

Negotiating Erasmus 2021-2027 - A Case Study on the Process of Trilogues in the EU Decision Making

Juho Rantala
University of Helsinki
Faculty of Social Sciences
European and Nordic Studies

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Abstract

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Author: Juho Rantala

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Abstract: The goal of this research is to gain better understanding of the EU legislative system through a case study of the trilogues of the Erasmus+ 2021-2027 programme. Trilogues are a series of informal negotiations between the EU legislative bodies and are a central part of the modern EU legislative process. A rich field of research exists on the topic, focusing especially on the roles of the legislative institutions and the transparency of the informal practice.

The data used for the research is gathered from interviews and legislative files. A series of expert interviews were conducted with people who participated in the negotiations, representing both EU colegislators, the European Parliament and the Council of the European Union. The legislative files were gathered from publicly available sources and include most importantly the Commission legislative proposal, the Parliament first reading position, the Council first reading position and a four column document from late 2020.

Three interesting topics that caused intense intra- and inter-institutional negotiations are identified: the DiscoverEU initiative, inclusion and governance. These provided three different methods of finding compromise. Firstly, it is shown how the Council position can shift to correspond to the Parliament position. Secondly, it is shown how it can still be difficult to agree on the exact words of the legislation even when the goal is a shared one. Thirdly, it is shown how the Parliaments demands can turn into a compromise that is significantly closer to the Council position. A brief summary of transparency over the Erasmus trilogues is given.

The main findings of the study are the methods in which the EU legislators are willing to seek compromise: in the case of Erasmus trilogues, they negotiators were more consensus seeking than adversarial.

The interviews for this research were planned in February 2020 and completed in March 2020. The research project was finalized in May 2021. What a strange time to be writing a Master's thesis about international cooperation and mobility.

I want to thank those who made this thesis possible: those at OPH who helped me get started and those at home who helped me get finished.

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List of abbreviations

Commission	The European Commission
COREPER	Committee of permanent representatives
Council	Council of the European Union
CULT	European Parliamentary Committee for Culture and Education
EP	The European Parliament
EPP	European People's Party
MEP	Member of the European Parliament
MFF	Multiannual Financial Framework
OLP	Ordinary legislative procedure
PGA	Partial General Approach
S&D	The Progressive Alliance of Socialists and Democrats

1. Introduction

When the European Union creates and adopts new legislation, it has a direct effect on almost half a billion of EU citizens and this change also influences people and states outside of its borders as well. In the Ordinary legislative procedure, as dictated in the Treaty of Lisbon, the decision-making bodies are the European Parliament (EP) and the Council of the European Union (Council). The former represents European peoples as nationally elected parliamentarians and the latter represents the governments of the member states. Legislative proposals are made by the European Commission (Commission) and in its preparatory work it attempts to take into account the opinions of the EP and the governments of the EU member states, but also the opinions of interest groups outside the legislative system.

In theory, the standard and most common EU legislative process, the Ordinary legislative procedure is based on one or two readings at the Parliament and the Council and if no agreement is reached - a process of conciliation. However, in practice, a second reading and conciliation are rarely needed, and between 2014 and 2019, 89% of legislation was adopted on the first reading (European Parliament 2019). The explanation for such a great amount of early compromises lies in an informal process known as the trilogues: the representatives of Council, EP and Commission are meeting both on political level as well as administrative level to negotiate an agreement that is acceptable for all parties involved. Nowadays almost all EU legislation is *de facto* finalized informally behind closed doors, in a process where a very limited number of people are able to participate or even observe. On the other hand, meeting informally in person instead of public readings allows looking for compromise without serious delays. The trilogues are accused of unopenness and defended with their usefulness (Rasmussen & Reh 2013, 1007). Whatever the case may be, trilogues are now a key part of the EU legislative process.

In this research, the process of trilogues will be approached through a case study: the regulation on the Erasmus programme for education, training, youth and sport 2021–2027 (case file number 2018/0191). The regulation was drafted by the Commission in 2018 and an informal political compromise was found in late 2020. After the Council adopted its first reading position on 13 April 2021, the regulation is expected to be formally accepted in the first half of 2021. This research will focus on the negotiations during the Finnish Council presidency in the later half of 2019 and the solutions that were found later during the German Council presidency in late 2020. According to the people interviewed for this research, most of the content of the regulation was provisionally agreed upon during that time and the more challenging details were discussed and agreed upon during the German presidency. Documents from late 2020 and early 2021 will be used to understand the solutions that were reached for the problems that were already evident in late 2019.

The Erasmus+¹ programme is an European Union funded programme to support and enable millions of Europeans to study, work and gain experience abroad and it has become one of the most positively recognized brands of the European Union. Between 2014 and 2020 the Erasmus+ programme was budgeted to use 14,7 billion euros to send over 4 million Europeans abroad. The goals of the programme include strengthening the participants' learning, personal development, employability, language skills and European identity (Commission 2021). Erasmus 2021-2027 was chosen as a case study as it is both interesting to the public and a well known EU brand. It was also possible for the author to gain further insight into the negotiations through a series of interviews with people who took part in the trilogues at the civil servant level. The regulation for Erasmus goes through the same procedure as most EU legislation. The cases of EU legislation vary largely, and no singular case accurately describes every trilogue process. However, the case of Erasmus works well as an example of the inner workings of the trilogues and provides relevant insights of the process in general.

¹ 2014-2020 Erasmus was called Erasmus+ as it combined a variety of EU programmes in the fields of education, training, youth and sport under the same programme. It seems very likely that Erasmus 2021-2027 will also be called Erasmus+, but in this research the 2021-2027 programme will be referred to as Erasmus as it was planned in the Commission legislative proposal in 2018.

The publicity for Erasmus was high in political rhetoric, especially in 2019 around the time of the EP elections. Often the conversation was not only promises of more and better Erasmus, but also of Erasmus with more financing. Many promises about the budget were already made before any official negotiations even started. The EP was insisting on tripling the budget for the programme, and the President of the European Commission, Ursula Von der Leyen expressed her support to the budget proposal in her Opening statement as Candidate for the President of the European Commission to the European Parliament in July 2019 (Von der Leyen, 2019). The budget for the programme was later decided as a part of the Multiannual financial framework (MFF) negotiations of, where the budget for the programme was increased quite modestly compared to the EU ambitions, a little less than doubling the budget from earlier 14,7 billion euro to 26,2 billion euro (European Commission 2021a).

1.1 Research questions

In this thesis the process of creating the legislation for the Erasmus 2021-2027 programme will be researched, with a special focus on the trilogue negotiations. The material for the research consists of documents from the legislative process as well as expert interviews from people who took part in the trilogues in the latter half of 2019 under the Finnish Council presidency.

The main research interest is to better understand the process of the EU decision making. As most of the EU legislation is finalized behind closed doors in trilogue negotiations between Council, EP and Commission, it seemed logical to focus especially on the process of trilogues. As trilogues are informal in nature and no formal rules or practices exist on paper, many important details remain unclear even to citizens that are interested in EU politics. Who are the people taking part in these important negotiations? How many meetings are usually needed to find a compromise? Are there typical routines for the trilogues? What sort of influence can different actors have in the negotiations? How difficult is it to take into consideration the opinions of 27 member states and the EP presenting more than 400 million EU citizens?

Many of these questions have been answered in earlier research (see for example Roederer-Rynning & Greenwood 2015) in ways that produce more reliable answers on a general level than this case study of a singular legislative file. In this research, one set of trilogues and more specifically a few key details will be examined in depth: what were the goals of the actors and what sort of compromise was eventually found. Besides discussing the Erasmus 2021-2027 negotiations, the process of researching the trilogues will also be discussed and analyzed: the practice of trilogues has been accused of being overly secretive. How well is information available for EU citizens interested in the process?

The research questions are:

- 1) What did the actors want in the trilogues?
- 2) How did the actors attempt to reach their goals in the trilogues?
- 3) What sort of solutions were reached?
- 4) How open were the negotiations?

