

# Are Advocates General Political?

Policy preferences of EU Member State governments  
and the voting behavior of members of the European  
Court of Justice

Working paper

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## Abstract

This paper investigates whether members of the European Court of Justice (ECJ), as is often assumed, behave in accordance with legalistic models of judge behavior. So far, different from courts in the U.S. and elsewhere, there is no conclusive evidence that the background of individual judges influence the decision-making of the Court. There are two possible explanations for this. First, it seems possible that the unique institutional culture at the Court has created an environment which minimizes the influence of such factors. Second, it seems possible that these effects exist, but that they have so far gone largely unnoticed, because the non-disclosure of individual votes and non-random case assignment pose great challenges to any attempt to identify them. This paper focuses on the impact of the political preferences of Member State governments on the decision-making of the Advocates General, who are judge-like members of the ECJ. I develop a formal test to answer whether a relationship exists between the policy preferences of EU Member State governments with regard to European integration, and the decision behavior of Advocates General appointed by these governments. This test formalizes the intuition that, if one Advocate General shows a high probability of deviating from a certain chamber in an integration-friendly direction, while another Advocate General shows a high probability of deviating in an integration-critical direction from decisions by the same chamber, one can infer that the decision standard applied by the first Advocate General is more integration-friendly than that of the second Advocate General. I find that Advocates General appointed by governments with with pro-integration preferences are on average more likely to deviate from the Court in a pro-integration direction.

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## List of abbreviations

<b>AG</b>	Advocate General
<b>CJEU</b>	Court of Justice of the European Union
<b>ECJ</b>	European Court of Justice
<b>TEU</b>	Treaty on the European Union
<b>TFEU</b>	Treaty on the Functioning of the European Union

# 1 Introduction

For judges at U.S. courts, a growing stream of quantitative research has documented a robust relationship between the political background of judges and their decision-making.<sup>1</sup> Realist conceptions of judge behavior, which today dominate the legal theory discourse in the U.S., have received much of their empirical support from these studies.<sup>2</sup> However, given the role common law systems ascribe to judges and the highly political appointment procedure that governs, for example, the appointment of federal judges in the U.S., these findings might be considered not really surprising. By contrast, for the members of the Court of Justice of the European Union (CJEU), as for legal decision-makers in civil law countries in general, such evidence is scarce. Also, the decision-making at the CJEU is dominated by a remarkably different culture, putting into question whether the realistic model is an accurate description of the behavior of the members of the CJEU. First, most members of the CJEU come from civil law countries.<sup>3</sup> Different from common law countries, civil law countries tend not to embrace a conception of judges as law-makers, but to see their role primarily as applying law set by a separate legislator. Second, the formal rules governing their appointment place an emphasis on impartiality and excellence,<sup>4</sup> and their selection generally does not receive a similar degree of attention from political players and the public as, for example, the appointment of U.S. Supreme Court justices. Finally, the organizational culture at the CJEU favors consensual behavior among its members and deemphasizes the role of individuals. All this raises the question whether the European cultural background and the specific design of the CJEU succeeded in creating a court in which the political backgrounds of its members do not play a significant role.

This paper investigates one specific avenue in which Member States' policy preferences could influence decision-making at the Court. Using a quantitative approach, it provides evidence for the existence between the policy preferences of EU Member State governments with regard to European integration, and the decision behavior of the Advocates General (AGs) appointed by these governments. The AGs are judge-like members of the highest branch of the CJEU, the European Court of Justice (ECJ), who issue non-binding legal opinions before the judges convene to deliberate the judgment. Whether the AGs have the power to influence the final decisions of the Court is an open question.<sup>5</sup> Certainly, ultimately it would be at least equally interesting to understand whether judges as the ECJ members responsible for deciding the case exhibit similar tendencies. However, as described below, the behavior of individual judges is much less visible than the

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1. See for an overview Epstein, Landes, and Posner 2013, 65 et seq.

2. See, e.g., Stephenson 2009.

3. Sankari 2013, 5.

4. See Art. 252 Section 1 Treaty on the Functioning of the European Union (TFEU).

5. See Burrows and Greaves 2007; Mortelmans 2005; Ritter 2005; Tridimas 1997.

behavior of the AGs. At the same time, AGs and judges share many common features. Most importantly, they are appointed according to a similar procedure, have the same status, and work in a similar institutional environment. Therefore, it can be argued, by investigating the behavior of the AGs, one can unveil broader patterns in the behavior of the members of the Court, and potentially even learn something about the behavior of judicial actors in systems influenced by civil law in general. In other words, the paper contributes to answering the more general question whether the members of European courts are “political” in the sense that, just like their American counterparts, their decisions vary with the political affiliation of those responsible for their appointment. Besides, by focusing on the AGs, it contributes to a growing stream of literature that extends the analysis of judge behavior to other court officials that, while not judges in the formal sense, play an important in deciding legal disputes.<sup>6</sup>

The de-emphasis on the role of individuals does not only raise questions about the applicability of realistic conceptions of judge behavior, it also poses great challenges for quantitative research. The most important features in this regard are the non-disclosure of individual judges’ votes<sup>7</sup> and the non-random assignment of cases to individual court members. Most importantly, these features make it difficult to investigate judge behavior using conventional models such as the roll call model that dominates the analysis of the voting behavior of U.S. Supreme Court Justices<sup>8</sup> and of judges at other courts.<sup>9</sup> Accordingly, existing literature on the role of individuals at the CJEU has mostly been limited to qualitative studies.<sup>10</sup> One notable exception is Malecki 2012, who documents a weak relationship between the political alignment of Member State governments on a left/right scale and the decision-behavior of judges using a modified version of the standard roll call model.

Given the challenges associated with conventional models, I develop a structural model that allows for inferences from comparing the opinions of Advocates General in preliminary ruling proceedings with the judgment issued by the judicial chamber. The intuition behind this approach is the following: if one AG shows a high probability of deviating from a certain chamber in an integration-friendly direction, while another AG shows a high probability of deviating in an integration-critical direction from decisions by the same chamber, one can infer that the decision standard applied by the first AG is more integration-friendly than that of the second AG. Under this model, the position adopted by the judges serves as a “baseline” to compare the decisions of AGs in different proceedings. Put differently, by controlling for the position of the judgment, I hope to capture

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6. *See also* Griffin Jr. 2015 for an investigation into the behavior of quasi-judicial decision-makers in a U.S. context.

7. Stone Sweet 2010, 24.

8. *See, e.g.*, Ho and Quinn 2010; Martin and Quinn 2002.

9. *See* Voeten 2007 for an application to the European Court of Human Rights.

10. *See, e.g.*, Solanke 2011; Huyue Zhang 2015.

any effect of (potentially non-randomly distributed) unobservable case characteristics on the outcome. This requires that unobservable case characteristics influence the decision-making of the judges the same way they influence the decision-making of the AG. As it is known which judges were involved in the decision-making in each case, and which particular role they were assigned in each proceeding, the model can account for personal changes in the composition of the court.

