

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 unintended consequences of transparency in intergovernmental negotiations and institutions. We argue that as *formal* international meetings open up to the public, negotiators shift deliberations to more *informal* and opaque venues—particularly where issues are sensitive. To test when, how and why this occurs, we present new data on EU Council of Ministers negotiations between 1990 and 2018 and deploy both quantitative and qualitative analysis to explain when governments resort to informal breaks where no minutes are taken. We conclude that the use of such informal breaks—especially at mealtimes—has increased substantially. Consistent with our theory, ministers often use these settings to address more controversial topics, and variations in the trend toward informality correlate with greater openness of formal meetings and higher public Euroscepticism. These findings challenge received positive and normative theories about transparency in international institutions, informal governance, optimal negotiation strategy, EU politics, and the transnational democratic deficit

¹ Many thanks to the seminar participants at University College Dublin, ARENA Oslo, and the LSE for their constructive engagement with this paper. We are also grateful to our interview partners, to Andrew Moravcsik, Daniel Naurin, Theresa Squarito, and Robert Thomson for helpful suggestions, and to Teodora Marinescu for research assistance.

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. While until the 2000s intergovernmental negotiations in the EU were still largely closed to the public, 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 believed to improve the legitimacy of a polity, by reducing the chances of a politician using their office for personal gain as well as by allowing citizens to follow the reasoning behind a decision. A smaller body of literature cautions against exceeding optimism (Stasavage, 2006; Kono, 2006; Kleine, 2018). Some argue that intergovernmental negotiations require confidentiality to allow governments to let themselves be persuaded, change their position and reach mutually beneficial outcomes without worrying about instant public backlash at home.

Scholars are also concerned that governments with such an incentive to deliberate in private will seek alternative and potentially more opaque venues as their negotiations are opened to the public. Anecdotal evidence reinforces these concerns. On 2 December 2009, when the first ever Council meeting was to be streamed live to the European public, the then Council president and Swedish Finance Minister, Anders Borg, was anxious 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 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 informally prior to that historical Council meeting.

This article explores the unintended consequences of transparency in international negotiations. We argue that governments with an incentive to deliberate in private will shift their negotiations to a different and potentially opaque venue when official meetings open up to the public. While intuitive, the claim is difficult to verify as, by their very nature, practices that deviate from what the official rules demand are notoriously difficult to measure. Studies of informality typically face difficulties to precisely delineating the universe of cases and measuring the frequency of informal encounters. Many studies of informal practices in international organizations therefore remain based on case study evidence (Stasavage, 2004; Bickerton et al., 2015; see, however, Stone, 2009; Kleine, 2013; Westerwinter et al., 2021). This study takes up the challenge of studying the unintended consequences of transparency in a systematic way.

For the difficult tasks of tracing the evasion of transparency, this article draws on an original dataset of informal breaks during meetings of the EU’s Council of Ministers from 1990 until 2018. Informal breaks, usually at mealtimes, suspend the official meeting and, with it, the Council’s rules of procedure. They can therefore be more exclusive and, since no minutes are being taken and no papers circulated, constitute an alternative venue for confidential discussions.

This article begins with a review of the scholarly debate on transparency, its benefits, and potential downsides, before it traces the evolution of transparency of the EU's Council of Ministers. The theory section then develops two hypotheses about the association between transparency and informal breaks. Using a mix of quantitative techniques and qualitative evidence, our analysis shows that the use of informal breaks increases markedly with the opening up of the Council. Rather than complementing official public negotiations, informal breaks have become a substitute for the once confidential discussions in a closed Council.

Of course, people, even ministers, must eat, so the fact that they take breaks might not be remarkable as such. Our analysis therefore carefully considers important alternative explanations, such as the length of meetings, controversy in the Council, and the culture of the government in charge of the Council presidency. Consistent with our theory, the results indicate that variations in the trend toward informal breaks correlate most strongly with the stringency of formal transparency requirements and higher public Euroscepticism. An analysis of the topics discussed over informal meals as well as anecdotal evidence drawn from news report and a range of interviews with Council officials corroborate our argument and demonstrate that ministers often use these settings to address more controversial topics.

The article concludes with a discussion of the role of informal breaks beyond the EU in NATO and the United Nations, negotiations in the absence of informal breaks during the Covid pandemic, and a reflection on the normative implications of our findings.

Transparency: benefits, downsides, and types

Along with the mechanism of regular competitive elections, transparency is generally believed to be a crucial tool for citizens to hold their politicians accountable. Understood as the availability of information about decision processes,² transparency permits sanctions following the exposure of wrongdoing. It therefore prevents public officials from engaging in corrupt or careless behavior (Bovens et al., 2014, p. 519). 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; Besley and Burgess, 2002; Berliner and Erlich, 2015; Hollyer et al., 2014).

Transparency is also an important concept in the study of international institutions and negotiations. Rationalist scholars underscore the informational imperfections that lie at the heart of war (Fearon, 1995, p. 395) and cooperation problems more generally (Keohane, 1982, p. 343). Lipson (2013) argues that the greater transparency of democratic political structures is therefore an important reason behind democratic peace.

In addition to “transparency in process,” Jane Mansbridge (2009) proposed the concept of “transparency in rationale,” namely information about the reasons and the facts on which a decision is based. This concept echoes the literature on deliberative and participatory democracy. Jürgen Habermas (1992) theorized in his early work that communication in an

² For a discussion of various definitions of transparency see, e.g., Florini (2007, p. 5) or Hollyer et al (2011, pp. 1193–4)

“ideal speech situation,” characterized by transparency about reason and evidence, is conducive to helping actors arrive at a rational consensus.³

Others are less sanguine about the relationship between transparency and the quality of government and cooperation. Economic theories of democracy assume that it is rational for citizens to show little interest in policies that seem too remote to affect them directly. “Rationally ignorant,” they concentrate their efforts of searching and processing information on issues where their decision has a larger marginal impact (Downs, 1957, p. 147).⁴ These problems on the demand side of transparency may feed back to the supply side. Confronted with an inattentive public, governments oversimplify and, at worst, obfuscate their wrongdoings behind the veneer of accountability (Muller, 2018). The official release of information and the utterance of public statements then becomes a ceremonial act, a performative practice of transparency decoupled from its very purpose (Meyer and Rowan, 1977). Indeed, Kono (2006, p. 375) shows that by increasing the transparency of some policies relative to others, democracies may even induce politicians to replace transparent trade barriers with more opaque ones.⁵

The evasion of public scrutiny on the part of politicians may have less sinister reasons. Negotiation scholars point out that transparency in political processes may undermine the epistemic dimension of deliberation. Other than in the ideal speech situation that Habermas has in mind, public audiences are in this argument less coherent and rational than particularistic and passionate. These characteristics undermine the deliberative quality of public debates when politicians speak exclusively to their multiple national audiences, seek to score votes by pandering to sectional interests and whip up passion around moral issues. Stasavage (2004, p. 679) cautions that greater openness may increase the risk that positions become entrenched and negotiations fail (similarly, Pettit, 2004; Chambers, 2004; see also Checkel, 2003).

