

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

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Incomplete draft, new version will include updated regression analysis on a more complete dataset and more qualitative evidence

Abstract: This paper explores the potential unintended consequences of transparency in intergovernmental negotiations, namely the shift of deliberations to more opaque venues as official meetings open up to the public. The study is based on an original dataset of informal meal breaks during meetings of the EU's Council of Ministers between 1990 and 2018. It explores if and under what conditions governments resort to these informal breaks where no minutes are being taken to discuss topics away from public gaze. Using a mix of quantitative and qualitative techniques, I find that there has been substantial increase in the use of informal lunch breaks for that purpose as Council meetings opened up to the public. Lunch discussion often deal with controversial topics, sometimes of legislative nature, and are xxx likely as domestic conflicts over EU politics rises. The findings have implications for negotiation studies, work on transparency in international organizations, informal governance, and EU politics. The paper concludes with a brief discussion of intergovernmental negotiations under pandemic conditions and the normative implications of secluded meetings.

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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 the 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 improved accountability, in turn, is believed to improve the legitimacy of a polity, by reducing the chances of a politician using his office for personal gain and by offering citizens a chance to follow the reasoning behind a decision.

There is relatively less research about the potential downsides of transparency (Stasavage, 2006; Kono, 2006; Kleine, 2018). Some argue that negotiators require some level of privacy to allow themselves to be persuaded, change their position and reach mutually beneficial outcomes. Others caution that negotiators with an incentive to deliberate in private will seek alternative and potentially even more obscure venues as their negotiations are opened to the public.

The aim of this article is to evaluate arguments about the effectiveness and potential downsides of transparency in international negotiations. The EU as a semi-permanent negotiation forum that takes hundreds of decisions each year offers a unique opportunity to evaluate these arguments quantitatively. This study therefore draws on an original dataset of informal meal breaks during sessions of the EU’s Council of Ministers from 1990 until 2018. Informal breaks are more exclusive and, since no minutes are being taken and no papers circulated, potentially allow for more open discussions.

The article begins by reviewing the scholarly debate on transparency, its benefits and its potential downsides before it summarizes developments in the transparency of the EU’s Council of Ministers. We then proceed in three analytical steps: First, we investigate if the Council’s greater openness to the public is associated with a greater use of informal meal breaks. We find that there is indeed a substantial increase in the frequency of informal breaks as Council meetings became more transparent. Second, we take a closer look at the topics discussed over lunch, which turn out to be mostly controversial and sometimes even of legislative nature. Third, the paper investigates if polarization at the domestic level is associated with a greater use of informal meal breaks. The analysis shows XXX. Qualitative evidence confirms that although informal lunches serve several important functions from getting acquainted privately and informally engaging with third parties, chief among these functions is to provide space the open discussion of controversial topics. The article concludes with a discussion of Council meetings in the absence of informal breaks during the Covid pandemic and the normative implications of our findings.

Transparency: types, benefits, and potential downsides

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 scholars argue that high levels of transparency in this process permit sanctions following the exposure of wrongdoing, such as the misappropriation of funds and, thus, prevent public officials from engaging in corrupt or careless behavior (Bovens et al., 2014, p. 519). Transparency consequently enhances the performance of a political system and, thus, increases 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).

In addition to this body of work on “transparency in process,” Jane Mansbridge (Mansbridge, 2009) proposed the concept of “transparency in rationale,” that is, information about the reasons and the facts on which the reasons are based. This concept echoes a body of literature on deliberative and participatory democracy. Jürgen Habermas theorized in his early work that communication in an “ideal speech situation,” characterized by transparency about one another’s reasoning and evidence, is conducive to helping actors arrive at a reasoned consensus (Habermas, 1992). Similarly, Jon Elster (1998) suggests that under certain conditions deliberations in front of an attentive audience require actors to make more consistent and plausible arguments, lest they be regarded as selfish.

