

Negotiating with your mouth full:
Intergovernmental negotiations between transparency and confidentiality

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Abstract

Transparency lies at the heart of canonical theories of international negotiations and institutions—yet it is rarely directly measured or explained. This paper explores the potential downsides of transparency reforms in intergovernmental negotiations and institutions. We argue that as formal international meetings open up to the public, negotiators face incentives to shift deliberations to more informal and opaque venues, especially for sensitive and domestically contested issues. To test when and why this occurs, we present new data on three decades of intergovernmental negotiations in the Council of the European Union (1990-2019), and in particular the use of informal breaks where no minutes are taken. We find that recourse to such breaks—especially at lunch time—has increased substantially, and that ministers often take these opportunities to discuss controversial topics. We deploy quantitative and qualitative analyses to show that variations in informal breaks correlate both with institutional enhancements to transparency and with specific concerns over antagonistic political mobilization at home, notably in the form of Euroscepticism. These findings challenge received positive and normative theories about transparency in international institutions, and contribute to the literature on informal governance, negotiation studies, EU politics, and the transnational democratic deficit.

Keywords

transparency; secrecy; informality; informal governance; intergovernmental negotiations; international organization; domestic politics; European Union

1. Introduction

Once the exclusive preserve of governments, international organizations have become increasingly open in recent decades (Tallberg et al., 2014). The European Union (EU) is at the vanguard of this development. Since the early 1990s, it has gradually committed itself to ever-higher standards of transparency in the negotiation and justification of its laws. Until the 2000s intergovernmental negotiations in the EU were largely closed to the public, whereas today legislative deliberations in its Council of Ministers are streamed live for the public to watch.

Both positive and normative scholarship on the subject tends to highlight the benefits of transparency, broadly defined as the “availability of information about an actor allowing other actors to monitor the workings or performance of this actor” (Bovens et al., 2014). This accountability is thought to enhance the chances of international cooperation and the legitimacy of political entities, by increasing the availability of information (Keohane, 1984), reducing the likelihood of politicians using their office for personal gain, and enabling citizens to follow the reasoning behind decisions (Buchanan and Keohane, 2006).

A smaller body of literature cautions against excessive optimism. Some scholars argue that confidentiality is required to allow governments to lower their guard, remain open to persuasion, and reach mutually beneficial outcomes without worrying about instant backlash at home. Accordingly, real transparency may prove stubbornly elusive, as governments with incentives to deliberate in private will find alternative and potentially more opaque venues as their formal negotiations are opened to the public (Stasavage, 2006; Kono, 2006; Hood, 2007; Kleine, 2018).

Anecdotal evidence reinforces these concerns. On 2 December 2009, when the first-ever Council meeting was supposed to be streamed live to the European public under Lisbon transparency rules, the then Council president and Swedish Finance Minister, Anders Borg,

worried that this new openness would jeopardize agreement on a sensitive item on the agenda, the establishment of the European Banking Authority and the European Security and Markets Authority. According to senior Council officials, Borg was relieved to learn that even though there was no possibility to opt out of the livestream, he could hold an informal pre-meeting breakfast where no minutes would be taken (Interview #4). The livestream debut consequently started with the announcement of and a round of applause for an agreement that had been reached before the historic Council meeting had even begun.

This article explores the evasion of transparency in international organizations. We argue that democratic governments, particularly when they fear domestic backlash, will seek to shift their negotiations to a different and potentially more opaque venue as official meetings open up to the public. While intuitive, the claim is difficult to verify, as deviations from official rules are specifically designed to evade scrutiny.³

To study the evasion of transparency in a systematic way, this article draws on an original dataset of informal breaks during meetings of the EU's Council of Ministers from 1990 to 2019. Informal breaks, usually at mealtimes, suspend the official meeting and, with it, the Council's rules of procedure. Participation is more exclusive, no minutes are recorded, and no papers are circulated, with the result that these breaks represent ideal opportunities for confidential discussion. Here, we take advantage of the fact that the Council Secretariat makes note when these discussions touch upon Council business and other issues of public relevance. Using a mix of quantitative techniques and qualitative evidence, as well as carefully controlling for alternative explanations, we find that variations in the trend toward these informal breaks correlate both with the stringency of formal transparency requirements, and with the de facto

³ Studies of informal governance often remain based on case study evidence. Some notable exceptions include, e.g., Stone 2011; Kleine 2013; Westerwinter et al. 2021).

transparency that arises from the growing number of delegations in the Council. Moreover, an analysis of the topics discussed over informal meals, as well as anecdotal evidence drawn from news reports and a range of interviews with Council officials, corroborate our argument and demonstrate that ministers regularly use these settings to address more controversial topics in ways they are no longer able to in official Council meetings. Secrecy, it appears, may be an unavoidable byproduct of transparency.

To our knowledge, this is the first study to show a systematic relationship between greater formal transparency in intergovernmental bargaining and a concomitant retreat by governments to more opaque negotiation venues. While there has been some work (reviewed below) on how transparency might lead to unintended behavioral consequences within transparent venues, such as pandering and posturing, the difficulty of empirically observing shifts from transparent to more opaque venues means that studies like ours are rare. Notably, our data also allows us to break new ground in identifying the reasons why negotiating governments may avoid the public gaze. We theorize that governments worry about the domestic electoral consequences of their concessions in intergovernmental negotiations. Against a backdrop of increasing transparency, the EU has experienced episodic bouts of political contestation, particularly amid national elections and Eurosceptic debate. We find that, in addition to tracking levels of transparency, informal breaks tend to increase along with these forms of contestation. This suggests that ministers' motives in such settings are partly attributable to concerns that their discussion could be caught in the whirlwind of antagonistic political mobilization at home.

The article begins with a review of the scholarly debate on transparency, including its benefits and potential downsides, before tracing the evolution of transparency in the EU's Council of Ministers. The theory section then develops two hypotheses about the association

between greater transparency, domestic contestation, and informal negotiations. This is followed by an extensive analysis that brings together quantitative and qualitative evidence to trace the rise of transparency and the parallel usage of informal breaks during intergovernmental negotiations in the EU. After discussing the similarly significant role of informal breaks in the United Nations, we conclude with a reflection on the normative implications of our findings. While the benefits of greater transparency are undeniable, we caution scholars and policymakers not to overrate its impact or ignore its drawbacks. As international organizations push for greater openness, such limitations call for a reevaluation of the incentive-compatibility of transparency designs.

2. Transparency: benefits and potential downsides

Along with the mechanism of regular competitive elections, the comparative politics literature recognizes transparency to be a crucial tool for citizens to hold politicians accountable. Understood as the availability of information about decision processes, transparency discourages public officials from engaging in corrupt or careless behavior (Florini, 2007: 5; Hollyer et al., 2011: 1193–4). This enhances accountability, the performance of a political system and, thus, its legitimacy. To date, numerous studies have documented this positive relationship between transparency and the quality of government (Adsera et al., 2003; Berliner and Erlich, 2015; Besley and Burgess, 2002; Hollyer et al., 2014).

Transparency also lies at the heart of canonical theories of international institutions and negotiations. Rationalist scholars underscore the informational imperfections that lie at the heart of cooperation problems. Since the 1980s, core theories of international regimes have built on this consensus and theorized the importance of transparency for the prospect

of international cooperation (Keohane, 1984; Morrow, 1994; Fearon, 1995; Koremenos et al., 2001; Mansfield et al., 2002).

Others are less sanguine about the relationship between transparency, cooperation, and quality of government. Hood argues that governments that seek to avoid blame will employ various strategies, such as shifts in venue or deliberate ambiguity, to obfuscate their wrongdoings behind a veneer of accountability (Hood, 2007; see also Muller, 2018). The official release of information and the utterance of public statements then becomes a ceremonial act, a performative transparency decoupled from its actual purpose (Meyer and Rowan, 1977). Several studies have shown how transparency can produce such unwanted side-effects, such as fiscal gimmickry (Alt et al., 2014) or “fuzzy” data (Fox, 2007: 20). However, studies like ours, demonstrating a shift to more opaque venues, are comparatively rare, not least because this behavior is designed to fly under the radar.⁴

Although the evasion of accountability might be the obvious motive when a politician eschews transparency, less sinister explanations exist as well. Negotiation scholars point out that transparency in political processes may undermine the epistemic dimension of deliberation and, thus, the quality of its outcome. According to this argument, public audiences are less coherent and rational than particularistic and passionate. These characteristics undermine the deliberative quality of public debates, especially when politicians speak exclusively to their multiple national audiences, pander to sectional interests and whip up passions around moral issues (Chambers, 2004; Pettit, 2004). Accordingly, the main obstacles to sharing information in intergovernmental bargaining are rooted in domestic politics, and

⁴ Kono (2006) shows that democracy induces politicians to replace transparent trade barriers with more opaque ones. There is some work on international disputes that demonstrates how transparency in arbitration induces parties to seek pre-judgment settlement to hide procedural and substantive outcomes (e.g., Hafner-Burton and Victor, 2016).

governments will use international institutions to control the flow of information in a way that improves their standing at both levels (Putnam, 1988: 453).

From this perspective, we are confronted with a dilemma. Too little transparency, and one risks undermining accountability and the quality of governance. Too much transparency, and public pandering may crowd out deliberation and stand in the way of mutually beneficial outcomes (Stasavage, 2004: 679, 695). The next section shows how the various arguments about these benefits and potential downsides of transparency are reflected in debates about the EU's Council of Ministers' path to greater transparency.

3. The path to greater transparency in the Council of the EU

Initially organized as a closed diplomatic committee rather than an open legislative plenary, the EU's Council of Ministers deliberated in almost total secrecy up until the late 1990s. The public had no access to the agenda, the Council minutes, the results of votes, or the government statements on legislative acts (Bauer, 2004). This veil of secrecy shrouding ministers' deliberations was gradually lifted, both as a matter of practice and through formal changes.

In the 1980s, as new countries joined and legislative activity rose steadily in preparation for the Internal Market, the then European Communities evolved into a vast negotiation machine, involving many hundreds of people in the lawmaking process. Confidentiality became increasingly difficult to uphold and

“Brussels journalists and lobbyists could always get a blow-by-blow account of what had gone on in Council meetings through press conferences and contacts with officials and civil servants (Bauer, 2004: 368).”

Still, for anyone with little knowledge of the EU's inner workings, information was difficult to come by and comprehend. This situation was aggravated by the strong norm among ministers to minimize conflicts and search for consensual outcomes. Few issues therefore remained controversial enough to receive media attention and, thus, public scrutiny (Kleine, 2013; 2014).

The combined effect of the Danish rejection of the Maastricht Treaty in 1992, the concurrent empowerment of the European Parliament (EP), and not least the pending accessions of transparency-friendly Sweden and Finland, renewed debates about the Council's openness (Hillebrandt et al., 2014: 12). A declaration annexed to the Maastricht Treaty emphasized the credo that "transparency of the decision-making process strengthens the democratic nature of the institutions and the public's confidence in the administration" (European Union, 1992: 101). Scholars echoed these calls with arguments that greater transparency was necessary to improve the EU's accountability and legitimacy (Follesdal and Hix, 2006; Majone, 1999).

Other scholars cautioned that increased transparency might undermine the Council's deliberative negotiation style, as publicity could lead to posturing and risk more frequent bargaining breakdowns (Heisenberg, 2005: 68; Lewis, 2010; Novak, 2013; Stasavage, 2006: 668). Similarly wary of potential disturbances to its working methods, the Council of Ministers changed its transparency policy only gradually and reluctantly. Although a new version of its Rules of Procedure in 1993 allowed for public debates on legislative matters, the publication of voting records and explanations of votes upon individual requests, the Council nevertheless retained a blanket right to refuse access "to protect the confidentiality of the Council's proceedings," (Council of the EU, 1993). This discretionary exception became known as the "space to think" clause (Hillebrandt, 2017: 103).

In 1995, in response to a legal challenge by *The Guardian*, backed by Denmark and The Netherlands, the EU's Court of First Instance pried the Council open by considerably curbing its leeway in the classification of documents. According to legal analysts, this landmark judgment represented “a leap forward” in transparency (Hillebrandt, 2017: 104). It was a “shot across the bows of the Council” (Twomey, 1996: 838) as it required the Council to dutifully weigh its interests in confidentiality against the interests of applicants for disclosure (Armstrong, 1996: 584; see also Stasavage, 2004: 689). In its defense, the Council stressed the importance of confidentiality; the “space to think” within its *modus operandi*.

“If agreement is to be reached, (the members of the Council) will frequently be called upon to move from (their) position, perhaps to the extent of abandoning their national instructions on a particular point. This process, vital to the adoption of Community legislation, would be jeopardized if delegations were constantly mindful of the fact that the position they are taking, as recorded in the Council minutes, could at any time be made public through the granting of access to these documents (...)” (European Court of First Instance, 1995).

