

Wait, who Controls the Council? The Role of the Dutch Parliament and Organized Interests to Hold the Council of Ministers Accountable

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ABSTRACT

This paper examines the role of organized interests as indirect scrutinizers of the Council of Ministers. Whereas the ministers of the Council are only accountable to national parliaments, the latter face many difficulties in controlling the former. This is problematic as it potentially increases the EU's democratic deficit. This thesis researches a possible solution to this problem by testing McCubbins and Schwartz's fire-alarm theory. McCubbins and Schwartz argue that organized interests can alarm national parliaments who can then scrutinize better. The research focuses on the Netherlands as a most likely case-study. Eleven interviews with prominent Dutch organized interests led to the conclusion that the fire-alarm model functions limitedly at best. The analysis points at two structural impediments -tradeoff and issue-dependence- that explain the lack of interaction between organized interests and national parliaments. Indeed, organized interests prefer contact and collaboration with other actors; most notably the Commission and the EP.

1. Introduction

Policy-making in the EU has been vividly discussed by academics and the general public for decades. The EU's mismatch with traditional forms of political organization has fueled consistent debate about its democratic legitimacy. The European Parliament (hereafter: EP) has undergone many changes to increase political participation². The Council of Ministers (hereafter: the Council) has been largely spared from such reforms. This is puzzling given that the Council is notorious for its flawed accountability. Both the European Ombudsman and the European Court of Justice have already concluded that the Council lacks transparency and accountability (European Ombudsman, 2017, par. 4, 5, 15, 24). Indeed, there is no singular Council that can be held accountable altogether; it is composed of the ministers of the 27 Member States (hereafter: MS). Due to the Council's intergovernmental character, its ministers can only directly be held accountable by national parliaments. It is therefore crucial that national parliaments can execute their accountability role well.

At first sight, the picture does not seem rosy. Academic literature has stressed national parliaments' weak scrutiny mechanisms (Auel, 2007; Finke & Dannwolf, 2013; Auel et al., 2015; Auel, 2019). Academics argue that parliaments have faced difficulties in fulfilling their role as government watchdogs as far as EU policies are concerned. However, several EU treaties -most notably those of Maastricht, Amsterdam and Lisbon- have attempted to strengthen the role of national parliaments. This raises the question why academics have not yet found evidence that parliaments have remedied their

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² Reforms include: direct elections, new policy-making procedures, supervisory powers, approval right Commission President and increased transparency (Nugent, 2017).

weaknesses. Even more because, in line with US literature, Cubbins and Schwartz (1994) argue that parliaments can overcome their capacity constraints through delegated oversight. National parliaments can effectively scrutinize as they 'outsource' this process to third parties. Third parties such as organized interests (hereafter OI)³ alarm the parliament. This paper researches these so-called 'fire-alarms' by asking: *How effective are organized interests in strengthening parliamentary mechanisms to hold the ministers in the Council accountable?* It is important to note that to hold the entire Council accountable, all 27 MS must hold their ministers accountable. As a result, the analysis does not focus on the Council as a collective but on relationships between national parliaments and their ministers/ governments.

Based on McCubbins and Schwartz's fire-alarm theory, the following hypothesis follows: OI provide information (act as fire-alarms) which helps national parliaments to better hold their respective governments in the Council accountable. This paper conducts a most likely case-study of the Netherlands. Eleven of the most prominent businesses and NGOs located in the Netherlands are interviewed on their expected role as fire-alarms for the Dutch parliament.

The academic relevance of this paper is twofold. First, and more general, it builds on academic literature and research regarding *de facto* re-empowerment of national parliaments. Second, and more specific, it explores the under-researched fire-alarm theory in EU affairs. The outcomes of this research translate into societal relevance. Strong accountability mechanisms are considered fundamental and pivotal for democracy ever since Montesquieu's *trias politica*. In addition, academics stress the importance of national parliaments to increase the EU's democratic legitimacy (for instance: Auel, 2019 p.1; Auel, 2007 p.498; Rozenberg & Heffler, 2015 pp.1-2). The EU's democratic qualities remain disputed (for instance: Desilver, 2019, Brack & Startin, 2015). Engagement of national parliaments on EU topics can provide the critical bridge between national and European debates. If this research confirms that fire-alarms work, it could take away some of the citizens' concerns regarding the EU's legitimacy. By contrast, if the fire-alarm fails to function we are back to square one. National parliaments' (lack of) accountability mechanisms would then be very problematic.

The structure of this paper is as follows. First, the literature review demonstrates how other academics assess the role and involvement of national parliaments in EU affairs. Second, the theoretical framework explains the principal-agent model and the potential for fire-alarm oversight. The latter is introduced as a possibility to strengthen accountability mechanisms. Third, the methodology shows the rationales for the Netherlands as a most likely case-study and for interviewing OI representatives as a method of data collection. Fourth, the analysis breaks down the role of OI. It shows that fire-alarms function at best very limitedly and explains why this is the case. The paper concludes by reflecting on the main findings, limitations, and recommendations for future research.

2. Literature Review

A parliament generally fulfills three main functions: linkage and representation, oversight and control, and policy-making (Caramani, 2017, pp.117-134). The literature review examines why national parliaments struggle to fulfill these functions, particularly oversight and control, in the EU context. In EU affairs,

³ This term is used by McCubbins and Schwartz (1984). Interestingly, they did not elaborate on a definition. Here, OI are treated as lobby groups. This thesis systematically uses the term OI as lobby groups have a more negative connotation.

academics see a crucial role for national parliaments as a link between the people and the Council to increase democratic legitimacy (for instance: Auel, 2019, p.1; Auel, 2007, p.498; Rozenberg & Heffler, 2015, pp.1-2). National parliaments (can) serve as a forum to debate EU policies. These debates provide the people information about decisions taken in the Council. National parliaments represent the electorate and link them to the government whose ministers take decisions in the Council. However, the aforementioned works agree that national parliaments do not yet fulfill this role fully.