We are therefore confronted with a dilemma (Stasavage, 2004, p. 695). Too little transparency, and one risks undermining accountability and the quality of governance. Too much transparency, and public pandering may crowd out deliberation and prevent mutually beneficial outcomes. In this perspective, transparency and confidentiality are substitutes, and the challenge is to find the right balance. However, considering Mansfield’s distinction between types of transparency (process and reasoning), Naurin (2017) envisions a division of labour between closed committees and open plenaries. Closed committees engage in deliberation to arrive at substantive policy proposals, while plenaries take care of votes and adversarial public debates that clarify differences between parties. The conclusion picks this idea up in greater length. The next section shows how the various arguments about benefits, downsides and types of transparency are also reflected in debates about the EU’s Council of Ministers’ path to greater transparency.

³ Jon Elster (1998) suggests that deliberations in front of an attentive audience may require actors to make more consistent and plausible arguments, lest they be regarded as selfish.

⁴ Considering the abundance of data and potential for online misinformation, some scholars question citizens’ capacity to process information (Bovens et al., 2014, p. 514; similarly, de Fine Licht, 2014). Lindstedt and Naurin (2010) argue that citizens who lack experience or cognitive skills require media and other intermediaries to navigate today’s flood of information by translating it into digestible narrative.

⁵ Rejali (2009) claims that democracies are as likely as autocracies to engage in torture, albeit using “clean” techniques that leave no visible traces.

The path to greater transparency in the EU Council of Ministers

Initially organized as a closed diplomatic committee rather than an open legislative plenary, deliberations in the EU's Council of Ministers used to be almost entirely secret until the late 1990s. The public had access neither to the agenda, the Council minutes, nor to the results of votes or government statements on legislative acts (Bauer, 2004, p. 368). This veil of secrecy covering the Ministers' deliberations was gradually lifted, first as a matter of practice, then through several formal transparency regulations.

When in the 1970s and 1980s new countries acceded and legislative activity rose steadily in preparation of the Internal Market, the then European Communities turned into a vast negotiation machine, involving hundreds and hundreds of people in the making of a single decision from an idea for a bill to an actual law. Confidentiality therefore became more 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, p. 368).

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

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 and culminated in an overhaul of the EU's legal transparency framework (Hillebrandt et al., 2014, p. 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” (OJ C 191/101). Scholars echoed these calls with arguments about how transparency was necessary to improve the EU's accountability, responsiveness, and legitimacy (Majone, 1994, p. 95, 1999; Follesdal and Hix, 2006).

Other scholars cautioned that increased transparency might undermine the Council's deliberative mode of interaction as publicity could lead to posturing and risk more frequent bargaining breakdowns (Stasavage, 2004, p. 668; see also Heisenberg, 2005, p. 68; Lewis, 2010; Stéphanie Novak, 2013). 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 public debates on legislative matters, publication of voting records and explanations of votes upon individual requests, the Council still retained a blanket right to refuse access “to protect the confidentiality of the Council's proceedings” (Council of the EU, 1993).

In response to a legal challenge by *The Guardian*, the EU's Court of First Instance in 1995 pried the Council open by considerably curbing its substantial leeway in the classification of documents. In its defense, the Council maintained the significance of confidentiality for its deliberative working methods.

“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).

After its defeat in Court, the Council changed its practice of releasing documents and votes. Then, in 2001, it revised its transparency regulation and promised to make public access to documents the rule rather than the exception (Hillebrandt et al., 2014, p. 12).

Despite this landmark decision to open its work up to the public, the Council’s practice of releasing its documents and votes changed more gradually (Bauer, 2004). There still remained numerous exceptions to the publication of documents and votes (ranging from security concerns to reasons 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 (Bauer, 2004, pp. 379–383; James P. Cross, 2013).

At the same time, Council meetings became increasingly porous when the accession of twelve new member states between 2004 and 2007 nearly doubled the number of participants. According to one close observer, with an average of five officials per delegation and more than a hundred officials rushing in and out of the room, Council meetings became “as crowded as the Gare Centrale during rush hour” and confidentiality impossible to maintain (Interview #2). Following this, the Council changed its character from a club with frank discussions to a “boring” parliamentary assembly where ministers would read out pre-formulated statements (Interview #5).

The Council’s new plenary character was matched with even greater process transparency when in 2009 the Lisbon Treaty opened 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, p. 783). Since then, there has also been a marked increase in the publication of documents, especially those concerning less sensitive issues (James P Cross, 2013).

In sum, numerous legal reforms and the inclusion of ever more participants have led to a gradual increase in formal and factual transparency in the Council of Ministers. The legal reforms aimed primarily at increasing the Council’s “process transparency,” approaching 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. This reluctance notwithstanding, all legislative debates in the Council and, with a few exceptions, documents and votes are now public. These radical reforms over the past decades raise questions about their potential downsides, questions that the following two sections pick up.

Theory: *ersatz* confidentiality

While the benefits of transparency for political accountability are undisputed, we know little about how governments deal with the unintended consequences that greater openness might have on intergovernmental negotiations. This section lays out an argument about why and

how EU governments keep “pockets of confidentiality” (Hillebrandt and Novak, 2016) despite or precisely because of gradually opening up their negotiations to the public. Because of the challenges associated with identifying these pockets, the attempt to derive testable implications requires further empirical contextualization. After identifying informal breaks, especially around mealtime, in the EU’s Council of Ministers as potential pockets of confidentiality, we derive testable empirical implications from our theory and explore alternative explanations for the use of informal breaks.

General theory

The theory is based on two assumptions. First, we assume that domestic audiences are less informed than their government about intergovernmental negotiations, including the bargaining power and strategies of negotiating partners and, thus, the potential bargaining space (see, e.g., Putnam, 1988, p. 452 ff.). Second, we stipulate that any intergovernmental negotiation necessarily involves *quid pro quos* as governments collectively try to reach an agreement. Governments subsequently must justify the difference between what they sought to achieve and what they got to their domestic audiences.

The negotiating government is concerned about two sets of domestic actors. Domestic interest groups could mobilize in anticipation of potential adjustments costs and pressure the government to renege on the agreement (Koremenos, 2003, p. 3; Kleine, 2013, p. 21). Additionally, political opponents could seek to attain more information about the negotiation to embarrass the government’s account and stoke up public sentiment (Kleine and Minaudier, 2019, p. 321; Schneider, 2020, p. 331). In both cases, governments would prefer to keep the details of the negotiation off the public record to prevent an inopportune mobilization of interest groups and political opponents.

