Chapter 2

Theories on change in European integration

‘… in a dialectical contest we must put objective truth aside, or, rather, we must regard it as an accidental circumstance, and look only to the defence of our own position and the refutation of our opponent’s’ (Arthur Schopenhauer, *The Art of Controversy*, 1831; translated by T. Bailey Saunders, from *Eristische Dialektik: Die Kunst, Recht zu Behalten*).

2.1 Introduction

One of the aims of this study is to move beyond the rational-choice perception in order to get a fuller picture of the changes or transformations that occur in the creation and shaping of policies in the EU. The underpinning argument is that moving beyond the rational-choice premise allows this study to examine more effectively process and change – or continuity – at everyday level of EU decision making. The purpose of this chapter is therefore to compare and contrast a set of fundamentally different assumptions, key concepts and observations. They centre on the transformative effect of such ‘immaterial’ factors as ideas, norms, socialization, discourse, or deliberation on behaviour and process.

This chapter starts with a section (Section 2.2) where a review is provided of the various theories and approaches to European integration and decision making that have as their basic premise the rational-choice logic. In this section, it is argued that the approaches based on the rational-choice assumption lack the analytical tools necessary to capture the full picture of changes that occur in the decision making or institution building of the EU. Section 2.3 then shifts the attention to the basic concepts and insights of constructivist and related literature on the role of ideas, beliefs or language and on social learning and discourse in policy analysis. In this section the argument is made that the approach to non-calculative behaviour provide the tools or concepts that capture instances of change which cannot be traced by the rational-choice logic. This section aims to provide support for the claim that the constructivist approach is better suited to capture change in the everyday business of EU decision making.

In Section 2.3.1 particular focus is laid on the concepts developed in the field of middle-ground constructivism that shed light on the effects of deliberative or...
argumentative discourse on process and change. This section not only aims to provide a critical overview on the state of constructivist research on deliberative discourse. It also addresses some of the operationalization and methodological shortcomings of constructivist studies in an attempt to move this body of research forward. In this attempt, recourse is taken to the body of communication research where tools and a well-established set of indicators have been formulated which allow to empirically identify various elements of communicative behaviour. Section 2.3.2 then reviews the conditions triggering the deliberative process that have been proposed and tested in constructivist research. The chapter ends in Section 2.4 with some final considerations on the state of research on deliberative process.

2.2 The rational-choice approaches and theorizing change
If there was any area of concern, or any object of research, that drew most attention in the early years of conceptualizing the development of the European Communities – the predecessor of the EU – it was process and change. As Wiener and Diez indicated, the two major strands of theorizing which dominated scholarly debate in the early years, neofunctionalism and intergovernmentalism, were “more concerned with the process of integration than with the political system to which that integration leads” (2004: 3). While the former was concerned with processes whereby non-state actors in pluralist societies gradually shift their loyalties and redefine identities towards a European community, the latter focused on processes whereby national governments, motivated by clearly defined national interests, rationally interact, join forces and build institutions for coordinating their joint actions.

Transformation, or change, is at the very heart of neofunctionalist thinking. The founder of the neofunctionalist school, Haas, defined political integration as a process “whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities toward a new centre, whose institutions possess or demand jurisdiction over the pre-existing national states” (1958: 16). Political integration, according to neofunctionalist thinking, is an inevitable side-effect of integration of certain economic sectors across states. Initial steps of integration in one economic sector, that follow from converging interests among national interest groups across states, may provide impetus for integration in other, contingent economic sectors. Emphasis was on the role of non-state actors, that is: on national elites of relevant “industrial, political [and] labour groups” and on the changes in their attitudes (Haas 1958: xiii, 17). National governments also play a role, but they are not the only relevant players (Schmitter 2004: 46). In neofunctionalist thinking, “regional integration is
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characterized by multiple, diverse, and changing actors who are not restricted to the domestic political realm but also interact and build coalitions across national frontiers and bureaucracies” (Niemann 2009: 47-48).

Haas saw this dynamic, which he called the process of ‘spill-over’, taking place in the 1950s when integration in the coal and steel sector (ECSC) affected processes of converging interests in other social-economic sectors (EEC). Another prominent neo-functionalist scholar, Lindberg, identified the dynamic of spill-over in the transition process from the lifting of tariff barriers between the EEC member states to coordinating economic and taxation policies (1963: 6).

Although neofunctionalist theory has long been proven to have various – metatheoretical – shortcomings, the idea of ‘spill-over’ nowadays still affects today’s understanding of European integration (Diez 1999: 605-606; Rosamond 2000: 50). Resilience of neofunctionalist thinking and its still actual significance to understanding process and change lies in its portrayal of integration as a “two-way process” (Eilstrup-Sangiovanni 2006: 102). According to this two-way conceptualization, national governments, with the support of domestic interest groups, set up common rules, procedures and institutions in the initial stages of integration, which in later stages are expected, in their turn, to induce national governments and interest groups to promote further integration. With this two-way conception of the integration process, neofunctionalism basically has the potential to provide a basis for analysing change of interests and identities in interaction with the European institutional and informal environment (Checkel 2001a; Diez 1999; Christiansen et al. 2001; Risse 2000; Risse-Kappen 1996).

However, critics doubt whether this two-way conception matches with the implicit microsocial ontology of utility-maximization behaviour that takes actors’ identities or interests as a constant given (Eilstrup-Sangiovanni 2006: 400; Risse 2004: 162; Risse-Kappen 1996: 56). Haas himself acknowledged that traditional neofunctionalist proceeds from “the “softrationalist” assumption that actors, whatever their values and interests, act deliberately in pursuing what they want” (2001: 25). For Eilstrup-Sangiovanni the rationalist logic of neofunctionalism – whether “soft” or not – sits oddly with the idea of changing interests and identities in EU environment. As she argues, “Integration, by this logic, seems to be driven not so much by a sociologically driven redefinition of interests and identities as by a rational reassessment of how existing interests can best be realized” (2006: 401).

While process and change are just as much at the centre of intergovernmentalist theorizing, it has a very distinct perspective from that of the neofunctionalist theory. Intergovernmentalism proceeds from the basic notion that it is the member state
where the analytical focus should be directed on. As one of the foremost critics of neofunctionalist reasoning, Hoffmann considered that the European setting is a set of norms and institutions that facilitates agreement between the member states. It functions on the basis of the principle of “long-term reciprocation” between member states, implying: “I refrain from maximizing my self-interest now in the hope and expectation that you will return the favour when I need it in the future” (1982: 33-34). In his view, this rational-choice conception of the EU – or in his time: the EEC – allows for a study of change. Depending on the game the member states play, the EU may “degenerate into a mere façade behind which the rule of self-interest prevails, or tighten into a quasi-political community” (1982: 35).

Intergovernmentalist theory has undergone refinement with the liberalist intergovernmentalist approach introduced by Moravcsik. Like intergovernmentalism, the liberalist intergovernmentalist approach explains European integration as the result of interaction between states. It considers the European setting as a set of networks, norms, and institutions that facilitate interstate negotiations and agreement between rationally operating member states. Its perspective is based on the premise that there is a shared awareness among the states involved of the adverse effects on costs of interstate bargaining – i.e. the costs of identifying, negotiating and enforcing terms of agreement – in a setting where there is no institutional arrangement (Moravcsik 1993: 497). Successful cooperation between sovereign states can only be possible in an institutional setting. It enables states to successfully identify and reach agreements, by providing rules for decision-making, an environment for a ‘rich’ exchange of offers and counteroffers and trade-offs at relatively low costs, and possibilities for adjudicating disputes between member states.

Liberal intergovernmentalist theory conceptualizes the integration process as the development of the EU (then: EEC) “through a series of celebrated intergovernmental bargains, each of which set the agenda for an intervening period of consolidation” (Moravcsik 1993: 473). The EU system is defined as “an international regime for policy co-ordination, the substantive and institutional development of which may be explained through the sequential analysis of national preference formation and intergovernmental strategic interaction” (1993: 480). Liberal intergovernmentalism thus adds one more level to its theoretical framework. Interstate bargaining events at European level are taken as a function of “national preference formation” at the domestic level (Moravcsik 1993: 480-82). At this level, national interest formation takes place in the processes between citizens and private and public organizations driven by their own domestic and transnational interests. As Moravcsik has put, “Groups articulate preferences; governments aggregate them” (1993: 483).
There is potential for analysing transformation or change in these terms. By taking in the notion that national goals and interests are defined domestically, liberal intergovernmentalism captures the changes in the integration process that are bound to occur due to the transformations that take place in the political (bargaining) processes at domestic level. Nevertheless, critics still argue that in the analysis the scope for change is still limited. Even though liberal intergovernmentalism recognizes the importance of the role of domestic interest groups and its effect on change, it fails to empirically demonstrate that their role and hence their impact on change is significant (Risse-Kappen 1996; Schimmelfennig 2004). National governments are still viewed as having consistent preference orders, despite variance in domestic interests (Schimmelfennig 2004: 77). Moreover, in the liberal intergovernmentalist concept, interest groups do not play a substantial independent role in the processes beyond domestic level (Risse-Kappen 1996: 56; Schimmelfennig 2004: 77).