1.2 Earlier research

Erasmus has been an interesting research topic to many, often focusing on the participants and their experiences (eg. Cairns et al, 2018). In this research the focus is shifted to the legislative process through which the Erasmus programme is created as it is. The potential contribution of this research to the wider, participant-orientated field is opening the logic of actors behind Erasmus: what are the priorities in developing the programme for the actors responsible?

As for the research on trilogues, there is a strong field of current research. The focus is especially heavy on two aspects: development of democracy at the EU level and at the culture of decision making in the Council, which is now forced to cooperate more closely with the EP (Brandsma et al. 2021). A challenge within the existing literature is the temporal scope. The EP and the Council have only been colegislators on an equal footing since late 2009 and the Treaty of Lisbon. Of course,

the EP had treaty-mandated legislative power before that too, but not to the same degree as more legislation was passed after only a hearing from the EP. A similar note can be applied to the process of trilogues and the norm of 1st reading or early 2nd reading agreements themselves: as of now, they are the standard approach to finalizing legislation, but the same could not be said at the time the Treaty of Lisbon came into force. Between 2004 and 2009, 18% of Ordinary Legislative Procedure legislation was passed in the 2nd or 3rd reading whereas between 2014 and 2019 the number was 1% (European Parliament 2020).

The key literature for this research consists of the works of Roederer-Rynning and Greenwood (2015, 2017) which provide a well-established basis for understanding the process of trilogues and the roles of the actors within them. For an assessment of power relations within the trilogues, the methods and definitions of Costello and Thomson (2013) are relied upon. Thirdly, for the question of transparency, the articles by Brandsma (2019) and Reh (2014) are used as starting points.

1.3 Structure

The structure of the thesis is divided into five chapters: introduction, theory, methods and material, analysis and conclusions.

In the theory chapter, earlier research on trilogues is examined. The EU legislative process changed with the Treaty of Lisbon in late 2009 to give more power to the EP in the decision making process, making the procedure of colegislation the standard and treating the EP and the Council as equals. The concept of informal negotiations in the form of trilogues as the most common way of deciding on new legislation is also relatively new. Due to the trilogues being a relatively new concept, research concerning trilogues from 2010s onward is preferred over older material. The concept of political power in the trilogues will be discussed in a dedicated subchapter.

The methods and material chapter will explain the process of gathering data through interviews on a topic that was rather sensitive as the negotiations were still ongoing. Besides the interviews conducted, a number of written documents are available for

the public on the EU websites, including the Commission's proposal and the first reading positions of the Council and the EP. Data was analysed with the help of atlas.ti, where the main topics were more consistently analyzed by comparing what was said about the same topic from different perspectives.

The analysis was completed on a positivist level: the reporting of interviewees was taken as a genuine description of the events, from their context and memory. The goal of this study is not to analyse the discourses around the topic but rather to form an overall understanding of the events. The analysis chapter focuses on three key topics in the negotiations that required more effort to solve than others. Firstly, the case of DiscoverEU shows how the EP is able to reach their goals. Secondly, the subchapter on inclusivity shows how difficult it can be to agree even when everybody is of the same opinion. Lastly, the organizing of governance within the programme gives an example of a situation where the EP demands are turned down. The analysis chapter concludes by evaluating the openness of the Erasmus trilogues.

2. Theory

This chapter is opened by a working definition of political power within the trilogues and followed by a discussion of theoretical knowledge about the practice of trilogues. The EU legislative process which is based around two theoretically equal colegislators is introduced briefly and is followed by discussion of more practical details that might shift the balance of power one way or the other. Finally, a key tool in the trilogues, an often hidden four-column document is introduced.

2.1 Definition of power in the trilogues

This research is not strictly about power relations, but the question of who makes the decisions and under whose terms those decisions are being made in the trilogues is a central one. For the purposes of this research, a concept of political power similar to that introduced in the Costello and Thomson 2013 article will be used: it is based on Weber's definition of the potential a person or group has "to realize their own will

in a social action even against the resistance of others” (Weber 1914/2007: 247; quoted in Costello and Thomson 2013). The definition is well suitable to a clearly limited instance of using political power, like the trilogues, without the need to participate into larger discussions of what power is in society at large. In the scope of the trilogues, it is essential to understand what different actors wanted and if they were able to include their wishes in the final accepted legislative text even against the resistance of others.

As it is impossible to reliably consider what the potential of the legislators was to pursue their goals compared to how they actually pursued them, it is assumed that the EU institutions used their full capacity and potential to reach a compromise that was the most beneficial in their consideration. The definition also actively excludes an often discussed detail around trilogues: the role of the Commission as an agenda-setter. This is justifiable due to two reasons: firstly, the role of the Commission as an agenda-setter is not uncontested and much of the policy proposals originate in the European Council (Thomson 2015, p.201). Secondly, this research focuses on the process of trilogues and even though the Commission is present as an honest or perhaps committed broker (Panning 2021, p.48), the Commission’s options to realize its own will, especially against the resistance of others, are limited by the fact that legislation can be passed even without the Commission’s consent.

2.2 Trilogues

The EU legislative system is a rather complicated process where many points of views are taken into account in procedures that are partially formal and partially informal. This is done in order to reach a compromise satisfactory for not only the governments of the member states but also the European citizens represented by the EP, not to mention interest groups concerned by the legislation in question.

Ordinary legislative procedure (OLP), formerly known as codecision, is the standard way of creating new EU legislation since the Treaty of Lisbon. In the procedure, the

Commission prepares a legislative proposal, which is commented on in the European Parliament's first reading, followed by European Council's first reading where they may accept the proposal as it is or make amendments to the text. If the Council chooses to amend the text, it goes to a second reading where EP may accept the proposal, make amendments or reject the proposal fully. In the Council second reading it either accepts or rejects the EP amendments. In a rare case of Council second reading rejection, a process of consolidation begins in order to reach a third reading compromise. (European Parliament 2021a)

Most of the EU legislation is *de facto* finalized in trilogues taking part after the Parliaments first reading, sometimes solving challenging disagreements between the legislative EU bodies. The trilogues consist of three layers: the political trilogues, the technical trilogues and the informal contacts ((Roederer-Rynning & Greenwood 2015, p. 1154). It is difficult to exaggerate the importance of these negotiations: it is not the Parliamentary discussions and committee work or meetings of national ministers in the Council where legislation is written but behind closed doors in informal inter-institutional negotiations. Equally difficult is the exaggeration of their secretive nature during, and to a large part, after the negotiations. For a regular citizen, very few details are available on the negotiations. (Roederer-Rynning & Greenwood 2015)

2.2.1 The two colegislators in practice

In theory, the Council and the EP are the two colegislators of the EU, acting on an equal footing in the ordinary legislative procedure. In the Treaty of Lisbon the ordinary legislative procedure, earlier known as the co-decision procedure, was established as the standard way of EU decision making. Historically the EP has always had significantly less power in the EU decision making compared to the Council; the consent procedure and consultation procedure being the main legislative procedures. In the consent procedure, the EP has a veto on the legislation but no option to amend it; in the consultation procedure, the EP can approve, reject or amend the legislative proposal but the Council has no obligation to act

accordingly. The main implication of this change is that the opinion of the EP can no longer be ignored, but a compromise between the Council and the EP must be reached in order to pass new legislation. (European Parliament 2021b)

The formal legislative power of the EP has been gradually increased over time (Thomson 2015, p. 207). One of the most significant changes in legislative power was with the Maastricht treaty when the co-decision procedure was introduced, moving the EP towards the role of a legislative institution instead of just an advisory one.

“The introduction of the codecision procedure under the provisions of the Maastricht Treaty marked a major turning point in the institutional history of the European Union. The Council was for the first time explicitly required by the Treaty to negotiate with the European Parliament in the knowledge that Parliament could, at the end of the negotiations, say ‘No’.”