Then, in 2001, the Council significantly revised its official transparency regulation and promised to make public access to documents the rule rather than the exception (Hillebrandt et al., 2014: 12). But despite this landmark decision to open its work up to the public, there remained numerous exceptions (ranging from security concerns to circumstances that could “undermine the institution’s decision-making process”) that offered Council Presidency and Secretariat ample opportunities to block or at least stall the publication of a document or vote (Bauer, 2004: 379–383; Cross, 2013a).

At the same time, Council meetings became increasingly porous thanks to the accession of twelve new member states between 2004 and 2007, nearly doubling the number

of participants. According to one close observer, Council meetings became “as crowded as the Gare Centrale during rush hour” and confidentiality impossible to maintain (Interview #2). With an average of five officials per delegation and more than a hundred officials rushing in and out of the room, the character of the Council is said to have changed, from that of a club with frank discussions to that of a “boring” parliamentary assembly where ministers would read out pre-formulated statements (Interview #5).

The Council’s new plenary character was matched by even greater formal transparency when, in 2009, the Lisbon Treaty made it mandatory for the Council to open its legislative debates up to the public through direct video stream – a decision that was hailed as “one of the most spectacular developments in the area of transparency of the Council’s activities” (Laursen, 2013: 783).⁵ Since then, there has also been a marked increase in the publication of documents, especially those concerning less sensitive issues (Cross, 2013b).

In sum, numerous legal reforms and the growing number of participants have gradually increased formal and actual transparency in the Council of Ministers. The reforms were primarily aimed at enhancing the transparency of the Council’s negotiation processes, increasingly viewing it as a legislative forum whose members ought to be held accountable for their actions. Those in the Council resisting these reforms held that the Council required a degree of confidentiality to enable more efficient negotiation and deliberation. Despite this reluctance, today all legislative debates in the Council and, with a few exceptions, documents and votes, are to be made public. These radical reforms over the past decades invite questions

⁵ The European Council (2006) had asked in 2006 for legislative debates to be opened to the public. However, the Council still retained the right to decide in individual cases “that a given deliberation should not be open to the public,” which they did in about fifty percent of all cases (see A.1.). Accordingly, the December 2009 meeting was the first mandatory livestream from which ministers could not opt out.

about the consequences of greater transparency for intergovernmental negotiations, questions that the following two sections take up.

4. Theory: *ersatz* confidentiality

While the benefits of greater openness for political accountability are undisputed, we know little about how governments adapt to the associated loss of confidentiality. This section lays out an argument whereby greater transparency generates incentives to seek “pockets of confidentiality” (Hillebrandt and Novak, 2016) in intergovernmental negotiations.

After setting out the general theory, we specify it within the empirical context of the EU by exploring and ruling out potential substitutes for the Council’s once-confidential discussions. In this process, we identify informal breaks, especially those around mealtime, as the most promising candidates and, on that basis, derive testable empirical implications from our theory.

4.1. General theory

The theory is based on the plausible assumption that intergovernmental negotiations necessarily involve *quid pro quos*. To reach a deal, governments exchange concessions on issues about which they care less in return for beneficial compensation on issues of greater importance. Although such trades have the potential to make all governments better off, they nevertheless result in gaps between what governments initially asked for and what they eventually receive. Because their concessions create adjustment costs and, thus, potential losers at home, democratic governments find it difficult to justify this gap to various domestic audiences (Putnam, 1988: 452).

Negotiating governments do not want to be blamed for their concessions, and in this respect they harbor concerns regarding at least two sets of domestic actors. Domestic interest groups could mobilize against the adjustments costs that the concessions entail and pressure the government to renege on its agreements (Kleine, 2013: 21; Grossman and Helpman, 1994). Additionally, political opponents could use information about the negotiation to score electoral points against the government by pandering to a less informed audience (Stasavage 2004, 673; Kleine and Minaudier, 2019: 321).

These possibilities, however, only pose a threat to governments to the extent that adversarial actors are aware of (and can thereby capitalize on) whatever concessions have been made, and by whom. Therefore, even as transparency enhances accountability and highlights the benefits of cooperation (Mansfield et al, 2002), we may expect governments to face incentives to *reduce* transparency by, for instance, keeping details of the *quid pro quos* on which their deal rests out of the public record.⁶ A corollary expectation is that the final deals that are observed by the public may not reflect all the bargaining maneuvers that went into achieving them.

From the perspective of other governments, although their preferred outcomes may be substantively different, their incentives to retain confidentiality may nevertheless be aligned. First, because they are or expect to someday find themselves in a similar position to the government facing domestic contestation. And second, negotiating partners may worry that domestic mobilization will reduce the bargaining space and even prompt governments to renege on existing commitments. We therefore expect that all governments will prefer to retain a fallback option – an *ersatz* confidentiality – as intergovernmental negotiations open to the

⁶ Similarly, Hafner-Burton et al. (2016) argue that secrecy in investment arbitration allows governments the flexibility to protect their reputation as reliable hosts.

public. In this way, the open negotiation venue offers governments an opportunity to posture on the international stage, while the confidential venue allows them the flexibility to exchange the *quid pro quos* that are necessary to obtain the deals they prefer.

4.2. *Contextualization*

Pockets of *ersatz* confidentiality are difficult to identify because their form necessarily depends on the specific institutional context. They are also difficult to identify because, by their very nature, they are intended to remain largely undetected. We therefore contextualize our theory to derive precise, testable implications (Greif, 2006), and start by ruling out potential pockets that we argue complement rather than replace the Council's once-confidential discussions.

Anecdotal evidence suggests that the Council's lower echelons of preparatory bodies, the Committee of Permanent Representatives (COREPER) and Council working groups, have absorbed some of the confidential discussions among ministers (Stasavage, 2006: 16; Barigazzi, 2021). Others point out that confidential discussions may have moved up to the European Council, the regular private meetings of the heads of state and government (Kleine, 2013; Puetter, 2014). Finally, Council officials also report plenty of activity at the sidelines of Council meetings, with discussions of a legislative nature often taking place in corridors and bilateral meetings (Interview #5).

Although indispensable to the Council's functioning, Council committees can only prepare, but not replace, intergovernmental negotiations, especially on sensitive matters. Political conflicts must be resolved at the political level. However, the European Council is not a viable alternative for confidential Council meetings either. Its agendas are constantly overcrowded and, moreover, the Treaty on European Union (Article 15) explicitly prohibits

its involvement in the EU's legislative process. Consequently, the Heads of State and Government typically prefer not to have to deal with Council matters (Kleine, 2013: 66-67). And while there are always opportunities for confidential discussions in the corridors, they typically only involve a select few delegations. In short, while informal discussions abound in the EU, they remain imperfect substitutes for the once confidential dealmaking among ministers in the Council.⁷

4.3. Identification: Meal breaks as pockets of confidentiality

We argue that informal meal breaks (mostly lunches, but also dinners and breakfasts), present a ready opportunity for all ministers to deliberate in a more intimate setting. This is because meal breaks suspend the official meeting and, with it, its rules of procedure, including transparency standards (Interviews #5 and #7). In contrast to the official segments of meetings in which each delegation is represented by at least five members, meal breaks are attended by only one person per delegation, typically the minister, as well as the responsible Commissioner and a member of the Council Secretariat (usually the responsible Director General). There is no connection to listening rooms and only a minimum of remote translation. Crucially, no minutes are taken, and no papers circulated (Interviews #1, #2, #3, #5). And lastly, meal breaks are predictable, as it is customary to break at least once in a Council meeting (Council of the EU, 2015: 67; Interview #1). Together these features make meal breaks expedient substitutes for the once-confidential Council negotiations.

According to our interview partners in the Council Secretariat, informal meal breaks typically involve either unofficial exchanges with guests (e.g., a foreign minister of a third

⁷ This is also why trilogues (legislative discussions between the Council Presidency, the EP rapporteur, and the Commission) are no substitutes for confidential Council deliberations.

country), discussions of items not on the agenda, or discussions of items on the official agenda, including legislative items (Interview #2). Where discussions over a meal revolve around legislative topics on the agenda, they arguably violate the spirit of the Lisbon Treaty and the Council's Rules of Procedure,⁸ which both state "the Council shall meet in public when it deliberates and votes on a draft legislative act." According to one senior official, some staff in the Council's General Secretariat are uneasy about this practice and regularly remind the Presidency of the Council's obligation to discuss such subjects in public (Interview #3). Others emphasize both the need for these confidential discussions and the fact that, since a meal break suspends the session's official conduct, ministers are meeting in an informal capacity (Interview #7). In any case, whereas Council meetings of previous years were secret, and therefore did not incentivize separate deliberations, our interviews attest that meal breaks, especially lunches, today form an integral part of Council meetings (Interview #2). As discussed below, this has implications for the way meal breaks are reported in Council documents.

4.4. *Contextualized empirical implications*

If ministers use meal breaks to recover some of the confidentiality that once prevailed in Council meetings, then our general theory predicts:

Hypothesis 1 (transparency): As Council meetings open up to the public, there is an increased use of informal meal break discussions among ministers, ceteris paribus.

We argue that governments increasingly resort to negotiations during informal meal breaks as they no longer expect Council meetings to offer the confidentiality that facilitates the exchange of concessions that is necessary to reach agreement. Our discussion of

⁸ European Union (2007), Art. 16, §8 TEU; Council of the EU (2009), Art. 7, §1.

transparency in the Council suggests that this expectation is likely to vary with changes to the formal transparency rules.

Hypothesis 1a (formal): Informal meal break discussions increase following the formal revision of transparency regulation.

Transparency also increased in practice with every enlargement round, as the addition of new member states increased the likelihood of details of discussions leaking to the public.

Hypothesis 1b (de facto): Informal meal break discussions increase as the number of negotiating partners increases.

In addition to stipulating a close association between greater transparency and *ersatz* confidentiality, we are also interested in the reasons why governments eschew greater openness (Carnegie, 2021: 215-220). Our theory implies an interaction between transparency at the EU level and political contestation at the domestic level. We expect member states to avoid situations in which domestic actors can blame them for the concessions they made to reach a deal.

Hypothesis 2 (domestic contestation): The higher the level of domestic political contestation, the more likely governments are to resort to the use of informal meal break discussions, ceteris paribus.

However, domestic political contestation has many faces. If ministers fear their political opponents might use an intergovernmental negotiation to embarrass them for electoral gains, we expect working meals to increase with the likelihood that EU issues become electorally salient at the domestic level, i.e., when governments are facing national elections (Kleine and Minaudier, 2019).

Hypothesis 2a (electoral salience): The more that governments face impending national elections, and the closer those elections are, the more likely governments are to resort to the use of informal meal break discussions.

Governments may also worry about Eurosceptic parties, even if these are not their main political opponents. Eurosceptic parties may exploit details about the negotiation to politicize intergovernmental negotiations and stoke up sentiments against the governing party's stance on Europe.⁹ It is plausible to expect these fears to rise with an increase in Euroscepticism among the European populace, leading incumbent governments to seek confidentiality in order to depoliticize European issues (Bressanelli et al., 2020).

Hypotheses 2b (Euroscepticism): The higher the level of Euroscepticism, the more likely governments are to resort to the use of informal meal breaks.

Finally, if governments are concerned about the mobilization of domestic interest groups,¹⁰ we would expect the prevalence of informal meal breaks to be especially sensitive to enhancements to transparency in the Council formations that are likely to encounter such mobilization. For instance, market regulation and consumer protection legislation may impose concentrated adjustment costs, and therefore the Councils that deal with those issues may be more likely to face domestic mobilization than formations that deal with, for example, foreign policy or justice.

⁹ Many studies point to an increasing responsiveness of international negotiations, in general, (De Vries et al, 2021) and Council negotiations, in particular, to public opinion and Euroscepticism (Hobolt and De Vries, 2016; Hagemann et al, 2017; Kleine et al. 2022; Wratil et al, 2023).

¹⁰ Kirkland and Harden (2022) demonstrate that more stringent transparency in American state legislatures increased the presence of lobby groups, which suggests that governments that seek to avoid lobbyists would shift their deliberations to more opaque settings, since, as Dür and Mateo (2012; 2023) show, industries avoid public attention on salient issues.

Hypotheses 2c (interest groups): If negotiations touch upon issues of market regulation, the relative power of transparency to predict governments' reliance on informal meal breaks will increase.

