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What drives the European Parliament?

The Case of the General Data Protection Regulation

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About the author

Matthieu Moulonguet is a College of Europe alumnus with a M.A. in European Political and Administrative Studies from the College as well as a Master in European Politics and Public Affairs from the Institute of Political Studies (Sciences Po) in Strasbourg. He also studied International Relations at Georgetown University (Washington, D.C.). His research interests concern the decision-making process of EU institutions and more specifically of the European Parliament, interest representation in the EU, and Justice and Home Affairs policies – with a focus on data protection. The author is currently working on data protection issues in Brussels. The present paper is based on the author's Master's thesis at the College of Europe (Falcone & Borsellino Promotion).

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Abstract

This paper evaluates which factors influence the European Parliament's decision-making, based on a case study: the 2012 proposal for a General Data Protection Regulation. Following a 'competitive testing' approach, six different hypotheses are successively challenged in order to explain why the EP adopted a fundamental rights- oriented position. The first three factors relate to the *internal* organization of the EP's work, i.e. the role played by the lead committee, by the rapporteur and by secretariat officials. The last three factors are *external*-related, i.e. lobbying activities, outside events and institutional considerations.

Based on the empirical findings, it is argued that even though the EP's position is due to a range of various factors, some of them prove to be more relevant than others, in particular the rapporteur and lead committee's roles. New institutionalism theories also provide a comprehensive explanation for the EP's willingness to achieve a fundamental rights oriented outcome.

Three thousands, nine hundred and ninety-eight. This is the total number of amendments that have been submitted in the European Parliament (EP) regarding the proposal for a General Data Protection Regulation (GDPR).¹ This very high figure illustrates the great interest in this dossier, which can be explained by the large scope of the proposal and, more importantly, by its sensitiveness. In order to deal with this issue, European Union decision-makers have to reconcile two legitimate, yet contradictory, objectives: the protection vs. the free flow of personal data.

On one hand, the right to data protection must be strongly guaranteed so as to ensure that personal data are processed in legitimate ways and that individuals remain in control of their own data. This right does not aim at protecting *data* as such, but rather at “protecting *individuals* towards the processing of data relating to them”.² It corresponds to the *fundamental rights* dimension of the data protection reform.

On the other hand, there is a legitimate need for the free flow of personal data. This refers to the *economic* dimension of the GDPR proposal. Personal data constitute an “important currency in the new millennium”, with a growing monetary value attached to them.³ In order to build their economic strategies, businesses more and more rely on personal data and thus need to be able to process those data without too many obstacles, so as to remain competitive in the growing digital market.

The GDPR proposal, published on January 25th, 2012, aims at replacing Directive 95/46/EC,⁴ which was the previous EU legal instrument regulating the processing of data, but which has become obsolete – notably in regards to the tremendous developments in

I would like to thank all those who have made this work possible, Professor Olivier Costa and Thomas Pellerin-Carlin, for their guidance in the conducting of this research as well as all the people who kindly spared some of their time to share with me their valuable outlooks on the topic. So, special thanks to the MEPs and their parliamentary assistants, to EU officials and to representatives and experts on data protection for their precious insights. I have very much appreciated their opinions, although I should mention here that the hypotheses tested in this paper only reflect my personal ideas and in no case those of the interviewees.

¹ European Commission, *Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)*, COM(2012)11 final, Brussels, 25 January 2012.

² Ludovic Coudray, *La protection des données personnelles dans l'Union européenne, Naissance et consécration d'un droit fondamental*, Leipzig, Editions universitaires européennes, 2010, p. 9.

³ Paul Schwartz, 'Property, Privacy, and Personal Data', *Harvard Law Review*, vol. 117, no. 7, 2004, p. 2056.

⁴ 'Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data', *Official Journal of the European Union*, L281, 23 November 1995, pp. 31-50.

new technologies ever since. The new proposal hence seeks to update and reinforce the previous norms, mainly by establishing a single set of rules in the European Union, in order to simplify cross-border transfers of data and to reduce costs for businesses. The goal is also to safeguard the right of individuals to data protection, which is now explicitly recognized in Article 8 of the EU's Charter of Fundamental Rights.⁵

The ordinary legislative procedure applies for this legislative file, and as a result both the Council and the European Parliament (EP) have their say. The latter first agreed on its first reading position on March 12th, 2014.⁶ The legislative resolution was backed by an overwhelming majority of MEPs. In the lead committee, 'Civil Liberties, Justice and Home Affairs' (LIBE), the draft report was adopted with 51 votes in favor, only 1 against and 3 abstentions. Then, in plenary, the report got 621 votes in favor, 10 against, and 22 abstentions. The unity of the Parliament on such a wide and sensitive dossier may appear as surprising, or at least as unexpected. The existing tension between the economic and fundamental rights dimensions of the proposal could have divided the institution. Instead, the EP seems to stand quite united about this issue.

When looking at how this democratically elected assembly did position itself on the proposal, i.e. where did it strike the balance between fundamental rights aspects and economic needs, it seems that this institution has favored the protection of personal data. As a matter of fact, both MEPs and outside stakeholders consider that the Parliament's text is heading towards a greater protection of personal data.⁷ Furthermore, the EP resolution seems to contain several more protective provisions than the initial proposal of the European Commission, one of the most symbolic examples being the increase of the amount of sanctions for businesses that do not respect EU provisions.⁸ Finally, the EP's position seems all the more fundamental rights- oriented when compared to the Council's.

⁵ 'Charter of Fundamental Rights of the European Union', *Official Journal of the European Union*, C326, 26 October 2012, pp. 391-407.

⁶ European Parliament, *Legislative resolution of 12 March 2014 on the proposal for a regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement on such data (General Data Protection Regulation)*, P7_TA(2014)0212, Strasbourg, 12 March 2014.

⁷ Interview with Axel Voss, MEP (Germany, EPP), shadow rapporteur for the GDPR proposal, Strasbourg, 11 February 2015, and interview with a representative from the digital industry sector, 17 April 2015.

⁸ Amendment 188 concerning Article 79.

It is rightly illustrated by the Council's preference for more flexibility and more exemptions, as well as for a 'risk-based approach'.⁹

Hence, with regards to the 'balance' between protection and free flow of personal data, the EP could be depicted as the 'protector' of the fundamental right to protection of personal data. Thus, the research question of this paper is the following: How can the European Parliament's protective position regarding the GDPR proposal be best explained?

