WHO DECIDES IN TIMES OF CRISIS? A COMPARATIVE EXAMINATION OF BUREAUCRATIC DELEGATION IN 4 EU COUNTRIES (2008–2010)

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The paper presents the results of a study of policy instrument form choice in four Western European countries. Based on an analysis of major pieces of legislation during the period, it is argued that various forms of institutional change in the form of delegation were the policy of choice for decision-makers in mitigating the effects of the financial crisis. Newly created agencies and funds enjoyed a significant degree of bureaucratic autonomy. In a parallel process, a gradual transformation of extant financial regulation contributed to an upheaval in the ideational structure that underpinned these policy areas for almost three decades. In this, a shift from price and fiscal stability to financial stability signalled a new set of goals for decision-makers, and a realignment of policy instruments duly followed. The results indicate that exogenous shocks—such as financial crises—initiate policy change with distinct policy instrument choices and delegations.

Key words: financial crisis, comparative political economy, bureaucratic delegation, Western Europe.

"For since in some Governments the Law-making Power is not always in being, and is usually too numerous, and so too slow, for the dispatch requisite to Execution; and because also it is impossible to foresee, and so by laws to provide for all Accidents and Necessities that may concern the public; (...) therefore there is a latitude left to the Executive Power, to do many things of choice, which the Laws do not prescribe."

John Locke

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1 INTRODUCTION

The importance of the theoretical problem of bureaucratic delegation is larger than ever.[2] The cost of the bailouts of financial services firms in the aftermath of the financial crisis of 2008-2009 resulted in multi-billion dollar checks for the taxpayers of the United States, Britain and many other countries. The management of these funds was mostly delegated to government bureaucracies and independent agencies, such as central banks. This is important because the institutional structure in which these financial restructurings are undertaken provides strong incentives for and restricts the agency of individual legislators, officials of the executive branch and bureaucrats. Therefore, the "quality of state regulation of the economy should depend on the institutional design of state institutions" (Przeworski 2003, 214).

During their respective crisis situations the legislatures and governments of advanced industrialized countries (heretofore AICs) created new bureaucratic structures that do not pass the eyeball test established by the dominant, rational choice-inspired literature on delegation.[3] A cursory look at the political debates surrounding the bailout legislations in AICs in 2008 will show that the level (or degree, I use these terms interchangeably) and structure of delegation (taken together: the dependent variables of this article) are shaped by a number of considerations that are not closely related to the *rational choice* inspired *variables* related to *party politics*. These outcomes are in a stark contrast with the extant theoretical literature that postulates that both the level and structure of bureaucratic delegation is defined by factors associated with divided/unified government (or the institutional *fragmentation* of government), here defined by the parties in charge of the separate branches of government.

This article is but a first step towards outlining a general comparative framework of bureaucratic delegation that offers a solution to this puzzle. In this respect, this is more of an exercise in theory building than theory testing. I undertake this task in four steps. First, I present a baseline rational choice institutionalist model of bureaucratic delegation as well as an alternative rooted in the concept of trusteeship and bureaucratic delegation. Second, I present a small-n comparative case study design that is applicable to the investigation of major pieces of legislation. In the third section I demonstrate on the banks bailouts of 2008 in four Western European countries that such an alternative hypothesis holds up well vis-à-vis the applied baseline model. The final section concludes.

2 TWO MODELS OF DELEGATION-BASED POLICY CHANGE AND THE CASE OF BANK BAILOUTS

2.1 The baseline model

In the political system policy change comes in different shapes and forms. One aspect of utmost importance is changes in the underlying institutional structure, which leads to the study of factors defining "institutional design".

[2] I am thankful for the helpful suggestions of two anonymous reviewers, as well as participants of the relevant sections at the Southern Political Science Association annual conference and the International Conference on Public Policy. All remaining errors are my own.

[3] See e.g. Epstein and O'Halloran (1999); Huber and Shipan (2002) – for an overview see Huber and Shipan (2006).

Despite the importance of the origins of institutions for policy outcomes, "theoretical work on this crucial issue continues to be sketchy at best" (Pierson 2004, 103). That said, approaches associated with rational choice institutionalism (RCI), or with "actor-centred functionalism", are "prominent in much of the work social scientists have done on formal institutions" (Ibid., 105).

Within this paradigm, the most widely used baseline model exploring the logic of bureaucratic change in the context of delegation was developed by Epstein and O'Halloran (1999). The core idea is an emphasis on unified/divided government as a critical factor in explaining the shape and degree of delegation. The authors put forward a sophisticated formal model and a rigorous empirical research strategy; a combination that generated a decade-long research program with substantial results (see Epstein et al. 2009). Their research showed, inter alia, how divided government lowers executive branch discretion. Statistically significant results included a clear shift towards more constraints on delegated authority during transitions from unified to divided government.