(Shackleton & Raunio, 2003, p. 171)

In the Treaty of Amsterdam, the co-decision procedure was further amended to strengthen the EP position in legislation. The areas of codecision were vastly added and the procedure was modified towards a more compromise-seeking model. (Shackleton & Raunio, 2003)

However, just because the article 294 of the Lisbon Treaty assumes the two EU institutions equals *de jure* does not mean that they have the same *de facto* capabilities to influence the decisions made in the EU. Thomson and Costello (2013) did quantitative analysis on a large sample of EU policies from the early 2000s, comparing the positions of member states, EP, and Commission to the eventual outcome. They concluded that it was more common for the final position to be closer to the Council's original position than that of EP's. The conclusion was that the Council had the most influence on shaping the policy, whereas the EP and Commission power were both only a fraction of the influence of the Council. It is noteworthy that Thomson and Costello used a dataset consisting of policy cases before 2009 and the Treaty of Lisbon. However, the concern over a major influence of this detail is eased by the fact that the Treaty of Lisbon did not change the process

of OLP (earlier known as co-legislation) but rather made it applicable to more policy areas. Other quantitative research has also placed the Council as the more influential of the two legislators (see for example Maaser & Mayer 2015; Kaniovski & Steffen 2017).

Many explanatory factors for this unbalance in the trilogues have been identified and theorized in the literature, some favoring the EP and some favoring the Council. First and perhaps most obvious one is the imbalance of information when entering into the trilogues. The EP's first reading position is formed publicly and any potential internal disagreements can be seen and later exploited by the Council. The same logic applies, at least to some degree, to the preferences of the EP. The Council should have a good idea of what the EP holds in high value and what they would be more willing to compromise on. The Council on the other hand, holds COREPER meetings behind closed doors, only giving brief statements or press conferences on camera. (Roederer-Rynning & Greenwood 2015; Costello and Thomson 2013)

Another unbalance concerning information and favoring the Council is produced by the depth of information 27 sets of well established national ministries and bureaucracies are capable of producing to support the work of the Council, whereas the resources of the EP are modest in comparison (Roederer-Rynning and Greenwood 2015, Thomson 2015). This can easily lead to situations where the Council can claim something as "a fact" based on expertise or research conducted by them.

The support of national bureaucracies is at least somewhat connected to a clash of cultures in the trilogues that is described as "a game involving the 'adult' solution orientated Council and the teenage Parliament" (Roederer-Rynning & Greenwood 2015, 1155) as the EP tends to advocate for solutions further from status quo than the Council. The core of the EP negotiation team consists of relevant committees chair, rapporteur and shadow rapporteurs, all MEPs, directly elected politicians. On the Council side the distance to elected politicians is larger as it is rare for a national minister to participate in trilogues and the negotiations are usually carried out by civil servants in the technical trilogues and by permanent representatives at the political trilogues (Roederer-Rynning & Greenwood 2015). However, this dynamic can be in

favor of the EP, as the politicians are more used to political negotiations than typical civil servants. In addition, the rotating Council presidency keeps any one individual from gathering a significant amount of experience from trilogues as the representative of the member state.

The imbalance created by the participation of both politicians and civil servants can also be used by the EP as leverage. As MEPs are directly connected to the electorate, it might be difficult for civil servants to refuse a demand from “the voters” that is just communicated through an MEP (Thomson 2015, Roederer-Rynning and Greenwood 2015). On a larger scale, this can also be connected to the ideals of democracy: the EP needs to have at least some authority in the negotiations as they directly represent the European citizens.

A minor detail that could be seen as favoring the EP is that they are usually in charge of the logistics of the trilogues. The meetings are held in the EP meeting rooms and more importantly, typically chaired by the chair of the relevant EP committee (Inside the black box of trilogues: introduction to the special issue/ Brandsma et al 2021, Roederer-Rynning and Greenwood, 2017)

Finally, it has been theorized that the size of the delegations could play a role in bargaining success of the colegislators. Roederer-Rynning and Greenwood (2015) describe the typical attendance on the part of the EP being 20-30 people with a wide representation whereas the Council delegation is typically just a few people and occasionally up to 10. The larger EP representation allows all the participants to know exactly what has been said in the negotiations, but runs the risk of the delegation acting contradictory during the trilogues as many views are represented.

2.2.2 The mystified four column document

One of the key tools, perhaps even the key tool in trilogues is the four-column document. As trilogues are not formalized, by any official rules but rather

conventions that vary by the EP committee in question, the four-column document is not standardised and variance can exist.

The basic idea of the document is to keep track of the negotiations, both for the sake of the people negotiating as well as a way for them to report back to the Council COREPER and the EP Committee (Brandsma et al 2021b)

At the beginning of the trilogues, the first column of the document is for the Commission's proposal, the second for the EP's amendments as stated in their first reading position and the third for the Council's amendments as stated in their General approach or Partial general approach (PGA). The fourth column is reserved for commentary on problems, possible solutions and compromises found either on technical or political level. The accepting of the fourth column is officially completed in trilogues, a (series) of negotiation(s) between officials of the three legislative bodies of the EU and later "rubber stamped in public meetings" (Brandsma 2019, p. 1464). However, it is common practice to have supporting technical meetings to negotiate the details of the legislation in a more exclusive composition, made up mainly of public servants working under the mandate and supervision of their respective institutions (Roederer-Rynning and Greenwood 2015). The four-column documents have traditionally been kept secret from the public until the trilogues are finished as they are constantly changing and contain information considered sensitive by the people in the negotiations. In 2018 the Court of Justice of the European Union ruled in the De Capitani case that:

"trilogues must be considered integral parts of the EU's legislative processes, and that the argument of 'a serious undermining of the decision-making process' cannot be used as a default reason to refuse access to trilogue documents: any risks emanating from publishing such documents must be specified and substantiated, and cannot be purely hypothetical when access is refused." (Brandsma 2019, p.1470)

Despite this ruling, the four-column documents are not generally readily available for the public during the ongoing negotiations (Roederer-Rynning and Greenwood 2021).

3. Methods and material

3.1 Methods

The method chosen for this research was to find a suitable case study and gain a better understanding of it by finding and studying the available documents from the relevant EU websites and interviewing the people involved in the trilogue negotiations. The case of Erasmus was selected as there was a great opportunity for getting an interview from a key negotiator and then with snowball sampling, secure a series of interviews with people who were assessed knowledgeable of the trilogues by the contact (Littig 2009, p. 103-104).

3.1.1. Expert interviews

Four interviews were secured for March 2020 as a limited number of people involved in the trilogues were preliminarily interested in giving interviews and one of the interested was recommended by a superior not to give an interview. Three of the four interviewees represented the Council and one represented the EP, all of them working on a civil servant level of the bureaucracies.

The interviews were conducted as semi-structured, where wide and open ended questions (for example, "What would you like to tell about DiscoverEU?") were asked and the goal of the interviewer was to be "stimulating-passive individual who merely encourages the respondent to speak" (Abels and Behrens 2009, p.141) while also being ready to ask further questions and clarifications. The topics discussed in the interviews were evolving through the set, as it became clearer with time which issues were the most controversial and therefore interesting in the trilogues.

3.1.2 Finding and gathering legislative documents

Much of the documents of the EU legislative process are available online. The key sources for this research were the EP website and the Council website as their

actions were a key interest to this research. As for the EP documentation, the documents were conveniently gathered in a single page on a “Legislative Observatory”. As convenient as the EP-provided Legislative Observatory is in explaining the whole process and schedule of the legislative process, it is seriously lacking in terms of the documentation concerning the Council. Only two links to general Council websites were provided instead of direct links to relevant .pdf documents as was the case of the documents provided by other institutions (European Parliament 2018).

Some of the most relevant documents for this research such as the four-column documents were found from the Council's Document register after the negotiations were concluded in December 2020. Again, the documents best supporting the expert interviews were selected for further analysis. A minor obstacle was faced on the Council's Document register: some of the listed files were inaccessible and a permission to access them was required. All these inaccessible files were requested with a form and they were delivered within a week.

3.1.3 Analyzing the material

The gathered material was processed with the use of atlas.ti, a software tool for analyzing qualitative data. The analysis focuses on three topics where major disagreements appeared. These three topics were coded in atlas.ti to enable comparing between different documents, most importantly the expert interviews and the positions in the final four column document and the Council first reading position.