5. Method and data

The previous section derived two complementary hypotheses about the use of informal meal breaks during Council meetings. The following two sections evaluate these hypotheses using a mix of quantitative and qualitative methods. At the core of the analysis is a multiple regression on an original dataset of recorded informal meal breaks during Council meetings from 1990 to 2019 that carefully controls for a host of potential confounding factors. We also explore the nature and frequency of the topics discussed during these breaks. Finally, we interweave triangulated qualitative data in the form of expert interviews and additional first-hand and second-hand accounts to better illustrate our argument and its causal mechanism. Interviews were conducted remotely from mid 2021 through early 2024. In line with Institutional Review Board guidelines and to obtain confidential insights, we promised all interviewees anonymity and refer to them using generic labels. In selecting our interview partners, we sought out both retired and active insiders from different departments (Directorate Generals) in the Council Secretariat in order to obtain a broad overview of its practices over time and across different policy areas (Tansey, 2009).

5.1. Data collection

Lunch breaks are an integral part of Council meetings that typically span several hours. Importantly, the Council Secretariat makes a note of these breaks when ministers use them to discuss issues of public relevance. These *recorded* meal breaks (typically lunch, but also

breakfasts and dinners) are mentioned either in the Council’s meeting agendas, session minutes or press summaries, often with a short description of the topic(s) discussed over the meal. The main challenge to this data collection exercise is the poor organization of the Council’s electronic register. Since many, especially older documents, turned out to be absent from the register or not machine-readable, a simple search for the term “lunch” in the Council’s search engine was not possible. Instead of scraping the data from the online register, we collected it manually, from the bottom up, by compiling a list of all meetings of the Council in its various formations between 1990 and 2019 and tracing the agendas, minutes, and press release for each meeting.¹¹ We were able to gather all relevant documents (agendas, minutes, press summary) for every single Council meeting that took place during the period under consideration. All documents were made machine-readable and searched for the terms “lunch,” “breakfast,” and “dinner.” For a meal break to be entered into the dataset, it had to involve a majority of Council members. For example, meetings described as “structured dialogues” between the Presidency and youth organizations over lunch cannot serve as alternative venues for Council negotiations, whereas a breakfast before the Economics and Finance Council (ECOFIN), even if not attended by every single minister, could in principle serve this function.

The final dataset consists of information on the 60 semesters from 1990 to 2019, including all 2,336 Council meetings that took place during that period. Of these sessions, 751 contained at least one recorded informal meal break, for a total of 841 meals. At a maximum, ministers broke three times during a single meeting (which happened only twice, once in 2009 and once in 2011).

Table 1: Descriptive statistics about here

¹¹ The Council of the EU is a single legal entity with ten configurations (see A.4.).

One concern was that variation in our data reflects not a change in the ministers' behavior but rather changes in the practice of reporting informal meal break discussions. To assess this possibility, we conducted interviews with current and retired senior Council officials about the Council Secretariat's practice of reporting informal meal break discussions in Council documents. These officials confirmed that the Council Secretariat would always record the occurrence and topics of meal breaks in the meeting's press release in, at a minimum, one sentence, when the topics touch upon current Council business and are therefore of public interest (Interview #2, #5, and #6). The secretariat omits the occurrence of an informal meal break discussion when the ministers' conversations are deemed irrelevant (Interview #5). According to a recently retired senior Council official, this practice has not changed over time. Civil servants in the Council Secretariat, in conjunction with the Presidency, decide if and in what way meal discussions are reported in the meeting documents (Interviews #4 and #7).

The fact that the Council Secretariat records lunch discussions in official documents that they deem of public interest means that our dependent variable measures not the occurrence of meal breaks per se, but more specifically meal breaks that the ministers used to discuss EU affairs. On the one hand, this greatly improves the accuracy of our measurement as it excludes breaks that were solely used for sustenance. On the other hand, this practice still leaves some degree of subjectivity if the Secretariat, deliberately or not, applies different standards in evaluating whether a lunch discussion is of public interest. As discussed below, we control for a "transparency culture" in the Council Secretariat, i.e., the possibility that the Secretariat anticipates the transparency preferences of either the median Council member or the government in charge of the Council Presidency.

5.2. *Dependent variable: recorded meal breaks*

The dependent variable in our regressions is the recorded meal incidence, that is, the number of meal breaks recorded by the Council Secretariat as being of public relevance. Figure 1 shows the number of sessions from 1990 to 2019 and the average number of recorded meals per session. For ease of visualization the graph depicts both measures at the semester level; however, session-level meal counts are the more precise measure and therefore serve as the dependent variable in our models.¹² Two things stand out. First, the number of Council meetings per semester decreases only slightly over time, averaging about 39 sessions per semester (with a standard deviation of 4.13 sessions). Second, the ratio of breaks increases substantially during the first two decades of the period under investigation, peaks around 2011, and then tapers and plateaus in the latter half of the 2010s. As we shall explain in the context of our results, the shape of this graph can be explained by the parallel rise of transparency and recorded meal breaks up to a certain plateau, and it will also respond to variation in domestic political contestation and other phenomena, such as the number of items on the Council's plate.

Figure 1: Council sessions and recorded meal breaks per semester, 1990-2019
[about here](#)

5.3. *Independent variables*

The two main independent variables we use to evaluate hypothesis 1, the association of transparency with recorded meal breaks, are (1) formal and (2) de facto transparency in the Council of the EU. We create a measure of *formal transparency* by identifying the main legal reforms of the EU's transparency system that obligated the Council to disclose more

¹² See the appendix (A.12) for further notes on this decision.

information about their deliberations and thereby changed ministers' expectations of how fast and what kind of information would leak from an official Council meeting. Our foregoing review of the Council's history points to three events that were associated with a greater obligation to release classified material, namely the 1995 Guardian judgment, the 2001 transparency regulation, and the coming into force of the Lisbon Treaty in 2009.¹³

Our measure of *de facto transparency* is based on the size of Council meetings, that is, the number of negotiators in the room during each session. The qualitative information collected in the previous sections suggests that more participants in Council meetings make it harder to keep things under the radar. The number of delegations (member states) in Council meetings starts at 12 in 1990, increases to 15 in 1995, 25 from 1 May 2004, 27 from the start of 2007, and 28 from 1 July 2013, until 2019 when our dataset ends (the United Kingdom remained a member of the EU until 2020). For our independent variable we take the natural log of this count, firstly because the number of recorded meal breaks per session has an upper bound and therefore cannot be expected increase linearly with the actual number of member states, and secondly so that we can measure the dependent variable's sensitivity to percentage rather than absolute changes in the Council's size.

Regarding Hypothesis 2, in which we theorize why governments avoid openness, we include two families of independent variables reflecting domestic political contestation. The first relates to *electoral contestation*, as indicated by the presence or absence of national elections upcoming in the next two months, insofar as they might increase a government official's anxiety that a political opponent will exploit ongoing EU negotiations for electoral gain. Data on elections have been drawn from the Comparative Manifest Project (Volkens et al. 2020),

¹³ Our measure is a cardinal variable with a value of 1 from 1990 to 19 October 1995, a value of 2 until 30 May 2001, 3 until 1 December 2009, and 4 after that. A measure based on other voluntary commitments is discussed in section A.1.

from which we have extrapolated the number of upcoming elections at each point in our time series, among other metrics (see A.2.). To test Hypothesis 2b, a further set of independent variables reflects the extent to which ministers faced Eurosceptic publics at home, as a test of whether this form of domestic contestation translates into meal breaks at the Council level. Taken from three decades of Eurobarometer surveys, the data capture the percentage of member states in which more citizens believe the EU to be detrimental than beneficial.¹⁴

Finally, we proxy the chances of interest group pressure (Hypothesis 2c) by subdividing the overall dataset into those formations that are more or less likely to attract lobbying efforts, and excluding the latter from one of our models (see A.4.).

We test for collinearity among our independent variables (see A.5.) and find evidence in the case of the first two measures, formal and de facto transparency. This means that the effect of each of the two variables is understated when they are included together within the same regression; in our robustness checks we therefore include a model in which one of these variables is omitted. The magnitude of this correlation pair is 0.91; whilst high, this does not diminish the validity of our hypothesis (H1), which pertains to transparency in general.

5.4. *Control variables*

Recall that our dependent variable is the incidence of recorded meal breaks, that is, the Council Secretariat making an official note of the fact that discussions during meal breaks touched upon Council business. Our selection of control variables was motivated by the range of alternative explanations for both the occurrence of recorded meal breaks and, more

¹⁴ Specifically, this metric considers for each member state the number of Eurobarometer respondents who believe membership to be beneficial versus detrimental, and then computes the percentage of member states in which the latter outweighs the former at the time of each session. For a discussion of alternative metrics see A.3.

specifically, the reasons behind governments' eschewal of transparency. These variables are outlined below and discussed in further detail in the appendix; we also include several robustness checks, as described in section 6.2.

To address the possibility of measurement error where our dependent variable reflects changing practices in the Council Secretariat rather than variation in the frequency of the use of meal breaks for informal discussions, we include a control variable to account for the "transparency culture" in the Council, based on the median of Member States' scores from Transparency International. This metric fluctuates most dramatically in the wake of enlargement rounds, with an increase in the Corruption Perception Index (CPI, i.e., a decrease in aggregate corruption) corresponding to the 1995 Northern enlargement, and an opposite movement corresponding to the Eastern enlargement nine years later. To control for the culture and process-related preferences that might be impressed upon the Council Secretariat by the Council Presidency, we included dummy variables for the regional groups of countries occupying the Presidency (see A.6. and A.7.).

To account for the possibility that recorded meal breaks are merely a consequence of busier Council meeting that therefore increase the chances that one or more items require confidential discussions, we collected the number of agenda items per meeting and included the natural log of this number as an independent variable within the regressions (see A.8.).

Our dataset is a time series, and broadly speaking our dependent variables, as well as certain independent variables, have tended to increase with time (indicating potential non-stationarity and/or auto-correlation, albeit with localized exceptions). We therefore included time as an independent variable in all models, to distinguish any time-driven effects from our (hypothesized) time-independent effects (see A.9.).

Rather than worrying about domestic contestation, governments may also be wary of the reaction of financial markets to their internal deliberations. This possibility was especially pronounced at the height of the Eurozone crisis, during which market reactions pushed several Eurozone members to the brink of bankruptcy. As a control we therefore include a binary variable that takes effect between mid-2010, when both EU governments and the European Central Bank acted in response to the threat of a Greek default, and mid-2012, when interest rate spreads narrowed, and the European economy began to stabilize.

Finally, we consider the possibility that governments worry less about domestic actors than about the increasingly powerful EP exploiting divisions among them. We have therefore included a cardinal measure that reflects the rise of the EP power from a secondary chamber (prior to Maastricht in 1992) to a co-legislator (up until the Treaty of Amsterdam) that became ever more powerful with each treaty change.¹⁵

6. Results

The models we utilize are multiple log-linear regressions of the form:

$$\log(Y_i) = \beta_0 + \beta_1 x_{i1} + \beta_2 x_{i2} + \dots + \beta_p x_{ip} + \beta_q c_{i1} + \dots + \beta_z c_{iz} + \epsilon$$

In most treatments x_{i1} represents time (the date of the observed session), x_{i2} through x_{ip} represent independent variables whose impact we are investigating, and the remaining variables (c_{i1} through c_{iz}) are controls. We primarily employ Poisson regressions in view of the fact that our dependent variable, the number of meals in each session, is a low, countable number; to ensure robustness we also run logistic and zero-inflated regressions (see A.11.),

¹⁵ Corresponding to four time periods: (1) 1990-29 October 1993 (Maastricht); (2) 29 October 1993-April 1999 (Amsterdam); (3) May 1999-Nov 2009 (Lisbon); (4) December 2009 - 2019. The variable exhibits collinearity with our formal transparency measure, particularly as both are influenced by the Lisbon Treaty; this is discussed in Section 5.4. and A.10.

regressions at semester granularity (A.12.), as well as test for overdispersion (A.13.). We begin by evaluating our main hypotheses, discuss the role of control variables and alternative modeling strategies in the subsequent section, and finally consider qualitative evidence on the use of meal breaks for confidential discussions.

6.1. Main results and discussion

We argue that as formal Council meetings open up to the public, negotiators face incentives to shift deliberations to more informal and opaque venues, especially for sensitive and domestically contested issues. Hypothesis 1 expects an association between greater transparency in the Council and an increased use of meal breaks for confidential discussions. The independent variables are formal transparency (as given by legal transparency rules) and de facto transparency (as given by the log of the number of EU Member States), both of which are expected to render Council meetings more permeable. A date variable is also included to separate out changes to the dependent variable that are attributable primarily to the passage of time.