Nevertheless, this approach is not without its limitations, especially when it comes to the case of financial regulation and bank bailouts. As the legal environment of finance is thoroughly shaped by legislation during and in the wake of crisis periods one could argue that the whole issue area of financial regulation and supervision should be exempted from the baseline model. And an unambiguous definition and clear delineation of crisis periods is a necessary precondition for this (see the section on empirical strategy).

These definitional uncertainties notwithstanding, the unique position of bailout legislations is reinforced by the fact that the politics of finance is inherently highly technical, involving a large degree of information asymmetry. In this respect it is important to note that Epstein and O'Halloran (1999, 75) argue that high policy uncertainty does, in fact, imply a unique reaction: "The more uncertainty associated with a policy area, the more likely Congress is to delegate authority to the executive." That said, the devil is in the details.

First, in the baseline model uncertainty is a function of the *policy area*, not of *exogenous shocks*. My point here is that the degree of uncertainty may substantively vary within the boundaries of a single-issue area. Second, Epstein and O'Halloran *do* make the claim that "during times of divided government, Congress will delegate more often to independent agencies" (IA), which suggests that even *when* uncertainty is high the first best option of Congress is to delegate policy instrument choice to IAs.

What follows from all this is an extension of the notion of policy uncertainty, which, now, is understood as a function of the related issue area *and* exogenous shocks. In these cases, *extremely* volatile situations, associated with an *extreme* degree of uncertainty (Epstein and O'Halloran's ω), become an irregular sub-type of the *more general case* of high policy uncertainty. On the one hand, for cases of *high* policy uncertainty, the authors' propositions may or may not hold. On the other hand, for cases of *extremely high* policy uncertainty (crisis)—and this is the gist of Proposition 3, to be introduced below—they *do not hold* as these decisions are reached under a different *mode* of representative government.

Following this logic, what I offer here is a resolution to the anomaly of extremely high policy uncertainty in the baseline model of delegation. The supposedly alternative approach of this article, then, presents itself more of a natural extension or refinement of Epstein and O'Halloran's original offering.

2.2 An alternative model: The causal logic of crisis-driven delegation

The causal logic against which this alternative explanation, *crisis-driven delegation* unfolds is as follows. In a crisis situation pre-existing bureaucratic capacities render general legislative, and even committee capacity strongly dominated while the short time frame highlights the advantages of relying more heavily on ex post oversight. So far this is more or less in line with standard assumptions in RCI delegation theory. The paths diverge, however, once the very question of bureaucratic structure is relegated to irrelevance by elected decision makers yearning for a quick solution that helps avoiding a complete collapse of the financial system. The two main elements, therefore, that vindicate an autonomy-based—as opposed to a mandate-based—perspective are the political implications of crisis and the politicians' rational reaction to these implications. Put bluntly, they need a trustee to clean up the mess and choose the instruments they deem necessary to do so, while they steer away from the blame potentially associated with it.

As to the first point, crisis upsets theoretical frameworks fine-tuned to normalcy. Budget appropriations, for instance, are rendered useless as a metrics of the level of delegation as they are extremely sensitive to exogenous factors such as the depth of crisis (i.e. budgetary allocations could exclusively be the function of the size of non-performing assets). A corollary to this point is that crisis decisions are made in a larger than usual stakeholder environment due to the high stakes and high uncertainty involved (as was pointed out by Baumgartner and Jones 2009).

Furthermore, the bureaucratic structure emerging after crisis legislation may differ from pieces of law adopted in a "going concern" status because of its temporary nature. Extraordinary lines of credit, such as those provided through the discount window, a ban on shorting or the suspension of convertibility involve a degree of discretionality on behalf of trustees that is seldom present in under normal circumstances. Rational politicians carefully adapt to these new circumstances.

2.3 Propositions

Based on these considerations alternative hypotheses rooted in crisis driven delegation may be formulated for the purposes of a comparative study of non-presidential systems of government. The baseline model (Epstein and O'Halloran 1999, 78) generates 9 hypotheses but only a couple of them relates to the problem at hand. An adaptive reformulation of these propositions yields two basic propositions. According to the theorem on the *level of delegation* less discretionary authority will be delegated to the executive during times of a more fragmented government. And the proposition on the *structure of delegation* states that as the effective number of vetoes increases, the polity becomes more fragmented and the probability of delegation to independent agencies (as opposed to cabinet departments) increases as well.