Academics have also researched the two other main functions of parliaments in the context of EU affairs. However, they conclude that both functions, policy-making and oversight, are of limited importance. The smaller role of national parliaments in policy-making is understandable. National parliaments have less competencies in policy areas where authority has been (partially) transferred to the European level (Winzen, 2010; Auel & Benz, 2005). By contrast, the competencies to oversee and control the Council have remained at the national level. Indeed, the options to hold the Council accountable at EU level are extremely limited (Gerven, 2005, p.85). The EP does not have substantial scrutiny mechanisms. EU institutions can only demand openness and transparency (TFEU Article 15(2)). At the national level, parliaments are expected to have more potential. Governments are accountable to their parliaments. EU treaties also state that parliaments should have direct access to EU documents (TEU Article 12) and to the agendas for, and minutes of, Council meetings (Protocol No1 Article 4). At first sight, it seems puzzling why national parliaments fail to fulfill their function of oversight and control. An overview of the academic literature as presented below provides two main reasons: institutional constraints and parliamentary behavior.

Parliaments face several institutional constraints. Academics that focus on constitutional powers of national parliaments argue that these are relatively restricted. Most importantly, parliaments can only hold their national ministers accountable, not the Council as a whole (Bovens, 2007, p.113). In addition, the parliament's opportunities to hold a national minister accountable and punish him/her are limited (Auel, 2007, p.488). This is further complicated by a lack of transparency in the Council (European Ombudsman, 2017). As the ministers' negotiation positions and voting behavior are often kept secret, the parliament cannot control these. For instance, less than half of the national parliaments "stated that the government briefed the Parliament/Chamber before taking a position in the Council" (COSAC, 2017, p.12). QMV and voting by consensus in the Council further obscure accountability holding (Novak, 2013; De Wilde, 2011). Auel, Rozenberg and Tacea (2015) indicate a "strong correlation between strong institutional rights and the general level of activity" (p.83). However, they also argue that "institutional capabilities do not necessarily equal parliamentary behavior" (p.60). They indicate that academics should also focus on the *de facto* practices (behavior) of national parliaments.

Parliamentary behavior also limits effective scrutiny of the Council. Members of parliament (hereafter: MPs) often prefer scrutinizing domestic affairs over European affairs (Rozenberg & Heffler, 2015; Jarvis, 2014). This is very much related to their limited capacity. Moreover, parliaments do not always have an incentive to effectively scrutinize. Strong links between the government and the parliamentary coalition blur the separation of power. Consequently, the government is often assured of sufficient support in EU affairs and merely scrutinized by the opposition (Finke & Dannwolf, 2013). Literature on parliamentary behavior reinforces the belief that national parliaments do not control the Council. Academics seem relatively pessimistic about the current state of national parliaments in the European context. The gap in this type of academic literature is the overfocus on national parliaments.

Literature on parliament-government accountability in EU affairs takes third actors insufficiently into account. It portrays national parliaments as autonomous institutions, thereby neglecting the possible support they receive from other actors.

Some academics have shifted the focus from national parliaments to other relevant actors. However, an overview of the literature as provided below shows that such research is relatively limited and does not go into much depth. For instance, Heffler and Gatterman (2015) argue that interparliamentary cooperation can provide useful information on the Council. Yet, the authors conclude that much more research is necessary to make claims about its degree, variation and effectiveness (pp.113-114). 'Watchdog journalism' can also provide information on the MS' position in the Council (Norris, 2014; Hobolt & Tilly, 2014). However, Witteman (in: Villamedia, 2021) argues against their success as only 21 Dutch journalists report on Brussels who also have to report on Belgium and the NATO. This is even more startling given that 30.000 lobbyists work in Brussels. Academics such as Beyers and Hanegraff, (2017), Rasmussen (2012) and Binderkrantz and Rasmussen (2015) also point to the importance of OI in EU affairs. However, these authors focus on the interaction between OI and EU institutions, not national parliaments. Likewise, US literature argues for the crucial function of OI as fire-alarms but focusses on the US Congress. Thus, whereas OI seem relevant, their role is under researched. This leaves room for academic research on the effectiveness of IO as fire-alarms. The theoretical framework shows why OI can strengthen national parliaments to scrutinize the Council.

3. Theoretical Framework

The literature review concerned two main themes. First, in the EU context, parliaments struggle to fulfill their three main functions. Second, academics identify a multiplicity of reasons why parliaments struggle to hold the Council accountable. The theoretical framework addresses these themes in reverse order. First, it theorizes parliament-government relations by using the principal-agent model. As shown in the literature review, academics have identified a wide range of problems why national parliaments fail to fulfill their function of oversight and control. This research focusses on capacity constraints and information asymmetry and show why these form the core of the problem. This problem is then addressed by using the fire-alarm theory. This theory allows the involvement of a third actor, OI, in parliament-government relations. Second, the theoretical framework shows how fire-alarms can help parliaments to better fulfill their three main functions.

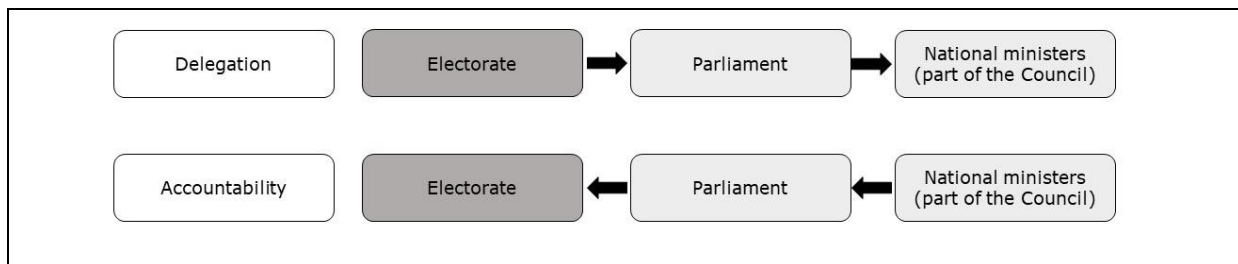
3.1 The Principal-Agent Model

'Accountability' lacks an unambiguous definition (Bovens et al., 2014; Schillemans, 2011). Academics disagree about the timing of accountability in parliament-government relations in EU affairs. Some argue it should take place *ex post* (Bovens et al., 2014; Bovens, 2007), others stress it can only take place *ex-ante* (Auel, 2007; Auel et al., 2015; Finke & Dannwolf, 2013) while others state it can take place in both stages (Rozenberg & Heffler, 2015).

