

Introduction

What shapes states' attitudes on the design of the enforcement mechanism of an international regulatory agreement? How are these positions affected by the enforcement institutions and the properties of contracting states? Enforcement mechanisms come in many shapes and forms: some arrangements lack formal procedures and solely rely on reciprocity and reputation; others contain arbitration, prosecution or dispute settlement procedures that increase ex-post costs of noncompliance, render commitments credible, and decrease transaction costs (Abbott et al., 2000; Keohane, 1984; Koremenos et al., 2001a: 763; Raustiala and Slaughter, 2002; Simmons, 2010). Scholars have identified several factors shaping the design of international organizations, such as the depth of cooperation, the extent of trade interdependence, the number of and power asymmetry among contracting states (Haftel, 2013; Hooghe et al., 2013; Hooghe and Marks, 2015; Koremenos, 2008: 154; Koremenos et al., 2001b; McCall Smith, 2000). However, these researches have paid no attention to whether and why states frequently do not share the same position over the design of an agreement's enforcement mechanism.

We address this question by analyzing the governmental positions on the enforcement of the fiscal governance rules of the European Union (EU). The EU has the world's most advanced compliance system. It combines an international bureaucracy (the European Commission, henceforth Commission), in charge of taking noncomplying

member states to an international court, with a decentralized procedure, based on national courts referring cases to the international adjudicatory body (Tallberg, 2002; Tallberg and McCall Smith, 2014). Scholars have extensively investigated both the monitoring (e.g. Fjellstul and Carrubba, 2018; König and Mäder, 2014) and the adjudicatory (e.g. Alter, 2001; Burley and Mattli, 1993; Carrubba, 2005; Carrubba et al., 2008; Stone Sweet and Brunell, 1998) stage of this process. But this is only one aspect of this elaborate compliance system. The design of an enforcement mechanism actually begins upstream, when government ministers in the Council of the EU, sometimes together with members of the European Parliament, set the depth of a regulatory arrangement, establish the enforcement prerogatives and constraints of the supranational bureaucracy, and may reserve to themselves some involvement in enforcing the policy.

This is not uncommon. For instance, while the Commission establishes the incompatibility of a state aid measure with internal market rules, the Council can decide otherwise, in derogation from this prerogative. In economic governance, negotiations revolved around the criteria to determine an excessive deficit (e.g. should spending on research be excluded? How should pension reforms be accounted for?), the procedure to follow (should a proposal establishing an excess require a Council qualified majority for approval or for rejection?) and the sanctions for noncompliance (Should they amount to 0.2% or 0.25% of a country's gross domestic product (GDP)?).

The objective of this article is to explain why EU governments took different positions on these design features.

Attitudes on enforcement design have hardly received attention in the extensive literature that investigates the conflict dimensions structuring negotiations in the EU (c.f. Bailer et al., 2015; Hagemann and Høyland, 2008; Thomson, 2011; Thomson et al., 2006). In some studies, the depth of cooperation emerges as a salient divide. For instance, Thomson, Boerefijn and Stokman (2004) suggest that one dominant conflict dimension represents the support for policy change, but it is unclear whether this implies deeper cooperation. Hagemann, Hobolt and Wrátil (2017) find that governments facing Eurosceptic publics are more likely to oppose measures that extend EU policy authority. In the narrower field of EU economic governance, the most systematic works report divides among countries opposing or supporting the recent Eurozone reforms (Armingeon and Cranmer, 2018), fiscal transfer or fiscal discipline (Lehner and Wasserfallen, 2019) or more integration (Târlea et al., 2019). Except for Schure and Verdun (2008), no other study systematically investigates positions on policy enforcement design.

Liberal intergovernmentalism, a prominent theory of European integration, sees delegation of enforcement prerogatives to the Commission as the standard practice to ensure credible implementation of common policies, and it expects governments anticipating noncompliance to oppose these decisions. This perspective neglects that enforcement may be shared between the Commission, where power resources are

equalized across states, and the Council, where they mostly vary according to country size. This raises the question of what explains attitudes toward different enforcement designs. Broader scholarship on international organizations suggests that less powerful (smaller) states should prefer greater centralization in order to secure more equality *vis-à-vis* powerful counterparts. In this article, we take the lead from these works and put forward expectations of how size (power asymmetry) and risk of noncompliance shape attitudes about the enforcement mechanism and the, concurrently negotiated, implementing discretion of an agreement.

We subject our expectations to empirical corroboration employing an original dataset of the positions that governments took over enforcement-relevant contested issues, which emerged during the negotiations on the design of fiscal governance from 1997 to 2012. The impact of correlates of governmental positions is estimated employing a system of structural equations that accounts for the simultaneity with which governments express their views on these issues during a negotiation occurrence. As expected, we find that governments with greater risk of noncompliance prefer greater discretion (looser cooperation) and that higher voting power (more powerful) governments prefer more Council involvement in enforcement as their risk of noncompliance increases. Voting power and risk of noncompliance also partially explain attitudes towards the role of the Commission, but, given their greater indeterminacy, the diffuse support for the EU at the national level emerges as the most relevant correlate of these positions.