This study aims at identifying the main factors which have led the EP to adopt a protective stand on the GDPR proposal. While existing literature has mainly focused on the role of *partisan* and *national* cleavages in the building of EP's positions,¹⁰ this paper intends to examine other determinants of action and to adopt a more comprehensive approach, by looking at both 'internal' factors, e.g. the influence of the lead committee, and 'external' ones, such as the role played by outside events. These potential factors of explanation seem particularly interesting to test, because they have been the object of fewer studies than national and ideological factors.

Hence, a 'competitive testing' approach will be used.¹¹ The goal is to test a range of different theories and hypotheses, in order to identify which one(s) can best explain the way the EP has dealt with the issue. Six hypotheses will be successively examined; the first three are focusing on 'internal' factors (1), while the last three are 'external' oriented (2). The conclusion will underline which factors can best explain the Parliament's position regarding this proposal.

1. Explaining the protective position of the European Parliament: the role of internal factors

This part of the paper focuses on how the functioning and distribution of power *inside* the Parliament may have led to this position. Three different factors which might have influenced the final outcome are examined: the work of the lead committee in charge of

⁹ Council of the European Union, 'Inter-institutional file: 2012/0011 (COD)', Document no.13772/14, Brussels, 3 October 2014.

¹⁰ Charlotte Burns, 'Co-decision and Inter-Committee Conflict in the European Parliament post-Amsterdam', *Government and Opposition*, vol. 41, no. 2, 2006, p. 232.

¹¹ Joseph Jupille, James A. Caporaso & Jeffrey T. Checkel, 'Integrating Institutions: Rationalism, Constructivism, and the Study of the European Union', *Comparative Political Studies*, vol. 36, no. 1-2, 2003, pp. 7-40.

the dossier (2.1), the involvement of the designated rapporteur (2.2) and the activities of the LIBE secretariat (2.3).

The *socio-organizational* hypothesis: the influence of LIBE as the lead committee

The way the legislative work inside the Parliament is structured gives a lot of power to committees. For each proposal published by the Commission, a standing committee is designated as the lead one, which means that it is in charge of drafting the EP report, while a few other committees may be designated as opinion-giving committees.

Interestingly, this structure allows for lead committees to exert a significant influence over the position of the Parliament as a whole, for two main reasons, organizational and informational. On the *organizational* side, the impact of the lead committee can be explained by the fact that it is in charge of the file throughout the whole legislative process, from the first reading to the conciliation phase, and that it can amend the text more easily than MEPs from other committees.¹² Secondly, MEPs from the lead committee also have an “*informational* advantage”.¹³ The idea is that a responsible committee is better placed to amend a proposal because it possesses greater knowledge on the matter. The lead committee influences the preferences of MEPs from other committees, who are expected to trust the opinions of the ‘experts’.¹⁴

The first hypothesis I intend to test is also based on existing literature concerning the LIBE committee in particular. It has indeed been argued that this standing committee was a “strange animal” within the Parliament, mainly because, before 2005, this committee had to deal principally with consultative files, allowing its Members to take “more radical” positions on certain issues than when MEPs have to work under co-decision procedure.¹⁵ This is the reason why this committee could be more demanding regarding fundamental rights issues.¹⁶

¹² Nikoleta Yordanova, *Organising the European Parliament: The Role of Committees and their Legislative Influence*, Colchester, ECPR Press, 2013, p. 142.

¹³ *Ibid.*

¹⁴ Nils Ringe, *Who Decides, and How? Preferences, Uncertainty, and Policy Choice in the European Parliament*, New York, Oxford University Press, 2010, p. 37.

¹⁵ Ariadna Ripoll-Servent, ‘Playing the co-decision game: is the European Parliament striking a balance between liberty and security?’, UACES Annual Conference, Angers, 3-6 September, 2009, p. 5, in Camino Mortera-Martinez, *Deconstructing Robin Hood: SWIFT, a test case for the European Parliament’s fight for liberty?*, Thesis from the College of Europe, 2010-2011, p. 19.

¹⁶ Camino Mortera-Martinez, *Deconstructing Robin Hood: SWIFT, a test case for the European Parliament’s fight for liberty?*, Thesis from the College of Europe, 2010-2011, p. 23.

For these reasons, the first hypothesis I intend to confront to the empirical findings is the following:

Hypothesis 1: Because of the influence it could exert as the lead committee and because of its fundamental rights oriented preferences, the LIBE committee has made the Parliament's position more protective.

A unanimous recognition of the key influence of LIBE over the EP's position

All the interviews I conducted clearly tend to show that the LIBE committee indeed has a more protective view on the matter, and that it did have an influence over the EP's position on the GDPR proposal.

The differences in terms of preferences between the LIBE committee and the opinion-giving committees seem to lie in the MEPs' previous background. As MEP and shadow rapporteur Axel Voss pointed out, Members from LIBE "are always coming from the fundamental rights side", while, for the other opinion-giving committees, "they are coming from (...) their main areas, so this was then more...probably economically orientated".¹⁷ Committees such as IMCO ('Internal Market and Consumer Protection') and ITRE ('Industry, Research and Energy') are portrayed as more business-oriented than LIBE.¹⁸

Looking now at LIBE's influence over the final outcome, a first indication can be drawn up from the large majority that the report finally got in plenary. In line with the *informational* theory, this large support may be explained by the expertise owned by the LIBE members. Many interviewees indeed highlighted the fact that LIBE was the only committee with adequate knowledge to deal with such fundamental rights issues. Thomas Van der Valk, parliamentary assistant of MEP Sophia In'tVeld, explained that

"if you have the Industry committee or the Internal Market committee deciding rules that have such deep impacts on the personal lives of citizens, then you will not have the people with the right skills to work on it."¹⁹

The fact that the LIBE committee did have a great influence over the final outcome in plenary has been widely recognized, almost all interviewees admitting that this would

¹⁷ Interview with MEP Axel Voss, *op. cit.*

¹⁸ *Ibid.*

¹⁹ Phone interview with Thomas Van der Valk, parliamentary assistant of MEP Sophia In'tVeld (Netherlands, ALDE), shadow rapporteur for the GDPR proposal, 21 April 2015.

have been very different, i.e. more economically oriented and less protective, if another committee would have been in charge of the GDPR proposal. Here is a meaningful extract: “If you would have another committee in the lead, if I exaggerate, we would have ended up with very little rules on protection”.²⁰

Therefore, to answer the first hypothesis, the LIBE committee does have a more protective view on the GDPR proposal than other committees – especially compared to IMCO and ITRE –, and it did influence the final EP’s position.

