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Institutional Conditions for Effective Parliamentary Oversight of European Union Politics

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Abstract

The implementation of European Union (EU) directives into national law frequently triggers extensive parliamentary activities, especially if they are complex, salient and conflictive. These activities can cause delayed transposition. The literature suggests that early parliamentary involvement may speed up the subsequent transposition process. We argue theoretically and show empirically that this hope is only fulfilled where parliaments are sufficiently strong.

On the empirical side, we study the effect of ex-ante scrutiny on the duration of the transposition of more than 650 directives in four weak parliaments as well as in four strong parliaments. We find that an early involvement of strong parliaments may speed up transposition. By contrast, weak parliaments' early engagement with EU directives may even cause a further delay of the transposition process.

Keywords: Parliamentary Oversight, Transposition, Implementation, Coalitions, European Union,

Parliamentary oversight is crucial for avoiding agency losses that may result from an information advantage of the executive branch of government (Strøm 2000). Obtaining access to information is important for members of parliament (MPs), irrespective of whether they belong to opposition or government parties. In general, scrutiny rights of parliaments enhance MPs' ability to control the government and its administration, to influence legislative decision making and to increase transparency. As a downside, extensive parliamentary scrutiny activities are time-consuming and may prolong the decision making process; especially, if policies are salient or the subject of regulation is complex. Deliberations, hearings and authoring amendments are time-consuming activities. An early involvement of MPs might thus enhance parliament's ability for effective scrutiny and, at the same time, increase the efficiency of the decision-making process. Ultimately, however, the effectiveness of parliamentary scrutiny depends on the political institutions in place (Martin and Vanberg 2004).

Both parliamentary control of the government and its administration and efficient legislative decision making constitute an even greater challenge in the European multilevel system. With respect to effective control, parliaments were long seen as the loser of European integration (Follesdal and Hix 2006). However, Treaty reforms since 1997 have strengthened the formal rights of national parliaments considerably. According to the current process, the European Commission informs national parliaments before the legislative process on the European level begins. Parliaments may voice concerns and questions directly with the European Commission. They can also influence European negotiations by scrutinising the activities of the government, such as the responsible minister before the European law is adopted (ex-ante scrutiny). Although this might arguably strengthen the democratic quality of the European political system, it also renders decision-making processes more complex. The consequences of bringing in this additional player as well as parliament's ability to actually exert any influence at all have been

subject to extensive empirical research (a.o. Auel and Christiansen 2015; Gattermann and Heffler 2015).

One important type of European law, directives, requires transposition into national legislation to become effectively implemented. When a directive reaches the national level, the ‘standard’ scrutiny procedures of parliaments apply. Although each directive sets a clear deadline for transposition, many member states are notoriously late in fulfilling this obligation. Since directives need to be transposed to be fully legally binding, late transposition endangers the uniform validity of European law. A large number of empirical studies have identified factors that determine timely implementation (for reviews, see Angelova, Dannwolf, and König 2013; Toshkov 2010). Most explanations focus on member states’ administrative and political capacity to process information on complex and conflictive EU directives. Comparative studies focus on the political system, administrative efficiency, experience, or cultural differences.

So far, only few studies have investigated the effect of parliamentary involvement prior to the adoption of a directive, so called *ex-ante* scrutiny, on the transposition of directives. The general expectation is that an early involvement of parliaments prepones some of the oversight activities that would otherwise be necessary during the transposition stage (Linos 2007; Finke and Dannwolf 2015). Consequently, an early involvement of parliament should speed up transposition. More specifically, Sprungk (2011) as well as Finke and Dannwolf (2015) argue that transposition delay is caused by time-consuming discussions and, where applicable, amendment activities triggered by conflicting interests of political parties. From this perspective, too, an early involvement of national parliaments can speed up the transposition process because these activities are preponed to an earlier stage (Linos 2007; Sprungk 2013; Toshkov 2010).

In a quantitative study on Germany, Finke and Dannwolf (2015) find support for this argument, but they also suggest that the positive effect of ex-ante scrutiny on timely transposition might depend on the design of political institutions. In this paper, we follow up on their study and argue that the effect of ex-ante parliamentary scrutiny depends on the oversight institutions in place.

Arguably, the effectiveness of early parliamentary oversight depends on the strength of the parliamentary institutions in place. Strong parliaments have specialised and resourceful standing committees, the right to compel witness and rewrite substantive parts of the proposal, the right to delay the decision-making process, and they must be involved early on (e.g., Martin and Vanberg 2004). With a view to EU politics, the majority of strong parliaments have introduced large and standing EU affairs committees, in some cases accompanied by the right to constrain governments' discretion by either an explicit mandating procedure or a scrutiny reserve (Winzen 2013). We argue that only strong parliaments provide the tools to effectively oversee the government and its administration. Only far-reaching information and participation rights guarantee that the exchange of information survives the subsequent transposition stage—even in the event of political discontinuity.

The design of our study allows us to assess the different effects of ex-ante scrutiny in weak and strong parliaments. All parliaments have the same directive to transpose in a timeframe that has been agreed on by the Council of Ministers. We test our arguments using data on ex-ante scrutiny activities and implementation measures on more than 650 directives from four relatively strong national parliaments (Germany, Denmark, Finland, Slovakia) and four rather weak national parliaments (France, Ireland, Italy, United Kingdom), covering 33 governments over a period of thirteen years. Our results strongly suggest that an early involvement of national parliaments can only speed up the transposition process if parliamentary oversight institutions are sufficiently

strong. By contrast, if oversight institutions are weak, ex-ante scrutiny may even cause transposition delay.

The paper continues with a discussion of the relevant literature and the derivation of our theoretical arguments. Thereafter, we present our data set and the results of our empirical analysis before we offer a concluding discussion.

National Parliaments and the Transposition of EU Directives

European integration has recalibrated the balance between national parliaments and their governments. Where more and more decisions are made behind Brussel's closed doors, the executive branch of government has an information advantage. This information asymmetry has been the cause for concern for the democratic legitimacy in the EU (Hix and Follesdal 2005). At the core of this argument is the concern that governmental agents may exploit their discretion to misrepresent their parliamentary majorities. In response to the shift of legislative competences, national parliaments have become more and more involved in European policy-making. As it has been shown by Winzen (2013), the increase in formal competences of parliaments in the Treaties has been reflected in an overall strengthening of oversight powers in national parliaments over time despite large national variation.