More formally, the empirical strategy rests on two important assumptions: (1) a strong assumption of uni-dimensionality, meaning integration as a policy dimension is equally important in all cases in the dataset, and (2) random errors are i.i.d., meaning, in particular, the ideological position of the court does not vary systematically with the assignment of different AGs. Both assumptions are particularly bold in the face of non-random assignment of cases to both AGs and judges, raising the real possibility that particular actors are assigned to specific cases for strategic reasons. Nevertheless, as I will argue below, while these assumptions are necessary for the identification of the model, a violation is unlikely to explain the main results of this research. However, these assumptions constitute important limitations of the findings presented below, and I leave it to future research to explore ways to relax these assumptions.

Based on this model, I develop a formal test to answer whether a relationship exists between the policy preferences of EU Member State governments with regard to European integration, and the decision behavior of Advocates General appointed by these governments. In this test, I use a novel dataset of 501 preliminary ruling proceedings decided between October 1997 and October 2006, combined with data about political preferences with regard to European integration of the parties supporting EU governments during the time period under investigation. I find that political preferences in favor of European integration significantly increase the probability of a disagreement in which the AG appointed by the respective government takes the integration-friendly position as compared to the judicial panel, while they decrease the probability of a disagreement in which the positions are reverted. The size of this effect is substantial, and robust across different estimations.

These results suggest that, if the CJEU was designed to eliminate the influence of politics, at least with regard to the AGs this attempt has not been completely successful. Advocates General are – in the same way as judges in the U.S. – political. Of course, AGs are not judges themselves, and have no say on the final decision. Ultimately, it would be interesting to know whether judges' decision behavior is similarly affected by politics. Given the strict secrecy surrounding the deliberations and the votes on the final judgments, it might be impossible to ever obtain quantitative evidence on this question. However, considering the similar appointment procedure for judges and AGs, and the similarity of many of the institutional constraints under which they operate, one can argue that judges are likely similar to the AGs in that dimension as well.

This paper proceeds as follows: Section 2 contains a description of the institutional background of decision-making at the ECJ. Section 3 describes in detail the two datasets used in the analysis. Section 4 develops the model of the cooperation between the Advocate General and the Court, which forms the basis for the empirical investigation. Section 5 reports the empirical approach and the results of the analysis. Section 6 discusses the limitations and implications of this study. Section 7 concludes.

## 2 Institutional Setting

The European Court of Justice is the highest court in the judicial system of the European Union.<sup>11</sup> It consists of one judge per Member State plus a smaller number of Advocates General. During the time period under investigation, the number of judges at the ECJ ranged from 15 to 24. The judges decide in chambers of 3 or 5 judges, in a Grand Chamber manned with usually 13 judges, or as Full Court. Although the members of a chamber are, in principle, determined every three years, the exact cast of judges may vary from case to case. Following the filing of an action or an application, the judge who holds the office of President of the Court allocates the case to one of his fellow judges, who acts as *Judge Rapporteur* for that case. The *Judge Rapporteur* is responsible for guiding the case through the written proceeding. Also, he briefs the other members of the Court about the case, who then decide about the size of the chamber called to decide the case, and on the further involvement of the Advocate General in the case.<sup>12</sup>

The number of Advocates General was between 8 and 9 for the time period under investigation.<sup>13</sup> The AGs are, formally speaking, members of the Court; they enjoy the same status and privileges as the judges, and are appointed following a similar procedure. However, different from the judges, they do not take part in the deliberations, and do not vote on the final judgment. Their most important function is to deliver an independent, non-binding opinion on legal matters before the Court sits to deliberate its judgment.<sup>14</sup>

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11. Art. 19 Treaty on the European Union (TEU).

12. For a detailed description of the progress of a case, see Edward 1995, 549 et seq. Kokott and Sobotta 2013, 468 et seq.

13. The envisioned number of Advocates General was eight for the entire time period under observation. However, between January 1995 and December 1999, two Advocates General from Italy served at the Court. The reason for this was related to the accession to the Union by Austria, Finland, and Sweden in 1995. Before the accession, the Union had 12 Member States. In order to avoid having an even number of judges at the Court, one extra judge was appointed to bring the number of judges to 13. Judge La Pergola from Italy had only been in office for three months when the number of Member States was increased to 15 on January 1, 1995, rendering the extra judge unnecessary. Therefore, Judge La Pergola served as a ninth Advocate General until December 15, 1999, when he took over the judge position from the retiring Italian Judge Mancini. After the entry into force of the Lisbon Treaty, the number of Advocates General has been increased to 11, although to date only one additional Advocate General has assumed office.

14. Since 2002 the Court has been empowered to decide minor cases without the involvement of an Advocate General. Recent reports suggest that the percentage of cases in which the Court has made use of this option has increased to about 50, Bobek 2012, Fn. 21; Kokott and Sobotta 2013, 470.



This opinion often constitutes the first full legal statement by a member of the Court concerning the issues in question, and is said to serve as a “starting point” for the deliberations of the Court.<sup>15</sup> In addition to delivering the opinion, the Advocate General for each individual case, together with the Judge Rapporteur, is responsible for guiding the case through the entire proceedings before the ECJ.<sup>16</sup> Consequently an Advocate General is assigned to the case at the early stage of the proceedings. It is important to note that the allocation of cases to the Advocates General is, in principle, independent of the appointment of the Judge Rapporteur and of the chamber designated to decide the case.<sup>17</sup> Therefore, each Advocate General delivers his opinion to a panel of judges that is likely to differ from case to case.

All members of the Court are appointed for office periods of six years, with the possibility of unlimited reappointment after the end of their tenure. Although the treaties place the responsibility for the appointment of the members of the Court with all Member State governments acting together, in practice each Member State enjoys the right to nominate one judge to the Court. Advocates General are also nominated by Member State governments, with the right to appoint AGs allocated among the Member States according to a system that balances the interests of larger and smaller Member States.<sup>18</sup> It is important to note that, before the entry into force of the Lisbon Treaty in 2009, Member State governments were practically free to appoint any person with sufficient professional credentials to the Court, with almost no checks by other Member States.<sup>19</sup> The practice of giving the Member State (at least until 2009, but arguably also now) broad discretion in choosing their appointee is an interesting deviation from the wording of the Treaties, which envision an appointment “by common accord of the governments of the Member States.” (Art. 252 Section 1 TFEU.) It seems well possible that this practice opens the door for Member States to select as members of the Court individuals whom they expect to behave in a way that is consistent with their political preferences.

The cases used in the analysis are exclusively preliminary ruling proceedings. Preliminary ruling proceedings are proceedings initiated by national courts facing a question of EU law. In this case, national courts have the possibility, and sometimes even an obligation, to submit the question to the ECJ. Such preliminary ruling proceedings are considered particularly important for the case-law of the ECJ.<sup>20</sup> Note that, in these

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15. Edward 1995, 555. *See also* Fennelly 1996, 19.

16. Dashwood 1982, p. 204.

17. Kokott and Sobotta 2013, p. 469.

18. During the period under investigation, the five biggest Member States (Germany, France, Italy, UK, and Spain) had the right to always appoint an Advocate General to the Court. The remaining three positions rotated among the other Member States. Italy, because of historic reasons, between 1995 and 1999 even claimed two Advocates General slots.

19. *See [Introduction Sec Institutional]* for a more detailed description of the institutional setting.