Others are less sanguine about the relationship between transparency and the quality of government. Here it is useful to distinguish between problems believed to stem from the demand and from the supply side of transparency. On the demand side, scholars question the incentives and ability of citizens to process information. Economic theories of democracy argue that it is rational for citizens to show little interest in policies that seem too remote to affect them directly. “Rationally ignorant,” they will concentrate their efforts of searching and processing information on issues where their informed decision has a larger marginal impact (Downs, 1957, p. 147). Considering the abundance of data and potential for misinformation in the internet age, there is also the question about citizens’ capacity to process information. Lindstedt and Naurin (2010) argue that when citizens lack experience or the cognitive skills to interpret and act upon information, they require media and other intermediaries to navigate today’s flood information by translating it into more readily digestible narrative (Bovens et al., 2014, p. 514; similarly, de Fine Licht, 2014).

These problems on the demand side may feed back to the supply side as government transparency inevitably requires the compression of complex information into more readily digestible and comparable quantitative measures. This may, at best, lead to oversimplification and, at worst, distract from the actual quality of a policy, prompting politicians to obfuscate their wrongdoings behind the veneer of accountability (Muller,

² Transparency can be measured in terms of press freedom, newspaper circulation, freedom of information laws and numerous other ways. For a discussion of various definitions of transparency see, e.g., Florini (2007, p. 5) or Hollyer et al (2011, pp. 1193–4)

2018).³ The publication of information becomes a ceremonial act and this performative practice of transparency decoupled from its very purpose (Meyer and Rowan, 1977).

However, 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 deliberation in which politicians evaluate one another's reasoning and evidence and, thus, arrive at mutually beneficial compromises. In this argument, public audiences are less coherent and rational than particularistic and passionate. Such characteristics may undermine the deliberative quality of public debates when politicians speak exclusively to their national audiences and seek to score votes by pandering to sectional interests or whipping up passion around moral issues. In doing so, their positions become entrenched and the risk of negotiation failure increases (Pettit, 2004; Chambers, 2004; see also Checkel, 2003; Stasavage, 2004).

If we consider transparency and secrecy as substitutes, we are confronted with a dilemma. On the one hand, transparency is considered conducive to the quality of governance. On the other hand, it may crowd out deliberation and prevent mutually beneficial outcomes. Some scholars approach transparency and secrecy as complements that are conducive to different modes of interaction at different stages of a negotiation. Applying Mansfield's distinction between transparency in process and transparency in reasoning, Naurin (2017) suggests that there is a division of labour between closed committees on the one hand, which engage in deliberation to arrive at substantive policy proposals, and that of open plenaries on the other hand, which take care of votes and adversarial public debates that clarify differences between parties. As we shall see, the various arguments about the types, benefits, and potential downsides of transparency are also reflected in debates about the EU's Council of Ministers path to greater transparency.

The path to greater transparency in the EU Council of Ministers

Initially organized as a diplomatic forum rather than a 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 even 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. As a result, secrecy became more difficult to uphold and

³ Kono (2006, p. 375) argues that by increasing the transparency of some policies relative to others, democracies induce politicians to replace transparent trade barriers with more opaque ones. Rejali (2009) claims that democracies are just as likely as autocracies to engage in torture, and when they do, they will use "clean" techniques that leave no visible traces.

“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 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).⁴

The Danish rejection of the Maastricht Treaty in 1992, the empowerment of the European Parliament, and not least the pending accessions of transparency-friendly Sweden and Finland, renewed the debate 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 1992 Treaty of Maastricht 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.” Successive meetings of the European Council continued to demand better access to the Council of Minister’s work (Bauer, 2004, p. 369). Scholars echoed these calls with arguments about how transparency was necessary to improve the EU’s accountability, responsiveness and, ultimately, its legitimacy. (Majone, 1994, p. 95, 1999; Follesdal and Hix, 2006).