Given these limitations and the premise that processes or exchanges at the European level are driven by the instrumental self-interest of national governments, critics see through the liberal intergovernmentalist lenses hardly any scope for change of state preference or interest. Due to the rational utility premise, as Checkel has put it succinctly, “State (agent) interests are given a priori and exogenously” (1998: 327). In such a context, it would be difficult to identify any change during exchanges in the EU environment. In this light, as Risse argues, “liberal intergovernmentalism has little to say about whether actors’ interests and preferences are shaped by the EU institutions and the integration process itself” (Risse-Kappen 1996: 56).

It does not mean, however, that the liberal intergovernmentalist conceptualization is not able at all to capture transformative aspects of the process of European integration. Rather, the liberal intergovernmentalist logic is considered to work best where member states retain full control of decision making at the European level – e.g. through unanimity – and when domestic actors and national government are able to identify common interests and aggregate disparate proposals into a consistent package of preferences at national level (Schimmelfennig 2004: 83-84).

This implies for instance that, as Schimmelfennig illustrates, the liberal intergovernmentalist approach is best suited to capture the most intergovernmental processes such as treaty-reform negotiations in the framework of intergovernmental conferences or decision making events in the European Council – where heads of state and those of national government interact (2004: 83). Outcomes of day-to-day decision making in the fields of JHA and common foreign policy has also been considered to be best explained by liberal intergovernmentalism. Conversely, as
Schimmelfennig explains, day-to-day decision making in more supranational settings, where the Commission and the European Parliament are involved, falls outside the remit of liberal intergovernmentalist analysis. It still remains to be seen whether even such highly intergovernmental processes as treaty-amending or EU-enlargement negotiations can be fully addressed through liberal intergovernmentalism only (Beach 2005).

To say that liberal intergovernmentalism theory works best only when the most intergovernmental processes are examined is to admit that this theory is not able to support the broad claim of explaining European integration and change. Rather than capturing European integration as an unfolding process, the theory examines the process only in terms of a series of discrete events (Pierson 1996: 126-127). Jordan et al. observe that liberal intergovernmentalism with its focus on intergovernmental bargaining processes is bound to overlook the “rich process of policy development” that takes place in the interstices between these intergovernmental events (1999: 393). They even find that the shaping of the EU environmental policies in the period between 1967-1997 “has progressed steadily through time, largely untouched by the oscillating levels of political support at the macro level of intergovernmental decision making” (1999: 392-393).

The criticism that the neofunctionalist ontology has fallen into the so-called teleological trap, befits just as much the intergovernmentalist ontology (Rosamond 2000). Whereas neofunctionalism envisages European integration as an evolutionary process towards some sort of a European superstate, (liberal) intergovernmentalism views the process as an interstate bargaining exchange that is being made more efficient by institutions, rules, and procedures reducing transaction costs. Either way, both strands of theory aim to locate the pace, direction and state of the integration process along the continuum from an interstate to a superstate entity (Rosamond 2000: 105, 157). More importantly, both neofunctionalism and (liberal) intergovernmentalism, as Rosamond noted, lack the tools to capture processes where “interests are not simply bound up with the final destination of the integration project” (2000: 157). In other words, both concepts of European integration miss out on the processes where various sorts of – both state and non-state – actors are driven more by day-to-day

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3 Beach demonstrated in his study, which is based on an approach different from liberal intergovernmentalism (a leadership model based on rational-choice institutionalism), that European non-state actors – the Commission, the European Parliament, and the Council Secretariat – can exert considerable influence in such “key history-making intergovernmental negotiations” as the intergovernmental negotiations on the Maastricht Treaty of 1990-1991 or the ‘big bang’ enlargement of 2004 (Beach 2005).
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(practical) interests and concerns of policy shaping and implementation than by long-term concerns of state preservation or superstate formation.

This criticism is related to what in comparative politics literature has been referred to as the inability of neofunctionalism and (liberal) intergovernmentalism to go beyond the logic of International Relations Theory (Pierson 2006: 124; Rosamond 2000: 157-159). Both strands only focus on integration as an international event, that is: as a process between states. This limitation prevents these theories from adequately addressing the complexity of the contemporary process in the EU (Rosamond 2000: 157; Wiener and Diez 2004: 3). Critics advancing this argument generally argue that the EU is, instead of an international system, a ‘polity’ or a ‘governance system’ that in various respects is comparable to the domestic structures of a state. From the 1980s onwards a new body of literature consequently emerged that addressed, from a comparativist point of view, the complexity of the contemporary shape or nature of the EU – instead of on process and change (Hix 2006; Marks et al. 1996; Peterson and Bomberg 1999; Richardson 1996). The ontology of the EU system in this strand of thinking is, however, that of an evolved system and not of an evolving system (Risse 2004).

The criticism on the failure to capture the sheer complexity of the European political system has also led to the adoption of various institutionalist approaches that examine the ways in which institutional configurations affect processes and outcomes in the EU. There are different approaches of institutionalism (see Eilstrup-Sangiovanni 2006: 194-200; Pollack 1997, 2004; Rosamond 2000: 113-119). The various strands of institutionalism share the basic view that supranational institutions are more than mere expressions of states’ interests. Once institutions are established, they take a life of their own. One of the findings of the institutionalists is that the action and role of European institutions “may reflect not so much the preferences and intentions of their member state principals but rather the preferences, and the autonomous agency, of the supranational institutions themselves” (Pollack 1997: 107). Because of the focus on the constraining effects of institutions on state behaviour, the ontology of the institutionalist school has however been called ‘equilibrium-focused and static’ (Schmidt 2008: 304, 2010: 2).

There is however one variant of institutionalism that has provided insight into how processes evolve over time. It is the historical institutionalist theory, which explains how over time the autonomy of supranational institutions develops and consequently “gaps” emerge in the member-state control over the institutions’ action. The underpinning logic is that, as its creator Pierson explains, the enormous scope of
decision-making, tightly coupled issues and the involvement of a large number of actors in several policy areas at the European level create problems of overload for the member states in trying to keep oversight and control over the institutional activities (2006: 313-322). In such circumstances unintended consequences will appear and multiply and, consequently, the “gaps” in member-state control are likely to expand. Once these gaps have emerged, they are difficult to close. The basic argument of historical institutionalism is that “initial choices encourage the emergence of elaborate social and economic networks, greatly increasing the cost of adopting once-possible alternatives and therefore inhibiting exit from a current policy path” (Pierson 2006: 319). This ‘lock-in’ logic applies particularly to the case of the EU, where “dense networks of social, political, and economic activity have grown up around past institutional and policy decisions” (2006: 321).

The important difference with other rational-choice theories is that historical institutionalism, like other institutionalisms\(^4\), aim to demonstrate that institutions do have a role of their own. It is a response to the agency-centred view of liberal intergovernmentalism that only states matter. Historical institutionalism seeks to show the effect structure (institutions) has on the action of agency (states). The problem however, is that, in its effort to provide an explanation that takes account of institutions, the theory still departs from the rational-choice premise according to which agents seek to optimize their own interests and structures – or: institutions – are merely arenas that constrain or widen the range of choices available to agents to realize their interests (Risse 2004: 163; Schmidt 2008:313). As Edstrup-Sangiovanni explains, it assumes like any other rational-choice theory, “actor intentionality and optimal institutional design in the short term” (2006: 200). Historical institutionalism identifies the importance of institutional inertia, lock-in and path dependence in the integration process. Historical institutionalism – and other strands of institutionalism – is, as Schmidt argues, “better at explaining continuity than change” (Schmidt 2010: 2). It is a conception of mutual constraints that follows from the lock-in due to decisions taken before.

This basic view – or: ontology – is typical of rational-choice theory in general. It has the fundamental problem that the analytical focus is on the agents (member states), their actions, objectives, and interests, whilst the constitutive and transformative effects of the structures of environment (institutions) on the agents’ actions,

\(^4\) Broadly speaking, there are three strands of institutionalist theory: ‘rational-choice’, ‘historical’, and ‘sociological’ institutionalism. Rational-choice institutionalism shares much with liberal intergovernmentalism, in that it also assumes that states act as rational, unitary actors that establish institutions with the expectation that they will benefit from the functions performed by these institutions. Sociological institutionalism, which is based on a premise different from the rational-choice ontology, is dealt with in the next section of this chapter.
objectives and interests is overlooked (Checkel 1998: 326; Pollack 2004: 139). An agent-centred view entails that all social events are only explicable in terms of individual agents and their actions and interests. This restrictive ontology, as Checkel explains, implies an analysis where "State (agent) interests are given a priori and exogenously [while] social structures at most constrain the choices and behaviour of self-interested states, which operate according to a logic of consequences (means-ends calculations)" (Checkel 1998: 326).

Whether it is historical institutionalism, liberal intergovernmentalism, neofunctionalism or any other rational-choice theory, the properties of agency – interests, identities, or objectives – are taken as givens that hardly change in interaction with the institutional environment. As Risse for instance points out, it is difficult, if not impossible, for a liberal intergovernmentalist theorist to capture processes in which actors are challenged to rethink their positions or interests (Risse-Kappen 1996: 56). In the same vein, it would be difficult for a historical institutionalist scholar to identify constitutive effect of norms or rules on actors’ interests or identities if these rules are taken as a set of constraints that only determine the range of choices available to agents to realize their interests (Checkel 1998: 327-328). In sum, it would be impossible for rational-choice theorists to identify instances where change is “endogenized” in the hearts and minds of the actors (Schmidt 2010:4).