Studies on the transposition of directives often focus on the national implementation process and ignore the effect of parliamentary scrutiny prior to adoption (König and Mäder 2014). Yet, parliaments and parliamentary committees have gained more scrutiny rights at early stages of the decision-making process, and the European Commission has the standard policy to send proposals to national parliaments for consideration (Auel 2007; Winzen 2012). The case of the

adoption and implementation of ‘Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for the Community action in the field of water policy’ (Water Framework Directive) in Germany provides a good illustration of strong ex-ante scrutiny activities (Sprungk 2011). The responsible standing committee in the German Bundestag adopted a binding resolution that restricted the government in accordance with Article 23 Grundgesetz (Bundestag Drucksache 14/154). As a consequence, the government had to report regularly to the parliament on the progress of the negotiations. The subsequent implementation of the directive in Germany went smoothly, despite the complexity of the issue.

Importantly, parliamentary oversight is not restricted to those EU directives that are implemented by law. On the contrary, it is an essential function of parliament to control the executive branch when acting by decree, too (Epstein and O’Halloran 1999; Dörrenbacher 2017). That is all the more important because governments enjoy a significant level of discretion in the choice of ratification instruments.

What constitutes parliamentary strength? Strong parliaments are characterised by many highly specialised standing committees, extensive information rights, far-reaching rights to rewrite the policy proposal, the right to compel witnesses, and a guaranteed time to engage in scrutiny activities. Moreover, strong parliaments frequently limit the majority’s ability to monopolise the agenda by limited securing access to the floor and allowing for members’ initiatives’ (Döring 2001). Over the last two decades, most national parliaments have established special oversight institutions and procedures for EU policy-making. The design and strength of parliamentary oversight vary significantly across member states. As a general rule, strong parliaments establish strong scrutiny rules with regard to EU politics, too (Winzen, 2010, 2012).

Who engages in parliamentary oversight activities and why? Many oversight instruments such as committee referrals, speeches or questions do not require a majority, but can be instigated by party factions or even individual MPs. The comparative literature on parliamentary oversight identifies two types of parties that have an incentive to scrutinise.

Opposition control: Most prominently, the opposition uses parliament to control the government (e.g., Saalfeld 2000; Strøm 2000). Formally, opposition parties may find it difficult to either amend or delay transposition unless they confront a minority government or hold the majority in the second chamber ('divided government'). Why then does the opposition engage in committee deliberations, hearings, questions or speeches? According to Laver (2008: 4) the opposition tries to pull the policy towards the median MP by splitting open the government's support coalition. Moreover many oversight activities imply a certain level of publicity, therefore the government is well advised to engage with parliament before deciding the policy, especially if the policy at hands is salient in the domestic arena (Saalfeld 2003: 76).

Coalition Control: More recently, Martin and Vanberg (2004) argue that coalition partners use parliamentary oversight to keep 'their' leading minister in check. Formally, the coalition partner is in a better position to demand amendments and delay the decision than the opposition. After all, his party is part of the governmental majority in parliament. Please note that these two arguments are not entirely independent from each other. Specifically, in case of majority government any opposition influence depends on the conflict among coalition partners.

Importantly, only strong parliaments offer the tools by which either opposition or coalition parties can affect the policy outcome on a regular basis (Martin and Vanberg 2004). By contrast, where committees are weak, information and amendment rights are curbed and the majority dominates the agenda, parliamentary oversight is targeted to attract public attention. That strategy

is not only limited to more salient cases, but also relies on steering up conflict rather than finding inter-party compromise.

Building on these insights from the comparative literature, we next derive theoretical expectations on the effect of parliamentary oversight on the transposition of EU directives.

Theoretical Expectations

Actors' Motivation for Oversight: Agency Drift

Agency drift describes a scenario in which an agent exploits his informational advantage to overstep his mandate to his own benefit. The risk of agency drift increases in two conditions. First, the preferences of agent and principals diverge (henceforth: 'policy conflict'). Second, the agent is better informed than the principal (henceforth: 'information asymmetry'). The combination of policy conflict and information asymmetry requires higher levels of oversight to keep the agent in check (McNollgast 1987; Martin and Vanberg 2004). With a view to the transposition and implementation of EU directives, the executive branch of government qualifies as agent whereas the legislative branch qualifies as principal. Next, we discuss information asymmetries and policy conflicts of relevance for studying the transposition of EU directives.

Information Asymmetry: In the transposition and implementation literature, so-called management theories highlight that national administrations know best whether or not an implementation instrument will have the desired effect (Tallberg 2002; Börzel et al., 2010; Borghetto, Franchino, and Giannetti, 2006). On the other hand, political parties represented in parliament may find it difficult to gauge the political consequences of governmental decrees. Moreover, many EU directives are transposed by law. Since the legislative decision-makers enjoy

a significant level of discretion when implementing EU directives, they need to acquire relevant information on the consequences of competing policy alternatives from the responsible ministries and their administrations. The governing parties, in particular the party of the minister in charge, find it easier to obtain that information by relying on expertise in the ministry and its subordinate agencies. Overall, the potential for information asymmetry increases in the complexity of the directive.

Policy Conflict: As outlined above, the comparative literature centres around two arguments. First, from the perspective of the opposition control argument, the incentive to engage in parliamentary oversight increases in its policy distance between the opposition party and the government (e.g., Saalfeld 2000; Strøm 2000). From this perspective, the government exploits its information advantage to drift away from the policy position of the median MP. Second, from the perspective of the coalition control argument, ministers have been mandated to implement the coalition agreement struck among party leaders (Martin and Vanberg 2004). Yet, the responsible ministers hold private information on the policy proposals in their jurisdiction. This information asymmetry can cause ministerial drift; that is, the minister's policy proposal deviates from the coalition agreement. The likelihood and severity of ministerial drift increases with the dissent between the coalition partners (Martin and Vanberg 2004: 20).