Model 1 reveals a clear effect from both transparency variables, with formal transparency (Hypothesis 1a) emerging as the stronger predictor. Quantitatively, each unit increment in formal transparency (for example, the enactment of the 2001 regulation) multiplies the expected number of recorded meals in each session by 1.92, that is, an 92% increase (for context, the overall mean number of recorded meals per session is 0.36, so at a given time an 92% increase might raise the expected number of recorded meals from 0.1 to 0.192, for example). And each 50% increase in the number of delegations in the room (de

facto transparency, as per Hypothesis 1b) multiplies the expected number of recorded meals by 1.30. Both coefficients had $p < 0.05$.¹⁶

Model 2 introduces the controls discussed in the previous section and reveals, as discussed below in more detail, that our transparency metrics substantially retain their predictive power even when regressed alongside variables representing the Council Presidency, our measure of the Council's transparency culture, EP power, the Eurozone crisis, and the number of agenda items per session. In this model our control variable for EP power dilutes the strength of the formal transparency metric (now at 32.2%); however, their relative p-values and collinearity reveal formal transparency to be the more significant predictor (see appendix A.10). At the same time, the magnitude of the de facto transparency effect is increased (to 65.1% per 50% increase in member states); this means that the cumulative effect of these variables is not diminished by the introduction of our controls, even though agenda items and our measure of transparency culture also exhibited statistically significant correlations with our dependent variable, as discussed below. Both Models 1 and 2 therefore lend strong support to Hypothesis 1, that a stricter legal transparency regime (formal transparency) as well as a higher number of delegations in the room (de facto transparency) lead governments to search for pockets of *ersatz* confidentiality in the form of recorded meal breaks.¹⁷

Table 2: Multiple regression on meals per session, Models 1 and 2 about here

We are also interested in the specific reasons *why* governments evade transparency. Hypothesis 2 emphasizes the role of domestic political contestation as a potential motivator

¹⁶ Separately, we also modeled these effects using three discrete binary treatments (i.e., as interrupted time series), one for each of the transparency changes (A.14.).

¹⁷ This finding aligns the work of Cross and Bølstad (2015) who demonstrate that the 2004/7 enlargement rounds disrupted a trend toward greater transparency in the release of documents. This is discussed in the appendix (A.1).

for the member states' pursuit of *ersatz* confidentiality. Model 3 considers variables related to electoral salience (Hypothesis 2a) and Euroscepticism (Hypothesis 2b). Of these, Euroscepticism had the more statistically significant effect, as measured by the percentage of member states in which more citizens believe the EU to be detrimental than beneficial. When regressed alongside our transparency indicators, each 5% increase in this number was associated with a 10.1% increase in the expected number of recorded meal breaks in each session, with $p < 0.01$. In other words, greater Euroscepticism at home heightens member governments' reluctance to engage in public debates.

Impending, closely-contested elections in large member states also exhibited a relationship with recorded meal breaks; each such election (upcoming in DE, FR, IT, or the UK in the next two months, and where the runner-up party came within five percent of the winning party) corresponded to a 23.2% increase in the likely number of recorded meals per Council session, albeit with a p value (0.17) that indicates a lower level of confidence in these results.

**Table 3: Multiple regression on recorded meals per session, Model 3 about
here**

We also consider whether the potential for interest group mobilization (Hypothesis 2c) poses an additional set of concerns to governments. In addition to the cross-formation models discussed above, we examine in Model 4 a more targeted dataset consisting of the Council formations that pertain most directly to the single market,¹⁸ on the basis that these formations may be more sensitive to the influence of interest groups that mobilize in

¹⁸This dataset excludes Justice and Home Affairs; Education, Youth, Culture and Sport; and the Foreign Affairs Council / General Affairs and External Relations Council.

anticipation of potential adjustment costs from their government's negotiation concessions.¹⁹ The results support Hypothesis 2c: the effects of formal and de facto transparency in Model 3 increase from 54.4% and 28.9%, respectively, to 66.3% and 58.4%, and remain significant at $p = 0.0022$ and 0.0018 . This does not necessarily mean that Single Market-relevant Council formations are more likely to break for meals in the first place, but it does suggest that, within those formations, there is a heightened sensitivity to changes in transparency. This lends support to Hypothesis 2c, namely that governments also attend to concerns over interest group mobilization when deciding how and where to conduct their negotiations. Government ministers may therefore regard confidentiality both as an opportunity to avoid blame in the process of domestic contestation as well as a chance to steer clear of special interests.

In a final step, Model 5 combines the transparency and contestation variables from Model 3 with the key control variables from Model 2. We find that the effect of the Euroscepticism measure is only slightly decreased (predicting a 9.2% increase rather than 10.1%), with $p < 0.01$ once again. The effect of the elections indicator increases from 23.2% to 28.2%, with its p value improving from 0.17 to 0.10. And the formal and de facto transparency effects go from 54.4% and 28.9% to 42.2% and 33.2% respectively, with $p < 0.01$ in both cases.

Table 4: Multiple regression including contestation and controls, Model 5, about here

¹⁹ This is not the only way to measure differences across Council formations. A more basic approach would be to compare the expected break frequency from one formation to the next, without regard to transparency or control variables; this reveals that JHA, GAERC/FAC, and ECOFIN have the highest 'baseline' propensities for meal breaks, with break frequencies higher than 40% in all cases. In contrast, our approach is to measure the strength of the transparency/meal break relationship *within* the respective sets of formations, as this speaks more directly to the hypothesis in question. The appendix (A.4.) also includes a graph showing recorded meals across the individual configurations.

6.2. *Robustness and further discussion*

Our main results demonstrate a clear association between greater formal and de facto transparency and a concomitant push for pockets of *ersatz* confidentiality in the form of recorded meal breaks. In other words, as Council meetings become more permeable due to an increasingly strict transparency regime and the presence of more delegations in the negotiation room, governments increasingly use meal breaks as an alternative venue to discuss sensitive items in confidence. Our variables exhibit a strong and highly significant effect that remained largely unchanged by the addition of our control variables. The latter nonetheless produced some interesting results.

The workload of Council meetings, measured by the log of agenda items, exhibits a strong correlation with the use of recorded meal breaks, with a 50% increase in the number of items corresponding to a 25.5% increase in expected recorded meals per session. This is likely because Council meetings that include more items on the agenda have a higher chance of touching upon issues that require confidential discussions.

We also evaluated whether our results reflect changing practices in the recording of meal breaks in the Council Secretariat. Our control for the Council's "culture of transparency" indeed shows a significant correlation with recorded meals. Each 5% increase in our measure of the median Council member's transparency culture corresponds to a 20.3% increase in frequency of recorded meal breaks. This association could indicate a bias in our dependent variable due to potentially changing practices in the Council Secretariat. Specifically, the Secretariat might be more likely to make a note of a meal break that touched upon Council business when the median Council member's transparency culture improves and less likely to register the break when it deteriorates. In this respect our findings were mixed. When modeled independently, a transparency-friendly Nordic (Swedish, Danish, or Finnish) Council

Presidency was associated with a 19.6% increase in recorded meal breaks ($p = 0.047$), however the significance of this result weakened to 0.098 when modelled alongside our main transparency measures and controls, and was further diminished in our fully loaded model. Moreover, the theoretical implications of these cultural effects remain open to interpretation. It may be that Nordic presidencies are *less* transparent than their counterparts (in that their presidencies result in more adjournments); or that they are *more* transparent (by prompting the Secretariat to record meal breaks that they otherwise would not). In either case it seems that the cultural transparency of the overall Council is a more significant predictor of meal breaks than the presidency per se. It is also the case that the correlation between the Council's transparency culture and recorded meals does not substantially diminish the effect of our main independent variables.

Model 2 also shows that the Eurozone crisis, at its most acute from 2010 to 2012, did not dilute the transparency effects when added to our regressions as a control, and itself had a less statistically significant effect. Nevertheless, as the next section indicates, lists of discussion topics reveal that the “economic situation” did begin to overshadow many of the recorded meal breaks during the crisis, and Figure 1 indicates a spike in recorded meals in and around this time. If the duration of this control variable is extended from late 2008 (the collapse of Lehman Brothers) to 2013, it takes on its own statistical significance, with transparency effects remaining as well (see A.16). Ministers will certainly have had more to discuss at this time; however, their use of meal breaks to do so, combined with the contentiousness of the crisis, suggest that they may have been sensitive to the prospect of financial market reactions to their deliberations during that time.

When our indicator of EP power is added to the model, it emerges as an additional predictor of recorded meal breaks, with each increase in its power corresponding to a 29.3%

increase in expected breaks. As this relationship is not as pronounced or as statistically significant ($p = 0.095$) as the results for our formal transparency measure, and in view of the level of collinearity of the two variables (see A.5.), we elected to omit the EP power indicator from our main models.²⁰

To ensure robustness, we considered various types of regression, granularities, and related measures for each of our independent variables. These included different definitions of nearby and/or significant elections; different measures of Euroscepticism; different formulations of de facto transparency; and different versions of the EP power indicator. We ran regressions against other transparency metrics including the Quality of Government and Information Transparency measures formulated by Williams (2015), which also exhibited a positive relationship with recorded meal breaks – unsurprising given the results of our other regressions. However, it also displayed multicollinearity with the de facto transparency variable and our measure of the Council’s transparency culture, and since the latter were more statistically significant, we omitted these other measures of transparency from our main regressions so as not to overload them with duplicative predictors. For similar reasons, we ran a version of each transparency-related model without de facto transparency; as expected, this resulted in an increase in the magnitude and significance of the formal effect.

6.3. *Qualitative evidence*

To verify the use of meal breaks as pockets of *ersatz* confidentiality, we complement our statistical analysis with qualitative evidence. The relationship between greater formal

²⁰ The correlation between the two independent variables is unsurprising given their respective histories. For example, the Treaty of Lisbon increased both transparency in the EU and the specific power of the EP.

transparency and recorded meal breaks in the Council, as demonstrated in our quantitative analysis, has been openly acknowledged by politicians and officials. For example, a Scrutiny Report in 2005 by the House of Commons' Select European Scrutiny Committee mentions Alexander Stubb, then a Finnish Member of the European Parliament, complaining that ever since the Council decided in the early 2000s to increase the publicity of meetings, "many of the main decisions are now taken over lunches and, in those lunches, even civil servants are kept outside the room" (House of Commons 2005). Asked about the consequences of opening the Council of Ministers' debates to the public, the Swedish EU Commissioner and later Deputy Prime Minister and Minister for Foreign Affairs Margot Wallström admitted that "the most important compromises and discussions are now taken at different dinners and lunches," and then quipped wryly: "We are all gaining weight."²¹

A sceptic might question whether recorded meal breaks only cover less relevant issues and thus fail to function as *ersatz* confidentiality. Our quantitative analysis already identified an association between domestic contestation and the incidence of recorded breaks, suggesting that meal breaks are indeed used to eschew transparency and thereby to avoid blame in the domestic arena. In the following, we take a more direct look at the topics discussed during meal breaks to corroborate our argument. If meal breaks were just that, namely breaks from the actual negotiation rather than pockets of *ersatz* confidentiality, then we would expect the discussion topics to be either random (ministers break when they are hungry and merely happen to continue their discussion) or mundane (ministers discuss less important issues to relax). If random, we would not expect any specific topic to dominate the meal discussions. If

²¹ Dagens Nyer, 18 January 2005, cited in Naurin (2006: 191). The full quote in Swedish reads: "De verkligt viktiga kompromisserna och diskussionerna förs vid olika måltider. Vi kommer att gå upp i vikt." EU-kommissionären Margot Wallström varnar för följderna av den nya öppenheten på EU:s ministermöten som gör att matiderna blir långa." Another, albeit unquantifiable, implication is that lunches last several hours until there is an agreement (Interviews #3 and #5).

mundane, then we would expect the main discussion topics to be uncontroversial. However, if meal breaks are indeed used to continue discussions away from the public gaze, then we would expect topics to be potentially controversial.

To probe whether meal breaks are indeed more banal than our argument suggests, we collected information about the topics discussed. The Council press release typically offers somewhere between a sentence and a paragraph of information regarding the nature of the discussions (Interviews #2, #3, #4). From this, we created keywords for the two busiest Council formations, the General Affairs and External Relations / Foreign Affairs Council (GAERC/FAC) and the ECOFIN Council formations and recorded their frequency.²²

Figure 2: Recorded meal break discussion topics frequency at GAERC/FAC (left) and ECOFIN (right) about here

The figures show unequivocally that the topics discussed are neither random nor mundane. Foreign ministers use their breaks predominantly to discuss highly controversial issues in ways they do not want to be reflected in the minutes, especially the Israel-Palestine conflict and the Middle East more broadly. Finance ministers are more reluctant to share the topic of their discussion. Although the most frequently occurring descriptor – “economic situation” – could refer to a range of mundane discussion topics, our qualitative evidence suggests that it typically indicates discussions about the unfolding Eurozone crisis. It is first mentioned in 2008, four times in total between 2008 and 2010, and from then on at every meeting. ECOFIN’s breakfast discussions are also used to update fellow finance ministers on discussions within the “Eurogroup,” the informal and exclusive group of the Eurozone’s finance ministers (Puetter, 2014: 163). These two broad descriptors (“economic situation” and

²² The relatively smaller number of observations in other Council formations did not permit the creation of such word clouds.