Other scholars cautioned that increased transparency in the Council might undermine its 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).⁵ Similarly wary of potential disturbances to its working methods, the Council of Minister changed its transparency policy only gradually and reluctantly from 1992 onwards. Following the ratification of the Maastricht Treaty the Ministers adopted in 1993 a new version of its Rules of Procedure that allowed public debates on legislative matters, publication of voting records and explanations of votes upon individual requests, while retaining the blanket right to refuse access in order “to protect the confidentiality of the Council’s proceedings” (Council of the EU, 1993). However, following a challenge in 1994 by *The Guardian*, the EU’s Court of First Instance curbed the Council’s substantive leeway and ruled that it ought to exercise proper discretion in the classification of documents. In its defense, the Council itself maintained the significance of secrecy 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).

⁴ Unsurprisingly, a Eurobarometer survey in 1980 showed that two thirds of its citizens felt insufficiently informed about Community matters (Kommission der Europäischen Gemeinschaften, 1980).

⁵

After its defeat in Court and two years after the Treaty of Amsterdam had enshrined the principle of openness in the Treaty on European Union, the Council revised in 2001 its transparency regulation, making public access to documents the rule and significantly raising the bar for exceptions (Hillebrandt et al., 2014, p. 12).

Despite the landmark decision in 2001 to open the Council up to the public, the practice of releasing Council documents, and votes to the public changed more gradually (Bauer, 2004).⁶ There still remained numerous exceptions to the publication of documents and votes (ranging from security over the protection of commercial 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, the Council meetings themselves became increasingly porous as the accession of twelve new member states between 2004 and 2007 nearly doubled the number of participants at these meetings. According to one close observer, Council meetings became “as crowded as the Gare Centrale during rush hour” and secrecy next to impossible to maintain (Interview #2). The Council changed its character from a club with frank discussions to become more like a parliamentary assembly where ministers would read out pre-formulated statements (Interview #5).

The Council’s plenary character was matched with even greater process transparency when in 2009 the Lisbon Treaty finally opened Council discussions on legislative files 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 also 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 de jure and de facto transparency of the Council of Ministers. The statutory reforms aimed primarily at increasing the Council’s “process transparency,” approaching it as a legislative forum whose members ought to be held accountable for actions. Those in the Council resisting some of these reforms held that the Council requires a degree of intimacy to enable deliberation. They worried that greater transparency would limit the ministers’ room for maneuver and complicate the search for consensual outcomes. This reluctance notwithstanding, today all legislative debates in the Council and, with a few exceptions, documents and votes are public. These arguably radical reforms over the past two decades raise questions about their effectiveness and impact on the Council’s mode of interaction, questions that the following two sections pick up.

Intergovernmental negotiations and informal lunches: expectations

⁶ In this context, it is telling that something as mundane as the introduction of an electronic public register in 1999, allowing citizens to identify the numbers of those documents of general interest in the first place, has been hailed as a crucial milestone in the Council’s effort to increase its transparency (Bauer, 2004, p. 377; Hillebrandt et al., 2014, p. 12).

This section explores if the Council retained some level of intimacy despite the gradual opening of its proceedings to the public. This possibility would partly explain why even some of the more reluctant member states ultimately agreed to the overhaul of the Council's transparency regime. Anecdotal evidence suggests that member government indeed reacted to greater openness by shifting some 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 still closed European Council of the heads of state and government (Kleine, 2013; Bickerton et al., 2015).⁷ Council officials report that there is plenty of activity at the sidelines of Council meetings, with discussions of legislative nature taking place on corridors and bilateral meetings (Interview #5).

While there have been several studies of informal activities in and around the Council of the EU and, indeed, other negotiation forums (Kleine, 2013; Bickerton et al., 2015; Stone, 2009; Westerwinter et al., 2021), many of them can neither be monitored nor measured. Many existing analyses therefore rely on anecdotal evidence. However, there is the possibility of exploring this venue shift in a more systematic way by investigating if greater transparency in the Council is associated with a greater reliance on informal meals during Council meetings that afford ministers an opportunity to jointly discuss controversial issues away from the public gaze.