Leaving aside conceptual distinctions, the least disputed characteristic of accountability is that it links "those who owe an account and those to whom it is owed" (Bovens et al., 2014, p.7). The most common framework used to study this relationship is the principal-agent model. This model is always

characterized by a delegation from the principal to the agent. Based on rational choice theory, delegation takes place when the agent has more expertise or can work more efficiently than the principal. Strøm (2000) applies the principal-agent model to parliamentary democracies. She visualizes delegation as a 'chain' (p.267). As the principal wants to preserve control "the chain of delegation is mirrored by a corresponding chain of accountability that runs in the reverse direction" (p.267). For the envisioned research, both chains are slightly modified and depicted in figure 1.

Figure 1: Chains of delegation and accountability



Delegation is not risk-free for the principal. The agent can deliberately diverge from the principal's preferences (Strøm, 2000, p.270). The chain of accountability is therefore vulnerable as a "chain of delegation is only as strong as its weakest link" (Strøm, 2000, p.277, in: Geddes, 1994). This gets to the *core of the research problem* of this paper. The parliament faces difficulties in holding the Council accountable. The Council's lack of transparency and subsequent information-asymmetries play a role. However, more importantly, the parliament's limited capacity thwarts effective accountability holding. The chain of accountability seems broken. Yet, as shown below, fire-alarms can possibly repair the weakest chain.

3.2 The Fire-Alarm Theory

McCubbins and Schwartz (1984) use the concepts 'fire-alarm' and 'police-patrol' to differentiate between two types of oversight. Academics have traditionally focused on police-patrol oversight. Here, the parliament actively controls a sample of activities of the responsible minister (p.166). However, this brings about high opportunity costs. Merely a small sample of government activities can be scrutinized and this is already very time consuming. Congressmen therefore prefer to 'outsource' scrutinization to OI. If the latter detect a divergence from the parliament's preferences they alarm (hence the name fire-alarm) the Congress (p.166).

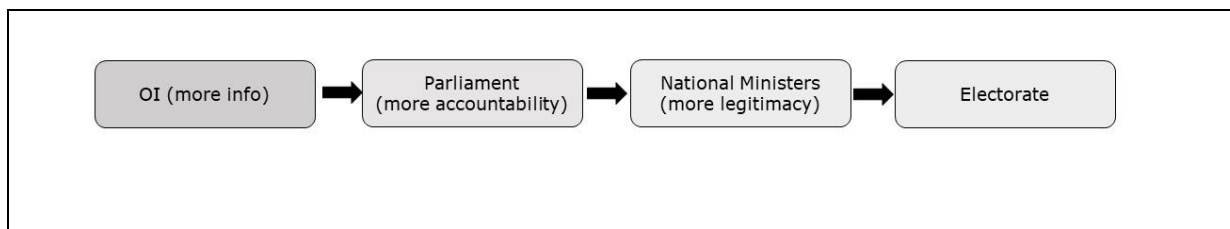
The fire-alarm mechanism can also be applied to the EU context⁴. OI provide information to the parliament about the behavior of the minister (in the Council). They have an incentive to look for this information and provide it to the parliament. The parliament profits from this information as it can better hold ministers accountable. The fire-alarm theory builds onto the principal-agent which argues that "since oversight is costly, the principal wants to maximize its efficiency relative to its costs" (Strøm, 2000, p.272). The opportunity costs for police-patrol scrutiny of EU affairs are relatively high. In addition, MPs generally prefer working on domestic over EU affairs (Rozenberg & Heffler, 2015, p.15). This is further amplified by

⁴ Although the fire-alarm theory is originally based on the US Congress, its generalizability is also suggested by the authors.

MP's difficulties in coping with the EU's complexity. As a consequence, we can assume parliaments- regardless whether this takes place deliberately or coincidentally- outsource scrutiny because of the involved costs. Simultaneously, we may expect that OI happily take up this task.

Now it becomes clear how fire-alarms can repair the chain of accountability (see figure 2). The biggest problem for national parliaments is not the lack of detailed information on each dossier but rather the unknowingness on what dossiers to focus in the first place. It is a capacity problem. Fire-alarms can be seen as a first selection of relevant issues (by OI) after which national parliaments can step in and take up the patrol control when necessary. Fire-alarms and police-patrol can thus very much work in tandem to strengthen the chain of accountability.

Figure 2: Repairing the chain of accountability



Fire-alarms could also strengthen the three main functions of parliaments. First, parliaments can better hold the government accountable (oversight and control). The findings of *ex-post* control can serve as *ex-ante* input for new legislation that tackles deviations or problems (Bovens et al., 2010; McCubbins & Schwartz, 1984, p.171). Second, when parliaments receive information and/ or incentives from OI, they can try to influence their ministers via mandates or resolutions (policy-making). McCubbins & Schwartz confirm this by arguing that due to fire alarms "legislative goals are refined, elaborated, and even changed" (p.170). Third, parliaments can provide a forum for dissatisfied OI (linkage and representation). In this way, national parliaments can connect national and European debates and contribute to the EU's legitimacy.