When going further into the details, one might come to the conclusion that, inside committees, only a few individuals have influence over each specific dossier, since responsibility for a file is always delegated to a reduced number of MEPs.²¹

The *individuals* hypothesis: the lead role of the rapporteur

Besides the committee structure of the Parliament, the repartition of roles within committees is also very well organized. For each proposal issued by the European Commission, one MEP is appointed as rapporteur, alongside shadow rapporteurs for each other political groups. Once appointed, a rapporteur is in charge of steering a given proposal within the Parliament throughout the whole legislative process.²²

The influence of rapporteurs over the proposals they are in charge of is widely recognized among scholars. Hausemer, for instance, argues that “the system of rapporteurships enables individual legislators to take responsibility for, and exert influence over, the policy position of the Parliament as a whole”.²³ Two main reasons may explain the rapporteurs’ influence: their “agenda-setting power”²⁴ as well as their “information advantages”²⁵ – thereby mirroring the *organizational* and *informational* arguments made previously.

The former argument corresponds to the fact that rapporteurs play a key role in organizing debates and hearings about an issue, and even in submitting the draft report to vote: rapporteurs can therefore easily put a specific topic on the agenda of their

²⁰ *Ibid.*

²¹ Nils Ringe, *op. cit.*, p. 55.

²² *Ibid.*, p. 15.

²³ Pierre Hausemer, ‘Participation and Political Competition in Committee Report Allocation’, *European Union Politics*, vol. 7, no. 4, 2006, p. 509.

²⁴ Rory Costello and Robert Thomson, ‘The Policy Impact of Leadership in Committees: Rapporteurs’ influence on the European Parliament’s opinions’, *European Union Politics*, vol. 11, no. 2, 2010, p. 235.

²⁵ *Ibid.*, p. 220.

committee. Also, during plenary votes, the opinion of the rapporteur on each and every amendment is indicated by the President, and the rapporteur can even take the floor to detail his or her position on any specific amendment.²⁶ These kinds of ‘privileges’ give the rapporteur some leeway.

Most prominently, their informational advantage is due to the fact that they usually get greater knowledge over the proposal than any other committee members.²⁷ This can lead to a situation where the other MEPs are dependent upon the rapporteur’s knowledge, thereby offering to rapporteurs some leeway to advance their own interests.²⁸

If the rapporteur Jan Philipp Albrecht can therefore be expected to have had a key influence over the EP’s position on the GDPR proposal, it can also be expected that he made it more fundamental rights oriented, because of his belonging to the Greens/EFA political group – a group which is known for being demanding in terms of protection of personal data.

As a result, the second hypothesis I intend to confront to the empirical findings is the following:

Hypothesis 2: Because of his privileged position in the LIBE committee as rapporteur and of his belonging to the Greens, MEP Jan Philipp Albrecht has impacted the final content of the EP’s position, making it more fundamental rights oriented.

The recognized expertise and leadership of the rapporteur

Based on the interviews I conducted, it seems quite clear that the rapporteur Jan Philipp Albrecht has a protective vision of the way personal data shall be processed. MEP Marju Lauristin e.g. said that he was “more on [the] protective side” because of his law background,²⁹ while a representative from the digital industry sector rather explained MEP Albrecht’s protective position by his political affiliation.³⁰

When trying to measure the rapporteur’s influence over the EP’s position, several elements tend to show that it was a strong one. A first indication of that, again, is the huge majority of MEPs who voted in favor of the report, both within the LIBE committee and in

²⁶ Olivier Costa, *Le Parlement européen, assemblée délibérante*, Bruxelles, Editions de l’Université de Bruxelles, 2001, p. 405.

²⁷ Rory Costello and Robert Thomson, *op. cit.*, pp. 221-222.

²⁸ *Ibid.*, p. 220.

²⁹ Interview with Marju Lauristin, MEP (Estonia, S&D), shadow rapporteur for the GDPR proposal, Brussels, 13 April 2015.

³⁰ Phone interview with a representative from the digital industry sector, *op. cit.*

plenary. The success for this overwhelming support has been largely attributed to the rapporteur.³¹ The fact that he got a large majority is all the more striking and commendable that MEP Albrecht's appointment as rapporteur had been contested at the very beginning of the process, a few political groups having actually put his appointment as rapporteur to a vote, notably because they disagreed on giving such a big and important report to a small political group.³²

In the end, the rapporteur's leadership on this dossier has been widely recognized. MEP Lauristin for instance depicted MEP Albrecht as "a common accepted leader on this issue".³³ Mr. Van der Valk also considered that the fact the Parliament "took a very strong position on creating protective privacy rules (...) [was] a big accomplishment of Mr. Albrecht".³⁴

The widely recognized influence of the rapporteur over the EP's position can be mainly explained by both his expertise on the issue and his very active involvement. Regarding the former element – which mirrors the informational theory again –, Jan Philipp Albrecht has studied law, which puts him in a good position to understand data protection issues. Most interviewees mentioned the fact that he indeed was very knowledgeable on the topic.³⁵ Furthermore, MEP Albrecht's dedication has been largely recognized. He has been very vocal, both within the Parliament and externally, towards the other institutions and in the media. A representative of the industry sector e.g. underlined that

"he's been able to keep the press very interested and involved in the topic and making sure that the Parliament's voice was still heard even though they technically haven't been working on the file for one year".³⁶

MEP Albrecht's engagement can be further illustrated by his strong will to be in charge of this proposal. Indeed, by not spending points on other previous reports, he and his political group acted strategically in order to have a greater chance of being in charge of the GDPR report.³⁷

³¹ Interview with Thomas Van der Valk, *op. cit.*

³² Interview with Jan Philipp Albrecht, MEP (Germany, Greens), Strasbourg, 11 February 2015.

³³ Interview with MEP Marju Lauristin, *op. cit.*

³⁴ Interview with Thomas Van der Valk, *op. cit.*

³⁵ Interview with an official, LIBE secretariat, European Parliament, Brussels, 25 March 2015.

³⁶ Interview with a representative from the digital industry sector, *op. cit.*

³⁷ Interview with MEP Jan Philipp Albrecht, *op. cit.*

This leads me to conclude that, because of his recognized expertise and active involvement, the rapporteur has had a great influence over the final EP outcome, making it more fundamental rights oriented.