This being said, the rational-choice premise has proven its worth as a microlevel assumption for various macrolevel theories on European integration. It worked for the historical institutionalist theory to explain to some extent the autonomous action of supranational institutions. Even though neofunctionalism was not explicit about this microlevel assumption, the implicit premise of rational-choice allowed the theory to explain spill-over effect. And it works for the liberal intergovernmentalist theory in explaining the outcome of such a major turning point as the intergovernmental negotiations on the Single European Act.

Indeed, the liberal intergovernmentalist approach of Moravcsik has gone a long way in explaining European integration by addressing development of the EU as “a series of celebrated intergovernmental bargains, each of which set the agenda for an intervening period” (Moravcsik 1993: 473). But in doing so, he also turned a blind eye to process and change at the level of daily decision making, which has been set aside – to use Moravcsik’s words – as intervening periods of “consolidation”. Rather than consolidation, intervening periods of everyday decision making appear to generate a dynamic of its own, even that of expansion. As has been argued in the first chapter, it appears that everyday process constitute an environment where interests and identities can
change and that it follows, in any case, a logic – either of change or of continuity – that has not been – and cannot be – captured by rational-choice theory.

Advancing the rational-choice premise as a microlevel mechanism that operates, as the methodologists George and Bennett have put, “almost universally in social life” would be too broad a claim (2005: 144). Unconvinced by the rational-choice claim (advanced by Moravcsik) that changes in behaviour and outcome can best be explained within a broader structure of (bargaining) incentives, Checkel playfully wonders whether there is something that liberal intergovernmentalism cannot explain. He thereby pointedly argues: “Indeed, we should worry when one can ask of a theoretical opponent: What’s not explained by your theory?” (Checkel and Moravcsik 2001: 242). Other theorists expressed similar views. Jordan et al. (1999), for instance, have stated that there is no single, all-encompassing theory of European integration.

Therefore, to gain a fuller picture of the integration process and in particular its transformation – or continuity – is to go beyond the rational-choice ontology. That is, one has to go beyond the study of instances of process that has already successfully been unravelled by rational-choice theories. The social events that, as some intergovernmentalist theorists admit, mainly fall beyond the reach of rational-choice ontology are decision-making processes at everyday level of the EU (Schimmelfennig 2004: 83).

2.3 The immaterial factors of change

From the 1990s onwards a new line of thinking emerged in the field of European studies which distinctly differed from the rational-choice ontology. This new way of thinking draws inspiration from insights in the broader field of social theory, focusing on the immaterial aspects of social life. That is, it focuses on the relevance of ideas or beliefs, norms or institutions, and on socialization, discourse or deliberation in society. This new perspective comprises a variety of sociological and constructivist approaches that vary in various ways but one aspect. They share the basic concept or ontology – that reality can best be understood as a changing social reality that is continually constructed by virtue of human agreement. Construction of social reality is reflected in the formation of intersubjective meanings, in the sharing of norms, routines, or practices, the formation of shared interests or identities, rule appropriation, persu-

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3 For convenience, all variants of this strand of meta-theoretical thinking are hereinafter brought under the heading ‘constructivism’, even though not all theorists concerned would locate their theory or approach this way.
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One of the chief differences with the rational-choice ontology, is that constructivist thinking does not consider structure of the social environment to consist (exclusively) of material attributes or “outside physical forces” (Adler 1997: 322), such as power resources or “material factors that heighten the credibility of commitments or make side payments possible” (Ulbert and Risse 2005: 353). According to constructivist thinking, structures of social environment are considered collective understandings that do not simply constrain or regulate behaviour. They also constitute agents’ identities and interests, and therefore not material “in a ‘put your hand or rest your eyes on it’ sense” (Schmidt 2008: 318). In a study on the social construction of European identity, Risse for instance explains that Europe and the nation are both “imagined communities” and yet they constitute identities and interests and cause concrete or ‘material’ things to happen (Risse 2004: 166-171).

In the same vein, Checkel makes a point explaining that even in the case of such an “ultimate material” power resource as nuclear weapons it is not so much “the brute fact of their existence” that determines ‘reality’ (2011: 6). It is rather the social context that gives meaning to this material resource. The question whether a large quantity of these weapons are in the hands of the British government or only a few of them in possession of the North-Korean regime makes a (socially construed) difference. In the former case, as Checkel explains, this material ‘given’ does not matter much to for instance the United States, for it is “interpreted through a social context of friendship”. In the latter, the ‘social’ reality looks very different, and gloomy.

Constructivism thus conceptualizes structure as a social construct that defines – or ‘constitutes’ – social reality, or identities and interests of social agents. Put differently, it is grounded on the basic understanding that social environment and its structures – be they norms, rules, conventions, institutions, procedures, practices, interests, or routines – are constituted (and modified) through continuous human agreement. This conceptualization entails a dynamic view on the formative role of structure on human behaviour. Through continuous human agreement – i.e. modification of intersubjective meanings embedded in social structure – changes inevitably occur in our behaviour, perceptions, beliefs, identities, and interests (Adler 1997; Checkel 1998; Christiansen et al. 2001).
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To illustrate, for instance, the transformative role that language or ideas play in everyday social life, the explanation of Diez on its transformative role is indicative. He explains that “we all know that meaning is not eternally fixed: dictionaries provide us with contested meanings of a single word, and, once in a while, such entries have to be changed because the word is now used in a different or additional sense” (1999: 607). It is not difficult to see how language or ideas, and as a corollary discourse or communicative interaction, impact on our perception or interpretation of our own identity and interests and consequently on the changes that take place in our daily lives and hence in society and politics (Burley and Mattli 1993; Eriksen and Fossum 2000).

Beyond the shared emphasis on structure, or social environment, as a socially constituted or culturally framed reality, there is diversity of method and focus in constructivist research. There is variation in epistemological terms, ranging from the use of more positivist, traditional explanatory methods for demonstrating causalities or capturing causal mechanisms (Checkel 2005; Risse and Kleine 2010) to the employment of more interpretivist methods – which require an inductive, bottom-up research design – for reconstructing social process (Diez 1999). Constructivist research also varies in terms of research focus. It includes studies on the constitutive role of discourse or ideas in shaping social reality (Diez 1999; Schmidt 2008, 2010), on the constitutive effect of norms on behaviour (March and Olsen 1998; Trondal 2001), and the transformative effect of deliberative discourse, socialization or persuasion on identity and interest (e.g. Beyers 2005; Checkel 1998, 1999; Johnston 2005; Lewis 2005; Ulbert and Risse 2005).

As regards the constitutive role of discourse, there is a strand of constructivist thinking based on the speech act theories of Austin and Searle and the discourse theory of Foucault. In this body of literature discourse is viewed as a process that imposes meaning on the social context (Diez 1999: 602-603). Central here is the radical thought “that reality cannot be known outside discourse” (1999: 603). The meaning of notions such as ‘common market’ or ‘subsidiarity’, for instance, cannot be properly understood but within the ‘discursive webs’ – i.e. ‘Euro-speak’ – in which they have been articulated. The idea that reality cannot be known outside discourse is closely related to the line of postmodernist or poststructuralist thinking which is a radical response to positivist mainstream thinking. It emphasizes that reality cannot be captured in terms of objective law-like forces and constraints affecting behaviour. As Adler colourfully explains, “postmodernists, in particular, subscribe to the view that if people cannot know that there is an objective reality, they should not waste their time looking for it” (1997: 326).
In epistemological terms, this quite radical line of constructivist thinking – that reality cannot be known outside discourse – implies that researchers seek to understand and reconstruct social reality through the eyes of the actors – the subjects of research – by means of interpretation of meanings given by the actors themselves to social reality and identification of patterns of interpretations, narratives or accounts. It entails a fundamentally different approach from the positivist epistemology in that it does not assume objective, law-like constraints or incentives on social behaviour and it does not use hypotheses or propositions on causal mechanisms for explaining (or predicting, for that matter) outcomes. Rather than a positivist methodology, the postmodernist or poststructuralist approach implies an inductive, bottom-up methodology aimed at reconstruction of social ‘reality’ through the eyes of the social agent (Checkel 1998; 2003; Adler 1997).

Another, different strand of constructivist thinking focuses on the institutional structures that provide venues of socialization and appropriation of norms and identities (Checkel 2005; March and Olsen 1998; Trondal 2001). This line of thinking is much closer to mainstream positivist thinking. According to the “logic of appropriateness” – a central notion in the sociological institutionalist school of thought – the institutional context provides a cognitive frame for actors inducing them to bias the information in such a way that they appropriate an identity of belonging to the social context (March and Olsen 1998: 948-51; Trondal 2001: 6-7). Institutions and norms, are viewed as explanatory variables having a constitutive – and also a regulative – effect on behaviour. Actors seek to adapt to norms because they consider it ‘the right thing to do’.

This strand of constructivist thinking\(^6\) seems to provide enough explanation for the definition of common interests, also with regard to the EU (Risse 2004: 163). However, it is also argued that it is about rule-guided behaviour and therefore is still too static an approach and too much based on premises of rational-instrumental thinking (Schmidt 2008: 322). A more dynamic response to this line of thinking is formulated by Schmidt, who advances the concept that institutions are intersubjective constructs resulting from idea-sharing, rather than external structures for rule-following (2008: 322).