4. Methodology

4.1 Operationalization

The fire-alarm theory focusses on two actors: OI and parliaments. Their roles can be studied separately. However, they require different operationalizations given the possibility of a mismatch between both actors. OI might offer information but if a parliament is not receptive, the fire-alarm nevertheless misfunctions. Vice versa, a receptive parliament may still be surpassed if OI prefer to approach actors such as the EP, the Commission or the government. To increase reliability, this thesis operationalizes three consecutive criteria for both sides (see table 1). If all criteria are met, the functioning of the fire-alarm can be proved.

The criteria for OI are the following. First, OI should have the capacity to gain information on different positions of the Council and the parliament. Second, OI should be in the position to alarm parliaments based on this information. Parliaments should be considered receptive and approachable to discuss problems. Third, OI should experience the consequences. If their concerns are never addressed, this likely demotivates them to provide information to the parliament.

Table 1: Confirming fire-alarms work

Criterion	Organized Interests	Parliaments
Information (focus)	Possess	Lack
Transfer	Provide	Receive
Success	Concerns addressed	Accountability strengthened

Source: Author's elaboration

The criteria for the parliament are generally the opposite. First, the parliament should have limited capacity to gain information to scrutinize the Council. This can be caused by a lack, as well as an overload of information. A lack of information can stem from limited transparency and demands more information from OI. An overload of information disables parliaments to see the wood for the trees. It demands OI to act as a filter and add focus and prioritization. Second, OI should be willing to share information with the parliament. Third, the information should strengthen accountability mechanisms. The operationalization of both sides served to increase generalizability. However, given the limited scope of this thesis, this thesis focusses on OI.

4.2 Case selection

For this thesis, the Netherlands is selected as a most-likely case.⁵ This thesis expects Dutch OI to act as a fire-alarm for the Dutch parliament (*Tweede Kamer*). The rationale for choosing the Netherlands is twofold.

First, the Dutch parliament has relatively strong *de facto* powers to hold Dutch ministers accountable in EU affairs. The *Tweede Kamer* can adopt mandates prior to Council meetings which "are seen as politically binding and it is regarded as unthinkable that the government should go against a [motion] in a Council meeting" (*Tweede Kamer*, 2011 in: Högenauer, 2015, p.257). The *Tweede Kamer* also receives reports on Council negotiations (14-2 SS Ac p.267). The Dutch parliament is generally categorized as a powerful and active scrutinizer of EU affairs (Auel et al., 2015, p.79; Rozenberg & Heffler, 2015, p.5). A strong parliament is a prerequisite for fire-alarms to work. Weak parliaments cannot effectively hold the Council accountable and therefore unlikely to be contacted by OI.

Second, the Dutch parliament experiences a major constraint while scrutinizing. Dutch MPs lack the resources to effectively scrutinize. Within the EU, the Netherlands is in the top four of most citizens represented per MP (Rozenberg & Heffler, 2015, p.4). This increases the workload per MP. In addition, the *Tweede Kamer* is composed of many small political parties. A survey among Dutch MPs shows that most political parties have too few MPs to effectively scrutinize (Nieuwsuur, 2021). They simply lack the resources. As EU policy proposals are often not considered 'sexy' enough, they fall by the wayside (Finke & Herbel, 2015 p.509; Van Keulen in: Europa draait door, 2021). The opportunity costs might be too high. Thus, the Dutch parliament has the institutional capacities and willingness to scrutinize EU affairs but lacks the resources to do so effectively. In other words, the *Tweede Kamer* is significantly hampered in applying

⁵ For a most-likely case, a phenomenon is absent despite all factors suggesting its presence (Gerring, 2007, p.232; Flyvbjerg, 2006). Due to this research's exploratory character, the outcome of this research (the functioning of fire-alarms) was unknown *a priori*. Yet in retrospect, the Netherlands is indeed a most likely case-study (fire-alarms function inadequate).

police-patrol oversight. OI could remedy this by acting as fire-alarms. Indeed, the Dutch parliament seems to actively stimulate this practice (brochure Europese besluitvorming, 2014):

Different organizations in the Netherlands and Brussels that monitor and influence European decision-making ... can provide useful information. Often, such organizations employ *experts who have detailed information* about the consequences of European proposals ... such organizations are *deliberately contacted*. (p.7, emphasis added).

4.3 Method of Data Collection

This thesis aims to gain in-depth knowledge on the phenomenon of fire-alarms. Its explorative character makes interviewing a logical and fitting method of data collection (Rubin & Rubin, 2012). Alternative methods such as surveys restrict the room to explore whereas process-tracing is better fit to explore causal relations (Sapsford, 2007; Bennett, 2010).

The operationalization showed that fire-alarms can be studied from both the OIs' as well as the parliaments' perspective. The restricted scope of this thesis limits research possibilities. This thesis only conducts interviews with representatives from OI. The rationale for choosing OI rather than MPs is threefold. First, there are many more suitable OI than Dutch MPs. Given the expected low response rate, interviewing MPs brings risks. A low number of interviews has consequences for the reliability of the findings. Second, OI can possibly offer more valuable insights in this exploratory stage. If OI do not act as fire-alarms, interviews with MPs cannot answer *why* they do not. Organized interest can elaborate on this why question. Indeed, they can explain if they function as fire-alarms at other levels. MPs likely lack these valuable insights. Third, interviewing OI might also strengthen external validity. OI, unlike MPs, do not have an interest in overstating the quality of parliamentary work.

Having identified the research population, we can move on to the sample. The academic literature shows major practical difficulties in the selection of a representative sample of OI. Beyers & Braun (2014) state that in the Netherlands "there are no reliable and comprehensive sources with population data of interest groups" (p.101). The *Tweede Kamer's* lobby register is both restricted and incomplete (Lobbyregister, 2020; GRECO in: Open State Foundation, n.d.). Constructing a data-base of OI, as done by Rasmussen (2012) and Binderkrantz and Rasmussen (2015), is beyond the scope of this thesis. The sector of Dutch lobbyists also has a register but it is voluntary and based on individuals, not on OI (BVPA, n.d.).