As Marshall rightly points out, because the system of rapporteurship gives “power in the hands of a single inadequately resourced individual, (...) [it] generates [an] exceptional need for objective policy information. Secretariat officials, as the best available option, meet this demand”.³⁸ This is why it is now needed to assess the secretariat officials’ influence over the EP’s position.

The *administrative* hypothesis: the ‘hidden’ work of the secretariat

Committees’ secretariats, i.e. officials in charge of assisting each specific standing committee, fulfill four main functions:

- “Technical-administrative assistance, such as the organization of meetings;
- Technical-substantive assistance, such as the provision of procedural and legal advice;
- Research, such as the collection of relevant information for reports;
- Political assistance, such as the provision of advice on how to achieve political compromises”.³⁹

Secretariats might therefore exert influence over the EP’s works through all these different tasks they fulfill, especially the two last ones as they are more content-related.⁴⁰

An interesting study by Marshall illustrates a possible bias in the information provided by secretariat officials.⁴¹ It is argued that, because officials also need information from outside, lobbyists seek to fulfill this mission, thereby altering the impartiality of the secretariat’s knowledge. Hence, while rapporteurs usually rely upon the resources and expertise coming from secretariat officials, which they perceive to be independent,

³⁸ David Marshall, ‘Do rapporteurs receive independent expert policy advice? Indirect lobbying via the European Parliament’s committee secretariat’, *Journal of European Public Policy*, vol. 19, no. 9, 2012, p. 1392.

³⁹ Andreja Pegan, *An Analysis of Legislative Assistance in the European Parliament*, Doctorate from the University of Luxembourg presented on 27 March 2015 in Luxembourg, p. 83.

⁴⁰ Christine Neuhold and Elissaveta Radulova, ‘The involvement of administrative players in the EU decision-making process’, in H.C.H. Hofmann and A.H. Türk (eds.), *EU Administrative Governance*, Cheltenham, Edward Elgar Publishing, 2006, p. 57.

⁴¹ David Marshall, *op. cit.*, pp. 1377-1395.

lobbyists have developed a “strategic practice of indirectly lobbying rapporteurs via their principal source of information: the committee secretariat”.⁴²

In order to better identify in which situations committee secretariats may have a real impact on the EP’s reports, it is necessary to draw their main determinants of influence. The most significant factor is the level of expertise and involvement of the rapporteur: committee secretariats indeed tend to exert greater influence over the EP’s works when the rapporteur is ‘weak’, officials thereby acting almost as ‘substitutes’ to the MEP in charge of the dossier.⁴³ In addition, the complexity of the files plays a key role on the capacity of officials to exert some influence. When a proposal is highly technical, rapporteurs usually tend to rely more upon the information and advice provided by committee secretariats.⁴⁴ Finally, inter-personal relations and individual attitudes of officials may also explain the more or less important influence committee secretariats can have. Good relationships between MEPs and officials indeed tend to make the secretariat’s voice better heard.⁴⁵ Also, civil servants may have different perceptions of their own roles, thereby leading to more or less neutral behaviors.⁴⁶

If the LIBE secretariat can be expected to have played an influential role on the EP’s report about the GDPR proposal, because of the complexity and the length of the text, one might also expect these officials to be rather fundamental rights oriented. LIBE has indeed always been a very protective committee with regards to fundamental rights issues.⁴⁷ This continuity and coherence might be explained by the ‘hidden’ work of the committee’s secretariat, acting towards this goal.

As a result, the third hypothesis now to be challenged is the following:

Hypothesis 3: Because of the complexity and length of the GDPR proposal, the LIBE secretariat has played a key role in assisting the rapporteur and in drafting the EP’s report, thereby making it more protective.

⁴² *Ibid.*, pp. 1377-1378.

⁴³ Mathias Dobbels and Christine Neuhold, ‘The roles bureaucrats play: The input of European Parliament administrators into the ordinary legislative procedure: A case study approach’, *Journal of European Integration*, vol. 35, no. 4, 2013, pp. 375–390, in Pegan, *op. cit.*, p. 35.

⁴⁴ Olivier Costa, ‘Administrer le Parlement européen: Les paradoxes d’un secrétariat général incontournable, mais faible’, *Politique européenne*, vol.11, 2003, p.150.

⁴⁵ Andreja Pegan, *op. cit.*, p. 36.

⁴⁶ Olivier Costa, *op. cit.*, p. 151.

⁴⁷ Camino Mortera-Martinez, *op. cit.*

The LIBE secretariat in the shadow of the rapporteur

Based on the interviews I conducted, the LIBE secretariat actually seems to have been neutral and unbiased. The parliamentary assistant of MEP Sophia In'tVeld, for instance, asserted that "of course, informally [LIBE officials] might have their opinion, but in the end, they are neutral".⁴⁸ The assistant of MEP Lauristin also shared this point of view about the secretariat.⁴⁹ Actually, no interviewee has put the secretariat's neutrality into question.

Turning now to the evaluation of the secretariat's influence over the EP's position, there is also little evidence of any decisive impact. If LIBE officials seem to have been very actively involved in this dossier, they do not appear to have exerted significant influence over the content of the EP's report. To put in other words, the LIBE secretariat has played a key role with regards to the first three functions identified by Pegan – *technical-administrative* assistance, *technical-substantive* assistance and *research* – but a less important role in regard to the fourth one – *political* assistance. The main reason for that is the rapporteur's active engagement. The parliamentary assistant of MEP Ernst, shadow rapporteur for the GDPR proposal, made it quite explicit:

"Specifically with this dossier, the influence of the secretariat was lower than it is in other cases. (...) This is because the rapporteur's office took over many things and kept control of it".⁵⁰

This was especially the case for the drafting of compromise amendments, where the secretariat typically can exert some influence, e.g. if rapporteurs ask officials to elaborate compromises. Here, in general, compromise amendments have been directly drafted by MEP Albrecht and his office.⁵¹

The influence of the secretariat over the content of the EP's report therefore seems to have been very limited. This finding is in line with the previous ones. Indeed, since it has been both argued that the rapporteur was very deeply involved in this dossier and that the influence of committee secretariats largely depended upon the rapporteur's expertise and

⁴⁸ Interview with Thomas Van der Valk, *op. cit.*

⁴⁹ Interview with Eleni Chronopoulou, parliamentary assistant of MEP Marju Lauristin, Brussels, 13 April 2015.

⁵⁰ Phone interview with Lorenz Krämer, parliamentary assistant of MEP Cornelia Ernst (Germany, GUE), shadow rapporteur for the GDPR proposal, 20 March 2015.