“Eurogroup”) are closely followed by topics with a high level of potentially controversial distributional conflict, namely taxation, financial markets, and financial regulation.

Interview partners in the Council provide evidentiary support for our argument that lunch discussions often revolve around controversial topics as well as legislative matters, even though this arguably violates the spirit of the treaties and the Council’s rules of procedure (Interviews #1, #3, #5). Consider the short anecdote from the introduction. The Lisbon Treaty, with its provision to open all legislative debates up to the public, entered into force in December 2009 under a Swedish Council Presidency. The first Council meeting to be held under the new transparency regime was the meeting of the ECOFIN Council on 2 December 2009. To many, this meeting hailed the beginning of a new era (Laursen, 2013: 783). Chaired by the Swedish Finance Minister Anders Borg, the meeting was supposed to deal with, among other things, the establishment of the European Banking Authority and the European Security and Markets Authority.

Our interview partners report that Borg was concerned about the potential for domestic political fallout, since the discussions were going to pit several governments against each other, among them the UK government defending its financial sector and the French government trying to rein in financial excesses in the banking industry. Borg was relieved to learn that he could sound out the delegations’ positions over an informal and exclusive pre-meeting breakfast (Interview #4). “Over coffee and croissant” (Beesley, 2009), he then conducted bilateral meetings to hash out a compromise before commencing the official segment of the meeting (ibid). An Irish journalist reports cynically about this historic meeting.

“Negotiations were held in private for more than three hours, leading to a backroom compromise. When the discussion finally went public, [streamed live for the first time to European citizens,] observers saw ritualistic

congratulation among ministers before the deal was declared to be done, with unanimous support, after about nine minutes” (Beesley, 2009).²³

Meal breaks play a key role even in the European Council. In contrast to the Council of Ministers, the European Council is comprised of the heads of state and government and meets less frequently. It has an exclusively executive role and, according to the Treaty on European Union, “shall not exercise legislative functions.” However, since many heads of state and government may issue guidelines for government members, they occasionally resolve deadlock among their ministers (Kleine, 2013: 67). Because this practice conflicts with treaty norms, they resort to meal breaks as a sleight-of-hand, to ensure that legislative discussions are not part of any official meetings. These lunches are even more exclusive than the official closed-door meetings. The Council officials tasked with running these meetings (“Antici”) are asked to leave the dining room, and presidents, prime ministers, and chancellors are expected to leave their cell phones at the entrance, lest someone should live tweet the meeting (Interview #3, #7).

7. *Ersatz* confidentiality beyond the EU

The pursuit of *ersatz* confidentiality in the context of formally transparent intergovernmental settings is not limited to the EU. The United Nations Security Council (UNSC) offers yet another example of transparency avoidance. Although it must normally meet in public,²⁴ there was a notable retreat to informal consultations behind closed doors, with no official records being kept, as soon as the UNSC began to exercise its powers more frequently after the end of the Cold War (Tzanakopoulos, 2013: 369). Informal consultations

²³ Council, video stream of the 2981st meeting of the Council (ECOFIN), 2 December 2009.

²⁴ According to Rule 48 of the Provisional Rules of Procedure, its meetings are generally public unless the Council decides otherwise.

among all permanent and non-permanent UNSC members (“formal informals” or informal consultations of the whole) as well as consultations between less than the full membership (“informal informals”) skyrocketed in the early 1990s.²⁵ This avoidance of public meetings gave rise to a coalition of the small countries, countries contributing troops, and nongovernmental actors, to pressure the permanent members to become more inclusive and transparent. Since then, the Council’s working methods have undergone substantial reforms, with the permanent members committing to the publication of the Council’s agenda, to holding post-meeting briefings following informal consultations, and to the circulation of draft resolutions near finalization.²⁶

However, as soon as informal consultations became more transparent, the UNSC “also continued limiting the extent to which it would allow just anyone to see the [...] manner in which consensus was reached and decisions were made” (Tzanakopoulos, 2013: 371). Indeed, as Harrington (2013: 67) observes, “informal consultations of the whole sometimes must be suspended to permit further informal discussions on a bilateral or multilateral basis in order to reach agreement.” As a result, informal consultations, just like public meetings, have been reduced to prepared statements and votes (Security Council Report 2019). As one close observer demurs,

“The more institutionalized the ‘informal consultations’ would become, the farther would the flight towards secrecy continue, with a shift in decision-making away from informal consultations of the whole Council towards smaller groupings.” (Tzanakopoulos, 2013: 372)

²⁵ <https://www.un.org/securitycouncil/content/highlights-2022>.

²⁶ See Security Council Report (2007) and Harrington (2017) for detailed reviews of these reforms.

Several other formats and practices were tried to enable frank discussions (Security Council Report 2022). The 2010s witnessed a marked increase in the use of the “any other business” (AOB) agenda item for the discussion of sensitive matters. According to close observers, one of the reasons this format is used is that it allows for discreet discussions, as there are no minutes and fewer Secretariat officials present (Security Council Report 2016). The Council also uses informal “sofa talks” for frank discussions among the permanent representatives of the Council members (Security Council Report 2020). In addition, there are regular informal breakfast and lunch meetings among various constellations of actors, although the former were discontinued during the pandemic and not resumed as tensions grew in the aftermath of Russia’s war against Ukraine (Interview #10).

According to our interview partners, there are different reasons why governments prefer to keep their discussions confidential. Diplomats from autocratic countries worry about competing factions at home portraying them as dovish, while diplomats from democratic countries often use confidentiality to enable a reciprocal exchange of credit-taking for their diplomatic efforts (Interviews #8 and 9). Even advocates for enhanced transparency in the UNSC acknowledge that a certain degree of confidentiality is necessary to facilitate conflict prevention efforts (Interview #10).

8. Conclusion

While there is widespread consensus among scholars regarding the desirability of transparency in international organizations, there is little understanding of how political elites react to increases in transparency. Theory would suggest that it behooves politicians to evade unwanted domestic scrutiny, but the very nature of transparency evasion means that it has been difficult to establish when and by what means they do so. This article draws on an original

dataset spanning three decades of recorded meal breaks in the EU's Council of Ministers, where participation is limited and no minutes are taken. It is one of the first to demonstrate how increased transparency in the Council has prompted ministers to shift sensitive discussions to meal breaks as well as to explore the domestic factors that drive this behavior. Our statistical analysis, qualitative evidence, and an examination of informal discussion topics all suggest that meal breaks provide an *ersatz* realm for confidential negotiations and the exchange of *quid pro quos*. This informal setting becomes an especially attractive refuge for governments when they face increased domestic contestation and the politicization of their actions, particularly in the form of Euroscepticism. This phenomenon is not limited to the EU; the evasion of transparency, often in the form of meal breaks, also occurs in the United Nations when frank discussions among government officials are difficult.

Our results further suggest that the evasion of accountability is not the only motivator of governmental action. Analysis of the use of meals by different Council formations indicates that governments may also use confidential meetings to dodge pressure from special interests and avoid scrutiny from financial markets. And although the available data do not permit us to link informal meal break discussions to specific policy outcomes, it seems plausible to suggest (and, indeed, some scholars as well as many of our interview partners emphasize) that some degree of confidentiality allows governments to arrive at agreements that would be unattainable in a fully public setting.²⁷ These tangible mutual gains, along with substantial bargaining resources, seem to motivate governments to devise creative ways to overcome the transactions costs of reaching a deal (Moravcsik, 1999: 273). Accordingly, our results also

²⁷ The governments' concerns about transparency may be overstated if citizens either reward politicians for compromising or are insufficiently attentive to punish them for *quid pro quos* (Harden and Kirkland, 2021), which likely depends on the salience of the issue.

imply that publicly available data on government positions in the Council may be incomplete, as many of the more sensitive discussions take place in closed settings.

Although our findings suggest that quick fixes to transparency yield diminishing returns – and that complete transparency is likely a chimera – this is not to say that the quest for greater openness should be abandoned or marginalized. The positive association between real transparency and accountability is undeniable, and any lack of transparency may be exploited for private gain and to the detriment of the public. But if full transparency is unattainable, yet secrecy bears risks, what can be done? Prat (2005) presents a formal model in which transparency of an agent's *action* rather than transparency of the action's *consequences* incentivizes conformist behavior on the part of the agent that ultimately hurts the principal. The model implies that it is not transparency per se, but the type of transparency that matters. Similarly, Jane Mansbridge (2009; Naurin, 2017) proposes a distinction between *how* decisions are made (process transparency) and *why* they are made (transparency in rationale), with the latter taking priority. This work suggests that scholars should reflect more deeply about the incentive-compatibility of formal transparency designs. If process transparency has the effect of pushing sensitive intergovernmental negotiations to more opaque venues, then some reasonable, salutary level of confidentiality should remain permissible, provided governments offer justifications for the use of closed settings and detail the rationale behind any agreements that emanate from confidential discussions.

List of interviews

Interview #1 by [author] with a senior Council official, 6 August 2021.

Interview #2 by [author] with a senior Council official, 24 August 2021.

Interview #3 by [author] with a senior Council official, 25 August 2021.

Interview #4 by [author] with a retired senior Council official, 30 August 2021.

Interview #5 by [author] with a senior Council official, 22 September 2021.

Interview #6 by [author] with a senior official of the Council press service, 8 October 2021.

Interview #7 by [author] with a retired senior Council official, 18 October 2021.

Interview #8 by [author] with a senior official of the US Department of State, 28 June 2022.

Interview #9 by [author] with a former senior UN official, 1 December 2023.

Interview #10 by [author] with a senior member of an UN-focused think tank, 3 January 2024.

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Tables

Table 1: Descriptive statistics

	Total	Mean	Median	Minimum	Maximum	Std. Dev.
<i>Sessions:</i>	2336	38.9 per semester	38.5 per sem.	30 per sem.	50 per sem.	4.13
<i>Sessions with recorded meals:</i>	751	12.5 per semester	14 per sem.	1 per sem.	23 per sem.	5.73
<i>Recorded meals:</i>	841	0.36 per session	0 per session	0 per session	3 per session	0.56

Table 2: Multiple regressions on meals per session, Models 1 and 2

<i>Variables</i>	<i>Model 1 (n = 2336; df = 2332)</i>			<i>Model 2 (n = 2336; df = 2327)</i>		
	<i>Coefficient</i>	<i>Standard error</i>	<i>p</i>	<i>Coefficient</i>	<i>Standard error</i>	<i>p</i>
Formal transparency	0.653 ***	0.108	0.000	0.279 .	0.150	0.064
De facto transparency	0.644 *	0.269	0.017	1.237 ***	0.310	0.000
Transparency International				0.037 **	0.012	0.002
European Parliament power				0.257 .	0.154	0.095
Northern Council presidency				0.122	0.093	0.189
Financial crisis				-0.007	0.130	0.956
Agenda items				0.559 ***	0.079	0.000
Date	-0.000 ***	0.000	0.000	0.000	0.000	0.158
<i>Constant</i>	-2.867 ***	0.538	0.000	-9.101 ***	1.537	0.000

Significance codes: 0 < '***' < 0.001 < '**' < 0.01 < '*' < 0.05 < '.' < 0.1 < '' < 1

Table 3: Multiple regressions on meals per session, Models 3 and 4

Variables	Model 3 (n = 2336; df = 2330)			Model 4 (single-mkt; n = 1448; df = 1442)		
	Coefficient	Standard error	p	Coefficient	Standard error	p
Formal transparency	0.435 ***	0.124	0.000	0.509 **	0.166	0.002
De facto transparency	0.626 *	0.269	0.020	1.135 **	0.365	0.002
Upcoming big close elections	0.209	0.151	0.167	-0.077	0.242	0.749
Euroscepticism	1.92 ***	0.555	0.001	1.244 .	0.724	0.086
Date	0.000	0.000	0.213	-0.000 .	0.000	0.070
Constant	-3.708 ***	0.604	0.000	-0.000 .	0.000	0.070

Significance codes: 0 < '***' < 0.001 < '**' < 0.01 < '*' < 0.05 < '.' < 0.1 < '' < 1

Table 4: Multiple regression including contestation and controls, Model 5

Table 4: Multiple regression including contestation and controls, Model 5 (n = 2336; df = 2327)