Working lunches in the Council

Working lunches (or dinners or breakfasts) present a readily available opportunity for ministers to deliberate in a more intimate setting. In contrast to regular meetings where each delegation comprises at least five members, lunches are attended by only one member twenty-seven delegations (typically the minister), the responsible Commissioner, and a member of the Council Secretariat (typically the responsible Director General). The member states' ambassador to the EU, the permanent representative, may fill in for a minister who is unavailable. 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 lunch discussion defines its character. Typically, the Council Presidency in conjunction with the Council's responsible Director General 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) Lunch discussions with guests (e.g., a foreign minister or a member of the European Parliament), 2) lunch discussions on items that are not on the agenda (e.g., broader economic developments), 3) lunch discussions on items on the agenda, including legislative items.

In this last case where lunch discussions revolve around legislative topics on the agenda, they arguably violate the spirit of Article 16, §8 of the Lisbon Treaty and Article 7, §1 of the Council's Rules of Procedure, which both state that "the Council shall meet in public when it deliberates and votes on a draft legislative act." According to one senior official, some officials in the Council's General Secretariat are uneasy about these cases (Interviews

⁷ Hillebrandt and Novak (2016) speak of "pockets of confidentiality" in the Council.

#3 and #5), while other officials, as we shall see below, emphasize the need for these meetings.

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 that working lunches are reported in Council documents.

Expectations

Of course, people, even government ministers, must eat, so the fact that they take breaks is not remarkable as such. However, if there is a relationship between greater transparency and the use of informal breaks, we should see a greater use of informal breaks over time as transparency in the Council increases.

Hypothesis 1: As Council meetings open up to the public, all else equal, there is an increased use of working lunches among ministers.

As described in the previous section, while transparency regulations can be associated with specific dates, the actual implementation of these rules changed more gradually in ways that are difficult to pinpoint. Furthermore, secrecy decreased not only by decree but also through the inclusion of additional participants with every (major) enlargement round. Against this background knowledge, we can specify our hypotheses as follows.

Hypothesis 1a (de jure): Informal lunches increase following the adoption of the 2001 Council transparency regulation.

Hypothesis 1b (de facto): Informal lunches increase following major enlargement rounds in 1995 and 2004-2007.

An increase in the frequency of lunches can also be caused by other factors. For example, negotiations with more participants after the accession of new members as well as political crises could mean that ministers have to devote more time to Council meetings. If Council meetings become longer (information that is not possible to retrieve) and, thus, offered 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. This leads to our second hypothesis.

Hypothesis 2: If informal lunches are used to discuss topics in a more intimate setting, the discussion topics are potentially controversial.

Even if working lunches are used to discuss controversial topics in a more intimate setting, we still know little about the precise motivation and effect on the ministers' mode of interaction. Are working lunches used to eschew accountability at home or do they serve to create a deliberative atmosphere that is more conducive to reaching a consensus? We can expect governments to be more concerned about domestic accountability the more the public is polarized on EU matters (Schneider, De Vries et al). However, if governments use informal breaks to create a more intimate atmosphere regardless of the level of domestic polarization, this would be an indication that they are less concerned about accountability per se than about how transparency might affect their mode of interaction.

Hypotheses 3: The higher the level of domestic polarization, the more likely governments are to resort to the use of informal lunches.

The following section evaluates these three hypotheses using an original dataset of informal meal breaks during Council meetings from 1990 to 2018.

Analysis

The previous section derived three complementary hypotheses about the use and nature of working lunches during Council meetings. This section will now evaluate these hypotheses using a mix of quantitative and qualitative data. Before we proceed with the analysis, let us first have a look at the dataset.

Data

The analysis is based on an original dataset of informal meal breaks from 1990 until 2018. These breaks are mentioned either in meeting agendas, minutes or press summaries (typically lunch breaks, but also breakfasts and dinners). Where available, the dataset also contains information about the Council formation and the lunch discussion topic.