⁵¹ Interviews with Thomas Van der Valk, *op. cit.* and with Lorenz Krämer, *op. cit.*

engagement, it is coherent – almost ‘automatic’ – to conclude that LIBE officials did not exert any significant influence over the EP’s position.

So, to answer the third hypothesis, it can be said that the LIBE secretariat’s work is not a key factor in explaining the protective position of the European Parliament: it did not have much influence on the substance of the EP’s position, mainly due to the active role played by MEP Albrecht.

After having examined several factors that may have influenced the EP’s position from the *inside*, it is now important to take into consideration *external* factors.

2. Explaining the balance found within the European Parliament: the role of external factors

Lobbying, and more particularly, the mobilization of civil society (3.1), as well as external events such as the ‘Snowden affair’ (3.2) may have influenced the EP’s position towards a greater protection of personal data. Also, new institutionalism theories may prove relevant to explain the EP’s position. The latter could be due to the Parliament’s will to assert itself as an institution and to act strategically, essentially towards the Council (3.3).

The *lobbying* hypothesis: the impact of citizens-oriented interest groups

Taking into account the possible influence of lobbying activities over the EP’s position requires to look at the conditions under which citizens-oriented interest groups are more likely to impose their views over businesses. Scholars generally identify three main categories of determinants which can affect the lobbying influence over the outcomes: *interest groups’* characteristics, *issue-related* factors and *institutional* components.⁵² Fitting into this general distinction, three more specific factors have been identified by Rasmussen in order to evaluate when business interests are likely to win over more diffuse interests in the European Parliament.⁵³

1) Interest groups’ characteristics: Business unity vs. fragmentation.

This first condition is quite intuitive: businesses are more likely to influence the legislative outcome if they speak with one single voice, and conversely.

⁵² Andreas Dür and Dirk de Bièvre, ‘The Question of Interest Group Influence’, *Journal of Public Policy*, vol. 27, no. 1, 2007, pp. 1-12.

⁵³ Maja Kluger Rasmussen, ‘The Battle for Influence: The Politics of Business Lobbying in the European Parliament’, *Journal of Common Market Studies*, vol. 53, no. 2, pp. 365-382.

2) *Issue-related factors: Low vs. high salience*

The salience of an issue refers to the attention it receives in general, but especially in the media and in public opinion. Rasmussen explains that the less salient and the more technical the issue is, the more influential business groups actually are.⁵⁴

3) *Institutional features: 'Mainstream' vs. 'less responsible' committees*

Rasmussen found that "business groups are more likely to shape policy outcomes when dossiers are dealt with by mainstream committees".⁵⁵ 'Mainstream' committees correspond to those which work mostly under the ordinary legislative procedure. While co-decision "encourages pragmatism and consensual behavior, consultation fosters confrontational behavior on part of the EP".⁵⁶ This explains why committees that are used to work under consultative procedures tend to be higher demanders in terms of protection of citizens.⁵⁷

Another important institutional feature of the Parliament is the rapporteurship system, which makes the lobbying influence also highly dependent on the attitudes of the rapporteur and the shadows. Furthermore, it is usually assumed that the EP as an institution generally tends to be more favorable to diffuse interests.⁵⁸

Several conditions for citizens groups' influence seem to be met in this case study. First, the saliency of the issue is high, because of the great interest from all sides and from the media. Second, the LIBE committee is not a 'mainstream' committee, because it used to – and sometimes still does – work under consultative procedures.

The fourth hypothesis that will now be examined is therefore the following:

Hypothesis 4: Mainly because of the high issue saliency, citizens-oriented interest groups have exerted a key influence over the EP's position, thereby explaining its 'protective' direction.

⁵⁴ *Ibid.*, p. 369. See also Heike Klüver, Caelesta Braun & Jan Beyers, 'Legislative lobbying in context: towards a conceptual framework of interest group lobbying in the European Union', *Journal of European Public Policy*, vol. 22, no. 4, 2015, p. 450.

⁵⁵ Maja Kluger Rasmussen, *op. cit.*, p. 378.

⁵⁶ *Ibid.*, p. 370.

⁵⁷ *Ibid.*, p. 378.

⁵⁸ Alasdair R. Young, 'The Politics of Regulation and the Internal Market', in Knud Erik Jorgensen, Mark A. Pollack & Ben Rosamond, *Handbook of European Union Politics*, SAGE Publications, 2006, p. 382.

Citizens-oriented interest groups: an influence which has to be nuanced

When looking at the empirical findings, there seems to be several elements confirming the conditions under which citizens-oriented groups can exert some influence over the outcome. First of all, the issue of data protection has been highly salient, especially after the ‘Snowden affair’ in 2013. It attracted the attention of a very high number of organizations, be they private or public. Mr. Van der Valk described this proposal as a “high-profile legislative file”, the very high number of amendments proving the importance and interest in this dossier.⁵⁹

Furthermore, there is some indication of a great involvement of citizens-oriented interest groups in this file, among which ‘European Digital Rights’ and the ‘European Consumer Organisation’ (BEUC).⁶⁰ An official from the European Commission considered that there was a particular mobilization of the civil society on this issue.⁶¹ This view was shared by Mr. Van der Valk who said that “NGOs have been very powerful and organized, maybe more than ever, I don’t know, but they were very active on the file”.⁶² As a proof of the active involvement of these protection-oriented interest groups, both interviewees mentioned the ‘Lobbyplag’ initiative,⁶³ a website which compares all the amendments submitted by MEPs on the GDPR proposal to position papers from all the different organizations involved in order to increase transparency about lobbying impact. Such an initiative had never been undertaken before, thereby proving the very high interest from citizens-oriented groups in this file.

Finally, this dossier was dealt with by the LIBE committee, which is far from being a ‘mainstream’ committee. As previously mentioned, this committee was used to work under consultative procedures and it got the reputation of a defender of fundamental rights.

If conditions of high saliency and of ‘non-mainstream’ committee therefore seem to be met, thereby allowing citizens’ groups to exert some influence, the third condition identified by Rasmussen is not met, that is, business fragmentation. On the contrary, industries have been quite united on this issue. This is very well illustrated by the email I received from a representative of this sector whom I contacted for an interview:

⁵⁹ Interview with an EP official, *op. cit.*

⁶⁰ *Ibid.*

⁶¹ Interview with an official, DG Justice, European Commission, Brussels, 10 March 2015.

⁶² Interview with Thomas Van der Valk, *op. cit.*

⁶³ ‘Lobbyplag’, retrieved 20 April 2015, <http://lobbyplag.eu/>.