Variables	Coefficient	Standard error	p
Formal transparency	0.352 **	0.136	0.009
De facto transparency	0.708 **	0.273	0.009
Upcoming big close elections	0.249	0.152	0.101
Euroscepticism	1.753 **	0.568	0.002
Northern Council presidency	0.157 .	0.093	0.091
Financial crisis	-0.078	0.123	0.522
Agenda items	0.570 ***	0.079	0.000
Date	0.000	0.000	0.594
Constant	-5.383 ***	0.646	0.000

Significance codes: 0 < '***' < 0.001 < '**' < 0.01 < '*' < 0.05 < '.' < 0.1 < '' < 1

Figures

Figure 1: Council sessions and recorded meal breaks per semester, 1990-2019

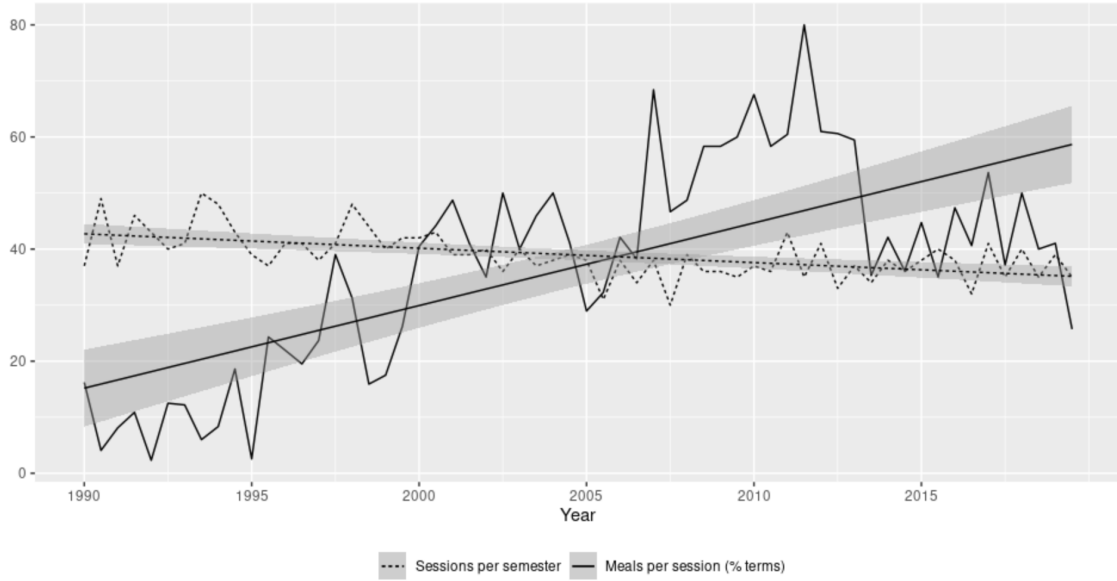
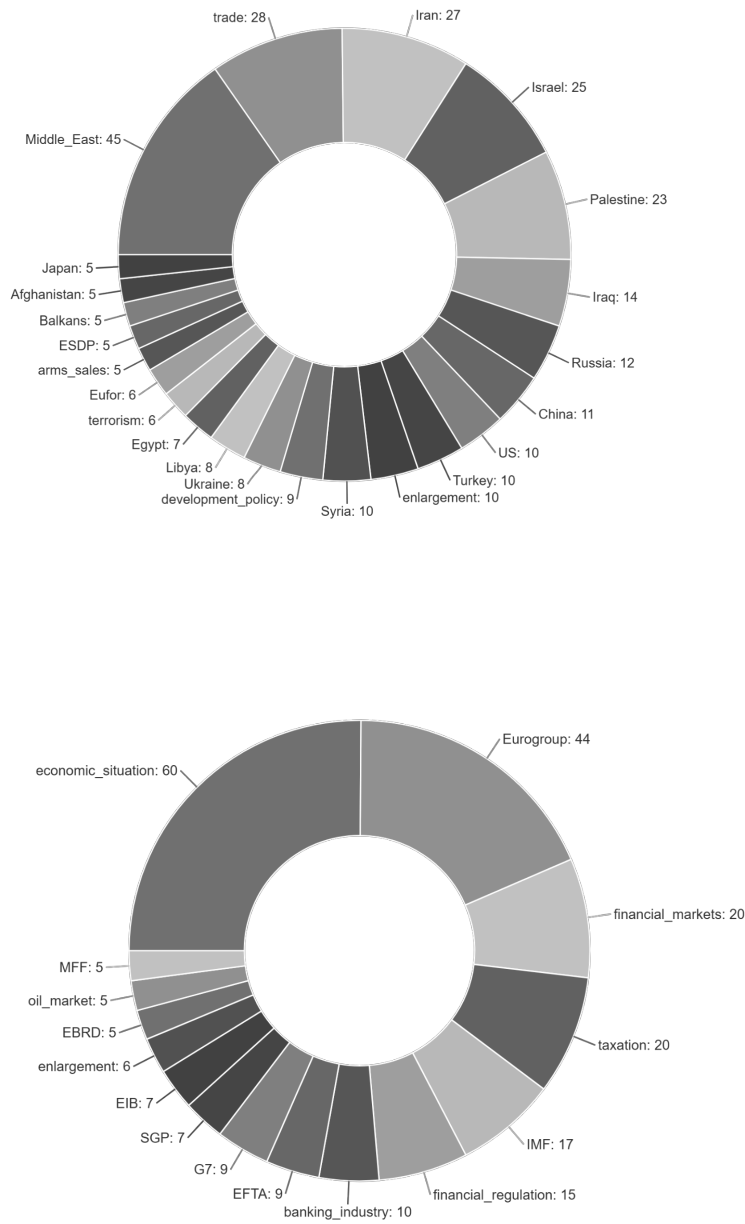


Figure 2: Recorded meal break discussion topic frequency at GAERC/FAC (top) and ECOFIN (bottom)



Appendix

- A.1. Formal transparency
- A.2. Impact of upcoming elections (Hypothesis 2a)
- A.3. Euroscepticism metrics (H2b)
- A.4. Council formations (H2c)
- A.5. Collinearity test
- A.6. Transparency culture
- A.7. Regional country allocations
- A.8. Agenda items
- A.9. Time series considerations
- A.10. European Parliament
- A.11 Logistic and zero-inflated Poisson regressions
- A.12. Semester granularity
- A.13. Overdispersion tests for the Poisson regressions
- A.14. Interrupted time series
- A.15. Single transparency variable
- A.16. Financial crisis

A.1. Formal transparency

The formal transparency measure is based on changes in formal transparency rules (reviewed in article section 3) that obligated the Council to publish documents (e.g., minutes) and livestream meetings. These formal changes are the 1995 Guardian judgment, the 2001 Council transparency regulation, and the 2009 Lisbon Treaty. Accordingly, the measure is a cardinal variable with a value of 1 from 1990 to 19 October 1995, a value of 2 until 30 May 2001, 3 until 1 December 2009, and 4 after that. Separately, we also modeled these effects using three discrete binary treatments (i.e., as interrupted time series), one for each of the transparency changes (see A.14.).

In addition to these important legal changes, the Council also voluntarily committed to greater transparency. Among these pledges, the 2006 “Overall Policy on Transparency” committed the Council to holding more public debates on legislative items. To evaluate the significance of this policy, we first constructed versions of our models in which the original formal transparency indicator was replaced with an enhanced indicator containing an additional transparency increment in June 2006 (the date of the relevant European Council meeting). The statistical significance of this new indicator was no worse than that of our original independent variable, but nor was it better ($p < 0.001$ in both cases). Similar results were observed when the revised transparency metric was substituted into models 2 and 3 – with one notable exception: the strength and significance of our de facto transparency measure (reflecting the number of delegations in attendance) decreased when regressed alongside the 2006-inclusive indicator. Rather than modifying our original formal transparency indicator, we also employed a binary variable alongside it corresponding to the 2006 guidance. This variable fared less well; when included alongside either or both of the original transparency variables (formal and/or de facto) the model preferred the original(s), and the significance of the new indicator ranged from $p = 0.24$ to 0.90.

These null results are unsurprising given the context of the policy. The Council’s 2006 rules of procedure grant broad discretion regarding the public accessibility of legislative debates, stipulating that legislative debates should be open “unless, on a case-by-case basis, the Council or Coreper decides otherwise” (Art. 8; Paragraph 1c). Our qualitative research confirms that the Council made ample use of this discretion. Only fifty percent of all legislative debates that were supposed to be open per “2006 policy” were indeed made public.²⁸ This selective approach suggests that legislative debates remained closed on sensitive matters and generated minimal impact on the government’s demand for alternative confidential venues. Such patterns suggest the effects of the 2006 policy may have been transient, aligning with the observation by Hillebrandt et. al. (2014, 15) of a post-2006 transparency fatigue.

²⁸ The average share of public debates on legislative items before 2006 was 21 percent, 17 percent during the Austrian presidency in the first half of 2006, and after rising to 76 percent during the Finnish presidency in the second half of 2006, it drops again by 26 percent to an average share of 50 percent of legislative debates in 2007 (Council of the EU 2008, fn 27). Note that the data refers to public debates on legislative items rather than to entire Council sessions. The Council Secretariat was unable to provide data for 2008-2009.

A.2. Impact of upcoming elections (H2a)

We extrapolated data from the Comparative Manifesto Project (<https://wzb.eu/en/research/dynamics-of-political-systems/center-for-civil-society-research/projects/the-manifesto-project>) relating to EU elections dating back to the beginning of our dataset. In addition to an overall count of upcoming elections at each point in time, we ran regressions against the number of upcoming "big" elections (i.e., those occurring in Germany, Italy, France, or the UK), the number of upcoming "close" elections (in which the winning party received less than five percent more votes than the runner-up), and whether it was a Eurosceptic election (in which the winning party's manifesto was coded as Eurosceptic by the Manifesto Project). When regressed in sequence, the counts pertaining to the closely contested elections were more statistically significant (see below), and these significances further improved (to $p = 0.002$ and 0.06) when the date variable is omitted from the regressions.

Although these results are not as compelling as the Euroscepticism results, they hint that uncertainty surrounding elections may be a contributing factor in the decision to deliberate over meals on such occasions. We included the "big close" indicator in Model 3; it also bears mention that none of the election treatments substantially reduced the effects of the main independent variables in that model.

Table A.2.: Upcoming election measures ($n = 2336$; $df = 2333$)

<i>Variables</i>	<i>Standard</i>			<i>Standard</i>		
	<i>Coefficient</i>	<i>error</i>	<i>p</i>	<i>Coefficient</i>	<i>error</i>	<i>p</i>
Upcoming elections	0.022	0.039	0.578			
Upcoming big elections				0.018	0.088	0.842
Date	0.000	0.000	0.000	0.000	0.000	0.000
<i>Constant</i>	-2.567	0.158	0.000	-2.573	0.158	0.000
Upcoming close elections	0.101	0.053	0.056			
Upcoming big close elections				0.249	0.150	0.097
Date	0.000	0.000	0.000	0.000	0.000	0.000
<i>Constant</i>	-2.585	0.158	0.000	-2.580	0.158	0.000

Significance codes: 0 < '****' < 0.001 < '**' < 0.01 < '*' < 0.05 < '.' < 0.1 < '' < 1

A.3. Euroscepticism metrics (H2b)

The measure of Euroscepticism used in this paper is the percentage of member states in which more citizens believe the EU to be detrimental than beneficial. Other metrics are available (including positive or negative “image” of the EU, or whether EU membership is believed to be good or bad), as are other methodologies (for instance a population-weighted percentage of member states, or an aggregated differential of the Eurosceptic percentages). However, we elected to use the “detrimental” metric on the assumption that it is particularly likely to be reflected at the political level in the Council, and we used unweighted rather than weighted percentage-differences, in accordance with findings from Thomson (2011) about the intergovernmental balance of power within the Council.