Considering these risks associated with transparent negotiations, we can expect negotiating partners to indulge a government’s resistance to openness for at least three reasons. First, the negotiating partners are in a similar position when they, too, fear the mobilization of domestic groups. Second, negotiating partners anticipate they will face a similar situation in the future and therefore offer reciprocal confidentiality. Third, negotiating partners worry that a government under domestic pressure will renege on the deal and leave everyone worse off. We therefore expect that all governments wish to retain a fallback option, an *ersatz* confidentiality even as intergovernmental negotiations open up to the public.

Anecdotal evidence suggests that member governments often shift deliberations to the Council’s lower echelons of preparatory bodies, such as the Committee of Permanent Representatives (COREPER) and the Council working groups (Stasavage, 2006, p. 16; Barigazzi, 2021) as well as to the exclusive European Council of the heads of state and government (Kleine, 2013; Puetter, 2014). Furthermore, Council officials report plenty of activity at the sidelines of Council meetings, with discussions of a legislative nature taking place in corridors and in bilateral meetings (Interview #5). While these anecdotes are considered open secrets among Brussels insiders, it is not clear if these are the typical informal practices that accompany intergovernmental negotiations or if they indeed serve as substitutes for the Council’s once confidential closed-door meeting. What is more, we still know remarkably little about these pockets of confidentiality, not least because of the challenge of identifying them simply because they are confidential and supposed to fly under the radar.

Contextualization: Informal breaks in the Council

The precise form of pockets of confidentiality necessarily depends on the features of the formal institutional setting. The theory outlined above therefore needs to be contextualized to derive precise, testable implications (Greif, 2006). The previous section described how over two decades the Council opened up its meetings. It thereby turned from a closed committee, where governments engage in confidential discussions, to an open plenary, which offers room for public statements and takes care of votes. Although Council meetings are enveloped in informal practices, the forum for frank discussions among all ministers was gone.

Informal breaks, especially at mealtime (lunches, but also dinners and breakfasts), present a readily available opportunity for ministers to deliberate in a more intimate setting. Meal breaks suspend the official meeting and, with it, its rules of procedure. In contrast to the official part of the meetings where each delegation is represented by at least five members, lunch breaks are attended by only one person per delegation, usually the minister, as well as the responsible Commissioner and a member of the Council secretariat (typically the responsible Director General).⁶ There is no connection to listening rooms and only a minimum of remote translation. Crucially, no minutes are being taken and no papers circulated.

The topic of the working lunch discussion defines its character. Typically, the Council Presidency in conjunction with the responsible Director General of the Council decide on the discussion topic prior to the meeting, circulate possible discussion questions, and gauge attendance and demand for translation (Interview #4). Depending on the topic, we can distinguish three types of lunches (Interview #2): 1) Unofficial lunch discussions with guests (e.g., a foreign minister or a member of the EP), 2) lunch discussions on items not on the agenda (e.g., broader economic developments), 3) lunch discussions on items on the agenda, including legislative items.

Where lunch discussions revolve around legislative topics on the agenda, they arguably violate the spirit of the Lisbon Treaty and the Council's Rules of Procedure,⁷ 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 these cases (Interviews #3 and #5) and remind the presidency of the Council's obligation to discuss these subjects in public. Others emphasize both the need for confidential discussions on these topics and the fact that, since a lunch suspends the official part, ministers are meeting in an informal capacity.

Today, working lunches are an integral part of Council meetings that the Council Secretariat budgets for (Interview #2). This has not always been the case. When Council meetings were still secret, it did not matter much if discussions took place during the official part of the meeting or over lunch (Interview #5). As discussed below, this has implications for the way working lunches are reported in Council documents.

Contextualized empirical implications

⁶ The member state's ambassador to the EU, the permanent representative, may fill in for ministers in their absence.

⁷ Article 16, §8 TEU; Article 7, §1 Council Rules of Procedure.

If there is a relationship between greater transparency and the use of informal meal breaks, we should see a greater use of informal meal breaks over time as transparency in the Council increases.

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

While transparency regulations are associated with specific dates, the actual implementation of these rules changed more gradually in practice. Confidentiality in the Council decreased not only by decree, but also through the inclusion of additional participants with every enlargement round that made it increasingly difficult to prevent details of discussions leaking to the public. Moreover, the addition of Northern countries with a reputation for high transparency standards likely changed the way transparency was handled by the Council and its secretariat. Against this background, we specify our first hypothesis as follows.

Hypothesis 1a (de jure): Informal meal breaks increase following the formal revision of transparency regulation.

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

Hypothesis 1c (normative): Informal meal breaks increase as the transparency of the median member states rises.

If informal meal breaks are used to discuss controversial topics in a more intimate setting, it seems plausible to assume that governments thereby seek to prevent specific details about their stance on the topic to leak to a domestic audience that could use it against them.

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 breaks, ceteris paribus.

If ministers fear their political opponents might use an intergovernmental negotiation to embarrass them for electoral gains, we would expect working meals to increase as EU issues become more electorally salient, i.e., when governments are facing national elections (Kleine and Minaudier, 2019).

Hypothesis 2a (electoral salience): The more governments face close national elections, the more likely governments are to resort to the use of informal meal breaks, ceteris paribus.

If governments worry about public pandering, we can expect these fears to rise with an increase of Euroscepticism among the European populace (Hagemann et al., 2017).

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

Finally, if governments are most concerned about the mobilization of interest groups, we would expect the use of informal meal breaks to dominate in Council formations dealing with the regulation of the single market rather than with issues with fewer distributive implications, such as foreign policy.

Hypotheses 2c (interest groups): If negotiations touch upon issues of market regulation, governments are more likely to resort to the use of informal meal breaks, ceteris paribus.

Alternative explanations

An increase in the frequency of informal meal breaks can also be caused by other factors. An obvious confounding factor is an increased workload, e.g., during crisis moments, leading to backlog and, thus, longer meetings. We deal with this alternative explanation in two ways. First, as explained below, we control for the length of meetings by considering the number of agenda items for each meeting. Second, we collect data on the topics discussed during the meeting. If Council meetings merely become longer (information that is unavailable) and, therefore, offer more opportunities for informal breaks, then the topics discussed during these breaks should be either random (ministers break when they are hungry) or mundane (ministers use breaks to relax) rather than controversial.

It is possible governments try to conceal divisions among them for fear they might be used by third actors, such as the EP or foreign countries, rather than the public. We will therefore consider measures of internal divisions in the Council and the potential effect of the promotion of the EP to a co-legislator.

The choice to hold a working lunch or working dinner might also be affected by the preferences and cultures of individual Council presidencies. For example, presidencies from Southern countries might be more used to negotiating over a meal, whereas Northern and Western countries might be comparatively less used to blending socialization with discussions on important matters.

Method and data

The previous section derived two complementary hypotheses about the use of informal breaks during Council meetings. The following two sections now evaluate these hypotheses using a mix of quantitative and qualitative methods. At the core of the analysis is a multivariate regression on an original dataset of informal meal breaks during Council meetings from 1990 to 2018. We also explore the nature and frequency of topics discussed during these breaks. Finally, we interweave triangulated qualitative data in the form of expert interviews and other first-hand or second-hand accounts to better illustrate our argument and its causal mechanism.