“There is a very solid consensus among industry actors on the [GDPR], so our point of view would not be different from what you would hear from others”.⁶⁴

Besides their unity on the matter, industries have also been very active, thereby balancing the possible influence of citizens-oriented groups. Many interviewees underlined the very important mobilization of businesses and industries on this text.⁶⁵ An EP official, for instance, estimated that “90% [of the amendments] came from the industrial sector”,⁶⁶ a number on which the rapporteur Jan Philipp Albrecht agreed.⁶⁷

It becomes therefore quite clear that both businesses and citizens-oriented interest groups have been very actively involved in this dossier. As a consequence, it is difficult to attribute the protective position of the EP to the lobbying activity of citizens groups alone. Hence, the ‘victory’ of citizens-oriented interest groups may be better explained by the role played by LIBE and by the rapporteur, both acting as ‘filters’.

The parliamentary assistant of MEP Ernst e.g. explained that business influence in the LIBE committee was limited by the fact that MEPs always have to justify to the rest of the committee why they are introducing specific amendments to the proposal.⁶⁸ This enables to filter potentially irrelevant amendments coming from all sides. Then, obviously, the fact that the EP’s report is rather protection-oriented has something to do with the rapporteur’s influence. MEP Axel Voss e.g. argued that the report from the Greens was much influenced by protection-oriented NGOs.⁶⁹ Thus, by ‘selecting’ and ‘filtering’ amendments, both the LIBE committee and the rapporteur have enabled citizens-oriented interests to be translated into the substance of the EP’s report.

The fourth hypothesis may therefore be answered in the following way: the high saliency of the issue indeed made citizens-oriented interest groups quite influent over the EP’s position, however because the mobilization of industries was also very important, the protective position of the EP seems to be better explained by the role of the LIBE committee and of the rapporteur in this process – thereby validating previous findings. Lobbying *in itself* does not really help explaining why the EP did strike this particular balance.

⁶⁴ Email received from a representative of the digital industry sector, 29 March 2015.

⁶⁵ Interview with Eleni Chronopoulou, *op. cit.*

⁶⁶ Interview an EP official, *op. cit.*

⁶⁷ Interview with MEP Jan Philipp Albrecht, *op. cit.*

⁶⁸ Interview with Lorenz Krämer, *op. cit.*

⁶⁹ Interview with MEP Axel Voss, *op. cit.*

This finding must now be further detailed, notably through the analysis of the general context and public opinion because, “if [an interest] group takes a position that is also supported by public opinion, its influence over outcomes may appear larger than it actually is”.⁷⁰

The external events hypothesis: the consequences of the ‘Snowden affair’

External events may lead to a context more favorable to certain interests; in particular, they can increase the saliency of an issue, thereby advantaging diffuse interests over business’ ones. Indeed, “high public salience (...) may have the effect of deterring business lobbying”, because firms do not want to be seen as opposing consumers’ or citizens’ interests in the media.⁷¹ Several scholars have been studying the impacts external events may have on public opinion and on policy-making processes. The ‘focusing events’ literature as well as the ‘Advocacy Coalitions Framework’ (ACF) are particularly relevant here.

The role of ‘focusing events’

Both Birkland and Kingdon have been examining the role that ‘focusing events’ can play on public opinion and on the decision-making process. According to Birkland’s definition, a ‘focusing event’ is “an event that is sudden, relatively uncommon, can be reasonably defined as harmful (...) and that is known to policy makers and the public simultaneously”.⁷² Because these ‘focusing events’ call to the attention of many different actors (media, government, interest groups, citizens and so on), they tend to accelerate the search for a solution “in the wake of apparent policy failure”.⁷³ Birkland notes that the increased attention can “further tilt the balance of debate in favor of pro-change groups”, as opposed to status-quo oriented groups, i.e. – in most cases – businesses.⁷⁴

Policy change in the ‘Advocacy Coalitions Framework’

The ‘Advocacy Coalitions Framework’ (ACF), initially developed by Sabatier and Jenkins-Smith in 1988, offers another interesting look at how beliefs and policies can

⁷⁰ Andreas Dür and Dirk de Bievre, *op. cit.*, p. 7.

⁷¹ Andreas Dür and Gemma Mateo, ‘Public opinion and interest group influence: how citizen groups derailed the Anti-Counterfeiting Trade Agreement’, *Journal of European Public Policy*, vol. 21, no. 8, 2014, p. 1204.

⁷² Thomas A. Birkland, ‘Focusing Events, Mobilization, and Agenda-Setting’, *Journal of Public Policy*, vol. 18, no. 1, 1998, p. 54.

⁷³ *Ibid.*, p. 55.

⁷⁴ *Ibid.*

change. According to the ACF, actors are strongly influenced by their vision of the world, i.e. by their beliefs – “deep core”, “policy core” and “secondary” beliefs.⁷⁵ Because beliefs are expected to be quite stable,⁷⁶ this model expects a strong path-dependency and is rather interested in long-term policy change, with the idea that change is unlikely to occur quickly.

Interestingly, “external perturbations or shocks” are identified by the ACF as one of the reasons which can explain more rapid policy changes. Such external events are depicted as having the potential to affect advocacy coalitions and dominant beliefs. Sabatier and Weible consider that “external shocks can shift agendas, focus public attention, and attract the attention of key decision-making sovereigns”.⁷⁷ They can therefore foster belief and policy change.

Hence, the potential for external events to impact public opinion and policy outcomes leads to the formulation of the following hypothesis:

Hypothesis 5: External events, such as the 2013 Snowden revelations, have driven the debates about the GDPR towards a greater fundamental rights oriented dimension, thereby leading the EP to adopt a more protective position.

The ‘Snowden affair’ and the stronger position of the European Parliament

In June 2013, Edward Snowden, an American computer professional, revealed classified information to the press about a massive U.S. surveillance program led by the National Security Agency (NSA). These revelations were very controversial as they accused the U.S. of breaching into citizens’ privacy, because of the very large scope of the spying activities, notably on Europeans.

Strikingly, when asked about recent events which might have changed the way of dealing with the data protection topic, six out of the nine interviewees immediately mentioned the ‘Snowden affair’,⁷⁸ while two other interviewees only talked about the impacts of this affair once I mentioned it.⁷⁹ These findings illustrate the overall importance these revelations have had over the data protection debates. The ‘Snowden affair’ can be

⁷⁵ Paul Sabatier and Christopher M. Weible, ‘The Advocacy Coalition Framework: Innovations and Clarifications’, in Paul Sabatier (ed.), *Theories of the Policy Process*, Boulder, Westview Press, 2007, 2nd edition, pp. 194-196.