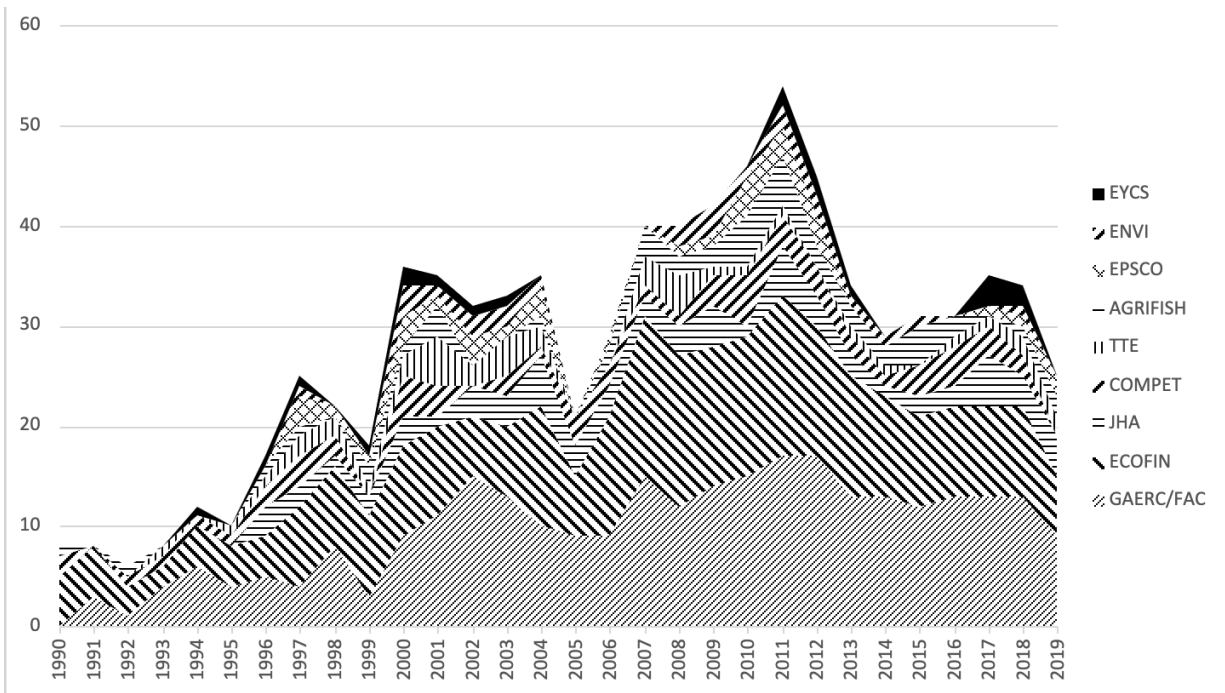
A.4. Council formations (H2c)

The Council of the EU is a single legal entity with ten configurations: Agriculture and Fisheries (AGRIFISH); Competitiveness (COMPET); Economic and financial affairs (ECOFIN); Environment (ENVI); Employment, social policy, health and consumer affairs (EPSCO); Education, youth, culture and sport (EYCS); Foreign affairs (FAC); General affairs (GAC); Justice and home affairs (JHA); Transport, telecommunication and energy (TTE). As the EU grew in size and importance, the number of Council formations proliferated, until in 2002 the Council limited itself to ten formations. The then General Affairs and External Relations Council (GAERC) was split into two Council configurations, the General Affairs, and the Foreign Affairs Council.

In testing Hypothesis 2c, we ran a model (Model 4, see section 6) excluding the meetings of the Justice and Home Affairs; Education, Youth, Culture and Sport; and Foreign Affairs Council / GAERC formations that are less subject to interest group lobbying than formations pertaining to single market issues.

Note that there is a distinction between the expected frequency of meal breaks from one formation to the next, and the strength of the relationship between transparency and meals within each formation. Testing for the former measure reveals that JHA, GAERC/FAC, and ECOFIN have the highest baseline propensities for recorded meal breaks, with break frequencies higher than 40% in all cases. The latter measure speaks more directly to the theory we are trying to test, and hence informs the construction of Model 4. In this model we compare the results of our main (Council formation agnostic) models, with a regression run against only the formations that are likelier to negotiate matters relating to the single market. These results show a stronger correlation between transparency and recorded meal breaks for the latter group, in support of hypothesis 2c. However, it is also the case that two of the three non-single market relevant Council formations (JHA and GAERC, listed above) are two of the three formations that are most likely to record meal breaks overall, which hints at a difference between the baseline appetite for breaks within each formation, versus the sensitivity of each formation to changes in transparency.

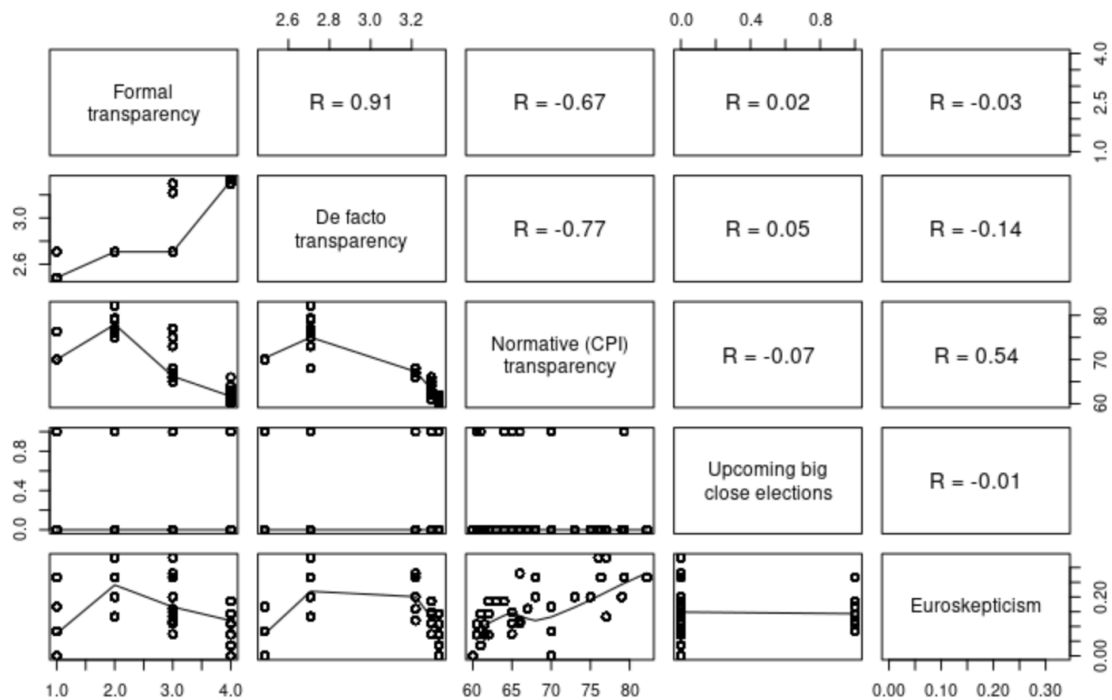
Graph A.4.: Recorded meals per Council configuration, 1990-2019, annual granularity



A.5. Collinearity test

The correlation grid reveals some evidence of collinearity between formal and de facto transparency. Neither variable is mechanically derived from the other, but their level of correlation does raise the question of whether an indirect causal relationship exists, or whether the two measures are jointly motivated by an omitted variable. Intuitively, one possibility is that EU enlargement tends to produce increases in formal transparency; but the putative mechanism that would underpin such a relationship is not clear or obvious enough to warrant the removal of either variable from our regressions.

Table A.5. Correlation grid for primary independent and control variables



A.6. Transparency culture

To account for the possibility that “transparency cultures” might be transmitted to the Council through the evolving national composition of its membership, we sought external, national-level measures of transparency to use as controls. The relative merits of different transparency indicators have received attention in the literature, and we considered metrics described by Hollyer et al. (2014), Alt et al., (2014), Fisman and Miguel (2007), and Williams (2015).

However, most were constrained either in time (unavailable for recent years), in location (unavailable for all member states), or in scope (e.g., dealing only with financial disclosures), and we therefore elected to use the CPI index published by Transparency International in view of its longstanding usage in studies of transparency and corruption. (Note that CPI is not perfect either as it only started in 1995; accordingly, we have extrapolated backwards for the years 1990-1994.) For the sake of comparison, we also include results from Williams’ Quality of Government Transparency measure below, though note that this metric was not calculated for the final third of the time span under consideration.

Table A.6. P-value comparison of cultural transparency measures (CPI vs QoG; $n = 2336$; $df = 2330$)

<i>Variables</i>	<i>Coefficient</i>	<i>Standard</i>	
		<i>error</i>	<i>p</i>
Formal transparency	0.541 ***	0.115	0.000
De facto transparency (log)	0.979 **	0.329	0.003
Transparency International	0.037 **	0.012	0.002
Quality of Government	0.041	0.040	0.308
Date	-0.000 *	0.000	0.038
<i>Constant</i>	-9.843 ***	2.704	0.000

Significance codes: 0 < ‘***’ < 0.001 < ‘**’ < 0.01 < ‘*’ < 0.05 < ‘.’ < 0.1 < ‘ ’ < 1

A.7. Regional country allocations (for the Council presidency control variable)

Northern = Denmark, Sweden, Finland; Western = Austria, Belgium, France, Germany, Ireland, Luxembourg, Netherlands, United Kingdom; Southern = Cyprus, Greece, Italy, Malta, Portugal, Spain; Central and Eastern European (CEE) = Bulgaria, Czechia, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia. No Croatian presidencies in this (pre-2020) dataset.

The foregoing regional categorizations were tested sequentially in Model 2, in which we subject Hypothesis 1 to a battery of robustness checks. We elected to group member states by region, rather than regress them individually, as the latter would result in small-*n* samples, particularly in the later years, as more countries joined the EU.

Table A.7.: Northern Council Presidencies

Variables	(n = 2336; df = 2333)			(n = 2336; df = 2330)		
	Coefficient	Standard error	p	Coefficient	Standard error	p
Northern Council presidency	0.179 *	0.090	0.047	0.1501 .	0.091	0.098
Formal transparency				0.508 ***	0.109	0.000
De facto transparency				0.710 **	0.270	0.009
Agenda items				0.575 ***	0.079	0.000
Date	0.000 ***	0.000	0.000	-0.000 *	0.000	0.017
Constant	-2.594 ***	0.158	0.000	-4.634 ***	0.591	0.000

Significance codes: 0 < '****' < 0.001 < '***' < 0.01 < '**' < 0.05 < '.' < 0.1 < '' < 1

A.8. Agenda items

The dependent variable in this study is the incidence of meal breaks recorded by the Council Secretariat. Although it is customary to adjourn for lunch, the Council Secretariat only makes an official note of these breaks when they deem the attendant discussions to be of public interest. As a result, the dependent variable measures not the occurrence of informal meal breaks per se, but more specifically informal meal breaks that the ministers used to discuss EU affairs (thereby excluding breaks that were solely used for sustenance).

To control for the number of sensitive items that governments must deal with in each Council session, we collected data on the number of agenda items per session. Considering that several sensitive items could in principle be discussed during the same meal break, we use the natural log of agenda items, to account for the fact that the relationship between the chances of encountering a sensitive item and the use of meal breaks is nonlinear.

Since lunch breaks are an integral part of each Council meeting, there is little risk that governments manipulate the agenda to create opportunities for lunch breaks (“post-treatment bias”).

A.9. Time series considerations

As our dataset is a time-series, and certain of our variables are – broadly speaking – increasing over time, we ran checks to assess the influence of time and to remove its effects from our analysis. To test for stationarity, we ran an augmented Dickey-Fuller (ADF) test against the meal count data, and its test statistic (-10.14) and p-value (<0.01) did not provide conclusive evidence of *non*-stationarity. However, a similar test applied to aggregated (semester-level) meal data did suggest non-stationarity (with $p = 0.9025$).

To check for auto-correlation we plotted (using the *acf* function implemented in the *tseries* R package) lagged auto-correlation, i.e., meal counts compared to lagged meal counts, against degrees of lag. These results did indicate a positive auto-correlation that tailed into negative territory about a third of the way through our time series; a partial auto-correlation (*pacf*) test also indicated temporary (and erratic) levels of auto-correlation at small degrees of lag; and an *acf* plot using differenced meal counts (our dependent variable less its value at T-1), suggested that our dataset's first order difference is not auto-correlated.

It is important to note that non-stationarity and/or first-order auto-correlation are entirely compatible with the hypotheses we are testing, as most of our independent variables also increase with time. Indeed, we would expect their non-stationarities to be transmitted to our dependent variables; the question is how to remove their time-driven components from our regressions. To do this we tested the inclusion of a lagged dependent variable on the right side of our equations, however the statistical significances of these tests (for example $p = 0.476$ in Model 1) suggested that this is an insufficient way of accounting for the non-stationarity that we observe. This is not surprising given the inconclusive results of our initial stationarity tests, and given that our dataset consists of a lengthy set of low, countable numbers with a mode (most common value) of 0. (This feature of our dataset also prevented us from regressing against the differenced meal counts, as negative numbers are incompatible with Poisson regressions.) We therefore elected to use time as an independent variable on the left side of our equations, and in this approach the significance of the control variable, across all models, was much improved.

A.10. European Parliament

A concern regarding our measure of the power of the European Parliament was its correlation (0.95) with our formal transparency metric. However, the latter yielded stronger and more statistically significant results, both in side-by-side modelling (below) and in the multivariate models that we ran (where the EP's statistical significance weakened to 0.095). For this reason, we elected to use the formal transparency metric in most models so as not to overload them with duplicative indicators.