This thesis therefore takes a more pragmatic approach. Whereas an adequate database does not exist at the national level, the European level has the European Transparency Register (hereafter: ETR). All OI lobbying the EP or the Commission are obliged to be registered. This data can be filtered and categorized (Lobby Facts, n.d.). This thesis applies three relevant criteria to select OI that are most likely to act as fire-alarms for the Dutch parliament. First, it focusses on two types of OI as defined by the ETR: businesses and NGOs. On the one hand, the diversity allows for comparisons. On the other hand, the focus on two OI prevents an overload of subcategories and allows to make generalized conclusions. Second, it selects OI from the Netherlands. This increases the chance that they are in contact with the Dutch Parliament. It also remedies the disadvantage that the ETR is not a Dutch register. Third, it selects OI with the highest lobby costs as shown in the ETR. If large organizations do not act as fire-alarms, small ones will neither. Large organizations have more resources to obtain information and alarm parliaments.

Indeed, research by the Open State Foundation (n.d.) shows that large Dutch businesses are in close contact with Dutch ministers (n.d.). Such businesses are also interviewed for this Thesis.

In total, eleven semi-structured interviews with some of the most prominent Dutch companies and NGOs were conducted in April and May 2021 (see table 2)⁶. To ensure validity, each interview had a similar structure with six open questions and one questionnaire in a fixed order. To explore alternative explanations and offer room for interviewees to highlight particular elements, the interview also had ample room for follow-up questions. All interviews lasted between 30 and 45 minutes and were recorded with the interviewees' consent.

Table 2: List of respondents

Interview*	Type Organized interest	Name Organization	Name respondent	Function
1	Business	Philips	Kerpen, Guy	Director Bureau Government relations
2	Business	AkzoNobel	Martens, Jesse	Head of Global Public Affairs
3	Business	Waste4Me	Meierink, Onno	Director
4	Business	Rabobank	Annard, Walter	Head of Public Affairs
5	Business	KPN	Van Pinxteren, Corien	Advisor European Affairs
6	Business	PostNL	Keijzer, Margriet	Director EU Affairs
7	NGO	RIWA	Stroomberg, Gerard	Director
8	NGO	VOICE	Fountain, Antoine	Managing Director
9	NGO	Eur.Climate Foundation	Bruel, Renée	Director- Buildings
10	NGO	SNN	Bubberman, Mara	EU Public Affairs Advisor
11	NGO	Solidaridad	Vallejo, Tammy	Policy Advisor

** In total 34 requests were sent (18 to Business, 16 to NGOs)*

4.4 Method of Data Processing

The interviews were first transcribed and subsequently coded as suggested by several researchers (Boeije, 2009; Hennink et al., 2011). This thesis primarily used inductive coding because of the research's exploratory nature and to avoid biases (Linneberg & Korsgaard, 2019). However, the questions are guided by the fire-alarm theory and other relevant academic literature. Several codes might therefore be implicit deductive codes. The list of codes was constantly updated, streamlined and adapted as the coding continued. The analysis is developed on the basis of these codes (for the coding tree, see Annex).

⁶ The OI were selected via the ETR and then contacted via the BVPA by reaching out to public affairs officials.

5. Analysis

The analysis of the conducted interviews provides three main findings relevant to the fire-alarm theory. First, it identifies how limited OI are in touch with the Council's Dutch delegation and the Dutch parliament. The sample selection focused on Dutch OI who are most likely to be invested in these institutions. Despite the selection criteria, the interviews showed that OI are generally in much closer contact with other actors, both at the European and the national level. Second, it analyses why OI do not focus on the Council and the Dutch parliament. The Council's information deficit does not play a role. Instead, two structural impediments can explain the limited contact: tradeoffs and issue-dependent venues. Third, it examines what consequences this has for parliamentary oversight. The fire-alarm does not operate as hypothesized.

5.1 Limited Contact

As opposed to businesses, a significant number of NGOs does not focus on the Netherlands. This startling conclusion already became clear in the sample selection. A number of NGOs responded that they would be happy to be interviewed but unfit due to their sole focus on the European level. These NGOs were consequently not interviewed. Interviewed NGOs clarified that the Netherlands is not always a priority. As indicated by the following statements, the Netherlands is merely one among many countries:

"Sometimes I have contact with the Netherlands. But I work in ten countries" (Bruel, European Climate Foundation).⁷

"It is important to understand that as a European Organization, our main focus regarding policy is at the European level" (Vallejo, Solidaridad).

NGOs are often in closer contact with MS that they consider more important. Such MS usually have more power in the Council under QMV or are frontrunners in relevant policy fields. The limited focus of NGOs on the Netherlands has consequences for this case-study. This thesis focuses on the Dutch delegation in the Council and the Dutch parliament. Consequently, it becomes more difficult to prove that NGOs function as fire-alarms in the Netherlands. This does not exclude the possibility that NGOs function as fire-alarms in MS they consider more important. However, such research is outside the scope of this paper.

At the European level, the Dutch government/ the Council's Dutch delegation is named least by OI as a crucial actor to approach in policy-making. At the national level, the parliament is named least. These qualitative findings are also supported by a structured question. All interviewees were asked to rate how often they approach the following actors when they disagree with something the Dutch government does in the Council on a 1 (never) to 10 (always) scale (see table 3).

Table 3: Intensity of contacts between OI and national/European institutions

Organization	NL Government	NL Parliament	Government other MS	Commission	European Parliament	Media
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⁷ Interviewees and are referred to by: last name, name OI. All interviewees agreed to this practice and also with the current references and/or quotes. All interviews but one were conducted in Dutch. Quotes are translated as accurately as possible.