There is a school in constructivist thinking that emphasizes structure as a social construct that is both continually being created and modified by human agency and at the same time defining – or ‘constituting’ – identities and interests of social agents. Structures, be they norms, practices, conventions, institutions, or “consensual scientific

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\(^6\) Often referred to as sociological institutionalism.

\(^7\) Referred to as discursive institutionalism.
understandings, or [just] the practice of diplomacy, or arms control”, are all social constructs in that they “are continually constituted and reproduced by members of a community and their behaviour” (Adler 1997: 326). At the same time, they constitute agent’s identities and interests and impact on agents and their behaviour. Put differently, the concept of mutual constitution implies that structure is taken both as given – that is, the environment within which agents think, belief, speak and interact – and simultaneously as contingent – that is, it is the outcome of agents’ thoughts, actions, and exchanges (Schmidt 2008: 314).

The emphasis on mutual constitutiveness of structure and agent is a major feature of the so-called middle-ground constructivist line of thinking (Adler 1997; Christiansen et al. 2001: 11-16; Checkel 1998: 326, 1999; Risse 2000: 5-6, 2004: 161). The concept of mutual constitution entails the possibility that interests and identities can change during social interaction. In contrast to the rational-choice ontology, according to which interests are fixed, objective givens, exogenous to social interaction and therefore represent law-like incentives structuring rational-instrumental action, in middle-ground constructivist thinking they are treated as social constructs or subjective ideas/beliefs which are amenable to change during process (Checkel 1998: 327). As Christiansen et al. (2001: 6) have quoted from Kratochwil and Ruggie, in rational-choice logic there is “a radical separation of subject and object”. In this logic, states’ interests are treated as “objective forces that move actors in their social interactions” (Christiansen et al. 2001: 6). In constructivist logic, on the other hand, these properties are treated as ‘subjective’ attributes that are contingent on the nature of the process.

This does not necessarily mean, in epistemological terms, that middle-ground constructivism is different from theories based on the rational-choice premise. It may very well involve the use of positivist (nomological) methods to explain or predict the occurrence of a certain form of social conduct and/or outcome under certain (hypothesized) circumstances. Risse and Kleine (2010), for instance, have adopted an experimental design to explain, in view of certain preconditions, the occurrence of arguing – or deliberative exchange – in the negotiations in the intergovernmental conference of Amsterdam of 1996-97 and the European Convention of 2001-3. In substantive terms, constructivist theorists may even join a liberal intergovernmentalist interpretation of interstate negotiations as the avenue to capture the process of European integration or they may embrace the neofunctionalist or institutionalist reading that supranational institutions matter (Risse 2004: 160).

In ontological terms, however, middle-ground constructivism is fundamentally different from any theory based on the rational-choice assumption. As a meta-
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theoretical approach to social study – and not a theory – it is based on the fundamental understanding that any attribute of agent (including identity or interest) or structure is – apart from biological or physical necessities – endogenous to interaction and therefore amenable to change (Checkel 1998: 326; Christiansen et al. 2001). It is this logic of ‘mutual constitution’ that enables middle-ground constructivists to demonstrate, through a wide range of different methods, the transformative nature of social process. It enables scholars to open up “the black box of interest and identity formation” (Checkel 1998: 326).

Various constructivist notions of arguing, persuasion, socialization, or deliberation have been based on the basic idea of mutual constitution. These – and other – concepts have allowed many studies to identify various transformative processes at the day-to-day level of decision making in the EU. In his examination of processes of socialization in the principal subsidiary body of the Council, the Coreper, Lewis identified instances – of socialization and so-called ‘normative suasion’ – “where persuasive justifications carry the day” and have transformative effects on basic actor properties – i.e. national identity and interest perception (Lewis 2005: 950-52). Joerges and Neyer have applied the concept of communicative action to explain the outcome of comitology processes in the EU (1997). Beyers and Diericks revealed in their analysis of communicative processes in the Council working groups – subsidiary bodies of the Council working structure – instances of socialization that induce representatives to adopt a supranational role in the discussions (Beyers and Diericks 1998; Beyers 2005). Burley and Mattli emphasise the relevance of communication – and language – by demonstrating that case law of the Court in Luxembourg gave profound meaning and direction to European integration (1993). In the same vein, Eriksen and Fossum identified legal reasoning as the cornerstone of institutional and normative change in European integration (2000). Also, a study has been conducted in light of the logic of appropriateness and norm appropriation with particular focus on decision making process in the field of JHA (Aus 2008).

A major part of middle-ground constructivist research has placed focus on the dynamic of deliberative practice and its constitutive role. The theoretical underpinning of this part of constructivist thinking is the theory of communicative action of the German philosopher and sociologist Habermas. In his major work, The Theory of Communicative Action, Habermas (1984) expounds that all communication involves a mode of action that is oriented towards understanding and agreement. He defines communicative action as an ideal notion that occurs “whenever the actions of the agents
involved are coordinated not through egocentric calculations of success [i.e. rational-instrumental action] but through acts of reaching understanding” (1984: 285-286).

Drawing on Habermas’ theory of communicative action, a number of middle-ground constructivists have focused their research on the causal role of argumentative process in shaping agents’ interests and identities (Risse 2000; Risse & Kleine 2010; Checkel 2007; Ulbert et al. 2004). On the basis of Habermas’ theoretical ideal types of communicative action they elaborated concepts suitable for empirical research. In examining communicative practices in the fields of International Relations and European Studies, the middle-ground constructivists have not eschewed positivist methodology. For them, it meant that causal relationships had to be detected and tested between certain preconditions embedded in social environment and the mode of (inter-)action that is driven by the actors’ interpretations of this environment. Therefore, in addition to examining communicative practice, they have also hypothesized and tested certain ‘preconditions’ that have been expected to trigger deliberative practice.

In what follows, some of the key concepts and empirical findings within this growing body of research are examined. The aim is to see whether any generalizations can be made on the extent to which middle-ground constructivism has managed to capture deliberation in the context of multilateral negotiations, both in international settings and in the EU setting. In view of that aim, findings in other fields of research, focusing also on the Habermasian concept of deliberation, are addressed as well. The preconditions which middle-ground activists have hypothesized as the triggers of such action, is also reviewed. In view of the examination of communicative action in the EU, this review also covers findings on the specific preconditions of deliberation detected in EU’s institutional setting. First, the next subsection (2.3.1) turns to the concepts of deliberation and related empirical findings. Then, the subsequent section (2.3.2) turns to empirical findings on the preconditions of deliberation in the EU.

2.3.1 Capturing deliberative discourse

Close to Habermas’ theory of communicative action, the so-called concept of so-called ‘argumentative rationality’ was developed for the purpose of empirical research in the fields of International Relations and European Studies. Like Habermas (1984: 168-185), Risse (2000: 8-11), who is the initiator and main proponent of the ‘argumentative rationality’ concept, considers rationality a collective construct produced by social interaction. Like Habermas, he emphasizes the public or interactive use of reason through a process of argumentation – or deliberation. By virtue of the interactive use of reason individual validity claims are then challenged. It is through
This argumentative process that actors come to find new shared meanings and understandings about problems, solutions and common action (2000: 10).

The immaterial element is clearly present in the logic of argumentative rationality. When actors argue or persuade they do not use sanctions, rewards or side payments. The absence, or secondary importance, of coercive pressure is what distinguishes argumentative rationality from instrumental rationality. The latter concept underlies a process of strategic interaction, or bargaining, where the goal of action is to maximize or optimize one's own interests and preferences. The former, on the other hand, implies that “participants in a discourse are open to being persuaded by the better argument and that relationships of power and social hierarchy recede to the background” (Risse 2000: 7).

This is not to say, as Risse emphasizes, that action according to the logic of argumentative rationality is not goal-oriented. There is a goal, but instead of maximization or preservation of one’s own interest, it is to seek “a reasoned consensus” among the interested involved (2000: 7). Risse refers, in this regard, to the Habermasian notion verständigungsoorientiertes Handeln: “actors try to convince each other to change their causal or principled beliefs in order to reach a reasoned consensus about validity claims” (Risse 2000: 9; see also Habermas 1975: 17, 1984: 94-101). The willingness of actors to accept counterarguments which might challenge their inner beliefs on profound values is driven by their desire to come at a common definition of the issue under discussion. The emphasis on the open-mindedness of the actors – or negotiating partners – gives the concept of argumentative rationality an inherently dynamic quality. As Risse explains, it “presupposes that actors no longer hold fixed interests during their communicative interaction but are open to persuasion, challenges, and counterchallenges geared toward reaching a reasoned consensus” (2000: 33). In a process of argumentative exchange interests or preferences are “subject to interrogation and challenges and, thus, to change” (Risse 2000: 10).

