁶⁵ until a decision was eventually reached. Proposals by the EU and India were only brought forward in 2015.

Between 2009 and 2013, there was only little substantive progress in the talks because some countries, such as Brazil, China and India, strongly opposed the proposed phasing-down of HFCs under the Montreal Protocol despite scientific evidence of the damaging effect of HFC consumption and emission.⁶⁶ The MOP25 in October 2013 did not reach an agreement on opening formal negotiations, but the parties set up a discussion group as a first step to officially discuss the global management of HFCs. MOP26 in November 2014 ended with the decision to convene a workshop in early 2015 to continue HFC management discussions. The workshop, held in April 2015, concluded with an agreement to continue to work inter-sessionally on HFC management with a view to establishing a contact group; indicating that formal negotiations were expected to start the same year. The contact group was eventually established in November 2015 during the MOP27 in Dubai. This marks the formal

⁶³ <http://climateobserver.org/hfc-amendment-kigali/>.

⁶⁴ <https://eia-international.org/historic-global-deal-cut-super-pollutant-hfc-gases>.

⁶⁵ <https://eia-international.org/hfcs-the-greenhouse-gas-the-world-is-finally-talking-about>.

⁶⁶ LaBudde, Samuel (EIA), cited in <https://eia-international.org/india-china-brazil-kill-effort-to-eliminate-super-greenhouse-gases>.

starting point on the negotiations on a new amendment to the Montreal Protocol,⁶⁷ but the parties stopped short of a legal amendment to the Protocol. Yet, MOP27 ended with a clear agreement to address HFC management and the adoption of the *Dubai Pathway*, a roadmap for negotiating an HFC amendment committing the parties to “work within the Montreal Protocol to an HFC amendment in 2016 by first resolving challenges by generating solutions in the contact group on the feasibility and ways of managing HFCs” (Art. 1 Dubai Pathway).

The parties of the Montreal Protocol met for open-ended working group sessions in Geneva in April 2016. This meeting constituted the first formal negotiations on the issue, as it primarily focused on the work of the HFC Management Contact Group under the mandate outlined in the *Dubai Pathway*.⁶⁸ When the open-ended working group meeting resumed in July 2016, there were high hopes that the amending agreement would be agreed upon the same year, expectedly at MOP28.⁶⁹ The contracting parties of the Montreal Protocol convened for MOP28 in Kigali, Rwanda, in October 2016. The primary goal of this MOP was to adopt an HFC amendment. The HFC Management Contact Group, where the majority of discussions on HFC management took place, met throughout the week. The contact group established a draft amendment text, which was reviewed article by article by the participants during the final plenary session on Friday.⁷⁰ After a week of intense negotiations in Kigali, the parties agreed on the amendment that sets out the phasing-down of HFCs in the early morning hours on Saturday, 15 October 2016.⁷¹

6.3.4. The Negotiations of the Kigali Amendment: The European Perspective

Claiming global leadership in environmental and climate issues, the EU has stated that in the negotiations on amending the Montreal Protocol it aimed to “play an important role in brokering an ambitious and balanced agreement due to its credibility in this policy area” (Presidency/Commission 2016: 3). Indeed, the Union has for a long time advertised the inclusion of HFCs in the scope of the Montreal Protocol. Moreover, it engaged in exemplary leadership by already having legislation on place: in the EU, the emissions of fluorinated

⁶⁷ <https://eia-international.org/montreal-protocol-begins-formal-negotiations-on-hfcs>.

⁶⁸ <http://enb.iisd.org/ozone/oewg37/>.

⁶⁹ <https://eia-international.org/progress-on-dubai-pathway-to-hfc-amendment-in-2016>.

⁷⁰ <http://enb.iisd.org/vol19/enb19131e.html>.

⁷¹ <http://www.newtimes.co.rw/section/article/2016-10-15/204475/>.

greenhouse gases (F-Gases), including HFCs, is regulated by the so-called F-Gas regulation⁷². In January 2015, the old regulation from 2006 was replaced. The new regulation foresaw the gradual reduction in the supply of HFCs in the EU and strengthened existing measures and introduced several changes. The EU has thus had legislation in place since 2015 to meet its commitments under the Kigali Amendment.⁷³

In the field of EU environmental policies, the Union does not have exclusive competences, but, according to Article 4 (2) TFEU, the EU and its Member States share competences in the area of the environment. However, the policy measures adopted by the EU on environmental protection do not prevent the Member States from maintaining or introducing more stringent protective measures, as long as these are compatible with the Treaties (Art. 194 TFEU). “From this perspective, environmental policy does not follow the regular rule that an [EU] rule excludes measures by the member states” (Delreux 2009: 236), which usually applies to areas of shared competences.⁷⁴ Thus, multilateral environmental agreements such as the Kigali Amendment are negotiated and concluded as mixed agreements.

The Union claimed early in the negotiations that it had the “role of a credible leader on dealing with HFCs at a global level due existing EU legislation and more stringent legislation in the pipeline” (Commission 2013: 3). At MOP26 in November 2014, the EU submitted the discussion paper *Enabling a Global Phase-down of Hydrofluorocarbons*, and a formal proposal to amend the Montreal Protocol was submitted by the Commission on behalf of the EU and its Member States in April 2015 (Commission 2015b: 2).

In negotiations that are expected to lead to only politically binding conclusions, it is not necessary that the Council authorizes a Union negotiator to open negotiations (Delreux 2011: 4). Hence, in regard to the amendment process of the Montreal Protocol, a formal authorizing decision by the Council was only needed once it was foreseeable that the previously informal negotiations and discussions were highly likely to lead to a legally binding agreement. On 28 January 2015, the Commission submitted to the Council a “Proposal for a Council Decision authorising the Commission to negotiate, on behalf of the European Union, amendments to the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete

⁷² Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006.

⁷³ https://ec.europa.eu/clima/policies/f-gas_en.

⁷⁴ See for example the EU-Tunisia Readmission Agreement.

the Ozone Layer”. The Council adopted the decision authorizing the negotiations on 29 April 2015 (Council Decision (EU) 2015/798), which provided that the “Commission is hereby authorised to negotiate, on behalf of the Union, as regards matters falling within the Union’s competence and in respect of which the Union has adopted rules”. The accompanying negotiation mandate foresaw that the Commission shall ensure that the provisions of the draft revised Protocol are consistent with relevant Union legislation and do not undermine efforts under the UNFCCC. Moreover, it contained information duties for the Commission (7819/15 ADD1 LIMITE).

The qualification of multilateral environmental agreements as mixed agreements has far-reaching implications for the negotiation arrangement between the EU and its member states: the Commission was only named Union negotiator for matters falling within the Union’s competence and in respect to which the Union has adopted rules. During the negotiation sessions the EU was represented by the Commission on matters of substance in relation to HFCs, whereas the rotating Presidency took the stage in relation to financial issues and the MLF, to which only the member states contribute (CR\1078112EN). This is a common approach in EU multilateral environmental negotiations, where the member states often opt to pool their voices and delegate their negotiation authority to a common negotiator. This is usually the member state holding the Presidency (Delreux 2008: 1070).⁷⁵ Moreover, many member states sent their own representatives to the MOP27 and MOP28. During the negotiation session, EU positions were achieved through co-ordination meetings between the Commission and the Member States (CR\1078112EN).

6.3.5. Ratification

Art. 4 (1) of the Kigali Amendment holds that the Amendment shall enter into force on 1 January 2019, provided that it is ratified by at least 20 parties to the Montreal Protocol. By November 2017, 21 parties had ratified the Amendment, meaning the 20-Party threshold for its entry into force was exceeded just prior to MOP29. In the EU, the Kigali Amendment, as a mixed agreement, has to be ratified both on the European and the national levels. The EU ratified the Amendment on 17 July 2017 (Council Decision (EU) 2017/1541); of the

⁷⁵ However, this does not prejudice negotiations constellation in which Member States task the Commission to represent the EU also when areas of shared competence are under negotiation.

member states, Belgium, Bulgaria, Finland, France, Germany, Ireland, Lithuania, the Netherlands, Portugal, Slovakia, Sweden and the UK have notified the United Nation Treaty Collection Depository of their ratification.⁷⁶

6.4. Causal Factors: the Agreements' Saliency, Complexity and Compellingness of the Negotiation Setting

The theoretical framework postulated that the intensity with which a parliamentary group controls an EU international treaty-making process is informed by international agreement-specific causal factors, parliamentary group-specific factors and factors that are both group- and agreement-specific (see Figure 4). After the general presentation of the three international agreements under investigation in this dissertation, the values of the agreement-specific causal factors will now be identified. This refers to the public saliency of the agreements, the complexity of the issue under negotiation and the compellingness of the negotiation setting. These factors were operationalized and conceptualized in section 5.5.1.3., which also introduced the scale on which the values of the causal factors are measured and elaborated on the comparative approach to their identification (see also section 5.5.1.2.). According to this comparative approach, the values of the various causal factors should be determined not in an absolute but in a relative way, i.e., in relation to the other international agreements under negotiation. The agreements thus serve as benchmarks for each other.

Overall, this serves two purposes. On the one hand, it fosters a better understanding of the EU international agreements with regard to factors important for why and how parliamentary groups control their negotiation process. On the other hand, this is an important step in the comparative congruence analyses, which was developed as the first empirical test in the empirical case studies. These analyses will be conducted separately for the three international agreements, and the agreement-specific factors will be discussed here to avoid unnecessary repetition.

6.4.1. Public Saliency

Recall that saliency has been conceptualized as a relative concept, and that public saliency refers to the relative importance the public attaches to a certain issue in relation to other issues. The saliency of the three agreements will be determined based on public survey data (the saliency of the policy field), their

⁷⁶ https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-2-f&chapter=27&clang=_en.

media salience and secondary data based on experts' opinions (salience of the agreement). This is done in a relative approach by comparing the public salience of the three agreements.

6.4.1.1. The EU-Japan Free Trade Agreement

Until the 1990s, the EU's trade policy was a rather technical domain, operated by a limited number of trade experts and some sector-specific lobby groups in negotiation settings of limited transparency. The majority of trade negotiations did not attract the interest of the broader civil society, parliaments or the media. However, the dynamics of globalization and the expansion of the international trade agenda on the global level to include "beyond the border issues"⁷⁷ have increased attention by civil society groups, politicization, contestation of EU international trade agreements, and mobilization among the public at large.

Current Eurobarometer data on the salience of the EU's Common Commercial Policy is not available,⁷⁸ but it can be argued that trade is an increasingly salient policy field, and European citizens can be argued to have basic knowledge of and interest in ongoing trade negotiations. However, the largest degree of public attention has focused on a limited number of free trade agreements: the TTIP negotiations with the US and the CETA negotiations with Canada. Ongoing negotiations for other free trade agreements have largely gone under the radar. The negotiations for the Free Trade Agreement between the EU and Japan were launched prior to those of TTIP, but somewhat surprisingly managed for some time to remain on the side-line of the public eye (Suzuki 2017). However, whilst the EU-Japan negotiation might not have been as salient as the TTIP and CETA negotiations, they have by no means been completely devoid of public attention. First, not only do CETA and TTIP have an overshadowing and positive effect concerning the public salience of the EU's trade policy. The extensive attention has paved the way for an interested, attentive public, with a certain knowledge of EU trade policy and ongoing negotiations, to which the EU-Japan FTA is subject as well. Moreover, due to its strategic importance and size, it can be argued to have been more salient than other, less relevant free trade agreements with smaller economies like Singapore and Vietnam. Moreover, recent political developments have had a posi-

⁷⁷ Such as services, investment, intellectual property rights, environmental and social standards (Young/Peterson 2006).

⁷⁸ Trade is not an item routinely investigated in Standard Eurobarometers, and the last special Eurobarometer on International Trade dates from August 2010 (No. 357).

tive impact on the public salience of the EU Japan negotiations: the US's withdrawal from the TTIP negotiations, the conclusion of CETA and the global rise of protectionism have put increasing focus on the ongoing negotiations with Japan. The more these negotiations have progressed, and the more details about the content have become known to the broader public, the more both media and civil society have taken up the issue, now putting the FTA between the EU and Japan on an almost equal level with TTIP and CETA. "TTIP, CETA, [...] and JEFTA [Japan EU Free Trade Agreement] attracted more public attention when it was anticipated by negotiators and also more than other trade agreements" (Schuh et al. 2017: 10).

6.4.1.2. The EU-Tunisia Readmission Agreement

The number of regular and irregular migrants moving to and settling in Europe has increased over the past decade, especially since 2015 with increasing numbers of asylum-seekers travelling across the Mediterranean Sea or over land through Southeast Europe. These developments have posed organizational, logistical and political challenges to European member states and have influenced the public salience of migration issues. It is therefore possible to consider public salience concerning migration overall, return as a rather abstract concept or the salience of individual readmission agreements, with specificity increasing.

Starting with the public salience of migration, Eurobarometer data from 2013-2015 clearly demonstrates the increasing salience of migration/immigration for European citizens. When asked what the participants considered to be the two most important issues facing the EU at the moment out of 14 political issues, since September 2013, immigration has become by far the leading concern. As this measure captures the importance attached to immigration relative to other policy issues, these answers indicate high public salience of the issue of migration. This is supported by an equal increase in other immigration-related concerns, e.g. about terrorism, which have risen sharply in recent years as well. Against this background, questions about and solutions to dealing with the influx of immigrants have become more salient. With this attention to issues of integration, the return of irregular migrants has increasingly been brought forward, which has, in turn, generated increasing policy and public attention to readmission. Return of irregular migrants to Tunisia came into public attention in December 2016, when a failed Tunisian asylum seeker perpetrated the deadliest terror attack in Germany since the 1980s.

German authorities had been attempting to deport him at the time of the attack, but Tunisia initially did not accept the request of readmission⁷⁹. This event raised public attention towards the difficulties of returning rejected asylum seekers to Tunisia. The return rate for Tunisia⁸⁰ was lower than the average EU rate, and Member States reported that Tunisian authorities were reluctant to readmit illegally staying nationals (7408/16). However, whilst European citizens do attach high salience to migration issues on a broader scale and are also expected to do so when it comes to the more abstract concept of returning irregular migrants to their home countries, this does not necessarily extend to the very technical and specific legal instrument of readmission agreements. Indeed, readmission agreements cannot be regarded as very salient in themselves.

6.4.1.3. *The Kigali Amendment*

Studying the salience of the policy field in which the Kigali Amendment is set, Eurobarometer data from 2013-2016 demonstrates that, in comparison to issues like immigration, finances and the EU's economic situation, neither the environment nor climate change feature particularly high on EU's citizens' salience perception. When asked what the participants considered to be the two most important issues facing the EU at the moment out of 14 selected political issues, the environment ranks between 10 and 12, and climate ranks between 8 and 10. The leading concern is, as mentioned, immigration and related policy issues such as terrorism, followed by "economic situation" and "public finances". Hence, as this measure captures the importance attached to the environment and climate change relative to other policy-related issues, these answers indicate a generally lower salience of the issues under negotiation in the Kigali Amendment than in the EU-Tunisia Readmission Agreement and the EU-Japan FTA.

However, a special issue Eurobarometer survey on climate change revealed that 90 % of respondents in 2013 and 91 % in 2015 saw climate change as an overall serious problem. There has also been a noticeable increase in the proportion of Europeans who think that tackling climate change is a collective responsibility (16 % in 2015, 10 % in 2013). Yet, public support for tackling climate change collectively on the global stage does not translate into public salience of the Montreal Protocol and its Kigali Amendment, even though the agreement is "one of the single most important unitary steps that we could possibly take at this moment to stave off the worst impacts of climate change

⁷⁹ https://www.huffingtonpost.fr/2016/12/21/la-tunisie-accusee-davoir-freine-lexpulsion-danis-amri-suspect-attentat-berlin_a_21632680/.

⁸⁰ As part of the implementation of the existing bilateral agreements.

...” (Kerry 2016⁸¹). Importantly, the already sparse public attention to multi-lateral environmental negotiations about a global response to climate change is mainly focused on the negotiations under the UNFCCC and its annual Conference of Parties (COP).⁸² This also means that “the talks in Kigali [have not] attracted as much attention as the Paris [COP22] event last year, [whilst] the outcome from the meeting is expected to have even greater impact on Parties’ efforts to slow down climate change”.⁸³

6.4.1.4. Summing Up: Public Salience

The dissertation argues that the free trade agreement between the EU and Japan is the most publicly salient agreement of the three international treaties under investigation. The EU’s external trade policy can be characterized as a highly salient policy area and, despite some variation in the salience of specific agreements under negotiation, the EU-Japan FTA has always attracted attention by the media, civil society and the larger public, and its public salience has increased as the talks went on. In contrast, whilst migration and the issue of (forced) returns are rather salient topics in the European public, the legal instruments of readmission agreements, and the specific agreement with Tunisia, cannot be said to be highly salient in the public. The dissertation thus argues that the readmission agreement with Tunisia is less salient than the free trade agreement with the EU and Japan, as the public in this case is more likely to be aware of the actual negotiations. Yet, due to the public attention on migration, readmission and Tunisia, the agreement is argued to be more salient than the Kigali Amendment. The latter is set in a policy field of low public salience and is overshadowed by other negotiations. These findings can be corroborated by referring to the media salience of the agreements as determined in the case selection in section 5.3.1.4. Table 12 is a replica of Table 7, reporting on the number of found articles in simple keyword searches in three main EU-level online newspapers from 2012 to July 2018.⁸⁴

⁸¹ <https://eia-global.org/blog-posts/montreal-protocol-seeks-progress-on-standards-for-hfc-free-technologies>.

⁸² <http://new-compass.net/articles/paris-climate-conference-designed-fail>.

⁸³ <https://www.unenvironment.org/news-and-stories/resource-efficiency/kigali-amendment-montreal-protocol-another-global-commitment>.

⁸⁴ Depending on the search engine, the search terms were, if necessary, combined with the connector “AND”.

Table 12: EU-Level Media Salience

	EU-Japan Free Trade Agreement	EU-Tunisia Readmission Agreement	The Kigali Amendment
Search term	Japan free trade	Tunisia readmission	Montreal Protocol HFC
EUobserver	93	9	1
Politico.eu	437	4	1
Euractiv	264	7	9

Summing up, the dissertation argues that the EU-Japan FTA is of high public salience on the EU level, the EU-Tunisia readmission agreement of medium and the Kigali Amendment of low public salience. This, however, does only partially say something about the agreements' salience on the national level, which means that the public salience of the three agreements will have to be addressed again in the case studies.

6.4.2. Complexity of the Issue under Negotiation

The complexity of an international agreement is conceptualized as the expertise the Union negotiator needs in order to negotiate the best possible international agreement. It has been operationalized as the technicality of the issue under negotiation and the scope of the envisaged international agreement. Data to measure the two indicators is from secondary sources and expert opinions (see section 5.5.1.3.7).

6.4.2.1. *The EU-Japan Free Trade Agreement*

In light of the failure of the Doha round, the international financial crisis and the global increase in protectionism, the EU has started to pursue an active trade policy by negotiating so-called “new-generation” free trade agreements. These trade agreements go beyond the traditional elimination of conventional tariff barriers, as they also aim for the reduction of regulatory, technical and administrative barriers. In a policy area generally known for its complexity and technicality, the focus on the removal of non-tariff barriers complicates a negotiation process even further. As negotiations today cover a broader, more technical and more legal range of issues compared to before, the negotiator is required to have substantial technological, legal and economic expertise. “The task of the negotiator is more important because, in addition to eliminating potential barriers to trade, he must introduce mechanisms to facilitate harmonisation of the rules in question” (Bendini 2015: 15). Moreover, European trade policy nowadays covers a wide variety of economic activities, ranging from more traditional manufacturing of components and final products to ser-

vices, design and marketing, research, assembly, distribution and maintenance. This “tertiarisation” of trade negotiations thus brings new industries and sectors to the table, making trade talks even more complex (Schuh et al. 2017: 9).

This also applies to the free trade negotiations between the EU and Japan. The key issue for the negotiations is not the removal of customs between the two partners but regulatory and administrative non-tariff barriers. In addition to traditional sectors like the automotive sector, processed foods and chemicals, the talks include telecommunications and financial services in the investment sector. The particular, protectionist characteristics of the Japanese economy and society (Kleimann 2015: 4) make negotiations even more complex, requiring substantial knowledge of the country and the issues under negotiations. Overall, the “negotiations on the free trade agreement [...] with Japan are among the most complex and thus the most difficult trade talks in which the EU is taking part” (Wnukowski 2015: 1).

6.4.2.2. The EU-Tunisia Readmission Agreement

As all readmission agreements the EU negotiates are based on a standard draft agreement text dating from the early 2000s, one might argue that there has been a certain institutionalization process of negotiating readmission agreements, with a growing institutional expertise inside the Commission, which makes the talks less and less complex. In the last readmission agreement the EU has concluded,⁸⁵ it is easily discernible that these agreements all have a similar set-up. However, readmission agreements do not only cover the reciprocal commitment to take one’s own citizens back and the modalities thereof, but extend further to topics such as the status of third-country nationals and stateless persons, data protection, relations to other international obligations and to bilateral readmission arrangements of the individual EU member states. Whilst readmission agreements with this kind of content are not as highly complex and technical as, for example, international trade agreements, they do cover rather sensitive legal issues.

The actual negotiations with the third party with which the EU is intending to enter a readmission agreement lead to specific and more technical level differences in the exact content of the various readmission agreements. “The negotiation of [EU] readmission agreements has thus far been difficult” (Coleman 2009: 91). This is amplified by the fact that the EU seeks to include up to three “extra-curricular” provisions: a migration management clause, a human

⁸⁵ Agreements between the European Union and the Republic of Azerbaijan on the readmission of persons residing without authorization (2014); Turkey (2013); Armenia (2013).

rights clause, and an anti-terrorism clause. On a technical level, this aspiration has increased the need to link these different policy fields, and hence requires a greater deal of knowledge and coordination in the EU (ibid.: 216). This is reinforced by the fact that readmission agreements are not standalone agreements but should be incorporated in broader EU strategy on migration and development cooperation. The negotiation of readmission agreements thus requires some level of legal expertise and knowledge of these policy fields, as well as country expertise.

6.4.2.3. The Kigali Amendment

The Kigali Amendment mandates the phasing-down of one type of substance, HFCs. This could be argued to be a highly technical policy field due to the scientific nature and need for scientific expertise, but experts agree that this is not the case: there is consensus on the negative impact on HFCs acting as a green-house gas, and as it is only one type of substance to be regulated, the scope of the agreement is rather limited. This is especially true in comparison to another big, multilateral climate agreement in recent years, the Paris Agreement from 2015. “The issue of Paris is, it is much broader, in the sense that it sets ... People are using the implementation of the Paris agreement to set long term goals, and, you know, to look at policy beyond 2050. Kigali will not be used for that, the amendment, or the Protocol itself will not be used for that” (EPO3).

6.4.2.4. Summing Up: The Complexity of the Issue under Negotiation

Overall, this dissertation argues that the negotiations between the EU and Japan on a free trade agreement have been the most complex negotiation content-wise due to the broad scope of the envisaged agreement and the technical nature of the policy field. This is followed by the readmission agreement between the EU and Tunisia, which, whilst not as highly technical and complex as trade negotiations, touches upon a myriad of other legal sources and frameworks, meaning that the Union negotiators do require a certain amount of legal and technical expertise. The EU-Tunisia readmission agreement is characterized as more complex than the Kigali Amendment to the Montreal Protocol and therefore of medium complexity. The Kigali Amendment, with its limited scope and firm scientific base, is argued to be of low complexity.

6.4.3. The Compellingness of the Negotiation Setting

Recall that the compellingness of the negotiation setting refers to the political costs of failing to secure the international agreement, i.e., the political pres-

sure to reach a successful conclusion. A compelling negotiation setting is characterized by a high number of negotiation partners, a low relative bargaining power for the EU and high pressure on the EU from the inside and the outside to not jeopardize the negotiation process. In order to determine the compellingness of the three international agreements under investigation here, the dissertation will rely mainly on secondary data and in-depth, qualitative reasoning (see section 5.5.1.3.8).

6.4.3.1. The EU-Japan Free Trade Agreement

The negotiations with Japan are bilateral trade negotiations. As the degree of external compellingness is higher in multilateral negotiations, this might indicate that the negotiation setting is not particularly compelling. However, the EU and Japan and their bargaining power merit a closer look, both in terms of structural and economic power and their intensity of preferences. Japan is the world's third largest national economy, behind the USA and China, and the EU-Japan Free Trade Agreement is one of the first trade deals the EU has negotiated with a highly developed country with significant economic power.⁸⁶ This means that the EU is, for one of the first times, meeting a trade negotiating partner "with significant bargaining power" (Wnukowski 2015: 1), and that it "will find it much more difficult to succeed in [...] EU Japan [and] is not likely to achieve all its goals" (Dreyer 2015: 5). However, the EU is not a weak bargaining power either. Pooling the power to negotiate trade agreements as an exclusive competence at the European level allows the EU to speak with one voice in trade negotiations, backed by the accumulated economic power of the 28 member states (Dür/Elsig 2011: 323). As such, both Japan and the EU have a strong bargaining power.

Moreover, the EU-Japan FTA has a strong external strategic value for the EU. In 2011, Japan expressed an interest in joining the negotiations for the Trans-Pacific Partnership (TPP), and started participating in negotiations for a trilateral China-Japan-Korea Free Trade Agreement as well as the Regional Comprehensive Economic Partnership from 2012. Without a counter-balancing trade agreement between the EU and Japan, EU corporations might suffer damaging discriminatory treatment vis-à-vis the competitors on the Japanese market (Hallinan 2015: 10). More recently, the global trading system has seen a rise of protectionist tendencies, exemplified by the US withdrawal from the TPP and the TTIP negotiations. The EU as an export trade power therefore needs new economic and political allies (Bertelsmann Stiftung 2017: 7). Overall, it can thus be concluded that the EU is under high external pressure to successfully conclude a free trade agreement with Japan. Moreover, from an

⁸⁶ Only the TTIP negotiations with the US are comparable in this regard.

internal perspective, the EU was still feeling the repercussions of the financial global crisis when the negotiations with Japan were launched in 2013: low growth rates, high unemployment rates, and a drop in sales volumes in many Member State markets. Therefore, it was important for the EU to open up new export markets. The until then rather closed-off, relatively prospering Japanese market constituted a good aim. Against this background, the envisaged agreement with Japan was seen as a means to create significant business opportunities and boost growth focused on research, development and sustainability (DG Expo 2012: 18).

6.4.3.2. The EU-Tunisia Readmission Agreement

Concerning the external international environment, the fact that the EU is negotiating bilaterally with Tunisia points towards low compellingness as the pressure of multilateral negotiations with quasi-global participation results to not jeopardize the international negotiations does not apply here. Moreover, Tunisia has rather low bargaining power compared to the EU, especially if one considers bargaining power mainly to stem from large structural and economic power and a high intensity of preference (Dür/Mateo 2010: 683). The Tunisian economy has deteriorated year by year, with high unemployment rates, inflation, and inequality. In 2017, the Tunisian government passed the 2018 Finance Act, an austerity budget intended to solve the inflation issue.⁸⁷ Moreover, the country's public debt has risen by 13.4 billion euros, and the purchasing power has dropped by 25 %, which indicates that the EU is clearly the stronger negotiating partner.

Whilst all this might indicate that the external negotiation environment is not particularly compelling, the talks on readmission have not necessarily featured as a political priority in Tunisia, with the government arguing that will not accept to be pushed to “address issues that do not concern it”⁸⁸. This is mainly because the readmission agreement would de facto put a unilateral burden on Tunisia due to the asymmetrical migration movements between the EU and Tunisia.

In turn, the EU sees a strong strategic value in the EU-Tunisia readmission agreement. The Union is eager to reduce the migrant flow across the Mediterranean Sea and sees the return of irregular migrants as a fruitful means. This is due to the deterring effect of returns, but also because the number of migrants entering the EU from Tunisia, be it Tunisian or third-country nationals,

⁸⁷ <http://www.dw.com/en/tunisia-protests-is-there-a-trade-off-between-a-strong-economy-and-democracy/a-42087864>.

⁸⁸ <http://ecdpm.org/talking-points/eu-tunisia-cooperation-migration/>.

has been increasing over the last year,⁸⁹ whilst the acceptance rate for asylum-seeking Tunisian immigrants is exceptionally low (Commission/EEAS 2016: 2). Other strategic considerations are also at play from a European perspective, e.g., that Tunisia, with its functioning government and ability to protect its borders, is expected to become a “pilot country for the identification and implementation of [...] migration schemes” (Commission 2017b: 8), inducing stability in the region and minimizing the risk of alternative migration routes developing alongside Libya. Lastly, the EU can also be said to be under a certain internal pressure to successfully conclude a readmission agreement with Tunisia, as readmission agreements have been gaining political importance as large numbers of migrants irregularly enter Europe. Tunisia has hereby featured particularly high on the agenda after the December 2016 terror attack in Berlin. This, in turn, also increases the preference intensity to successfully conclude the agreement. Thus, whilst the EU has the structurally greater bargaining power, it also experiences more internal and external pressure than Tunisia to successfully conclude the readmission agreement.

6.4.3.3. The Kigali Amendment

The Kigali Amendment is a multilateral agreement with global participation in negotiations as the Montreal Protocol is ratified by all 196 states. The compellingness of a negotiation setting increases with the number of negotiation partners, as quasi-global participation results in pressure on the member states to not jeopardize the international negotiation. Additionally, in multilateral settings, it can be assumed that a sufficient number of “strong” non-EU states exert a high degree of relative bargaining power vis-à-vis the EU. At a first glimpse, it might seem that the negotiation setting of the Kigali Amendment has been compelling from a European perspective. However, it is also important to analyse the EU’s relative bargaining power. Traditionally, the EU has been portrayed as an important player in global environmental governance and international environmental negotiations (Damro 2006; Rhinard/Kaeding 2006). Some scholars label the Union an “environmental leader” (Kelemen 2010), indicating that it could be assumed to have strong bargaining power in the negotiations of the Kigali Amendment. Indeed, it claimed that it managed to “play an important role in brokering an ambitious and balanced agreement due to its credibility in this policy area” (Presidency/Commission 2016: 3). Moreover, for the EU, which already had its own internal legislation in place, there was little at stake in the actual negotiations from an economic perspective. This enabled the Union negotiators to play a

⁸⁹ http://www.ecfr.eu/article/commentary_escaping_from_tunisia_7236.

diplomatic, brokering role, eventually supporting the successful outcome of the negotiations (EP15).

6.4.3.4. Summing up: The Compellingness of the Negotiation Setting

Summing up, this dissertation argues that the negotiations between the EU and Japan on the free trade agreement can be perceived to have taken place in a highly compelling negotiation setting: the EU was negotiating with a relatively balanced to low bargaining power and under high internal and external pressure to successfully conclude the negotiations. In contrast, the negotiations between the EU and Tunisia on readmission are taking place in a less compelling environment from a European perspective. The negotiations are bilateral, but with stronger structural and economic bargaining power than Tunisia, the EU has a higher preference intensity for successfully concluding the agreement than Tunisia. Finally, the negotiations on the Kigali Amendment were placed in a somewhat similarly compelling negotiation setting: the negotiations saw global participation, but relatively strong EU bargaining power. The dissertation argues that neither of these negotiations settings is as compelling as the trade negotiations with Japan but rather of medium compellingness.

6.5. Roadmap of the Empirical Chapters

After the detailed introduction of the three international agreements under investigation and a discussion of the agreement-specific values in a comparative perspective, the dissertation will now go on to conduct the empirical investigation (see section 5.5). The following three chapters present the empirical investigation of how and why parliamentary groups control EU international treaty-making in the European Parliament (chapter 7), in the Bundestag (chapter 8) and in the Folketing (chapter 9). The chapters follow a similar set-up: a general introduction to the parliament is followed by a more thorough presentation of how the chamber is generally involved in EU international treaty-making. After this, the values of the parliament/parliamentary group-specific causal factors in each parliament will be identified. This is followed by the qualitative case studies, three in every chapter: how and why the groups in the parliament in question have controlled the negotiations of the EU-Japan FTA, of the EU-Tunisia readmission agreement and of the Kigali Amendment to the Montreal Protocol. The individual case studies will finish with a detailed conclusion, and the individual chapters conclude with a discussion of the implications of the findings.

7. Control of EU International Treaty-Making in the European Parliament

Since EU citizens have been able to vote in elections for the Members of the European Parliament, the EP is the only directly elected institution of the EU. Since then, it has undergone a remarkable transformation and turned into one of the most powerful parliaments in the world, being on almost equal footing with the member state governments in the Council, having the ability to exert control over the Commission (Shackleton 2017: 138) and exercising influence over policy-implementing measures (Rittberger 2012: 19). For a long time, the EP had been considered as a “talking shop” that, due to its immature character was an actor that was incapable to take on such responsibility and whose position carried little weight. However, this image changed with the increasing desire for a more democratically legitimate Union and EU policy-making processes: in the wake of growing public demands for a more democratic EU regime, a gradual parliamentarization has taken place in the EU over the last 30 years (Bajtay 2015: 22). “The strengthening of the EU’s democratic credentials by strengthening the directly elected Parliament is a striking feature of the successive treaty changes” (Corbett 2012: 248).

The development that the expansion of EU competences in certain fields, was followed by an empowerment of the European Parliament in those policy areas in a quest for democratic legitimacy can also be observed in European Foreign Policy. Over the years, the EU has not only acquired stronger powers but has also seen a stronger parliamentary dimension in EU external policy-making. The EP has developed into an actor that is taken seriously by the other EU institutions involved in EU foreign policy-making and a more important player on the international scene. Such an expansion of parliamentary competences and influence can also be seen in regard to EU international treaty-making. Since the establishment of parliamentary involvement in the conclusion of EU international agreements in the 1987 Single European Act, successive Treaty reforms have expanded the treaty-based rights of the EP in international treaty-making processes (Corbett 2012: 250f.). This was accompanied by internal organizational reforms in the European Parliament aimed at maximizing its involvement in EU affairs, “to build up internal capacities, provide more expertise in order to improve its internal/external reputation, enhance credibility and raise its international profile” (Bajtay 2015: 22). In EU foreign policy, the European Parliament is expected to shape policy-making and control the execution in the conduct of the EU’s external action, and to translate the values and interests of EU citizens into instructions, binding or

non-binding, which the executive ought to take into consideration in this conduct. Whilst the EP has indeed been successful in pressuring the other EU institutions to take normative dimensions of foreign policy more seriously, such as human rights and democracy, its overall impact remains under debate (Keukeleire/Delreux 2014: 88).

Against this background, the following three case studies will investigate how and why the political groups in the European Parliament have controlled the negotiations of the EU-Japan FTA, of the EU-Tunisia readmission agreement and the Kigali Amendment to the Montreal Protocol. This is preceded by a brief description of the European Parliament (section 7.1.) and a general elaboration on the EP's formal control rights and practices in regard to EU international treaty-making (section 7.2.). This is followed by a presentation of the values of the parliament/political-group specific causal factors (section 7.3) and a roadmap of the empirical investigation (section 7.4.). After the three case studies (sections 7.5.; 7.6.; 7.7.), the chapter concludes by drawing implications of the findings (section 7.8.).

7.1. The European Parliament: Some Descriptives

The European Parliament currently consists of 751 Members elected in the 28 Member States by direct universal suffrage. The number of seats for each member state are allocated on the basis of their population. MEPs sit by political and ideological affinity, as most of them are affiliated with one of the transnational political groups. There are eight political groups in the European Parliament: the European People's Party (EPP, 219 MEPs), followed by the Progressive Alliance of Socialists and Democrats (S&D, 189 MEPs), the European Conservatives and Reformists (ECR, 74 MEPs), the Alliance of Liberals and Democrats for Europe (ALDE, 68 MEPs), the European United Left–Nordic Green Left (GUE–NGL, 52 MEPs), the Greens–European Free Alliance (Greens–EFA, 51 MEPs), Europe of Freedom and Direct Democracy (EFDD, 45 MEPs) and Europe of Nations and Freedom (ENF, 37 MEPs). The remaining 18 MEPs are non-attached (non inscrits).

The European Parliament is increasingly recognized as a working parliament with heavily specialized MEPs organized in parliamentary committees (Dann 2003: 565). The EP currently has 20 standing committees, consisting of 25 to 73 MEPs who are specialized in the particular subject the committee is dealing with. Hereby, the committees' political make-up reflects that of the Parliament as a whole.

7.2. Formal Involvement Rights in EU International Treaty-Making

The formal involvement rights of the European Parliament in EU international treaty-making are regulated in Article 218; 207 TFEU, the Framework Agreement on relations between the European Parliament and the European Commission including its annexes and case law by the ECJ. Although the EP's powers in EU international agreements have been increasing in recent treaty reforms, the Parliament is not on equal footing with the Commission and the Council. Rather, these changes do “not always imply a strong role for the Parliament in the actual negotiation of international commitments” (Eeckhout 2011: 194). The following sub-chapter will briefly elaborate on the formal, treaty-based involvement rights of the EP in EU international treaty-making and, to a minor extent, on the practices thereof. This will be done more in-depth in the actual case studies. Due to the EP's sectoral approach to controlling EU international negotiations, the standing committees are responsible for agreements that fall within their portfolio. The committees have hereby developed their own routines, traditions and ways of being involved. These will be described in-depth in the case study chapters.

7.2.1. Duty to Inform and Consult

According to and Article 218 (10), the European Parliament “shall be immediately and fully informed at all stages of the [negotiation] procedure”. This is further concretized by the 2010 Inter-institutional Framework Agreement on relations between the European Parliament and the European Commission. Pt. 23 of the Framework agreement reiterates Article 218 (10) TFEU and adds that the Commission shall act in a manner to give full effect to its obligations pursuant to Article 218 TFEU. Annex 3 of the Framework Agreement further elaborates on the Commission's duty to inform the European Parliament on all stages of ongoing international negotiations by distinguishing the different stages of a negotiation process at which this duty to inform applies: the start of the negotiations, the presentation of the negotiation directive and during the Commission's conduct of the negotiations until the agreement is initialled (Pt. 1; 2; 4 Annex 3 Framework Agreement). The phrasing “all stages of the procedure” in Article 218 (10) TFEU implies that the provision is to be generally applied, and that the EP is entitled to receive information on, e.g., the intention to enter into negotiations, the appointment of the Union negotiator, the negotiation mandate, and on the negotiation process itself (Kleizen 2016: 9).

The wording of Article 218 (10) TFEU is sufficiently strong to suggest that the obligation to consult the Parliament is not a mere formality. Legal basis

for this interpretation is found in Article 13 (3) TFEU, which lays out the general duty of cooperation that binds all institutions in their interactions (Koutrakos 2015: 143). Case C-658/11 *European Parliament v Council* concerned the scope of the duty set out in Article 218 (10) TFEU, clarifying that the EP's information requirement constitutes an essential procedural requirement, which applies to any procedure for and any stage of concluding an international agreement and is to be seen as an expression of the democratic principles on which the EU is founded (C-658/11).

The Framework Agreement furthermore holds that the information to the EP “as a general rule, be provided to Parliament through the responsible parliamentary committee and, where appropriate, at a plenary sitting” (Pt. 24 Framework Agreement). Hereby, the Commission can provide information on negotiation to the parliament along two channels: via direct Commission-Parliament/committee interaction, and by giving the Parliament access negotiation documents.

Direct contact between the committee responsible for the negotiations is in many instances subject to policy field-specific arrangements, as many committees have their own procedures for regular interaction with the Commission on EU international treaty-making. This will be discussed in-depth in the empirical case-study chapters. However, there are three major forms of such contact: formal committee meetings with Commissioners and the negotiators acting on the international sphere; informal contacts between the Commission's responsible Directorate General (DG) and the committee secretariats; and bilateral contacts between the DG and political group or MEPs.

Accessing negotiation documents has a somewhat more defined legal setup. As a general rule, the Commission is required to send any single negotiating document that it passes on to the Council and to the member state governments to the Parliament. “This shall include draft amendments to adopted negotiating directives, draft negotiating texts, agreed articles, the agreed date for initialling the agreement and the text of the agreement to be initialled. The Commission shall also transmit to Parliament [...] any relevant documents received from third parties, subject to the originator's consent” (Pt. 5 Annex 3 Framework Agreement)⁹⁰. Documents provided by the Commission to the Parliament on EU international negotiations typically belong to one of the following three categories: “limité”, “restreint UE” and “consolidated negotiation texts”, with sensitivity increasing respectively. They are all classified documents, meaning that the EP has its own internal procedures and rules in place to protect the confidential information they entail (EP06). Generally, whilst

⁹⁰ For international agreements to which the European Parliament needs to give its consent. This constitutes the vast majority of agreements.

the scope of the EP's access to negotiation documents has increased considerably over the last couple of years, the various policy fields in which the EU acts in international negotiations still vary significantly. This is both in regard to which documents the committee can access and the precise organizational rules of accessing them, and in regard to the importance MEPs assign to being able to study negotiation documents directly. The precise set-up and practice of accessing negotiation documents will be discussed in-depth in the case study chapters.

7.2.2. Procedural Involvement Rights

In addition to being informed at all stages of an EU international negotiation process, the European Parliament has some procedural involvement rights in EU international treaty-making.

The Parliament's treaty-based role in the pre-negotiation phase is minor. Article 218 (3-5) TFEU, regulating the opening of international negotiations, does not refer to the European Parliament. Thus, the European Parliament has no formal involvement rights in the decision to start an international negotiation, in nominating the Union negotiator or in issuing her negotiation directive. However, the EP has been demanding closer involvement in the pre-negotiation phase of international agreements after the Lisbon Treaty went into force (Eeckhout 2011: 199).

This demand is supported by the Framework Agreement between the EP and the Commission. Annex 3, point 2 and 3 clarify the scope of the Commission's information duties in the ex ante phase, stating that it should inform the Parliament of its intention to propose the start of negotiations and present the draft negotiation directives to the EP when it informs the Council. Pt. 24 of the Framework Agreement holds that, in general, "the information [...] shall be provided to Parliament in sufficient time for it to be able to express its point of view if appropriate, and for the Commission to be able to take Parliament's views as far as possible into account", which is reinforced in the Annex, according to which the Commission has to take due account of Parliament's comments throughout the negotiations, hence also in the ex ante phase of negotiations. So while it has no formal involvement rights in the pre-negotiation stage, the EP has the possibility to express its views on the opening of negotiations towards the Commission.

The European Parliament also has no treaty-based involvement rights in the ad locum stage of EU international negotiations. Also here, the Treaties merely stipulate the EP's right to be informed (Art. 218 (10) TFEU). However, "this right has the potential of becoming an informal political safeguard that anticipates the interests of Parliament at the negotiation stage" (Schuetze 2012: 285). As in the pre-negotiation stage, the Commission is obliged to take

due account of the Parliament's comments throughout the negotiations and moreover should, in cases where the Parliament has to give its consent to an international agreement, "explain whether and how Parliament's comments were incorporated in the texts under negotiation and if not why" (Pt. 4 Annex 3 Framework Agreement). Additionally, Pt. 25 of the Framework Agreement holds that at international conferences, the Commission should, at the Parliament's request, facilitate the inclusion of a delegation of Members of the European Parliament as observers in Union delegations but without allocating these Members the right to participate directly in the negotiations. Summing up, despite the lack of a formal role of the European Parliament in the *ad locum* stage of negotiating an international agreement, it can be argued that it has not only the right to be informed but also to be consulted on the content of the EU international treaty-making process.

Unlike in regard to the former phase, the Treaty of Lisbon is more explicit on the Parliament's involvement in the conclusion phase of international agreements. Article 218 (6) TFEU provides that "the Council shall adopt the decision concluding the agreement: (a) after obtaining the consent of the European Parliament in the following cases [...]; (b) after consulting the European Parliament in other cases". Whilst the consultation procedure used to be the prevalent mode of concluding international agreements before the entry into force of the Lisbon Treaty, the previously exceptional consent procedure became the rule. Responsible for this is the requirement of parliamentary consent for international agreements that cover fields to which either the ordinary legislative procedure applies or the special legislative procedure where consent by the European Parliament is required (Art. 218 (6v) TFEU). As the ordinary legislative procedure is nowadays applied to most areas of internal EU decision-making, this provision renders the Parliament a central player in the EU's conclusion of international agreements. For basically all international agreements, the European Parliament is required to give its consent before the agreement can be concluded by the Council (Passos 2011: 49).

However, confined to the *ex post* stage of EU international treaty-making, the power of consent is a rather blunt tool, as it does not imply complete parallelism to the ordinary legislative procedure. The European Parliament does not enjoy the power of co-conclusion but a mere power of 'consent'. This means that it must accept or reject the negotiated international agreement but cannot modify and alter the results of terminated negotiations (Schuetze 2012: 211).

In contrast to this, many scholars argue that the European Parliament, through its power of consent, "has some margin in exercising an influence over the content of the final text to be adopted" (Passos 2011: 50). If the Parliament merely took passively note of the actions of the Union negotiator, it would be

faced with a *fait accompli* at the outcome of negotiations. Instead, in order to facilitate its consent on the final text, the Parliament can also bring some substantive influence on the negotiator throughout the negotiations by threatening to refuse consent under certain circumstances. This can also be read in conjunction with the Parliament's involvement rights throughout the negotiation phase. "For the European Parliament, the Lisbon Treaty provisions on informing it at all stages during an international negotiation only make sense if the MEPs use this information to weigh on the substance of the process" (Devyust 2013: 299). Against that background, scholars commonly conclude that even though the EP does not negotiate EU international agreements, the Parliament is called upon to play a role also during negotiations, and not only in the conclusion phase (Passos 2011: 51).

On a more practical note, the EP has not shield away from using its newly established powers in the process of making international agreements. It started early on to use its *de-facto* veto power over EU international agreements in order to induce certain modifications into the negotiations of a number of international treaties (*ibid.*: 55). The Parliament has also gone one step further and decided to refuse its consent to the negotiated text of international agreements, e.g., the draft text of the SWIFT agreement with the US or the multilateral ACTA treaty, demonstrating that it is prepared to veto international agreements. However, "refusing to give consent should be and remain exceptional. Ultimately, it would be the EU external policy that stands to lose" (Passos 2011: 54).

Summing up, the European Parliament enjoys clearly defined, treaty-based information and consultation rights in the *ex ante* and *ad locum* stage of EU international agreements. Once negotiations on an agreement are finalized, the Parliament is, in a vast majority of EU international agreements, called upon to give its consent to the agreement. The shadow of the veto not only gives the EP the power to reject an agreement but also use this *ex post* power as a source of influence on the negotiations in the *ex ante* and *ad locum* stage of negotiations. How such influencing and the concrete way of gathering information are set up and used in practice depends, in line with the Parliament's sectoral approach to EU international treaty-making, on the responsible standing committee and its interactions with the Commission and the DG. As mentioned, the case studies will further introduce the formal rights and practices of parliamentary involvement in the policy areas under investigation in this dissertation.

7.3. Causal Factors: The Groups' Institutional Status and the Likelihood of Having Impact

The theoretical framework developed in chapter four distinguished between causal factors that are international agreement-specific, parliament/political group-specific, and agreement * group-specific. The following sub-chapter introduces parliament/group-specific causal factors and identifies their values for the European Parliament. This serves a twofold purpose. On the one hand, it fosters a better understanding of the European Parliament and its political groups in terms of factors that affect why and how the latter control EU international treaty-making. On the other hand, this is an important step in the comparative congruence analyses, which constitute the first empirical test in each case study. Whilst these analyses will be conducted separately for the three international agreements, the political group-specific factors, applying equally to all agreements, shall be elaborated on here in order to avoid unnecessary repetition.

7.3.1. The Institutional Status of the Political Groups

According to the conceptualization of the institutional status, a group's status is to be determined according to its relationship with its direct executive. However, the traditional governing-opposition cleavage of national parliaments is absent in the European Parliament: the EU lacks a "European Government", whose composition is explicitly tied to a partisan majority in the EP. This also means that there is no "inbuilt government majority in the European Parliament" (Hix et al. 2007: 21). Indeed, until a while ago, the idea of EU-level majority-opposition dynamics received only little attention and was even considered insignificant (Raunio 1996: 108; Coultrap 1999: 100ff.). Yet, more recently, research has demonstrated that intra-institutional party politics in the EP have been increasing, with greater intra-group cohesion and ideological convergence rather than accumulation of national interests. Moreover, criticism of the European Commission seems to be following party political lines. This strongly suggests that there are divides between the parliamentary majority and minority.

Based on the representative dimension of majority-opposition dynamics, this dissertation thus argues that "the partisan composition [of the Commission] constitutes the foundation for government opposition dynamics at the European level. This proposition suggests that the party family that constitutes the majority in [...] Commission is perceived to be 'in government', while those parties not represented in these institutions act as the opposition" (Ringe 2005: 685). Generally, it has been demonstrated that there is consid-

erable variation concerning actual coalition formation in the European Parliament, depending on the subject matter at hand. “The search for majority support for Commission initiatives remains a challenge on a case-by-case basis” (Christiansen 2016: 1003). Combining the representative dimension in of government-opposition dynamics with the “shifting coalition argument”, governing parties are those political groups providing the Commission President according to the Spitzenkandidat system and the respective Commissioner in the policy area under consideration. Whilst the former carries responsibility and power for the entire Commission, the latter is responsible for the concrete policy field. Indeed, the partisan affiliations of the individual Commissioners are not unimportant, as the political groups are well aware of who “their” Commissioners are (Ringe 2005: 674). All other groups are opposition parties.

At this point, it shall also be emphasized that out of the eight parliamentary groups, this dissertation will only analyse six and exclude EFDD and ENF from their investigation. The lack of data and internal cohesion makes it difficult to analyse those groups as unitary actors.

7.3.2. The Likelihood of Substantive Impact

In the research design, it was argued that a group’s likelihood of having substantive policy influence depends on the credibility of its veto threat, i.e., whether the parliament as a whole has the power to veto the international agreement under investigation, and whether the group is large enough that its refusal of consent might actually lead to the failure of the agreement. As explained above, under the Lisbon Treaty, the EP has to give its consent to a large majority of international agreements. It thus follows that in regard to all agreements, the larger the size of a political group in the EP, the higher are its chances of having substantive policy influence. In the current legislative period, the two largest political groups in the European Parliament are the PPE with 219 MEPs and the S&D with 189 MEPs. ECR with 71 MEPS, ALDE with 68 MEPS, the Greens with 52 MEPS and GUE/NGL with 51 MEPS are nowhere near their size. Hence, based on the argument of constituting a credible veto threat, only PPE and S&D are argued to have a high likelihood of substantive policy influence, whereas all other political groups are more unlikely to have a strong impact.⁹¹ A similar proportion of group size could be observed on the previous legislative period.

⁹¹ This does not mean that those groups cannot have substantive impact at all, but rather that it is less likely due to a lower credibility of a veto threat.

7.4. Roadmap of the Empirical Investigation

Having presented the general scrutiny system of EU international treaty-making in the EP and elaborated on the values of the parliament/political group-specific causal factors, this dissertation will now proceed to the empirical investigations of how and why the political groups in the EP controlled the negotiations of the EU-Japan FTA (chapter 7.5.), the EU-Tunisia readmission agreement (chapter 7.6.), and of the Kigali Amendment (chapter 7.7.). These sub-chapters follow a similar set-up that structures the empirical investigation. The first case study of the EP controlling the EU-Japan FTA negotiations will be very explicit about the various steps of the analysis in order to guide the reader through the investigation.

7.5. Control of the EU-Japan FTA Negotiations in the European Parliament

The free trade negotiations with Japan were the first of their kind to be initiated following the entry into force of the Lisbon Treaty. As such, they constitute a “landmark case” for the European Parliament exercising its newly established control rights. Parliamentary involvement in the EU-Japan FTA negotiations has been termed a “school book example” (EP07), making it particularly suited for an in-depth analysis. The idea of negotiating a free trade agreement between the EU and Japan emerged in the late 2000s. When the negotiations were finally officially launched in March 2013, the European Parliament had already been an active player in the developments leading up to the opening of the trade talks, monitoring and influencing the process from the outset. Whilst this can be read against the background of the Treaty of Lisbon and the ensuing power struggle between Parliament, Commission and Council in regard to EU international treaty-making, it is also possible to discern intra-parliamentary differences regarding the patterns of control, depending on the political group one is looking at.

In the following, this case study will provide a quick overview of the formal and informal practice of controlling EU trade talks, as well as of the nonpartisan, unitary actions of the European Parliament in regard to the EU-Japan free trade negotiations. Sub-chapter 7.5.3. conducts the first empirical test, a three-step comparative congruence analysis, which a) reformulates the abstract theoretical model into concrete expectations referring to the case, b) presents an in-depth look at the control activities of the political groups in the EP, in order to eventually determine the intensity of control for every group and c) tests the level of congruence between the theoretical expectations and

empirical observations. Based on this, a preliminary conclusion is drawn, before the case study proceeds with in-depth process tracing analyses of the assumed causal mechanism at play. Lastly, the findings are presented.

7.5.1. Control Rights and Practice of EU Trade Negotiations

For years, European trade policy has largely been driven by the Commission and the Council. Parliament's role in defining the EU's trade policy has been very limited but was recently upgraded by the Treaty of Lisbon. Nowadays, when the EU negotiates trade agreements with third countries, the treaty-making procedure of Article 218 TFEU applies, subject to specific aspects outlined in Article 207 TFEU. For the European Parliament, this means that its formal control rights are limited to those listed above: information rights, consultation rights and the right of giving consent. It is the right of giving consent to trade agreements that substantially altered Parliament's involvement in treaty-making: with that provision, the Lisbon Treaty entrusted policy-making in the field of trade to Parliament, aligning its co-legislative powers with those of the Council and enhancing its say on international trade agreements. Against that background, the EP has managed to strategically go beyond this narrowly defined role by demanding to be fully involved throughout the negotiation process. Indeed, there is broad consensus that the European Parliament can have "a decisive say on the direction and implementation of European trade policy" (Podgorny 2015: 73) and that it "is indeed able to exert a larger influence over the full policy-cycle of trade negotiations" (Wouters/Raube 2017: 8). Before the control practices in the various stages of EU trade negotiations are scrutinized, the following two subchapters will briefly elaborate on two important issues which are elementary for the Parliament's strong position: Parliament's access to confidential information and negotiation documents, and the European Parliament Committee on International Trade (INTA) monitoring groups.

7.5.1.1. Access to Documents and Information

According to Article 207 (3) and Article 218 (10), the Commission is legally bound to report to the Council's Trade Policy Committee (TPC) and to the EP on the progress of negotiations, including immediately and fully informing the EP at all stages of the procedure. This provision is further concretized by the 2010 Inter-institutional Framework Agreement, as explained above. The Commission can provide information on trade negotiation to the parliament along two channels: via direct Commission-Parliament/INTA interaction, and by giving the Parliament access to negotiation document.

The channels for direct Commission-Parliament relations consist of the monthly INTA Committee meetings, monitoring groups meetings, and technical briefings. Additionally, there are informal contacts between administrators from DG Trade and the INTA secretariat, and bilateral contacts between DG Trade specialized units and political groups and MEPs' offices. The bulk of information exchange on trade negotiations does not take place in the public INTA meetings, due to the full agenda and strict meeting schedule of the monthly INTA Committee meetings. Rather, Commission-Parliament interaction is more informal and mainly takes place in the monitoring groups and so-called technical briefings. This will be discussed further below, but first this sub-chapter will focus on the Parliament's access to negotiation documents.

The scope of the EP's access to negotiation documents has increased considerably over the last couple of years, growing with intense confrontation between Parliament, Commission and Council. The negotiations of ACTA and TTIP can be considered the decisive junctures for expanding Parliament's right to access confidential documents.⁹² As a general rule, the Commission is required to send any negotiating document that it passes on to the Council and to the Member State governments to the Parliament, including draft amendments to adopted negotiating directives, draft negotiating texts, agreed articles as well as relevant documents received from third parties, subject to the originator's consent (Pt. 5 Annex 3 Framework Agreement). Documents provided by the Commission to Parliament belong to one of the following three categories: "limité", "restreint UE" and "consolidated negotiation texts". The EP has its own internal procedures and rules in place to protect the confidential information contained in classified documents.

Documents classified as "limité" can be directly accessed by the MEPs who work on the specific issue, i.e., by all MEPS who are members of INTA. More than 90 % of the negotiating texts are marked as limité. INTA members are not allowed to share those documents or sensitive information contained in them outside the INTA committee (EP06). Documents classified as "restreint" are available to an exclusive group of MEPs, the "core group" of trade policy experts in the Parliament: the chair and the vice-chairs of INTA, the INTA coordinators of the political groups and the standing rapporteur for the respective treaty negotiations; however, not the shadow rapporteurs (EP07). Equally, the consolidated negotiation texts are directly available only to the core group. Other MEPs and committee staff can access documents to which they do not have direct access in secured reading rooms, which is subject to

⁹² For a good overview of how TTIP and CETA, which can be a "sort of transparency plus exercise" (EP07), fostered the EP's access to negotiation documents, see Coremans (2017).

strict confidentiality requirements. INTA members do not need the reading room to access “limité” documents, and only INTA MEPs who are not part of the core group access “restreint” documents and the consolidated negotiation texts there. “So the reading room is mainly for all other Members of the Parliament who are not part of INTA” (EP07).

7.5.1.2. Intra-Parliamentary Control Structures

The formalization of parliamentary control rights has forced the Parliament to develop administrative mechanisms and structures to support the execution of its formal role of controlling trade negotiations. The significance of the INTA committee has grown considerably over the last years, but the committee in itself is not the main structure for monitoring ongoing negotiations. The so-called monitoring groups are more important. Monitoring groups are specialized administrative sub-bodies of the INTA committee, created to serve as the main mechanism for monitoring ongoing EU trade negotiations and to allow the EP a more structured and specialized approach to the large number of ongoing and upcoming trade negotiations (EP10). They are established according to geographical sorting. Monitoring groups are neither foreseen by the Treaty of Lisbon nor do they exist in other EP committees. A monitoring group is headed by a standing rapporteur, an INTA member selected from the different political groups based on the d'Hondt method; the remaining political groups provide shadow rapporteurs (EP07).

The monitoring groups provide a twofold added value to the European Parliament's control of EU trade negotiations. First, they “have become the foundation for the development of expertise in INTA. [...] Maintaining a detailed and expertise-based follow-up of the ongoing order of business in EU trade policy would be impossible without this kind of specialized administrative subdivision” (Coremans/Meissner 2018: 569f.). Second, they are the main venue for in-camera interaction between the Commission and the European Parliament in regard to trade issues. It is this in-camera nature of the meetings in the monitoring group which allows for the exchange of confidential information on the state of play in external negotiations, enabling the EP to collect information that otherwise would not have been accessible to the MEPs. During the in-camera meetings of the monitoring groups, the DG Trade informs the members of the latest developments in the negotiations, “after every single negotiating round we meet with the negotiators of the Commission, we scrutinize their work, they report to us, “what was discussed, what was agreed, what was the progress” (EP06). The meetings are of a quite technical nature and emphasise detailed explanations of the negotiated aspects. They also allow for discussions between MEPs and Commission representatives and for

passing on political messages to the Union negotiator. Lastly, information exchange between the specialized monitoring group and the full INTA committee is organized via the item “Feedback from Monitoring Groups” in each INTA meeting.

Moreover, the EP organizes technical briefings on specific topics that require more in-depth discussions, on which the Commission gives fact- and expertise-based background information. They are open to the same MEPs as the relevant monitoring group is, but attendance is usually lower due to the technical nature of the topics (Coremans 2017: 35).

7.5.1.3. What does Parliamentary Control of Trade Negotiations Look Like in Practice?

As mentioned above, the Lisbon Treaty does not provide for a formal role of the European Parliament in the ex ante phase of international trade negotiations. However, the EP demands that “the Commission and the Council [...] take seriously into account Parliament’s views when deciding about the mandates” (2011 Resolution on a New Trade Policy for Europe under the 2020 Strategy). Moreover, according to the Framework Agreement between the Commission and Parliament, the EP has the possibility to express its views also on the (draft) negotiation mandate. Concerning international FTAs, the Parliament usually expresses its views by adopting a parliamentary resolution before negotiations begin. These resolutions present a general political orientation and increasingly include substantive elements, communicating the red lines of the Parliament. As own-initiative resolutions, they are non-binding for Council and Commission. However, the Commission is obligated to take Parliament’s views into account to the extent possible (Pt. 24 Framework Agreement). Beyond that, the Commission has an active interest in paying attention to the red lines of the Parliament: perceiving them as conditions for eventual parliamentary consent to the finalized agreement, doing so reduces the possibility of Parliament rejecting the agreement (EPo6). Parliamentary resolutions on trade negotiations thus serve as quasi-negotiation mandates for the Commission as Union negotiator.

In the ad locum phase of negotiations, neither Article 207 (3) nor Article 218 (3) TFEU foresee real, proactive parliamentary supervision of the negotiator’s conduct during the negotiation phase (Eeckhout 2011 p. 199).⁹³ Rather, in line with the above-outlined information rights, the Commission’s sole legal

⁹³ This also means that the European Parliament is not on equal footing with the Council’s Trade Policy Committee during negotiations. The latter may assist the Commission during negotiations, whilst the European Parliament only needs to be informed, Article 207 (3) TFEU.

obligation is to “report regularly [...] to the European Parliament on the progress of negotiations” (Art. 207 (3) TFEU). However, assuming that the Commission seeks to have the agreements ratified by the EP, the Commission has an interest in taking Parliament’s views and priorities into account already during negotiations to reduce the risk of parliamentary rejection *ex post*. “Consent doesn’t just mean ‘at the end of the day we give the text to the Parliament and then they wave it through’. No, consent means that you better have the people fully informed and involved, because otherwise you are going to have a political problem in the end. This Parliament can be very assertive, particularly if it feels like its voice is not being heard” (EP06). Indeed, the Parliament uses various means to have its voice heard, including general control mechanisms and trade agreement specific ones, e.g., parliamentary resolutions, hearings and questions to the Commission, all of which set the boundaries for final consent. Moreover, the parliamentary toolkit to influence trade negotiations includes regular exchanges of views with the Commission in INTA committee and monitoring group meetings, workshops, parliamentary missions and exchanges of views with experts, civil society and businesses.

Lastly, after the Treaty of Lisbon, the EP has to give its consent to all trade agreements before the Council can adopt its decision to conclude the agreement. However, consent by itself merely means the right to say yes or no to a finalized free trade agreement, and not the power to substantially and unilaterally alter its content. Therefore, in order to substantially influence the outcome of negotiations, it is necessary for the Parliament to take a proactive stance throughout the negotiations. The EP demonstrated its willingness to veto international trade agreements in July 2012, when it rejected ACTA. This served as a reality check for the other EU institutions, demonstrating that the new formal powers have also enhanced the EP’s confidence to veto trade agreements that go against parliamentary preferences and where negotiations were not sufficiently transparent. This increased their eagerness to accommodate the EP’s information requests and take its preferences into account (EP07). At the end of the day, “consent is the be all and end all. If we didn’t ... that is the nuclear option that we have. And that is the basis of our, let’s say, we couldn’t take such an assertive position if we were just advisory or consulted. [...]. So, I mean that is everything we do throughout the whole negotiation process is based on” (EP06).

Summing up, the EP’s *ex post* ratification rights and its demonstrated willingness to use those rights in the area of trade negotiations have arguably increased the EP’s power in international trade negotiations. Making strategic use of the veto right, the EP has enhanced its “soft power” over the conditions for opening negotiations *ex ante*, and over the objectives that are to be

achieved throughout the negotiations *ad locum*. Ex post, however, the Parliament can either give its consent or not, but it cannot substantially alter the already agreed upon text of a free trade agreement.

7.5.2. The European Parliament and EU-Japan FTA Negotiations: Non-partisan Control Action

The FTA negotiations with Japan were the first case after the Lisbon Treaty went into force where the European Parliament went beyond its limits in its treaty-based powers. Opened as one of the first new generation trade agreements after Lisbon,⁹⁴ it has been “living in the implementation phase of the Lisbon Treaty. [...] Parliament is flexing its muscles” (EP07). The attentive approach of the Parliament to negotiations with Japan can be traced from the outset of the negotiations up until today. The following section provides a brief overview of the Parliament’s non-partisan actions.

7.5.2.1. *Ex Ante*

The EU-Japan FTA negotiations were one of the first post-Lisbon trade talks to be launched, meaning that the European Parliament was for the first time involved at the earliest stages of the discussions about trade agreements. Already during the pre-negotiation scoping exercise, the EP was engaged by following the exercise closely (EP07).

In May 2011, the EP adopted a resolution on EU-Japan trade relations, in which it underlined that whilst it was strongly in favour of a free trade agreement between the EU and Japan, it set out the removal of non-tariff barriers and obstacles to market access in public procurement by the Japanese as preconditions for opening the negotiations. The Parliament also took the chance to emphasize that it will be asked to give its consent to the potential EU-Japan FTA and demanded that the Commission be fully transparent in all negotiations (P7_TA(2011)0225). In October 2011, a delegation of nine INTA MEPs visited Japan discussed the preconditions for a free trade agreement with high-ranking Japanese representatives. Importantly, the delegation stressed the newly enhanced role of the European Parliament in EU trade policy not only towards the Commission, but also towards the Japanese Government. Claiming that they were “not entirely convinced of [the Japanese] resolve and willingness to get to grips with the difficult decisions that need to be made precisely with regard to amending these discriminatory rules” (Fjellner 2012, CRE 11/06/2012 – 18), in combination with the emphasis on the Parliament’s

⁹⁴ The negotiations for the Japan Free Trade Agreement were authorized before the TTIP and the CETA negotiations.

new powers, the EP can be argued to have been actively influencing the negotiations already at their outset. Importantly, this mission demonstrates that the Parliament went beyond merely influencing Council and Commission and proactively addressed the negotiation partner in order to push its own agenda.

Once the scoping exercise was finalized in May 2012, the European Parliament continued its proactive approach towards the EU-Japan trade agreement. In June 2012, even before the Commission officially asked the Council for a negotiation mandate, the EP asked in a resolution “the Council not to authorise the opening of trade negotiations until Parliament has stated its position on the proposed negotiating mandate on the basis of a report by the committee responsible” (P7_TA(2012)0246, § 1). With this resolution, the EP did not mean to hold the negotiations but wanted to remind the Council and the Commission that they had to take the Parliament’s views into consideration from the moment of deciding on the negotiation mandate. In doing so, the European Parliament clearly went beyond its treaty-based powers in the *ex ante* phase. Importantly, the Council had no legal obligation to follow the Parliament’s demand but for some reason did. Equally importantly, whenever the Parliament has since expressed that it wants to say something about an upcoming mandate for trade negotiations, the Council has awaited the EP’s resolution, respecting the idea that the Parliament can express its views already before the adoption of the mandate (EP07).

Following this resolution, the trade agreement with Japan was the first time that the EP issued its “quasi-negotiation directive”, its resolution on the opening of negotiations before the Council authorized the Commission’s negotiation mandate. Whilst it proved to be an organizational challenge to the EP (Heritier et al. 2015: 97), the MEPs managed to reach a resolution in October 2012 on the negotiation directives.⁹⁵ In this INTA-initiated resolution, the EP called on the Council to authorize the Commission to open negotiations for the FTA but presented a series of recommendations for the Commission’s negotiation mandate. Moreover, the resolution stressed the continued negative effects of Japanese non-tariff barriers on market access opportunities for European businesses and urged the Council to include a one-year review clause in the negotiation mandate, enabling the suspension of the talks if Japan had not shown sufficient willingness to meet the EU’s priority demands. Lastly, it concluded with a reminder of the EP’s veto power. Supported by this power, the EP managed to influence the substance of the negotiation mandate, in which the Council eventually also included the demanded review clause. In doing so, the Parliament went, once again, beyond the provisions in the Lisbon

⁹⁵ As mentioned, the Commission asked for a mandate on 20 July 2012; the Council approved it on 29 November 2016.

Treaty, using the instrument of a parliamentary resolution as a means to influence the content of the Council's negotiation directive (EP10).

Throughout the *ex ante* phase of the EU-Japan FTA negotiations, the INTA committee followed the developments closely in public INTA meetings and hearings. The Japanese ambassador visited INTA twice for an exchange of view with the Committee. Moreover, the EU-Japan FTA was several times on the agenda as an alone-standing agenda item and was recurrently brought up in exchanges of views between the INTA committee, the Trade Commissioner (ST 9247 2011 INIT; ST 17642 2011 INIT), and the preceding Council Presidency, which presented their goals and achievements in international trade policy (ST 18979 2011 INIT; ST 11815 2012 INIT; ST 12632 2012 INIT). The monitoring group was an important locus of engaging with the topic as well. It was in constant contact with the Commission concerning the scoping exercise (ST 9463 2012 INIT); it held a meeting with EU business organizations to discuss the agreement with Japan (ST 14013 2012 INIT) and generally followed the progress thoroughly. INTA held a workshop "Towards a Free Trade Agreement with Japan?" in September 2012, aimed at providing a holistic overview of the potentials and pitfalls of the upcoming negotiations. Parliamentarians, member state representatives, stakeholders and experts participated, presenting opposing views on the issue and insights into both the European and the Japanese perspective (EP07). Finally, the EP received several briefings and studies on the topic from the Library of the European Parliament and more in-depth from the Directorate-general for External Policies.

7.5.2.2. Ad Locum

Since the Council authorized the Commission to open negotiations on a free trade agreement with Japan in November 2012, the EP has not issued a single resolution specifically on EU-Japan trade relations.⁹⁶ From a nonpartisan perspective, the Parliament engaged with the ongoing negotiations mainly in INTA meetings and monitoring group meetings.

In the INTA Committee, the Commission, and sometimes Council representatives, updated the MEPs on the progress of the trade talk on a regular basis and exchanged views with the present members. Moreover, the committee exchanged views several times with the Japanese Ambassador, who was invited to its meetings (ST 13409 2013 INIT; ST 7707 2015 INIT), and the chief negotiator was present for those events. These exchanges usually consisted of a presentation by the invited guest, followed by a question and debate round where MEPs could follow up on the negotiation progress and voice concerns

⁹⁶ This does not mean that the EP has not referred to it in other, topic-related resolutions.

and issues. Generally, the public discussions with Commission and Council representatives in INTA meetings are debates on a more political level: “they are more politicised, and not so much on the nitty gritty things, ‘what about this formulations in this annex? Why didn’t you use this formulation that you tabled in the other negotiations’ ... So it is more political” (EP06). The EP also engaged with stakeholders, for instance, Business Europe and the European Trade Union Confederation, to discuss the EU trade policy, including the EU Japan trade agreement (ST 6544 2014 INIT).

The more technical aspects of the trade negotiations with Japan were handled by the Japan Monitoring Group. The Group was debriefed confidentially after each negotiation round by the negotiators and could scrutinize their work, ask follow-up questions and express their opinion about the direction the negotiators should take the EU-Japan trade talks. Beyond meetings with the Commission negotiation team, the monitoring group also met with the Japanese Ambassador (ST 15566 2014 INIT) and exchanged views with stakeholders and Japan’s mission to the EU (ST 8120 2014 INIT). As one INTA clerk argued: “[the monitoring groups] have a very strong leverage, because you engage all the stake holders in the monitoring groups. Japan was a case in point here” (EP07). The monitoring group has the ability to keep particular issues high on the agenda of the Commission negotiators. For example, the detailed position taken by the Commission negotiators on public procurement and their approach to negotiating the TSD chapter were strongly influenced by the EP in the confidential monitoring group meetings (EP07; EP06). Generally, its members are confident that the Union negotiator takes close looks at the input the Commission receives from the monitoring group and at times will use this input in the negotiations.

Overall, the monitoring group has been the main locus of parliamentary action on the EU-Japan negotiations during their *ad locum* phase. Whilst resolutions are the major parliamentary instrument at the outset of trade negotiations, with which the European Parliament can formulate its positions, once the negotiations have started, the work is largely handled by the monitoring groups, where the EP monitors the developments of the trade take and uses the opportunity to influence the Union negotiator. However, MEPs are aware that this is only one side of the coin of trade negotiations, as the overall outcome of the trade talks also hinges on the Japanese negotiation partner (EP06). In the case of the EU-Japan FTA, the EP has used two inter-connected strategies to deal with that added complexity, depending on whether the Commission’s and the EP’s negotiating position concur or diverge. In the former case, the Commission and the EP have worked together proactively, seeing that parliamentary involvement provides a certain legitimacy to the Commis-

sion as negotiator and underlines the importance and strength of the concurring position on a particular issue vis-à-vis the Japanese. Importantly, the Commission has asked, in certain instances, the Parliament to emphasize its commitment to a negotiation position, for example concerning the EU-Japan FTA investment protection system (EP01).

Irrespective of whether the EP's and the Commission's points of view concur, the Parliament has used every chance, in the *ad locum* phase of the negotiations, to interact with the Japanese negotiation team directly in order to broaden the scope of its control and to push its own agenda not only vis-à-vis the Commission, but also the external third party (EP06). Both INTA and the Japan monitoring group have met with the Japanese ambassador to gather more information on the negotiations and to stress their position and their veto power in the ratification phase. In November 2015, the INTA committee sent a second mission to Tokyo that met with all key-interlocutors of the EU-Japan trade negotiations. The mission was planned without major internal controversies, as the committee coordinators considered that substantial progress in the negotiations would merit a visit to Japan (EP07). Besides receiving valuable information on the progress of the negotiations (CR-PE571.675v01-00), the delegation delivered a coherent message in support of the talks⁹⁷ and expressed some more critical concerns, which was noted by the Japanese side. This needs to be seen against the background of both the parliamentary power of consent and, more specifically, the events in the EP surrounding the ratification of CETA. Here, the Parliament had demanded serious concessions on investment protection in return for its consent. "The Japanese have paid a lot of attention to what happened to the Canadians over the last couple of years, they followed that very, very closely; and I think they would very much like their experience to be a little more smooth. So they know [that the Parliament can reject the agreement]" (EP06).

Whether the Parliament's and the Commission's policy positions concur and diverge, the European Parliament not only directs its attention to the Commission to substantially affect the course of the trade negotiations. It also considers direct interaction with the external third party essential to make its own objectives known, fully aware that if it wants to have an actual impact on the negotiation outcome, it needs to extend the scope of its control activities to the negotiating partner. Proactively using its "shadow of the veto power" also towards the external party clearly shows that the Parliament has learned to play the three-level game of international trade negotiations, using all available access points to pursue its own interests. Moreover, the Commission has

⁹⁷ The delegation consisted of MEPs from PPE, S&D, ALDE and ECR, which generally known to favour FTAs.

started to strategically use the parliamentary veto power vis-à-vis the negotiation partner to push a common position as a condition for parliamentary ratification, which increases the Commission's bargaining leverage on that issue. Whilst the former strategy is available irrespective of preference homogeneity between Commission and Parliament, in the latter case, the Parliament as a whole (or at least the parliamentary majority) has to concur with the Commission's policy position in order to deliver a serious non-ratification thread.

Nonetheless, one can observe, in the *ad locum* phase of the EU-Japan FTA negotiations, less concerted action than in the *ex ante* phase. In the latter, the EP's control activities can be argued to have been driven largely by institutional interest, whereas in the actual negotiation stage, substantive considerations were predominant. Parliamentary control has been more partisan as demonstrated in the following. Especially, the EP missed several opportunities to further strengthen its involvement in the negotiation process, for example by not following up on the progress assessment based on the one-year review clause in 2014. Indeed, there has been no sign that the EP was attentive to this assessment, which seems odd considering that the Parliament requested the clause. Moreover, the EP missed to take up more institutional issues, e.g. the fact that after the Agreement in Principle was announced in summer 2017, the EP's access to negotiation documents was reduced. Despite its strong fight for the transparency of trade negotiations more generally, the EP as a unitary actor did not voice concerns about this course of action. Lastly, the Parliament as a whole managed to take up some substantive issues in a non-partisan manner, such as whaling, death penalty in Japan and the inclusion of a strong TSD chapter. However, only in the latter case was the EP forceful and succeeded in influencing the treaty text.

7.5.2.3. *Ex Post*

The consolidated text of the EU-Japan FTA was finalised in December 2017, and in April 2018, the Commission proposed to the Council the signature and conclusion of the FTA, which the Council adopted in July 2018. At the same time, it requested the consent of the European Parliament. It is currently in the preparatory phase in the EP and envisaged to be ratified prior to the EP elections in May 2019.⁹⁸ Whilst little is known about how the EP has controlled the agreement *ex post*, it has stressed that it “remains vigilant and it will scrutinize the negotiations until the very end [...]”. The Parliament will now

⁹⁸ [http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2018/0091\(NLE\)&l=en](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2018/0091(NLE)&l=en).

analyse the outcome of the negotiations and, when the time comes, it will take a close look at the final text before giving its consent”⁹⁹.

7.5.3. Partisan Control Action: A Comparative Congruence Analysis

It needs to be recalled that the overarching research question of this dissertation is not “how and why does the European Parliament control EU international-treaty-making”, but asks for the control activities of political groups as the unit of analysis. As such, after having provided some insights into the Parliament’s control rights and practices as well as its unitary control action regarding the FTA, it is now necessary to delve into the actions and motivations of the EP political groups. This dissertation uses a twofold approach for that (see section 5.5): a comparative congruence analysis followed by several process-tracing studies.

The former serves to assess the ability of a theoretical framework to predict the outcome of particular cases. Therefore, the analyst first ascertains the value of the independent variable in the case at hand and then asks what prediction or expectation about the outcome of the dependent variable, the intensity of parliamentary control, should follow from the theory for every political group under investigation. This is followed by an empirical investigation of the outcomes of interests, presenting the “how” of parliamentary control for each group in the EP. This is a more thorough, broad presentation of the political groups’ control activities, which will conclude by determining the intensity of parliamentary control in order to enable the comparison with the predicted values thereof. Finally, this chapter will compare the predicted outcomes and actual values of dependent variable in order to test the (non-)congruence between the deduced predictions and the actual data. “If the outcome of the theory is consistent with the theory’s predictions, the analyst can entertain the possibility that a causal relationship must exist” (George/Bennett 2005: 181).

7.5.3.1. Step 1: Predicting the Outcome

The first step in the congruence method is to deductively generate predictions about the intensity of parliamentary control that the various groups will display in regard to the EU-Japan FTA negotiations. This is done by analysing the proposed causal factors and establishing their value from the perspective of each political group. This analysis does not examine the micro-process of an individual case but focuses on the observable implications at the meso-

⁹⁹ <http://www.europarl.europa.eu/news/da/press-room/20170705IPR79035/inta-chair-and-ep-standing-rapporteur-welcome-eu-japan-agreement>.

level. The following sub-chapter will establish the values of the causal factors that are group * agreement-specific for each political group. Note that the agreement-specific and parliament-specific causal factors have already been discussed (sections 6.4. and 7.3). However, their value shall be recalled in the following to provide a holistic overview of the factors expected to influence a group's intensity of control. Moreover, it is important to repeat that their values are relative in the sense that they are established in comparison to the value of other agreements/other parliamentary groups. For example, a high value literally denotes "higher than ...".

7.5.3.1.1. The Public Saliency of the EU-Japan FTA Negotiations

The public saliency of the EU-Japan FTA negotiations on the EU level has been identified as high (see section 6.4.1).

7.5.3.1.2. The Institutional Status of the Political Groups

As argued above, "governing parties" are the political groups that provide the Commission President according to the Spitzenkandidat system and the respective Commissioner in the policy subject area under consideration. The President of the European Commission is Jean-Claude Juncker of the Luxembourgish Christian Social People's Party. As this party is a member of the European People's Party, the EPP is characterized as majority party. The negotiations of the Free Trade Agreement with Japan are conducted by the DG Trade. Until 2014, Karel De Gucht of the Belgian Open Flemish Liberals and Democrats was Trade Commissioner, and was succeeded by Cecilia Malmström of the Swedish Liberalerna. Both parties are members of the Alliance of Liberals and Democrats for Europe Party, meaning that ALDE is also characterized as a majority party. All other political groups are considered opposition parties.

7.5.3.1.3. The Policy Position of the Political Groups

On trade policy, intra-parliamentary cleavages in the European Parliament do not run along national division lines but along party-political and ideological lines. Importantly, the political groups in the European Parliament generally exhibit stronger intra-party cohesion on international trade issues than on all other issues (Shaohua 2015: 19). Research on the 7th and the 8th parliamentary term has demonstrated that votes on free trade agreements are largely divided into two groups depending on the lines of the political groups: the conflict lines on international trade issues run along a left-right division (Van den Putte et al. 2015: 10) and political groups on the centre and right side of the ideological spectrum (EPP, ECR, ALDE) typically favour free trade negotiations, whereas the S&D is more divided on trade issues, yet still supportive.

The groups on the left side of the political spectrum, the Greens and the GUE-NGL, typically oppose the EU's trade agenda in its current set-up. Similar division lines can be seen in regard to the EU-Japan FTA. Recall that groups' policy position on the EU-Japan FTA can be categorised as specific support, complementary criticism or specific opposition.

The EPP has clearly supported the negotiations between the EU and Japan from their outset on (Bonsignore 2011, CRE 09/05/2011 – 21) but voiced initial concern about reciprocity, Japan's willingness to open up their market sufficiently and the potential negative impact of the FTA on key EU industries, such as the automobile sector (Basescu; Belet; Grossetet 2012, CRE 23/10/2012 – 18). However, this initial concern wavered quickly, and the EPP became a strong supporter of the trade talks (EP01), arguing that the agreement "brings new jobs, more growth and greater wealth to both sides without touching our high standards in Europe".¹⁰⁰ All in all, the policy position of the EPP can be characterized as specific support.

The S&D has been largely supportive of the negotiations between the EU and Japan on the FTA, claiming that the agreement is an important step forward in the EU's progressive trade agenda focused on sustainable growth that benefits citizens and workers.¹⁰¹ However, the group has throughout the negotiations emphasised its scepticism concerning, e.g., the envisaged investment protection mechanism, data flow and the transparency of the negotiations, and has advocated for a strong TSD chapter, which includes a review clause on the enforcement of labour and environmental provisions.¹⁰² Overall, the S&D has thus been in complementary criticism to the EU-Japan FTA.

Of the political groups in the EP, the conservative ECR group is the most supportive of free trade, which they demonstrated once again during the EU-Japan FTA negotiations. Supporting the negotiations from the outset, they argued that an FTA with one of the largest economies in the world could spur economic growth and create new jobs (Kamall 2012, CRE 23/10/2012 – 18). Moreover, the group emphasized that in addition to its economic impact, the agreement is an opportunity for the EU to demonstrate that it is a capable and credible trading partner, open to the world, and able to ratify ambitious, encompassing trade agreements. Like the EPP, the ECR is in specific support of the negotiations.

¹⁰⁰ <http://www.eppgroup.eu/press-release/EU-Japan-trade-deal:-we-chose-free-trade-over-protectionism>.

¹⁰¹ <https://www.socialistsanddemocrats.eu/newsroom/eu-japan-economic-partnership-agreement-important-step-forward>.

¹⁰² <https://www.socialistsanddemocrats.eu/newsroom/sds-welcome-eu-japan-agreement-concluded-today-and-will-now-scrutinise-it>.

The liberal ALDE group emphasized the economic importance of the envisaged EU-Japan free trade agreement already when negotiations started. “For us in the ALDE Group, there is no doubt that the way out of the crisis is growth and trade, free trade, and now is therefore the time that the EU must get started with the negotiations with Japan on a trade agreement” (Løkkegaard 2012, CRE 11/06/2012 – 18). As the negotiations went on, ALDE welcomed the acceleration of the trade talks and pushed for a timely conclusion and entry into force of the trade deal, arguing that “the agreement with Japan is a landmark in EU trade policy and a valuable contribution to the EU citizens and our economy”¹⁰³. Summing up, ALDE’s policy position is specific support.

GUE/NGL has been highly critical of the EU-Japan FTA negotiations from the outset. In principle, they were not opposed to trade talks, arguing to be “in favour of a clear, frank and open-ended discussion of the differences between the EU and Japan around the negotiating table” (Scholz 2012, CRE 23/10/2012 – 18). However, the group made it quite clear from the outset that it would only be satisfied with a result that provided social benefits in addition to economic benefits, did not reduce the level of consumer protection or environmental targets, would safeguard the interests of EU citizens, and would not include an investment protection chamber (ibid.). The group has remained critical of the FTA¹⁰⁴ and is in specific opposition to the agreement.

The Greens-EFA have generally been very sceptical of trade policy, including the JFETA negotiations, in the last parliamentary terms. The group is not opposed to free trade per se but disapproves of the new generation of trade agreements that go beyond reducing border tariffs. As the FTA between the EU and Japan falls into the latter category, the Greens have been critical throughout the negotiation process (EP05), criticizing for instance the lack of binding social and ecological rules, the negotiated regulatory cooperation framework and its investment protection scheme¹⁰⁵. Like GUE/NGL, the Greens are in specific opposition to the EU-Japan Free Trade Agreement.

7.5.3.1.4. The Likelihood of Substantive Impact

It was argued above that the larger the size of a political group in the European Parliament, the higher its chances of having substantive policy influence. Only

¹⁰³ <https://alde.eu/en/news/954-eu-agreement-with-japan-rules-based-free-trade-to-counter-protectionism-and-isolationism/>.

¹⁰⁴ <http://www.guengl.eu/policy/action/jefta>.

¹⁰⁵ <https://www.greens-efa.eu/en/article/press/accord-de-libre-echange-ue-japon/>.

the PPE and S&D have been argued to have a high likelihood of substantive policy influence due to a credible veto threat.

7.5.3.1.5. *The Overall Resources of the Political Groups*

The EP has significantly updated the INTA committees' resources after the Lisbon Treaty went into effect (Bendini 2015: 19). However, political groups do not only rely on the EP's trade expertise but use their own resources when controlling treaty negotiations. In fact, the political groups' staff possess more substantial expertise than the INTA Secretariat (Van den Putte et al. 2015: 4). Resources in the area of trade policy have been operationalized as the number of INTA MEPs of a political group relative to the total number of seats in the committee. Additionally, the number of trade policy advisors in each political group relative to the highest number of advisors of all other groups will serve as an indicator of the trade expertise of a group. Table 13 displays the values for the overall resources of the different groups (for more details, see appendix 4).

Table 13: Political Groups' Trade Policy Resources

<div> <div>INTA MEPs</div> <div>Trade policy advisors</div> </div>	High	Low
	High EPP, S&D	Medium ECR, Greens-EFA, GUE-NGL
Low		Low ALDE, EFDD, ENF

7.5.3.1.6. *Efficiency Costs: Complexity and Compellingness*

At this point it is not necessary to reiterate how exactly the complexity of the issue under negotiation in the EU-Japan FTA and the compellingness of the negotiation setting was measured, but it is important to recall that both causal factors have been shown to be high (see sections 6.4.2. and 6.4.3).

However, the underlying argument that the higher the complexity of negotiations and the higher their compellingness, the higher the costs of parliamentary control is moderated by a political group's policy position. Only groups in specific support consider control to be costly due to the high complexity and compellingness of the negotiations and the Union negotiator's need for discretion. Groups in complementary criticism are argued to perceive control as medium costly, whereas groups in specific opposition do not per-

ceive this to be a cost at all. Table 14 gives an overview of the cost of parliamentary control in the situation of the highly complex and compelling trade negotiations between the EU and Japan.

Table 14: Efficiency Costs stemming from Complexity and Compellingness

Political Group/ Policy Position	Causal Factor	Complexity	Compellingness
		High	High
EPP/Specific Support		High Costs	High Cost
S&D/Complementary Criticism		Medium Costs	Medium Costs
ECR/Specific Support		High Costs	High Costs
ALDE/Specific Support		High Costs	High Costs
GUE/NGL/Specific Opposition		Low Costs	Low Costs
Greens-EFA/Specific Opposition		Low Costs	Low Costs

7.5.3.1.7. *Predicting the Intensity of Control*

The sub-chapters above have scored the values of the independent variables, which are argued to affect the intensity of parliamentary control, for every single political group in the European Parliament in the case of the negotiations for a free trade agreement between the EU and Japan. It is now possible on the basis of these values to deductively predict the intensity of parliamentary control each group is expected to display. This is achieved in a comparative approach by focusing on the combination of costs and benefits within one case and comparing them across cases. This implies that when predicting intensity of control, it is important to be aware that “high” intensity” refers to “higher than the other groups controlling these negotiations” and vice versa; meaning the predictions cannot serve as reference point for the control intensity of other negotiations. Rather, it is merely investigated for this particular parliament * agreement case which group(s) is (are) assumed to gain the highest benefits and the lowest costs from control, and vice versa.

First, it is expected that the higher the salience of the agreement under negotiation, the higher the policy-seeking benefits of parliamentary control. As the EU-Japan agreement has been characterized as very salient, the salience benefits for control are the same for each political group: high. Second, it was argued that the policy-seeking benefits are higher for opposition parties than for governing parties. As only EPP and S&D have been identified as governing parties, the institutional status benefits are low for those two political groups and high for all others. The analyses of the policy position demonstrate that EPP, ALDE and ECR are in specific support of the agreement, S&D in

complementary criticism, and GUE/NGL and the Greens-EFA specifically oppose the FTA. As it has been argued that the more opposed a political group is to the agreement, the higher the benefits of parliamentary control, it is only the latter two that can expect high policy position benefits. S&D is assumed to benefit from control to a medium extent, whereas the EPP, ECR and ALDE are not expected to benefit in this regard. Finally, the theoretical framework postulated that the higher the likelihood of impact, the higher the overall policy-seeking benefits of parliamentary control. Only EPP and S&D have a credible veto-threat and therefore good chances of policy impact and can benefit significantly from parliamentary control. The other groups are expected to have low likelihood of impact benefits.

Concerning the costs, the theoretical framework holds that the lower the overall resources of a political group, the higher the costs of parliamentary control. EPP and S&D have large resources to control trade negotiations and therefore low resource costs of control. In contrast, ECR, GUE/NGL and the Greens-EFA invest a medium amount of resources, whilst the resources are lowest and the costs highest for ALDE. Both the complexity and the compellingness of the EU-Japan FTA negotiations are high, and it was postulated that the higher those two factors, the higher the costs of control, but only for parties that are supportive of the negotiations. Both efficiency costs are high for the EPP, ECR, and ALDE, as they are in specific support of the agreement. For S&D, which is in complementary criticism to the FTA, these costs are assumed to be medium, whereas they are low for the opposing GUE/NGL and the Greens-EFA. Table 15 recaps.

On the basis of Table 15, it is now possible to predict the values of the intensity of parliamentary control that each political group is expected to exhibit. This is done in a comparative perspective by investigating which group(s) are assumed to have the highest benefits and the lowest costs of control, and vice versa. Please be aware that the prediction does not distinguish between level and function of control, the two constitutive dimensions of the intensity of parliamentary control, as this will be only be identified in the descriptive empirical analysis below.

ALDE can expect the lowest benefits and the highest costs of parliamentary control. ECR also faces more costs than benefits, though the cost/benefit ratio seems to be somewhat higher than the one of ALDE. Both political groups are assumed to display a low intensity of parliamentary control. EPP takes an intermediate position concerning the net benefits of control. On the one hand, the benefits of parliamentary control are assumed to be somewhat higher than for ECR and ALDE, but not as high as for some of the other groups. On the other hand, the costs are slightly lower than those of ECR and ALDE. Whilst these differences might be marginal, it is postulated here that EPP will

exhibit a medium intensity of parliamentary control. GUE/NGL and the Greens-EFA display exactly the same values across all independent variables: they are expected to gain high benefits from parliamentary control and to face low costs. It is assumed here that they will control the EU-Japan FTA negotiations with high intensity. Finally, the S&D is a somewhat special case, as they score medium values on some of the costs and benefit-inducing factors. This means they are expected to benefit highly, even higher than GUE/NGL and the Greens, from parliamentary control of the trade talks, and the costs are expected to be in the medium range. Therefore, this dissertation postulates that the S&D will display a high intensity of parliamentary control of the EU-Japan trade negotiations.

Table 15: Overview of Theory-based Predictions

Benefit/cost	Political Group					
	EPP	S&D	ECR	ALDE	GUE/NGL	Greens-EFA
Vote-seeking benefits	High	High	High	High	High	High
Policy-seeking benefits: institutional status	Low	High	High	Low	High	High
Policy-seeking benefits: policy position	Low	Medium	Low	Low	High	High
Policy-seeking benefits: likelihood of impact	High	High	Low	Low	Low	Low
Resource costs	Low	Low	Medium	High	Medium	Medium
Efficiency costs: complexity	High	Medium	High	High	Low	Low
Efficiency costs: compellingness	High	Medium	High	High	Low	Low
Intensity of control	Medium	High	Low	Low	High	High

7.5.3.2. Step 2: How Have the Political Groups Controlled the EU-Japan Free Trade Negotiations?

To be able to compare the predicted values of the intensity of parliamentary control with the actual values that can be observed in the behaviour of the EP's political groups scrutinizing the negotiations of the EU-Japan FTA, it is necessary to analyse the second research question of this dissertation, namely "how have parliamentary groups controlled the EU-Japan FTA negotiations?" The findings will be descriptively presented, to a certain extent structured by the four dimensions of parliamentary control developed in section 4.4.3: function, timing, formality and directness. The presentation will conclude by determining the intensity of parliamentary control each group has displayed by comparing the control actions of the different political groups.

7.5.3.2.1. EPP

The EPP generally has a positive view on parliamentary control, believing that the European Parliament as a whole should be involved throughout the negotiation process and not only act as a rubber stamp in the ex post phase. They demanded that the EP be involved in the EU-Japan FTA negotiations from the mandate was issued. The group saw the European Parliament as "often marginalized" and aimed at strengthening the EP's (informal) control rights in the aftermath of the Lisbon Treaty (Caspary 2011, CRE 09/05/2011 – 21). However, the EPP has taken a dichotomous approach to the EU-Japan negotiations: expressing support of the trade talks, voicing concern about Japan's willingness to open its market, and pushing the Commissions to make these issues conditions for the FTA. Two observations are connected with this categorization: first, the political group has mainly relied on formal control instruments and less on informal mechanisms. Second, there is a certain time dynamic inherent to the group's control activities: in the ex ante phase, they displayed a higher level of control aimed at influencing the negotiations. As the trade talks proceeded, the general intensity along both dimensions dropped considerably. Moreover, the group's control actions were aimed directly at the Commission as Union negotiator, and there was little involvement with extra-parliamentary actors or the negotiation party.

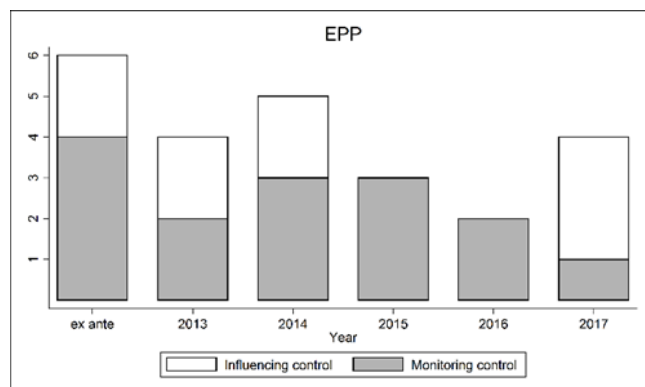
The EPP has used many formal means of parliamentary control to express its support of the negotiations, such as motions for parliamentary resolutions, plenary debates and parliamentary questions. Already before the official launch of negotiations, the group called for the opening of trade talks with Japan (B7-0689/2010, see also the group's 2011 and 2012 resolutions on the respective Commission Work Programme (B7-0381/2011; B7-0346-2012)). Importantly, the party co-authored a motion for a resolution on EU-Japan trade

relation with the ECR and ALDE in May 2011, which “underline[d] that [the EP] is strongly in favour of a free trade agreement between the EU and Japan” (B7-0287/2011, § 2). This motion was adopted by the plenary majority (see above). In contrast to the motions proposed by other political groups, the EPP/ECR/ALDE motion is much more supportive of the opening of trade negotiations. After negotiations opened, the EPP used many formal means of parliamentary control to express its positive view, e.g., the 2013 motion for a resolution on the Commission Work Programme for 2014 (B7-0315/2013, § 33).

Besides expressing general support for the negotiations, the EPP used motions to improve the Parliament’s involvement rights in trade negotiations (B7-0315/2013; B7-0297/2012). The latter motion led to the adoption of the June 2012 resolution, calling for the Council to put off issuing the negotiation mandate for the Commission. The S&D, GUE/NGL and the Greens-EFA co-authored the resolution, but EPP was the main initiator. In addition to strengthening the involvement rights of the EP in the ex ante phase of EU trade negotiations (Walesa 2012, CRE 11/06/2012 – 18), the resolution was a tactical means to ensure that EPP was able to intensively scrutinize and exert pressure at the outset of negotiations. The group considered this important because it was concerned about hastily opening the trade negotiations and stressed the need for a truly reciprocal market opening and to protect key European industries, issues, which the EPP was seriously concerned about at the outset of negotiations. The EPP’s major focus of concern was the European car industry (Walesa 2012; CRE 23/10/2012 – 18), and the group voiced its concerns in several plenary debates and in regard to the adoption of resolutions. Nonetheless, the group remained overall supportive of the negotiations.

The EPP has also actively relied on written and oral parliamentary questions in INTA and monitoring group meetings. With 24 questions, the group has asked the most written questions of all political groups in the EP (see Figure 6).

Figure 6: EPP Written Questions on JEFTA



In the ex ante phase of the negotiations, the EPP asked six questions, of which four had a monitoring function, and two an influencing function.¹⁰⁶ All four monitoring questions inquire into the status of negotiations, and the influencing questions are aimed at pushing the Commission on true reciprocity and protecting the European car industry. As negotiations proceeded, the EPP asked 18 further questions, of which 11 had a monitoring function, and seven an influencing function. Of the latter, all but one either aimed at pushing the negotiations in regard to the European car industry or at securing the information and involvement rights of the European Parliament. The largest part of the monitoring questions investigated the current status of the negotiations and some concerned the automobile sector.

The EPP also used INTA and monitoring group meetings to follow the trade talks throughout the negotiation period. Already in the ex ante stage of the negotiations, the EPP used those opportunities to ask for the status of the negotiations (ST 9247 2011 INIT) or to push the Commission to make the opening of negotiations conditional on sufficient reciprocity in key EU industry sectors (ST 11815 2012 INIT). As negotiations progressed, the EPP continued this approach, asking about the status of the EU-Japan FTA negotiations (e.g. ST 12234 2014 INIT), and raising more substantive issues such as regulatory cooperation, investment protection (ST 7707 2015 INIT) and public procurement (ST 14151 2014 INIT).

Summing up, the EPP pursued a two-fold approach in the EU-Japan trade negotiations. First, they made extensive use of formal means to voice their support for the negotiation. Second, at the outset of the negotiations, they used control instruments to stress their concerns about the potential pitfalls of a trade agreement with Japan for EU key sectors, and the potential danger of an asymmetrical opening of the respective markets. Moreover, they tried to push the Commission to protect these key sectors via safeguard and one-year review clauses, as well as to consider the reciprocal removal of barriers to trade as a condition for launching the negotiations at all. In a way, the EPP thus pushed for “more trade”, not less, nor for the inclusion of certain non-trade related, more normative considerations. As the negotiations went on, the group did not stop controlling the talks; however, they did not continue to exert the same kind of pressure on the Commission. The gist of the EPP’s control activities was not to influence the Commission but to simply collect information on the negotiation process and particular issues under negotiation.

¹⁰⁶ For coding see appendix 5.

7.5.3.2.2. *S&D*

The S&D generally has a very positive view on a strong European Parliament in EU trade negotiations and aims “to influence the negotiations themselves. And not just to say yes or no to the final text” (EP 01). They also stress that they consider the EP to be better equipped to control EU FTA negotiations than national parliaments (EP01) or the public (EP06). The S&D has been actively involved in the EU-Japan FTA negotiations, both in the *ex ante* and in the *ad locum* phase, using both formal and informal control instruments. Concerning the latter, it pursues a strategy to interact with the Commission as well as Japan as the negotiation partner in order to gather information and push the political group’s own agenda on issues where they have been concerned that the agreement might not meet their preferences. The group’s control activities had both a monitoring and an influencing function. Overall, the group claims to have “taken a critical-constructive approach to the negotiations. And we want to shape, we want to influence the content of the agreement to make sure that it is a good agreement. And to make sure that in the end, it also merits support for the parliamentary ratification” (EP06).

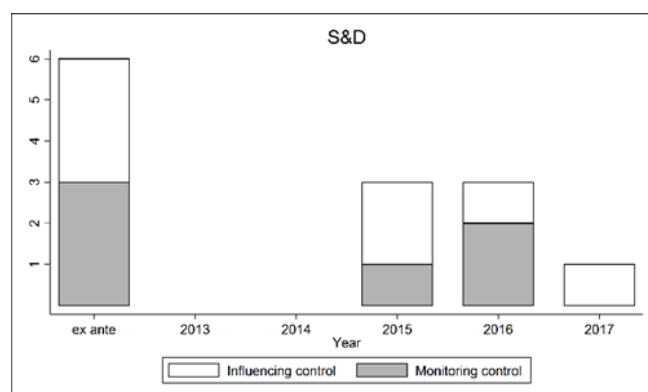
Before the negotiations were officially launched, the group authored its own motion for a parliamentary resolution in EU-Japan trade relations in May 2011 (B7-0288/2011), which suggested that the S&D was somewhat supportive of launching negotiations with Japan, but also included plenty of (pre-) conditions for the group’s support, both trade-related and non-trade issues, e.g., tackling climate change, promoting human rights, social and environmental standards, and corporate social responsibility, as well as genuine reciprocity as well as effective safeguards to protect vulnerable EU industries. Overall, the motion was more cautious of the FTA than the adopted parliamentary resolution authored by EPP/ALDE/ECR. However, once it became evident that the S&D motion would fail in the vote, quite some S&D MEPs voted in favour of the EPP/ECR/ALDE motion. In the *ex ante* stage, the S&D’s control continued to alternate between supporting the launch of negotiations and voicing hesitation, demanding further pre-concessions, caution to non-trade issues and involvement rights for the EP in motions for resolutions on broader topics (B7-0682/2011; B7-0325/2013). The latter can also be observed in the group’s involvement in the issuing of the EP’s “quasi-negotiation directive”. Generally, they support such a resolution, which ought to influence the Council in the adoption of the negotiation mandate for the Commission (EP01) and give the Union negotiator clear and stringent guidance on what will make the agreement acceptable to Parliament (Moreira 2012, CRE 23/10/2012 – 18). The S&D supported both the July 2012 resolution and the

quasi-negotiating mandate, yet continued to point out both trade- and non-trade related concerns.

In addition, the S&D has actively monitored the negotiations between the EU and Japan from their outset. They have collected information on the progress, the involved parties' positions and preferences and have thoroughly assessed the gathered insights, both formally and informally. First, there is a close interaction and information exchange between the Commission and the Standing Rapporteur, whom S&D has provided since 2014. Second, the group uses the formal meetings in the Japan monitoring group to collect further insights. Indeed, they consider the monitoring group the main locus of control in the *ad locum* phase of the negotiations (EP01). In regard to its monitoring activities, the party is overall satisfied with the quantity and quality of the negotiation documents but they find it demanding to process all received documents, as they do not (only) want to approach the negotiations from a purely ideological perspective, but base their control activities on the actual content of the text. "But overall, yes, our MEPs spend quite some time following the negotiations. We follow the negotiations from the very beginning. We start with the mandate, then we have the monitoring groups. So we follow the negotiations very closely" (EP01).

The S&D has moreover used written questions to gather further insights and to influence negotiations. Overall, the group has asked 13 questions, six of which have an influencing function, and seven a monitoring function (see Figure 7).

Figure 7: S&D Written Questions on JEFTA



In the *ex ante* stage, all three influencing questions were aimed at improving the involvement rights of the European Parliament in the EU-Japan trade negotiations, and the monitoring questions aimed at investigating the status of the negotiations and the consequences for the European car sector. As negotiations went on, the S&D used, on average, fewer formal questions to monitor and influence the talks than in the initial stage. The content of the questions

was less coherent, with influencing question ranging from insisting on more transparency and better parliamentary involvement rights to demanding that the Commission negotiate to make it easier and cheaper for EU car producers to export to Japan. The monitoring questions covered issues such as the status of negotiations, reciprocity and investment protection.

Based on the collected information and the assessment thereof, S&D continued in the *ad locum* phase to actively try to influence negotiations. “Right now, we are more in the process of trying to influence, to shape and to improve it as much as possible” (EP06). Throughout the negotiation process, several issues have emerged which the S&D, whilst continuing to be overall supportive of the negotiations, has eyed with scepticism, such as the agreement’s chapter on TSD and investment protection (EP06). In regard to TSD, the group criticized the fact that Japan has not yet ratified two core ILO conventions and pushed for strong environmental provisions. Concerning investment protection, S&D supported the inclusion of the ICS in the EU-Japan FTA, replacing the old ISDS. In the *ad locum* phase, the S&D has attempted to influence negotiations on these two issues both by formal and informal means.

It is especially in the more formal INTA and monitoring group meetings, but also in informal interactions with the Commission, that the group brings up these two issues vis-à-vis the Union negotiator. They consider the Commission to be the first contact in order to substantively influence the course of the trade talks on those issues (EP06). They link their demands strategically to the Parliament’s veto power, including more or less subtle hints of non-ratification. “At every opportunity we made that clear to the Commission negotiators, who have absolutely understood that this is a no go. If they are going to give in on that, they can as well forget the agreement, because there is no way the Parliament will ever ratify this” (EP06).