Philips	6.5	3	6.5	8.5	8	2
AkzoNobel	8	4	7	8	4	3
Waste4Me	8	6	1	8	1	1
Rabobank	10	9	4	9	9	-
KPN	6.5	6.5	1*	8	9	1.5
PostNL	10	1	4*	10	7	2
RIWA	10	1	1*	10	1	2.5
VOICE	3.5	3.5	3.5	10	5	4
SNN	1	1	1*	6	5	8
Solidaridad	5	6	5*	10	10	6.5
Eur. Climate foundation	-	-	-	-	-	-
Average	6.9	4.1	3.5	8.8	5.9	3.3

* indicated that contact (almost exclusively) goes through umbrella organization

Two observations are particularly noteworthy. First, at the European level, a significant majority of OI has more contact with the Commission and the EP than with the Dutch government.⁸ Second, at the national level, only one organized interest had (slightly) more contact with the Dutch parliament than the government. Limited contact with the Council's Dutch delegation and the Dutch parliament might have profound consequences for the functioning of fire-alarms. Most importantly, if the Dutch parliament is not contacted, it faces more difficulties to hold the Council's Dutch delegation accountable. Before elaborating on possible consequences, it is however important to understand *why* OI have the least contact with the Council and the Dutch parliament.

5.2 Limited Contact Explained

5.2.1 Information Deficit?

OI agree that to lobby effectively, information on who agrees and disagrees is required. To lobby the Council, OI thus need information about the deliberations and votes. We have seen that national parliaments are hindered to keep the Council accountable due a lack of information and capacity. Most interviewees agreed that gathering information on the Council is difficult. For instance, Meijerink (Waste4Me) stated that "the biggest problem with regard to information is that decision-making in the Council takes place in secret". This raises the question if OI have limited contact with the Council because they lack information about what happens in the Council. The interviewees were thus specifically asked about the Council's lack of openness. Almost all interviewees indicate that overcoming the information deficit is not insurmountable. They pointed to a number of remedies.

Van Pinxteren (KPN) argued that "large parts of the Council meetings are in fact public. You can watch large parts live." In the public part, all MS read their statements out loud, from which the voting

⁸ Contact with the government includes ministers, ministries and civil servants.

positions can be derived. Yet, Van Pinxteren (KPN) also added two nuances. First, whether meetings are public depends on the choice of the Council to make them available and the technical possibilities. Second, if meetings are public, usually they do not clarify MS' positions on specific aspects of policy.

All but one interviewee signaled the crucial importance of umbrella organizations. Most OI have delegated monitoring functions to umbrella organizations. Delegation takes place because umbrella organizations gather information more easily due to their scale and members. Umbrella organizations collect and distribute information from their members who are often located in different MS. In this way, OI remain up-to-date on the voting position of numerous MS. Keijzer (PostNL) pointed to the usefulness of other monitoring services. She explained that PostNL is subscribed to several companies who systematically select and provide information on relevant media, stakeholders and published studies.

There are also more direct ways to obtain information on the Council. For instance, Meijerink (Waste4Me) pointed to EU websites that publish a wide variety of initiatives on EU policies. Information on the Dutch position in the Council can be derived from the *BNC fiches*⁹ and *Commissiedebatten* (Commission debates)¹⁰ (Annard, Rabobank; Van Pinxteren, KPN). As shown below, the *BNC fiches* are not only important to obtain information but also to exert influence. Interviewees named a wide range of additional options to obtain information: the Dutch Permanent Representation (most interviewees), MEPs (several interviewees) direct contact with Directorate Generals (Kerpen, Philips), the MS hosting the Council Presidency (Vallejo, Solidaridad), strategic leaks from the Commission (Bruel, European Climate Foundation) and the medium Politico (Annard, Rabobank).

The impression is that OI depend on a multiplicity of actors to collect information on the Council. Kerpen (Philip) used a clarifying metaphor: "we are like a spider in the web; we link all the information together." What becomes clear is that size matters. The strength of OI is their network. This enables them to open up the 'black-box' of the Council¹¹. The crux is not necessarily the impossibility of obtaining information but rather the resources it requires. This observation shows the importance of capacity and argues in favor of fire-alarms. Whereas the Dutch parliament lacks the capacity to constantly scrutinize what happens in the Council, OI are relatively successful. Looking back to the operationalization, the first criterium of the fire-alarm (possession of information) is fulfilled. OI have the expertise and experience in monitoring Council deliberations on relevant EU policies.

5.2.2 Structural Impediments

OI are informed on what happens in the Council. This conclusion brings us back to the original question *why* OI have such limited contact with the Council and the Dutch parliament. An analysis of the interviews identified two main structural impediments. First, interviewees emphasize the tradeoff who to contact. In line with the rational choice theory, OI approach the actors which they believe to be most effective. For several reasons, neither the Council nor the Dutch parliament are generally considered among the most effective actors. Second, interviewees stress that which venue(s) are chosen is very issue-dependent. The Council and the Dutch parliament are generally contacted as a last resort when an issue has become very

⁹ The Dutch government's statements on Commission proposals.

¹⁰ Debates in the Dutch parliament prior to Council meetings.

¹¹ Interestingly, Keijzer (PostnNL) used the term 'black box' not for the Council but the dialogues. She argues that dialogues are surrounded by even more secrecy.

political. This only happens on rare occasions. The next section examines both structural impediments in details; first for the Council, then for the Dutch parliament.

The Council

OI have difficulties to contribute to the Dutch position in the Council.

“The Council is of course much more fragmented ... in my case I have to speak them in the Netherlands. And that is much more difficult and cumbersome” (Kerpen, Philips).

“The problem with the Council is that you have to tackle issues per MS and that is very difficult” (Fountain, VOICE).

“You can agree with your national government and have a mutual understanding. But ultimately, they will also have to compromise somewhere. And that is of course the tricky part” (Keijzer, PostNL).