Finding the same topics from different documents proved to be mostly, yet not completely, reliable: the legislative proposal is separated into numbered lines in the four column document and these stay constant throughout all the stages of the four column document. The amendments are numbered both in the Parliament and Council positions and these prove to be considerably harder to track as the paragraphs they refer to might change place or shape drastically or even be completely removed during the negotiations. The numbering of the paragraphs was also different in the Council first reading position in comparison to the four column

document but as the text stayed same or similar, following these changes was not difficult.

As for the interviews, there was a greater risk of unclarity in terms of what exact topic, line or amendment was under discussion as marking is not as clear as in the written texts. The practicalities of March 2020 forced all interviews to be conducted from distance in a situation where that was still relatively new for everyone involved. Another uncertainty is the nature of remembering: the interviewees were recalling details that were under discussion at the worst more than 7 months ago. It also has to be noted that the interviewees were interpreting and reconstructing the events through their own context. To better take into account these limitations, things said in the interviews are contrasted with the legislative text when possible and not presented as fact but as their statements describing the events.

3.2 Material

The material of this research consists of two sources: the relevant official documents of the EU legislative process and four expert interviews conducted for this research project in early 2020. As the research process has extended until Spring 2021, the legislative files are plenty and the legislation is expected to be adopted after this research is finalized. The most important legislative documents for this research are the first positions by the legislative bodies as well as a four-column document from near the end of the trilogues as well as the Council first reading position, representing the final compromise of the trilogues.

3.2.1 EP Legislative material

On the Legislative Observatory of the European Parliament website there are 21 legislative documents listed as of April 2021 (European parliament 2018).

Seven of these documents are contributions of national parliaments. They are often in the domestic languages, ranging in length between 1 and 19 pages. These

documents were ruled out of the primary material as they are difficult to access due to language barrier and do not offer significant insight to the process as a whole.

The Commission has four listed documents on the page: most importantly the 64 page *legislative proposal* (European Commission 2018) which offers this research the basis of the Commission's opinion in the negotiation alongside the *Commission response to text adopted in plenary*, a short comment on the EP position.

The Commission also provided two attachments to the proposal, Commission Staff Working documents on *Main actions implementing the Erasmus Programme (77 pages)* and *Impact Assessment (14 pages)*. These documents will not be included as primary research material as they are not a major part of the legislative process. However, the texts were used to clarify the details which were under negotiation in the trilogues.

The EP has eight listed documents: 6 of them are reporting the work of the Committees. These texts are ruled out of the primary research material, as the main interest of the research is on the inter-institutional negotiations rather than the intra-institutional ones. However, these documents were used to clarify the process of reaching the conclusion in the EP. The same reasoning applies to *Committee report tabled for plenary*.

In the case of the EP, the most important document for this research is the *Text adopted by Parliament*, which consists of the Commission proposal in its original form as well as the Parliament opinion, the same text but with 170 EP amendments, ranging between singular words added or changed to complete chapters rewritten or removed. Another important piece of documentation which is not mentioned on the Legislative Observatory website is the *Parliamentary debate*, which is available in a video format with simultaneous interpretation in several different European languages. This will be used as secondary material, mainly to showcase the unanimity of the EP's political groups on the topic of Erasmus.

European Economic and Social Committee and European Committee of the Regions both provided their opinions to the Commission's proposal. The amendments of

these committees have been ruled out from the material of this research, as they are not binding to the decision making process.

3.2.2 Council Legislative material

The Council website also offers a number of documents concerning Erasmus 2021-2027. However, in this case a similar “observatory” where the whole process would be explained on one page could not be found. Instead, a search in the register with the inter-institutional file number provided a number of results and access to central files used in the Council.

In March 2021, some documents were not available for reading before specifically requesting for access with a linked form. Out of the three documents requested in March 2021, all three were delivered via email within a week. In April 2021, these same three documents, containing the Council's 2018 Partial General approach (PGA) and four column documents from late 2020 and late 2019 were accessible for all without the need for a request.

Out of the 42 results found in April 2021, the most important ones for this research are the PGA from November 2018 (Council of the European Union 2018) where the Council position heading into the inter-institutional negotiations is defined and a *Preparation for the trilogue* (Council of the European Union 2020), a document from late 2020 which included the four column documents used in the last political trilogues.

It is worth noting that whereas the legislative documents were more easily accessible on the EP website, the search in the Council document register provided more relevant results for understanding the whole process in depth. However, the Council website was the most useful only after the negotiations were finished and a political compromise was found.

3.2.3 Expert interviews

Most of the meetings and negotiations to solve minor conflicts of interests and differences of opinion were held between people lower in the EU hierarchy. Interviewees described the number of technical meetings being in tens, whereas only 3 political trilogues were held during the Finnish presidency. The public servants attended the trilogues, but their higher ups did not attend the technical meetings.

The interview material gathered consists of four semi-structured interviews and focuses especially on topics that were difficult to agree upon in the trilogues. The position of officially non-political or at least politically non-aligned public servants in an anonymised interview allows them the option to speak more openly than political representatives (MEPs, permanent representatives, ministers) could have. The lower position in the official hierarchy also allowed asking for and securing longer interviews.

On the other hand, researching political decision making processes by interviewing people who do not officially hold the capacity to make political decisions can be problematic. The challenges faced during the interviews were oftentimes the downsides of the positives mentioned earlier: the interviewees knew the substance of negotiations well, with the notable exception of knowing the actual reasoning of the people and institutions making the political decisions. Some of the why questions in the interviews could be only answered with educated guesses on the actual reasoning.

A less materialized risk was the downside of being able to express one's opinion more freely: being able to hide behind an authority. The decisions made in the negotiations, especially more questionable or difficult to understand, could be explained away by referring it to as a decision made by "the politicians" or "national capitals".

The limitations set by the interview data are twofold, as the perspective gained from the interviewees is limited both temporally and positionally. The trilogues were not concluded during the Finnish presidency in 2019, and many of the most difficult

compromises were found only a year later: no interview data is available for these negotiations for this research. However, the interviews are still useful for interpreting the solutions as many of the problems and their possible solutions were already discussed during the Finnish presidency. The second limitation is positional, as most of the interviewees were Council's civil servant representatives. On the one hand, they are the most knowledgeable on the topic as they attend all levels of meetings in the trilogues, but on the other hand they are not as capable of explaining the political incentives. The strong representation of the Council and non-existent representation of the Commission was due to practical issues but can be justified with focus of the research. The EP position is already somewhat well known as it is discussed in a public plenary and therefore a smaller set of interview data is sufficient. The Commission's role during the trilogues was earlier described as minimal in comparison to the colegislators. However, it could have been beneficial for the research to be able to have a discussion with a representative of the Commission.

4. Analysis

Timeline

The case of preparing Erasmus+ for 2021-2027 started with the Commission preparing a legislative proposal that was adopted on May 30th 2018. The Commissioner responsible for the Directorate General for Education, Youth, Sports and Culture was Hungarian Tibor Navracsics.

The Council has a system of rotating presidency where the member state responsible for chairing the Council changes every half a year. For the latter half of 2018, the Council presidency was held by Austria and during their term they managed to negotiate a PGA for Erasmus. The document was approved on November 8th 2018. Questions regarding the budget, the DiscoverEU programme and linking funding to the rule of law were ruled by the Council to be issues that needed to be discussed at a higher political level by the European Council as a part

of the MFF negotiations. As the budget remained outside of the scope of the Council position, the approach was called partial, instead of a more standard General Approach. During the early 2019 and the Romanian presidency no significant progress visible in any documentation was made in terms of Erasmus.

In the EP, the Committee of Culture and Education (CULT) was responsible for the legislation and in 2018 chaired by Petra Kammervert (S&D). Milan Zver (EPP) was appointed as the rapporteur on June 1st 2018. In March 2019, the EP adopted its first reading position on Erasmus.