The formulation of argumentative rationality has gone a long way in moving from Habermas’ theoretical ideal types of communicative action to an analytical tool suitable for empirical research (Checkel 2001b). Various empirical studies have been conducted on the basis of argumentative rationality. In the field of European Studies, research has been conducted on such subjects as comitology processes (Joerges and Neyer 1997), negotiations in the Coreper (Lewis 2005), or negotiations in the 2001-3 European Convention (Risse and Kleine 2010). In the field of International Relations, subjects of argumentative-rationality research include the 1995 Review Conference of the Nuclear Non-Proliferation Treaty, negotiations on the Ottawa Treaty banning of land mines, and the drafting of the Child Labour Convention in the framework of the
International Labour Organization (see for an overview: Ulbert and Risse 2005: 351). Also, various hypotheses have been forwarded to predict or explain the occurrence of arguing or deliberation in multilateral negotiations (Ulbert et al. 2004; Risse and Kleine 2010).

In providing the logic of argumentative rationality with more empirical robustness, proponents of this logic have sought to elaborate its causal mechanism by specifying the use of valid argument. It has been specified that – while in strategic interaction validity claims are less important and negotiators move on their own utility functions, following a personal means-end calculus – in an argumentative exchange negotiators are more inclined to make reference to “a mutually accepted external authority to validate empirical or normative assertions” (Ulbert et al. 2004; Ulbert and Risse 2005: 352-353). Thus, negotiators engaging in argumentative exchange may, for instance, support their position or argument with references to “previously negotiated and agreed-upon treaties, universally held norms, scientific evidence, and other forms of consensual knowledge” Ulbert et al. 2004: 5).

As with any approach or theory in social science, the concept of argumentative rationality has been subjected to reflection and criticism. Findings of empirical research on the basis of argumentative rationality have shown that while there is a clear conceptual distinction between arguing and bargaining, in reality they are difficult to disentangle (Risse and Kleine 2010; Ulbert et al. 2004; Ulbert and Risse 2005). Already in earlier work, when the concept of argumentative rationality was forwarded for the first time, it was readily acknowledged that “it is quite trivial that communicative behaviour is all-pervasive” (Risse 2000: 8). As Schmidt aptly observes, “discursive interactions actually involve both arguing and bargaining; one can argue to defend one’s interests while being strategic in persuading others as to the appropriateness of one’s viewpoint” (2008: 312).

Schimmelfennig, in his rational-choice account of the 1998 enlargement negotiations, considers that negotiating parties usually make use of argument and reason for strategic purposes. He calls this kind of behaviour “rhetorical action” (Schimmelfennig 2001: 63). In their empirical study, Risse and Kleine (2010: 711) acknowledge that it is a “challenging task” to establish which discursive mode, arguing or bargaining, is the prevailing mode of discussion, not only because they coincide, but also because the sort of individual discursive behaviour does not entirely coincide with the sort of interaction or discussion that takes place between the individual parties.

The difficulty in capturing argumentative behaviour and exchange would therefore lead to the conclusion that communication, argumentation or the exchange of ideas and arguments are “causally epiphenomenal” (Checkel 2001: 243; Moravcsik 2001:
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This reservation has especially been expressed in rational-choice circles. Liberal-intergovernmentalists like Moravcsik (2001: 231) argue that: “To support any serious claim about the autonomous role of ideas in European integration [would require] analysis [that] can help us distinguish constructivist claims about the causal importance of autonomous variation in ideas from a causally epiphenomenal or ‘transmission belt’ role for ideas and other sources of spurious correlation”. He doubts whether such an analytical or conceptual endeavour would succeed.

However, relinquishing the perspective of argumentative rationality would mean throwing the baby out with the bathwater. Emphasizing the importance of rationalist account of bargaining behaviour to the exclusion of a constructivist account of deliberative or social learning behaviour would be “an odd distortion of social reality” (Checkel 1999: 549). Schmidt’s argument is quite convincing when she explains that there is still a need to focus on the role of ideas and (deliberative) discourse and their impact. She acknowledges that “To policy makers and politicians in particular, the very notion that one would need to make a plea for taking ideas and discourse seriously would appear ludicrous, because the very essence of what they do is to generate ideas […] and then communicate them” (2008: 305). However, she also emphasizes that analysing their potential and their role in social interaction is still more than worth the effort. Instead of focusing on the question whether ideas, discourse, or deliberation matter, as Schmidt explains, research should take “it as a given that ideas and discourse matter, in order to focus on the more interesting set of questions for political scientists, namely how, when, where, and why ideas and discourse matter” (2008: 305).

It is to be noted that argumentative-rationality theorists have indeed focused on the how, when, where, and why of deliberative discourse and its effect on shaping the outcome. Put differently, they have indeed directed analysis on the conditions and potentials of argumentative behaviour and exchange. A move took place from the initial question “which logic dominates a given situation’ (Risse 2000: 8) to questions centering on the circumstances that allow argumentative process to prevail. Some of the studies have later elaborated on the identification of stages of negotiation where deliberative behaviour is considered to prevail (see: Ulbert et al. 2004). In subsequent studies, argumentative-rationality theorists have redirected analytical focus to the question which “institutional scope conditions are conducive to enable arguing to prevail” in multilateral negotiations (Lewis 2005; Risse and Kleine 2010).

The reason for the latter move is, as Risse and Kleine explain, to set aside the difficult question concerning the motivation and intention of the actors engaged in negotiation (2010: 711). This question is considered as one of the conundrums in
constructivist thinking: how to capture an instance of deliberative discourse that is truly motivated by the desire to come to a reasoned consensus or mutual understanding? More generally, one of the big challenges in constructivism is to demonstrate the causal effect of such ideational factors as the ‘better argument’ or a ‘convincing idea’ (Checkel 2001b; Eilstrup-Sangiovanni 2006: 393-405; Risse and Kleine 2010). It concerns both the question whether internalization – e.g. being convinced by the better argument during discussion or negotiation – has actually occurred and whether justification or the use of argument is actually driven by truth-seeking motivation (and not by strategic calculation). While it has been widely agreed that the impact of idea, deliberation or social learning on the shaping of negotiation outcomes “is staring us in the face”, as Risse and Kleine have put (2010: 711), the demonstration of its actual presence during discussion is one of the biggest challenges in constructivist thinking.

In circumventing this problem, Risse and other scholars studying the logic of argumentative rationality have opted for investigating only the institutional scope conditions triggering communicative rationality (Risse and Kleine 2010: 710-711; Ulbert et al. 2004). The reason for this choice is not only the impossibility to ascertain actor motivation and intention. They support this choice also because deliberation, arguing or persuasion “actually occur [even] under circumstances in which one could safely assume that none of the actors involved were truth-seeking” (Risse and Kleine 2010: 711). In reference to Habermas’ argument that there are situations that almost by definition entail the use of the ‘better argument’ – such as in a court room where the use of argument is necessary in order to persuade the judge or a jury – the argumentative rationality theorists argue that scientific effort should thus be more focused on identifying the scope conditions of such situations, regardless the intentions and motivations of the actors.

This manoeuvre boils down to what Checkel (2001b) describes as “shrink[ing] the black box that has been built around the actual deliberative process”. Instead of getting “inside heads”, research and methodology should focus on better understanding the conditions under which and the microsocial mechanisms through which deliberation, arguing or persuasion occur. In his attempt at shrinking the black box enclosing deliberative process, Checkel himself has developed a perspective, which he calls ‘argumentative persuasion’. It has much in common with the concept of argumentative rationality of Risse and other scholars. It can also be traced back to Habermas’ theory of communicative action.

Checkel’s effort to develop rigor and precision in his approach – even though “bracketing” actor motivation and intention could not be avoided – has resulted in the specification of a microsocial mechanism called ‘persuasion’ and the formulation of a
set of hypotheses on the conditions under which persuasion is likely to occur (1999; 2005). His concept of persuasion is, as Checkel considers, a “real-world response” to the Habermasian ideal type notion that it is the force of the better argument that changes minds. Checkel (2001b) believes that analytical emphasis should lie on “the persuasive appeal of one’s interlocutor (the persuader) and the open-mindedness of the persuasion target (the persuadee)”.

With this concept Checkel operationalizes “deliberation as attempts at persuasion” (2001b; 2007: 3). He thereby considers that: “Argumentative persuasion is a social process of interaction that involves changing attitudes about cause and effect in the absence of overt coercion” (2001a: 562). Persuasion refers to a situation where one actor – the persuader – is able to induce change in the belief or interest of another person – the persuadee – by convincing him/her through argument. It is not manipulative persuasion, as Checkel emphasizes, through which material incentives like threats or rewards are used. It is argumentative persuasion, which implies that the persuading party enjoys ‘persuasive appeal’ and the ‘target of persuasion’ is open-minded to the arguments of the former (2001a: 5). Checkel thereby hypothesizes that persuasion is more likely to work in contexts where there is “cognitive uncertainty and noviceness” on the part of the persuadee and “in-group status” of the persuader. He also expects persuasion to occur in “less politicized and more insulated, in-camera settings” (1999: 549-550; 2001a).

Various empirical studies have been conducted on the basis of the logic of argumentative persuasion, including a study on practices of socialization enacted by NATO in countries of post-Cold War Central and Eastern Europe (Gheciu 2005) and one on socialization processes in the Council working groups inducing representatives to adopt supranational roles (Beyers 2005). In a study on communicative processes in expert committees of the Council of Europe Checkel finds that negotiating delegations “sought to persuade and change attitudes, using the force of example, logical argumentation and the personal self-esteem in which one persuader was held. In at least two cases, individuals did rethink their views […] in a fundamental way, that is, they were convinced to view the issue in a new light” (2007: 7).