⁷⁶ *Ibid.*, p. 196.

⁷⁷ *Ibid.*, p. 198.

⁷⁸ Interviews with Axel Voss, Jan Philipp Albrecht, Thomas Van der Valk, the representative of the industry sector, as well as the EP and the European Commission officials, *op. cit.*

⁷⁹ Interviews with Eleni Chronopoulou and Lorenz Krämer, *op. cit.*

labeled as a 'focusing event', since it was sudden, relatively uncommon and perceived as harmful to the privacy of European citizens. The interviews I conducted also confirm the great impact this affair has had on public opinion and beliefs, MEP Albrecht e.g. recognizing that "the Snowden revelations were a very important pick of awareness".⁸⁰

As the 'Snowden affair' raised awareness in public debates and opinion about the need for a stronger protection of citizens' data, this seems to have, in turn, facilitated the adoption of the EP's report on the GDPR proposal. This external event has pushed hesitant political groups to vote in favor of Albrecht's report, thereby making the EP's position 'stronger'.⁸¹ This can be explained by the fact that political groups which were first hesitant did not want to appear as opposing citizens' interests after this 'focusing event'.

This event however did not have "any real effect" on the actual content of the report.⁸² Indeed, one can hardly argue that the 'Snowden affair' has made the EP's text more 'protective', for two main reasons. First, when the 'Snowden affair' broke out in June 2013, the Parliament's report was already well advanced.⁸³ Second, the object of the GDPR proposal has no direct link with the NSA scandal, since the scope of the regulation does not cover activities of intelligence services.⁸⁴ Nevertheless, this scandal did have minor impacts: several interviewees explained that, after this event, the chapter relating to transfers to third countries was modified, notably the compromise on Article 43a ('Transfers or disclosures not authorized by Union law').⁸⁵ This was however the only concrete example which has been mentioned as a consequence of the 'Snowden affair'.

As a result, it can be concluded that the 'Snowden affair' did make the EP's position 'stronger', by facilitating its quick adoption with a very large majority, but not really more 'protective', because this external event did not have significant impacts on the report's content.

The fact that the European Parliament *itself* took advantage of the 'Snowden affair' to raise its concerns, through the creation of an inquiry committee in July 2013, tends to illustrate the 'natural' tendency of this institution to act as a defender of fundamental rights. Hence, an explanation for the EP's protective position might lie in its behavior as an *institution*.

⁸⁰ Interview with MEP Jan Philipp Albrecht, *op. cit.*

⁸¹ Interviews with an EP official, *op.cit.*, and with Eleni Chronopoulou, *op. cit.*

⁸² Interview with Lorenz Krämer, *op. cit.*

⁸³ Interview with an EP official, *op. cit.*

⁸⁴ Interview with MEP Axel Voss, *op. cit.*

⁸⁵ Interviews with MEP Axel Voss, Thomas Van der Valk and a European Commission official, *op. cit.*

The *new institutionalist* hypothesis: a historical and strategic position for the European Parliament

New institutionalist scholars argue that institutions shape behavior and preferences of actors, and in the end, have an influence over the decision-making. Institutionalism is considered here as an 'external' explanation in the sense that it is not directly linked to the *internal organization* of the Parliament as such. It has however both an internal and external dimension: actors' preferences are expected to be influenced both by rules and norms specific to the institution (internal dimension) and by the behavior of the other institutions (external dimension). This last theoretical perspective therefore implies a broader scope of explanation regarding the EP's position.

New institutionalism is actually composed of several 'sub-theories'.⁸⁶ Among those, Historical Institutionalism (HI) and Rational Choice Institutionalism (RCI) are particularly relevant for the present case study. The key argument of HI scholars is that past events do matter. They argue that the legacy of the past within an institution constrains and shapes present and future choices.⁸⁷ This refers to the concept of 'path dependency'.⁸⁸ The fact that previous actions influence the way actors behave therefore tends to provide for some continuity within the institutions; choices are expected to be coherent over time.

According to RCI scholars, actors seek to maximize their interests, taking into account the institutional setting. Here, it is assumed that institutions allow individuals to meet their own aims, thereby implying that actors make an "instrumental use" of the institutions.⁸⁹ The concept of 'interest maximization' corresponds to the idea that individuals seek to get the biggest benefits within a given institutional environment.⁹⁰ In this view, interaction with the other institutions does matter too: individuals make choices depending on the likely behaviour of the other institutions. Hence, their strategies are influenced by the inter-institutional setting.

⁸⁶ Peter A. Hall and Rosemary C.R. Taylor, 'La science politique et les trois néo-institutionnalismes', *Revue française de science politique*, vol. 47, no. 3-4, 1997, p. 469.

⁸⁷ *Ibid.*, p. 475.

⁸⁸ Alex Warleigh, 'Institutions, institutionalism and decision-making in the EU', in Alex Warleigh (ed.), *Understanding European Union Institutions*, London, Routledge, 2002, p. 7.

⁸⁹ *Ibid.*, p. 8.

⁹⁰ Peter A. Hall and Rosemary C.R. Taylor, *op. cit.*, p. 479.

Hypothesis 6: The previous actions of the European Parliament in the data protection field, as well as its will to differentiate itself from the Council as an institution, have strongly incited the EP to adopt a protective position on the GDPR proposal.

More data protection: a coherent position of the European Parliament over time

In line with HI insights, there is a wealth of evidence that the EP has been advocating for more data protection for a long time. The Parliament as a whole has the reputation of being the EU institution the most inclined to defend fundamental rights in general, through the use of a variety of means.⁹¹ In particular, data protection seems to be the area where the Parliament has been the most cohesive over time,⁹² thereby confirming the concept of 'path-dependency'.

There are many examples which tend to validate the idea that the EP has 'always' acted towards a greater protection of personal data. For instance, between 1975 and 1982, the Parliament already adopted four resolutions calling for an EU intervention in the area of data protection, in order to avoid gaps between Member States' legislations and to enhance the protection of citizens' personal data.⁹³ Another example is its 2001 resolution on the 'ECHELON' surveillance program⁹⁴ following revelations about a global surveillance network; the final text was very critical in regards to the respect of proportionality and privacy. Another significant example is the EP's rejection of the 'SWIFT' agreement in 2010 (an agreement between the EU and the US aiming at facilitating transfers of financial data in order to better fight terrorism),⁹⁵ on the grounds that safeguards for data protection were not sufficient.⁹⁶ It was the first time that the EP rejected an international agreement.