In May 2019 elections for the EP were held and MEPs, Committees and rapporteurs were changed. Also the Commissioners were replaced by new ones, led by Ursula von der Leyen. For Erasmus, Zver was reappointed as the rapporteur on July 18th 2019, but the chair of the CULT committee was now Sabine Verheyen (EPP). In the Commission, the Directorate General responsible was led by Bulgarian Mariya Gabriel.

On July 22nd 2019 the EP CULT committee decided to open the inter-institutional negotiations. The Council was chaired by Finland in the latter half of 2019 and three trilogues were held: first of them on 7 October, second of them on 19 November and third of them on 9 December. Besides the trilogues, a number of technical meetings and bilateral communications were held (Interviews A, B, C, D). The trilogues were partly made more difficult due to changes in political leadership in Finland where the Rinne government started its work in June and was replaced by the Marin government in December. The Commission led by Ursula von der Leyen started its work officially in December, which allowed the Commission civil servants to prolong making decisions during the latter half of 2019 (Interview A).

During the negotiations under Finnish presidency much of the compromises were found and key disagreements were identified. One of the issues prolonging finding a compromise was the question of budgeting which was to be confirmed at a later date as a part of the MFF negotiations. Not much was gained during the Croatian presidency in early 2020 as the budget was not negotiated and the question of

governing the programme remained problematic (Council of the European Union 2020).

In July 2020 the MFF was agreed upon among the leaders of the member states and in November by the EP. The budget was formally accepted on December 17th 2020. In the latter half of 2020 the Council was chaired by Germany, and as the compromise on budget was on sight and the planned starting date of Erasmus 2021-2027 was getting closer, a series of technical meetings were organized in September, October and November. The inter-institutional negotiations were concluded by two trilogues on December 7th and 11th.

On January 11th 2021 the compromise was approved in the EP CULT committee and on April 13th the Council adopted its first reading position. The legislation is to be expected to be approved in an early second reading as the Council 1st reading position is already approved by the EP committee responsible.

If the Erasmus legislation is approved by the EP in the 2nd reading as expected, the regulation took 3 years to be approved after the Commission's proposal. Compared to average lengths of the Ordinary legislative procedure for the 8th parliamentary term of 2014-2019, the case of Erasmus was quite average in length: most of the OLP cases were finished in the first reading and on average in about 18 months. However, Erasmus 2021-2027 will most likely be accepted in an early second reading, where the average length of the process was 39 months, making Erasmus notably quick as an early 2nd reading process, potentially signaling the relative lack of disagreement over the topic. (European Parliament 2020)

4.1 Trilogues: a process of finding inter- and intra-institutional compromise

Erasmus 2021-2027 is heavily based on the pre-existing Erasmus+ 2014-2020 programme. An often repeated guiding principle was “Evolution, not revolution” (see for example Commission 2018b).

The main goals set in the Commission proposal besides keeping and improving the already existing features were offering the chance to participate to more people than before by making the programme broader and more inclusive. These goals were important to the EP and Council as well. According to the interviewees (A, B, C, D), most of the chapters in the legislative proposal were at least somewhat easy to negotiate as the three institutions shared the same goals in general. It was the best means to reach those that were sometimes up for debate.

Three major points of disagreement or at least points that needed longer negotiations that were pointed out by the interviewees are going to be discussed: new initiatives, inclusion and governance. Out of these three, only the topic of inclusion was provisionally agreed upon during the Finnish presidency in late 2019. The following chapter focuses on what were the “own will[s] in a social action” (Weber 1914/2007) of the actors, or in other words, what goals were the EU institutions pursuing in the trilogues.

4.1.1 The EP able to get what they want - even against the original wishes of some member states

For the purposes of this research, the question of DiscoverEU offers a great example of a situation where the EP was able to get their way even against the resistance of a large portion of the member states. It serves as an example of the EP’s influence in the decision making process as well as an example of intra-institutional opinion forming. The basic idea of DiscoverEU is simple: handing out interrail tickets to tens of thousands of young Europeans to help them experience Europe. Later on, it became clear that some sort of a strong learning component was needed to include it to the Erasmus programme.

4.1.1.1 Original positions of the institutions: setting the stage for trouble

Throughout the trilogues DiscoverEU has been a challenging topic. From early on, it was important for the EP to have it included in the new programme. The DiscoverEU

initiative originates from the EP, and specifically its largest political group, EPP. As for the Council, the opinion on whether DiscoverEU should be included in the programme at all was divided to the point of a small scale internal crisis.

When the Council PGA was negotiated in late 2018, a consensus on the Council position on DiscoverEU could not be reached (Council of the European Union 2018). Those who were opposing the initiative were worried about DiscoverEU being too focused on the travel and “tourism” aspect and could even hurt the image of Erasmus as a learning programme. Other concerns raised were the safety of the young people traveling by themselves under EU support, the inclusion of member states at the peripheries of Europe without rail connections and finally the budget - were the gains worth the investment? No absolute divisive line in member states for and against could be identified by the interviewees but those opposing seemed to be the same countries that are generally against adding to the EU’s expenses (interview A).

The Austrian chair of the PGA negotiations decided to put the question to a vote, apparently expecting the vote to be in favor of the initiative despite the concerns voiced by some of the member states. The vote ended up being a draw, and the reaction of the Austrian chair, later described as an action of “panic”, “mistake” and “overreaction” (Interviews A, B, D), decided to put the question of DiscoverEU to the “negotiation box”, meaning that it would no longer be negotiated as a normal part of Erasmus trilogues but would have to be decided upon by the national leaders. (Interviews A, B, C, D)

As the EP formulated their first reading position well after the Council PGA, they had the opportunity to make their stance on the issue clear. The EP did this by adding an annex to their first reading position, where they stated that they would treat DiscoverEU as a part of a package of “new initiatives” that also includes the European Universities and Centres of Vocational Excellence (European Parliament 2019; interview C). The reasoning from the EP side to treat the initiatives as a package was that if the total funding of the programme allows it, they support adding “new” elements to Erasmus, but if the funding is not high enough, it is “better to cut

off some functions entirely than to do everything less well” (Interview C). All of these initiatives have already been piloted by the Commission in 2019.

The goal of the European Universities initiative is to create more top level universities in Europe as well as to help make the networking of students and staff easier on the continent.. In the Commission proposal (European Commission 2018a) a reference was made to the *Communication on Strengthening European Identity through Education and Culture*, a document which was based on an informal meeting of EU heads of states in Gothenburg. The goal of strengthening the networks of European Universities is shared by all three institutions, and the main difference was found in how to define the initiative and how detailed the definition should be. The EP especially was in favour of a more detailed description as it is the institution that has the least influence on the implementation later on.

Centres of Vocational excellence is similar to European universities, both in its goals as well as in its reception by EU legislators. The purpose of Centres of Vocational excellence is to strengthen education in Europe by advancing networking and exchange of good practices, in this case in the field of vocational skills. The topic was not highly contested and received very minor amendments in the EP first reading position and no amendments in the Council PGA. One of the interviewees (D) speculated that one of the main reasons for the initiative existing has to do with Commission internal politics: European universities are under the administration of DG Education, Youth, Sport and Culture. Wanting their share of the budget, DG Employment, Social Affairs and Inclusion wanted the Centres of Vocational excellence initiative, which would be under their administration.

At the beginning of the Finnish presidency and the Erasmus trilogues, the EP made it clear to the Council that they would not discuss any of the new initiatives if DiscoverEU was not on the table (Interview A, C, D). This combined with the unfinished MFF and changing political leadership made the starting point of the trilogues “very difficult” (Interview A).

4.1.1.2 Council intra-institutional compromise found to give EP what they demanded

As the DiscoverEU initiative was officially out of reach of the Erasmus trilogues, it was not officially negotiated during the first period of trilogues under the Finnish Council presidency. However, important intra-institutional work was done as DiscoverEU was removed from the negotiation box and returned to the Erasmus trilogues by the end of 2019: a turn of events described as a great success of the Finnish presidency (Interviews A, D). The next Council presidencies would now be able to use the DiscoverEU initiative as leverage (Interviews A, B, D) if they so wished. This sort of shift in opinion from a tie in the vote when forming the Council PGA to at least some level of general acceptance in 2019 and eventually being incorporated into the final compromise during the German presidency requires further inspection. At least four potential explanatory factors can be found.