I also put forth an alternative hypothesis, one that is optimized for the crisis mode of representative government; that is, delegation-based policy choice under extreme policy uncertainty. According to this proposition on *blank-cheque delegation to trustees in times of crisis* the beneficiary of legislative delegation is a trustee-type institution. This implies that standard principal-agent models of delegation are not applicable to these cases: the degree and structure of delegation is shaped by the crisis and not party politics, and policy choice gets liberated from pre-existing constraints.

In the following I examine the relative merits of these propositions in light of the European bank bailouts of the late 2000s. Bank bailouts are defined in a general sense as a *coherent* set of *short-term* policy response to a standalone or systemic banking crisis. This definition is in line with the more general notion that bailouts are "instances when the government aids one or more economically distressed businesses in some way" (Wright 2010, 1). As for the definition of bank bailouts proper, the notion of coherence deserves further elaboration. It is important because bailouts usually constitute complex policy packages. Among the policy tools deployed during financial crises Aït-Sahalia et al. (2010) count fiscal policy, monetary policy, liquidity support, financial sector policies and policy inaction/ad hoc bailouts. For the purposes of the present discussion I will focus on "financial sector policies", steps such as recapitalization, asset purchases and liability guarantees—all of which are easily distinguishable in larger packages of policy initiatives.

3 EMPIRICAL STRATEGY AND CASE SELECTION

In light of the theoretical and definitional considerations of the previous sections, the primary aim of this article is *not theory testing*, but *theory building* (adaptation and extension). Gerring (2004) makes a compelling argument for qualitative case studies that have more "affinity" towards an "exploratory" strategy of research. This approach sets its aim at "theory generation" and the exploration of "causal effects". In my quest to establish a coherent relationship between the ends and means of research I rely on the qualitative approach of a small N cross-sectional comparisons that controls for a number of possible confounds. That said, the above hypotheses can be easily reformulated for the purposes of a future large N research design as–according to Gerring–the two are not "antagonistic approaches to the empirical world" (see Conclusion).

The research design involves four brief case studies, based on the "method of difference" principle. The British, French, German and Dutch financial markets, government structures and the actual bailout strategies implemented in the heat of the crisis have a lot in common and, therefore, form an adequate group of cases for such an analysis. The countries in the sample are all AICs, which retain a substantial degree of financial policy sovereignty and thus the capacity to influence the behaviour of major actors based in the core of the world economy (same is not true of e.g. small open economies with privatized bank sectors in Central and Eastern Europe).

All cases in the sample have bicameral legislative bodies with a relatively minor role for the upper chamber. The government structure is unitary in all except for Germany. Besides the U.K., all sample countries are part of the euro zone. That said, this splendid isolation of Britain does not weaken, but, in fact, reinforces the general argument (see the section on the independent variables). By focusing on the simultaneous bank bailout legislations of 2008 we can also keep time constant through the cases. Indeed, apart from being the "most similar" cases, the U.K France, Germany and the Netherlands are convenient choices as the bank rescue packages were almost simultaneously adopted–a further step towards the natural experiment ideal-type (the UK was an early frontrunner with a first Banking Act in February 2008). The units of analysis in this sense are major pieces of legislation that were widely considered to be "bank bailout packages". These bailout programs are laws adopted by the legislature of each country, which also laid the groundwork for further "delegated legislation" (see Table 1).

TABLE 1: SHORT TERM "BAILOUT PACKAGES" IN 2008

	UK	Germany	France	The Netherlands
Date (exec. proposal)	October 8	October 13	October 13	October 3
Name of law/decree	Cabinet decisions based on the powers delegated by the Banking (Special Provisions) Act of 2008, superseded by The Banking Act 2009	BR-Drs. 750/08: Finanzmarkt-Stabilisierungs-gesetz	NOR: BCFX0824244L: Loi de finances rectificative pour le financement de l'économie	Cabinet decisions
Size	£500 billion	€480 billion	€360 billion	€200 billion
Effective date	12-Feb-09	17-Oct-08	16-Oct-2008	11-Oct-08
New institution	UK Financial Investments Limited (UKFI)	Sonderfonds Finanzmarktstabilisierun g (SoFFin)[vii]	La Société de financement de l'économie française (SFEF)	Pre-existing (Agentschap van de Generale Thesaurie)
Bureaucratic design	100% Treasury	IA w/ 100% Ministry of Finance appointees	66% Banks – 34% Ministère de l'Économie	100% Ministry of Finance
New program	"Bank Recapitalisation Fund"; "Credit Guarantee Scheme"	SoFFin	SFEF	"Credit Guarantee Scheme"

A final factor reinforcing the internal validity of the framework is that the Treasury/Ministry of Finance and the central banks play a large and, more importantly, somewhat similar role in banking supervision in all countries, along with the respective financial services watchdogs (the ECB was seemingly not a source of variation with regards to national bailout efforts directed at individual financial institutions).