Noncompliance risk, power asymmetry and enforcement

Liberal intergovernmentalism expects governments that anticipate greater difficulties in complying to be more reluctant to delegate enforcement prerogatives to a supranational agency such as the Commission (Moravcsik, 1998: 69, 73-7). After all, this so-called 'guardian of the treaties' has the mandate to ensure proper enforcement of EU law and, because of its independence, it should pursue this activity more credibly than a council of elected ministers would. Straightforwardly, our first expectation is as follows

H1: A government's preference for more Commission-based enforcement should decrease as its risk of noncompliance rises.

However, the Council is frequently involved in enforcement as well, especially in economic policy (Franchino and Mariotto, 2020; Heipertz and Verdun, 2010). What explains a preference for more Commission-based rather than Council-based enforcement? A plausible starting point is that countries should prefer an enforcement procedure over which they can exercise more influence. Indeed, Moravcsik (1998: 76, fn. 111) conjectures that smaller states may favour centralization (delegation) because equal treatment increases their influence. States are equally represented at the apex of this supranational institution, while the Council gives larger states more influence when it decides by qualified majority voting.

Students of the design of dispute settlement mechanisms make a similar point: less powerful (smaller) states should prefer more legalistic (centralized) procedures because they secure more equality and effective compliance by powerful states (McCall Smith, 2000; Tallberg and McCall Smith, 2014). However, these scholars do not investigate actual positions about enforcement mechanisms. Similarly, Moravcsik (1998) does not subject his conjecture to investigation since he focuses solely on the three largest European countries. Clearly, given the large differences across EU states, especially after the enlargement to several smaller countries, size should not be ignored in the politics of enforcement design.

This latter perspective casts doubts on the independence of the Commission. It puts more emphasis on commissioners being possibly delegates, rather than arbiters, of national interests. In other words, this approach does not take at face value article 245 of the Treaty on the Functioning of the European Union, which proscribes governments from influencing commissioners. Indeed, the possibility that commissioners may be tools of national influence should not be ignored. They are predominantly career politicians, frequently sharing the positions of the home country (Thomson, 2008). An attempt at reducing the size of the College of commissioners was successfully blocked by the Irish government during the ratification of the Treaty of Lisbon.

Indeed, the College, where each member state is entitled to one commissioner, is the primary channel through which a government can exert influence. And such influence

should not be discarded, despite norms protecting the autonomy and agenda setting prerogatives of individual commissioners and the first-among-equals role of the Commission President (Hartlapp et al., 2014; Nugent and Rhinard, 2005). The Penrose–Banzhaf voting power index of governments in the Council qualified majority voting procedure ranges from 0.09% for Malta to 16.01% for Germany, according to the new procedure operating from 1 November 2014 (article 16.4 of the Treaty on the European Union). In a College of 28 members who decide by absolute majority (article 8 of the rules of procedure), the power index of each commissioner is 3.57%. Accordingly, a formal model proposed by Schure and Verdun (2008) suggests that larger (higher Council-voting power) states should prefer more Council-centered enforcement, while smaller states should opt for greater Commission involvement in enforcement.

Lingering issues remain, however. The original argument for Commission-based enforcement rests on the higher probability of sanctioning noncompliance. Would small states that anticipate compliance problems therefore still prefer empowering the supranational agency rather than the Council? Would large states that expect to be compliant, prefer retaining control over enforcement in the Council rather than diluting their influence in the Commission? How do size (power asymmetry) and risk of noncompliance concurrently shape attitudes toward enforcement design?

A more articulated view would contend governments that expect to be more at risk of infringement to display stronger preferences for enforcement procedures over which they can exercise more influence. Following Schure and Verdun (2008), let us equate

this influence with the voting power governments have under the Council qualified majority rule (more on this below). We have the following two expectations.

H2: A government with high voting power should prefer more Council-based enforcement as its risk of noncompliance rises.

H3: A government with low voting power should prefer more Commission-based enforcement as its risk of noncompliance rises.

Larger states at risk of noncompliance should push for a Council-based procedure over which they have more sway, while smaller states in a similar position may find themselves in a conundrum. On the one hand, centralized enforcement could be more attractive as it bestows on them (via their commissioner) more influence than a Council-based procedure (*H3*). On the other hand, they may be reluctant to empower a Commission too zealous in enforcing the rules (*H1*). How this trade-off is solved is a matter of empirical investigation.

Depth of cooperation and implementing discretion

Negotiations over the design of an enforcement procedure do not occur in a vacuum. At the same time, actors negotiate over the exact provisions that are to be enforced. These rules specify the depth of cooperation of an accord, in particular how far they tighten governmental action or grant discretion in implementation. This flexibility

could take centre stage in EU negotiations, as first recognized by Dimitrova and Steunenberg (2000), as well as in international agreements (e.g. Rosendorff, 2005; Rosendorff and Milner, 2001).

Depth of cooperation and risk of noncompliance are intrinsically linked: the greater the national discretion, the shallower the agreement and the less the states have to do to comply. Indeed, the nature of the enforcement problem has implications for the terms of an agreement (Fearon, 1998) and good compliance is often the result of agreements that require states to take negligible measures (Downs et al., 1996).

When investigating positions on the enforcement mechanism, we cannot ignore positions on implementing discretion, even if peripheral to our inquiry, because these issues are negotiated concomitantly. States would be hardly concerned about the enforcement of a shallow agreement. On the other hand, if regulatory requirements are cogent, the enforcement mechanism matters.