Data collection

Informal meal breaks (typically lunch, but also breakfasts and dinners) are mentioned either in meeting agendas, minutes or press summaries. Where available, the data set also contains information about the Council formation and the discussion topic. The main challenge to this data collection exercise is the poor organization of the Council register. Many documents are missing or not machine-readable so that a simple search for the term “lunch” in the Council’s search engine was not possible. The data were therefore collected from the bottom up by compiling a list of all Council meetings between 1990 and 2018 and tracing the agendas, minutes, and press release for each meeting by hand. All documents were made machine-readable and searched for the terms “lunch,” “breakfast,” and “dinner” in English, French and German. For a meal break to be entered into the dataset, it had to involve a majority of Council members. For example, meetings in the context of “structured dialogues” between the (team) presidency and youth organizations cannot be regarded as an alternative venue for Council negotiations, whereas an ECOFIN breakfast, even if not attended by every single minister, could in principle serve this function.

The final dataset consists of information on the 58 semesters from 1990 to 2018, including 2262 Council sessions. Of these sessions, 726 contained at least one informal meal break for 813 meals. At a maximum, ministers broke three times in a single meeting (which happened once during an General Affairs and External Relations Council (GAERC)/Foreign Affairs Council (FAC)⁸ session in 2009 and once during an Economic and Financial Affairs Council (ECOFIN) session in 2011).⁹

Table 1: Descriptive statistics about here

Interviews with senior Council officials affirm the practice of reporting lunches did not change over time. It has always been the Council Secretariat, in conjunction with the Presidency, that decides if and in what way the lunch discussions are reported in the press release. According to a senior Council official (Interview #4), the Secretariat mentions meal breaks in the press release in, at a minimum, one sentence when their topics are considered of public interest. Thus, the Secretariat typically mentions meal breaks whose discussions touch upon Council business and omits to mention them when the discussions are deemed irrelevant (Interview #2). This can be the case in some Council formations that meet so frequently the Presidency sometimes even struggles to find an interesting topic for lunch discussion (Interview #4).

Dependent variable

Our dependent variable in the multivariate regression is meal frequency, that is, the expected number of meal breaks in each session. The robustness checks also consider dummy variables for “sessions containing at least one meal” and per-session averages across longer periods of time, in which we aggregated the number of meals, sessions, and agenda items up to the month or semester level.

Graph 1 shows both the number of sessions from 1990 until 2018 as well as the percentage of sessions during which the Ministers broke for one or more meals. 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 4.17 sessions). Second, the ratio of sessions with meal breaks increases substantially during the first two decades of the period under investigation, only to decrease slightly in the early 2010s.

Graph 1: Council sessions and informal breaks per semester, 1990-2018 about here

Graph 2 breaks these data down into Council formations.

Graph 2: Meals per Council configuration, 1990-2018 about here

⁸ 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 (TCE). As the EU grew in size and importance, the number of Council formations had proliferated until the Council in 2002 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.

⁹ These data likely miss a few breaks. *Agence Europe* reports more working lunches in the 1990s than could be found in Council documents. However, it is not a reliable source itself. The standard deviation of meals mentioned in its Bulletin between 1995 and 2018 is 18.96 compared with just 5.49 for meals reported in Council documents during the same time period. We therefore rely exclusively on official Council documents, cognizant of the fact that it captures not the actual occurrence of a lunch but the Council Secretariat reporting on it.

We can see that the General Affairs and External Relations / Foreign Affairs Council (GAERC/FAC) accounts for most recorded meals, not least because it is the busiest of all formations. We can also see that ECOFIN, after trailing GAERC/FAC for most of the period under consideration, begins to surpass it from 2007, an increase likely related to the Global Financial Crisis. Thus, some of the variation over time and across Council formations could be caused by policy-specific crises that require more attention and potentially lengthier meetings.

Independent variables

The three main independent variables we use to evaluate hypothesis 1, the association of transparency with meal breaks, are (1) *de jure*, (2) *de facto* and (3) *normative* transparency in the Council of the EU. We create a measure of *de jure* transparency by identifying the main legal reforms of the EU's transparency system that we assume changed the ministers' expectations of how fast and what kind of information would leak from an official Council meeting. The previous section described the main legal reforms and isolated three events that were associated with a more ready release of classified material, namely the 1995 Guardian judgment, the 2001 transparency regulation and the coming into force of the Lisbon Treaty in 2009.¹⁰

Our measure for *de facto* transparency is based on the number of participants in Council meetings. The qualitative information collected in the previous sections suggests that a greater number of participants in Council meetings makes it much more difficult to keep things under the radar. The *de facto* transparency measure is therefore a simple count variable of the number of delegations (member states) in Council meetings, starting from 12 in 1990, increasing to 15 in early 1995, 25 from 1 May 2004, 27 from the start of 2007, and 28 from 1 July 2013 until 2018 when our dataset ends (the United Kingdom remained a member of the EU until 2020).

Our measure for *normative* transparency considers the culture of transparency of each member state. It is based on the median Member State's scores from Transparency International, a nongovernmental organization that gathers data relating to corruption and transparency perceptions across the globe. At the EU level, this metric fluctuates most dramatically in the wake of enlargement rounds, with an increase in CPI (Corruption Perception Index) (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.

With regards to Hypothesis 2, we included two families of independent variables reflecting *domestic political contestation*. The first indicates the presence or absence of upcoming national elections that might increase a government official's anxiety a political opponent might exploit ongoing EU negotiations for electoral gains. Data on elections have been drawn from the

¹⁰ Our measure is an ordinal 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.

Comparative Manifest Project,¹¹ from which we have extrapolated indicators for the number of recent and upcoming elections at each point in our time series, among other metrics.¹²

The second family of measures relates to the extent to which ministers faced Eurosceptic publics at home, as a test of whether this form of domestic contestation translates to meal breaks at the Council level. Taken from three decades of Eurobarometer surveys, the data quantify four measures of Euroscepticism per semester; for instance, the percentage of Member States in which a majority of citizens believe EU membership to be a bad rather than good thing.

Control variables

It is possible that informal meal breaks are merely a consequence of longer meetings during busy times. We therefore collected the number of agenda items per meeting and included the natural log of the number of agenda items in each session as an independent variable within the regressions.

Our dataset is a time series, and broadly speaking our dependent variables, as well as certain independent variables, have tended to increase with time (albeit with localized exceptions). We therefore included time as an independent variable in most of the models, to distinguish any time-driven effects from our (hypothesized) time-independent effects.

It is also possible that the Council is less worried about public reactions and more about third actors exploiting internal divisions among EU members. To consider the effect of controversy in the Council on meal frequency, we constructed a variable from the Comparative Manifestos dataset based on the political orientations of Member State governments.¹³ Each manifesto is coded according to its position on numerous areas of policy (such as human rights, constitutionalism, foreign policy, etc.), and twenty-six of these policy variables are combined arithmetically to produce an overall indicator of each party's left-right political orientation. We computed the standard deviation of these left-right orientations across the EU's Member States at each point in time and used that standard deviation as a proxy for controversy in the Council.