Whilst the political group is in close contact with NGOs, trade unions and business organizations concerning the trade negotiations, the interaction is somewhat focused on S&D collecting information on the views and suggestions from these credible organizations as stakeholders, and not aimed at creating public pressure on the negotiations (EP06). Rather, if the Union negotiator is the first contact of S&D in order to influence the negotiations, Japan can be considered the second. Beyond using interaction with the Japanese side to gather information and insights into their priorities, the group uses them to convey their political message and to combine it with emphasizing the EP’s ratification rights. In other words, they do not only attempt to influence negotiations via the Commission but also via the external third party. If their issues of concerns are not taken into consideration, “there is no way we are ratifying the agreement. And on numerous occasions we have also made that clear to our Japanese friends. And they have understood. I mean, it is their right to

have their own position. But they have been well-informed of the consequences if that were included in the final deal” (EPo6). The S&D is in a privileged position in terms of interaction with Japan since they provide the INTA Standing Rapporteur for the agreement. In addition to being part of the official parliamentary missions to Japan in 2011 and 2015, the S&D cooperates closely with Japan. They had a group mission to Japan in September 2017, sending the Rapporteur with staff support. Meeting with several key ministries, having a working session with the Japanese chief negotiator and conferring with trade unions and environmental NGOs, the political group was able to deliver its own political message rather than that of the entire European Parliament (EPo6).

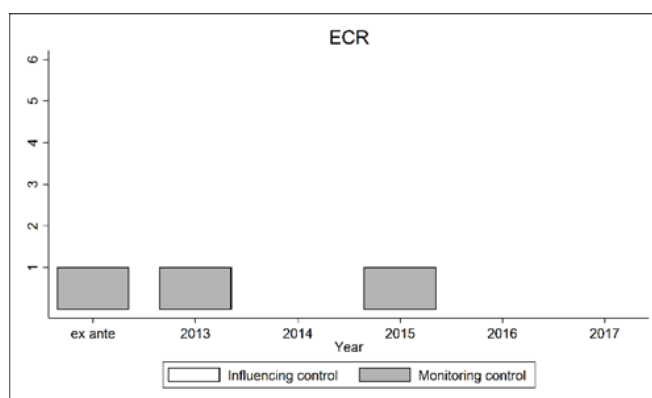
7.5.3.2.3. *ECR*

The ECR is generally rather critical of parliamentary control of trade negotiations, fearing that it creates bad will between the EU and the negotiation partner and undermines the standing of the EP, which presents itself as an unreliable and untrustworthy partner in an institutional legislative process (Kamall 2012, CRE 11/06/2012 – 18). They see the role of the European Parliament in international treaty negotiations to be mainly restricted to the ex post ratification phase of the agreement and do not perceive ex ante and ad locum control as necessary. ECR’s rather sceptical view on parliamentary control of trade negotiations can in practice be observed in regard to the EU-Japan FTA negotiations, where the group has generally displayed a low level of parliamentary control, largely refraining from formal and informal control instruments. On average, they mainly relied on formal instruments but used them mainly to support the Commission in their negotiations or inquire into their content and progress. Their control was generally directed at the Commission as Union negotiator.

The political group co-authored the May 2011 resolution on EU-Japan free trade relations with the EPP and ALDE. As discussed above, this resolution was much more supportive of the opening of the trade negotiations than those of some other groups. In June 2012, the group voted united against the parliamentary resolution to ask the Council to put off issuing the Commission’s negotiation mandate until the EP had adopted its opinion. Finally, the Group supported the October 2012 parliamentary resolution which serves as the EP’s “negotiation mandate”. Whilst very much in favour of opening the negotiations, they supported the inclusion of the one-year review clause. However, the ECR’s rationale was not a fear of the Japanese unwillingness and inability to open its market sufficiently, but, more pragmatically, to convince sceptics and soothe their concerns. “If it helps – and I think it does help soothe some of those industry concerns – I support the binding review clause [...]” (Kamall

2012, CRE 23/10/2012 – 18). Indeed, the ECR has not shared the concerns of the other pro-free trade political groups in the European Parliament regarding reciprocity and the protection of key industry sectors, refusing to support any protectionist measures and claiming that the overall benefits of the trade agreement would massively outweigh any unfortunate short-term pain for less competitive industries. They went as far as scolding European governments for pushing for protectionist measures, especially in regard to the automotive sector: “It would be a shame if one or two governments were to halt such an important growth measure in order to protect their own car industries”¹⁰⁷. With this approach, they mainly used the plenary debates surrounding the adoption of the three parliamentary resolutions to publicly voice their support for the immediate opening of free trade talks with Japan and chide the other political groups, especially the EPP, for what they perceived to be opposition to free trade (Harbour 2012, CRE 11/06/2012 – 18). The ECR made only little use of written questions, as seen in Figure 8.

Figure 8: ECR Written Questions on JEFTA



All three questions posed by the ECR had a monitoring function. One question was asked ex ante and requested the Commission to elaborate on the findings of this scoping exercise (E-005811/2012). Ad locum, the Group asked one question in 2013 and 2015 each. The 2013 question inquired about the scope and the expected benefits of the negotiations. The group also used the opportunity to express its support for the launch by stating that the party “welcomed the news that Japan and the EU have agreed to open talks on a trade deal” (E-004471/2013). The 2015 written question focused on the Commission’s approach to the negotiations in regard to non-tariff barriers and called for the finalization of the free trade talks with Japan (E-013044/2015). Finally, the ECR participated in the INTA and monitoring group, exchanged points of views with the Chief Union Negotiator, the Japanese Ambassador and the

¹⁰⁷ <http://ecrgroup.eu/welcome-for-eu-japan-trade-negotiations/>.

Commissioner, but they were not as active in posing questions and engaging in discussions as the other political groups.

7.5.3.2.4. ALDE

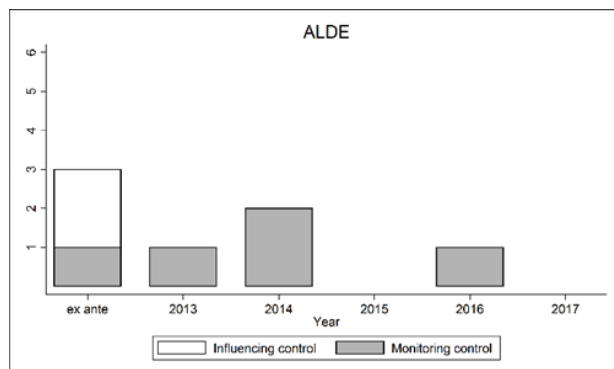
ALDE has an overall positive view on a strong European Parliament in EU trade negotiations, arguing that due to its right to ratify the agreement, Parliament should be involved throughout the negotiations (Kazak 2011, CRE 09/05/2011 – 21). However, ALDE has proven quite reluctant to exert strong scrutiny on the trade talks. Their control activities were limited and mainly focused on collecting information and insights via formal and informal means of parliamentary control. ALDE's control activities were directed at the Union negotiator and the Commission directly, and the group interacted with the Japanese negotiation side to some extent but in a non-institutionalized manner. ALDE made use of formal control mechanisms to publicly voice support for the negotiations and monitor the progress, and informal control to gather in-depth information on the status of the negotiations. The Standing Rapporteur on Japan was, until mid-2014, provided by ALDE, and the Chairman of the EP's Delegation for Relations with Japan is an ALDE MEP. However, the group does not use these informal interactions to exert pressure on the Commission (EP05). Moreover, the group voiced some concerns about true reciprocity at the outset of the trade talks, and they used their chances to direct the negotiation towards further liberalization rather than halting them. There is a certain time dynamic to the intensity of parliamentary control by ALDE, as intensity along the quantitative and the qualitative dimension decreased as the negotiations progressed.

ALDE voiced its support for the opening of trade negotiations with Japan early on. In an almost pushy manner, it included a paragraph in its 2011 motions for a resolution on the Commission's Work Programme for 2012 that called on the Commission to launch trade negotiations with important partners such as Japan (B7-0683/2011, see also B7-0347/2012, § 113 and B8-0435/2017, § 69). ALDE also participated actively in the ex ante phase of the EU-Japan negotiations by co-authoring with the EPP and ECR the May 2011 resolution. However, in June 2012, ALDE MEPs either opposed or abstained from the vote on the parliamentary resolution on EU trade negotiations with Japan, with which the European Parliament asked the Council to put off authorizing the negotiations for the EP's resolution. Whilst they emphasized that they did not generally oppose the idea of the European Parliament being ex ante involved in the trade negotiations by having a say before the mandate is given to the Commission, they viewed the parliamentary demand as too far reaching. Moreover, they used the ensuing plenary debate to publicly state their "support [of] the opportunity for potentially opening the negotiations on

a free trade agreement with Japan” (Kazak 2012, CRE 11/06/2012 – 18). Nonetheless, the group, providing the rapporteur on the October 2012 resolution, tabled and supported the afore-mentioned one-year review clause¹⁰⁸.

As far as the formal control instrument of written questions, ALDE has asked seven questions (see Figure 9).

Figure 9: ALDE Written Questions on JEFTA



Only two of the written questions have an influencing function and both were asked ex ante. One addressed concerns in the European industry, and the automobile sector (E-005983/2012). The other concerned the broader issue of general reciprocity, pushing the Commission to demand progress by Japan with respect to removing non-tariff barriers to trade (E-011223/2011). The remaining five questions had a monitoring function, concerning, e.g., the status of the negotiations, projections and impact assessments, investment protection, and an option to include human rights clauses and a reference to death penalty in the agreement text. Importantly, ALDE also used the formal instruments of questions as a means to express in writing its support for the negotiations (P-006198/2012).

ALDE participated actively in INTA committee and monitoring group meetings, the latter usually headed by Metin Kazak until mid-2014. ALDE used these opportunities to underline its support of the negotiations in interaction with other political groups in the European Parliament, the Commission and the Japanese side (ST 9247 2011 INIT). In those meetings, the group followed up on the progress of negotiations and questioned the Commission and its representatives about issues of concern (ST 14151 2014 INIT). Lastly, ALDE has interacted rather strongly with Japan. ALDE MEPs were part of the 2011 and the 2015 delegations to Japan. In 2014, Petr Jezek was elected chair of the EP’s Delegation for Relations with Japan. This body is not associated with INTA but is a forum to exchange views with Japan on a broad number of

¹⁰⁸ <http://www.metinkazak.eu/bg/archive-from-media/18-2012-10-23-002747>.

issues. As chair, Jezek has been putting intensive focus on EU-Japan trade relations, bearing in mind the function of the delegation. “While he is indeed following the trade discussions regarding the EU-Japan FTA, but as Chair of the Delegation for Relations with Japan he does not at this point have a direct role in the discussions” (email by C. Mackin, 09 October 2016). The Delegation for Relations with Japan offers a forum for interaction with Japanese parliamentarians and other high-level politicians, e.g. in the annual inter-parliamentary meetings and the regular meetings with officials and think tanks. In recent years, these meetings have focused on exchanging views and insights on the EU-Japan Free Trade Agreement.¹⁰⁹ Jezek has, as the EP delegation’s chairman, an elevated position and is allowed to participate in meetings of the Japan monitoring group.¹¹⁰ Moreover, the delegation can directly exchange views with the EU’s chief negotiator of the Free Trade Agreement.¹¹¹ Jezek thus stands at the intersection between directly interacting with the Japanese side and the involved EU institutions. He does not have a formal role in the negotiations, but he is in a privileged position to follow them and can informally pass information on to the relevant ALDE MEPs.

7.5.3.2.5. GUE-NGL

GUE/NGL generally has a very positive stance on parliamentary control of EU international trade treaty-making, as comprehensive trade negotiations raise many politically sensitive issues and reduce the scope of political action. They find that the EP should be involved throughout the negotiation process and not be confined to ex post ratification, but they also emphasize that it is important to protect the division of power between the institutions as foreseen by the Treaties (EP10). GUE/NGL has been an active political group throughout the EU-Japan trade negotiations. They have relied on informal as well as formal means of control such as motions, parliamentary resolutions, written questions and INTA and monitoring group meetings. They consider informal means especially important and prefer to interact with actors outside the executive-legislative relationship rather than the Commission and the Union negotiator. Overall, GUE’s control activities have been aimed at monitoring and influencing the negotiations, recently mainly influencing.

¹⁰⁹ <http://www.petrjezek.eu/novinka/cz/503/meziparlamentni-jednani-mezi-eu-a-japonskem-uvitala-ramcovou-dohodu-o-volnem-obchodu/#novinky>.

¹¹⁰ <http://www.petrjezek.eu/novinka/cz/486/setkani-monitorovaci-skupiny-pro-japonsko-k-vyjednavani-dohody-o-volnem-obchode/#novinky>.

¹¹¹ <http://www.petrjezek.eu/novinka/cz/562/clenove-delegace-ep-pro-vztahy-s-japonskem-hovori-s-hlavnim-vyjednavacem-dohody-o-volnem-obchode/#novinky>.

GUU/NGL became actively involved in the negotiations early on by means of motions and parliamentary resolutions. They tabled their own motion and contributed to drafting of resolutions that the EP adopted and by issuing amendments to those resolutions. The main aim of these exercises of formal control was to influence the Commission to take into account the group's issues of concern (EP04). In May 2011, GUE/NGL issued their own motion for a resolution on EU-Japan trade relations. This motion is the most sceptical of the four submitted motions, stressing that there is no "reason to hastily accelerate the decision to start negotiations Free Trade Agreement (FTA) between the Union and Japan" (B7-0290/2011, § 1) and voicing non-trade related issues such as environmental protection, human rights and social standards (ibid.: § 8, 9). The June 2012 resolution, with which the EP asked the Council to await opening the negotiations, was co-authored by GUE/NGL. Since then, this approach has been a firm principle of the group. They see the parliamentary "quasi-negotiating mandate" to have a twofold effect: to influence the Council, as to that the Governments are compelled to take the EP's position into account when issuing the negotiation mandate and to express the Parliament's principled view on the negotiations and to communicate its own red lines in light of the fact that the EP will have the right to conclude or reject the finalized agreement (EP10). However, approaching the parliamentary mandate for the EU-Japan FTA less from the actual commercial relationships between the EU and Japan, but from the group's political profile, GUE/NGL almost unanimously opposed the resolution. They primarily criticized the strong involvement of industries in drawing up the resolution and emphasized the potential danger of the FTA to the environment and consumer protection (Scholz 2012, CRE 23/10/2012 – 18).

Briefly concluding on the group's use of parliamentary resolutions, GUE/NGL has throughout the negotiation process tried several times to call for a parliamentary resolution. However, they claim that "this was rejected and this house has remained silent for five years. The result is a bad text of the agreement"¹¹². In June 2018, the group included a reference to the ongoing negotiations between the EU and Japan in its motion for a resolution on the Commission Work Programme for 2018 and urged the Commission to withdraw from the trade negotiation with Japan (B8-0455/2017, § 51).

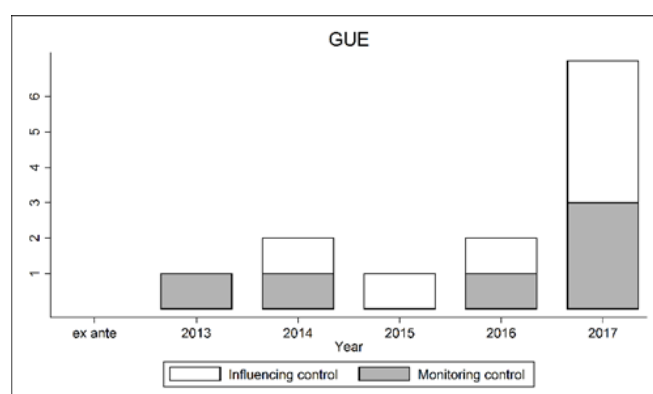
Once the negotiations were opened, GUE/NGL followed the negotiations in detail and participated in the INTA committee and Monitoring Group meetings. They used these opportunities to receive updates on the progress of the negotiations and to inquire into substantial issues of particular concern for the

¹¹² <http://www.guengl.eu/news/article/commission-concludes-trade-agreement-with-japan-but-the-deal-is-not-done-ye>.

political group and on the Commission's position in these regards (EP10), and to influence the negotiations. Building on a thorough monitoring process of gathered information, they compare what they have learned with their own policy position and with the Commission's initially indicated negotiation approach. This enables them to hold the Commission accountable during the negotiation process by inquiring into the Commission's rationale in cases of deviating outcomes (EP10). Moreover, they use the monitoring group and INTA meeting to exert pressure on the negotiation parties on more substantive issues (e.g. ST 7707 2015 INIT). "Overall, what we do is we ask questions, and point out things that we think are strange or very objectionable. Obviously, in committee meetings I try to be as clear as explicit as I can" (EP04).

Beyond monitoring and influencing the negotiations in meetings with the Commission, the group emphasizes the use of parliamentary written questions. GUE/NGL posted 13 questions about the negotiations between 2013 and 2017. It is the second-most active political group, together with the S&D, in asking written questions concerning the EU-Japan FTA (see Figure 10).

Figure 10: GUE/NGL Written Questions on JEFTA



The number of monitoring and influencing functions almost balance each other out. Seven questions have an influencing aim, and six are directed at mere information gathering. In terms of content, it is difficult to discern the group's major areas of inquiry. The questions range from investigating the status of negotiations to pressuring the Commission to include provisions on labour rights in the free trade agreement; from inquiring about public procurement to scolding the Commission for its failure to publish certain negotiation documents. Generally, GUE/NGL claims to see questions as a means to gather insight into negotiations, to hold the Commission accountable and exert influence on the Union negotiator. Importantly, they perceive the instruments of questions as significant due to their public nature: "It is a formal instrument, and above all it is lasting. And it is publicly available. So asking questions, we

actually create public control and publicity. In that sense, it is an important tool” (EP10).

To exert influence on the negotiations effectively, the group thoroughly assesses the negotiation documents they can access. Internally, GUE/NGL has developed a working regime for trade negotiations where the relevant MEPs, parliamentary assistants and the group’s political advisors screen and analyse the negotiation documents. This enables them to have broader discussions with more input from a variety of experts. However, whilst the Group lauds the Commission for changing its policy to become more transparent, GUE/NGL voices general discomfort with the confidential nature of the in-camera monitoring group meetings and the reading room, as they cannot pass on the gathered information and have a public debate about it (EP04). This ties into the group’s perception that formal instruments of parliamentary control are rather limited. Instead, they prefer to accompany the negotiations in an informal manner, in order to collect information and exert pressure (EP04).

This does not necessarily refer to informally interacting with the Commission, but may also refer to strategically interacting with actors outside the European Parliament, and more broadly, the institutional framework of EU international treaty-making. Overall, GUE/NGL has stressed the important function that NGOs and civil society have for the group during treaty negotiations, arguing that without them, they would not be able to do the work they do (EP10). The group appreciates external input for its monitoring activities, arguing that MEPs generally are not experts in trade (EP04). They seek input from lawyers, labour unions, consumer organizations and environmental organizations that also assist the group in assessing publicly available/leaked texts. Moreover, the group published its own in-depth report on the FTA negotiations in October 2017, *Making Sense of JEFTA*. Various experts on trade policy have analysed the available chapters of the draft Japan-EU Free Trade Agreement.¹¹³

Moreover, GUE/NGL pursues an active strategy to create awareness of and public debate on the negotiations by interacting with citizens, NGOs and other civil society organizations (EP04). In October 2017, the group hosted a workshop on the negotiation on the EP premises, to which they invited experts on trade issues both the EU and Japan. The workshop was open to the general public, and the group saw this as an opportunity to have a much needed public debate. On their website, GUE has, as the only political group in the Parliament, dedicated a page to the negotiations where the group explains its policy

¹¹³ <http://www.guengl.eu/policy/publication/making-sense-of-jefta>.

position, elaborates on concerns and calls for public action.¹¹⁴ The idea behind fostering public awareness is to create a strong critical momentum in regard to the EU-Japan negotiations, with which GUE/NGL can exert external pressure on the Commission (EP04).

7.5.3.2.6. *Greens-EFA*

The Greens-EFTA have a strong belief in an active and engaged European Parliament throughout the negotiations of EU trade agreements and argue that “the trade agreement between the European Union and Japan is also a first, following the agreement with the United States, where the EU is negotiating with a large bloc outside the WTO framework. In this new type of agreement, the European Parliament obviously has a say”.¹¹⁵ The Greens have been less active in controlling these negotiations than, e.g., TTIP and CETA, but have nonetheless used both formal and informal means of control. The group emphasizes that their actions are currently directed towards information gathering and processing, i.e., monitoring control. “At the moment, we have so little information on trade negotiations, especially on JEFTA. [...]. It is important to have information first. And then, on the basis of this information, we try to exert concrete influence” (EP05). However, that does not mean that the group has not attempted to exert influence on the course of the negotiations and on the Union negotiator. Rather, they merely perceive information gathering to be a first step to exert substantial influence. They have done so using formal, but mainly informal means, interacting with extra-parliamentary actors to create public awareness, issuing motions for a resolution, and voicing discontent in INTA and monitoring group meetings. The group’s control was also directly aimed at the Commission as Union negotiator. Moreover, there has been a certain time dynamics in the group’s control, with the Green MEPs emphasizing the importance of influencing control building on a sound monitoring process.

At the outset of the negotiations, the group proposed a first motion for a parliamentary resolution on EU-Japan trade relations in May 2011. The motion was less supportive of the opening of negotiations than the adopted parliamentary resolution authored by EPP/ALDE/ECR, emphasizing non-trade issues such as sustainable development, human rights, environmental standards and corporate social responsibility (B7-0288/2011, § 6). They continued their early involvement in the free trade negotiations between the EU and Japan by co-authoring the parliamentary resolution asking the Council to put off

¹¹⁴ <http://www.guengl.eu/policy/action/jefta>.

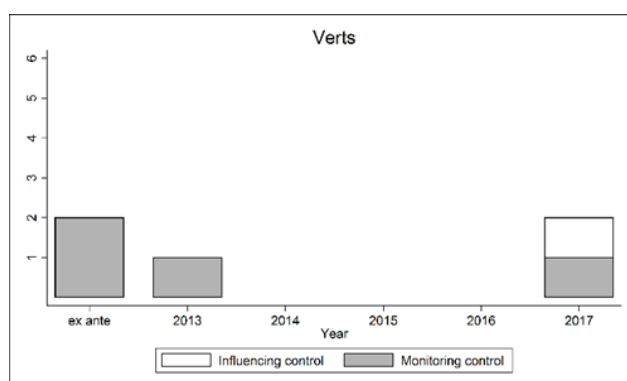
¹¹⁵ <http://yannickjadot.fr/accords-ue-japon-le-conseil-devrait-ecouter-le-parlement/>.

issuing the FTA negotiation mandate so that the EP could give its input (P7_TA(2012)0246). Since then, it has been the political group's approach to request that the EP be able to speak on a negotiating mandate of the Commission before the Council officially issued it. When the Parliament adopted its "quasi-mandate" resolution in October 2012, Green MEPs generally voted against the resolution, criticising the resolution for its focus on mercantilist, trade-oriented aspects. However, the Greens were not able to push their concerns through against the parliamentary majority that voted in favour of the resolution. Moreover, their proposed amendments to the resolution to include sustainability and environmental issues were not adopted by the EP (EP05).

Green MEPs have participated actively in formal INTA and monitoring group meetings. Dissatisfied with the course of the trade talks and the level and depth of the received information, they used the meetings to investigate the status of the negotiations and substantive issues of concern, and to voice their discontent and try to push the Commission towards their preferred policy position (e.g. ST 9247 2011 INIT; ST 14151 2014 INIT; ST 7707 2015 INIT). They doubt the helpfulness of the meetings in the INTA committee and the monitoring group due to disappointment with the lack of insight and impact (EP05). Moreover, they doubt the usefulness of accessing highly confidential negotiation documents. Here, the Greens suffer from a structural problem in regard to the EU-Japan FTA negotiations. The INTA shadow rapporteur for Japan is a substitute INTA member, i.e., he is not part of the "trade MEP core group" and has to use the reading room with its strict entry requirements to examine restricted negotiation documents. "However, going through a trade agreement in this way is simply not feasible. And I have to say, I myself don't even attempt it" (EP05). Second, the political group feels that if it did make extensive use of the reading room, it would not be able to talk about the gathered insights with outside actors, which is a major strategy of the Greens on the FTA negotiations (see below). Fearing a gag order, the group therefore prefers to collect information from other, more informal outside channels. They only make little use of the formal control mechanisms of asking questions to the Commission or the Council and has only asked five written questions during the negotiations (see Figure 11).

Four of the five questions have a monitoring function, asking about the progress of negotiations and the expected impact on agriculture and the environment. Only one question attempted to influence the Commission by demanding greater transparency for the European Parliament in the negotiations.

Figure 11: Greens-EFA Written Questions on JEFTA



This shows that beyond the use of parliamentary motions in the *ex ante* phase, the Greens have not made strong use of the formal control rights at their disposal to monitor or influence the Commission and the course of negotiations. Rather, the group has relied heavily on informal scrutiny mechanisms to control the negotiations. This does not mean that they are in close informal contact with the Commission and the Union negotiator. The group argues that “for that, we need to establish a better relationship with the Commission again; and that is not that easy” (EP05). The Greens-EFA prefer to receive information mainly from expert and involved actors outside of the Parliament-executive axis, and they use these informal interactions to create pressure outside the parliament to influence the negotiation process.

The Green party much appreciated the Greenpeace leaks in June 2017. The leaked documents provided in-depth insights without being subject to the strict conditions and constraints of the reading room, and the group was able to analyse them in detail and share the information with outside actors. They used the leaks as an opportunity to criticize the transparency policy of the Commission.¹¹⁶ Moreover, the group emphasized the interaction with outside actors, especially civil society organizations and NGOs, in terms of monitoring and exerting influence on the negotiation process via an active civil society. Indeed, the Greens views trade-critical civil society groups as essential for their work on accompanying trade negotiations. As they are able to operate independently, interacting with them enables the political group to collect independent information from other actors than the Commission and to stimulate public interest through these groups and by that to create public leverage outside of the Parliament. In practical terms, the Greens try to raise the public interest in the EU-Japan FTA negotiations by putting it on the agenda of trade-critical civil society groups, by being in regular contact with them, updating them proactively on recent developments of the negotiation process,

¹¹⁶ <https://ttip2016.eu/blog/JEFTA%20EU%20Japan.html>.

and by co-hosting events on the FTA. The underlying rationale is that by passing on information on the content and negotiations and by pointing out the potential (negative) impact of the envisaged trade agreement, they activate a critical public to become engaged in opposition to the trade agreement (EP05). The Group admits that the level of its interaction with civil society has been comparatively low in regard to the EU-Japan agreement compared to the civil society engagement on the TTIP and CETA negotiations. However, the group is planning to intensify its influencing control in the coming time based on a strategic calculation: “If we want to spark a fire at all, that must be close to the conclusion” (EP05). One can observe initial steps in that direction, e.g., considerations to host a large conference on the EU-Japan FTA negotiations in 2018.

7.5.3.2.7. *Summary: Partisan Control in a Comparative Perspective*

After the presentation of partisan control activities concerning the EU-Japan free trade negotiations along the four dimensions of parliamentary control (timing, function, formality, directness), this subchapter will attempt to establish the value of the dependent variable, the intensity of control, for each political group. The intensity of parliamentary control is conceptualized based on the level (the quantity) and the function (the quality) of control (see Table 16). “Low monitoring” is considered to be low intensity, “high influencing” high intensity, and “low influencing” and “high monitoring” are seen as an intermediate intensity of parliamentary control. But first, a brief summary of the groups’ control activities along the remaining dimensions.

Table 16: The Intensity of Parliamentary Control

Level \ Function	Function	Monitoring	Influencing
Low		Low monitoring	Low influencing
High		High monitoring	High influencing

First, the timing of control seems to have played a role for some political groups. A distinction can be made between a) how they (normatively) perceive parliamentary control of EU trade negotiations more generally, and b) how they were actually involved in the EU-Japan FTA negotiations. Almost all parliamentary groups stress the importance of the EP being involved throughout a negotiation process, starting with the mandating in the ex ante stage, and not being confined to an ex post rubber stamp. Only the ECR is sceptical of this approach and considers ex post involvement to be sufficient. In practical terms, not all groups have been evenly involved throughout the negotiation

process: EPP and ALDE were more active at the outset of the negotiations, whereas GUE/NGL and the Greens-EFA have become increasingly involved. For the S&D and the ECR, a timing evolution cannot be observed. Second, most groups have used both formal and informal control mechanisms. The EPP and ECR have used more formal than informal instruments. Moreover, a distinction needs to be made between informal control via the Commission itself (S&D, ALDE), via the Japanese negotiation side (also S&D and ALDE) and via civil society (GUE/NGL, Greens-EFA). Third, this implies variation in the directness of control: Most groups ultimately directed their control activities – directly or indirectly – towards the Union negotiator. S&D, and to some extent also ALDE, also accessed the negotiations via the third party, Japan.

Regarding the function of control, of the six political groups investigated above, GUE/NGL and S&D can be regarded as the groups that attempted most to influence the negotiations, using very different means. GUE/NGL has activated European civil society and other actors outside of the Parliament-executive relationship in the EU to create public pressure. The S&D focused its actions on the Union negotiator and the Japanese and relied largely on strategic uses of the Parliament's ex post veto threat. Moreover, they had different aims. The S&D is more free-trade friendly but insists that specific issues are included or not included in the finalized treaty (TSD, ISDS). GUE/NGL is very opposed, "bordering hostile" (EPO6), and pushes for several normative non-trade issues and increasingly for the EU's withdrawal from the negotiations. Overall, the political groups have tried to influence the negotiation process in accordance with their preferences. The Greens-EFA have to a certain extent also tried to influence the negotiations using quite similar means as the GUE/NGL by putting emphasizing interaction with civil society actors. However, they have also emphasized their simultaneous engagement in monitoring and influencing the trade talks.

The EPP is somewhat difficult to place on the function dimension. At the outset, their control activities had a somewhat influencing aim, pushing the Commission to protect key EU industry sectors and assure reciprocity between the EU and Japan. However, these action were mainly concentrated in the ex ante phase. Since 2013, the political group has primarily monitored negotiations through extensive formal control instruments and voiced its support on various occasions. The monitoring aim seems to outweigh influencing control. Finally, neither ECR nor ALDE have attempted very strongly to influence the negotiations but mainly focused on monitoring their progress. Whilst ALDE did express some concerns about reciprocity and protection of key EU industries, its control activities aimed to push negotiations further towards liberalization, not at halting them. Moreover, the group has made strong use

of formal instruments of parliamentary control to publicly voice its strong support for the opening of negotiations and for monitoring the progress. Similarly, the ECR mainly relied on formal rather than informal control activities and used them mainly to support the Commission in the negotiations or inquire about content and progress.

Summing up, GUE/NGL and S&D have made an effort to influence the EU-Japan FTA negotiations, and the Greens-EFA eventually pursued this aim as well. The EPP started out as by wielding influence but has mainly monitored the progress of the negotiations. Similarly, the ECR and ALDE clearly demonstrated the monitoring aim in their control activities. It is now necessary to determine the level of parliamentary control, the “how much” of the influencing activities for groups with influencing goals and of the monitoring activities for groups with predominantly monitoring goals. Of the groups that mainly want to influence negotiations, the S&D and GUE/NGL have been the most active. This does not necessarily apply to using formal control instruments, but both groups have relied heavily on various informal channels of creating and exerting pressure. Whereas the Greens and GUE/NGL have relied on rather similar strategies of influencing control, the Greens have done so to a lesser extent, and explained that they put much effort in to monitoring. Concerning the “monitoring groups”, the EPP has clearly been more active than the ECR and ALDE, especially in the use of formal control activities. Overall, these values lead to the following placement of the political groups along the two dimensions of the intensity of parliamentary control (see Table 17 below).

Table 17: The Intensity of Parliamentary Control of the EU-Japan FTA Negotiations in the EP

Function Level	Monitoring	Influencing
Low	Low monitoring ALDE, ECR	Low influencing Greens-EFA
High	High monitoring EPP	High influencing S&D, GUE/NGL

7.5.3.3. Step 3: Comparing Prediction and Outcome

Based on the two previous steps, it is now possible to compare the theory-based predictions about the intensity of parliamentary control of every political group with the observed values. Table 18 presents the predicted values of the intensity of parliamentary control and the observed outcomes in order to enable the congruence testing.

Table 18: Comparison

Political Group	Predicted Intensity of Control	Observed Intensity of Control	Congruence (+) Non-Congruence (-)
EPP	Medium	High monitoring	+
S&D	High	High influencing	+
ECR	Low	Low monitoring	+
ALDE	Low	Low monitoring	+
GUE/NGL	High	High influencing	+
Greens-EFA	High	Low influencing	-

The predictions of the observable intensity of parliamentary control, based on the theoretical framework developed in section 4.6., are to a high degree congruent with the findings of the empirical analysis. This indicates that “the analyst can entertain the possibility that a causal relationship may exist” (Georg/Bennet 2005: 181) between the causal factors, benefits and costs of parliamentary control, and the intensity of scrutiny. Importantly, it strongly suggests that the comprehensive theoretical framework has empirical relevance in explaining the intensity of parliamentary control in the case of partisan control of the EU-Japan free trade negotiations in the European Parliament.

However, in the case of the Greens-EFA, the theoretically deduced expectations are not entirely congruent with the empirical observation: it was expected that the group engaged in high intensity control; however, they exerted “low influencing control”, ergo control of medium intensity. In the following sub-chapter, the Greens-EFA and GUE/NGL will be subjected to a process-tracing analysis. The latter displayed exactly the same costs and benefits and control, meaning the groups were expected to control the EU-Japan FTA negotiations with the same intensity. Opening up the black box of these groups ought to shed light on why, despite the expected high net benefits of parliamentary control for the Greens-EFA, they did not control the EU-Japan FTA negotiations with high intensity. Moreover, the S&D will be analysed via process-tracing. The latter two cases serve to investigate the assumed causal mechanism in instances where the findings of the comparative congruence analysis have been congruent in order to caution against spurious causality and investigate whether the mechanism was actually at work as assumed.

7.5.4. Partisan Control Action: A Process-Tracing Approach

In the following, the causal process linking the causal factors identified in the theoretical framework chapter with the outcome, the intensity of parliamentary control, will be disentangled. Recall that a “causal mechanism” is understood here in its minimalist terms, i.e., the causal arrow between cause and outcome is not unpacked theoretically in detail. These studies will demonstrate whether the parts of the hypothesized causal mechanism are present in the given case, whether the mechanism functioned as expected, and whether the mechanism as a whole was present. More precisely, they will investigate whether the parliamentary groups perceived the causal factors as identified; whether they considered them as benefit or cost on this basis; whether this incentivized or dis-incentivized them; and whether the groups have indeed controlled the negotiations in a cost-efficient way.

7.5.4.1. S&D

Table 19 below displays the costs and benefits for the S&D controlling the EU-Japan FTA negotiations as predicted by the theoretical framework based on of the values of the causal factors, adopted from Table 15 above. The table shows that the group has controlled the negotiations with a high influencing intensity, as predicted in the congruence analysis. The main goal of this process-tracing study is to shed light on and provide a certain level of confirmation for the theorized causal mechanism expected to be at play.

Table 19: Causal Mechanism: S&D

Benefit/cost	
Vote-seeking benefits	High
Policy-seeking benefits: institutional status	High
Policy-seeking benefits: policy position	Medium
Policy-seeking benefits: likelihood of impact	High
Resource costs	Low
Efficiency costs: complexity	Medium
Efficiency costs: compellingness	Medium
Observed intensity of control	High influencing

To start the process-tracing analysis, the causal factor “public salience” will be analysed in-depth: how has the S&D perceived the salience, and how has that affected their incentives to control the EU-Japan FTA negotiations? Recall that based on the theoretical framework, it was assumed that the group would perceive the vote-seeking benefits of parliamentary control to be high due to

high public salience of the EU-Japan negotiations. However, an analysis of how the S&D has perceived its salience demonstrates that it considered the negotiations with Japan, until recently to have been much more under the radar of the European public than other current trade negotiations, such as TTIP, CETA and TiSA. With CETA being concluded and the TTIP negotiations put on hold, the S&D perceives the EU-Japan agreement as increasingly salient (EPo6). How does this affect the intensity of parliamentary control?

Overall, the group notes in the EP as a political body, both the level of public interest as well as the content of public debates has an impact the group's work on a file (EPo1). The group emphasizes that it has not been inactive during times of lower public salience of the EU-Japan FTA, but that the group's involvement was more limited to a group of (interested) trade experts (EPo6). With increasing public salience, the S&D, like the other political groups, tries more offensively to push its general position on the agreement. Moreover, the group pursues a strategy of anticipating upcoming discussions and learning from experiences from trade negotiations, in order to address potential concerns before they turn into politicized issues (EPo6). Overall, the S&D does not perceive the public salience of the EU-Japan FTA to be as high as predicted, but as increasing. The group is aware of the electoral connection that the Parliament has, and its responsiveness to public opinion. It can be argued that, as assumed, they perceive control of the EU-Japan to grant them vote-seeking benefits. However, distinguishing somewhat between public salience and public opinion, the group does not follow the latter blindly but strategically engages with the public to counteract potential public criticism based on their own policy position.

Second, the causal factor "institutional status" will be investigated in more detail. The S&D has been identified as an opposition party in the European Parliament, as the group provides neither the President of the European Commission nor the Trade Commissioner. It is assumed that the level of policy conflict between the executive and the political group is higher than for opposition parties, increasing the policy-seeking benefits of parliamentary control. However, the S&D does not perceive the relationship with the Commission as necessarily conflictual. Rather, the group characterizes its interaction with the Commission as a constructive working relationship, in which the two parties occasionally have different priorities and do not agree on everything (EPo6). This might indicate that the political group perceives the policy-making benefits of control to be lower than expected, providing only few incentives for parliamentary control. Yet, the group emphasizes another underlying factor that affects the relationship between the S&D and the Commission in regard to the EU-Japan agreement: the INTA Standing Rapporteur on Japan is an S&D MEP. This position has a dual effect on the S&D's control activities. First,

the group is in the lead for the Parliament, i.e., it is their institutional task to be actively involved throughout the negotiation process. Whilst the Standing Rapporteur acts on behalf of the entire Parliament, the group obviously takes into account its own policy position. Second, this position requires a constructive working relationship between the group and the executive, which enables the former to pass on the Parliament's as well as its own messages informally and formally directly to the Commission due to its improved access to the Commission (EP06). Summing up, the S&D cannot be argued to perceive parliamentary control to be highly beneficial for it due to policy conflict between the group and the Commission. This does not necessarily mean that no such conflict exists, but the group pursues a constructive working relationship with the executive, which is required by its institutional status as provider of the INTA's Standing Rapporteur. It is exactly this status that contributes to S&D's high level of control activity. Whilst the underlying assumption that the groups, due to its institutional status, it is more active seems to be confirmed, it needs to be questioned whether it is the group's status as an opposition party or as the provider of the standing rapporteur that provides the incentive for this.

Third, regarding the group's policy position, the S&D is in complementary criticism to the EU-Japan FTA, meaning that they are expected to gain medium policy-seeking benefits from parliamentary control due to its policy position. Unlike some other groups, the S&D is not in fundamental opposition to the agreement but perceives it to be desirable, yet with some exceptions. In controlling the negotiations, the group's overall goal is "to shape, we want to influence the content of the agreement to make sure that it is a good agreement" (EP01). The most notable exceptions to their position are, as demonstrated above, the TSD chapter and investment protection. It is on these questions that the S&D actively and intensively attempts to influence negotiations (EP06), which clearly implies that one of the main incentives to control in a "highly influencing" manner is their specific policy position. Overall, the S&D pursues a pragmatic approach, not compromising their red lines but willing to accept excluding particular issues from the scope of the agreement to be taken up at a later point (EP06). This can be seen as being in line with the group's policy position of complementary criticism. Summing up, as assumed by the theoretical framework, the group is argued to perceive the policy-seeking benefits to be gained from parliamentary control as high but not high enough to not go "the pragmatic route". Hence, it can reasonably be claimed that S&D perceives the policy-seeking benefits to be of medium size.

Finally, on the benefit-side, the theoretical framework holds that the larger groups within the EP can gain greater policy-seeking benefits from parliamentary control due to the credibility of their veto threat. As the S&D is the second

largest group, it is assumed that the group perceives its chances of making a difference as good, which affects their benefits positively. Indeed, the group claims to know that they have a good chance of influencing the FTA, based on experiences during the EU-Japan negotiations and other free trade talks (EP01). It is important to mention that the group is aware that to affect the text of the negotiations substantively, it is not sufficient to influence the Union side, but that it is necessary to bring the Japanese side on board. Therefore, to use their potential for substantive impact fully, the S&D pursues a strategy where they use the veto-power argument also towards the Japanese negotiators (see above) (EP06). Overall, the S&D is clearly aware of its chances of having an impact on the EU-Japan negotiations, and as assumed by the theoretical framework, perceives this as beneficial. Moreover, the group strategically tries to maximize these chances by using all channels available, also outside legislative-executive relations on the EU level, to exert influence.

Concerning the costs of parliamentary control, the group is expected, first, to perceive the resource costs of control as low, meaning that they should not be impediments to intense parliamentary action. The group has developed a system in which not only MEPs but also their assistants and the trade policy advisors are involved in following trade negotiations. “So it’s not like it is just a tiny, tiny group that has absolutely no chance that is just buried under information and then doesn’t find the needle in the haystack. But it is a lot of work.” (EP06). Importantly, despite their comparatively high number of INTA MEPs and trade advisors, they still consider the tasks as plenty, especially because the responsibilities include covering not only the EU-Japan FTA but also the EU’s entire trade agenda. In such a situation, “you have to prioritize” (EP06). This means that unlike predicted, the group perceives the resource-costs of controlling the EU-Japan FTA negotiations to be of medium height, which also affects their control activities.

The theoretical framework furthermore postulates that the S&D, in complementary criticism to the EU-Japan negotiations, is expected to be somewhat concerned about the potential negative effects of parliamentary control on the efficiency of the Union negotiator and the negotiations in general. Moreover, the framework holds that they perceive these negative effects, these costs, to be affected by the group’s perception of the complexity and the compellingness of the negotiations as high. Concerning the first point, the negotiator’s need for discretion for effective negotiations, the group emphasizes two things. First, it finds that too much public transparency of the negotiations can damage the EU’s negotiation position (EP01). Second, it argues that it is the MEPs’ job to scrutinize trade negotiations on behalf of the public and national parliaments. These “people haven’t developed such an understanding and

such a knowledge. And it endangers the efficiency of negotiations, it could undermine our credibility as a trade partner” (EP06). Overall, the S&D does consider parliamentary control to have a potentially negative impact on the best possible negotiation outcome. Yet, this does not necessarily apply to control by the EP, and, more importantly, does not mean that the S&D considers all parliamentary control to be efficiency costly. Rather, it emphasizes the importance of a reasonable and sensible conduct of the constitutional duty to control EU international negotiations.

This is supported by the S&D’s perception that the EU-Japan negotiations take place in a highly compelling environment for economic reasons, as the agreement can help to maximize growth potential in times of economic uncertainty (Lange 2012; Arlacchi 2012, CRE 11/06/2012 – 18). More recently, they have seen increasing political pressure to conclude the EU-Japan FTA due to the growing geostrategic and geo-economic significance of the agreement. However, the group emphasizes that the agreement should not be concluded no matter what, especially referring to the need of proper conduct and parliamentary control of the negotiations (EP06). As assumed, they perceive the costs of parliamentary control due to the compellingness of the negotiation setting to be of medium size. When it comes to the effect of the agreement’s complexity, the group agrees with the characterization of the agreement as complex. However, this does not affect the group’s efficiency costs, as assumed by the parliamentary framework, but has a different impact on the S&D’s cost-benefit analysis: the group argues that the agreement’s complexity and technicality decrease public salience, i.e., the vote-seeking benefits of parliamentary control, as it makes parliamentary work more difficult to communicate (EP01). The high complexity of the agreement does seem to have the expected effect on the group’s intensity of control, however, via a different causal mechanism.

Summing up, the picture of how the S&D has perceived the benefits and costs of controlling the EU-Japan FTA negotiations and how this has affected the group’s control activities is more complex than postulated by the assumed causal mechanism. This applies especially to the benefit-side of control. First, using previous trade agreements as benchmarks, the group argues that the FTA has only recently become publicly salient. Whilst acknowledging the EP’s electoral connection, the S&D has also been incentivized to control by anticipating future public opinion – not salience – that runs counter to the group’s policy position. Overall, the consideration of public awareness did play the assumed role but not via the simple causal mechanism assumed. Second, the group does not perceive control to be beneficial due to its institutional status as opposition party. However, it argues that it is its institutional status as providing the INTA Japan rapporteur that contributes to the group controlling

with high intensity. However, this is due to the institutional task rather than to policy-seeking benefits. As expected, it perceives the policy-seeking benefits of control to be of medium size, and, also as assumed, their chances of influence as high. Additionally, the group attempts to increase the latter by strategically broadening the scope of its control activities. Overall, the size of the benefits can thus be claimed to be as assumed, however, the underlying causal mechanism is somewhat more complex. On the cost-side, the group largely perceives the costs as predicted, yet considers the resource costs to be somewhat higher due to opportunity costs. Moreover, it can be tentatively concluded that the complexity of the negotiation has the expected effect, yet via a different causal mechanism. In general, these elaborations seem to align with the base assumption that the higher the benefits of parliamentary control and the lower the cost, the higher the intensity thereof.

7.5.4.2. *GUE/NGL*

Recall from above that GUE/NGL controlled the negotiations of the EU-Japan free trade agreement with high intensity, displaying a high level of scrutiny aimed at substantially influencing the ongoing trade talks. Table 20 displays the expected mechanism, including the value of the causal factors, that is expected to lead to the identified outcome. In the following, the causal mechanism will be analysed by identifying whether the political group indeed perceived the costs and benefits of parliamentary control as expected and used this in its cost-benefit analysis.

How has the – assumed high – salience of the EU-Japan negotiations affected the vote-seeking benefits of control for GUE/NGL? The underlying argument is that the higher the salience, the higher these benefits due to public attention to a group's actions. The group argues that generally, there is a clear connection between parliamentary control and public awareness of the negotiations, claiming that “if certain topics are very sensitive to the public, then you try to change what you can” (EP04). This also implies that the group does not only consider public salience but also opinion, as the group argues that it cannot simply ignore public opposition to trade agreements (EP04). However, GUE/NGL does not perceive the EU-Japan negotiations to be as salient as other recent FTAs, such as TTIP and CETA. This does not seem to affect the group's incentive but rather its ability to control the negotiations. Recall that one of the group's main strategies is to influence trade negotiation by creating public pressure on the Commission and the negotiation setting, meaning public awareness is a precondition this strategy. They argue that, “to be honest, I don't really see public interest in the negotiations. So it is more in the other direction. I am trying to raise public awareness” (EP10). Summing up, the salience of the EU-Japan free trade negotiations does affect GUE/NGL, but not

in the way expected based on the theoretical framework. The group compares the public attention to the public attention to TTIP and CETA and therefore sees salience lacking. However, this does not affect its incentives to exert control, but rather their ability to do so, as relevant contacts in civil society are missing.

Table 20: Causal Mechanism: GUE/NGL

Benefit/cost	
Vote-seeking benefits	High
Policy-seeking benefits: institutional status	High
Policy-seeking benefits: policy position	High
Policy-seeking benefits: likelihood of impact	Low
Resource costs	Medium
Efficiency costs: complexity	Low
Efficiency costs: compellingness	Low
Observed intensity of control	High influencing

GUE/NGL has been identified as an opposition party within the European Parliament, which means that, according to the theoretical framework, it is assumed to gain greater policy-seeking benefits from parliamentary control due to larger policy conflicts with the executive. The case of GUE/NGL can confirm that expectation to some extent, that it generally has a critical relationship with the Commission. This induces it to control the latter's actions, also in regard to the Japan negotiations more closely, since it knows that the Commission pursues a different trade policy than preferred by the group, and therefore it does not trust the Commission to act in the group's interests (EPO4).

Moreover, the theoretical framework holds that the more in opposition a political group's policy position to an international agreement is, the higher are the policy-seeking benefits from parliamentary control. GUE/NGL is in specific opposition to the EU-Japan FTA. It is not opposed to free trade but strongly condemns the content of trade agreements and the way the Commission negotiates them. "That are the wrong priorities, to my mind, and that is why we need to do something" (EPO4). As assumed, the group sees high policy-seeking benefits in controlling the negotiations, which is a major incentive for them to invest heavily in intensive parliamentary control.

Above, it was argued that the likelihood of having substantial impact is reduced for GUE/NGL due to the group's comparatively small size in the European Parliament and the reduced credibility of constituting a veto threat.

This is assumed to reduce the policy-seeking benefits of parliamentary control. The group indeed perceives that “of course, we are not as influential as other groups. First of all, due to the sheer size. Second, because the preferences of other groups overlap with that of industry and other economic sectors. And third, due to their better link to the Commission” (EP10). However, when asked whether this fact discouraged the group from actively controlling the EU-Japan negotiations, GUE/NGL MEPs argue that it rather encouraged them, as they attempt to find strategies to improve their chances of influence. The most prominent one is related to their policy position: in order to have some chance of policy influence by using the threat of the veto, they claim, they must not be a negligible factor from the perspective of the Commission in the sense that they will vote against the outcome no matter what. Therefore, whilst some GUE/NGL MEPs voice fundamental opposition to the agreement at all stages, others approach the negotiations more cautiously, pondering their policy position on every single issue under negotiation (EP10). Summing up, GUE/NGL does perceive its chances of policy influence as limited, as assumed. Although the group is somewhat dis-incentivized by this, it also feels encouraged to strategically improve this likelihood.

Concerning the costs of control, the theoretical framework assumes that the lower the overall resources of a political group, the higher the resource costs of parliamentary control. GUE/NGL is a group with medium resources, few INTA MEPs and many INTA policy advisors. Concerning the former, the group clearly perceives this to have a negative impact on its control of the Japan trade negotiations: “it’s a question of capacity. You can imagine that a group with three members in the INTA committee can objectively achieve less than a group that has eight members, or ten” (EP10). They consider the number of policy advisors working on trade insufficient to accompany the negotiations adequately (EPO4), especially because the EU is negotiating several FTAs simultaneously. This means that the group has to allocate its limited resources to all negotiations. Overall, GUE/NGL clearly perceives limited resources to represent a high cost, and to negatively affect its ability to strongly control the Japan trade negotiations.

Lastly, the theoretical framework argued that political groups that favour the trade agreement will perceive it as a cost if the Union negotiator does not have sufficient leeway to flexibly negotiate the best possible agreement with Japan, and that these efficiency cost increase with the complexity and the compellingness of the negotiation setting. GUE/NGL is in specific opposition to the agreement and is not expected to perceive these issues as a cost of parliamentary control. Indeed, the group stated a cautious approach to control, “would mean that I bow to the approach that the Commission is taking. And I think that by, you know, we have so little power and so little influence on the

negotiations, [...]. So no, I am not at all interested in not tying their ... I hope I can make them step, falter a little. It might be different for those political groups that are actually favourable towards the agreement” (EPO4). Moreover, the group does not agree with the argument that the more compelling the negotiations are, the more important is sufficient negotiator discretion. Since the negotiations started, it has emphasized quality over speed (ST 7707 2015 INIT) and, whilst it understands where the political and economic pressure to conclude the agreement comes from, it does not agree with this approach (EPO4). Overall, GUE/NGL perceives the efficiency costs stemming from the compellingness of the EU-Japan trade negotiations as low and, more generally, does not consider it costly that its control actions might have adverse effects on the Commission’s ability to negotiate the trade agreement flexibly and efficiently. The group does not seem to have considered the complexity of the negotiations.

Summing up the in-depth analysis of GUE/NGL and costs and benefits of parliamentary control of the EU-Japan free trade agreement negotiations, the picture of their incentives and constraints to exercise control is more complex than suggested by the theoretical framework. On the one hand, not all potential benefits are perceived as expected. Whilst the policy-seeking benefits stemming from its institutional status and policy position incentivize the group to control the negotiations intensively, this does not hold for the vote-seeking benefits based on the agreement’s salience and the policy-seeking benefits of the likelihood of impact. Concerning the former, the group perceives the agreement to be insufficiently salient. It does not consider this to decrease the incentive to control it but argues that the lack of public attention has made it more difficult. Whilst the group perceives its likelihood of impact as rather small, it does not consider this to be dis-incentivizing, but rather actively attempts to increase its chances. It perceives the cost of parliamentary control as expected. First, it complains about a lack of resources and argue that it is forced to decide strategically where to invest those resources. Second, it does not see, as expected, that a reduced efficiency due limited negotiator discretion constitutes a cost. In light of these new values of causal factors, it can be argued in that the base assumption that higher the benefits of control, and the lower the costs, the higher the intensity, holds for GUE/NGL controlling the EU-Japan FTA negotiations.

7.5.4.3. Greens-EFA

As Table 21 shows, the Greens-EFA have controlled the EU-Japan FTA negotiations with a low influencing intensity, i.e., not as strong as predicted by the theoretical framework. The following sub-chapter will trace the underlying causal mechanism along the causal factors. This should yield an explanation

why the predicted and the observed value of the dependent variable are non-congruent.

First, it is expected that the Greens perceive the vote-seeking benefits they can gain from scrutinizing the EU-Japan negotiations as high, due to the agreement's comparatively high public salience. Indeed, the Greens observe growing attention to European trade agreements in general, which also applies to the EU-Japan FTA. However, the group measures the salience of the EU-Japan agreement against the highly salient TTIP and CETA negotiations, and therefore perceive the EU-Japan negotiations as less salient. Whilst this does not necessarily dis-incentivize the group from strong control, it affects its opportunities to exercise control, as the interaction with extra-parliamentary actors and civil society is a major cornerstone of the Green's control strategy (EP05). It should also be mentioned the Greens also base vote-seeking benefits on public opinion, which they perceive to be increasingly sceptical of FTAs.

Table 21: Causal Mechanism: Greens-EFA

Benefit/cost	
Vote-seeking benefits	High
Policy-seeking benefits: institutional status	High
Policy-seeking benefits: policy position	High
Policy-seeking benefits: likelihood of impact	Low
Resource costs	Medium
Efficiency costs: complexity	Low
Efficiency costs: compellingness	Low
Observed intensity of control	Low influencing

The group takes its starting point in controlling in exactly this public opposition (Lamberts 2017, CRE 04/07/2017 – 11). Summing up, the group considered the vote-seeking benefits of controlling the negotiations somewhat lower than predicted, yet increasing, and it emphasises the difference between public salience and public opinion, both of which inform the size of vote-seeking benefits.

The Greens have been identified as an opposition party, which means they are assumed to perceive the policy-seeking benefits from parliamentary control as high due to a high level of policy conflict with the Commission. Indeed, the group holds the Commission responsible for the mediocre results of the negotiations. “I mean, of course. The Commission has negotiated [...]. So the Commission is to blame” (EP05). The Greens can be argued, as assumed, to

perceive the policy-seeking benefits from controlling the EU-Japan negotiations as high due to their institutional status and a high level of policy conflict with the Commission.

Moreover, the Greens-EFA have been claimed to be in specific opposition to the EU-Japan agreement. According to the theoretical framework, this implies that they are expected to perceive the policy-seeking benefits of control as high. Indeed, when asked about the main driver of the group's parliamentary activities on the agreement, the answer is clear-cut. "I want to protect our democracy. This is what it is all about in the end. [...]. So by that I mean both procedural democracy, Parliament needs to be involved, but also substantive democracy" (EP05). Indeed, it is the more substantive problems the group has with the agreement, such as investment protection, regulatory cooperation, environmental and consumer protection, that drive the group's opposition to the EU-Japan agreement. Whilst the group is aware that their red lines will not be met by the final text of the agreement, they consider it a major incentive to exert control over the negotiations. Summing up, as assumed by the theoretical framework, the Greens perceive the policy-seeking benefits of control due to their critical policy position to the EU-Japan FTA as high.

Concerning the last source of potential benefit of parliamentary control, the likelihood of impact, the group is expected to perceive these policy-seeking benefits to be low due to its small size in Parliament. Indeed, they claim that they have only little possibility to accompany the negotiations in a meaningful way. As assumed by the theoretical framework, they connect this to the Parliament's formal involvement rights, which they perceive to be too weak to secure them a relevant impact on the negotiations, and to their lack of a credible veto threat. An additional factor influences their perception of their chances of exerting influence: they have fewer access points in civil society than they used to have in other FTAs, as explained. This also decreases their chances of creating public pressure and thus of influencing the negotiations with the help of this pressure (EP05). As predicted, the party perceives its chances to exert substantial policy influence as low due to its small size in Parliament and its lack of access points in civil society.

Concerning the costs of parliamentary control, the theoretical framework holds that the Greens perceive the resource costs as high medium. However, the group clearly perceives its resources as too low and the costs as too high. The limited staff is also responsible for other files, which means that, "these things, like JEFTA, you can only do in the in-between" (EP05). Somewhat related to that is a more structural problem that makes it difficult for the Greens to exercise strong influencing rights: the costs of a lack of information. The group strongly emphasizes that it perceives monitoring control to be the first step in exerting substantive influencing control based on the collected and

processed information. In this regard, they complain about a lack of information and access rights to documents, which prevents them from moving on to the second stage of controlling, namely attempting to exert pressure on the negotiations. Overall, this makes a critical engagement with the agreement rather difficult. Indeed, the group claims that this is one of the main obstacles to controlling the EU-Japan negotiations with the same influencing intensity as in previous trade negotiations (EP05).

Finally, the Greens-EFA, in specific opposition to the EU-Japan FTA, are expected to perceive the efficiency costs of parliamentary involvement as low, in regard to the compellingness and the complexity of the negotiation setting. Whereas the group does not seem to have considered the complexity of the issue under negotiation and how this might affect the Union negotiator's need for discretion, the Greens do not agree with the assumption that the EU-Japan negotiations are highly compelling. They do not see the economic urgency of the agreement or agree that the negotiations will improve the EU's economic situation (EP05). More importantly, they do not agree with the argument about the FTA's political compellingness, arguing it is "misplaced as a signal against protectionism"¹¹⁷. They clearly state that the Commission's geopolitical reasoning will not serve as an excuse if the final text of the agreement falls short of the necessary standards to protect workers, consumers and the environment. It can indeed be assumed that overall, the Greens-EFA perceive the efficiency costs to be low, as predicted by the theoretical framework.

Summing up, the analysis of the Greens-EFA demonstrates that the empirical reality is more complex than suggested by the empirical framework. On the benefits side, the group has largely perceived the causal factors as predicted, i.e., the policy-seeking benefits stemming from their institutional status, their policy position and their likelihood of influence. However, the Greens do not perceive the public salience of the FTA to be as high as assumed, and they find that this affects their control activities negatively: not necessarily in terms of incentivizing the group but rather of providing opportunities for effective control. Moreover, the group distinguishes, to a certain extent, between public salience and public opinion, arguing that it is rather the latter that motivates them. As far as the costs of control, the group considers the efficiency costs as low as predicted but does not seem to consider the agreement's complexity. In contrast, the group has strongly emphasized the lack of resources, which means that it perceives the resource-costs of control as high, unlike predicted. If one uses these new values of the causal factors in the cost-benefit analysis, the group perceives the benefits as somewhat lower and the costs as somewhat higher than predicted, which explains why they controlled

¹¹⁷ <https://sven-giegold.de/eu-japan-trade-agreement-is-an-unfinished-house/>.

the FTA negotiations with a lower intensity than predicted. Nonetheless, this means that the group has indeed controlled the negotiations in a cost-efficient way. One more point need to be emphasised: the Greens also deplore more structural problems in controlling the negotiation. Reduced public salience and inferior access to negotiation documents compared to other parliamentary groups decrease their opportunities to engage in a preferred control strategy. Combined with the Greens' emphasis of the importance of a sound monitoring progress, this offers further insight for why the group has only influenced the FTA negotiations to a low extent. Importantly, this structural problem does not apply to GUE/NGL, which might explain why – despite the generally same perception of costs and benefits – the latter has controlled the EU-Japan FTA negotiations with a higher intensity than the Greens-EFA.

7.5.5. Conclusion

Based on the comparative congruence analysis and three process-tracing studies, it is now possible to draw a conclusion on “how and why the political groups in the European Parliament have controlled the EU-Japan FTA negotiations”. The descriptive findings of the “how” of control were summarized in sub-chapter 7.5.3.2.7. There was some variation in the intensity with which the groups controlled the negotiations. The S&D and GUE/NGL controlled negotiations with high intensity, the EPP and the Greens-EFA with medium, and ALDE and ECR with low intensity. How can this be explained? First, the comparative congruence analysis demonstrated that the descriptive findings of the groups' intensity of parliamentary control are to a large extent congruent with the predictions deductively derived from the theoretical framework. This, cautiously, indicates that the groups have indeed based their control on a cost-benefit analysis, taking the causal factors, i.e., vote- and policy-seeking benefits as well as resources and efficiency costs, into consideration as assumed when scrutinizing the EU-Japan FTA negotiations. There was non-congruence as the Greens-EFA controlled negotiations with lower intensity than predicted. The congruence analysis was supplemented with three process-tracing studies to investigate this non-congruence further and to mitigate the risk of causal spuriousness.

Overall, the process-tracing analyse have shown that whilst the overall assumption of this dissertation – the higher the benefits and the lower the costs of parliamentary control, the higher its intensity – holds in the three cases studies, the empirical reality of why the political groups have controlled the EU-Japan FTA negotiations is more complex than assumed by the theoretical framework. Summaries of the findings of the three studies were presented after each analysis. The findings demonstrated that the major source of error

was a technical flaw in the operationalization and measurement in the congruence analysis, and not so much a theoretical flaw, which would mean that some of the underlying assumptions are defect. Nonetheless, there are also some insights about the theory which might have to be taken on to reconsider the theoretical framework. This means that the findings of the process-tracing studies do not invalidate the theoretical framework and its assumptions but imply that it is necessary to refine the measurement of the causal factors and re-think how some of causal factors operate. The most relevant findings will be presented below.

First, the causal factor “public salience”, on which groups are assumed to base their assessment of vote-seeking benefits, should be revisited, both from a technical and a theoretical perspective. Neither group perceived the salience of the EU-Japan FTA as salient as assumed because parliamentary actors – unlike this dissertation – used more salient FTAs as benchmark to determine the value of this causal factor. Second, the S&D, GUE/NGL and the Greens distinguish explicitly between public salience and public opinion. Public opinion incentivizes them at large to be active on the EU-Japan FTA, the S&D in order to anticipate public opinion comparatively to their own policy position, and GUE/NGL and the Greens exactly because they align with public opinion. However, public salience – or rather the perceived lack thereof – does affect how the latter two groups exercise control over the FTA negotiations. Not because they see decreased vote-seeking benefits, but rather because their opportunity structure of controlling has changed, as both groups largely rely on interaction with extra-parliamentary actors for which public awareness is a precondition. On the benefit-side, the study of S&D reveals that the proxy “institutional status” might not be the most appropriate to capture the level of policy conflict between a group and the executive. On the cost-side, the most relevant finding is on the causal factor “complexity”. None of the groups seems to consider this factor when determining the negotiator’s need for control and the efficiency costs of parliamentary control. GUE/NGL and the Greens do not seem to have considered the agreement’s complexity at all, whereas the S&D puts forward a different causal mechanism for the factor’s negative impact on the intensity of control: it decreases public salience. Two further, more general points shall be taken away from these elaborations. First, the findings question whether the causal factors are static or whether political groups, aware of their size, can be incentivized by low benefits/high costs to become active in order to change the value of these factors. Both the S&D and GUE/NGL have been active in order to increase their likelihood of impact, not accepting this to be static. Second, the investigation has pointed out the importance of structural differences between the groups: whilst they act within the same institutional framework, the groups have different control opportunities and powers.

As mentioned, due to lower than assumed public salience, GUE/NGL and the Greens are not able to make use of their extra-parliamentary control instruments as much as they would like to. Moreover, the S&D is as active as it is because it provides the INTA Standing Rapporteur for Japan, hence have the institutional task for this. Lastly, unlike for the other groups, the Green Shadow Rapporteur has inferior access to negotiation documents, which, combined with the group's emphasis on a sound monitoring process, makes it more difficult for the group to exercise strong control. All these points will be taken up in the overall conclusion of this dissertation.

7.6. Control of the EU-Tunisia Readmission Agreement Negotiations in the European Parliament

The following sub-chapter attempts to answer the overarching research question “how and why do political groups control EU international treaty-making” in the case the EU-Tunisia Readmission Agreement Negotiations. The chapter will first elaborate briefly on the specific rules and practices concerning control and scrutiny rights of the European Parliament in readmission negotiations. This is followed by an overview of the EP's non-partisan control actions, which serves a twofold purpose: first, it makes it possible to embed partisan control activities in the broader context; second, only elaborating on partisan control action does not suffice presenting the entire control activities of the EP. The chapter continues with the comparative congruence analysis, which aims to answer the “how” of control as well as the “why” in a first step. This subchapter starts with predicting the values of the intensity of control of each political group based on the observed values of the independent variable. This is followed by a presentation of how each group actually controls the negotiations, and identification of the observed value of the groups' intensity of control. This makes it possible to compare expected and observed values of the dependent variable. Lastly, process-tracing analyses for several political groups examine the causal mechanism at work.

7.6.1. Control Rights and Practice of EU Readmission Negotiations

In accordance with the sector-specific approach set out by the Interinstitutional Agreement on Better Lawmaking, parliamentary monitoring and control of the negotiation of EU readmission agreements is carried out by the European Parliament Committee on Civil Liberties, Justice and Home Affairs (LIBE committee) based on a three-fold legal foundation. Its general involvement rights are set out in Article 218 TFEU and the Framework Agreement between the European Parliament and the Commission. These provisions

foresee that the European Parliament enjoys information and consultation rights as well as the right to give consent to the finalized agreement once the negotiation talks are concluded.

In line with the sectoral approach to parliamentary control, the Commission has arranged the specific modalities for the provision of information and documents directly with the relevant parliamentary committee, the LIBE committee. The legal basis for the information exchange in the specific policy field of negotiating readmission agreements can be found in the Annex to the EU-Pakistan Readmission Agreement. The Commission Declaration annexed to the agreement reads as follows: “The Commission is committed to regularly inform the EP about all the concluded EU readmission agreements and in particular, to report every six months to the EP about the implementation of the EU readmission agreements, with particular reference to the ongoing work of the Joint Readmission Committees”. These biannual briefings ought to ensure that the LIBE committee is informed on the planned negotiations or talks on readmission with third countries, addresses the variety of cooperative patterns linked to readmission and provides the EP with the necessary monitoring capacity to check whether readmission procedures comply with the terms of an EU readmission agreement in the implementation phase. Only on such a basis, the Parliament argues, it is able to meaningfully exercise its constitutional right of giving consent to readmission agreements according to Article 218 (6) TFEU (Cassarino 2010: 23). Summing up, the formal involvement rights of the European Parliament concerning readmission agreements include regular monitoring and the right to give consent. The EP and its political groups can also make use of more general means of parliamentary control, e.g., issuing resolutions, asking questions and conducting hearings (EP09).

What does parliamentary involvement in the conclusion of readmission agreements look like in practice? In a first step, it is important to note that the institutional infrastructure for controlling the negotiations of readmission agreements is not as developed as in other policy fields, such as trade policy. There are no standing rapporteurs for the individual readmission agreements, and rapporteurs are only appointed in the conclusion phase of an agreement. Moreover, institutionalizing and improving Parliament’s access to documents does not play as big of a role in the LIBE committee. Whilst the committee has access to classified information according to the standard parliamentary rules on procedure on access to these documents, LIBE MEPs do not consider such access particularly important. Rather, the Committee puts much more emphasis on a regular exchange of information with the Commission and Committee briefings by the relevant DG on the developments of the individual negotiation processes.

It is not common for the European Parliament to issue a parliamentary resolution in the ex ante phase to draw the Parliament's red lines in regard to the envisaged readmission agreement, as in, for example, trade negotiations. The EP has adopted some more general resolutions on readmission and the return of irregular migrants, but they do not focus on individual readmission agreements in their ex ante phase or on setting out Parliament's preferences in this regard. The EP is not the Union negotiator but is required to control the Union negotiator. As such, the LIBE committee is merely regularly informed about the opening of new readmission negotiations, as the Commission's DG Home regularly issues a tabled summary of all negotiations and gives it to the LIBE coordinators to keep track of what is going on (EP09). The LIBE committee can use the biannual meeting to voice its preferences and concerns regarding the envisaged opening of new readmission agreements. Lastly, whilst the Committee is able to access the Commission's negotiation directives for each readmission agreement, this is not considered very valuable, as its MEPs claim that the directives have always been rather standard and uninteresting (EP09).

In the ad locum phase of readmission negotiations, the main locus of control is the institutionalized biannual meetings with the Commission. These meetings have been consistent since their establishment in 2012 when the EP threatened to abstain from ratifying the EU-Pakistan readmission agreement (EP09). It is important to note that these biannual meetings take place at the DG level, and that the Commission is not represented by a desk officer but by the Director-General of its department for home affairs. Moreover, since 2012, LIBE has managed to constantly increase its powers concerning readmission agreements and to improve the quality of information provided by the Commission. Now, it is the established procedure that the biannual discussions and updates are supplemented with written information, which is provided prior to the meeting and publicly available. Additionally, every committee in the EP can send parliamentary delegations. It is rather common for the LIBE committee to organize a parliamentary mission during the course of readmission negotiations with a particular country. These missions are not solely aimed at conducting control on the readmission negotiations but serve as an opportunity for the LIBE MEPs to supplement the information they have received from the Commission to enable them to make political decisions (EP09).

On a more general note, LIBE stresses the importance of information exchange on readmission agreements in the committee itself. Other committees concerned by the issue, such as AFET and DROI, are involved according to the standard procedures laid out in the Treaties and the Framework Agreement,

but do not receive the same briefings as LIBE. Additionally, they have an access person for readmission agreements who is updated on recent developments in the policy field. The LIBE Committee is in dialogue with these committees. Inter-committee interaction and scrutiny by other committees than LIBE are of a rather informal nature.

In the ex post phase of EU readmission agreements, the EP is required to give its consent to the conclusion of the agreement according to Article 218 (6) TFEU, which follows the standard consent procedure for international agreements.

Summing up, the involvement rights of the LIBE Committee in the negotiations of EU readmission agreements have been constantly improving since the Lisbon Treaty entered into force. It is now a consistent practice that LIBE receives information on official readmission agreements and the Parliament gives its consent to concluded agreements. Compared to other committees in EU international treaty-making, LIBE fares quite well, but it is not as powerful as for example the INTA Committee, which regularly goes beyond being merely being informed on trade agreements to influence the Commission both in regard to parliamentary power in trade policy and the substance of individual trade agreements.

To provide a complete overview of the EP's control rights and practices of the negotiations of EU readmission agreements, it is important to introduce a distinction between "official" and "unofficial" readmission agreements. The former are based on Article 79 (3) TFEU and negotiated according to Article 218 TFEU. This means that the scrutiny rights of the EP apply. "Unofficial" readmission agreements take the form of "arrangements" but still provide a framework for cooperation on forced return and readmission.¹¹⁸ These arrangements are negotiated outside the legal framework of Article 218 TFEU. Importantly, this means that the European Parliament does not have the same control rights as it does in official readmission agreements. In the biannual meetings with the LIBE committee, the Commission initially focused only on the formal agreements, wanting to leave the arrangements out of the scope. Whilst this practice has somewhat changed to include arrangements in the scope of these briefings, the EP still does not have the right to give its consent in their conclusion stage. The LIBE Committee is rather united in its dislike of the increasing use of unofficial readmission agreements and is jointly fighting to improve its control rights in this regard. "All agreements ought to be treated at the same level, irrespective of their name" (EP09).

¹¹⁸ E.g. the Joint Way Forward with Afghanistan; the Joint Communiqué with Mali.

7.6.2. The European Parliament and the Readmission Agreements: Non-partisan Control Action

The European Parliament attaches strong importance to Tunisia, having emphasized its commitment to the Tunisian people and the country's political transition towards democracy repeatedly since 2011. (P8_TA(2016)0345). Despite the importance the EP attaches to the country, it has been only marginally involved in the negotiations of the readmission agreement between the Commission and the Tunisian government.

When the two parties decided to open negotiations on readmission in 2014, the European Parliament was not involved by the means of a parliamentary resolution. It was merely informed of these developments and did not use the opportunity to elaborate on its own preferences or define red lines for parliamentary ratification. Since then, the EP has not adopted a specific resolution on the EU-Tunisia readmission agreement but has referred to the ongoing negotiations several times in other resolutions on Tunisia and EU-Tunisia relations. Generally, these provisions have been supportive of the negotiation aim (e.g. (P8_TA(2016)0345, § 61; P8_TA(2016)0061, § 59). However, the EP calls “for the utmost vigilance to be shown as regards the treatment of migrants who are sent back to their country of origin or to a third country [and] takes the view that any dialogue on return and readmission – particularly in respect of readmission agreements – should systematically address the issue of the safe return and reintegration of migrants” (P8_TA(2017)0124, §53).

Since the opening of negotiations were authorized and officially launched in October 2016, the main locus of parliamentary control has been the LIBE Committee and its biannual meetings on readmission agreements with the Commission. In the briefings, the Director General DG Migration and Home Affairs starts with a presentation of the latest developments on readmission agreements, after which the floor is given to the LIBE MEPs. The Committee is updated on all ongoing negotiations, not only on the ones with Tunisia. Moreover, it can engage in discussion with the Commission gather further information on the EU-Tunisia negotiations and express its opinion on the matter. Whilst these meetings are “not specifically on Tunisia, they are used by the MEPs as the main forum both to collect information and to get their points across” (EP09). LIBE also engaged with Tunisia and readmission on other occasions, for example in November 2017, when the Committee organized a hearing on agreements and cooperation with third countries on migration management and return. The hearing included a panel on EU return policy where Tunisian experts participated (LIBE_PV(2017)1127_1). Moreover, the Tunisian Ambassador to the EU participated in a LIBE meeting in January

2018, in which the Committee discussed its mission to Tunisia the past September (LIBE_PV(2018)0108_1).

The LIBE committee has organized two parliamentary delegations to Tunisia in the ad locum phase of the EU-Tunisia negotiations on readmission. A first mission, the LIBE ad-hoc Delegation on "a holistic approach to migration" to Tunis, took place in October 2015, but readmission was not a big topic (CR\1076229EN). In September 2017, LIBE sent another delegation to Tunisia, which made readmission a topic of discussion between the EP and their Tunisian discussion partners, e.g., national and local authorities, NGOs and other international bodies. The aim was "in the context of their current legislative work on readmission agreements, [...] to understand better the situation of migrants and asylum-seekers as well as the new partnership framework between the EU and Tunisia"¹¹⁹. Moreover, the committee used the occasion to deplore that the negotiations of the readmission agreement with Tunisia were put into question by the lack of progress of the EU-internal agenda on migration (CR\1140405EN).

Overall, the European Parliament, as a unitary actor, has not been strongly involved in controlling negotiations between the EU and Tunisia about a readmission agreement, neither in the ex ante nor in the ad locum phase. The EP's has mainly focused on monitoring the progress of the negotiations by organizing biannual meetings in the LIBE committee, where the Commission briefed the Committee on readmission agreements more broadly, and by sending parliamentary delegations to Tunisia. The Parliament has not used the formal or informal opportunities available to it to elaborate on joint red lines, parliamentary preferences and so on. It is not the aim of this dissertation to analyse why and when the EP acts in a unitary or a partisan way. However, it seems odd that the LIBE committee is able to fight for improving the committee's scrutiny rights on unofficial readmission agreements in a non-partisan manner, yet is not able to act unitarily on individual readmission agreements. However, it will become evident that whilst the groups agree in their opposition to the Commission's circumvention of the EP, there is little parliamentary agreement on the EU-Tunisia agreement. The main parliamentary activities on the EU-Tunisia readmission agreement are indeed of partisan nature.

¹¹⁹ <http://www.europarl.europa.eu/news/en/press-room/20170918IPR84109/migrants-in-tunisia-libya-meps-to-assess-migration-management-in-the-region>.

7.6.3. Partisan Control Action: A Comparative Congruence Analysis

In order to answer the overarching research question of how and why the political groups in the EP controlled the EU-Tunisia readmission negotiations, this chapter will conduct a comparative congruence analysis, serving as a first step in the empirical investigation. In line with the research design (see section 5.5.1), this study will first deductively generate predictions about the intensity of parliamentary control that the various political groups are assumed to display concerning the readmission negotiations. This is followed by a presentation of the “how” of parliamentary control for each political group, concluding by determining their intensity of parliamentary control. This makes it possible to compare the predicted outcomes and actual values of the dependent variable in order to test the (non-)congruence between the deduced predictions and the actual data.

7.6.3.1. Step 1: Predicting the Outcome

The following sub-chapter will establish the values of the independent variables for every political group in the European Parliament in order to predict the outcome of the dependent variable based on the established theory. In line with the dissertation’s comparative approach to the congruence analysis, the value of the independent variables and the expected values of the dependent variable will be established by comparing the values across international agreements/political groups.

7.6.3.1.1. The Public Salience of the EU-Tunisia Readmission Agreement Negotiations

It was demonstrated above that the EU-Tunisia readmission agreement negotiations have been of medium public salience on the EU-level (see section 6.4.1).

7.6.3.1.2. The Institutional Status of the Political Groups

This dissertation conceptualizes the institutional status of the political groups in the European Parliament based on the representative dimension of majority-opposition dynamics, according to which majority parties are political groups that provide the Commission President according to the Spitzenkandidat system and the respective Commissioner in the policy subject area under consideration. The President of the European Commission, Jean-Claude Juncker, is member of the European People’s Party, and the Commissioner for Migration, Home Affairs and Citizenship, Dimitris Avramopoulos, belongs to the Greek “New Democracy”. As New Democracy is a member of the European

People's Party, both Commission President and the Migration Commissioner are EPP members, meaning that the EPP is the only majority party in the EP in regard to the negotiations of the readmission agreement between the EU and Tunisia. All other political groups are treated as opposition parties.

7.6.3.1.3. The Policy Position of the Political Groups

Research has demonstrated that the positions of the EP political groups on migration and the migration crisis are broadly aligned to the left-right spectrum. The Greens-EFA, GUE, S&D and ALDE emphasize the need to support migrants, the EPP takes up somewhat of a middle ground, and on the right end of the spectrum, the ECR, ENF and the EFDD demand strong restrictions on migration (Högenauer 2017: 1100). A somewhat similar policy position on readmission agreements in general and on Tunisia in particular can be identified, as will be demonstrated in the following.

The EPP supports the conclusion of the readmission agreement, emphasizing the need for measures to return irregular migrants. They demand that readmission agreements have to comply with international law and respect human rights but also emphasize that must be possible to return migrants who have not been granted asylum to their home countries (B8-0050/2016). The group considers Tunisia a safe country, and whilst they do not see the number of refugees coming from or via Tunisia as very high, they claim that this is why it is important to conclude a readmission agreement with the country (EP11). The EPP is thus in specific support of the EU-Tunisia readmission agreement.

The S&D generally accepts return as an elementary component of European migration policy. Whilst they claim not to be fundamentally opposed to the conclusion of readmission agreements, they are sceptical of their excessive application, demanding that that they cannot be the only instrument of policy-making on migration and voicing red lines, such as human rights and safe states (EP14). The group perceives Tunisia as a somewhat stable partner, claiming "it would be helpful if Tunisia participated in the readmission scheme, especially if it were to facilitate the return of migrants to Libya" (EP14). At the same time, they are weary about the country's transition to democracy. They are per se not opposed to concluding a readmission agreement with Tunisia but remain sceptical and are thus in complementary criticism.

The ECR strongly stresses the importance of negotiating effective readmission agreements with third countries and fully supports the conclusion of readmission agreements for the rapid return of irregular migrants (B8-0450/2017). This applies especially to the countries around the Mediterranean, including Tunisia: "the next step is basically to conclude deals with

countries around the Mediterranean, as we did with Turkey, and have ambitious and effective readmission and return agreements with third countries”¹²⁰. The ECR is in specific support of the negotiations.

ALDE generally agrees with the importance of effective readmission and sees it as being part of an EU policy on migration. However, the group also voices several red lines for the conclusion of readmission agreements, such as human rights and the rule of law (EPo8). However, they do not perceive Tunisia to be as problematic as some of the other EU readmission agreements (EPo8). With ALDE’s overall critical approach to readmission and its more liberal approach to the Tunisia negotiations, the group displays, like the S&D, complementary criticism to the agreement.

GUE/NGL is firmly opposed to the readmission agreement. In their 2015 Guidelines for an alternative policy on migration based on human rights and solidarity, the group demands that the Commission “evaluate agreements on mobility partnerships and suspend all re-admission agreements” (§ 9). The group especially condemns readmission agreements with countries that do not respect fundamental human rights (B8-0835/2015). This opposition extends to this readmission agreement.¹²¹ GUE/NGL is thus in specific opposition to the agreement.

Lastly, the Greens-EFA voice strong doubts about the entire system of EU migration policy and express strong opposition to EU readmission agreements. They do not oppose the idea that a country ought to take back its own citizens, but the group has several red lines, such as human rights, the safe country question and the inclusion of a third country clause. These concerns also apply to the negotiations with Tunisia, especially because Tunisia does not have its own asylum law. “As long as adequate asylum legislation is lacking, Tunisia is legally not a safe country and the EU cannot send people back”.¹²² Thus, the Greens-EFA thus display specific opposition to the EU-Tunisia agreement.

7.6.3.1.4. The Likelihood of Substantive Impact

Recall from above that the likelihood of having substantive influence depends on the credibility of a group’s veto threat, and with that on a group’s number of MEPs relative to the overall number of MEPs. The two largest political

¹²⁰ <http://ecrgroup.eu/beefed-up-european-border-guard-should-play-key-role-in-limiting-asylum-flow-to-europe/>.

¹²¹ <http://www.guengl.eu:8080/news/article/gue-ngl-news/eu-policy-on-migrants-and-refugees-disastrous-and-hypocritical>.

¹²² <https://groenlinks.nl/nieuws/door-europese-druk-waagt-tunesi%C3%AB-zicht-niet-aan-humane-asielwet>.

groups in the European Parliament are the PPE and the S&D, and the other groups are nowhere near their size. In terms of a credible veto threat, only PPE and S&D are argued to have a high likelihood of substantive policy influence.

7.6.3.1.5. *The Overall Resources of the Political Groups*

The resources a political group can invest in controlling readmission negotiations is conceptualized as the number of LIBE MEPs of a political group relative to the total number of seats in the committee. Additionally, the number of LIBE policy advisors that each political group has, relative to the highest number of advisors of all other groups will serve as an indicator of the civil liberties expertise of the group. Based on these numbers, Table 22 shows the values for the overall LIBE resources of the political groups in the EP (see also appendix 4):

Table 22: Political Groups' LIBE Resources

LIBE Policy Advisors \ LIBE MEPs	High	Low
	High EPP, S&D, ECR	Medium Greens-EFA, GUE-NGL, ALDE Low
High		
Low		

7.6.3.1.6. *Efficiency Costs: Complexity and Compellingness*

Recall here that both the complexity of the issue under negotiation and the compellingness of the negotiation setting of the EU-Tunisia readmission negotiations have been identified to be of medium size (see sections 6.4.2. and 6.4.3). Moreover, it was claimed that the argument that the higher the complexity of negotiations and the higher their compellingness, the higher the efficiency costs of parliamentary control is moderated by a parliamentary group's policy position. Only groups that support the negotiations consider control costly due to the high complexity and compellingness of the negotiations and the Union negotiator's need for discretion. Table 23 gives an overview of the cost of parliamentary control of the EU-Tunisia Readmission Negotiations.

Table 23: Efficiency Costs Stemming from Complexity and Compellingness

Political Group/ Policy Position	Causal Factor	Complexity Medium	Compellingness Medium
EPP/Specific Support		Medium costs	Medium cost
S&D/Complementary Criticism		Medium costs	Medium costs
ECR/Specific Support		Medium costs	Medium costs
ALDE/Complementary Criticism		Medium costs	Medium costs
GUE/NGL/Specific Opposition		Low costs	Low costs
Greens-EFA/Specific Opposition		Low costs	Low costs
ENF/Specific Support		Medium costs	Medium costs

7.6.3.1.7. *Predicting the Intensity of Control*

Based on the scores of the values of the independent variables for each political group in the European Parliament concerning the negotiations of the EU-Tunisia readmission agreement, this case study will now deductively predict the intensity of parliamentary control which each group is expected to display. This is done in a comparative approach by focusing on the combination of costs and benefits within one case and comparing them across cases.

It is expected that the higher the salience of the agreement under negotiation, the higher the vote-seeking benefits of parliamentary control. As the negotiations between the EU and Tunisia have been characterized by medium salience, the vote-seeking benefits for control are expected to be of medium size for every political group. Second, policy-seeking benefits are expected to be higher for opposition parties than for majority parties, i.e., only the EPP as majority party is expected to gain low benefits from control. The analysis of the groups' policy positions has demonstrated that EPP and ECR are in specific support of the agreement, S&D and ALDE in complementary criticism, and GUE/NGL and the Greens-EFA oppose the readmission agreement. The more a group opposes the agreement, the higher the benefits of parliamentary control, meaning GUE and the Greens can expect high policy position benefits, S&D and ALDE medium seized benefits and the EPP and ECR low benefits in this regard. Finally, the theory holds that the higher the likelihood of impact, the higher the overall policy-seeking benefits of parliamentary control. As only EPP and S&D have high chances of policy impact, only they can benefit highly from parliamentary control. The other groups are expected to have low likelihood of impact benefits.

Concerning the costs, the resource costs of a political group are assumed to be higher the more limited the group's overall resources. EPP, S&D and ECR have ample resources to control negotiations, i.e., low resource costs of control, whereas ALDE, GUE/NGL and the Greens-EFA have medium resource costs. The theoretical framework holds that the higher the complexity and compellingness of a negotiation setting, the higher the efficiency costs of control, but only for parties that support negotiations. As the negotiations between the EU and Tunisia are characterized by medium complexity and compellingness, both efficiency costs are of medium size for the EPP, S&D, ECR, ALDE, as they support the agreement. For GUE/NGL and the Greens, which oppose the agreement, these costs are assumed to be low. Table 24 recaps (next page).

Based on Table 24, it is now possible to predict the values of the intensity of parliamentary control that each political group is expected to exhibit. This is done in a comparative perspective, by investigating which group(s) are assumed to have the highest benefits and the lowest costs of control, and vice versa. The EPP and the ECR seem to gain the least benefits from parliamentary control and face high costs, and both groups are expected to display a low intensity of parliamentary control. ALDE displays somewhat different values for costs and benefits, and both the benefits and the costs of controlling the EU-Tunisia negotiations are higher than the ones for the EPP and the ECR. Hence, the cost-benefit ratio resembles the one of the EPP and ECR, meaning that ALDE is also assumed to scrutinize negotiations with low intensity. The S&D is expected to gain the highest benefits of all political groups but their costs of controlling negotiations are as high as EPP's and ALDE's. The dissertation postulates that the S&D will display a medium intensity of parliamentary control.

Table 24: Overview of Theory-based Predictions

Benefit/cost	Political Group					
	EPP	S&D	ECR	ALDE	GUE/NGL	Greens-EFA
Vote-seeking benefits	Medium	Medium	Medium	Medium	Medium	Medium
Policy-seeking benefits: institutional status	Low	High	High	High	High	High
Policy-seeking benefits: policy position	Low	Medium	Low	Medium	High	High
Policy-seeking benefits: likelihood of impact	High	High	Low	Low	Low	Low
Resource costs	Low	Low	Low	Medium	Medium	Medium
Efficiency costs: complexity	Medium	Medium	Medium	Medium	Low	Low
Efficiency costs: compellingness	Medium	Medium	Medium	Medium	Low	Low
Intensity of control	Low	Medium	Low	Low	Medium	Medium

Lastly, the Greens and GUE demonstrate exactly the same values across all independent variables: they are expected to gain medium-sized benefits from parliamentary control, ranging somewhere between EPP's and ECR's low benefits and S&D's high benefits, and they will face the lowest costs of all political groups. Therefore, they are assumed to control negotiations with medium intensity, like S&D (see the values in Table 24 above).

7.6.3.2. Step 2: How have the Political Groups Controlled the EU-Tunisia Readmission Negotiations?

The following sub-chapter examines one of the two overarching research questions: how do political groups in the European Parliament control the readmission negotiations between the EU and Tunisia. Overall, there has been little activity on the EU-Tunisia readmission agreement in specific and parliamentary activity has often been intermingled with more general points on migration policy, return policies or Tunisia. Yet, political groups do have individual and varying approaches to the EU-Tunisia readmission agreement, which also differ in intensity of control along the qualitative (function of control) and the quantitative (level of control) dimensions. This analysis will make it possible to determine the intensity of control for each group.

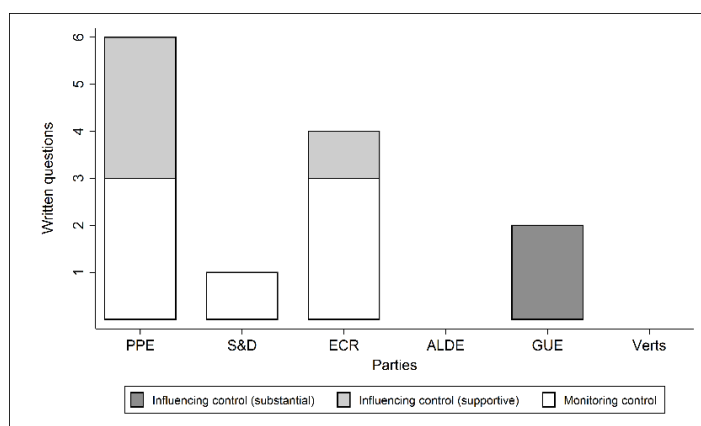
7.6.3.2.1. EPP

The EPP has a positive view on Parliament's right to control and give consent to readmission agreements and demands that it is recognized as a fully-fledged player that should be immediately and fully informed on ongoing readmission negotiations, consulted during negotiations and eventually give consent (Pospíšil 2016, CRE 09/06/2016 – 9). However, this institutional claim does not necessarily translate into parliamentary activity in individual readmission agreements. The EPP claims that it has not been particularly active (EP11) on the negotiations of the EU-Tunisia readmission agreement. The group has mainly been monitoring the negotiations, and not attempted to influence them substantively. However, introducing a distinction between substantive and supportive influencing control, the EPP has clearly engaged in the latter (see more below), and their activities have mainly focused on the Commission as the Union negotiator. In other words, they have used formal control instruments.

The group has used several control instruments to collect information and insights, mainly on the formal interactions with the Commission in the LIBE committee and their briefings on readmission agreements. The group is aware that it could informally interact with the Commission on the Tunisia agreement but prefers formal interaction: "I have not had the impression until now,

that we want to have purely intra-political group meetings with the Commission outside of the official structures. The latter are enough” (EP11). In addition to exchanging information with the Commission, the EPP has monitored the EU-Tunisia negotiations by participating in the 2015 and 2017 missions to the country and valued the information exchange on the issue with its Tunisian counterparts and contacts highly (EP11). Lastly, the EPP asked the most written questions on Tunisia of all political groups (see Figure 12).

Figure 12: Written Questions on the EU-Tunisia Readmission Agreement, 2013-2018



All six questions concern the status of the negotiations, but only three have a purely monitoring function. Three questions are coded as having an influencing function, but they are special, as they do not attempt to influence the Commission substantively or to disrupt the negotiations due to opposition. Rather, they exert pressure on the Commission to proceed with the negotiations, to accelerate the talks and to conclude the readmission agreement quickly and successfully. As such, they have been coded as “influencing (supportive)”, referring to influencing actions supportive of the Commission and the overall course of negotiations. Another forum for the EPP to exert pressure to support negotiations is the biannual meetings with the Commission. As observed by other participants, the EPP uses the occasion to investigate “why the negotiations are taking so long, and pressure that the negotiations need to speed up” (EP14). Overall, the EPP has thus been exerting pressure without substantive consent in the direction of “more negotiation”. There seems to be a distinction between substantive and supportive influencing. As this seems to be a decisive distinction to make, that the used conceptualization of parliamentary control cannot account for, this distinction will be examined in a largely exploratory manner.

7.6.3.2.2. *S&D*

The S&D generally has a favourable view on controlling the negotiations of EU readmission agreements. The group stresses monitoring over influencing control (Assis 2016, CRE 09/06/2016 – 9) but aims to develop a control system for the readmission agreement negotiations similar to the system for FTAs: “we want to have a negotiation opinion and we want to be able to express our preferences and conditions at the beginning of readmission negotiations, in order to eventually exercise influence on the negotiation process” (EP14). In regard to the readmission agreement, the S&D has, in line with its emphasis on monitoring the process of negotiating EU readmission agreements, been more active in collecting information than in exerting pressure on the negotiation setting. “Concerning Tunisia, we are currently mostly gathering information. We do follow the negotiations, but do not really attempt to actively influence them” (EP14). The group preferred formal to informal instruments to monitor the EU-Tunisia negotiations, directed at the Union negotiator (EP14).

The S&D participated actively in the LIBE meetings during which the EU-Tunisia readmission agreement was discussed, posed questions and generally tried to foster a strong information exchange with the Commission (EP14). Moreover, the group was part of the two LIBE delegations to Tunisia in 2014 and 2015, mainly to collect input and insights to the situation on the ground in Tunisia, which they could feed back into their policy position on and assessment of the negotiations of the readmission agreement. The group has asked one written question with particular reference to Tunisia and readmission (see Figure 12).

However, as stated above, the S&D’s overall aim is to be able to exert influence on the negotiations of readmission agreements. Whilst we do not necessarily see attempts to influence the EU-Tunisia readmission agreement, the group does pressure the Commission when it comes to the broader policy field of negotiating such agreements with third parties. They perceive these negotiations to be lacking accountability and transparency, which makes it easier for the Commission to circumvent the group’s red lines (EP14). The S&D has tried to pressure the Commission to respect the EP’s institutional rights by writing letters, reminding the Commissioner that they are required to regularly and comprehensively inform the EP on readmission agreements and by asking questions on the issue. However, this is an attempt to influence the Commission for institutional reasons rather than in specific readmission agreements. As such, in regard to the negotiations between the EU and Tunisia on readmission, the political group has not engaged in such influencing control.

7.6.3.2.3. *ECR*

The ECR generally stresses that the EP's right to be informed on EU international agreements, e.g., readmission agreements, is not limited to the EP's requests for information, but that such information should be provided proactively. Likewise, the Parliament's point of view should be taken into account by the Union negotiator, as everything else "is scandalous disregard for the rights of the directly-elected body, namely Parliament" (Djambazki 2016, CRE 09/06/2016 – 9). However, this does not necessarily mean that the group is actively involved in accompanying individual readmission agreements, including the EU-Tunisia negotiations. The group has mainly monitored negotiations and has not attempted to influence them substantively. However, referring to the above-introduced distinction between influencing control (substantive) and (supportive), the ECR can be argued to have exercised supportive influencing control. Overall, the group has mainly relied on formal control instruments directed at the Commission as the Union negotiator.

The group has used formal control instruments to collect information and insights on the negotiations, mainly the formal interactions with the Commission in the LIBE committee and their briefings on readmission agreements. The ECR has asked four written questions about the relationship between the EU and Tunisia on readmission. Three of the questions have a monitoring function, concerning primarily readmission numbers, the status of readmission negotiations and the Commission's action to foster more effective return to North African countries. One question was coded to have an influencing (supportive) function, deploring the increase in migration numbers to the EU and calling on the Commission to take action to return irregular migrants to their country of origin. Like the EPP, the ECR used this written question to exert pressure on the Commission, without substantive consent, towards "more negotiation". This could also be observed in LIBE Committee meetings, where the group used the opportunities of information exchange to lament the slow pace of the readmission negotiations and to strongly emphasise and pressure the Commission to speed up negotiations (EP14). Generally, the level of parliamentary activity on the specific agreement has been rather low, and ECR action has been intermingled with broader points on migration relations with North African countries.

7.6.3.2.4. *ALDE*

ALDE clearly stresses that it is the EP's task to control the Commission negotiating readmission agreements, and not to negotiate them. "Because you can't control yourself, that would not be very democratic" (EPo8). The group emphasizes the EP's right to monitor EU readmission agreement negotiations by

being immediately and fully informed at all negotiation stages (Charanzová 2016, CRE 09/06/2016 – 9) and its ex post right of consent. “We still believe in the Commission that has as its primary goal to actually to those things, and then come back to the Parliament. Everybody has to play their role. We are more in the sense that you have an executive, a negotiation power, and then an institution that decided afterwards” (EPo8). As far as the EU-Tunisia readmission agreement, the group stresses that they have generally not been overly active but argues that, “parliamentary control can always be better. [...]. I think we should do more” (EPo8). The group further expresses that at the moment, they are merely following the negotiation process by gathering information and attempt to exercise only limited influence (EPo8). Hereby, the use, if at all, formal control mechanisms directed at the Commission.

In line with the overall EP approach to readmission negotiations, the main locus for collecting information is the LIBE committee briefings with the Commission, as well as document analysis. ALDE perceives the Commission to be the main access point to collecting information and controlling the negotiations and thereby emphasizes the use of formal instruments over informal ones (EPo8). This also means that the group sees little added value in interacting with Tunisia itself. They were not part of the 2017 parliamentary delegation to Tunis and claim that whilst they consider parliamentary diplomacy to be a useful tool, the group in Parliament is working more with the Commission than with the third country. However, they very much valued the Tunisian ambassador’s visit to the LIBE committee in 2017 and saw this as an interesting opportunity for further information exchange (EPo8).

In contrast, ALDE claims that there have been few to no attempts to influence the course of negotiations proactively and substantively. The group would prefer to exercise influence by demonstrating to the Commission where its red lines are, so that it will not negotiate something that will not work. However, ALDE did not set out red lines on the EU-Tunisia readmission agreement, even though the EP adopted several resolutions on Tunisia more broadly, which would have been an opportunity to engage more closely with the readmission agreement (EPo8).

7.6.3.2.5. GUE/NGL

GUE/NGL has been one of the more active political groups in controlling the EU-Tunisia readmission agreement. They have actively monitored the negotiations process and have attempted exert substantive influence on the Commission to consider their policy position. The group has relied on formal control instruments and directed its control activities at the Commission as Union negotiator.

GUE/NGL's main instruments for monitoring control activities were the biannual meetings with the Commission and written questions. GUE/NGL is one of the only political groups that has gathered information on the progress of negotiations provided by the Commission in briefings *and* has proactively brought the specific agreement up in the subsequent discussion round in the LIBE committee. The group has intervened several times by following up on the Commission's presentation, investigating the status of the negotiations with Tunisia, and by pointing out human rights violations in Tunisia (Vergiat 2017¹²³). GUE/NGL went beyond merely monitoring the negotiations between the EU and Tunisia and exercised influence over the negotiations. The group posed two written questions with an influencing function (see Figure 12 above).

In addition to specifically controlling negotiations between the EU and Tunisia, GUE/NGL is fighting a broader fight against the instrument of readmission agreements in general. "For my part, with all the members of my political group, we will refuse all these readmission agreements."¹²⁴ The political group was, for example, rapporteur of the so-called "Vergiat Report on human rights and migration in third countries", which focused on setting out red lines for the return of migrants and took a more critical stance on readmission agreements (P8_TA(2016)0404). The group has also issued several motions condemning the conclusion of readmission agreements as a means to counter the current migration influx, calling on the Commission to suspend negotiations. However, they do not single out individual readmission agreements to fight. Moreover, a look at GUE/NGL's general parliamentary activities on migration policy reveals that the group does not see readmission as a top priority but rather tries to embed this fight in its broader strategy on return and migration. Overall, GUE/NGL's attempts to substantively influence the negotiations between the EU and Tunisia have been overshadowed by its broader fight on migration and readmission.

7.6.3.2.6. *Greens-EFA*

Most of the Greens-EFA's parliamentary activity on readmission is currently taking place in regard to the so-called informal readmission agreements. They argue that the EP should have its normal monitoring, scrutiny and consent rights, which the Commission is currently taking away from Parliament

¹²³ <http://www.europarl.europa.eu/ep-live/en/committees/video?event=20170907-0900-COMMITTEE-LIBE>.

¹²⁴ <http://www.eurocityenne.fr/content/entretien-avec-le-temps-de-tunisie-non-je-ne-pense-pas-que-les-relations-entre-la-tunisie-et>.

(EP02). Whilst the individual official readmission agreements the EU is currently negotiating are of secondary order, this does not mean that political group is completely inactive. The Greens-EFA rate their level of involvement in the negotiation process between the EU and Tunisia as “proper” but emphasize that they do not sit at the negotiation table. “The Parliament controls, not negotiates, that is our task” (EP02). The group’s control activities have had both a monitoring and an influencing function, and they use formal control instruments as well as informal interaction with extra-parliamentary actors. The group ultimately directs its control at the Commission but also values the interaction with the Tunisian negotiation partner.

As for the other political groups, the main locus of monitoring EU-Tunisia negotiations is the biannual meetings with the Commission on readmission agreements. Here, the group actively follows the presentation of the Director General and questions him on the status and progress of negotiations. However, the group is not satisfied with the quantity and quality of information it has received on the EU-Tunisia readmission agreement so far (EP02). To mitigate this lack of insight, the Greens emphasize informal interaction with relevant actors outside the legislative-executive framework (EP02) rather than collect information by the means of formal control instruments, such as written questions (see Figure 12 above). This also means that the political group values the information exchange with the Tunisian side of the readmission negotiations. In the 2017 mission, the parliamentary delegation included a Green MEP. “Such delegations are a good way to get a perspective of the other side, what they want, what they don’t want, and to get an understanding” (EP02). Additionally, the group emphasized the importance of civil society and NGOs for monitoring asylum and migration politics more broadly as well as the readmission agreement negotiations, both to collect insights on their opinions and to use their expertise and the documents they possess. The group refers especially to leaked Commission and Council documents published by Statewatch (EP02).

The Greens-EFA also try to exert pressure on the negotiations between the EU and Tunisia. Their main aim is to influence the Commission as the main Union negotiator. The main locus for influencing the Commission is the LIBE committee meetings, where they communicate their policy position and try to push the Commission on the issues the group considers important. In its interaction with civil society organizations, the political group attempts to create public awareness and public pressure, to the extent feasible (EP02).

7.6.3.2.7. Summary: Partisan Control in a Comparative Perspective

Based on the descriptions above of how the groups in the EP have been involved in the negotiations of the EU-Tunisia readmission agreement, the following paragraphs will establish the values of the independent variable, the intensity of parliamentary control, for the EP political groups in relation to the EU-Tunisia readmission negotiations. However, this is preceded by a presentation of the groups' control actions along the remaining dimensions of parliamentary control as identified in the theoretical framework.

It is important to mention two further aspects. First, many groups do not control individual readmission agreements but have a broader approach to the EU's return policy-making and migration agenda. The EU-Tunisia agreement is only a minor part of such control. Second, it could be observed that beyond partisan control, most groups have been able to unite in an institutional fight for better involvement rights of the EP in the making of so-called unofficial readmission agreements. This was not emphasized by the previous analysis but might provide a venue for further studies of the EP's institutional empowerment. Returning to partisan control, there seems to have been little attention to the timing of parliamentary control of the EU-Tunisia readmission agreement. Whilst some groups demand varying involvement rights of readmission negotiations more generally (EPP; ALDE), such time dynamics cannot be discerned concerning the EU-Tunisia agreement. Regarding the formality of control, all groups emphasized the use of formal control mechanisms, especially meetings in the LIBE committee, over informal ones. Only the Greens and GUE have made use of informal control, but to a limited extent, interacting with extra-parliamentary actors. Generally, most control is directed at the Commission as Union negotiator, for the Greens and GUE also indirectly via civil society. Moreover, whilst all groups appreciate interaction with the Tunisian counterpart, the perceived usefulness of direct interaction with Tunisia itself varies.

Concerning the function dimension of control, only GUE/NGL and the Greens tried to influence negotiations between the EU and Tunisia substantively in accordance with their preferences. They used similar mechanisms, emphasizing the importance of the biannual meetings with the Commission. However, both groups claim to have overall been rather inactive on the agreement, especially in comparison to their activities on other international agreements, and have hardly gone beyond the formal scrutiny mechanisms available to parliament. Their intensity of control can thus be identified as "low influencing".

The overall aim of the S&D has, as illustrated by the empirical analysis above, been to collect information rather than to exert pressure on the negotiation setting and on the Union negotiator. The group has not really attempted to influence the negotiation process and has only pressured the Commission concerning the broader policy field of negotiating readmission agreements with third parties. On the EU-Tunisia agreement, they have mainly displayed monitoring control. Similarly, ALDE has emphasized monitoring over influencing control, and has not followed up on information by exerting pressure on the negotiation setting or the Union negotiator. When it comes to the level of monitoring control, the S&D can be argued to have been the more active group as it has collected information from other sources than the Commission briefings, whilst ALDE did not really go beyond these institutionalized meetings. The S&D thus displayed high monitoring control, and ALDE low monitoring control.

The EPP and the ECR have both exerted pressure on the Commission to accelerate the talks and conclude the readmission agreement quickly and successfully. This means that whilst they have not attempted to substantively influence and alter the content of the negotiations, the two groups clearly went beyond merely monitoring the progress of the negotiations. Importantly, this might indicate that the qualitative dimension of parliamentary control does not only consist of two control functions, but that the influencing function needs to be further sub-divided: influencing (substantive) and influencing (supportive). However, in the following congruence comparison, the function of control will be counted as influencing, in line with the theoretical framework. The level of influencing control activities has been low in both cases, as the groups claim not to have been very active on the readmission agreement.