Checkel and other scholars have made significant progress in developing the concept of argumentative persuasion and identifying the causal effect of persuasive appeal. The emphasis is however on the ability to persuade. That is, the argumentative-persuasion concept focuses on the ability of the persuader to change the ideas, interests or beliefs of the ‘persuadee’ while it overlooks the element of reciprocity. What has been overlooked is that the interests and beliefs of the persuading party are at the same time being receptive to persuasion. In short, the argumentative-persuasion
concept does not fully capture the interactive element of mutual constitution. As Checkel himself admits:

‘my theory models social interaction in what amounts to a linear and unidirectional way. I allow for preference at the “receiving end” – the persuadee – but do not explicitly consider the reverse process, where the persuader’s own preferences are challenged and perhaps open to redefinition. I thus fall short of capturing processes where the preferences of all actors are “on the table”.’ (Checkel 2001b: 579)

Moreover, like the research based on the concept of communicative rationality – developed by Risse and others – the research based argumentative persuasion has also put quite some emphasis on the articulation of the ‘scope conditions’ that allow persuasion to occur (Checkel 2001b, 2007: 5). As Checkel explains (2007: 5), it is by means of articulation of scope conditions that instances of persuasion can be distinguished from instances where arguments are used only for strategic purposes – i.e. rhetorical action (see: Schimmelfennig 2001).

In sum, both concepts, argumentative persuasion and argumentative rationality, have gone far in shrinking the black box of deliberative discourse and its effect on shaping the outcome of negotiation. This, however, has been done mainly through articulation of (institutional) ‘scope conditions’ under which negotiators are likely either to persuade the other or to change their own mind due to the other’s argument.

It can be said that a set of clearly operationalisable tools for capturing the mutual dynamics of deliberative discourse itself still remains underspecified. Put differently, in circumventing the tricky conundrum of actor motivation and intention – by bracketing it – theorists have invested and focused much of their efforts in articulating the conditions that help to observe deliberative discourse, without specifying, in operationalisable terms, what the observables of deliberative discourse are. Such an endeavour, if successful, would help bolster the position of middle-ground constructivism facing the repeated critical claim, expressed mainly in rational-choice circles, that middle-constructivist thinking lacks rigor and precision (see e.g. Moravcsik 2001: 239).

With the aim of providing more substance to the conceptual framework of what may constitute an argumentative event, this study turns to observations and findings reported in other disciplines where scholars have also drawn on Habermas’ ideas on deliberation and communicative action. In particular in the field of communications science – and more particularly that of deliberative democracy theory – concepts have been cast in various concrete, observable terms which have allowed research to assess instances of argumentative interaction in various ways. It is for this
reason that approaches and concepts developed in this discipline are taken on board in this study. There is extensive literature in the field of communications research, particularly in the field of discursive processes in the (net-based) public sphere and democracies, that has been built on Habermas’ theory (see: Bächtiger et al. 2010; Dryzek 2009; Janssen and Kies 2004). In these fields, researchers often draw on the Habermasian ideal-type conception to evaluate “real-world political communication” in the democratic process (Dryzek 2009: 1381).

Like the middle-ground constructivists, communications theorists – and deliberative-democracy scholars – have conceptualized deliberative discourse as the opposite pole to strategic exchange or instrumentalist action. Deliberation is considered as “the (communicative) heart and soul of democracy” in that it excludes bargaining and power play (Graham 2009: 12). Moreover, like the constructivists, they highlight the transformative effect of deliberation. In contrasting the deliberative model of democratic process with the liberal account of democracy (i.e. a formal, institutional notion of democracy that assumes voting as the mechanism of public will formation) Graham, for instance, emphasizes that:

*the deliberative democratic account views democratic participation as a means of transforming individuals, transforming their preferences through a process of deliberation. This is in contrast to the liberal democratic account, which views preferences as remaining stable during and after democratic participation. Consequently, deliberative democracy relies on the empirical reality of preference transformation* (Graham 2009: 12).

The deliberative-democracy theorist Dryzek has pointed out that “Deliberation as a social process is distinguished from other kinds of communication in that deliberators are amenable to changing their judgments, preferences, and views during the course of their interactions, which involve persuasion rather than coercion, manipulation, or deception” (Graham 2009: 12 cited Dryzek 2000: 1).

Much of the work in the communications field is devoted to the specification of – well over ten – conditions of deliberative discourse from Habermas’ theory of communicative action and their operationalization into observable indicators for (Dahlberg 2004; Graham 2009; Janssen and Kies 2004). It can thus be said that significant effort has been made in this field in presenting an elaborated set of notions and indicators that dissect the multifaceted nature of deliberative process in a number of observable terms. (For an overview of the various notions that specify the various aspects of deliberative discourse, such as justification, sincerity, or equality, see Janssen and Kies 2004). Moreover, some communications scholars – albeit a few – have taken

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up the challenge to capture instances of deliberation entailing actor motivation and intention in terms of empirical indicators. Habermas himself has shown appreciation for the work that has been delivered in this field (Habermas 2005: 384).

Some of the (key) concepts bear many similarities with the concepts developed by the middle-ground constructivists. Two notions stand out in communications literature which appear to be quite similar to the concepts developed in middle-ground constructivist thinking: ‘reciprocity’ and ‘reflexivity’. They can readily be regarded as conceptual relatives of argumentative persuasion and argumentative rationality. These two notions have – like the other deliberation notions specified in communications research – been operationalized into empirical indicators in various ways.

The notion of reciprocity has been one of the most widely developed, operationalized, and analysed in communications studies (Janssen and Kies 2004: 13-14; Graham 2009: 26). Generally speaking, it refers to the giving and taking of arguments. Graham considers it crucial to the process of deliberation because it is “the first dispositional requirement for achieving mutual understanding” (Graham 2009: 26-27). Quoting from Schneider (1997), Graham emphasizes that reciprocity “is an important consideration in assessing the public sphere because it indicates the degree to which participants are actually interacting with each other, and working on identifying their own interests with those of the group, as opposed to talking past each other or engaging in simple bargaining or persuasion” (Graham 2009: 27 cited Schneider 1997: 105). It indicates situations where there is “mutual exchange, a giving and taking of perspectives and knowledge” (Graham and Witschge 2003: 178). To Jensen reciprocity is “at the core of the phenomenon of deliberation” (Jensen 2003: 361). It “addresses how [participants] take into account each other’s arguments and opinions”. Although Dahlberg does not use explicitly the word ‘reciprocity’, he considers that for any deliberative process “we simply need to observe the existence of reciprocation” (Dahlberg 2004: 33). He considers that ‘reciprocation’ is accompanied by claims and counter-claims that are supported by reason. In sum, for all the varieties in the specification, there is the shared understanding that reciprocity forms an elementary starting point for progressive understanding in deliberative process.

The concept of ‘reflexivity’ bears many similarities with the concepts developed in middle-ground constructivism. Graham stresses that “reflectivity is a crucial ingredient to achieving mutual understanding, and consequently, should not be overlooked” (2009: 19). He specifies it as “an internal process of reflecting another’s position against one’s own”. “Reflective” discussants contemplate what impact critical arguments have on their own argument or position, when faced with critical arguments (Graham 2009: 18). He therefore considers it as one more step up the ladder of progressive understanding. Other com-
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Communications theorists use similar conceptualizations (e.g. Dryzek 2009: 1393-1394). With reference to Habermas’ observation that “participants question and transcend whatever their initial preferences may have been”, Dahlberg, for instance, defines reflexivity as “the critical examination of one’s values, assumptions, and interests in the light of all other relevant claims and reasons” (2004: 7-8). Although Jensen does not use the notion explicitly, he refers to instances where discussants reflect on the argument of others and answers them “with new arguments or new information or tries to create a synthesis of other arguments” (Jensen 2003: 361). Some of the communications theorists have made significant progress in, to use here Checkel’s words, ‘shrinking the black box’ of deliberative discourse by specifying and operationalizing the notion of reflexivity. That is, they have taken up the challenge to specify and operationalize this complicated aspect of deliberative discourse (Graham 2009: 28; Janssen and Kies 2004: 17-18).

There is, in the conception of communications science and deliberative democracy theory, also reference to the effect of deliberative exchange is presumed to have on the outcome. Deliberative-democracy theorists consider that, as Graham has put, deliberation in the public sphere “ideally should lead to legitimate outcomes in the form of a rationally motivated consensus” (2009: 13). They consider the outcome of public reasoning to be ideally the opposite pole to the “arbitrary, unstable, or chaotic outcomes” of instrumental – bargaining – action (Bächtiger et al. 2010: 45). Helpful for empirical research is Graham’s understanding of deliberation and its effect on the outcome (2006: 16 -18). He has made the model more operational (and less normative) by defining deliberation as a process that evolves through progressive levels of understanding. The more participants in a discussion are inclined to listen and react to another’s argument and the more they are prepared to reconsider their argument in light of another’s, the deeper will be the level of understanding that they reach. The deepest possible level of understanding that is achieved eventually shapes the outcome.