To control for the possibility that ministers fear an increasingly powerful EP exploiting their internal divisions, we included another measure that reflects the rise of the EP's power from a secondary chamber (1990-1992) to a co-legislator (1993-1998) that became ever more powerful with each treaty change (1999-2000; 2001-2009; 2009-today).

¹¹ <https://wzb.eu/en/research/dynamics-of-political-systems/center-for-civil-society-research/projects/the-manifesto-project>

¹² We include binary variables indicating whether it was a "big" election (i.e., one occurring in Germany, Italy, France, or the UK), whether it was a "close" election (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). We ran several models with permutations of these independent variables.

¹³ Note that Maltese election results and manifestos are not included in the Comparative Manifesto dataset

Finally, to control for the preferences and negotiation culture of individual Council presidencies, we included dummy variables for both individual countries and for regional groups of countries (Northern, Southern, Western, and Central/Eastern).¹⁴

Analysis

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

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

In most treatments x_{i1} represents time (date, month, or semester granularity), 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 employ a gaussian regression when the dependent variable is meal frequency (or frequency of sessions with meals) over a period of time (either a month or a semester), and we employ a Poisson regression (fitting to the logarithm of the dependent variable), when that variable is the number of meals in each session.

Results

We begin by evaluating the first hypothesis which expects an association between greater transparency in the Council and an increased use of informal meal breaks. The independent variables are de jure transparency (as given by legal transparency rules), de facto transparency (as given by the number of EU Member States), and normative transparency (as given by the median Council member's CPI index). Model 1 reveals a clear effect from all three transparency variables, with de jure transparency emerging as the strongest predictor. Quantitatively, each unit increment in de jure transparency multiplies the expected number of meals in each session by 1.721, that is, a 72% increase. De facto and normative transparency were associated with multipliers of 1.055 and 1.047, respectively, which equate to a 30.5% increase in meals for every five additional EU Member States, and a 25.6% increase in meals for every 5% increase in median CPI. All three coefficients had $p < 0.002$.¹⁵

These outcomes will not surprise close observers of the Council. The fact that there is a relationship between greater transparency and informal breaks in the Council is acknowledged by politicians and officials. For example, a Scrutiny Report by the House of Commons' Select European Scrutiny Committee (House of Commons, 2005) mentions Alexander Stubb, then a Finnish Member of the EP, reporting that the decision to increase the publicity of meetings, "many of the main decisions are now taken over lunches." Margrethe Vestager is rumored to

¹⁴ Northern = DK, FI, SE; Western = AT, BE, FR, DE, IE, LU, NL, UK; Southern = CY, EL, IT, MT, PT, ES; Central and Eastern European (CEE) = BG, CZ, EE, HU, LV, LT, PL, SK, SI. No HR or RO presidencies in this (pre-2019) dataset.

¹⁵ When considered independently (i.e., only time and one independent variable were included in the regression), the effect of each de jure increment increased to 89%. For de facto and normative transparency, the effects dropped and were associated increases with 13.3% for every five additional Member States, and 18.7% for every 5% increase in median CPI.

have quipped that she gained weight since the introduction of the 2001 transparency regulation because of the many working lunches (Interview #4).¹⁶

Next, we evaluate our second hypothesis about the role of domestic political contestation. Model 2 considers variables related to polarization (via Euroscepticism) and contestation (via national elections). Of these, citizen Euroscepticism had the more prominent effect, as measured by the percentage of Member States in which those who believe their country benefits from EU membership are outnumbered by those who do not. The number of such Member States rose from zero in 1990 and 1991, to 33% in 2000 and 2003 (representing five out of 15 Member States) and would not return to zero until 2018. Each 5% increase in this number was associated with a 14.6% increase in the expected number of informal breaks in each session, with $p < 0.001$. Positive correlations were also observed vis-à-vis net percentages of citizen-level Euroscepticism.

Impending, closely-contested elections also exhibited a relationship with meal breaks; each such election (upcoming in the next two months, and where the runner-up party came within five percent of the winning party) corresponded to a 10.6% increase in the likely number of meals per Council session. “Recent” (within the past two months) and “nearby” (two months on either side) elections had smaller effects in the opposite direction, that is, they decreased the expected number of meal breaks. Upcoming elections (irrespective of margin of victory) had a +5% effect on the number of meals, and upcoming “big” elections (in DE, FR, IT, or UK) were similar.

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

These results indicate that governments worry about a potential public backlash to their discussions. This explanation for the quest for confidentiality does not exclude the possibility that ministers are also worried about the mobilization of domestic interest groups. To distinguish between both concerns, we excluded observations from the GAERC Council from our analysis. The reason is that the GAERC formation, more than other Council formation that deal primarily with the regulation of the Single Market, touches upon issues of international politics that generate comparatively fewer concentrated costs and therefore more diffuse mobilization. When GAERC sessions are removed from consideration (leaving observations that we assume are more salient to concentrated interests), the effects of all transparency indicators increase, while the effect and significance of Euroscepticism decreases (from 5.9% to 3.9% for every five percent increase in Euroscepticism). One possibility is that governments are relatively more worried about interest group mobilization in domains that are more related to the regulation of the Single Market than in domains where interest group pressure can be assumed to be more diffuse.

Controls

Model 3 combines the variables from Models 1 and 2 and adds an independent variable equal to the natural log of the number of agenda items in each session, to “normalize” the observations by expected meeting length. The effects of the main independent variables

¹⁶ Our argument has another implication that is difficult to measure, namely that lunches go on for hours until there is an agreement (Interviews #3, #5). A report on an Energy Council meeting in 1997 mentions that “Member States began their work with a long lunch during which they debated the entire afternoon in a “super-restricted” session (...)” (Agence Europe, 28 October 1997).

remain, although each has been diluted by the presence of the others. The effects of the de jure, de facto, and normative transparency indicators were 37.7%, 28.7%, and 18.2% respectively, and the effects of looming elections and of citizen Euroscepticism were 10.2% and 5.9%, respectively, with p values ranging from 0.003 to 0.086. (Unsurprisingly, the number of agenda items also correlates strongly with meals breaks, with each unit increase in the log of the number of items corresponding to a 75.5% increase in expected meals per session.)

Table 3: Multiple regression on meals per session, Models 3 and 4 about here

The final Model 4 includes all the above independent variables, plus time, and adds the standard deviation of the right-left orientations of the parties in power across the EU; a metric representing the power of the EP; and a set of binary variables representing the region occupying the Council presidency at each given time. As above, the positive associations between meal breaks and the three measures of transparency (at 28%, 18.9%, and 10%), and between meal breaks and the two domestic contestation measures (at 6.5% and 4.8%), remain intact, if somewhat diluted.