Overall, GUE/NGL and the Greens have displayed “low influencing (substantive)” control, whilst the EPP and the ECR controlled the EU Tunisia negotiations with “low influencing (supportive)” control. Hence, both parties demonstrated a medium intensity of control. The A&S and ALDE controlled the negotiations “high monitoringly”, hence also with medium intensity. Table 25 shows the placement of the political groups along the two dimensions of the intensity of parliamentary control:

Table 25: The Intensity of Parliamentary Control of the EU-Tunisia Readmission Negotiations in the EP

Level \ Function	Function	Monitoring	Influencing
Low		Low monitoring ALDE	Low influencing GUE/NGL; Greens-EFA (substantive) EPP; ECR (supportive)
High		High monitoring S&D	High influencing

7.6.3.3. Step 3: Comparing Prediction and Outcome

Table 26 presents the predicted values of the intensity of parliamentary control and the observed outcomes in order to enable the testing of the congruence between concrete expectations and the empirical observations.

Table 26: Comparison

Political Group	Predicted Intensity of Control	Observed Intensity of Control	Congruence (+) Non-Congruence (-)
EPP	Low	Low influencing	-
S&D	Medium	High monitoring	+
ECR	Low	Low influencing	-
ALDE	Low	Low monitoring	+
GUE/NGL	Medium	Low influencing	+
Greens-EFA	Medium	Low influencing	+

Overall, the predictions of the observable intensity of parliamentary control, based on the theoretical framework developed in section 4.6., are to a high degree congruent with the findings of the empirical analysis. Whilst this might indicate that the assumed causal relationship between the causal factors and the intensity of scrutiny might exist, the comparison does not correlate in the instances of the EPP and the ECR controlling negotiations. Without jumping to conclusions, whilst these two groups have been categorized as exerting influencing control, recall that they were not pressuring the Commission on grounds of opposition to the EU-Tunisia readmission agreement, but exactly because they support the overall aim of the negotiations. This gives further support to the consideration to distinguish more sharply between influencing control (substantive) and influencing control (supportive). To investigate this

discrepancy further, the following subchapter will conduct a process-tracing analysis of one of the deviant cases, the EPP. The process-tracing analysis will also cover the Greens-EFA in order to flesh out the underlying causal mechanism and to guard against spurious correlations.

7.6.4. Partisan Control Action: A Process-Tracing Approach

In the following, the causal process linking the causal factors identified in the theoretical framework chapter with the outcome, the intensity of parliamentary control, will be disentangled by using diagnostic evidence and information about the perceptions and motivations of actors. The goal of this analysis is to determine whether the parts of the hypothesized causal mechanism are present in the given case, whether the mechanism functioned as expected and whether the mechanism as a whole was present.

7.6.4.1. *EPP*

As demonstrated above, the EPP has controlled the EU-Tunisia negotiations with a low influencing intensity, i.e., stronger than expected by the theoretical framework, which predicted only a low intensity of control. Table 27 displays the expected perception of the costs and benefits of control, which will be analysed in-depth in the following. Special focus is paid to explaining the non-congruence of predicted and observed outcome. The investigation is of a more exploratory nature, deviating from a strict application of the theoretical framework to investigate why the EPP controlled influencing (supportive).

Based on the medium salience of the readmission negotiations between the EU and Tunisia, the theoretical framework postulates that the EPP, like all other political groups, will perceive the vote-seeking benefits of parliamentary control to be of medium size. The EPP agrees with the characterization of the agreement as somewhat salient (EP11). However, the group argued that it is not necessarily only incentivized by vote-seeking benefits to control negotiations, but also makes an explicit connection between the salience of and public opinion about readmission and the compellingness of negotiating a readmission agreement with Tunisia. The increasingly polarized political discourse on migration issues makes it necessary to prevent further radicalization of public positions. “And in order to prevent such a discourse, we now need approaches. And readmission is not the one solution, but it is a small part of something that can be the solution, that is, rational interaction between states [...] where everyone is aware that one has to assume state responsibility” (EP11). Hence, the EPP perceives the agreement to be compelling due to the salience and increasing polarization of migration issues. As demonstrated below, this affects the group’s parliamentary control activities on the negotiations in the sense that it attempts to influence the process in a supportive manner.

In addition to perceiving the agreement as particularly compelling due to the salience of migration issues, the EPP agrees with its overall characterization as somewhat compelling, as predicted by the theoretical framework. “Maybe those agreements have not been that urgent ten years ago, but nowadays, because of the high number of irregular migrants, we need those things” (EP11). Unlike predicted, this does not lead to the perception of parliamentary control as efficiency costly. Whilst the group agrees that it is the Commission’s task to negotiate the readmission agreement without too much interference from the outside, it engages in influencing (supportive) control activities to strengthen rather than restrain the Union negotiator.

Table 27: Causal Mechanism: EPP

Benefit/cost	
Vote-seeking benefits	Medium
Policy-seeking benefits: institutional status	Low
Policy-seeking benefits: policy position	Low
Policy-seeking benefits: likelihood of impact	High
Resource costs	Low
Efficiency costs: complexity	Medium
Efficiency costs: compellingness	Medium
Observed intensity of control	Low influencing

The EPP is in specific support of the EU-Tunisia readmission agreement, which, based on the theoretical framework, implies that they see only few policy-seeking benefits in parliamentary control. The group is of the opinion that it should be feasible to return people to their home countries in case they have no right of asylum. They are not particularly active on the Tunisia agreement “because we think, that everything is more or less in the right track” (EP11). On the other hand, they deplore the slow pace of negotiations between the EU and Tunisia. This, combined with the perception of the compellingness of successfully concluding a readmission agreement with Tunisia, provides an incentive for the political group to proactively engage in parliamentary control supportive of the negotiations, pushing for the acceleration of the talks. Summing up, “we have the impression that the negotiations process is in fact a bit slow, but going in the right direction. That means we do not have to interfere on substantial grounds” (EP11); yet, as demonstrated, the EPP does interfere in support of the negotiations.

Concerning the EPP’s institutional status as majority party, theory holds that there is little policy conflict between political group and the Commission,

and hence few policy-seeking benefits of control. The EPP confirms this theoretical prediction, arguing that “the Immigration Commissioner is a man of the EPP, [...], who tries to achieve the best. And yes, the relationships with him are good” (EP11). This also means that the group has trust in his conduct of the negotiations. Thus, as expected, the EPP perceives the policy-seeking benefits of control based on their institutional status as low, which means the group is not incentivized by policy conflict to control the negotiations more intensively.

Lastly, the group is aware of its chances of having an impact of the negotiations. “The Commission needs to have us in the back of their heads. Not only in regard to readmission agreements, [...], but the Commission needs to know, and knows, that we are not a rubber stamper” (EP11). However, the group admits at they will not go as far as to reject their consent on the EU-Tunisia readmission agreement, or use a veto threat to steer negotiations in a certain direction, which they explain with their lack of opposition and criticism towards the agreement. This hints at an interaction effect of this causal factor, as it does not seem to have an effect by itself, but that more substantive incentives to consider control action in the first place have to be present.

Summing up, this in-depth analysis demonstrates that the underlying costs and benefits of parliamentary control as well as their interplay are more complex than assumed by the theoretical framework. One important reason seems to be that the theoretical framework only accounts for parliamentary control with a substantially influencing function, but not for the above-displayed supportive influencing control activities. In the case of the EPP analysed here, this function clearly alters the group’s perception of the costs and benefits of their actions in relation to the EU-Tunisia readmission agreement. Most importantly and unlike expected, it is exactly because of their specific support of the agreement that they expect high policy-seeking benefits from parliamentary control, driving the negotiations, but not interfering substantially. They also do not perceive the efficiency costs due to the compellingness of the negotiation setting as high. Rather, they claim that it is exactly due to the compellingness of the negotiations that they ought to engage in parliamentary control. These elaborations provide a much more nuanced picture of the effect of the causal factors “policy position” and “compellingness”, which makes it necessary to engage with the concept of “influencing control (supportive)” in the ensuing discussion. Moreover, the group has perceived most other causal factors as predicted by the theoretical framework. Importantly, weighing the costs and benefits of parliamentary control as perceived by the EPP, the political group clearly sees more benefits than costs of controlling the

EU-Tunisia readmission agreement, supporting the overarching base assumption that the higher the benefits and the lower the costs of control, the higher its intensity.

7.6.4.2. Greens-EFA

For the Greens-EFA, the comparative congruence analysis concluded that the theoretically predicted and the actual intensity of control have been congruent. Table 28 displays the causal mechanism expected to have been at work. The following process-tracing analysis will shed further light on the causal process and, ideally, provide a certain level of confirmation for the theorized causal mechanism.

According to the theoretical framework, the medium salience of the EU-Tunisia agreement means that the Greens are expected to perceive the vote-seeking benefits of parliamentary control of medium size. Indeed, the political group argues that, especially as in contrast to countries like Afghanistan, where the return of irregular migrants has been subject to extensive public scrutiny, Tunisia is not considered a particularly dangerous country by civil society. This, the group argues, explains why the agreement is not that relevant politically and is not intensively accompanied by the EP (EP02). However, they claim that as negotiations progress, public attention to the agreement will increase, which in turn will lead to greater activity in Parliament in the final stages of the negotiations. Overall, this means that the Greens currently do not perceive the salience and the vote-seeking benefits to be gained from controlling as particularly high, but also not non-existent. As expected, the Greens perceive the vote-seeking benefits of controlling the EU-Tunisia negotiations of medium size.

Table 28: Causal Mechanism: Greens/EFA

Benefit/cost	
Vote-seeking benefits	Medium
Policy-seeking benefits: institutional status	High
Policy-seeking benefits: policy position	High
Policy-seeking benefits: likelihood of impact	Low
Resource costs	Medium
Efficiency costs: complexity	Low
Efficiency costs: compellingness	Low
Observed intensity of control	Low influencing

The Greens have been identified as an opposition party, which ought to increase the policy-seeking benefits of parliamentary control due to policy conflict with the Commission. Indeed, the group does not agree with the Commission's approach to readmission because the Commission is pushing for policy issues in the talks with Tunisia that the Greens oppose to, such as a third country national clause. "When it comes to their [the Commission's] approach no, I don't agree" (EP02). This policy conflict with the Commission clearly provides an incentive for the Greens to actively monitor and influence the ongoing readmission negotiations. This concurs with the theoretical prediction that that the Greens perceive the policy-seeking benefits of controlling as high.

Similarly, the Greens are assumed to perceive the policy-seeking benefits based on their policy position as high, as they are in specific opposition to the EU-Tunisia readmission agreement. The statement "of course, we disagree on the direction in which the negotiations are going, as always" (EP02) shows their opposition to the agreement as a major incentive to scrutinize the negotiations. As assumed, the Greens perceive the policy-seeking benefits based on their opposition as high.

Lastly on the benefit-side, the Greens/EFA are a small group in Parliament with small chances of substantively influencing the EU-Tunisia negotiations. This should affect the size of the policy-seeking benefits that the group expects to gain from parliamentary control. Indeed, the group argues that this is one of the major reasons why they are not more active on the specific negotiations between the EU and Tunisia. "I am the MEP in the LIBE committee who is the most active on readmission agreements. But you need to pick your fights. As soon as there is a result to the readmission agreement with Tunisia, it will have a nice majority within the parliament. So at the end of the day, you can spend an awful lot of time on controlling and trying to influence the agreement, but it does not change a thing" (EP02). The underlying rationale conforms to the expectations: in situations of expected low influence, putting time and effort into pushing for something that is not going to happen does not provide benefits but only generates costs. Overall, as expected, the lack of likelihood of influence is one of the major reasons for only medium intensity of control by the Greens.

On the cost-side, the Greens have medium-level LIBE resources at their disposal, which leads to the expectation that they do not consider parliamentary control of the EU-Tunisia readmission agreement too costly. However, it needs to be stressed that whilst the group controls the Tunisia readmission agreement with medium intensity, its main objective is to exert pressure on the Commission to involve the European Parliament in readmission negotiations more broadly, especially on unofficial readmission agreements. In this situation, most of the Green LIBE resources are spent on this fight. Despite its

medium-sized LIBE resources, it has few resources to spend on the Tunisia negotiations. In terms of individual negotiations of readmission agreements, the political group considers other agreements more pressing and spend their LIBE resources here. Overall, they argue that, “we have such a big agenda, and so little time, there is so much to do. So we just leave the agreement in the refrigerator, for a little while, so to say” (EP02). Despite the medium-sized LIBE resources, the Greens perceive the costs of controlling the EU-Tunisia readmission agreement as high, contrary to expectations. A major reason is that resource costs are here understood as opportunity costs of spending time and effort on “the more pressing negotiations”.

Lastly, the group is expected to perceive the efficiency costs of controlling the Union negotiator as low, as they do not perceive the Commission to be in need of extensive discretion in the negotiation setting. The group argues firmly that they do not believe that tying the hands of the Commission too tightly and demanding too much transparency in the negotiation process can have a negative effect on the outcome. First, the group does not believe that the Parliament is able to set strong enough boundaries or that the Commission needs such flexibility (EP02). Moreover, the group claims that whilst they observe a bigger political will to conclude readmission agreements, they do not agree with the perception of the negotiation situation as compelling. The agreement has “a strategic importance, not an empirical importance. [...]. Others find it a very important agreement to conclude” (EP02). As expected, the Greens/EFA do not consider the efficiency costs of controlling the readmission negotiations between the EU and Tunisia as very high, nor do they agree with the compellingness of the negotiations. However, they do not seem to have taken the complexity of the negotiations into account.

Summing up, the costs and benefits of parliamentary control were (to the largest extent) perceived by political group as expected. This implies that the causal mechanism functioned as expected. The only causal factor in which the political group does not seem to have perceived the costs of control as predicted are the resource costs of controlling, where the group perceived the costs as high, whilst the framework predicted medium costs. An explanation might be that the group embeds the Tunisia readmission agreement in its broader fight on migration policy and against EU return agreements. Fighting this “big” fight, the opportunity costs of focusing exclusively on one agreement are rather high. However, the assumed causal mechanism is at work in this instance, as this is a technical (measurement/operationalization) rather than a theoretical flaw.

7.6.5. Conclusion

Studying how and why the political groups in the European Parliament have controlled the negotiations between the EU and Tunisia on a readmission agreement was done, as set out in the research design, in a twofold approach: the comparative congruence method, followed by two process-tracing studies. The descriptive findings of how the groups have exercised control were presented along the four dimensions of parliamentary control (see section 7.6.3.2.7). These findings presented that there was indeed variation in how the groups controlled the EU-Tunisia negotiations and, importantly, introduced new function of control: influencing control (supportive). As discussed in section 7.6.3.2.1, this type of control does not attempt to influence the executive substantively or to disrupt negotiations due to opposition to the disagreement, but rather to exert pressure to progress with negotiations, to accelerate talks and quickly and successfully conclude the agreement. As such, these influencing actions are supportive of the Commission and the overall course of the negotiations, pressuring for “more negotiations”. This function of parliamentary control was not included in the conceptualization of parliamentary control and was thus treated in a more exploratory manner. However, it was deemed important for understanding the nature of parliamentary control, and the following analyses will examine whether parliamentary control qualifies as influencing (supportive).

The comparative congruence analysis revealed that the predicted intensity of how the political groups controlled negotiations between the EU and Tunisia is largely congruent with the descriptive findings of the “how” of control. However, it is non-congruent in two instances: EPP and ECR, the two groups that were argued to have engaged in influencing (supportive) control. This has two implications. First, for groups that monitor or influence (substantively) negotiations, the confidence that the assumed causal relationship exists has been strengthened. In other words, the postulated theoretical framework explains why these groups control the negotiations with the intensity they do. Second, it strongly suggests that the causal mechanism is not as expected in the case of the EPP and the ECR. The case studies investigated the EPP’s and the Greens/EFA’s motivation for control via process-tracing to caution against causal spuriousness.

The latter analysis increased the confidence in the validity of the causal framework. The group perceived most causal factors as assumed, and on that basis considered the vote- and policy-seeking benefits as well as costs as predicted. It considered the resource costs higher than assumed, which is a technical, not a theoretical flaw. Moreover, the complexity of the negotiations do not seem to have played a major role for the group. In contrast, the findings of

why the EPP controlled the negotiations with low influencing (supportive) intensity are more tentative, based on a less rigorous methodological approach. The process-tracing study demonstrated that the groups that were in specific support of the agreement and perceived the negotiation situation as compelling do not perceive control to be efficiency costly, but are incentivized to exercise control by a combination of support and compellingness. This is feasible because they do not interfere substantially in the negotiations but drive them to speed them up and arrive at a swift and satisfactory international agreement. As such, the EPP perceives the benefits of control to be bigger than assumed and the costs lower. The question remains when groups in specific support perceive control as efficiency costly due to a compelling environment. On the one hand, this seems to depend on the nature of control: if it is monitoring/influencing (substantive) control is costly, if its influencing (supportive) control, it is policy-seeking beneficial. Second, and even more indicative, this seems to be related to the groups' dissatisfaction with the progress of the negotiation process.

7.7. Control of the Kigali Amendment Negotiations in the European Parliament

This case study examines the “how” and the “why” of control of the negotiations of the Kigali Amendment to the Montreal Protocol in the European Parliament. As usual, the analysis starts with an overview of the EP's scrutiny rights and practices in relation to multilateral environmental negotiations followed by a congruence analysis and a process-tracing study.

As far as the EP's involvement, it is important to recall that while negotiations on the Kigali Amendment were going on, the EU was adopting its internal legislation on phasing out HFCs, and the Parliament was co-legislator to this file. In 2012, the Commission proposed the renewal of the 2006 F-Gas regulation to improve the EU's control of emissions from fluorinated greenhouse gases (F-Gases), including HFCs. With the revised Regulation, adopted in 2014 and applied since January 2015, the EU already had legislation in place to meet its commitments under the Kigali Amendment. Building on the HFC phase-down under the EU F-Gas regulation, the EU supports global action on HFCs under the Montreal Protocol, and the Commission proposed a rapid ratification and implementation of the Kigali Amendment.¹²⁵

The following case study will not adhere entirely to the previously used structure, as parliamentary control in relation to the Kigali Amendment in the EP cannot be claimed to have been of partisan nature. The groups emphasise

¹²⁵ https://ec.europa.eu/clima/policies/f-gas_en.

that the EP largely acted as a unitary actor. This will be further fleshed out in chapter 7.7.2.1 below. This case study will thus not attempt to explain variation in the intensity of control by the various groups but rather empirically observed variation in the ex ante and ad locum phase of negotiations the EP as a unitary actor. The case study will start out by discussing the parliamentary control rights and practices in multilateral environmental negotiations and then conduct a descriptive investigation of how the EP has controlled the Kigali Amendment negotiations. Next, the time dynamics regarding the intensity of control will be examined and finally a congruence analysis and a process-tracing study will be conducted.

7.7.1. Control Rights and Practice of Multilateral Environmental Negotiations

De jure, the European Parliament's limited involvement rights in EU international negotiations – being informed and consulted ex ante and ad locum, and giving consent ex post – to a large extent also apply to the EU's international environmental politics. Empirically, however, “the EP has been a key actor in driving and ensuring the adoption of ambitious climate policy within the EU since the 1990s” (Biedenkopf 2015: 93). In line with the sectoral approach to parliamentary control, the European Parliament Committee on the Environment, Public Health and Food Safety (ENVI Committee) is responsible for scrutinizing multilateral environmental negotiations. Despite its limited formal powers, the ENVI Committee can play a role in the EU's involvement in international environmental negotiations. The committee's right to be informed and consulted according to Article 218 TFEU has fostered a well-functioning system of information exchange, both formal and informal, with the Commission and the Council on environmental issues. Moreover, the committee can attempt to exert influence on international environmental negotiations. According to the Lisbon Treaty, Parliament's consent to international environmental treaties must be obtained (Art. 218 (6) TFEU), and based on this, ENVI exerts influence on international environmental negotiations on its own initiative, predominantly through parliamentary resolutions and EP participation in EU delegations to multilateral negotiations rounds of environmental agreements. It is important to be aware that negotiations often take place within the framework of already agreed Protocols and Conventions at annual conferences/meetings of parties (COPs/MOPs). These annual meetings take a variety of decisions aimed at enabling effective implementation of this important legal instrument and amending the legal instrument. The negotiation process of multilateral environmental agreements is less divided into an ex ante, ad locum, ex post structure, but revolves much more around the annual meetings, which serve as the recurring focal point of the negotiations.

7.7.1.1. Access to Documents/Information

According to Article 218 (10) TFEU, the EP must be “immediately and fully informed at all stages of the procedure”. This requirement is furthermore subject to the specific provisions provided the 2010 Framework Agreement between the EP and the Commission.

Not the entire EP is granted access to confidential negotiations documents, as only certain MEPs, e.g., the rapporteur of a specific policy dossier, the committee chair or the EP President can immediately retrieve classified documents. Indeed, information and document exchange between the EP and the Council concerning environmental negotiations has proven difficult (Biedenkopf 2015: 97). The EP’s main source of information is the Commission. The Commission has demonstrated some flexibility concerning access to negotiation documents outside the standard procedure. “When there is an interest ... So once we expressed an interest [in a certain negotiation], we were put on the mails with their delegation and so on” (EP03), which also provides access to the negotiation papers.

The EP emphasizes the value of direct information exchange with the Commission over having access to negotiation documents. Formally, information exchange can take place, e.g., at the biannual structured dialogue between ENVI committee and Commission, where environmental international negotiations are frequent topics. On a more ad hoc basis, the ENVI committee can invite the Commission to brief its MEPs on the latest developments of international environmental negotiations, the EU’s policy position on the issue and the conflict lines on the international level. This is supplemented by more informal information exchange between ENVI MEPs and the responsible Commission DG. Generally, environmentally interested MEPs, regardless of political affinity, often have their own bilateral contacts within the Commission, with whom they coordinate informally (EP03; EP15).

If the ENVI committee decides to send a parliamentary delegation to a negotiation round, the responsible Union negotiator attends a committee meeting around a month before the international conference to brief the committee and its members. Moreover, the ENVI committee usually requests an in-depth study on the environmental negotiations on the scientific side but also on “the different positions of the different parties and groups of parties” (EP03).

7.7.1.2. Procedural Rights

According to Pt. 25 of the Framework Agreement, the Commission represents the European Union in international negotiations but shall “at Parliament’s request, facilitate the inclusion of a delegation of Members of the European Parliament as observers in Union delegations, so that it may be immediately

and fully informed about the conference proceedings” (Pt. 25 IIA). Hence, the EP can send a group of MEPs and ENVI staff to conferences, which they often do, and participation in parties’ annual conferences/meetings the major focus of the Parliament’s scrutiny activities.

Yet, MEPs merely enjoy observer status and “may not participate directly in these negotiations”, meaning they do not have access to the respective rooms and meetings. Neither are they allowed to participate in the daily EU internal coordination meetings (Biedenkopf 2015: 98f.). However, based on Pt. 25 Framework Agreement, the Commission must systematically inform the parliamentary delegation about the outcome of negotiations and facilitate MEPs’ participation as observers in all relevant meetings. Furthermore, the European Parliament usually develops its own program during an international environmental conference, parallel to the actual negotiation talks. In practice, the attending MEPs receive daily (de-)briefings by the Commissioner and the minister representing the EU Presidency or a high-level official (EP03). The EP takes part in dissemination events about specific issues that the EP would like to promote and meets with other delegations. Overall, the attending MEPs foster a strong interaction with other participants at international environmental conferences.

In most cases, the parliamentary delegation’s actions are based on a parliamentary resolution adopted prior to the MEPs’ departure, which can also go beyond the negotiation line of the EU (EP03). Importantly, these are not resolutions issued in parallel with the negotiation mandate at the beginning of the negotiations as in, e.g., trade negotiations. Rather, the EP traditionally adopts specifically tailored resolutions for the individual negotiation rounds. Whilst the Union negotiator is under no legal obligation to consider take the EP’s position into account, the EP uses these resolutions strategically to lay out its preferences and to influence the EU position and tactics in international climate negotiation: “The Commission negotiators, they can’t go there without knowing completely the parliamentary position. So [they] take into account what is the position of the Parliament. Also because the Parliament needs to give consent” (EP03).

Parliamentary delegations to international environmental conferences have a twofold purpose. First, the EP uses the direct involvement in the main locus of international treaty-making to monitor negotiations by collecting information about negotiations and other countries’ environmental positions and policies. A second important motive for attending international environmental conferences is to influence the course of negotiations. The EP uses two strategic approaches here. On the one hand, the Parliament aims to exert pressure on the Union negotiator. As it cannot amend international treaties, it can only influence the content of an envisaged environmental agreement during

its negotiation process. This is especially important in instances when the Commission's and the Parliament's position on the issue under negotiation differ. This is possible because "DG Climate, [...], they are very much aware that the European Parliament will have to give its consent to any amendments to an international convention. And then they involve you in the negotiations" (EPo3). On the other hand, the Union negotiator uses the EP's presence at international conferences strategically to increase the EU's bargaining power. "And they [the Union negotiator] also sometimes really ask you to then, you know, to put a point forward to other delegations. [...]. It is sometimes helpful that the Commission can show 'we are pushing for this point because we have a parliament'; and that increases our bargaining power" (EPo3). The EP can support the EU's leadership claim and outreach to other countries by talking to other delegations, stressing its point of view and emphasizing its power of consent.

Summing up, the European Parliament is involved in negotiations of multilateral environmental agreements in a threefold manner: According to the Lisbon Treaty, multilateral environmental agreements can only be ratified by the EU if the EP gives its consent. The legal framework also requires that the EP be fully informed about the negotiation process, allowing a close monitoring of the progress of multilateral environmental negotiations. The Parliament also engages in activities to influence the EU's position and success in international environmental negotiations, most importantly by sending parliamentary delegations to the negotiation rounds. Even though the EP is not formally involved in the negotiation process because it is not an official part of the EU negotiation team, the delegation can monitor and influence the progress of the negotiations *ad locum*.

7.7.2. The European Parliament and the Kigali Amendment: Non-partisan Control Action

Over the years, the European Parliament has developed a reputation as the EU's "environmental champion" (Burns 2013), which "often sees itself, and is seen by others, as the defender of environmental interests" (Weal et al. 2000: 91). In its own words, the EP has long advocated the inclusion of HFCs in the scope of the Montreal Protocol. To explore what the EP has done in this regard, and whether its ambitions were followed by parliamentary actions, it is necessary to examine the EP's approach to amending the Montreal Protocol. It is, in most instances, possible to distinguish between partisan and non-partisan parliamentary action on a particular file (see the case studies above). However, this is not a given in environmental politics, where the European Parliaments tends to demonstrate a unified front in favour of ambitious poli-

cies. Thus, before the analysis of how the EP unitarily controlled the negotiations, a brief discussion of the nature of Parliament's control actions as partisan or non-partisan is in order.

7.7.2.1. Non-Partisan and Partisan Control?

Some political groups in the EP were more active in accompanying the negotiations of the Kigali Amendment than others, but a common denominator of all parliamentary control actions since the early 2010s is that the political groups claim to have acted in a non-partisan manner in the name of the entire European Parliament. These claims range from the green-left to the centre-right: both EPP and Green MEPs claim that the EP's activities were not driven by party-political interests but were joint actions by the ENVI Committee (EP13). "I was pretty confident that at this stage, I was doing it in the interest of the European Parliament. [...]. So anything I could do to bring it more closely to the EU deal would be in my Green benefits, but also at the same time talking on behalf of the EP. So I felt pretty comfortable that I could be seen as talking on behalf of the Parliament" (EP15). It is an important point that the non-partisan nature of the EP's control activities was actively stressed by the interviewees and not only mentioned in passing.

This does not mean that the European Parliament acted overall in unison on the topic of phasing out HFCs. The adoption of the new and more ambitious F-Gas regulation, which was negotiated between November 2012 and May 2014, was highly politicized in the Parliament. MEPs called the intra-parliamentary negotiations on the regulation "challenging" and "not easy" (Banki 2014, CRE 11/03/2014 – 19), and "a difficult piece of work" (Leinen 2014, CRE 11/03/2014 – 19), acknowledging the many discussions within Parliament concerning the new regulation (EP13). The EP found it difficult to combine ambitious environmental goals with the needs of market players. Especially more conservative industries lobbied strongly for no legislation or at least no tightening of the legislation (Eickhout 2014, CRE 11/03/2014 – 19), which was especially picked up by the EPP with its strong connections to those industries (EP15). In contrast, the green-leftist parties strongly supported the ambitious new legislation.

Thus, the topic of HFCs used to be "very politicized, but mostly in the time when we were doing our own stuff. And I think that is always the case, of course, that an issue gets far more attention when you are doing your domestic legislation. [...]. Once that was adopted, you noticed that the interest for the issue really was very quickly eroding by a lot of people; [...]. The real political fight was during the F-Gas regulation" (EP15). Whilst the EP treated the domestic legislation on F-Gases as a partisan issue, this intra-parliamentary fight never reached the international stage: in terms of addressing HFCs under the

Montreal Protocol, the EP has always had an overall non-partisan approach. This does not indicate that individual political groups and MEPs were not more active than others but that their parliamentary activities were not driven by party-political interests. The EP, and the intensity of the Parliament's control of the negotiations of the Kigali Amendment to the Montreal Protocol, will therefore have to be analysed in a unitary manner.

7.7.2.2. The How of Parliamentary Control

The EP has been involved in the negotiations of the Kigali Amendment to the Montreal Protocol to a certain extent. Taking on an active role when negotiations started, they have used parliamentary resolutions, questions and delegations to support the idea and to strengthen the EU's influence on the international stage. Whilst this might indicate a preference for formal control, it is important to be aware that the EP collaborated closely with the Commission in a more informal manner. Moreover, as negotiations progressed, the EP started to relax its ambitious approach, but continued to monitor the progress of the Amendment. The EP's control activities will be described in a more detailed manner below.

Overall, the EP combined formal and informal means. The Parliament argues that it "was more involved behind the scenes, so to say; the people within the Commission, who in the end, when we had the regulation on the table, they kept [us] in the loop on what was going on [...]. There was not really a reason to have a formal EP role in it. The process was going smoothly, and the Commission always hinted when something was needed or not" (EP15). This well-functioning interplay between Commission and European Parliament enabled the EU to take a leadership role during negotiations. "It is, in the end, a combination of Commission and Parliament. [...]. Then of course, sometimes the Commission gives a hint that a certain resolution would be helpful; then you put it forward; it was not so politicized, so the resolution gets adopted, then the Commission uses that ... And slowly, slowly, you get more active" (EP15). It is indeed possible to observe both informal and informal control activities by the EP on amending the Montreal Protocol, e.g., the adoption of parliamentary resolutions, written questions, plenary debates and parliamentary delegations to MOPs. The EP used these instruments with an influencing and a monitoring purpose in mind, as will become evident in the following.

The European Parliament, particularly its ENVI committee, has actively accompanied the negotiations of what would become the Kigali Amendment since their outset. When the Federated States of Micronesia Mauritius and North America first submitted their proposals in 2009, the EP swiftly took on their suggestion to include HFCs under the scope of the Montreal Protocol,

monitoring the process and lobbying for a phase-out of HFCs under the Montreal Protocol inside the EU. The European Parliament did not adopt a parliamentary resolution setting out its policy position and red lines concerning the proposals of the Island States and North America. However, the idea to negotiate the phasing out of HFCs under the Montreal Protocol became part of several parliamentary resolutions on other, related, environmental issues. The HFC proposal was for the first time thoroughly discussed in the European Parliament in 2011. In May that year, the ENVI Committee posed a question for oral answer with debate to the Commission on *A comprehensive approach to non-CO2 climate-relevant anthropogenic emissions* (O-000135/2011). They also stressed the idea to “promote an immediate phase-down at international level of the production and consumption of HFCs through the Montreal Protocol” (ibid.). In the ensuing plenary debate, all political groups emphasized the importance of speeding up the efforts to combat global warming and further reduce the emissions not only of CO₂, but also of fluorinated gases that affect climate change. They lobbied for the EU to support the already submitted proposals for amending the Montreal Protocol and called for the EU to take on a leadership role, asking for both domestic action and action under the Montreal Protocol (Hassi 2011; Paška 2011, CRE 13/09/2011 – 20). The subsequent resolution adopted by the plenary urged the Commission to make proposals for a rapid phase-down of HFCs, come forward with domestic legislation on the matter and, most importantly, “to explore ways to promote an immediate phase-down at international level through the successful Montreal Protocol” (P7_TA(2011)0384). With this resolution, the European Parliament expressed in writing, for the first time, its support of the proposal. As the resolution entails a direct request to the Commission, Parliament attempted to influence the Commission in the direction of its policy preferences. Supporting the opening of negotiations before the idea was widespread, pushing and urging the Commission to take leadership under the Montreal Protocol, the EP had somewhat of an agenda-setting role in the EU.

In addition to the 2011 resolution, the EP started to refer to the inclusion of HFCs in the scope of the Montreal Protocol in its annual resolutions for the UNFCCC Conferences of Parties. Here, the EP continued to voice its support for the idea and to call on the Commission as Union negotiator at its meetings of parties to promote and work towards that goal (P7_TA(2011)0504 in regard to COP17; P7_TA(2013)0443 in regard to COP19; P8_TA(2015)0359 in regard to COP21 and P8_TA(2016)0383 in regard to COP22). Only the EP’s resolution on the COP20 in 2014 contained an entire sub-paragraph on *HFCs and the Montreal Protocol*, underlining the increasing importance and support of the issue for the European Parliament. Again, the MEPs called for the EU to step up efforts and to engage actively in facilitating global action on HFCs

(P8_TA(2014)0063). The latter resolution also entailed a reference to the EU's discussion paper on *Enabling a global phase-down of hydrofluorocarbons* submitted by the EU to MOP26 of the Montreal Protocol (UNEP/OzL.Pro/26/INF/7). The EP welcomed the paper and called on the "the Commission and the Member States to submit a formal proposal for amendment for consideration at the 27th [MOP]" (P8_TA(2014)0063). They repeated this request in a written question in March 2013, which was submitted jointly by the S&D, ECR, Greens-EFA, EPP, ALDE and GUE/NGL (E-004552/2015). This means that the EP actively urged the Commission to facilitate global action on HFCs under the Montreal Protocol before the negotiations had officially been launched. However, the EP has not been involved in drawing up the official EU proposal to amend the Montreal Protocol, which the Commission presented in April 2015 (EP15).

The EP has actively attempted to become more closely involved in the actual negotiations during the Montreal MOPs. Already in 2011, an EPP MEP of the ENVI Committee requested the authorization of an EP ad hoc delegation to attend the high-level segment of MOP23 of the Montreal Protocol (ENVI_PV(2011)0713_1). A similar request was made the following year for MOP24 by an ALDE MEP (ENVI_PV(2012)0320_1). Neither request was granted, but in 2013, the ENVI committee decided to send a mission to MOP "in order to monitor the process aimed at the phasing-down HFCs" (ENVI_PV(2012)0919_1). It was expected that the negotiating parties were getting closer to substantive negotiations, which meant that the EP took a more active interest in participating in the talks on the international level (EP03). Following the EP's participation at MOP25, the ENVI Committee decided to send another parliamentary delegation to the MOP27 in November 2015 (ENVI_PV(2015)0413_1). To prepare for the MOP25 and the MOP27 missions, ENVI was supported by briefing notes by the Policy Department (IP/A/ENVI/ST/2013-07; IP/A/ENVI/2015-12) and was thoroughly briefed on the upcoming negotiations by the Environment Commissioner and the Head of the Union negotiation team (ENVI_PV(2013)0619_1). In September 2015, ENVI invited the Executive Secretary of the Ozone Secretariat for an exchange of views.

When the ENVI Committee sent a delegation to MOP25 in October 2013, it was for the first time presented at a MOP of the Montreal Protocol. The parliamentary delegation consisted of one MEP who was not equipped with a quasi-negotiation directive for the international conference, but used the 2011 resolution on a comprehensive approach to non-CO2 climate-relevant anthropogenic emissions. The resolution was ambitious, making it clear that the EP intended to support and drive the swift inclusion of HFCs under the Montreal Protocol (EP03). At the MOP, the MEP followed the progress of negotiations

in the plenary sessions and contact groups, met with the Union negotiator and closely monitored the process. The MEP also took part in a series of bilateral meetings to exchange views with the relevant actors, e.g., representatives of the chemical industry, NGOs and members of the US and China negotiating delegations. The delegation used the opportunity of these meetings to express the EP's position on the reduction of HFC emissions (ENVI 2013). The delegation concluded with a rather sceptical of the progress of negotiations on HFCs, observing that the parties were clearly not yet ready to agree on the HFCs amendment proposals. After the minimal outcome of MOP, the EP demanded that "the EU must take leadership [and] push for an agreement that the Montreal Protocol shall deal with the hydrofluorocarbons" (Leinen, cited in ENVI 2013: 7). These actions clearly demonstrate that the EP's role went beyond merely following the progress of the international conference, but that the delegation intended to actively influence other actors involved in the talks in line with Parliament's ambitious HFC agenda. This refers both to the Commission, whom the EP wanted to step up its efforts and take on a leadership role, and to external actors from outside the EU.

The parliamentary delegation to MOP27 in November 2015 consisted of three MEPs. As for MOP25, the European Parliament did not adopt a resolution setting out the Parliament's policy position and red lines. Instead, they used the March 2014 F-Gas regulation as baseline for its parliamentary demands (EP03). During the MOP, the parliamentary delegation mainly followed the discussions in the MOP27 plenary and in the contact group on the feasibility and ways of managing HFCs, i.e., monitored the progress of the negotiations on amending the Protocol. The delegation met with MOP participants, ranging from NGOs to industry stakeholders and members of other negotiation teams. The Parliament observed that "the Commission welcomed the presence of a delegation of the European Parliament, as it increases the visibility of the EU and signals its determination to reach an agreement on an HFC phase-down under the Montreal Protocol" (CR\1078112EN.doc: 2). Thus, similar to its intentions at MOP25, the parliamentary delegation had an influencing purpose at MOP27, strengthening the EU's bargaining position in order to facilitate the swift conclusion of an ambitious amendment, calling for further action by the global community and the EU (CR\1078112EN.doc: 11). Having observed influencing action at both MOPs, it shall be argued here that, in line with the distinction between influencing control (substantive) and (supportive), the EP engaged in the latter. It has not interfered substantially, but rather pushed for an acceleration and successful conclusions of the negotiations. However, when it became evident that it might be possible to reach an agreement on amending the Montreal Protocol at MOP28 in 2016, the

ENVI Committee did not request a parliamentary delegation. “I cannot remember that anyone requested such thing, and neither did we have a discussion about it in committee” (EP13).

The influencing (supportive) function of the Parliament’s control activities also becomes evident when the content of its written questions on HFCs and the Montreal Protocol is analysed. The European Parliament has only asked five questions on the issue, three in 2011, and one in 2015 and in 2016. All questions somehow control the Commission’s policy position and its intended actions in the negotiations; yet, all but one question were coded as “influencing (supportive)”. As explained in-depth in the EU-Tunisia readmission agreement case study, this means that these questions did not attempt to influence the Commission substantively, but rather pressured the Commission to progress with the negotiations. These actions are perceived as influencing control actions supportive of the overall aim and course of the negotiations.

The ENVI Committee was monitoring the MOPs’ progress on the issue of HFCs in its Committee meetings by inviting and exchanging views with the Commission, experts and stakeholders. The Committee inquired into the status of the negotiations, the positions of other negotiating parties and the conflict lines to be expected at the talks (e.g. ENVI_PV(2011)0316; ENVI_PV(2011)1219). Moreover, the Committee organized a workshop on the reduction of non-CO₂ emissions in June 2011 (IP/A/ENVI/WS/2011-08).

Once the amendment was agreed on in Kigali in October 2016, parliamentary consent to ratify the agreement was given according to standard procedure, meaning nothing outside the ordinary happened (EP03). The Commission published its proposal for ratification in line with Article 218 TFEU, and after the internal EP procedure, the vote in the plenary on the agreement took place on 5 July 2017, with 604 votes in favour, 31 votes against and 19 abstentions. In the ex post, the ratification phase of the Kigali Amendment, parliamentary activity was basically limited to swiftly concluding the agreement. In the ENVI reading on the proposal, it became evident that all political groups welcomed the conclusion of the Amendment, and that it was only left to Parliament to urge the EU and the Member States to speed the ratification up, so that the Amendment could enter into force as soon as possible. It was clear from the outset that the file would be non-controversial. Since a large majority of the EP favoured giving consent to the Amendment, there were no shadow meetings, debates, or informal discussions in the corridors. The file was put directly to the vote without any internal debate (EP12).

Summing up, the European Parliament controlled the negotiations of the Kigali Amendment to the Montreal Protocol through a mixture of formal and informal control activities, which emphasizes the close interplay between Parliament and Commission. The Parliament often acted formally based on an

informal Commission request in order to strengthen to EU's overall position and to bolster its leadership ambitions. The EP acted also more independently, attending MOPs, asking influencing question and issuing resolutions urging the Commission to take up the issue of HFCs. The European Parliament's control of the Kigali Amendment clearly had an influencing control purpose; yet, in a supportive manner of the negotiations, aimed at providing support to and strengthening the overall goal of the Amendment, namely the phasing down of HFCs. The main part of the EP's control activities revolved around the MOPs, where the Parliament managed to send delegations. Beyond that, it mainly monitored the progress, writing questions and referring to the issue in resolutions on broader environmental topics.

7.7.2.3. Evaluating Parliamentary Control: Function, Level and Time Dynamics

As the European Parliament acted in a more or less non-partisan manner when controlling the Kigali Amendment, it is difficult to determine the intensity of control in a comparative manner. However, there are certain time dynamics, i.e., within-case variance, in the intensity of the EP's control of the Kigali Amendment of the Montreal Protocol.

When the idea of including HFCs in the scope of the Montreal Protocol was introduced in 2009, the European Parliament took a favourable stance early on, expressing its support for the proposal and actively pushing for it. They exerted pressure on the Commission to take on the issue of HFCs and continued to demand effort and leadership from the Union negotiator by adopting resolutions, asking questions, and organizing workshops. "In the beginning, we took very intensive care of that. And for me that was an important topic, and we have been asking the Commission for many years to do more on the subject" (EP13). Thus, the EP thus served, to a certain extent, as agenda setter within the EU, pushing the EU to take on the idea and to promote an ambitious policy.

As demonstrated above, the EP also acted in collaboration with the Commission, using formal and informal control instruments to exert pressure on the international stage to increase the EU's credibility and bargaining power at the MOPs. Being aware that not only the Commission needs to be on board with the Parliament's ambitious stance on HFCs, but also the other parties around the multilateral negotiating table, the EP decided to work proactively together with the Commission. In this vein, the parliamentary delegations at MOP25 and MOP27 served a monitoring as well as an influencing purpose, based on the ambitious parliamentary position set out in the 2011 resolution on non-CO₂ emissions and the F-Gas regulation as quasi-negotiation direc-

tives. Overall, the Parliament's actions had an influencing (supportive) function, as the EP was clearly not attempting to influence the Commission and the negotiation setting substantively, or to disrupt the negotiations due to opposition to the disagreement. Rather, MEPs exerted pressure for progress in negotiations, to accelerate the talks and to quickly and successfully conclude the amendment to include the HFCs in the Montreal Protocol.

Once the EU had submitted its own proposal to include HFCs in the scope of the Montreal Protocol and negotiations on the Amendment had officially started with the establishment of the contact group at MOP27, the EP started to relax the intensity of parliamentary control of the negotiations. "I think you can say that the European Parliament pushed the issue long enough for the actual negotiations to be started, and once the whole thing was running, we moved back a bit, merely following the negotiations now" (EP13). During the actual negotiations, late 2015 and 2016, the European Parliament did not think there was as much need for an official parliamentary role as prior to MOP25. The ENVI Committee "could do [the] things a bit more behind the scenes. For me, there was not really a reason to have a formal EP role in it. The process was going smoothly, and the Commission always hinted when something was needed or not" (EP15). Hence, the EP was mainly involved in the negotiations through the Commission and aimed at gathering information on the progress of the talks. This can also be seen in the Parliament's use of its formal control rights. Whilst it continued to include references to the Montreal Protocol in its annual resolutions on the UNFCCC COPs, the number of written questions with an influencing (supportive) function as well as the engagement of the ENVI committee with the topic decreased. Most importantly, the EP did not send a parliamentary delegation to MOP28, even though it was aware that the Amendment was highly likely to be adopted there, as it did not perceive it as necessary to exert influence on the negotiation setting at that stage (EP13).

It can be argued that the function of the EP's control action on amending the Montreal Protocol to include a phasing-out plan for HFCs changed with the opening of formal negotiations in 2015, when the contact group on HFCs was formally established and the Council authorized the negotiations of the Amendment. Whereas the EP engaged in influencing (supportive) control activities prior to this, i.e., in the ex ante phase of negotiations, it merely monitored further progress in the ad locum and ex post phase.

However, whilst the function of the EP's control activities changed between the ex ante and the ad locum phase of negotiations, ENVI MEPs argue that the overall level of parliamentary activity remained more or less the same. Whereas the EP is usually quite attentive to climate issues, the majority of

ENVI's international actions hereby focus on the negotiations under the UN-FCCC. On these negotiations, the EP has a somewhat institutionalized way of being involved, yet, its activities on other multilateral environmental negotiations are much more ad hoc and sparse (EP03). As far as HFCs, the ENVI committee paid a lot of attention to domestically regulating the phasing out of F-Gases in the F-Gas regulation (EP15). Overall, this means that the level of parliamentary control of the multilateral international negotiations on the Kigali Amendment never reached the levels of the negotiations under the UN-FCCC or the domestic F-Gas regulation. Compared to those two legal frameworks, "the Kigali amendment will have much more of an impact on our daily lives, [...] indeed, the attention, [...], it's much more toned down" (EP03). These values lead to the following placement of EP as a unitary actor along the two dimensions of the intensity of parliamentary control, see Table 29.

Table 29: The Intensity of Parliamentary Control of the Negotiations of the Kigali Amendment in the EP

Level \ Function	Monitoring	Influencing
Low	Low monitoring EP ad locum	Low influencing EP ex ante (supportive)
High	High monitoring	High influencing

It follows from Table 29 above to ask whether these time dynamics can be explained on the basis of the theoretical framework set out to explain the control action of parliamentary groups. The comparative congruence analysis of "why" parliamentary actors control EU international treaty-making will be applied to the data at hand, but not by identifying the values of the independent variables for the various political groups. Rather, the EP as a unitary actor will be analysed in a within-case comparative manner by comparing the values and predictions of the dependent and independent variables in the ex ante and the ad locum stage of the negotiations of the Kigali Amendment. It is not a given that this will produce valid causal inferences for explaining the observed variation, but it might, in combination with a process-tracing analysis, provide valuable insights into the rationale of the EP as a non-partisan actor and its role in international negotiations.

7.7.3. Non-Partisan Control Action: A Comparative Congruence Analysis

In order to answer the overarching research question of how and why the EP controlled the negotiations of the Kigali Amendment, this chapter will present

the within-case comparative congruence analysis, serving as a first step of the empirical investigation. In line with the research design (see section 5.5.1), predictions about the intensity of parliamentary control, which the EP will display in both the *ex ante* and the *ad locum* stage of the negotiations, will be deductively generated. The second step is a comparison of the predicted outcomes and the observed values of the dependent variable to test the (non-)congruence between the deduced predictions and the actual data.

7.7.3.1. Step 1: Predicting the Outcome

The following sub-chapter will establish the values of the independent variables for the European Parliament as a unitary actor. Particular attention is hereby paid to the time dynamics and whether the values of the variables changed over time. Moreover the values of the independent variables and the expected values of the dependent variable will be established by comparing the values across international agreements/the EP in the different negotiation stages.

7.7.3.1.1. The Public Saliency of the Kigali Amendment

As demonstrated above, the negotiations of the Kigali Amendment have been characterized by low public saliency (see section 6.4.1). Attention only increased with the conclusion of the agreement in October 2016, too late to have an effect on the EP. The saliency thus did not change over the period under investigation here.

7.7.3.1.2. The Institutional Status

As the EP is studied as a unitary actor, it is not relevant to analyse the institutional status of the various political groups, as one can assume that no partisan dynamics are at play. The EP in its entirety can be perceived to act like a governing party.

7.7.3.1.3. The Policy Position of the European Parliament

Within the EU, the European Parliament has been a major driver in ensuring the adoption of ambitious climate policy since the 1990s (Biedenkopf 2015: 93). Unlike in other policy fields, the EP is quite united, from left to right, in its policy position on environmental issues (EP13). Nonetheless, research has demonstrated moderate differences between the different EP political groups, with the Greens-EFA being the most progressive in environmental policy, closely followed by the leftist GUE-NGL. S&D and ALDE, although more moderately, also favour more ambitious standards on environmental protection. The EPP and the ECR are closer to the status quo, being more concerned with the economic costs of higher environmental standards; yet, they are by no

means opposed to stricter environmental regulation.¹²⁶ However, these differences could not be observed in regard to amending the Montreal Protocol to phase out HFCs.

Shortly after the idea to include HFCs in the scope of the Montreal Protocol was introduced, the European Parliament adopted, with a large majority, the 2011 resolution on *A comprehensive approach to non-CO2 climate-relevant anthropogenic emissions*. The resolution urged “the Commission to explore ways to promote an immediate phase-down at international level through the successful Montreal Protocol” (P7_TA(2011)0384). The potential benefits of such action were emphasized by the environmentally progressive groups as well as the more status quo oriented ones. The EPP expressed that the EU should focus on phasing out HFCs under the Montreal Protocol, both “for economic and social reasons, because it is much easier to win in financial terms than reducing CO2, which involves our economy incurring costs in many areas” (Seeber 2011, CRE 13/09/2011 – 20). Moreover, the ECR acknowledged the harmful effects of HFCs but also found that phasing them out could have adverse effects on EU enterprises at a time of economic crisis (Gróbarczyk 2011, CRE 13/09/2011 – 20). In the early stages of the negotiation process, the issue of phasing out HFCs under the Montreal Protocol was not particularly controversial within Parliament. All political groups supported the negotiations (EP15), meaning the EP was in specific support of the agreement.

However, the European Parliament proved to be more divided on the issue of HFCs when the 2006, original, F-Gas regulation, was replaced by a new regulation (see above). On the issue of phasing-out HFCs more broadly, there were varying intra-parliamentary positions on the issue 2012 and 2014 (EP15). However, the policy controversies surrounding the F-Gas regulation never really reached the international stage and affected the political group’s policy positions on amending the Kigali Amendment. Once the F-Gas regulation was adopted, the controversy surrounding HFCs once again ceased. “Kigali was [...] not really an issue anymore” (EP15). Even the EPP MEPs who put the brakes on in the negotiations of the F-Gas regulation did not intervene once the domestic legislation was in place (EP13).¹²⁷

¹²⁶ <http://www.votewatch.eu/blog/tints-of-green-who-influences-environmental-policy-in-the-european-parliament-and-how/>.

¹²⁷ There are two potential reasons for this. First, as the EU already has legislation in place, “well, now it is adopted at the European level anyhow, then let’s also do it globally, in order not to be comparatively disadvantaged” (EP15). Second, the support for the Kigali Amendment negotiations was based on global leadership aspirations (EP15).

So what has been the EP's policy position on the Kigali Amendment? Overall, pursuing an environmentally ambitious agenda, the EP perceives F-Gases as low-hanging fruits: alternatives exist; phasing-down is extremely effective as HFC is a high-polluting gas and every molecule replaced makes a difference; and phasing-down is cost-effective. "If you look at the different analyses, F-Gases was always one of the cheapest options you can get" (EP15). Moreover, the EP considers the Montreal Protocol and not the UNFCCC to be the right forum to address HFCs as they consider it the most appropriate venue to ensure an efficient and fast solution for the increasingly important issue (EP15). It already became apparent at the outset that the EP is in specific support of the Amendment, with no alterations as the negotiations progressed.

7.7.3.1.4. The Likelihood of Substantive Impact

Recall from above that the likelihood of having substantive influence depends on the credibility of a group's veto threat, and with that on the number of a group's MEPs relative to the overall number of MEPs. However, as the EP exhibited a unitary approach to the negotiations of the Kigali Amendment, it follows that (almost) the entire Parliament would back a potential veto threat. As such, the EP has a high likelihood of impact on the negotiations. At the same time, the particular standing of the ENVI Committee within the EP needs to be emphasized: research widely acknowledges that the ENVI Committee has significant influence on decision-making in the EU, and to some, one of the highest levels of legislative influence in the Parliament (Hurka 2013). Moreover, its members believe that ENVI is one of the most influential committees (Alexander 2016: 83). Importantly, the EP's likelihood of influence based on the credibility of its veto-threat has not altered between the ex ante and the ad locum stage of the negotiations.

7.7.3.1.5. The Overall Resources

To determine the overall resources of the decisive actor of the control of the Kigali Amendment negotiations, one needs to look at the ENVI committee as a whole, its size and its expert staff, and not so much at the single political groups. Both in the 7th and 8th parliamentary term, ENVI has been the second largest committee in the European Parliament (ENVI 2014: 7). Additionally, the Committee MEPs are supported by an extensive committee secretariat consisting of 13 administrators and nine assistants¹²⁸. There is general agreement within research that the ENVI committee, in general, possesses signifi-

¹²⁸ <http://www.europarl.europa.eu/cmsdata/committees/contacts/environment-public-health-and-food-safety-committee-staff-list.pdf>.

cant expertise and political understanding, and has fostered expert specialization among both its MEPs and its staff (Hurka 2013). Overall, the ENVI committee thus had ample resources to control the negotiations of the Kigali Amendment. This stayed constant throughout the negotiation process.

7.7.3.1.6. *Efficiency Costs: Complexity and Compellingness*

Recall that the theoretical framework postulates that the higher the complexity of negotiations and the higher their compellingness, the higher the efficiency costs of parliamentary control; however, this relationship is moderated by the actor's policy position. Only actors who are supportive of the negotiations are expected to consider parliamentary control to be efficiency costly due to the Union negotiator's need for discretion. Table 30 gives an overview of the efficiency cost of parliamentary control of the Kigali Amendment to the Montreal Protocol, which is characterized by medium compellingness and low complexity (see sections 6.4.2 and 6.4.3).

Table 30: Efficiency Costs Stemming from Complexity and Compellingness

Causal Factor Actor/Policy Position	Complexity Low	Compellingness Medium
EP ex ante/Specific Support	Low costs	Medium cost
EP ad locum/Specific Support	Low costs	Medium costs

7.7.3.2. *Step 2 and 3: Predicting the Intensity of Control and Comparing Prediction and Outcome*

It is now possible to deductively predict the intensity of parliamentary control with which the European Parliament is expected to control the negotiations of the Kigali Amendment in their ex ante and their ad locum stage.

First, it is expected that the higher the salience of the agreement under negotiation, the higher the policy seeking benefits of parliamentary control. As the Kigali Amendment negotiations have been characterized by low salience throughout the negotiation process, the salience benefits for control are expected to be low both in the ex ante and the ad locum phase. Second, as the EP as a unitary actor has been characterized as having a similar status as a governing party, the Parliament is expected to gain low policy-seeking benefits based on its institutional status from control. This expectation is the same in the ex ante and the ad locum phase of the negotiations. Analysing the EP's policy position on phasing out HFCs under the Montreal Protocol has demonstrated that the EP has been in specific support of such action throughout the negotiation process. Based on the argument that the more in opposition the

policy position to an agreement, the higher the policy-seeking benefits of parliamentary control, the EP is assumed to receive only low benefits in this regard in all negotiation phases. Lastly, the EP as a unitary actor has a credible veto threat and thus a high likelihood of impact. As the theory holds that the higher the likelihood of impact, the higher the overall policy-seeking benefits of parliamentary control, the EP is expected to benefit highly from parliamentary control. This expectation holds throughout the negotiation process.

Concerning the costs, the resource costs of a parliamentary actor are assumed to be higher, the lower the group's overall resources. As the EP in theory can use the entirety of partisan and non-partisan ENVI resources on controlling the negotiations of the Kigali Amendment, the Parliament is expected to have low resource costs of control. The theoretical framework holds that the higher the complexity and the compellingness of a negotiation setting, the higher the efficiency costs of control, but only for actors who are supportive of the negotiations. As the negotiations for the Kigali Amendment were characterized by low complexity and medium compellingness, and the EP was in constant specific support of them, the efficiency costs due to the complexity of the negotiations are expected to be low, whereas efficiency costs based on compellingness are of medium size. Table 31 recaps:

Table 31: Overview of Theory-based Predictions

Benefit/cost \ Actor	Actor	
	EP ex ante	EP ad locum
Vote-seeking benefits	Low	Low
Policy-seeking benefits: institutional status	Low	Low
Policy-seeking benefits: policy position	Low	Low
Policy-seeking benefits: likelihood of impact	High	High
Resource costs	Low	Low
Efficiency costs: complexity	Low	Low
Efficiency costs: compellingness	Medium	Medium
Observed intensity of control	Low	Low

Based on Table 31, it is now possible to predict the values of the intensity of parliamentary control that the EP is expected to exhibit in the ex ante and the ad locum phase of the negotiations. It is important to note that the identified values of the costs and benefits of parliamentary control do not change between the ex ante and the ad locum phase of the negotiations, which indicates that the EP is expected to control the negotiations with the same intensity throughout both stages. Based on the assumption that the higher the benefits and the lower the costs of parliamentary control, the higher its intensity, it is

evident that the European Parliament cannot be expected to gain many benefits, vote-seeking or policy-seeking, from par. The costs of control are expected to be equally low. Despite this balanced picture, the lack of actual benefits, incentivizing the EP to control, leads to the assumption that the EP controlled the negotiations of the Kigali Amendment with low intensity, both in the ex ante phase of the negotiations and in the ad locum phase. See the values in Table 31 above.

Based on the analysis of how the European Parliament controlled the negotiations of the Kigali Amendment and the predicted values of the intensity thereof, it is now possible to compare the predicted and the identified values (see Table 32).

Table 32: Comparison

Actor	Predicted Intensity of Control	Observed Intensity of Control	Congruence (+) Non-Congruence (-)
EP (ex ante)	Low	Low influencing	-
EP (ad locum)	Low	Low monitoring	+

The prediction seems to match the observed intensity in the ad locum phase of the negotiations but not in the ex ante phase. How can this be explained? Does the theoretical framework, developed with regard to political groups, not apply to the European Parliament as a unitary actor, or do other factors not considered here play a decisive role? In order to analyse this more in-depth, the chapter concludes with a process-tracing study. The study is, to a certain extent, structured along the causal factors identified in the theoretical framework, and investigates whether the EP perceived the costs and benefits as well as their size as predicted. However, these factors will be more freely applied than in the previous analysis. The more inductive approach should be better at explaining the variation in the intensity of parliamentary control between the ex ante and the ad locum phase. At the same time, one ought to be cautious in how far the theoretical framework – developed with a view to partisan dynamics – is indeed able to explain non-partisan action.

7.7.4. Non-Partisan Control Action: A Process-Tracing Approach

The theoretical framework holds that due to the low public salience of the Kigali Amendment, the ENVI MEPS should see little vote-seeking value in controlling the ongoing negotiations, as they will not be able to score with the voters on this issue. Generally, the expectation can be confirmed by the process-tracing analysis, as MEPs do indeed perceive HFCs to be “a little-noticed

topic, which could have far-reaching consequences” (Seeber 2014, CRE 11/03/2014 – 19) and thus difficult to get broader attention for it (EP13; EP15). The ENVI MEPs saw a twofold reason for this. First, they do not necessarily perceive the negotiations as technical, but they agree that the issue of HFCs sounds technical and is a topic for a specific, targeted audience. Second, they argue that the negotiations under the UNFCCC, and especially the 2015 Paris COP, have overshadowed most other multilateral environmental negotiations going on during that time (EP15). The Committee argues that, “the Members are sensible to what is the public debate. [But] sometimes, the Members themselves decide to stress a certain issue, and when they could be able to gather around this issue more Members, then they can create a momentum to participate” (EP03). At first glance, this indicates that the ENVI MEPs might consider refraining from being active on negotiations of low public salience, but this is not necessarily the case. “Well, it didn’t matter so much for me, because I am genuinely interested in the topic. But I do think it is one of the reasons why not so many MEPs are interested in it. At the end, it is politics, right? Politicians get more interested if the media gets interested, and vice versa” (EP15). Overall, MEPs are aware of the low salience of the topic and consider this in their parliamentary actions. However, this seems to only hold true for MEPs who do not have an immediate interest in environmental politics, meaning that not necessarily all MEPs consider the low vote-seeking benefits of parliamentary control of the negotiations of the Kigali Amendment. This strongly suggests that there is a group of personally motivated and dedicated MEPs, who push the topic inside and outside the European Parliament. This assumption coincides with previous research on the ENVI Committee and its involvement in multilateral environmental negotiations. This research has shown that there is a rather closed group of environmental experts in the Committee, which takes a strong interest in particular issues (Biedenkopf 2015: 1000). In a situation of lacking public salience and chances of vote-seeking benefits, “it boils down to personal dedication and interest” (EP15).

At this point, it is possible to connect personal interest in and dedication to environmental issues to the EP’s policy position on the Kigali Amendment. Recall that the EP is, overall, in specific support of the agreement, which, according to the theoretical framework, should mean that MEPs see low policy-seeking benefits of controlling negotiations due to a lack of opposition to the course of negotiations. However, the analysis here reveals that it might have been precisely due to the Parliament’s favourable position on phasing out HFCs under the Montreal Protocol that the EP, in the *ex ante* phase, was controlling negotiations with medium intensity. It is important to be aware that its control actions were not substantively influencing, trying to delay and stall

negotiations or to alter their course in substantial terms. The European Parliament can be argued to have been exerting pressure on negotiations exactly because it supports the overall aim of the negotiations. Indeed, the EP explains its activity on the Kigali Amendment mainly with reference to the importance of promoting environmental protection and seeing the Kigali Amendment as a major, necessary contribution to the implementation of the Paris Agreement objective to keep the global temperature increase well below 2°C above pre-industrial levels (EP13). This, in turn, might also offer an explanation for why the Parliament exerted pressure before the official opening of negotiations and mainly relied on monitoring control afterwards. The EP needed to persuade the Union negotiating team, and with that the entire EU, to take a leadership position in this regard to find an ambitious agreement on the international stage. Moreover, they had to exert pressure on the international stage at the MOPs to influence the Commission and other parties in the multilateral negotiation setting to make the amendment as far-reaching and ambitious as possible.

Concerning the latter, this seems to have been the case. The parliament sent a delegation to MOP25 and MOP27 with the clear aim to interact with other national delegations and lobby for the conclusion of a strong and progressive amendment, as early as possible. The ENVI Committee had been investigating the international conflict lines and was aware that it was somewhat uncertain, both in 2013 and 2015, whether it would be possible to progress substantially with the negotiations on the amendment due to various contracting parties' opposition. In such a negotiation environment, the European Parliament considered it necessary to be present on the ground. However, when it became evident that the obstacles and opposition were largely eliminated and that negotiations could officially be opened, the urgency decreased: "I got the signals from the Commission that Kigali was going to be deal; that the biggest problem would be with India, and that this would be the only thing. [...] You knew that that was coming, so it were pretty straight forward negotiations in Kigali towards the end" (EP15), which is why the EP did not consider it important to attend MOP28.

Influencing the Commission in line with the Parliament's policy position is closely related to the "institutional status" causal factor. As the EP acted unitarily in controlling the negotiations of the Kigali Amendment, the Parliament in its entirety can be perceived as having governing status and therefore low policy-seeking benefits. Indeed, the ENVI Committee stresses its good relationship with the Commission on the Montreal Protocol, emphasizing the interaction and collaboration between the two institutions during the negotiations of the Kigali Amendment. This perception stretches from the left to the

right spectrum of the European Parliament and does not only apply to the political group providing the respective Commissioner (EP13; EP15). It seems that the EP has a good relation with DG Environment and good access to the Commission when it comes to environmental politics. However, what does this say about the level of policy conflict between the European Parliament and the Commission?

The well-functioning interaction between the EP and the Commission does not mean that there was no friction between them on the Kigali Amendment. Both institutions were supportive of amending the Montreal Protocol, but the EP took the fight on at the very outset, pushing the Commission to adopt a similarly ambitious stance. This made it necessary to exert some pressure on the Union negotiator, as they are the ones officially representing the EU at the international negotiation table. By taking on such an agenda-setting role at the outset of negotiations, the EP managed that “DG Climate was also pretty early on on board. And that is of course what you need to have. As soon as you have a bit of a combination of minds together, and I think within Parliament and Commission you pretty quickly had it, then you can do the interplay” (EP15) in order to exert substantial leadership in the negotiation process. Once Parliament and Commission were on the same page, Kigali was, within the executive-legislative system of the EU, uncontroversial (EP13). The process-tracing approach of the causal factor “institutional status” thus reveals two conclusions: on the one hand, the EP generally had a good relationship with the Commission throughout the negotiations, which, on the other hand, does not mean that there was no policy conflict between the institutions. Rather, the EP was pushing a more ambitious approach to addressing the issue of HFCs under the Montreal Protocol, meaning that due to a certain “policy conflict” with the Commission, the EP saw policy-seeking benefits in controlling the negotiations until the Commission and the EP had the same stance.

As far as policy-seeking benefits, the theoretical framework holds that the EP as a unitary actor is expected to be able to threaten non-ratification credibly and as such has a high likelihood of substantially influencing the negotiations of the Kigali Amendment. In the situation of wanting to influence a negotiations process substantially, this means that the MEPs should perceive the policy-seeking benefits based on the chances of having an impact as high. The EP actually questions the credibility of its (collective) veto threat, arguing that there is “a bit of a democratic issue, right, on how strong are you to actually say in the end “this deal, I do not like it”. It hardly ever happens” (EP15). They emphasize the importance of not relying on their ex post right of giving consent, but claim that they need to be active during negotiations to push the par-

liamentary position then. This does not mean that the Parliament is not prepared to play with the threat of vetoing in the *ad locum* phase of negotiations towards the Commission, individual EU Member States, and also on the international stage (EP15). The Parliament is very much aware of its chances of exercising influence on international negotiations, despite its limited formal role. It also argues that the likelihood of influencing the negotiations may have been decreasing over time on the Montreal Protocol. This is not necessarily because the risk of a parliamentary veto became less threatening, but rather because the EU negotiation position had been determined, the Commission and the EP were on the same level of ambition, and parliamentary activity would not make a difference anymore. “And then there’s simply no time to deal with things that are clear, were it can be assumed that my voice will not change anything; but that it will go through without me” (EP13). In sum, whilst the EP is aware of its high chances of making a difference, they considered these chances, and thus the benefits of control, to be higher in the early stages of the negotiations of the Kigali Amendment.

Concerning the costs of parliamentary control, the European Parliament is expected to perceive the efficiency costs of control on grounds of a medium compelling negotiation setting of medium size, whereas their low complexity should not affect the EP’s perception of these efficiency costs. Indeed, the EP agrees with the perception that the negotiations are not very technical and do not require in-depth expertise that MEPs might not possess, especially compared to the negotiations under the UNFCCC (EP03; EP13). Overall, ENVI MEPs thus conclude that with the broader material scope and its wider implications on the economy, the UNFCCC negotiations require greater expertise than the Montreal Protocol negotiations. As predicted, the EP does not perceive amending the Protocol as a complex endeavour, which in turn means that this does not affect the efficiency costs of parliamentary control.

The picture is different when it comes to the efficiency costs due to the medium compellingness of the negotiation situation. Recall that the theoretical framework holds that in a situation where an actor is in support of negotiations that are characterized by a somewhat compelling negotiation setting, this actor is expected to perceive parliamentary control as medium costly and potentially harmful to the overall goal of the negotiations. Such a perception cannot be observed in the negotiations of the Kigali Amendment. On the one hand, the EP considered the negotiations as somewhat compelling, underlining the urgency to find a solution and the importance of increasing the EU’s bargaining power in order to foster European leadership to find such solution (Sonik 2011, CRE 13/09/2011 – 20). At the same time, the EP was actively seeking ways to decrease the compellingness of the negotiation setting, using a twofold approach. First, they supported the idea to phase out HFCs under

the Montreal Protocol, and not under the UNFCCC, as it would have been more difficult to find a multilateral agreement under the latter (EP15). Second, the EP actively tried to increase the bargaining power of the European Union in the multilateral negotiations by providing the Union negotiating team with legitimacy and emphasizing its own role towards external contracting parties (CR\1078112EN.doc). Unlike predicted, the compellingness of the negotiation setting did not disincentive the EP due to potential negative effects of parliamentary control on the outcome of negotiations, but rather provided an incentive for the Parliament to become an active player exactly due to their compellingness. Whilst the Parliament agreed that the formal role of Union negotiator fell to the Commission, it engaged in influencing (supportive) control activities, which were not intended to restrain but to strengthen the Union negotiator in the execution of their tasks and to increase the overall likelihood of agreeing on the Amendment.

Lastly, the European Parliament as a unitary actor is, in theory, able to direct its entire ENVI resources, both the secretariat's and the political group's staff, to controlling multilateral environmental negotiations. Hence, it is not expected to perceive parliamentary control of the Kigali Amendment as resource costly or to consider resources as an obstacle to a high intensity of control. ENVI MEPs do not complain about a lack of staff or expertise, but they argue that the ENVI committee is very active, covering both internal and external decision-making and thus being preoccupied with many different files. Especially in terms of controlling international treaty-making, the Committee emphasizes that it only has a certain amount of resources to spend on controlling multilateral environmental agreements and their negotiations (EP03; EP13). Unlike expected, despite the large ENVI resources, the EP perceives the costs of controlling the negotiations of the Kigali Amendment as high. This can especially be explained by the fact that resource costs are here understood as opportunity costs of spending time and effort on other, similarly pressing multilateral environmental negotiations, where the EP is more needed in the sense that its actions are likely to have a bigger impact than on negotiation outcome.

Summing up, the analyses of the policy-seeking benefits of parliamentary control based on the EP's policy position, its institutional status and the likelihood of impact reveal that, unlike predicted, there are differences in the size of benefits to be gained from controlling the negotiations of the Kigali Amendment between the *ex ante* and the *ad locum* phase. Whilst neither the EP's policy position nor its institutional status were altered, the conflict lines surrounding the negotiations within the EU and on the international stage changed, with the Parliament advocating a more ambitious policy than the Commission at the outset and with a progressive outcome of the negotiations

unlikely due to international resistance. This changed, the latest, with the official opening of the negotiations. These initial conflict lines made it necessary for the European Parliament to take supportive action to facilitate successful negotiations due to their specific support of the negotiations, which explains why, despite this policy position, MEPs exerted influencing (supportive) control. This is furthermore fostered by the fact that the likelihood of influence the negotiations was perceived as much higher by ENVI MEPs in the situation of uncertainty about the successful conclusion of the Amendment, which was surrounding the early stages of the negotiations due to higher policy conflict on the European and the international stage. As mentioned, the policy-seeking benefits that could be gained by exercising influencing (supportive) parliamentary control were thus higher in the *ex ante* phase of the negotiations, whereas they had the predicted size in the *ad locum* phase. On the cost side, there was, in contrast, no change between *ex ante* and *ad locum* stage in the perceived value of the causal factors. The resource costs of control were, somewhat surprisingly, considered high by the involved MEPs, who base their assessment on an opportunity cost perspective. Moreover, the EP does not seem to have taken efficiency costs into consideration, unlike assumed, when controlling the Kigali Amendment negotiations. However, it could be observed that the EP agreed with the compellingness of the negotiations. Yet, unlike assumed by the theoretical framework, the compellingness of the negotiation setting incentivized, not dis-incentivized the EP to become active in an attempt to decrease the compellingness. It is exactly due to the compellingness of the negotiations that the EP engaged in parliamentary control.

7.7.5. Conclusion

The case study of the European Parliament controlling the negotiations of the Kigali Amendment deviated from the research design set out in section 5.5., as it was not feasible to discern partisan action and the EP claims to have acted in a unitary approach. However, another interesting finding could be made, namely that there is a clear time dynamic in the EP's intensity of parliamentary control: the Parliament controlled with a medium intensity in the *ex ante* stage and with low intensity once the negotiations were officially commenced. The comparative congruence analysis attempted to explain this cross-time, not cross-group variation. However, the congruence analysis showed that the descriptive findings were only congruent with the predictions in the *ad locum* phase and non-congruent in the *ex ante* phase, indicating that the theoretical framework has difficulties accounting for how the EP controlled at that stage. It is important to note that the control activities in this stage were characterized as low influencing (supportive) based on the distinction introduced in the

EU-Tunisia readmission agreement case study. The latter study strongly suggested that parliamentary actors have a somewhat different perception of costs and benefits if they engage in such control, which also affects their incentives to control differently. Against that background, this case study of the Kigali Amendment continued with a process-tracing study with a more exploratory approach, aimed at investigating this further.

The analysis concluded that the theoretical framework does hold some value in explaining how and why the EP controlled the negotiations of the Kigali Amendment with the intensity it did. It perceived the policy-seeking benefits bigger in the *ex ante* than in the *ad locum* phase, whilst vote-seeking benefits and resource and efficiency costs remained the same throughout the negotiation period. Taking a cost-benefit approach to parliamentary control, the benefit-cost ratio was thus higher in the *ex ante* than in the *ad locum* phase, explaining why the control was more intense in the former than in the latter.

The non-congruence of theoretical prediction and empirical findings in the *ex ante* stage is then largely due to a theoretical flaw, as the causal factors informed the costs and benefits of control differently than predicted. This should be seen in light of the fact that the Parliament engaged in influencing (supportive) action in this phase. As suggested in section 7.6.5., the theoretical framework can only partially account for control actions with this function. More precisely, in the *ex ante* phase, it was a combination of the EP's specific support and a perceived compelling negotiation setting that incentivized the Parliament to be so active. For those two factors, the underlying causal mechanism worked differently than assumed. As the Parliament did not interfere substantially in the negotiations but rather fostered them, they saw high policy-seeking benefits in controlling, despite being in favour of the agreement, and did not perceive control to be efficiency costly due to the compellingness of the negotiation situation, but rather as beneficial. This was further supported by two factors: an initial hesitance by the Commission to pursue the goal of HFC reduction as strongly as wished by the EP – increasing the policy-seeking benefits of control – and the perception that the negotiations were not progressing fast enough, and were not prioritized as highly as the EP wanted them to be by the Commission or by the other parties of the Montreal Protocol.

In the *ad locum* phase of the negotiations, once the Commission took on the proactive stance the EP demanded, the compellingness decreased (also thanks to the EP's involvement), negotiations picked up pace and a conclusion became foreseeable, the conditions for parliamentary control had changed, explaining tentatively why the EP merely monitored the progress in the *ad locum* phase. Parliamentary intervention was simply not necessary and would not have been cost-benefit efficient for the Parliament. This also means that

the theoretical framework has been applicable in the *ad locum* phase and useful in explaining the intensity with which the EP controlled the negotiations.

Moreover, the in-depth investigation of the negotiations of the Kigali Amendment further revealed an important factor that was not included in the framework but affected the EP's control throughout the negotiation period: the importance of motivated MEPs in the absence of general policy conflict. "No one was really interested in the Parliament. This is what happens, if something is not controversial within Parliament, if no one complains, then things will not be discussed. But when there are conflicts, then they need to be talked about, and that demands attention, and then emotions develop and so on" (EP13). This means that the lack of intra-parliamentary conflict seems to have had an effect on the overall engagement of MEPs, which the framework cannot account for, considering it was developed with a view to partisan dynamics. Whilst the lack of intra-parliamentary conflict enables the EP to assume a non-partisan position and put its entire weight behind parliamentary demands, this also implies that not every MEP will become active and that negotiations will not receive broad legislative attention. The fact that there is no group of personally interested and dedicated MEPs might explain the medium intensity of parliamentary control, and especially the low level of engagement. It follows from this to cautiously conclude that in order for the European Parliament and its political groups to control EU international treaty-making with a high level of scrutiny, there needs to be some kind of intra-parliamentary conflict. This also indicates that the EP would rarely control negotiations in a non-partisan manner with high intensity. However, this cautious conclusion needs to further investigation.

Overall, whilst the theoretical framework seems to have some usefulness in explaining how the EP as a unitary actor controlled a multilateral negotiation process, the confidence one can have in these findings should not be overstated. The framework was developed with an eye to underlying partisan dynamics and conflict, and the empirical investigation lacked the methodological rigour of the other case studies as it deviated from the data analysis strategy set out in section 5.5.

7.8. Implications of the Findings: The European Parliament

This chapter set out to investigate how and why the political groups in the European Parliament have controlled the negotiations of the EU-Japan free trade agreement, the EU-Tunisia readmission agreement and the Kigali Amendment to the Montreal protocol. The empirical investigation was preceded by a presentation of the Parliament's general formal control rights and

practices of EU international treaty-making. The analyses followed the two-step research design: a comparative congruence analysis supported by one or several in-depth process-trading studies. What does the empirical investigation tell us about how and why the EP has controlled the three negotiations, and what can be inferred about the validity of the causal framework?

First, it seems important to elaborate on two findings that go beyond the theoretical framework but had an important impact on the further investigations: first, in the case of the Kigali Amendment, there were no partisan dynamics at play when the EP controlled the negotiations. Rather, the parliament was united in its approach, with MPEs acting on behalf of the entire parliament as a unitary actor, so to speak. The theoretical framework was developed with an eye to parliamentary groups as the constitutive units of a parliament, implicit assuming party politics to be at play. Thus, the applicability of the framework needed to be questioned in this instance. Second, both in the EU-Tunisia readmission and the Kigali Amendment case studies, the descriptive investigations of how the groups/the EP controlled the negotiations revealed that in addition to the two functions of parliamentary control developed in the theoretical chapter – monitoring and influencing – a third function can be discerned: influencing (supportive). The underlying rationale of influencing and influencing (supportive) differs. In the former instance, control is thought of in a substantive manner, feeding parliamentary content-preferences in the negotiations and disrupting negotiations due to opposition to the agreement. The latter aims at exerting pressure to progress with the negotiations, to accelerate the talks and to conclude the agreement quickly and successfully. The former was subsequently termed influencing (substantive), as this distinction seemed important enough to be included *ad hoc* in the investigation. However, this had significant repercussions for the theoretical framework, as will be summarized at the end of this conclusion.

Returning to the results of the empirical studies, this will start with the findings of the comparative congruence analyses. The findings of the descriptive exploration of how the political groups have controlled the negotiations is, to a large extent, congruent with the theoretically deduced predictions. This strongly indicates that it is indeed able to “entertain the possibility that a causal relationship must exist” (George/Bennett 2005: 181), and thus strengthens our confidence in the validity of the causal framework, namely that political groups base their decision to control EU international treaty-making on a cost-benefit analysis, taking vote-seeking and policy-seeking benefits as well as resources and efficiency costs into consideration. Non-congruence of prediction and outcome was only shown in once instance according to the initial theoretical framework, the Greens-EFA controlling the EU-Japan FTA negotiations. Two questions follow: In cases of congruence, was the

causal mechanism at play as assumed, and how can this instance of non-congruence be explained? The other three instances of non-congruence, the EPP and ECR scrutinizing the EU-Tunisia readmission agreement, and the EP as a unitary actor controlling the ex ante phase of the Kigali Amendment negotiations, are related to the newly introduced function of influencing (supportive) control. This indicates that the theoretical framework cannot fully account for why parliamentary actors control with a particular intensity if the function of control was characterized as influencing (supportive). This makes one question the value of the theoretical framework.

Starting out with the investigation of non-congruence, the in-depth analysis revealed that the faulty prediction was mainly due to technical, not theoretical flaws. The former are related to defects in the operationalization and measurement of the framework's causal factors, and thus do not say anything about the validity of the causal framework as such. The latter refers to errors in the causal framework, strongly indicating that the causal mechanism leading from a factor to the outcome worked differently than assumed, or that causal factors were omitted or included without having played a role. More precisely, the Greens-EFA in controlling the EU-Japan FTA negotiations considered the benefits of control lower and the costs higher due to different perceptions of some causal values than assumed. Inserting these new values into the cost-benefit analysis supports the overall assumption again. This, in turn, increases confidence in the causal framework and calls to return to the operationalization and measurement of these causal factors. However, the analysis also revealed that there are structural differences between the groups in their formal control powers and opportunities. In the case in question, the Greens were in a disadvantaged position vis-à-vis the other group when it came to accessing negotiation documents and were not able to make use of one of their preferred strategies of control, interaction with extra-parliamentary actors, due to a perceived lack of public salience. Structural differences between political groups were also found in the other case studies of groups controlling the EU-Japan FTA negotiations, for instance, the S&D having the specific institutional task to control because they provide the INTA Standing Rapporteur for Japan, and the GUE/NGL complaining, like the Greens, about a lack of control opportunity via civil society. The theoretical framework was developed with the underlying assumption that the powers of and opportunities for parliamentary control were the same for all groups. In the EU-Japan FTA, this did not seem to have been the case. It might be considered including "the lack of control opportunities", or something similar, as a cost in the theoretical framework.

Furthermore, analysing congruent cases in order to shed more light on the working of the assumed causal mechanism largely strengthened the confidence in the validity of the theoretical framework further, as both the base assumption held and, more importantly, the groups were largely taking the causal factors into consideration as assumed. However, these process-tracing studies have also uncovered several complexities that are not entailed in the framework and indicate that it might be necessary to modify the framework (in the instance of theoretical flaws) or return to operationalization (if technical flaws). Concerning the former, in addition to the above-mentioned omission of structural differences between parliamentary groups, it needs to be questioned whether the factor “complexity” has been taken into consideration by the political groups, especially as affecting the efficiency costs of control. Most groups refrained from referring to this factor, and the group that did, the S&D, considered it to not increase efficiency costs, but to decrease vote-seeking costs due to its negative impact on public salience. Should similar findings be made in other parliamentary chambers, this strongly encourages a new look at the theoretical framework and reconsidering the inclusion of this factor. Second, many groups refer to a distinction between public salience and public opinion, arguing that they base their estimation of vote-seeking benefits on the latter. This can be claimed to be somewhere in-between a technical and a theoretical flaw, as the underlying causal factors does work as assumed, but the nature of the causal factor differs. Lastly, indicatively and more generally, the process-tracing studies have shed some doubt on the perception of causal factors as static, as some groups could be observed not to have been dis-incentivized to control by in light of high cost and low benefits, but rather incentivized to engage in parliamentary activity in order to decrease these costs and increase the benefits, respectively.

Technical flaws were mainly found in relation to the causal factors’ salience and resource costs. The former was perceived as lower than assumed, especially in relation to the EU-Japan FTA agreement. This can be seen against the background of recent highly publicly salient FTAs, such as TTIP and CETA. The groups used these as benchmarks when assessing the salience of this trade agreement. Resource costs were perceived across the board as higher than predicted, as a large majority of groups complained about a lack of staff and expertise. This relates to the opportunity costs of exerting control on a particular file.

The review of the findings of the analyses established that they overall strengthen the confidence in the validity of the theoretical framework, but suggests venues for modification and re-operationalization. We will now return briefly to the implications of the two surprising findings of this study: the EP acting as unitary actor, and control characterized as influencing (supportive).

On the former, the theoretical framework seemed to have some value in explaining the how of parliamentary control; yet, lacking partisan dynamics and intra-parliamentary conflict seemed to have an effect on how – and who – controlled negotiations of the Kigali Amendment. The findings of this study should be treated with caution and the usefulness of the causal framework for the EP acting as a unitary actor should not be overstated.

As far as the newly introduced function of control, influencing (supportive), the in-depth investigations demonstrated that the causal framework can be assumed to have some validity in explaining why parliamentary groups control with such a function. However, it is important to be aware that the findings are very indicative, relying on only two studies, one of which analysed the EP as a unitary actor, and that the framework should be substantially adapted in order to explain such behaviour. This means that the assumption of a cost-benefit analysis seems to hold, and that the identified causal factors do play a role. However, some of them work differently than assumed, which both process-tracing studies revealed: whereas vote-seeking benefits and resource costs seemed to have worked as assumed, it is a favourable policy position, combined with a compelling negotiation setting that incentivized influencing (supportive) control. This was furthermore positively affected by dissatisfaction with the progress and the speed of negotiations and – in one instance – a certain level of policy conflict with the executive. Against that background, efficiency costs seem not to have played a role. Overall, this function merits further research, as it was only included in the study in an ad-hoc manner, which made its exploration more inductive and exploratory.

8. Parliamentary Control of EU International Treaty-Making in the German Bundestag

The German Bundestag is subordinate to the government in the realm of foreign policy-making. This means that the conventional wisdom of parliamentary involvement in the realm of external relations also applies to the German political system: the German executive has the right to set the initiative and tone in German foreign policy, and the Bundestag's predominant role is to accompany and, in extraordinary circumstances, correct the government. The parliament's role is thus largely reactive, but it still has a voice in foreign policy-making. German MPs are regularly involved in foreign policy decisions, e.g., when the government actively consults the Bundestag or anticipates its position on issues that require parliamentary consent. Especially since the mid-1990s, the Bundestag's formal powers in foreign affairs have been expanded, meaning that "although the foreign policy process is executive-dominated, the Bundestag has some important powers which it may employ to influence German foreign policy" (Jäger et al. 2009: 419). This was also fuelled by increasing contestation of foreign policy in the Bundestag. These changes in the Bundestag's role in external relations have also been notable in Germany's European policy.

In regard to the Bundestag's role in EU affairs, the laws regulating executive-legislative relations have undergone several revisions in recent years – always to the advantage of the Bundestag. In terms of the Bundestag's formal powers, it can no longer be described as a scrutiny "laggard". In fact, it has changed from a "controller" to an "active policy shaper" in EU politics (Höing 2015: 192). Moreover, the Bundestag's role has been strengthened by the German Constitutional Court. In several consecutive judgments, the Court has opined that, given the problematic composition of the European Parliament, the German Bundestag has the almost exclusive task of safeguarding democratic legitimacy in EU policy-making. The involvement of the Bundestag in EU affairs more broadly is well researched, whereas less is known about how the Bundestag's parliamentary groups use these control powers, and even less about how they control EU foreign policy-making.

This chapter discusses the Bundestag's formal control rights and practices in EU international treaty-making and investigates how and why its groups have controlled the negotiations of the EU-Japan Free Trade Agreement, the EU-Tunisia readmission agreement and of the Kigali Amendment to the Montreal Protocol. It follows the same set-up as the case study chapter of the EP,

very briefly introducing the German political system, the Bundestag's role in it as well as some descriptive information on the Bundestag. This is followed by a more detailed elaboration on the Bundestag's control system in EU affairs, with a particular focus on controlling EU international treaty-making. The empirical investigation will begin by identifying the values of causal factors that are parliament/parliamentary-group specific. On this basis, the chapter conducts three case studies of how and why the parliamentary groups in the Bundestag have controlled negotiations between the EU and Japan on the FTA, the negotiations of the EU-Tunisia readmission agreement, and the negotiations of the Kigali Amendment. After the case studies, the chapter concludes.

8.1. The Bundestag's Role in Germany's Political System

The German Bundestag is the lower house of the bicameral parliamentary system in Germany. It is the main legislative body, meaning the highest organ of the legislative in Germany. The Bundestag generally has a rather strong position due to its formal powers and the high level of resources it has at its disposal (Magone 2011: 211f.). However, the German executive can also be characterized as strong, as the government can almost always rely on a stable and large majority in parliament (Mastenbroek et al. 2014: 83). There is a long tradition in Germany of coalition governments since no party was able to collect the absolute majority of votes. This contributes to a strong connection between the parliament and the executive, as the need to keep a majority of a coalition of parties has led to a culture of compromise. Usually, parliamentary work is conducted in a consensual style between government and opposition. "In this sense, parliamentarianism in Germany is less adversarial, and dominated by a consensual style of cooperation between the parties" (Magone 2011: 211). Moreover, the Bundestag is commonly characterized as a "working parliament", which means that its parliamentary committees play a central role, and most of the parliamentary work, both political and technical, takes place here.

On a descriptive level, the Bundestag is currently in its 19th legislative period, has 709 members and six political groups compared to 630 and four in the 18th legislative period. Members of Parliament are elected for four years according to a mixed-member proportional representation system. The electoral threshold for entering the Bundestag is 5 %, which means that the number of parliamentary groups in the Parliament is rather low compared to some other chambers in the EU.

8.2. The Bundestag's Scrutiny System of EU Affairs

The Bundestag's scrutiny system of EU affairs is document-based, and mainstreamed, based on comprehensive information rights on matters concerning the EU as well as the right to state an opinion. As a document-based scrutinizer, the Bundestag focuses on sifting and examining all incoming EU documents instead of directly mandating the respective government before Council meetings (Hbrek 2012: 152). The Bundestag enjoys extensive rights to receive information vis-à-vis the Federal Governments (Art. 23 (2) GG). However, whilst the Bundestag does not issue legally binding mandates to the German government, it does have the right to issue opinions on EU legislative acts, which the government has to take into account (Art. 23 (3) GG). Mainstreaming EU scrutiny refers to the fact that the scrutiny of EU matters is increasingly carried out beyond the designated European Affairs Committee, by making sectoral committees responsible for scrutinizing EU matters in their specific policy area (Auel/Christiansen 2015: 274). The European Affairs Committee in the Bundestag is only responsible for a limited number of policy fields, such as changes of primary law or the accession of new Member States (§ 93 (1) RoP).

8.2.1. Legal and Constitutional Context

The consideration of EU matters is regulated by Article 23 of the German Basic Law (GG) and further fleshed out by the "Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union" (EUZBBG).

Article 23 GG establishes that the Federal Republic may transfer sovereign powers to the European Union by law with the consent of the Bundesrat and that the Bundestag and the Bundesrat both participate in matters concerning the EU: "The Bundestag and, through the Bundesrat, the Länder shall participate in matters concerning the European Union". To this end, the Article prescribes that the federal government shall keep the two institutions informed, "comprehensively and at the earliest possible time" (Art. 23 (2) GG). Moreover, within the scope of these general participation rights, the Bundestag is entitled to issue simple opinions. In the case of the EU legislative acts, Article 23 (3) GG provides that the German government must give the Bundestag the opportunity to state a parliamentary position before the government participates in negotiations of legislative acts. This so-called qualified opinion needs to be taken into account by the German government during the negotiations. This, however, does not constitute a legally binding requirement for compliance.

These constitutional requirements for the Bundestag's participation in EU affairs are further specified in ordinary law. The Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union (EUZBBG) regulates the precise set-up of the government's duty of notification, the procedure of issuing parliamentary opinions and how the government should take these opinions into account.

8.2.2. The Duty of Notification and Access to Documents

According to § 3 (1) EUZBBG "The Federal Government shall notify the Bundestag comprehensively, as early as possible and continuously of matters concerning the European Union". The term "matters concerning the EU" should be interpreted broadly. The obligation to provide information covers, e.g., the preparation and course of deliberations within the institutions of the European Union, the opinions of the European Parliament, the European Commission, the other member states and the decisions taken (§ 3 (2, 3) EUZBBG).

The Bundestag must be notified via transmission of documents from the EU institutions, bodies and working groups as well as reports from the Permanent Representation to the European and from the German government itself (§ 4 EUZBBG). Moreover, the duty to provide information is not exhausted by the transmission of the documents, but the German government is required to accompany documents with a forwarding letter and an explanatory report on EU projects and legislative acts (§ 6 (1, 2) EUZBBG). The forwarding letter, also called formal forwarding, offers a first overview of the EU project, covering, e.g., the essential content of the proposal, the responsible ministry, its legal basis and the decision-making method applied. Within 14 days of the formal forwarding of a project, the government submits an explanatory report to the Bundestag, offering a first assessment of the envisaged project, its content and objective, political significance and particular German interests (§ 6 (2) EUZBBG and annex).

The government is obliged to continue to inform the Bundestag on further consultations and developments on the EU level. Every document formally submitted to the Bundestag, i.e., every base document, is followed up by 10-20 additional documents (Ludus 2015: 378). These follow-up documents are documents of the EU institutions that are drafted during the consultation and negotiation process of a project. They contain supplementary information and explanations to the basic document and inform the Bundestag on the progress at the European level and they provide insights into the attitude and behaviour of the German government on the EU level, as well as that of other states and working group members (BT04). Follow-up documents do not need to be formally forwarded to the Bundestag, but become immediately available to the committees once submitted (BT-Drs. 17/14601: 15).

On a practical note, all incoming EU documents on EU matters are collected in the central information system in the intranet of the Bundestag on EU matters, called EuDox. EuDox contains all documents and information relevant to the EU, whether they have been forwarded directly from the European level, submitted by the German government or created within the Bundestag. The system records the approximately 25,000 documents sent annually to the Bundestag (Ludus 2015: 441). This “unique information system” (Mastenbroek et al. 2014: 89) is a document database that pre-sorts and assigns each incoming document to a base document that was formally forwarded to the Bundestag. It then presents those documents belonging together in bundled, thematic dossiers, based on the base document. Bundling documents in thematic files enables the users of EuDox to find EU projects in a targeted manner (Bundestag 2017: 164).

The Bundestag also receives EU documents that have been classified as confidential by the EU institutions or the German government (ibid.: 105), meaning parliamentarians can also obtain access to such documents via EuDox. Overall, EuDox contains documents up to a confidentiality level “*restreint UE*” (BT-Drs. 18/13150: 59). Different access rules apply to the different confidentiality classifications. EU “*limité*” documents are generally accessible to all persons working in the Bundestag once they have been submitted to the parliament. EU “*restreint*” documents are only available to a restricted group of people (BT04). Finally, the government gives the Bundestag access to the Council Extranet/Zeus database, which contains Council documents up to the confidentiality categorisation “*restreint UE*” (BT-Drs. 18/13150: 49).

8.2.3. The Bundestag’s Right to Issue an Opinion

Neither constitutional nor ordinary law foresees that the Bundestag can legally bind the German government by mandating it for the latter’s behaviour on the European level. However, as mentioned, the Bundestag has the right to state its position. The procedure for this is fleshed out in detail in § 8 EUZBBG. Prior to its participation in EU projects, as defined in § 5 EUZBBG, the government is required to provide the Bundestag with the opportunity to comment (§ 8 (1) EUZBBG). Importantly, the right of parliamentary opinion is accompanied by a duty of consideration for the government. “If the Bundestag delivers an opinion, the Federal Government shall use it as a basis for its negotiations. The Federal Government shall notify the Bundestag continuously about the consideration given to its opinion in negotiations” (§ 8 (2) EUZBBG).

According to § 8 (4) EUZBBG, if the Bundestag issues an opinion on a legislative act, and if the German government cannot assure that the main inter-

ests expressed in the parliamentary opinion are asserted, the German government shall invoke the requirement of prior parliamentary approval in the negotiations. This means that the government has to attempt to reach a consensual position with the Bundestag before a final decision is made in the Council. If the government does not take all interests voiced by the Bundestag into account, it has to state the reasons for this. On request, the government has to provide further information on how the position of the Bundestag has been implemented or the reasons for deviating from it during a plenary debate (Linn/Sobolewski 2010: 61-62). These provisions are generally read as constituting a political commitment, but they are not legally binding for the German government.

The Bundestag does not have a veto right but is only able to influence the position of the German government and the negotiations on the EU level within the scope of these parliamentary powers. In light of the absence of formal ties, the Bundestag has established a strict version of the Bundestag's duty to provide information, as demonstrated above, in order to ensure its effective participation in EU matters (PE 6 – 3000 – 53/16). Its right to information thus constitutes the basis and prerequisite for the actual participation of the Bundestag in matters concerning the EU, whereas the parliamentary opinion is a means to express a substantive position on an EU file to the government and to suggest a certain direction for the Council negotiations. However, the Bundestag rarely makes use of this right of opinion. In the period 2010-2012, only 38 of the 124 EU-related resolutions adopted by the Bundestag directly referred to European Commission documents (Höing 2015: 197).

8.2.4. Scrutiny in Practice

Whilst the EUZBGG outlines exactly which documents must be submitted to the Bundestag, this does not mean that all incoming documents are relevant for scrutiny. Until July 2007, all EU documents were transmitted to sectoral committees without any selection in terms of relevance. Nowadays, not all documents transferred to the Bundestag are automatically forwarded to the Bundestag's committees for further investigation (Höing 2015: 196f.). The specific rules for the forwarding and referral of EU documents are laid down in § 93 ROP and foresee a priority procedure: EU documents are selected and assessed for further referral to a responsible committee and, potentially, further committees for opinion with regard to their relevance.

In a first step, the Bundestag's administration reviews the relevance of the incoming EU projects and compiles a list of which ones to refer and not to refer. This list is then forwarded to the presidents of the Bundestag and the parliamentary groups for assessment. If the latter agree on the proposal of re-

ferral, the President of the Bundestag refers the EU documents to the responsible and advisory committees. If the proposal is objected by a parliamentary group, the Council of Elders has the final word (Bundestag 2017: 103f.). Around 95 % of the pre-selected proposals are usually accepted by the parliamentary groups (Höing 2015: 200). This procedure ought to ensure that proposals of political significance and proposals with policy impact are included. Proposals that are not prioritized are still registered and stored in EuDox (Munro et al. 2016: 18).

As mentioned above, the control of EU affairs in the Bundestag is mainstreamed, which means that the sectoral committees, and not the European Affairs Committee, is at the centre of scrutiny in the Bundestag. Documents that are referred according to the above outlined procedure are usually submitted to one leading committee, and one or several committees are asked for opinion. The EAC has a mere coordination and overarching function on EU matters (Höing 2015: 195). When the responsible committee has received the documents, it discusses the project. Committees sometimes deliberate individual projects several times, starting with the first introduction of the original document, accompanying the developments on the EU level and ending with the final adoption of an act by the Council and the EP. This enables the committees to react to developments and changes in the course of EU negotiations.¹²⁹ During the committee deliberations, the committees can consult the responsible government representatives and, in important cases, members or representatives of the Commission and the European Parliament. Committee deliberations can be of varying intensity and lead to four different outcomes:

1. The committee refrains from deliberating the document, for example because a directive has already been adopted by the Council
2. The committee takes note of the document, which is not equivalent to an approval with regard to its content (this is the most common outcome).
3. The committee issues a recommendation for the plenary to adopt a resolution. This option goes further than taking note. If the committee issues a recommendation for a decision to the plenary and the Bundestag adopts a resolution on this basis, this forms the basis of the government's position in the Council (see above on the parliamentary right to issue an opinion).
4. The committee communicates its opinion to the government unofficially and summarizes the discussion in the committee without a formal vote. This unofficial report does not have the same political weight as formal statements, but serves as an orientation for the government in its discussions with the European negotiating partners (Mayer 2012: 252)¹³⁰.

¹²⁹ https://www.bundestag.de/europa_internationales/eu/aktiv.

¹³⁰ https://www.bundestag.de/en/europe/european_policy/eu_committees.

Finally, the Bundestag can rely on its general instruments of political control that have been established in domestic executive-legislative relations. The Bundestag, and its parliamentary groups and MPs, can make use of parliamentary questions, major and minor interpellations, plenary debates on matters of topical interest and questions put to the German government and, ultima ratio, votes of now confidence. These general control instruments are regulated in the Standing Orders of the Bundestag and work as in domestic decision-making. However, parliamentarians can also influence the government's position through informal channels (Höing 2015: 197) or by cooperating with their colleagues in the European Parliament to convince them of their position on a matter.

8.2.5. The Scrutiny of EU International Agreements

The Bundestag's participation in negotiation and conclusion of international agreements outside the framework of the EU is regulated in Article 59 GG, which stipulates that the conclusion of treaties with foreign states on behalf of Germany is within the executive prerogative in foreign policy (Art. 59 (1) GG). However, "treaties that regulate the political relations of the Federation or relate to subjects of federal legislation shall require the consent or participation, in the form of a federal law, of the bodies responsible in such a case for the enactment of federal law" (Art. 59 (2) GG). This means that both Bundestag and Bundesrat are to be involved in treaty-making in the form of "consent or participation" ex post. However, the question whether the Bundestag has a right to participation and information before and during negotiations between the German government and the external parties has not been finally clarified. Generally, it is held that there are no specific rules concerning information and accompanying information rights for the Bundestag. Rather, the general instruments of parliamentary control apply. The Bundestag can influence the decisions of the government by making use of its question, debate and decision-making rights, and by exercising its budgetary powers. This also happens in practice (WD 3 – 3000 – 208/13).

In contrast to the Bundestag's limited involvement in "national international treaty-making", the parliament has more pronounced control rights when the European executive negotiates international treaties with external third partners. This is because EU international agreements fall into the scope of Article 23 (2) Grundgesetz and the EUZBBG. The material scope of these regulations refers to "matters of the European Union". There is no doubt that exclusive EU international agreements, i.e., agreements to which only the EU, but not the member states, is party, qualifies as matters of the EU (PE 6 – 3000 – 53/16). Whilst it is somewhat more difficult to substantiate this for mixed agreements, as they concern matters of both European and national

competence (Grzeszick 2016; Arnould 2016), it is generally concluded that a mixed agreement – as a whole and not only the exclusive EU competence parts – is a matter of the EU. For this reason, they are to be entirely treated according to Article 23 GG (Kaiser 2009: 160).

The participation and information rights of the Bundestag in regard to mixed and exclusive international agreements are legally prescribed and set up according to the above-outlined system of scrutinizing EU matters (WD 3 – 3000 – 208/13). The legal nature of an agreement is irrelevant for the Bundestag's involvement rights, as the same procedure applies for mixed and exclusive agreements (BTo4). In a nutshell, "the participation of the German Bundestag in EU agreements is [...] essentially limited to the right to comment and information rights" (PE 6 – 3000 – 53/16: 14). Additionally, if an EU international agreement is to be concluded as mixed, ratification on the national level is necessary. This is subject to national constitutional rules and may require parliamentary consent by the Bundestag.

8.2.5.1. The Duty of Notification and Access to Documents

As EU international agreements qualify as a matter for the EU, the Bundestag possesses the information rights laid out in Article 23 (2) Grundgesetz and § 3 (1) EUZBBG throughout all procedural negotiation steps foreseen by Article 218 TFEU. The Bundestag has to be informed about the initiation, the progress and the planned conclusion of EU international agreements, comprehensively, as early as possible and continuously (WD 3 – 3000 – 087/13). Furthermore, according to § 5 (1 No. 5) EUZBBG, negotiating mandates for the European Commission to engage in negotiations on international agreements of the European Union qualify as projects of the EU, which, according to § 6 (1) EUZBBG have to be formally forwarded by the German government to the Bundestag, including a forwarding letter with the government's assessment of the envisaged agreement. Moreover, the German government forwards the draft Council decision issued by the Commission to authorize the latter to open negotiations, which commonly constitutes base document on which a dossier on the negotiations is built in Eudox.

On the basis of this base document, the German government has the duty to inform the Bundestag comprehensively, promptly and continuously about the progress of negotiations and EU-internal consultations. To this end, the government forwards documents and meeting reports, creates special reports, and, if applicable, answers parliamentary questions and oral briefings in the Bundestag's committees. More precisely, the government transfers all documents sent by the EU institutions that include a reference to the negotiation process to the Bundestag, e.g., documents from the EU-level Special Committee according to Article 218 (4) TFEU, position papers, text proposals and

statements from the Commission and other EU Member States if applicable, as well as their own written comments in the negotiations. Moreover, the government provides the Bundestag with detailed “wire reports” after meetings in the Council and the special committee, giving insight into the government’s position, the position of the Commission and of other Member States and COREPER meetings, if the agreement in question had been on the agenda (BT-Drs. 18/7299: 2).

All these documents are fed into the thematic dossier in EuDox and are easily accessed in the database. Importantly, as the Bundestag has been granted the right to access confidential EU documents up to confidentiality level “restreint”, MPs can access classified negotiation directives, confidential reports, draft proposals etc. without having to demand their referral from the German government (BT04).

8.2.5.2. The Right to issue an Opinion

The right to be informed on projects of the EU goes hand in hand with the right to issue an opinion on them. The Bundestag has the right to issue an opinion in regard to EU international agreements pursuant to § 8 (1) EUZBBG. The procedure outlined above applies.

Importantly, already the granting of the negotiating mandate of an EU international agreement is a project to which the Bundestag can refer according to § 5 (1) No. 5 EUZBBG. The government is thus required to give the Bundestag the possibility to become involved in EU international negotiations at a very early stage in accordance with § 8 (1) EUZBBG. Consequently, the Bundestag has the opportunity to influence international negotiations early on in a negotiation process by issuing an opinion towards the German government acting in the Council. The Bundestag’s right to issue an opinion on EU international agreements is accompanied by a duty of consideration of the German government according to § 8 (2 S. 1) EUZBBG (PE 6 – 3000 – 53/16).

8.2.5.3. Control in the Committees

Similar to the general procedure of EU affairs, the scrutiny of EU international treaty-making in the Bundestag is mainstreamed in the sectoral committees. Also here, not all projects, in the meaning of Council decisions authorizing the opening of negotiations and the negotiation mandate, are referred to the parliamentary committees according to § 93 RoP. Those submitted to one or several committees for scrutiny are subject to committee consideration with the four possible results outlined above. Most documents at this stage are merely taken note of (BT04). After having deliberated the base document in committee, the German government, as explained above, continuously updates by the Bundestag on the progress of negotiations by forwarding relevant negotiation

documents, which are fed into the EuDox dossier. However, as follow-up documents are commonly only generally, not formally, forwarded to the Bundestag, they are not accompanied by a formal letter nor are they, by default, considered for further scrutiny in the relevant committee. As the Bundestag's control rights in EU affairs are document- rather than mandating-based, there are only few occasions when an international agreement is put on the agenda of the relevant committee after its first treatment. First, an agreement can be on the responsible committee's agenda as a standalone agenda point if there is an official Council document which merited committee referral. However, this happens very rarely. Second, it can be deliberated in committee within the framework of the government's reports prior to and after Council meetings where the agreement has been on the agenda. However, this also implies that the agenda point in the committee is not the international agreement but rather the report from the Council meeting. This potentially means that several international negotiations are dealt with under the same agenda item (BT04). The committees' right of own initiative to take up certain agenda points established in § 62 (1) also extends to EU international treaty-making. This means that they may "take up other questions falling within their terms of reference; [and] deal promptly with affairs of the European Union of relevance to their area of competence, independently of whether such matters have been referred to them" (§ 62 (1) RoP). In these instances, the committees can circumvent the fact that commonly, a Council document or a Council meeting underlies the committee's agenda point. Instead, the motive for such deliberations are often newspaper articles or recent, well-known and conflictual developments in the negotiations. In these committee meetings, the Bundestag can discuss among the members, summon and question the responsible minister and request written and oral reports on the EU international negotiation process (BT04).