Institutions: Parliamentary Strength

So far, we have established that policy conflict between (i) government and opposition or (ii) among coalition partners increases the incentives to flatten existing information asymmetries, that is, the incentives for parliamentary scrutiny. If either type of policy conflict increases, the parliament (or at least the concerned parties in parliament) have an incentive to limit the

discretion of the executive branch in implementing EU directives. In other words, these are the necessary conditions for observing oversight activities that are motivated by policy seeking. The necessary information on the consequences of competing policy alternatives can be gathered and exchanged via parliamentary oversight such as committee deliberations, hearings, questions, and amendments. On the downside, parliamentary oversight activities such as committee deliberations, hearings, and crafting amendments are time-consuming and may slow down decision making (see above). Eventually, these activities can be expected to lengthen the adoption process of laws—and consequently cause transposition delay (Dörrenbacher, Mastenbroek, and Toshkov 2015). The hope is that beginning the parliamentary oversight procedures as early as possible would lead to faster and more timely transposition. Hence, early parliamentary scrutiny that begins prior to the adoption of the EU directive causes faster transposition (Finke and Dannwolf 2015; Sprungk 2013, Linos 2007).

However, the effect of parliamentary oversight on the timeliness of transposition depends on the strength of parliament. Only sufficiently strong parliaments enable parties to successfully scrutinise the policy making by the government (Martin and Vanberg 2004). Strong parliaments have specialised and resourceful standing committees, the right to compel witness and rewrite substantive parts of the proposal, and they limit the majorities' ability to monopolise the agenda. Hence, strong parliaments give all parties powerful tools to oversee the decision-making process. Why should that cause the government to halt the decision-making process? Coalition partners can threaten to withhold their support for the ministers' proposal or to retaliate on any breach of the coalition agreement in the future. Formally, opposition parties may find it difficult to either amend or delay transposition unless they confront a minority government or hold the majority in the second chamber ('divided government'). However, first, opposition parties can try to use the parliamentary oversight to break the coalition discipline (Laver 2004). Consequently, some

parties in government may have an interest in the information and, eventually, amendments produced by parliamentary oversight. Second, many of these oversight activities imply a certain level of publicity. Therefore, the government is well advised to engage with parliament before deciding the policy, especially if the policy at hands is conflictive at the partisan level and salient in the domestic arena (Saalfeld 2003: 76). From this perspective, ex-ante scrutiny implies nothing else but preponing time-consuming oversight activities from the implementation to the decision-making stage.

Finke and Dannwolf (2015) suggest that scrutiny can also have the opposite effect by manifesting latent policy conflicts. This effect sets in where parliaments are weak, and therefore, scrutiny cannot be seen as an effective tool to influence policy making by the government. Instead, oversight in weak parliaments is motivated less by policy seeking than by blaming and vote seeking. Scrutiny generally occurs more seldom and is motivated by the opposition's desire to blame the government for its insufficient and bad policy proposal. In this institutional context, scrutiny not only indicates a very high political saliency, but may even contribute to waking the proverbial sleeping dog, thereby complicating rather than easing the transposition process. Consequently, we *expect that ex-ante scrutiny speeds up transposition where oversight institutions are strong but may even delay transposition where oversight institutions are weak (Hypothesis 1).*

Reshuffling Principal and Agent: Discontinuity

Another major challenge to timely transposition is discontinuity in either the partisan composition of the government or the parliament (Sprungk 2013). A new government may oppose an EU directive signed by its predecessor and, consequently, delay its transposition

(Falkner et al. 2005). Or, elections may shift the position of the median and, therefore, render any ex-ante promises on transposition policy invalid. Both scenarios are particularly relevant in case of high policy conflict. If all parties are in agreement, discontinuity should have no effect on transposition. Furthermore, the newly elected parties may yet lack the necessary political and technical information for implementation. Basically, discontinuity hinders the transfer of information. In strong parliaments, successful ex-ante scrutiny can overcome problems caused by such changes because it guarantees the involvement and influence of additional political parties as well as institutional actors (standing committees) at an early stage. By contrast, in weak parliaments, scrutiny is motivated by blaming the government. Hence, it does not contribute to a constructive exchange of information but instead heats up the confrontation. Overall, we argue that *the expected effect of ex-ante scrutiny should be even stronger if the partisan composition of government has changed during the transposition period (Hypothesis 2)*.

Overall, we make the following arguments. First, strong parliamentary oversight can be used to overcome the information advantage of the executive branch of government, specifically of the leading minister. Consequently, strong parliaments engage in scrutiny to affect the policy outcome. By contrast, weak parliaments use scrutiny as a platform to blame the government and heat up the public debate. Second, if effective oversight can be successfully transferred to the negotiation stage (ex-ante scrutiny), the speed of transposition will increase. Fourth, effective oversight is especially relevant in the event of discontinuous composition of government and/or parliament.

Empirical Analysis

Data and Research Design

Transposition is a process that evolves over time and is especially affected by right-censoring and covariates varying over time. Therefore, most studies investigating the timeliness of transposition employ event history analysis (e.g., Mastenbroek 2003). We analyze individual directives that have been adopted between 2000 and 2013 in eight countries. In what follows, we discuss the choice of our design and the setup of our dataset.

We select eight countries for our analysis on the basis of Winzen's (2012) indicator on the strength of parliamentary oversight institutions in EU affairs. We selected the lower houses of Denmark, Finland, Germany, and the Slovak Republic from the group of parliaments categorised as having relatively strong oversight institutions and the lower houses of France, Ireland, Italy, and the UK from the group of parliaments categorised as having relatively weak oversight institutions. Recent research discusses to what extent, for example, in the Slovak Republic, the parliamentary practice mirrors the strength measured by formal rules and resources (Knutelska 2011). To accommodate these concerns, we tested the robustness of our results by excluding individual countries from the analysis but found no fundamentally different results. As mentioned above, the existing indices of general parliamentary strength are highly correlated to EU-specific indices (e.g., Karlas 2011; Martin and Vanberg 2006). Yet, this correlation is never perfect. For example, Martin and Vanberg (2006) rank our cases in the same order but place Finland and Italy closer together than suggested by Winzen's index. Karlas (2012) on the other hand has Finland

and Italy on different ends of spectrum.¹ During our period of observation, the ranking of countries by parliamentary strength is relatively stable. We are aware that other differences, such as administrative capacity, the number of veto players, or the average (mis)fit between EU and national policies exist between those countries, which may influence transposition duration. Therefore, all our estimates are stratified by the country level, meaning that they have a country-specific baseline hazard. The descriptive statistics presented indicate that the two subsamples are fairly similar with regard to the observed level of policy conflict, the percentage of scrutiny, and the percentage of discontinuity and with regard to all our control variables (see Table A1, Appendix).