The analysis finds consensus among OI about the limited effectiveness of close contact with the Council. This is striking given the Council’s central position in the policy-making process. When directly asked about the importance of the Council, interviewees generally responded in either of two ways. Some admitted the Council’s importance but quickly moved on to stress the significance of the Commission and the EP. Others downplayed the importance of the Council as a decisive institution. “In the end legislation often becomes subject to dialogues. That means that all three [Commission, EP and Council] are involved” (Kerpen, Philips). This increases the *de facto* importance of the Commission and the EP.

Contact with the Commission and the EP is regarded more effective. However, such contacts go at the expense of contact with the Council. This is because OI face limited resources. This observation is supported by statements such as:

“we are only a small team” (Martens, AkzoNobel; Stroomberg, RIWA)

“actually I am the one person responsible for political development on dossiers” (Van Pinxteren, KPN)

“with two people we do all the work for our members” (Fountain, VOICE).

In line with the rational choice theory, organized interest engage in cost-benefit analyses. The Commission and the EP are generally preferred based on their accessibility and effectivity. As shown below, the Council becomes more attractive to approach when an issue becomes more political. However, this does not happen often.

Who is contacted, depends on the issue. Martens (AkzoNobel) explained that issues, not actors, are taken as a starting point. OI first determine on what issues they want to focus. Only then will they look at the corresponding actors and levels. When legislation is in the early stages, the Commission seems crucial. Fountain (VOICE) stated that “in the end, the Council deliberates on the proposal of the Commission ... if you make sure this first proposal is good, then you do not have to do damage control afterwards.” He compared policy-making to Lego: if you first build a very bad vehicle and then try to better it, it is impossibly more work than if you begin with a good structure. If consensus prevails on a legislative proposal, the Council is of lesser importance. Vice versa, “the more political a dossier becomes, the more often you should keep an eye on the Council” (Martens, AkzoNobel).

Even if OI contact the Council, they can choose between many venues. The interviewees indicated that OI do not necessarily focus on the Netherlands. This is most strongly observed among NGOs. Interviewed NGOs clarified that the Netherlands was not ignored altogether but often only targeted for very specific issues. Businesses are generally more focused on the Netherlands. However, depending on the issue, they sometimes bypass the Dutch government and contact other MS via their umbrella organizations (for instance Kerpen, Philips; Van Pinxteren, KPN).

The Dutch parliament

In line with academic literature, interviewees rarely mention the Dutch parliament as an important actor in the European policy-making process. For instance, Martens (AkzoNobel) stated that: “we do not approach MPs very often also because *often there is no discussion on a position* [with the Dutch government]. It must be *useful*.” Similar sentiments were expressed by most interviewees (Kerpen, Philips; Meijerink, Waste4Me; Keijzer, PostNL). The analysis below shows that ‘*often there is no discussion on a position*’ because OI are often able to contribute to the government’s position. As a result, The Dutch parliament is not often contacted. The analysis also clarifies that contact is often not considered ‘*useful*’. This is based on a tradeoff. Interestingly, these structural impediments are similar to those of the Council. Interviews with OI showed that different venues are contacted depending on the issue and the phase. Van Pinxteren (KPN) explains this most clearly based on the *BNC fiche*. Lobbying on the government’s position can be roughly divided into two phases: one prior to the *BNC fiche* and one afterwards. Although most other OI do not explicitly mention the *BNC fiche* as the turning point, they make a similar division.

The *BNC fiche* sets out the government’s position on a Commission proposal. The position is developed by civil servants. All interviewees in contact with the Dutch parliament noted that in this early stage, the *Tweede Kamer* does not really play a role. OI provide input via civil servants, ministries and ministers. Indeed, they are often even asked to provide input in the form of consultations (written and/or oral). This often leads to initial agreement on a position. Of course, agreement is not always reached but OI repeatedly stated that most decisions are compromises (Martens, AkzoNobel, Keijzer, PostNL). Reaching consensus in the pre-*BNC fiche* phase is important as several interviewees mention that it requires less efforts/ resources than in the post-*BNC fiche*. The Dutch parliament becomes at most important if there is no initial agreement.

The publication of the *BNC fiche* clarifies the government’s position on an EU topic. The parliament can then issue its opinion. In case of disagreement between the Dutch government and OI, now seems the time for the fire-alarm to be pushed. Disagreement might motivate OI to collaborate with the Dutch parliament. When asked directly, several interviewees seemed slightly confused why they would contact the parliament. Kerpen (Philips) explained that even in the case of disagreement with the government, it is not always effective to go parliament. “The parliament can make a law but in the end they have to discuss it with the ministers and ministries. Going to the parliament is an extra step.” Keijzer (PostNL) stated something similar. “If you are in negotiations about a legal text the Dutch parliament does not really have a role. They have given a mandate to the government and the government fills that in.” The following quotes reinforce the observation that the Dutch parliament is occasionally contacted but that direct contact with the government seems more effective:

“The Dutch parliament can be very useful if you feel that you cannot get something through any other way or if you believe that there should be extra attention for something” (Martens, AkzoNobel).

“It should be something we absolutely disagree on with the Dutch government. Then we would go to the Dutch parliament and tell them: ... you have to intervene. Well, that rarely happens” (Kerpen, Philips).

“Then I hear civil servants complain that questions have been asked in parliament because they have to drop everything to answer those questions” (RIWA Stroomberg).

To determine which actors are most effective at the national level, OI engage in cost-benefit analyses. Similar to the Council, the role of the Dutch parliament seems to be downplayed. This is surprising given that at the national level, the Dutch parliament is the legislative power. When asked directly, Meijerink (Waste4Me) responded: “name me three laws the parliament made and passed on its own initiative.” This rhetorical question suggests that the parliament is not a very effective policymaker.