Firstly, it could be possible that the change in the Council's position was due to changes in domestic politics, for example changes in the national governments or policies. The final compromise was reached more than two years after the Council PGA: it is by no means impossible that one or more member states had major changes in their governments. However, as the Council tends to seek compromise and consensus (Brandsma et al. 2021b) it seems unlikely that this alone would be able to explain the shift in the Council's position.

Another factor could be the strong role of the representatives negotiating in the trilogues. In Delreux & Laloux (2018) description of principal-agent theory, the Council presidency, similarly to the EP rapporteur, are working as agents for their principals, the Council and the EP respectively. In the trilogues they are not only negotiating with the other institutions representatives, but they are also simultaneously negotiating with their own institutions: what compromises are acceptable, how flexible certain details are, what has to be included in the results and what is secondary. Even as the power to make decisions lies in the principal and not the agent, the relais-actor thesis (Farrell and Héritier, 2004) claims that under an informal setting like the trilogues, the agents have some space in which to operate somewhat freely to find a way to an acceptable compromise.

Delreux and Laloux (2018) distinguish three important actions taken by the agents in trilogues, two of which have high potential of explaining the case of DiscoverEU. Firstly, a tied hands situation could have been expressed on behalf of the rapporteur by claiming that he is not able to accept a deal without the DiscoverEU initiative, as it would not be accepted by his EP principals. This is supported by the fact that the rapporteur Milan Zver comes from the EPP party, to which the initiative is especially important (Interviews A, C; EPP Group 2018) and therefore great pressure was put on the rapporteur to deliver a favorable bargain. This perception in turn could have been used by the EP representatives to strengthen their position on DiscoverEU.

It was also theorized that:

“The agent can affect intra-institutional coalition formation by bringing in allies from the other institution into his intra-institutional negotiations, which enables the agent to transmit the inter-institutional pressure onto the blocking principals.” (Delreux and Laloux 2018, p. 305)

In the case of DiscoverEU that would mean that the gridlock created inside the Council over the initiative was in part solved by the strong opinion of the EP, giving the member states in favor of DiscoverEU enough leverage over those against the initiative to change the Council position on the issue. Based on the interviews, it seems unlikely that the German presidency attempted to actively forge an *ad hoc* alliance with the EP over DiscoverEU. The initiative did not seem to be of the utmost importance to any of the member states, and one of the interviewees (A) even reasons that while formulating the PGA, Germany mostly voted in favor since they knew they might end up negotiating in the trilogues later on.

Third potential explanation for DiscoverEU being included is direct EP pressure towards the Council. As discussed earlier, they were willing to leverage two Council-preferred initiatives in order to get DiscoverEU accepted. In theory, as the EP's approval is needed for the legislation to pass, they even could have threatened to slow down or stop the whole legislative proposal from passing without DiscoverEU. This does seem unlikely, as the political backlash on sabotaging such a famous and respected EU programme would have been massive. Therefore it is more likely that other methods were used: using the other new initiatives as leverage

and communicating the willingness to make concessions elsewhere. This explanation is supported by a piece of text concerning DiscoverEU in a Council interior document from before a trilogue in November 2020: “[...] *the Presidency would invite delegations to consider whether they could accept including all three initiatives as part of an overall agreement.*” (Council of the European Union 2020) Even as the singular initiative was not preferable, the overall agreement ended up being preferable.

Lastly, it is notable how much the paragraph concerning DiscoverEU has changed from the Commission’s proposal and original positions of the colegislators (Council of the European Union 2020). It seems possible that instead of member states changing their minds or the EP being able to force their will on the Council, the paragraph is modified until every member state finds it acceptable. In the Council first reading position, two of the concerns expressed by the member states in 2018 were directly addressed: firstly, “a strong learning dimension” is mentioned, answering to the worry of DiscoverEU diminishing Erasmus as a learning brand and secondly, it is underlined that the initiative should be inclusive in terms of allocated travel passes and countries visited, diminishing the resistance of peripheral member states. (Council of the European Union 2021a)

To conclude, it is clear that the EP managed to include an important initiative to the final compromise even against the earlier resistance of a significant number of member states. It does remain unclear which exact factors led to them having their goals materialized. The most likely explanation seems to be some combination of all or most of the reasons explained above: a successful bargaining process, where the EP in cooperation with the German presidency was able to modify the initiative to an acceptable form and make concessions in other areas to gain in this particular question.

4.1.2 Shared goal - different methods

Whereas DiscoverEU was a genuine difference of opinion that was solved through the Council’s shift of opinion, the added inclusion was something everyone agreed

upon on a fundamental level but the question of “how” proved to be challenging at times (Interviews A, C, D). Three key conversations are analyzed in the following: how detailed should the text be in terms of its goals, who are the people with fewer opportunities and how to take into consideration the sometimes contradictory legal technicalities.

4.1.2.1 Short mention of inclusivity amended into a series of paragraphs

Inclusion was an important goal for improving the Erasmus 2021-2027 for both the Council and the EP as some were worried that Erasmus could be moving to a direction where it caters only to the needs of the most privileged (Interview A). All the institutions involved agreed that more Europeans should have the opportunity to go abroad, and that the reach of the programme should be widened in a way that leaves nobody outside (Interviews A, B, C, D).

In the Commission proposal, inclusion was discussed in one, rather short chapter where it was mentioned that “The programme should be more inclusive by improving its outreach to those with fewer opportunities” (European Commission 2018a, Paragraph 16) and that virtual and blended mobility should be promoted (European Commission 2018a). In the Council PGA, only one amendment was made, clarifying that virtual mobility should be in addition to physical learning mobility (Council of the European Union 2018).

The EP approach on the issue was completely different: instead of briefly stating what should be done, their first reading position amended the paragraph 16 considerably and added four new paragraphs (16a, 16b, 16c, 16d) going into detail regarding how inclusion should be taken into consideration in terms of funding, administration, understanding who are the people with fewer opportunities and potential of virtual mobility. Besides this, mentions of inclusivity were added throughout the legislative text in other paragraphs where it was not already specifically mentioned. (Council of the European Union 2020)

4.1.2.2 Conveying the meaning and leaving enough national flexibility

As mentioned earlier, inclusion was best described as something everyone agreed on in principle, but finding a common way to reach the goal was challenging. The first obvious difference in opinion was the level of detail. As one interviewee put in on behalf of the EP:

“If we were going to be serious about it, we needed to make it [inclusion] more prominent. We felt that what was in the Commission’s original proposal, yes, in terms of communication they mentioned it, but in terms of legislation there was very little there that would actually make clear that this was a central aim. The Parliament wanted it to be stronger.” (Interview C)

This approach is showcased clearly by the number and scope of amendments made in the first reading position. The Commission and Council’s original approach, leaving inclusion to nearly a mere mention, has at least two potential explanations. First, based on the Commission proposal and Council PGA alone, the mention of inclusion could be seen as something resembling empty promises: inclusion is mentioned as a vague target and a value, but willingness to take action is lacking. This interpretation is supported by one of the interviewees (A) telling that the Commission felt uneasy about inclusion being such a central topic as they were of the opinion that the programme was already inclusive. The Council in their part held on to a rule of thumb during the Finnish presidency that the programme should be inclusive but it should not be an inclusion programme (Interviews A, D).

The second explanation for the Commission and Council’s approach of few words is to be found in the governance of the programme all throughout its years of implementation: compared to the EP, their possibilities in shaping the ways in which the legislative text is understood and implemented are far greater. This allows the Commission and Council to be far more comfortable with a relatively loose regulation, as they know they will still have an impact on the inclusion measures later on (Interview A). The question of whether this model of governance is justified or not

and how the EU institutions viewed it in the case of Erasmus will be discussed in the following chapter.