The main challenge to the data collection exercise is the poor organization of the Council register. Many documents are not machine-readable so that simple searches for the term “lunch” in the Council’s own search engine were not possible. I therefore collected data from the bottom up by compiling a list of all Council meetings between 1990 and 2018 and traced agendas, minutes, and press releases for each meeting. I requested all documents that were either restricted or missing from the secretariat. All documents were made machine-readable and searched for the terms “lunch,” “breakfast,” and “dinner.” I only counted mentions of meal breaks that included a majority of Council members. Thus, 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 a Eurogroup breakfast, although it excludes delegations that are not Eurozone members, could in principle serve this function and was counted as such.

I recorded a total of 2270 Council meetings (39 sessions on average per semester)⁸ and 790 informal meal breaks between 1990 and 2018. At a maximum, ministers would break three times for breakfast, lunch, and dinner during a single Council meeting (which the ECOFIN Council did once in 2011). In most cases, the Council reported no meal or a lunch only.

<i>Number of sessions / semester</i>		<i>Meals</i>	
Mean	39.14	Mean	13.62
Median	38.5	Median	14
St. Dev.	4.17	St. Dev/	6.83
Minimum	30	Minimum	0

⁸ There are typically fewer meetings in the second semester due to the summer and Christmas breaks.

Maximum	50	Maximum	27
Sum	2270	Sum	790

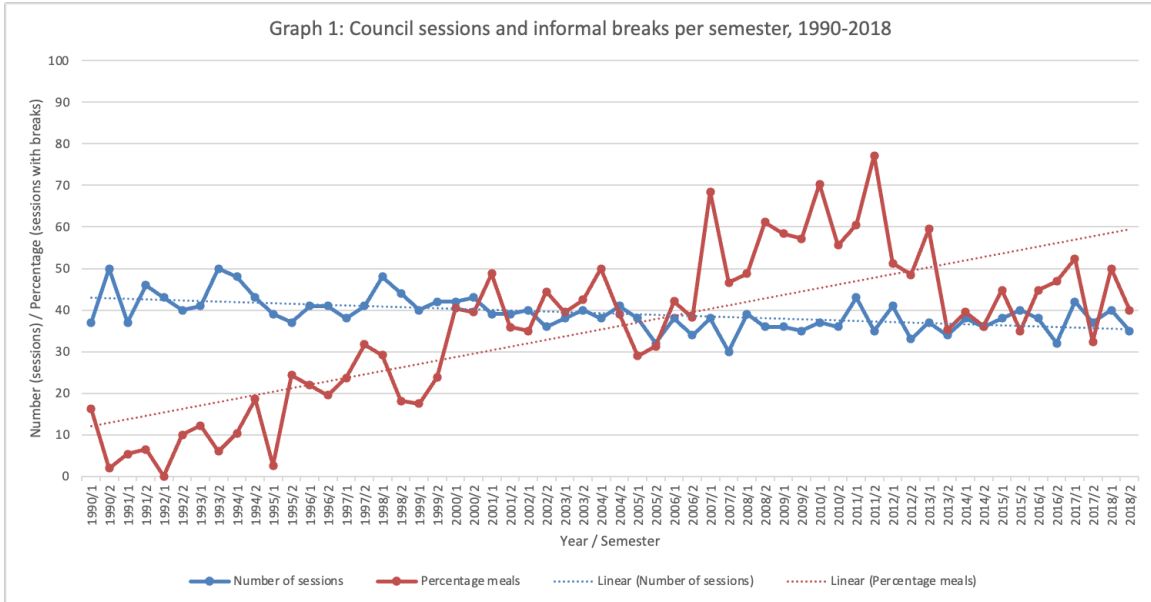
It is likely that these data still miss several breaks. Indeed, the Europe Bulletins of *Agence Europe*, a news agency reporting behind the scenes of Council meetings, reports a few more working lunches in the 1990s than could be found in the various Council documents. Unfortunately, *Agence Europe* itself is not a reliable source itself in this respect.⁹