3.1 Dependent variables

The two initial propositions introduced above pertain to a major factor in shaping policy choice, the level and structure of bureaucratic delegation. All things considered, while Epstein and O'Halloran's choice of a more substantial metrics—which they obtain by coding the net discretionary authorities in relevant pieces of law—is vindicated, its return-on-investment ratio is arguably lower than that of the less complex measures. I opt, therefore, for three alternative measures of delegated authority: the length of laws; agency autonomy; and budget authorizations.

First, the non-substantive method adopted by Mayhew (1991) spawned a number of similarly procedural "brute force" methods. One with a substantively large impact is the word count method of Huber et al. (2001). The authors offer a simple measure: The number of words in *new* text circumscribing the responsibilities of the bureaucracy. In the context of the present research the length of the pieces of legislation in question should be indicative of the extent of control measures, and therefore the limits on delegation built into the legislation. The length of laws, therefore, will serve as one of the dependent variables in this informal model.

Second, a similarly useful proxy presents itself in the form of institutional independence measures (for an overview see Iversen and Soskice 2006). In the case of European central banks Quaglia (2008, 6) provides a detailed comparative assessment of institutional autonomy based on a metrics of legal provisions, policy capacity, legitimacy etc. A similar study was undertaken by Gilardi (2008) for independent regulatory agencies. As analogous indices have been developed with respect to all-important units of the government structure, research into the extent of delegation can benefit from this literature. Degree and structure overlap in these studies: a non-majoritarian agency, such as an independent central bank (form) enjoys more autonomy (degree).

Epstein and O'Halloran (1999, 80) go on to define 5 subtypes: the Executive Office of the President (EOP); cabinet departments (CD); independent agencies (IA – such as central bank authorities or –financial supervisory agencies); independent regulatory commissions (IRC); and government corporations (GC). Each of these organizational units is associated with a level of initial discretion (and, taken together, they form a "bureaucratic structure" – Ibid., 156). This classification by and large lends itself well to generalization to non-presidential separation of power systems. This leaves us with a binary dependent variable for the *structure* but also that of the *degree* of autonomous policy choice: independent/non-majoritarian agencies (IAs and IRCs) and majoritarian agencies (EOPs, CDs, GCs).

Finally, perhaps the most straightforward measure of the degree of delegation ingrained in policy choice is the level of budget authorizations/appropriations granted to the executive branch. In this respect, nominal figures seem less useful than measures relative, for example, to the size of the GDP of the country or total budgetary outlays. This metrics will serve as the third dependent variable in the verbal model.[4]

3.2 Independent variables

The key to the translation of Epstein and O'Halloran's divided/unified government variable to a parliamentary setting is the definition of fragmentation. In this article, by this I mean the effective number of veto points (ENV).[5] It is important to note that the number of effective vetoes is *not necessarily* constant in a given polity over time. In a quasi-formal rendition this means that ENV is a function of the number of parties in parliament; the number of coalition partners; the ideological distance between said parties on the one hand; and the relatively fixed institutional characteristics of the polity on the other. The inclusion of these general regime characteristics is certainly not unprecedented in the literature on the politics of bailouts (see e.g. Rosas 2009).

Given the change in the background variable of regimes it should come as no surprise that the original independent variables of the model by Epstein and O'Halloran are not directly applicable. First, they are based on two sources of

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[4] While these quantitative measures have a distinct competitive advantage over less concrete metrics, the abovementioned scales are not without downsides. For there is a real trade-off between more objective quantitative measures that are "blind" to the saliency of a single line in a mass of text and qualitative interpretations of the saliency of the same line item that inevitable retain an element of subjectivity. The local administrative practices of the sample countries, for instance, may affect the actual wording of bills, just as the degree to which MPs rely on informal "fire alarms" as opposed to formal oversight mechanisms that are built in the legislation ex ante. In the face of these and similar conundrums the best strategy is to hedge our bets and rely on a number of metrics.

[5] This formulation establishes a direct link between the U.S.-focused approach of Epstein and O'Halloran and a similar, comparative analysis by Cox and McCubbins (2001). Both directly relate to the book by Tsebelis (2002), who popularized the term „veto players". The basic idea is the same in all these works: political systems consist of veto players and/or points which taken together largely define policy outcomes or „winsets". Cox and McCubbins further emphasize that institutional characteristics (the degree of the „separation of powers") are just as important as the players controlling these veto points („separation of purpose").

variation: policy uncertainty and political uncertainty. For our current purposes only the latter is relevant as in this article I do not address problems related to the policy uncertainty principle. In line with the approach of Huber and Shipan (2006, 262) "the issue type is held constant".