20. *See, e.g.*, Ehrlicke 2012, para. 10; Thiele 2014, Â§ 9 para. 6. For example, the two cases establishing the direct applicability and supremacy of EU law, van Gend en Loos (August 14, 1962, Case 26/62) and Costa v ENEL (July 15, 1964, 6/64), were preliminary ruling proceedings. The former President of the

proceedings, the ECJ does not admit or deny a certain plea by a party (or rule in any other way that would lend itself to a straightforward coding on a binary scale). Instead, the operative part of a judgment in preliminary ruling proceedings consists of a certain interpretation of European law, i.e. a rule.

### 3 Data and descriptive statistics

#### 3.1 First dataset: case outcome and participation of individuals

To provide a basis for the analysis, I set up a comprehensive dataset of ECJ case-law from July 1997 to October 2006, involving the so-called four freedoms of the EU – the free movement of goods, capital, services, and people – and citizenship of the Union. This area of law has been of particular importance in shaping the relationship between national and European law, and the ECJ has allowed itself a generous measure of discretion in developing the applicable rules. Therefore, I believe it is particularly well suited for this type of research. The decision to extend the analysis over 9 years reflects my intention to observe judges acting in different personal set-ups. As the composition of each chamber changes at least every three years,<sup>21</sup> a period of 9 years should be sufficient to meet this requirement. I include only preliminary rulings proceedings in which the Advocate General issued an opinion in the analysis.<sup>22</sup> There are two reasons for limiting the dataset to preliminary ruling proceedings. The first is that, as noted above, preliminary ruling proceedings have played a particularly important role in shaping the decision-making of the Court on fundamental issues regarding European integration.<sup>23</sup> The second is that the theoretical model builds on the fact that the outcome in a case is not a simple Yes/No decision, but a particular interpretation of EU law.<sup>24</sup> Cases falling into this category were identified using the search function on the ECJ’s database.<sup>25</sup> Overall, 501 cases fall into this category. Appendix A contains a list of all cases in the dataset.

While most studies of judicial decision-making in the US take individual cases as their unit of analysis, this approach is ill-suited to the present undertaking. The reason for this is closely related to the specific features of the preliminary reference procedure: the national court initiating such a procedure has the possibility to submit a number of possibly unrelated questions to the ECJ. Any attempt to capture the divergences between the answers provided by the AG and the Court to all these questions in one variable would inevitably reduce the accuracy of the measurement. Instead, I decided to

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ECJ, Gil Carlos Rodríguez Iglesias, once famously called the preliminary ruling proceeding a “cornerstone of the [European] court system, Rodríguez Iglesias 2000, 1895.”

21. See [*Introduction Sec Institutional*].

22. For details, see [*Introduction Sec Institutional*].

23. See *supra*, Section 2.

24. See *supra*, Section 2.

25. The database can be accessed by internet under <http://curia.europa.eu/>.

follow the approach of Carrubba, Gabel, and Hankla 2008 and Malecki 2012 and treat each legal issue as a separate observation. In order to ensure replicability, the identification of separate legal issues strictly follows the structure of the operative part of the opinion. Where the AG treated different legal issues separately (usually by introducing numbering or bullet points), these issues are coded as separate observations. The only exception to this is in cases where the Court answered questions that were not considered by the AG. Such answers are treated as additional observations. Cases in the dataset featured between 1 and 11 legal questions, with 471 cases containing between 1 and 4 legal questions. Overall, the dataset contains 1085 observations.

For each case, I identified the Court members involved in the decision using automated data collection methods. 18 different Advocate Generals were involved in decisions in the dataset. Three Advocates General appear in the dataset in different time periods in which they served at the Court. Of the 501 cases in the dataset, 114 were decided by a chamber of three judges, 231 were decided by a chamber of five judges, and 156 were decided by the Full Court or the Large Chamber, with a varying number of judges (between 7 and 15) involved in the decision. Overall, 39 different judges were involved in cases appearing in the dataset. The maximum number of cases in which one judge was involved is 288<sup>26</sup>, the minimum number is 1.<sup>27</sup> The mean number of cases decided by judges appearing in the dataset is 82.1. Judges decided in a huge number of different compositions. The dataset counts 270 different chamber compositions. The maximum number of cases decided by a particular cast of judges is 10.<sup>28</sup> 181 compositions of judges decided only one single case.

Of the 39 judges appearing in the dataset, 39 acted as *Judge Rapporteur*. Again, there is large variation in how often individual judges were observed in this role, ranging from 1<sup>29</sup> to 52.<sup>30</sup> It is important to note that, despite non-random case assignment, most AGs and *Judge Rapporteurs* did not always sit on cases with the same person as their counterpart. Figure 1 shows the frequency of all AG-Judge Rapporteur combinations appearing in the dataset. It can be clearly seen that, while some individuals cooperated more often than others, none worked with only one other person exclusively.

I manually coded, for each observation, whether the judges and the AG agreed on the interpretation of EU law that constitutes the outcome of the case, and, in case of a disagreement, whether the AG or the Court took the more integration-friendly position. I determined these outcomes by comparing the operative parts of the opinion and the judgment in each case. In those cases where the wording of the operative part did not

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26. The Austrian Judge Jann, who served at the Court from 1995 to 2009.

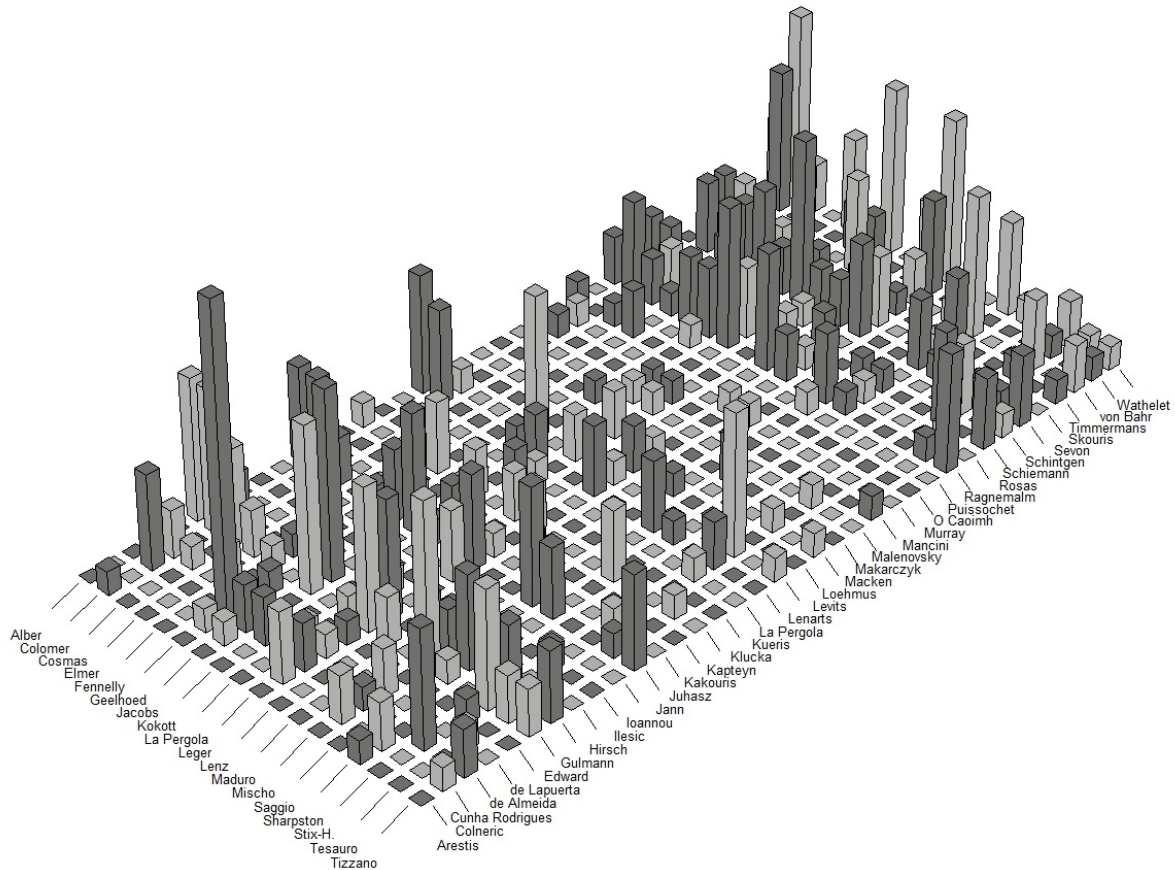
27. The Danish Judge Larsen, who assumed office in January 2006.