Our sample includes all 684 directives adopted between 2000 and 2013. We follow the approach proposed by König and Luetgert (2009) and gathered data on all transposition measures notified to the European Commission until 1 February 2015 from sector 7 of the EURLEX database (<http://old.eur-lex.europa.eu>, retrieved January 2013) for all eight member states in our sample. The data includes systematic and complete information on the dates of adoption and publication as well as the title of the legal instrument.

In an ideal world, we would be able to distinguish between directives that must be implemented by law and cases that can be implemented by decree. Unfortunately, that information does not exist because governments enjoy significant discretion in the choice of the transposition instrument. As an additional robustness check, we re-run the analysis using exclusively those

¹ On closer inspection, we find that the crucial difference between the two lower houses is that the Finish Eduskunta enjoys significantly stronger rights to compel witnesses and to subpoena documents.

directives that have been transposed by law. This selection does not change the substantive results and we subsequently present the empirical analysis for all cases.

Dependent Variable

The dependent variable is the hazard of transposition at any given point in time. In order to control for unobserved country differences, such as administrative capacity or number of veto players, we stratify the baseline hazard by countries. In other words, the analysis assumes country-specific transposition hazards. The case begins being at risk of transposition when the directive is adopted at the EU level and ends with the date of transposition into respective national law, as officially notified to the European Commission. Dates are measured on a daily basis. For each member state, we selected the first measure after the adoption date of the directive on the European level as the date when the case stops being at risk of transposition. This is not straightforward, since member states usually report more than a single instrument as transposition measures. In identifying the first measures, we systematically exclude measures adopted at the sub-national level as well as reported pre-existing national law. Sometimes, the title of legal instruments explicitly refer to the EU directive,² but the first reported instruments are decrees that implement operational details of the directive. In those instances, we use the date of the instrument explicitly adopted to transpose the directive. If the member state does not notify any measure until the end of the observation period (February 2015), we consider this case as still being at risk of transposition. Overall, it is impossible to identify a non-ambiguous and

² For example, ‘Gesetz zur Umsetzung der Vierten EU-Geldwäscherichtlinie und zur Ausführung der EU-Geldtransferverordnung’, adopted by the German Bundestag in June 2017.

undisputable transposition date. Yet, we believe that in combination with country-specific hazard ratios, our coding delivers unbiased results.

We follow the majority of the literature in estimating a standard semi-parametric Cox model (Toshkov 2010 13). Please note that choosing a parametric model based on either a Weibull or an Exponential distribution changes effect sizes but not our substantive results. The model stratifies the estimated hazard by countries to control for unobserved heterogeneity in these groups. With respect to the baseline hazard, we find a steep increase in the implementation hazard during the first year after adoption (see Figure A1, Appendix). The corresponding decrease during the following years is less steep and flattens out after five to six years, at which point approximately 90% of the directives in our dataset have been transposed.

Scrutiny

In order to test our theoretical argument, we have compiled a unique data set on committee referrals for all European policy proposals from 2000 until 2013 in the country. We collected our data from the databases that are offered by all national parliaments of the sample.³ Unfortunately, the existing documentation did not allow us to collect data from 2000 onwards for all eight countries. However, the observed 33 governments provide sufficient variation along the relevant independent variables.⁴

³ For a list of these databases, please consult the Appendix.

⁴ To find out whether the unbalanced sample distorts the results, we weighted such that each directive has an equal probability to enter each of the two subsamples of weak and strong parliaments. The substantive results remain unchanged. Furthermore, our results are robust against excluding individual countries from the analysis.

In this paper, we consider the referral of EU policy proposals to national parliamentary committees as a crucial first step that may lead to committee deliberations and decisions. Some parliaments, such as the German Bundestag until 2007, refer all EU documents to their EU affairs committee. We ignore such automatic referrals ('rubber stamping') and consider any additional mentioning of EU documents on a committee's agenda instead.

We concede that our proxy for parliamentary oversight does not include any information on the degree of substantive parliamentary oversight. Yet, apart from its availability, it has the unique advantage that it is comparable across parliaments. Although in some parliaments, the formal rules of procedure stipulate that the agenda-setting right rests with the committee chair, we assume that *de facto*, each individual party group has the power to bring an EU proposal on a committee's agenda (Finke and Herbel 2015). We offer a discussion of this assumption in the Appendix, which describes the relevant procedures for each parliament in our sample.

We are aware that not all referrals lead to deliberations and negotiations. However, measuring those activities directly in a comparative quantitative study is impossible. First, parliaments provided very different documentation structures, and second, the instruments available to parliaments in different countries differ widely. While our operationalisation overestimates the real extent of scrutiny, we identify those proposals that have not been subject to parliamentary oversight activities with certainty. Therefore, our operationalisation of the main independent variable ('scrutiny') distinguishes between cases that 'certainly have not' and cases that 'probably have' been subjected to deliberations and negotiations in parliament. As a consequence, committee referral constitutes a noisy indicator of parliamentary oversight that should underestimate the true effect of scrutiny on transposition.

With regard to the percentage of EU legislative proposals that have been scrutinised by parliamentary committees, we observed a significant level of variation, both across countries and over time (see Table A2, Appendix). The variation across countries reaches from about 20% of scrutiny in Ireland during the Cowen government up to 86% in Italy during the Berlusconi government. France and Ireland are the two countries with the lowest levels of scrutiny throughout the whole period of study (about 20 to 30%). The level of scrutiny varies within countries over time, too. In the UK, for example, the level of scrutiny rises from 37% under ‘Blair 1’ to more than 70% under Cameron. Similarly, we can observe an increase in scrutiny activities in Italy from the Prodi to the Berlusconi governments as well as a decrease from the Monti to the Letta governments. Furthermore, we observed significant differences across policy dimensions, which we approximated by the leading committee in the European Parliament. Specifically, the level of scrutiny varies from almost 80% of all proposals handled by the Constitutional Affairs Committee (AFCO) to 37% of all proposals handled by the Legal Affairs Committee (JURI) Committee, which often handles rather technical, legal proposals.