Table A10: P-value comparison of Formal Transparency and EP Power ($n = 2336$; $df = 2332$)

<i>Variables</i>	<i>Coefficient</i>	<i>Standard error</i>	<i>p</i>
Formal transparency	0.478 ***	0.137	0.001
European Parliament power	0.336 *	0.142	0.018
Date	-0.000 ***	0.000	0.000
<i>Constant</i>	-1.754 ***	0.215	0.000

Significance codes: 0 < '***' < 0.001 < '**' < 0.01 < '*' < 0.05 < '.' < 0.1 < '' < 1

A.11 Logistic and zero-inflated Poisson regressions

Per section 6, we chiefly employ standard Poisson regressions in which the dependent variable is the number of recorded breaks in each session. For the sake of robustness, however, we also run logistic (logit) regressions that consider whether each session had a recorded break or not (i.e., a binary rather than countable dependent variable). These results were mixed, as the below table illustrates, with some independent variables increasing and other decreasing in explanatory power.

Table A.11.1.: Logistic regression; DV indicates whether a break occurred or not

<i>Variables</i>	<i>Model 1l (n = 2336; df = 2332)</i>			<i>Model 2l (n = 2336; df = 2327)</i>		
	<i>Coefficient</i>	<i>Standard error</i>	<i>p</i>	<i>Coefficient</i>	<i>Standard error</i>	<i>p</i>
Formal transparency	0.963 ***	0.144	0.000	0.446 *	0.190	0.019
De facto transparency	0.397	0.353	0.261	1.061 **	0.403	0.008
Transparency International				0.036 *	0.015	0.017
European Parliament power				0.39 *	0.193	0.043
Northern Council presidency				0.124	0.131	0.344
Financial crisis				0.014	0.200	0.943
Agenda items				0.932 ***	0.111	0.000
Date	-0.000 **	0.000	0.002	0.000	0.000	0.264
<i>Constant</i>	-2.433 ***	0.689	0.000	-9.724 ***	1.887	0.000

Significance codes: 0 < '***' < 0.001 < '**' < 0.01 < '*' < 0.05 < '.' < 0.1 < '' < 1

Variables	Model 3I (<i>n</i> = 2336; <i>df</i> = 2330)			Model 4I (<i>single-mkt</i> ; <i>n</i> = 1448; <i>df</i> = 1442)		
	Coefficient	Standard error	<i>p</i>	Coefficient	Standard error	<i>p</i>
Formal transparency	0.705 ***	0.162	0.000	0.757 ***	0.213	0.000
De facto transparency	0.379	0.354	0.284	0.800 .	0.475	0.093
Upcoming big close elections	0.266	0.223	0.232	-0.046	0.321	0.885
Euroscepticism	2.247 **	0.687	0.001	1.453 .	0.867	0.094
Date	0.000	0.000	0.311	0.000	0.000	0.189
Constant	-3.406 ***	0.764	0.000	-4.164 ***	0.997	0.000

Significance codes: 0 < '***' < 0.001 < '**' < 0.01 < '*' < 0.05 < '.' < 0.1 < '' < 1

A concern with this approach is that if ministers have more cause to deliberate in secret, and this prompts them to take more breaks, then this may entail more than one break in a given session. Since switching to a binary variable runs the risk of dampening or even concealing this effect, we opted to continue with Poisson regressions for the analysis in the paper.

Another family of regressions to consider is Zero-inflated Poisson, which is often employed when a set of observations contains numerous “zeroes” (as indeed ours does). The purpose of Zero-inflated Poisson is to distinguish between “true zeroes” (driven by the independent variables of interest) and zeroes that might be motivated by some other structural factor. Amongst our array of independent variables the most likely candidate for this latter effect would be the count of agenda items per meeting, and so we run a model that first uses that count to predict whether each session breaks at all (a binomial), and then uses the transparency variables to predict the number of breaks in sessions where at least one break does occur. This model indicates that the variables in the two halves of the zero-inflated regression structure are indeed statistically significant, but they are not more significant than in the original model, in which both the agenda items and the transparency variables are regressed as predictors of the same (non-binary) outcome. The sensitivity of these models to regressor scaling and to correlation prevented us from running a more extensive battery of tests, and in any case we could not discern an intuitive reason why, within the zero-break sessions, some would be structurally different from others; hence we opted not to use Zero-inflated Poisson for the models described in the paper.

Table A.11.2.: Zero-inflated model (*n* = 2336; log-likelihood = -1653 on 4 *df*)

<i>Count model</i>		<i>Standard</i>	
<i>Variables</i>	<i>Coefficient</i>	<i>error</i>	<i>p</i>
Formal transparency	0.426 ***	0.036	0.000
Constant	-2.154 ***	0.118	0.000

<i>Zero-inflation model</i>		<i>Standard</i>	
<i>Variables</i>	<i>Coefficient</i>	<i>error</i>	<i>p</i>
Agenda items	-4.837 ***	0.707	0.000
Constant	6.823 ***	1.062	0.000

A.12. Semester granularity

Although our dependent variable (along with the agenda control) is captured at session-level granularity, several of our independent variables and controls are observed less frequently. Elections occur erratically throughout the year, the Council Presidency rotates with each new EU semester, certain measures of transparency and Euroscepticism are recorded annually, and the political events that drive EU expansion and transparency reform are less frequent still. To round out our analysis, we run additional models at semester granularity, as this is the most granular level at which the above variables can be expressed or approximated. To calculate the semester-level averages we sum the total number of meal breaks in each semester, and then divide each sum by the number of sessions in the same semester, with agenda items added as an optional control variable. In contrast to alternative approaches, e.g. weighting each average by a control variable, this approach allows for the most consistent comparison with the session-level methodology.

Table A.12.: Semester-level results

<i>Variables</i>	<i>Model 1s (n = 60; df = 55)</i>			<i>Model 2s (n = 60; df = 52)</i>		
	<i>Coefficient</i>	<i>Standard error</i>	<i>p</i>	<i>Coefficient</i>	<i>Standard error</i>	<i>p</i>
Formal transparency	0.176 ***	0.049	0.001	0.122 *	0.056	0.035
De facto transparency	0.278 *	0.123	0.028	0.309 *	0.124	0.016
Transparency International				0.001	0.004	0.883
European Parliament power				0.111 .	0.057	0.059
Northern Council presidency				0.050	0.043	0.254
Agenda items	0.001	0.000	0.114	0.000	0.000	0.405
Semester	-0.014 *	0.007	0.048	-0.022 *	0.008	0.010
<i>Constant</i>	27.449 .	13.917	0.054	42.820 *	16.492	0.012

Significance codes: 0 < '***' < 0.001 < '**' < 0.01 < '*' < 0.05 < '.' < 0.1 < '' < 1

In the main, these results corroborate the key findings from the paper. We include them here for robustness, however for the other models in the paper we continue to employ session granularity. This is because semester-level analysis omits variation from one session to the next, effectively precludes election-level analysis, and partially misrepresents the timing of key intra-year events including the EU's eastern enlargement and formal transparency increases.

Due to the mismatch between the granularities of the variables, it should be noted that there is a degree of heteroskedasticity in the residuals of variables such as the transparency indicators, and hence standard errors may be understated in the models at session granularity; the coefficients themselves are not affected by this phenomenon.

A.13. Overdispersion tests for the Poisson regressions

We test for overdispersion in order to assess whether negative binomial regressions would be more appropriate than Poisson, however the meal count data are found not to be overdispersed in any of the relevant models. The overall variance of the number of recorded meals in each session ($\sigma^2 = 0.31$) is just under the mean ($\mu = 0.36$), for a quotient of 0.86, and for each of the models we run, the residual deviance is lower than the number of degrees of freedom.

Table A.13.: Overdispersion tests

Model	Residual deviance	Degrees of freedom	Resid. <i>D</i> / <i>df</i>
1 Transparency	1804.8	2332	0.774
2 Transparency + controls	1732.3	2327	0.744
3 Transparency + contestation	1791.2	2330	0.769
4 Transparency + contestation, single market	1073.7	1442	0.745
5 Transparency + contestation + controls	1733.9	2327	0.745

A.14. Interrupted time series

As mentioned in section 6 and A.1., we also ran models examining the effects of each discrete change in formal transparency. This “interrupted time series” approach utilizes a binary treatment variable to represent each transparency increment, as well as an interaction term that measures whether these transparency changes, in conjunction with time, combine to set the observed meal frequencies on a different, statistically significant trend. The binary treatment results corroborate our main (multi-increment) regression results and also permit enquiry into the relative significances of the individual transparency enhancements.

Table A.14.: Interrupted time series: binary treatment plus interaction term

<i>Variables</i>	<i>Break 1: Guardian judgment (n = 956; df = 952)</i>			<i>Break 2: Transparency regulation (n = 1101; df = 1097)</i>		
	<i>Standard</i>			<i>Standard</i>		
	<i>Coefficient</i>	<i>error</i>	<i>p</i>	<i>Coefficient</i>	<i>error</i>	<i>p</i>
Formal transparency	0.643 **	0.240	0.007	0.252 .	0.147	0.088
Agenda items	0.448 *	0.175	0.010	0.522 ***	0.114	0.000
Date x transparency interaction	0.000 **	0.000	0.010	0.000 *	0.000	0.011
<i>Constant</i>	-3.320 ***	0.420	0.000	-2.436 ***	0.278	0.000

<i>Variables</i>	<i>Break 3: Lisbon Model 1s (n = 1380; df = 1376)</i>		
	<i>Standard</i>		
	<i>Coefficient</i>	<i>error</i>	<i>p</i>
Formal transparency	0.328 **	0.114	0.004
Agenda items	0.554 ***	0.087	0.000
Date x transparency interaction	-0.000 *	0.000	0.014
<i>Constant</i>	-2.000 ***	0.206	0.000

Significance codes: 0 < '***' < 0.001 < '**' < 0.01 < '*' < 0.05 < '.' < 0.1 < '' < 1

A.15. Single transparency variable

As mentioned at the conclusion of the robustness checks section, the following is a version of the original transparency model omitting de facto transparency (and therefore according more weight to formal transparency).

Table A.15.: Comparison of Model 1 with a single transparency variable model

<i>Variables</i>	<i>Model 1 (n = 2336; df = 2332)</i>			<i>Model 1 w/o De facto (n = 2336; df = 2333)</i>		
	<i>Coefficient</i>	<i>Standard error</i>	<i>p</i>	<i>Coefficient</i>	<i>Standard error</i>	<i>p</i>
Formal transparency	0.653 ***	0.108	0.000	0.700 ***	0.105	0.000
De facto transparency (log)	0.644 *	0.269	0.017			
Date	-0.000 ***	0.000	0.000	-0.000 **	0.000	0.003
Constant	-2.867 ***	0.538	0.000	-1.695 ***	0.210	0.000

Significance codes: 0 < '***' < 0.001 < '**' < 0.01 < '*' < 0.05 < '.' < 0.1 < '' < 1

A.16. Financial crisis

As mentioned in the robustness checks section, the following table compares Model 2 to an alternative version that utilizes a more expansive definition of the Euro area financial crisis. In the original specification this variable activated from May, 2010 through July, 2012; the alternate runs from 15 September, 2008 (the collapse of Lehman) to 1 July, 2013. This suggests it is possible to discern an effect following from the financial crisis, however the results are not as robust as those of our transparency variables.

Table A.16.: Model 2 using an expanded specification of the financial crisis variable

<i>Variables</i>	<i>Model 2 (n = 2336; df = 2327)</i>			<i>Model 2f (n = 2336; df = 2327) 15/9/08 < crisis < 1/7/2013</i>		
	<i>Coefficient</i>	<i>Standard error</i>	<i>p</i>	<i>Coefficient</i>	<i>Standard error</i>	<i>p</i>
Formal transparency	0.279 .	0.150	0.064	0.202	0.149	0.174
De facto transparency	1.237 ***	0.310	0.000	1.044 **	0.326	0.001
Transparency International	0.037 **	0.012	0.002	0.042 ***	0.012	0.000
European Parliament power	0.257 .	0.154	0.095	0.193	0.151	0.202
Northern Council presidency	0.122	0.093	0.189	0.075	0.094	0.426
Financial crisis	-0.007	0.130	0.956	0.225 *	0.104	0.031
Agenda items	0.559 ***	0.079	0.000	0.551 ***	0.079	0.000
Date	0.000	0.000	0.158	0.000	0.000	0.768
<i>Constant</i>	-9.101 ***	1.537	0.000	-9.298 ***	1.495	0.000

Significance codes: 0 < '***' < 0.001 < '**' < 0.01 < '*' < 0.05 < '.' < 0.1 < '' < 1

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