We will pay particular attention to one covariate. What position on implementing discretion is a government at risk of noncompliance likely to take? If it wants to avoid the costs associated with an infringement (such as pecuniary sanctions, audience and reputational costs), it is likely to support provisions that expand discretion and reduce the risk of breaching such an agreement. In other words, we should expect the following

H4: A government's preference for discretion should increase as its risk of noncompliance rises.

But what if a government wants to use the agreed provisions as a tool to engender domestic reform? According to this external constraint argument, we should *not* expect governments that face greater risks of noncompliance to argue for looser provisions.

Testing the hypotheses on the economic governance regime

These expectations would not get much traction in uncontroversial and, perhaps, secondary policies with a good compliance record. Thus, the economic governance regime of the EU possesses three features that are important for our purposes. First, the policy has engendered divisions on relevant issues. Positions differed with regard to the regulatory demands on national authorities and the involvement of the Council and Commission in enforcement. In other words, constraints over national policy autonomy are tightened enough to generate divergences among governments over their scope and enforcement. Second, noncompliance has been pervasive and has varied across countries and time. Between 1994 and 2011, the government deficit of every country, except for Estonia and Luxembourg, has been deemed excessive at least once, and in some cases twice or thrice. Every country, except for Hungary, Slovakia and Sweden, has experienced a period where the rate of adjustment of its structural budget has not been in line with the objective established by these rules. Lastly, the

policy is of great salience, given the significance of government spending in European economies (Genschel, 2013; Genschel and Jachtenfuchs, 2016, 2018), and its reforms have been highly politicized. In a study of six countries, Kriesi and Grande (2016: 253) report that the reform that occurred during the sovereign debt crisis generated the most intense public debate on European issues since the 1970s. Politicization was on a par with the ratification of the Treaty of Maastricht.

Divisive Issues and Government Positions

The regime consists of an excessive deficit procedure regulation, the stability and growth pact (SGP), made of a preventive regulation, a corrective regulation and a more recent enforcement regulation, adopted in 2011.¹ The fiscal compact, an intergovernmental treaty signed in 2012, completes the policy framework. The excessive deficit procedure has been modified four times since 1993, while the SGP has been amended in 2005 and 2011. The regime's linchpins are three fiscal rules: two reference values - the 3% and 60% ratios of respectively government deficit and debt to GDP - and a close-to-balance structural budget. The reference values were established by the Treaty of Maastricht and the structural objective, included in the SGP, was set prior to formally tabling any new reform proposals (Artis and Buti, 2000: 564-5). None were subject to subsequent negotiations. The reforms included in our analysis have progressively refined the procedures and criteria for determining compliance with these rules and the adjustment path for their attainment.

Our three dependent variables are the governmental preferences with regard to (a) the level of national discretion in implementing this regime, and the level of involvement of (b) the Council and (c) the Commission in its enforcement. Four steps are taken to measure these positions. The first two consist in identifying and categorizing the *relevant divisive issues*, the next two in identifying and categorizing the *governmental positions* on such issues.

For the first step, we have found twenty relevant issues of intergovernmental conflict that emerged during these twelve negotiation occurrences (see the Online appendix). Since these reforms cover a twenty-year timespan, we have employed several sources and strategies to identify and cross-validate divisive issues (see the Online appendix). In the second step, we have assigned these issues to one of three categories: *national discretion*, *Council enforcement*, and *Commission enforcement*. Six divisive issues concern primarily demands on national authorities. For instance, during the adoption of the enforcement regulation, governments had different views about the obligations of and sanctions to impose on member states for manipulating statistics. These positions reflected differences with regard to the discretion of national policy-making. Eight issues are about the Council's room of manoeuvre in decision-making. For instance, the mitigating factors the Council has to consider for establishing whether a deficit is excessive generated considerable animosity both in 1997 and in 2005. Contrasting opinions reflected differences about the leeway the Council should have enjoyed – in other words, its involvement in policy enforcement. The remaining six divisive issues

concern the role of the Commission, such as the scope of application of reverse qualified majority for the adoption of recommendations for sanctions. Under this procedure, recommendations require only a blocking minority, rather than a qualified majority, in the Council for approval. Where applied, the supranational executive's involvement in policy enforcement is therefore strengthened. These latter conflicts emerged mostly during the 2011-2012 reforms. By using distinct categories for Council and Commission enforcement, we do not have to assume that they are mutually exclusive.

In the third step of the procedure, we have identified the governmental positions of EU member states at the beginning of the negotiations, that is, as close as possible to when the Commission tabled the proposals (for the fiscal compact, we followed Wasserfallen et al., 2019). These preferences can be more easily associated with the specific legal provisions under negotiation (see the Online appendix). Moreover, at these early stages, they are less likely to have shifted in reaction to other governments' position-taking. In general, most scholarship considers these positions to be sincere and free from strategic considerations, given the information-rich environment of such deliberations (e.g. Bailer, 2004; Moravcsik, 1998: 61; Târlea et al., 2019). According to Lundgren and his colleagues (2019: 4) 'this assumption is particularly warranted in the financial domain, where state interests may be deduced from publicly available statistics'. In the fourth and last step, positions have been assigned to one of three levels of an ordered scale (see the Online appendix for an illustration). If the issue is

about discretion of national policymaking, a government may prefer a low, middle or high level of discretion. If it is about Council or Commission enforcement, it may prefer a low, middle or high level of policy involvement. Our three dependent variables are, therefore, measured on a three-level ordinal scale.