The dataset relies exclusively on official Council document, cognizant of the fact that it captures not the actual occurrence of a lunch but the fact that the Council Secretariat thought it necessary to report it. However, interviews with senior Council officials affirm that the practice of reporting lunches did not change over time. It is 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), there is agreement between presidencies and the Secretariat that discussions on Council matters should be mentioned in the press release in, at a minimum, one sentence. Thus, the Secretariat mentions lunches when they touch upon Council business and ignores to mention them if the discussions are considered insignificant (Interview #2). This can be the case in some Council formations that meet so frequently that the Presidency sometimes even struggles to find a topic that hasn't been discussed yet (Interview #4).

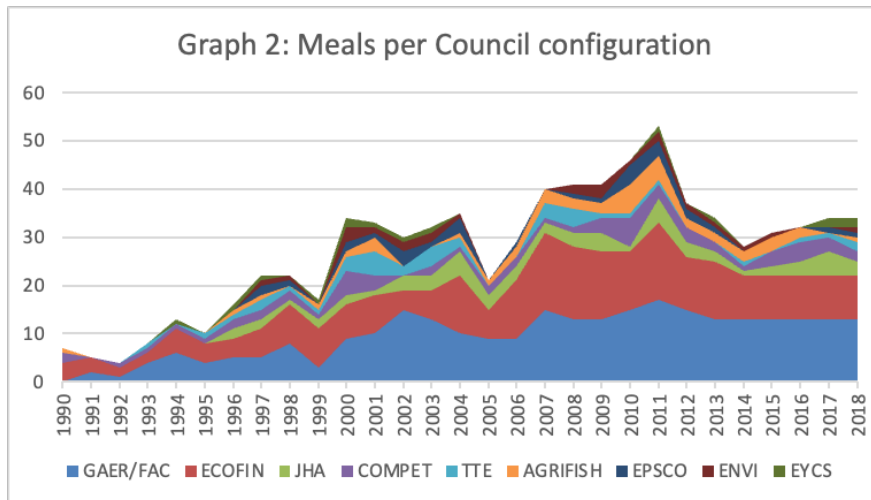
1) *An increase in informal lunches*

In a first step, we evaluate the first hypothesis that expects that the increase in transparency in the Council is associated with a greater use of informal meal breaks. The following 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 are noteworthy about this graph. First, the number of Council meetings per semester is remarkably constant over time, averaging about 39 sessions per semester (with a standard deviation of 4.17 sessions). Second, the proportion of sessions with meal breaks increased substantially at three points in time, namely around 1995, 2000 and 2005. There is also a substantial drop in the number of meals around 2013.

⁹ Its standard deviation of meals mentions between 1995 and 2018 is 18.96 compared with just 5.49 for meals reported in Council documents.



What explains this variation in the use of informal breaks during Council meetings? Hypothesis 1 suggests that the use of informal breaks is associated with an increased openness of Council meetings, both de jure following new transparency rules (Hypothesis 1a) and de facto following the inclusion of many more participants (Hypothesis 1b). Graph 1 seems to support both hypotheses as it indicates a greater use of informal breaks around the time of Northern enlargement (1995), Eastern enlargement (2004), and the 2001 transparency regulation.



Graph 2 breaks these data down into the different Council formations. 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 busiest of all formations. There is an increase in meetings of the GAERC/FAC Council after 2001 that could be related to the terrorist attacks in the same year. We can also see that the Economic and Financial Affairs Council (ECOFIN) trails GAERC/FAC for most of the period under consideration and even surpasses it between 2007 and 2011, an increase that could be 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.

For a more systematic analysis of how other factors impact on the use of informal breaks during Council meetings, we employ multivariate regressions that include measures for the total number of Council meetings per semester. Since informal breaks could also become more frequent during busier times, we include the number of agenda items per meeting as a proxy for their total length. The style of Council presidencies could also affect the reporting of meals in Council documents. We therefore include dummy variables for individual Council Presidencies as well as for Northern, Western and Southern Council presidencies (there are few observations for Central and Eastern European presidencies).