Policy Conflict

In order to operationalise policy conflict, we require a measure for *party positions*. Here, we resorted to the CMP dataset (Klingemann et al. 2006; Volkens et al. 2010). Specifically, we deploy the following ten issue scales proposed by Lowe et al. (2011): ‘environment’, ‘freemarket’, ‘international’, ‘libcons’, ‘logeu’, ‘logplaneco’, ‘logrile’, ‘stateconomy’, ‘statservices’, and ‘technology’. We assigned these policy dimensions to the law proposals using information about the responsible directorate-general (see the Appendix). Information about the composition of parliaments and governments has been retrieved from the parl.gov.org database (Döring and Manow 2015). Following Achen (2006), the asymmetric Nash bargaining solution

can be approximated by the weighted mean of actors' positions. Therefore, the position of the government (*Gov.*) has been calculated as the weighted (by seat share) mean of all coalition partners' positions. The position of the opposition (*Opp.*) has been calculated analogously. Finally, we gathered information on the partisan affiliation of all ministers in the eight countries in the sample during the period of observation. We used information of the leading committee in the European Parliament to assign the ministries to each law proposal (see the Appendix). Hence, we can identify the party position of the leading minister (*LeadM.*). Importantly, we were able to cross-validate this matching procedure using information on roll call votes in the Council of Ministers. Using a subset of 125 policy proposals, we find that our matching procedure identifies roughly 82% of the lead ministers correctly. The position of the coalition partner (*Coal.*) is the position of the party that is not responsible for this portfolio. In case of more than one coalition partner, we take the weighted mean of all other parties in government.

Please note that all actor positions vary over time, across countries, and across policy dimensions. Therefore, the variables based on party positions are included as time-varying covariates.

Discontinuity

Hypothesis 2 relates to discontinuity and requires a measure for change in the partisan composition of the government and the parliament. Governmental discontinuity (*GovDis*) is operationalised as a dummy variable indicating a change in partisan affiliation of the responsible minister, and we code it using information from the *parlgov.org* data set (Döring and Manow 2015). To capture parliamentary discontinuity (*ParlDis*), we include the distance between the position of the median of all parliamentary parties at the respective point in time and the position of the median at the time of adoption. This proxy captures a change in the equilibrium policy agreed in a given electoral term.

Control variables

As mentioned before, to control for unobserved yet relevant country differences, we stratify the model such that it estimates country-specific baseline hazards. Consequently, we include only additional control variables that vary at the proposal level. We control for the electoral cycle by counting the *days since the last national elections*. It has been argued that upcoming elections delay implementation and that a recent change in government reduces efficiency for administrative reasons. The *duration of EU lawmaking* indicates the time elapsed between date of publication of the Commission proposal and date of adoption of the directive (in days). For obvious reasons, we split the sample in a time prior and after the official implementation deadline (*Post Deadline*). Finally, we add a dummy variable that indicates the applicable EU legislative procedure (equal to 1 if *Co-decision*).

To operationalise *saliency*, we followed Finke and Dannwolf (2013) in approximating political importance by the length of the European Parliament's report (first reading), which is highly correlated to the number of plenary amendments and the length of the explanatory summary offered in the Legislative Observatory (OEIL). Since the bulk of proposals are, from this perspective, rather unimportant, the variable is skewed and enters the regression as log. To operationalise *complexity*, we followed Kaeding (2006) in counting the number of recitals mentioned in the final legislative texts. Recitals are used to clarify the intended meaning in order to avoid misunderstandings and false interpretation at the implementation stage.

Finally, we included a dummy indicating whether the proposal *amends existing EU law* or whether it is genuine secondary legislation. Amending legislation has been found to be transposed much faster than new legislation (Kaeding 2006; Luetgert and Dannwolf 2009).

Moreover, we added a dummy variable indicating whether or not the proposal has been settled at the lower levels of the Council of Ministers (*Council Agenda [A/B point]*). Finally, implementation is delayed for directives that concern either sub-national regions or organised interests. For this reason, we included two dummy variables indicating whether or not the *Committee of Regions* and the *European Economic and Social Committee* prepared an opinion on the proposal.

Results

In the first step, we estimate a series of four Cox survival models, each of which is stratified by countries. We test the proportional hazard assumption of the Cox model using the Schoenfeld residuals. The assumption is slightly problematic for two of our control variables, namely, ‘Deadline’ and ‘New or Amend’. We follow the approach proposed by Park and Hendry (2015) and are able to fix the issue by interacting the three variables with the natural logarithm of time, $\ln(\text{time})$. In Table 1, a coefficient larger than 1 means a positive effect on the hazard of transposition and therefore faster transposition. An effect size lower than 1 indicates a negative effect on the hazard and therefore slower transposition.

The referrals of EU policy proposals to parliamentary committees and the deliberations in committees take place early in the EU decision-making stage. Unfortunately, the duration of EU decision making varies significantly. Half of the directives in our dataset take less than 485 days from Commission proposal to publication in the Official Journal. Approximately 95% of all directives are decided upon in less than 1155 days, that is, in about three years. Our causal mechanism assumes either an institutional or a personal memory in which the exchanged information and the political compromises are stored. Parts of this information are either lost or invalidated over time. Unfortunately, we neither have a complete record nor an exact date of the

last relevant ex-ante scrutiny activity. Accordingly, we suspect that the effects expected by our theoretical arguments should hold for directives with a normal duration at the EU level. In order to avoid distortions by outliers, we exclude the slowest 5% of cases.

Parliamentary Strength and Policy Conflict

We begin by testing the net effect of parliamentary scrutiny on transposition duration, which, according to the existing literature, should have a positive effect of ex-ante scrutiny on the transposition hazard (Linos 2007; Finke and Dannwolf 2013). The baseline Model 1, including ex-ante scrutiny and the control variables, returns the following effects. First, ex-ante scrutiny is associated with a significant increase in the transposition hazard by a factor of approximately 1.3 and therefore with faster transposition. Second, the transposition hazard increases significantly after the deadline has passed. This effect varies over time; that is, it depends on the length of the prescribed implementation period. Third, politically salient directives have a higher transposition hazard. Fourth, directives with a regional dimension have a lower transposition hazard. Finally, the transposition hazard is lowest in the immediate aftermath of a general election.

Models 2–3 test our argument that the effect of oversight should be conditional on the strength of parliamentary oversight institutions (H1). Model 2 includes the conflict between government and opposition, Model 3 includes the conflict among coalition partners, and finally, Model 4 constitutes the full model with all variables. All models include interaction effects between strength, ex-ante scrutiny and policy conflict, and these coefficients can therefore not be interpreted directly. We therefore plot the partial effect of ex-ante scrutiny on the transposition hazard, which allows an evaluation of the effect of ex-ante scrutiny on transposition at different levels of strength and policy conflict.