Contrary to expectations, the right-left contestation metric exhibits a negative correlation, that is, there tend to be fewer meal breaks when there is more controversy among governments (higher left-right standard deviation). This is accompanied by a negative correlation between meals and EP power, although this has less of an effect than left-right standard deviation (the latter indicator ranges from around 10 to 23, whereas EP is coded on a scale from 1 to 4).¹⁷ Western presidencies, and to some extent CEE presidencies, correspond to fewer meal breaks, whereas northern and southern presidencies are associated with more meal breaks, although the uncertainties associated with these results prevent us from drawing firm conclusions regarding this relationship.

Robustness checks

To ensure our results were as robust as possible we ran models across numerous permutations of dependent and independent variables. In addition to modelling the expected number of meals per session using Poisson regressions, we modelled the probability that a given session would contain any meals (i.e., at least one meal break), using logistic regressions. These latter models accorded more explanatory weight to the transparency indicators, particularly de jure transparency, and less weight to upcoming elections, however the results were directionally in line across the two families of models. We also aggregated the number of sessions, meals, and agenda items up to the semester level, producing meal frequency averages across each semester that smoothed out some of the day-to-day jumps observed in the session-level data. We then modelled these semester-level averages as dependent variables using gaussian regressions, and again the results broadly corroborated those of the daily models. Semester-level analysis also allowed us to normalize the dependent variable directly, by scaling each average up or down by the average number of agenda items per session in that semester. We also analyzed monthly averages in the case of upcoming elections since that variable is less meaningful at the semester level.

¹⁷ Note that the EP power indicator is positively correlated when the Treaty of Nice is counted as an additional increment, or when the model is not normalized by agenda items. Given the high p value of this variable, the model appears unconfident regarding its effect.

We included time as an independent variable in each model, to distinguish any time-driven effects from the transparency- and contestation-driven effects we sought to measure. And for most independent variables we considered a range of related measures, for example: different definitions of nearby and/or significant elections; different measures of Euroscepticism; and different versions of the European Parliament power indicator, as alluded to above. We also constructed a “hybrid” transparency variable, comprised of de jure transparency plus an additional increment corresponding to the northern enlargement in 1995; this was shown to have a slightly weaker but still significant effect on meal frequency. Lastly, we ran regressions on each of the ten Council’s formations. Per the appendix, the ECOFIN, GAERC/FAC, and EPSCO configurations were found to have the strongest correlations with meal frequency.

Topics

If lunch breaks were just that – breaks from actual negotiations – then we would expect the discussion topics to be either random or mundane. However, if they are indeed used to continuing discussions away from public gaze, then we would expect topics to be potentially controversial. We therefore collect information about the topics discussed at informal meal breaks. Typically, the Council press release offers between a sentence up to a paragraph about the nature of the discussions when the Council Secretariat deems them relevant to the public. From this, we created keywords for the GAERC/FAC and ECOFIN Council formations that were fed into a wordcloud generator.¹⁸ The result is an image of words, the size of each is proportionate to its frequency.

Graph 3: Wordclouds on informal meal discussion topics at GAERC/FAC (left) and ECOFIN (right) about here

The wordclouds show that the topics discussed are neither random nor mundane. Foreign ministers use their breaks predominantly to discuss highly controversial issues, e.g., the Israel-Palestine conflict and the Middle East more broadly. Finance ministers are more reluctant to share the topic of their discussion. Discussions about the Eurozone crisis are typically summarized as exchanges about the “economic situation,” a phrase that 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 financial ministers about discussions within the “Eurogroup,” the informal and exclusive group of the Eurozone’s finance ministers (Puetter, 2014, p. 163). These broad descriptors (“economic situation” and “Eurogroup”) are closely followed by potentially controversial topics, namely taxation, financial markets, and financial regulation.

Interview partners in the Council confirm that lunch discussions often revolve around controversial topics. Many of them also touch upon legislative matters, even though this arguably goes against the spirit of the treaties and the Council’s rules of procedure (Interview #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 the 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).

¹⁸ Worditout.com

Chaired by the Swedish Finance Minister Anders Borg, the meeting was supposed to deal among other things with the establishment of the European Banking Authority and the European Security and Markets Authority. The discussions were therefore going to pit several governments against each other, among them the UK government defending the City of London from “over-regulation,” and the French government trying to reign in financial excesses in the banking industry (Beesley, 2009). 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 starting with the official part 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,¹⁹ “observers saw ritualistic congratulation among ministers before the deal was declared to be done, with unanimous support, after about nine minutes (ibid).”²⁰

Informal meal breaks also play an important role in the European Council. In contrast to the Council of Ministers, the European Council is composed of the heads of state and government and meets less frequently than ministers. According to the treaties, it has an exclusively executive role and, according to Article 15, it “shall not exercise legislative functions.” However, since many heads of state and government may issue guidelines for government members, they often resolve controversies in the Council at the highest political level when their ministers have reached a dead end (Kleine, 2013, p. 67). Because this behavior conflicts with treaty norms, they tend to resort to informal meal breaks to ensure that their legislative discussions are not part of the official meeting. These lunches are even more exclusive than the official meeting. The Council officials tasked with running these meetings (“Antici”) are asked to leave the dining room. Presidents, prime ministers, and chancellors are asked to leave their cell phones at the entrance, lest someone live tweets the meeting (Interview #6).

One recent example is the meeting of the European Council in Porto in May 2020 that resolved the stalemate over the reform of the Common Agricultural Policy. The Portuguese Presidency scheduled dinner discussions that according to the agenda were “an exchange of views on other issues of international concern.” According to a close observer, the discussions were used to resolve some outstanding conflicts over legislation about agricultural reforms. Once resolved by the heads of state and government, negotiations continued in the subsequent Agriculture Council and with the EP (Interview #3).

Lunching beyond the EU

Meal breaks during Council meetings play an important role for intergovernmental negotiations as they offer a venue for frank discussions. This phenomenon is not limited to the EU. Consider the EU’s relationship with Nato. There is a large overlap in membership between the two institutions. In 2022, 21 out of the EU’s 28 members are in Nato, and only

¹⁹ Council, video stream of the 2981st meeting of the Council (ECOFIN), 2 December 2009.

²⁰ Novak (2013, p. 8) describes a Council meeting in 2013 as follows: “The presidency interrupted the session for a lunch break. After the break, it reopened the public session and stated that the ministers had reached a compromise through informal exchanges. The presidency summed up the compromise without indicating which delegations received concessions and which delegations gave up some demands.”