As for political uncertainty the selection of explanatory variables in the baseline model offers a less obvious fit for non-presidential systems still. The various metrics put forward by Epstein and O'Halloran to gauge the effect of a *binary notion* of divided/unified government are only partially useful: the basic dichotomy less, the more complex ones, based on seat shares amongst others, more so. As co-habitation is rare in some semi-presidential systems (e.g. France); just as one-party governments in PR-parliamentarism (e.g. Germany, Netherlands); and most of the time divided government is not applicable to Westminster style parliamentarism (e.g. UK – except for cases of a "hung parliament"[6]); the binary approach seems to have a limited purchase on the cases in the sample. That said, the introduction of ENV offers a promising variable on a mid-range level of abstraction that may resolve these issues related to the operationalization of fragmentation.

All things considered–and with an eye on keeping the discussion as simple as possible while retaining a significant degree of explanatory power–in this article I use three proxies for measuring ENV/political fragmentation. Of these one varies and two others are fixed on the short term. The first one is a more nuanced version of the divided government variable (with values: unified; mixed; and coalition; "mixed" being a coalition with a dominant party). Besides this I rely on two institutional variables. The first one is the degree of separation of powers, which is self-explanatory (it is the key to understanding the baseline model). The second is the proportionality of the electoral system, which (via Duverger's "law") is more conducive to coalition governments as opposed to single party governments. These also may take the values high, mixed and low and are summed up in Table 2.

TABLE 2: GOVERNMENT AND ELECTORAL SYSTEM FRAGMENTATION

Government/Electoral System	High (PR)	Mixed	Low (Maj-Plur.)
High (Presidential)	-	-	USA (0.39)
Mixed (Semi-presid.)	-	-	France (0.16)
Low (Parliamentary)	Netherlands (1.00); Italy (0.91)	Germany (0.91)	UK (0.16)

Note: Data refers to the proportionality (%) of the electoral system.
Source: Iversen and Soskice (2006, 176).

The rationale for using electoral systems as a proxy is that–more often than not–they are "associated with a distinct party system" (Iversen and Soskice 2006, 167) and, therefore, are widely used to account for the emergence of coalition governments. An example for this choice in the context of financial regulation is provided by Rosenbluth and Schaap (2003): based on evidence from twenty-two industrialized countries, they argue that "the political dynamics generated by these electoral rules continue to shape the nature and extent of prudential regulations that countries adopt in the place of banking cartels."

[6] Then again, this is a rare occasion, occurring just once between 1929 and 2009; and for a limited period of 9 months.

4 EVIDENCE FROM FOUR EU COUNTRIES

Having introduced the propositions and the theoretical and operationalized variables, along with the empirical strategy designed to gauge the cause-effect relationship between them, the final step before turning to the actual cases is a preliminary analysis of the hypotheses. Crude as this analysis is, my expectation is that a more refined/quantitative probe into both sides of the equation would point toward the same conclusion. Furthermore, if an analysis of empirical phenomena based on such rudimentary measures signals a tension between the model/propositions and actual decisions further inquiries with regards to both model and measurement would be in order.

Based on the abovementioned two *institutional* proxies, the degree of separation of powers and electoral systems, a rank order may be established for our sample starting with the UK and ending with The Netherlands, and with France and Germany in between (the latter being closer to the pole that signals more fragmentation). This rank order is also in line with the one used by Cox and McCubbins (2001) who put Germany (unified power/separated purpose) and France in the middle of the spectrum with the completely unified UK on one, and the extremely fragmented US at the other end of the spectrum.

In the final analysis I subsume the three independent variables under three categories–low, mixed, and high fragmentation–each with a different prognosis for the outcomes generated from the model. The British and Dutch cases are straightforward: The former constitutes the low-fragmentation, the latter the high-fragmentation end of the spectrum. Based on the results of the 2005 election the Labour Party held 356 of the 646 seats of the House of Commons. In the Netherlands the fourth government of Prime Minister Jan Peter Balkenende was based on a grand coalition formed in 2006 between the centre-right CDA (41) and CU (6), and the centre-left PvdA (33).[7] This coalition had a thin majority of 80 in a 150-seat Lower House.