Regression with number of meetings, number of participants, number of agenda items and presidencies.

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 European Parliament, reporting that as a result of the decision made in Seville to increase the number of public meetings, "many of the main decisions are now taken over lunches." **Margot Vestagher, on how she gained weight since 2001 due to increase in lunches.**

The fact that lunch discussions increasingly served as a refuge for ministers to have frank discussions has another implication that our dataset does not contain, namely that lunches often go on for hours until there is some sort of agreement (Interviews #3, #5). For example, a report on the meeting of the Energy Council in 1997 mentions that the "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).

In sum,

2) *Controversial 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 continue discussions away from public gaze, then we would expect topics to be potentially controversial. I therefore sought to identify the topics discussed at the Council's informal meal breaks. Typically, the Council press release offers between a sentence or up to a paragraph of the nature of the discussions when the discussion is deemed relevant. From this, I created keywords for the GAERC/FAC and ECOFIN Council meetings that I fed into a wordcloud generator. The result is an image of words, the size of which are proportionate to their frequency.

Graph 3: Wordcloud of lunch discussion topics

Agriculture Council and ongoing negotiations with the European Parliament (Interview #3).

In sum,

3) Domestic polarization

There is substantial evidence that ministers use informal meal breaks to avoid public scrutiny of their discussions. This practice became more common as Council meetings became more crowded, more transparent and, thus, potentially subject to public scrutiny. Still, we know little about the function of discussions in more intimate settings. In one view, open and secret meetings are substitutes and ministers opt for the secret alternative out of the sinister motive of avoiding accountability. In another view, open and secret meetings complement each other, and ministers seek the more intimate settings that permit frank deliberations necessary to reach outcomes.

Here: regression with domestic polarization data.

Anecdote about the creation of Eurogroup breakfasts (Interview 4)

Conclusion

Although there is wide consensus among scholars about the desirability of transparency, there are also some skeptical voices that doubt the effectiveness of formal transparency regulations.

If informal lunches play such an important role in intergovernmental negotiations, what happens to these negotiations when lunches 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 meeting through videoconferences instead. As these were not official meetings, decisions were taken by written procedure. Without the possibility of in-person meetings, negotiations threatened to become more arduous and controversies more difficult to resolve. In this situations, ministers shifted more responsibility on their ambassadors, who continued to meet in person in the Committee of Permanent Representatives (Barigazzi, 2021).

What are the normative implications of the evasion of transparency during informal breaks? At first glance, full transparency in intergovernmental negotiations seems a chimera. Just like ministers moved their discussions to the lunch table as official meetings were opened up to the public, it appears likely that these discussions would shift once again to more obscure venue once lunch discussions are made public. This seemingly unavoidable shift of discussions to other venues arguably goes against the spirit of the EU's transparency regulations, especially when the discussions are of legislative nature.

However, this study also indicates that the reason behind the search for intimacy is not necessarily to be found in the evasion of accountability. First, **there is only a low association of informal meal breaks with domestic conflict.** Second, our interview partners all point out that when greater transparency changed the character of official Council

meetings and stifled its deliberative atmosphere, informal lunches and other informal negotiations provided an intimate space that guaranteed that the Council remained operative and able to find consensual outcomes.

Is transparency a chimera and is there then an inevitable tradeoff between transparency and deliberation in intergovernmental negotiations? This would be the logical conclusion if we approached intergovernmental negotiation forums as legislative assemblies that ought to take care of adversarial debates and votes. However, if we approached intergovernmental negotiations as having another dimension, namely the committee-style preparation of policy proposals, then the question is less about the level of transparency than about the type that is appropriate at each stage in the negotiation. Rather than demanding a full transcript of meetings, citizens would be asking for the justification of the policy proposals ministers would later debate and vote upon, for them to scrutinize at home.

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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.

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#5 Interview with a senior Council official, 22 September 2021.

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