8 Nato members are not members of the EU. For years, the EU and Nato have sought to establish an official relationship. There is also an increasing functional overlap. Although at its core a Single Market, the EU has gradually built military command structures that some fear might rival those of Nato. To simplify slightly, the EU itself is split between members that have ambitions for the EU to become more autonomous and those fearing precisely that. Because of this continuing disagreement, official interaction between the two institutions is surprisingly thin. Stephanie Hofmann (Hofmann, 2009) describes how in this impasse states that, at the very least, strive for a more efficient division of labor between the EU and Nato are forced to muddle through this political stalemate. “The governments lament the inefficiencies that the competitive dynamics (...) have created, and have initiated informal meetings on the ministerial level, the so-called ‘transatlantic luncheons and dinners.’ Because these meetings are informal, there is no record taken, no communiqué issued, and no decisions are presented to the public.” The lack of an inclusive forum to tackle important and potentially controversial problems has created a demand for informal meetings that allow for frank discussions.

Lacking access to most international organizations, Taiwan is known for using lunch diplomacy in lieu of official diplomatic channels that typically take place shortly before significant meetings in the international organization in question. Preparations begin over coffee at the working level where officials signal which topics they would like to talk about, which are often related to some of Taiwan’s core interest, i.e., security, but also IT and pharmaceuticals. This is followed by a lunch with a senior official from the capital, usually in one of the best Taiwanese restaurants in town.²¹ The meetings are very exclusive with two to three participants on the Taiwanese side and one official from another sympathetic country’s delegation, such as the United States, Nordic states, and many others. There is no large paper trail, that is, no meeting notes, no papers circulated, and usually a phone call rather than an email as a follow up. According to our interview partner (Interview #8), this lunch diplomacy has helped Taiwan “remain wired into the system,” especially as China has become increasingly aggressive in its attempts to cut it off the world of diplomacy

Conclusion

Although there is wide consensus among scholars about the desirability of transparency, we know little about its potential downsides and unintended consequences. Drawing on an original dataset of three decades of informal meal breaks in the EU’s Council of Ministers, this article showed that as Council meeting became more transparent, ministers increasingly shifted their discussions to informal meal breaks, in which participation was limited and no minutes were being taken. Our statistical analysis, anecdotal evidence, and an analysis of informal discussion topics all suggest that ministers sought a new venue for frank discussions on controversial topics, a substitute for the once confidential Council meetings. This phenomenon is not limited to the EU. Informal luncheons take place between EU governments and Nato as well as within the United Nations when frank discussions among government members in an official capacity are difficult, if not impossible.

In this situations, ministers shifted more responsibility on their ambassadors, who continued to meet in person behind closed doors in the Committee of Permanent Representatives

²¹ Taiwan is known for its public relations effort to distinguish Taiwanese cuisine from mainland Chinese cuisine. See (Chapple-Sokol, 2013).

(Barigazzi, 2021). If informal lunches play such an important role in intergovernmental negotiations, what happens to these negotiations when meal breaks no longer take place? This is what happened during the 2020/21 Covid pandemic. When European countries went into lockdown, ministers stopped meeting in person and held informal meetings through videoconferences instead. As these were not official meetings, decisions were taken by written procedure instead of a show of hands. Without the possibility of exclusive in-person meetings, negotiations threatened to become more arduous and controversies more difficult to resolve. In this situation, ministers shifted more responsibility on their ambassadors, who continued to meet in person behind closed doors in the Committee of Permanent Representatives (Barigazzi, 2021).

Why do governments avoid open discussions? And what are the implications of an unavoidable level of secrecy in intergovernmental relations? It would be too simple to attribute our results to an evasion of accountability. As greater transparency changed the character of official Council meetings, informal meal breaks seem to have provided an *ersatz* space for confidential discussions to prevent them from being politicized in the domestic arena. The fact that our transparency variables still exhibit effects even as we consider the effects of domestic contestation and other control variables suggests that informal breaks have indeed become a substitute for the once-confidential Council meeting that allow the Council to achieve outcomes that would otherwise be unattainable.

The combined evidence suggests that complete transparency in intergovernmental negotiations is a chimera because governments will shift their deliberations to other venues. Yet, the futility of full transparency in negotiation processes and the fact that a certain level of confidentiality appears necessary to reach efficient intergovernmental agreements does not mean that a lack of transparency is of no concern. It can always be exploited for private gains. So, what can be done? Based on Mansbridge and Naurin's work on types of transparency, we propose that when process transparency reaches its limits and even generates unintended effects, governments should offer greater transparency in rationale. Instead of transcripts and documents, governments should be required to reveal the topic of their discussion, offer a justification for keeping them closed, and a rationale behind any agreement that is based on confidential discussions.

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Interviews

- #1 Interview with a senior Council official, 6 August 2021.
- #2 Interview with a senior Council official, 24 August 2021.
- #3 Interview with a senior Council official, 25 August 2021.
- #4 Interview with a senior Council official, 30 August 2021.
- #5 Interview with a senior Council official, 22 September 2021.
- #8 Interview with a senior official with the US Department of State, 28 June 2022.

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Graphs and Tables

Table 1: Descriptive statistics

	Total	Mean	Median	Minimum	Maximum	Std. Dev.
<i>Sessions:</i>	2262	39 per semester	38.5 per sem.	30 per sem.	50 per sem.	4.17
<i>Sessions with meals:</i>	726	12.5 per semester	14 per sem.	1 per sem.	23 per sem.	5.83
<i>Meals:</i>	814	0.36 per session	0 per session	0 per session	3 per session	0.56

Variables	Model 1			Model 2		
	Coefficient	Standard error	p	Coefficient	Standard error	p
De jure transparency	0.543 ***	0.116	0.000			
De facto transparency	0.053 **	0.017	0.001			
Normative transparency	0.046 ***	0.012	0.000			
Upcoming close elections				0.101 .	0.055	0.067
Euroscepticism				2.722 ***	0.481	0.000
Date	0.000	0.000	0.194	0.000 ***	0.000	0.000
Constant	-6.032 ***	1.171	0.000	-3.585 ***	0.238	0.000

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

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

Variables	Model 1			Model 2		
	Coefficient	Standard error	p	Coefficient	Standard error	p
De jure transparency	0.543 ***	0.116	0.000			
De facto transparency	0.053 **	0.017	0.001			
Normative transparency	0.046 ***	0.012	0.000			
Upcoming close elections				0.101 .	0.055	0.067
Euroscepticism				2.722 ***	0.481	0.000
Date	0.000	0.000	0.194	0.000 ***	0.000	0.000
Constant	-6.032 ***	1.171	0.000	-3.585 ***	0.238	0.000

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

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

Variables	Model 3			Model 4		
	Coefficient	Standard error	p	Coefficient	Standard error	p
De jure transparency	0.320 *	0.131	0.014	0.247 .	0.148	0.096
De facto transparency	0.051 **	0.017	0.003	0.035 .	0.019	0.063
Normative transparency	0.033 *	0.014	0.018	0.019	0.016	0.223
Upcoming close elections	0.097 .	0.056	0.086	0.063	0.057	0.272
Euroscepticism	1.146 .	0.659	0.082	0.937	0.715	0.190
Right/left standard deviation				-0.053 ***	0.014	0.000
European Parliament power				-0.038	0.177	0.828
Northern Council presidency				0.041	0.128	0.748
Western Council presidency				-0.092	0.109	0.397
Southern Council presidency				0.029	0.113	0.798
Agenda items	0.562 ***	0.082	0.000	0.562 ***	0.082	0.000
Date	0.000	0.000	0.841	0.000	0.000	0.318
Constant	-6.935 ***	1.275	0.000	-5.095 ***	1.421	0.000