Risk of Noncompliance and Voting Power

The *risk of noncompliance* is measured by the ratio of the general government gross debt to the country's GDP, during the negotiations of a given measure. This ratio is a plausible indicator of past profligacy and it is reasonably linked to the propensity to overspend. Moreover, governments of more indebted countries pay higher servicing costs and have to operate in tighter fiscal environments when experiencing recessions. All other things being equal, including business cycle volatility, they are more likely to breach these rules. This ratio is also acceptably exogenous to governmental preferences and actions in the short term. For instance, Von Hagen and Harden (1995) find that it correlates with a structural index of national budgetary institutions that are quite hard to modify in the short term. Franzese (2002: 188) shows that the debt levels are affected by other political factors, but only in the long run (alternative measures of risk are less satisfactory, see the Online appendix).

The influence a government exercises over enforcement is measured by its Penrose–Banzhaf *voting power* index in the Council qualified majority voting procedure - the most frequently employed rule in the implementation of fiscal governance - at the time of adoption of a measure.² This index measures the probability a given government is

pivotal in forming any winning coalition, out of the number of times any government is pivotal (a player is pivotal if, by leaving, she turns a winning coalition into a losing one).

This index ignores the positions of decision-makers. It can also be criticized because a government usually cannot vote if it is the addressee of an enforcement measure, such as an excessive deficit decision, and because it disregards changes resulting from EU enlargements that occurred after the adoption of the act. However, its purpose is to capture a government's *expectation* of executive influence at the time a measure is negotiated. The index is therefore appropriate in contexts where there is uncertainty about future preference configurations, noncompliance patterns, and possible enlargements.

We include several control variables that are plausible correlates of positions. We do not find strong reasons to consider them colliders or affected by the above covariates to justify their exclusion. First, governments that are more exposed to the negative spillover effects from noncompliance may be inclined to prefer lower national implementing discretion. Fiscal governance is designed to prevent negative externalities arising from fiscal profligacy. Assuming an inflation-averse central bank, in a monetary union, these externalities range from higher interest rates, (common) currency appreciation, trade imbalances, up to default, financial contagion, and, in the long run, lower capital accumulation and output. Whether these exact fiscal rules are necessary, effective, or even deleterious is beside the point. Governments from

Eurozone countries, which share a common monetary policy and cannot take advantage of currency fluctuations to soften the transmission of these effects, can plausibly expect to be more exposed. We, therefore, include an indicator variable (*Eurozone*) that takes the value of one if the country has adopted the euro at the time of negotiations. This variable is also used as a control in the analyses of the attitudes toward Council- or Commission-based enforcement because fiscal obligations differ between Eurozone and non-Eurozone countries.

Second, negative spillovers during the European sovereign debt crisis took the vivid form of contagion from Greece to Ireland and Portugal. With the risk of spreading to other countries, they prompted subsequent reform efforts. During this extraordinary period, some governmental positions, which may have otherwise remained unchanged, could have plausibly shifted toward tighter national control (lower discretion). We find instead no plausible reasons for shifts in attitudes between Council- and Commission-based enforcement to have occurred. We, therefore, include an indicator variable (*Euro crisis*) that takes the value of one for the negotiations that occurred during 2011 and 2012.

Third, the government holding the Council presidency is in charge of setting the agenda, proposing compromises, and negotiating with other institutions, such as the European Parliament. These duties as well as the incentive to take credit for closing dossiers are likely to affect its position (e.g. Tallberg, 2006; Warntjen, 2008). Thus, we include an indicator variable (*Presidency*) that takes the value of one if a government is

chairing Council meetings during negotiations. Fourth, fiscal governance regulates an important domestic economic policy tool and provides for a nontrivial involvement of EU institutions. Accordingly, governments' positions may differ along the economic left-right and pro-anti integration divides that underlay this policy (e.g. Hagemann and Høyland, 2008; Mattila, 2004). We control for governmental positions on the economic left-right dimension (*Left-right*) by including the legislative seat-weighted average of governing parties' positions on a one-to-ten left-right scale. Similarly, a government's attitude toward the EU (*Anti-pro EU*) is the weighted average of governing parties' positions on a one-to-seven anti/pro-integration scale.³ Fifth, governments are more likely to oppose the expansion of EU policy competences when facing public scepticism toward European integration (Hagemann et al., 2017). We employ a commonly used Eurobarometer survey question asking respondents whether they think that their country's membership to the EU is a 'good thing', a 'bad thing' or neither. *Diffuse support* is the share of respondents answering that membership is good, net of the share saying that it is bad, in the survey conducted before the negotiations.⁴

Lastly, in our procedure for identifying and validating governmental positions (explained in details in the Online appendix), we have come to realize that, while in some cases, we could easily cross-validate individual governmental positions through different sources, in others, validation has been harder, especially for older negotiations. Here, we had to rely primarily on common internal documents, such as

a report from a Council formation meeting or the Council presidency, issued at the beginning of negotiations. Although we are confident in our coding, we have decided to add a control variable (*Common source*) for when common internal documents, issued at the beginning of negotiations, have been the primary source of a government's position. This variable turns out not to be significant and our main results hold if we exclude it (see the Online appendix). Yet, we deem it appropriate to control for it. Descriptive statistics are reported in the Online appendix.