28. Two different sets of judges decided the maximum number of 10 cases, both of which were chambers of three judges. The first is a chamber composed of the British Judge Edward, the Austrian Judge Jann, and the Finnish Judge Sevon. The second is a chamber composed of the Austrian Judge Jann, the Finnish Judge Sevon, and the Belgian Judge Wathelet.

29. The Greek Judge Kakouris, who retired in 1997.

30. The British Judge Edward, who was in office from 1992 to 2004.

Figure 1: Cooperation between Advocates General and Judge Rapporteurs



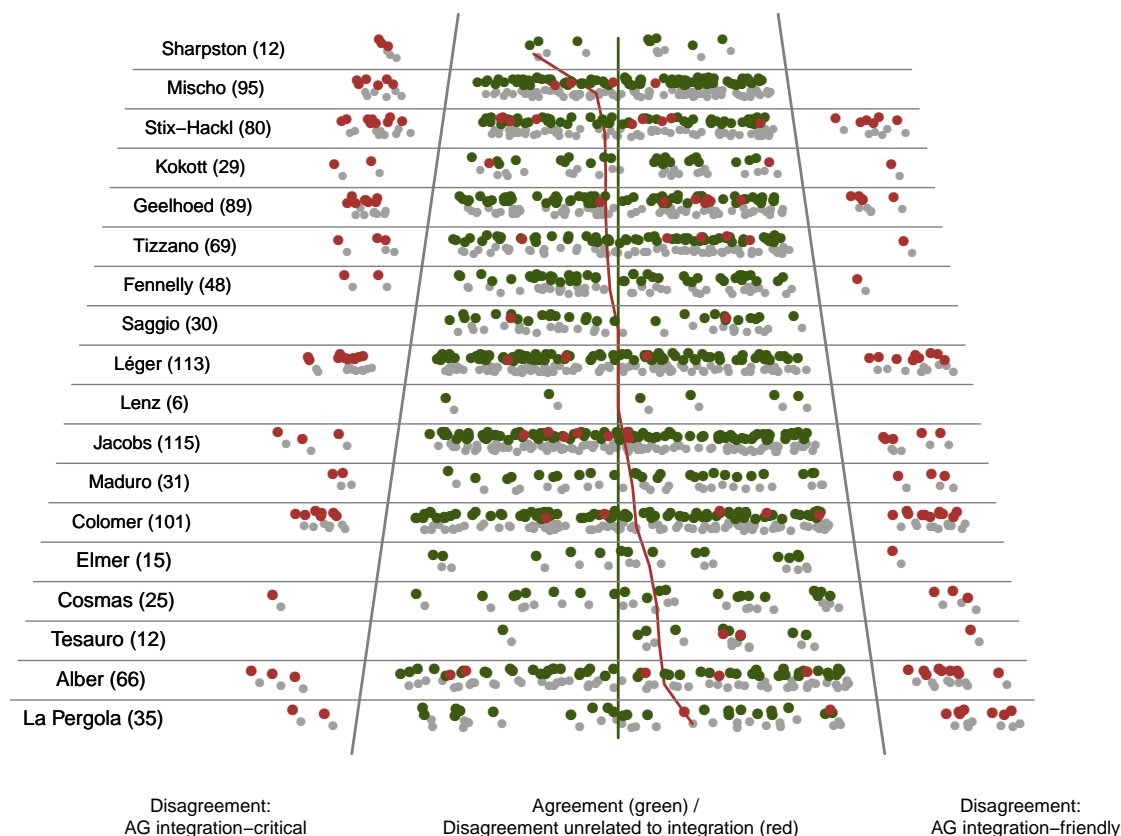
allow for a straightforward establishment of an agreement or disagreement, I referred to the grounds for both opinion and judgment in order to ensure a proper interpretation of the operative part. Each observation was classified as falling into one of four categories (agreement, disagreement, no answer by the Court, no answer by the AG).<sup>31</sup> In the event of a divergence between the outcome proposed by the AG and the judgment, I also reported whether the solution of the Advocate General is more or less favorable to integration or whether no such tendency could be established. Observations for which either the Advocate General or the Court did not provide an answer were discarded, leaving 971 observations in the dataset. The coding was completed before the start of the works on the theoretical framework. Also, I had not yet coded the persons involved

31. A question went unanswered by the Advocate General or the Court when either came to the conclusion that the question did not require being addressed, while the other disagreed on this conclusion. One example could be a case in which the national court asked two questions, one about the scope of one of the four freedoms of the common market, and one about the justifiability of certain Member State acts that limited the exercise certain economic activities. Now assume the Advocate General suggested answering question 1 in a way that includes the activity at issue in the scope of the right, and then addresses the justifiability of similar Member State acts. Assume further that the Court interpreted the scope of the freedom in a more limited way, excluding the activity at issue. Then, the Court would likely see no need to address the justifiability of the state act, and leave question 2 unanswered. Overall, 88 questions were coded as not answered by the Court, and 26 were coded as not answered by the Advocate General.

in the decision-making at the time of the manual coding.

Figure 2 shows the distribution of outcome variables among the individual Advocates General, with the red line indicating the mean value of the outcome variable for each individual AG.

Figure 2: Descriptive statistics 1 - Outcomes per Advocates General



For use in robustness checks, I compiled a second version of the dataset which reports outcomes on the case level. For this dataset, the outcomes on the level of a single legal question were transformed into one case-level variable. This variable is coded as a disagreement with the Advocate General taking the integration-critical stance if the case contains at least one legal question in which the AG took the more integration-critical position and no legal question in which the AG took the more integration-friendly position, as a disagreement with the AG taking the integration-friendly position in the opposite case, and as neutral in all other cases.

### 3.2 Second dataset: political background variables

Besides, I obtained information on the political alignment of the appointing Member State governments from a dataset compiled by Volkens et al. 2015. This dataset reports,

for most parties involved in elections in Europe (and elsewhere) since 1945, the political alignment along a large number of different dimensions. The data is assembled through “quantitative content analyses of parties’ election programmes.”<sup>32</sup> I use two different measures for political preferences with regard to European integration. The reason for this is that the dataset contains one variable measuring the percentage of phrases in support of European integration, and one recording phrases critical of European integration.<sup>33</sup> For each AG, I establish which parties supported the government which was in power at the time an AG was (re-)appointed to the Court.<sup>34</sup> Based on this information, I obtained one aggregate value for each dimension for each Advocate General by taking the average of all parties in support of the government, weighted by the number of seats in parliament. Besides, I obtain information on the parties location on a left/right scale.<sup>35</sup> Table 1 displays the value for all Advocates General in the sample, showing separate values for Advocates General after a reappointment to a second or third term in office.