⁹¹ Florence Benoît-Rohmer, 'The European Parliament affirms the values of the European Union' in Yves Mény (dir.), *Building Parliament. 50 years of European Parliament History 1958-2008*, Luxembourg, Office for Official Publications of the European Communities, 2009, p. 228.

⁹² Ariadna Ripoll-Servent, 'Playing the co-decision game: is the European Parliament striking a balance between liberty and security?', UACES Annual Conference, Angers, 3-6 September, 2009, p. 6, in Camino Mortera-Martinez, *op. cit.*, p. 23.

⁹³ Gloria Gonzalez Fuster, *The Emergence of Personal Data Protection As a Fundamental Right of the EU*, Brussels, Springer, 'Law, Governance and Technology Series', Vol. 16, 2014, pp. 113-118.

⁹⁴ European Parliament, *Resolution of 5 September 2001 on the existence of a global system for the interception of private and commercial communications (Echelon interception system)*, OJ C72/45, 2002.

⁹⁵ European Parliament, *Resolution of 11 February 2010 on the proposal for a Council decision on the conclusion of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for purposes of the Terrorist Finance Tracking Program*, OJ CE 341/100, 2010.

⁹⁶ Camino Mortera-Martinez, *op. cit.*, p. 35.

As a result, these past events may have incited – if not constrained – the EP to adopt a coherent position regarding the GDPR proposal, i.e. to strengthen the protection of personal data. ‘Path dependency’ has framed the Parliament’s preferences and choices on the issue.

Defending citizens’ interests: a strategic choice for the European Parliament

In line now with RCI insights, the EP’s protective position may also be explained by the fact that adopting such a position was in the MEPs’ interests. As MEPs usually seek re-election, appearing as the ones defending the citizens’ interests and fundamental rights may serve their *own* interests. This is indeed expected to increase their legitimacy. Illustrating the willingness of MEPs to appear as the defenders of the citizens’ interests, MEP Axel Voss e.g. stated that “people should keep in mind that [the] Parliament is here to strengthen the rights of individuals”.⁹⁷

This can also be a strategic approach for the EP, i.e. a way to differentiate itself from the Council. Several elements in the interviews I conducted tend to validate this. A representative from the industry sector e.g. considered that the EP adopted its position quite quickly in order “to put a little bit [of] pressure on the Council”.⁹⁸ This reflects the idea that the Parliament, as an institution, aimed at differentiating itself from the Council, so as to appear as the defender of European citizens’ interests.

Hence, both *historical* (path dependency) and *strategic* (legitimacy gains) considerations have encouraged the Parliament to adopt a protective position regarding the GDPR proposal. New institutionalism theories therefore provide a comprehensive explanation for the EP’s preference for a greater protection of personal data.

Conclusion

Throughout this thesis, several hypotheses have been tested to explain why the Parliament did achieve a protective position concerning this reform. Many of them have proved to be valid, but, in line with the ‘competitive testing’ approach, it is now time to sort them out in order to identify which of those best explain the EP’s position.

⁹⁷ Julie Levy-Abegnoli, ‘The world cannot wait’ for EU to reach data protection agreement’, *The Parliament Magazine*, 2015, retrieved 3 May 2015, <https://www.theparliamentmagazine.eu/articles/news/world-cannot-wait-eu-reach-data-protection-agreement>.

⁹⁸ Interview with a representative from the digital industry sector, *op. cit.*

If they had to be ranked from most to least influential, the *new institutionalist* hypothesis might come first. Indeed, since the EP has 'always' been pro-active in the protection of personal data, the impact of the institution *itself* on the MEPs' preference seems quite significant. The past actions of the institution in this field have incited MEPs to keep a coherent position – through the concept of 'path-dependency'. Also, the pursuing of legitimacy gains can be a powerful explanation for the MEPs' protective stand.

When going further into details, *socio-organizational* and *individuals* hypotheses appear to be particularly relevant as well. There is a wide recognition about the impact that the LIBE committee has had over the EP's position in the end: it seems very unlikely that the Parliament would have reached such a protective text if another committee were to be in charge of the GDPR proposal. Such an achievement was also the result of the rapporteur's influence. Jan Philipp Albrecht's expertise and active involvement in this dossier enabled him to lead the discussions in the Parliament and to orientate the EP's position towards a greater protection of personal data.

Then, other factors have also influenced the EP's position, but to a lesser extent. *Lobbying* and *external events* have proved to be important factors in the adoption of the EP's report, but not decisive elements in explaining the 'balance' struck within the EP between fundamental rights and economic needs. Regarding the *lobbying* hypothesis, it has been shown that the protective position of the Parliament cannot be explained by the mobilization of citizens-oriented interest groups alone, since businesses have also been very active when trying to influence MEPs. Concerning the *external events* hypothesis, although empirical findings showed that the Snowden revelations did impact the debates and public perception on the data protection issue, there is little evidence that this affair did have a significant impact on the actual content of the EP's report. Even if the 'Snowden affair' facilitated the adoption of Albrecht's report with a large majority, one can therefore hardly argue that this event best explains the 'protective' balance that the Parliament managed to strike during its first reading.

Finally, the factor which might be depicted as the least influential one when trying to explain the EP's protective position refers to the *administrative* hypothesis. The very active involvement of the rapporteur gave very little leeway to LIBE secretariat officials for orientating the drafting of the EP's report. In addition to that, there is no clear evidence of strong preferences from the LIBE secretariat, most interviewees acknowledging the

officials' neutrality in the process. The work of LIBE officials therefore does not appear as a decisive factor to explain the EP's protective stand.

Hence, the protective position of the European Parliament is best explained by a combination of various factors, the main ones being the influence of the lead committee and of the rapporteur, as well as the institutional dimension of MEPs' preferences.

Obviously, there is room for further research on this topic, in particular with regards to the analysis of the other EU institutions' positions or to the similar discussions on the 'Police Directive'⁹⁹. In any case, debates about data protection are far from over. Actually, for better or worse, this decisive issue is promised to an agitated destiny, marked by the constant pursuing of a difficult trade-off between privacy rights and economic – or security – needs.

⁹⁹ European Commission, *Proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data*, COM(2012)10 final, Brussels, 25 January 2012.

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