Analysis of Results

The unit of analysis is a position of a government on a relevant divisive issue during a negotiation occasion, such as the German government's view on the exceptional circumstances for avoiding an excessive deficit, during the adoption of the SGP corrective regulation in 1997. These circumstances delineate the involvement of the Council - its decision-making discretion - in enforcement since this institution establishes whether an excessive deficit exists. In this case, the German and Dutch governments wanted precise conditions and, therefore, tighter control over the Council (i.e. *low* involvement in enforcement). The Belgian, French and Italian governments preferred no conditions, hence looser control (*high* involvement). The remaining governments had an intermediate position, which became the final compromise.

Government positions are cross-classified by country. Each position is nested in a divisive issue, and each issue is nested in a measure under negotiation. To account for the simultaneity of bargaining over discretion and enforcement in a given negotiation occurrence, we estimate a structural equation model.

The results are reported in Table 1. The columns list the coefficients estimated from three ordinal logistic regressions. The predictor variables are simultaneously regressed, as part of a single system of equations, on the three distinct dependent variables. These are the three-level (low, middle, high) ordered governmental positions across the relevant divisive issues concerning discretion, the involvement of the Council, and of the Commission in enforcement, which emerged during the negotiations of the measures. The model also estimates equation-specific 'fixed' effects for these level variables (*Measure* and *Issue*) and common random effects for these variables, allowing, therefore, for their effects to vary across equations.⁵ Among the benefits of structural equation models is the possibility of testing and evaluating complex theoretical expectations and different model structures through model-specific goodness-of-fit statistics (see the Online appendix).

We discuss the results starting with the secondary expectation *H4* on governmental positions on national discretion because they are reasonably straightforward. We then move on to positions on Council enforcement (*H2*) and leave the analysis of expectations *H1* and *H3* on Commission enforcement to the end as it requires a more detailed discussion. The Online appendix reports robustness tests for

miscategorization of divisive issues and governmental positions, multilevel data structure, and alternative proxies of noncompliance risk.

Table 1. Governmental positions on national discretion and enforcement mechanisms.

	<i>Dependent variables</i>		
	<i>National discretion</i>	<i>Council enforcement</i>	<i>Commission enforcement</i>
<i>Fixed effects</i>			
Noncompliance risk	0.29** (0.035)	-0.13* (0.056)	-0.16* (0.067)
Voting power		-0.32 (0.316)	-0.83 (0.439)
Noncompliance risk × Voting power		0.08* (0.033)	0.05 (0.030)
Eurozone	-1.19* (0.485)	-0.95* (0.468)	-0.81 (0.676)
Euro crisis	-1.06 (1.709)		
Presidency	-0.95** (0.133)	-0.38 (0.485)	-0.85 (0.492)
Left-right	-0.38** (0.116)	-0.19** (0.056)	0.02 (0.163)
Anti-pro EU	0.42** (0.082)	-0.14 (0.205)	-0.30 (0.162)
Diffuse support	1.53** (0.531)	0.65 (0.691)	5.08** (1.028)
Common source	2.09 (1.727)	0.89 (0.748)	-1.42 (2.272)
Measure	0.40** (0.100)	0.48** (0.183)	1.00 ^a (0.000)
Issue	1.08** (0.205)	1.13** (0.412)	1.00 ^a (0.000)
Constant (cut 1)	-0.14 (2.031)	-2.91 (1.026)	-3.91 (2.947)
Constant (cut 2)	1.68 (1.287)	0.29 (0.899)	-3.86 (2.899)
<i>Random effects</i>			
var(Measure)		3.73 (3.428)	
var(Issue)		0.81 (0.140)	
N		439 (20 issues, 7 measures)	
Log-pseudolikelihood		-305.57	

Note: Generalized structural equation model of three ordinal logistic regressions. Robust standard errors in parentheses, adjusted for seven clusters of measures. ** $p < 0.01$ * $p < 0.05$. ^a Constrained at 1.

National discretion. As expected by hypothesis H4, governments with a higher risk of noncompliance support more discretion (second column in Table 1). If we keep all other covariates at their mean values, the probability that a government prefers more discretion increases by eighteen percentage points as the risk of noncompliance raises by a standard deviation, that is to say, if the debt-GDP ratio moves from 65 percent (the sample mean) to 100 percent, approximately the difference between the Dutch and Belgian mean values. The average debt-GDP ratio of governments supporting more discretion is eighteen percentage points higher than the average ratio of governments supporting less discretion. On no occasion did Italian governments, with an average debt-GDP ratio of 116 percent during these negotiations, support more tightening than German governments, which averaged 75 percent. In sum, governmental positions do not seem guided by a desire to establish external constraints for engendering national reforms. In the Online appendix, we test variants of this proposition, with limited success.