In the final compromise, the issue was resolved by having two chapters dedicated to inclusion. Compared to the Commission proposal they set much more strict limitations and guidelines on how to advance inclusivity. One of the two chapters is focused on making sure that nobody is excluded due to the cost of participation and ensures higher grants for people who need it: for example to facilitate for a disability. EP also dropped a number of amendments from the final text: some of them were merged with others but a reference to the United Nations's Human Rights Convention was dropped from the final versions as were the demands for the member states to ease administrative obstacles for transnational mobility (Council of the European Union 2020).

Perhaps the most central detail on the topic of inclusion was the definition of people with fewer opportunities. If the goal is to implement changes that include those earlier in risk of being left out, it is important to set out guidelines on who they are. Financial reasons were an easy starting point and especially central to the EP (Interview C). With the Erasmus grant alone, most people were not able to finance their living abroad. During the 2014-20 programme, there was already a mechanism in place that allowed participants to apply for more financial support after providing proof of needing it. An idea of making the Erasmus grant means tested, providing it only to those whose family is not wealthy was discussed in the trilogues and was brought up by two of the interviewees (A, C). The idea of means testing was strongly opposed by the Finns who happened to be holding the Council presidency at the time and the controversial idea was bypassed by a vague wording that gave member states relative freedom on the issue (Interviews C, D).

Another approach to defining people with fewer opportunities was listing obstacles that could make people's access to the programme more difficult, including economic, social, cultural, geographical and health reasons (European Commission 2018a). The EP claimed that a list was not enough and demanded to include a reference to the Charter of Fundamental Rights of the European Union (Council of the European Union 2020). What ensued was a confusing argument about legal

technicalities: it was not clear if it would be possible to refer to a Charter that already applied to EU legislation. The legal services of the Commission, the Council and the EP were brought into the discussions and helped to find a compromise where the list of obstacles remained and a reference to the Charter was made indirectly. (Council of the European Union 2021a; Interviews C, D) Two of the civil servants interviewed for this research considered a large part of the discussion somewhat pointless as the same meaning could have been conveyed with or without the reference (Interviews C, D). Eventually, a large part of the responsibility for targeting people with fewer opportunities to participate on Erasmus was left for the member state officials (Council of the European Union 2021a). It was thought that they are best aware of who is at risk of being excluded and that those groups are not the same all over Europe. “In Finland they are boys who live in the East, somewhere else they might be the Roma people of Romania or Bulgaria” (Interview A).

4.1.3 Governance - A fundamental disagreement

The question of governance remained one of the major issues that could not be solved during the Finnish presidency and even caused the negotiations to be frozen in early 2020 as the EP demanded a proposal on the topic from the Commission (Council of the European Union 2020). Part of what made the question so difficult was its horizontal nature: it was unclear as to how a decision made in the Erasmus trilogues would affect the decisions over governance in other funding programmes in other sectors (Interview A). During the Erasmus+ 2014-2020 programme, the governance of the implementation has been mainly in the hands of the Commission, with some control and oversight by the member states (European Union 2013, Paragraph 46; Interviews A, C, D). To highlight the significance of governance with a practical example, there was no mention of DiscoverEU or Interrail in the original Erasmus+ 2014-2020 legislation, but it was still possible for the Commission to launch a pilot, enabling thousands of young Europeans to travel with the financial support of the EU.

4.1.3.1 The EP making demands on renewing governance

The topic of governance in Erasmus is considerably more difficult to research than the questions of DiscoverEU and inclusion discussed above. With the initiatives, the question was whether or not to include them in the legislative text, and at least the EP wanted to make sure that the final text is detailed enough for a clear interpretation. For governance, it was clear that it had to be included in some form to make implementation possible. However, the definitions and rules were anything but straight forward. References to earlier legislation, practices, annexes and articles were plentiful, and without earlier knowledge of the topic of governance, the conversation was difficult to follow from the legislative documents.

According to a Preparation for a trilogue document from late 2020 (Council of the European Union 2020), the question of governance is centred around the line 136 in the same document. The Commission proposal states that:

“The description of the actions supported under each key action is set out in Chapter II (education and training), Chapter III (youth) and Chapter IV (sport).” (Council of the European Union 2020, Line 136)

The Council PGA did not amend the Commission’s position. The EP on their part, kept the Commission’s text and added after it an amendment stating that:

“The operational objectives and corresponding policy priorities for each action shall be specified in detail in the work programme referred to in Article 19.” (Council of the European Union 2020, Line 136)

The difference between the two positions is the EP insistence on setting stricter limitations for the implementation of the programme, tying up the key actions to the work programme.

In the Article 19 (Council of the European Union 2020), the Commission proposes that the programme shall be implemented by yearly work programmes that are adopted by implementing acts. The EP’s amendment would have the programme

implemented by delegated acts instead. The interviewees explained the issue in more practical terms: From the EP's point of view, they have a significant amount of control over the programme when it is formed in the trilogues, but for the course of the seven year MFF, the control they have over implementation is small or none (Interviews C, D). It was in their interest to find a solution that would give them a way to influence the implementation of the programme, and in their first reading position that was done by steering the implementation work of the Commission with delegated acts. As was pointed out by the Council and especially the Commission, the risk of this method was making the system so rigid that it would make implementing the programme too strict (Interviews C, D).

Some potential compromises were discussed during the Finnish presidency, including a network system where the EP would have had a role, but no solution was found. The unconstructive approach taken by the Commission over the topic was mentioned by three of the interviewees (A, C, D): the Commission was ready to point out shortcomings of the suggestions, with no interest in making their own proposals. One of the explanations given for this was the lack of political leadership in the Commission (Interview A), as they did not have a Commissioner for the most part of the latter half of 2019. In early 2020, the EP paused the negotiations and set two conditions for continuing them. One of them was budget-related, the other was that the Commission would set forth a proposal on governance. This would only happen in September (Council of the European Union 2020), during the German presidency.

Such a strong role, albeit negative one, played by the Commission seemingly challenges the interpretation of their negligible role in the trilogues (Thomson and Costello 2013, Panning 2021). These events can be explained without contradicting the earlier assessments: one of the interviewees (D) stated that in some minor cases the EP and the Council made some decisions that were displeasing to the Commission. However, in this case they did not choose to do so. Whereas the EP had a strong interest in gaining more control over the implementation of the EU programme(s), the Council already had some control in the status quo through the yearly work programmes and implemented acts. For the member states it was more important to offer the implementing body a solution under which they would be confident in their ability to functionally implement the programme rather than to give

in to the EP's demands. On the other hand, it was the EP whose consent was needed to pass the legislation, so a compromise was needed.

4.1.3.2 Finding a compromise near the status quo

In the Council first reading position the problem of governance was solved in two ways: first, the goals and the assessment of reaching those goals were defined in more detail in an Annex to the legislative text. According to a Council document (Council of the European Union 2021b), the limitations set in the annex were sufficiently lean to allow the needed flexibility in the implementation, but still reassured the EP that the programme would be used in a way that is agreed upon in the trilogues. The second development was “empowering” the Commission to use delegated acts if it deemed making changes to the annex necessary. This should limit the Commission from making drastic changes in the implementation without the consent of the colegislators.

It remains unclear whether the EP considered this compromise as a win or as a satisfactory part of the complete Erasmus agreement as there is no information available on whether this compromise was answered by a concession on another topic from one side or the other. Roederer-Rynning and Greenwood (2015) claim that it is typical for the EP to often start with an extreme position and then as a “concession” accept something a bit closer to the Council position. On the one hand, the EP did not get what they wanted, but on the other, they ended up with much more influence than what they had in the implementation of the Erasmus+ 2014-2020 programme.

4.1.4 How capable were the actors in reaching their goals?

The previous subchapters discussed the process of trilogues in terms of three key policies: DiscoverEU, inclusion and governance. These were considered some of the most difficult compromises to reach (Interviews A, B, C, D), but they were not the only ones. The latest four column document available has almost 400 lines, each

representing an issue that had to be solved somehow. As shown above, the system of colegislation and trilogues forced the EU institutions into seeking compromise: no one actor can force their will through. Despite these limitations set by the Treaties and practices establishing the ways in which decisions are made in the EU, it still remains that some institutions tend to have more influence on the policy outcomes than the others (Costello and Thomson 2013). To return to our original definition of power as the ability to realize one's own will even against the resistance of others, is it possible to draw conclusions of power relations within the Erasmus trilogues?