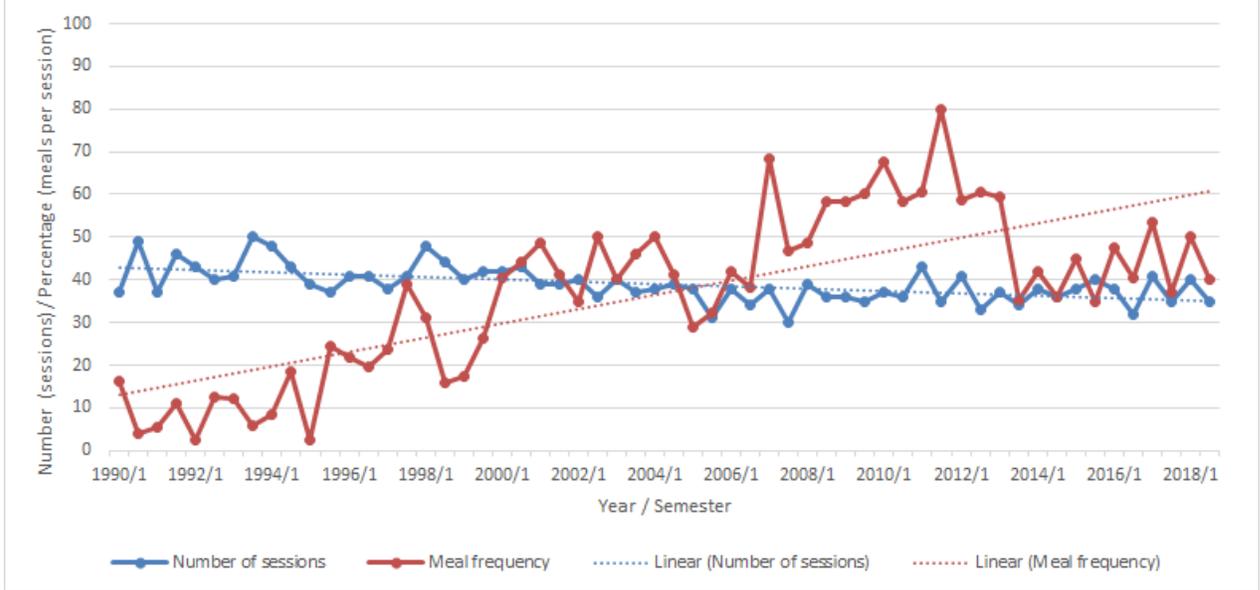
Significance codes: 0 < '***' < 0.001 < '**' < 0.01 < '*' < 0.05 < '.' < 0.1 < ' ' < 1

Variables	Model 3			Model 4		
	Coefficient	Standard error	p	Coefficient	Standard error	p
De jure transparency	0.320 *	0.131	0.014	0.247 .	0.148	0.096
De facto transparency	0.051 **	0.017	0.003	0.035 .	0.019	0.063
Normative transparency	0.033 *	0.014	0.018	0.019	0.016	0.223
Upcoming close elections	0.097 .	0.056	0.086	0.063	0.057	0.272
Euroscepticism	1.146 .	0.659	0.082	0.937	0.715	0.190
Right/left standard deviation				-0.053 ***	0.014	0.000
European Parliament power				-0.038	0.177	0.828
Northern Council presidency				0.041	0.128	0.748
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Southern Council presidency				0.029	0.113	0.798
Agenda items	0.562 ***	0.082	0.000	0.562 ***	0.082	0.000
Date	0.000	0.000	0.841	0.000	0.000	0.318
Constant	-6.935 ***	1.275	0.000	-5.095 ***	1.421	0.000

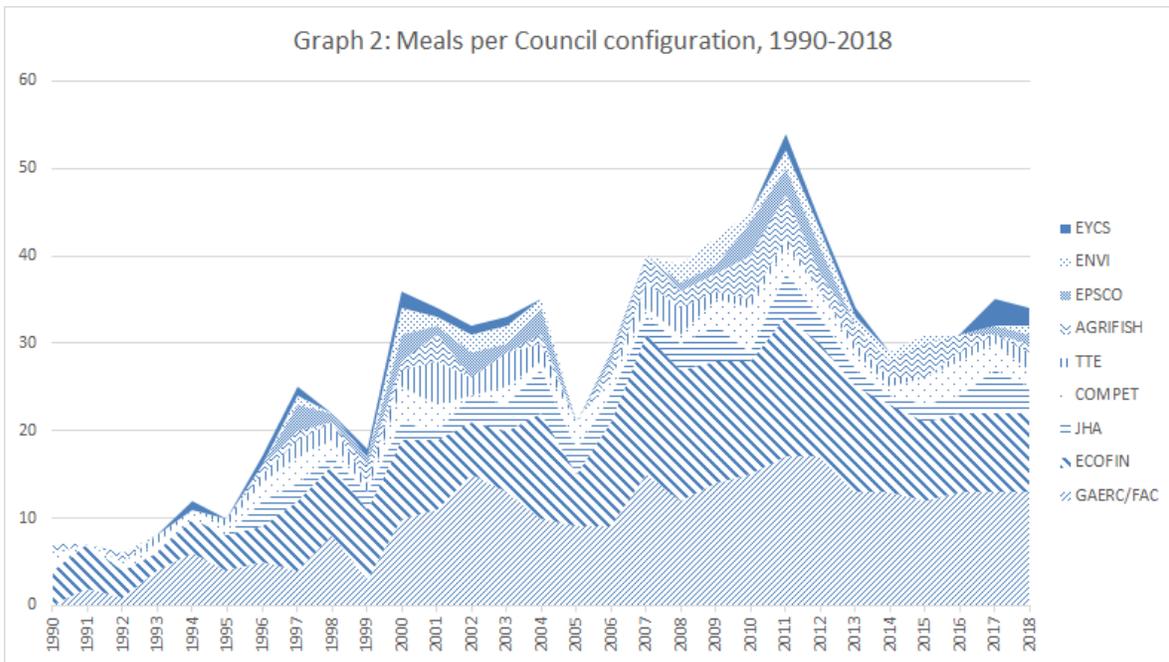
Significance codes: 0 < '***' < 0.001 < '**' < 0.01 < '*' < 0.05 < '.' < 0.1 < ' ' < 1

Graph 1: Council sessions and informal breaks per semester, 1990-2018

Graph 1: Council sessions and informal breaks per session, 1990-2018



Graph 2: Meals per Council configuration, 1990-2018



Appendix

A.1. Distribution of meals per session, sessions per semester, agenda items per session