We begin by discussing the effect of scrutiny conditional on the strength of parliamentary oversight institutions and the level of conflict between government and opposition ($|Gov-Opp|$; Figure 1). Where oversight institutions are strong, scrutiny increases the transposition hazard for conflictive directives by a factor between 2.0 and 2.5.

Where oversight institutions are weak, the effect of ex-ante scrutiny depends strongly on the degree of conflict between government and opposition. In the absence of policy conflict, scrutinised directives are transposed up to 10 times faster than unscrutinised directives. Hence, ex-ante scrutiny seems to speed up transposition if oversight institutions are weak and all major parties hold similar policy positions. However, if oversight institutions are weak and the opposition is in conflict with the government, ex-ante scrutiny slows transposition. Substantively, this negative effect is of similar size; that is, the hazard ratio of unscrutinised, conflictive directives is up to 10 times higher than for scrutinised, conflictive directives.

Next, we focus on intra-coalition conflict ($|LeadM-Coal|$). Specifically, we include a triple interaction term between ex-ante scrutiny, the conflict between lead minister and his coalition partners, and the strength of oversight institutions. Again, the results are best interpreted by studying the partial effect of scrutiny plotted in Figure 1, which partly confirms Hypothesis 1. We find that scrutiny delays (speeds up) transpositions if the policy conflict is sufficiently high (low) and oversight institutions are weak. The size of this effect is similar to the conflict between opposition and government, that is, up to a factor 10. If, however, oversight institutions are strong, we observe no effect whatsoever.

Please note that the two measures for policy conflict are uncorrelated and we can therefore integrate Models 2 and 3 (see Table A3, Appendix). Integrating the two models does not alter the substantive results. If anything, the results reported so far become stronger. As a consequence, we

find our first hypothesis only partly supported. Although the strength of the oversight institutions do matter, we only find a positive effect of scrutiny for high conflict between government and opposition, not in case of high conflict among coalition partners.

[FIGURE 1 ABOUT HERE]

Overcoming Discontinuity

As mentioned above, one reason for transposition delay is discontinuity in the composition of either government and/or parliament during the transposition period. In case of continuous government composition, the same minister negotiates the political compromise in Brussels, drafts the transposition instrument, and steers it through parliament. By contrast, if the composition of government changes, a new party is responsible for the lead ministry, and maybe even new parties are necessary for organising the parliamentary majority. Hypothesis 2 expects that the effects of ex-ante scrutiny identified previously should be even stronger in case of discontinuity.

In order to test this argument, we interact governmental discontinuity with coalition dissent, ex-ante scrutiny, and strength of oversight (Table 1). Again, we resort to a graphical presentation of the partial effects of ex-ante scrutiny dependent on policy conflict, strength of government, and discontinuity (Figure 2a). A close inspection of Figure 2a lends support to our hypothesis. The effect of ex-ante scrutiny on the transposition hazard is almost insignificant as long as the composition of government remains stable. However, once the composition of government changes, ex-ante scrutiny can successfully overcome the delaying effect of coalition dissent where oversight institutions are strong. In this situation, scrutiny can increase the transposition hazard up to a factor four. However, where oversight institutions are weak, ex-ante scrutiny can only unfold its positive effect if intra-coalition dissent is low. In other words, strong oversight

facilitates finding a compromise that is sustained by a broader political majority and, consequently, less susceptible to any discontinuities in the composition of government.

What about discontinuity in the composition of parliament? To capture this discontinuity, we consider the change of the median MP's position on the relevant policy dimension over time. Specifically, we compare the current position of the median to the position of the median at the time the directive has been adopted. To test this argument, we interact this measure for parliamentary discontinuity with the conflict between government and opposition, ex-ante scrutiny, and strength of oversight (Model 6) and calculate the partial effect plot (Figure 2b).

Where oversight institutions are weak, discontinuity mediates the effect of scrutiny. In case of a continuous parliament, scrutiny speeds up implementation in low-conflict situations but slows down transposition in high-conflict situations. In case of a discontinuous parliament, scrutiny still speeds up transposition in low-conflict situations, but it has no effect in high-conflict situations.

With a view to strong oversight institutions, we find the expected conditioning effect of discontinuity. Scrutiny causes faster transposition in high-conflict situations only where oversight institutions are strong. Only strong institutions guarantee that a political compromise is sustained by a broader coalition and, therefore, survives the legislative term.

In terms of explanatory power, our results suggest that the conflict between government and opposition is more important for our understanding of the effect of scrutiny on transposition than the conflict inside the coalition. Our results are robust against excluding individual countries and cases. Again, we estimated an integrated model including both dimensions of policy conflict (see Table A3, Appendix). The substantive results remain unchanged.

[FIGURES 2A AND 2B ABOUT HERE]

[TABLE 1 ABOUT HERE]

Conclusion

Conflictive and salient policy proposals trigger a higher level of parliamentary oversight activities. Strong parliaments enable all parties to effectively obtain information in order to influence the policy outcome (Martin and Vanberg 2004). By contrast, parliamentary oversight in weak parliaments occurs less frequently and is limited to blaming the government, thereby heating up the debate. Following the literature, parliamentary scrutiny is in demand if either the opposition has reasons to distrust the government or the coalition partners have reasons to distrust each other. In both scenarios, parliamentary oversight can cause slower transposition: Either (i) the coalition party is pivotal for upholding the governmental majority or (ii) the opposition targets selected coalition parties or (iii) the government simply prefers to avoid the appearance of premature and non-transparent decision making.

The comparative literature argues that an early involvement of parliament contributes to a timely solution of coordination problems and policy conflicts. With a view to EU politics, these parliamentary oversight activities can just as well take place prior to an EU directive being adopted. A similar argument can be made about state parliaments in some federal systems, such as Germany or Belgium. Here, we ask the following: Under which conditions can an early involvement of national parliaments successfully speed up transposition?

Our analysis offers the following insights. Only where parliamentary oversight institutions are sufficiently strong can early involvement of national parliaments speed up the transposition of EU directives. Although most national parliaments have established special oversight institutions

and procedures for EU policy-making, the design of these procedures still varies significantly and is frequently correlated with parliaments' overall strength (Karlas, 2011; Winzen, 2010, 2012).