First of all, some of the actors that realized their will, not necessarily against the resistance of others, are the representatives of the German presidency: they had only a limited amount of time to negotiate an agreement that would be accessible to both the Council and the EP before the end of their term in the Council presidency. The same can be applied to the EP negotiation team, without as tangible a time limit. Delreux and Laloux (2018) describe the prestige and reputation as the stakes of the representatives in the trilogues. In the case of Erasmus, it was especially the Germans who gained these prizes.

However, in an agreement where the original positions between the institutions were at times significantly different, some have had to adapt more than others. This problem can be approached through a Statement of Council's reasons - document attached to the Council's first reading position. The document lists five "main issues" and five "other issues" solved in the trilogues. The solution on governance is presented as a compromise as is the question of including the DiscoverEU initiative. The topic of inclusion is described as an issue where the Council agreed to the EP's wishes. Similar formulation applies to questions on adult learners and European added value. Issues of slightly adjusting the budget in certain sectors, changing the name of the programme to Erasmus+ and adding details to the indicators were presented as neutral cooperation of the colegislators. These descriptions are supported by the EP first reading position, Council PGA and the interviews conducted for this research.

Judging especially by the cases of DiscoverEU and governance, it seems like the Erasmus trilogues were hardly about trying to realize one's will even against the

resistance of others, but more about trying to formulate all policy proposals into a form that would make them acceptable for both the EP and the Council. One potential explanation for this is the informal nature of the negotiations: looking for compromise together is easier than trying to gamble on the success of public reading positions. This consensus-seeking could also be explained by the popularity of the Erasmus programme. It was difficult to find voices from the EP plenary or the Council first reading position voting results that would be opposed to the programme *per se*; the question was always about what is the best way to do it, not whether or not it should exist in the future. Of course this comes with the caveat of being unaware of the informal tradeoffs that could have happened during the later stages of the trilogues. It could be, for example, that the EP was willing to settle on less in governance in exchange for more funds directed towards adult learners.

4.2 Openness of the trilogues

“Historically, the European Union is not renowned for its transparency, and in public discourse, the image of a secretive supranational bureaucracy is still widespread.” (Brandsma 2019, p. 1464)

In this final chapter of the analysis, the whole research process will be used to evaluate transparency or secretiveness of the EU legislative process. The practice of trilogues is defended by efficiency and as an answer to time pressure (Reh 2014). Openness and subsidiarity are held to a high regard, at least in rhetoric and most notably in the Treaty of Lisbon (Brandsma 2019, p. 1469.). How well do these values hold true when most of the EU legislation is *de facto* finalized informally behind closed doors?

4.2.1 The challenge of arranging interviews

This thesis functions as a case study on the process of trilogues, but the research process can also be used to criticize the secretiveness of the trilogues while they are

still ongoing. This research was greatly aided by an insider of the negotiations, who managed to put the researcher in touch with other key people who had expressed interest in giving interviews. Three important details concerning the interviews deserve a mention: firstly, no connection to the Commission representatives were made. This can partly be explained by the tendency of the Commission to have people from higher positions of the hierarchy representing them in the trilogues (Roederer-Rynning and Greenwood 2015) and partly by the frozen situation of the negotiations in early 2020. Whatever the case may be, it is still unfortunate that not a single representative was interested in giving an interview and perhaps even quite telling of the culture of openness on behalf of the Commission.

The second detail concerns one of the potentially interested interviewees declining the interviews after being advised to do so by a superior, referring to the fact that the negotiations were still ongoing. The principle of not sharing information seemed quite strict, as the original invitation to the interview concerned the topics that were already provisionally agreed upon.

Thirdly, one of the three Council representatives giving an interview seemed uncertain of what they were supposed to share and what was better kept secret, oftentimes stopping themselves mid-sentence and avoiding or giving only brief answers to topics deemed sensitive.

In conclusion, even with a recommendation from an insider and assurances of unanimity, finding people for the interviews was not unproblematic. The culture of secretiveness around the trilogues was strong, but not impenetrable.

4.2.2 Gaining access to the key documents

Gaining access to the key legislative documents was challenged by three factors: knowing which files to look for, finding said files and having access to them. The EP legislative observatory was a great starting point in solving most of these problems, as it offered a convenient access to many of the relevant documents. However, the main drawback of the website was that it barely made a mention of the Council's documents. As documents from the Commission, the European Committees of the

Regions and European Economic and Social Committee were included on the website, it would have been easy to assume that the Council documents do not exist or are not accessible. Even after the end of the trilogues no direct link to the Council first reading position was provided and no four column documents could be found through the search function or the Committees section.

The Council website posed different challenges, as the four column documents could not be found with the search function while the trilogues were still ongoing. After a political compromise, the files appeared with limited access and only later were they readily available.

Even with the inside knowledge gained directly from people who participated in the trilogues, following the process later on, solely based on the documentation available was challenging. The changes made and compromises reached were available after the conclusion of the negotiations, but it was difficult to be sure what sort of bargaining had led to those results. In other words, criticizing the decisions made in the trilogues after the fact is challenging enough: taking part in the process as a citizen when it is still ongoing seems near impossible.

5. Conclusion

The goal of this research was to better understand the process of trilogues through a case study of Erasmus 2021-2027. The research was based on a series of expert interviews conducted with people who participated in the negotiations and by using publicly available legislative materials: most importantly the Commission legislative proposal, the EP first reading position, the Council first reading position and four column documents from late 2020.

Three interesting topics of intense intra- and inter-institutional negotiations were identified: the DiscoverEU initiative, inclusion and governance. DiscoverEU was presented as a case where an important goal of the EP was enabled partly by the Council's intra-institutional work to reach a compromise on the topic and partly by

negotiating the initiative inter-institutionally into such a form that it would be acceptable for all the member states as a part of an overall agreement.

The question of making the programme more inclusive was presented as a situation where all the parties involved had a fundamental agreement over the shared goal. The issue was not as controversial as it was complicated, and according to some of the interviewees, made pointlessly complicated over technicalities that became a point of principle. The compromises found for the topic revolved around using specific wordings that would 1) convey the message of inclusivity clearly enough, 2) be technically acceptable from the legal standpoint, 3) leave enough flexibility in the legislation for the national authorities to be able to take into consideration national differences.

The most challenging question discussed in the trilogues was the EP's demand for renewing governance of the programme in a way that would give it some influence over the programme during its implementation. The EP first suggested a model that was seen by the Council as too rigid for efficiently implementing the Erasmus programme. A compromise was reached where the EP's demands were not fully met, but it gained a way to influence the implementation by stricter guidelines in the legislative text and a mechanism to amend it later if necessary.

The research was unable to pinpoint clear examples of one institution overpowering another or make a clear case of one institution consistently dictating the decisions. The process of Erasmus trilogues seemed to aim for consensus-seeking, where the primary method of the actors was to rather modify the text into a form that was acceptable for everyone than force the consent by, for example, using the negotiation goals of the other party as leverage.

The experience of researching a process that is consciously done behind closed doors was discussed. Firstly, it was difficult to find people willing to give interviews of ongoing trilogues even with inside help. Secondly, the challenges in gaining information through public channels in the form of legislative documents were described.

One of the main challenges of this research was following the process accurately after the interviews in early 2020. For future research projects interested in the trilogues as a process, it would most likely be beneficial to choose a case where the trilogues have already been concluded. However, if the interest is in the transparency aspect of the EU legislative system, it is most definitely useful to make an effort at trying to understand the negotiations only based on the information provided by the EP committee, public statements of the politicians and other public sources (Brandsma 2019). An interesting topic for future research that was unfortunately out of the scope of this research is the development of governance not only in the case of Erasmus but also in other EU funding programmes. How well is the EP able to secure influence over the implementation in other cases and can a trend of growing EP influence be found?

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