8.3. Parliament-Specific Causal Factors in the Bundestag

As the previous chapter on the European Parliament, the following sub-chapters will identify the values of causal factors that are parliament-/parliamentary group-specific for the Bundestag. Moreover, the public salience within the domestic electorate in Germany of the three international agreements will be investigated in this intermediate step, as salience is identified in a comparative approach, which thus needs to rely on an investigation of all three agreements simultaneously.

8.3.1. The Public Salience of the International Agreements: The National Level

Recall that in section 4.6.1, the salience of the three international agreements under investigation was discussed in a general way, referring to their EU-level public salience. Based on Eurobarometer and secondary data, it was determined that the EU-Japan FTA is of high salience, the EU-Tunisia Readmission Agreement negotiations of medium salience, and the negotiations of the Kigali Amendment of low salience. Now, to examine their national level public salience further, it is necessary to investigate their national media salience (see section 5.5.1.3.2).

Table 32 reports the number of articles found in simple keyword searches in the online search engines of three of Germany's largest newspapers on the three agreements under investigation. The searches were conducted for the period 2012-July 2018.¹³¹

Table 32: National Level Media Salience: Germany

	EU-Tunisia Readmission Agreement	EU-Japan Free Trade Agreement	The Kigali Amendment
Search Term	Tunesien Rückführung*	Japan Freihandel*	Montrealer Protokoll FKW
BILD	78	129	2
Sueddeutsche	122 ^{a)}	132	3
FAZ	42	93	1

a. Truncating a word with the operator * does not work in Sueddeutsche's search engine, which means that fewer articles were found with the search term "Tunesien Rückführungsabkommen" (5), and more with "Japan Freihandelsabkommen" (215).

The number of articles in Table 32 indicate that the public salience of the three international agreements in Germany resembles the one on the European level. This is further corroborated by a more exploratory in-depth investigation of how these newspapers have reported on the negotiation processes. Regarding the EU-Tunisia readmission agreement, all newspapers have reported on the issue of migration relations with and, more specifically, deportation, readmission and repatriation to Tunisia. However, there are no newspaper articles with specific emphasis on the negotiations between the EU and Tunisia. The focus was broader, which clearly indicates that whilst the issue under negotiation is indeed salient, the negotiations cannot necessarily be character-

¹³¹ Depending on the search engine, the search terms were, if necessary, combined with the connector "AND".

ized as being of high public salience in Germany. Overall, the medium attention to the negotiations in the German media combined with the general observations from the European level lead to the reasonable conclusion that in Germany, as well, the public salience of the EU-Tunisia readmission agreement is of medium size. In comparison, all newspapers published articles on the EU-Japan FTA negotiations throughout the negotiation period, starting with the opening of negotiations, providing updates and reporting in-depth on the conclusion. Combined with the EU-level assessment of the agreement's salience, it can thus be claimed that also in Germany, the EU-Japan FTA has been of high public salience. Lastly, all newspapers reported on the conclusion of the Kigali Amendment in one or several articles. However, no newspaper mentioned the issue during the negotiations, meaning that the issue received generally low attention in German media. Combining this with the general observations from the European level, it is reasonable to conclude that in Germany, as well, the public salience of the Kigali Amendment is low.

8.3.2. The Institutional Status of the Parliamentary Groups

Recall that the theoretical framework of this thesis argues that in the chains of delegation in EU international treaty-making, national parliaments are perceived as collective principals that stand in a direct agency relationship with their respective national government, to which they have entrusted a set of tasks in policymaking. In this setting, parliamentary groups should be considered the constitutive units of the collective principal, as they have different relationships with their government as the agent to which power is delegated. The majority in parliament focuses on supporting, protecting and sustaining the (coalition) government, whereas the parliamentary minority criticizes and opposes the majority in order to present an alternative government and policy agenda. Based on the representative dimension of a parliamentary group's institutional status, the majority in parliament, supporting the government, is characterized as governing/majority parties, whereas the minority parliamentary groups are considered opposition parties.

In Germany, the Chancellor, the head of government, is elected by the Bundestag, and is thus supported by the majority parties, as "the person who receives the votes of a majority of the Members of the Bundestag shall be elected" (Art. 63 GG). The negotiations of the agreements studied here took

place from 2012 until today (2018). Since 2009, the Christian Democratic Union of Germany (CDU)¹³² has provided the German Chancellor, Angela Merkel. However, she has been governing with changing coalition partners. Until 2013, she governed with the Free Democratic Party (FDP) and since 2013 with a grand coalition consisting of the Bundestag's two largest groups CDU and the Social Democratic Party of Germany (SPD.) In contrast, when in parliament, Die Linke, Bündnis 90/Die Grünen (Die Grünen) and Alternative für Deutschland (AfD) acted as opposition parties. Table 33 provides an overview of the groups' institutional status during the respective legislative periods.

Table 33: Overview of German Governments, 2009-today

	CDU	SPD	Die Linke	Die Grünen	AfD	FDP
2009-2013	G	O	O	O	-	G
2013-2017	G	G	O	O	-	-
2017-today	G	G	O	O	O	O

Note: G = governing party; O = opposition.

Moreover, it is important to note that the largest part of the negotiation periods of all three international agreements under investigation coincided with the Bundestag's 18th legislative period. Only parliamentary groups with seats in parliament between 2013 and 2017 will be subject to analysis.

8.3.3. The Overall Resources of the Parliamentary Groups

In the Bundestag, the scrutiny of EU affairs is mainstreamed, meaning that the sectoral committees are responsible for scrutinizing EU matters in their specific policy area (§ 93 (1) RoP). Parliamentary groups can make use of the Parliament's internal research sections but prefer to scrutinize, process and assess EU affairs on their own terms. The resources a political group can spend on scrutinizing a specific EU international negotiation process is dependent on its staff. More precisely, the resources are determined by the number of members a political group provides in the responsible committee as well as the policy advisors a group has on the issue.

¹³²This dissertation uses the acronym CDU to refer to both the CDU and the Christian Social Union in Bavaria (CSU). Formally, they are two separate parties, but together they form a "Union", the Christian democratic political alliance in Germany. To a large extent, they can be argued to behave like one parliamentary group in the Bundestag and will thus be analyzed as such.

Concerning the latter, it has, unfortunately, not been feasible to collect data for all parliamentary groups in the Bundestag.¹³³ However, it is common in the Bundestag to deal with technical issues in so called “Arbeitskreisen”, working groups. As a working parliament, the Bundestag’s main activities take place in its standing committees. Parallel to the committee work, the parliamentary groups form working groups in which they elaborate and define their own positions on the issues of a standing committee: the actual technical work of a parliamentary group takes place in its working groups. However, not every parliamentary group has one working group accompanying the work of every single committee. Only the SPD and the CDU mirror the established Bundestag committees with 23 working groups each, whereas Die Linke has six working groups, and Die Grünen have only five.

Whilst the number of working groups does not say anything about the number of policy advisors a group has for economic affairs, a certain distribution of labour can be inferred from this: the higher the degree of specialization of a group’s working groups, the more internal resources can be expected to be distributed to work on the particular topic of economic affairs. It is argued here that the inverse overall number of policy fields a group’s responsible internal working group is responsible for can serve as a measure to identify the overall resources a parliamentary group has available to control decision-making in this particular policy area.

A group’s overall resources are thus measured by the number of MPs it has in the responsible parliamentary committee, compared to the number of MPs of the other groups, and the inverse number of policy fields a group’s responsible internal working group is responsible for. This measure is agreement-specific and will be discussed further in the case studies.

8.4. Roadmap of the Empirical Investigation

Against the background of these discussions, it is now possible to continue with the empirical case studies. Like the chapter on the European Parliament, this chapter will first investigate how and why the parliamentary groups in the Bundestag have controlled the negotiations between the EU and Japan on the free trade agreement (8.5.), of the EU-Tunisia readmission agreement (8.6.) and of the Kigali Amendment (8.7.).

¹³³ Some groups did not reply to email requests or replied that this is confidential, internal information.

8.5. Parliamentary Control of the EU-Japan FTA Negotiations in the Bundestag

The predominant free trade agreements in the political sphere in Germany in recent years have been the CETA negotiations with Canada and the TTIP negotiations with the US. Whilst these negotiations might have dominated public debate and the Bundestag's work in the policy field of international trade, this does not mean that the parliament has been oblivious to other ongoing negotiations. The free trade agreement between the EU and Japan has received increasing attention by MPs from various parliamentary groups, which have been controlling its negotiations with varying intensity. Against this background, the following case study aims at answering the overarching research question "how and why do parliamentary groups control EU international treaty-making" in the case of the Bundestag controlling the EU-Japan FTA negotiations. As usual, the case study starts with a brief overview of the file's treatment in the Bundestag from a nonpartisan perspective, followed by a comparative congruence analysis, which aims at answering the "how" and the "why" of control. The case study will conclude with a process-tracing analysis of two of the Bundestag's parliamentary groups to examine the causal mechanism at work more closely and focus on potential discrepancies resulting from the congruence analysis.

8.5.1. Overview of the Bundestag's Treatment of the File

The Bundestag dealt officially with the EU-Japan FTA for the first time in September 2012, when it received the Commission's Recommendation for a Council Decision authorising the opening of negotiations on a Free Trade Agreement between the European Union and Japan (COM(2012)390). This document forms the basis for the Bundestag's engagement with the FTA according to the Parliament's document-based approach to parliamentary scrutiny laid down in § 93 (1) RoP. Moreover, § 93 (3) RoP provides that whilst all incoming documents from the EU are eligible for committee referral for further scrutiny, not all will be passed on, which stresses the importance of further committee referral of incoming documents for the Bundestag and its members. On 17 September 2012, COM(2012)390 was submitted to the Committee on Economic Affairs and Technology¹³⁴ as the responsible committee and the EAC and the Foreign Affairs Committee were designated as co-advising committees (BT-Drs. 17/10710).

¹³⁴ In the 17th legislative period, this was the responsible committee. In the 18th period, there was a reshuffling of ministries and committees, and FTAs were dealt with in the Committee on Economic Affairs and Energy.

The document did not receive much attention when it was treated in the respective committees in September 2012. All three committees merely took note of the document. As MPs noted, “it was just some proposal, where you just voted on it, that is kind of ... you acknowledged it, there has not been a debate about it” (BT03). Whilst it has thus been brought to the attention to German MPs already at an early stage, they did not engage in-depth with the FTA in their meetings throughout the negotiation phase. It was only more recently that the issue received increasing attention in the Committee on Economic Affairs and the Bundestag’s EAC (BT03). Indeed, these committees have been the main locus of parliamentary control in the Bundestag, with the former as responsible committee taking in a leading position.

The agreement with Japan was not a specific agenda item, but part of broader agenda points, such as points concerning the government’s attendance of Trade Council Meetings (BT04). Here, the government usually issues a report on the meeting and presents it in Committee (BT05). At these occasions, the committee members can ask questions to the government representative presenting the report and as exchange views with one another and the government. Commonly, the debates on free trade agreements in the Committee on Economic Affairs are rather heated and controversial. At the same time, it is important to be aware that dealing with the EU-Japan FTA not as a stand-alone committee agenda point but in regard to Trade Council Meetings means that the time allocated here has to be shared with the discussion of other ongoing treaty negotiations, such as Mercosur or India (BT04).

In the Committee’s last meeting before the 2017 summer break on 29 June, the Free Trade Agreement was for the first time discussed as a stand-alone agenda point within the scope of the Committee’s self-referral powers. This means that this agenda point was demanded by a certain amount of committee members, who wanted to be updated on the progress of the negotiations. In this instance, it was neither a Council document nor a Council Meeting that spurred the Committee’s activity but a dossier in one of Germany’s largest newspapers, the *Süddeutsche Zeitung*, on the EU-Japan FTA negotiations (BT04). However, the ensuing discussion between MPs and a government representative was rather short due to the general hectic before the summer break. Nonetheless, “now, for the first time Japan was dealt with directly, which demonstrates that its importance and sensitivity is growing” (BT04).

The Bundestag’s plenary only played a minor role in regard to the EU-Japan FTA, as there has not been a single plenary meeting agenda point solely dedicated to the negotiations with Japan. “I do not remember that we have had a proper debate on JEFTA in Parliament before. But if anything, the agreement is addressed when certain other topics are being debated” (BT03). There have, however, been considerations by some parliamentary groups to

organize a plenary debate around the issue, but they have not yet done so. This will be discussed later in the sub-chapter on partisan control activities.

Before the empirical analysis of partisan control action, a last issue to be touched upon is the Bundestag's access to documents. As explained above, the Parliament's general access to EU documents is rather well developed by the means of the parliamentary databank EUDox, where the government publishes almost all documents it receives from the European level. The base document for the EUDox dossier on the EU-Japan FTA negotiations is COM(2012)390, which has since 2012 been supplemented with 33 follow-up documents, mainly reports from the Council Working Group Asia-Oceania (BT04, stand July 2017). Moreover, via the databank, parliamentarians have been able to access the negotiation mandate, negotiation draft texts and preliminary results. This means that unlike in the case of other FTA negotiations, such as of the TTIP with the US, German MPs can access those documents in their offices, and do not have to make use of a reading room. However, they are subject to the same rules of confidentiality and are not allowed to pass on information (BT05).

8.5.2. Partisan Control Action: A Comparative Congruence Analysis

As the overarching research question of this dissertation is not “how and why does the Bundestag control EU international-treaty-making”, but as the focus is on parliamentary groups as unit of analysis, it is now necessary to delve into the actions and motivations of the Bundestag's parliamentary groups. The first step is a comparative congruence analysis, which follows the same structure as the previous congruence analyses.

8.5.2.1. Step 1: Predicting the Outcome

In the following, the values of the independent variables for every parliamentary group in the Bundestag will be established to make it possible to predict the outcome of the dependent variable, the intensity of parliamentary control, on the basis of the established theoretical framework.

8.5.2.1.1. The Public Salience of the EU-Japan FTA Negotiations

The discussion of the public salience of the three agreements under investigation in Germany (see section 8.3.1), revealed that the EU-Japan FTA negotiations have been of high public salience.

8.5.2.1.2. The Institutional Status of the Parliamentary Groups

Most of the EU-Japan FTA negotiations (2012-2017) coincided with the Bundestag's 18th legislative period (2013-2017), in which the German government was a Grand Coalition of SPD and CDU. The parliamentary group's institutional status will be determined according to the majority conditions in the 18th legislative period, meaning the CDU and the SPD are characterized as majority parties, and Die Grünen and Die Linke as opposition parties (see Table 33 above).

8.5.2.1.3. The Policy Positions of the Parliamentary Groups

The parliamentary groups in the Bundestag are widely split in their position on free trade in general. The CDU is very committed to free trade, supports bilateral trade agreements and sees them as preconditions for the well-being of the German economy. The SPD is equally committed to free trade, but emphasizes the inclusion of rules on employee protection, public services and the exclusion of private arbitration courts in all future EU trade agreements. Die Grünen have a very critical stance on free trade agreements, deploring their lack of social, ecological and human rights criteria. Similarly, Die Linke rejects modern EU FTAs, perceives them as anti-democratic and as a threat to consumer, environmental and climate protection and public services.¹³⁵ Similar conflict lines can be found in regard to the specific FTA between the EU and Japan.

The CDU claims that free trade is essential for the leading position of German companies and calls the EU-Japan FTA a strong signal against protectionism that will strengthen growth on both sides¹³⁶. They claim that the free trade agreement will not only create jobs, but also set standards for occupational safety, environmental protection and nature conservation. Overall, "the CDU is basically simply in favour and does not share the criticism [of other parliamentary groups] to 90 percent" (BT05). As such, their policy position can be identified as being in specific support of the negotiation.

The SPD is internally rather torn on the issue of free trade agreements, with the group's left wing being more critical than the conservative and the reformer wings. The more critical MPs voice their concern in internal parliamentary debates, but in public the group has agreed on a common line: "yes, yes we have our points of criticism, but we have also achieved a lot, so..." (BP05). As such, the SPD overall supports the idea of opening markets and

¹³⁵ <https://www.tagesschau.de/inland/btw17/programmvergleich/programmvergleich-freihandel-101.html>.

¹³⁶ <https://www.cducusu.de/themen/wirtschaft-und-energie-haushalt-und-finanzen/jefta-ist-signal-gegen-abschottung>.

negotiating FTAs, as “if we were to stop the negotiations, in the future others would shape globalization and set their rules and standards, and the EU and its member states would give up their claim to design” (Wiese 2015, Plenarprotokoll 18/217). The group demands that all modern trade agreements include provisions on human rights, environmental protection, consumer policy and social standards and opposes private arbitration tribunals. In regard to the EU-Japan FTA, the SPD has not voiced concerns regarding these issues, meaning that their somewhat critical approach focuses on other FTAs (BT03). As such, SPD is overall in specific support of the EU-Japan FTA negotiations.

As mentioned, Die Linke strongly opposes modern FTAs, and their opposition extends to the EU-Japan agreement: “We reject the neoliberal Free Trade Agreements: TTIP with the US, CETA with Canada, JEFTA with Japan, [...] and similar agreements. They are anti-democratic and limit the development opportunities of weaker countries. Germany must refuse to give its consent” (Bundeswahlprogramm 2017). Liking the EU-Japan FTA to TTIP and CETA, Die Linke deplores that free trade agreements almost exclusively serve economic interests, very often to the detriment of consumer and environmental protection, and workers’ rights. The group voices specific concerns about the Japan agreement, claiming that the “planned deal with Japan is currently possibly the greatest threat”¹³⁷ in these regards, and that the agreement will lead to powerful and non-transparent regulatory councils, extensive liberalization in the service sector and unpredictable lawsuits against European standards. Overall, Die Linke is in specific opposition to the EU-Japan FTA.

Die Grünen have defined several red lines in regard to any modern free trade agreement, which must not be overstepped for the group to support the negotiations. They are extremely critical of the EU-Japan FTA, oppose any kind of arbitration system in the treaty, doubting that the precautionary principle and European consumer protection standards are sufficiently safeguarded and reject the negotiated regulatory cooperation system. Moreover, they criticize the lack of transparency in negotiations (BT05). Die Grünen see the EU-Japan FTA in a line of modern FTAs, which they oppose and reject (Bundeswahlprogramm 2017). “So yes, we have our red lines. But we are actually a bit more fundamental in our criticism. [Nonetheless], we do not want to say no to trade agreements between the EU and Japan. That is why we call for a complete restart of the negotiations” (BT05). Die Grünen’s position on the EU-Japan FTA can be identified as specific opposition.

¹³⁷ <https://www.linksfraktion.de/presse/pressemitteilungen/detail/geplantes-frei-handelsabkommen-mit-japan-gefaehrlicher-als-ttip-und-ceta/>.

8.5.2.1.4. The Likelihood of Substantive Impact

Whether a parliamentary group is likely to have substantive influence on an EU international negotiation process depends on the legal nature of the agreement in question and on the size of a parliamentary group: only in case of an agreement being mixed, a sufficiently large group has a credible veto threat, and with that high chances to influence the negotiations. Whilst the EU-Japan FTA will be concluded as an exclusive agreement, which does not require national ratification, the legal nature of the agreement has not always been considered exclusive (see section 6.1.4). It can be argued that national parliamentarians perceived the FTA to be a mixed agreement which they would eventually be allowed to ratify, throughout the negotiation process up to the summer of 2017¹³⁸. This means that MPs acted as if the agreement was mixed. The dissertation argues that for the sake of determining a group's likelihood of influence as providing a motivation for controlling the negotiation process, the EU-Japan FTA was dealt with as if it were of mixed nature.

Based on this first step, it can now be argued that only parliamentary groups that are large enough to constitute a credible threat and whose refusal to give consent to an international agreement would lead to its failure have a high likelihood of influence. In the Bundestag's 18th legislative period, the CDU provided 309 MPs, the SPD 193, Die Linke 64 and Die Grünen 63. Whilst neither group has an absolute majority, it can be argued that the consent of the two largest groups is needed for an agreement to pass parliament, meaning that CDU and SPD have a high likelihood of influence, Die Linke and Die Grünen a low likelihood.

8.5.2.1.5. The Overall Resources of the Parliamentary Groups

In the Bundestag, a group's overall resources depend on the group's number of MPs in the responsible committee as well as the inverse overall number of policy fields a group's internal working group is responsible for. Both SPD and CDU have a working group dedicated to economic issues. Die Linke has one working group for economic affairs and finance, and Die Grünen have one working group for economic affairs, finance, budget, labour and social affairs. It is argued here that both SPD and CDU have high staff resources for economic affairs, Die Linke medium and Die Grünen low. As far as group members in the Committee on Economic Affairs, the CDU provided 22 of its 46 members, the SPD 14 and Die Linke and Die Grünen each five members. It can be concluded that overall, the CDU and the SPD have high resources for

¹³⁸ Evidence for this perception can also be found in the interview conducted with national parliamentarians.

controlling the EU-Japan FTA negotiations, whereas Die Linke and Die Grünen have low resources.

8.5.2.1.6. *Efficiency Costs: Complexity and Compellingness*

Whilst it is not considered necessary at this point to repeat the underlying line of argumentation of how the complexity of the policy area and the compellingness of the EU-Japan negotiations have been identified, it is important to recall that both complexity and compellingness are high (see sections 6.4.2 and 6.4.3). However, the theoretical framework argued that the efficiency costs of parliamentary control is moderated by a parliamentary group's policy position. Only groups that support negotiations consider control to be costly due to the high complexity and compellingness and the Union negotiator's need for discretion. Table 34 gives an overview of the cost of parliamentary control of the EU-Japan FTA negotiations, which are characterized by high complexity and high compellingness.

Table 34: Efficiency Costs Stemming from Complexity and Compellingness

Causal Factor	Complexity High	Compellingness High
Political Group/ Policy Position		
CDU/Specific Support	High costs	High costs
SPD/Specific Support	High costs	High costs
Die Linke/Specific Opposition	Low costs	Low costs
Die Grünen/Specific Opposition	Low costs	Low costs

8.5.2.1.7. *Predicting the Intensity of Control*

Based on the discussion above, which scored the values of the independent variables for each parliamentary group in the Bundestag in the case of the EU-Japan FTA negotiations, it is now possible to deductively predict the expected intensity of parliamentary control for each group. Recall that this is done in a comparative approach by not only focusing on the combination of costs and benefits within one case, but also comparing them across cases.

Concerning the benefits of control, the theoretical framework holds that the higher the public salience of negotiations, the higher the vote-seeking benefits a parliamentary group can expect from scrutinizing the negotiation process. As the salience of the EU-Japan FTA has been identified as high, these benefits can be assumed to be equally high for all parliamentary groups. Second, the institutional status is expected to affect the size of a group's policy-seeking benefits, with the benefits being high for opposition parties and low

for majority parties. In the 18th and 19th legislative period in the Bundestag, CDU and SPD were majority parties and are assumed to gain low benefits from parliamentary control, whereas Die Linke and Die Grünen are expected to perceive control as highly beneficial. Moreover, the theoretical framework holds that the more a group opposes an agreement, the higher the policy-seeking benefits of parliamentary control. The CDU and SPD are in specific support of the agreement and assumed to gain low policy-seeking benefits, whereas Die Linke and Die Grünen are in specific opposition and are assumed to gain high benefits. Lastly, the size of a group's policy-seeking benefits is also affected by its chances of having substantial policy impact. As only CDU and SPD constitute a credible veto threat, only those two parliamentary groups are assumed to benefit from parliamentary control of the EU-Japan FTA negotiations. Die Linke and Die Grünen are expected to have low likelihood of impact benefits.

Regarding the cost-side of parliamentary control, a group's resource costs are assumed to be higher, the lower the group's overall resources. CDU and SPD have high resources to control trade negotiations, hence low resource costs of control. In contrast, Die Linke and Die Grünen have low resources and high resource costs. Furthermore, both the complexity and the compellingness of the EU-Japan FTA negotiations have been identified as high. The theoretical framework postulates that the higher those two factors, the higher the efficiency costs of parliamentary control, but only for groups that support negotiations. The efficiency costs based on highly complex and compelling negotiations are high for CDU and SPD, and low for Die Linke and Die Grünen. Table 35 recaps:

Table 35: Overview of Theory-based Predictions

Benefit/cost \ Actor	CDU	SPD	Die Linke	Die Grünen
Vote-seeking benefits	High	High	High	High
Policy-seeking benefits: institutional status	Low	Low	High	High
Policy-seeking benefits: policy position	Low	Low	High	High
Policy-seeking benefits: likelihood of impact	High	High	Low	Low
Resource costs	Low	Low	High	High
Efficiency costs: complexity	High	High	Low	Low
Efficiency costs: compellingness	High	High	Low	Low
Intensity of control	Low	Low	High	High

Based on Table 35, it is now possible to predict the values of the intensity of parliamentary control that every group is expected to exhibit by comparatively investigating which group(s) are assumed to gain the highest benefits and the lowest costs from control, and vice versa. Two groupings can be discerned in Table 35: CDU and SPD display exactly the same values for all costs and benefits, and so do Die Linke and Die Grünen. This indicates that the former two as well as the latter two can be assumed to control the negotiations of the EU-Japan FTA with the same intensity. Overall, Die Linke and Die Grünen are expected to gain higher benefits from parliamentary control than the CDU and the SPD, and the CDU and the SPD are assumed to meet higher overall costs than Die Linke and Die Grünen. Summing up, the cost-benefit ratio is higher for Die Linke and Die Grünen, as they are expected to gain higher benefits and face lower costs when controlling the negotiations. For the CDU and the SPD, in contrast, this means that their cost-benefit ratio is lower. This leads to the following deductive predictions of the intensity of parliamentary control: both the CDU and the SPD will display a low intensity of parliamentary control, whilst Die Linke and Die Grünen will scrutinize the negotiations with high intensity (see the values in Table 35 above).

8.5.2.2. Step 2: How have the Parliamentary Groups controlled the EU-Japan FTA Negotiations?

To be able to compare the predicted values of the intensity of parliamentary control with the actual values that can be observed when studying the behaviour of the parliamentary groups scrutinizing the negotiations of the EU-Japan FTA, it is necessary to analyse the latter. This endeavour serves a rather descriptive aim in answering the research questions “how do parliamentary groups control EU international treaty-making”. Importantly, whilst the following is a more thorough presentation of the groups’ control activities along the dimensions of parliamentary control, the presentation will conclude by determining the intensity of parliamentary control each group has displayed as a necessary step to enable the comparison with the predicted values thereof.

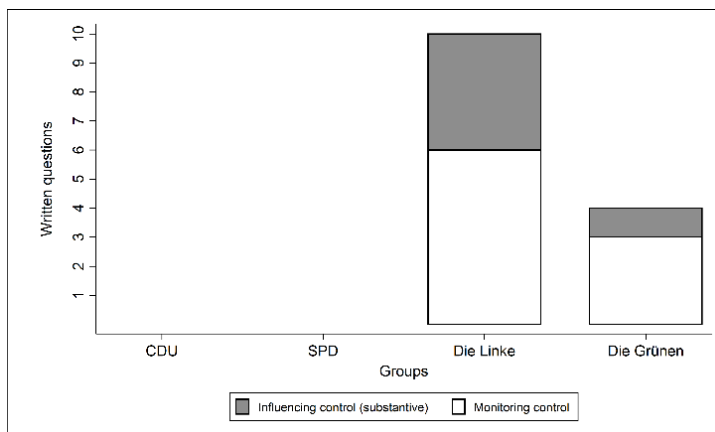
8.5.2.2.1. CDU

The CDU strongly emphasizes that neither the German government nor the Bundestag are the Union negotiator in EU free trade agreements, but that this task has been transferred to the European level, which also means that the negotiations are primarily controlled by the democratically elected European Parliament (Lämmel 2014, Plenarprotokoll 18/54). This leaves two main tasks for the Bundestag: in the ex ante and ad locum phase. The CDU emphasizes the importance of the Bundestag’s monitoring rights, whereas they see the parliament involved in the ex post phase through the ratification of FTAs –

but only mixed FTAs (Pfeiffer 2016). The CDU has controlled the EU-Japan FTA negotiations with only limited activity. They have mainly monitored the progress of the EU-Japan FTA talks, by processing the formally available negotiation documents and informally exchanging information with the German government. Their control was thus primarily directed at the German government, and the group has mainly used informal means of control, but has also used formal mechanisms. The group has in many instances and with different control instruments expressed support of the negotiations to other parliamentarians, the Japanese side of the negotiations and, to a lesser extent, German citizens. However, the strength of these activities has not been enough to enable their qualification as influencing (supportive). Overall, the group has not been very active on the EU-Japan FTA.

The group has mainly exercised monitoring control, i.e., collected and assessed information about the trade talks, and focused on analysing the negotiation documents made available by the German government in the Bundestag database EUDox. The group strongly supports the praxis of uploading documents directly to the database, as opposed to making them available in the so-called reading rooms.¹³⁹ Overall, the CDU group has been rather inactive in gathering information from the German government by employing formal means of parliamentary control. The group has not asked any written or oral questions on the EU-Japan FTA (see Figure 13).

Figure 13: Written Questions in the Bundestag on EU-Japan FTA



Moreover, the CDU has not submitted any major or minor interpellations. This does not mean that the CDU has not interacted with the government at all in order to inquire further into certain topics of interest, but they have mainly done so via informal means of control, informal interaction and information exchange with the German government (BT05).

¹³⁹ http://www.deutschlandfunk.de/cdu-politiker-zu-ttip-transparenz-ist-ein.694.de.html?dram:article_id=335263.

The parliamentary group has voiced its support of the EU-Japan FTA by employing various means of parliamentary control. The CDU is the political group in the Bundestag that most often refers to the free trade agreement in plenary speeches on subjects related to the EU-Japan FTA, usually exactly in order to express their support and satisfaction with the progress of the negotiations (i.a. Pfeiffer 2014, Plenarprotokoll 18/36; Lämmel 2016, Plenarprotokoll 18/196). More informally, the parliamentary group has gone beyond the national sphere to voice their opinion on the EU-Japan FTA by interacting with the Japanese side directly on a regular but not an institutionalized basis. Between 2010 and 2017, a CDU MP with close ties to Japan travelled to the country seven times and met with Japanese politicians and industry representatives to exchange views on the trade agreement and to express the group's support of the FTA.¹⁴⁰ The CDU has also focused on German citizens when voicing their support of the FTA negotiations more generally. To counter public scepticism and opposition to TTIP and CETA, the governing parties, CDU and SPD, established an internal working group to engage with citizens and address constituency concerns (Kauder 2014, Plenarprotokoll 18/29). The working group was quite active on TTIP and CETA but has not done much on the EU-Japan free trade agreement. The CDU group thus took little action to directly and personally convince German citizens of the benefits of the FTA. These activities expressing support for trade negotiations cannot be argued to be strong and forceful enough to justify their qualification as “influencing (supportive)” control, as it was feasible in some instances of political groups in the European Parliament controlling international negotiations. The CDU has merely voiced support of the EU-Japan FTA without actively pushing the government or the negotiator to pursue the negotiations more intensely and urgently. Overall, their control activities on the EU-Japan FTA have predominately been monitoring.

8.5.2.2.2. SPD

The SPD emphasizes the importance of a sound involvement of national parliaments in the negotiations of EU free trade agreements, but also underlines that the member states have transferred exclusive competence for the Common Commercial Policy to the European level with the Treaty of Lisbon. Against this background, they caution against the Bundestag overstepping its institutional powers in trade negotiations. Generally, the parliament ought to

¹⁴⁰ E.g. <https://www.cducsu.de/presse/pressemitteilungen/japan-wichtiger-partner-bei-stabilisierung-des-internationalen-finanzsystems>;
<https://www.cducsu.de/themen/aussen-europa-und-verteidigung/freihandelsabkommen-zwischen-eu-und-japan-muss-schnell-kommen>.

be involved by controlling the German government's actions in the Council and influence the latter's behaviour with parliamentary opinions, whereas the right to ratify lies with the European Parliament, unless an agreement is mixed (Töns 2018, Plenarprotokoll 19/39).

The SPD has controlled the EU-Japan FTA negotiations with only limited activity. Generally, they have – publicly – primarily monitored the negotiation process by informally exchanging information with the German government and by processing negotiation documents in EUDox. Their control was primarily directed at the German government, and the group has mainly used informal control mechanisms. As Figure 13 shows, the group has not asked formal written questions on the EU-Japan FTA or issued minor or major interpellations on the negotiations. However, behind closed doors in committee meetings and personal conversations, the group has voiced criticism of the agreement and the progress of the negotiations. Yet, the criticism is implicit, made by more free-trade critical members of the parliamentary group (BT05), and has not had an influencing (substantive) function.

The parliamentary group has used plenary speeches on related subjects to refer to the EU-Japan FTA agreement and voice their support of the negotiations (e.g. Wiese 2015, Plenarprotokoll 18/127). As mentioned, the SPD and CDU have focused on German citizens when voicing their support of the FTA negotiations more generally by establishing an internal working group to engage with citizens and address constituency concerns (Kauder 2014, Plenarprotokoll 18/29). The working group predominately focused on countering public opposition to TTIP and CETA and has not been very active on the EU-Japan free trade agreement. Overall, the SPD has been rather inactive on the EU-Japan FTA, occasionally voicing support for the negotiations, occasionally, internally, voicing criticism, but mainly monitoring the progress of the trade talks.

8.5.2.2.3. *Die Linke*

Die Linke is rather critical of the transfer of all decision-making powers in the policy field of trade to the European level and deplores the limited involvement and control rights of national parliaments. They consider it essential that new generation free trade agreements are concluded as mixed and emphasize the importance of parliamentary involvement in the *ad locum* phase of negotiations: even if an agreement is concluded as mixed, these parliamentary control rights are insufficient because “you only receive the finalized agreement at the end, and then you can only say ‘yes’ or ‘no’. [...] That is why it is so important that we have the opportunity, as Parliament, to influence the various stages of the negotiations” (BT03). In regard to the EU-Japan FTA, Die Linke has controlled the talks rather actively. The group argues that they consider

their fight against TTIP and CETA to have been their main focal points, meaning that they have been less attentive to the EU-Japan FTA (BT03). However, the group made use of both formal and informal control mechanisms. Generally, the majority of their control actions has been directed towards the government, and the group has used both control instruments to monitor and influence the negotiations, perceiving these to be “a parallel process. Because [...] we have this basic criticism, [...]. Of course we then asked questions about it, so on the one hand we sharpened our own argumentation, on the other hand we got our fears confirmed [and then tried to exert influence accordingly]. So I think it is going somewhat in parallel” (BT03). The group has made active use of formal control instruments such as written questions and interpellations, which also served an influencing purpose, to monitor negotiations. Being aware that directly influencing the government is a difficult endeavour for the political group, Die Linke pursues a twofold approach: forcing the government to announce its position on the European level, for which it can then be held accountable; and raising the visibility of the agreement inside and outside parliament to create pressure from both sides.

In regard to their monitoring activities, Die Linke has been collecting information in several ways. They read and assessed the reports of each negotiation round, which are submitted to parliament by the German government and the executive. They are not very satisfied with the quality of the information provided in these reports, which makes it difficult for them to intervene politically (BT03). Therefore, the group pays only little attention to the draft negotiating texts provided in EUDox (Plenarprotokoll 18/424). The group also makes active use of the questioning possibilities against the government (BT03) and is the parliamentary group in the Bundestag that asked the most written questions on the EU-Japan FTA. Of the ten questions the group asked between 2013 and 2017, six had a monitoring function (see Figure 13 above). The questions ask about the status of negotiations and the specific envisaged content of the agreement concerning particular topics, mainly investment arbitration and the status of the agreement as mixed or exclusive. Die Linke has also submitted two minor interpellations which include questions on the Japan FTA, one solely dedicated to the agreement (BT-Drs. 18/12062). With its 22 questions, it has somewhat of a monitoring function, inquiring about the status of the trade talks and substantive issues. However, the interpellation clearly had an influencing function, as demonstrated below. Finally, Die Linke used the possibility to pose questions to the government in the plenary in accordance with § 106 RoP¹⁴¹ in June 2017 (Plenarprotokoll

¹⁴¹ “In weeks of sittings the Members of the Bundestag shall have an opportunity to put to the Federal Government questions of topical interest within its competence”.

18/242). Also here, Die Linke is rather dissatisfied with the quality of the government's answers, which often refer to the Commission's responsibility for the negotiations, to which the group has no direct access (BT03). As such, Die Linke has a well-functioning system of information exchange with its party colleagues in the European Parliament (BT03).

Regarding the group's influencing control, it is important to note that in order to exert substantive influence, the main contact for the parliamentary group is the German government, which they then expect to transmit the national pressure onto the European level, into Council meetings and the trade negotiation rounds. Die Linke has continuously fought for the topic to be picked up in committee meetings, and managed for the first time in June 2017 to have the EU-Japan FTA as a stand-alone agenda point in a meeting of the Committee on Economic Affairs and Energy. In committee meetings, the group has actively discussed the agreement with representatives of the government in both the EAC and the Economic Affairs Committee, but its influence was limited due to the group's opposition status (BT03). It therefore needed other instruments of parliamentary control, both formal and informal, to influence the negotiations process.

The group has used formal mechanisms of parliamentary control to bring about a positioning of the government. "So that means we can always try before a European Council, or before a Council of Ministers meeting, we can at least try to trigger the debate, so that that the federal government is set on a certain position" (BT03). Die Linke is the only political group having submitted a motion with reference to the EU-Japan FTA. In this motion, the group urged the German government to advocate in the EU to stop the negotiations with Japan on a free trade agreement (BT-Drs. 18/12965). However, the motion failed and was not adopted.¹⁴² The group has also used the questioning mechanisms to bring the government to position itself on particular issues. Four of its ten written questions to the government had an influencing function, and the group also used minor interpellations and the questioning of the government in plenary mentioned above: in addition to interpellations aimed at collecting information, there were questions directed at making the government announce its position on certain issues as a first step in holding it accountable for its actions on the European level.

These somewhat more prominent (and public) questionings of the German government also served a second aim: to create public awareness and generate publicity for the EU-Japan FTA, which the group perceives as a major precondition for putting substantive pressure on the German government inside and outside the Parliament. The group has tried to bring the topic into

¹⁴² <http://dipbt.bundestag.de/extrakt/ba/WP18/828/82843.html>.

the Bundestag, to make it more prominent within the parliament and generate public debate about it. As mentioned above, there has to date not been a plenary debate in the Bundestag solely on the EU-Japan FTA; however, Die Linke has, in many plenary debates, made references to the agreement, more than most other parliamentary groups (with the exception of the CDU). Moreover, the group has increasingly considered putting the FTA on the plenary agenda in their own group plenary time. However, this has not yet happened (BT03). Beyond trying to raise the awareness among the MPs, Die Linke hopes that its increasing parliamentary activity on the agreement will raise awareness in the German public, which in general has become rather critical towards trade agreements in recent years. To foster such awareness, organize public opposition and create pressure on the government from civil society, the group has put strong emphasis on interaction with extra-parliamentary movements against modern free trade agreements, which they perceive to be one of their main strategies to control the EU-Japan negotiations and to enforce its preferences (BT03). Die Linke is currently not as active in creating public pressure on the EU-Japan FTA as they were in regard to TTIP and CETA. However, “what we are also trying to do, the many extra-parliamentary groups that have been quite successful on CETA [...], we must now also raise their awareness to JEFTA and sensitize them so that they stay tuned” (BT03). Overall, having experienced the difficulties in influencing the German government directly via (formal) means of parliamentary control within executive-legislative relations, they consider raising public awareness and extra-parliamentary pressure a more likely strategy for influencing the EU-Japan negotiations.

8.5.2.2.4. Bündnis 90/Die Grünen

Die Grünen strongly support the transfer of decision-making powers in the area of trade policy to the European level,¹⁴³ which also implies that they do not see the Bundestag as better equipped to control international trade negotiations than the European Parliament. Both in the ex ante phase – the adoption of the negotiation mandate – and the ex post phase – the ratification – they view involvement by the EP as sufficient, if the legal framework provides so (BT05). Nonetheless, they emphasize the need to involve national parliament.¹⁴⁴ Die Grünen consider it most important that the Bundestag is actively involved in the negotiations of trade agreements in the ad locum phase. “Once [those trade agreements] have been negotiated, it is almost impossible to

¹⁴³ <https://www.euractiv.de/section/finanzen-und-wirtschaft/interview/gruenen-politikerin-droege-wir-wollen-einen-neustart-der-eu-handelspolitik/>.

¹⁴⁴ <https://www.gruene-bundestag.de/presse/pressemitteilungen/2018/april/reform-fuer-fairen-handel-statt-turbo-abkommen-mit-japan-und-singapur.html>.

change anything in the texts, [...] And so the negotiation process has a completely different meaning” (BT05). In regard to the EU-Japan FTA negotiations, Die Grünen have been controlling the negotiations by monitoring the progress of the trade talks and by trying to enforce their preferences. The group argues that in the current stage of the negotiations, the main bulk of their activities lays with monitoring the progress, and, to a lesser extent, attempting to exert influence on the negotiations. Importantly, their control activities have predominately been directed towards the German government. The group has pursued a twofold strategy to bring about a public positioning of the government on particular issues under negotiation and to generate publicity and visibility of the negotiations in and outside parliament to intensify the pressure on the government. The group has mainly acted within the legal framework of national legislative-executive relations, rarely informally interacting with the German government (BT05). However, the parliamentary group has informally interacted with actors outside the legislative-executive framework to monitor and influence the agreement.

From the outset of the EU-Japan FTA negotiations, Die Grünen have emphasized the importance of monitoring the status and the progress of the trade talks in order to exert influence on the German government in line with the group’s policy preferences: “the most important thing to do is to read the negotiation texts. And the second is that in the database [EUDox], the updated versions are always submitted, and that the Sisyphus work is to check ‘what has been changed etc.?’ [...] especially with regard to topics that are particularly important to you” (BT05). Whilst they perceive the documents accessible sufficient, they accuse the government of deliberately swamping the parliament with updated versions of all documents without indicating the exact changes (BT05). Assessing the draft texts and other negotiation documents, Die Grünen prefer to do the evaluation work themselves and not to rely on the parliament’s research service. However, on some topics, the group relies on the support of external experts, such as legal scholars, NGOs and labour unions, which conduct in-depth analyses of specific building blocks of a trade agreement. This requires that negotiation texts are publicly available, which, until mid-2017, was not the case for the EU-Japan FTA (BT05).

The group has a well-functioning system of information exchange with the European Parliament with a clearly monitoring aim, whilst influencing the Commission as Union negotiator is considered a task for the European Parliament (BT05). The group has sometimes used parliamentary (written) questions to gather information about the content of the envisaged EU-Japan FTA and recent developments on the European level. Figure 13 above shows that three of the four written questions the group has asked have a monitoring

function. Moreover, the group has submitted three minor interpellations concerning the EU-Japan negotiations, two of them specifically dedicated to them (BT-Drs. 18/12652, BT-Drs. 18/13162). The group also posed questions to a government representative in a June 2017 plenary questioning of the government (Plenarprotokoll 18/242). However, the group has encountered two difficulties in monitoring the negotiations of the EU-Japan FTA. They find it difficult to ask precisely formulated and targeted questions to the government because “there are still huge gaps everywhere, then you do not really know in which direction you should ask now. [Only when what] is accessible for us further concretized, it is possible for us to ask the questions more precisely” (BT05). Moreover, they are generally dissatisfied with the quality of the federal government’s answers (BT05). Questions, especially minor interpellation, often serve a different purpose for Die Grünen: to raise awareness of the issue and force the government to position itself, and questions thus often aim to influence negotiations in addition to merely collecting information.

Die Grünen see the German government as its main target in its attempts to substantively influence the negotiations of the EU-Japan FTA. “Our main control is directed at the federal government, because that is our job to control the government” (BT05). Its activities are aimed at pushing the national government to take and defend a specific position on the European level and thus to indirectly influence negotiations, whereas it is the task of the EP to control the Commission (BT05). Similar to Die Linke, Die Grünen have pursued a twofold strategy: to force the government to take a position on particular issues, and to raise awareness about the agreement inside and outside the Bundestag. Concerning the former, the group commonly formulates its own position in resolutions, debates etc., and asks the government to reject the agreement if it should not comply with those points. Being aware that this might not necessarily work, the aim of such an endeavour is to “bring the federal government to make certain statements, to push them into the corner, so that they position themselves more clearly” (BT05). The group has not written such a motion on the EU-Japan FTA but have used the two minor interpellations mentioned above to force the government to take a position for which it can then be held accountable (BT-Drs. 18/1265; BT-Drs. 18/13162).

The group has also attempted to influence the government by initiating public debate about the EU-Japan FTA. “Generating publicity is part of our job” (BT05). Within the parliament, the group has used the minor interpellations to raise awareness of other MPs. However, they were quite sceptical about the impact. “But we also saw that the colleagues of Die Linke had been trying to do that slightly earlier, submitting minor interpellations. That has generated almost no visibility and publicity” (BT05). The group managed, together with Die Linke, to put the FTA on the agenda as a stand-alone item in

the Committee on Economic Affairs and Energy in June 2017, but without increase the attention of most other political groups (BT05). Lastly, the group considered putting the issue up for plenary debate in the last sitting before the 2017 summer break and the parliamentary elections in September the same year, but ultimately did not (BT05). Many of these activities had a second, more indirect control direction and recipient: they were not only aimed at MPs' awareness but also at fostering public, extra-parliamentary attention to the negotiations to create external pressure.

The group considers extra-parliamentary pressure as a promising means to substantively influence any trade negotiation process. They have considered how to specifically engage with civil society organization to spur public opposition to the EU-Japan FTA. "Building extra-parliamentary pressure works only if there is a civil society that picks up what we do and then organizes, for example, major demonstrations such as against TTIP or now the G20 summit" (BT05). The group has, in internal team discussion, repeatedly debated how to put the issue more into the centre of civil society organizations and NGOs that have been active on TTIP and CETA in order to create public pressure. In regard to the latter, the group used the methods of public relations, organizing events all over Germany on the topic, podium discussions, publishing information brochures, to make people aware of what was being negotiated there. "However, all that has not yet started with JEFTA" (BT05).

8.5.2.2.5. Summary: Partisan Control in a Comparative Perspective

The previous sub-chapter presented the partisan control activities in the Bundestag on the EU-Japan free trade agreement negotiations. It is now possible to establish the value of the dependent variable, the intensity of control, for each parliamentary group regarding the level (the quantity) and the function (the quality) of control. But first a brief summary of how the groups have controlled the EU-Japan negotiations along the four dimensions of control – timing, directness, formality and function. The empirical investigation revealed considerable variation on the dimensions between the groups and the means of control the groups have used.

On the timing dimensions, the groups have to a certain extent taken the different stages of a negotiation process into account; not so much in the timing of their scrutiny activities, but rather in their view of parliamentary involvement in those stages. The CDU clearly states to only see monitoring rights for national parliaments in the ex ante and ad locum stage of negotiations, whereas Die Linke and Die Grünen want to exert influence already at this stage, as they consider parliamentary involvement in the ex post stage too late. Moreover, Die Grünen see a predominant role for the European Parliament ex ante and ex post, whereas Die Linke demand strong involvement by

national parliaments throughout these stages. In regard to the latter two, some time-dynamics have been detected as both groups generally became more active in controlling as negotiations progressed. Second, also on the formality dimension, a distinction can be made between the CDU and the SPD, on the one hand, and Die Linke and Die Grünen, on the other. The former have mainly relied on informal control mechanisms, interacting informally with their government, whereas the latter have, in their direct actions towards the government, mainly relied on formal control instruments. However, they have been informally accompanying the negotiations by interacting with extra-parliamentary actors. Overall, concerning the directness dimension, all groups have directed their control towards the German government, and not the Union negotiator or the European level, directly (especially CDU and SPD) and via extra-parliamentary actors (Die Linke, Die Grünen). Only the CDU had interacted with the Japanese side directly, however, these interactions seem to have been more of a diplomatic than of a controlling nature.

Lastly, of the four parliamentary groups investigated, only Die Linke and Die Grünen have actively attempted to influence the EU-Japan FTA negotiations in order to enforce their preferences and have used similar means to do so: with their control activities directly or indirectly aimed at the German government, they tried to bring about a positioning of the government to defend on the European level and to be able to hold the government accountable for its subsequent positions. Moreover, both groups see the generation of publicity and visibility of the agreement inside and outside the parliament as an essential part of their influencing control activities. Especially the latter is considered important, as the groups see the creation of public pressure on the government as an influential strategy to affect the negotiations. The two groups have relied on similar control means to influence the negotiations but to different extents. Die Linke has been active in simultaneously monitoring and influencing control, with focus on the latter, whilst Die Grünen claim that their main focus is on collecting and assessing information. Whilst both parliamentary groups clearly have controlled the negotiations with an influencing function, Die Linke has displayed a higher level of activity in this regard than Die Grünen.

Similar assessments of the intensity of control activities can be made for CDU and SPD. Both parliamentary groups have predominantly focused on monitoring the EU-Japan FTA negotiations, following the developments and, to a certain extent, analysing available negotiation documents. The CDU has actively expressed its support of the negotiations, but this does not qualify as influencing (supportive) behaviour, as these activities lack a pressuring character. Moreover, both groups have displayed a low level of control activity in

general. Table 36 shows the placement of the parliamentary groups along the two dimensions of the intensity of parliamentary control.

Table 36: The Intensity of Parliamentary Control of the EU-Japan FTA Negotiations in the Bundestag

Level	Function	Monitoring	Influencing
Low		Low monitoring CDU, SPD	Low influencing Die Grünen
High		High monitoring	High influencing Die Linke

8.5.2.3. Step 3: Comparing Prediction and Outcome

Based on the two previous steps, it is now possible to compare the theory-based predictions about the intensity of parliamentary control of every parliamentary group with the observed values thereof. The following Table 37 presents the predicted values of the intensity of parliamentary control and the observed outcomes in order to enable the congruence testing.

Table 37: Comparison

Political Group	Predicted Intensity of Control	Observed Intensity of Control	Congruence (+) Non-Congruence (-)
CDU	Low	Low Monitoring	+
SPD	Low	Low Monitoring	+
Die Linke	High	High Influencing	+
Die Grünen	High	Low Influencing	-

The predictions of the observable intensity of parliamentary control are to a high degree congruent with the findings of the empirical analysis of parliamentary activity. Whilst this seems to indicate that the expected causal relationship between the causal factors and the intensity of scrutiny does indeed exist, the comparison does not correlate in the instance of Die Grünen. Recall that the values of the costs and benefits of parliamentary control for both Die Grünen and Die Linke were identical, meaning the groups are expected to display exactly the same intensity of control. To investigate this discrepancy, the following process-tracing analysis will focus on those two parliamentary groups.

8.5.3. Partisan Control Action: A Process-Tracing Approach

The causal process linking the causal factors with the outcome will be disentangled below based on diagnostic evidence and information about the perceptions and motivations of the parliamentary actors. The goal of this analysis is to determine whether the parts of the hypothesized causal mechanism are present in each case and whether the mechanism as a whole were present.

8.5.3.1. *Die Linke*

Die Linke displayed a high influencing intensity in controlling the negotiations of the EU-Japan FTA, as predicted by the theoretical framework. However, in order to caution against spurious causality, the following elaborations will investigate whether the assumed causal mechanism was indeed present.

Table 38: Causal Mechanism: Die Linke

Benefit/cost	
Vote-seeking benefits	High
Policy-seeking benefits: institutional status	High
Policy-seeking benefits: policy position	High
Policy-seeking benefits: likelihood of impact	Low
Resource costs	High
Efficiency costs: complexity	Low
Efficiency costs: compellingness	Low
Observed intensity of control	High influencing

As the negotiations of the EU-Japan FTA have been characterized as highly salient, the framework holds that Die Linke is supposed to perceive the vote-seeking benefits of parliamentary control as high. However, the political group does not necessarily agree with this characterization. Comparing the salience of the EU-Japan agreement to the public attention to the TTIP and CETA negotiations, they see that the agreement is barely discussed in public and that they “honestly do not believe that half a percentage point of German citizens know what JEFTA is” (BT03). However, the group claims that this does not necessarily dis-incentivize their control, as the content and the size of their opposition is not steered by public attention and opinion. Moreover, they observe that the public salience of the agreement has been steadily increasing. “And of course, that has animated us, so to speak, that we approach the agreement the same way we did TTIP and CETA” (BT03). Moreover, Die Linke is actively seeking ways to improve the visibility of the agreement in the public sphere (BT03). The aim is not to increase potential vote-seeking benefits, but

rather to provide better opportunities for creating public, extra-parliamentary pressure, which the group perceives to be a major instrument to control and influence EU international trade negotiations. This means that the group has not perceived the agreement as salient as predicted; but, as predicted, it is taking the agreement's salience into account and has been incentivized by increasing public awareness to control the negotiations more strongly. This indicates that public salience affects not only the vote-seeking benefits but also the opportunity structure of parliamentary groups that rely on extra-parliamentary actors to control an EU international negotiation process.

As an opposition party, Die Linke is expected to perceive the policy-seeking benefits of parliamentary control of the EU-Japan FTA due to policy conflict with the German government as high. The group clearly sees itself as having opposition status with everything that goes along with it. They clearly state they blame the government for the continuance of the same free trade politics the group opposed to in regard to TTIP and CETA. "That is why we [...] remain critical of the trade policy of the EU and the German Government. [...] JEFTA must be stopped"¹⁴⁵. Due to their opposition to the agreement and to the government whom they hold partially responsible for the agreement, the group perceives the policy-seeking benefits due to policy conflict with the government as high, which, as expected, provides a major incentive for the parliamentary group to intensively control the ongoing negotiations.

A similar observation can be made concerning the group's perceived policy-seeking benefits due to their policy position on the agreement. These benefits are expected to be high due to the specific opposition to the agreement. This is indeed the case, as the group cites their fundamental criticism of modern free trade agreements as a major reason for their parliamentary activities against the free trade agreement with Japan. "We believe that the entire world trade needs to be fairer. The free trade agreements are there in my opinion rightfully under criticism. And that is why we oppose CETA and TTIP, and that's also true for JEFTA" (BT03). As predicted, the group's opposition to the EU-Japan free trade agreement seems to be a major incentive for them to invest heavily in intensive parliamentary control.

As a small party in the Bundestag controlling what they perceived, for a long time, to be a mixed agreement, Die Linke is expected to perceive their chances of making a substantive difference to the negotiations as small, which in turn ought to decrease expected policy-seeking benefits of parliamentary control. Indeed, they consider these changes as a small opposition party during a long reign of powerful grand coalition as rather small: "We have had this

¹⁴⁵ <https://www.linksfraktion.de/presse/pressemitteilungen/detail/ceta-darf-nicht-ratifiziert-und-jefta-muss-gestoppt-werden/>.

grand coalition here in the last four years, which has not made it any easier, because that is already an accumulation of power. This has made it very difficult for smaller groups” (BT03). Yet, they emphasize that it is not an entirely lost cause exactly because the agreement is mixed (BT03). They argue that they have had instances of partial success in their opposition to trade agreements, such as making the German government work on the European level to ensure FTAs are concluded as mixed agreements (BT03). As expected, the group considers it difficult to exert substantive influence on the negotiations. However, they are not dis-incentivized from actively controlling, as they have seen partial, minor success in the past on other FTAs and hence do not consider control useless.

Concerning the cost-side of parliamentary control, it was explained above that the group is expected to perceive the resource-costs of controlling the negotiations as high. According to the group, the problem is not so much a lack of staff, but rather – in a very interconnected way – the requirement to control other international agreements and files simultaneously, which makes control costly. All these topics need to be balanced on the group’s agenda, and more urgent files often receive priority treatment (BT05). Thus, as expected, the group perceives the costs of controlling the EU-Japan negotiations as high, especially because resource costs are here understood as opportunity costs of spending time and effort on more urgent files, which in turn means less time and energy spent on the EU-Japan FTA.

Lastly, the theoretical framework assumes that Die Linke, in specific opposition to the EU-Japan FTA, considers the efficiency costs of parliamentary control as low, because they do not perceive the Union negotiator to be in need of discretion to negotiate the best possible trade treaty. Indeed, the parliamentary group does not agree with the argument that the Commission as Union negotiator should be able to negotiate the EU-Japan FTA without interference in order not to endanger the efficiency of the negotiations. This holds particularly true for parliamentary activities aimed at information gathering. The group understands that some confidentiality and secrecy is required to successfully negotiate international agreements but holds that “So, but we live in a democracy [...]. And it cannot be the people actually negotiating are not even politically legitimized. This means that the EU Commission, or any official of an EU Commission, is not accountable, so to speak, in any kind of election for what they do. And that is why in my opinion these negotiations also require a degree of transparency and openness” (BT03). Similarly, the parliamentary sees no impact of the compellingness of the negotiations on the negotiator’s need for discretion. They do not agree with the characterization of the setting as compelling in the first place. Concluding the EU-Japan FTA agreement at all costs, in times of Trump and Brexit “would be idiocy, so to speak. [...] If the

answer is, that we now need to conclude more trade agreements, everywhere and quickly, to counterbalance... That cannot be the answer. We must stick to our criticism" (BT03).

Summing up this in-depth analysis of Die Linke controlling the EU-Japan FTA negotiations, the hypothesized causal mechanism seems to have been present, and the group has perceived the costs and benefits of parliamentary control as predicted. This holds for the cost-side, where the group saw high resource-costs, but did not take potential efficiency costs into account. However, the group does not seem to think that the complexity of the international agreement has any impact. In contrast, the picture is somewhat more complex on the benefit side. On the one hand, the policy-seeking benefits due to the group's institutional status and policy position had the assumed effect, strongly incentivizing the group to actively control. On the other hand, the group has, first, perceived the agreement to be insufficiently salient, using TTIP and CETA as benchmarks. The lack of public attention affected their incentives to control the negotiations somewhat, but more importantly made it more difficult to do so as the group found it more difficult to use the creation of extra-parliamentary pressure as an important means of control in previous FTA negotiations. Second, the group agrees with the assessment that its chances of having substantive influence on the negotiations are de-facto small, but they cite previous successes in regard to other FTA negotiations as reasons why this does not completely dis-incentivize them. This indicates that it might be difficult to investigate how parliamentary groups assess the costs and benefits of control in an isolated manner.

8.5.3.2. Bündnis 90/Die Grünen

As Table 39 shows, Die Grünen have controlled the EU-Japan FTA negotiations with a low influencing intensity, i.e., not as strong as predicted by the theoretical framework. The following sub-chapter will trace the underlying causal mechanism along the causal factors and analyse whether the group perceived them as predicted, in order to explain why the predicted and the observed value of the dependent variable are non-congruent.

Starting with the vote-seeking benefits of parliamentary control, Die Grünen are expected to perceive these benefits as high due to the high public salience of the EU-Japan FTA. However, like Die Linke, the group uses CETA and TTIP as benchmarks to assess public salience of other trade agreements and therefore have not perceived the EU-Japan FTA as salient as predicted (BT05). The group argues that there is an interaction between parliamentary activity and public and media interest, and that with the increasing media reporting on the agreement in the last year, the group has been incentivized to

control the negotiations more intensively, suggesting a strong electoral connection in this regard (BT05). The group has observed an increasing interest in the EU-Japan FTA, post-TTIP and post-CETA, which in turn has fuelled parliamentary control activities. Overall, the group clearly considers the vote-seeking benefits of parliamentary control, which incentivized them to exercise control, as predicted. However, unlike assumed, the group considers the salience of the EU-Japan FTA to be comparatively low, using TTIP and CETA as anchor.

Table 39: Causal Mechanism: Die Grünen

Benefit/cost	
Vote-seeking benefits	High
Policy-seeking benefits: institutional status	High
Policy-seeking benefits: policy position	High
Policy-seeking benefits: likelihood of impact	Low
Resource costs	High
Efficiency costs: complexity	Low
Efficiency costs: compellingness	Low
Observed intensity of control	Low influencing

As an opposition party, Die Grünen are assumed to perceive the policy-seeking benefits of parliamentary control as high due to heightened policy conflict with the government. Indeed, the parliamentary group clearly perceives itself as opposition party, which also extends to their very critical approach to the negotiations (BT05) and the German government. Interactions with the government on the EU-Japan FTA have been “controversial in the sense that we had a different view than the German government. [...] Basically all the debates have been controversial” (BT05). As predicted by the theoretical framework, the group considers parliamentary control to be policy-seeking beneficial due to their institutional status and subsequent disagreement with the German government, acting as intermediary that should transfer national policy positions on the EU level, over the direction in which the negotiations should go.

Moreover, Die Grünen are in specific opposition to the EU-Japan FTA, which means that they are expected to perceive the policy-seeking benefits of parliamentary control as high. The group emphasizes that it is not entirely opposed to free trade or a free trade agreement with Japan, but criticizes the current approach to and content of the negotiations (BT05). The group considers its opposition to the current FTA a major incentive to exert control over the negotiations. As expected based on the theoretical framework, the group

perceives the policy-seeking benefits of control due to their critical policy position to the EU-Japan FTA as high.

As a small parliamentary group with limited credible veto threat, the group is expected to consider this to lower the policy-seeking benefits and take this into account when controlling the EU-Japan negotiations. The group is aware that it has little impact in parliament as a small opposition party opposing a grand coalition supporting the government (BT05). Nonetheless, the group also argues that whilst they might not be able to push through their entire set of preferences, there have been minor victories on other FTAs, such as the exclusion of the old arbitration system from CETA, which would not have happened without the strong opposition by some parliamentary groups in Europe (BT05). Thus, somewhat as expected, Die Grünen perceive their chances to substantively influence the negotiations as rather small, but are not entirely discouraged to attempt to exert influence, as they have been able to observe that small successes can be achieved.

On the cost side, Die Grünen have been identified as a parliamentary group with low overall resources to control trade negotiations, which means that they should perceive the resource costs of controlling the negotiations as high. This can be confirmed by this process-tracing analysis: The EU-Japan FTA has not been the main focal point of the group because “due to capacity issues, we work to a certain extent, as it absolutely necessary” (BT05). Moreover, with few MPs responsible for international trade, and few staff resources to follow up, and the “huge deals that you have to work with there, that means there are limits to what you can do” (BT05). As assumed, the group perceives the resource costs of controlling the negotiations as high, which makes control more difficult.

Closely connected to this general lack of resource is a more structural problem that the parliamentary group has encountered and which might provide the starting point for explaining why the group has – unlike predicted – controlled the negotiations with a low influencing, not a high influencing intensity: the combination of the group’s emphasis on a thorough assessment of the negotiation texts as a first step towards substantively influence the negotiations and the lack of resources. With the strong focus on thoroughly assessing the information available on the agreement, the group is evidently in need of sufficient resources. In regard to the EU-Japan negotiations, the group has encountered two problems: first, they do not deplore a lack of information, but the abundance thereof, turning the analysis into “Sisyphus work” (BT05). Moreover, the technical and substantive assessment is further impeded because most draft agreement texts until recently had been available to German MPs but not to the general public. As explained above, Die Grünen frequently interact with legal and technical experts outside of the Bundestag in order to

evaluate international agreements, due to the lack of own group resources. “We always depend on support. [...]. We would not be able to assess ourselves with the resources of an opposition party” (BT05). However, in regard to the EU-Japan FTA, this had until recently not been feasible, as the draft texts were subject to confidentiality rules. “For this reason, JEFTA has been given far less consideration in processing than, for example, CETA, where the document were publicly available” (BT05). Thus, Die Grünen have developed a strategy of controlling FTA negotiations which puts strong focus on thorough monitoring with the help of external experts. Until recently, they have not been able to pursue said strategy on the EU-Japan FTA. This might offer some insights why the parliamentary group, despite attempting to influence the negotiations to a low degree, has emphasized information gathering and why in Summer 2017, they still were in the “information retrieval phase” (BT05).

Concerning the efficiency costs of parliamentary control, the group with its specific opposition to the FTA is not considered to take the potentially negative effects of parliamentary control into account when scrutinizing the negotiations. Indeed, they argue that they do not agree with the argument that the negotiator needs broad leeway in order to negotiate the best-possible FTA with Japan from a European perspective, particularly emphasizing that the transparency rules surrounding trade negotiations in general do not serve their purpose of protecting the EU’s red lines (BT05). Similarly, the group stresses the importance of the involvement of parliaments in the negotiation process according to the democratic rules laid down in the Treaties, which should not be circumvented for pragmatic reasons (BT05). As predicted by the theoretical framework, Die Grünen do not consider potential efficiency costs of parliamentary control to be dis-incentivizing. This is not only due to the compellingness of the negotiation setting of the EU-Japan FTA but rather because the group does not consider the FTA an appropriate response to the compelling environment. Whilst agreeing that against the background of strengthened nationalism in economic policies all over the world, free trade needs to be rethought and EU needs to react, they do not see FTAs in their current set-up as a solution. “Especially in this situation, it would be necessary to stop and discuss in parliaments and with civil society what a good regulation of world trade might look like. [...]. The trade agreements with Japan and Singapore do not do this at all”¹⁴⁶. Die Grünen perceive the efficiency costs stemming from the compellingness of the EU-Japan negotiations as low, like predicted by the theoretical framework. In contrast, the group does not seem

¹⁴⁶ <https://www.gruene-bundestag.de/presse/pressemitteilungen/2018/april/reform-fuer-fairen-handel-statt-turbo-abkommen-mit-japan-und-singapur.html>.

to have considered the complexity of the negotiations in its cost-benefit analysis.

The process-tracing analysis of Die Grünen controlling the EU-Japan FTA negotiations has revealed that the group has largely perceived the costs and benefits of parliamentary control as expected and very similar to Die Linke. On the benefit-side, this is especially the case for the policy-seeking benefits based on the group's institutional status and policy position, whilst they perceive the benefits based on the likelihood of influence somewhat higher than assumed, as die Linke referring to success in other FTA negotiations. However, two causal factors which the group perceives differently/intensified than predicted need to be emphasized: first, using TTIP and CETA as anchor to determine the salience of the EU-Japan FTA, the group perceives the agreement as lacking public attention, which in turn has affected their incentives and ability to control negotiations. On the cost-side, the group does not consider the efficiency cost of parliamentary control in a highly compelling negotiation setting as high, as predicted. Second, whilst the framework already argues that the group should perceive the resource costs of controlling as high, this point has been emphasized by green MPs. The group argues that "it certainly was not the agreement, which has been at the centre of our work in recent years. This has a lot to do with capacity shortages that every MP has" (BT05). From a more structural perspective, Die Grünen place strong emphasis on a monitoring-influencing order in their control activities, attempting to base their influencing control on a soundly researched assessment of the negotiations. They have a somewhat higher need for technical resources than Die Linke, which increases the resource costs of the former. This makes parliamentary control more costly for Die Grünen than for Die Linke, which might explain why, despite similar expected benefits and costs, die Linke has controlled the EU-Japan FTA negotiations with a stronger intensity than Die Grünen.

8.5.4. Conclusion

After the comparative congruence analysis and two process-tracing studies, one can now draw a conclusion on "how and why the parliamentary groups in the Bundestag have controlled the EU-Japan FTA negotiations". The descriptive findings of the "how" of control were summarized in sub-chapter 8.5.2.2.5 above, which demonstrated variation along the dimensions of control, the means of control and the intensity of control between the groups. CDU and SPD used low intensity, Die Grünen medium intensity and Die Linke high intensity. This is largely congruent with the theoretically deduced predictions of the comparative congruence analysis, which cautiously indicates that the groups, as assumed, based their control on a cost-benefit analysis, taking vote-seeking and policy-seeking benefits as well as resources and efficiency costs

into consideration when scrutinizing the EU-Japan FTA negotiations. However, the findings were non-congruent for Die Grünen. To investigate this non-congruence further and to mitigate the risk of causal spuriousness, the congruence analysis was followed by process-tracing studies of Die Linke and Die Grünen.

These process-tracing studies revealed that the overall assumption of this dissertation – the higher the benefits and the lower the costs of parliamentary control, the higher its intensity – indeed seems to hold in both cases. The investigation also revealed that the underlying considerations and perceptions of both parliamentary groups resemble each other strongly, also in instances where they deviate from the causal framework. This happens in three instances. First, unlike assumed, both parliamentary groups perceive the public salience of the agreement as medium rather than high. Whilst both groups do have a comparative approach to assessing the agreement's salience, they do not use the EU-Tunisia readmission agreement and the Kigali Amendment as benchmark, like this dissertation, but rather the two most salient FTAs in recent years – TTIP and CETA. The politicians did not see the EU-Japan FTA as highly salient and therefore did not see vote-seeking benefits to be as big as assumed. However, this is a problem of operationalisation and measurement rather than of the theoretical framework, which indicates that there is no logical flaw in the theoretical assumptions of this dissertation. Similarly, both groups agree that their chances of having substantive policy influence based on their size in parliament are low, as predicted, but not zero. Again the reason is that they do not consider this factor in isolation, but cite previous small success in other FTA negotiations, such as TTIP and CETA, as indicators for why they – unlike predicted – think they have a chance of policy influence. Thus, to, implies that there has been a problem in the operationalization rather than in the theory. Lastly, the two process-tracing studies indicate that it might be necessary to return to the causal factor “complexity”, as neither group seems to have considered the complexity of the negotiations in their cost-benefit analysis of the EU-Japan FTA negotiations at all. However, against that background, it cannot be explained why the control by Die Grünen was less intense than Die Linke's. The reason may be that Die Grünen perceive the costs of control to be higher than Die Linke does, as the former emphasise solid monitoring and assessment of an FTA before they engage in influencing control, and therefore need more technical expertise, which increases their resource costs. Again, this is not to say that the causal mechanism does not work as assumed, but rather that Die Grünen perceived the causal factors and the costs/benefits of control differently than assumed. This is a “technical flaw”, not a “theoretical flaw”.

What does this case study tell us? On the one hand, it has strengthened the confidence in the theoretical framework, as the comparative congruence analysis demonstrated that predictions and findings were to a large extent congruent. Moreover, the two in-depth process-tracing studies demonstrated that the base assumption – the higher the benefits and the lower the control of parliamentary control, the higher its intensity – held in both instances and as both groups considered identical causal factors, with the exception of the agreement's complexity. However, they also revealed that the empirical reality is somewhat more complex than assumed by the theoretical framework. This does not render the framework invalid, but rather implies that it is necessary to return to and refine the operationalization and measurement of the causal factors.

8.6. Parliamentary Control of the EU-Tunisia Readmission Agreement Negotiations in the Bundestag

Since the Arab Spring in 2011, the German government has supported Tunisia's efforts of democratization with intensive political cooperation, a comprehensive transformation partnership and regular state-level political dialogue meetings. The issue of irregular migrants entering the EU – and Germany – from and via Tunisia has become an increasingly important topic, with the German government pushing for more cooperation on migration issues. Overall, Tunisia only plays a minor role in migration to Germany. Of the more than 30000 Tunisians living in Germany, there are 1500 without right of residence. Of these 1500 migrants, only 116 returned to Tunisia in 2016, according to official numbers.

There is currently an intense debate in German politics about whether Tunisia qualifies as a safe state. Tunisia made headlines in Germany in December 2016, when a rejected Tunisian asylum seeker killed 12 people and injured 56 others during the terror attack on Berlin's Breitscheidplatz. This event raised awareness of Tunisia's hesitance and disinterest in taking back its citizens whose asylum applications had been rejected in Germany, and increased the political pressure on the German government to enforce repatriation of these migrants. Against this background, the issue of readmission has been on the agenda of all German-Tunisian political meetings in the last two years¹⁴⁷. In March 2017, the governments of the two countries signed a deal about the readmission of the 1500 Tunisian nationals residing in Germany without a valid

¹⁴⁷ <https://www.bundesregierung.de/Content/DE/Artikel/2016/02/2016-02-29-de-maiziere-maghreb-rueckfuehrungen-abgelehnte-asylbewerber.html>.

residence authorization. This deal does not qualify as a readmission agreement, as it only regulates the return of this group of people.¹⁴⁸

This example demonstrates that not only the EU but also the German government is involved with Tunisia on readmission, which makes the topic more complex. Thus, when analysing the research questions of how and why the parliamentary groups in the Bundestag have controlled the negotiations between the EU and Tunisia on a readmission agreement, the focus will only be on readmission, with particular emphasis on actions referring to the EU-level developments, but also taking into account more broad activities on readmission with Tunisia. The structure of the chapter is the familiar one, starting out with a general overview of the file's treatment in the Bundestag, followed by comparative congruence analysis and concluded with a process-tracing analysis of selected parliamentary groups' control cost-benefit analyses. Please recall that all analyses of the Bundestag's control activities of international negotiations will only focus on parliamentary groups that were represented in parliament in the 18th legislative period, 2013-2017.

8.6.1. Overview of the Bundestag's Treatment of the File

In August 2014, the Bundestag dealt for the first time officially with the EU-Tunisia readmission agreement, when the government referred the Commission's *Recommendation for a Council Decision authorising the Commission to open negotiations on an agreement between the European Union and the Republic of Tunisia on readmission* (Com(2014)493) to the parliament's Committee on Internal Affairs as the responsible committee, the Foreign Affairs Committee and the Committee on Human Rights and Humanitarian Aid as co-advising committees (BT-Drs. 18/2533).

Since the Bundestag does not refer all incoming EU documents to standing committees for closer scrutiny, the file's committee referral indicates the "crucial first step in the escalating chain of different oversight activities" (Finke/Herbel 2015: 498), and as such the file's significance for the Bundestag and its members. Moreover, once a document has been referred to a committee, there are various intensities of further scrutiny, as only important files are discussed in detail in the committees. The Recommendation for a Council Decision was treated by the responsible Committee on Internal Affairs on 3 December 2014 and was discussed among the MPs present (BT02). The file was debated in the Foreign Affairs Committee on 12 November 2014, and the Committee dedicated an entire agenda point to Tunisia, based on the Government Report on Situation in Tunisia and discussed both the Recommendations for

¹⁴⁸ <https://www.bundesregierung.de/Content/DE/Mitschrift/Pressekonferenzen/2017/03/2017-03-04-merkel-essebsi.html?nn=1914548>.

negotiations on visa liberalization and the readmission agreement (Agenda 29th Meeting of the Foreign Affairs Committee, 18th legislative period). The Committee on Human Rights merely took note of the file (Agenda 24th Meeting of the Committee on Human Rights, 18th legislative period).

Throughout the negotiation process, the responsible Committee on Internal Affairs has been the main locus of parliamentary control of the EU-Tunisia readmission agreement in the Bundestag. Since 2014, the agreement has not been talked about as an individual agenda point, but the Committee has paid attention to the developments in Tunisia more generally and also to the negotiations between the EU and Tunisia. The MPs debated the agreement as part of broader agenda points, e.g., the government's attendance of Council Meetings or other regional and country-specific developments (BT02). Commonly, a government representative was present during these debates, following the process and interacting with the MPs (BT01). This implies that the plenary has only played a minor role in the control of the EU-Tunisia negotiations, as there has not been a single plenary meeting agenda point solely dedicated to the negotiations of the readmission agreement. Similarly, the Bundestag's parliamentary delegation to the Maghreb countries has only been marginally involved in controlling the ongoing talks. "Control via this body, the parliamentary delegation to the Maghreb states, this is not happening. If so, everything goes via the Committee on the Interior" (BT02).

Lastly, it is necessary to briefly touch upon the Bundestag's access to the negotiation documents. The base document for the dossier in EUDox on the EU-Tunisia readmission agreement is the aforementioned recommendation by the Commission for a Council Decision (COM(2014)493). Until August 2017, the dossier had been updated with reports (Drahtberichte) from Council working groups, Coreper II meetings, a memo about the negotiation mandate, which can be accessed in the Bundestag's *Geheimschutzstelle*¹⁴⁹, and a draft agreement text from June 2016. The German MPs were updated about the developments of the negotiations and had access to confidential negotiation documents. Subject to the Bundestag's general rules of confidentiality, MPs are not allowed to pass on information from confidential documents.

8.6.2. Partisan Control Action: A Comparative Congruence Analysis

As in the previous case studies, this empirical analysis will start by conducting a comparative congruence analysis. Based on the Bundestag's parliamentary groups as units of analysis, the analysis will first deductively generate predictions about the expected intensity of parliamentary control of the EU-Tunisia

¹⁴⁹ Roughly translated as Confidentiality Protection Department.

readmission agreement negotiations, followed by a presentation of the “how” of parliamentary control. Based on this, the congruence analysis will conclude with a comparison of the predicted outcomes and actual values of the dependent variable in order to test the (non-)congruence between the deduced predictions and the actual data.

8.6.2.1. Step 1: Predicting the Outcome

The following sub-chapter will establish the values of the independent variables identified and discussed in theory section 4.6. This enables the theory-based prediction of the outcome of the dependent variable, the intensity of parliamentary control, which, in the second step of the comparative congruence analysis, can be compared to the observed intensity displayed by the parliamentary groups in the case of the EU-Tunisia readmission negotiations. Recall that the dissertation has a comparative approach to congruence analyses, meaning that the values of the independent variables and the expected values of the dependent variable will be established by comparing the values across international agreements/parliamentary groups.

8.6.2.1.1. The Public Salience of the EU-Tunisia Readmission Agreement Negotiations

It was demonstrated above that public salience of the EU-Tunisia readmission agreement is of medium size in Germany (see section 8.3.1).

8.6.2.1.2. The Institutional Status of the Parliamentary Groups

The negotiations between the EU and Tunisia on a readmission agreement were authorized in 2014 and thus opened in the second year of the Bundestag’s 18th legislative period and continues into its 19th period. The parliamentary group’s institutional status will be determined according to the majority conditions from 2013 on, which means that the CDU and the SPD are characterized as majority parties, and Die Grünen and Die Linke as opposition parties.

8.6.2.1.3. The Policy Position of the Parliamentary Groups

The parliamentary groups in the Bundestag have varying policy positions on migration issues in general and on readmission more specifically.

For the CDU, it follows from international law that migrants who are not entitled to stay in Germany must return to their country of origin, and that every state is obliged to take back its own nationals. Whilst the group emphasizes their commitment to support those in actual need of protection, they strongly work towards returning those whose asylum application had been rejected. Hereby, they view readmission agreements as an important instrument

in order to regulate the modalities of said returns.¹⁵⁰ Overall, they support readmission agreements and demand that during “the negotiation of readmission agreements with countries of origin [...] all bilateral cooperation [has] to be put on the negotiating table [...]. Only diplomatic pressure and the incorporation of economic interests will make progress in this area”¹⁵¹. Concerning Tunisia, the group clearly considers it to be a safe country, claiming that there is no prosecution in Tunisia which gives a general right to asylum in Germany, and that the situation is not comparable to crisis regions such as Syria and Eritrea. They stress point out that the migration pressure from North African countries is increasing, which means that they consider it not only necessary to classify Tunisia as a safe country of origin, but also to swiftly conclude a readmission agreement in order to send a strong signal.¹⁵² Overall, the CDU is thus in clear specific support of the agreement.

The SPD opposes the return of migrants to conflict regions and countries where they are likely to become victims of war or armed conflict. Nonetheless, the group supports the overall goal of readmission, stressing the legal obligation of countries of origin to take back their own citizens and the importance of concluding readmission agreements with these countries and supporting the use of conditionality in some areas like visa facilitation. The group emphasizes that Tunisia is a country in which citizens can return without endangerment, and the low likelihood that Tunisian nationals are granted asylum in Germany. The group supports the conclusion of a readmission agreement with Tunisia and is thus in specific support of the overall aim and the negotiations of the EU-Tunisia readmission agreement.

Die Grünen are not generally opposed to readmission agreements with third countries, arguing that it is important that there are rules and agreements in place ensuring the safe and swift return of rejected asylum seekers. Nonetheless, the group rejects forced returns to insecure and dangerous crisis regions (Wahlprogramm 2017: 100f.) and the conclusion of readmission agreements with countries that violate human rights.¹⁵³ The group does not consider Tunisia a safe country origin, but is, in principle, not opposed to repatriation to Tunisia¹⁵⁴. Overall, the group rejects the demand by the German

¹⁵⁰ https://www.cducsu.de/Fluechtlinge_in_Deutschland.

¹⁵¹ <https://www.cducsu.de/presse/pressemitteilungen/meilenstein-im-bereich-der-rueckkehrpolitik>.

¹⁵² <https://www.cducsu.de/presse/pressemitteilungen/einstufung-der-maghreb-staaten-als-sichere-herkunftsstaaten-ist-klares-signal>.

¹⁵³ <http://luise-amtsberg.de/die-politischen-ziele-in-der-deutschen-und-europaeischen-fluechtlingspolitik/>.

¹⁵⁴ http://www.deutschlandfunk.de/maghreb-fluechtlinge-laender-nehmen-menschen-nicht-zurueck.694.de.html?dram:article_id=342850.

government to declare Tunisia a safe country of origin, and stresses the importance of having functioning readmission agreements with North African countries.¹⁵⁵ The group is thus in complementary criticism to the EU-Tunisia readmission negotiations.

Finally, Die Linke strongly defend what they call the fundamental right to asylum and reject any constraints. The group “support[s] the demands for an immediate stop of deportations and a right to stay for everyone” (Wahlprogramm 2017: 12). Die Linke rejects on principle the conclusion of readmission agreements in their current set-up, especially with countries they find do not respect human rights and the rule of law. The group does not consider Tunisia a safe country of origin to which irregular migrants can be returned without problems,¹⁵⁶ and it opposes the conclusion of a readmission agreement. Overall, Die Linke is in specific opposition to the agreement.

8.6.2.1.4. The Likelihood of Substantive Impact

It has been argued above that a parliamentary group’s likelihood of having an impact depends on the credibility of its veto threat. For national parliaments, determining this credibility is a two-step process, in which it is first necessary to determine the agreement’s legal nature: only if an agreement is mixed do parliamentary groups have credible veto power. As the EU-Tunisia readmission agreement is an exclusive EU agreement (see 6.2.4.), the agreement will not be submitted to national parliaments, and consequently the parliamentary groups have no veto power.

8.6.2.1.5. The Overall Resources of the Parliamentary Groups

The overall resources of a parliamentary group in the Bundestag, as operationalized above, depends on the number of MPs a group provides in the responsible committee as well as the inverse overall number of policy fields a group’s internal working group is responsible for. The CDU, the SPD and Die Linke have an individual group on internal affairs. However, Die Linke’s group is also responsible for interrelated topics such as consumer protection, petitions, digital agenda etc.¹⁵⁷ Die Grünen have a working group assigned to the agreement, but it also works with, e.g., Internal Security, Law, Human Rights in Germany, Consumer Protection, Religion, Sport and Network Policy. It is

¹⁵⁵ <http://www.dw.com/de/gabriel-entwicklungshilfe-nur-gegen-rücknahme-von-flüchtlingen/a-18986796>.

¹⁵⁶ <http://www.taz.de/!5384266/>.

¹⁵⁷ <https://www.linksfraktion.de/fraktion/arbeitskreise/>; the group has not replied to an email inquiry.

argued here that both SPD and CDU have high staff resources for internal affairs, and Die Linke and Die Grünen have low staff resources. Concerning the number of MPs in the Committee on the Interior, in the 18th legislative period, the CDU provided 18 of its 37 MPs, the SPD eleven, and Die Linke and Die Grünen each four MPs. It can be concluded that overall, the CDU and the SPD have high resources for controlling the EU-Japan FTA negotiations, whereas Die Linke and Die Grünen have low resources.

8.6.2.1.6. *Efficiency Costs: Complexity and Compellingness*

Recall here that both the complexity of the issue under negotiation and the compellingness of the negotiation setting of the EU-Tunisia readmission negotiations have been identified to be of medium size. Moreover, the argument that the higher the complexity of negotiations and the higher their compellingness, the higher the efficiency costs of parliamentary control is moderated by a parliamentary group's policy position, meaning that only groups that support the negotiations take the potential efficiency costs of parliamentary control into account. Table 40 gives an overview of the efficiency costs of parliamentary control in the Bundestag of the EU-Tunisia readmission negotiations.

Table 40: Efficiency Costs stemming from Complexity and Compellingness

Political Group/ Policy Position	Causal Factor	Complexity Medium	Compellingness Medium
CDU/Specific Support		Medium costs	Medium costs
SPD/Specific Support		Medium costs	Medium costs
Die Linke/Specific Opposition		Low costs	Low costs
Die Grünen/Complementary Criticism		Medium costs	Medium costs

8.6.2.1.7. *Predicting the Intensity of Control*

Based on the previous sub-chapter and the scores of the independent variables for every parliamentary group in the Bundestag, the following paragraphs will deductively predict the intensity of parliamentary control which each group is expected to display in the case of the EU-Tunisia readmission negotiations in a comparative manner.

Concerning the benefits of controlling the ongoing negotiations, the medium salience of the negotiations between the EU and Tunisia in the public sphere mean that all parliamentary groups in the Bundestag are expected to perceive the vote-seeking benefits to be gained from parliamentary control to be of medium size. Second, the theoretical framework holds that opposition

parties perceive the policy-seeking benefits of parliamentary control due to policy conflict with their national executive as high, whereas this is not the case for majority parties. Thus, the CDU as majority parties are assumed to gain low benefits from parliamentary control, whereas Die Linke and Die Grünen are expected to perceive control as highly beneficial. Furthermore, according to the theoretical framework, the more in opposition to an agreement a group's policy position is, the higher are the policy-seeking benefits of parliamentary control. CDU and the SPD, which are both in specific support of the agreement, are expected to gain low policy-seeking benefits, Die Grünen, in their complementary criticism, medium policy-seeking benefits, and Die Linke, in specific opposition to the agreement, high benefits. Lastly, since none of the parliamentary groups in the Bundestag has a credible veto threat, all groups are expected to have low likelihood of impact benefits.

On the cost-side, the theoretical framework holds that the resource costs of a parliamentary group are assumed to be higher, the lower the group's overall resources. SPD and CDU have high resources to control the negotiations and therefore low resource costs of control. Die Linke and Die Grünen have low resources and therefore high resource costs. The theory moreover holds that that the higher the complexity and the compellingness of the negotiations, the higher are the efficiency costs of parliamentary control, but only for groups that support the negotiations. As both factors have been identified to be of medium size in regard to the EU-Tunisia readmission agreement, the efficiency costs are of medium size for the CDU, the SPD and Die Grünen, and low for Die Linke. Table 41 recaps:

Table 41: Overview of Theory-based Predictions

Benefit/cost \ Actor	CDU	SPD	Die Linke	Die Grünen
Vote-seeking benefits	Medium	Medium	Medium	Medium
Policy-seeking benefits: institutional status	Low	Low	High	High
Policy-seeking benefits: policy position	Low	Low	High	Medium
Policy-seeking benefits: likelihood of impact	Low	Low	Low	Low
Resource costs	Low	Low	High	High
Efficiency costs: complexity	Medium	Medium	Low	Medium
Efficiency costs: compellingness	Medium	Medium	Low	Medium
Intensity of control	Low	Low	High	Medium

This table now enables the prediction of the values of the intensity of parliamentary control that every group is expected to exhibit. As in the previous case studies, this is done in a comparative approach by investigating which group(s) is (are) assumed to gain the highest benefits and the lowest costs from control, and vice versa. Generally, the CDU and the SPD are expected to gain the same benefits and to have the same costs control of parliamentary control, which means that they are expected to control the EU-Tunisia readmission negotiations with the same intensity. Overall, Die Linke is clearly expected to gain the highest benefits of parliamentary control and face the lowest costs of all political groups. They are assumed to control the negotiations with a high intensity. Die Grünen's benefits are expected range somewhere between those of Die Linke and the CDU and SPD, but the group's costs of control are the highest of the four parliamentary groups under analysis here. This implies that the CDU and the SPD expected to benefit the least from parliamentary control of the EU-Tunisia readmission negotiations and to face medium-sized costs. Overall, this thesis argues that due to the higher benefits that Die Grünen are assumed to gain from parliamentary control, the group is expected to control the negotiations with a medium intensity, whilst the intensity is expected to be low for the CDU and the SPD. See the values in Table 41 above.

8.6.2.2. Step 2: How Have the Parliamentary Groups Controlled the EU-Tunisia Readmission Negotiations?

The following sub-chapter will answer the overarching research question of how the parliamentary groups in Bundestag control negotiations. Beyond descriptively presenting what the different groups have done in this regard, this sub-chapter also identifies the intensity of control every group displays by focusing on the two dimensions, qualitative (function of control) and quantity (level of control). Generally, is important to be aware that parliamentary activity on the readmission agreement in the Bundestag has often been intermingled with more general points on migration policy, return policies or Tunisia, on the national, bilateral, and the European level. However, different individual approaches of the parliamentary groups can be discerned, which means that the groups also differ in the intensity of control.

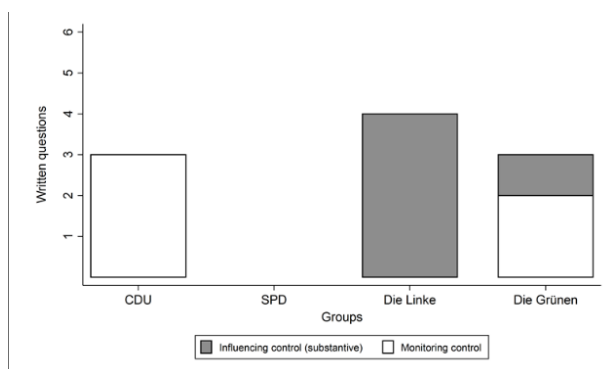
8.6.2.2.1. CDU

The CDU parliamentary group has, overall, controlled the EU-Tunisia readmission negotiations with a low level of parliamentary activity. If the group is engaged in parliamentary scrutiny, then only at a high level, whereas almost no second- or third-row backbenchers are involved in the negotiations at all (BT01). The group puts more emphasis on monitoring than on influencing control, and on gathering information on the progress of the negotiations than

on enforcing its preferences vis-à-vis the German government and the European executive. Moreover, the group's first point of contact for both monitoring and influencing control is always the respective ministry, meaning that the CDU's control actions are very much directed towards the national government. Ultimately, "the governing parties do not want to directly influence Europe but the national executive, which in turn has an influence on the EU" (BT01). Finally, the CDU's control actions are mainly of informal nature, consisting of direct, informal interactions with the responsible ministries and government representatives. The group has had an overall broader focus, directing its parliamentary attention more broadly on readmission with Tunisia, and less so on the specific EU-Tunisia negotiations.

Concerning monitoring scrutiny, the CDU has, in both the 18th and the 19th legislative period, benefitted from the fact that the German Minister of the Interior has been a member of the CDU/CSU group. The parliamentary group was in a position to write or call informally to the Ministry of the Interior. Whilst all ministries are required by official instructions to respond to parliamentary requests within ten days to both governing and opposition parties, only the majority parties can expect fast and detailed answers. However, in regard to the EU-Tunisia readmission agreement, the CDU has only made little use of this informal access to the German government (BT01). Beyond informally collecting information on the negotiations, the parliamentary group has asked three written questions on the topic (see Figure 14).

Figure 14: Written Questions in the Bundestag on Readmission to Tunisia



All three questions asked about the German government's plan to return irregular migrants to North African countries, both on the bilateral and the EU level. Two of the three questions refer to EU initiatives, but they clearly focus on the government and its plans to foster and improve readmission. The questions could almost be understood as influencing (supportive). However, as their wording is not strong enough to qualify as such, all three questions were

coded as having a monitoring function¹⁵⁸. The CDU has not made use of other formal instruments to monitor the negotiations.

This also means that the parliamentary group has engaged in neither formal nor in informal control with the aim of influencing the on-going EU-Tunisia negotiations. It is generally rare that the governing parties issue formal motions for a resolution. More often, they attempt to influence ministers via informal conversations (BT01), which, if at all, have only taken place to a minor extent concerning the EU-Tunisia negotiations.

Beyond this, the CDU group has referred to the return of migrants in several plenary speeches. Generally, the group has used these opportunities to express its support for improving and enforcing readmission to Tunisia, but without attempting to exert supportive influence. For example, the group emphasized the importance of concluding readmission agreements with the Maghreb countries in a debate in January 2016 (Seif 2016, Plenarprotokoll 18/152) and expressed gratitude “towards our Minister of the Interior, that he was in Morocco, Tunisia and Algeria [...], to encourage their governments to cooperate better with us” on readmission (Mayer 2016, Plenarprotokoll 18/179). Generally, whilst all references to the issue in plenary debates are supportive of the overall goal of readmission to Tunisia, there are only few direct references to negotiations with the country. These references concern the German government’s efforts to interact with Tunisian authorities bilaterally.

8.6.2.2.2. SPD

The picture of SPD’s control of the EU-Tunisia readmission agreement resembles the control exerted by the CDU, the SPD’s coalition partner. Overall, the group has engaged in little control of the specific topic of returning irregular migrants to Tunisia and of the EU negotiating a readmission agreement. This does not mean that the SPD has not been active on migration issues or on Tunisia more generally. In regard to the EU-Tunisia negotiations, if active at all, the SPD has mainly been monitored negotiations by interacting informally with the government and the responsible ministries. The group has not used formal control instruments to monitor and to exert influence on the negotiations and on the German government in this regard.

The SPD has used plenary debates to refer to the broader issue in public parliamentary sittings. In April 2016, the group argued that it was important that “asylum seekers are repatriated to their home countries when a negative decision has been taken in the asylum procedure and they come from a safe country of origin. For this one needs readmission agreements” (Hartmann

¹⁵⁸ For coding see appendix 5.

2016, Plenarprotokoll 18/164). They then went on to express contentment with the actions by the German government to reach such agreements with Tunisia, Morocco and Algeria. Similarly, in January 2017, the SPD voiced their support for the government's action in regard to the Maghreb countries (Grötsch 2017; Plenarprotokoll 18/211). These examples show that the parliamentary group does not directly refer to the EU-level negotiations on readmission with Tunisia, but rather touches the topic more generally. Overall, the main aim of these plenary references seems to be to express their support of and contentment with the German government's actions.

8.6.2.2.3. Die Linke

Die Linke generally has a rather pessimistic view of the group's possibility to exert parliamentary control of the negotiations of international agreements in the area of migration policy, deploring the lack of ratification right in the ex post stage and being dissatisfied with parliament's control powers in the ad locum and ex ante stage of the negotiations due to their intransparent character (BT02).

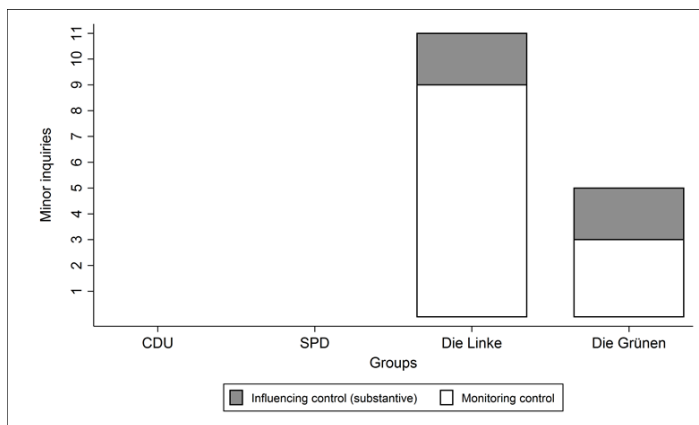
Overall, the group has a strong focus on general migration issues, where they claim to be the most active group in the Bundestag. However, also in regard to the EU-Tunisia readmission agreement, Die Linke has exhibited a high level of parliamentary activity from the outset, and both monitoring and influencing control throughout the negotiation process can be observed. The group has stressed the interconnected importance of both control functions: "Well, both [are important]. Because in order to gain influence, we need the information, and then we usually use the information to [exert pressure]. So that means both, gaining information and pressure with the appropriate parliamentary control instruments. That is closely linked for me" (BT02). Die Linke's control is primarily directed at the German government mainly via formal means of parliamentary control, whilst the group makes only little use of informal interaction with the government in order to monitor and influence the German executive (BT02). In a broader perspective, the group often cooperates with civil society organizations and NGOs on migration issues, as their thematic positions tend to overlap, in an attempt to exert pressure on the government via influential NGOs (BT01).

The main formal instruments of control the group uses to monitor and influence migration policy, and more specifically the EU-Tunisia agreement, are committee debates in the Committee on Internal Affairs and minor interpellations (BT02). When the base document of the EU-Tunisia readmission agreement (COM(2014)493) was debated in the Committee on Internal Affairs and the Foreign Affairs Committee, it was put on the agenda at Die Linke's and Die Grünen's request (BT02). Die Linke has continued to make

extensive use of the possibility to debate readmission with government representatives throughout the negotiation process, when the latter attend committee meetings (BT02). The group is aware that this exchange of information and points of view is unlikely to affect the German government, and they are highly dissatisfied with the quality of information they receive during these exchanges in committee (BT02).

Die Linke has clearly been the most active group in submitting minor interpellations, which included questions about readmission to Tunisia (see Figure 15).

Figure 15: Minor Interpellations in the Bundestag on Readmission to Tunisia



Shortly after the Arab spring, the group started inquiring into the relationship on migration and repatriation between the EU and Tunisia (e.g. BT-Drs. 17/6212; BT-Drs. 17/6991), and has continued this course of action throughout the negotiation process. It is important to emphasize that the parliamentary group has not submitted a single minor interpellation on the EU-Tunisia readmission negotiations, but has included specific questions in interpellations on related topics.¹⁵⁹ All but one of the submitted eleven minor interpellations include a direct reference to the EU and its actions towards Tunisia, meaning that whilst they are directed at the German government, they inquire about the status at the EU and the international level. Most interpellations have been coded as having a monitoring function based on their wording (see Figure 15).¹⁶⁰ Die Linke is using minor interpellations to follow up on information they have received from the EU level (BT02). However, the group also uses them to exert influence on the government on a broader level: on the one

¹⁵⁹ See appendix 5 for the coding.

¹⁶⁰ Minor interpellations are somewhat difficult to code, as they include several questions which also touch on other, interrelated issues. Only looking at the specific questions that touch upon Tunisia and readmission might not provide a full picture of what the group was attempting to achieve with the interpellation.

hand, they try to bring about a positioning of the German government on specific issues of interest as a first step to hold the government accountable. The group considers this an important step in eventually influencing the government, and this control goes beyond mere monitoring actions, which are rather directed at gathering information on the status and assumed impact of a negotiation process. On the other hand, minor interpellations raise the visibility of topics under inquiry as a first step to create public, extra-parliamentary pressure (BT02). Nonetheless, merely looking at the wording of the questions on the EU-Tunisia relations on readmission, their monitoring aim predominates the influencing one.

Die Linke has also made use of other formal instruments of parliamentary control to influence negotiations. The group has asked four written questions on the issue, all of which have an influencing function (see Figure 14 above). Importantly, they generally aim not directly at expressing and enforcing the group's preferences, but rather at bringing about a positioning of the government on specific issues, asking e.g. "what is the government's position [...]" (18/3616) or "how does the government evaluate [...]?" (18/7473). Similarly, Die Linke has asked two questions in the weekly parliamentary Question Hour, one with an influencing function aimed at bringing about a positioning of the government, and one with a monitoring function.

More informally, the group views generation of visibility and publicity as an important step to foster public pressure outside the Bundestag on the German government. Die Linke cooperates widely with NGOs and human right organizations on migration issues, and frequently uses this channel to gain informal influence over the government (BT01). However, the group sees the chances of having an impact via this channel as limited. They claim that NGOs are not necessarily that influential when it comes to the German executive, and the interaction focuses more generally on the topic of migration and human rights, and NGOs are unlikely to engage on individual agreements and other files (BT02).

8.6.2.2.4. Bündnis 90/Die Grünen

The control activities of Die Grünen on the EU-Tunisia readmission negotiations largely resemble Die Linke's approach. The group has generally focused on the German government, mainly making use of formal instruments of parliamentary control, such as written questions and minor interpellations. It has rarely interacted informally with the German government. The group engages with actors outside the German executive-legislative relations, such as civil society organizations on broader issues of migration (BT01), but only to a limited extent on the EU-Tunisia readmission agreement. Concerning the function of their control actions, Die Grünen have clearly pursued both monitoring

and influencing goals, with an overall influencing aim. More generally, it is also important to note that whilst the Greens are a rather active parliamentary group on issues of migration and integration, the readmission agreement has not taken in a priority position in their work. Rather, the control exerted by Die Grünen has often been mixed and intermingled with broader points and issues of migration policy.

To begin with the group's formal activities, Die Grünen have been active in the meetings of the relevant committees since the outset of the negotiations, to monitor and attempt to exert influence over the attending government representatives. At the same time, whilst being active in the committees to put the issue on the agenda, often the agreement is dealt with during more general points on migration, return or Tunisia/the Maghreb states, meaning that the group's outlook is broader than the specific EU-Tunisia readmission agreement (BT02). Moreover, Die Grünen have submitted five minor interpellations, which include questions about readmission and return to Tunisia (see Figure 15 above). All these interpellations were submitted in the *ad locum* phase of the EU-Tunisia negotiations. Only two refer to the EU and its relations with Tunisia on readmission, whilst the other questions concern the German government's actions and position in this regard. Three of the five interpellations have a purely monitoring function. This leaves two interpellations with an influencing function, and both entail questions on the issue that are aimed at bringing about a positioning of the government. More specifically, both questions investigate the German government's standing on the conditionality of development cooperation.¹⁶¹ The aim of these interpellations is likely to be broader than bringing about a positioning of the government, namely to increase the visibility of the issues under inquiry. As such, the group perceives them as attempts to bring about a positioning of the government and make this position public as first steps to hold the government accountable and to exert public pressure. Also here, it should be emphasized that Die Grünen primarily concentrated on the topic of readmission agreements with countries in which they consider human rights as endangered, or on the issue of migration even more broadly.

As Figure 14 above shows, the group has posed three written questions on the topic of readmission with Tunisia. One has been coded to have an influencing function, demanding that the government state its position and its justification. The other two questions have a monitoring purpose. Finally, Die Grünen have used plenary debates to express concern about the issue of return to Tunisia more generally, calling the government out for endangering human

¹⁶¹ However, similar to the discussion on Die Linke above, it is somewhat difficult to determine the function of just those questions referring to the issue.

rights and the principle of non-refoulement from very early after the Arab Spring on (e.g. Cramon-Taubadel 2012, Plenarprotokoll 17/159; Koenigs 2014, Plenarprotokoll 18/009). However, whilst all references to the issue in plenary debates are critical of the overall goal of readmission to Tunisia, there are only few direct references to EU's negotiations with the country. In these debates, the group took the chance to express their more general points of view on the issue, and not to influence the actual negotiations.

8.6.2.2.5. Summary: Partisan Control in a Comparative Perspective

It is now possible to identify the observed intensity of control along the two dimensions of the level (the quantity) and the function (the quality) of control, which every group has displayed. But first, a summary of control activities will be provided.

As demonstrated above, it is somewhat difficult to distinguish between parliamentary groups' control actions on migration and Tunisia more broadly, and on the EU-Tunisia readmission agreement more specifically. However, focusing on the latter, the discussion above revealed that there has been variation in the means and the intensity with which the groups were involved in the file. Exploring more in-depth the four dimensions of parliamentary control – timing, formality, directness and function – the timing dimension does not seem to play a big role for the Bundestag's parliamentary groups, as they cannot be observed to have taken the various negotiation states into account when controlling the file. This can, to a certain extent, also be seen against the background that, control on the EU-Tunisia readmission agreement was often intermingled with broader issue of migration, which do not follow the negotiation states of an EU international agreement. Regarding the directness of control actions, all groups primarily focused on controlling the German government formally (e.g. asking questions to the Government, as the CDU, Die Linke and Die Grünen did, or submitting minor interpellations, as Die Linke and Die Grünen did, or references in plenary) and informally (interacting informally with the government). However, the latter was only done by CDU and SPD as governing parties with direct access to the government, whereas Die Linke and Die Grünen relied on other means of informal control: interacting informally with extra-parliamentary actors to control the negotiations. Regarding the formality dimension of parliamentary control, this also means that most groups used both formal and informal means, and the SPD was the only group that did not use formal means of questioning.

According to the observations about the control activities of the parliamentary groups, there is a clear distinction when it comes to the function dimensions of control between the CDU and the SPD, on the one hand, and Die

Linke and Die Grünen on the other hand. The former two have clearly emphasized monitoring control over influencing control and have mainly relied on informal control means, such as informal interactions with German government representatives. Neither group has attempted to substantively influence the negotiations but have rather merely voiced support for them, yet without actively exerting influencing (supportive) pressure. Neither parliamentary group has been very active when it comes to their monitoring actions. Both groups did refer to the topic of readmission with Tunisia several times in plenary debates, and the CDU posed a couple of written questions on the issue, but in comparison to Die Grünen and Die Linke, they have hardly been engaged in parliamentary control of the negotiations. In other words, they have controlled the negotiations with a low level of activity.

In contrast, Die Linke and Die Grünen have clearly gone beyond merely monitoring the EU-Tunisia readmission agreements and have actively attempted to exert substantial influence on the negotiations; mainly directly or indirectly via civil society influencing the German government. They have moreover relied on formal control mechanisms, such as minor interpellations, written questions and committee and plenary debates to a) make the government position itself on particular issues, for which it can then be held accountable and b) raise public visibility and pressure. However, when it comes to the level of their influencing activities, Die Linke has been more active in attempting to exert influence with a stronger use of formal control means as well as stronger interaction with civil society on the issue of readmission. It can be concluded that Die Linke has displayed a higher level of influencing control over the EU-Tunisia readmission negotiations than Die Grünen. Table 42 shows the placement of the parliamentary groups along the two dimensions of the intensity of parliamentary control.