Table 1: Descriptive Statistics 2 - Party manifesto data for Advocates General

	MS	Years	Integration		L/R
			Pro	Anti	
Lenz 3	DE	1991-1997	4.88	0.00	-7.53
Tesauro 2	IT	1994-1998	3.58	1.51	17.18
Jacobs 2	UK	1994-2000	2.00	1.10	27.90
Cosmas	GR	1994-2000	3.77	0.24	-18.76
Elmer	DK	1994-1997	0.25	0.00	-27.94
Léger 1	FR	1994-2000	0.00	0.00	2.40
La Pergola	IT	1995-1999	3.58	1.51	17.18
Fennelly	IE	1995-2000	3.48	0.00	-7.06
Colomer 1	ES	1995-2000	3.48	0.13	-23.21
Alber	DE	1997-2003	5.09	0.02	23.34
Mischo 2	LU	1997-2003	1.48	0.44	-18.80
Saggio	IT	1998-2000	2.25	0.44	14.39
Colomer 2	ES	2000-2006	2.87	0.00	5.00
Léger 2	FR	2000-2006	10.45	0.54	-16.15
Jacobs 3	UK	2000-2006	3.37	0.36	8.07
Tizzano	IT	2000-2006	2.66	0.00	17.52
Geelhoed	NL	2000-2006	2.91	0.38	-9.97
Stix-Hackl	AU	2000-2006	5.85	1.13	20.10
Kokott	DE	2003-2009	2.10	0.11	0.94
Maduro	PT	2003-2009	1.46	0.84	2.92
Sharpston	UK	2006-2012	2.34	0.19	-3.09

Figure 3 shows the relationship between the integration-related measures for the Advocates General appearing in the dataset. As can be seen, both variables show a positive,

32. <https://www.wzb.eu/en/research/dynamics-of-political-systems/democracy-and-democratization/projects/the-manifesto-project> (accessed December 31, 2015).

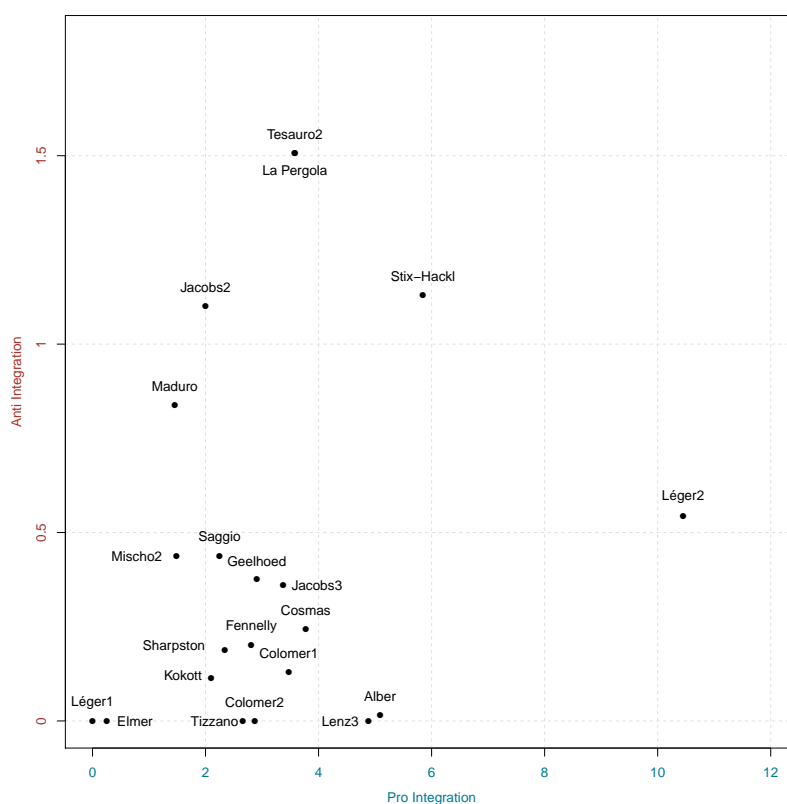
33. Variables per108, and per110 in the original dataset.

34. This information is obtained from Seki and Williams (2014). This dataset reports which of the parties in Volkens et al. (2015) supported a government at which point in time. For each AG in the dataset, I determine the parties in support of the government 30 days before the taking office of this individual. I do the same for reappointments.

35. Variable rile in the original dataset.

although weak, correlation ( $r = .182$ ), and not, as one might expect, a negative correlation. One possible explanation for this is that European integration as a general topic might play a bigger role in some countries and in some election cycles than in others, leading to high values for both pro integration and anti integration. Because of this correlation, it seems reasonable to use both variables in the analysis instead of settling on just one as a measure of integration-friendliness. This way, one can control for the effect of a more prominent role of European integration in some election campaigns. One can also observe that both measures are right-skewed. Therefore, in the empirical analysis in Section 5.2 below, I use logarithmic versions of the variables as the regressors.

Figure 3: Correlation between anti integration and pro integration measures



Figures 4 and 5 show the relationship between the position of appointing governments on a left/right scale, and the measure for integration-friendliness. We observe that the pro integration measure is on average slightly larger for Advocates General appointed by left-wing parties (Figure 4), while the opposite is true for the anti integration measure (Figure 5). Still, these figures suggest that the position of a Member State government on a left/right scale might be a bad predictor for the preferences of a Member State with regard to European integration. For example, while the four strongest values for the anti integration can be found with AGs appointed by right-wing governments, other AGs appointed by right-wing governments show a very low value for anti integration.