Both the constructivist approach and the communications disciplines have thus modelled deliberative discourse and its distinguishing features much in the same way – which of course should not come as a surprise since the Habermasian ideal types of deliberation have been extensively drawn upon in both conceptions. However, for all the commonalities found between the two approaches at conceptual level, there is a distinct difference as regards the purpose of applying the deliberative model. While communications research has made significant progress in specifying normative conditions of the deliberative model for the purpose of evaluating actual – and mostly online – communicative process in the public sphere, constructivist research has
focused much of its effort on *formulating and testing hypotheses* on the conditions under which deliberation is likely to affect the course and outcome of multilateral negotiations.

In the field of communications science and deliberative democracy research, there is thus the keen awareness that the Habermasian notion of deliberation represents a set of idealized conditions for democratic communication in the public sphere, which allows research in that field to specify a set of normative criteria for assessing the democratic quality of — to quote again Dryzek — “real-world” discussion (Bächtiger et al. 2010; Dryzek 2009; Graham 2009; Jansen and Kies 2004: 9-10). The three criteria that have been applied by Graham in order to indicate progressive levels of understanding have been conceptualized and categorized as a set of 'counter-factual ideals' for evaluating actual discussion in the real world (Graham and Witschge 2003: 180).

In the field of middle-ground constructivist research, on the other hand, the aim has become more prominent to explain the transformative effect of deliberation by specifying the ‘scope conditions’ that allow deliberation to prevail in multilateral negotiation or decision making — than to specify concepts and indicators to capture deliberation itself (e.g. Risse and Kleine 2010: 710-711). In this field, conditions have been found to facilitate deliberation in the context of EU decision making.

Still, despite this methodological difference, it would be short-sighted to exclude a synthesis of the concepts developed in both disciplines without further consideration. Communications scientists may very well benefit from giving their research a more positivist turn in their research (if they wish so⁸) by looking at the methodologies developed in constructivist circles. More importantly, it would certainly not do any harm for the constructivists to draw on the (rich) set of conceptual tools which the communications scientists have developed — and operationalized — in the context of their normative research on deliberative democracy. They may serve equally well as a conceptual underpinning, or heuristic device, for measuring deliberation in an empirical (constructivist) study. Leaving untapped the well-furnished conceptual — and operational — toolkit formulated by the communications scientists would mean missing out on an opportunity to bring constructivist research even further down to, to use Checkel’s words, “*an operational, real-world level*” (2001b: 1). Making use of the

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⁸ Indeed, some scholars active in the field of communications science have explored and applied positivist methodologies. Jansen and Kies (2004), for instance, have proposed a typology of variables that help to explain “*differences in deliberativeness*” across various online discussion forums. Graham’s study on on-line (informal) political communication is not purely normative. It has both normative and empirical - i.e. descriptive and explorative - traits (see 2009: 42-43).
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toolkit specified by communications scientists would also help to bolster the constructivist position in countering the rationalist critique that (middle-ground) constructivism falls short of formulating fine-grained predictions capable of making a distinction between “spurious and valid attributions of ideational causality” (Moravcsik 2001: 227).

2.3.2 Conditions of daily deliberative practice in the EU
In EU decision-making, pure deliberation is just as rare as pure bargaining, and yet, deliberation is to a certain extent “all pervasive” (Ulbert et al. 2004; Ulbert and Risse 2005). A theory on the effect of deliberative discourse has explanatory significance if it is assumed that there are also circumstances facilitating other modes of exchange, such as strategic bargaining. This assumption should even include the acknowledgement that instances of bargaining are necessarily part and parcel of the EU’s entire policy-making process (Checkel 2005). The challenge is then to find out under which conditions communicative exchange is likely to induce interest or identity change during negotiations. Therefore, this section reviews the conditions which have been identified and hypothesized in past research as circumstances that allow argumentative discourse ‘to carry the day’ in EU decision-making.

There is the widely shared view that the EU forms an environment that provides abundant opportunities for transformative communicative practice, especially in the daily running of policy shaping and decision making (Checkel 2001b, 1999: 554; Joerges and Neyer 1997: 287; Risse 2000: 10; Risse-Kappen 1996: 71; Schmidt 2008: 313; Ulbert and Risse 2005: 363). The EU has repeatedly been identified as an ‘institutionally dense environment’, one where theorists predict significant levels of discursive policy deliberation (Rosamond 2000: 120-121; Risse-Kappen 1996: 70-71). Beyers and Dierickx even suggest that due to “the intense frequency” and the focus on precise, complex and detailed subject matter at the everyday level of policy shaping “could be an important force for integration” (1998: 290). The share of everyday work, done by the subsidiary bodies in the Council (in other words: the proportion of dossiers that are adopted by the ministers “without any discussion at their level”), is estimated at 85 per cent (Hayes-Renshaw and Wallace 2006: 79).

Risse explains that for negotiating partners to engage in communicative action where “their validity claims, preferences and even identities are on the table” is less risky in “highly institutionalized settings” (Risse-Kappen 1996: 71). In such settings there are norms, rules and procedures that enable actors to have some degree of trust and to entertain informal contacts. He expects these factors to be more at work in “the day-to-day business of shaping and implementing policies” than in the intergovernmental settings where
“history-making’ or ‘policy-setting’ EU decisions” are made (1996: 71). Checkel considers the EU as “a most likely case” for finding instances of social interaction having constitutive effects on the behaviour, identity and interests of the actors (1999: 554). Beyers sees in the EU Council a “fertile laboratory” for studying communicative patterns and occurrences of socialization (Beyers 2005: 932). Joerges and Neyer (1997: 287-288) argue that “[t]he high visibility of the legal frameworks under which actors operate in the EU, well-documented interadministrative co-operative relations, and the dense networks among a multiplicity of actors” provide enough ground to relax and modify the rational-choice assumption. In short, the EU, particularly at its everyday level of decision making, has been widely considered to provide opportunities of various sorts for communicative practice leading to change in interests or identities.

Various factors have been specified as conditions facilitating deliberative practice that where actors are induced to change their interests or preferences. There is frequent use of the term ‘density’ when referring to the frequency, (sustained) duration, volume, and/or intensity of social interaction. Risse posited that “a high density of mostly informal interactions should provide the structural conditions in international relations to allow for discursive and argumentative processes” (Risse 2000: 15). In most studies it has been found that deliberation, socialization, or persuasion occurred when a group of discussants meets regularly – formally and/or informally – over a considerable period (Beyers 2005; Checkel 2005; Gheciu 2005; Lewis 2005; Risse 2000: 31). Beyers has found a link between “intensive, dense, and prolonged participation” in the Council working groups and socialization – i.e. the adoption of supranational roles by national representatives (2005: 929-931). He considers interaction to be ‘intensive’ when they are time-demanding, and ‘dense’ when they are long-lasting (2005: 912). In her study on the practices of socialization enacted by NATO in countries of post-Cold War Central and Eastern Europe, Gheciu (2005: 983) has established that the dissemination of a set of “common conceptual categories” and “behavioural dispositions” took place against a background of continuous, enduring frequent interaction. She describes this pattern of interaction with the notion ‘systematic interaction’.

9 The latter notions that Risse uses in this passage, ‘history-making’ and ‘policy-setting’, refer to the levels of EU decision making which Peterson and Bomberg have identified as subjects of respectively rational-choice and institutionalist analysis. The third level is the day-to-day decision making and policy shaping. The authors have attempted to bring in theoretical order in EU studies by apportioning appropriate theories and approaches to each of the three levels of governance (Peterson & Bomberg, 1999). According to Peterson and Bomberg, policy network analysis would be the most appropriate tool for analysing the day-to-day decision making and policy shaping.
Lewis considers EU’s Coreper an ideal place for national delegates to become socialized into a Brussels-based collective culture not only for the high frequency of the Coreper meetings or “long periods of participation” of its members, but also for the “density of issues” (2005: 945-947). What has been taken into account in his research, is the number of weekly agenda items and the horizontal nature of these agendas that cover a wide range of different policy domains of EU decision making. According to Lewis, it is not only the intensity, the frequency and duration of interactions, that matters. Also the number and quality and ‘density’ of the issues under discussion has been considered a relevant factor.

Another condition identified as a factor conducive to interest or preference change during discursive exchange relates to situations in which actors share common professional backgrounds and are insulated from domestic political pressure and exposure (Bobbio 2007: 363; Checkel 1999; P. Haas 1992; Lewis 2005: 947-48; Risse-Kappen 1996: 70-71; Risse and Kleine 2010: 717-721). Checkel in particular (1999), holds the view that an open exchange of views and arguments is likely when a group of discussants works in a detached environment, insulated from direct external (political) pressure and exposure. In such instances, Ulbert and Risse argue (2005: 358), institutionalized 'in camera settings' such as the 'confession talks' during European Council summits induce negotiators to explore potential compromises or to check the justifiability of their interests. It allows negotiators to “think out aloud”. Insulation was hypothesized by Lewis (2005) as one of the principal conditions facilitating socialisation in his study on the negotiations between the permanent representatives in the Coreper.