Table 42: The Intensity of Parliamentary Control of EU-Tunisia Readmission Negotiations in the Bundestag

Function Level	Monitoring	Influencing
Low	Low monitoring CDU, SPD	Low influencing Die Grünen
High	High monitoring	High influencing Die Linke

8.6.2.3. Step 3: Comparing Prediction and Outcome

Table 43 compares the predicted values of the intensity of control of the Bundestag's parliamentary groups with the observed values, as the third step of the comparative congruence analysis.

Table 43: Comparison

Political Group	Predicted Intensity of Control	Observed Intensity of Control	Congruence (+) Non-Congruence (-)
CDU	Low	Low Monitoring	+
SPD	Low	Low Monitoring	+
Die Linke	High	High Influencing	+
Die Grünen	Medium	Low Influencing	+

As Table 43 shows, the predictions of the observable intensity of parliamentary control are congruent with the findings of the empirical analysis of parliamentary activity. As explained in section 5.5.1, this indicates that the assumed causal relationship between the causal factors, the benefits and costs of parliamentary control, and the intensity of scrutiny is indeed present. This means, it strongly suggests that the comprehensive theoretical framework has empirical relevance in explaining the intensity of parliamentary control in the case of partisan control in the Bundestag of the negotiations between the EU and Tunisia on readmission. To caution against spurious correlations, this dissertation will analyse, as in the case studies above, the assumed causal mechanism more closely in the case of the CDU and Die Linke.

8.6.3. Partisan Control Action: A Process-Tracing Approach

The focus of the process-tracing studies is on the theorized causal mechanism, both by investigating whether the parliamentary groups perceived the causal factors as identified, whether on this basis they did actually consider them as benefit or cost, whether this incentivized or dis-incentivized them, and lastly whether parliamentary groups have indeed controlled the negotiations in a cost-efficient way, based on the actually perceived cost and benefits.

8.6.3.1. CDU

As Table 44 shows, the predictions of step one of the congruence analysis are congruent with the findings of the empirical investigation, as the CDU has indeed controlled the negotiations between the EU and Tunisia on a readmission agreement with low (monitoring) intensity. The following process-tracing analysis should increase the confidence in the theorized causal mechanism.

Table 44: Causal Mechanism: CDU

Benefit/cost	
Vote-seeking benefits	Medium
Policy-seeking benefits: institutional status	Low
Policy-seeking benefits: policy position	Low
Policy-seeking benefits: likelihood of impact	Low
Resource costs	Low
Efficiency costs: complexity	Medium
Efficiency costs: compellingness	Medium
Observed intensity of control	Low monitoring

As the negotiations of the EU-Tunisia readmission agreement have been identified to be of medium public salience in Germany, it is expected that the CDU perceives the vote-seeking costs of parliamentary control as medium-sized as well. Generally, it is indeed the case that in the CDU, the attention of an MP in EU affairs depends on the public importance of a file, meaning that the higher this importance and public awareness of the issue, the more attention CDU MPs spend on it (BT01). In the same vein, the group argues that the German asylum policy towards the Maghreb States is very much about demonstrating activity, especially towards one's own citizens. From the perspective of the group in Parliament, MPs thus have an incentive to be perceived as active on and engaged in migration issues. This is especially true for parliamentary activity on the Maghreb states, as migration from this region has become increasingly politicized within the last three years in Germany. "The intrinsic motivation of most MPs is to avoid to be accosted in the market square" (BT01), i.e., in direct interactions with their electorate. However, parliamentary activity is not focused on readmission agreements, as these are not very publicly salient. Rather, the group is active on migration issues in broader terms. Overall, the CDU perceives the vote-seeking benefits of parliamentary control of the EU-Tunisia readmission negotiations as present, but of medium size, which does incentivize them, to the extent expected, to exert control.

The CDU as a majority party is assumed to have little policy conflict with the German government and to consider parliamentary control to have low policy-seeking benefits due to their institutional status. This assumption can be confirmed: Within the group, there are two broad perspectives on migration issues general, one for and one against the Chancellor. When it comes to readmission, there is general unanimity within the group and between the group and the German government that the conclusion of readmission agreements and repatriation of rejected asylum seekers is an effective and necessary

means to deal with the migration crisis, especially when it comes to the Maghreb states.¹⁶² Thus, as assumed, the policy-seeking benefits of parliamentary control based on the group's institutional stratus are low.

A similar observation can be made regarding the group's policy position, which, as you might recall, is in specific favour of the agreement. According to the theoretical framework, the group is expected to perceive the policy-seeking benefits of controlling the negotiations of the agreement as low. The group argues that the German government, but also EU-level actors, are already working towards improved readmission to Tunisia and other Maghreb countries¹⁶³ As this coincides with the group's policy position, there is no need for the group to become active, neither to disturb nor to push negotiations further. It is reasonable to assume that the group perceives the policy-seeking benefits to be gained from parliamentary control as low and has little incentive to become active.

The theoretical framework holds that the CDU, controlling an exclusive agreement not requiring parliamentary ratification, should perceive their chances of having substantive impact on the negotiation as low, which in turn means that the group gains only low policy-seeking benefits. Indeed, the group argues that "of course, you can form your opinion, but ... Why should you debate about EU matters, if you cannot decide" (BT01). Similarly, the group perceives its indirect influence via the German government to be limited although it is a governing party. Overall, the CDU can be argued to perceive their chances of making a difference in the EU-Tunisia readmission agreement negotiations, and with that the policy-seeking benefits to be gained from parliamentary control as low.

Concerning resource costs, the parliamentary group has not reported how costly they perceive parliamentary control to be. However, concerning the last potential source of costs of parliamentary control, the efficiency of negotiations, the theoretical framework holds that it only applies to political groups that support negotiations of the readmission agreement, and as such to the CDU. The parliamentary group clearly recognizes the importance of addressing issues of migration and readmission at the European and international level (Wange 2016; Plenarprotokoll 18/202), where it is necessary to pursue serious, responsible policies (Mayer 2016; Plenarprotokoll 18/179). Here, it can be assumed that too much parliamentary control would undermine both the appropriateness of the group's actions as well as the required unity in European action towards external actors, which implies that the CDU perceives

¹⁶² <https://www.cducsu.de/presse/pressemitteilungen/maghreb-staaten-kooperieren-bei-der-ruecknahme-von-migranten>.

¹⁶³ https://www.cducsu.de/Fluechtlinge_in_Deutschland.

too much parliamentary control as costly for the efficiency of negotiations. Thus is especially true as the compellingness of the negotiation setting is medium, as argued by the parliamentary group. Here, the group emphasizes the importance and urgency of repatriation to Tunisia,¹⁶⁴ citing low asylum acceptance rates of Tunisian citizens¹⁶⁵ and disproportionately high crime rates for North African migrants in Germany¹⁶⁶. However, the group is very much aware that the number of migrants in Germany is rather small compared to migrants from other countries of origin in Africa and Asia. As mentioned, they perceive policy-making in this area thus to be less about solving the actual problem and more about demonstrating activity by engaging with Tunisia, with which it seems to be possible to successfully conclude a readmission agreement (BT01). Thus, as predicted, the group perceives the negotiation setting and the negotiations to be of medium compellingness. Considerations about the complexity of the agreement and how this might influence the negotiator's need for discretion do not seem to have played a role.

Summing up, this in-depth analysis demonstrates that the underlying costs and benefits of parliamentary control in the case of the CDU controlling the negotiations between the EU and Tunisia on a readmission agreement are indeed perceived as predicted by the theoretical framework. On the benefit-side, the group generally sees few benefits of controlling the negotiations, other than to gain vote-seeking benefits by demonstrating activity, which they consider, as assumed, to be of medium size. There are, as expected, no policy-seeking benefits for the group which might have incentivized it to control more intensively. On the cost side, data on how the groups perceived resource-costs is lacking. Moreover, the group do not appear to have considered how the complexity of the issue under negotiation might affect the efficiency costs of controlling. However, groups perceive the efficiency costs to be present and they dis-incentivize them from exerting strong control. Most importantly, weighing the costs and benefits of parliamentary control as perceived by the CDU, the parliamentary group clearly sees close to no incentivizing benefits in controlling the EU-Tunisia readmission agreement, whilst it is expecting to encounter costs when doing so. This supports the overarching base assumption of this dissertation that the higher the benefits and the lower the costs of control, the higher its intensity.

¹⁶⁴ <https://www.cducsu.de/presse/pressemitteilungen/maghreb-staaten-kooperieren-bei-der-ruecknahme-von-migranten>.

¹⁶⁵ <https://www.cducsu.de/presse/pressemitteilungen/maghreb-staaten-kooperieren-bei-der-ruecknahme-von-migranten>.

¹⁶⁶ <https://www.cducsu.de/themen/innen-recht-sport-und-ehrenamt/maghreb-staaten-muessen-endlich-sichere-herkunfts-laender-werden>.

8.6.3.2. *Die Linke*

Recall that *Die Linke* has controlled the EU-Tunisia negotiations on a readmission agreement with high intensity, aimed at influencing the negotiations, with a high level of activity in this regard. Table 45 displays the expected mechanism, including the value of the causal factors, that are expected to lead to this identified outcome. This shall be traced in the following.

Table 45: Causal Mechanism: *Die Linke*

Benefit/cost	
Vote-seeking benefits	Medium
Policy-seeking benefits: institutional status	High
Policy-seeking benefits: policy position	High
Policy-seeking benefits: likelihood of impact	Low
Resource costs	High
Efficiency costs: complexity	Low
Efficiency costs: compellingness	Low
Observed intensity of control	High monitoring

Like the CDU, *Die Linke* is expected to perceive the vote-seeking benefits of controlling the negotiations to be of medium size, due to the medium-sized public salience of the agreement. Overall, the group agrees with the identification of the level of salience, arguing that “the vast majority of our population is not really interested in details. [Thus, they are] less interested in readmission agreements, and more in deportation, to put it in simple words” and that “the population is honestly relatively little interested in whether Germany has a readmission agreement with Tunisia, or with all the Maghreb states” (BT02). However, they generally observe that the German population is in favour of readmission agreements, which, as you might recall, contrasts with the group’s opposing policy position on readmission agreements in general and the one with Tunisia in particular. However, this does not dis-incentivize the group from working on migration and asylum (BT02). As such, it needs to be questioned whether *Die Linke* does indeed perceive the vote-seeking benefits to be gained from parliamentary control to be of medium size. Rather, the group seems to focus not on public attention, but on public opinion on an issue in order to determine the size of those benefits. Although it is aware of the discrepancy between perceived public opinion and its own policy position, the group is not dis-incentivized from controlling the EU-Tunisia negotiations the way they have done.

Considering that the group does not expect to receive many vote-seeking benefits from controlling the readmission negotiations, one would expect that the group perceives the policy-seeking benefits of doing so to be high. First, as Die Linke is an opposition party, the theoretical framework holds that due to assumed policy conflict with the government, the policy-seeking benefits of control are high. There is evident policy conflict between the Die Linke and the German government on readmission agreements and on the status of Tunisia. The group accuses the government of attempting to falsely declare Tunisia a safe state, “while abuses and torture persist, shows that the federal government is not concerned with human rights, but rather with getting rid of refugees at any cost”¹⁶⁷ (see also BT01). This implies that the group indeed perceives the policy-seeking benefits based on its institutional status to be high, incentivizing them to control the negotiations.

A similar observation can be made concerning the policy-seeking benefits the group expects to gain from parliamentary control of the EU-Tunisia readmission agreement negotiations based on their policy position, specific opposition, on the agreement, according to which the group is expected to perceive those benefits to be high. And indeed, Die Linke seems mainly to be driven in their control action by their opposition to the German government and the overall goal of concluding a readmission agreement with Tunisia, a country which they do not perceive as safe. The group strongly emphasizes that their actions are mainly stimulated by new developments in the negotiations, when they see “they are negotiating again, they are talking about the issue, they are applying pressure on the country, then we take that up” (BT02). Overall, as assumed by the theoretical framework, Die Linke can be argued to be driven by their policy position when controlling the negotiations between the EU and Tunisia and to perceive the policy-seeking benefits of parliamentary control as high.

In terms of policy-seeking benefits, Die Linke is not expected to have a high likelihood of substantively influencing the negotiations, as a small group controlling the negotiations of an exclusive agreement. The group deplores that the agreement will not be presented to the Bundestag for ratification, which means that “basically we as the members, and not just from the opposition parties, but generally as members of parliament, we are actually denied a real possibility of control” (BT02). They perceive the exclusive nature of the agreement to diminish their chances of substantively controlling and influencing the negotiations. Moreover, they know that being a small opposition party in the German Bundestag undermines their chances of having an impact (BT02). However, the group clearly states that whilst they might not be able

¹⁶⁷ <http://www.taz.de/!5384266/>.

to enforce their group preferences on the issue, “the pressure for things to become public, for the debate to take place, actually leads to one or two small achievements through the control we exercise” (BT02). The group strategically interacts with civil society and creates public debate, as it considers it more likely that extra-parliamentary pressure on the German government has a strong impact. Die Linke has been incentivized by their lack of likely impact to reach out to extra-parliamentary actors to improve their chances. With that, they perceive their chances of influencing negotiations as higher than assumed by the theoretical predictions.

On the cost-side, little is known about what and how Die Linke perceive the costs of parliamentary control of the negotiations between the EU and Tunisia on a readmission agreement. The group has not revealed how it perceives resource-costs, the negotiator’s need for efficiency and what the impact of the medium complexity of the issue under negotiation is. However, the group does not agree with the characterization of the negotiation setting as medium compelling but claims that the numbers of refugees are not particularly high and have been in constant decline over the last couple of years.¹⁶⁸ This strongly implies that they do not perceive the negotiations to be compelling at all.

Summing up, analysing how Die Linke has perceived the costs and benefits of controlling the negotiations between the EU and Tunisia draws a picture that differs somewhat from the predicted perceptions. Concerning the benefits of control, the group perceives the policy-seeking benefits on the basis of their institutional status and policy position as high, which provides incentives for them to intensively control, as predicted. Yet, they do not see controlling the negotiations as providing them with any vote-seeking benefits, as they determine these benefits more according to (perceived) public opinion, and less to the actual public salience. As the group argues, this does not dis-incentivize them. However, they consider their chances of influencing the negotiations as higher than predicted. Whilst they generally agree with the assumption that as a small group in negotiations which do not require parliamentary ratification, their chances of influence are severely limited, they have strategically reached out to extra-parliamentary actors to improve their chances of substantive influence. Overall, the group is clearly incentivized by policy-seeking benefits and only consider vote-seeking benefits to a small extent. In a rough estimate, the overall size of the predicted and the actually perceived benefits is rather similar, whereas data on the cost-side is lacking. It can, yet only tentatively, be concluded that whilst the group might perceive some of the bene-

¹⁶⁸ <https://www.linksfraktion.de/presse/pressemitteilungen/detail/fluechtlinge-aus-dem-maghreb-brauchen-faire-asylpruefungen/>.

fits differently than predicted, the overall assumption of a cost-benefit analysis also seems to hold in the case of Die Linke controlling the EU-Tunisia negotiations.

8.6.4. Conclusion

The case study of the parliamentary control of the EU-Tunisia readmission agreement has presented the findings of both the comparative congruence analysis and of the two process-tracing studies. It is now possible to draw a conclusion on “why the parliamentary groups in the Bundestag have controlled the EU-Tunisia readmission agreement negotiations”. As far as the “how” question of parliamentary control on the file, please see the summary in sub-chapter 8.6.2.2.5. At this point, it is important to recall that there was indeed some level of variation in the intensity with which the groups controlled the negotiations, and that the empirical investigation aimed to explain this discovery.

The comparative congruence analysis revealed that the descriptive findings of how the Bundestag’s groups have controlled the EU-Tunisia negotiations, i.e., their intensity of control, are, for all parliamentary groups, congruent with the theoretically deduced expectations. This strongly indicates that “the analyst can entertain the possibility that a causal relationship may exist” (George/Bennett 2005: 181). In other words, the findings strengthen the confidence in the validity of the theoretical framework, that groups based their control on a cost-benefit analysis, taking both vote-seeking and policy-seeking benefits as well as resources and efficiency costs into consideration. However, the comparative congruence analysis says little about the causal mechanism, i.e., whether the groups perceived the values of the causal factors as predicted, whether they perceived this as cost/benefit, whether this incentivized/dis-incentivized them and lastly, based on these in-depth insights, whether control was cost-efficient.

The two process-tracing studies of the CDU and Die Linke have revealed that the base assumption of the dissertation – the higher the benefits and the lower the costs of parliamentary control, the higher its intensity – indeed seems to hold in both cases. Moreover, the investigation showed that the groups perceived those causal factors on which it was possible to collect data as assumed, indicating that there were no operationalization and measurement problems. Especially the in-depth investigation of the CDU underlines that the group has taken the causal factors into consideration as expected – both on the costs and the benefit side. However, the medium complexity of the issue under negotiation does not seem to have played a major role for the group in determining the efficiency costs of control. This indicates, particularly if this can also be found in other instances, that it might be necessary to

revisit the importance of complexity for determining the size of efficiency costs for groups in specific support of an international agreement.

The investigation of Die Linke revealed that the empirical reality is somewhat more complex than assumed by the theoretical framework. Also here, the base assumption can be confirmed, and the group has perceived the causal factors as assumed, but two main messages can be taken away. First, the investigation presented a more nuanced picture than the theoretical framework in regard to vote-seeking benefits. Generally, the group agrees with the assessment of the salience of the agreement; however, they do not base the assessment of vote-seeking benefits on public salience but on public opinion of the agreement and perceive the vote-seeking benefits as low. However, the group argues that this does not dis-incentive them, which is largely due to the policy-seeking benefits the group expects and which provide the necessary incentives. Overall, this indicates that it might be necessary to distinguish between public salience and public opinion, and that strong policy-seeking benefits can “trump” a lack of vote-seeking benefits, or rather potential damaging effects in this regard. This does not contradict the assumption that groups consider both vote- and policy-seeking benefits when controlling EU international treaty-making. Second, the theoretical framework assumes the value of the causal factors to be static and does not consider that parliamentary groups might actively attempt to increase the benefits or decrease the costs of control. However, Die Linke has, agreeing with the assumption that they only have a low likelihood of substantively influencing the negotiations, actively attempted to strategically increase this likelihood by teaming up with actors outside parliament: the creation of public pressure – which in itself is a means of parliamentary control – has been used to increase the policy-seeking benefits of control. The theoretical framework might also have to adapt to this possibility.

8.7. Parliamentary Control of the Kigali Amendment Negotiations in the Bundestag

Germany's role in the negotiations of the Montreal Protocol and its subsequent amendments and adjustments has been somewhat ambivalent. In absence of strong domestic pressures for further action in the 1970s, the country was initially not very active in the international efforts to protect the ozone layer. However, once the negotiations on the Montreal Protocol started, the German government assumed a markedly more proactive position in the EU and on the international stage. The combination of Germany pushing within the EU and the US pushing internationally led to the conclusion of the Montreal Protocol in September 1987 (Schreurs 2004: 130f.). Germany has been

an active party to the Protocol (Germany 2017: 3) since then and strongly supports adjustments and amendments to the Protocol to adapt to changing contexts and new scientific information. The country's understanding has been, since the beginning, that "when phasing out substances that deplete the ozone layer we must also take into account other environmental impacts – especially impacts on the climate" (ibid.). Germany has also supported the inclusion of HFCs in the scope of the Montreal protocol, i.e., the negotiations of the Kigali Amendment.

The German government underlines that with its ratification of the Kigali Amendment, there will not be new obligations and demands for German industries and citizens: for them, a reduction scheme for fluorinated greenhouse gases is nothing new. As mentioned, the emission of fluorinated greenhouse gases, and as such of HFCs, has been regulated by the so-called F-Gas regulation since January 2015¹⁶⁹. As the amendment adopted in Kigali does not exceed these already established obligations, compliance with the F-Gas regulation also means compliance with the requirements of the Kigali Amendment. The Amendment only foresees marginal added financial costs through higher contributions to the Multilateral Fund¹⁷⁰, whilst additional costs for the economy, industry and administration are not expected (BT-Drs. 18/12048). Against this background, the following sub-chapter analyses how and why the parliamentary groups in the Bundestag controlled the negotiations of the Kigali Amendment to the Montreal Protocol.

8.7.1. Overview of the Bundestag's Treatment of the File

The base document for the Bundestag's treatment of the file is the Commission's Proposal for a Council Decision authorising the Commission to negotiate, on behalf of the European Union, amendments to the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer (COM(2015)0014). This proposal was referred to the Bundestag in January 2015, but was not forwarded to standing committees for further committee scrutiny (BT-Drs. 18/4152). As explained above, in the Bundestag, not all incoming EU documents are referred to standing committees for closer scrutiny, which means that non-referral indicates (initial)

¹⁶⁹ In Germany, the new F-Gas regulation was implemented by adjusting the national Chemikalien-Klimaschutzverordnung (ChemKlimaschutzV), which was amended in February 2017.

¹⁷⁰ "The adoption of the amendment to the Montreal Protocol, which was adopted in Kigali, will result in an additional non-quantifiable contribution to the MLF of the HFC's Protocol of up to EUR 270 million for the period from 2021 to 2047", BT-Drs. 18/12048.

low significance of the referred file for the Bundestag and its members. However, previous Commission proposals for authorization to negotiate under the Montreal Protocol had been forwarded to the responsible standing committee, the Committee on the environment, for instance COM(2013)0128 (BT-Drs. 17/13183), or SEC(2010)0638 (BT-Drs. 17/2408). Whilst the former document is still classified, the latter already includes a reference to the inclusion of HFCs in the scope of the Montreal Protocol. As such, it can reasonably be assumed that the issue had indeed been subject to discussion in the Committee on the Environment, or at least had been taken note of. However, this was not the case for the authorization for the negotiations of the Kigali Amendment.

Throughout the negotiations, the Bundestag was informed on the progress on the issue, mainly in meeting of the Environmental Committee, when the MPs received reports on and discussed EU developments and events, such as Council Meetings where the topic was in the agenda (BTo6). This also means that the negotiations were an individual agenda point in the Committee on the Environment, but always shared the MPs' attention with other issues and other (multilateral) international environmental agreements. Parliamentary attention has mainly been directed at other environmental agreements, which have overshadowed the negotiations under the Montreal Protocol: "Paris, the Convention on Biological Diversity and the Nagoya Protocol and, in this [18th] legislative period, Rio 20+ and all this sustainability dynamic" (BTo6) are the three big topics that have regularly occupied the Environmental Committee. This means that there was no plenary debate on the negotiations of the Kigali Amendment in their *ad locum* phase or parliamentary delegations to the decisive MOPs or other attendance by MPs with parliamentary group funding.

Germany has already ratified the Kigali Amendment. As a mixed agreement that relates to subjects of federal legislation, it required, according to Article 59 (2) GG, the approval of the Bundestag. In March 2017, the German Ministry for Environment, Nature Conservation and Nuclear Safety submitted a law proposal for the ratification¹⁷¹. Importantly, the German government presented the bill as particularly urgent, so that the ratification process could be completed before the summer break and the autumn parliamentary elections. In April 2017, the Bundestag referred the bill in a first reading to the Committee on the Environment, Nature Conservation, Building and Nuclear Safety as responsible committee and the Budget Committee for opinion. The Environmental Committee unanimously adopted it without changes, and the Budget Committee considered it to be compatible with the Federal budget. On

¹⁷¹ <https://www.bmu.de/pressemitteilung/einschraenkung-von-17-kaeltemitteln-kann-zusaetzliche-erderwaermung-um-05-grad-verhindern/>.

1 June 2017, the plenary held the second and the third reading on the bill and approved unanimously both times without debate (Plenarprotokoll 18/237). As indicated by the smooth process, ratification of the Kigali Amendment in the Bundestag was entirely uncontroversial and all parliamentary groups supported swift ratification (BTo6).

8.7.2. Partisan Control Action: A Comparative Congruence Analysis

The following sub-chapter will present the comparative congruence analysis of how and why the parliamentary groups in the Bundestag controlled the negotiations of the Kigali Amendment according to the previously developed structure: identifying the values of the causal factors, on that basis deductively predicting the outcome, presenting and identifying the how of control and finally comparing prediction and observation.

8.7.2.1. Step 1: Predicting the Outcome

As in the previous sub-chapters, the first step in the congruence analysis is to comparatively identify the values of the causal factors and on that basis predict the expected outcome with which intensity the parliamentary groups in the Bundestag have controlled the negotiations of the Kigali Amendment.

8.7.2.1.1. The Public Salience of the Negotiations of the Kigali Amendment

The negotiations of the Kigali Amendment have been characterized by low public salience in Germany (see section 8.3.1).

8.7.2.1.2. The Institutional Status of the Parliamentary Groups

The entire ad locum phase of the negotiations of the Kigali phase, 2015-2016, coincided with the Bundestag's 18th legislative period. The parliamentary groups' institutional status will be determined according to the majority conditions in this legislative period. The CDU and the SPD are characterized as majority parties, whereas Die Grünen and Die Linke are considered to be opposition parties.

8.7.2.1.3. The Policy Position of the Parliamentary Groups

It is difficult to determine the policy position of the Bundestag's parliamentary groups on the issue of phasing out HFCs under the Montreal Protocol due to two interrelated reasons. First, most parliamentary groups have not made any public statements or references to the issue, as they did not consider the Amendment important enough. This also means that it is highly likely that

they have not formed policy positions on the issue. Second, since the agreement is negotiated on the international stage, issues that might have been controversial on the national level are much less contentious between the parliamentary groups. “Because the agreement is international, everything, even the conflict lines, are very much mitigated” (BT06). However, the groups’ policy positions on the issue will be determined based on their positions on finalized 2015 new F-Gas regulation and the adapted German ChemKlimaschutzV. This is argued to be feasible, as the obligations entailed in these two pieces of legislation are not exceeded by the phasing-out requirements of the Kigali Amendment, meaning that it can reasonably be assumed that the policy positions on these files coincide.

The CDU claims that it is important to pay attention to which substances are released into the atmosphere, and that adapting the requirement of the F-Gas regulation “makes sense” (BT-Drs. 18/9705). The group emphasises that environmental concerns and bureaucratic and industrial costs must be balanced, they also argue that the changes in the German legal framework are one-to-one implementations of EU law, and thus do not create any compliance costs that exceed the requirements of the EU’s F-Gas regulation (Plenarprotokoll 18/190). Following this line of reasoning, the CDU has supported the negotiations of the Kigali Amendment. Due to its strong focus on the German industry, the group can be claimed to have an active interest in successfully concluding the Montreal Protocol in order to create a global, equal level playing field. If all countries, also those outside of the EU, have to adhere to the same conditions, no country has an economic advantage in this regard. It is also telling that within the German economy, there was no resistance to the Montreal protocol¹⁷² (BT06). Overall, the CDU can thus be argued to have been in specific support of the Kigali Amendment.

Similarly, the SPD considers fluorinated gases are very important due to their high climate impact. They argue that action has to be taken and that the adjustments to the emission of fluorinated gases are necessary and useful (BT-Drs. 18/9705) and “therefore find our support” (Schwabe 2017, Plenarprotokoll 18/190). The group demands further progress to achieve the climate goals decided in Paris (ibid.). In combination with the arguments on the low compliance and implementation costs and the creation of a worldwide equal level playing field, the SPD can also be assumed to have been in specific support of the Kigali Amendment.

Die Linke has overall voiced support of the amendments of the F-Gas regulation and the ChemKlimaschutzV. However, the group has voiced concerns

¹⁷² This does not mean that there was no opposition in the German industry concerning the F-Gas regulation itself, but only refers to the Montreal Protocol.

that the new obligations are not far-reaching enough to meaningfully protect the environment. Moreover, they pay specific attention to the possible negative effects of new, globally valid restrictions of HFC emission for developing countries. They do not oppose the restrictions but call for increased financial support for those countries and their industries (Lenkert 2017, Plenarprotokoll 18/190). Overall, Die Linke has thus been in specific support of the Kigali Amendment.

Lastly, Die Grünen generally support national, European and international attempts to protect the environment and fight climate change, and also the inclusion of HFCs in the scope of the Montreal Protocol, which they consider to be particularly climate-damaging and with high global warming potential. It is essential to reduce emissions on a global scale, and the Kigali Amendment is thus “an important step to curb the climate crisis. But the overall schedule is not very ambitious”¹⁷³. The group calls on the German government to continue leading the way under the Montreal Protocol.¹⁷⁴ However, also Die Grünen have been in specific support of the Amendment.

8.7.2.1.4. The Likelihood of Substantive Influence

Recall the two-step process of determining the likelihood of a parliamentary group having substantive influence on EU international negotiations: as this likelihood depends on the credibility of a group’s veto threat, only in the negotiations of *mixed agreements* are *large enough parliamentary groups* expected to have a high chance of policy impact. The Kigali Amendment is, as demonstrated above, a mixed agreement requiring the Bundestag’s consent. No one group has absolute majority in the Bundestag, so the consent of the two largest groups, the CDU and the SPD, is generally needed for an agreement to pass parliament, meaning that CDU and SPD have a high likelihood of influence, and Die Linke and Die Grünen have a low likelihood.

8.7.2.1.5. The Overall Resources of the Parliamentary Groups

A group’s overall resources in the Bundestag are determined by the number of members a group provides in the responsible committee as well as the inverse overall number of policy fields a group’s internal working group is responsible for. Concerning the former, the CDU provided 17 of the 36 MPs in the 18th legislative period Environmental Committee, the SPD eleven, and Die Linke and Die Grünen four each. Concerning the latter, the CDU and the SPD have

¹⁷³ <https://www.gruene-bundestag.de/klimaschutz/schrittweises-aus-fuer-fluorkohlenwasserstoffe-17-10-2016.html>.

¹⁷⁴ <https://www.gruene-bundestag.de/presse/pressemitteilungen/2016/oktober/wichtiger-schritt-beim-klimaschutz.html>.

their own working groups in the “Environment, Nature Protection and Nuclear Safety”. Die Linke has integrated environmental issues into one of their six working groups, without stating which one, and Die Grünen deal with the issue in the working group on “Environment, Conservation, Reactor Safety, Animal Welfare, Climate, Energy, Sustainability, Construction, Housing and Urban Development, Transport, Agriculture and Food, Tourism”. As the scope of this working group is rather narrow and as the Grünen are the environmental party in the German political landscape, it can be assumed to invest quite some resources in its staff working with environmental issues. It is argued here that overall, both SPD and CDU have high resources for controlling environmental issues and environmental international negotiations, Die Grünen medium resources, and Die Linke low.

8.7.2.1.6. *Efficiency Costs: Complexity and Compellingness*

Recall that the issue under negotiation has been identified to be of low complexity, and the negotiation setting is expected to be of medium compellingness. As argued above, the efficiency costs stemming from the complexity of the issue under negotiation and the compellingness of the negotiation setting are moderated by a parliamentary group’s policy position. As all groups are in favour of the Kigali Amendment, the following values of efficiency costs can be discerned (see Table 46).

Table 46: Efficiency Costs Stemming from Complexity and Compellingness

Political Group/ Policy Position	Causal Factor	Complexity Low	Compellingness Medium
CDU/Specific Support		Low costs	Medium costs
SPD/Specific Support		Low costs	Medium costs
Die Linke/Specific Support		Low costs	Medium costs
Die Grünen/Specific Support		Low costs	Medium costs

8.7.2.1.7. *Predicting the Intensity of Control*

It is now possible to deductively predict the intensity of parliamentary control with which the parliamentary groups in the Bundestag are expected to have controlled the negotiations of the Kigali Amendment.

Concerning the benefits-side of the theoretical framework, it is argued that the higher the public salience of the topic under negotiation, the higher the vote-seeking benefits. As the negotiations of the Kigali Amendment have been of low salience in Germany, these benefits are expected to be similarly small

for all parliamentary groups. Second, only opposition parties are expected to gain high policy-seeking benefits, in this case to Die Linke and Die Grünen. Furthermore, the theoretical framework holds that the more in opposition to an agreement a group's policy position is, the higher its policy-seeking benefits. As all groups in the Bundestag were in specific support of the Kigali Amendment, these benefits are assumed to be low for them. On the benefit-side, it was argued that the higher a group's chances of substantive policy influence on the negotiations, the higher its policy-seeking benefits. The CDU and the SPD as the Bundestag's two largest groups controlling a mixed agreement are expected to gain high benefits from control, Die Linke and Die Grünen only low benefits.

On the cost-side, the resource costs of a parliamentary actor are assumed to be higher, the lower the group's overall resources. It has been argued above that the CDU and the SPD have high overall resources, Die Grünen medium in the area of environmental policies, and Die Linke low, meaning that the resource costs are high for Die Linke, of medium size for Die Grünen and low for CDU and SPD. Furthermore, the theoretical framework holds that the higher the complexity and the compellingness of a negotiation setting, the higher are the efficiency costs of control, but only for actors who support the negotiations. As the negotiations for the Kigali Amendment were characterized by low complexity and medium compellingness, and all parliamentary groups in the Bundestag were in specific support of them, the efficiency costs due to the complexity of the negotiations are expected to be low, and efficiency costs due to compellingness of medium size. Table 47 recaps:

Table 47: Overview of Theory-based Predictions

Benefit/cost \ Actor	CDU	SPD	Die Linke	Die Grünen
Vote-seeking benefits	Low	Low	Low	Low
Policy-seeking benefits: institutional status	Low	Low	High	High
Policy-seeking benefits: policy position	Low	Low	Low	Low
Policy-seeking benefits: likelihood of impact	High	High	Low	Low
Resource costs	Low	Low	High	Medium
Efficiency costs: complexity	Low	Low	Low	Low
Efficiency costs: compellingness	Medium	Medium	Medium	Medium
Intensity of control	Low	Low	Low	Low

We can now deductively predict the intensity of parliamentary control that the Bundestag's parliamentary groups are expected to have exhibited in their control of negotiations of the Kigali Amendment. On the benefit-side of control, it is important to note that whilst the groups are expected to gain benefits from different causal factors, overall, the assumed benefits are of the same size for all parliamentary groups. Second, it becomes evident that neither vote-seeking nor policy-seeking benefits are very high. The costs of control are expected to be equally low for the CDU and the SPD, and somewhat higher for the Grünen and Die Linke. However, these differences are marginal. Based on the assumption that the higher the benefits and the lower the costs of parliamentary control, the higher its intensity, the almost balanced picture above, and especially the lack of actual benefits of control for all parliamentary groups, which might incentivize them to control the negotiations, it is assumed that all parliamentary groups in the Bundestag controlled the negotiations of the Kigali Amendment with an equally low intensity. See the values in Table 47 above.

8.7.2.2. Step 2: How did the Parliamentary Groups control the Negotiations of the Kigali Amendment?

Step 2 of the comparative congruence analysis will look at the “how” of parliamentary control: how did the parliamentary groups in the Bundestag control the negotiations of the Kigali Amendment more broadly and along the two conceptually relevant dimensions of the level and the function of control. This makes it possible to identify the displayed intensity of control.

8.7.2.2.1. CDU

The CDU emphasises that climate change is a global challenge that needs to be tackled on the global level. “We need international and global answers to these important future questions. The world needs to come together at one table to discuss these issues and work out solutions.” The group considers it necessary to involve national parliaments in the process, deploring that unlike for EU affairs, “such clear participation requirements do not exist at global governance level under environmental conventions. [...]. It is undisputed, however, that the results of the international conferences regularly find their way into the German legal system. Here, parliament and committees are in the crucial function. Therefore, their early involvement and active participation in these processes is very important” (Gebhart 2013, Plenarprotokoll 17/234). They demand involvement rights beyond ratification of multilateral environmental negotiations: they consider it important that the Bundestag has clearly defined information rights and the opportunity to participate in international environmental conferences (ibid.).

However, in regard to the negotiations of the Kigali Amendment, the CDU has not followed up on these demands by actively engaging in control of the multilateral talks: beyond receiving information on the issue and the progress of the negotiations through the above-outlined channels, the group has not actively monitored the developments on the EU or the international stage, neither informally nor formally. It has not considered sending parliamentary or group delegations to the Protocol's MOPs; nor was the group involved in influencing control activities on the specific negotiations of the Kigali Amendment.

8.7.2.2.2. SPD

The SPD's view on parliamentary control of international environmental negotiations resembles the CDU's: the group emphasizes the importance of international cooperation to fight environmental problems and, whilst acknowledging that international agreements are being negotiated by the executives, they want parliamentarians, NGOs, trade unions, business associations and companies to have a role in environmental international negotiations (Schwabe 2013, Plenarprotokoll 17/234). Concerning the role of parliaments, and the Bundestag specifically, the SPD deplores that based on formal control rights, "when concluding international agreements we can only agree to ratification or reject it. The majority of the House will never refuse an agreement negotiated by its own government" (ibid.). Like the CDU, they demand stronger involvement by the Bundestag in the ex ante and ad locum phase of environmental agreements, thorough and early reporting by the German government on upcoming and ongoing negotiations, the possibility to attend international conferences and that the Government takes into account the recommendations of the competent committees of the Bundestag (ibid.).

However, the SPD has only been marginally involved in controlling the negotiation of the Kigali Amendment. It has received information but has not been actively involved in monitoring or influencing them the negotiations. Whilst it were involved in controlling issues related to the phasing out of HFCs, such as the miss-use of the clean development mechanism, which they observed run counter to "the aim of the Montreal Ozone Layer Protection Protocol by creating problematic incentives to increase the production of HCFC-22 due to certified emission reductions" (BT-Drs. 17/4475) or the issue of the use of the refrigerant R1234yf in the German automotive industry (BT-Drs. 17/10968), this never extended to actual engagement with the issue of HFCs under the Montreal Protocol.

8.7.2.2.3. Die Linke

Die Linke has an overall positive view on controlling international environmental negotiations, arguing that the Bundestag is wrongfully only indirectly involved in negotiations on the international level, namely via the German government. They agree with the CDU and the SPD that the government should take into account the position of the Bundestag and its relevant committees, provide sufficient information on the negotiations to German MPs and enable them to regularly send parliamentary delegations to international environmental conferences (Bulling-Schröter 2013, Plenarprotokoll 17/234).

However, the group has been silent on the negotiations of the Kigali Amendment, also in regard to attending the Montreal Protocol's MOPs. Die Linke has been very active on issue concerning the refrigerant R1234yf (i.a. BT-Drs. 18/11373; 18/3636; 18/2712; 18/867), but not on phasing out HFCs under the Montreal Protocol.

8.7.2.2.4. Die Grünen

Die Grünen support the views of the other parliamentary groups in the Bundestag on improved and earlier involvement of German MPs in negotiations and conclusion of international environmental agreements (Ott 2013, Plenarprotokoll 17/234). The group's main focus is to control the German government and its voting behaviour on European negotiations and Council meetings (BTo6); however, Die Grünen also want to be able to interact directly with other actors on the global stage by participating in multilateral environmental conferences.

Concerning the group's control of the negotiations of the Kigali Amendment, the group was not very actively involved. The Green MPs mainly relied on fire alarm control, not only based on information coming formally from the European level, but also such proved more informally by environmental associations and NGOs or the European Parliament. The group would have expected these sources to inform the Green MPs if something controversial was being negotiated or happening during the negotiations. In that case, the group would have followed up with motions or minor interpellations. Yet, in the case of the Kigali Amendment, none of these formal control mechanisms of monitoring and influencing were used; nor did the group proactively make use of informal instruments (BTo6).

8.7.2.2.5. Summary: Partisan Control in a Comparative Perspective

It quickly becomes evident that none of the parliamentary groups has been actively controlling the multilateral negotiations of the Kigali Amendment. All groups seem to have followed the negotiations to some extent by being briefed

and updated on their progress by various sources, but there was hardly any active, formal or informal, control. It is not possible to elaborate more on how the groups have controlled the negotiations along the four dimensions of parliamentary control. This means that for all parliamentary groups, the observed control intensity is argued to be low – a low level of activity with a low, if any, monitoring function. Table 48 shows the placement of the parliamentary groups along the two dimensions of the intensity of parliamentary control.

Table 48: The Intensity of Parliamentary Control of the Negotiations of the Kigali Amendment

Level	Function	Monitoring	Influencing
Low		Low monitoring CDU, SPD, Die Linke, Die Grünen	Low influencing
High		High monitoring	High influencing

8.7.2.3. Step 3: Comparing Prediction and Outcome

In the third step of the comparative congruence analysis, it is now possible to compare the predicted and the observed values of the intensity of control of the Bundestag's parliamentary groups (see Table 49).

Table 49: Comparison

Political Group	Predicted Intensity of Control	Observed Intensity of Control	Congruence (+) Non-Congruence (-)
CDU	Low	Low monitoring	+
SPD	Low	Low monitoring	+
Die Linke	Low	Low monitoring	+
Die Grünen	Low	Low monitoring	+

As Table 49 demonstrates, there is indeed congruence between the predicted and the observed values of the intensity of control in the case of the Bundestag's parliamentary groups controlling the negotiations of the Kigali Amendment. This supports the validity of the comprehensive theoretical framework and suggest that it has empirical relevance in explaining the intensity of parliamentary control. However, as in the previous case studies, it is necessary to caution against potential spurious correlations, and therefore to conduct a process-tracing analysis to demonstrate how the combination of the causal

factors led to the outcome. This case study will trace the process for Die Grünen. Die Grünen are chosen because they are the Green party in Germany with strong focus on environmental protection, sustainability and climate change. They can be assumed to be well-suited to trace how the identified causal factors led to a low level of control, and whether the causal mechanism worked as assumed, or whether there were other factors at play as well.

8.7.3. Process-Tracing Analysis: Die Grünen

As predicted by the theoretically deduced expectations, Die Grünen controlled the negotiations of the Kigali Amendment with low (monitoring) intensity. But did the Green MPs perceive the costs and benefits of parliamentary control as predicted, did this incentivize or dis-incentivize them and was the overall causal mechanism indeed present? These questions, i.e., the underlying causal mechanism, will be discussed in the following.

Table 50: Causal Mechanism: Die Grünen

Benefit/cost	
Vote-seeking benefits	Low
Policy-seeking benefits: institutional status	High
Policy-seeking benefits: policy position	Low
Policy-seeking benefits: likelihood of impact	Low
Resource costs	Medium
Efficiency costs: complexity	Low
Efficiency costs: compellingness	Medium
Observed intensity of control	Low monitoring

As the negotiations of the Kigali Amendment received only low public attention in Germany, it is assumed that Die Grünen perceived the vote-seeking benefits from active involvement in the negotiations of the Amendment as low. On the one hand, it could theoretically be argued that as a Green party with a – likely – environmentally conscious electorate, Die Grünen might have considered this differently, using the success of negotiating and concluding the agreement to foster its own standing among its voters, and as such have been active in order to signal its involvement in the negotiations, exactly because the group and its voters are overall in favour of such agreements. On the other hand, this cannot be observed in the actual control of Die Grünen and their underlying considerations: given the low salience of the agreement, the group did not perceive it to be desirable to perceive such a strategy, as the

benefits are minor compared to the potential costs (BTo6). The group did consider the vote-seeking benefits of controlling the negotiations low, as assumed, which subsequently did not incentivize them to exercise strong control

As an opposition party, Die Grünen are expected to be in policy conflict with the German executive on the issue under negotiation, which in turn increases the policy-seeking benefits of controlling them. However, the group clearly states that this has not been the case for the negotiations of the Kigali Amendment: admitting that they overall consider the German government not to be a “brakeman” on environmental issues, but rather a cautious pioneer, “therefore, there are no fundamental lines of conflict between Die Grünen and the German government; and this applies as well to the Kigali Amendment” (BTo6). This is especially true because the responsible ministry for the negotiations and the implementation is the Federal Ministry for the Environment. Whilst this is not a ministry in “Green hands”, the group still perceives it to be ambitious on environmental issues, and when this is the responsible ministry, they usually let things go their course. However, this would be different if another ministry were responsible, e.g., the more conservative and less environmentally ambitious Ministry of Transport, as the group here expects the conflict lines with the Government to be more pronounced (BTo6). Unlike assumed by the theoretical framework, Die Grünen did not expect to gain high policy-seeking benefits from parliamentary control in connection with the Kigali Amendment.

A similar observation about low policy-seeking benefits can be made in regard to the benefits based on the group’s policy position. As discussed above, Die Grünen were in specific support of the Amendment, but they did not consider the introduced changes and obligation ambitious enough. The theoretical framework assumed that they would perceive these policy-benefits as low. Indeed, the group argues that the Amendment adds another pollutant to a successful agreement; “and you cannot be opposed to that. The real question is rather: are all substances included, that are of concern?” (BTo6). This means that the group actively chose not to become involved in parliamentary control, as they did not consider it necessary to do so: having received information on the negotiations from the European level and the German environmental NGOs, “nothing in the information we had received signaled ‘we have to be careful here’, rather it was more like ‘nice that things are progressing’” (BTo6). Overall, the group argues that if they had been notified of or detected any problems in relation to the negotiations, they would have become active. As expected, the group perceived the policy-seeking benefits from parliamentary control due to their position on the Kigali Amendment as low, which in turn gave them little incentives to become active.

Lastly on the benefit side, Die Grünen as a small group in the German Bundestag are argued to have a low likelihood of substantively impacting the negotiations process, which leads to the theoretical assumption that they perceive the policy-seeking benefits to be low. On the one hand, the group does not necessarily see their size in Parliament as the source of low chances of having an impact, but rather their opposition status and the fact that the Ministry of the Environment is not in “Green hands”. On the other hand, they argue that it is unlikely that they would achieve substantive influence, which means that attempting to do so “would be a big effort with only a small result. [...] Therefore, we focus on the things that we can really influence” (BTo6). Overall, as predicted by the theoretical framework, the group perceives their chances of having a substantive impact as low, which lowers the benefits of control.

On the cost side, the group is expected to perceive the resource costs to be of medium size, and the efficiency costs due to the complexity as low, due to the medium compellingness of the negotiation setting. First, concerning the resource costs, the group does not necessarily perceive control as too costly in order to become active but rather as not beneficial enough to spend the resources they have on it. “If nothing comes from the European colleagues, if nothing comes from the environmental organizations, and if you do not see any problems yourself ... Then you focus on the more important things, and do not waste energy on something like that” (BTo6). This indicates that the group takes the resource cost of parliamentary control into consideration, and as assumed, relative to the benefits of spending them. Second, the group has not taken potential efficiency costs into consideration when weighing the costs and benefits of control (BTo6). This does not mean that they do not consider these costs to be existent, but rather that other costs, not entailed in the theoretical framework, and the lack of benefits were sufficient in their weighing of costs and benefits.

The group emphasized a potential cost of parliamentary control of the negotiations of the Kigali Amendment which was not predicted by the theoretical framework: in the unusual situation that there is no policy conflict in parliament or with the executive, too much and too strong parliamentary engagement, even though one is in favour of an agreement, might have the detrimental effect of awakening previously non-existent opposition among those groups and actors which are in favour of the agreement because they do not consider it important enough to have a fully-fledged policy position on it. An example is the CDU in the case of the Kigali Amendment. In such a situation, Die Grünen fear that once “awakened”, those groups can “handcuff their ministries”; “in this case, it makes sense to keep quiet, you do not have to point

out to political competitors that something is being done in environmental protection” (BTo6).

Summing up, Die Grünen have clearly weighed the benefits and costs of controlling the negotiations of the Kigali Amendment: “We weighted it up: we will let it run its course” (BTo6), meaning they chose not to actively scrutinize. This supports the assumption of the dissertation that the intensity of control a parliamentary group exhibits is a product of a cost-benefit analysis. Concerning the individual costs and benefits, the picture somewhat different than expected: on the one hand, the group does see any vote-seeking or policy-seeking benefits of controlling the agreement. Hence, there are no incentives to scrutinize the negotiations. On the other hand, the group perceives control to be costly, because control is resource-intensive, as predicted, and due to a fear of awakening previously non-existent opposition among other groups. The latter has not been theoretically assumed, but it would be interesting to investigate this cost further, for example, whether it can be observed in other instances, and whether it only applies those negotiation settings characterized by a lack of policy conflict in parliament and in executive-legislative relations; or whether it is unique to the case under investigation here.

8.7.4. Conclusion

Concluding this case study, little can be added to the conclusion of the process-tracing study. The comparative congruence analysis has shown that the negotiations of the Kigali Amendment have not been scrutinized in-depth in the Bundestag by any of the parliamentary groups. This finding is congruent with the theoretical predictions for all parliamentary groups, which strengthens confidence that the theoretical framework is able to explain the empirical phenomena under investigation here. Moreover, the process-tracing study of Die Grünen supports this preliminary conclusion. The group sees no benefits in controlling the agreement but rather high costs, has weighted these costs and benefits and decided not to pursue an active control strategy. Yet, two points should be mentioned here: first, unlike assumed, the group saw no benefits at all in controlling the negotiations, as, despite its opposition status, it claimed not to have been in policy conflict with the German government. This is a technical flaw in the operationalization of this policy-seeking benefit and does not contradict the underlying theoretical framework. Second, the group has taken another, not theorized, cost into consideration: the cost of waking up unwanted opposition to an agreement one is in favour of. Overall, however, the findings strongly imply that the theoretical framework explains why all parliamentary groups in the Bundestag controlled the negotiations of the Kigali Amendment with only low intensity.

8.8. Implications of the Findings: The Bundestag

This chapter started out by presenting the formal control rights of the Bundestag in regard to EU international treaty-making, which was followed by three case studies analysing how and why its parliamentary groups controlled the negotiations of the EU-Tunisia readmission agreement, the EU-Japan free trade agreement and the Kigali Amendment. Against that background, it is now time to elaborate on what the findings mean for the theoretical framework this dissertation has postulated.

Overall, there have not been many surprising findings. In regard to the intensity of parliamentary control, the only instance where one might have imagined a different outcome than observed was Die Grünen controlling the negotiations of the multilateral, environmental Kigali Amendment. Here, one might have assumed that the group would have accompanied the successful negotiations of a far-reaching environmental agreement more closely, especially in order to signal to its environmentally interested voters a political contribution to and involvement in actively fighting climate change. However, this finding is not as surprising as it might seem if one investigates parliamentary control by Die Grünen based on the theoretical framework. Another somewhat surprising finding that – at first glimpse – has not been observed in other parliaments is the strategy that opposition parties have pursued in order to influence the negotiations: to foster public pressure on the government (similar to groups in other parliaments) and, importantly, to force governmental positioning. This was observed both in the EU-Tunisia readmission agreement and, more predominately, in the EU-Japan trade talks. The groups consider such action as an important first step in holding the government accountable. It can be assumed that this strategy needs to be seen in light that the Bundestag does not have a mandating power over the government, like other parliaments such as the Folketing do. This makes it more difficult for them to enforce parliamentary preferences, to assess whether the government actually stuck to its policy position and hold it accountable. This strategy can be seen as a way to mitigate those disadvantages, especially from the point of view of opposition parties. However, it does merit further research.

The predictions and empirical findings from the congruence analysis are, to a large extent, congruent. There were entirely congruent in regard to the EU-Tunisia readmission agreement as well as the Kigali Amendment. The only instance of non-congruence was Die Grünen controlling the EU-Japan FTA negotiations. This strongly indicates that despite the noise of non-congruence, the findings of the comparative congruence analysis support the theoretical framework, and the causal arguments do have some value in explaining the intensity of parliamentary control: parliamentary groups can with

some confidence be assumed to base their decision to control EU international treaty-making on a cost-benefit analysis, taking both vote-seeking and policy-seeking benefits as well as resources and efficiency costs into consideration when scrutinizing. However, this preliminary assessment leaves two questions: how can the non-congruent finding be explained, and has the causal mechanism worked as assumed?

The process-tracing studies uncovered two kinds of errors: theoretical flaws (the theoretical framework is flawed) and technical flaws (or the operationalization and measurement in the congruence analysis are defective). The in-depth analysis of Die Grünen controlling the EU-Japan FTA, in a somewhat comparative perspective to Die Linke, which displayed exactly the same values for the causal factors in the congruence analysis, demonstrated that the observed non-congruence was primarily due to a technical flaw: the group, stressing the importance of intense monitoring process, especially in assessing documents and information, requires more technical expertise to do so, increasing their resource costs in comparison with Die Linke. The group perceived the resource costs to be higher than assumed. When this value is inserted in the cost-benefit analysis, the group seems to indeed have controlled the negotiations in a cost-efficient way. This strengthens the confidence in the validity of the theoretical framework.

Concerning the second question above, whether the causal relationship is spurious or whether the assumed causal mechanism has indeed been present, all process-tracing studies of congruent cases demonstrated that the mechanism was largely working as assumed by the theoretical framework. This was also the case in the one non-congruent case once the “technical flaw” was resolved. These in-depth investigations also revealed that the groups were indeed considering the assumed causal factors as part of their cost-benefit analysis. This strengthens the confidence in the validity of the causal framework further. However, the process-tracing studies uncovered some further insights regarding individual causal factors, which might have to be taken into consideration to mitigate further technical flaws and to consider modifications of the theoretical framework. The latter does not invalidate the theoretical framework, but rather offers more detailed insights and inspirations, which might – if found in other instances – be taken up in the conclusion of this dissertation to adapt the framework accordingly.

First, the process-tracing studies have shown a technical flaw in the non-congruent case and in some of the congruent cases. This holds for the salience of the EU-Japan FTA where the groups used TTIP and CETA as benchmark, giving the agreement’s public salience a different value than assumed; the likelihood of influence, also in the EU-Japan FTA: groups have not viewed this factor in isolation, but assessed it based on experience from previous, related

agreements; and the institutional status, which, as the analysis of the Kigali Amendment revealed, does not necessarily say something about the level of policy conflict between executive and the parliamentary group. However, as technical flaws, these issues can be mitigated in the in-depth process-tracing analysis and be included in future comparative congruence analyses.

Other findings of the process-tracing analyses are more important for the theoretical framework, as they go beyond the theoretically assumed causal relationships. First, the analysis of Die Linke controlling the EU-Tunisia readmission negotiations revealed that the group does not only consider the public salience of an agreement but also public opinion to inform the size of policy-seeking benefits. Moreover, the analysis of Die Linke and Die Grünen in the EU-Japan FTA demonstrated that a lack of salience of an agreement does not only make it less vote-seeking beneficial to exert control but also more difficult for groups relying on interaction with extra-parliamentary actors in order to scrutinize due to the lack of opportunities. These points might have to be incorporated in a modified theoretical framework. Second, analysing Die Linke in the EU-Tunisia readmission agreement gave rise to questions whether causal factors are indeed static, invariable throughout a negotiation process, as the study showed that Die Linke has actively attempted to strategically increase this likelihood by teaming up with other actors outside the parliament: the creation of public pressure – which in itself is a means of parliamentary control – has been used to increase the policy-seeking benefits of control. This means that the group has been incentivised, not dis-incentivized by low benefits.¹⁷⁵ Third, all process-tracing analyses make one wonder whether the groups have considered causal factor “complexity” in their cost-benefit analysis. No group has reported to have thought about the complexity of the issue under negotiations, irrespective of how complexity is supposed to affect the group’s perception of the efficiency costs of parliamentary control. Overall, this implies that this causal factor and whether efficiency costs play a role on the national level should be investigated. Finally, the study of Die Grünen controlling the negotiations of the Kigali Amendment introduced an additional cost: the cost of waking up opposition in a negotiation setting characterized by

¹⁷⁵ More broadly, a similar observation can be made in regard to Die Grünen controlling the EU-Japan FTA negotiations. The group perceived its chances to substantively influence the negotiations as rather small but considered strategies to improve the chances of impact. They argued that group size as well as institutional status is decisive. Only a governing party, they claim, can really prevent an agreement from being ratified. Die Grünen were aiming for government participation in the 2017 elections, <https://www.euractiv.de/section/finanzen-und-wirtschaft/interview/gruenen-politikerin-droege-wir-wollen-einen-neustart-der-eu-handel-spolitik/>.

a lack of policy conflict within parliament and in executive-legislative relations. Further studies should analyse whether this is unique to the case under investigation here, or whether this cost is considered in other instances.

Overall, these investigations of parliamentary control of EU international treaty-making in the Bundestag on a methodologically sound basis of both comparative congruence and process-tracing analyses led to the conclusion that the findings, to a large extent, support the theoretical assumptions of the causal framework and strengthen confidence in their validity. Yet, several further points and inspiration can be taken away from these studies, which, if also found in other empirical investigations, might serve as a starting point to modify the theoretical framework.

9. Parliamentary Control of EU International Treaty-Making in the Danish Folketing

In Denmark, the conduct of foreign policy is traditionally a governmental prerogative, according to Article 19 of Grundloven (the Danish Constitution). However, already this article ascribes the Folketing a role in foreign policy-making, providing that far-reaching actions in the field of foreign affairs requires parliamentary consent (Art. 19 Grundloven; Krunke 2007: 335). The Folketing has undergone several institutional reforms since 1923 in order to foster parliament's involvement in ordinary external relations. However, when Denmark joined the EU in 1973, it was not possible to deal with EU policy-making within the established procedures in Danish foreign policy due to the supranational character of EU cooperation. Therefore, the European Affairs Committee (Europaudvalg) was established (Krunke 2007: 339). Within the policy field of EU cooperation, the Folketing has considerable influence over the Danish executive and thus over Danish EU policy. Indeed, "EU affairs are serious business in the domestic politics of Denmark, and the Parliament has tried from the very beginning of Denmark's [EU] membership to control the Government rather tightly" (Laursen 2001: 99). The central feature of Denmark's system of parliamentary control of EU affairs is that the Folketing can exercise scrutiny over the executive by issuing political mandates prior to Council meetings. Scholars have called Denmark a "textbook example of parliamentary control" over EU policymaking (e.g., Bergman 1997; Damgaard/Jensen 2005; Laursen 2005). Whilst the Folketing's involvement in ordinary EU policy-making is well researched due to the strong character of its control system, less is known about how the parliament, and more specifically its parliamentary groups, control EU foreign policy-making. This chapter investigates how and why the parliamentary groups in the Folketing have controlled the negotiations on the EU-Tunisia readmission agreement, the free trade agreement between the EU and Japan and the Kigali Amendment to the Montreal Protocol.

The chapter follows the structure of the previous case studies. First, a brief introduction of the Danish political system, the Folketing's role in it and some descriptive information on the Folketing. This is followed by a more detailed elaboration on the Folketing's scrutiny system in EU affairs, with a particular focus on the formal (and practical) control rights in EU international treaty-making. Subsequently, the empirical investigation will begin by identifying the values of those causal factors that are parliament/parliamentary group-

specific. The chapter will then first investigate how and why the parliamentary groups in the Folketing controlled the negotiations between the EU and Japan on the FTA, followed by a case study of their control of the negotiations of the Kigali Amendment, and lastly, how and why they scrutinized the EU-Tunisia readmission negotiations. The chapter deviates from the previous order of analysing the case studies, because in the Danish case, the EU-Tunisia readmission negotiations fall within the Danish opt-out in Justice and Home Affairs, meaning the case has its own peculiarities. Finally, the chapter will draw a conclusion.

9.1. The Folketing's Role in Denmark's Political System

The Danish Folketing is the unicameral legislature of Denmark. It is generally characterized as a strong parliament vis-à-vis the Danish executive. Danish governments are frequently based on minority coalitions, which means that governments consist of several political parties, which do not have a majority in parliament, but need to rely on support of one or more further parliamentary groups. In situations of minority governments, there is an almost constant bargaining process among the groups in parliamentary decision-making. This increases the powers of the groups that form the government and of opposition parties, which can, to a certain extent, influence governmental policy-making and push its own agenda (Damgaard 1997: 80). Moreover, against the background of Denmark's tradition of minority governments, the Folketing has a consensual approach to decision-making, relying on broad cooperation between parliamentary groups (Nannestad 2003: 55).

The Folketing is characterized as a "working parliament", which means that it has an extensive internal differentiation, a committee system that mirrors the executive and concentrates most of its time in these committees (Magone 2011: 2006). Membership of the Folketing's committees is rather invariant. This creates parliamentary experts in the individual policy fields, which in turn constitutes a further source of the Folketing's strong position vis-à-vis the government (Auel/Benz 2004: 6).

The Folketing has 179 members: 175 from Denmark, two from the Faroe Islands and two from Greenland. They are elected every four years according to a proportional representation system. The electoral threshold is rather low at 2 %. This means that traditionally that there are relatively many parliamentary groups in parliament and that Denmark has a highly fragmented multi-party system (Nannestad 2003: 81).

9.2. The Folketing's Scrutiny System of EU Affairs

Denmark joined the EU in 1973 and has thus been a member for more than 40 years. However, European integration continues to be a contested issue in Danish politics among politicians and the public, which is rather sceptical of the Union, guarding certain policy fields with opt-outs and often disputing political and institutional developments on the European level. However, Denmark has a highly developed system of engaging with EU affairs, and is considered by some as a role model in regard to its participation in EU processes and ranks among the most complying members states in terms of implementing EU-level decisions (Buskjær Christensen 2015: 276). As mentioned, Denmark has developed a parliamentary control system of EU affairs that many see as a “textbook example”.

The formal powers of the Folketing in scrutinizing (their government in) EU matters are generally characterized as relatively strong in comparison to other national parliaments (Damgaard/Jensen 2005: 397). In nutshell, the scrutiny system of EU affairs in the Folketing is mandating- instead of document-based. As a mandating-based scrutinizer, the Folketing formally gives a direct mandate to the Danish government prior to Council meetings (Hrebek 2012: 152). The task to adopt a negotiating position that is politically binding on the governments in negotiations in the Council falls to the EAC, which is thus the primary locus of parliamentary control in the Folketing. The Folketing's scrutiny system of EU affairs is centralized, with only a minor – yet increasing – role for its sectoral committees. The following sections will provide a more detailed overview of these formal powers, concluding with the Folketing's involvement rights in EU international treaty-making.

9.2.1. Legal and Constitutional Framework

The Folketing's involvement in EU affairs is based on three sources: the 1972 Danish Accession Act to the European Union (Act on Denmark's Accession to the European Communities), the Standing orders of the Folketing and reports issued by the EAC establishing guidelines on the consideration of EU matters in the Committee.

Art. 6 of the Accession Act holds that the Danish government shall report to the Folketing on developments in the EU and inform the Folketing's European Affairs Committee of proposals for Council decisions which will apply directly in Denmark or whose implementation requires the participation of the Folketing (§ 6 Lov om Danmarks tiltrædelse af De europæiske Fællesskaber). However, as the Accession Act says little about the formal powers of the EAC, its rights and the government's duties have been further clarified and extended through the adoption of reports from the EAC since 1973, which the

Committee publishes when deemed necessary. In practice, the involvement of the Danish parliament and the EAC as well as their relationship with the Danish government in EU affairs are largely guided by these reports (Møller Sousa 2008: 433).

The most important provision for the Folketing's formal power in EU affairs can be found in the first EAC report from 1973. The report established that "the Government shall consult the Folketing's [European Affairs] Committee on matters of market policy of considerable importance; this consultation shall respect both the influence of the Folketing and the freedom of the Government to negotiate. Prior to negotiations in the Council of the European Communities about decisions of major significance, the Government shall present its proposed negotiating position orally to the Committee. Provided there is no majority in the Committee against this mandate, the Government shall negotiate on this basis" (Europaudvalgets beretning af 29. marts 1973). Describing the core practice of the EAC until today, this provision established the Folketing's right to grant or deny the government a "mandate" for negotiations in the Council.

Since then, the EAC has used special reports to clarify its involvement in EU affairs, to elaborate on the set-up of the mandating procedure, to improve this information rights vis-à-vis the government, and to address broader issues of Danish executive-legislative relationships in EU affairs. In total, the EAC has adopted 38 reports covering the Committee's procedure for handling EU affairs (Europaudvalget 2016-17 EUU Alm.del EU Note 2: 3). Lastly, the Standing Orders of the Folketing do not regulate the working conditions of the EAC, but rather elaborate on the interaction between the EAC and the Folketing's sectoral committees.

9.2.2. Access to Documents

The Folketing's right to information and accessing EU documents is based on Article 6 of Denmark's Accession Act to the EU, according to which the Danish government has the obligation to inform the Folketing on developments in the European Union and to notify the EAC on proposals for EU regulations and directives. However, the actual volume of documents transmitted is much wider and more extensive than foreseen by the Accession Act: the Danish government submits a large amount of documents from the Commission and the Council, e.g., documents relating to intergovernmental conferences, the documents of the presidency (annotated agendas, proposals to the Council, and COREPER on the presidency conclusions) and other governments, as well as the initiatives of the Danish Government. These are submitted to the Secretariat of the European Affairs Committee and its subunit, EU oplysning. The latter

registers incoming documents, imports them to the internal database and links them to other parliamentary documents (Mayer 2012: 183).

Danish MPs can also access EU documents directly from the Council Document Database Extranet L (Beretning om styrkelse af Europaudvalgets adgang til information om forhandlinger i Rådet). This database contains the Council's internal documents, which are either publicly accessible or classified as "limité". When dealing with documents submitted by the Council's database, Danish parliamentarians are subject to rules of confidentiality as set out by the Folketing's Standing Orders and the EU guidelines for handling confidential EU documents (Beretning om styrkelse af Europaudvalgets adgang til information om forhandlinger i Rådet). Members of the EAC may request the government to provide specific classified Council documents which are not found in the Extranet L, i.e., documents classified with a higher level of confidentiality (Europaudvalget 2016-17 EUU Alm.del EU Note 2: 15).

In addition to accessing EU documents, the Danish participation system in EU affairs is, to a large extent, based on reports and memoranda the Danish government prepares on EU projects. These governmental memoranda form the basis of decision-making for the Folketing on EU affairs and enable it to participate effectively in EU decision-making (Mayer 2012: 183). Overall, they primarily convey descriptive information on EU projects but also contain evaluations, impact assessments and political statements. They are sent to the EAC and specialized committees. There are two main types of memoranda: grund- og nærhedsnotater (basic memoranda) are submitted for all proposals for new directives, green and white papers, other consultation documents such as Communications and other legislative, comitology and delegated acts the government deems important. These contain, e.g., a description of a proposal, its legislative and financial consequences, the opinion of interest groups and, importantly, the proposed government position (Dimitrova/Mastenbroek 2005: 13). In contrast, samlenotater (summary memoranda) structure the deliberations of the EAC's meetings, as they are an annotated agenda of an upcoming Council meeting, listing and summarizing all files currently under consideration in the Council. Summary memoranda contain the same information as basic memoranda if the government has submitted the latter to the EAC, but in an updated version. If no basic memorandum was submitted on a file, then the summary memorandum must in principle contain the same information as a basic memorandum (Europaudvalg 2004: 17).

9.2.3. Scrutiny in Practice I: The European Affairs Committee

The Folketing's EAC is the most important EU actor in the Danish Parliament. It is responsible for all policy areas prior to the handling of matters in the

Council of Ministers. EAC's work is significantly different from that of the Folketing's other standing committees, which spend most of their time on draft legislation and preparation of parliamentary debates in the plenary. In contrast, the EAC focuses on the Government's strategic conduct of negotiations regarding decisions in the Council (Folketing 2012: 7). In order to exercise its powers, the Committee is therefore kept informed by the Danish government on issues to be decided in upcoming Council meetings, and is consulted on the Danish position in negotiations ahead of Council decisions. The EAC can, if requested by the Danish government, issue negotiation mandates for ministers on their standpoint and behaviour in the upcoming Council meeting.

In practice, the Committee meets every Friday to deliberate with the ministers who participate in Council meetings the following week. Supported by the summary memoranda, which were sent to the EAC beforehand, Danish ministers have two possibilities when informing the EAC on the items of the Council meeting: items of considerable importance are submitted to the EAC for information; in contrast, when the government deems an item to be of major significance, the minister should give an oral presentation and propose a negotiation mandate (*forhandlingsopslæg*) for her conduct in the Council negotiations. After this, the members of the EAC can pose questions, voice their standpoint on the government's position and express whether they support the government's proposed plans for the forthcoming negotiations or not (Folketing 2012: 15). There is no formal vote on a mandate in the EAC, but the EAC chair, based on the discussion among the MPs, counts the number of committee members opposing the mandate proposed by the government. If the chair concludes that no majority against the government's position can be found, this conclusion constitutes the mandate for the government in the upcoming Council meeting and represents the position of the whole Folketing.

A mandate is not legally, but politically binding, and the government is expected to act in accordance with the views of the European Affairs Committee. In light of Denmark's tradition of minority government, this political bindings can be read as having almost the same disciplinary effect as a legally binding order (Mayer 2012: 198). To follow up on the government's conduct in Council negotiations, the responsible minister must submit a written report to the EAC, summarizing discussions and decisions during the meeting. If the EAC deems that the government has not stayed within the parliamentary mandate, a majority of the EAC can apply further means of control (Finke/Melzer 2012: 15).

9.2.4. Scrutiny in Practice II: Sectoral Committees, the Plenary and MPs

Sectoral committees play only a minor role in the Folketing's participation in EU affairs. They are not involved in the mandating procedure, and there is no systematic, mandatory referral of EU projects to all sectoral committees (Mayer 2012: 203f.). However, the EAC has called for an increasing role of sectoral committees since the mid-1990s and upgraded their involvement rights via its EAC reports. Nowadays, all relevant EU memoranda from the government to the EAC are simultaneously sent to the responsible sectoral committee. In this way, all standing committees can, in principle, be involved in EU affairs. However, the decisive decisions, such as the negotiating mandate, can only be taken by the EAC. The form in which a sectoral committee handles EU affairs is up to the committee to decide. It can consult the relevant ministers, ask committee questions to the Danish government or contact Danish MEPs. Often, sectoral committees adopt opinions on proposals, which are then forwarded to the EAC prior to the mandating procedure and may be included in determining the government's negotiation mandate in the EAC (Folketing 2012: 15). Whilst a vast majority of sectoral committees nowadays deal with EU matters, their involvement in EU affairs varies a lot from committee to committee. This depends on whether the committee in question is affected by EU legislation to a large extent and on the personal interests of its members (Buskjær Christensen 2015: 278).

Besides these explicit rules for parliamentary involvement in EU affairs in terms of accessing EU documents, collecting information on EU projects and mandating the government, the Folketing and its members can make use of the parliament's general rights and formal instruments of parliamentary control, as these are not confined to domestic issues. The Folketing is characterized by broad parliamentary control rights. All MPs have, e.g., the right to make interpellations and to ask so-called Article 20 questions related to EU affairs in order to collect information, put an issue on the political agenda and initiate public debate. Moreover, a majority of MPs can impeach the government with a vote of no confidence (Finke/Melzer 2012: 15). These instruments of parliamentary control are regulated by the Standing Orders of the Folketing, which means that their function in EU affairs and domestic policies is the same (Buskjær Christensen 2015: 279).

9.2.5. Parliamentary Control of EU International Treaty-Making in the Folketing

Like other EU matters, the Folketing can also actively control the EU international treaty-making processes by the Union negotiator with external third

parties. The parliament's right to be continuously informed and consulted by the government also applies to EU foreign policy-making, meaning that the scope of parliamentary scrutiny in the Folketing extends to EU international treaty-making. The formal control procedure on EU international negotiations does not differ greatly from the "standard" procedure of controlling EU projects in the Folketing. Yet, there are some special characteristics of the control system, e.g. when it comes to the Parliament's access to documents.

9.2.5.1. A Distinction between Mixed and Exclusive Agreements?

Whether an agreement qualifies as mixed or exclusive does not make a difference when it comes to the formal parliamentary scrutiny procedure during the negotiations, meaning before the text is initialled (COSAC 2008). As a rule, government must keep the Folketing informed, either in writing or orally, or by asking for a mandate. The difference in formal parliamentary involvement in international agreements comes in only in the ratification stage, when the Folketing either has the power of ratification (if mixed and the Grundlov foresees parliamentary consent) or not (if exclusive).

However, there is increasing awareness among MPs that the legal nature of an EU international agreement influences their work, i.e., there are clear differences in their attitudes and approaches towards exclusive versus mixed agreements. On mixed agreements, if an agreement is important for MPs, the Folketing might become rather active throughout negotiations, but especially in the later stages to ensure a sound democratic process in Parliament: "A sound democratic procedure goes hand in hand with the responsibility of approving the agreement. MPs need to know what it is that they are ratifying" (FT02).

9.2.5.2. Access to Documents

Negotiations documents, be it the "Commission's recommendation for a Council decision ...", the finalized negotiation mandate or draft agreement texts, are usually protected as "restreint UE". As mentioned, the EAC has access to the Council's Extranet L database, which contains documents marked as "limité" as well as publicly available documents. However, it does not contain material above this classification categorization. This means that the Folketing does not have automatic access above "limité", which includes negotiation documents such as recommendations of opening negotiations and negotiation mandates. However, the EAC can ask the Danish government, which is responsible for those documents in the Danish framework, to provide certain documents. Usually, the government provides the documents the Folketing asks for. Indeed, the parliamentary side trusts that the government informs

parliament to the best of its knowledge and ability and that it will forward documents if requested. However, the Folketing only rarely asks to get access to confidential negotiation documents. In EU international treaty-making, the EAC often deals with a file without having read the underlying documents but relies on the information provided by the Danish government in basic and summary memoranda (FT02).

9.2.5.3. Scrutiny in Practice: The EAC

Generally, the standard division of labour between the various committees (and the Chamber) is upheld in EU foreign policy. The European Affairs Committee and the standing committees can follow EU international negotiations in parallel, but their roles and tasks, their powers and the instruments available to them are different.

Overall, the main locus of parliamentary scrutiny is, like in all European affairs, the EAC. Throughout the negotiation process of EU international agreements, the EAC has a very clear-cut responsibility: to control the Danish government's behaviour in Council meetings. This is the general task of the EAC, and it applies in a very strict manner to EU foreign policy-making (FT02). Hereby, the interaction between the EAC and the Danish government as well as the EAC's consideration of EU international treaty-making is closely tied to Council meetings: The EAC deals with an international agreement when the file is on the agenda of an upcoming Council meeting.

The EAC is officially only notified of the intention or the opening of international negotiations when an envisaged international agreement becomes an agenda point in a Council meeting, e.g., as the Council decision to authorize the Commission to open negotiations. The way the EAC "is involved before the Council is to give its mandate for negotiations to the Commission. The European Affairs Committee discusses the issue with the Danish Government [...] and if it is [an international agreement] of major importance, the government will ask the European Affairs Committee for a mandate before debates in the Council" (COSAC 2015).

Also in EU international treaty-making, the Danish government only asks the EAC to provide it with a mandate if it considers the agreement to be of major significance. If this is the case, the mandate can, in theory, be taken at any stage of the decision-making process; there is no institutionalized timing of when this is supposed to take place. Indeed, the government often does not ask for a parliamentary mandate in the *ex ante* stage of the international negotiation process but rather at a later stage after negotiations have already been opened. The reason is that the mandate generally refers to the set-up and direction of negotiations at the time the mandate is given. The government wants to avoid having to return to the Committee to ask for a new mandate.

Moreover, should the government not consider an agreement to be of major significance, the Folketing can only use its normal parliamentary tools to control the government, but cannot force the government to request a mandate (FT02).

There is no institutionalized procedure of updating the Folketing and the EAC on a regular basis on the developments of EU international negotiations. Only if the agreement is considered at a Council meeting is the EAC updated and becomes involved. “As a general rule, information is automatically provided by the government when the agreement is on the Council agenda, otherwise the Folketing has to ask for it” (FT02). It is not common that the responsible minister attends Committee meetings to give updates on the negotiations on a regular basis after each negotiation round, as it is the case, e.g., in the European Parliament (FT01). In theory, the EAC can, independent of the Council agenda, require the respective minister on whose portfolio international negotiations take place, to come to the EAC to provide further updates and information. However, this does not happen very often (FT02).

9.2.5.4. Scrutiny in Practice: The Sectoral Committees, the Plenary and MPs

In contrast to the EAC, the responsible sectorial committee, in whose portfolio an international agreement is set, is only, if at all, involved on an ad hoc basis: they can scrutinize EU international-treaty-making in their area of expertise, but in a less structured way by scrutinizing the actual substance of potential EU international agreements (FT01). As they lack the mandating power of the EAC, they have to rely on other, more general instruments of control to influence starting and ongoing EU international negotiations, such as the above-mentioned interpellations and questions. These are also available to the members of the EAC and the Folketing generally throughout the negotiation process of an EU international agreement (FT02).

Whilst the EAC is the “anchor” (FT02) for controlling EU international treaty-making, sectoral committees and the EAC can interact closely when it comes to issues on the Council agenda within the respective area of expertise of a sectoral committee. As the EAC deals with “everything but church”, its members have to coordinate closely with other sectoral committees that have the necessary expertise. Also in EU international treaty-making, a file is presented to the sectoral committee and the EAC simultaneously. The sectoral committee has the possibility to examine the file prior to the EAC and submit an opinion or a report to the Committee. However, the sectoral committees only seldom make use of this possibility (FT01), as they prefer to coordinate such interaction within the parliamentary groups. This is more an ad hoc pro-

cess and varies considerably from group to group (FT02). Moreover, MPs sitting in both the EAC and a sectoral committee can attend meetings in both committees when there is an item of interest on the agenda (FT08).

The Chamber is only involved under special circumstances in the negotiations, for example, when MPs ask questions on EU international negotiations in the plenary. Moreover, the chamber is formally involved in the *ex post* phase of international negotiations, if the agreement is of mixed nature and needs to be ratified by the Folketing subject to Article 19 in Grundloven. In practice, parliament has sometimes been rather active in this phase, using general instruments of parliamentary control even though it is not able to modify the agreement itself. However, they want to make sure “that the ratification followed sound democratic rules, and was not rushed through” (FT02).

9.2.6. Excerpt: The Role of Party Politics in EU Affairs

In line with what was – theoretically – argued above, parliamentary groups are indeed at the centre of parliamentary activity in the Folketing. They are characterized, even more so than in other EU member states, by high cohesion and high discipline in their behaviour in parliament, which can be related to the consensus-oriented culture of decision-making (Jensen 2001: 232f.). However, scholars observe that “party competition generally plays a rather minor role in committee debates” (Auel/Benz 2005: 384) on EU affairs, especially the mandating procedure. There are two reasons.

First, if there are indeed differences in the positions of the Folketing’s groups on a particular issue, these are taken into account before the governmental mandate to avoid deadlock before negotiations at the EU level (Buskjær Christensen 2015: 284). Second, EU policy-making in Denmark has traditionally been based on a broad supportive coalition between the pro-European “yes-parties”. The coalition of “yes-parties” currently constitutes a majority in parliament, whereas the Eurosceptic “no-parties” act as opposition. In practical terms, this means that in many instances, parliamentary debates on European policy-making take place among the “yes-parties” and with the government behind closed doors, ensuring their support of the government’s position prior to the public exchange of views in the EAC. The mandating procedure constitutes an opportunity for the Eurosceptic opposition parties to question the minister (*ibid.*: 285). The strategy of de-politicising certain issues of policy-making has a long tradition in Denmark, where political agreements between the parliamentary groups of the Folketing to not agree to changes in

a specific policy area unless all groups support those changes are quite common on important and controversial issues.¹⁷⁶ These political agreements are called *forlig*, and can be entered into on European policy.¹⁷⁷

However, this dissertation argues that it is not only possible, but also necessary to analyse partisan dynamics in the Folketing in relation to parliamentary control of EU international treaty-making. Generally, whilst party competition might not play a big role in the EAC, this does not mean that there are no disagreements between the parliamentary groups, even between the yes-parties, on a particular file of EU policy-making. “[D]ifferent party political views on certain political issues and decisions do play a role” (Auel/Benz 2005: 384). These might be hashed out behind closed doors, meaning that these discussions are hard to detect if one relies only on insights into formal control activities. In this dissertation, it is its qualitative nature, relying on in-depth insights gathered via expert interviews and based on a broad conceptualization of control, including informal means of scrutiny, that enables to uncover such behind-the-door debates and dynamics. Moreover, whilst *forlig* on particular EU issues do exist,¹⁷⁸ the parliamentary groups have not entered, to the author’s knowledge, such political agreements on the three international negotiations under investigation here. As will become evident in the empirical analysis, there is some level of policy conflict among the parliamentary groups in the Folketing on the three agreements.

9.3. Parliament-Specific Causal Factors in the Folketing

The theoretical framework developed in chapter 4 distinguishes between causal factors that are international agreement-specific, parliament/parliamentary group-specific, and agreement * group-specific. In the following sub-chapters, the values of causal factors that are parliament/parliamentary group-specific are introduced and their values will be identified for the Folketing.

¹⁷⁶ <https://www.ft.dk/da/folkestyret/regeringen/saadan-arbejder-regeringen>.

¹⁷⁷ <https://www.eu.dk/da/danmark-i-eu/indfyldelse/dansk-europapolitik>.

¹⁷⁸ E.g. on the Lisbon Treaty and the 2015 public referendum on Denmark’s opt-out in Justice and Home Affairs, <https://www.eu.dk/da/danmark-i-eu/indfyldelse/dansk-europapolitik>.

9.3.1. The Public Saliency of the International Agreements: The National Level

Section 6.4.1 discussed the EU-level public saliency of the three international agreements under investigation. Based on Eurobarometer and secondary data, it was determined that the EU-Japan FTA is of high saliency, the EU-Tunisia Readmission Agreement negotiations of medium saliency, and the negotiations of the Kigali Amendment of low saliency. To inquire further into their national-level public saliency, it is necessary to investigate their national media saliency, as argued in section 5.5.1.3.2.

Table 51 reports the number of articles found in simple keyword searches in the online search engines of three of Denmark's largest newspapers conducted for the period 2012-July 2018.¹⁷⁹

Table 51: National Level Media Saliency: Denmark

	EU-Tunisia Readmission Agreement	EU-Japan Free Trade Agreement	The Kigali Amendment
Search Term	Tunesien tilbagesendelse*	Japan frihandel*	Montreal-Protokollen HFC
Berlingske	2	60	1
Jyllands-Posten	2	257	3
Ekstrabladet	0	84	3

At first glance, the numbers indicate that the EU-Japan FTA is of high public saliency in Denmark, whereas both the Kigali Amendment and EU-Tunisia Readmission Agreement are of low saliency.

Further investigation shows that readmission negotiations with Tunisia are not salient at all in Denmark. All newspapers report on Tunisia in connection with migration and asylum but not on national or European interaction with Tunisia on readmission of irregular migrants. This leads to a tentative conclusion that unlike originally identified, the agreement has not been publicly salient in Denmark. This will be discussed further in the case study below. In contrast, all newspapers report on the EU-Japan FTA negotiations, including the progress and the conclusion of the agreement. The high attention to the negotiations in the Danish media combined with the general observations

¹⁷⁹ Politiken, one of the four largest newspapers in Denmark, was excluded from this quantitative investigation, as its keyword search produced unreliable and incorrect findings. Depending on the search engine, the search terms were combined with the connector "AND".

from the European level lead to the reasonable conclusion that the public salience of the EU-Japan FTA is high also in Denmark. Finally, all newspapers merely reported on the conclusion of the Kigali Amendment in one or several articles and did not publish articles on the negotiations prior to that. Combined with the insights from the European level, the issue is of low public salience in Denmark.

9.3.2. The Institutional Status of the Parliamentary Groups

Part 1 of the Danish Constitution holds that the government of Denmark is a parliamentary system under a constitutional monarchy. Formally, the cabinet is appointed by the Crown but based on the party composition in the Folketing. Governing parties in the Folketing can, also in Denmark, be conceptualized along the representative dimension, namely as those represented in Government. Opposition parties, in contrast, are not represented in the Danish government.

The negotiations of the international agreements under analysis here cover the period from 2012 to the present. From the perspective of the parliamentary groups in the Folketing, they thus cover two legislative periods, 2011-2015 and 2015-the present, as parliamentary elections took place on 15 September 2011 and 18 June 2015. These two legislative periods have seen four minority governments consisting of different party coalitions. After the parliamentary elections in 2011, Socialdemokratiet (S) formed a minority government together with Radikale Venstre (B) and the Socialistisk Folkeparti (SF). Enhedslisten (EL) acted as supporting party. A supporting party is not a formal part of a (minority) government but supports it in parliament. As such, it occupies an intermediary position between actual opposition and governing parties. They often provide the necessary parliamentary majority for the government to govern effectively, but since they are not governing parties, they do not necessarily agree with the government, and their support often requires political concessions from the government (Blondel/Cotta 1996: 6).

In January 2014, Socialistisk Folkeparti announced their departure from government due to conflict with the other governing parties. However, they continued to act as supporting party, together with Enhedslisten, until the parliamentary elections in June 2015.¹⁸⁰ After the elections, Venstre (V) formed a single-party minority government from June 2015 until November 2016, which was supported by Dansk Folkeparti (DF), Liberal Alliance (LA) and Det Konservative Folkeparti (DKF). After November 2016, Liberal Alliance and Det Konservative Folkeparti officially joined the government, with

¹⁸⁰ <http://cphpost.dk/news/national/sf-leaves-government-vilhelmsen-steps-down.html>.

Dansk Folkeparti continuing to act as supporting party. Alternativet (Å), which entered the Folketing for the first time with the 2015 elections, has since then acted as opposition party. Table 52 provides an overview of the composition of Danish governments between 2011 and today.

Table 52: Overview of Danish Governments, 2011-today

	S	DF	V	EL	LA	Å	B	SF	DKF
2011-2014	G	O	O	S	O	-	G	G	O
2014-2015	G	O	O	S	O	-	G	S	O
2015-2016	O	S	G	O	S	O	O	O	S
2016-today	O	S	G	O	G	O	O	O	G

Note: G = governing party; O = opposition; S= supporting.

In sum, there are two important issues to be dealt with when identifying a group's institutional status: how to deal with the status of supporting parties and with the status of the groups when negotiations of an international agreement fell into both legislative periods?

Concerning the latter, recall that the underlying argument for the causal factor "institutional status" is that the benefits of parliamentary control are higher for opposition than for governing parties, due to expected policy conflict with the governing executive, which an opposition is not part of. The benefits are low for governing parties. It can be argued that the benefits – spanning the entire period – can be expected to be of medium size for groups that have both been in government and opposition during the negotiations. This is possible because the intensity of parliamentary control is analysed and determined based on parliamentary actions throughout the negotiation period, i.e., there is no distinction between intensity of control as a governing and as an opposition party. For reasons of analysis, parties that have been supporting parties before or after having been part of it in one legislative period (see above, SF between 2014 and 2015; LA and DKF between 2015 and 2016) will be seen as governing parties throughout the legislative period.

Regarding the institutional status of supporting parties, no parliamentary group has been acting as supporting party throughout the period under investigation here. Enhedslisten and Dansk Folkeparti have partially been supporting, and partially opposition parties. Here, the dissertation argues that the group's policy position on the topic under negotiation is decisive: considering that supporting parties are not part of the government, they can deviate from the government's position on certain issues and be in conflict with it, which in turn increases the benefits of control. This is more likely to be the case when the group is critical of the topic under negotiation and less likely when the

group substantively supports it. For those two parliamentary groups, their policy position needs to be taken into consideration when the outcome is predicted in a comparative perspective.

9.3.3. The Overall Resources of the Parliamentary Groups

Section 5.5.1.3.6 argued that a parliamentary group's capacity to cope with the large volume of highly technical information and the complexity of the EU international treaty-making process depends on the group's access to human and technical resources, i.e., support staff, expertise and time. The overall resources of a parliamentary group have been operationalized as the number of members a group provides in the responsible committee as well as the policy advisors a group has on the issue.

As the control of EU affairs in the Folketing is centralized in the European Affairs Committee, the number of members in this committee determines the overall resources of a parliamentary group. The composition of the current European Affairs Committee can be found in the appendix 4.

Determining the number of policy advisors on the issue under negotiation is more difficult, as in many instances, groups do not have enough advisors to cover individual policy areas, and an advisor may work on two, three or more issues simultaneously (FT05). It is not necessarily readily identifiable from the groups' websites which advisor works on which issues. Moreover, not all parliamentary groups have replied to an email request for information. Therefore, the dissertation will develop a new indicator for the Folketing to measure the overall resources of a parliamentary group. This measure is applicable to all Folketing case studies irrespective of the particular international agreement under analysis, serving as an indicator for the overall resources of a group for controlling EU policy-making. The indicator consists of the number of EAC members of a given political group relative to the total number of seats in the committee, and the overall number of policy advisors each political group has, relative to the highest number of advisors of all other groups. The measurement is explained in more detail in appendix 4 and concludes with the values listed in Table 53.

Table 53: Parliamentary Groups' Policy Resources

EAC MPs Policy Advisors	High	Medium
	High S, V	Medium EL
Low	Medium DF	Low LA, Å, B, SF, DKF

9.4. Roadmap of the Empirical Investigation

The next step in the dissertation is the empirical investigation of how and why the parliamentary groups in the Folketing have controlled the EU-Japan FTA negotiations (chapter 9.5.), the Kigali Amendment negotiations (chapter 9.6.) and eventually the negotiations of the EU-Tunisia readmission agreement (chapter 9.7.), where Denmark has an opt-out.

9.5. Parliamentary Control of the EU-Japan FTA Negotiations in the Folketing

Denmark is a small, open economy with a very free trade-friendly attitude and a strong interest in the conclusion of both multi- and bilateral free trade agreements.¹⁸¹ The Danish government has been among the strongest advocates in the EU of a free trade agreement with Japan and has continuously maintained a trade surplus against Japan. Denmark had an interest in opening up the Japanese market for agricultural products, especially pork, the Danish food industry and pharmaceutical products. These product categories have been an important component of the negotiations between the EU and Japan, and Denmark has therefore expected an ambitious free trade agreement with a clear positive economic impact (Samlenotat Rådsmøde 3086: 6). Indeed, calculations made by Copenhagen Economics on behalf of the Danish Ministry of Foreign Affairs show that as a direct result of the EU-Japan FTA, Danish exports to Japan can be expected to rise by up to 70 % (Johansen 2017: 2).¹⁸² When Denmark held the Council Presidency in the first half of 2012, its declared main priority in trade policy was the launch of free trade talks between the EU and Japan, and it welcomed the conclusion of the agreement in 2017, stating that, “it is a good day for Denmark that there is now political agreement on a EU-Japan free trade agreement. [...]. Overall, Denmark appears to be among the biggest winners in an agreement with Japan”¹⁸³.

In Denmark, free trade came into the public's and the Folketing's spotlight in the ratification phase of CETA in 2016-2017. Denmark was the second country in the EU to ratify the trade agreement between the EU and Canada, but it was not a smooth process. The Folketing groups disagreed on the content of the agreement and on ratification, and there was also an institutional

¹⁸¹ <https://www.business.dk/global/dansk-jubel-over-historisk-frihandelsaftale-med-japan>.

¹⁸² Medical and pharmaceutical products; meat and meat products; processed goods; technical and scientific instruments; dairy products and eggs.

¹⁸³ <https://www.business.dk/global/dansk-jubel-over-historisk-frihandelsaftale-med-japan>.

power struggle: the Danish government had never asked for a parliamentary mandate for the negotiations on the trade agreement with Canada, meaning that the Parliament was deprived of its strong *ex ante* scrutiny rights. Back in 2009 when negotiations between the EU and Canada were launched, the Danish government considered the agreement not to be of major economic and political significance (EUV Alm.del 2015-16 svar sp. 102). The parliament therefore interacted with the government to ensure that its *ex ante* rights are considered in the future. Moreover, the agreement received strong attention by Folketing members in its final negotiation and ratification stage. Wanting to make sure that the agreement was concluded according to due and sound democratic procedures, “it cannot be ruled out that parliament was so thorough because the government never asked for a mandate, and that now was the time to ensure involvement and democratic processes” (FT02).

It can now be asked how and why the parliamentary groups in the Folketing have controlled the negotiations between the EU and Japan on a free trade agreement. As usual, the case study starts with an overview of the treatment of the file in the Folketing, followed by a comparative congruence analysis and concluded by an in-depth process-tracing analysis of several parliamentary groups.

9.5.1. Overview of the Folketing’s Treatment of the File

The general importance of free trade agreements for members of the Folketing has increased in the aftermath of the TTIP and CETA negotiations. On the one hand, free trade-critical parliamentary groups have paid greater attention to other trade talks with non-EU states; on the other hand, “the parties that think that JEFTA is a good thing are afraid that it can explode like it did with CETA, the debate. So of course, there is more focus on it” (FT05). Whilst this means that the EU-Japan FTA is on the radar of the Folketing’s parliamentary groups, the parliamentary treatment of the negotiations has predominantly taken place in the EAC. Other committees in the Folketing have played a minor or no role at all. “I don’t think [it has been on the agenda of other committees]. I just looked, and I couldn’t see ... And I haven’t heard of it. And I haven’t really heard of trade issues being on other agendas than the European Committee” (FT05). This also means that the agreement has not been thoroughly discussed in the parliamentary plenary, as there has not been a single plenary meeting agenda point solely dedicated to the negotiations with Japan.

In the Danish EAC, the schedule of treatment has mainly been set by the meetings of the Foreign Affairs/Trade Council and by whether the topic of the EU-Japan negotiation was on the Council’s agenda. Only if this was the case, the government proactively informed the European Affairs Committee in its summary memorandum of the progress of the negotiations, its position and

the position of the other participants in the negotiations, and, in some instances, gave the Committee the opportunity to discuss the agreement more in depth with the attending Minister. The EAC may call the responsible minister, independent of the agenda of Council meetings, to give a report, but it has not done so concerning the negotiations between the EU and Japan (FT06). The EAC has been informed on and/or debated the EU-Japan FTA ten times between 2011 and 2018.

The Danish government started early in the EU-Japan negotiation process to inform the parliament of the negotiations. Already before negotiations were officially launched, the Folketing had received three summary memoranda with reference to the trade relations between the EU and Japan, one in May 2011, one in March 2012 and one in May 2012. Recall that the government issues these memoranda for the Folketing, so that its members, and in particular the members of the European Affairs Committee, receive information on, can debate and, if applicable, mandate the government for upcoming Council meetings. Unlike in the instance of the EU-Canada negotiations, the government did ask for a mandate to participate in the Council negotiations on the authorization to open negotiations between the EU and Japan. It did so just before the Council meeting on 29 November 2019 when the authorization and the accompanying EU negotiation directives were adopted. The mandate for the government was given on 23 November, and after little debate the parties unanimously supported mandating the government as requested (Samlenotat Rådsmøde 3203).

On most occasions when the EU-Japan FTA was on the agenda of the European Affairs Committees, the topic was a political discussion point, and the members had the opportunity to ask questions to the government representative and exchange views with each other and the government. However, in practice, the agreement was hardly ever discussed in-depth in the Committee. “It is the mandate ... I think we have been two members who have raised questions at some meetings. [...]. So there was not much going on, no controversies, even within the Committee” (FT05). According to the minutes of the EAC meetings, the FTA was only discussed thoroughly on four occasions. Most of the times, the Committee was merely informed by the government, in writing in the summary memorandum, and orally through the minister’s presentation of the developments in the negotiations. “We don’t do anything proactive, we will get some information when it is on the agenda in the European Committee, but ... [So] usually, it is just as an orientation point” (FT05).

In addition to receiving information on and discussing the EU-Japan FTA negotiations, the Folketing engaged proactively with the topic by sending a parliamentary delegation of the Committee on Business, Growth and Export

to Japan in March 2017. The delegation consisted of members of Socialdemokratiet, Dansk Folkeparti, Venstre and Liberal Alliance, and its main goal was to study robotics and automation in production companies to gain inspiration for Danish manufacturing companies. However, the delegation also engaged with the topic of the trade negotiations between the EU and Japan. “[For] the Japan agreement, [we were] actually there with the Committee on Growth and Business of the Folketing; we visited Tokyo in March this year. That was some of the topics we talked about. [...]. And it was really interesting to engage with them” (FT06). The delegation met with Danish and Japanese businesses, and was briefed on the Japanese government’s view on free trade, including the importance of an EU-Japan Free Trade Agreement (ERU Alm.del 2016-17 Bilag 185).

Before the empirical analysis of partisan control action, a last issue to be touched upon is the Folketing’s access to negotiation documents and information on the progress of the negotiations. As explained above, Folketing members only have direct access to EU documents qualified as “unclassified” and “limité”, and are not automatically able to access the negotiation mandate or any consecutive negotiations documents, as these are commonly classified as “restreint UE”. The EAC has not asked for access to the latter concerning the EU-Japan FTA negotiations (FT04) and thus gave the Danish government its mandate to negotiate in the Council without having read the Commission’s recommendations. Nor did it have official access to the adopted directives. Moreover, the parliamentarians did not have automatic and direct access to the draft negotiations texts or EU-level reports from the negotiations rounds. Their main source of information are the reports provided by the Danish government on Trade Council Meetings, summary memoranda. Moreover, they receive notes from EU staff of the Folketing on specific components of the Treaty and use leaked negotiation papers, especially those that have been published on the Commission’s website afterwards (FT05).

9.5.2. Partisan Control Action: A Comparative Congruence Analysis

Recall that the overarching research question investigates the actions and motivations of the Folketing’s parliamentary groups, and not the Folketing as a unit. In order to focus further on the groups’ control of the EU-Japan FTA negotiations, the following sub-chapter will conduct a comparative congruence analysis as a first step of the empirical investigation. It follows the well-known structure of first deductively generating predictions about the intensity of parliamentary control that the various parliamentary groups will display, followed by a presentation of the “how” of parliamentary control. This allows

a comparison between the predicted outcomes and actual values of the dependent variable in order to test the (non-)congruence between the deduced predictions and the actual data.

9.5.2.1. Step 1: Predicting the Outcome

The following paragraphs will identify the values of the causal factors for every parliamentary group in the Folketing, which enables the comparison-based prediction of the outcome of the dependent variable, the intensity of parliamentary control, on the basis of the established theoretical framework.

9.5.2.1.1. The Public Salience of the EU-Japan FTA Negotiations

As demonstrated above, the public salience of the EU-Japan FTA in Denmark has been high as it was on the European level (see section 9.3.1).

9.5.2.1.2. The Institutional Status of the Political Groups

The EU-Japan FTA negotiations were authorized in 2012 and coincided with two legislative periods in the Folketing. Based on the discussions of the parliamentary groups' institutional status above, Table 54 provides an overview of the entire negotiation period. The simplifications argued for above concerning the status of groups that are both in government and support the government within one legislative period have already been included.

Table 54: Overview of Danish Governments, 2011-today

	S	DF	V	EL	LA	Å	B	SF	DKF
2011-2015	G	O	O	S	O	-	G	G	O
2015-today	O	S	G	O	G	O	O	O	G

Note: G = governing party; O = opposition; S= supporting.

9.5.2.1.3. The Policy Positions of the Parliamentary Groups

As described above, Denmark can be characterized as very free trade-friendly. However, in recent years, the parliamentary groups in the Folketing have taken different positions on free trade and specific free-trade agreements. In the following, the policy positions of the various groups on free trade, and on the EU-Japan FTA, will briefly be presented.

Socialdemokratiet considers free trade agreements with other countries and regions of the world to be an effective solution for fostering growth in Denmark and in the EU and as a possibility to define minimum standards for working environment, consumer safety and wage conditions in other parts of

the world. They will not accept FTAs that compromise EU consumer protection and environmental standards. However, they do not have such concerns about the EU-Japan FTA and are overall in specific support of the negotiations.

Dansk Folkeparti is very opposed to the EU and European integration. However, they are in favour of a common trade policy, believing that “if the EU is entitled to exist, it is precisely in relation to the core task of trade, including, on behalf of Denmark, free trade agreements with non-EU countries” (Kristensen Berth, B74 2016-17). They have supported previous free trade agreements negotiated in the EU framework, and are supportive of the EU-Japan negotiations, arguing that Denmark will fundamentally benefit from the agreement (Kristensen Berth, B74 2016-17). Overall, Dansk Folkeparti is thus in specific support of the negotiations.

Venstre considers free trade to be an essential means to increase prosperity for all people in all countries, both inside and outside the EU. Therefore, Denmark should work towards an open trade policy.¹⁸⁴ The group emphasizes that Denmark is a small, open economy, and its well-being is conditional upon trade with other nations and regions (Jørgensen, B74 2016-17). In regard to the EU-Japan FTA, the group has claimed that “an agreement with Japan would be of great benefit to Denmark in terms of our exports of, among other things, drugs, energy and food” (EUV Alm.del Offentligt referat rådsmøde 3203). Hence, Venstre is in specific support of the EU-Japan FTA negotiations.

Enhedslisten is overall very EU-critical, deploring its focus on economic growth and arguing that the Internal Market is making worse decisions than Denmark would by itself.¹⁸⁵ The group is not opposed to cross-border trade per se, but they see the EU’s free trade strategy as a race to the bottom, breaking down international standards for consumer safety, environmental standards and wage and working conditions, and only benefiting the top of society, and not the broader parts of the Danish population.¹⁸⁶ Enhedslisten is among the most critical groups in the Folketing of modern free trade agreements in general, which also extends to the EU-Japan FTA, arguing that the EU usually negotiates FTAs that the group cannot and will not support (FT05). Enhedslisten is hence in specific opposition to the EU-Japan negotiations.

Liberal Alliance is a strong supporter of a European single market and free trade in the EU framework, believing that this should be one of the main focal

¹⁸⁴ <https://www.venstre.dk/politik/principprogram/global-handel>.

¹⁸⁵ <https://europabevaegelsen.dk/folketingsvalg-d-18-juni/>.

¹⁸⁶ <https://www.altinget.dk/eu/artikel/el-om-frihandelsaftaler-billigere-hummer-til-de-rige>.

points of EU cooperation.¹⁸⁷ The group hopes that the EU supports free trade globally and concludes bilateral trade agreements with important strategic partners, including Japan.¹⁸⁸ Overall, Liberal Alliance is in specific support of the EU-Japan FTA.

Alternativet is among the most free trade-critical parliamentary groups in the Folketing. They do not oppose free trade per se, as they see its benefits to the Danish state and economy. However, they are critical of the concrete FTAs the EU is currently negotiating, because they do not respect the Sustainable Development Goals, green development and developing countries. However, they see the EU-Japan FTA negotiations as “not one of the worst” of recent years. Especially in comparison to TTIP and CETA, the group sees “some actual improvements in the trade agreement with Japan” (FTO4). Overall, the group is thus rather free trade-critical but does not extend this criticism to the EU-Japan FTA, and can be categorized as being in complementary criticism to the negotiations.

Radikale Venstre generally believes that the EU is crucial to Danish society and wants to strengthen European economic cooperation as well as European foreign policy.¹⁸⁹ They are very much in favour of concluding free trade agreements within the EU framework, arguing that free trade creates prosperity and supports peaceful relations between countries. Whilst the group agrees with some of the criticism of free trade agreements in recent years, they argue that there has been clear success in improving some shortcomings (Stampe, B74 2016-17). The group has stated that it will work for the EU to conclude the free trade agreement with Japan as an important strategic trading partner.¹⁹⁰ Radikale Venstre is thus in specific support of the negotiations.

Socialistisk Folkeparti emphasizes the EU’s responsibility to ensure a greener Europe with investment in growth and green change. International trade should be promoted with respect for the environment and without competing in a race-to-the-bottom.¹⁹¹ The party agrees that free trade is important, as it can bring about political and economic advantages if countries and businesses trade more with one another, but it is necessary to address the social and environmental issues free trade agreements bring with them (Nielsen, B74 2016-17). The group has not voiced similar criticism regarding the EU-

¹⁸⁷ <https://europabevaegelsen.dk/folketingsvalg-d-18-juni/>.

¹⁸⁸ <https://di.dk/opinion/europapolitikken/pages/hvadmenerpartierne.aspx>.

¹⁸⁹ <https://europabevaegelsen.dk/folketingsvalg-d-18-juni/>.

¹⁹⁰ <https://di.dk/opinion/europapolitikken/pages/hvadmenerpartierne.aspx>.

¹⁹¹ <https://di.dk/opinion/europapolitikken/pages/hvadmenerpartierne.aspx>.

Japan free trade agreement, but overall taken a rather supportive stance.¹⁹² Socialistisk Folkeparti is thus in specific support of the EU-Japan FTA negotiations.

Lastly, Det Konservative Folkeparti strongly supports free trade in the European framework, arguing that free trade is the foundation of prosperity in the West and especially in Denmark. Whilst being aware that there are commonly some disadvantages when entering into agreements with other countries, the group considers these clearly outweighed by the benefits of free trade agreements (Jarlov, B74 2016-17). The group argues that “in order to secure growth and jobs in Europe, the EU must establish free trade agreements with the United States, Canada, Japan, India and other important trading partners as soon as possible”.¹⁹³ The group is in specific support of the EU-Japan FTA negotiations.

9.4.2.1.4. The Likelihood of Substantive Impact

Above, the two-step procedure for determining the groups’ likelihood of having substantive policy impact on international negotiations was introduced, focusing on the legal status of the agreement under investigation, as the first step, and the groups’ size in parliament in a potential second step.

The case presentation of the EU-Japan FTA touched on the confusion around its legal status as mixed or exclusive. It is fair to assume at this stage that the agreement will be exclusive, but Folketing members have assumed for a long time that the agreement would be mixed. This started with one of the first summary memoranda from the Danish government, which stated that “negotiations will be based on Article 207 TFEU. They aim at concluding a mixed agreement, with the EU and the Member States as parties on the European side” (Samlenotat Rådsmøde 3086). The assumption among Danish MPs that they would eventually have to ratify the EU-Japan FTA is supported by the interview data collected in summer 2017 as all interviewees shared this expectation. This means that MPs acted as if the agreement was mixed, which implies that when determining a group’s (perceived) likelihood of having an impact as providing a motivation for controlling the negotiation process, the EU-Japan FTA was approached as mixed. Against this background, the three largest parliamentary groups have credible veto power, as their refusal to give consent to an international agreement might lead to ratification failure. Hence, Socialdemokratiet, Venstre and Dansk Folkeparti are argued to have

¹⁹² Tv fra Europaudvalget, 15.05.2018, [https://www.eu.dk/samling/20181/kom-missionsforslag/kom\(2018\)0192/index.htm](https://www.eu.dk/samling/20181/kom-missionsforslag/kom(2018)0192/index.htm).