In the British, the French, the Italian, and the Irish parliaments, several of the following weaknesses apply: Access to information is often limited, the government is not obliged to justify its positions and strategies, parliaments cannot constrain the negotiator, scrutiny reserves are ineffective, foreign and European affairs committees are weak, sectoral committees are not involved in EU affairs, and the governmental majority dominates the agenda in plenary. Our findings suggest that an early involvement of national parliaments in these countries may even cause the delayed transposition of highly conflictive directives.

On the other hand, parliamentary oversight in Denmark, Germany, Finland, and the Slovak Republic is considered to be stronger (at least formally). Here, early involvement results in an effective oversight of the agent (here, the responsible minister) and, therefore, contributes to speeding up transposition of conflictive directives. In other words, where policy conflict is high, an early involvement of parliament is only recommendable if parliamentary oversight institutions are sufficiently strong.

The role that strong parliaments can play for a timely transposition of EU directives is all the more important in the presence of discontinuity. Substantive changes in the composition of government or parliament aggravate the delaying effect of policy conflicts on the transposition of EU directives. Parliamentary scrutiny activities imply that effective information exchange and, eventually, political compromises are built early on in the process and involve a wider set of party groups.

Future research should focus on the effects of different types of scrutiny activities. For example, hearings and committee deliberations can be used by individual parties to obtain information, whereas mandates or resolutions imply a commitment by a majority of MPs.

At a time when EU secondary legislation is increasingly characterised by substantive policy conflicts, our results are instructive for political reforms that aim at strengthening parliamentary oversight before involving national parliaments at early stages of the EU policy-making process. Furthermore, deliberation and negotiation processes cause delay in domestic politics, too – especially in federal, multilevel systems. Therefore, the relevance of our results extends beyond EU politics, suggesting that decision-making efficiency can be improved by an early involvement of parliament as long as the oversight institutions are sufficiently strong. However, we are aware that characteristics of each political system place significant constraints on the possible designs of parliamentary oversight institutions and procedures.

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Tables

Table 1: Results of Cox Proportional Hazard Models

	M1	M2	M3	M5	M6
Scrutiny	1.33*** (0.08)	2.57*** (0.49)	1.50*** (0.22)	2.81*** (0.6)	1.09 (0.18)
Strength		0.84 (0.28)	0.56* (0.18)	1.89* (0.63)	0.44** (0.14)
Scrutiny#Strength		0.68* (0.14)	1.02 (0.18)	0.38*** (0.09)	1.62** (0.33)
Gov.-Opp.		1.68*** (0.17)		2.53*** (0.28)	
Scrutiny# Gov.-Opp.		0.49*** (0.08)		0.43*** (0.08)	
Strength# Gov.-Opp.		0.81** (0.07)		0.45*** (0.05)	
Scrutiny#Strength# Gov.-Opp.		1.53*** (0.24)		2.13*** (0.38)	
Parl.Dis.				0.54** (0.15)	
Parl.Dis.#Scrutiny				1.79 (0.82)	
Parl.Dis.#Strength				0.24*** (0.06)	
Parl.Dis.#Strength#Scrutiny				1.0 (0.49)	
Parl.Dis.# Gov.-Opp.				0.5*** (0.13)	
Parl.Dis.# Gov.-Opp. #Scrutiny				0.78 (0.31)	
Parl.Dis.# Gov.-Opp. #Strength				2.43*** (0.51)	
Parl.Dis.# Gov.-Opp. #Strength#Scrutiny				1.23 (0.46)	
LeadM.-Coal.			0.84 (0.25)		0.57* (0.18)
Scrutiny# LeadM.-Coal.			0.41** (0.17)		0.69 (0.32)
Strength# LeadM.-Coal.			1.18 (0.28)		1.97*** (0.50)
Scrutiny#Strength# LeadM.-Coal.			1.55 (0.53)		0.69 (0.28)
Gov.Disc.					0.49*** (0.10)
Gov.Disc.#Scrutiny					3.86*** (1.24)
Gov.Disc.#Strength					2.32*** (0.43)
Gov.Disc.#Scrutiny#Strength					0.18*** (0.06)
Gov.Disc.# LeadM.-Coal.					6.77** (5.19)
Gov.Disc.# LeadM.-Coal. #Scrutiny					0.12** (0.12)
Gov.Disc.# LeadM.-Coal. #Strength					0.13*** (0.07)
Gov.Disc.# LeadM.-Coal. #Strength#Scrutiny					16.03*** (12.54)
Recitals (log)	1.05 (0.04)	1.05 (0.05)	1.05 (0.04)	1.02 (0.04)	1.05 (0.04)
Deadline (tvc x ln(time))	1.24*** (0.01)	1.27*** (0.01)	1.24*** (0.02)	1.26*** (0.01)	1.24*** (0.01)
New or Amend (tvc x	1.00 (0.01)	1.01 (0.01)	1.01 (0.01)	1.00 (0.01)	1.01 (0.01)
Council Agenda	0.92 (0.06)	0.93 (0.06)	0.92 (0.06)	0.93 (0.06)	0.9 (0.06)
Saliency	1.29*** (0.03)	1.28*** (0.03)	1.29*** (0.03)	1.18*** (0.03)	1.29*** (0.03)
ESC	1.05 (0.06)	1.06 (0.06)	1.05 (0.06)	1.11* (0.07)	1.06 (0.06)
Ctte. Regions	0.79*** (0.06)	0.79*** (0.06)	0.79*** (0.06)	0.80*** (0.06)	0.80*** (0.06)
EU Duration	1.00*** (9.28e-	1.00*** (9.39e-	1.00*** (9.39e-	1.00*** (9.58e-	1.00*** (9.52e-
Days last Election	1.00*** (5.25e-	1.00*** (5.29e-	1.00*** (5.35e-	1.00*** (5.63e-	1.00*** (7.94e-
Observations	341,537	341,537	341,537	341,537	341,537
Log Likelihood	-9399,6	-9375,1	-9390,4	-8938,9	-9370,5

Note: Stratified by country; *p<0.1; **p<0.05; ***p<0.01.