Figure 4: Correlation between pro integration and left/right measures

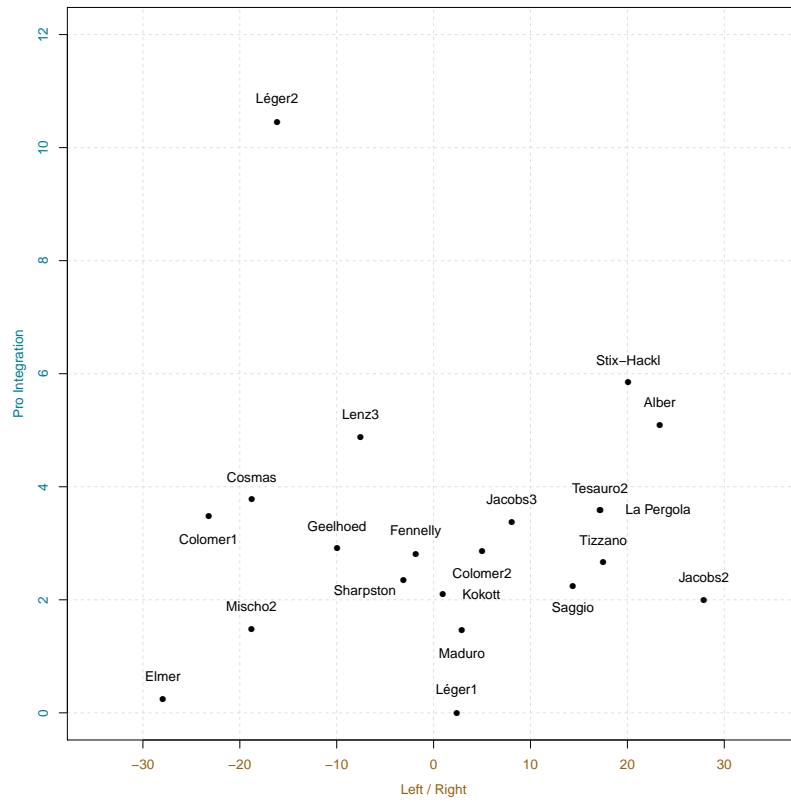
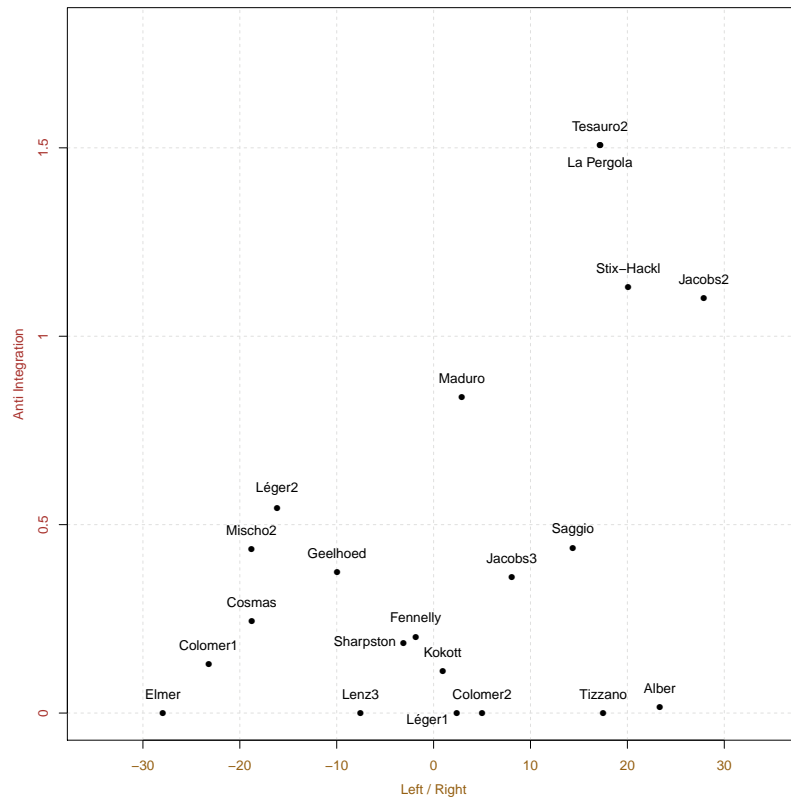


Figure 5: Correlation between anti integration and left/right measures





## 4 Theoretical framework

### 4.1 The need for a new model

As a basis for the empirical analysis, I develop a formal model of the decision-making at the ECJ with a focus on the interaction between the Advocate General and the judges. This model formalizes the intuition that, if one Advocate General is more likely to take a pro-integration stance *vis-à-vis* the judges, while the opinion of another Advocate General is more likely to be overruled by a more pro-integration judgment, one can infer that there is a difference in AGs' preferences with respect to integration.

The development of a new model is motivated by the fact that the standard model for inferring judge ideal points, the roll call model based on item response theory, does not lend itself to investigating the role of individual members of the ECJ. The roll call model was developed in the context of multi-member legislative bodies.<sup>36</sup> Subsequently, it has been applied not only to the U.S. Supreme Court,<sup>37</sup> but also to international bodies such as the European Court of Human Rights.<sup>38</sup> The main advantage of this model is that it allows to make inferences requiring only a minimal set of assumptions. Most importantly, a researcher need not code a particular judicial vote as “right” or “left” on whichever policy scale is the focus of the research.<sup>39</sup> Instead, ideal points for individual decision-makers as well as “cutoff points” and “discrimination parameters” for individual items are estimated simultaneously. For this, the model requires observing a plurality of votes by a constant (or at least overlapping) set of actors on the same issues.<sup>40</sup> At the ECJ, however, as the votes of individual judges are not published, and as there is no possibility for a judge to issue a dissenting opinion, one can observe at maximum two votes on each case: one by the Advocate General, and one by the panel of judges asked to decide the case.

One additional disadvantage of the standard roll call model is that it does not allow for inferences from cases on which no disagreement between individual decision-makers is observed.<sup>41</sup> Such information is simply disregarded by the model, although agreements between all decision-makers potentially convey important information on the decision-behavior of the participating individuals. This is particularly important in the present setting, in which the overwhelming majority of cases does not end in a disagreement between the Advocate General and the Court.<sup>42</sup>

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36. See the pivotal paper by Clinton, Jackman, and Rivers 2004.

37. See, e.g., Ho and Quinn 2010; Martin and Quinn 2002.

38. Voeten 2007.

39. For details, see Ho and Quinn 2010. In the context of the U.S. Supreme Court, the policy scale that is the focus of most research is “conservative” vs. “liberal”. In the context of the European Court of Human Rights, by contrast, existing research focuses on an “activist-restraint dimension.” Voeten 2007.

40. Fischman 2011, 783.

41. Fischman 2011.

42. See *supra*, Section 3.

A recent paper by Malecki 2012 nevertheless applies the roll call model to decision-making at the ECJ. Using a variation of the model, he finds a weak relationship between a government’s position on a left/right scale and the voting behavior of judges appointed by this government. The paper attempts to solve the problem of observing only limited numbers of votes on each item by simultaneously estimating case location point using net Member State interventions pro and contra a certain case solution. Also, it attributes judgments to all judges sitting in the chamber called to decide the case, ignoring the possibility of a judge opposing the case resolution. These modifications rip the roll call model of many of its great features, most importantly its simplicity and the need to make no assumptions about the “direction” of a certain case resolution. The model developed in this paper, by contrast, disposes of any assumptions about the absolute “direction” of a certain judicial vote, using only a relative measure based on comparing an Advocate General’s opinion with the following judgment by the judicial chamber.

A second stream of literature investigates the influence of judge background variables on the decisions of judges by comparing the ratio of votes issued by different groups of judges that are classified as 0 or 1 according to a certain coding scheme. This approach is particularly prominent in the context of the U.S. federal courts of appeals.<sup>43</sup> In this context, votes are mostly classified as either “liberal” or “conservative.” Some authors also use simple regression models in order to control for other potential influence factors.<sup>44</sup> Note that, as in the present context, such research aims at making inferences from observing individuals reacting to a different set of cases each, with only a small number of votes for each case. Under these conditions, valid inferences require that each (group of) individuals decides an equivalent set of cases. Otherwise, one could never say with certainty whether observed differences in success rates were caused by differences in judges’ decision behavior, or by differences in the case sample decided by different judges. The institutional feature that allows for valid inferences in the context of the U.S. courts of appeals is random case assignment. If each group of judges decides a large enough number of cases, differences in the case sample can be expected to cancel out.<sup>45</sup> At the ECJ, as described above, cases are not randomly assigned to individual judges and Advocates General.<sup>46</sup> Therefore, any empirical strategy relying on comparing rates of votes on an absolute scale does not seem well suited for an investigation into the role of politics at the ECJ.