¹⁹³ <https://di.dk/opinion/europapolitikken/pages/hvadmenerpartierne.aspx>.

perceived to have a high likelihood of influence on the EU-Japan FTA negotiations, whilst the likelihood is low for the other parliamentary groups.

9.5.2.1.5. *The Overall Resources of the Parliamentary Groups*

In sub-chapter 9.3.3, a measure for the groups' overall resources was developed, which is independent of the policy field in which the actual negotiations take place. According to this measure, Socialdemokratiet and Venstre have high resources, Enhedslisten and Dansk Folkeparti medium resources and the remaining groups low resources.

9.5.2.1.6. *Efficiency Costs: Complexity and Compellingness*

Without repeating the underlying argumentation of how the complexity of the policy area and the compellingness of the EU-Japan negotiations have been identified, recall at this point that both complexity and compellingness have been described as high (sections 6.4.2 and 6.4.3).

As in the previous case studies, the efficiency costs of parliamentary control stemming from a highly complex negotiation subject and a highly compelling negotiation setting are moderated by a group's policy position on the agreement under negotiations. Only groups that are supportive of them are expected to take these efficiency cost into consideration. Table 55 gives an overview of the cost of parliamentary control of the EU-Japan FTA negotiations, which are characterized by high complexity and high compellingness.

Table 55: Efficiency Costs Stemming from Complexity and Compellingness

Political Group/ Policy Position	Causal Factor	
	Complexity High	Compellingness High
Socialdemokratiet/Specific Support	High costs	High costs
Dansk Folkeparti/Specific Support	High costs	High costs
Venstre/Specific Support	High costs	High costs
Enhedslisten/Specific Opposition	Low costs	Low costs
Liberal Alliance/Specific Support	High costs	High costs
Alternativet/Complementary Criticism	Medium costs	Medium costs
Radikale Venstre/Specific Support	High costs	High costs
Socialistisk Folkeparti/Specific Support	High costs	High costs
Konservative Folkeparti/Specific Support	High costs	High costs

9.5.2.1.7. Predicting the Intensity of Control

Having established the values of the causal factors for the parliamentary groups in the Folketing in the case of the EU-Japan FTA negotiations, the following paragraphs will deductively predict the intensity of parliamentary control each group is expected to display. This is done in a comparative approach with focus on the combination of costs and benefits within and across parliamentary groups.

Starting with the benefits parliamentary groups are assumed to gain from controlling the negotiations, the theoretical framework has argued that the higher the salience of the policy area and negotiations, the higher the vote-seeking benefits for the parliamentary groups. As the salience of the EU-Japan FTA has been identified as high, these benefits can be assumed to be equally high for all parliamentary groups. Second, the institutional status is expected to affect the size of a group's policy-seeking benefits, with the benefits being high for opposition parties and low for majority parties. As the negotiations of the EU-Japan FTA have fallen into two legislative periods in the Folketing, with quite some government re-shuffling, it is necessary to elaborate on this point. Parties that have been both in opposition and government during the negotiation period have been assumed to gain medium benefits of parliamentary control. This applies to all parties but Dansk Folkeparti, Enhedslisten and Alternativet. The latter only entered the Folketing in 2015 and has since then been an opposition party, meaning that it can expect high policy-seeking benefits due to its institutional status. Dansk Folkeparti and Enhedslisten have been both opposition parties and supporting parties for a minority government. It was argued above that in this instance, the policy-seeking benefits based on their institutional status, and assumed policy conflict with the government, are affected by the group's policy position on the issue under negotiation, as supportive groups, unlike governing parties, can deviate from the government's policy position. Dansk Folkeparti is in specific support of the negotiations, which means that its policy-seeking benefits are assumed to be of medium size. The policy-seeking benefits are high for Enhedslisten, which is in specific opposition to the EU-Japan FTA. Moreover, the theoretical framework holds that the more in opposition to an agreement a group's policy position is, the higher are the policy-seeking benefits of parliamentary control. All parliamentary groups but Enhedslisten and Alternativet have been identified to be in specific support of the agreement, and the policy-seeking benefits stemming from their policy position are expected to be low. Enhedslisten as the only group in specific opposition is assumed to perceive these benefits as high. Alternativet in complementary criticism is predicted to perceive them as medium. Lastly, the size of the policy-seeking benefits for a group are argued

to be affected by the group's chances of having substantial policy impact. Only Socialdemokratiet, Dansk Folkeparti and Venstre are argued to be large enough to constitute a credible veto threat. For these groups, the likelihood of influence is high; for all other groups, it is low.

On the cost-side of parliamentary control, the theoretical framework holds that the higher the overall resources of a parliamentary group, the lower the resource costs of parliamentary control. Only Socialdemokratiet and Venstre have been identified to have high resources, Enhedslisten and Alternativet medium resources and the remaining groups lower resources; which means the former have low resource costs of controlling the EU-Japan FTA negotiations, the latter high costs and Enhedslisten and Alternativet medium cost. Finally, both the complexity and the compellingness of the EU-Japan FTA negotiations have been identified as high. Hence, based on the theoretical prediction that the higher those two factors, the higher are the efficiency costs of parliamentary control for those groups supportive of the negotiations, all groups but Enhedslisten and Alternativet are assumed to perceive the efficiency costs stemming from the negotiator's need for discretion in highly complex and compelling negotiations as high. Enhedslisten, in specific opposition, is expected to perceive these cost as low; Alternativet, in complementary criticism, medium. Table 56 recaps:

Table 56: Overview of Theory-based Predictions

Benefit/cost	Actor		S	DF	V	EL	IA	A	B	SF	DKF
	Vote-seeking benefits		High	High	High	High	High	High	High	High	High
	Policy-seeking benefits: institutional status		Medium	Medium	Medium	High	Medium	High	Medium	Medium	Medium
	Policy-seeking benefits: policy position		Low	Low	Low	High	Low	Medium	Low	Low	Low
	Policy-seeking benefits: likelihood of impact		High	High	High	Low	Low	Low	Low	Low	Low
	Resource costs		Low	Medium	Low	Medium	High	High	High	High	High
	Efficiency costs: complexity		High	High	High	Low	High	Medium	High	High	High
	Efficiency costs: compellingness		High	High	High	Low	High	Medium	High	High	High
	Intensity of control		Medium	Low	Medium	High	Low	Medium	Low	Low	Low

Table 56 will now be used to predict the values of the intensity of parliamentary control that every group is expected to exhibit. The following paragraph will comparatively investigate which group(s) is (are) assumed to gain the highest benefits and the lowest costs from control, and vice versa. On first sight, Liberal Alliance, Radikale Venstre, Socialistisk Folkeparti and Det Konservative Folkeparti display exactly the same values for all costs and benefits, which indicates that they can reasonably be assumed to control the negotiations of the EU-Japan FTA with the same intensity. They are expected to meet high costs of controlling the negotiations and only moderate benefits when doing so. A somewhat similar cost-benefit ratio is displayed by Dansk Folkeparti, with high costs of controlling the negotiations and comparatively moderate benefits. These groups are expected to control the EU-Japan negotiations with a low intensity. In contrast, Enhedslisten can expect to gain the highest benefits of parliamentary control and to have the lowest costs of all parliamentary groups in the Folketing. This means that the group is assumed to control the EU-Japan FTA negotiations with high intensity. Lastly, Socialdemokratiet and Venstre, too, display the same cost and benefits of control: they are expected to gain both moderate benefits and pay moderate costs for scrutinizing the negotiations. Alternativet scores differently on the individual causal factors, but its overall cost-benefit resembles the one of Socialdemokratiet and Venstre. Taking an intermediate position between the previously named two groups of low and high intensity of control, these three parliamentary groups can thus be expected to control the negotiations with a medium intensity. See all predicted values above in Table 56.

9.5.2.2. Step 2: How Have the Parliamentary Groups Controlled the EU-Japan FTA Negotiations?

Step two of the comparative congruence analysis is a closer investigation of the “how” of parliamentary control to be able to compare the predicted values of the intensity of parliamentary control with the actual values that can be observed when studying the behaviour of the Folketing’s parliamentary groups scrutinizing the EU-Japan FTA negotiations.

9.5.2.2.1. Socialdemokratiet

Socialdemokratiet has not been very active in controlling the negotiations between the EU and Japan. The group’s overall aim has been to monitor the developments and the progress of the trade talks thoroughly, and less to actually influence the negotiations substantively nor supportively. Its control activities have generally been aimed at scrutinizing the Danish government, and less so the European level: “The control is directed at the Danish government and how the Danish government acts on behalf of Denmark in the negotiations

with the other EU countries. If there is something more EU internal related issue, [...], we are the largest group within the European Parliament from the Danish group, and then we use them" (FT06). The group has used both formal and informal means of parliamentary control.

Concerning the group's monitoring scrutiny, Socialdemokratiet has relied on its automatic, formal access rights to information from the negotiations and the government's summary memoranda. However, the group is not necessarily satisfied with the information they have received, arguing that, "there could be more automatic flows of information. [...] I think it sometimes can be very difficult to have a clear overview of how things are progressing" (FT06). However, the group has not followed up proactively on the received government reports by requesting further information or document access (FT06). In its formal interaction with the Danish government, Socialdemokratiet has been rather reactive, but it has been more proactive when it comes to informal monitoring, knowing public servants and ministers personally (FT06). Lastly, the group emphasizes the importance of the European Parliament and the close cooperation and information exchange with its members in the EP. In a way, its EP members have a fire alarm function, as "they send us, because they follow the actual negotiations even closer, on every issue, clearly. So they send us weekly updates. And when there is a case or a topic which is very hot, then we coordinate daily" (FT06), beyond monthly coordination meetings of Socialdemokratiet's members of the Foreign Affairs and the European Affairs Committee with its EP members in Copenhagen. Occasionally the group uses its MEPs proactively to exert substantive influence on negotiations directly at the EU level via the European Parliament on the Commission, but it has not done so in regard to the EU-Japan FTA (FT06). Rather, the aim of its control activities in interaction with the EP has been to receive information and further insights into the ongoing negotiations, i.e., monitoring.

When it comes to influencing the negotiations, the group emphasizes the importance of the ex ante control instrument of giving the Danish government a mandate for negotiations with the other EU member states in the Council on the topic. Generally, its MPs claim in regard to trade politics that they "have a [...] focus that trade shouldn't be able to create social dumping, no tax dumping, nor dumping of standards on environmental protection and consumer protection and so forth. We try to insist on that when we have those discussions in giving out mandate, now that we are in opposition, to the government. And I think when we were in government, we tried to balance the mandate we seek from the parliament in a direction where it is more visible that we have those positions". When the Folketing's European Affairs Committee gave the mandate to the government for the EU-Japan negotiations in November 2012, Socialdemokratiet was in government. They had the opportunity to influence

the mandate much more informally and did not raise any concerns in the Committee meeting (EUV Alm.del Offentligt referat rådsmøde 3203). Beyond the mandate, the group generally considers parliamentary debates, in the Committee with the responsible ministers, and in plenary with the other parliamentary groups, as important instruments to exert influence on the negotiations, the former having direct impact on the minister, the latter raising the issue in the public debate and hence creating public pressure. Wanting to transfer points of substantive criticism to international negotiations, Socialdemokratiet is thus active “inside the parliament and outside” (FT06). However, little such activity can be seen in relation to the negotiations between the EU and Japan, which contributes to the overall impression that the group has not actively attempted to influence the negotiations. However, Socialdemokratiet has referred to the EU-Japan FTA negotiations in several plenary debates on interrelated issues, usually to express the group’s support of the negotiations. However, they are not voiced strongly enough as to have an influencing (supportive) function (e.g. Hummelgaard, B74 2016-17; R3 2017-18).

9.5.2.2.2. Dansk Folkeparti

Whilst Dansk Folkeparti has an overall favourable view on parliamentary control, it is not necessarily inclined to make strong use of its scrutiny rights (FT09). As far as its control of the negotiations between the EU and Japan, the group argues that it is overall not very active on the FTA but it follows and controls it more actively than most other international agreements being currently negotiated within the framework of the EU. Whilst the group is aware that it could attempt to influence the negotiations substantively, it clearly states that its control actions are more aimed at monitoring the process and gathering information on the negotiations (FT09). The group’s scrutiny is mainly directed at the Danish government, as they do not view it as beneficial to attempt to interact directly with the European executive. Lastly, Dansk Folkeparti has used formal instruments set out by the legal framework of parliament-government relations, as well as informal mechanisms (see below).

The group perceives the Folketing’s EAC to be the main locus for monitoring negotiations between the EU and Japan, as the committee gives the ex ante mandate to the Danish government, and this is where the governments returns with updates on the progress of negotiations. Beyond these government reports, the group is generally satisfied with the Folketing’s access to negotiation documents. “Of course, there might be times when I think ‘why can’t I get that information’, but in general, I wouldn’t be critical towards that” (FT09). Thus, Dansk Folkeparti has been monitoring the negotiations between the EU and Japan with interest, but somewhat reactively, not taking parliamentary

action to seek out further information and gain access to confidential documents from the government. However, it is one of two groups in parliament having asked a committee question on the agreement. Referring to Brexit, the group asked how financial services between Japan and the EU are currently regulated and how the withdrawal of the UK from the EU will affect this (EUV Alm.del. 2017-18 sp. 212). As such, the question has a clear monitoring function. Moreover, the group has been somewhat more active in collecting information informally from the government, which it considers possible as it is currently the supporting party, which they claim usually works quite well in order to gain deeper insights on the trade negotiations (FT09). Lastly, the group regularly interacts with its members in the European Parliament to exchange information and coordinate. “We talk about which cases are right now the most sensitive and the most interesting in the European Union and here. [...]. Yes, we talk about it a lot; also in order for us to vote more or less the same” (FT09). However, the group also deplores the difficulties of effective information exchange and coordination, as files are dealt with in the parliaments at different times and stages. “So it is a bit difficult, sometimes, to follow” (FT09).

9.5.2.2.3. *Venstre*

Venstre generally has a positive view on parliamentary control of EU trade negotiations, arguing that the group would welcome more debate on free trade issues in the European Affairs Committee and in the public sphere.¹⁹⁴ However, the group rejected the criticism that the government, of which Venstre has been a part since 2015, was suppressing public debate on trade more generally and on the EU-Japan FTA more specifically. Rather, it claimed that there is little interest in the population and in the Folketing to discuss the EU-Japan agreement (ibid.). Against this background, Venstre has overall not been very active on the EU-Japan FTA. Its control actions have mainly aimed at following the progress of the negotiations, and not at exerting influence in a substantive nor a supporting manner. The group has mainly used informal control instruments based on direct, informal interactions with the Danish government. Only limited formal parliamentary control activities can be registered.

In November 2012, Venstre supported the government mandate for the Council negotiations on the EU-Japan FTA, even though they were an opposition party at the time. The group announced in the European Affairs Committee meeting that they “wanted to applaud the mandate, as an agreement

¹⁹⁴ Tv fra Europaudvalget, 15.05.2018, [https://www.eu.dk/samling/20181/kommissionsforslag/kom\(2018\)0192/index.htm](https://www.eu.dk/samling/20181/kommissionsforslag/kom(2018)0192/index.htm).

with Japan would be of great benefit to Denmark” (EUV Alm.del Offentligt referat rådsmøde 3203). The group has not used plenary debates on broader free trade issues or other FTAs to refer to the EU-Japan FTA negotiations in order to express its views on the topic or to investigate issues of interest. In European Affairs Committee meetings, during which the agreement was on the agenda, Venstre has shown some engagement; however, the group’s activities have been mainly monitoring actions and expressions of support for the government’s actions. Whilst the group has – on occasion – voiced its support for the negotiations, it has not done so in an influencing (supportive) way.

9.5.2.2.4. Enhedslisten

Enhedslisten has a very positive view on a strong Folketing in EU trade negotiations, demanding improved information, consultation and influence opportunities in general (EUV Alm.del Offentligt referat rådsmøde 3203; FT05). In regard to controlling the EU-Japan FTA negotiations, Enhedslisten has clearly seen an increase in scrutiny activities over the last couple of years, fuelled by the CETA and TTIP negotiations (FT05). However, the group argues that until recently, they have not been very active on the EU-Japan FTA. The agreement has been on their radar, its European Affairs Committee members have followed its progress, but they have exhibited little parliamentary activity in comparison to the group’s engagement on CETA (FT05; FT09). When it comes to the direction of control, the group aims at scrutinizing the Danish government’s actions on the EU level and at controlling the EU level more directly by coupling up with EU level networks (FT05). The group has both a monitoring and an influencing aim, claiming that at this stage of the negotiations, they are mainly preoccupied with monitoring the developments, and occasionally attempting to exert influence; and, if it was to be a mixed agreement, they “can try and put pressure on it” (FT05) in the ratification phase. The group’s control activities have been both formal and informal, cooperating with extra-parliamentary actors to scrutinize the negotiations.

Regarding the group’s gathering and analysis of negotiation information and documents, Enhedslisten does not consider the Danish government to be its most important source of information. Concerning the information provided by the government in the EAC, the group deplores that unless it acts proactively, the Committee only receives updates when the FTA is on the agenda of a Council meeting, and that, within the Committee, it is mainly treated as an orientation point (FT05). Moreover, they are not satisfied with the parliament’s access to documents and the depth of the government reports on the negotiations. Enhedslisten has been among the most active parliamentary groups in EAC meetings on the EU-Japan FTA negotiations. However,

whilst the group is generally active in collecting information on trade agreements by asking written questions to the government,¹⁹⁵ on the EU-Japan FTA, they only asked one Committee question (out of two questions on the agreement in total). The question concerned the expected impact of the agreement on Danish legislation and has a clearly monitoring function (KOM (2018) 0192, sp. 1). Nor have they proactively approached the government to ask for access to confidential negotiation documents, but rather relied on some of the leaked draft agreement texts (FT05). Beyond formally information from the Danish government, the parliamentary group argues that its most important source of insight on the EU-Japan trade negotiations is European free trade-critical networks of European and some Japanese NGOs (FT05). Interaction with this network is both pro-active and reactive. “Of course it is very important, active involvement, but also somewhat passive, receiving updates from a mailing list and so on” (FT05). The network serves as a fire-alarm control mechanism for Enhedslisten. The group makes less use of interparliamentary cooperation by interacting with members of the European Parliament. “We can call them, and it would usually be if there is something, that we maybe need some information ... It is not the main source of information, that I would say is the European network” (FT05).

When it comes to influencing the negotiations, the group argues that exerting substantive impact is difficult at the *ad locum* stage of trade negotiations. Whilst the Folketing mandates the government *ex ante* and, if an agreement is of mixed nature, ratifies the finalized agreement *ex post*, the group sees few formal parliamentary involvement rights to exert pressure during trade talks. However, the parliamentary group has not used the mandating procedure in the European Affairs Committee in November 2012 to exert substantive impact at the outset of the negotiations (EUV Alm.del Offentligt referat rådsmøde 3203). The group argues that “it was a mistake, [...]. Because there is a lot of technical issues, and if people are not aware of the problematic issues, then it is very easy, it can slide through. But in general, we vote against the mandates, because we think they are in the wrong direction” (FT05). In subsequent EAC meetings, the group has exerted some influence over the Danish government but has not considered this very effective. Rather, it intended to emphasise the *ex post* ratification right of mixed agreements, perceiving the EU-Japan FTA as a such.¹⁹⁶ The group claims that in the *ad locum* phase of the negotiations, “the way that we try to influence the process is that

¹⁹⁵ On CETA, the group has asked more than 120 questions.

¹⁹⁶ The interview was conducted in August 2017, at which time it was the general view in national parliaments that the agreement was going to mixed, and that they would have the chance to ratify the finalized FTA.

we are coupling up with international, European networks that work with it” (FT05). Enhedslisten travelled to Brussels several times for meetings and mobilization activities. The group has also attempted to increase the public debate around the EU-Japan FTA in Denmark to create public pressure in the aftermath of the TTIP and CETA negotiations. However, within Denmark, there has been comparatively little interaction between the parliamentary group and NGOs, civil society organizations and citizens and the negotiations of the free trade agreements, compared to the CETA and TTIP negotiations. However, the group is hoping to improve this in the final stages of the negotiations between the EU and Japan, by putting stronger focus on the agreement and exerting stronger pressure (FT05).

9.5.2.2.5. Alternativet

In light of the far-reaching and potentially negative consequences of modern free trade agreements, Alternativet wanted the Folketing to have strong control possibilities and in-depth debates of the advantages and disadvantages of FTAs (Nordqvist, B74 2016-17), wishing that the Folketing was generally more involved in European Affairs (FT04). Concerning the negotiations between the EU and Japan on a free trade agreement, Alternativet claims that this “hasn’t been the biggest agenda point yet” (FT04), meaning that the group has, beyond the scheduled involvement on the Folketing on the file, been rather inactive in controlling the negotiations. The group also does not consider it likely that they will become more active. However, the control activities the group has carried out have both monitoring and influencing aims, as the group perceives these two functions to be mutually constitutive. On the EU-Japan FTA negotiations, Alternativet has engaged in information gathering and in communicating their position in order to exert influence on the negotiations setting (FT04). Hereby, the parliamentary group aims both at controlling the Danish government, and especially its negotiation behaviour in Council meetings where the EU-Japan FTA is discussed, and at interacting directly with European executive on files of particular interest. However, focus is mainly directed at the national executive. Lastly, Alternativet relies on both formal and informal control mechanisms, with the latter referring to informal activities outside the legislative-executive realm, such as interacting with the European Parliament or civil society in order to scrutinize the negotiations (FT04).

When it comes to monitoring activities, the group has relied on the negotiation information and documents that the Danish government has provided in its reports and oral updates in the European Affairs Committee but it has not proactively attempted to gain further access to negotiation documents (FT04). Alternativet mainly uses the meetings with government representa-

tives in the EAC to inquire into the progress of the negotiations and the content of the envisaged agreement, especially on topics of particular interest for the group, such as investment protection and sustainable development goals (FTO4). The group normally uses parliamentary questions to investigate issues of interest but has not yet done so concerning the EU-Japan trade negotiations. Lastly, the group interacts with other parliamentarians in the European Parliament and other national parliaments on trade issues. The main function of this interaction is information exchange and serves a fire alarm goal. "It's very informal [...]. And it is very much a 'what have they seen, what is their focus point in a given case', whether it's been a trade agreement or something else" (FTO4). However, in regard to the EU-Japan FTA, Alternativet has done so to a lesser extent, also since "as a new party, we don't have any MEPs, which makes sometimes my job a bit more complicated" (FTO4).

Concerning the group's attempt to substantively influence the negotiations, it has been argued that the group perceives such control actions to follow up on monitoring action. This becomes especially apparent in their view on parliamentary questions: "so questions are a way of influencing, and setting the agenda. And of course, also, it is about raising my level of information, so that I can also try and push the political agenda in the way I want to" (FTO4). However, as stated above, Alternativet has not asked any parliamentary question, neither in Committee nor in plenary, on the Japan agreement. Moreover, when the mandate was given to the government in the EAC in 2012, Alternativet was not represented in the Folketing and therefore could not influence the negotiations at their outset. Similarly, whilst the group has been one of the most active in EAC meetings and voiced its preferences towards the Danish government on the EU-Japan negotiations in an attempt to influence the national executive, they have not done so very strongly (FTO4). Rather, the group has relied on informal mechanisms of influencing the negotiations. Generally, the group considers the creation of public awareness of the negotiations and their consequences inside and outside of the Folketing as an important means to create pressure in order to influence the talks. "[It] is only through that political debate, that, first of all, we raise our level of information, and we can actually push each other" (FTO4). However, Alternativet have not been very active in creating extra-parliamentary pressure, and especially not as active as on the CETA negotiations. They have "not really [attempted to involve the population]. I mean we tried a lot with the CETA, and it is difficult in the end. Of course I talk about it when I go out to our local groups and so forth. I mean trade agreements are always on the agenda. But it is not something we are focusing on" (FTO4).

9.5.2.2.6. Liberal Alliance and Det Konservative Folkeparti

In the following, Liberal Alliance and Det Konservative Folkeparti will be dealt with jointly because the two groups are expected to perceive the same costs and benefits of controlling the EU-Japan FTA negotiations, as they have had the same institutional status throughout the negotiations and, as the analysis will demonstrate, have not been very active in scrutinizing the trade talks with Japan.

When the European Affairs Committee gave the mandate to the Danish government, both Liberal Alliance and Det Konservative Folkeparti were opposition parties. However, they supported the Danish government in its request for the mandate, with explicit oral agreement from Liberal Alliance (EUV Alm.del Offentligt referat rådsmøde 3203). Beyond that, the groups have not been very active, neither in committee meetings nor in using other formal means of parliamentary control to monitor and influence the negotiations. It is to be assumed that they, at the latest since 2016, have good informal access to the Danish government, since the Danish Foreign Affairs Minister is a Member of Liberal Alliance, the Minister of Industry, Business and Financial Affairs a member of Det Konservative Folkeparti. Whilst it can therefore be reasonably assumed that they informally monitor the negotiations progress, this dissertation has not been able to find evidence to support or contradict this assumption.

Liberal Alliance has been somewhat active in plenary, where the group has expressed its support of the negotiations on several occasions. Already in 2013, they claimed to be “major supporters of breaking down trade barriers, and it makes sense to start putting barriers down within the EU, while we also open markets to, for example, the United States and Japan” (Riisager, L 134 2012-13). Over the years, they continued to reaffirm this support in plenary speeches (e.g. Egelund, R 9 2015-16). However, the wording of this reference is not strong enough to qualify as influencing (supportive).

9.5.2.2.7. Radikale Venstre and Socialistisk Folkeparti

Radikale Venstre and Socialistisk Folkeparti will be dealt with jointly in this section, as they are expected to perceive the same costs and benefits of controlling the EU-Japan FTA negotiations. In 2012, when the EAC issued the negotiation mandate for the EU-Japan negotiations to the Danish government, both groups were governing parties that supported the Danish government in its request for the mandate (EUV Alm.del Offentligt referat rådsmøde 3203). Since then, neither group has been very active in committee meetings or in using other formal means of parliamentary control to monitor and influence the ongoing negotiations.

Radikale Venstre has used, although rarely, the opportunity of plenary debates on interrelated topics to voice its opinion on the negotiations, which was generally supportive of the trade talks. The group expressed the importance of trade with partners like Japan, as “while European markets stagnate, growth has shifted to completely different continents where Danish companies have a much lesser share in the market” (Lone, F45 2012-13). The group also stressed that trade needs to be both free and fair, as trade agreements among major global players should not be to the detriment of developing countries (Lone, F45 2012-13). Neither Radikale Venstre nor Socialistisk Folkeparti have taken up the FTA negotiations more broadly, meaning that neither of them has been very active in exercising scrutiny over the trade talks with Japan.

9.5.2.2.8. Summary: Partisan Control in a Comparative Perspective

Following the presentation of the partisan control activities in the Folketing on the EU-Japan free trade agreement negotiations, the following sub-chapter will establish the value of the dependent variable, intensity of control, for every parliamentary group along the two dimensions, the level (the quantity) and the function (the quality) of control. First, however, it will summarize the control activities more generally.

Whilst there is agreement among the parliamentary groups in the Folketing that the level and intensity of parliamentary control of the EU-Japan FTA negotiations in no way equal how they scrutinized CETA and TTIP, this does not mean that they were inactive. However, the descriptive analysis of how the groups have controlled the trade talks shows variation in the means and the intensity with which the groups were involved in the file. Exploring more in-depth the four dimensions of parliamentary control – timing, formality, directness and function – the timing dimension does not seem to play a big role for most parliamentary groups. Only Enhedslisten claims to take the different negotiation stages into account, arguing that it will increase its control efforts in the final, ex post stages leading up to the conclusion of the agreement. Moreover, several groups expressed the importance of ex ante involvement via the governmental mandate the EAC can give for international trade negotiations. Whereas the government asked for a mandate for the EU-Japan FTA negotiations, no group raised objections to the governmental conduct on the EU level. Different reasons for this have been brought forward. Importantly, the mandate was given in 2012, shortly before the issue of FTAs became more politicised. Regarding the directness dimensions, all groups’ control activities were largely focused on the Danish government, and only to a lesser extent directly interacting with the EU level executive. However, some parliamentary groups have interacted with EU-level actors, such as Enhedslisten, who has

worked with an EU-level network critical of FTAs. Moreover, all groups expressed – to different extents – the importance of inter-parliamentary cooperation with MEPs. Lastly, most groups have used both formal and informal means of parliamentary control. However, in many instances, formal control refers to the regularly scheduled meetings in the EAC, where the MPs were updated and could discuss the FTA. This is a rather reactive way of controlling EU international negotiations. In contrast, they hardly made use of other “hard formal control instruments”, such as questions, interpellations or reports. Regarding informal control mechanisms, both government and opposition parties claim to have used such, however, with a different “directness”. Governmental and previous government parties such as Socialdemokratiet, Venstre and Dansk Folkeparti mainly interacted directly with the government, whereas opposition parties such as Enhedslisten and Alternativet relied on informally interacting with extra-parliamentary actors to control the Danish government and the ongoing negotiations indirectly.

Regarding the function of control on the two dimensions, out of the nine parliamentary groups, only Enhedslisten and Alternativet have actively attempted to exert influence over the EU-Japan FTA negotiations. To some extent, they have used similar instruments of control, such as generating public awareness and attempting to foster public pressure, and using EAC meetings to pressure the Danish government. Enhedslisten has reached out to European networks in order to broaden the scope of their influence to the European level. When it comes to the level of parliamentary control, both groups claim that the EU-Japan FTA is currently not on top of their agenda, and that their level of activity is not particularly high. However, considering the entire timeframe of the negotiations, Alternativet has argued that they most likely will not become more involved in scrutinizing the talks, whilst Enhedslisten is planning on intensifying its influencing control towards the latest stages of the negotiations, just prior to ratification. The dissertation argues that overall, Enhedslisten scrutinizes the EU-Japan FTA negotiations with a high level of influencing control, and Alternativet with a low level of influencing control.

The remaining seven groups, Socialdemokratiet, Dansk Folkeparti, Venstre, Liberal Alliance, Radikale Venstre, Socialistisk Folkeparti and Det Konservative Folkeparti, have generally displayed monitoring control of the trade talks. They have relied on rather similar mechanisms of parliamentary control, using formal parliamentary means to a lesser extent. They have followed negotiations via governmental reports and summary memoranda, informal information exchange with the Danish government and to some extent with colleagues in the European Parliament. Moreover, some of these groups have referred to the EU-Japan negotiations in plenary speeches and debates. Whilst the majority of these references was favourable of the negotiations and

served an expression of support, none of them was voiced strongly and forcefully enough to qualify as influencing (supportive). Overall, the level of these monitoring activities is rather low, with only minor differences. The dissertation argues that for all remaining seven groups, the level of parliamentary monitoring control of the EU-Japan FTA negotiations has been low. These values lead to the following placement of the parliamentary groups along the two dimensions of the intensity of parliamentary control (see Table 57):

Table 57: The Intensity of Parliamentary Control of the EU-Japan FTA Negotiations in the Folketing

Function Level	Monitoring	Influencing
Low	Low monitoring Socialdemokratiet, Dansk Folkeparti, Venstre, Liberal Alliance, Radikale Venstre, Socialistisk Folkeparti, Det Konservative Folkeparti	Low influencing Alternativet
High	High monitoring	High influencing Enhedslisten

9.5.2.3. Step 3: Comparing Prediction and Outcome

Based on the two previous steps, it is now possible to compare the theory-based predictions about the intensity of parliamentary control of every parliamentary group with the observed values thereof. Table 58 presents the predicted values of the intensity of parliamentary control and the observed outcomes in order to enable the congruence testing.

Table 58: Comparison

Political Group	Predicted Intensity of Control	Observed Intensity of Control	Congruence (+) Non-Congruence (-)
Socialdemokratiet	Medium	Low monitoring	-
Dansk Folkeparti	Low	Low monitoring	+
Venstre	Medium	Low monitoring	-
Enhedslisten	High	High influencing	+
Liberal Alliance	Low	Low monitoring	+
Alternativet	Medium	Low influencing	+
Radikale Venstre	Low	Low monitoring	+
Socialistisk Folkeparti	Low	Low monitoring	+
Det Konservative Folkeparti	Low	Low monitoring	+

As Table 58 shows, there is a high degree of congruence between the predicted observable intensity of parliamentary control of the Folketing's parliamentary groups on the EU-Japan FTA negotiations and the findings of the empirical analysis of parliamentary activity. As argued in section 5.5.1, this seems to support the assumption that there is a causal relationship between the causal factors and the intensity of scrutiny the groups display, hence supporting the causal assumptions. However, predictions and findings are non-congruent for Socialdemokratiet and Venstre. The predictions assumed a medium intensity of control, whilst the findings revealed low (monitoring) control. In order to investigate this non-congruence further, the following process-tracing analysis will focus on Socialdemokratiet and analyse the underlying perceptions of the costs and benefits of control. Enhedslisten will be included in this analysis to investigate whether the causal mechanism is present in an instance where prediction and outcome align, in line with the case selection developed in section 5.5.2.2.

9.5.3. Partisan Control Action: A Process-Tracing Approach

As in the previous case studies, the following sub-chapter will focus on the underlying causal mechanism by tracing the causal factors for Socialdemokratiet (non-congruent finding) and Enhedslisten (congruent finding). The focus is hereby in the broader sense on the theorized causal mechanism, both by investigating whether the parliamentary groups perceived the causal factors as identified, whether on this basis they considered them as benefit or cost, whether this incentivized or dis-incentivized them, and lastly whether the groups have indeed controlled the negotiations in a cost-efficient way, based on the actually perceived cost and benefits.

9.5.3.1. *Socialdemokratiet*

Table 59 displays the costs and benefits for Socialdemokratiet controlling the EU-Japan FTA negotiations as predicted by the theoretical framework based on the values of the causal factors, adopted from Table 56 above. The table also shows that the group has controlled the negotiations with a low monitoring intensity, hence not as strongly as predicted by the theoretical framework. Ideally, the following analysis ought to provide a tentative explanation for why the predicted and the observed value of the dependent variable are non-congruent.

The theoretical framework holds that Socialdemokratiet, as the other parliamentary groups in the Folketing, are expected to perceive the vote-seeking benefits of parliamentary control as high due to the high public salience of the negotiations of the Free Trade Agreement. However, the group does not nec-

essarily agree with this assumption about the agreement's salience. They argue that free trade in general, and also the EU-Japan FTA, "almost didn't get any attention in Denmark", especially in comparison to other EU member states such as Germany. At the same time, they argue that the majority of Danish citizens and organizations, such as trade unions, are very much in favour of free trade agreements, being aware that "the majority of the jobs [in Denmark] are living of exports" (FT06). The group perceives salience as low and public opinion as favourable for the negotiations, which they claim provides little incentive to control the negotiations intensively, especially in the public eye (FT06). Summing this up, the group, unlike predicted by the theoretical framework, perceives the salience of the EU-Japan FTA negotiations as low and public opinion to be in favour. This means that Socialdemokratiet does not consider parliamentary control beneficial from a vote-seeking perspective.

Table 59: Causal Mechanism: Socialdemokratiet

Benefit/cost	
Vote-seeking benefits	High
Policy-seeking benefits: institutional status	Medium
Policy-seeking benefits: policy position	Low
Policy-seeking benefits: likelihood of impact	High
Resource costs	Low
Efficiency costs: complexity	High
Efficiency costs: compellingness	High
Observed intensity of control	Low monitoring

Socialdemokratiet has been both a governing (2011-2015) and an opposition party (2015-present) during the negotiations. It was argued above that the group is expected to perceive the policy-seeking benefits of controlling the negotiations to be of medium size on average – low in the stage when the group was in government due to a lack of conflict with the executive, and high in the stage of being in opposition due to conflict with the government. Indeed, the group is very much aware of its status as either opposition or governing party, and the expectations to its role and behaviour that come with a certain status (FT06). However, when it comes to the actual level of policy conflict with the Danish government, the picture is less clear-cut. Whilst Socialdemokratiet, now in opposition, claims that there is some conflict with the current government on certain issues, they argue that, "on the broader term, we agree with them that it is a good idea to have those agreements". This means there is no fundamental conflict between the Danish government and Socialdemokratiet,

as the latter only deviates from the government's point of view on specific issues. Hence, unlike predicted, it can be argued that irrespective of the group's institutional status, they do not see substantive conflict lines with the Danish government, which strongly indicates that they perceive the policy-seeking benefits due to their institutional status as low.

The theoretical framework holds that parliamentary groups in specific support of an international agreement, such as Socialdemokratiet on the EU-Japan FTA, perceive the policy-seeking benefits of parliamentary control based on their policy position to be low. Overall, the group claims that "being a small country, it has always been, for decades, a firm policy of the Social Democratic Party, to try to, especially when it comes to trade and other cross boarder relations, [...] to have a full common EU position and agreement with third countries" (FT06), but that "trade agreements also need to be progressive trade agreements, [...] we need to focus on environmental sustainability; social sustainability and so on" (FT06). However, unlike many groups in the European left, Socialdemokratiet perceives recent agreements, such as CETA and now the EU-Japan FTA, as a step in the right direction, setting new global standards. Against this background, the group has few incentives to strongly control the negotiations, which they consider to be going into the right direction. Thus, as predicted, Socialdemokratiet perceives the policy-seeking benefits of parliamentary control based on their policy-position to be low.

Lastly, on the benefit-side, Socialdemokratiet as one of the Folketing's two largest parliamentary groups is assumed to perceive the chances of having substantive impact on the negotiations of what they for a long time thought to be a mixed agreement as high, which in turn means high policy-seeking benefits. Indeed, the group argues to take the chances of influence into consideration. In regard to foreign policy, the group claims that "it doesn't have any impact whatever we are discussing, in a small country like this. In a national parliament, which has no actual power in the greater system. Which is frustrating. [...]. You only have a thing to say when you are in government" (FT06). The group, which is in opposition on the decisive negotiation phase of the EU-Japan FTA, perceives their chances of having substantive impact as low. Whilst this does not prevent them from being "active in the sense that we have opinions", they claim to be sidelined, which frustrates and dis-incentivises strong parliamentary control. Overall, it thus seems that unlike predicted, Socialdemokratiet does not perceive its chances of having substantive impact as high, which decreases the policy-seeking benefits of parliamentary control. Whilst the group is not entirely powerless and was in government in the initial negotiation phase of the EU-Japan FTA, the group does not consider these benefits as high as previously assumed.

The theoretical framework holds that as a parliamentary group in specific support of the negotiations, Socialdemokratiet is expected to take efficiency costs of parliamentary control into consideration. This is assumed to hold especially as the negotiations of the EU-Japan FTA are highly complex and compelling, which implies that the Union negotiator needs sufficient leeway to negotiate the best-possible agreement from a European perspective. Socialdemokratiet is in general aware of the dilemma of strong parliamentary control arguing that it might “hurt the negotiations [but might also help] in pressing the negotiations in our perspective” (FTO6). However, it can be assumed that as Socialdemokratiet’s perspective largely aligned with both the Danish government’s and the Union negotiator’s, the group perceives parliamentary control to be more harmful than helpful. This is supported by their perception of the negotiation setting as compelling. The group clearly states that “dark clouds are drawn over the world trade conditions [which] will unequivocally hurt small export-dependent countries like Denmark, it will slow down production, it will hurt employment and it will ultimately undermine the financing of our welfare society” (Hummelgaard, B74 2016-17). Against this background, Socialdemokratiet considers it important that the EU successfully concludes free trade agreements with other strong economic partners. In contrast, the group does not seem to take the high complexity of the negotiations into consideration when considering the Union negotiator’s need for discretion (FTO6). The latter observation might be considered for further investigation, if it can be found to hold for other parliamentary groups in the Folketing as well, as it might indicate that the theoretical framework needs to be reconsidered.

Summing up, the in-depth analysis of Socialdemokratiet’s perception of the causal factors and the costs and benefits of parliamentary control reveal a somewhat different picture than predicted on the benefit-side. Whilst the theoretically deduced assumptions held that the group is expected to gain moderate benefits from scrutinizing the negotiations between the EU and Japan, this cannot be confirmed: the group does not see control as vote-seeking or policy-seeking beneficial, based on its institutional status, policy position or the (current) likelihood of having substantive influence. It becomes evident that the group does not perceive the benefit-side causal factors as predicted, and, consequently, sees few benefits in controlling the negotiations. Moreover, it might have been assumed that Socialdemokratiet sees a benefit in control due to its current opposition status – as one of the two major parties in Denmark next to Venstre, that interchangeably provide the government, these two are generally thought to control the government when the respective other is in power. This would not be due to actual policy-conflict, but rather due to signalling effects of controlling the government and providing a substantive

alternative to the current incumbents. Whilst the theoretical framework does not take the underlying considerations of such signalling control into account, the process-tracing analysis would have been able to detect this due to its somewhat inductive nature. However, such considerations were not found. Returning to the causal framework, the assumption that the group perceives the costs of parliamentary control to be moderate seems to be confirmed by the in-depth investigation; even though it was not possible to investigate the causal factor of the group's resources further due to a lack of data. However, further attention should be paid to the causal factor of the complexity of the negotiations, as the group does not seem to consider the high complexity as having an impact on their intensity of control, unlike predicted. Lastly, as Socialdemokratiet perceives the benefits of controlling the EU-Japan negotiation as low and the costs as moderate, the groups seems to indeed control the negotiations in a cost-efficient way.

9.5.3.2. *Enhedslisten*

On the basis of the theoretical framework, it was predicted that Enhedslisten would control the EU-Japan FTA negotiations with high intensity, and this was confirmed by the descriptive empirical investigation. The following process-tracing analysis is thus meant to shed light on and confirm the theorized causal mechanism. Table 60 displays the theoretical expectations about the mechanism.

Table 60: Causal Mechanism: Enhedslisten

Benefit/cost	
Vote-seeking benefits	High
Policy-seeking benefits: institutional status	High
Policy-seeking benefits: policy position	High
Policy-seeking benefits: likelihood of impact	Low
Resource costs	Medium
Efficiency costs: complexity	Low
Efficiency costs: compellingness	Low
Observed intensity of control	High monitoring

Like Socialdemokratiet, Enhedslisten was expected to perceive the vote-seeking benefits of scrutinizing the EU-Japan negotiations as high due to the high public salience of the file. Overall, the group argues that free trade issues have increasingly moved onto the agenda in recent years and has attracted public attention. "But I don't think it is something that you can go and ask people on the street 'do you know what this is, do you have an idea of this?'" (FT05).

Similarly, the group does not see the same opposition in Denmark to currently negotiated and concluded free trade agreements, as “there is a very positive idea of free trade, also within the population. Both in the population, but also in the trade unions and...” (FT05). However, the overall increasing salience of the issue has provided both incentives and opportunities for Enhedslisten to control the EU-Japan FTA negotiations more strongly. Starting with the lost opportunity to oppose the government mandate in November 2012, the group argues that “it could slide through, and we didn’t vote against it because there wasn’t so much fuzz about it, and people really didn’t know about it. Of course, after TTIP and CETA, the focus has shifted a lot. And we are much more focused on these discussions...” (FT05). Since then, with rising awareness of trade issues, the group sees incentives to control trade negotiations, such as the EU-Japan FTA, as they have seen that they can succeed in having a broader debate. Lastly, the salience of the agreement also affects the group’s opportunities to control, as this also “depends on the pressure outside of these walls, because the good thing with CETA was that there was a lot of NGOs and organizations on the streets, writing to the press, writing to the politicians. And that of course made it easier for us to make a case on it. And it can maybe happen with JEFTA too. We hope so” (FT05). Summing up, the group seems to consider the specific agreement to less salient than predicted by the theoretical framework. However, the growing public interest in free trade issues has provided both incentives and opportunities for Enhedslisten to control negotiations. This largely confirms the theoretical expectation about this causal factor.

Enhedslisten was a government supporting party until 2015, yet with a free-trade critical approach, and has been an opposition party since then. As such, the policy-seeking benefits stemming from the group’s institutional status are assumed to be high. The group clearly perceives itself to have opposition status, both when it comes to access to the government in terms of monitoring and exerting influence, but also in terms of policy positions. Indeed, the group claims that they have been in constant conflict with the Danish government over free trade issues, and more specifically the individual negotiations, due to the government’s overall positive attitude towards broad encompassing free trade agreements, a stance which they oppose vehemently (FT05). This indicates that due to the high level of policy conflict with the governing Danish executive, the group has perceived the policy-seeking benefits of controlling the EU-Japan FTA negotiations based on their institutional status as high.

Similarly, the assumption that the group’s policy position, specifically opposition to the FTA, provides high policy-seeking benefits can be confirmed

by this in-depth analysis. Enhedslisten argues that in the Folketing, “in general, we are probably the most critical, or we are the most critical party on trade agreements and free trade in general. So we usually have a very critical stance on free trade agreements, and that includes JEFTA” (FT05). Hence, being critical of the envisaged agreement, the group claims that the EU-Japan FTA has a content they cannot support, and which they thoroughly scrutinize (FT05).

Lastly, on the benefit-side, it was argued that Enhedslisten should perceive the policy-seeking benefits based on the likelihood of having substantive impact as low in a situation where a small parliamentary group controls – what they thought to be – a mixed agreement. On the one hand, the group clearly agrees with the underlying assumption that having the power to ratify an international agreement is essential to having substantive influence (FT05). As predicted, the group is, however, aware that in the decisive *ad locum* phase, where the actual content of the agreement is being decided, it is very difficult for them to influence the negotiations (FT05). However, they are actively seeking ways to improve their chances of having substantive influence outside the executive-legislative framework by teaming up with European networks (FT05). Overall, this confirms the expectation that Enhedslisten perceives their chances of having substantive influence and the subsequent policy-seeking benefits as low. However, the group has actively pursued strategies to improve those chances and, to some extent, has been incentivized by this to take further action.

On the cost-side of the analysis, Enhedslisten was argued to have overall medium-sized resources for controlling policy-making, which implies that they are expected to perceive the resource costs of parliamentary control to be of medium size. Indeed, the group takes their resources – or rather, the lack thereof – into consideration when controlling the EU-Japan FTA negotiations. As a group’s policy advisor notes, “besides trade, I also sit on all other EU issues, and I am one in here. So we have tonnes of agendas, and it just not possible for us to go through all the information” (FT05). Due to the lack of internal resources, the group relies more heavily on information from the outside and on quasi fire-alarm control mechanisms (FT05). Overall, unlike expected, the group thus considers their overall internal resources to be low, but has found ways to deal with this. They can be argued to perceive the resource-costs of controlling the EU-Japan FTA negotiations to be of medium size as predicted, despite their low internal resources.

Lastly, the group, in specific opposition to the agreement, is not expected to perceive parliamentary control to be efficiency-costly in the highly complex and highly compelling negotiation situation. Indeed, the group seems not to consider potential negative effects of scrutinizing the negotiation (FT05), as

predicted by the theoretical framework. They do not necessarily agree with the analysis that the EU-Japan FTA conclusions are highly compelling as a sign against protectionism and for free trade on a global scale (FT05). However, the group agrees that the trade negotiations are highly complex but do not accept that the Union negotiator needs more discretion for a best possible negotiation outcome, which the theoretical framework would have assumed if the group was overall favourable of the negotiations. Rather, they argue that the complexity of the agreement has two other costly effects for parliamentary control: first, it makes it more difficult to put the issue on the public and media agenda, hence, it undermines the salience of the agreement. “Because it is very technical, and they [the media] don’t understand it...” (FT05). Second, the complexity makes it more difficult for critical parliamentarians to control the negotiations (FT05). Hence, as predicted by the theoretical assumptions, Enhedslisten has not considered parliamentary control to be efficiency-costly and nor have they perceived the negotiation setting as highly compelling. However, the complexity of the negotiation setting has had a cost-effect on the group, not in efficiency terms, but in salience and resource terms.

Summing up this in-depth analysis of Enhedslisten controlling the EU-Japan FTA negotiations, the hypothesized causal mechanism seems, to the largest extent, to have been present, and the group has perceived the costs and benefits of parliamentary control as predicted. On the benefit side, whilst the group might not perceive the salience of the negotiations as high as predicted, the increasing salience of trade issues has provided incentives for control of the EU-Japan negotiations. Similarly, the group considers the policy-seeking benefits based on institutional status and policy position as high, as predicted by the theoretical framework. Also as assumed, the group perceives the chances of having, as an individual actor, direct influence to be low. Whilst this means that they perceive the benefits from directly controlling their executive to be low, Enhedslisten has proactively reached out to actors outside the national executive-legislative framework to increase its influence via different channels. On the cost-side, as predicted, the parliamentary groups considers control somewhat resource-costly but not efficiency-costly. They do not agree that the negotiation setting is compelling but perceive the negotiations as complex. This affects salience and resources and thus contributes to the cost of control in a different way. These findings imply that whilst the overall assumption about the effect of complexity holds, a different causal mechanism than assumed seems to have been at work. It might thus be necessary return to the theoretical reasoning behind this causal factor. Overall, the group seems indeed to have controlled the negotiations in a cost-efficient way.

9.5.4. Conclusion

Based on the comparative congruence analysis and two process-tracing studies, it is now possible to draw a conclusion on “how and why the parliamentary groups in the Folketing have controlled the EU-Japan FTA negotiations”. The descriptive findings of the “how” of control were summarized in sub-chapter 9.5.2.2.8. It remains here to repeat that there was indeed some level of variation in the intensity with which the groups controlled the negotiations – Enhedslisten used high intensity, Alternativet medium intensity, and the remaining groups low intensity. How can this be explained? The comparative congruence analysis reveals that the descriptive findings are largely congruent with the predictions based on the theoretical framework. This, cautiously, indicates that the groups, as assumed, based their control on a cost-benefit analysis, taking vote-seeking and policy-seeking benefits as well as resources and efficiency costs into consideration when scrutinizing the EU-Japan FTA negotiations. However, the findings proved to be non-congruent for the two large parliamentary groups, Socialdemokratiet and Venstre. In order to investigate this non-congruence further and to mitigate the risk of causal spuriousness, the congruence analysis was followed by process-tracing studies of Socialdemokratiet and Enhedslisten.

The process-tracing studies revealed that the overall assumption of this dissertation – the higher the benefits and the lower the costs of parliamentary control, the higher its intensity – indeed seems to hold in both cases. However, the empirical reality proved more complex than assumed by the theoretical framework. Investigating Socialdemokratiet more in-depth, it became evident that the group’s control was not based on the “predicted value” of costs and benefits, but on how the group actually perceived their magnitude. This, in a first step, indicates that there is no logical flaw in the theoretical assumptions, but rather in the operationalization and the measurement of the causal factors. This was especially the case for the benefit-side, which explains why the group – unlike predicted – controlled the negotiations only with a low intensity: it saw hardly any benefits from doing so. In contrast, the in-depth investigation of Enhedslisten’s motivation largely confirms the assumed causal mechanism, and the group perceived the costs and benefits of parliamentary control as predicted. Summing up, the findings of the process-tracing studies do not invalidate the theoretical framework and its assumptions but rather imply that it is necessary to return to and refine the operationalization and measurement of the causal factors.

Moreover, three further take-away points from these two studies shall briefly be mentioned. First, the identification of the level of salience in a comparative approach with the other agreements under investigation revealed to

be somewhat flawed, as this is not what MPs actually so. Rather, their benchmark are more closely related international agreements. Whilst the EU-Japan FTA might have been more salient than the Kigali Amendment, it was by no means as salient as TTIP and CETA. With that, in the eye of politicians, this FTA was not very salient, and they treated it as such. Second, the theoretical framework assumes the value of the causal factors to be static and does not take into considerations that parliamentary groups might actively attempt to increase the benefits or decrease the costs of control. In this regard, Enhedslisten was shown to be rather inventive, increasing their likelihood of impact by broadening the scope of their influencing activities and by teaming up with actors outside the Danish framework. They increased their – also originally perceived – low chances of influence and, importantly, saw the low benefits as incentivizing to become more active. Likewise, the group perceived resource costs to be rather low, but teaming up with a European network that provides information-processing capacities decreased these costs. Lastly, these studies indicate that it might be necessary to return to the causal factor “complexity”. Whilst Socialdemokratiet does not seem to include the complexity of the negotiations in their cost-benefit analysis of the EU-Japan FTA negotiations at all, Enhedslisten does so and claims that it makes it more difficult to control the talks. This is somewhat surprising, as they are not supposed to consider the efficiency costs of controlling. However, the underlying causal mechanism they bring forward does not relate to the negotiator’s need for discretion during the negotiation of complex issues, but rather to how the complexity affects other causal factors – decreasing salience, hence decreasing vote-seeking benefits, and increasing the need for resources, hence increasing resource costs. These points will be taken up in the overall conclusion of this dissertation.

9.6. Parliamentary Control of the Kigali Amendment Negotiations in the Folketing

Environmental matters have been high on the political agenda in Denmark. Next to a strong national dimension, international issues play a major part in Danish environmental policy, mainly due to regional environmental and economic interdependencies, notably within the EU and with other Nordic states. Within the EU, Denmark has been actively driving European policies towards sustainable development and ambitiously influencing EU positions in global environmental negotiations. Denmark has also played an influential role in international negotiations together with like-minded countries, and have taken a proactive stance on protecting the environment through international

cooperation.¹⁹⁷ Denmark was an early supporter of global regulation of ozone-depleting substances in the 1980s and played a proactive role in the negotiations of the Montreal Protocol (Commission 2007: 16).

On the issue of phasing out HFCs, which have been used as a substitute for ozone-depleting substances, Denmark was the first EU member state to regulate reduction on the national level. National rules on F-Gases were introduced in 2002 and could be maintained when the EU decided to regulate the issue on the European level with the 2006 F-Gas regulation, but had to be revised when the new F-Gas regulation entered into force in 2015. Prior to the Kigali Amendment to the Montreal Protocol, the phasing down of HFCs in Denmark was regulated on two levels: on the European level by the F-Gas regulation, and on the national level by the Order No 9 of 7 January 2016 on the regulation of certain industrial greenhouse gases.¹⁹⁸ Already prior to the conclusion of the Kigali Amendment, the use, import and sale of HFC gases were virtually prohibited in Denmark. Importantly, the revenue of the HFC taxation has been partially re-invested in the development of alternative technologies, predominantly in the cooling sector. Despite initial fears of a burden on the Danish industry, the policy has become an incentive for the development of alternatives, and companies that were once dependent on HFCs have reached a global market-leading position in the field. This explains why the Danish government proactively supported an ambitious, global phasing-out plan of HFCs under the Montreal Protocol. The amendment is hardly costly for the country, as Denmark, as well as the EU, have stricter national rules for the use of HFC gases (Europaudvalget 2015 KOM (2015) 0014 Bilag 2: 4). At the same time, Denmark can expect great benefits from the amendment from an environmental and a business perspective. From the latter perspective, a global phasing-out plan not only creates an equal-level playing field for Danish and foreign companies, but it also increases the export possibilities for Danish solutions and strengthen the global market position of Danish companies that are far ahead in the development of technologies using natural alternatives to HFCs (Samlenotat Rådsmøde 3246)

Against this background, the following sub-chapter will analyse how and why the parliamentary groups in the Folketing controlled the negotiations of the Kigali Amendment to the Montreal Protocol.

¹⁹⁷ <https://www.oecd.org/env/country-reviews/2447500.pdf>.

¹⁹⁸ Later replaced by Order No 525 of 21 May 2017.

9.6.1. Overview of the Folketing's Treatment of the File

The base document for the treatment of the file in the Folketing is the “Commission’s Proposal for a Council Decision authorising the Commission to negotiate, on behalf of the European Union, amendments to the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer (COM(2015)0014)”. The document was submitted to the parliament on 10 April 2015, together with a basic memorandum by the government. The latter provided an overview of the content, the legal implications and financial consequences of as well as insights into the policy position of the Danish government and other EU member states on the envisaged negotiations of the Kigali Amendment (MIU Alm.del 2014-15 Bilag 238). More precisely, the government sent the documents to both the Folketing’s EAC and the Committee on the Environment. This means that both committees could have been the main locus of parliamentary control.

Generally, it is quite common for the Folketing scrutinizing environmental politics on the EU and the global level to have a strong interaction between the EAC and the Environmental Committee. As explained above, the sectoral committees can be involved in EU issues within their respective spheres of competence. Generally, “the Environmental Committee has traditionally been very active in European Affairs” (FT01). If interested, the Environmental Committee issues statements on individual bills, which are forwarded to the EAC in order to support the latter’s consideration of the government’s position on a particular matter. These statements typically voice disagreement with the government’s position, but are not legally binding for the EAC or for the government (FT01). Moreover, there can be an extensive information exchange and coordination between MPs of the EAC and the Environmental Committee.

In regard to the Commission proposal for the negotiations of the Kigali Amendment (COM(2015)0014), neither the EAC nor the Environmental Committee picked up the issue. The government did not ask for a mandate in the EAC, and the file was not discussed in-depth in a committee meeting. The Committee merely received the governmental memorandum and the Commission document. The Environmental Committee did not issue a statement to forward to the EAC. Similarly, neither committee took action during the negotiation process up to the MOP in Kigali in October 2016,. The government continued to provide the committees with sparse written updates, often intermingled with other environmental topics such as COPS under the auspices of the UNFCCC in governmental memoranda on upcoming Council meetings. Beyond the information given to the committees on these occasions, there usually is no automatic flow of information from government to parliament (FT01). However, in regard to upcoming MOPs under the Montreal Protocol,

the government usually provided the committees with “orientation memoranda” prior to the MOPs, and occasionally with reports on their outcomes.¹⁹⁹ No such reports were issued for MOP 27, taking place in November 2015, but the government provided the Environmental Committee with an “orientation memorandum” for MOP 28 prior to the meeting in Kigali, with a copy sent to the EAC (MOF Alm.del 2016-17 Bilag 12). This memorandum provided overviews of the background of the Montreal Protocol, the envisaged agenda of the MOP, the negotiation situation on the concrete issue of HFCs, the expected consequences and implications for Denmark, as well as the government’s position on central issues. Generally, this information is rather basic “like ‘now it is starting up; and the government intends to put focus on these and these matters’. So it is very rough and usually it is” (FT07). Neither committee followed up on this information with questions, hearings and meetings with the relevant minister or by requesting further access to EU-level documents.

Denmark sent its own negotiator, a government official from the Danish Environmental Protection Agency, to the meetings of the parties of the Montreal Protocol in which the global phasing out of HFCs was negotiated.²⁰⁰ In contrast, the Folketing never sent a parliamentary delegation to the MOPs. Parliaments usually do this for the climate change conferences in the UNFCCC framework, such as the meeting in Paris in 2015. Parliamentary delegations are part of the delegation of the minister and the government and have a mere observers’ status (FT07). However, as they are only organized in regard to climate change COPs, the Folketing did not send a delegation to MOP 27 and 28.

In sum, the Folketing’s EAC and Environmental Committee were informed on the progress of the negotiations of the Kigali Amendment and had the opportunity to follow up. However, neither the EAC nor the Committee on the Environment have done so, meaning that the negotiation process of the Amendment went largely unaccompanied by the Danish Parliament. Denmark has not yet ratified the Kigali Amendment.²⁰¹

¹⁹⁹ It was possible to find orientation memoranda prior to MOP 17, MOP 20, MOP 22, MOP 23 and MOP 24 and on the results of MOP 23 and MOP 24 in the Folketing’s database.

²⁰⁰ <https://politiken.dk/oekonomi/2050/klima/art5630145/Ny-aftale-kan-k%C3%B8le-kloden-en-halv-grad>.

²⁰¹ https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-2-f&chapter=27&clang=_en.

9.6.2. Partisan Control Action: A Comparative Congruence Analysis

In the following sub-chapter, the comparative congruence analysis of how and why the parliamentary groups in the Folketing controlled the negotiations of the Kigali Amendment will be presented, following the usual structure.

9.6.2.1. Step 1: Predicting the Outcome

As the first step of the congruence analysis, it is necessary to identify the values of the causal factors from the perspective of the parliamentary groups in the Folketing (see section 9.3.1).

9.6.2.1.1. The Salience of the Negotiations of the Kigali Amendment

As demonstrated above, the negotiations of the Kigali Amendment were of low public salience in Denmark.

9.6.2.1.2. The Institutional Status of the Parliamentary Groups

From a European Union perspective, the negotiations of the Kigali Amendment were officially launched with the Council authorization for the Commission to negotiate on the EU's behalf in April 2015. In Denmark, parliamentary elections took place on 18 June 2015, meaning that officially, the negotiations fell into two different legislative periods. However, the analysis will determine the institutional status of the parliamentary groups in the Folketing only according to their representation in the second legislative period, as the major part of the negotiations fell into this period. This might not be as easy if the parliament had had any formal involvement in the negotiations prior to the government change, such as the mandating procedure in the EAC. As this was not the case, it is feasible to conceptualize the groups' institutional status according to the second legislative period. Table 61 provides an overview of the groups' status concerning the negotiations of the Kigali Amendment.

Table 61: Overview of the Groups' Institutional Status

S	DF	V	EL	LA	Å	B	SF	DKF
O	S	G	O	G	O	O	O	G

Note: G = governing party; O = opposition; S= supporting.

9.6.2.1.3. The Policy Position of the Parliamentary Groups

There are strong party political division lines in the Folketing on environmental issues and usually on negotiations of EU international agreements (FT01). It is difficult to determine the policy position of the Folketing's parliamentary

groups on the phase-out of HFCs under the Montreal Protocol based on both primary and secondary data. Many groups do not seem to have formed fully-fledged policy positions on the issue and have not made public statements about or references to the issue. To determine their policy positions on the issue, the analysis will use the groups' general stance on environmental issues and their position on the new 2015 F-Gas regulation. The latter is claimed to be possible, as the obligations in the regulation are not exceeded by the phasing-out requirements of the Kigali Amendment. It is therefore highly unlikely that the groups' policy positions on the two files differ.

Socialdemokratiet supports Denmark's climate efforts but calls for a realistic approach to environmental politics, especially to potential financial implications.²⁰² The Kigali Amendment is claimed to have minimal costs for citizens and businesses in Denmark and to benefit the country, so it seems safe to assume that Socialdemokratiet is in favour of reducing HFCs on the national, the European and the international level. Whilst the group has not explicitly voiced its opinion on the 2015 F-Gas regulation, it does not oppose the governmental mandate in the EAC (EUU Alm.del Offentligt referat rådsmøde 3246). It can thus be concluded that Socialdemokratiet is in specific support of the Kigali Amendment.

Dansk Folkeparti has expressed some opposition to the international plans on the reduction of CO₂ emissions, deploring that "international agreements allow massive CO₂ emissions from newly-industrialized countries such as China, India and Russia, while Denmark and other Western countries will pay for this pollution through lower growth"²⁰³. However, they have not expressed the same fear about HFCs. In the EAC, they willingly gave their mandate to the Danish government for negotiations on the 2015 F-Gas resolution (Adesteen, EUU Alm.del Offentligt referat rådsmøde 3246). Although it is somewhat critical of global phasing-out plans of certain substances, Dansk Folkeparti has thus been in specific support of the Kigali Amendment.

Venstre expresses its support for international solutions to environmental problems, but, like Socialdemokratiet, calls for a (financially and business-minded) realistic approach to especially climate change policies.²⁰⁴ Concerning HFCs, they consider regulating phase-out on the European (and presumably the international) level to be a positive achievement, not only environmentally, but also because "it will give Denmark some advantages in the field"

²⁰² <https://jyllands-posten.dk/politik/ECE7751191/Socialdemokraterne-vil-have-en-realistisk-klimapolitik/>.

²⁰³ <https://lokal.danskfolkeparti.dk/Energipolitik/>.

²⁰⁴ <https://jyllands-posten.dk/debat/breve/ECE10009065/det-mener-partierne-om-miljoet/>.

(Hoegh, EUU Alm.del Offentligt referat rådsmøde 3246). It can be deduced that Venstre is in specific support of the Kigali Amendment.

Enhedslisten has an inherent, strong interest in environmental issues due to their founding principles (FT01). The group strongly emphasizes the need for (international) regulation in order to solve climate problems, as “we cannot leave it to the market and to the individual to solve [these]”²⁰⁵. Concerning the reduction of HFCs, Enhedslisten has expressed its support concerning the 2015 F-Gas regulation, highlighting “the case as a great example of the fact that it could be an entrepreneurial gain to go ahead with environmental demands” (Clausen, EUU Alm.del Offentligt referat rådsmøde 3246). Thus, Enhedslisten can be argued to have been in specific support of the negotiations of the Kigali Amendment.

Liberal Alliance has expressed that it is generally important to find a sensible balance between environmental considerations on the one hand, and growth and progress on the other²⁰⁶. The parliamentary group is somewhat sceptical of over-regulating environmental issues due to negative effects on Danish competitiveness. It can be assumed that whilst generally weary of regulation, Liberal Alliance is in specific support of the Kigali Amendment, as it is expected to improve Denmark’s market position and competitiveness.

Alternativet is “the green party” in Denmark and supports raising environmental ambition and climate goals, nationally, in the EU, and on the international scene.²⁰⁷ Even though the group has not positioned itself on the Kigali Amendment, it is safe to assume that they are in specific support of a global phase-out plan of HFC.

Radikale Venstre has a strong, inherent focus on environmental issues (FT01). The group hereby wants Denmark to be at the global forefront of green change by actively combatting climate change, and by creating a good business environment for green businesses and investments.²⁰⁸ It therefore seems reasonable to assume that the group also supports a global phasing-down plan of HFCs.

Socialistisk Folkeparti argues that the international community is approaching a where situation fighting climate change becomes inevitable. “We

²⁰⁵ <https://org.enhedslisten.dk/71635>.

²⁰⁶ <https://jyllands-posten.dk/debat/breve/ECE10009065/det-mener-partierne-om-miljoeet/>.

²⁰⁷ <https://www.altinget.dk/energi/artikel/alternativet-hvornaar-gaar-regeringen-ind-i-kampen-for-eus-klimapolitik>.

²⁰⁸ <https://www.radikale.dk/content/klima-og-energi>.

have both technology and knowledge to get started. The only resource that really is missing is political action and courage”.²⁰⁹ The group underlines the importance of international cooperation and praises the Montreal Protocol as an example of how legislation that is initially violently unpopular can prove good for our health and survival – and for industrial growth.²¹⁰ Whilst the group has not expressed its specific position on the Kigali Amendment to the Montreal Protocol, it is safe to assume that the group is supportive of phasing-out HFCs on the international level.

Det Konservative Folkeparti advocates a realistic approach to climate change policies that does not set goals so high that Danish business and the economy cannot keep up.²¹¹ However, this risk is irrelevant in terms of setting goals for the global reduction of HFCs as Denmark already has stricter regulation, and the Kigali Amendment is expected to promote Danish business. Det Konservative Folkeparti, too, can be argued to have been in specific support of the negotiations of the Kigali Amendment.

9.6.2.1.4. *The Likelihood of Substantive Influence*

Determining the likelihood of having substantive influence on international negotiations for a parliamentary group in a national parliament is a two-step process: as this likelihood depends on the credibility of a group’s veto threat, only in the negotiations of *mixed agreements* are *large enough parliamentary groups* expected to have a high chance of policy impact. The Kigali Amendment is a mixed agreement, requiring national ratification. However, in this instance, it cannot immediately be assumed that this translate into a credible veto threat for the Folketing’s larger groups: is the Danish parliament indeed involved in the national ratification of the Amendment? At closer investigation, the agreement does not seem to be covered by the scope of Article 19 of Grundloven, which sets out the conditions under which parliamentary consent to the national ratification of an international agreement is necessary in Denmark. Whilst the Kigali Amendment does require ratification in Denmark, the Folketing does not have a role in this process.²¹² Hence, none of the parliamentary groups has a credible veto threat, which means that the likelihood of having substantive influence on international negotiations was equally low for all groups.

²⁰⁹ <http://sf.dk/det-vil-vi/et-groent-danmark/reduktion-af-klimagasser>.

²¹⁰ <https://5styrker.dk/media/publikationer/femstyrkerweb.pdf>.

²¹¹ <http://www.klimadebat.dk/12-spoergsmaal-til-benedikte-kiaer-c-r200.php>.

²¹² This reasoning was confirmed by the Danish Ministry of Environment and Food (email with the head of section chemicals, 12 July 2018).

9.6.2.1.5. *The Overall Resources of the Parliamentary Groups*

Based on the description of the groups' resources above, which introduced a general measure, Socialdemokratiet and Venstre have high resources, Enhedslisten and Dansk Folkeparti medium resources and the remaining parliamentary groups low resources (see section 9.3.3).

9.6.2.1.6. *Efficiency Costs: Complexity and Compellingness*

Without repeating how the complexity of the policy area and the compellingness of the negotiations of the Kigali Amendment have been identified, the negotiations are characterized by low complexity and medium compellingness. Moreover, the theoretical framework argued that the efficiency costs stemming from the complexity of the issue under negotiation and the compellingness of the negotiation setting are moderated by a parliamentary group's policy position. As all groups have been identified as being in favour of the Kigali Amendment, the following values of efficiency costs can be discerned (see Table 62).

Table 62: Efficiency Costs Stemming from Complexity and Compellingness

Political Group/ Policy Position	Causal Factor	Complexity Low	Compellingness High
Socialdemokratiet/Specific Support		Low costs	Medium costs
Dansk Folkeparti/Specific Support		Low costs	Medium costs
Venstre/Specific Support		Low costs	Medium costs
Enhedslisten/Specific Support		Low costs	Medium costs
Liberal Alliance/Specific Support		Low costs	Medium costs
Alternativet/Specific Support		Low costs	Medium costs
Radikale Venstre/Specific Support		Low costs	Medium costs
Socialistisk Folkeparti/Specific Support		Low costs	Medium costs
Konservative Folkeparti/Specific Support		Low costs	Medium costs

9.6.2.1.7. *Predicting the Intensity of Control*

After having identified the values of the causal factors from the perspective of the parliamentary groups in the Folketing, the congruence analysis will now predict the intensity of parliamentary control with which the parliamentary groups in the Folketing are expected to have controlled the negotiations of the Kigali Amendment. This prediction, too, is done by comparing the cost-benefit ratios of the different groups.

The theoretical framework holds that on the benefit-side of parliamentary control, the higher the salience of the topic under negotiation, the higher are the vote-seeking benefits. It has been established that the public salience of the Kigali Amendment has been low in the EU and in Denmark, and the benefits are thus expected to be equally low for all parliamentary groups. Concerning the institutional status, only opposition parties are expected to gain high policy-seeking benefits. As government parties, Venstre, Liberal Alliance and Det Konservative Folkeparti are assumed to gain low policy-seeking benefits of controlling the negotiations of the Kigali Amendment, Dansk Folkeparti as supporting party medium-sized benefits, and Socialdemokratiet, Enhedslisten, Alternativet, Radikale Venstre and Socialistisk Folkeparti as opposition parties high policy-seeking benefits. The theoretical framework also holds that the more in opposition to an agreement a group's policy position is, the higher that group's policy-seeking benefits. Since all groups have been argued to be in specific support of a global phasing-out plan of HFCs, these benefits are assumed to be low for them. Finally, on the benefit-side of parliamentary control, it was explained that although the Kigali Amendment is a mixed agreement, the Folketing will not have to give parliamentary consent to its ratification. As such, it has low chances of having a substantive policy influence on the negotiations. This, according to the theoretical framework, means that all parliamentary groups are expected to gain low policy-seeking benefits from controlling the negotiations.

On the cost-side of parliamentary control, the theoretical frameworks argues that the higher the overall resources of a parliamentary group, the lower are the group's resource costs of controlling the negotiations of the Kigali Amendment. Only Socialdemokratiet and Venstre have been identified to have high overall resources and therefore low resource costs. Dansk Folkeparti and Enhedslisten have medium resources, i.e., medium costs, while the remaining parliamentary groups have only low overall resources, i.e., high resource-costs. Furthermore, the theoretical framework holds that the higher the complexity and the compellingness of a negotiation setting, the higher the efficiency costs of control, but only for actors who support the negotiations. The negotiations of the Kigali Amendment have been identified to be of low complexity and medium compellingness. As all parliamentary groups in the Folketing are supportive of the Amendment, the efficiency costs due to the complexity of the negotiations is expected to be low, and costs based on their compellingness of medium size. Table 63 recaps next page.

It is now possible to deductively predict the intensity of parliamentary control that the Folketing's parliamentary groups are expected to have exhibited in their control of negotiations of the Kigali Amendment. On the benefit-side,

some groups can expect to gain some policy-seeking benefits due to their institutional status, but these benefits are not very high. The lack of actual benefits of control means, in a first step, that the groups have low incentives to control the negotiations of the Kigali Amendment intensively. Since the costs of control are expected to be higher than the benefits for all parliamentary groups than the benefits they can be expected to gain, meaning that for all groups in the Folketing, the costs of control exceed the – already low – benefits of control. The only group displaying a somewhat balanced picture is Socialdemokratiet. This leads to the deductive prediction, based on the assumption that the higher the benefits and the lower the costs of parliamentary control, the higher its intensity, that all parliamentary groups in the Folketing controlled the negotiations of the Kigali Amendment with an equally low intensity (see Table 63).

Table 63: Overview of Theory-based Predictions

Benefit/cost	Actor	S	DF	V	EL	IA	Â	B	SF	DKF
Vote-seeking benefits	Policy-seeking benefits: institutional status Policy-seeking benefits: policy position Policy-seeking benefits: likelihood of impact Resource costs Efficiency costs: complexity Efficiency costs: compellingness	Low	Low	Low	Low	Low	Low	Low	Low	Low
Policy-seeking benefits: institutional status		High	Medium	Low	High	Low	High	High	High	Low
Policy-seeking benefits: policy position		Low	Low	Low	Low	Low	Low	Low	Low	Low
Policy-seeking benefits: likelihood of impact		Low	Low	Low	Low	Low	Low	Low	Low	Low
Resource costs		Low	Medium	Low	Medium	High	High	High	High	High
Efficiency costs: complexity		Low	Low	Low	Low	Low	Low	Low	Low	Low
Efficiency costs: compellingness		Medium	Medium	Medium	Medium	Medium	Medium	Medium	Medium	Low
Intensity of control		Low	Low	Low	Low	Low	Low	Low	Low	Low

9.6.2.2. Step 2: How did the Parliamentary Groups Control the Negotiations of the Kigali Amendment?

Step two of the comparative congruence analysis is a closer investigation of how the parliamentary groups in the Folketing have controlled the negotiations of the Kigali Amendment to the Montreal Protocol. This serves a descriptive aim and identifies the intensity of parliamentary control each group has displayed. The latter will make it possible to compare the predicted and the observed values of the intensity of parliamentary control.

This discussion can be kept short: The Folketing as a unitary actor has not been involved in the negotiations of the Kigali Amendment beyond being informed by the government, and the parliamentary groups have not exercised partisan control activity. “You know, the environment ... I haven’t heard about this Kigali thing. I heard about something with Kigali, but not in regard to the environment” (FT09), as a member of Dansk Folkeparti put it. Similarly, Socialdemokratiet does not recall any group activities in regard to the negotiations (FT06), and neither does Alternativet. “No, nothing happened here” (FT07). The interviewed parliamentary groups seem to have some difficulties remembering the Amendment at all and some are not even aware of its existence. No parliamentary group has gone beyond the information they have received automatically by the government, neither formally, which would have been possible to extract from the parliamentary database, nor informally.

The only times in recent years when the topic of HFCs was brought up by parliamentary groups was in connection with the F-Gas regulation (e.g. Dansk Folkeparti, § 20-spørgsmål S 460 2017-18; Det Konservative Folkeparti, EFK Alm.del 2016-17 sp. 64). Moreover, Socialistisk Folkeparti brought up the Montreal Protocol, but not its Kigali Amendment, twice in plenary debates in 2016-2017, to point to historical examples where political pressure has created technological innovation and business benefits (B 64 2016-17; B 85 2016-17). Beyond this, no parliamentary group has actively dealt with the issue of phasing out HFCs on the global level under the auspices of the Montreal Protocol.

Summing up, all parliamentary groups in the Folketing controlled the negotiations of the Kigali Amendment to the Montreal Protocol with low intensity, i.e., a low level of parliamentary activity with a monitoring function, if any.

9.6.2.3. Step 3: Comparing Prediction and Outcome

Based on the two previous steps, it is now possible to compare the theory-based predictions about the intensity of parliamentary control of every parlia-

mentary group with the observed values thereof. Table 64 presents the predicted values of the intensity of parliamentary control and the observed outcomes in order to enable the congruence testing.

Table 64: Comparison

Political Group	Predicted Intensity of Control	Observed Intensity of Control	Congruence (+) Non-Congruence (-)
Socialdemokratiet	Low	Low monitoring	+
Dansk Folkeparti	Low	Low monitoring	+
Venstre	Low	Low monitoring	+
Enhedslisten	Low	Low monitoring	+
Liberal Alliance	Low	Low monitoring	+
Alternativet	Low	Low monitoring	+
Radikale Venstre	Low	Low monitoring	+
Socialistisk Folkeparti	Low	Low monitoring	+
Det Konservative Folkeparti	Low	Low monitoring	+

Table 63 demonstrates the high degree of congruence between the predicted observable intensity of parliamentary control of the Folketing's parliamentary groups on the negotiations of the Kigali Amendment to the Montreal Protocol. This strongly indicates that the assumed causal relationship between the causal factors and the outcome is present, which supports the validity of the comprehensive theoretical framework by strongly suggesting it has empirical relevance in explaining the intensity of parliamentary control. Like the previous case studies, this case study will round off with a process-tracing study of this preliminary conclusion based on the comparative congruence analysis further.

9.6.3. Process-Tracing Analysis: An Exploratory Approach

However, unlike in the previous case studies, the control of the negotiations of the Kigali Amendment by the parliamentary groups in the Folketing does not really lend itself to a methodologically thorough process-tracing analysis, tracing the causal mechanism of why the groups controlled with the intensity they did, for two interconnected reasons. First, a practical problem of lack of data. Second, and more importantly, most parliamentary groups were not aware of the negotiations of the Kigali Amendment, even though they had been informed. Not being aware that a file exists makes it difficult to consciously make a decision about it, to conduct an analysis of the costs and benefits of controlling the file. Against this background, the following sub-chapter

will attempt to explore potential reasons for the general lack of attention. The approach will be more exploratory, leaving behind the strict framework of the previous process-tracing studies. This analysis is more interpretative in nature but still somewhat oriented along the causal factor identified in the framework. Importantly, this investigation will not draw on insights from one parliamentary group, but will attempt to provide a more holistic overview, based on several interviews from the political level in the Folketing and the administrative level, which were, with some minor exceptions, focused on the control of EU environmental affairs and international treaty-making in the climate change policy field.

Generally, the salience, or rather the lack thereof, has been identified as an important reason for why the parliamentary groups in the Folketing have not engaged with multilateral environmental agreements, such as the Kigali Amendment, more closely. Generally, for EU affairs, but also more specifically in the environmental area, “the Danish public – sometimes, when you are lifting issues out of the national context onto the European level, sometimes it disappears from the Danish agenda completely. [...]. Generally, the closer it is to the citizen, the more you feel it in your own body, the more the public will be interested and the more the politicians generally would be engaged” (FT01). The lack of public salience is also noted on the political level, as Danish parliamentarians observe that few citizens know about international environmental agreements. This is not to say that they do not care about issues like climate change (FT07). Whilst this does dis-incentivise some parliamentary groups to control environmental negotiations actively, some of them are more inherently interested in environmental issues due to their “founding principles” (FT01). However, the lack of public salience, public attention to more minor multilateral environmental agreements, such as the Kigali Amendment, might offer an explanation why also the latter parliamentary groups have not heard of the agreement.

This, as the interviews reveal, goes hand in hand with a general lack of resources for the parliamentary groups in the Folketing to follow all international negotiations closely. “Too many different issues are going through the committees too fast”, meaning that “many of them [committees] do not pay attention to these issues, these negotiations that will not become reality for another 5 years” (FT01). An average parliamentarian in the Folketing sits in five to eight committees. They receive large volumes of documents and information, and have to relate to a substantial number of potentially very different issues on the political agenda. This, combined with the long delivery time of international agreements, requires parliamentarians to have a strategic mindset when following international negotiations. However, if the issue under negotiations is not salient within the public, other issues on the agenda seem

more relevant (FT01). This is a particular challenge for parliamentary groups with an inherent interest in environmental issues due to their founding principles, such as Socialistisk Folkeparti and Alternativet. It is thus the smallest political groups that are most interested in the Kigali Amendment, and they have even less time to follow the international talks due to work overload.

Some parliamentary groups have set-up a fire-alarm system with civil society organizations and NGOs within the environmental field, creating networks outside of the Folketing with NGOs that accompany international environmental negotiations professionally. These can provide the groups with very specific and detailed information regarding the content and the timing of these negotiations. It is especially important for the above-mentioned resource-poor, smaller parliamentary groups to have a system in place that alerts them of potential problems and to become active within the parliamentary realm (FT07). However, the environmental NGOs in Denmark have not raised the Kigali Amendment in the public or towards parliament. This might be due to the general lack of public salience of the agreement or a lack of issues and potential conflict areas to raise, where parliamentary action might have been considered necessary, and hence parliament ought to be alerted.

As discussed above, the policy position of the parliamentary groups in the Folketing and the Danish government was rather unanimously supportive of an ambitious international phasing-out plan for HFCs due to environmental concerns and business considerations. Hence, there generally was an absence of conflict within Denmark on the negotiations, and no group deemed it important to “push the minister to be more aggressive, to be more ambitious in the negotiations” (FT07), which they usually do if they consider the government’s policy position unambitious. With the EU advocating a similarly ambitious plan on the international level, there may simply not have been a need for proactive parliamentary action; which might also explain why the fire-alarm NGOs did not alert “their” parliamentary groups to take action.

In addition to these somewhat interconnected factors providing a first, tentative explanation for why the Kigali Amendment simply was not on the parliamentary agenda in the Folketing – its lack of salience, lack of policy conflict, especially on the national level, and the general lack of resources of the parliamentary groups – further explanatory factors can be identified. First, several interviewees mentioned one overarching multilateral environmental agreement of the last couple of years: the Paris Agreement, concluded 2015 within the UNFCCC framework, dealing with greenhouse-gas-emissions mitigation, adaptation, and finance in order to mitigate climate change. “Well, for our time, the big environmental agreement is the Paris Agreement. And that’s what I have been working mostly with lately. [...]. Paris really overshadows...”

(FT07). However, as explained above, the positive impact on mitigating climate change of the Kigali Amendment is assumed to be higher than the one of the Paris Agreement, which may be a surprise. There are two reasons why especially the environmental oriented parliamentary groups in the Folketing focused on the Paris Agreement. First, there was greater policy conflict around the negotiations and their content, and it was more complex. The Paris Agreement required greater parliamentary attention and attendance to arrive at a successful and ambitious outcome (FT07). In addition, public attention to the Paris Agreement was greater, as NGOs and the public were aware of the negotiations and their importance, actively accompanying the international efforts. The observation that the Paris Agreement overshadowed the negotiations of the Kigali Amendment underscores the above-made observations: greater public salience and greater policy conflict, nationally and internationally, seem to lead to more intense parliamentary control. This can also be connected to a lack of group resources: a group with scarce resources has to make a strategic decision about which file, which international agreement to focus on – the salient and conflictual ones. Lastly, within the field of environmental policy-making and in the absence of policy conflict and salience, one or two engaged and ambitious parliamentarians may put an issue on the parliamentary agenda, with informal and personal effort. Not all 179 MPs in the Folketing prioritize international issues the same way, but sometimes an MP makes a difference because an issue is important to her or him. However, this was not the case on the Montreal Protocol.

Summing up, the negotiations of the Kigali Amendment were characterized by low salience and a low level of policy conflict, i.e., conflict between the parliamentary groups in the Folketing, opposition groups and Danish government, and a lack of opposition to the agreement. These factors provided little incentive for the parliamentary groups, environmentally focused or not, to actively follow the negotiations; especially in a situation, where group resources are generally scarce, another major multilateral environmental agreement overshadows the negotiations under investigation here, and where there are no individual MPs take up the issue due to personal interest. This investigation has not revealed any considerations of the groups' perception of their likelihood, of having substantive policy impact, nor of the efficiency cost of parliamentary control. However, these tentative findings fit into the explanations provided by the theoretical framework: in this type of situation, parliamentary groups can only expect low benefits of control, but high costs, explaining why they control the negotiations with low intensity. However, this conclusion calls for caution, as the analysis is lacking the methodological rigor of the previous process-tracing studies.

9.6.4. Conclusion

Not much can be added to the conclusion of the process-tracing study. The descriptive empirical investigation has revealed that the negotiations of the Kigali Amendment have not been scrutinized in-depth in the Folketing. This finding is congruent with the theoretical predictions of the comparative congruence analysis, which strongly implies that the theoretical framework is able to explain the empirical phenomena under investigation here. Moreover, the holistic and exploratory process-tracing study does not contradict this preliminary conclusion. The groups perceive the salience of the agreement to be low; there is a low level of policy conflict in the parliament; and other environmental negotiations have taken precedence, increasing the opportunity and resource costs of control. Data is missing on several causal factors, and this process-tracing study lacks some methodological rigour due to its holistic and exploratory approach, but the findings cannot be said to contradict the assumptions of the theoretical framework. This strongly implies that the theoretical framework explains why all parliamentary groups in the Folketing controlled the negotiations of the Kigali Amendment with only low intensity.

9.7. Parliamentary Control of the EU-Tunisia Readmission Agreement Negotiations in the Folketing

Following Denmark's initial rejection of the Maastricht Treaty in the 1992 referendum, the country holds an opt-out, *retsforbehold*, from European policies in the area of justice and home affairs. It shields Denmark from supranational decisions in the policy area, leaving Denmark free to participate as long as cooperation remains intergovernmental. The 1997 Amsterdam Treaty and the transfer of substantial parts of the justice and home affairs portfolio from ordinary EC cooperation to the supranational level, triggered Denmark's opt-out in border control, civil law and asylum and integration policies (Adler-Nissen 2014: 67f.). Concerning the return of irregular migrants, Denmark was thus originally not covered by the EU Directive 2008/115/EC on common standards and procedures for returning illegally staying third-country nationals.²¹³

More importantly for the EU-Tunisia readmission agreement, Denmark does not become part of readmission agreements the EU has negotiated with third countries. This also means that the Danish government has no voting

²¹³ In accordance with Article 4.1 of the Protocol annexed to the Treaties on the position of Denmark, Denmark has chosen to implement the Directive in its national law, http://europa.eu/rapid/press-release_IP-11-1097_en.htm.

power on the issue in the Council (Art. 1 Protocol on the Position of Denmark)²¹⁴ and that Denmark does not participate in the international negotiations. However, EU readmission agreements commonly contain general recommendations for the parties to enter readmission negotiations with other third countries that are not covered by the readmission agreement in question, hence also Denmark. Moreover, the opt-out does not mean that Denmark is not actively involved in the EU's policy-making in the area of asylum and migration, and readmission with African countries. The current Danish government generally supports a much more effective return policy, including the African continent, and emphasizes a better synergy with development policy, trade policy and other foreign policy instruments on the national and the European level (Udenrigsministeriet 2018: 15). On the national level, Denmark has concluded a number of bilateral readmission agreements, whose text is essentially based on the EU standard text and which do not require parliamentary ratification (Rigspolitiet 2015: 30). Bilateral readmission negotiations between Denmark and the non-EU country often took place in the course or the aftermath of EU readmission negotiations (Tænketanken Europa 2017: 9). However, it is not entirely clear whether Denmark is currently negotiating a bilateral readmission agreement with Tunisia in parallel to the EU, as information on this question is contradictory (UUI Alm.del 2016-17 svar sp. 586; FTo3; FTo8; FTo9). However, most parliamentarians are not aware that such an agreement is being negotiated.

In Denmark, Tunisia does not qualify as a safe country (UUI Alm.del 2016-17 svar sp. 33) nor is it particularly important as a country of origin and transit of irregular migrants (UUI Alm.del 2015-16 svar sp. 566; UUI Alm.del 2016-17 svar sp. 1172; UUI Alm.del 2016-17 svar sp. 586). Until recently, significant challenges regarding the return of rejected asylum seekers to Tunisia were not reported, but repatriation from Denmark to Tunisia has become increasingly difficult. This is due to limited contact with the Tunisian representation in the Netherlands, which is also responsible for the country's representation in Denmark (UUI Alm.del 2016-17 svar sp. 586) and long processing times and difficulties in identifying the nationality of the foreigners concerned (Rigspolitiet 2015: 6).

The research question of whether, and if so, how and why the parliamentary groups in the Folketing control the negotiations will be analysed against the background that the EU-Tunisia readmission agreement will not apply to Denmark, and the Danish government, to the knowledge of most parliamentarians in the Folketing, is not negotiating its own bilateral return agreement

²¹⁴ The Danish government participates in Council meetings where the issue is discussed.

with the country. Due to Denmark's opt-out from justice and home affairs, the analyses will only partially follow the structure of the previous case studies. In the comparative congruence analysis, there will be two differing predictions about the groups' scrutiny of the negotiations; one based on the values of the causal factors, and one based on the new theoretical assumption. Both will be compared to the observed control activities. The process-tracing analysis of a selected group of parliamentary groups will pay special attention to how these groups perceived the causal factors, and the costs and benefits of parliamentary control in light of the Danish opt-out.

9.7.1. Overview of the Folketing's Treatment of the File

Due to Denmark's opt-out in the area of Justice and Home Affairs, the limited involvement of the Danish government in Council decisions in this policy area and the fact that the country is not covered by the decisions made on the European level, the Folketing does not have the same formal control rights concerning readmission agreement negotiations as it does for other EU international agreements. Whilst the latter are subject to the formal ways of control elaborated on above, the Folketing's role in the making of EU readmission agreements is much more limited. This starts with the parliament's information and document access rights and extends to the parliament's mandating rights for the government's negotiations on the file in the Council – as the government does not vote in the Council, the EAC cannot mandate it to do so – and eventually possible ratification rights – as Denmark is not a part of the agreement, even if it was of mixed nature, the Folketing would not ratify it.

Unlike for other EU international negotiations, the Folketing does not receive summary memoranda updating them on the progress of the negotiations prior to Council meetings where the issue is on the agenda; neither are the negotiations discussed and debated in-depth at the meetings of the Folketing's European Affairs Committee. However, the Danish government regularly updates the Committee about the status quo, state of play in the area of migration, which means that readmission is high on the agenda (e.g. Samlenotat Rådsmøde 3564, Samlenotat Rådsmøde 3603). More recently, the Committee has discussed European readmission and return policy as a standalone agenda point (Samlenotat Rådsmøde 3415). However, the government's summary memoranda on these agenda points have been of a more general nature, not updating the parliament on the specific progress and status of the readmission agreements under negotiation. In March 2017, the Folketing's EU consultants prepared a report on the EU's readmission politics for the members of the European Affairs Committee, covering the EU's legislation on the issues, Denmark's involvement in the policy field and providing an overview of the status quo (EU-note om EU og Danmarks tilbagesendelsespolitik, EUU Alm. del EU

Note 21 2016-17). Whilst it is possible for the EAC to follow up on information and request further insights, this is more difficult, especially concerning access to negotiation documents (FT08). Overall, for the EU-Tunisia readmission agreements, this means that the Folketing is informed of the negotiations only to a small extent, both in terms of updates from the Danish government and access to negotiations documents (FT03).

The EU-Tunisia readmission agreement has never been debated in-depth in the Danish Parliament or in the EAC. Readmission more broadly has been discussed in the Folketing's *udenrigspolitiske nævn*²¹⁵ (FT08), but the EU-Tunisia readmission agreement is unlikely to have been subject to intense discussion and control in this locus. Summing up, the readmission agreement between the EU and Tunisia has not featured high on the agenda of the Folketing, meaning that the Folketing – as a unitary actor – has not formally dealt with the file at all.

9.7.2. Partisan Control Action: A Comparative Congruence Analysis

The case study will continue with a comparative congruence analysis in order to, in a first step, answer the overarching research of how and why the parliamentary groups in the Folketing have controlled the EU-Tunisia readmission negotiations. Due to the Danish opt-out, two different predictions will be brought forward; one purely in consideration of the Danish opt-out, and one following the well-known structure of identifying the values of the causal factors, whilst paying attention to the changed circumstances and how these might affect these values. This is followed by a description of the “how” of parliamentary control and a comparison between prediction and outcome.

9.7.2.1. Step 1a: Predicting the Outcome I

As discussed above, the Folketing has little to no formal control rights of EU international treaty-making in the area of justice and home affairs. It does not have the same information rights as in other EU policy areas in terms of updates from the Danish government in meetings of the European Affairs Committee and access to confidential negotiations documents. Moreover, the Folketing cannot give the Danish government a mandate for its behaviour in the Council in regard to the internal decision-making on the file. This means that an important, valued *ex ante* scrutiny mechanism in the Folketing's control system of EU affairs cannot be used. Lastly, the Folketing has no means of

²¹⁵ The Folketing's Foreign Policy Committee (not to be confused with the Foreign Affairs Committee), which is responsible for advising the government in cases of significant foreign policy decisions.

directly – via national ratification – or indirectly via the government deciding in the Council – participating in the final conclusion of an agreement in the ex post stage. As mentioned several times, Denmark does not become a part of EU readmission agreements, but is recommended to negotiate bilateral agreements, as stated in the EU-third party readmission agreements. Whilst it is not entirely clear whether the Danish government is doing so with Tunisia, most Danish parliamentarians do not seem to be aware of such negotiations; meaning they act in parliament as if these negotiations did not take place. This raises the question why the parliamentary groups in the Folketing should control the EU-Tunisia negotiations at all: the outcome does not matter for the country, Denmark is not negotiating a readmission agreement with Tunisia, and the formal control mechanisms of the parliament are at best limited. In cost-benefit terms, there seem to be high costs and only few benefits of control involved for all parliamentary groups in the Folketing. Thus, this dissertation introduces the following working prediction: The parliamentary control of the EU-Tunisia readmission agreement is low (non-existent) for all parliamentary groups in the Folketing.

9.7.2.2. Step 1b: Predicting the Outcome II

However, parliamentary groups might still have incentives to control the negotiations between the EU and Tunisia, even though Denmark is not part of the final agreement. First, Denmark is still part of the EU's framework on migration and asylum policy and does participate in the EU's broader policies on return and readmission. This means that the EU's actions in this area will have an impact on the country. This also extends to potential consequences of European migration numbers to Denmark. Moreover, the conclusion of a readmission agreement with Tunisia might provide incentives for the Danish government to take up similar negotiations, which might incentivize the Folketing's groups to follow the EU negotiations to take advantage of subsequent synergy effects. Other reasons for why the Folketing's group should indeed control the EU-Tunisia negotiations on a readmission agreement are imaginable. However, what is important at this point is to be aware that it might be indeed possible that the parliamentary groups do exercise scrutiny.

In order to elaborate further on this assumption and more thoroughly predict the expected intensity of control for the various parliamentary groups in the Folketing, the following paragraphs will follow the well-known structure of identifying the values of the causal factors, in order to comparatively analyse the expected cost and benefits of parliamentary control for the individual groups. However, it is important take the altered circumstances of the opt-out into account, as this might have a significant impact on how the parliamentary groups perceive the casual factors. The identification of the values of the

causal factors will take into consideration how these can be expected to have changed due to the opt-out. As this is being done somewhat exploratorily, without much theoretical or empirical reasoning, this will be taken up in the process-tracing analyses.

9.7.2.2.1. The Public Salience of the Readmission Agreement with Tunisia

The agreement's media salience in Denmark seems to be low unlike on the European level. This might be due to the Danish opt-out of all EU readmission agreements: As Denmark will not become party to the agreement it might be argued that despite the high salience of migration and readmission in general, the readmission agreement between the EU and Tunisia is of low, not of medium public salience in Denmark.

9.7.2.2.2. The Institutional Status of the Parliamentary Groups

The negotiations between the EU and Tunisia on a readmission agreement were authorized in 2014, and they opened in the last half year of the Folketing's 2011-2015 legislative period. This dissertation claims that the institutional status of the parliamentary groups can be determined according to their representation in government in the legislative period running since 2015, as the major part of the negotiations fell into this period and as no formal involvement of the Folketing was prescribed in the earlier legislative period. Table 65 below provides an overview of the groups' (simplified) institutional status in regard to the EU-Tunisia readmission negotiations.

Table 65: Overview of the Groups' Institutional Status

S	DF	V	EL	LA	Å	B	SF	DKF
O	S	G	O	G	O	O	O	G

Note: G = governing party; O = opposition; S= supporting.

9.7.2.2.3. The Policy Position of the Parliamentary Groups

When identifying the policy position of the parliamentary groups in the Folketing on the EU Tunisia readmission agreement, it is important to be aware that many groups have not explicitly positioned themselves on the issue. However, all groups have voiced preferences on migration in general, on readmission and, to some extent, have expressed how they perceive Tunisia in this regard. Their policy positions will be deduced from these expressions of policy positions.

Socialdemokratiet's position on the return of irregular migrants is that the EU and the Danish government should do anything in their power to speed up repatriations via more bilateral agreements with third countries, economic aid

and other means,²¹⁶ presenting strategies to improve the numbers of returned rejected asylum seekers.²¹⁷ Whilst the group has not positioned itself on the EU-Tunisia readmission agreement, Socialdemokratiet considers Tunisia to be a safe and stable country with peace, a recognized government, no torture and a proper case processing of asylum seekers.²¹⁸ Socialdemokratiet can thus be argued to be in specific support of the EU-Tunisia agreement negotiations.

Dansk Folkeparti has an overall strong Eurosceptic stance and is generally critical towards EU international agreements. In regard to readmission, they strongly emphasize that they perceive it to be the duty of every country according to international law to take back one's own citizens. They are somewhat hesitant regarding readmission agreements (FT09), but the return of rejected asylum seekers is on top of the migration priority list. Preferring the use of negative incentives such as visa and trade restrictions, they are not opposed to readmission agreements per se. Regarding Tunisia, the parliamentary group supports the overall goals of return (FT09). Dansk Folkeparti can thus be argued to be in specific support of the negotiations with Tunisia on a readmission agreement.

Venstre considers it important that Denmark manages to send rejected asylum seekers back to their country of origin, within reasonable limits.²¹⁹ The group advocates the use of strong negative incentives, such as coupling readmission with Danish development assistance.²²⁰ The parliamentary group has not positioned itself on Tunisia, but it can generally be assumed that Venstre is in specific support of the negotiations.

Enhedslisten generally wishes to ease Denmark's rather strict integration policies and wants Denmark to accept more refugees.²²¹ However, they agree that any state is obliged to take back its own citizens, arguing that "migrants who don't have a justified asylum claim can be sent back, or else the asylum system will totally collapse. [...]. So these agreements are necessary" (FT03). However, the group is sceptical of the extensive use of negative incentives to

²¹⁶ <https://www.socialdemokratiet.dk/media/7011/en-udlaendingepolitik-der-samler-danmark.pdf>.

²¹⁷ <https://www.socialdemokratiet.dk/media/7011/en-udlaendingepolitik-der-samler-danmark.pdf>.

²¹⁸ <https://jyllands-posten.dk/politik/ECE10281990/tunesien-siger-nej-tak-til-socialdemokratiets-ide/>.

²¹⁹ <https://www.dr.dk/nyheder/politik/venstre-om-dfs-nye-flygtningekrav-vi-vil-ikke-kaste-folk-ud-i-faldskaerm-over-raqqa>.

²²⁰ <https://www.michaelaastrup.dk/tilbagesendelsesaftaler>.

²²¹ <https://politiken.dk/indland/politik/folketingsvalg2015/art5579281/F%C3%A5-overblik-i-udl%C3%A6ndingebatten-Det-mener-partierne>.

forge readmission (Søndergaard, EUU Alm.del Offentligt referat rådsmøde 3504) and has a firm position that migrants cannot be sent back to volatile, unstable and unsafe countries. However, the group consider Tunisia a rather stable country (FT03). Overall, it can thus be argued that Enhedslisten is in complementary criticism to the agreement.

Alternativet has a very pro-European stance and favours a common solution to the current migration crisis, in which Denmark should participate despite the opt-out. Alternativet strongly emphasizes the need to support migrants and to foster integration over repatriation.²²² The group is not completely opposed to readmission agreements, but they have voiced some red lines, e.g., the use of conditionality and negative incentives²²³ and the return to war-hit and volatile countries (Nordqvist, EUU Alm.del Offentligt referat 11. september 2015). The parliamentary group has not positioned itself on Tunisia, but since they are sceptical about whether to categorize Turkey as a safe state, a similar position can be assumed regarding Tunisia. They are assumed to be sceptical towards the goal of negotiating a readmission agreement with Tunisia, whilst being supportive of the overall aim, meaning they are in complementary criticism to the negotiations.

Liberal Alliance generally wants to tighten asylum and migration policies in Denmark.²²⁴ Emphasizing the costs to the Danish state of asylum seekers entering Denmark without justified reasons, Liberal Alliance wants rejected asylum seekers returned to their state of origin.²²⁵ Thus, the parliamentary group is strongly in favour of readmission agreements in general. Whilst they have not positioned themselves on Tunisia, it can reasonably be assumed that they are in specific support of the overall aim of the negotiations.

Radikale Venstre is generally more migration-friendly than most parliamentary groups in the Folketing and agrees with the overall aim of readmission agreements²²⁶ provided that the country of origin qualifies as safe (Østergaard, EUU Alm.del Offentligt referat 27. maj 2016). Whilst the group has not positioned itself on Tunisia and its status, a general observation is that

²²² <https://www.altinget.dk/udvikling/artikel/alternativet-danmark-skal-vaere-det-bedste-land-for-hele-verden>.

²²³ <https://www.altinget.dk/udvikling/artikel/alternativet-danmark-skal-vaere-det-bedste-land-for-hele-verden>.

²²⁴ <https://politiken.dk/indland/politik/folketingsvalg2015/art5579281/F%C3%A5-overblik-i-udl%C3%A6ndingebatten-Det-mener-partierne>.

²²⁵ https://www.liberalalliance.dk/wp-content/uploads/2015/04/Udlaendingeudspil_LA_240414.pdf.

²²⁶ <https://www.altinget.dk/christiansborg/artikel/konventioner-hindrer-ikke-hjemsendelse-af-flere-flygtninge>.

on most migration issues, Enhedslisten, Alternativet and Radikale Venstre have a similar stance (FT03). It can thus be deducted that Radikale Venstre, too, is in complementary criticism to the EU-Tunisia readmission agreement.

The Socialistisk Folkeparti generally proposes as tighter refugee, migration and integration policy than other parliamentary groups on the political left in the Folketing.²²⁷ In regard to the return of irregular migrants, the group is somewhat sceptical of the extensive use of conditionality; however, they do support the overall idea of an effective readmission system (Nielsen, EUU Alm.del Offentligt referat rådsmøde 3504). On many migration issues, Socialistisk Folkeparti is not as strict as for example Venstre and Socialdemokratiet, but in regard to readmission agreements, the group can be argued to be in specific support, too. Whilst they have not positioned themselves on Tunisia, this can also be assumed to apply to readmission to the country.

Det Konservative Folkeparti generally stands for a stricter immigration policy. In order to deal with the current migration crisis, they argue that it is important that Denmark quickly returns rejected asylum seekers.²²⁸ The group is clearly in favour of the conclusion of readmission agreements, supporting the government's efforts to use conditionality to exert increased pressure on countries of origin to accept their own nationals. Det Konservative Folkeparti argues, "if you are from Tunisia, I can't see any reason why you should get permission to stay. It is a very safe country. And that's why we should reject them [...]" (FT08). Summing this up, the group is in specific support of the agreement.

9.7.2.2.4. The Likelihood of Substantive Impact

Recall that generally, determining the likelihood of impact parliamentary control has on EU international negotiations is a two-step process, first investigating the legal nature of an agreement as exclusive or mixed; and only in the latter case, then assigning high likelihood to groups with a highly credible veto threat. However, it is important to recall that due to Denmark's opt-out, the Folketing has no legal involvement rights in the negotiations, especially no ratification right. This means that there is no credible veto threat for any group, and that all groups are equally unlikely to impact the negotiations. Moreover, the groups cannot expect to substantively impact the negotiations indirectly via the national government acting, negotiating and voting in the Council, as Denmark does not officially participate in the proceedings on the

²²⁷ <https://jyllands-posten.dk/politik/ECE9100374/analytiker-mest-op-sigtsvaekkende-at-sf-vil-afvise-flygtninge-ved-graensen/>.

²²⁸ <https://www.fyens.dk/indland/Saerlige-aftaler-skal-hjemsende-flere-paa-taalt-ophold/artikel/3017821>.

negotiation of readmission agreements. Thus, the likelihood of substantively influencing the negotiations between the EU and Tunisia is low for all parliamentary groups in the Folketing.

9.7.2.2.5. The Overall Resources of the Parliamentary Groups

According to the measure introduced in section 9.3.3., Socialdemokratiet and Venstre have high resources, Enhedslisten and Dansk Folkeparti medium resources and the remaining parliamentary groups low resources. This is not affected by the Danish opt-out.

9.7.2.2.6. Efficiency Costs: Complexity and Compellingness

In section 6.4, it was argued that the negotiations between the EU and Tunisia on a readmission agreement are of medium complexity, and that the negotiations between the EU and Tunisia on readmission are taking place in a somewhat compelling environment from a European perspective, i.e., the negotiation setting is characterized by medium compellingness.