The remaining results indicate that several other factors shape attitudes toward national discretion. Eurozone governments, being more exposed to the negative externalities of fiscal profligacy, display a systematic propensity toward tighter oversight of national policies. They are sixteen percentage points less likely to take a

high national discretion position than non-Eurozone governments.⁶ Governments presiding Council meetings are thirteen percentage points less likely to take a high discretion position, while left-leaning governments have been more inclined toward loosening oversight probably because of their greater proclivity toward public spending. A standard deviation leftward shift in government ideology increases by eleven percentage points the likelihood of preferring more discretion. Interestingly, governments that display a more critical attitude toward the EU and face a more sceptical public tend to favour tighter national oversight, but the size of these effects is smaller. A standard deviation anti-EU shift in government ideology or public attitudes increases by six and four percentage points, respectively, the likelihood of preferring less discretion. Further investigation, reported in the Online appendix, indicates that governments at low risk of noncompliance or with pro-EU orientation are more likely to adopt a tighter stance when facing a Eurosceptic shift in public opinion. Additionally, in countries with Eurosceptic publics, an anti-EU shift in government ideology is associated with tighter positions.

Council enforcement. The third column in Table 1 reports the results from the equation regressing governmental positions on Council involvement in policy enforcement on the interaction between noncompliance risk and voting power. Figure 1 shows the marginal effect of the risk of noncompliance on the likelihood of preferring more Council-based enforcement, for different values of the voting index. *H2* is corroborated. Governments exceeding a voting power index of three percent (i.e.

Swedish government's index in 2011) are more likely to prefer greater Council involvement as their risk of noncompliance increases. Above this threshold, governments supporting more involvement have a mean debt-GDP ratio that is almost twenty-nine percentage points higher than that of governments supporting less involvement. Keeping all other covariates at their means, if a large country like Italy were to face an increase in noncompliance risk (specifically, a standard deviation increase in the debt-GDP ratio over the overall mean), the probability that its government would support more discretionary Council involvement increases by a very substantial forty-five percentage points. If the Maltese government were in the same situation, such probability would actually drop by slightly more than one percentage point, which differs insignificantly from zero. The effect remains small in size but it reaches the standard level of significance in a variant of the model (see the Online appendix).

The ideological composition of governments has a nontrivial impact as well. Keeping other variables at their means, a rightward shift by a standard deviation (approximately the difference between the 2005 Austrian centre-right government of Wolfgang Schüssel and the 2011 grand-coalition of Werner Faymann) increases by five percentage points the probability of preferring less involvement. More concerned about fiscal probity, right-wing governments prefer subtracting fiscal oversight from the political manoeuvring that takes place within the Council. Possibly for the same

reason, governments of Eurozone countries are fifteen percentage points more likely to prefer restricting Council involvement than the other governments.

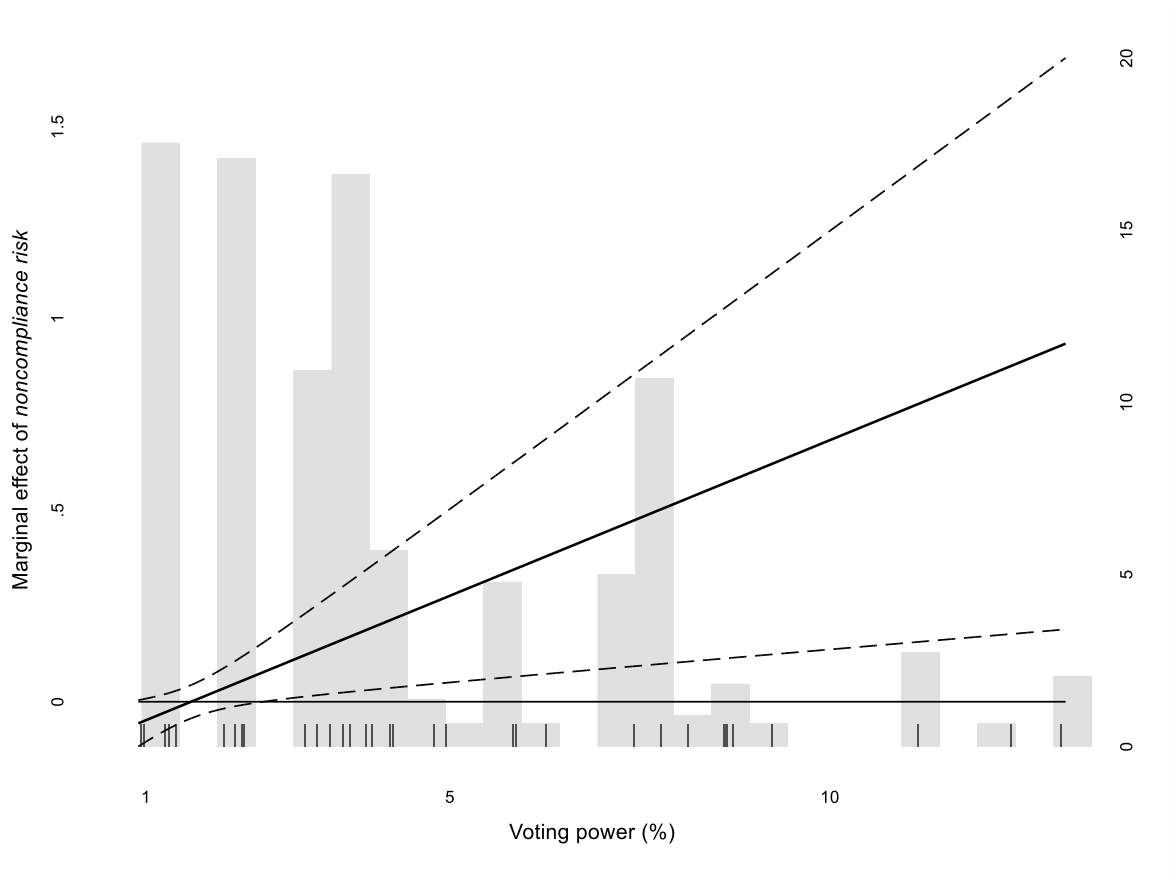


Figure 1. Marginal effect of noncompliance risk on preferring more Council involvement, over voting power.