OI pointed to several reasons why they prefer contact with the government rather than the parliament on European dossiers.¹² All three are in line with academic literature. First, the Dutch parliament and its staff are considered too small to exert considerable influence on the Dutch position in the Council (Meijerink, Waste4Me; Van Pinxteren, KPN). The 150 MPs and their small staff cannot compete against the government with its tens of thousands of civil servants. Second, Dutch MPs focus insufficiently on European issues (Kerpen, Philips). This is linked to the first reason; due to their limited capacity MPs can only focus on a limited number of issues. EU policy-making is often more difficult to penetrate and it is a process of years. Due to the Dutch parliament’s limited interest in EU affairs, OI prefer engagement with the national government. Third, the Dutch parliament has a limited role in determining the Dutch position in the Council. Even if the *Tweede Kamer* issues a position, the government’s mandate remains relatively broad (Keijzer, PostNL). To exert influence on specific provisions, direct contact with the government is more effective.

Most OI emphasized that the limited contact with the Dutch parliament is a deliberate choice. As Keijzer (PostNL) put it: “well if we wanted that, we would have done so.” Surprisingly, OI were fairly positive about the approachability of the Dutch parliament. Interviewees stated that MPs are “always looking for information” (Kerpen, Philips), “approachable” (Annard, Rabobank) “generally open for ideas of my business and others” (Martens, AkzoNobel) and “can be contacted when we have serious issues” (Van Pinxteren, KPN).

5.2.3 Consequences

The limited functioning of fire-alarms in the Netherlands is reinforced by the eleven interviewees. Most OI meet the first criterium of the operationalization (possession of information). However, the second criterium (transferring information) is only rarely fulfilled. Limited contact with the parliament inevitably hinders the transfer of information. As shown, this is not caused by a lack of the Dutch parliament’s receptiveness. Rather, it is the result of a deliberative choice of OI based on a tradeoff and depending on

¹² Some NGOs state that they have no need of contact with the Dutch parliament because they have partners/ members who fulfill this task for them (for instance, Stroomberg, RIWA; Bruel, European Climate Foundation).

the (timing of the) issue. How ironic: the fire-alarm theory assumes that parliaments can rely on OI as a remedy for their limited capacity. However, in fact, the Dutch parliament's limited capacity makes OI *less* willing to cooperate.

Most interviewees indicated that more personnel and other resources would increase the Dutch parliament's importance. The interviewees (implicitly) suggest that a stronger Dutch parliament would incentivize them to better fulfill a role as fire-alarms. This conclusion signals an important nuance. It possibly indicates that fire-alarms might work *provided* that a parliament has enough capacity to act effectively once a fire-alarm goes off. Therefore, this conclusion would possibly be a valuable extension of the fire-alarm theory rather than a falsification.

As shown in the analysis, OI do sometimes contact the Dutch parliament. If the *Tweede Kamer* is contacted, disagreement on a *BNC fiche* is generally taken as a starting point. Van Pinxteren, (KPN) explained that "we try to explain our position to MPs. Usually we contact MPs who follow the subject. This is of course always in cooperation with other organizations. If MPs agree this can flow into a *commissiedebat*." Interestingly, this exemplifies the working of fire-alarms. However, the analysis extensively showed that the fire-alarm seldom goes off, at least not for the Dutch parliament. This analysis therefore concludes that for the Dutch parliament fire-alarms do not (or only very limited) work as suggested by McCubbins and Schwartz (1984) but that their potential increases as national parliaments become more important actors.

6. Conclusion

This paper investigated the effectiveness of OI in strengthening parliamentary mechanisms to hold the ministers in the Council accountable. More specifically, it researched the working of decentralized oversight (fire-alarms) in the Dutch National parliament. The operationalization defined three consecutive criteria to test the model: possession of information, transfer and success. A sample of eleven of the most prominent Dutch OI questions the proper functioning of fire-alarm mechanisms. Most noticeably, whereas OI possess information on the Council, they deliberately choose not to be in close contact with the Dutch parliament and transfer this information. Indeed, the analysis made clear that Dutch parliament and the Dutch delegation in the Council are among the least contacted actors in EU affairs. Two structural impediments -tradeoff and issue-dependence -can explain why fire-alarms only work very limited. Whereas the parliaments limited capacities would incentivize their reliance on fire-alarm oversight, interviewees indicate it to be an obstacle. As an answer to the research question, this thesis revealed that OI only have a limited role in strengthening parliamentary accountability mechanisms.

The implications of this conclusion go further than simply questioning the fire-alarm thesis. The literature review showed that national parliaments generally fulfill three functions: scrutiny, linkage, and policy-making. The theoretical framework suggests that fire-alarms could strengthen all three functions. Thus, its limited functioning cannot remedy citizens' concerns regarding the EU's legitimacy *and* complicates the role of national parliaments in EU policy-making. Although the Dutch parliament may have attempted to become a significant actor in EU affairs, according to OI, its role remains relatively limited. This conclusion is also unexpected. This thesis selected the Dutch parliament as a most likely case-study based on its relative strength in EU affairs. However, contrary to expectations, the analysis found that the Dutch parliament is still considered by OIs as relatively powerless. By consequence, we may expect that

fire-alarms are probably even less effective in other MS; especially when they have a weaker national parliament. Finally, this conclusion requires a number of qualifications and nuances. First, the conclusion is only based on a limited set of interviews with OI. Second, the analysis showed that the conclusion depends on the type of OI and the fields they are active in. For instance, NGOs indicated that they focus more on other MS. In addition, the interviewees clarified the importance of umbrella organizations which were not interviewed for this thesis. It is not excluded that umbrella organizations function more effectively as fire-alarms. However, this conclusion only became clear after the interviews. Third, this thesis does not reject fire-alarms altogether. Interviewees sometimes indicated that fire-alarms work, but only in relatively exceptional cases. As one of the interviewees put it: you cannot push the fire-alarm on a weekly basis. This makes it harder to draw general conclusions. Fourth, fire-alarms are less effective as the Dutch parliament is weaker than theorized. Stronger parliaments possibly confirm the fire-alarm model. Taking these considerations into account, further research is necessary to address these limitations.

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Annex: Coding scheme