From the cases with a hybrid institutional structure France shows a relatively low-fragmentation as in the period in question it was ruled by a coalition established in 2007 and dominated by the party of the president and the prime minister.[8] Germany, on the other hand, is a relatively high-fragmentation case as it was governed by a grand coalition of CDU-CSU (226) and SPD (222) with other majority coalitions *available* in a Bundestag of 614 seats. As a grand coalition–almost by definition–indicates a larger-than-usual policy distance between its constitutive parties Germany is closer to the Dutch case. Moreover, this position is reinforced by an institutional factor, the larger than usual role for the second chamber, the Bundesrat in policy-making. While a relatively high degree of covariance between these variables is more than probable, my expectation is that this will not affect substantively these general findings.

If the propositions about non-presidential separation of powers systems are correct, they would have the following observable implications: the highest degree of delegation in policy choices is expected in the UK, followed by France with its less unified government due to a coalition in the National Assembly. A grand coalition in Germany, and especially the multiparty grand coalition

[7] In the brackets are the seats attained in the Lower House.

[8] François Fillon's second government was supported by 345 of 577 deputies of which 313-a simple majority-were sitting in the group of president Sarkozy's party, the UMP.

government in the Netherlands signals a more fragmented polity and, therefore, less delegation—and to more independent agencies.

In a similar vein, in the UK and France a less fragmented government implies delegation to executive branch departments as opposed to Germany and the Netherlands where the extended version of the equilibrium of Epstein and O'Halloran's model suggests more delegation to independent agencies. By contrast, if we find evidence in the political debates/voting data about agency design, that the eventual institutional choice was informed by considerations regarding trusteeship, blank-cheques and the like, as opposed to fragmentation, this would weaken the hypotheses that build on these purely political variables.

4.1 UK

The outlier UK data is seemingly in line with Proposition 1 as it occurred in a less fragmented political environment. A forceful case can be made, however, that this data is but a reflection of the depth of the underlying financial crisis and have nothing to do with executive-legislative relations.[9] As far as anecdotal evidence goes, insider accounts overwhelmingly confirm this latter interpretation.

As for the structure of delegation, the British case is relatively straightforward and is in line with the prognosis of the baseline model. With relatively few veto points the government had a free hand to craft a series of executive decrees pertaining to various policy choices. Timing also had a major impact: A makeshift Banking Act had already been approved due to the early collapse of Northern Rock. This opened up some space for executive discretion before a new, supposedly long-term regulation could have been put in place. By October 2008 an early draft of this new proposal (to be voted on in early 2009) was already introduced in the House of Commons.

That said, demands with regard to "more information about Labour's blank cheque" were certainly not uncommon weeks into the bailout as "despite repeated requests (…) Parliament (had) still not been given a chance to consider" these momentous events.[10] In the meantime a majoritarian agency, the UK Financial Investments Limited (UKFI)—"a company wholly-owned by the Government"—was established to manage the holdings acquired by the bailouts. In summary, the UK case by and large conforms to the baseline model, except for the length of the eventual legislation, as the emphasis of Proposition 3 on ex post oversight is verified by the length of the Banking Act of 2009. Nevertheless, the second Banking Act was a hybrid of short-term crisis management and "long-term" resolution that puts the usefulness of the word count metrics into question.

4.2 France

In France, a less-than-fragmented political elite propped up an obscure credit-refinancing agency (SRAEC) to create La Société de financement de l'économie française (SFEF). A unique feature of this arrangement was that it was a

[9] Dey, Iain: How the government bailout saved our banks, The Sunday Times, October 3, 2009. Available at http://business.timesonline.co.uk/tol/business/industry_sectors/banking_and_finance/article6860385.ece.

[10] Forsyth, Michael: Financial crisis: Bail-out questions that must be answered, The Daily Telegraph, October 24, 2008. Available at http://www.telegraph.co.uk/finance/financetopics/financialcrisis/3255946/Financial-crisis-Bail-out-questions-that-must-be-answered.html.

government corporation as opposed to a cabinet department agency, which created the possibility of private entities (banks) acquiring a majority presence on the board. This outcome somewhat contradicts Proposition 2 as a unified government implied that executive should have dominated the emerging bureaucratic structure. Furthermore, the SFEF was a garden-variety short-term bailout institution as it has been "put to sleep" by statute (by the law "La Loi de Finance 2010")[11] in less than two years and very much in line with the original intentions.

4.3 Germany

In Germany both chambers of the parliament adopted a bailout package with two smaller opposition parties, the Left and the Greens, opposing the bill in the Bundestag.[12] The Bundesrat, the upper chamber, that consists of the representatives of 16 state governments, passed the bill unanimously. This indicated that the upper chamber–just as in all other sample cases—was not an effective veto point once the decision had been made in the lower chamber. The bureaucratic structure or the level of capital injection played a secondary role in the debate with executive-legislative relations being a hot button issue: "It's a 500-billion-euro blank cheque," said Greens caucus chief Renate Kuenast.