The model developed below avoids many of the downsides of both Malecki’s adaption of the roll call model, and of potential attempts to apply the second approach to the

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43. *See, e.g.*, Epstein, Landes, and Posner 2013, 153 et seq; Sunstein et al. 2006. This stream of literature is also interested in the effects of panel composition on the votes of judges. *See also* Griffin Jr. 2015 for a more recent example in an alternative institutional context.

44. *E.g.*, Epstein, Landes, and Posner 2013, 153 et seq.

45. *See* Fischman 2011 for a more formal treatment of the importance of random case assignment.

46. *See supra*, Section 2.

present context. Other than roll call models, it does not rely on estimating cutoff points. Also, it extracts information not only in case of a disagreement between different actors, but from all cases. Also, the model does not rely on comparing case outcomes on an absolute scale, but instead on comparing case outcomes relative to a second actor that is present in all cases. The price of these arguably nice characteristics is a set of new assumptions which will be described in the model, and discussed in more detail in Section 6.

## 4.2 One-dimensional policy-space models

In line with the roll call model, I use a one-dimensional policy-space model to model the decision-making of Advocates General. In a policy-space model, each player  $j$  is represented by an ideal point  $\theta_j$  indicating his preferences relative to those of all other players  $-j$ . In line with most of the literature on political behavior at the ECJ, which treats European integration (i.e., the question whether to generally expand the scope of EU law at the expense of Member State autonomy) as the main policy dimension motivating the behavior of actors at the Court,<sup>47</sup> I use differences in preferences on the right level of European integration as the basis of my model. According to this model, for two players 1 and 2 for whom  $\theta_1 < \theta_2$ , player 2 would prefer to decide  $> 50\%$  of all cases in a more integration-friendly way than player 1.

It is important to stress that this model does not make statements about the underlying motivation for the preferences of individual players. In particular, it does not state that judicial actors have the same motivations as policy makers when deciding a case. To be sure, different preferences in this sense might be motivated by certain policy preferences in the conventional sense. One player might simply be convinced that a certain amount of integration is best, and might apply the law in a way that suits his conviction. However, it could also be that the player has a certain legal viewpoint that leads him to favor one outcome over another. In fact, it seems reasonable to assume that judicial players are to some extent restrained from following their “real” policy preferences.<sup>48</sup> For example, if, in an infringement proceeding, a Member State is accused of not complying with a regulation, the judicial player might consider it right to vote in favor of the Commission, even if he would prefer to vote down the law if he were acting as legislator. The same might apply if there is an established case-law for a certain area of law that is universally accepted. Or a judicial player might prefer to decide the case in a way that upholds the case-law, but is contrary to his beliefs about what is the right policy solution for a certain problem.

In fact, the only assumptions made in this model relate to the consistency of differences

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47. Stein 1981; Malecki 2012.

48. Stephenson 2009.

between the preferred outcomes of individual players. First, the model states that, given two players 1 and 2 for whom  $\theta_1 < \theta_2$ , player 2 on average favors more pro-integration outcomes than player 1. Second, it states that, given three players 1, 2 and 3 for whom  $\theta_1 < \theta_2 < \theta_3$ , player 3 will be more likely to side with player 2 instead of player 1 in cases where 1 and 2 disagree over the correct level of integration.

### 4.3 Modelling the interaction between Advocates General and the judges

Next, I will turn to the application of the policy-space model to the interaction between AGs and the judges (which I also refer to as “the Court” throughout this and the following sections). As mentioned above, each case is dealt with by one AG and a chamber of judges, whereby the behavior of different judges cannot be observed.<sup>49</sup> For this reason, I model each legal case as a game of two players, *AG* and *C*, treating the judicial chamber as a unitary body.

As mentioned above, in preliminary ruling proceedings, the outcome is not a simple “Yes” or “No” in response to a request by the plaintiff. Instead, the ECJ provides an interpretation of EU law in response to a question raised by a national court. Note that it is almost impossible to come up with a consistent and objective way to classify interpretations of EU law that are given in response to different questions as integration-friendly or integration-critical. By contrast, it is relatively straightforward to compare the operative part of the AG’s opinion in a specific case with the final judgment in the same case and determine whether the former or the latter suggested a more integration-friendly answer, or whether there was no disagreement over the right level of integration at all. Accordingly, the outcome variable in this model is a relative measure of whether the AG or the judicial panel suggested a resolution that is more integration-friendly. Formally, I note:

$$Y = \begin{cases} -1 & \text{if } C \text{ adopts more integration-friendly position} \\ 0 & \text{if no disagreement about integration} \\ 1 & \text{if } AG \text{ adopts more integration-friendly position} \end{cases} \quad (1)$$

Next, I assume that, in each single case, each player in the game has an ideal solution  $q$ , i.e. a judgment favoring a certain level of integration. As mentioned above, in the context of preliminary ruling procedures which are the subject of the present investigation, each case can be decided in multiple ways: The Court does not decide whether an application submitted by the plaintiff is granted, but answers a legal question submitted by a national court. Accordingly, the Court has broad discretion in designing its answer to the question.

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49. Note, however, that since 2002, the Court has been allowed to proceed in minor cases without the involvement of an Advocate General.

For this reason, I assume that  $q$  is not constrained to certain values, but can be located anywhere in the policy-space ( $q \in (-\infty, \infty)$ ). I assume that a higher  $q$  denotes a solution that is more integration-friendly.

I model the interaction between the Advocate General and the Court in each single case as a single stage game of complete information. In this game,  $AG$  moves first, choosing  $v_{AG}$  from  $(-\infty, \infty)$ . Second,  $C$  chooses  $v_C$  from  $(-\infty, \infty)$ . I assume that the utility of the players depends on whether they vote in accordance with their preferred solution. First, I assume that, in principle, each player would like to vote in accordance with his ideal solution  $q$ , i.e. it is costly for the players not to vote in accordance with their preferred solution. By deviating from their ideal points, they incur costs of  $|q - v|$ .<sup>50</sup>

If both players were acting as sincere voters, i.e. always voted according to their true preferences, the Court would overrule the AG in a pro-integration direction if  $q_{AG} < q_C$ . Similarly, the Court would overrule the AG in an anti-integration direction if and only if  $q_{AG} > q_C$ .<sup>51</sup> The existing literature on the interaction between Advocate General and the Court, however, suggests that this may not be an accurate model. In some instances at least, both the Advocate General and the Court, instead of following their own policy preferences, seem to seek consistency between opinion and judgment. There are several reasons for such behavior: An Advocate General who is consistently overruled by the judge might be perceived as not influential or even as a bad lawyer. A court willing to overrule the Advocate General might have to invest more in the reasoning needed to justify the outcome, as it is not possible for it to implicitly or explicitly refer to the reasoning provided in the opinion. Also, a judgment that deviates from the opinion might be perceived as weaker than a judgment in line with the opinion. To understand this, consider that a different opinion clearly shows that a different solution of the question could have been taken by the court. I model this behavior by assuming that a disagreement between the Advocate General and the Court is potentially costly for both the Advocate General and the Court: I assume that a disagreement can only be detected if it is obvious, i.e. exceeding a threshold  $t$ . From an obvious disagreement,  $AG$  incurs costs of  $c_{AG}$ , and  $C$  incurs costs of  $c_C$ .<sup>52</sup> From this, I derive the following utility functions:

$$u_{AG,i,j} = \begin{cases} -|v_{AG} - q_{AG}| - c_{AG} & \text{if } v_{AG} \neq v_C \\ -|v_{AG} - q_{AG}| & \text{if } v_{AG} = v_C \end{cases} \quad (2)$$

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50. Note that the decision for a cost function using the absolute value of the ideological distance is not material. A similar model would result from choosing any monotonously increasing cost function, e.g. a quadratic cost function.