A factor that is closely interconnected with insulation is the condition where actors share a common professional background and are therefore more inclined to expose their views and insights to argumentative challenges (Bobbio 2007; Checkel 1999: 549). This condition is an aspect that is considered to be inherently part of the EU’s institutional set-up. The norms, procedures and practices in the EU, as Risse and Kleine point out, privilege and legitimize to a considerable extent expertise and hence arguments based on knowledge rather than on interest (Risse & Kleine 2010). It brings to mind the concept of ‘epistemic community’ which (Peter) Haas has introduced, also in reference to the highly technical nature of policy making in the EU. Actors, especially at the lower, technical levels of policy shaping in the EU, “share intersubjective understandings; have a shared way of knowing; have shared patterns of reasoning; have a policy project drawing on shared values, share causal beliefs, and the use of shared discursive practices; and have a shared commitment to the application and production of knowledge” (1992: 3).
Moreover, such group-wide orientation on precise, complex and detailed subject matter is likely to create a certain degree of insulation from outside political influence or pressure (Checkel 1999).

Reference has also been made in constructivist literature (and other relevant studies) to conditions which are specifically related to the formal attributes of EU’s institutional setting. While in general, formal rules and procedures are likely to be considered as constraints in constructivist literature, and consequently not conducive to interest or preference change, they can also be viewed as “socially constituted and culturally framed rules and norms” (Schmidt 2010: 2). Formal rules and procedures are then analytically relevant in a constructivist light if they have been taken up by the actors as meaningful practices.

One such formal aspect that has been considered relevant in constructivist research is the access of actors to negotiations. More specifically, research has often been done on the ability of non-state discussants (such as the European institutions, lobby groups and civil society organisations) to have a share in the discussion that follows from their formal position (see e.g. Ulbert and Risse 2005: 356). Various reasons have been forwarded for considering that access of non-state actors matters to the quality and direction of communicative practice. On a more general note, it has been pointed out that with a more prominent role of non-state actors, process at the EU level has moved beyond the initial preferences of member states (Jordan et al. 2003: 392–395). More specifically, two reasons have been forwarded for considering non-state actor access relevant for determining the circumstances under which deliberation, socialization or persuasion is likely to occur.

Firstly, non-state actor access is considered relevant if the sort of interest non-state actors pursue transcend the interests defined at member state government level (Lempp and Altenschmidt 2008; Risse and Kleine 2010). Put differently, the share of non-state actors in EU decision making makes sense if they pursue interests by virtue of which interaction is likely to move beyond the exchange of arguments only based on national interest. Non-state actors who are viewed as honest brokers in multilateral negotiations and are therefore considered as “trustworthy by the opposing sides and who can acquire authority to suggest innovative solutions, can shift negotiations toward a problem-solving mode” (Risse and Kleine 2010: 714). This factor applies in particular to the role of the European institutions in the decision making process.

In a study on the occurrence of socialization – or supranationalization – in the 2004-2007 negotiations on EU enlargement, Lempp and Altenschmidt (2008: 521-522) have found evidence that it mattered whether the Presidency of the EU remained
impartial during the negotiations. The role of the presidencies which aimed at furthering the common, European interest, were considered conducive to progress and open dialogue in the negotiations (on the influence of the chair’s impartiality on communicative practice, see also Bobbio 2007: 369). Lempp and Altenschmidt (2008) came to similar findings with regard to the roles of the Commission and the Council Secretariat.

Secondly, access of non-state actors matters insofar as the formal attributes of the institutional context enable these actors to provide authoritative knowledge, which may move discussion toward an exchange based on expertise rather than on political arguments or claims. In reference to a study on negotiations on a ban of anti-personnel landmines, Ulbert and Risse (2005: 357) have pointed out that it does matter whether non-governmental actors have full unrestrained access as ‘knowledge brokers’ to decision making. They argue that the nature of the negotiations changed, when non-governmental knowledgeable organisations were allowed to actively participate in the negotiations. It allowed discussions to reframe the problem from a security-related problem to a humanitarian problem, which made a mutually agreed solution possible. Their successful involvement in the negotiations was not only because of their credibility as knowledge brokers, but also because of their detachment from national or state interests. The logic found in this case equally applies to such an institutionally dense setting as the EU, where there is a multitude of ‘knowledge brokers’ operating at EU level (see e.g. P. Haas, 1992).

The high degree of ‘actor density’ in EU decision making has also been related to the influential role of the Commission and the European Parliament, which became the primary targets of informal influence from non-state organizations (Uçarer 2014). Moreover, as Young (2005) argued in a case study on the shaping of EU’s internal market, qualified majority voting in the Council induced private organisations, local authorities and interest groups to shift their attention from national authorities to ‘Brussels’. Not much has been found, however, on the effect of voting rules – unanimity or qualified majority voting – on communicative practice in the Council. Beyers and Dierickx (1998: 295) refer to studies where it has been observed that qualified majority voting intensified the negotiation process and that it increased the mediator role of the Commission – to the extent that it could adapt its initial proposal in order to secure the required majority. It is plausible to assume that qualified majority voting provides incentives to engage in deliberative exchange in the Council. In this regard, Trondal refers to “the sheer volume of negotiation and compromise” that follows from the use of qualified majority voting (2001: 11). Checkel (1999: 549),
appreciating the potential causal effect of voting practice, suggests that research should be done on the impact of decision rules on communicative practice.

2.4 Conclusion

The underlining argument of this chapter is that in order to capture the dynamic of the daily running of decision making in the EU a different perspective is needed from the rational-choice view – which is primarily focused on interstate bargaining. A perspective is needed that sheds light on sources of change or transformation which have been neglected by theories based on the rational-choice premise. It is through the constructivist ontology of mutual constitution between agency and institution that instances of change in the daily practice of EU decision making are more likely to be revealed. More specifically, it allows to identify transformative elements – i.e. interest or identity change through interaction – when negotiating parties engage in communicative practice on a ‘daily’ basis.

Particular focus has been placed on the concepts developed in the field of middle-ground constructivism, which shed light on the effects of deliberative or argumentative discourse on the shaping of consensus or mutual understanding during negotiation. According to this conceptual framework interests or preferences which are subject to discursive challenge and reasoned debate are likely to change. Deliberation is the key conceptual framework of this study from this point forward.

Drawing on Habermas’ theory of communicative action, two lines of thinking emphasize the immaterial or ideational element of exchange. That is, they state that when actors engage in deliberative discourse, change of interest is more likely to follow from the use of the better argument than from the use of pressure, sanctions, rewards or side payments. One line of constructivist thinking, called argumentative rationality, highlights that change occurs when negotiators are open to being persuaded by the better argument and that relationships of power and social hierarchy recede to the background. This process, in the argumentative-rationality conception, is geared towards the formation of a reasoned consensus on an outcome. Such an outcome is believed to be more robust and enduring than an outcome arising out of bargaining exchange. The other line of thinking, called argumentative persuasion, emphasizes that change occurs when negotiators are enabled to persuade through the use of the better argument.

Empirical research in both lines of constructivist thinking have revealed various instances where change has occurred in circumstances which are held conducive to argumentative exchange. More robustness of evidence in this field of research is
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however needed. While much of the work have resulted in the articulation of (institutional) 'scope conditions' under which negotiators are likely either to persuade or to change their mind due to reasoned argument, a set of clearly operationalisable indicators for capturing the mutual dynamics of deliberative discourse itself still remains underspecified. The reason for this is mainly to be found in the difficulty to specify and operationalize actor motivation and intention. This difficulty should however not mean that we should ignore it.

In order to make an argumentative (or deliberative) event more tangible, this study turns to the notion of deliberation as it has been conceptualized and operationalized in the field of communications sciences. Research in this field has yielded a rich conceptual framework that captures the multifaceted nature of deliberation, also in terms of progressive development of (mutual) understanding. Two notions stand out, of which each represents a progressive level of understanding. One is reflexivity, which represents a level of understanding where negotiating parties only develop understanding on the basis of an interactive giving and taking of arguments, perspectives, and knowledge. One step further up the ladder of progressive understanding represents reflexivity. It is a stage where negotiating parties show open-mindedness to the arguments, viewpoints, and knowledge expressed by others. Reflexivity is a close conceptual relative of argumentative rationality which also covers this Habermasian aspect of mutual open-mindedness to reason and argument. Also, reflexivity comes closest to what constructivists consider the black box of actor motivation and intention. Despite the daunting task of demonstrating its occurrence, some scholars in communications research have gone a long way in operationalizing reflexivity into observable terms.

Constructivists consider the EU an ideal place for the occurrence of deliberation. They share the view that the EU forms an environment providing a variety of opportunities for transformative communicative practice, particularly in the daily running of policy shaping and decision making. Some of these opportunities pertain to a set of 'scope conditions' that trigger deliberative debate more in general. This set of conditions, which refer to the general patterns of interaction, include insulation from outside pressure and systematic interaction – i.e. continuous, enduring frequent interaction. It is not only for these more general conditions that the EU is considered an 'institutionally dense environment' where deliberative exchange is likely to occur. Conditions which are peculiar to the formal institutional setting of the EU are also expected to have a facilitating effect on deliberation. It has been hypothesized that the EU is a setting where one would predict significant levels of discursive policy delibe-
ration also because of formal conditions such as access to negotiations by non-state actors and the rule of majority voting. Insulation, systematic interaction, access by non-state actors, and (qualified) majority voting shall from this point forward be assumed as the four conditions having a facilitating effect on the occurrence of deliberation in EU’s daily decision making.