Commission enforcement. The last column in Table 1 reports the results from the equation regressing governmental positions on Commission involvement in policy enforcement. There is no overall evidence either that governments oppose Commission involvement as they face higher noncompliance risk (*H1*) or that small voting-power governments support greater involvement as such risk increases (*H3*, see the Online appendix for the marginal effect of this covariate). We must delve deeper into our data to better understand these results.

Only one divisive issue about Commission's prerogatives emerged before the Eurozone crisis. It occurred during the 2005 EDP regulation reform and concerned methodological inspections. Governments of the four largest countries opposed the regularity of the Commission's intrusive inspections of national public accounts as well as a first in-depth monitoring visit proposed by the Luxembourgish Presidency and supported by other governments. As expected by *H3*, among countries at above-average risk of noncompliance, large voting power governments (specifically, Italy, France and Germany) opposed the expansion of prerogatives; medium-to-small voting power governments (namely, Malta, Cyprus, Austria, Portugal, Hungary, Belgium, Greece and the Netherlands) supported it. The Greek position is notable considering that, in December 2004, the Commission initiated an infringement procedure against Greece for failing to comply with the regulation. However, this divide extends to governments with below-average risk as well.⁷

Three relevant divisive issues surfaced in 2011, as the Eurozone crisis was intensifying and Olli Rehn, a staunch supporter of tight fiscal surveillance and presumably of expansionary fiscal consolidation (Mabbett and Schelkle, 2016), was the Commissioner for economic and monetary affairs. These issues pitted the Belgian, Dutch and Luxembourgish (Benelux) governments, which wanted to expand the Commission's influence by extending the application of reverse qualified majority voting, against the French, German and Spanish governments (with this rule, the Council needs a qualified majority to *reject* a Commission's recommendation). The remaining

governments mostly supported the Task Force Report which sided with the Benelux proposal on one occasion (the enforcement regulation), and with the French-German-Spanish coalition in the other two cases (the preventive and corrective regulations). The position of these latter three countries is in line with *H3* as they had large voting power and above-average debt-GDP ratios.

Five small-to-medium voting power governments at high risk of noncompliance sided *against* Benelux in two of the three issues.⁸ This is clearly more supportive of *H1* than *H3*. Three of these countries (Ireland, Greece and Portugal)⁹ were receiving financial assistance during these negotiations. Their reluctance can be explained by a heightened sensitivity to the intransigence of the supranational executive, perhaps combined with the necessity to take side with large countries, which were the main contributors to the funds. Indeed, if we add an indicator variable for countries that requested or were receiving assistance during the negotiations to the model in Table 1, we find that the respective governments are nineteen percentage points *less* likely to prefer greater Commission involvement in enforcement and thirteen percentage points *more* likely to prefer greater Council involvement (see the Online appendix, the other main results reported here hold).

However, if we accept *H1*, it is harder to justify the enthusiasm of Belgium for expanding the Commission's influence and the recalcitrance of several governments with below-average noncompliance risk.¹⁰ One notable, though partial, exception is the Italian and British governments' support for expanding the Commission's

influence in one out of, respectively, three and two issues they were involved in. As expected, the Italian government was on average more recalcitrant and the British government was essentially indifferent.

Divergences over the extension of reverse qualified majority voting resurfaced during the 2012 fiscal compact negotiations, at the apex of the crisis, instigated on this occasion by five countries including Germany, the Netherlands and Austria. In line with *H1*, all the countries with public debt exceeding GDP – including Ireland, Greece, Italy and Portugal – were not supportive, but several others with solid public finances also shared this view. A second divisive issue concerned the prerogative of the Commission to bring noncompliant countries before the European Court of Justice. Here as well, we find greater support amongst more financially solid countries. The mean debt-GDP ratio of this group is more than thirty-two percentage points lower than the mean ratio of the opposing set of countries. There are however important exceptions, such as the support from the Italian government and the opposition from the financially solid Czech government, which eventually took seven years to ratify the treaty.

Table 1 helps to shed light on these discrepancies. Similarly to the finding of Hagemann, Hobolt and Wratil (2017), governments facing more sceptical public opinion were more reluctant to empower the Commission. All else kept at the mean values, a standard deviation decrease in diffuse public support decreases by fourteen percentage points the probability of preferring greater involvement of the

supranational executive. Among cases at low risk of noncompliance, public support in those countries whose governments opposed expanding its powers is almost seventeen percentage points lower than in those whose governments supported such expansion. On the other hand, public support in countries with shakier public finances and governments that favoured expanding the Commission's prerogatives was ten percentage points higher than in countries in a similar financial situation, but with governments that opposed such empowerment. Public support in Belgium was among the highest and in Italy the highest among large countries.