Figure 1: Partial effect of Ex-ante Scrutiny on the transposition hazard conditional on the Conflict among Coalition Partners, the Conflict between Government and Opposition, and the Strength of Oversight (95% CIs; Model 4a)

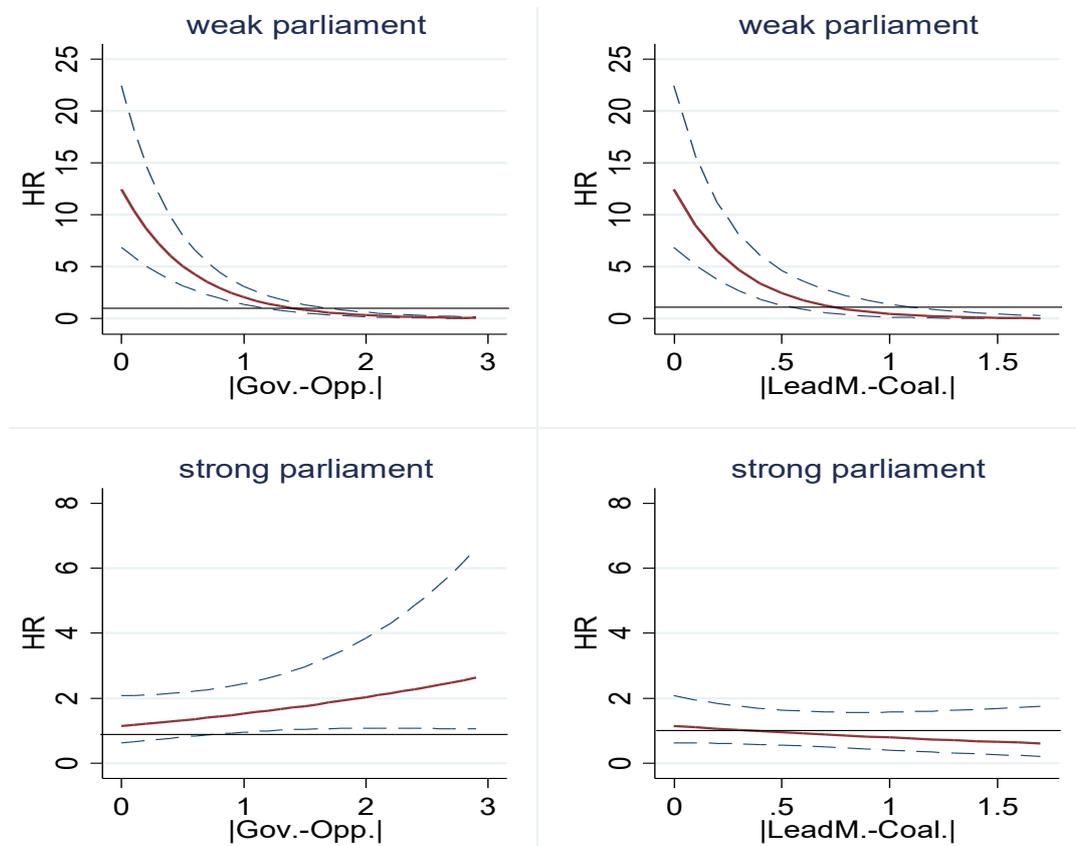


Figure 1: Partial effect of Ex-ante Scrutiny on the transposition hazard conditional on the Conflict among Coalition Partners, the Conflict between Government and Opposition, and the Strength of Oversight (95% CIs; Model 4a)

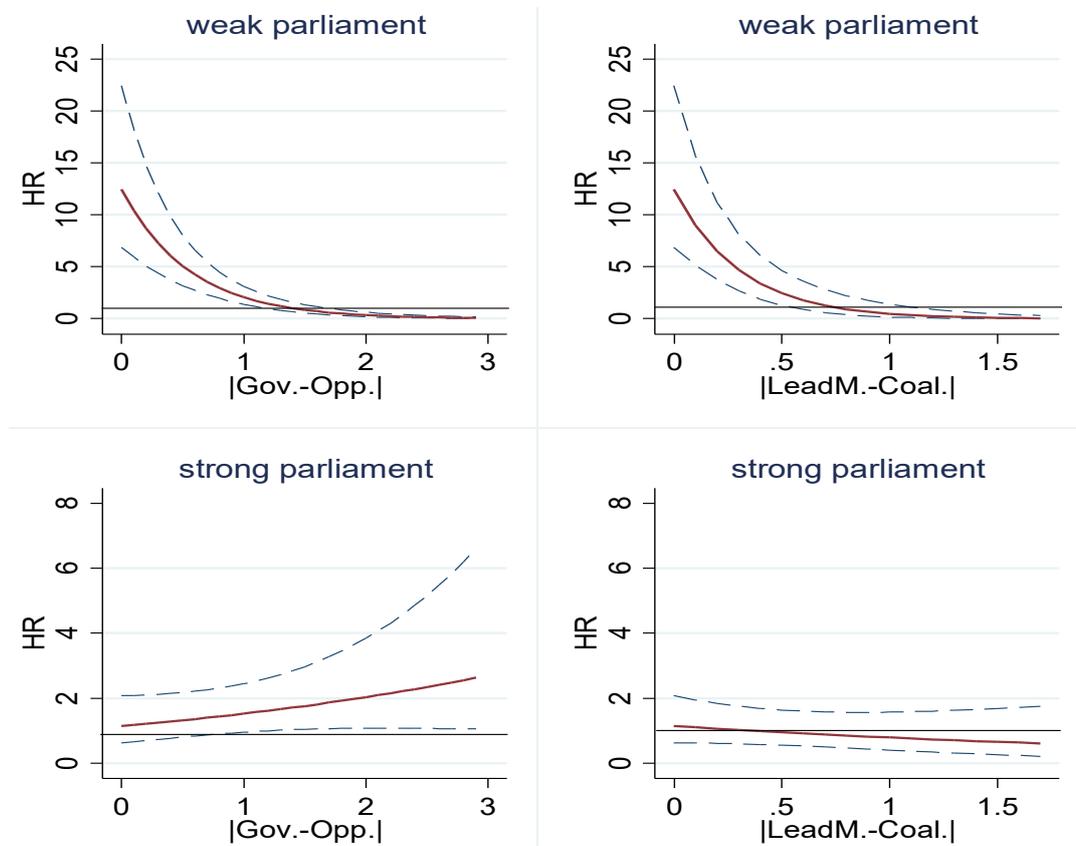


Figure 2b: The partial effect of Ex-ante Scrutiny on the transposition hazard conditional on Discontinuity, the Strength of Oversight, and the Conflict between Government and Opposition (below). (95% Cis). *Plot Regions:* i.: weak parl. and continuity; ii.: strong parl. and continuity; iii.: weak parl. and discontinuity; iv.: strong parl. and discontinuity.