Recall that the underlying theoretical idea of efficiency costs is that in complex and compelling situations, the Union negotiator is thought to be in need of sufficient discretion in the negotiations in order to achieve the best possible negotiation outcome. Parliamentary control might impede this. These efficiency costs of control, are moderated by the groups' policy position. However, since Denmark will not become a party to the EU-Tunisia readmission agreement, it is questionable whether inefficient negotiations and the risk of a suboptimal negotiation outcome can be considered a cost from the groups' point of view, irrespective of their policy position. Indeed, it shall be argued here that as the outcome of the negotiations does not apply to Denmark, the parliamentary groups in the Parliament are expected to perceive the efficiency costs of parliamentary control as low.

9.7.2.2.7. Predicting the Intensity of Control

Based on the values of the causal factors identified above for each parliamentary group in the Folketing for the negotiations of the EU-Tunisia readmission agreement, the intensity of control every group is expected to display can now deductively be predicted. As in the previous case studies, the approach is comparative, as the prediction is based on the combination of costs and benefits within one unit of analysis and a comparison across units.

Starting with the benefit-side, it was argued that public salience is low in Denmark due to its opt-out of European readmission agreements. All parliamentary groups can therefore expect low vote-seeking benefits. The institutional status of the groups has been identified according to their representation in the current government. The policy-seeking benefits of parliamentary

control are thought to be high for opposition parties, i.e., Socialdemokratiet, Enhedslisten, Alternativet, Radikale Venstre and Socialdemokratiet, medium for Dansk Folkeparti, which supports the Danish minority government, and low for the governing parties, Venstre, Liberal Alliance and Det Konservative Folkeparti. The theoretical framework holds, moreover, that the more in opposition a parliamentary group is to an international agreement, the higher are the policy-seeking benefits of controlling its negotiations. The analysis of the policy positions of the Folketing's parliamentary groups showed that Enhedslisten, Alternativet and Radikale Venstre are in complementary criticism to the EU-Tunisia readmission agreement, whilst all other parliamentary groups are in specific support. The policy-seeking benefits based on their policy position are of medium size for the former three, and low for all others. Lastly, due to the Danish opt-out, the Folketing as a whole and its parliamentary groups individually do not have a say at any stage of the EU-Tunisia readmission agreement negotiations, meaning that the policy-seeking benefits stemming from the likelihood of having substantive impact can be assumed to equally low for all parliamentary groups.

On the cost-side, the theoretical framework holds that the resource costs of a parliamentary group are assumed to be higher, the lower the group's overall resources. Socialdemokratiet and Venstre with high resources have low resource costs of controlling the readmission negotiations, Enhedslisten and Dansk Folkeparti with medium resources medium resource costs, and the remaining groups, with low overall resources, high costs. Lastly, the theoretical framework holds that the higher the complexity and the compellingness of a negotiation setting, the higher the efficiency costs of control, but only for parties that support the negotiations. However, as the outcome of the negotiations does not apply to Denmark, the efficiency costs of parliamentary control are assumed to be low from all groups' point of view. Table 66 concludes next page.

This table makes it possible to predict the values of the intensity of parliamentary control that every parliamentary group is expected to exhibit. This is, as previously, done in a comparative approach by investigating which group(s) are assumed to gain the highest benefits and the lowest costs from control, and vice versa. Overall, the differences in the cost-benefit ration of control seem to be rather minor, and especially that the benefits are generally not very high. When predicting intensity of control, it is important to be aware that "high" intensity" refers to "higher than the other groups controlling these negotiations" and vice versa; i.e., the predictions cannot serve as reference point for the control intensity of other negotiations.

The table shows that three parliamentary groups, Venstre, Liberal Alliance and Det Konservative Folkeparti, are not assumed to gain any benefits from

parliamentary control of the EU-Japan negotiations. Whilst the expected costs of scrutiny are expected to be somewhat bigger for the latter two, one can argue that the costs of control for all three groups exceed the potential benefits. This means that all three parliamentary groups are expected to control the EU-Tunisia negotiations with a low intensity. The groups that are expected to gain the highest benefits from controlling the EU-Tunisia readmission agreement negotiations are Enhedslisten, Alternativet and Radikale Venstre. However, the costs are slightly larger for Alternativet and Radikale Venstre than for Enhedslisten. Thus, Enhedslisten can be argued to control the negotiations with a high intensity, and Alternativet and Radikale Venstre with medium intensity. Socialdemokratiet and Socialistisk Folkeparti are assumed to gain the same benefits of parliamentary control. The costs of controlling the EU-Tunisia negotiations are expected to be low for the former. This actually means that, whilst Socialdemokratiet scores differently for the individual causal factors, the overall cost-benefit of this parliamentary group resembles the one of Enhedslisten, meaning that this group, too, is expected to control with a high intensity. For Socialistisk Folkeparti, however, the benefits of control seem to be balanced by the costs, which both are of moderate size. The same observation can be made for Dansk Folkeparti, which on the one hand can expect both lower costs and benefits of control, on the other hand, displays the same cost-benefit ratio as Socialistisk Folkeparti. As the cost-benefit ratio for both groups is balanced, this dissertation argues here that the intensity of control is expected to be low for both groups.

Table 66: Overview of Theory-based Predictions

Benefit/cost	Actor	S	DF	V	EL	IA	Â	B	SF	DKF
Vote-seeking benefits	Policy-seeking benefits: institutional status Policy-seeking benefits: policy position Policy-seeking benefits: likelihood of impact Resource costs Efficiency costs: complexity Efficiency costs: compellingness	Low	Low	Low	Low	Low	Low	Low	Low	Low
Policy-seeking benefits: institutional status		High	Medium	Low	High	Low	High	High	High	Low
Policy-seeking benefits: policy position		Low	Low	Low	Medium	Low	Medium	Medium	Low	Low
Policy-seeking benefits: likelihood of impact		Low	Low	Low	Low	Low	Low	Low	Low	Low
Resource costs		Low	Medium	Low	Medium	High	High	High	High	High
Efficiency costs: complexity		Low	Low	Low	Low	Low	Low	Low	Low	Low
Efficiency costs: compellingness		Low	Low	Low	Low	Low	Low	Low	Low	Low
Intensity of control			High	Low	Low	High	Low	Medium	Medium	Low

9.7.2.3. Step 2: How have the Parliamentary Groups controlled the EU-Tunisia Readmission Negotiations?

The next step of the comparative congruence analysis is to analyse how the parliamentary groups in the Folketing have controlled the negotiations between the EU and Tunisia. This not only serves a descriptive aim, but also enables the comparison of the predicted values of the intensity of parliamentary control with the actual values that have been observed.

9.7.2.3.1. Socialdemokratiet

Socialdemokratiet has controlled the negotiation between the EU and Tunisia on a readmission agreement only to a minor extent. Whilst the group generally argues that looking at the broader Danish debate and the European debate on migration, the Tunisian agreement seems important to pay attention to, they have not done so (FT06). At the same time, they struggle to some extent with an access point to controlling the negotiations, not being able to control the negotiations via the Danish government acting in the Council, which is usually their access point (FT06). Analysing the function of Socialdemokratiet's few control actions on EU readmission agreements more broadly, it is evident that their actions are more directed at gathering information of the EU and international developments, and not at actively influencing them. This also holds for the EU-Tunisia readmission agreement.

The group thereby makes use of both informal and formal mechanism of parliamentary control. Concerning the former, Socialdemokratiet, as a former governing party, still has connections to public servants working on EU issues, and its parliamentarians know some ministers personally, whom they can contact informally. However, they have done so only to a minor extent on readmission agreements (FT06). Formally, the group uses the debates and exchange of views with government representatives in the European Affairs Committee to gather information on the EU-level developments on readmission and to express its views on the issue if it considers this necessary. However, it has not done so in regard to the EU-Tunisia readmission agreement. Moreover, Socialdemokratiet is one of two parliamentary groups who has asked a written question somewhat related to readmission with Tunisia, however, without referring to the ongoing negotiations or the EU. Rather, the group investigated, in light of the 2017 EU-African Union summit, where readmission was a major topic, the willingness of African countries, such as Tunisia, to take back their own nationals (URU Alm.del 2017-18 sp. 73). Overall, Socialdemokratiet is one of the less active parliamentary groups, both in EAC discussions on European return policy and in asking written questions on re-

admission in the Folketing. Lastly, whilst the group emphasizes its strong information exchange and coordination with its colleagues in the European Parliament on an almost institutionalized basis, they have not made extensive use of this information channel regarding the negotiations under investigation here (FT06).

9.7.2.3.2. Dansk Folkeparti

Dansk Folkeparti reports that the group is not very involved in controlling the relations between Denmark, or the EU, and Tunisia on readmission. Rather, other countries take the precedence in this regard (FT09). Generally, when controlling negotiations of readmission agreement, the group is clearly focused on Denmark's policies, and not on the European level, and thus directs its control actions towards the Danish government. This is not only to be understood against the background of Denmark's opt-out from the latter, but also Dansk Folkeparti's Euroscepticism. Analysing the function of these control activities on return more generally, the group engages both in influencing and monitoring control, whereby influencing control ought to be understood as influencing (supportive) control, not aimed at criticizing negotiations on substantive grounds, but rather in a manner to support and bolster their overall aim (FT03). However, in regard to the readmission negotiations with Tunisia, Dansk Folkeparti pursues a more monitoring than an influencing goal (FT09).

When collecting information on ongoing negotiations, the group relies on informal interaction with the government as well as formal control instruments. Regarding the latter, the group considers meetings in the EAC with government representatives the main locus of parliamentary control. Indeed, they are one of the only groups in the Folketing that refers directly to EU-Tunisian relations on migration (Kristensen Bert, EUU Alm.del Offentligt referat 12. oktober 2017). The group also makes strong use of written questions in order to monitor the status quo and the developments of Denmark's readmission relations with third countries. However, they have not issued a question on Tunisia in this regard, but focus on return relations with Iran, Iraq and Afghanistan (Kristensen Berth, EUU Alm.del Offentligt referat rådsmøde 3466). Beyond these monitoring activities, the parliamentary group uses inter-parliamentary cooperation with its members of the European Parliament only to a small extent on the specific agreement under investigation here. The group does not interact with civil society organizations on readmission agreements or on broader migration topics (FT09).

9.7.2.3.3. *Venstre and Liberal Alliance*

Venstre and Liberal Alliance share institutional status and policy position. Neither group has been very active in scrutinizing the negotiations between the EU and Tunisia or more generally in controlling broader EU-level migration and readmission policies.

9.7.2.3.4. *Enhedslisten*

Enhedslisten argues that migration and asylum issues in the broader sense are generally high on the parliamentary group's agenda, but that their focus on specific policy measures and readmission agreements "differs from country to country, actually. If we have many people of a country in Denmark, and there is a readmission agreement which might work or not work..." (FT03). More precisely, the group focuses, to a large extent, on readmission negotiations with Afghanistan, Somalia, Iraq and Morocco, and less on readmission issues in regard to Tunisia. EU return agreements play only a minor role in Enhedslisten's control activities, as the group focuses on controlling the Danish government entering into international agreements with third countries on readmission. Enhedslisten uses both formal and informal means of parliamentary control; the latter referring to cooperation with other European parliamentarians and civil society organizations in order to control EU-level developments (FT03).

It should be noted that most of Enhedslisten's control activities on EU readmission agreements – unlike on bilateral national readmission agreements – mainly have a monitoring function, aimed at collecting information at the EU and international level. They complain that they do not receive much information automatically from the Danish government on EU-level readmission and return, but they have hardly asked for information and access to documents deposited with the Danish government (FT03). Enhedslisten is one of the most active parliamentary groups in EAC meetings when migration and European readmission policies are on the agenda, and they use these opportunities to gather information and express their views. Yet, they have hardly done so in regard to the EU-Tunisia readmission agreement negotiations. Whilst Enhedslisten is among the most active groups in asking written questions to the government on EU and national readmission issues, their focus usually is on other countries than Tunisia. However, they are the only group in the Folketing to have explicitly asked a written question on the EU-Tunisia negotiations on a readmission agreement. Enhedslisten asked the government about Denmark's readmission negotiations to the country (UII Alm.del 2016-17 sp. 586). The question has a clearly monitoring function. Interestingly, the

source of information on which the group based the question's further inquiries is a minor interpellation by the group Bündnis 90/Die Grünen about border management and the European Migration Agenda in the German Bundestag. Indeed, the parliamentary group argues that one of their main sources of information for monitoring EU migration and readmission policy-making, in light of the limited formal control rights, are like-minded parliamentarians in other national parliaments and the European Parliament, mainly "the Swedes and the Norwegians and the Germans, and in some cases also with others. And of course with people in Brussels and with the European Parliament²²⁹" (FT03). However, the group has not interacted with German or other MPs in regard to the EU-Tunisia readmission agreement (FT03). Lastly, the group considers the interaction with civil society organizations important, both in order to collect further insights on migration issues and to use public debates as an important tool of parliamentary control "to raise awareness" (FT03) and create public pressure. Whilst using these tools on migration issues more broadly, this does not necessarily apply to EU negotiations for readmission agreements. In the group's own words, "it is a good conclusion [...] that readmission agreements play a part [for what we do], but not in themselves. But they touch various aspects that we work with" (FT03). This also seems to apply to the EU-Tunisia readmission agreement negotiations.

9.7.2.3.5. *Alternativet*

Alternativet is one of the more active parliamentary groups in the Folketing on migration and asylum issues and as also on repatriation and readmission. The group mainly uses formal parliamentary control mechanisms to monitor national and EU-level developments and actions and to exert pressure on the Danish government. The group's informal interaction with the Danish government in order to scrutinize migration policy-making (FT04) is limited, since as a newly founded opposition party, they lack access to the current executive. Regarding EU-level policy-making in the area of migration, Alternativet uses EAC meetings to collect information on broad developments on the EU level, on readmission more specifically, and on the actions of the Danish government regarding readmission. Moreover, the parliamentary group expresses their view on the issues under debate and criticizes the government if there is disagreement on certain points. The group also uses the parliamentary control instrument of written questions to investigate issues of interest and to attempt to exert influence. Whilst Alternativet has done so regarding readmission re-

²²⁹ As Enhedslisten does not have its own members in the European Parliament, they rely on a Danish MEP from the People's Movement against the EU.

lations with individual countries, their focus has been on, e.g., Mali, Afghanistan and Somalia, as a rough keyword search of written questions on readmission in the Folketing's database reveals. Hence, whilst the group is involved in parliamentary control of migration policy-making and readmission-related issues, the EU-Tunisia readmission agreement, and more generally, migration and readmission relations with Tunisia, have not been of interest for Alternativet. The parliamentary group has only controlled the negotiations between the EU and Tunisia with a low level of parliamentary activity; if at all aimed at monitoring their progress (FT04).

9.7.2.3.6. Radikale Venstre and Socialistisk Folkeparti

Radikale Venstre and Socialistisk Folkeparti have not been very active in scrutinizing these negotiations, neither in a monitoring nor in an influencing manner. However, both groups are more involved when controlling broader EU-level migration and readmission policies. They mainly rely on formal instruments of parliamentary control, directed at scrutinizing the Danish government, paying little attention to EU level developments. Both groups engage in discussions with other parliamentarians and government representatives in meetings of the European Affairs Committee. The groups' control activities have a monitoring and, to some extent, an influencing function; the latter on specific topics, such as the terms of Denmark's conditionality approach to readmission. Radikale Venstre has asked some written questions on readmission, but their geographical interest does not seem to lie in North Africa. Socialistisk Folkeparti has not posed written questions. Neither group has paid attention to Denmark-Tunisia and EU-Tunisia relations on migration and readmission, neither in the EAC, nor by using other formal means of parliamentary control. Whilst this dissertation does not have any insights into the informal control activities of these two groups, it can be argued that as both are currently opposition parties with little access to government ministers, informal control is unlikely. However, it can be concluded that both Radikale Venstre and Socialistisk Folkeparti have controlled the negotiations between the EU and Tunisia to a low level, and if at all, have been engaged in more reactive monitoring scrutiny.

9.7.2.3.7. Det Konservative Folkeparti

Overall, readmission agreements are not an issue that Det Konservative Folkeparti discusses extensively. However, some members in the parliamentary group follow the developments in this policy area, also in regard to readmission agreements such as the one with Tunisia, interested, but from a distance, without much additional, proactive parliamentary control. "I am very interested and I follow it [the Tunisia agreement], on distance with interest, but I

am not involved” (FT08). In general, Det Konservative Folkeparti argues that when controlling policy-making, both monitoring and influencing are important functions. However, in regard to the EU-Tunisia readmission agreement negotiations, the group has mainly monitored their progress. They have not attempted to influence the direction or the substance of the negotiations (FT08). Overall, the group’s control actions are directed at the Danish government and less at EU-level actors or actors outside the Danish executive-legislative framework, such as NGOs and civil society in Denmark and the EU (FT08).

The parliamentary group argues that the negotiations of EU readmission agreements are very distant to the Folketing’s parliamentarians, meaning that they only receive little information automatically from the Danish government about their status. Regarding the written governmental updates on the broader developments of the EU’s readmission policies, the group argues “sometimes you read it, sometimes you don’t” (FT08). The group participates actively in the meetings of the EAC, as “it is very important to get information, and that is what we are doing in the European Committee” (FT08). The group is aware that it is possible to receive such information if they became active, they have hardly done so in regard to the EU-Tunisia negotiations (FT08). However, the group is somewhat more active in meetings of the European Affairs Committee, where they tend to express their support for the (envisaged) actions of the Danish government or ask for further information and clarification. Whilst their actions in the EAC have a supportive aim, the group hardly engages in influencing parliamentary control, neither supportively nor substantively. In regard to the EU-Tunisia readmission agreement, the group has mainly relied on monitoring control to follow the negotiations from a distance. Beyond using the available written and oral information in order to do so, it also seems likely that the group has used its access to the Danish government (as a governing party). Moreover, Det Konservative Folkeparti is in regular contact with its parliamentarian in the European Parliament, who “a lot of times participate in our meetings, and gives us an update” (FT08).

Summing up above, Det Konservative Folkeparti is following the negotiations between the EU and Tunisia but only to a small extent. The group is not actively trying to exert influence on them. It uses both formal and informal means, which are generally directed at the government.

9.7.2.3.8. Summary: Partisan Control in a Comparative Perspective

It is now possible to summarize on the groups’ control actions along the four dimensions of parliamentary control and identify the observed intensity of control for each group.

As for the EU-Japan FTA, the timing dimension seems to play a minor role, as groups do not seem to take the timing of their control action into consideration. Rather, the time dynamics of control are somewhat externally led, as the groups become active in the Folketing's EAC if readmission has been put on the agenda by an upcoming Council meeting/the Danish government. Most use formal control instruments, more precisely, interaction with government representatives in the EAC in order to scrutinize readmission policy-making on the European level, as well as written questions. However, none of the group have done so extensively in regard to the EU-Tunisia readmission agreement. Informally, the groups have relied on different channels; some groups interact directly with the government (e.g. Socialdemokratiet, Dansk Folkeparti, Det Konservative Folkeparti); others informally control readmission policy-making by relying on extra-parliamentary actors and interest groups (Enhedslisten). Most groups have reported on the importance of inter-parliamentary cooperation, mainly with colleagues in the European Parliament (Socialdemokratiet, Dansk Folkeparti, Enhedslisten) and other national parliaments (Enhedslisten). However, most of these control actions refer to EU readmission policy-making more broadly and not to the specific international under investigation here.

In regard to the EU-Tunisia readmission agreement negotiations, it is important to note that no parliamentary group in the Folketing has extensively scrutinized the ongoing negotiations or attempted to influence their substance or direction. Thus, no parliamentary group has engaged in high intensity of parliamentary scrutiny. Moreover, only Enhedslisten and Det Konservative Folkeparti have reported to monitor the negotiations to a certain extent by following their progress from a distance. Therefore, the intensity with which Enhedslisten and Det Konservative Folkeparti have controlled the EU-Tunisia negotiations is argued to be "high monitoring", in the sense "higher than all other groups"; whereas the other parliamentary groups have controlled them with a "low monitoring", i.e., low, intensity. These values lead to the following placement of the parliamentary groups along the two dimensions of the intensity of parliamentary control (see Table 67):

Table 67: The Intensity of Parliamentary Control of EU-Tunisia Readmission Negotiations in the Folketing

Level \ Function	Monitoring	Influencing
Low	Low monitoring Socialdemokratiet, Dansk Folkeparti, Venstre, Liberal Alliance, Alternativet, Radikale Venstre, Socialistisk Folkeparti	Low influencing
High	High monitoring Enhedslisten, Det Konservative Folkeparti	High influencing

9.7.2.4. Step 3: Comparing Prediction and Outcome

Based on the three previous steps, it is now possible to compare the theory-based predictions about the intensity of parliamentary control of each parliamentary group with the observed values thereof. Table 68 presents the predicted values of the intensity of parliamentary control and the observed outcomes to allow for congruence testing.

As Table 68 shows, neither prediction I nor prediction II is entirely congruent with the observed intensity the parliamentary groups have displayed in regard to the EU-Tunisia readmission agreement. Especially the predictions based on the causal factors identified in the theoretical framework were hardly able to foresee the empirical findings; and if so, only when the predictions assumed low intensity of control. It seems that in this particular case of the Folketing controlling negotiations in an opt-out policy field, the theoretical framework holds little value in answering the research question of “why” the parliamentary groups control the negotiations. In other words, this indicates that that the assumed causal relationship between the causal factors, the benefits and costs of parliamentary control, and the intensity of scrutiny is not present.

In contrast, the added prediction that all groups control the negotiations with a low intensity is more congruent with the findings (see Table 68). However, two parliamentary groups, Enhedslisten and Det Konservative Folkeparti, deviate from this prediction, as they are slightly more active in monitoring the negotiations than the other groups. This prediction was hardly supported by theoretical reasoning for why all parliamentary groups are assumed to be more or less inactive regarding parliamentary control. To investigate the question of “why” parliamentary groups in the Folketing have controlled the EU-Tunisia readmission negotiations, this chapter will conclude with two process-tracing analyses of Enhedslisten and Det Konservative Folkeparti.

Table 68: Comparison

Political Group	Observed Intensity of Control	Predicted Intensity of Control I	Congruence (+) Non-Congruence (-)	Predicted Intensity of Control II	Congruence (+) Non-Congruence (-)
Socialdemokratiet	Low monitoring	Low	+	High	-
Dansk Folkeparti	Low monitoring	Low	+	Low	+
Venstre	Low monitoring	Low	+	Low	+
Enhedslisten	High monitoring	Low	-	High	-
Liberal Alliance	Low monitoring	Low	+	Low	+
Alternativet	Low monitoring	Low	+	Medium	-
Radikale Venstre	Low monitoring	Low	+	Medium	-
Socialistisk Folkeparti	Low monitoring	Low	+	Low	+
Det Konservative Folkeparti	High monitoring	Low	-	Low	-

9.7.3. Partisan Control Action: A Process-Tracing Approach

The following in-depth case studies of Enhedslisten and Det Konservative Folkeparti will rely on the well-known structure of the previous case studies along the causal factors, i.e., the benefits and costs of control. Whilst these in-depth studies are generally more exploratory and interpretative in nature than the comparative congruence analysis, relying on information about the perceptions and motivations of the parliamentary actors, the following two analyses will go beyond the established theoretical framework in order to take the impact of the opt-out into consideration. They include an exploratory investigation of how the Danish opt-out has affected the groups' incentives to control and their scrutiny actions. This approach should allow for three conclusions: it will shed further light on the usefulness of the theoretical framework in the case of an opt-out; it will provide some more general, empirically founded insights on how the opt-out affects parliamentary groups and their control rationale beyond the framework; and finally, it will provide some understanding of why the observed intensity of Enhedslisten and Det Konservative Folkeparti is not congruent with prediction I.

9.7.3.1. *Enhedslisten*

Table 69, adapted from Table 66, displays the expected benefits and costs for Enhedslisten when controlling the EU-Tunisia readmission negotiations. Recall that in contradiction to prediction I (low intensity) and prediction II (high intensity), they have controlled the negotiations with a medium (high monitoring) intensity. How can this be explained?

Table 69: Causal Mechanism: Enhedslisten

Benefit/cost	
Vote-seeking benefits	Low
Policy-seeking benefits: institutional status	High
Policy-seeking benefits: policy position	Medium
Policy-seeking benefits: likelihood of impact	Low
Resource costs	Medium
Efficiency costs: complexity	Low
Efficiency costs: compellingness	Low
Observed intensity of control	High monitoring

In a first step, elaborating more generally on how the Danish opt-out has affected Enhedslisten's control of the negotiations between the EU and Tunisia,

the parliamentary group argues that Danish MPs' interest in readmission agreements within the EU framework is "non-existent. [...]. It's complicated, it's far away and we have our *retsforbeholdet*. So ..." (FT03). The agreement will not be binding for Denmark; the Danish government does not have a direct say in the making of the agreement; and the parliament's control and information rights are severely restricted due to the opt-out (FT03). Overall, "of course, in this area, because of *retsforbeholdet*, there is even less debate than on other EU issues" (FT03). These elaborations seem to confirm the assumption that the Folketing's groups do not control the negotiations between the EU and Tunisia due to the opt-out, as they lack incentives and opportunities to do so. However, Enhedslisten has – even if only to a minor extent – followed these negotiations actively. In order to provide a tentative explanation for this, the following paragraphs will proceed in the well-known structure of process-tracing analyses in this dissertation, whilst paying particular attention to Denmark's opt-out and how this has affected Enhedslisten's perception of the costs and benefits.

In the "traditional" theoretical framework, it was argued that the higher the public salience of an international agreement, the higher the vote-seeking benefits of control. With only a low public salience of the EU-Tunisia negotiations due to Denmark's opt-out, it is thus expected that Enhedslisten perceives the vote-seeking costs of parliamentary control to be low. The parliamentary group, on the one hand, claims that the "idea of readmission, sending people back" (FT03), is very salient within the Danish population. On the other hand, this does not apply to the particular readmission agreements that are being negotiated, not the national ones, and even less the European ones. The group agrees with the identification of the level of salience of the EU-Tunisia readmission agreement as low. Overall, as predicted by the theoretical framework, Enhedslisten perceives the vote-seeking benefits to be gained from parliamentary control of the EU-Tunisia readmission agreement as low. Additionally, Enhedslisten argues that the Danish population favours the idea of readmission agreements, which clashes with the group's policy position, which is more critical of such agreements (FT03). Against that background, the group takes public opinion, and not only salience, into account in their work, making them more lenient on some readmission issues. This does not mean that they stop their control activities in the area of migration and asylum policies (FT03), but it has – in addition to the agreement's low salience, a dis-incentivizing impact on Enhedslisten to exercise control of migration policy-making.

As an opposition party, Enhedslisten is expected to consider the policy-making benefits of control as high, due to assumed conflict with the Danish government. Indeed, the parliamentary group claims that "we have different views if and when to send back refugees, and when is it responsible to send

back refugees, or migrants, or rejected asylum seekers [than the government]” (FT03). However, as the government does not participate in decision-making in this policy area on the European level, conflict with the government does not necessarily incentivize Enhedslisten to control the EU’s international negotiations. Moreover, as Enhedslisten is not aware whether Denmark is indeed negotiating a bilateral readmission agreement with Tunisia, there are no synergy effects of controlling the EU-level negotiations in order to be better able to also scrutinize the national ones (FT03). Hence, whilst Enhedslisten’s policy conflict with the Danish government provides incentives to control the Danish government’s readmission policy more broadly, this cannot be claimed to extend to the EU-Tunisia readmission negotiations. As such, the policy-seeking benefits stemming from their opposition status that Enhedslisten can gain from controlling international negotiations in an opt-out area are smaller than predicted by the theoretical framework.

Based on the theoretical framework, it is also expected that Enhedslisten, in complementary criticism to the EU-Tunisia readmission agreement, should perceive the policy-seeking benefits stemming from their policy position to be of medium size. Overall, Enhedslisten rates the importance of migration issues and readmission agreements for their work in the Folketing as something that “is really high on the agenda. Because, we are so much in opposition, you could say. [...]. So it is really important for us” (FT03). Thus, it seems that their critical policy position on migration issues in general provides large incentives to actively control policy-making in the area of migration and return. However, when it comes to specific readmission agreements, and the one with Tunisia in particular, the group is not entirely in opposition. “Well, of course it is important that migrants who don’t have a justified asylum claim can be sent back”, but “with safety and with dignity” (FT03). As such, Enhedslisten is not working against the conclusion of readmission agreements per se, but rather towards ensuring that they comply with what the group perceives to be the correct approach to return. Thus, it can be argued that they are to some extent incentivized by their policy position to control the negotiation of readmission agreements. However, it is more questionable why they should – despite their complementary critical stance on the EU-Tunisia agreement – control its negotiations, considering Denmark will not be part of it. The group claims that rather than merely taking a critical position, it is actively interested in the region and the issue. “Of course the root for our interest here is that we were interested in what is happening in North Africa, and about the Mediterranean and...” (FT03). It can tentatively be argued that in order to gain policy-seeking benefits from parliamentary control falling into the Danish opt-out, it is not decisive that the group in question has a critical policy position, but rather that

is has an active interest in the issue under negotiation and the negotiations themselves.

Due to the Danish opt-out, all parliamentary groups in the Folketing lack a credible veto-power, and no group has a high likelihood of having substantive impact on the negotiations. Enhedslisten is expected to perceive the policy-seeking benefits from controlling the EU-Tunisia negotiations stemming from their chances of influence as low. Enhedslisten agrees with this assumption. “But of course, the fact that Denmark has the opt-out makes it less likely that Denmark has direct influence on how it looks” (FT03), which also means that it is less likely for Enhedslisten as a parliamentary opposition group in Denmark. As predicted, Enhedslisten perceives the chances of having substantive impact as low.

On the cost-side, the theoretical framework has argued that the higher the overall resources of a parliamentary group, the lower the resource costs of controlling EU international treaty-making. Enhedslisten with resources of medium size is thus expected to perceive the resource costs to be of medium size as well. However, the parliamentary group has clearly expressed that it does not consider its resources sufficient to effectively control the EU-level developments in the area of migration policy, as they have only one parliamentarian and one policy advisor working on the issue (FT03). At the same time, they argue that the Danish government provides too much information on migration in general, making it difficult to select the relevant information and documents, especially in light of their limited resources (FT03). However, Enhedslisten strategically interacts with other national parliamentarians in the EU, who might be able to support them with information and insights. “They also have resources that we don’t have, they have more staff and stuff. So they were able to dig deeper...” (FT03). Overall, unlike predicted, Enhedslisten generally perceives the resource-cost of controlling EU international negotiations as high, but has found ways to mitigate this issue by more frequently interacting with parliamentary groups in other countries that have more resources, and by relying on their insights and analyses.

Lastly, based on the theoretical framework, it was assumed that Enhedslisten, despite being in complementary criticism to the EU-Tunisia readmission agreement, does not consider the efficiency costs of parliamentary control as high, because the outcome of the negotiations will not apply to Denmark. The parliamentary group does not seem to take the negotiator’s need for discretion in the negotiations into account when acting in parliament; neither have they paid closer attention to the complexity and the compellingness of the negotiations in this regard (FT03). Whilst this does not say anything about whether or not they perceive the risk of inefficient negotiations as a cost, it can reasonably be assumed that this is the case.

Summing up, the investigation of how Enhedslisten perceives the costs and benefits of controlling the EU-Tunisia readmission agreement negotiations in light of the Danish opt-out suggests that the opt-out has a bigger impact on the costs and benefits than originally assumed in step 2 of the comparative congruence analysis. Whilst the group to a large extent perceives the cost-side as predicted, on the benefit-side Enhedslisten argues to hardly expect to gain vote-seeking or policy-seeking costs. While the group claims that their parliamentary control activities in the area of migration, both in regard to EU-level and national policies, are driven by their critical stance and opposition, this does not necessarily apply to the negotiation of EU readmission agreements, due to the Danish opt-out. The policy-seeking benefits stemming from the group's oppositional status and complementary critical stance to the issue under negotiation are smaller than predicted. Hence, it seems, at first glance, that the group gains hardly any benefits from parliamentary control, which leads to the question what incentivizes them to become active. Here, the group provides a simple answer: they are simply interested in the developments in this policy area and in the North African region. Therefore, they follow the ongoing negotiations, despite the Danish opt-out and despite the few actual benefits they expect to gain from controlling.

9.7.3.2. *Det Konservative Folkeparti*

The following process-tracing analysis will follow the same set-up as the previous one; investigating the effect of the Danish opt-out, and analysing how Det Konservative Folkeparti has perceived the costs and benefits of controlling the EU-Tunisia readmission agreement in light of the opt-out. Table 70 recalls the in step 2 predicted values of the benefits and costs for the parliamentary group.

Table 70: Causal Mechanism: Det Konservative Folkeparti

Benefit/cost	
Vote-seeking benefits	Low
Policy-seeking benefits: institutional status	Low
Policy-seeking benefits: policy position	Low
Policy-seeking benefits: likelihood of impact	Low
Resource costs	High
Efficiency costs: complexity	Low
Efficiency costs: compellingness	Low
Observed intensity of control	High monitoring

In regard to the Danish opt-out, Det Konservative Folkeparti argues that it has an impact on their incentives to be actively engaged in a policy-area which does not directly affect them, where parliamentary control is difficult and where the group has little to say. "It's distant, it is. [...]. But there is a lot of other issues that are, that have a higher position on the agenda" (FT08). However, as demonstrated above, the parliamentary group has, to a certain extent, been monitoring the progress of the international negotiations between the EU and Tunisia. Why this was will be further investigated in the following.

Due to the low public salience of the EU-Tunisia readmission agreement in Denmark, Det Konservative Folkeparti is expected to perceive the vote-seeking benefits to be gained from controlling the negotiations as low. On the one hand, the group clearly expresses interest in the broader issue of return and readmission, which stems from the public attention and public opinion to it: "it is very difficult to justify when you talk with the citizens 'why should we keep this guy [a rejected, criminal asylum seeker] here, and say to the Danish business man that his wife is not allowed to stay here'. So, I follow it very closely" (FT08). On the other hand, the group agrees that the individual readmission agreements, and as such the EU-Tunisia readmission agreement, are only of low salience within the Danish population (FT08). Hence, whilst it can indeed be argued that the overall salience of migration issues does incentivize the parliamentary group to control policy-making in this area, this does not necessarily extend to particular readmission agreements, as predicted by the theoretical framework.

Det Konservative Folkeparti is a governing party, which means that they are assumed to perceive the policy-seeking benefits stemming from their institutional status as low, due to a lack of policy conflict with the government. Indeed, the group argues that in regard to migration issues and readmission agreements, there is no policy conflict neither between the governing parties nor with the Danish government (FT08). Overall, Det Konservative Folkeparti is thus in agreement with the Danish government on readmission agreements, meaning that, as expected, they can be argued to perceive the policy-seeking benefits from parliamentary control of readmission negotiations stemming from their institutional status as low, irrespective of the Danish opt-out.

The theoretical framework holds that the parliamentary groups that are more opposed to an international agreement are expected to gain higher policy-seeking benefits from controlling its negotiations. Det Konservative Folkeparti, which is in specific support of the EU-Tunisia readmission agreement, is thus assumed to perceive these benefits as low. On the one hand, the group argues that Tunisia is one of the most important countries of the EU's Southern neighbours, as it is one of the few countries that succeeded after the Arab spring. Therefore, Denmark should support them as much as possible. On the

other hand, this does not mean that the group opposes the return of rejected Tunisian asylum seekers (FTo8). Against this background, it can be argued that due to the lack of conflict with the overall aim of the negotiations, Det Konservative Folkeparti has no incentives to control them, as predicted by the theoretical framework.

Due to the Danish opt-out, no parliamentary group is expected to be likely to have substantive impact on the negotiations, meaning that Det Konservative Folkeparti is expected to perceive these policy-seeking benefits from controlling the EU-Tunisia readmission negotiations as low. Indeed, the group argues that in the area of the opt-out, they hardly have any chance of influencing the substance and direction of the international negotiations. “Now you say ‘I don’t have any influence, why should I waste my time on it’. That is just the rational thing to do ...” (FTo8). Hence, as predicted, Det Konservative Folkeparti perceives the low likelihood of impacting the negotiations as disincentivizing.

On the cost-side, Det Konservative Folkeparti has been claimed to have limited overall resources; which means that the parliamentary group is assumed to perceive the resource costs of controlling international negotiations, such as the EU-Tunisia readmission agreement negotiations, as high. The group indeed perceives their resources as limited based on the number of policy advisors and the group’s overall number of parliamentarians. “I am the spokesperson for nine different topics. Yesterday I talked about the media, a new media agreement; this morning I [...] talked in the radio about the Canadian model when it comes to refugees, at 12 o’clock I am going to talk about Turkey ...” (FTo8). The group is conscious about not wasting its time and resources on files, if there is no benefit to be gained from parliamentary control (FTo8). Hence, the Det Konservative Folkeparti does indeed seem to perceive the resource costs of parliamentary control to be high and to take this factor into consideration when being active on particular international negotiations.

Lastly, the theoretical predictions held that the parliamentary group is expected to perceive the efficiency costs of parliamentary control as low, since due to the Danish opt-out, the final outcome of the negotiations does not have a direct impact on Denmark. Like Enhedslisten, Det Konservative Folkeparti does not seem to take this factor into account, and neither have they expressed positions on the complexity and compellingness of the EU-Tunisia readmission negotiations. Thus, whilst this does not say anything about whether the parliamentary group perceives the risk of inefficient negotiations as a cost, it is argued here that this can reasonably be assumed to be the case.

In sum, Det Konservative Folkeparti has perceived the costs and benefits of controlling the negotiations between the EU and Tunisia on a readmission agreement as predicted. The group claims not to be able to gain vote-seeking

or policy-seeking benefits from parliamentary control, but expect high resource-costs. The empirical finding that the group has to some extent monitored the EU-Tunisia does seem surprising, especially in light of the Danish opt-out. How can this be explained? The group offers a simple explanation for why the level of control is so low, yet Det Konservative Folkeparti follows the negotiations. “In my opinion, it is very important because I am very interested in this part of the world. But it is not an issue that we discuss so much. [...]. It’s only for Feinschmecker” (FT08). Thus, also in Det Konservative Folkeparti, there is an inherent interest, or more precisely one interested parliamentarian, who follows the negotiations from a distance, yet without expecting to gain any benefits from doing so.

9.7.4. Conclusion

In light of the Danish opt-out from European readmission agreements, this case study investigated how the parliamentary groups in the Folketing have – if at all – controlled the negotiations between the EU and Tunisia on a readmission agreement. The descriptive findings were already summarized in subchapter 9.7.2.3.8. In a nutshell, all groups but Enhedslisten and Det Konservative Folkeparti controlled the negotiations with medium (high monitoring) intensity. Due to the Danish opt-out, the comparative congruence analysis put forward two competing theoretical assumptions about the intensity of control: one based on the conventional theoretical framework, yet taking the opt-out into consideration when identifying the value of the causal factors; and one focusing on the opt-out, arguing that in the Folketing, there was no control at all. Considering these two theoretical predictions, the findings of the comparative congruence analysis seem to be more aligned with the second prediction, which calls into question the usefulness of the theoretical framework for the explaining the intensity of parliamentary control in regard to the case at hand. However, also here, non-congruence of findings and prediction can be found in two instances: Enhedslisten and Det Konservative Folkeparti.

The process-tracing analyses of the two parliamentary groups’ considerations and motivations revealed that despite the prevailing non-congruence of the findings with the predictions, the theoretical framework does not necessarily have to be discarded. Rather, the consideration of how the opt-out impacts the groups’ perception of costs and benefits – which was, recall, not based on in-depth empirical or theoretical reasoning – seems to have fallen somewhat short. More precisely, the opt-out was shown to decrease both vote-seeking and, more importantly, policy-seeking benefits the groups expect to gain from controlling the negotiations more than originally predicted. This holds for opposition and agreement-critical parties as well as for supportive

ones. There seems to be no parliamentary group which can actually gain benefits from control, meaning no group is incentivised to actively and intensively scrutinize the EU-Tunisia negotiations. These findings do not challenge the usefulness of the theoretical framework per se, as it has not necessarily affected the groups' rationale of control. Rather, the findings underline the importance of more in-depth theorization and investigation of how the opt-out has affected the groups' perception of costs and benefits.

Despite the high resource costs and the lack of benefits, both *Enhedslisten* and *Det Konservative Folkeparti* have scrutinized the negotiations more than one might expect based on their own perception of benefits (low) and costs (high). This can be ascribed to the attentiveness of individual/a group of MPs who, for various reasons, have taken a personal interest in the negotiations of the EU-Tunisia readmission agreement. Where this interest comes from is a question for another empirical investigation. However, more generally, the theoretical framework of this dissertation has not taken the impact of personal interest into account when developing an explanation for the intensity of parliamentary control. This is due to two reasons: first, it analysed the rationale of parliamentary groups, not of single parliamentarians and cannot make causal claims about the behaviour of individual MPs. Moreover, the theoretical reasoning behind personal interest is difficult to analyse and measure. However, as the process-tracing analyses allowed for a more inductive approach, it was still possible to detect this important factor. This dissertation does not argue that it should, per se, be included in the theoretical framework but rather that the qualitative in-depth analyses should be aware of the possibility of personal interests and report on such findings. A second finding which might have implications for the causal framework needs to be elaborated on: the fact that parliamentary groups can use strategies of parliamentary control to increase the benefits/mitigate the costs of control, which was already observed in the EU-Japan FTA case study. In the instance here, *Enhedslisten* interacted with extra-parliamentary networks to increase their information processing capacities and thus decrease their resource costs. Again, this points strongly towards the fact that the value of causal factors is not necessarily static, but can be manipulated by purposive parliamentary action.

9.8. Implications of the Findings: The Folketing

After having presented the formal control rights of the Folketing in EU international treaty-making, conducted the three case studies and drawn conclusions for every case study individually, it is now time to more concisely elaborate on what these findings mean for the theoretical framework this dissertation has put forward.

Overall, there have been some surprising empirical findings in regard to the intensity with which parliamentary groups controlled the three international agreements under investigation. Their surprisingness is not necessarily based on theoretical considerations, but also on a more general apprehension of political dynamics in Denmark: First, Socialdemokratiet has controlled the negotiations between the EU and Japan only with low intensity. This could have been expected differently due to the group's current status as the major opposition party in Denmark, tasked with controlling the government. Second, it is surprising that environmentally friendly groups such as Alternativet and Radikale Venstre have not been more active on the negotiations of the Kigali Amendment, as this might have been a fruitful occasion to demonstrate political contribution to and involvement in actively fighting climate change. And lastly, it is somewhat of a surprise that any parliamentary group has controlled the negotiations of the EU-Tunisia readmission agreement at all, due to the Danish opt-out – and even more surprising, as two groups from very different sides from the political spectrum – Enhedslisten and Det Konservative Folkeparti – have done so. However, as demonstrated above, these findings are not as surprising as they might seem if one investigates parliamentary control more closely, relying on the theoretical framework this dissertation has put forward.

Reporting on the overall findings of the comparative congruence analysis – excluding the findings of the study of the EU-Tunisia readmission negotiations due to Denmark's opt-out – the predictions and empirical findings are, to a large extent, congruent. However, only in the case of the Kigali Amendment are they entirely congruent, in the EU-Japan FTA case, the findings were non-congruent for two parliamentary groups. In both instances, the intensity of control was lower than predicted. For the EU-Tunisia readmission agreement, they were largely non-congruent for those predictions based on the theoretical framework, also here control was less intense than assumed. However, comparing the empirical prediction of the “opt-out hypothesis” with the empirical findings, two parliamentary groups have controlled the negotiations with higher intensity than assumed. Overall, this demonstrates that the findings, whilst having generated some noise, do support the theoretical framework, meaning that the causal arguments do indeed have some value in explaining the intensity of parliamentary control. However, this leaves two questions: has the causal mechanism worked as assumed and how can the noise, the non-congruent findings, be explained?

Concerning the latter questions, there are two levels of potential error: the theoretical framework is flawed (theoretical flaw) or the operationalization and measurement in the congruence analysis are defective (technical flaw). The in-depth process-tracing analyses demonstrated that it was mainly the

latter in the Danish case: Parliamentary groups perceived the value of causal factors differently than predicted based on their initial identification. Using the new, actually perceived values in cost-benefit analyses for groups showing non-congruent findings demonstrated that the assumption that the higher the benefits and the lower the costs of parliamentary control, the higher its intensity of control, holds. This strengthens the confidence in the validity of the theoretical framework.

The main reason for non-congruent findings is more technical, found in the operationalization and measurement process of several causal factors. This holds especially for factors on the benefit-side: the agreement's salience, the policy-seeking costs stemming from a group's institutional status and the groups' likelihood of impact. Generally, if not perceived as predicted, groups considered them to be lower. This also explains why the direction of non-congruence is generally negative, meaning that groups have controlled with lower intensity than predicted: the benefits were, in tendency, perceived lower than originally assumed. Moreover, the size of vote-seeking benefits does not only seem to be informed by the public salience of an agreement, but potentially also by public opinion on it. Generally, as these are technical rather than theoretical flaws, they can be mitigated in the in-depth process-tracing analysis and be taken into consideration in future comparative congruence analyses.

Concerning the question whether the assumed causal mechanism has indeed been present or whether the causal relationship is rather spurious, a simple answer is possible: the process-tracing studies of cases where prediction and outcome were congruent, i.e., where the causal mechanism was assumed to have been at work, demonstrated that the causal mechanism worked to a large extent as predicted.²³⁰ As mentioned, also in non-congruent cases, once the analysis took into consideration how the groups actually perceived costs and benefits, groups seems to have controlled EU international treaty-making processes in a cost-efficient way. Furthermore, at large, the causal factors included in the theoretical framework were indeed the decisive ones groups took into considerations when controlling EU international treaty-making.

However, the in-depth process-tracing studies revealed some further insights regarding individual causal factors, which might have to be taken into consideration in order to modify the framework. First, the process-tracing analysis of Enhedslisten controlling the EU-Japan FTA negotiations revealed that whilst the causal factor "complexity" has the assumed effect, the underly-

²³⁰ A word of caution is in order: Whilst the study of the Kigali Amendment – congruent cases – underlined this conclusion, this study is more exploratory and tentative.

ing mechanism might be different than assumed: it does not increase the efficiency costs of a group supportive of the negotiations but rather decreases the agreements salience (i.e., the vote-seeking benefits of control) and increases the resource costs. Analyses of the factor “complexity” showed that these considerations seem not to have played a large role. A similar observation can be made for the compellingness of the negotiation setting. This implies that these causal factors might have to be further investigated, including whether efficiency costs play a role/whether parliamentary control is efficiently costly on a national level. However, these findings do not mean that the factors did not affect the intensity of control. They could also be due to a lack of data or a partial selection bias, as for most process-tracing studies, groups were chosen that were not assumed to perceive parliamentary control as efficiency costly.

Two more interesting findings need to be elaborated on, which both go beyond the theoretically assumed causal relationships. The process-tracing analyses of *Enhedslisten* and *Det Konservative Folkeparti* in regard to the EU-Tunisia readmission agreement revealed that whereas the groups did not expect to gain any benefits from controlling the negotiations, they did so out of personal interest of individual/a group of MPs. This possibility of ought to be kept in mind, but, as argued above, cannot be thought to constitute an independent causal factor to be included in the theoretical framework. Second, the findings of *Enhedslisten* controlling the EU-Japan FTA and the EU-Tunisia readmission agreement negotiations questions whether causal factors are static throughout a negotiation process. The studies have demonstrated that groups can apply means of parliamentary control to increase benefits (e.g. the likelihood of impact in the EU-Japan FTA negotiations by teaming up with EU-level actors to have a stronger voice) and to decrease costs (e.g. resource costs in the EU-Japan FTA and the EU-Tunisia negotiations by relying on external actors with information-processing capacity). As such, the group has been incentivized, not dis-incentivized by low benefits and high costs to become active in regard to specific negotiations processes.

Summing up, two out of the three case studies of parliamentary control of EU international treaty-making followed the traditional analysis strategy less strictly. The study of the Kigali Amendment was more exploratory due to a lack of data; the study of the EU-Tunisia readmission agreement had to take into account the Danish opt-out. However, the findings of the comparative congruence analyses and the process-tracing studies do, to a large extent, support the theoretical assumptions of the causal framework strengthen the confidence in their validity. Yet, several points and inspirations that came up in the studies might have to be included into the framework.

10. Discussion of the Findings

This chapter will now draw together the findings of the various case studies and discuss them systemically. Please note that detailed discussions of how and why parliamentary groups in a particular parliament controlled a particular EU international treaty-making process are found in the case chapters. This chapter will start out by presenting and discussing how parliamentary groups have controlled EU international treaty-making. It will first discuss parliamentary activities along the three functions of parliamentary control – timing, formality and directness – before elaborating on the findings on the dependent variable, the intensity of parliamentary control. This is followed by a systematic discussion of why parliamentary groups have controlled EU international treaty-making. The chapter will hereby report on the findings of the comparative congruence analyses and discuss their implications. This is followed by an in-depth engagement with the findings of the process tracing studies along the various causal factors. Throughout this chapter, the discussion will be placed into the broader literature on principal-agent relationships and executive-legislative relations. The chapter concludes with a summary of the findings, which will lead to a modification of the theoretical framework.

10.1. How do Parliamentary Groups Control EU International Negotiations?

As the dissertation aims at answering a twofold research question, the how and the why of parliamentary control of EU international treaty-making, this chapter starts out by recapping the descriptive findings of how parliamentary groups in the EP, the Bundestag and the Folketing have controlled the negotiations of the EU-Japan FTA, the EU-Tunisia readmission agreement and the Kigali Amendment. It will not discuss the findings of every case studied individually but rather the most prevalent and relevant findings. It is important to keep in mind that the empirical approach to studying parliamentary control was holistic in the sense that the focus was not on how parliamentary groups used a specific instrument of control, such as parliamentary questions or resolutions, but on identifying all parliamentary activities of a group on a particular agreement.

As discussed in chapter 5, the empirical investigations served two purposes. First, they have a value in themselves, as little is known (see the literature review in sub-chapter 3.2) about how groups as the constitutive units of parliaments are involved in EU international treaty-making, especially in pol-

icy areas beyond international trade negotiations. Considering the lack of research, there is a need to examine parliamentary involvement in this policy field. Systematically approaching how parliamentary groups control EU international negotiations clearly addresses this gap. Second, they also made it possible to identify the value of the outcome of interest in this empirical study, the intensity of parliamentary control a group has displayed in regard to a particular negotiation process. The following discussion of the findings will be structured by this division, starting out with parliamentary control in a comparative perspective, followed by what we can conclude regarding the groups' intensity of control in the cases under investigation.

10.1.1. Parliamentary Control in a Comparative Perspective

The study of how parliamentary groups control EU international treaty-making was exploratory in nature but was guided by principal-agent theory and the dimensions of parliamentary control that were developed based on the theoretical approach: the timing, formality, directness and function of the control. The descriptive findings will be discussed below along these dimensions, followed by a brief recapitulation of interesting control strategies and instruments, which might be explored in further research. Lastly, an important conclusion of what these observations mean for the party political nature of parliamentary control will be drawn.

10.1.1.1. *The Timing Dimension*

Starting with the timing dimension, international treaty-making can analytically be divided into three stages: the pre-negotiation (ex ante) stage, the negotiation (ad locum) stage, and the post-negotiation (ex post) stage (Kerremans 2006). Overall, the investigation demonstrated that it was important to distinguish between how groups perceived the timing of control from a normative perspective – calling for a different way and intensity of parliamentary involvement in different stages of the negotiations – and from an empirical perspective, how the timing actually played out in the investigated cases.

Starting with the normative perspective, the analyses showed that especially in the European Parliament but also to a lesser extent on the national level, groups seem to be aware of the different stages of the negotiations. Many groups are conscious that that parliamentary involvement in the ex post stage by means of parliamentary ratification (which applies to the EP in a majority of international agreements, for national parliaments in most mixed agreements) is a blunt tool. Thus, in order to actually influence an agreement, they have to be active prior to the finalization of the text. Against this background, they demand that parliamentary involvement goes beyond being merely informed throughout the negotiation process and only having a say in the ex

post ratification stage. This is very much in line with previous findings of parliamentary empowerment in EU international treaty-making, which have demonstrated that European Parliament managed to assert influence on the course of negotiations and on the content of international agreements (Passos 2011; Van den Putte et al. 2014; Richardson 2012). For national parliaments, Jančić (2017) and Raube/Wouters (2017) show that in case of mixed agreements, national ratification provides an independent, albeit *ex post*, source of influence. This dissertation demonstrates that MPs perceive the threat of veto in national parliaments to be important not only in the final stages of an agreement but that parliamentarians, like MEPs, want to be involved throughout the negotiation process and are aware of the impact of the threat of veto in this regard.

However, the analyses also revealed that this view was not unequivocally shared by all parliamentary groups. Some groups, both in the European Parliament and in national parliaments, stressed that continuous parliamentary involvement and influence throughout a negotiation process is in conflict with parliamentary treaty-based rights and the traditional division of labour in international treaty-making. These groups view parliamentary involvement *ex post* as sufficient and see too much parliamentary control as potentially harmful to their own institutional position and to the outcome of international negotiations. This relates to what Zanon (2010) has termed the “accountability dilemma” of control of national parliaments in EU foreign policy. Similarly, Di Paola (2003) has argued that for national parliaments “a majority of members are usually reluctant to undermine the executive” in EU international negotiations and that the EP “is not in the position to use its veto power in an indiscriminate way because non-constructive use of it carries a certain risk concerning its future institutional position” (Di Paola 2003: 78). The dissertation contributes to this literature by showing more clearly that parliamentarians in the same parliament do not necessarily share normative views on the general usefulness and, more specifically, the specific timing of parliamentary control. Rather, there is a clear distinction between how parliamentary groups perceive this issue.

As far as the timing of parliamentary control, in practical terms, groups generally seem to have paid little attention to time considerations in the cases investigated here. Nonetheless, certain time dynamics can be discerned. EP political groups were actively involved in the EU-Japan FTA negotiations in the *ex ante* stage by means of parliamentary resolutions, setting out quasi negotiation directives. However, this cannot be observed in regard to the other negotiations under investigation where control seemed to be structured by external events – the MOPs in the Kigali Amendment, the biannual briefings in

the LIBE committee in the EU-Tunisia negotiations. This means that institutional and external constraints affect the timing of parliamentary control, and that the different set-ups of how parliamentary involvement is organized in the different policy fields has clear implications for when the EP becomes actively involved. This strongly points towards the importance of studying other policy fields than trade negotiations, which has been the focal point of previous studies of the EP's involvement in EU foreign policy. A nuanced picture can only be developed by being aware of and investigating how the EP's sectoral approach to controlling external relations affects the behaviour of MEPs in the various committees.

No groups in the Bundestag differentiated, in practice, between the various negotiation stages. In contrast, several groups in the Folketing stressed the importance of ex ante and ex post engagement but were less active in the ad locum stage. This finding seems to be somewhat correlated with the control systems of EU affairs in the two chambers – the Folketing has a mandating-based system and is formally involved in EU international negotiations in the ad locum stage, and then ex post again if an agreement is mixed. The Bundestag has a document-based system and the groups are constantly updated about the progress of the negotiations in the ad locum phase and encouraged to exert control at this stage. The distinction between document-based and mandating-based control in national parliaments has been argued have an impact on the strength of the parliamentary scrutiny system of EU affairs (Karlas 2012). Moreover, it has been argued that in document-based systems, parliaments actually become involved earlier in the ex ante phase of a decision-making processes as they sift EU documents at an earlier state than parliaments with a mandating system (Jensen/Martinsen 2014). Adding to this perspective, this research strongly indicates that the nature of the control system not only affects how early a parliament becomes involved in an EU international treaty-making process but also its involvement in the ad locum and ex post stage. Further research might investigate the relationship between the timing and a national parliament's system of control of EU affairs further.

10.1.1.2. The Formality Dimension

Moving on to the second dimension, the formality of parliamentary control, the conceptualization of control distinguishes between formal and informal control, the latter consisting of informal interactions with the respective executive or with actors outside the executive-legislative relationship. The descriptive investigations revealed that groups generally made use of both formal and informal control instruments. It can be tentatively summarized that groups that were represented in the respective executive relied, if engaging in control, on informal interaction with said executive. Previous research on strategies of

parliamentary control in domestic and EU affairs has demonstrated that the nature of control activities does depend on the institutional status, with governing parties resorting to informal and private interaction with their government, and opposition parties largely relying on formal control mechanisms (Holzhacker 2002; Auel 2007; Sprungk 2010). This dissertation thus extends these findings to EU international treaty-making and finds a similar relationship between institutional status and the formality of the chosen strategies of control.

Nonetheless, these studies also showed instances of opposition parties informally interacting with and controlling the executive. This was the case when those groups had good access to the executive, which they based on good working relationships or previous experience in government. However, not all governing parties engaged in informal control, unlike what one might have assumed. There are clear instances when such groups only used formal control instruments. Future research should investigate when and why this is the case – is it due to the public effect of some formal control instruments if a file is publicly salient, is it due to unexpected conflict with one's own government or is it in order to express support and strengthen one's executive?

In contrast, mainly opposition parties on the left political spectrum relied heavily on informal control mechanisms with actors outside of the executive-legislative framework, such as civil society organisations, NGOs and other societal actors, next to formal control instruments. Fostering public awareness to create a strong critical momentum to exert external pressure on the negotiations was a major strategy of control for several parliamentary groups on the EU and the national level. Commonly, individual citizens and organized interest are merely viewed as a means of fire-alarm control. Parliamentary actors are thought to rely on these groups to monitor agency activity and expect them to raise alarm if needed (McCubbins/Schwartz 1984). Fire-alarm is defined as the establishment of “a system of rules, procedures, and informal practices that enable individual citizens and organized interest groups to examine administrative decisions (sometimes in prospect), to charge executive agencies with violating [parliamentary] goals, and to seek remedies from agencies, courts, and [parliament] itself” (ibid.: 166). As such, fire-alarm control means that parliament merely reacts to alarms triggered by third parties outside of parliament, whereas police-patrol happens at parliament's own initiative. However, this dissertation finds that the interaction between parliamentary groups and external actors, such as citizens and civil society, is more pro-active from a parliamentary point of view than assumed by the fire-alarm perspective. Indeed, the empirical investigations revealed that parliamentary groups actively reached out to civil society organizations in order to monitor and influence negotiations. As observed in several cases, they have developed

a strategy of raising public awareness and visibility of an agreement, both on the European and the national level, in order to create public pressure on the executive and proactively affect negotiations. Future research might investigate the scope conditions and effectiveness of such strategies further.

10.1.1.3. The Directness Dimension

Regarding the third dimension, the directness of control, it was found that only political groups in the EP controlled the Union negotiator directly, whereas groups on the national level predominantly directed their control activities towards their governments, which they expected, acting in the Council, to transfer parliamentary requests to the European level. Whilst this is not surprising given the EU's institutional set-up and parliamentary control rights, this also means that national parliaments do not fully exploit the means of parliamentary control available to them by actively interacting with the Commission (as Union negotiator). Looking at how national parliaments have used, for example, the Political Dialogue in regard to EU international treaty-making more broadly, one can see that they have not relied on such interaction with the Commission beyond the TTIP and the CETA negotiations. Moreover, indirect control was thought feasible by invoking the help of other intermediate actors outside the executive-legislative relationship, such as civil society organisations, other parliaments and public institutions and the third party. As discussed above, reliance on the support of civil society organisations could be observed both on the national and the international level; however, as a clearly defined strategy of control it was primarily used by groups on the left side of the political spectrum.

Inter-parliamentary cooperation, in contrast, seems to differ more between chambers than between groups: in the Folketing, almost all groups stressed the importance of interaction with “their” MEPs, which sometimes followed almost institutionalized patterns. To a somewhat lesser extent, inter-parliamentary cooperation with MEPs could also be observed in the Bundestag, whereas both in the Folketing and the Bundestag, cooperation with groups in other national parliaments seemed to be of secondary order. Political groups in the EP have relied on such cooperation only to a minor extent. These tentative findings about the relevance, extent and function of inter-parliamentary cooperation contribute to the growing body of literature on inter-parliamentary cooperation. Generally, for EU affairs, research has developed from descriptive explorations of the different forms of cooperation (Bengtson 2007; Costa/Latek 2001, Ruiz de Garibay 2013) to studies explaining the motivation for cooperation and to analyse actual practice (Miklin 2013; Miklin/Crum 2011; Hefftlér/Gattermann 2015; Gattermann 2014). Recently, EU

foreign policy has joined the research agenda on inter-parliamentary cooperation (Huff 2013, Wouters/Raube 2012; Herranz-Surrallés 2014b). However, these investigations focus largely on CFSP, and significant gaps regarding our knowledge on the extent and function of inter-parliamentary control for parliaments and parliamentary groups remain. The descriptive findings of this dissertation can clearly inspire future research on inter-parliamentary cooperation: is it really a one-way street, with much bigger benefits for national parliaments than for the EP? What is the exact function of such cooperation, monitoring, influencing, uploading parliamentary requests? How can variation between different chambers be explained, and why was such cooperation more strongly emphasized in the Folketing than in the Bundestag?

Lastly, indirect control by interacting directly with external third parties was predominantly observed in the European Parliament, where political groups have interacted the external negotiation partners in all three agreements under investigation here. They have done so both by means of standing inter-parliamentary delegations visiting the negotiation partner, by parliamentary committee missions to the negotiation partner (in case of bilateral negotiations) and parliamentary delegations to the actual negotiations (in case of multilateral negotiations). Research is increasingly focusing on standing inter-parliamentary delegations as an instrument of parliamentary diplomacy (Thym 2008; Bajtay 2015; Stavridis/Jancic 2017) due to their important role as they via regular exchanges with third country parliamentarians “promote EP/EU positions and views and, by doing so, may shape policies by influencing third country MPs and, indirectly through them, third country governments” (Bajtay 2015: 19). However, this dissertation has shown that in the EP, and national parliaments for that matter, inter-parliamentary delegations played only a limited role in regard to international negotiations. Rather, the relevant actors for interacting with third parties on a specific negotiation process were parliamentary missions and delegations.

The inclusion of MEPs in delegations to international, multilateral negotiations, has hardly been explicitly addressed. Biedenkopf (2015) argued that MEPs’ role in EU international environmental negotiations is to gather information and influence negotiations. However, she has not systematically studied the extent and the function of this. Moreover, the role of parliamentary missions is entirely absent from research. This dissertation not only stresses the importance of parliamentary missions and delegations but also provides first indications of their function: monitoring negotiations and the Union negotiator, influencing the European executive and influencing the third party. In regard to the latter function, the dissertation demonstrates that groups used this in instances when their preferences did not align with the Commission’s, thus choosing an “alternative” channel of impacting the negotiations.

However, there are also instances where groups engaged with the third party when its interests aligned with the Union negotiator's, with the aim of strengthening the Union negotiator's bargaining position. This can be connected to the so-called Schelling Conjecture, which explains that if a negotiator is credibly constrained by domestic actors, she is in a stronger position to demand concessions from her negotiation partners and to enforce these common interests (Schelling 1960: 19).

Future research should more explicitly study the exact function of such interaction, how variation between groups can be explained and how effective such control, directly on the international stage, actually is. It might be especially interesting to investigate the rationale of parliamentary delegations, be it to the country the EU is negotiating with, or to international conferences.

10.1.1.4. Summary: Parliamentary Control in a Comparative Perspective

Summing up, the findings of how parliamentary groups have controlled EU international treaty-making along the three dimensions – timing, formality and directness – contribute considerably to our understanding of parliamentary control in EU affairs. First, already at this stage, the discussion of how parliamentary groups have behaved in the three international negotiations under investigation provides evidence for the underlying assumption that parliamentary groups are decisive actors within parliament in EU international treaty-making. This strongly suggests that parliamentary control, also in EU foreign policy, is party political. Moreover, the discussion has uncovered several dynamics and strategies that had not been observed in the literature on control in EU affairs and EU foreign policy. It also showed that in other instances, control behaviour observed in domestic and EU affairs can also be observed in EU foreign policy, indicating that parliamentary groups make use of similar mechanisms and strategies.

Lastly, beyond describing how parliaments and parliamentary groups are involved in EU international treaty-making and embedding these findings in the broader literature on the means and use of parliamentary control in the EU, the discussion has raised several questions and suggested venues for future research. This is grounded in the nature of this research endeavour, as it was thought to be more descriptive and exploratory at the outset, using these dimensions as heuristic tools to structure the presentation of the empirical findings. Importantly, the dissertation did not aim to develop or explain patterns of control along those dimensions, but based on these discussions, future research can investigate whether such patterns exist, and how they can be explained.

10.1.2. The Intensity of Parliamentary Control

The dissertation aimed at explaining in a theoretically informed manner the intensity with which parliamentary groups control EU international treaty-making. The dependent variable, the intensity of control, if you recall, was argued to have both a quantitative (level of control) and qualitative (function of control) dimension (see Table 70).

Table 70: The Intensity of Parliamentary Control

Level	Function	Monitoring	Influencing
Low		Low monitoring	Low influencing
High		High monitoring	High influencing

Recalling the empirical findings very briefly, the descriptive investigations showed, as expected, variation in the intensity of control between the groups in the same parliaments controlling the same negotiation process, and between the same group controlling different negotiation processes. This strongly suggests, in line with theoretical argument, that parliamentary groups do not follow the same pattern when controlling EU international treaty-making but differ in terms of strategies and intensity of control.

Moreover, the investigation of how groups exerted control revealed an additional function: influencing (supportive). The underlying rationale of influencing and influencing (supportive) differs: in the former instance, control is thought of in a substantive manner, feeding parliamentary content preferences in negotiations and disrupting negotiations due to opposition to the agreement; the latter aims at exerting pressure to progress with negotiations, to accelerate the talks and to quickly and successfully conclude the agreement. The former was thus termed influencing (substantive), as this distinction was deemed important enough to include it ad hoc in the investigation. Two points are related to this new function. First, it could only be observed in the EP; not in national parliaments. On the national level, there were instances of parliamentary groups voicing support for the executive's actions, however, the pressure element was missing. Second, whilst the subsequent explanatory investigations in the EP took account of this function to the extent possible, future research should explore it further on a sounder and more rigorous methodological base.

10.1.3. Conclusion: How do Parliamentary Groups Control EU International Treaty-Making?

The presentation and discussion of the findings of how groups in the European Parliament, the Folketing and the Bundestag have controlled the three international treaty-making processes under negotiation in this dissertation have revealed three major take-away points.

First, there was a substantive level of parliamentary control, as no agreement went un-checked. This is not to say that they were all subject to the same amount and intensity of control, but to point out that parliamentary actors have indeed become active players in EU international treaty-making. They do not rest on their potential ex post ratification power, but actively pursue several strategies and means to be involved throughout the negotiations process.

Second, not all parliamentary groups pursue the same strategies, use the same means of control and control EU international negotiations. The empirical investigation detected considerable differences in their strategies and actions along the three dimensions of control, and in the intensity of control with which parliamentary groups in the same parliament controlled the same treaty-making process. This means that parliaments rarely act in a unitary, non-partisan manner, which strongly supports the theoretical argument developed in sub-chapter 3.2 that it is decisive to study parliamentary groups as independent, autonomous actors in EU foreign policy.

Third, several findings about the means and strategies of parliamentary control align with previous research in executive-legislative relations. Parliamentary groups do indeed develop similar patterns of control as in domestic and EU affairs. The discussion also reveals previously observed control dynamics in European foreign policy, such as the function of the ex post veto power and the role of parliamentary delegations and missions. It has also presented several new, tentative findings about means and dynamics of parliamentary control, such as the impact of a scrutiny system in national parliaments on the timing of control, or the role of civil society as a pro-active means of control. Against this background, this sub-chapter has uncovered several venues for further research.

10.2. Why do Parliamentary Groups Control EU International Treaty-Making?

The empirical investigation of how parliamentary groups have controlled EU international treaty-making has emphasized that they can indeed be active players in EU international negotiations, attempting to acquire information

and exert influence throughout a negotiation process. However, it was also revealed variation among parliamentary groups in the means and intensity of control regarding the same EU international treaty-making process. In chapter 3, it was argued that as long as we do not understand why parliamentary groups exert control and what explains the observed variation, we cannot comprehend the input and outcome of international treaty making. In a second step, the empirical investigations set out to study why parliamentary groups control EU international treaty-making and to explain the intensity of parliamentary control of particular groups regarding particular negotiations.

The investigation was theory-driven, building on the theoretical framework developed in chapter 4. The main assumption was that parliamentary control of EU international treaty-making is party political. Parliamentary groups are rational actors that make strategic decisions about when, how, and how much to control EU international treaty making based on expected costs and benefits of involvement. More specifically, they were assumed to be driven by vote-seeking benefits, i.e., electoral incentives, and policy-seeking benefits, i.e., incentives to reduce the risk of policy slippage. At the same time, they are constrained by resource and efficiency costs. However, efficiency costs apply only to parliamentary groups that are supportive of the agreement at hand. The theoretical model argued that the weight of costs and benefits is affected by seven causal factors. On the one hand, vote-seeking benefits of parliamentary control were expected to be high when the public salience of an agreement is high. Policy-seeking benefits are high when a parliamentary group is an opposition party, when it is in opposition to the agreement under negotiation, and when its likelihood of impact is high. On the other hand, resource costs of parliamentary control were expected to be high when a parliamentary group has low resources on average. Efficiency costs are high when the issue under negotiation is complex and when the negotiation environment is compelling.

Empirically, the validity of the theoretical framework was studied in a two-step approach. The dissertation started with nine comparative congruence analyses covering all parliamentary groups in a parliament. These studies served as a first probe into the plausibility of the theoretical model, investigating whether it indeed has empirical relevance for explaining the intensity of parliamentary control. The dissertation predicted the intensity of parliamentary control for each parliamentary group in a specific EU international negotiation process on the basis of the group's particular combination of the values of all causal factors of the theoretical model. Causal inference was thus drawn on the level of the theoretical framework; not of individual causal factors. The comparative congruence analyses were followed by several in-depth process-tracing studies, that zoomed in on the components of the theoretical model

and investigated the causal mechanism linking the causal factors to the outcome. On the basis of the findings of the process-tracing studies, it was possible to draw conclusions about individual causal factors, meaning whether they affected the intensity of parliamentary control as assumed.

The findings of the empirical investigation, which will be discussed in the following sub-chapters, largely strengthen the confidence in the validity of the theoretical framework, but also contribute to revisiting and adapting the theoretical model, as set out by the cautiously modifying research aim of this dissertation. The dissertation finds that parliamentary groups are indeed rational actors that make strategic decisions about when, how, and how much to control EU international treaty making based on the costs and benefits that they expect from the involvement. They are, as assumed, driven by vote-seeking and policy-seeking benefits, but constrained by resource and efficiency costs. In light of these costs and benefits of parliamentary control, a group controls EU international negotiations with high intensity when the topic under discussion is highly salient and opposed by the public, when the negotiation environment lacks compellingness, and when the group perceives that it has a chance of influencing the negotiations. Moreover, groups are driven by their opposition to an agreement as well as their institutional status, whereas low parliamentary resources constitute a considerable constraint for parliamentary control. This comprehensive framework can provide specific explanations for the intensity of control of each parliamentary group within a certain international agreement.

10.2.1. Reporting on the Comparative Congruence Analyses

Comparative congruence analyses were conducted on the parliament * agreement level, meaning that all parliamentary groups in a parliament were investigated in-depth in regard to how and why they controlled a particular international negotiations process. The dissertation first identified the scores of the costs and benefits of parliamentary control for every parliamentary group, as they were informed by the seven identified causal factors. Based on these scores, it made predictions about the relative intensity of control across parliamentary groups by aggregating the costs and benefits and comparing this ratio to the ratio of other groups. These predictions about the value of the intensity of parliamentary control for each group then acted as observable implications that were tested against the empirical data. To make this possible, the comparative congruence analyses presented “how” of control and identified the intensity of control in a comparative perspective. It was then possible to check whether the predicted intensity of control was congruent with the ob-

served intensity of control. These studies served as a first probe into the plausibility of the theoretical model, investigating whether it has empirical relevance.

10.2.1.1. Discussing the Findings of the Comparative Congruence Analyses

Table 71 summarizes the findings of the congruence analyses in a quantitative manner. The numbers indicate in how many of the cases (group * agreement) the predictions of the intensity of control were indeed congruent with the empirically found intensity.

Table 71: Findings' Summary of the Comparative Congruence Analyses

	Congruent	Non-Congruent	% of Congruence
European Parliament	10	4	71.43
Bundestag	11	1	91.67
Folketing	20	7	74.07

Before proceeding with the implications of these findings for the validity of the theoretical framework, it is necessary to briefly elaborate on the nature of some of the non-congruent findings in the EP and the Folketing. In the EP, all four non-congruent findings were related to influencing (supportive) control. There were no instances in which parliamentary control had the function influencing (supportive), in which the theoretical prediction was congruent with the empirically observed outcome. This strongly indicates the need to question and further investigate the ability of the theoretical framework to explain influencing (supportive) control. In the Folketing, three of the seven non-congruent findings were related to the Danish opt-out in the area of JHA, as these findings were made in regard to the EU-Tunisia readmission agreement. Taking these factors into consideration, the percentage of congruent findings might as well be higher for the EP and the Folketing, nearing the Bundestag's ratio. Following this discussion, what are the theoretical implications of the findings of the comparative congruence analyses?

First, the framework assumed deterministic causality, i.e., that the effect follows the cause given specified scope conditions. This would, strictly speaking, that is in the complete absence of varying scope conditions and reliability challenges, mean that congruence should always be 100 %, if the researcher wants to entertain the possibility that the assumed causal relationship does indeed exist. This means that the findings might seem to indicate that the theoretical framework cannot be used to explain the intensity of parliamentary control. However, the generally high percentage of congruent cases strongly

suggests that the theoretical framework is “onto something”, that its validity cannot simply be discarded and the framework rejected. Importantly, this can be seen against the background of using principal-agent theory in order to reduce the complexity of the empirical reality of parliaments in EU international treaty-making, meaning that the reality is generally more complex and intricate than expressed in the theoretical framework (Delreux/Adriaensen 2017a).

Moreover, in order to remedy this strict assumption about the validity of the theoretical framework and to acknowledge the complex reality in which parliamentary groups make decisions to exert control, the congruence analyses were followed by several process-tracing studies. In regard to the findings of these studies, the dissertation made a distinction between technical flaws and theoretical flaws. The former refers to a defect on the technical level, such as measurement error or an error in the operationalization of an individual causal factor, as the factor was used in the comparative congruence analysis. A technical flaw does not say anything about the validity of the theoretical framework itself but rather indicates that it is necessary to return to and improve the operationalization and/or measurement of the causal factor with which the technical flaw was detected. The latter, in contrast, does indeed refer to errors in the theoretical framework, strongly indicating that the causal mechanism leading from a factor to the outcome worked differently than assumed, or that causal factors were either omitted or included without having played a role.

Returning to the findings of the comparative congruence analysis and keeping the results of the process-tracing studies of non-congruent cases in mind, it was possible to show that in many instances, technical flaws were at play. It was demonstrated that here, parliamentary groups had perceived the values of the causal factors differently than predicted, which in turn changed the value of the costs and benefits of parliamentary control. Commonly, control was seen as less beneficial and more costly than assumed. This explains, to a certain extent, non-congruence. Ideally, against the background of the technically corrected causal factors, with new values derived from the process-tracing studies, the researcher could now return to the comparative congruence analysis, insert these new values of the causal factors – i.e., how the groups actually perceived costs and benefits – and repeat the analysis. However, this was not feasible as process-tracing studies were not conducted for every parliamentary group in a comparative congruence analysis, which would possibly distort the findings.

10.2.1.2. Inferences based on the Comparative Congruence Analyses

The discussion of the findings strongly indicates it is possible that the causal relationships as set out by the theoretical framework are present and at play as assumed. The findings of the descriptive exploration of how the political groups have controlled the negotiations is, to a large extent, congruent with the theoretically deduced predictions. This, as George and Bennett (2005) succinctly state, means that “the analyst can entertain the possibility that a causal relationship must exist” (George/Bennett 2005: 181). In contrast, whereas non-congruence considerably weakens the trust in the validity of the theoretical model, the empirical investigations demonstrated that in many instances of non-congruence, technical flaws were at play, meaning that non-congruence can, indicatively, be explained by wrong measures of individual causal factors. It was possible to demonstrate that in those instances where the new, corrected values for those causal factors were inserted into the assumed cost-benefit analyses of one parliamentary group, the theoretical framework seemed to lead to congruent predictions after all.

Overall, the comparative congruence analyses as plausibility probes of the empirical relevance of the theoretical framework considerably strengthen our confidence in its validity, namely that political groups base their decision to control EU international treaty-making on a cost-benefit analysis, taking vote-seeking and policy-seeking benefits as well as resources and efficiency costs into consideration. They thus suggest that the comprehensive theoretical framework does indeed have empirical relevance for explaining the intensity of parliamentary control of EU international treaty-making.

However, two caveats were connected to this empirical investigation. First, as explained above, the predictions about the intensity of control were not based on single causal factors but on an aggregation of the costs and benefits of control. Causal inferences are thus drawn on the level of the causal model, and not of the individual causal factors. In cases of non-congruence, this means it not possible to pinpoint the causal factors that did not work as assumed. However, the in-depth process-tracing studies addressed this caveat, as based on their findings, it is possible to discuss single causal factors and draw inferences on them.

Second, congruence between a theory’s predictions and empirical outcomes provides initial support that the theoretical explanation holds and that the causal mechanism has been effective. However, a congruence analysis merely provides evidence of correlation across causes and outcomes and does not investigate the causal mechanism in more detail. This means that the findings of the comparative congruence analysis do not establish a causal relationship. Causality could be spurious, even in instances where congruence was

demonstrated, and the causal mechanism at hand might work differently than assumed. The subsequent-process tracing studies also addressed this caveat.

10.2.2. Reporting on the Process-Tracing Studies

The dissertation followed up on the congruence analyses not only with process-tracing studies of non-congruent but also congruent cases to investigate whether the causal mechanism was as work as assumed by the theoretical framework. Recall that the causal mechanism was of minimalist nature. The process-tracing studies had a clear focus in the single causal factors of the theoretical framework and investigated whether they affected the intensity of parliamentary control as assumed and whether the causal mechanism has been at work as assumed. This makes it possible to draw conclusions about the relationship between the individual causal factor and the dependent variable of this study, and about the validity and effect of single causal factors.

10.2.2.1. Discussing the Findings of the Process-Tracing Studies

In sum, the dissertation has conducted seven process-tracing studies of non-congruent cases and nine of congruent cases, i.e., 16 process-tracing studies in total. These studies were guided by the seven causal factors that were argued to inform the costs and benefits of control. The causal mechanism between a causal factors and the intensity of control was of minimalist nature, see figure 5. More precisely, every process-tracing analysis looked for the following fingerprints of the causal mechanism: Did the parliamentary group perceive the value of the causal factor as claimed in the congruence analysis? Did they perceive this as a cost/a benefit? Did this incentivize/constrain them to engage/from engaging in parliamentary control? Finally, based on these findings, can we observe high perceived benefits and low perceived costs in cases of intense control, and the opposite in cases of weak control?

As mentioned above, this uncovered technical and theoretical flaws. Technical flaws indicate that groups perceived the value of a causal factors differently than assumed based on the identification of the causal factors in the comparative congruence analysis. This means that they considered the costs and benefits of control differently than predicted by the congruence analysis. On average, this led to a lower intensity of control. As this is essentially a defect in the comparative congruence analysis, corrected by the process-tracing study, the level of correction of this flaw lies with the former. In contrast, theoretical flaws mean that not all causal factors have worked as assumed. Some factors might not have been taken into account by the groups, and other factors brought up by the groups have not been part of the theoretical framework. Nonetheless, theoretical errors do not question the overall validity of the theoretical framework per se, but rather the working ways of some or several of

the causal factors entailed in the framework. In other words, this does not mean that the theoretical framework in its entirety should be rejected. Rather, these findings shall serve as the starting point of discussing, reconsidering and potentially and cautiously modifying the framework. Indeed, this was the declared goals of this dissertation, namely to enable the reformulation of the theoretical considerations that help explain how and why political groups control EU international treaty-making (see sub-chapter 5.2.2).

The following presentation and discussion of the findings of the process-tracing studies will not be structured along the 16 studied cases but along the seven causal factors that this dissertation argues inform parliamentary groups' intensity of control. Focus will be, first, on presenting and summarizing the findings and discussing them in light of the larger literature. Second, the discussion will cover the most relevant, i.e., the most frequently appearing, theoretical and technical flaws. It is here that it can substantively be assumed that the flaw is generalizable to other cases. This is further supported by the fact that all three empirical chapters largely agreed on these flaws are, meaning they were found in different institutional contexts.

10.2.2.1.1. The Public Salience of the International Agreement

The theoretical framework argued that in their role as agents to the voters, parliamentary groups are taking the vote-seeking benefits of parliamentary control into account in their cost-benefit analysis. Hereby, it is assumed that a group perceives the vote-seeking benefits of parliamentary control higher, the higher the public salience of the issue under negotiation is within the domestic electorate. Including this in a group's cost-benefit analysis, high salience positively influences the intensity of parliamentary control. The analysis of how an agreement's public salience affected a group's incentives to exercise strong parliamentary control largely supports the causal relationship set out. Parliamentary groups that perceived a certain agreement to be of high public salience clearly connected this to potential vote-seeking benefits, which incentivized them to be visibly active players, i.e., to exercise strong control. In comparison, groups who perceived an agreement not to be salient considered control to be less beneficial. More indicatively, as this was not the comparative perspective chosen in the dissertation, the on average most publicly salient agreement of the ones under analysis, the EU-Japan FTA, was also the on average most intensively controlled. Thus, it can be concluded that parliamentary groups indeed base their assessment of their vote-seeking benefits on the public salience of an agreement, which affects their incentives to exercise control as assumed.

Embedding this in the larger literature, a large body of literature has demonstrated the relationship between public salience and parliamentary

control in the control of EU affairs in national parliaments (e.g., Saalfeld 2005; Raunio 2005; Auel/Christiansen 2015; Finke/Dannwolf 2013; see also Miklin 2013). The dissertation has thus shown that this relationship does not only apply to internal EU affairs but also to EU international treaty-making. Indeed, salience has been an explanatory factor brought forward by those few studies attempting to explain parliamentary control in EU international treaty-making (Héritier et al. 2015; Dür/Mateo 2014; McKenzie/Meissner 2017; Jančić 2017; Wouters/Raube 2016; Roeder-Rynning/Kallestrup 2017). However, as the impact of public salience on parliamentary control has not yet been systematically studied, this dissertation provides the first theory-driven and systematic engagement with the impact of public salience on the intensity of parliamentary control.

Two points are connected to the finding that parliamentary groups are indeed driven by vote-seeking benefits. First, this implies that groups must perceive EU international negotiation as salient enough to affect the voting behaviour of the potential voters. This is somewhat surprising, as the parliamentarization literature has largely suggested that as EU policy-making is less salient than domestic political issues, it is more difficult for parliamentarians to score points with voters by engaging with European issues. This means that they have fewer incentives to invest in control of EU affairs, as this might actually harm their vote-seeking benefits (Saalfeld 2005). It could be assumed that this is even more prominent in European foreign policy, which is even more remote from the average EU citizen. Yet, the findings of this dissertation suggest that parliamentary groups do indeed feel an “electoral connection” (Aldrich et al. 2006) in EU foreign policy, and that, in their role as agent to the voters, they react to citizen pressure. This does not mean that they do not feel stronger pressure in EU and domestic affairs than in foreign policy, as the former two are closer to the citizens. Nonetheless, the electoral incentives do provide incentives for engaging with EU international treaty-making.

Second, this (perceived) electoral connection was not only found for groups in national parliaments, but also for political groups in the European Parliament. Hix and Høyland (2013) have forcefully argued that the electoral connection in the European Parliament is almost non-existent due to the second-order nature of EP elections, which means that how MEPs have behaved and what they have done inside the EP has little influence on their re-election prospects. Thus, MEPs are largely unconstrained by voter preferences on Europe due to their weak electoral connection (Hix/Høyland 2013). In contrast to this understanding of the electoral connection of MEPs, this dissertation has argued – and shown – that MEPs are indeed driven by vote-seeking benefits when controlling EU international treaty-making, and that the salience of an international agreement does affect the intensity with which they control

a negotiation process. The effect of salience on parliamentary attentiveness in the EP is, as argued above, in line with findings of recent studies, which have shown that “the EP’s degree of activity seems to depend on the salience of agreements” (Héritier et al. 2015: 10, see also McKenzie/Meissner 2017). Moreover, in the last couple of years, several studies have questioned whether MEPs are indeed unconstrained by voter preferences on EU issues, i.e., whether the EP is almost entirely electorally disconnected. These studies suggest that, under certain circumstances, MEPs can be incentivized to a certain behaviour in the European Parliament by the salience of an issue and the impetus given by public opinion (e.g., Lo 2013; Arnold/Sapir 2013). The findings of this dissertation thus contribute to the literature on the electoral connections of parliamentarians in the European Parliament. Nonetheless, more methodologically rigorous research is necessary to fully understand the electoral connection in the EP.

The empirical investigation also revealed two flaws, one technical, one theoretical, in the underlying assumptions about the impact of public salience. Regarding the technical flaw, it was demonstrated that in all parliamentary chambers, the public salience of an agreement was, at times, perceived differently than predicted in the congruence analysis. Especially, most groups emphasized that the EU-Japan FTA, which was assumed to be of high salience, was not highly salient, using recent trade agreements such as TTIP and CETA as benchmark. If asked, the groups agreed that the EU-Japan FTA was more salient than the EU-Tunisia readmission agreement and the negotiations of the Kigali Amendment, but this is a purely theoretical exercise, as this is not what these groups have been doing in reality. However, in regard to the other two agreements, the characterization of their public salience in the comparative congruence analysis concurred at large with how groups actually perceived it. Consequently, the comparative assessment of public salience should be questioned, not the comparative nature per se, but rather the benchmark used for this comparative exercise.

Second, it was demonstrated that many groups distinguish between the public salience of and the public opinion about EU international agreements. While public salience had the assumed effect, this finding strongly suggests that it is not the only decisive factor for informing vote-seeking benefits of parliamentary control, but that this benefit also depends on public opinion on an issue. This was most prevalent in regard to the EU-Japan FTA and the EU-Tunisia readmission agreement, as a strong public opinion on the underlying issue under negotiation – free trade and migration – can be observed in the European public. Going beyond the initially developed theoretical assumption, it might be argued that there is a difference between public salience (the importance attached to an issue by the public) and public opinion (the public’s

views on the issue. This is, in itself, not surprising, but has been largely neglected by previous systematic studies on how public salience affects incentives for parliamentary control in EU affairs. At most, the studies included a general reference to the level of public Euroscepticism.

However, both dimensions need to be taken into account to assess the overall climate in the public on an EU international agreement. The underlying causal mechanism of informing a group's perception of vote-seeking benefits holds, it is merely informed by two instead of one causal factor. Previous research that has demonstrated that parties generally only raise issues from which they expect to gain an electoral advantage, which requires that the issues must be "salient enough to affect the voting behavior of the party's potential voters. Second, the party's position on the issue has to be in line with those of its voters" (Miklin 2014: 80). This finding does thus not discard the impact of public salience on vote-seeking benefits of a particular group. Rather, this dissertation advocates for a broadening of the conceptualization of the factors to include the direction of public opinion, relative to a group's policy position. Such a broadening is also in line with the underlying argument of how this causal factor works: in their role as agents of the voters, groups have electoral incentives to engage in the scrutiny of certain policy issues in order to signal their trustworthiness to their principals, which is required to secure their re-election (Auel 2009: 5). Trustworthiness is more likely to be signalled if an agreement is congruent with the public climate on the file, whereas public salience is a condition for public attention to parliamentary action in the first place.

Summing up, the in-depth analysis of how public salience has informed vote-seeking benefits and groups' incentives to control supports the argument that parliamentary groups are driven by high public salience. At the same time, this discussion made it clear that it is important to distinguish between public salience and public opinion, as they only inform vote-seeking benefits in conjunction.

10.2.2.1.2. The Institutional Status of a Parliamentary Group

According to principal-agent theory, parliaments are not only agents to their voters but also principals to their executive. In the latter function, parliamentary groups have been argued to be policy-seeking, as one of their overarching goals is to enforce their own policies and reduce policy slippage (Auel 2009; Auel et al. 2015). The theoretical framework argued that a group's institutional status, i.e., its standing vis-à-vis its direct executive, affects their policy-seeking benefits. As the risk of policy conflict between the executive and the political group is higher for opposition than for majority parties, the former have

major incentives to control EU international treaty-making with strong intensity. The empirical investigation revealed that the level of policy conflict indeed informs the size of policy-seeking, which, as expected, provides a major incentive for parliamentary groups to intensively control negotiations. Groups that perceive themselves as being in conflict with their direct executive are motivated by this, as they fear that their preferences will not be met. In contrast, groups that do not see preference divergence between them and the executive claim to be less concerned about policy slippage, as they trust their executive. Also, on average, opposition parties were more actively involved in scrutinizing EU international treaty-making than governing parties. Thus, the causal factor can be argued to work as assumed in the theoretical framework.

The literature on parliamentary control of EU affairs, with its increasing focus on the role of parliamentary groups, has in several studies demonstrated the relationship between a group's institutional status and the control behaviour towards parliament (e.g., Holzhaecker 2002; Finke/Herbel 2015; Miklin 2013; Wonka/Göbel 2015). These studies indicate that parliamentary scrutiny is initiated in cases of policy dissent between government and opposition, and that opposition groups are more intensively involved in controlling EU policy-making than governing parties. This findings of this dissertation contribute to the literature by demonstrating that the institutional status of a parliamentary group is a driving factor for the group's engagement in control in EU foreign policy-making, and not merely in EU internal decisions. In other words, also in EU international treaty-making, parliamentary control provides an important venue for opposition parties to influence policy making. Hereby, the incentives to actively control negotiations increases with policy divergence between government and opposition due to the risk of governmental drift.

Research has demonstrated that in the European Parliament, parliamentary control can be driven by MEPs' national party opposition status (Proksch/Slapin 2011; Jensen et al. 2013; Font/Duran 2016). However, there is also increasing recognition that not only the national institutional status but also their standing in the European Parliament affect MEPs' incentives to exercise parliamentary control. Studies have increasingly pointed out that as in other parliaments across Europe, party political conflict is formed along government versus opposition divides, both within the EP and in its relationship with the Commission (Ringe 2005; Gattermann 2014). Gattermann (2014) shows that MEPs who belong to a political group which does not electorally support the European Commission register more often to inter-parliamentary meetings than members of majority groups. This increases the odds for more favourable policy outcomes at the European level, meaning it reduces the risk of agency loss. This dissertation contributes to the latter findings, as it points out that also in EU international treaty-making, policy conflict can exist between

the Commission as executive and groups not represented in the executive, which were subsequently characterized as opposition parties. This is not to say that MEPs are not influenced by their “national institutional status”. This was not investigated in this dissertation. Importantly, the unit of analysis of the these studies is the individual MEP, whereas this dissertation has an explicit focus on political groups. Here, the dissertation showed that the likelihood of interest heterogeneity between “opposition” and the executive is larger than between groups represented in the Commission and the Commission. This increases the policy-seeking benefit of control for the former, which thus control EU international negotiations more intensively, all else equal.

However, for some groups, both in national parliaments and the European Parliament, a technical flaw was detected: the dissertation used groups’ institutional status as a proxy for determining policy conflict with the executive, assuming that opposition parties generally have a higher level of policy conflict with the executive, which means a higher risk of agency loss. This does not hold in every single case. A parliamentary group in opposition is not necessarily in conflict with their executive, and vice versa. While generally there seems to be a relationship between institutional status and policy conflict, subsequent comparative congruence studies might investigate the status and the determinants of a group’s level of policy conflict with the executive more in-depth.

The literature argues that in domestic and EU affairs, the institutional status not only affects the likelihood of policy conflict between a group and its executive but also gives groups advantaged (for governing parties) or disadvantaged (opposition parties) access to decision-making. This means that a group’s institutional status might offer incentives for parliamentary control independent of the level of policy conflict with the executive, such as the reduction of an opposition party’s information deficit vis-à-vis the executive. Opposition parties compensate their lack of direct access to executive decision-making by invoking those parliamentary control rights available to them (Döring 1995; Wonka/Rittberger 2014; Miklin 2013). At the same time, opposition parties can use public parliamentary control to present themselves as an alternative to the prevailing majority (Dahl 1965; Helms 2008). Regarding the latter, some of the process-tracing studies in this dissertation showed that that especially opposition parties perceived it to be their constitutional task to oppose certain policies. However, this was not incorporated into the theoretical framework of this dissertation. This means that further research might be necessary to investigate what exactly it is about a group’s institutional status that provides incentives for them to engage in intense parliamentary control of EU international treaty-making.

Summing up this discussion, the level of policy conflict with the executive, which is closely related to a group's institutional status, was demonstrated to inform the policy-seeking benefits of parliamentary control. Opposition parties have greater incentives to strongly control EU international negotiations, yet, this is moderated by the level of policy conflict with the executive, hence the preference divergence in the direct principal-agent relationship. This finding is in line with the traditional assumption of principal-agent theory about the impact of conflicting preferences. There is broad agreement in the principal-agent literature to stress the impact of conflicting principal and agent on the level of discretion and control a principal awards an agent (Pollack 2003). At the same time, this finding underlines the often demonstrated opposition-majority divide in parliament, which has been observed in domestic and EU affairs and shows that these dynamics can also be observed in European foreign policy.

10.2.2.1.3. The Policy Position of a Parliamentary Group

The theoretical model also argued that policy-seeking benefits are not only influenced by a group's institutional status and the level of policy conflict with their direct executive, but also by their policy position on the EU international agreement. As an international agreement in itself presents a source of policy slippage, the risk of policy slippage is higher for groups that are in opposition to an international agreement than for those that are supportive, which provides incentives for those groups to exercise more intense control. This dissertation has found strong evidence that the policy position of a parliamentary group affects their intensity of control. Parliamentary groups that claim to be in support or only mildly critical of an EU international agreement see little risk that the outcome of the negotiations might not meet their preferences. Thus, they are not motivated by their policy position to engage in parliamentary control. In contrast, groups that oppose an international agreement have argued to be heavily driven by policy-seeking benefits, attempting to influence the negotiations to move the international agreements closer to their preferred scenario. Indeed, there is no parliamentary group in opposition that did not perceive itself to be incentivised by their dislike of the treaty in question. Moreover, the importance of opposition for a high level of control is, more specifically, supported by the findings of the process-tracing studies of how and why parliamentary groups controlled the negotiations of the Kigali Amendment. Here, the dissertation demonstrated that all groups were in support of the agreement, and that no group opposed it on substantive grounds. In the absence of any kind of conflict, the intensity of parliamentary control was low for all groups. This indicates that policy conflict constitutes a precondition for any kind of parliamentary control.

The finding about the relevance of a group's policy position can be embedded within the literature on general principal-agent theory, and within applications of agency theory to EU international treaty-making. As argued in chapter 5, the causal factor "policy position" is closely related to preference heterogeneity between principal and ultimate agent. Principal-agent literature has for a long time demonstrated that such preference heterogeneity triggers principal's control (Waterman/Meier 1998; Epstein/O'Halloran 1999b). Also in European international treaty-making, this relationship has been demonstrated. Yet, in these studies, the Council was understood as principal controlling the Commission as agent. It was shown that when the preferences of the Commission and the Council converge, the latter is less likely to deploy strict control mechanisms (Kerremans 2006; Coremans/Kerremans 2017). The finding of this dissertation about the relevance of a group's policy position for the intensity of parliamentary control contributes to the studies that have demonstrated the relationship between preference divergence and the level of control a principal exercises.

However, this dissertation did not use preference divergence between principal and agent as causal factor, but developed a typology of policy position with qualitative differences that could be ordered on an ordinal scale. This policy position includes preference divergence with the Commission as ultimate agent but goes beyond that, as also the agreement in itself, negotiated with an independent third party, can be a source of policy slippage. This underlines the importance of paying attention to the task an agent has been delegated. There is a difference between implementing agents and negotiating agents. A negotiating agent has to mediate between the interests of their principals and the interests of the external negotiation parties (Nicolaidis 1999). This means that negotiating agents might try – and have to – accommodate external preferences, which are potentially in conflict with the principal's interests. Thus, when delegating the task to negotiate international agreements, principals have to be aware of the risk of agency loss, which exists irrespective of the degree of preference homogeneity between principal and agent. This also means that principals potentially have to develop strategies to attempt to influence the external third party the agent is negotiating with. In the cases analysed in this dissertation, political groups in the European Parliament have indeed approached those third parties via different means of control in an attempt to extend the reach of parliamentary control. Future research might study to what extent groups are incentivized to do so a particular policy position – is it supporting groups, or is it in opposition to an international agreement that groups see the biggest value in doing so. It might also be worthwhile

to investigate more in-depth why parliamentary groups in national parliaments largely refrain from doing so but rather focus their control activities on their national government.

More generally, the relevance of a group's policy position for the intensity of parliamentary control also underlines the fact that parliamentary groups are indeed policy-seekers: EU foreign policy is no longer only about setting strategic goals, but EU international agreements have law-making effect (Eeckhout 2011: 193). International agreements are legal instruments with a concrete impact on the life of individuals in and outside the EU. Thus, they are a major source of policy slippage, which policy-seeking groups need to develop a position on in order to assess the risk such slippage. The increasing positioning of parliamentary groups in the EU also stresses another factor: politics no longer "stops at the water's edge" – political parties form diverging opinions on foreign policy issues and are willing to actively pursue them. In practice, this means that parliamentary groups as policy-seeking actors are, similar as in domestic and EU policy-making, driven by their position on a certain issue. This is not to say that other factors do not affect their rationale of parliamentary control, but rather to underline the relevance of a group's policy positions as motivational incentive for parliamentary control. This finding is supported by Jančić (2017), who demonstrates that parliamentary control of the TTIP negotiations in the British and French parliaments was triggered by the ideological preferences of political parties and less by government-opposition dynamics. He connects this to the traditional left-right cleavage, which he finds is, albeit not clear-cut, discernible regardless of the system of government.

At this point, it is important to stress that this dissertation has not investigated the role of ideology *per se* in-depth, or the role of the left-right cleavage, for the intensity of parliamentary control. Research on parliamentary scrutiny in various foreign policy fields has demonstrated how parliamentary groups' positions on a one-dimensional left-right ideological scale affect the concrete policy positions of parliamentarians on an issue (e.g. Milner/Judkins 2004; Milner/Tingley 2011 on foreign trade; Therien/Noel 2000 on foreign aid). This dissertation has not studied to what extent policy conflict between parliamentary groups and the executive fits into the traditional left-right ideological dimension, as party ideology has been featured only marginally. Yet, the studied causal factor "policy position" can be argued to be built on the particular ideology of the various parliamentary groups under investigation. The relevance of a group's policy position as a major driving factor for parliamentary control also suggests that ideology plays an important role for the motivation of parliamentary groups to engage in EU international treaty-making. Future research should thus investigate to what extent we can observe a left-right contestation over EU international negotiations, and whether such an

ideological conflict can be observed to be present to similar extents in the various fields of EU international treaty-making.

More generally, there seems to be some correlation between a group's policy position and the function of control it uses. All groups that were subject to a process-tracing analysis and in specific opposition to an EU international agreement engaged in influencing (substantive) control. This means that only groups in specific opposition to an agreement engaged in influencing (substantive) control, with one exception, as also a group in complementary criticism controlled with this function. This can be seen against the background that influencing (substantive) control refers to parliamentary actions that are thought of in a substantive manner, feeding parliamentary content-preferences in the negotiations and disrupting the negotiations due to opposition to the agreement. In contrast, all groups in specific support of the agreement either monitored the negotiations process or attempted to influence it supportively, i.e., they aimed at exerting pressure to move negotiations along. This indicates that the policy position is related to the function with which a group controls negotiations. However, this pattern is only indicative and should be further investigated. Especially, it was not possible to discern any patterns regarding "medium intensity" of control, as the cases selected for process-tracing did not allow for a valid investigation thereof.

Summing up, this dissertation has found strong evidence that the policy position of a parliamentary groups affects their intensity of control. All else equal, the more in opposition to an international agreement a group is, the higher are the policy-seeking benefits, and the higher thus the intensity of control. Perceiving parliamentary groups as policy-seeking actors, this relationship is the logical conclusion: as the international agreement is the political instrument in question, it constitutes a major source of policy slippage, should a group be opposed to it.

10.2.2.1.4. The Likelihood of Substantive Influence

The theoretical framework has also argued that the policy-seeking benefits of parliamentary control also depend on the likelihood that parliamentarians actually can have substantive policy influence. Considering the costs of control, and that parliamentary groups have scarce resources, they need to consider carefully which international agreement they target. They should focus on agreements in which they have a greater chance of making an effect. This finds entry into their cost-benefit analysis, and provides further incentives for the intense control. The empirical investigation of this dissertation has indeed revealed that groups that considered their chances of substantive influence on negotiations to be small see only few policy-seeking benefits in controlling the negotiations. In situations of expected low influence, putting time and effort

into pushing for something that is not going to happen does not provide benefits but only generates costs. On the other hand, groups that perceive their likelihood of influence as high take this into account in their cost-benefit analysis as positively affecting their incentives to exercise strong parliamentary control. Thus, the likelihood of influence has the assumed effect on the intensity of parliamentary control, via the proposed causal mechanism.

This finding contributes to several recent findings of parliamentary control in EU affairs, which demonstrated that “MPs who consider their influence to affect EU politics to be high will, [...] also be more involved in EU affairs than MPs who consider their own influence to be limited or futile” (Schneider et al. 2014: 411) and that parliamentary groups use “scrutiny instruments more extensively when they have a formal say than when dealing with policy measures in which they only have consultation rights” (Wonka/Göbel 2016: 218f.). This study demonstrates that we can also observe this generally assumed – but less often systematically studied – causal relationship in regard to parliamentary control of EU international treaty-making.

Wonka/Göbel (2016) draw a clear connection between the legal nature of the instrument that was being developed and the likelihood of influence a parliamentary group has. This is closely connected to the operationalization of the likelihood of influence in this dissertation: the size of the group in parliament in cases where parliament had the right to ratify an agreement. This dissertation has demonstrated that groups clearly consider their power of ratification to have a significant positive effect on their chances of being influential. They have a formal, binding say and can use their threat of veto to gain access to information and attempt to influence the negotiation process substantively. For national parliaments, this thus means that parliamentary groups generally perceive policy-seeking benefits to be higher in case of mixed agreements requiring national parliamentary ratification. Against this background, we can also understand why several groups prefer that a majority EU international agreements are concluded as mixed agreements.

However, it was observed, mainly in the Bundestag, that groups with an assumed low likelihood of substantive policy influence assess their chances not only based on their – structurally determined – credibility of a veto threat of the agreement in question. This does not contradict the impact of credibility, but groups also connect their assessment to previous international treaty-making process in the same policy-making area, where they were able to gain – though small – successes. Generally, and this was also demonstrated in the descriptive analyses, groups do not consider an international treaty-making process in isolation, but connect it to other files in the policy field. However, such an assessment is too ad hoc and too dependent on groups’ previous suc-

cesses as that a future comparative congruence analysis could take this systematically into account. Nonetheless, this finding supports the importance of the two-fold empirical approach of the dissertation, also investigating groups' perception of the causal factors and their motivation in-depth via process-tracing studies.

10.2.2.1.5. Resource Costs

Principal-agent theory clearly states that control is not only beneficial to the principal but also entails certain costs. First and foremost, control consumes the principal's resources – time, energy and resources, which principals are required to invest in order to activate and employ control mechanisms (Kiewiet/McCubbins 1991). Against this background, the dissertation has argued that the amount of resources finds entry into the cost-benefit calculations of parliamentary groups. The fewer overall resources a parliamentary group has available, the higher are the resource costs of parliamentary control; and vice versa. Low overall resources, in turn, inform the negative incentive for exercising intensive parliamentary control. The empirical analyses demonstrated that this relationship can indeed be established. They find that parliamentary groups that perceived their resources to be low – as they are engaged in many other related issues, have too little staff and expertise, too few parliamentarians in the respective committee – clearly considered resource costs to be high. This, in turn, was shown to negatively affect their motivation to exercise strong parliamentary control. Similarly, groups that perceive their resources to be sufficient have been demonstrated to be less concerned about resource costs, which thus had less of a negative impact on their incentives to control EU international negotiations. These findings thus provide support for the causal relationship between the resources of a parliamentary group and their intensity of control.

Placing the findings in a wider context, they complement findings on the relationship between resources and control in domestic and EU affairs. It is widely recognized that parliaments are busy institutions, facing far more issues and activities that they can cope with. Thus, parliamentary groups have to make strategic choices about how they commit their scarce resources to the pursuit of their – vote-seeking and benefit-seeking – goals (Strøm 1997). Indeed, there are few authors writing about parliamentary scrutiny from a rational choice perspective that do not mention, at least to some degree, the effect that sufficient or insufficient resources can have on the level of control. In the literature on scrutiny in the US Congress, this relationship was established early on (Aberbach 1979; Scher 1963). More recently, empirical research has demonstrated in regard to scrutiny of EU internal decision-making that the

more resources a parliament has, the more willing it is to engage in parliamentary scrutiny of EU affairs (Sprungk 2016; Gattermann et al. 2013: 6). By emphasizing the importance of the resources of a parliamentary group, as this informs the resource costs of parliamentary control, the dissertation contributes to this literature and demonstrates that also in European foreign policy an important class of costs associated with scrutiny refers to the resources that need to be invested in scrutiny, such as time, the costs of information gathering and opportunity costs of not investing resources in other activities. This is especially relevant as it can generally be expected that in order to satisfactorily and thoroughly control EU international treaty-making, parliamentary groups require a bigger investment in resources than in domestic and EU decision-making. This is because EU international treaty-making processes take place in an arena to which parliaments hardly have formal access.