The newly created Sonderfonds Finanzmarktstabilisierung (SoFFin) has been managed by the Federal Agency for Financial Market Stabilisation. Seemingly, this is an independent agency in Epstein and O'Halloran's nomenclature (an "independent public-law institution" as it was defined), which would confirm Proposition 2. A closer look, however, reveals that the "Management Committee" consisted of three members who were appointed by the Federal Ministry of Finance in consultation with the Deutsche Bundesbank. Also, the agency was "subject to the legal and technical oversight of the Federal Ministry of Finance" and the Federal Ministry of Finance was "politically responsible for the decisions of the FMSA."[13] With the ties close to the Ministry of Finance as they were, the German case does not adequately corroborate Proposition 2.

4.4 The Netherlands

While the case France and Germany show a mixed picture the case of The Netherlands is particularly puzzling. A grand coalition was in charge of crisis management, with Wouter Bos, a deputy prime minister/finance minister from the junior partner Labour party taking the lead.[14] In a mechanical application of the baseline model this politically shaky setup is supposed to lead to lengthy bills and delegation to independent agencies. What happened, on the contrary, was a hands-on approach by the government relying mostly on its decree powers with only ex post legislation and oversight taking place on behalf of parliament.

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[11] Available at http://www.assemblee-nationale.fr/13/budget/plf2010/b1967-tIII-a17.asp#P3354_314065.

[12] Deutsche Welle Staff Report: German Lawmakers Pass Bank Rescue Package, Deutsche Welle, October 17, 2008. Available at http://www.dw-world.de/dw/article/0,,3719946,00.html.

[13] Structure of the SoFFin and the FMSA, The Official Website of SofFin. Available at http://www.soffin.de/en/soffin/structure/index.html.

[14] It is important to note that—besides trustee-type institutions such as central banks, and their respective chairpersons—finance and treasury ministers/secretaries enjoyed an enlarged role in most developed countries. They gained authority and responsibility vis-á-vis other cabinet members (especially those responsible for the social functions of the state). This point reinforces the argument for a closed-circle, technocratic decision-making during times of crisis. I thank the anonymous reviewer for explicitly highlighting this development.

On September 28, 2008 Fortis had been bailed out in a coordinated effort between the governments of Netherlands, Belgium and Luxembourg. The Dutch government on October 9 then declared that a €20 billion fund was created to strengthen the equity of the financial sector. During the week of October 13 the Dutch government initiated of €200 billion guarantee for interbank lending. And finally, during the week of October 20 the Dutch state took a stake in ING Group's core capital in the form of securities, amounting to €10 billion and Aegon received a capital injection from the government over €3 billion. All this was managed by the Agentschap van de Generale Thesaurie, which is a standard-issue Treasury agency and which is, as is common in the developed world, part of the Ministry of Finance.

Furthermore, according to news reports, it was Bos who decided on October 7, "after consultations at a European level", to temporarily guarantee private bank accounts up to €100.000. And together with Nout Wellink of the Dutch Central Bank, he presented a comprehensive bailout plan. While an emergency debate was held in the *Parlement* based on a first sweep of new reports statutory action—to my knowledge—was not taken. Perhaps this was the reason why cross-party support developed for an inquiry into the causes and management of the credit crisis.[15] This "accountability" coalition stretched from the far-left to the far right and included all opposition parties. Besides the criticism, however, the letter expressed support for finance minister Bos for "putting out the fire" which, it said, was "of vital importance" while the crisis continued. And despite the sense of urgency expressed in the letter ex post parliamentary investigations of the government interventions only started in April 2009.[16]

5 DISCUSSION

The actual variables for the cases at hand are summarized in Table 3. On the independent variable side, the factor of choice of the baseline mode, fragmentation is presented. The rank order—as discussed above—draws on three sources: divided/unified government, government system and electoral system. The first of the dependent variables, the length of legislation, is based on Huber et al. (2001) and it is self-explanatory.

TABLE 3: DELEGATION OUTCOMES

	UK	France	Germany	Netherlands
Independent variable (baseline model): Fragmentation	Lowest	Low	High	Highest
Dependent variable: Length (words)	High (51256)	Low (1310)	Mixed (4764)	-
Dependent variable: Cost:GDP	Highest (0.2)	Lowest (0.016)	Low (0.0307)	High (0.136)
Dependent variable: Independence	Low	Mixed	Mixed	Low

Source: Author's calculations; Iversen and Soskice 2006.

[15] DutchNews.nl Staff Report: Cross-party support for credit crisis inquiry, DutchNews.nl, October 29, 2008. Available at http://www.dutchnews.nl/news/archives/2008/10/crossparty_support_for_credit.php.