In sum, the high-low voting power divide among governments at high risk of noncompliance (*H3*) is evident in 2005, but it is mirrored among governments at low risk of noncompliance. In 2011 and 2012, the perception of a tougher Commission had two plausible effects. The small-medium size countries under fiscal strain and dependent on financial assistance became more reluctant to empower the supranational executive, while larger countries with less severe compliance problems appeared enticed to do so. A reasonable explanation of why we fall short in finding stronger evidence in support of expectation *H1* is that governments at low risk of noncompliance confronted more Eurosceptic publics and were, therefore, less inclined to empower the Commission, while some governments at high risk were more accommodating since they faced a strong pro-European public opinion. That public opinion played an important role in shaping governments' positions is plausible given

the salience of the policy and the mass politicization of these latter reforms (Genschel and Jachtenfuchs, 2018; Kriesi and Grande, 2016).

Conclusion

The variety of enforcement mechanisms embedded in international agreements results from negotiations among contracting states that may hold very different views about the depth of cooperation and the design of these procedures. If power resources vary across enforcement institutions, state positions should vary according to the influence they expect to have under different enforcement arrangements and the expected probability of breaching the terms of the agreement.

We have put forward a set of expectations in the context of a highly institutionalized system of international cooperation like the EU, where governments have the choice of delegating enforcement to a supranational agency, over which they exercise equal influence, or retaining it within the Council of ministers, where power resources vary according to size. The current scholarship suggests that states that expect to face greater difficulties with implementation should be more reluctant both to cooperate and to empower the agency, however, smaller states should prefer centralized solutions where influence is more equally distributed.

We have disentangled these effects and subjected propositions to empirical corroboration employing a dataset of positions on relevant contested issues that arose from the negotiations over EU fiscal rules. Indeed, states facing greater risks of

noncompliance prefer not only greater implementing discretion but also more Council involvement in enforcement, if they enjoy higher voting power within this institution. Matters are however more complicated with the regard to the prerogatives of the supranational agency. In some cases, different power resources drive support for empowering this institution, with smaller states displaying greater enthusiasm and larger ones more reluctance. In other circumstances, expectations of compliance problems make governments more hesitant, especially when the Commission is perceived as a tough enforcer. Thus, noncompliance risk and power resources (size) may push positions in opposing directions in different circumstances. And it is perhaps because of these conflicting pressures, and the concomitant mass politicization of negotiations, that public support for the EU offers guidance to governments' positioning on this issue. This role played by public opinion, perhaps interacting with governments' ideological leanings, deserves greater scholarly attention.

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Author Contributions

F.F. and C.M. contributed to conception, design, data acquisition, analysis, and interpretation. The article has been drafted, critically revised, and finally approved by both authors. Both agreed to be accountable for all aspects of work ensuring integrity and accuracy.

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¹ We disregard ancillary and complementary measures of the 2011 six-pack and the 2013 two-pack since no divisive issue that is relevant to our inquiry has emerged during their negotiations. We also exclude the macroeconomic imbalance procedure since it requires a different measure of noncompliance risk.

² Since non-Eurozone governments did not have the right to vote in the 2011 SGP enforcement regulation, they have been dropped from the analysis.

³ We rely on Ray's (1999) dataset for party positions during the 1997 negotiations and on the Chapel Hill Expert Survey data in Polk et al. (2017) for positions in the remaining negotiations. For Cyprus, Luxembourg and Malta we used as national party positions those of the European Parliament party groups to which they are affiliated, using data from McElroy and Benoit (2012).

⁴ Governments' positions on the EU correlate positively, albeit only moderately, with their publics' support for the EU (the correlation is 0.29, $p < 0.01$). This is in line with the literature (e.g., Hobolt et al., 2009). Governments are broadly representative, but tend to be more pro-European. This limited collinearity is a good reason for including both variables in the analysis.

⁵ More specifically, the common variance components measure the deviation of a given observation/issue mean log-odd from the equation-specific issue/measure mean log-odd. The total effect (comprising a common random effect and an equation-specific

fixed effect) of these level variables, therefore, differs across equations. In other words, we estimate the joint variability of the mean log-odds of these level variables *across* the three equations. Hence, we model their interdependence. This is one additional benefit of employing generalized structural equation modelling.

⁶ Results hold if *Eurozone* is extended to members of the Exchange Rate Mechanism II (a criterion for joining the Eurozone). Note also that *Euro crisis* becomes significant if we exclude *Common source*. Governments are twenty-two percentage points more likely to prefer tighter national oversight during the sovereign debt crisis. The other main results hold (see the Online appendix).

⁷ The only exception here being the support from the Spanish and the non-Eurozone Polish governments, see also Schure and Verdun (2008).

⁸ They were supportive only in the enforcement legislation, where they incidentally enjoyed higher voting power because non-Eurozone governments could not vote.

⁹ The other two are Austria and Malta. Hungary was opposed in one issue and had an intermediate position on another. Its government also received financial assistance.

¹⁰ All the 2004 and 2007 enlargement countries belonging to this group, from Estonia to Poland, were reluctant (note that Cyprus would soon need financial assistance). The Nordic and Scandinavian countries were more supportive.