Although the findings of this dissertation support the relationship between a group's resources and their intensity of control, it should be mentioned that many groups did not perceive the size of their overall resources as predicted in the comparative congruence analysis, meaning there is a technical flaw. Many groups that were assumed to have high resources for control, and therefore low resource costs, considered their resources as insufficient, increasing the resource costs. Indeed, it seems to be a general pattern, both on the European and the national level, to consider resources as inadequate to exercise strong control. A more fine-grained measure for resources of a parliamentary group might have gone beyond merely measuring a group's relative resources but combined it with additional factors. Research has shown that decision-makers who attach high salience to a specific issue will invest considerable political resources to influence it according to their own preferences and interests (Thomson 2011). This means that parliamentary groups can be expected to tend to focus on and invest resources in issues that are most important and closest to their own interests and priorities. Against this background, shall the operationalization and measurement of resource generally be reconsidered? As this is a technical flaw, this does not question the validity of the causal relationship, but the operationalisation of the causal factor resources that was used in the comparative congruence analysis. This needs to be fixed at that level, and future research should consider developing a measure for resource costs relative to a group's priorities.

Although the empirical analyses showed that groups at large tend to consider all control more resource-costly than assumed, the dissertation has demonstrated that resource considerations are important when parliamentary groups decide whether, when and how to engage in parliamentary scrutiny of EU international treaty-making. Against this background, it is interesting to

note that in recent years, both the European Parliament and national parliaments have upgraded their resources in terms of expertise and staff in order to engage in EU international treaty-making (Coremans/Meisner 2017; Roeder-Rynning/Kallestrup 2017; COSAC 2015). Two conclusions can be drawn from the dissertation's findings. First, it demonstrates the increasing awareness of parliaments in the EU concerning EU international negotiations and the importance they attach to having the possibility to be actively involved in negotiations they want to have a say in. Second, the question remains when parliamentary groups are willing to invest their resources in a negotiation process. This brings us back to the drivers of parliamentary control, vote-seeking and policy-seeking benefits, and the relevance parliamentary groups attach to these goals as part of their cost-benefit analysis.

10.2.2.1.6. Efficiency Costs

Unlike standard principal-agent applications, which focus on the resource cost of control, this dissertation has argued that in EU international treaty-making, control can also be costly in efficiency terms, as overly strict control can obstruct the rationale of delegation and endanger the effectiveness and the efficiency of the agent's execution of a task that was delegated for functional reasons. These costs are especially present when the agent is tasked with negotiating, not implementing a policy, as the agent here has a great need for discretion in order to foster the best-possible agreement. However, the concern for the efficiency and effectiveness of EU international negotiations was argued to not necessarily apply to all parliamentary groups within one parliament. Rather, it was argued that efficiency only constitutes a cost for parliamentary groups that are supportive of the international negotiations.

Supporting this assumption, this dissertation found that not all groups consider the potential impact of parliamentary control on the efficiency of the negotiations, but that these costs are indeed moderated by a group's policy position. Overall, the empirical investigation has demonstrated that there is a general awareness in the European Parliament that control may negatively affect the efficiency of negotiations and the outcome of treaty-making processes. However, as assumed, not every group minded such an effect. Indeed, it was groups that supported a specific international agreement that considered the efficiency costs of control; whereas groups in opposition to the agreement did not mind negative effects.

On the national level, efficiency costs seemed to play a minor role, not only for groups in opposition to an agreement, but also for those in support. However, it might not necessarily be the case that groups on the national level did not consider the possibility of these costs, but rather that there is a lack of data

and a partial bias as largely oppositional cases were investigated on the national level. Even more tentatively, the reason may be that groups on the national level do not perceive themselves as having enough influence on EU international negotiations – in contrast to groups in the EP, which is closer to the international level, as that they might actually cause damage on the international level. However, whilst there might be a difference between the European and the national level as far as how they emphasize efficiency costs, the dissertation does not recommend removing costs from the theoretical framework entirely, but rather treating it with caution in the in-depth analyses, especially at the national level.

Efficiency costs as such have not been included in studies that apply a cost-benefit analysis to empirically study the level of parliamentary control in EU affairs. This does not mean that it was not theoretically identified. Already in 2005, Benz elaborated on unintended side-effects of parliamentary control over the national executive negotiating in the Council, as such decision-making presupposes both a certain degree of secrecy and a significant flexibility of the decision makers (Auel/Benz 2005; see also Hurrelmann/DeBardeleben 2009). “Parliaments strictly supervising their governments and thus tying their hands in multi-level negotiations must face the possibility that outcomes of negotiations are inferior to compromises that might have been obtained if the government had enough room for manoeuvre” (Auel/Benz 2005: 373). Auel and Benz (2005) categorized various strategies parliaments use to cope with their disadvantaged position in EU affairs and the inherent dilemma in control. In EU foreign policy, Zanon (2010) demonstrated that although parliamentarians clearly aim at controlling government decision-making in regard to EU international negotiations, they also “realize that any such move could weaken the ability of the government to conduct successful negotiations” (Zanon 2010: 36). However, efficiency costs have so far not been systematically included in studies in executive-legislative relations and used to explain the level and intensity of control. Moreover, this dissertation clearly points out that that these costs differ between parliamentary groups, as some parliamentary groups do not consider control to have such negative side-effects.

10.2.2.1.7. The Complexity of the Issue under Negotiation

The theoretical framework argues that efficiency costs are moderated by a group’s policy position and informed by factors external to the principal-agent relationship: the complexity of the issue under negotiation and the compellingness of the negotiation setting. Concerning the former, the dissertation argues that when an issue is characterized by high uncertainty, the agent requires greater discretion to achieve the best possible outcome. This increases

the efficiency costs of parliamentary control which finds entry into a group's cost-benefit analysis and provides negative incentives for parliamentary control. However, the process-tracing analyses revealed that the causal factor "complexity of the issue under negotiation" has not been working as set out. More precisely, two interconnected discoveries were made.

Generally, groups seem not to have taken this into account, neither on the national or the European level, when assessing the efficiency cost of parliamentary control. This factor seems to be absent in most groups' cost-benefit analyses regarding the intensity of parliamentary control.

Second, in those few instances where the complexity of the negotiation issues was taken into consideration, it was shown that the factor was increasing the cost of control and decreasing its benefits via a different causal mechanism than assumed, i.e., not via the efficiency costs of control. Rather, a complex negotiation topic increased the resource costs of control and decreased the vote-seeking benefits. The former because it is more difficult to assess a technical, complex file than a simple one, especially for groups that emphasize a sound monitoring progress. Overall, complexity thus increases the need for expertise and staff, which makes control more resource costly. The latter refers to the complexity decreasing the salience of the agreement under negotiation, as complex topics receive less public attention and make it more difficult to communicate parliamentary action, which, overall, makes it more difficult to gain vote-seeking benefits.

It follows from this that none of the groups, on the European or the national level, considered the complexity of negotiation as affecting the negotiator's need for discretion and associated complexity with efficiency costs of control. This is in clear contrast to previous research, which has argued that the degree of discretion a principal allocates to an agent should vary as a function of the uncertainty of a given issue area, as this is an incentive to the principal to delegate in order to use the expertise of the agent in the first place. Research has shown that when an issue area is characterized by greater complexity and uncertainty, principals are likely to delegate greater discretion. Franchino (2000) has demonstrated that in the EU, the degree of statutory, ex ante discretion delegated by the Council as principal to the Commission as agent increases with the uncertainty about the choice of best policy because of the complexity of an issue and lack of information, which makes it necessary to reap the informational benefits of delegation (see also Epstein/O'Halloran 1994; 1999; Huber/Shpan 2002; McCubbins/Page 1987; Pollack 2003).

Explanations for why this dissertation does not find parliamentary groups as the constitutive units of principals to be concerned about the potential negative impact of control, thus decreasing the agent's discretion and room of manoeuvre, in EU international treaty-making, can only be tentative. First, the

studies demonstrating the relationship between the complexity of an issue and an agent's discretion referenced above are predominantly concerned with discretion set out *ex ante* to the delegation. In contrast, systematic testing of *ex post* delegation behaviour under conditions of uncertainty and complexity is still lacking. Such tests might reach similar findings as this dissertation. Second, the studies above investigated direct principal-agent relationships in which the principal delegates for functional reasons and designs the agent's discretion accordingly. In contrast, in the setting of EU international treaty-making, the delegation relationship between parliaments as principal and the Union negotiator as agent is more complex. In a narrow sense, it is the member states in the Council tasking the Union negotiator in a particular treaty-making process for functional reasons. In sub-chapter 4.4.1.2. it was argued that both the European Parliament and the national parliaments under investigation in this study can be perceived as principals that control the agent. However, this more complex agency relationships might well affect the extent to which parliaments-as-principals take the functional reasons for delegation into consideration when exercising control.

What follows from the finding that no parliamentary group, on the European or national level, considered the complexity of negotiation as affecting the negotiator's need for discretion and thus the efficiency costs of control? This dissertation recommends excluding this factor from the theoretical framework as informing the weight of efficiency costs. Does this also mean that the factor should be included at another point, as informing the size of vote-seeking benefits or resource costs? The findings of these relationships are so far rather indicative and have not been overwhelmingly demonstrated. It is argued here that further research on this is necessary, but also that it can strongly be assumed that this is a feasible option.

10.2.2.1.8. The Compellingness of the Negotiation Setting

The theoretical framework also argued that efficiency costs are informed by the compellingness of the negotiation setting. When negotiations are set in a compelling negotiation environment, the Union negotiator requires extensive discretion to successfully conclude the negotiations without being disturbed by domestic actors, which undermine the negotiator's conduct of the negotiations. This means that in a highly compelling negotiation environment, the Union negotiator's need for discretion is high. This, in turn, affects the efficiency costs of parliamentary control for groups that support the agreement, which dis-incentivises them to exert strong parliamentary control.

The process-tracing analyses revealed a two-fold picture. First, those groups in support of an agreement set in a compelling negotiation environment agreed with this characterisation, claiming to feel pressure from inside

and outside the EU to successfully conclude the agreement. This, in a majority of instances where this cost was assumed to be at play, was indeed found to cause the parliamentary group to be concerned with the potential negative impact of their involvement on the progress and outcome of negotiations. Thus, the compellingness did inform a group's efficiency costs, which, in turn, constrained their incentive to exercise strong parliamentary control. If an agreement was set in an unconvincing environment, supportive groups considered efficiency cost to be less relevant.

However, second, in two instances the in-depth investigations revealed that whereas a parliamentary actor agreed with the compellingness of a negotiation process, this incentivized, rather than dis-incentivized it to become active. This was done in an attempt to decrease the compellingness and to improve the EU's bargaining position on the international stage. They did so by engaging in influencing (supportive) control activities, which were not intended to restrain but to strengthen the Union negotiator in the execution of their tasks and to increase the overall likelihood of concluding the agreement. It is thus exactly due to the compellingness of the negotiations that the group engaged in parliamentary control. However, the finding about this effect of a compelling negotiation environment was only made in the European Parliament and is related to the ad hoc introduced function influencing control (supportive). In contrast, the assumed causal relationship between a compelling environment and its dis-incentivizing effect on control has been found in the EP, the Bundestag and the Folketing and the dissertation has demonstrated that groups that support an agreement consider monitoring/influencing (substantive) control as efficiently costly. Thus, it is argued here that the assumed causal relationship between a compelling negotiation environment and control (in its traditional functions) does hold. Yet, future research should more systematically investigate the control function of supportive influence, and the conditions that trigger parliamentary groups to engage in such activities.

The compellingness of the negotiation environment as a causal factor that affects the incentives of parliamentary groups to control a decision-making process has not yet been investigated in studies on parliamentary control. The findings of this dissertation thus strongly suggest that it is embedded in future research and that further systematic studies on its function and impact are conducted. The finding can also be placed in a broader context of principal-agent applications in EU foreign policy. Delreux (2008; 2011) and Delreux and Kerremans (2010) find that the compellingness of the external environment is a key factor for explaining the EU negotiator's degree of discretion vis-à-vis the member states in EU international negotiations. In such a situation, they argued, there is great pressure on the member states not to jeopardize long and laborious international negotiations. This provides opportunities for

the agent to “weaken[...] the incentives by the principals to effectively deploy their control mechanisms” (Delreux/Kerremans 2010: 373). The finding of this dissertation about the negative effect of a compelling negotiation environment on activating control mechanisms complements this perspective. It demonstrates that also in executive-legislative relations in EU international treaty-making, compellingness decreases the incentives to control the agent. Importantly, the dissertation demonstrates that the agent does not necessarily need to make active use of the opportunity provided by a compelling negotiation environment to weaken the principal’s incentives of control. Moreover, whereas the previously cited studies showed that compellingness is a decisive factor in explaining the occurrence of discretion for the EU negotiator, this dissertation has shown that it is important for explaining the intensity of control a principal activates. Control and discretion are inversely related; yet, they focus on different parts of a principal-agent relationship. Whereas the conditions for high discretion of the Commission-as-agent are rather well-researched in EU foreign policy (e.g., Elsig 2010; Niemann/Huigens 2011, da Conceição-Heldt 2011; 2017; Delreux/Kerremans 2010; Delreux 2011), less is known about the conditions under which member states-as-principals trigger control of the agent (Adriaensen 2016). Thus, future research should also explicitly investigate how a compelling negotiation environment affects the member states’ incentives to exercise control by focusing on the control actions of national governments in the Council.

Summing up, the dissertation has shown that if a group supports an international agreement, the group’s perception of the efficiency costs is informed by the compellingness of the negotiation setting, which subsequently provides negative incentives to engage in intense scrutiny of the negotiations, as control might undermine the achievement of the best-possible agreement with the external third party. This is the case for parliamentary groups engaging in the traditional functions of parliamentary control, namely monitoring/influencing (substantive), whereas it has the opposite effect on the ad-hoc introduced function influencing (supportive). This points towards the need for further research the latter. As this finding is only tentative, and the function of influencing (supportive) control is not embedded in the theoretical framework, this finding will not be included in the modified theoretical model.

10.2.2.2. Omitted Factors?

Beyond discussing and finding evidence supporting – or rebutting – the assumed causal relationship between the seven identified causal factors, the in-depth process-tracing studies raised the question of potentially omitted causal factors, i.e., factors that affected intensity of parliamentary control without being included in the theoretical framework of this dissertation.

First, it was demonstrated that there can be some structural difference between parliamentary groups in the same parliament, meaning that groups in the same institutional context have different control powers and opportunities. The theoretical framework was not developed with a view to such structural differences, as it was based on the assumption that even though some control mechanisms are subject to certain activation thresholds, as all groups act within the same institutional context, they have the same control powers and opportunities (see sub-chapter 4.2.2). The structural differences referred to here do not necessarily relate to formal powers that are subject to such an activation threshold or institutionalized on a general base. Rather, they denote very specific instances that are unique to a particular setting, e.g., varying access to confidential negotiation documents among political groups (in the EP and the EU-Japan FTA), or a group's particular institutional task of controlling ongoing negotiations as the group of the nominated rapporteur (also the EP and EU-Japan FTA). This can be expected to affect the level and intensity of control with which the groups control a negotiation process, both in a positive and in a negative manner. Therefore, this dissertation recommends to more carefully elaborate, prior to the empirical research endeavour, that parliamentary groups are structurally equivalent within the same parliament. This also stresses the importance of the in-depth process-tracing studies in order to uncover such differences.

Second, it was demonstrated that in instances of lacking intra-parliamentary conflict and/or conflict with the executive, groups supportive of a negotiation process potentially fear stirring up conflict and waking the opposition. This was observed in regard to the Kigali Amendment in the Bundestag and was expressed by a Green member of the European Parliament, who was very much in favour of the agreement: "So I had the feeling that everything was under control at the point in time, so why should I politicize it; and why should I wake up the EPP again? [...] I didn't feel the urge to keep them awake, so to say" (EP15).²³¹ This has only been observed in regard to the negotiations of the Kigali Amendment, which were largely characterized by an absence of EU internal conflict. This potential cost may only apply to such negotiations settings. This condition should be more thoroughly investigated before such a cost is included in the theoretical framework; yet, the researcher should keep this possibility in mind.

Lastly, it was shown in several instances that the intensity of parliamentary control was, additionally, fostered by personal motivation and personal interest, both on the national and the European level. Whilst this does not

²³¹ This was not included in the previous process-tracing analysis, as this denotes partisan considerations, and the EP, in this case, was analysed as a unitary actor.

necessarily say anything about where this interest comes from, which might be a question for another investigation, personal interest clearly goes beyond the causal factors in the theoretical framework. In domestic foreign policy, Martin (2013) has similarly identified that MPs can be driven by personal substantive interest in foreign policy (see also Lindsay 1990; LeoGrande/Brenner 1993). In a way, the finding of personal interest as a factor in parliamentary activity aligns with a common critique brought forward against rational choice approaches, and especially agency theory, which are not able to explain “irrational” behaviour (Rozenberg 2012). This is where factors like personal motivation come into play, as they are better able to explain parliamentary activity in instances where costs are assumed to be higher than the benefits. It thus underlines that parliamentarians can have motivations or incentives that go beyond vote- or policy-seeking. Should personal motivation be included in the theoretical framework? The dissertation argues that it should not. First, the theoretical framework aims at explaining the control rationale of parliamentary groups, not of individual MPs and therefore cannot make causal claims about their behaviour. Moreover, it is difficult to analyse and measure the theoretical reasoning behind personal interest. This emphasizes the importance of the process-tracing approach it can detect this important factor. This dissertation argues that qualitative in-depth analyses should be aware of personal interests and report on such findings.

A final observation concerns the nature of the causal factors. The in-depth investigations in all chambers revealed that the factors might not – as implied in the theoretical framework – be static and invariant. It was shown – especially in regard to a group’s likelihood of influence and resource costs – that low benefits and high costs do not necessarily dis-incentivize groups from exerting parliamentary control. Rather, they seem to provide an incentive for further parliamentary action and control in order to strategically increase the initially perceived low benefits and decrease high costs. The theoretical framework did not foresee such strategic action and thus has difficulties accounting for it, as it goes beyond the implicit assumption that low benefits dis-incentivise control and vice versa. The empirical investigations do not clearly determine if this only applies to some causal factors, what the conditions for such parliamentary action are, when low benefits/high costs indeed have the opposite effect than assumed on the intensity of control and whether such relationships are systematic. This potentially non-static nature of the causal factors clearly needs to be investigated further before it can be included in a modified theoretical framework.

10.2.2.3. Concluding on the Findings: Modifying the Theoretical Framework

After having summarized and discussed the findings of the process-tracing studies along the proposed causal factors, it is now possible to elaborate on the theoretical implications of these findings and return to the overarching research question, namely why parliamentary groups control EU international treaty-making. Overall, the findings strengthen our confidence in the validity of the proposed theoretical framework but also reveal several instances where it is necessary to adapt it, as set out by the cautiously modifying research aim of this dissertation.

First, the discussion of the findings of the process-tracing studies underlines the conclusion that parliamentary control of EU international treaty-making is indeed a party political activity. Parliamentary groups do not only display a distinct control behaviour but are also driven by different motivations and incentives. More specifically, the dissertation demonstrates that parliamentary groups base their decision of how strongly to control an EU international treaty-making process on a cost-benefit analysis of control. In all process-tracing studies, it was shown that if the – actually perceived – benefits of control outweighed the – actually perceived – costs of being active, the group in question controlled the EU international negotiation process with increasing intensity. This means that parliamentary control is not only party political, it is also cost-efficient. Groups take the trade-off between the potential benefits of pursuing their goals and the cost of doing so into account when deciding how and when to control EU international treaty-making. In other words, in EU international treaty-making, parliamentary groups make strategic assumptions about how to pursue their goals in light of their costs.

This finding can be read in light of previous principal-agent applications to executive-legislative relations in EU affairs, which have, similarly, argued that parliamentarians exercise their control rights if the advantages outweigh the disadvantages; hence that parliamentary control is subject to cost-benefit analyses (Auel 2009; Strelkov 2015; Gattermann/Hefftlar 2015; Raunio 2016; Saalfeld 2003; De Ruiter 2013). This dissertation adds to these studies by demonstrating that also in EU foreign policy, parliamentary groups control EU international treaty-making based on the costs and benefits of doing so. Thus, the dissertation provides evidence that the underlying logic of activating oversight is transferrable from a standard application of principal-agent to executive-legislative relations to the complex and intertwined agency setting in European foreign policy.

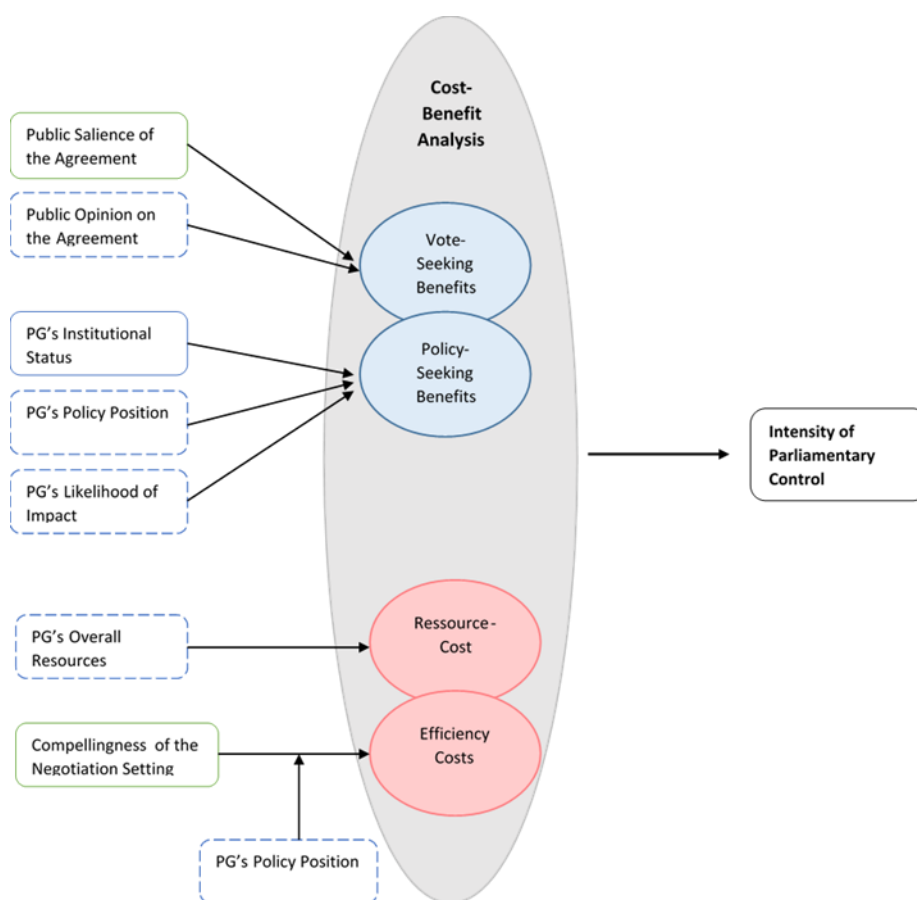
Beyond supporting the basic assumption that parliamentary groups make such strategic decisions, the dissertation has identified four different costs and

benefits of parliamentary control, which are based on the role of parliaments in the chains of delegation in EU international treaty-making. As agent to the voters, parliamentarians pursue vote-seeking benefits, meaning that parliamentary groups try to maximise their votes. As principal to their executive and to the Union negotiator, they pursue policy-seeking benefits, meaning that their most important preference is to induce their agents to act in accordance with their interests, i.e. to minimise policy slippage. Similarly, the costs of parliamentary control incur in parliament's role as principal. First, parliamentarians incur resource costs, meaning that they have to spend their time, expertise, staff on control. Second, control can entail efficiency costs, meaning that parliamentary oversight can endanger the efficiency and effectiveness of the negotiations. Efficiency costs apply, however, only to parliamentary groups that support the agreement at hand.

In practice, this means that parliamentary groups weigh these costs and benefits against each other. The calculations of how to best achieve the vote-seeking and benefit-seeking goals while incurring the lowest resource- and efficiency cost then determine the degree and intensity of parliamentary control a group engages in. However, not all parliamentary groups assess these costs and benefits to be of the same size in all EU international treaty negotiations. Rather, the size is affected by seven different causal factors, as discussed in the previous sub-chapters.

On the one hand, vote-seeking benefits of parliamentary control are high when the public salience of an agreement is high and when the public opposed the agreement. Policy-seeking benefits are high when a parliamentary group is an opposition party, when it is in opposition to the agreement under negotiation, and when its likelihood of impact is high. On the other hand, resource costs of parliamentary control are high when a parliamentary group has low resources on average. Efficiency costs are high when the negotiation environment is compelling. All else equal, each factor individually is thus assumed to have an independent positive – for benefit-informing – or negative – for cost-informing – impact on the intensity of parliamentary control. Importantly, as the causal factors are either parliamentary group-, international agreement-specific or both, the theoretical framework is able to explain variation in the intensity of control between different groups in regard to the same agreement, and variation in the intensity of control of the same group in regard to different agreements. The theoretical model is summarised in figure 16 below.

Figure 16: Modified Illustration of the Argument



Note: Colour Coding indicates the level of variation: **green= International Agreement (IA) Specific Factors**; **blue= Parliamentary Group (PG) Specific Factors**; Dashed=PG and IA specific factors.

These findings largely strengthen the confidence in the validity of the theoretical framework developed in chapter 4. Importantly, considering the technical flaws, the process-tracing studies showed that the majority of the proposed factors are indeed causally related to the intensity of parliamentary control as assumed. In other words, for these factors, the causal mechanism was at play as predicted. Nonetheless, the findings also reveal that the empirical reality is more complex than assumed by the theoretical model. In contrast to the assumptions in the original theoretical framework as developed in chapter 4, it was shown that the causal factor public opinion needs to be added as informing vote-seeking benefits, whereas the factor complexity was not found to affect the efficiency costs of control and subsequently dropped from the theoretical framework. This does not question the validity of the entire theoretical framework. Rather, it makes it possible to revisit and adapt it, as set out by the cautiously modifying research aim of this dissertation, concluding with the adapted theoretical framework in figure 16.

The process-tracing studies have also explored the usefulness of the theoretical framework in cases going beyond the initial assumptions of the framework: whether the framework can be applied to a parliament as a unitary actor (section 7.7), whether it can be applied to a national parliament controlling an international treaty-making process in a policy area in which the member state has an opt-out (section 9.7), and whether it can explain a different function of control, influencing (supportive) (sections 7.6 and 7.7). These considerations shall not be discussed at length here, as they were discussed in the case study/chapter conclusions. Overall, it can be derived that the theoretical framework offers some interesting insights and can, very cautiously, be used to explain parliamentary control in these instances. However, these analyses have also shown that such an application is more prone to theoretical flaws, e.g., a different causal mechanism is at play or causal factors had been omitted.

This chapter has discussed the empirical findings of this dissertation in-depth and embedded them in the broader literature on principal-agent relationships and executive-legislative relations by pointing out complementary and contrasting findings to previous studies. Implicit focus was on elaborating to what extent dynamics observed in parliamentary control in EU internal affairs could also be observed in EU international treaty-making, but also on specifying further findings that improve our understanding of the role and motivation of groups in the European Parliament and national parliaments in EU international negotiations. However, beyond this, this chapter has not elaborated on the broader contribution of the findings of the dissertation in light of the four research gaps identified in the literature review in chapter 3. This will be done in the next chapter. Before this, this chapter concludes with a discussion of the limitations of the empirical investigation.

10.3. Limitations of the Empirical Investigation

Whilst the findings and theoretical implications drawn from them are based on a sound, carefully developed research design (see chapter 5), the following paragraphs will elaborate on some of the limits of this design and the empirical investigation. This is in addition to section 5.6, which discussed the limitations of the research design in a more abstract manner, with focus on the scope of the findings in terms of generalizability as well as case selection on agreement and parliament level. The following discussions focus on the limits of the empirical studies as such.

10.3.1. Limitations of the Research Strategy

Generally, the scope of the comparative approach in this dissertation could have been expanded beyond comparing parliamentary groups in the same

parliament on the same EU international agreement. Both cross-agreement comparisons and cross-parliament comparisons are imaginable, which might reinforce the validity and reliability of the findings. A caveat of this approach is that this dissertation has identified the values of the causal factors, and most importantly of the outcome of interest, the intensity of parliamentary control, in a comparative perspective, i.e., they are relative to the values for the other parliamentary groups on the parliament * agreement level. Especially intensity of control, as measured here, is not comparable across cases, as the benchmark is parliament * agreement specific. However, the research design has been set up with a tentative view to enabling a broader comparative scope, and future research could build on that, also by making use of medium-N comparative methods such as QCA.

A broadening might also contribute to exploring – and explaining – patterns of control intensity along the two dimensions, function and level. It was argued at length before that with the approach and the findings of this dissertation, it is only feasible to draw tentative conclusions about the existence of such patterns, which are not based on a sound and systematic research design. Being able to study the intensity of control at the aggregate level and focus on the two dimensions separately would further contribute to explaining how and why parliamentary groups control EU international treaty-making.

Moreover, the selection of cases for further process-tracing on the basis of the findings of the comparative congruence analysis was built on a sound method, choosing either non-congruent cases in order to explain these discrepancies and/or congruent cases in order to shed light on the assumed causal mechanism. However, there seems to be a certain bias, as most of the groups chosen for further analysis had been engaging in influencing control, meaning the cases selected for in-depth investigation are unevenly distributed on the dependent variable. By expanding the scope of the process-tracing studies, the dissertation could have had more variation in the values of the causal factors and especially the outcome of interest. The approach used here does not undermine the validity of the findings of these in-depth studies, but an expansion would further strengthen our confidence in it.

Beyond this, the dissertation has discussed the empirical findings in depth, drawn theoretical conclusions, and discussed whether and how these discoveries should be incorporated in a modified theoretical framework. However, these alterations, new causal factors and different causal mechanisms have not been systematically researched. Similarly, whilst this dissertation has shown that in many instances, non-congruence was due to technical flaws in the operationalization and/or measurement of causal factors, the congruence analyses were not re-run based on the corrected values. This would require a new data collection process, in order to not test new theoretical propositions

on the material it was derived from. However, in this dissertation, it would – hypothetically – also have been thinkable to correct both technical and theoretical flaws and return to the comparative congruence analyses to test the new framework.

10.3.2. Limitations of Generalizability

As far as the generalizability of the results of this dissertation, two discussions are relevant. First, to what extent can the descriptive theoretical framework in itself be transferred to other parliaments in the EU? In other words, can all parliaments in the EU be perceived as principals in the institutional relationships in EU international treaty-making? Second, can the empirical findings and the modified theoretical framework, based on these empirical findings, be transferred to other empirical contexts, where parliamentary groups control EU international treaty-making?

Starting with the transferability of the descriptive theoretical model, it was argued in chapter 4 that in order to be characterized as principal it is necessary to identify acts of macro- and micro-delegation from parliament to the ultimate agent in EU international treaty-making. The existence of these delegation acts is a pre-condition for being able to apply principal-agent theory to the institutional relationships in EU international negotiations. Based on the principle of conferred power, all parliamentary chambers in the EU have macro-delegated executive authority to the European level and the Union negotiator. Micro-delegation, in contrast, was argued to be found in the possibility of parliaments to voice their policy preferences at the outset of negotiations, expecting their government to transfer this to the European level and onto the Union negotiator. What does this mean for the status of national parliaments as principals in EU international treaty-making? Can only strong national parliaments micro-delegate authority in EU foreign policy?

The most prominent act of micro-delegating is the instalment of formal procedures for influencing a government's negotiation behaviour in Council meetings, e.g., with a binding mandate by the parliament to the government. However, not all parliaments have established such mandating procedures (according to the most recent COSAC survey, only nine of the 37 participating parliamentary chambers, 27th COSAC Report 2017). However, this number does not include such parliaments that can issue politically binding parliamentary resolutions without having formal mandating power and those that are characterized by a mixed system of parliamentary control. This means that more than nine parliamentary chambers can issue legally or politically binding resolutions to their government. It is also important to be aware that overall institutionally weaker parliaments, such as the Polish Sejm or the Roma-

nian Camera Deputatilor,²³² can formally issue a mandate and thus micro-delegate in EU affairs. Thus, the possibility of micro-delegation is not only found in strong national parliaments.

Beyond that, in EU international treaty-making, almost all national parliaments have the right to early information and access to negotiation documents, already during the authorization stage of an international agreement (10th COSAC Report 2008). Combined with the high number of parliamentary chambers in which the government briefs the concerned committees before taking a position in the Council (27th COSAC Report 2017), it can be argued that national parliaments generally tend to have the possibility to voice their policy preferences and red lines already at the out-set of negotiations. To what extent the Union negotiator is inclined to take a parliament's policy preferences into consideration can be expected to be subject to empirical variation. Nonetheless, these parliaments can also informally and indirectly micro-delegate in EU international treaty-making. Even more generally, it is the norm in parliamentary democracies that parliaments can, in principle, always overrule the government, should they decide to.

This general discussion about the existence of an act of micro-delegation in EU international treaty-making says little about whether single parliamentary chambers actually use the power to do so. To begin with, it cannot automatically be assumed that weak parliaments cannot micro-delegate in EU international treaty-making. At the same time, the discussion above indicates that many parliamentary chambers in the EU have the power to micro-delegate executive authority in an EU international negotiation process. Against this background, this dissertation suggests to investigate on a case-by-case basis to whether, how and to what extent a parliamentary chamber can and chooses to voice policy preferences and red lines at the out-set of EU international negotiations. In the strictest sense, the institutional relationship between a parliament and the Union negotiator as a delegation chain needs to be substantiated for every parliament under investigation.

In addition to the transferability of the understanding of parliaments as principals in EU international treaty-making to other parliamentary chambers in the EU, we need to discuss the generalizability of the findings of this dissertation, i.e., of the modified theoretical framework. As discussed in chapter 5, the empirical cases were chosen via the most similar case selection method, which kept factors that have been shown by previous research to affect the strength and the level of parliamentary control, constant. To do so, the dissertation studied parliaments in EU member states that accessed the Union prior

²³² See Auel et al. 2015: 79.

to the most recent enlargement rounds and are characterized by high institutional strength in domestic and EU affairs and by a medium level of Euroscepticism. These four factors also constitute the scope conditions of the developed theoretical framework, i.e., the context in which the theoretical explanation works. This means that with high certainty, the findings about the causal factors informing the intensity of parliamentary control can be generalised to parliaments in EU member states with similar characteristics on those conditions. In other words, the comprehensive explanation for the intensity of parliamentary control, as summarized in the modified theoretical framework, applies to parliamentary groups in parliaments in "old" EU member states, in which Euroscepticism is of medium height and which have strong powers vis-à-vis their executive in domestic and EU affairs.

Within this context, it is important to note that the Bundestag and the Folketing are rather diverse parliamentary institutions, embedded into specific domestic political cultures and with differing institutional set-ups. The Folketing, and the Danish case, has certain unique characteristics, such as the frequency of minority governments, the power of opposition parties and the Danish opt-outs from parts of EU law. In contrast, Germany usually has coalition governments based on a majority in the Bundestag, and a strong executive. Germany has a bicameral parliamentary system, Denmark a unicameral. The two countries also have different electoral systems. Lastly, also in regard to their involvement on EU affairs, the two parliamentary chambers are quite diverse. The Bundestag's scrutiny system is document-based, and mainstreamed in its sectoral committees, based on comprehensive information rights on matters concerning the EU as well as the right to state an opinion. The Folketing has a mandating-based control system, which is centralised in the European Affairs Committee, with a smaller role for its sectoral committees. As similar findings were made in the Bundestag and the Folketing, it can be concluded that these varying characteristics cannot be assumed to affect the applicability of the modified theoretical framework. In other words, despite the differences in political culture and institutional set-up in Denmark and Germany, the findings of this dissertation apply to an array of national parliaments, which are within the overall scope conditions.

Examples are the Swedish Riksdag and the Dutch Tweede Kamer, which resemble the Bundestag and the Folketing in terms of institutional power in EU²³³ and domestic affairs, the level of national Euroscepticism²³⁴ and accession dates to the EU²³⁵. Like the Folketing and the Bundestag, the Riksdag and

²³³ See Auel et al. 2015: 79.

²³⁴ Drawing on Eurobarometer data between November 2013 and November 2017.

²³⁵ The Netherlands was a founding member in 1957, Sweden joined in 1995.

the Tweede Kamer are rather diverse in institutional culture, set-up and scrutiny system of EU affairs. Based on the discussion above, we can assume that it is possible to generalize the theoretical findings explaining the intensity of parliamentary control in EU international treaty-making to the Swedish Riksdag and the Dutch Tweede Kamer, as parliamentary groups operate under the same relevant scope conditions as they do in the Bundestag and in the Folketing. Tellingly, interviews with members of parliament and administrative staff in the Swedish and Dutch parliamentary chambers, which were conducted within the framework of this dissertation but not reported on, suggest that similar dynamics are at play when parliamentary groups control EU international treaty-making.

The dissertation has only analysed the control behaviour of parliamentary groups in national parliaments which fall under the four mentioned scope conditions. It has not considered the role and the intensity of control of parliamentary groups in medium and weak national parliaments, in countries characterized by higher and lower levels of Euroscepticism, or in the most recent EU member states. Accordingly, the developed theoretical framework might not be able to fully explain the actions of parliamentary groups in other institutional environments, which fall outside the scope of the contextual factors. That is, we cannot be certain to generalize the findings of this dissertation to other national parliaments such as in Eastern European countries, e.g. Poland, Slovakia and Hungary, which acceded the EU post-2000s, in Italy and UK, where we can observe high Euroscepticism, and in France and Portugal, where parliamentary chambers are generally characterized by lower institutional strength than the Bundestag and the Folketing enjoys.

Still, the theoretical framework applies not only to national parliaments within the main scope conditions but also to the European Parliament. The European Parliament is inherently different in its institutional setup, its relationship with European executive and accompanying institutional strength, and thus falls outside the scope conditions. Nonetheless, the same costs and benefits and the same causal factors inform their weight in the cost-benefit calculations of parliamentary groups. This suggests that – despite the suggested limitations to generalizability discussed above – the theoretical framework seems to have explanatory power also under different scope conditions. This increases the likelihood that the findings of this dissertation are generalizable to parliamentary groups in other parliaments in different institutional environments in the EU.

This is not to say that generalization beyond the cases studied here goes without further modification of theoretical framework. Rather, it is imaginable that in national parliaments which are outside the main scope conditions of this dissertation, parliamentary groups take different costs and benefits

than identified here into consideration, and that there are additional – or fewer – causal factors informing their size. In parliaments with limited formal powers vis-à-vis their executive, parliamentary groups' control in EU international treaty-making is additionally constrained by the lack of formal control rights. In more Eurosceptic EU member states, vote-seeking benefits of control might be perceived differently. This means that there is a clear need to further investigate how the factors kept constant in this dissertation can be embedded into the theoretical explanations of the intensity of parliamentary control in EU international treaty-making. However, the fact that the relationship between the identified causal factors and the intensity of control was found in different contexts strongly suggests that the theoretical findings of this dissertation are on to something. It can then be considered a merit of the comprehensive explanation this dissertation aimed to develop, as it is easier to adapt it to different empirical settings by re-considering the nature and the weight of costs and benefits of parliamentary control.

Summing up, it can be concluded that the findings provide further insights into potentially similar dynamics and actors' considerations in other parliaments and can be very indicatively generalized beyond the cases studied. However, generalization can only be done cautiously and tentatively, and further research is needed to explain the intensity with which parliamentary groups control EU international treaty-making in other parliaments in the EU. Such research can be either qualitative and small-N, studying parliaments outside of the scope conditions applied in this dissertation, or quantitative, based on the entirety of national parliaments in the EU. At the same time, it is necessary to substantiate the existence of a principal-agent relationship between a parliament and the Union negotiator by investigating whether the parliament can micro-delegate in EU international treaty-making. Only if the parliament can be characterized as a principal is it possible to apply the developed theoretical framework. However, this can generally be assumed to be the case in most national parliaments in the EU.

10.3.3. Summary: Limitations of the Empirical Investigation

None of these considerations on the limitations of the empirical investigations question the validity of the findings. Rather, they point towards venues for future research, which can strengthen the confidence in the ability of the causal framework to systematically explain how and why parliamentary groups control EU international treaty-making. This dissertation is the first to systematically analyse parliamentary involvement in EU international treaty-making, expanding the scope of previous research by going beyond investigating the EP and parliamentary activities in the area of trade policy-making. It

thereby offers a well-founded, empirically strong starting point for a future research agenda.

11. Conclusion

The work of parliaments no longer stops at national or European borders. Parliaments have to think about the consequences of international events for their work. Against this background, this dissertation set out to critically analyse parliamentary involvement in EU international treaty-making by systematically studying how and why parliamentary groups control EU international treaty-making. With its arguments and findings, the dissertation contributes to a better understanding of parliaments' role in European foreign policy and has a number of implications. This chapter will discuss four contributions and link them to the four research gaps identified in the literature review in chapter 3. First, it explains how the descriptive findings on parliamentary control add to the nascent literature on parliaments in EU foreign policy more broadly. Second, it discusses the role of parliamentary groups in light of the findings and how it contributes with new insights to parliamentarization literature and the nature of EU foreign policy. This is followed by a discussion how the comprehensive explanation for parliamentary activity in EU international treaty-making offers new insights and how it adds new impetus to the literature on parliamentary control in EU affairs more broadly. Lastly, the chapter elaborates on its broader theoretical contributions to principal-agent theory, before it discusses the normative implications of its findings and points towards venues for future research.

11.1. Summary: Main Findings and Contributions

This thesis set out to investigate how and why parliamentary groups control EU international treaty-making, firmly based on principal-agent theory and party politics. In doing so, it has four major contributions to the parliamentarization literature in EU foreign policy, in EU affairs and to agency theory. These clearly address the four main research gaps on the involvement of parliaments in EU foreign policy identified in the literature review in chapter 3. Here, it was demonstrated that the current body of literature on the role of parliaments in EU international treaty-making lacks focus, first, on parliaments and parliamentary behaviour more generally and, second, on the role, behaviour and motivations of parliamentary groups as decisive parliamentary actors. Third, research so far has focused narrowly on a handful of prominent landmark EU international agreements. Lastly, the emerging empirical research on parliaments in EU international treaty-making has not been accompanied by theoretical models explaining parliamentary involvement.

Against this background, this dissertation has, first, demonstrated an increasing amount of parliamentary activity in parliaments during, not only after, EU international negotiations. This applies to both the European Parliament and national parliaments, and, importantly, to different policy-making areas, such as trade negotiations, international agreements in Justice and Home Affairs and environmental negotiations. Parliaments are anything but indifferent and irrelevant in EU international treaty-making but have forged a role for themselves that was unforeseen in the Lisbon Treaty. We can observe an increasing parliamentarization of EU international treaty-making, as parliaments gradually increase their institutional resources, activities and influence on EU international negotiations.

This finding is, in itself, an important contribution to the nascent literature on the role of parliaments in EU foreign policy, as it for the first time systematically demonstrates the growing role and attention of parliamentarians in the multilevel parliamentary field over various policy-fields. This observation contributes the first identified research gap in the literature on EU international treaty-making, as this research field is still dominated by a focus on executive actors, and parliaments are predominately studied by their formal and informal powers, not their actions. The dissertation has studied national parliaments and the European Parliament and has painted a systematic picture of parliamentary behaviour in several EU international treaty-making processes. It supports the behavioural turn of research on parliaments in EU foreign policy and demonstrates the increasing importance and involvement of parliaments beyond landmark cases. With this, the dissertation addresses the third research gap, namely the lack of empirical studies that go beyond such landmark cases. It improves our empirical knowledge of parliamentary control in the cases studied and shows that also here, parliaments do not remain mere by-standers and rubber-stampers.

Second, the dissertation has shown that parliaments do not act as unitary actors when controlling EU international negotiations, but that partisan, party ideological, dynamics play a much more crucial role in parliamentary control in foreign policy than has been shown in previous work. In all investigated parliaments, the chamber is not a unitary actor, but parliamentary groups use different strategies to exert control over a negotiation process, driven by party political motivations. This finding contributes to the growing consensus in the literature on parliamentary control of EU affairs that the consideration of individual party behaviour is crucial to understand parliamentary involvement in EU affair and demonstrates that this also applies to EU foreign policy. EU international treaty-making does not stop at the water's edge, but political parties differ in regard to motivation, content and strategies of control. If we

want to understand how and why the European Parliament and national parliaments are involved in EU international negotiations, it is essential to focus on the incentives and activities of parliamentary groups.

Despite increasing consensus on the importance of partisan dynamics in the nascent parliamentarization literature on EU foreign policy, this dissertation is the first systematic study to centre the empirical analysis on parliamentary groups and thus explicitly include them in the research design. By doing so, it addresses the second gap identified in the literature review, namely the lack of studies with explicit focus on the role of parliamentary groups. By demonstrating the relevance of parliamentary groups regarding parliamentary control of EU international treaty-making, the dissertation contributes to the literature on parliaments in EU affairs by taking findings from the national level to EU foreign policy and points out that also here, the role of party political dynamics must not be underestimated.

Third, the dissertation contributes with a comprehensive explanation for parliamentary activity in EU foreign policy. It has shown that parliamentary groups are rational actors that make strategic decisions about when, how, and how much to control EU international treaty making based on expected costs and benefits of involvement. They are driven by vote-seeking and policy-seeking benefits, but constrained by resource and efficiency costs. In light of the costs and benefits of parliamentary control, this dissertation has demonstrated that groups control EU international negotiations with high intensity when the topic is highly salient and opposed by the public, when the negotiation environment lacks compellingness and when a group perceives to have a chance of influencing the negotiations. Moreover, groups are driven by their opposition to an agreement as well as their institutional status, whereas scarce parliamentary resources constitute a considerable constraint for parliamentary control. This comprehensive argument can explain the intensity of control of each parliamentary group on a specific international agreement.

Whereas previous studies have tentatively set out to explain parliamentary control, this study is the first systematic, theory-guided research endeavour to do so and thus constitutes an important contribution to understanding the input and outcome of EU international treaty-making. By developing this comprehensive explanation that focuses on the rationale of parliamentary groups and is applicable to EU international agreements in various policy-fields, the dissertation addresses the first, second and third research gap identified in the literature review. It provides a so far largely lacking systematic explanation for the actual behaviour of parliaments and parliamentary groups in EU international treaty-making, thus contributing to the behavioural turn of studies on parliaments in EU international treaty-making. With the explicit focus on explaining the control behaviour of parliamentary groups, the dissertation

paints a more nuanced picture of the functionality and incentives of parliamentary control, thus addressing the second research gap. Lastly, as the explanation is applicable beyond landmark cases of EU international treaty-making, it improves our understanding of the why of parliamentary control of EU international agreements other than TTIP and CETA, which addresses the third research gap.

Finally, the dissertation is firmly rooted in rational choice institutionalism and principal-agent theory. Principal-agent theory was used as a “heuristic tool that helps us to make sense of certain aspect of EU-decision making [that] reduces the complexity in real life political process” (Delreux/Adriaensen 2017a: 10). By developing an explicitly theoretical model based on principal-agent theory, the dissertation addresses the fourth identified main research gap on the role of parliaments in EU international treaty-making, namely the lack of an explicit theory-based approach. At the same time, its theoretical elaborations and findings offer several broader contributions to principal-agent theory by adapting principal-agent theory to executive-legislative relations in EU international treaty-making and explaining why principals trigger control mechanisms.

The following sub-chapters will elaborate on these four contributions in-depth, place them in a broader scholarly context and discuss their implications.

11.1.1. The Role of Parliaments in EU International Treaty-Making

The findings of this dissertation contribute to the nascent literature on parliaments in EU foreign policy. Importantly, this study goes beyond a merely institutional analysis of parliamentary competences in EU international treaty-making but systematically investigates control behaviour, thus mimicking the behavioural turn in studies on parliamentary control (Auel/Tacea 2013; Auel et al. 2015). Indeed, it is the first systematic investigation of parliamentary behaviour in EU foreign policy that focuses both on national parliaments and the European Parliament, on other policy-making areas than trade and that goes beyond anecdotal evidence, but is based on in-depth interviews and document analysis.

Recent research has suggested that the European Parliament (Ripoll-Servent 2014; Heritier et al. 2015; Richardson 2012) and national parliaments (Jancic 2017; Raube/Wouters 2017; Roederer-Rynning/Kallestrup 2017) are becoming more assertive in EU foreign policy and EU international negotiations more specifically. This dissertation clearly contributes to this observation by demonstrating that the classic division of labour between executives negotiating international agreements with external parties and parliaments

ratifying them no longer holds when the EU negotiates international agreements on the global stage. National parliaments and the EP are not constrained to ex-post involvement but have become increasingly involved in ongoing negotiations by following and scrutinizing the negotiation process actively. Nowadays, they clearly go beyond merely rubber-stamping finalized agreements. We can observe parliamentary attention to all three international agreements under investigation here, and in all three parliamentary chambers that were investigated, the EP, the Bundestag and the Folketing.

Importantly, it was demonstrated that not only the European Parliament but also, more surprisingly, that national parliaments have become active players to reckon with in EU international treaty-making. Particularly the latter have until recently not thought to be strongly interested in EU international treaty-making due to the distance between international decision-making and the national level. This dissertation thus also contributes to contemporary research advocating for a new “assertion” of national parliaments in EU international negotiations (Roeder-Rynning/Kallestrup 2017).

More specifically, the dissertation found that parliamentary activity in regard to the EU-Japan FTA was most prominent in all three parliaments. Parliamentarians have paid increasing attention to the negotiations, debated the agreement and asked questions, already prior to the conclusion phase. These findings contribute to the increasing number of studies on parliamentary control in EU trade negotiations, which have made similar observations. However, as argued in chapter 3, they have mainly focused on a few landmark cases in trade policy-making – TTIP, CETA, SWIFT and ACTA (i.a. Jančić 2017; Raube/Wouters 2017; Meissner 2016; Roederer-Rynning 2017; Van den Putte et al. 2014; 2015; Ripoll-Servent 2014; Héritier et al. 2015 Conceição-Heldt 2017). This dissertation adds another EU trade agreement and systematically demonstrates that also here, both national parliaments and the EP were actively involved. This stresses the importance of not only studying landmark cases, but also extending one’s perspective to other trade agreements.

The dissertation has also found that parliaments have been actively involved in EU international negotiations that do not concern trade policy. Regarding the EU-Tunisia readmission agreement, the European Parliament and the Bundestag have been actively scrutinizing the negotiation process, whereas less parliamentary action was detected in the Folketing. The latter can mainly be read against the background of the country’s opt-out in the area of Justice and Home Affairs. The negotiations of the Kigali Amendment were actively scrutinized by the EP, yet to a lesser extent by the Bundestag and the Folketing. By demonstrating that and how parliaments are involved in three EU international agreements, the dissertation remedies an important shortcoming of previous research, which has predominately focused on EU trade

policy-making. As argued in sub-chapter 3.3., little was known about parliamentary involvement in EU international negotiations in other policy fields beyond trade negotiations.

Lastly, the findings suggest that the three international agreements under investigation here have been subject to different degrees of control, with parliaments paying more attention to the EU-Japan FTA than the EU-Tunisia Re-admission and the Kigali Amendment. Variation in the intensity of control has already been detected by previous comparative research. Héritier et al. (2015) has, for the EP's control of trade negotiations, found that not all agreements received the same parliamentary consideration. However, no systematic explanations have been brought forward, which underlines the need to not only study parliamentary behaviour but also to explain variation in control.

Summing up, the dissertation confirms that parliaments have become more assertive and conscious of EU international negotiations. Both the European and national parliaments have become more involved in EU international treaty-making, in various policy fields. This is in line with earlier findings but affirms these beyond landmark cases and trade agreements. This adds to the current discussion on the adaption and the role of parliaments in EU foreign policy and, for the first time, systematically demonstrates the growing engagement and attention of parliamentarians in the multilevel parliamentary field in various policy areas. We can indeed observe an increasing parliamentarization of EU international treaty-making.

11.1.2. The Role of Parliamentary Groups in EU International Treaty-Making

The dissertation has explicitly focused on parliamentary groups as unit of analysis and has thus gone beyond studying parliaments as unitary actors. This follows recent developments in studies of legislative-executive relations, according to which party competition has a defining impact on legislative behaviour. Against this background, researchers have increasingly “stressed the need to open the ‘black box’ of parliament as a unitary actor and to take account of internal lines of conflict” (Rozenberg/Hefftlar 2015: 20). As argued in-depth in sub-chapter 3.2, it is nowadays understood that parliamentary groups are the decisive actors in parliament, with different positions, actions and driven by different incentives in both domestic and EU affairs.

In contrast, partisan dynamics have not found serious consideration in studies of parliamentary involvement in EU international negotiations (Jančić 2017; Raube/Wouters 2016; Shoahua 2015; Podgorny 2015). This dissertation explicitly incorporated parliamentary groups, their positions and activities as a central part in the study design. It did not study control in the aggregate but treated parliamentary groups as the unit of analysis. With this approach, the

dissertation is the first systematic analysis of the motivations and actions of parliamentary groups' in EU international treaty-making and thus contributes to the literature by taking findings from the national level to EU foreign policy and investigating whether similar dynamics can be observed.

By systematically answering “how” parliamentary groups controlled EU international treaty-making, the dissertation has shown that parliaments do not act as unitary actors when controlling EU international negotiations. The case study chapters demonstrated that in all parliaments, groups use different strategies to exert control over a negotiation process. They use different means and instruments, they differ in their timing, in whether they prefer formal or informal control and whether they control the Union negotiator directly, or indirectly via third parties. While this dissertation has not analysed the patterns that develop along these three dimensions, these observations emphasise an important point: parliamentary groups in the same parliament differ in their behaviour in regard to the same EU international treaty-making process. Similarly, it was clearly shown that groups differed in regard to the intensity of control, the dependent variable of this study, with which they controlled a particular EU international treaty-making process. This is evidence that parliaments predominately act in inter-party mode not only in domestic and EU affairs but also in European foreign policy. Also here, legislative behaviour and parliamentary control is mainly driven by partisan, party political, considerations. This means that parliamentary groups are decisive actors within parliament in EU international treaty-making.

This has important implications for our understanding of the functioning of parliamentary control in EU international treaty-making and offers broader insights into the nature of EU foreign policy. Foreign policy has for long been considered outside the realm of party politics, thus as above parties, and has been characterized as either consensual or idiosyncratic: “Politics stops at the water’s edge”. The role of parties in foreign policy was thought to be inconsequential, as foreign policy was driven by the executive and thus not subject to partisan and ideological divisions. More recently, this understanding has been challenged by the rise of intermestic issues falling somewhere between pure foreign and domestic policy (Zürn 2014). These developments, it was argued, challenge “the traditional separation between politics within nation-states (following principles of democratic contest) and international politics (being executive matters largely withdrawn from the public and based on either behind-closed-doors bargaining between national executives with conflicting interests or a technocratic mode of decision making)” (Zürn 2014: 49). Yet, despite the increasing recognition of domestic forces in foreign policy, research on the role of political parties in foreign policy has remained relatively scarce

(Kesgin/Kaarbo 2010; Joly/Dandoy 2018). Against this background, this dissertation clearly underlines the need to challenge the conventional wisdom that foreign policy generates cross-party consensus and that parliaments act, if at all, in a non-partisan mode. Instead, the party political nature of parliamentary control, which can be observed in domestic and the European political sphere, seems to transcend to international politics.

However, it was also shown that parliaments, especially the European Parliament, can act as a unitary actor in the pursuit of common parliamentary preferences – either when the groups agree on a policy position, or when they jointly fight for increasing institutional power. The latter finding contributes to the literature on the empowerment of parliaments in EU international treaty-making, which has demonstrated that parliaments are to a large extent driven by concerns for their institutional power in the institutional relationships in foreign policy. This concern causes them to pro-actively seek ways and venues to counterbalance what they perceive as a disadvantaged standing vis-à-vis the other institutions (Ripoll-Servent 2014; Roederer-Rynning/Kallestrup 2017; Meissner 2016). This dissertation demonstrates that parliaments can well act as unitary actors when they are driven by procedural interest on how they should be involved in EU international treaty-making, while parliamentary groups simultaneously have varying substantive interests in the content of international agreements. Such overlapping concerns further contribute to the complexity of how and why EU international treaty-making is controlled, and future research should investigate the strategies groups develop to deal with such overlapping incentives.

Summing up, the dissertation has shown that parliaments do not act as unitary actors when controlling EU international negotiations, but that party political dynamics play a much more crucial role in parliamentary control in foreign policy than has been shown in previous work. Parliamentary groups are the decisive actors in parliament, which use different strategies to exert control over a negotiation process. This finding contributes to the growing consensus in the literature on parliaments in both EU affairs and foreign policy that the consideration of individual party behaviour is crucial to understanding parliamentary involvement. Whereas this understanding on the importance of party political dynamics is increasingly shared in the nascent parliamentarization literature on parliaments in EU foreign policy, this dissertation is the first systematic study that demonstrates the crucial role of political parties in EU international treaty-making. It offers important insights into the research agenda on the role of political parties in foreign policy and stresses the importance of studying them as distinct actors.

11.1.3. Explaining Parliamentary Control in EU International Treaty-Making

As argued in the literature review in chapter 3, knowing that parliaments are actively controlling EU international treaty-making, which is activated by partisan actors, is, while an important finding in itself, only a first step. It is also important to know what drives and motivates parliamentary groups to control international negotiations. Without understanding the underlying incentives for parliamentary control, we have an incomplete picture and a reduced ability to explain the outcome of EU international treaty-making. Are parliamentary groups motivated by their policy preferences, are they moved by constituency-based concerns and to what extent are they driven by partisan political calculations? Against this background, the goal of the dissertation was not only to paint a nuanced picture of how parliamentary groups are engaged in EU international treaty-making but also to develop a comprehensive explanation for their intensity of parliamentary control.

The main findings on why parliamentary groups control EU international treaty-making are summarized in the modified theoretical framework (see figure 16). In a nutshell, the dissertation has demonstrated that parliamentary groups are driven by vote- and policy-seeking benefits and constrained by resource and efficiency cost. Against this background, a group controls EU international negotiations with high intensity when the topic under discussion is highly salient and opposed by the public, when the negotiation environment lacks compellingness and when the group perceives to have a chance of influencing the negotiations. Moreover, groups are driven by their opposition to an agreement as well as their institutional status, whereas scarce parliamentary resources constitute a considerable constraint for parliamentary control. The combination of these factors can explain why parliamentary groups control a particular negotiation process with a certain intensity.

The dissertation has thus demonstrated that the underlying rationale for parliamentary involvement does not differ between trade and other negotiations. Instead, it is factors specific to parliament and its parliamentary groups and the agreement itself, e.g., salience and the potential for policy conflict, that can systematically explain such variation. Whilst parliaments and parliamentary groups are becoming increasingly active and aware of the importance, reach and potential conflict surrounding EU international treaty-making, their engagement in negotiation processes will likely always vary, as some policy areas are more strongly controlled than others.

The theoretical model explaining the intensity of control a group exhibits provides a new and important input to the nascent literature on parliamentary control in EU international treaty-making. As such, a major contribution of

the dissertation is a comprehensive explanation for parliamentary activity in EU foreign policy that is firmly based in party politics and a theoretically-informed account of why parliamentary groups control EU international treaty-making. Importantly, this follows the behavioural turn in the parliamentarization literature in EU affairs by going beyond the study of formal powers but by investigating and explaining actual behaviour.

This sub-chapter will in the following discuss three implications of these findings more in-depth. First, it will elaborate on the contribution to our understanding of what drives parliamentary control, followed by how the developed framework contributes to previous explanations of control in EU international treaty-making, and lastly, on the contribution to parliamentary control in EU affairs more generally.

11.1.3.1. The Drivers of Parliamentary Control in EU International Treaty-Making

The developed theoretical framework supports the observation concerning parliamentary control of EU affairs: parliamentary activity is not only related to formal powers and institutional capacity, but parliamentary actors need to have additional motivation to activate the available control instruments (i.a. Winzen 2010; Miklin 2013; Auel/Tacea 2013; Auel et al. 2015). The dissertation has demonstrated that in EU international treaty-making, parliamentary groups are both driven by constituency, vote-seeking concerns and policy-seeking, substantive concerns. Parliamentary groups are motivated by their substantive policy preferences, and by electoral, constituency-based concerns.

Discussing vote-seeking benefits more in-depth, this finding might be somewhat surprising, as some scholars have argued that “foreign policy issues are often of remote interest most citizens” (Hill 1993: 201). More recently, it has been demonstrated that the public is increasingly well-informed and attentive to international issues (Norris 2011), and that foreign policy issues indeed matter for voter’s choices in elections – there is an increasing “electoral connection” (Aldrich et al. 2006) in foreign policy. While this dissertation does not per se study the importance that citizens attach to EU international treaty-making, its findings demonstrate that political groups, too, feel this electoral connection. This can also be understood in connection with Hill’s (1993) observation that parliamentarians are not necessarily influenced by constituency preferences but rather by their perception thereof.

Beyond pursuing vote-seeking benefits, parliamentary groups articulate and pursue very different policies in EU international treaty-making. These preferences, their distance to the preferences of their executive and their policy position on a particular EU international agreement, constitute the other

main driver for control: parliamentary groups are policy-seeking, attempting to change the agreement in questions so that it is congruent with their preferred policy position. As mentioned, foreign policy in general has become increasingly politicized, and parties have varying substantive policy preferences, which this dissertation has shown to be important in terms of explaining parliamentary control. This strongly indicates that parliamentary control of EU international treaty-making is increasingly subject to “politics as usual”, as MPs feel freer to play around politically with treaties and engage in party political activities with them.

This finding about the drivers of parliamentary control in EU international treaty-making makes an important contribution to the discussion in subchapter 3.2 on whether parliaments and political groups have different motivations for engaging in scrutiny of foreign and domestic policy-making. The dissertation supports the argument that foreign policy is not fundamentally different from domestic politics, as policy-seeking and vote-seeking goals drive politicians in both (Müller/Strøm 1999). As in domestic politics, political groups have varying substantive priorities, and they behave policy-seekingly in the pursuit of their preferred policies. They may also use foreign policy issues to seek votes by outmanoeuvring other parties in the electoral game. EU international treaty-making is thus becoming more and more similar to domestic policy-making when it comes to groups’ motivation for parliamentary control. This does not necessarily mean that groups perceive the drivers to be equally strong in EU foreign policy as in domestic politics, but it strongly suggests parliamentary behaviour is subject to similar dynamics. With the increasing level of activity and influence of parliaments, such an understanding of the motivations and interests of parliamentary groups is crucial for understanding EU international treaty-making.

Two questions follow from the observation that also in EU international treaty-making, parliamentary groups are driven by vote-seeking and policy-seeking considerations. First, to what extent can party political ideology overshadow purely partisan considerations of control? The dissertation strongly suggests that parliamentary control is driven by the political parties’ ideological preferences rather than by opposition-majority dynamics. However, future research should investigate the impact of a group’s institutional status as a driver of legislative behaviour by itself, independent of the degree of conflict with the executive. Second, a large number of studies of how parliamentary groups deal with potential trade-offs between vote-seeking and policy-seeking benefit. These studies have mainly focused on the domestic political arena (Strøm 1990; Müller/Strøm 1999). Such goal conflicts are also imaginable in EU international treaty-making. The dissertation has not explicitly addressed how groups deal with trade-offs between different goals. However, based on

the comprehensive explanation developed, groups can be assumed to make rational calculations whether control is beneficial in terms of both vote- and policy-seeking on the aggregate level. In the analysis, we see parliamentary groups control salient agreements, even though they do not oppose them as such. Similarly, some groups control an agreement they oppose despite a lack of electoral incentives to do so. Further research should, similar to studies on the domestic level, investigate how parliamentary groups deal with potential trade-offs between various goals.

11.1.3.2. Contribution to the Literature on Parliaments in EU International Treaty-Making

In addition to demonstrating drivers and constraints of parliamentary control, the dissertation has identified seven factors that influence a group's perception of their weight. With the comprehensive explanation for parliamentary control, this dissertation contributes with a more nuanced picture to the studies that put forward ad hoc explanations to explain the level of and variation in parliamentary control in EU international treaty-making. Here, the importance of salience (Jančić 2017; Raube/Wouters 2017; Roeder-Rynning/Kallestrup 2017; Héritier et al. 2015; Dür/Mateo 2014: 1213) and institutional capacity (Héritier et al. 2015: 96; McKenzie/Meissner 2017: 839; Jančić 2017) have been emphasized. Beyond that, factors such as legitimacy concerns (Roeder-Rynning 2016; Raube/Wouters 2017), political gains in the context of institutional politics (Raube/Wouters 2017) or the nature of the agreement (Jančić 2017) have been mentioned. Partisan considerations are included in only few studies (Jančić 2017; Raube/Wouters 2016) and mainly as one of several explanatory factors. The role of parliamentary groups is only treated in passing. The dissertation contributes to this literature by offering a comprehensive explanation for parliamentary activity in EU international treaty-making that is based on systematic and theory-guided research and that explicitly takes the role of parliamentary groups into account. It does not contradict previous findings but rather unites them and finds additional factors that affect the intensity of control. By doing so, the findings of this dissertation are generalizable to a broader pool of international treaty-making processes.

11.1.3.3. Contribution to the Broader Literature on Parliamentary Control of EU Affairs

It is worthwhile to not only ask to what extent the findings of this dissertation contribute to previous explanations for parliamentary control of EU international treaty-making, but also how they relate and contribute to findings on the why of parliamentary control in EU decision-making more generally.

First, the dissertation has ultimately shown that parliamentary groups base their decision how strongly to control an EU international treaty-making process on a cost-benefit analysis of control, meaning that parliamentary control is not only party political, but also cost-efficient. This finding contributes to recent research on executive-legislative relations in EU affairs, which has, similarly, shown that parliamentary control in EU affairs is subject to cost-benefit analyses (Auel 2009; Strelkov 2015; Gattermann/Heftler 2015; Raunio 2016; Saalfeld 2003, De Ruiter 2013). The dissertation adds to these studies by demonstrating that also in EU foreign policy, parliamentary groups control EU international treaty-making with a clear view on the costs and benefits of doing so. Thus, the dissertation provides evidence that the underlying logic of activating oversight is transferrable from a standard application of principal-agent to executive-legislative relations to the complex and intertwined agency setting in European foreign policy.

Beyond this, are there differences in the nature of costs and benefits of parliamentary control, and the factors that inform their size, between EU affairs and EU international treaty-making? Research has demonstrated that in EU affairs, vote-seeking benefits are higher when EU issues are more salient and when public opinion about them is more critical (Auel et al. 2016; Auel et al. 2015), whereas policy-seeking benefits increase with the degree of preference divergence between group and government (Saalfeld 2003) and the (perceived) influence at the EU level (Schneider et al. 2014; Wonka/Göbel 2016). On the cost side, research has identified resource costs to be informed by a group's resources (Auel et al. 2015). While resource costs have been heavily featured in studies explaining parliamentary control in EU affairs, there has been less focus on another type of cost: controlling the executive too strongly may damage a government's bargaining power in Council negotiations by reducing its room for manoeuvre. This, as Auel/Benz (2005) argued, applies predominately to governing parties.

As discussed to some extent in the previous chapter, the findings of the dissertation do not contradict but rather complements these explanations about how and why parliamentary groups control EU decision-making. Salience and public opinion, a group's institutional status and policy conflict with their executive, and resources are factors that parliamentary groups take into account in their cost-benefit analysis both in EU affairs and EU international treaty-making. There might be broader differences, e.g., as that the electoral connection in EU foreign policy is even less pronounced than in EU affairs due to increasing distance to the voters, or that controlling EU international treaty-making is more resource-intensive than overseeing EU legislative processes. However, these differences merely mean that groups might perceive the weight of these costs and benefits differently, but not their nature.

The findings also provide new impetus and insight into the nature and the weight of costs and benefits in executive-legislative relations. It has shown that in EU international treaty-making, there are additional factors informing costs and benefits, which have as such not been included in studies of EU affairs. First, the dissertation demonstrated that the risk of policy slippage is not only dependent on conflict with the executive, but also on a group's policy position on the international agreement. This is a fine but important distinction, as, due to the long and intertwined agency relations in EU foreign policy, these two factors are not necessarily the same. Rather, the agreement in itself, negotiated with a third party at the international level, constitutes a source of policy slippage. Second, while few studies have analysed the impact of the (perceived) influence on parliamentary control (Schneider et al. 2014; Wonka/Göbel 2016), the dissertation has explicitly included this causal factor in the theoretical framework and demonstrated that this is a major consideration for parliamentary groups. Future principal-agent applications to parliamentary control of EU affairs should include this factor more systematically, instead of brushing over it in the empirical analysis. Lastly, the dissertation has shown that groups supportive of an agreement are concerned with risking the efficiency of negotiations, leading to sub optimal outcomes of the negotiation process. Whereas this is related to the dilemma of undermining the government's position in the Council, as elaborated by Auel/Benz (2005), this study demonstrates how a factor external to the principal-agent relationship, namely the compellingness of the negotiation environment, informs the size of efficiency costs.

Overall, the findings of this study are thus embedded in the broader findings explaining parliamentary control in EU affairs. They focus on a decision-making field which so far has not been subject to systemic analysis and demonstrate that, while the underlying rationale of control can be transferred, the complex and intertwined agency setting in European foreign policy affects the constraints and incentives that parliaments need to consider when deploying the control mechanisms available to them. This, in turn, alters the nature and weight of several costs and benefits in comparison to standard principal-agent relationships in executive-legislative relations.

11.1.3.4. Summary: Explaining Parliamentary Control

Summing up, the findings about why parliamentary groups control EU international treaty-making provide a new and important contribution to the nascent literature on parliamentary control in EU international treaty-making. In addition, the comprehensive explanation for parliamentary control developed by this this dissertation constitutes a three-fold contribution. First, it demon-

strates that parliamentary groups are driven by vote-seeking and policy-seeking benefits. This is important for our understanding of the nature of EU international treaty-making as not being succinctly different from domestic politics, where parliamentary groups are ultimately driven by similar considerations. Second, the comprehensive explanation contributes to, i.e., extends and does not contradict, existing explanations for parliamentary control in EU affairs, and provides impetus for further research. Lastly, on a more general level, the dissertation gives new insight into the literature on parliamentary control in EU affairs more broadly.

Before discussing the theoretical contribution of the dissertation, it is necessary to mention two further points. The dissertation has explicitly studied and explained the intensity, and not the impact, of parliamentary control. Policy impact is generally very difficult to measure directly (see sub-chapter 5.5.1.3.1). Nonetheless, there are reasons to believe that parliamentary scrutiny and EU international treaty-making are connected. Future research should investigate the actual impact of parliamentary control in EU foreign policy more closely. First attempts have been made to explicitly study this relationship in EU affairs (Randour 2017); yet are still missing in the nascent literature on EU foreign policy. Moreover, while the dissertation was able to draw causal inferences on individual causal factors, its main contribution is on the level of the modified theoretical framework. This should be seen as a first step to approaching a largely understudied research field, namely parliaments in EU foreign policy, where systematic and theory-driven analyses have been lacking so far. Future research can, and indeed should, zoom even further in on individual causal factors identified here and study their causal effect individually, potentially in a comparative approach, as well as potential trade-offs between several of them. However, it is important to recall at this point that this is a first systematic and theory-driven study in a research field that is yet in its infancy.

11.1.4. Broader Theoretical Contributions to Principal-Agent Theory

The literature review in chapter 3 showed that most recent studies of parliamentary behaviour in EU international negotiations lack an explicit theory-based approach. Importantly, whereas principal-agent theory has been recognized as a useful theoretical approach to systematically study parliamentary control of EU foreign policy, it has not yet been developed and adapted to the setting at hand. Against this background, the dissertation combined principal-agent perspectives on EU foreign policy with perspectives on executive-legislative relations and descriptively developed an understanding of how the institutional relationship in the setting of EU international treaty-making can

be meaningfully perceived as chains of delegation. Principal-agent theory was in the subsequent empirical investigations used as a “heuristic tool that helps us to make sense of certain aspect of EU-decision making [that] reduces the complexity in real life political process” (Delreux/Adriaensen 2017a: 10), but the theoretical elaborations and findings of this dissertation also offer several broader contributions to principal-agent theory.

First, the theoretical elaborations in this dissertation prepare the ground for further applications of agency theory to parliamentary control of EU international treaty-making. Chapter 4 demonstrated that in the chains of delegation in EU international treaty-making, it is possible to perceive the Union negotiator as ultimate agent, and, in a broad understanding of what constitutes a principal, parliaments as collective principals to the Union negotiator. This does not, in itself, offer new insights into how and why principals control the agent. However, it is crucial to theoretically substantiate that it is indeed possible to perceive the institutional relationship in EU international treaty-making as chains of delegation and that parliaments, both the national and the European, can be perceived as principals in this setting (based on Delreux/Adriaensen 2017a), despite the lack of a formal act of delegation in EU international treaty-making. Here, the dissertation demonstrated that parliaments at both levels have delegated macro-level executive authority to the Union institutions, and that, more informally, there is a possibility of indirect micro-level delegation from parliament to Union negotiator. These elaborations are decisive to be able to apply principal-agent theory to executive-legislative relations in EU foreign policy. Only if a parliament can be characterized as a principal is it possible to apply the developed theoretical framework. The existence of this relationship, as argued in the previous chapter on the limitations of the generalizability of the findings, needs to be established on a case-by-case basis by investigating whether the parliament in question can micro-delegate in EU international treaty-making. However, this can generally be assumed to be the case in most national parliaments in the EU. Against this background, the development and elaborations of these chains of delegation offer an important perspective that future research can make use of to study dynamics and interactions in this setting on a firm theoretical basis.

Moreover, this dissertation has fine grained the simplistic understanding of parliaments as single, unitary principals. Principal-agent theory generally has recognized the importance of political parties in the various links of the chain of delegation in parliamentary democracy (Mezey 1998; Müller 2000). Party membership, in turn, has a strong impact on the nature and incentives of oversight activities for all members of parliament (Saalfeld 2000). However, despite this recognition, principal-agent theory has largely lacked con-

ceptual development to account for this (but see Waterman/Meier 1998; Gailmard 2009). Against this background, the dissertation showed in sub-chapter 4.2, building on Nielson and Tierney (2003), that parliaments can appropriately be perceived as collective principals in which parliamentary groups are the constitute units. While this dissertation stresses the importance of a joint act of delegation to qualify as collective principal, it demonstrates that joint control of the agent is not considered to be constitutive. This is an important clarification, as it allows for the study that places parliamentary groups at its centre and enables meaningful engagement with the control of parliamentary groups independently of each another.

Together, these two theoretical elaborations make it possible to adapt principal-agent theory to executive-legislative relations in EU international treaty-making and develop explanations for the conditions under which parliamentary groups trigger control mechanisms. As such, they prepare the ground for explanatory studies of how and why parliamentary groups control EU international treaty-making on a firm agency theoretical basis, but also further applications of principal-agent theory to parliamentary control of EU international treaty-making.

The dissertation also contributes to our understanding of control in executive-legislative relations. As in any principal-agent relationship, parliaments and parliamentary groups risk policy slippage in EU international treaty-making, which they can mitigate by activating parliamentary control. In conceptualizing control in a principal-agent relationship, this dissertation followed the traditional distinction between monitoring and influencing control mechanisms (Pollack 2003; Winzen 2012b). However, the empirical analysis detected yet another function of parliamentary activity in EU international treaty-making: influencing control (supportive). It was demonstrated that in several instances in the European Parliament, political groups engaged in activities towards the Commission and the third party, not to influence them substantively but rather to exert pressure but rather to exert pressure for further and faster progress in negotiations, to accelerate the talks and to quickly and successfully conclude the international agreement in question. These “control” actions can thus be seen as a means to support and strengthen the Union negotiator, despite the pressure. This finding complements recent research by Hörner (2017), who demonstrated that in EU affairs, parliamentary resolutions of mainstream government parties are mostly intended to support the government’s position, i.e., they are used as instruments of ‘position taking’ rather than as a form of government control. Together, these findings merit further research on the functions of parliamentary control in EU affairs, beyond the functions traditionally ascribed by principal-agent theory.

Based on these theoretical, yet descriptive elaborations, the dissertation set out to investigate the why of parliamentary control in EU international treaty-making, i.e., the factors that trigger parliamentary control of EU international treaty-making. Extensive research on EU foreign policy has been conducted to explain how much discretion the agent in EU international treaty-making enjoys (Elsig 2010; Niemann/Huigens 2011, da Conceição-Heldt 2011; 2017, Delreux 2011; Delreux/Kerremans 2010). This focus on the agent-side of a principal-agent relationship is clearly related to the principals' control actions in the analysed settings, as the degree of discretion depends on the control actions of the principal before and after the establishment of the agency relationship. Yet, only few studies have actively analysed how and why principals control their agent in EU international treaty-making. A notable exception is Adriaensen (2016), who studied how member states as principals control the Commission-as-agent in international trade negotiations (Adriaensen 2016). However, as this dissertation has demonstrated that not only the Council but also parliaments can be perceived as collective principals in EU international negotiations, it is crucial to investigate what triggers them to activate the available means of control in order to fully understand the Union negotiator's discretion. Such an understanding is necessary in order to comprehend the EU's nature as an international actor (Delreux 2009). This is not to say that parliamentary control always affects the discretion the negotiator enjoys; control does not necessarily equal influence. However, considering the increasing formal and informal powers of the EP and national parliaments, especially their ex post ratification rights, and in light of the findings of this dissertation about the increasing level of parliamentary interest in treaty-making processes, it is conducive to focus not only on control by the member states in the Council but also by parliamentary actors. This was done by this dissertation; and further studies should continue this focus.

Lastly, dissertation showed that, in line with principal-agent theory, parliamentary actors base their decision of if, when and how to exercise control in EU international treaty-making, on a cost-benefit analysis. Importantly, it adapted conventional cost-benefit analysis to the setting of executive-legislative relations in EU international treaty-making. Standard principal-agent theories argue that oversight depends on the trade-off between the risks of agency loss, which makes control beneficial, versus the high resource costs of performing oversight (Kiewiet/McCubbins 1991). The dissertation has demonstrated that this picture is overly simplistic when it comes to EU international treaty-making and does not account for all costs and benefits parliamentary groups take into account. Rather, groups also pursue vote-seeking benefits in addition to agency-loss reduction/policy-seeking benefits, and they

are constrained by resource costs and efficiency costs of parliamentary control. Control thus depends on the trade-off between these four types of cost and benefit. As such, the dissertation paints a more nuanced picture of the costs and benefits of control in a specific empirical setting. It underlines that standard principal-agent models can only be used as a starting point, and that the researcher has to adapt it to the setting under investigation by taking into consideration all potential factors a principal might perceive as either incentives or constraints in terms of triggering control mechanisms.

Beyond identifying the nature of costs and benefits of control in EU international treaty-making, a major contribution of the dissertation is to identify the causal factors that affect how a group perceives their weight. Benefits are informed by their institutional status/policy conflict with their direct executive, their substantive position on the agreement, their perceived chances of influence and public salience and opposition to the agreement under negotiations. Costs, which constrain parliamentary motivation to actively exercise control, are informed by a lack of resources and a compelling negotiation environment; the latter only applies to groups that support the agreement. In comparison to conventional cost-benefit analyses, these findings deal with the dual nature of parliaments as principal to the executive and as agent to the voters, meaning that control is not only driven by factors within the direct principal-agent relationship. Similarly, the findings show that the external negotiation environment affects the intensity of parliamentary control. This gives further support for calls to incorporate the external institutional context as an element to principal-agent applications to EU foreign policy (Billiet 2009; Delreux 2011).

Summing up, the dissertation makes several broad theoretical contributions to principal-agent theory. First, the theoretical discussions prepared the ground for being able to use principal-agent theory to investigate the how and why of parliamentary control in EU international treaty-making, in this and in future studies. They improve our understanding how agency theory can be applied to the complex and intertwined empirical settings. Second, it hereby demonstrated that the standard model of principal-agent theory, and of the conditions under which a principal triggers control, is too simplistic to be applicable to EU international treaty-making. The dissertation thus also improves our understanding of the usefulness and the limitations of explaining control in empirical principal-agent relationships and of how agency theory can be adapted to investigate such relationships in complex and intertwined chains of delegation. This dissertation does not confirm or contradict any of the basic assumptions of principal-agent theory, but this was not the goal of this study. Principal-agent theory was, first and foremost, used as a heuristic tool to study the main research interests of this dissertation in a theoretically

informed manner, namely how and why parliamentary groups control EU international treaty-making.

11.2. Normative Implications: What about Democratic Legitimacy?

Based on the presentation of the empirical findings and after having elaborated on their broader empirical implications, it is, finally, possible to consider their normative implications. Recall that the relevance of this research endeavour was based on the recognition that EU international treaty-making is in need of enhanced democratic legitimacy, as the EU has become an important international actor and its external policies have a lasting impact outside its realm and on EU member states and citizens. Democratic legitimacy is best provided by some means of parliamentary involvement, but little is known about the role parliaments can and do play in this regard.

Conventionally, one can distinguish between input and output legitimacy. The former is based on the idea that political choices reflect the will of the people (Scharpf 1999: 6). The involvement of democratically elected parliaments in EU international treaty-making can address this concern, as it shortens the lines of accountability from the citizens to their representatives at the EU level to the Union negotiator acting on the international stage. Overall, as claimed above, one can observe increasing awareness both among national parliamentarians and in the European Parliament of the importance and reach of EU international treaty-making processes and parliamentary accompanying of the negotiations. Thus, it can be argued that this successfully contributes to improved input legitimacy of EU foreign policy. The dissertation has also shown that parliaments control EU international treaty-making unevenly, as some international agreements in specific policy-making areas are subject to more intense parliamentary control at the aggregate level than others. This asymmetry of parliamentary involvement indicates that input legitimacy is unevenly distributed across international agreements. Moreover, it can be argued that some national parliaments are, on the aggregate level, more involved than others in controlling EU international treaty-making. Does this have an effect on the input legitimacy of a particular international agreement? Two considerations need to be put forward here: first, the European Parliament, representing the entirety of European citizens, is without a doubt the most active parliament in EU international treaty-making. Even the will of citizens whose national parliament is more hesitantly engaged in control can be fed into the negotiation process. However, as the European Parliament is not meant to represent national interests per se, the will of citizens with an inten-

sively involved national parliament is stronger represented at the EU and international level. As such, there is also an asymmetry between EU member states.

By going beyond the impact of parliamentary control on the input legitimacy of EU international treaty-making on the aggregate level, the dissertation has demonstrated that parliamentary groups, not parliaments as unitary actors, are the main actors in controlling EU international negotiations. This can be argued to contribute further to input legitimacy. Commonly, parliaments are dominated by the parliamentary majority, the governing parties that are politically committed to their executive, whose role is to provide support for the executive's actions and not necessarily restrain the latter from action. However, opening up parliaments into their constitutive units and demonstrating that opposition parties can and do act independently from the governing parties means that parliamentary control does indeed reflect the broad array of public opinion, as opposition parties are not restrained from parliamentary action and can have an input beyond the executive. This, in turn, provides further support for the input legitimacy of a particular EU international agreement.

Output legitimacy refers to the effectiveness and efficiency of the policy-making process, which ultimately should contribute to the common welfare of the constituency (Scharpf 1999: 6). In principle, input and output legitimacy are not mutually exclusive, but many authors argue that, in practice, there are often trade-offs involved between the two kinds of legitimacy (Häge/Kaeding 2007: 342), meaning that high input legitimacy may conflict with high output legitimacy. To a certain extent, such a trade-off can also be seen in regard to intensified parliamentary involvement in EU international treaty-making. First, parliamentary involvement can have a negative impact on the efficiency of EU international negotiations, i.e., the EU's ability to reach a common position that increases the welfare of all EU citizens. This is especially true if parliamentary involvement is connected to a credible *ex post* veto threat, which makes it more difficult to find a position that can obtain universal ratification. At the same time, concerns about ratification failure can lead to changes in the EU's negotiating positions at the detriment of common welfare to appease individual parliaments/national constituencies. Moreover, it can be argued that parliamentary involvement can harm the effectiveness of EU international treaty-making, as it is often thought to undermine the EU's credibility as a negotiating partner. Also here, such considerations are closely connected to parliament's veto threat and the fear that one parliament can let an already finalized international agreement fail.

However, such a gloomy assessment of the impact of parliamentary involvement in EU international treaty-making needs to be reconsidered in light

of the findings of this dissertation. First, not all agreements the EU negotiates are mixed agreements, which decreases the risk of ratification failure. The impact of parliamentary control on future trade agreements, which are likely to be negotiated as exclusive rather than mixed agreements, will be especially interesting to investigate. Second, the dissertation has included concerns about the negative impact of parliamentary control on the outcome of a negotiation process in its theoretical framework – efficiency costs. This can, more broadly, be connected to concerns about the output legitimacy of treaty-making. Hereby, it has demonstrated that groups in favour of an agreement take such detrimental effects into consideration, attempting to find a balance between the benefits and the costs of parliamentary control. Lastly, it was shown that parliamentary control can have a positive effect on the efficiency of EU international treaty-making if the function of control is influencing (supportive). This is especially the case if the Commission and the controlling parliament/parliamentary group pursue the same interests. This can be connected to the so-called Schelling Conjecture, which explains that if a negotiator is credibly constrained by domestic actors, she is in a stronger position to demand concessions from her negotiation partners and to enforce these common interests (Schelling 1960: 19).

This discussion of the normative implications of the findings of this study concludes with a mixed assessment of whether and how the involvement of parliaments and parliamentary groups in EU international treaty-making improves democratic legitimacy. However, it has elaborated first considerations of this question, which should further be investigated by empirical and normative research.

11.3. Venues for Future Research

The previous two chapters have, throughout their discussion, summary and elaboration on the implications of this dissertation's findings, already strongly emphasized venues for further research. This sub-chapter will merely pinpoint the most pressing issues for further investigative endeavours.

This dissertation is the first empirical, systematic and theory-driven in-depth study explaining the behaviour of parliamentary groups in EU international treaty-making. Based on its findings, future studies should broaden the empirical scope of investigation by studying different EU international agreements in other policy fields and by including different parliamentary chambers in the analysis. This will further fine-grain our understanding of how and why parliamentary groups engage in EU international negotiations and support the generalizability of the findings made. Such research could make use of different methods, such as broadening the comparative scope, using QCA,

or applying process-tracing methods that go beyond studying minimalist causal mechanism.

Future research can, and indeed should, also zoom even further in on individual causal factors identified here and study their causal effect individually in a comparative perspective. Such studies should also build in more detail on observations made in this dissertation, for instance investigate the impact of a group's institutional status as a driver for legislative behaviour by itself independent of the degree of conflict with the executive; the electoral connection in the European Parliament in EU foreign policy; and to what extent we can observe a left-right contestation over EU international negotiations. Moreover, a research interest pointed out in the dissertation is how groups deal with potential inherent trade-offs in incentives for control, i.e., goal-conflicts. How do parliamentary groups strategically align vote-seeking and policy-seeking goals? What strategies do they develop to deal with potentially overlapping procedural interest – shared by the entire parliament – and substantive preferences – which are group specific? This research agenda also includes a focus on what this dissertation named omitted factors, such as the non-static nature of some causal factors, or the potential cost of parliamentary control of stirring up conflict and waking up the opposition. These potential causal factors informing the costs and benefits of control should be further investigated to improve our understanding of why parliamentary groups control EU international treaty-making even further.

Beyond improving our understanding of why parliamentary groups control EU international treaty-making, this dissertation has set out new venues for research regarding the how of parliamentary control. Future empirical studies should use the four dimensions of control to structure holistic approaches to parliamentary control of EU international treaty-making and, if they exist, discern and explain patterns along these dimensions. Future research might also investigate individual means of parliamentary control further, which have produced interesting findings in this dissertation, such as the role of parliamentary delegations and the invoking of support of extra-parliamentary actors. The theoretical advancements in this study may also serve as points of departure for studying and explaining patterns along the two dimensions of the intensity of parliamentary control, exploring and testing the modified theoretical framework and analysing the newly introduced function of parliamentary control, influencing (supportive), in a more rigorous and systematic methodological approach.

More broadly, the dissertation has laid the foundation for more thorough empirical studies of the actual impact of parliamentary control in EU foreign policy. First attempts have been made to explicitly study this relationship in EU affairs, yet it is still missing in the nascent literature on EU foreign policy.

Similarly, it might inspire future normative and empirical investigations that explore the impact of parliamentary involvement in EU international treaty-making on the democratic legitimacy of international agreements. Lastly, the findings might provide impetus for related fields of research, e.g., more systematic studies of the control behaviour of the member states in the Council in EU international treaty-making to understand the discretion of the Union negotiator and the latter's behaviour on the international stage; and research on parliamentary control of EU affairs, as this dissertation points towards new and already recognized, yet not incorporated, causal factors, that should be included in future studies.

Summing up, this dissertation is the first, theory-driven study in a research field that is still in its infancy. It underlines the importance of future studies that explicitly take the role of parliamentary groups in the control of EU international treaty-making into account. This is all the more relevant as the findings suggest that neither the European Parliament nor national parliaments will retreat to a passive role in EU foreign policy any time soon. There is awareness among parliamentarians on all levels that EU international agreements can have important implications for European and national decision-making and the life of European citizens. Understanding what drives parliamentary groups to become engaged in EU international negotiations is therefore increasingly important. This dissertation provides a first contribution, but further investigations should follow.

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Appendices

Appendix 1: Treaty Selection Procedure

1. Council Register <http://www.consilium.europa.eu/register/en/content/int/?typ=ADV>
2. Search:
Words in Subject: authori* AND negotiate*
Document type: Legislative acts and other instruments
Meeting Date: 01/12/2009 – 04/04/2017
3. Export into Excel
4. Clear all redundant data, keep
Council Number, Document Title, Document Date, Availability remains
5. Drop one Council decision of all duplicated agreements (some mixed agreements have two authorization documents: Council decisions and DECISIONS OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL)
6. Drop REV; ADD, CORR Council decisions (if prior version exists)
7. Duplicate Council decisions authorizing two separate negotiations (or more than two)
8. Manually Add:
 - Agreement Title
 - Legal Nature
 - Accession Agreement
 - Amending Agreement

Appendix 2: Dictionaries for Database Keyword Search

The **bold search terms** were used in conjunction with other search terms.

The European Parliament

Table 73: Search Term Dictionary for the European Parliament

The EU-Japan Free Trade Agreement	The EU-Tunisia Readmission Agreement	The Kigali Amendment to the Montreal Protocol
01.01.2010-10.02.2018	01.01.2011-31.03.2018	01.01.2010-31.12.2017
Japan*	Tunisia*	Montreal
Trade agreement	North Africa*	Kigali
JEFTA	Maghreb	HFC*
Japan partnership*	Readmission	hydrofluorocarbo*
Japan FTA	Return Refuge*	F-Gas
	Return Asylum	

Documents systematically searched:

- Texts adopted in the plenary
- Motions for a resolution
- Written questions
- Oral Questions/Interpellations
- Committee Minutes

The Bundestag

Table 74: Search Term Dictionary for the Bundestag

The EU-Japan Free Trade Agreement	The EU-Tunisia Readmission Agreement	The Kigali Amendment to the Montreal Protocol
01.01.2010-27.04.2018	01.01.2011-11.05.2018	01.01.2010-31.12.2017
Japan*	Tunesien	Montreal
Freihandel*	Maghreb	Kigali
JEFTA	Nordafrik*	Fluorkohlenwasserstoff*
Partnerschaft*	Rückübernahm*	FKW
Handel*	Rücknahm*	HFKW
	Rückführung*	F-Gas
	Abschiebeabkomm*	Fluorierte Treibhausgase
	Rückschiebung*	Fluorierte Kohlenwasserstoffe
	Mobilpartner*	

Documents systematically searched:

- Kleine Anfragen
- Große Anfragen
- Schriftliche Fragen
- Fragen für die Fragestunde
- Anträge
- Plenum Sitzungsbericht

The Folketing

Table 75: Search Term Dictionary for the Folketing

The EU-Japan Free Trade Agreement	The EU-Tunisia Readmission Agreement	The Kigali Amendment to the Montreal Protocol
01.01.2010-24.05.2018	01.01.2011-11.06.2018	01.01.2010-31.12.2017
Japan*	Tunesien	Montreal*
Frihandel*	Maghreb	Kigali
JEFTA	Nordafrika*	HFC*
Handel*	Tilbagetage*	F-Gas*
	Hjemsend*	
	Tilbagesend*	
	Udsend*	

Documents systematically searched:

- § 20-spørgsmål
- Udvalgsspørgsmål
- Referater
- Udvalgsbilag
- Forespørgsler

In the Folketing, additional use was made of the EU-specific parliamentary database EU-Oplysningen (<https://www.eu.dk/>), which builds dossiers based on COM documents, linking Folketing internal and external follow-up documents as well as committee treatments to this base document.

Appendix 3: Interview Guide



Interview Guide

Topic: Parliamentary Control of the Negotiations of the *International Agreement*

1. The xx Agreement

What is the general position of *your parliamentary group* in regard to *the international agreement*? What specific issues do you consider thereby to be most important?

— How important do you consider the conclusion of the *International Agreement*?

[For national parliaments]: Are there any fundamental conflicts between *your parliamentary group* and the *Government* in regard to the agreement?

[For the European Parliament]: Do you agree with the Commission's approach and conduct of the negotiations?

— How politicized is the agreement in *parliament*? Are there any conflicts between the different parliamentary groups?

How would you describe the interest of the *population* in the *International Agreement*? And how does this influence your work?

Anne Pintz

PhD Fellow

Dato:

Side 1/2

2. Parliamentary Control of the Negotiations: Your Parliamentary Group and the Parliament

How would you describe the control activities of *your parliamentary group* during the negotiations of the agreement?

— Have you thereby mainly relied on formal control mechanisms, or attempted to accompany the negotiations also in an informal manner?

In your opinion, are the control activities of *your parliamentary group* mainly aimed at gathering information on the negotiations, or to communicate your position in order to exert substantive influence on the agreement?

How would you generally consider the likelihood of having an influence on the negotiations of the *International Agreement*?

How does your *parliament* receive documents and information on the ongoing negotiations? Do you consider the quality and quantity of those documents and information to be sufficient?

Beyond the *responsible committee*, do you know in which committees the agreement has been on the agenda and discussed? If so, on what occasions?

3. Parliamentary Control of the Negotiations beyond *your parliament*

Are you aware of any inner-European conflict lines in regard to the *International Agreement*?

Has *your parliamentary group* been in contact with other EU actors, such as [the European Parliament], [other] national parliaments or the European Commission, during the negotiations? How about national and European interest organizations?

How much are you aware of the *negotiation partner* and its preferences when you control the negotiations?

4. Parliamentary Control of the Negotiations: Evaluation

Would you argue that the fact that the fact that *your parliament* will have to *ratify [not ratify]* the *International Agreement* impacts the control activities of *your parliamentary group* and other groups in any way?

Are you concerned that “tying the hands of the Commission too tightly” and “demanding too much transparency” throughout the negotiations can have a negative effect on the outcome of the negotiations?

How would you rate the importance of the negotiations of the *International Agreement* for Members of the *parliament*?

Would you argue that in comparison with other international agreements in the EU framework, the *International Agreement* is subject to strong parliamentary control?

Appendix 4: The Parliamentary Groups' Overall Resources

The following tables provide the measurement of the parliamentary groups' overall resources as developed in chapter 5.5.1.3.6 and the case study chapters.

A committee member/total committee member ratio higher than 0.1 and an advisor ratio higher than 0.5 are considered "high resources".

The European Parliament: INTA Resources

Table 76: Number of INTA MEPs and INTA Policy Advisors; data from political groups' websites

	EPP	S&D	ECR	ALDE	GUE-NGL	Greens-EFA	
INTA MEPs	13	9	4	4	3	2	Total: 41
INTA MEPs/Total INTA MEPs	0.32	0.22	0.09	0.09	0.07	0.05	1
INTA Policy Advisors	3	4	4	2	4	3	Highest Number: 4
Policy Advisors/ Highest Number	0.75	1	1	0.5	1	0.75	

The European Parliament: LIBE Resources

Table 77: Number of LIBE MEPs and LIBE Policy Advisors; data from political groups' websites

	EPP	S&D	ECR	ALDE	Greens-EFA	GUE-NGL	
LIBE MEPs	17	15	6	5	4	4	Total: 45
LIBE MEPs/Total LIBE MEPs	0.38	0.33	0.13	0.11	0.09	0.09	1
LIBE Political Advisors	4	6	6	35	4	4	Highest Number: 6
Policy Advisors/ Highest Number	0.66	1	1	0.5	0.66	0.66	

The Folketing: European Affairs Resources

Table 78: Number of EAC MPs and Policy Advisors; data from parliamentary groups' websites

	S	DF	V	EL	LA	Å	B	SF	DKF	
EAC Members	7	6	6	3	2	2	1	1	1	Total: 29
EAC Members/Total EAC Members	0.24	0.21	0.21	0.1	0.07	0.07	0.03	0.03	0.03	1
Policy Advisors	16	7	-a)	16	2	3	2	6	2	Highest number: 16
Policy Advisors/Highest Number	1	0.44		1	0.13	0.19	0.13	0.38	0.23	

a. It was not possible to identify how many political advisors Venstre employs, but as governing party, the group can reasonably be assumed to have a high number of political advisors.

Appendix 5: Coding of the Function of Questions

The following coding scheme was applied to written and oral questions as well as interpellations.

Table 79: Coding Scheme for Questions and Interpellations

Function	Monitoring	Influencing (Substantive)	Influencing (Supportive)
Coding Scheme	Questions about:	Questions about:	Questions about
	Past events	Future events	Future events
	Numbers/estimations	Negotiation strategies	Negotiation strategies
	Issues already agreed on by the negotiation partners	Justifications for past behaviour	Justifications for past behaviour
	Status of the negotiations	AND	AND
		Indication of one's own substantive preferences	Expression of Support
		Reference to parliamentary powers	Expression of impatience with negotiation progress

Executive Summary

For a long time, conventional wisdom on foreign policy-making held that the conduct of external relations was an executive prerogative. Parliamentary involvement was seen as interfering and harmful. This could especially be observed in international treaty-making: according to the classic division of labour, the executive negotiates on the international stage with external parties, and the parliament, restricted to the domestic sphere, eventually “rubber-stamps” the concluded agreement. In EU external relations, international negotiations had indeed been set up according to this classic division of labour. The decision-making process had been dominated by the EU’s executive actors, the Commission and the Council of the European Union. The European Parliament was only marginally featured, and assigned a minor role in the process, whereas national parliaments had no formal involvement rights at all. However, in recent years, the quest for democratic legitimacy of EU foreign policy has led to calls for increasing involvement of the European Parliament and national parliaments in EU international treaty-making. At the same time, anecdotal evidence has demonstrated that these parliaments are already increasingly going beyond their traditionally ascribed role. There is large variation in the extent, way and strength with which parliaments have been involved in EU international negotiations: not all parliaments follow the same negotiation process the same way; not all parliamentary groups within one parliament do so either; and not all treaty-making processes are controlled the same way.

Against this background, this dissertation sets out to answer how and why parliamentary groups control EU international treaty-making. Answering the how question is a descriptive endeavour. The dissertation describes the scrutiny actions of the parliamentary groups under investigation, the means they use, the patterns that develop and the timing of control that can be observed. In a second step, the dissertation pursues an explanatory aim and strives to identify the causes of parliamentary control. It thereby goes beyond studying what happened and gets as close as possible to the underlying motivations of the political groups exercising parliamentary control over EU international treaty-making.

The process of answering this question is firmly rooted in principal-agent theory and its rationale of control. The theoretical framework argues that the institutional relationships in the setting of EU international treaty-making can be meaningfully perceived as chains of delegation running from the voters through parliamentary institutions to the Union negotiator on the international scene. The Union negotiator is the ultimate agent charged with the task

of negotiating an international agreement with a third, external party; parliaments are conceptualized as collective principals and parliamentary groups are the constitutive units of the collective principal that can act independently towards the agent. In this setting, parliamentary groups are faced with the risk of policy slippage but have control mechanisms at their disposal to reduce this risk. The groups' rationale of control is based on a cost-benefit analysis and the decision of if, when and how to control the agents is highly strategic and takes into account a group's preferences as well as the opportunities, constraints and incentives provided by the particular environment in which parliamentary control takes place. Parliamentary groups are assumed to take vote- and policy-seeking benefits into consideration, as well as resource and efficiency costs

The dissertation tests this theoretical framework with regard to its ability to explain certain outcomes of parliamentary control. Adopting a deductive research design, it conducts nine qualitative case studies, with cases selected on the parliament * international agreement level. On the agreement-level, it investigates the Economic Partnership Agreement between the European Union and Japan, the Agreement between the European Union and the Republic of Tunisia on Readmission, and the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer; on the parliament-level it analyses the European Parliament, the Danish Folketing and the Bundestag. In the analysis, these three parliaments are opened up by studying the control of the various parliamentary groups.

The dissertation finds an increasing amount of parliamentary activity in parliaments during, not only after, EU international negotiations. This applies to both the European Parliament and national parliaments, and, importantly, to different policy-making areas, such as trade negotiations, international agreements in Justice and Home Affairs and environmental negotiations. Hereby, it demonstrates that parliaments do not act as unitary actors when controlling EU international negotiations, but that party ideological dynamics play a much more crucial role in parliamentary control than has been shown in previous work. In regard to explaining the motivation for parliamentary groups to control EU international treaty-making, the empirical findings largely strengthen the confidence in the validity of the developed theoretical framework; but the empirical reality is also shown to be more complex than assumed by the theoretical model. The dissertation shows that parliamentary groups are rational actors that make strategic decisions about when, how, and how much to control EU international treaty making based on expected costs and benefits of involvement. They are driven by vote-seeking and policy-seeking benefits, but constrained by resource and efficiency costs. In light of the costs and benefits of parliamentary control, this dissertation demonstrates

that groups control EU international negotiations with high intensity when the topic is highly salient and opposed by the public, when the negotiation environment lacks compellingness and when a group perceives to have a chance of influencing the negotiations. Moreover, groups are driven by their opposition to an agreement as well as their institutional status, whereas scarce parliamentary resources constitute a considerable constraint for parliamentary control. This comprehensive argument can explain the intensity of control of each parliamentary group on a specific international agreement.

These findings offer important contributions to the study of parliaments in EU foreign policy. The dissertation for the first time systematically demonstrates the growing role and attention of parliamentarians in the multilevel parliamentary field over various policy-fields, thus contributing to the nascent literature on the role of parliaments in EU foreign policy and supporting its behavioural turn. This study is also the first systematic study centring the empirical analysis on parliamentary groups in EU international treaty-making, and not on parliaments as unitary actors. By demonstrating the relevance of parliamentary groups regarding parliamentary control of EU international treaty-making, the dissertation takes findings from the national level to EU foreign policy and points out that also here, the role of party political dynamics must not be underestimated. Lastly, this dissertation contributes with a comprehensive explanation for parliamentary activity in EU international treaty-making that focuses on the rationale of parliamentary groups and is applicable to EU international agreements in various policy-fields. Whereas previous studies have tentatively set out to explain parliamentary control, this study is the first systematic, theory-guided research endeavour to do so and thus constitutes an important contribution to understanding the input and outcome of EU international treaty-making. It provides a so far largely lacking systematic explanation for the actual behaviour of parliamentary groups in EU international treaty-making.

Dansk resumé

Denne afhandling undersøger hvordan og hvorfor parlamentariske grupper kontrollerer internationale traktater i EU. Dette gøres først ved at beskrive de overvågningsmekanismer som parlamentariske grupper benytter sig af, de midler de bruger, de mønstre der udvikles samt timingen af den kontrol der udøves. I anden del forsøger afhandlingen at identificere årsagerne til den parlamentariske kontrol, og kommer dermed tættere på de underliggende motivationer der driver de politiske grupper som udøver parlamentarisk kontrol over internationale traktat-forhandlinger i EU.

Afhandlingen tager sit afsæt i principal-agent teori til at besvare disse spørgsmål. Mere specifikt, argumenteres der for at den institutionelle ramme i internationale traktat-forhandlinger i EU kan forstås som en kæde af delegation, strækkende fra vælgere igennem parlamentariske institutioner til den europæiske hovedforhandler på den internationale scene. I denne ramme oplever parlamentariske grupper en risiko for *agency loss*, men har samtidig mulighed for at reducere denne risiko. Disse gruppers rationale baseret på en *cost-benefit* analyse hvor beslutninger omkring hvorvidt, hvornår og hvordan man skal kontrollere *agenterne* afhænger af gruppens præferencer, muligheder, begrænsninger og incitamenter – alt sammen påvirket af de omgivelser hvori den parlamentariske kontrol finder sted.

Dette undersøges ved hjælp af over 30 elite-interviews af politikere og højstående embedsmænd i ni kvalitative case studier med cases udvalgt på baggrund af både parlaments- og traktatniveau. Som supplement hertil fortages 16 *process-tracing* studier, der alle søger at indfange de konkrete processer og mekanismer der driver intensiteten af den udøvende kontrol. Resultaterne viser at der faktisk er stor variation i hvordan og i hvor høj grad parlamentariske grupper kontrollerer traktatforhandlinger i EU. Det viser sig at de parlamentariske gruppers opfattede fordele og omkostninger af kontrollen er afgørende for hvor intens de kontrollerer internationale traktatforhandlinger i EU.