[16] Gray-Block, Aaron: Dutch to probe cause of credit crisis – reports, Reuters.com, April 15, 2009. Available at http://www.reuters.com/article/idUSLF53184620090415.

The second variable, the *cost* of bailouts (calculated as a proportion of GDP – Dermine and Schoenmaker, 2010, 3-4), deserves further elaboration. The financial data combines new appropriations and the discretionary funds of central banks. That said, the sheer size of the differences (and the Treasury-specific costs indicated in Table 1) testifies to the comparability of the numbers. Finally, the third dependent variable represents the relative *independence* of the recipients of delegation from the chief executive, with values: high; mixed; and low.

A cursory analysis of the propositions regarding the four cases yields the following conclusions. According to Proposition 1 less authority is delegated under more fragmented governments. The results are mixed, leaning negative: The UK holds up well, France and the Netherlands significantly less, with Germany in the middle. Proposition 2 contends that under fragmented government independent/non-majoritarian agencies become the primary beneficiaries of delegation. Once again, the Netherlands and Germany are significant outliers, with the Treasury having a leading role in bailout efforts.

Proposition 3, the alternative hypothesis derived from the theory of trustees, on the other hand, is upheld by the findings. The notion of blank-cheque delegation was a recurring theme in the debates about bailout. The level of delegation as measured by budget appropriation proved *extremely* sensitive to exogenous factors such as the depth of crisis. Policy coordination between European government agencies (as opposed to political parties) was a generally recognized fact. Even in the most accommodating British case parliament crafted a lengthy piece of legislation packed with oversight measures *only after the worst days* of the crisis–and the same happened in the Netherlands. In the meantime, a heavy reliance on executive decree power, a definitive sign of trusteeship, was the main tool of government intervention. In a similar fashion, the Treasury in Germany, and the Ministry of Economy (which incorporates the Treasury) in France was put in a decisive role in managing and supervising the newly created bureaucratic units. And finally, extant bureaucratic capacities played a major role in shaping the structure of delegation with the Treasury taking the initiative in all cases in the management of bailout efforts.

The Dutch and German cases are particularly interesting for two reasons. First, grand coalitions do not seem to have the same effect as divided governments did in the U.S. context. Only opposition parties voted against the bailout measures. This indicates one of two things. Either the fragmentation-based analysis needs to be revised or we may accept ENV as an important factor with a significant modification. Coalition governments should be treated as *unified* governments with regards to landmark policy decisions. The results are the same: fragmentation in its present operationalization is not a useful explanatory variable.

Divided/unified government may, in fact, be useful in the context of parliamentary systems *under normal circumstances*. Under extremely high degrees of policy uncertainty in the issue area of financial policy, however, there is a tendency to delegate the decisions regarding policy choice to the Treasury regardless of the underlying ENVs. The answer to the puzzle lies in trusteeship as an alternative to principal-agent explanations.

6 CONCLUSION

In this article I have presented an extension and application of the "delegating powers" model by Epstein and O'Halloran to non-presidential systems of government in a specific issue area. I argued that this extension is plausible; and proposed the notion of fragmentation and the effective number of veto points as more general substitutes for the pivotal independent variable of divided government. The cursory overview of a basic application of this model to a cross-sectional sample of four AICs has produced ambiguous results indicating the presence of a number of possible confounds. A new proposition was offered; one that can account for decisions regarding policy choices under extreme degrees of policy uncertainty. Crisis-driven delegation, a notion based on trusteeship as opposed to mandates, provided a useful addition to the baseline model, as it was well equipped to deal with extra (exogenous) policy uncertainty in policy areas with a high degree of initial policy uncertainty.

That said, the most important proposition of this article is that universal theories of legislative agency design remain elusive. The least we can say is that one of the most widely used and acclaimed frameworks (Epstein and O'Halloran's "delegating powers") proved to be ineffective in explaining major policy decisions such as agency design outcomes *regardless* of the level of policy uncertainty. On the other hand, the alternative proposal of a "blank-cheque delegation" in crisis situations held up well in a "ticking-bomb scenario" such as the case of the financial crisis of the late 2000s. This signifies the relevance of a novel approach, one that meets the needs of this other mode of representative government: the state of emergency.

The concept of trusteeship provides a theoretical background against which testable propositions, such as Proposition 3 about the blank-cheque nature of crisis-driven delegation, may be generated. Even as the primary aim of this article was theory building, as opposed to theory testing, the crisis-driven delegation theory of policy instrument choice involving trustee-type institutions proved a promising description of policy choices in crisis situations.

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