51. Similar assumptions about judges sitting on the same panel seem to implicitly underlie many empirical studies of judge behavior in the United States. See Fischman 2011.

52. A similar model, although in a context where only two solutions to a case are possible, is used by Fischman 2011 to model interaction of judges on panels in US Courts of Appeals.

$$u_{C,i,k,l} = \begin{cases} -|v_C - q_C| - c_C & \text{if } v_{AG} \neq v_C \\ -|v_C - q_C| & \text{if } v_{AG} = v_C \end{cases} \quad (3)$$

This allows us to “solve” the game using backward induction: We know that, in his move,  $C$  will:

- (1) vote “sincerely” ( $v_C = q_C$ ) if  $c_C < |q_C - v_{AG}|$
- (2) avoid a disagreement ( $v_C = v_{AG}$ ) if  $c_C > |q_C - v_{AG}|$ .

In other words,  $C$  will agree with  $AG$  for all  $v_{AG,i} \in (q_C - c_C, q_C + c_C)$ . Knowing this,  $AG$  will follow one of three different strategies, depending on the distance between  $q_{AG}$  and  $q_C$  (for the sake of simplicity, I restrict myself to cases where  $q_{AG} < q_C$ , but cases where  $q_{AG} > q_C$  follow exactly the same pattern):

- (1) If  $c_C > q_C - q_{AG}$ ,  $AG$  knows that  $C$  will accept a vote according to his own preferred solution  $q_{AG}$ . Therefore,  $AG$  will choose  $v_{AG,i} = q_{AG}$ .
- (2) If  $c_C < q_C - q_{AG}$  and  $q_C - (c_C) < q_{AG} + c_{AG}$ ,  $AG$  knows that  $C$  would not accept his preferred solution  $q_{AG}$ , but some vote  $v_{AG} < q_{AG} + c_{AG}$ . Therefore,  $AG$  maximizes his utility by choosing  $v_{AG} = q_C - (c_C)$ .
- (3) If  $q_C - (c_C) > q_{AG} + c_{AG}$ ,  $AG$  knows that there is no vote  $v_{AG}$  with which  $C$  could agree that would maximize the utilities of both  $AG$  and  $C$ . Therefore, it does not make sense for  $AG$  to adjust his voting behavior to  $C$ , and it is utility-maximizing for him to choose  $v_{AG} = q_{AG}$ .<sup>53</sup>

Note that only (3) ends in a disagreement between  $C$  and  $AG$ . (1) and (2) end in agreements between both players. This allows us to formulate conditions for the different manifestations of  $Y$  to occur:

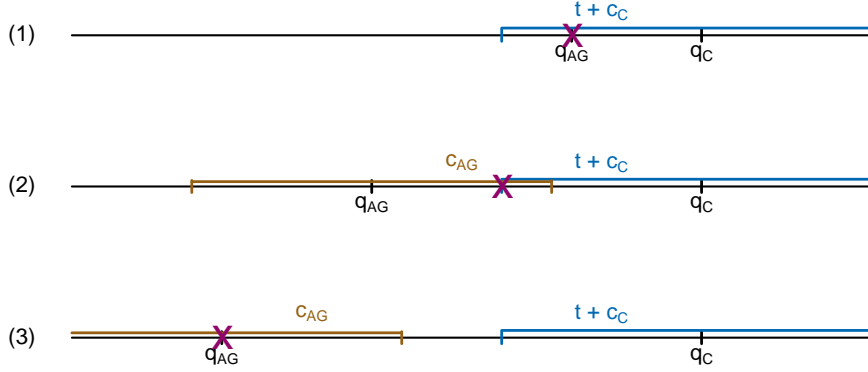
$$Y = \begin{cases} -1 & \text{if } q_C - q_{AG} \geq c_{AG} + c_C \\ 1 & \text{if } q_{AG} - q_C \geq c_{AG} + c_C \\ 0 & \text{in all other cases} \end{cases} \quad (4)$$

Figure 6 depicts graphically the three different scenarios. The red x in the graph indicates the location of  $v_{AG}$  that  $AG$  will choose in each scenario.

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53. Note that the chosen structure of the game puts the Advocate General player in a strategically advantageous position. In case an agreement is the preferred solution for both players, the Advocate General player, knowing the utility function of the Court player is able to choose  $v_{AG}$  in a way that maximizes his own utility. The Court player, on the other hand, does not have any possibility to threaten disagreement in order to force the Advocate General player to vote closer to its own preferred solution. This would be different if the model took into account consequences from the repeat interaction between AGs and the Court.

Figure 6: Cooperation of AG and C



#### 4.4 Requirements for ideal point estimation

The model developed above allows us to make assertions about the relative location of the ideal solutions  $q_{AG}$  and  $q_C$  in a single case, given the outcome we observe. However, I am not interested in single cases, but in making inferences about the AGs' ideal points from a number of cases. This requires two additional sets of assumptions.

First, one needs to link the favored outcomes  $q$  with ideal points  $\theta$  that are somehow constant across cases. In line with conventional roll call models, I will assume that *theta* does not perfectly map into the solution space, but that there is some element of randomness involved in determining how a judicial player will think about a certain case. To understand what this means, let's again assume two players 1 and 2 with  $\theta_1 < \theta_2$ . If no element of randomness was involved, there would only be two possible outcomes: 1 could disagree with 2 on the integration-critical side, or agree with him. Note that such a model would not be very useful. The reason for this is that it would not be able to handle the case in which, when observing several responses by both players, 1 would sometimes agree with 2, sometimes disagree on the integration-friendly side, and sometimes disagree on the integration critical side. In the model, I will assume that this element of randomness is, for both players, a random draw from a certain probability distribution. Most importantly, I will assume that both draws are uncorrelated, and also not related to  $\theta$  of the other player. This means, for example, that I am assuming the ideological position of  $C$  does not vary systematically with the assignment of a different AG to a case.

Second, one needs to make assumptions about the size of  $c_{AG}$  and  $c_C$ . In the model I

develop above, I need make no assumptions about the size of these parameters. However, in order for the model to be identified, I need some assumptions about the development of the size of  $c_{AG}$  and  $c_C$  across cases. I treat  $c_{AG}$  and  $c_C$  as constant, introducing a strong assumption of uni-dimensionality to the model. Both these assumptions are required for the model to work, and will be discussed at length below.<sup>54</sup>

As described above, inferences from observed case outcomes require certain assumption on how  $q_i$  relates to the ideal points *theta* of the different actors involved. For this, I also introduce a case location point  $\omega_i$  to the model.  $\omega_i$  relates to the position of the case compared to other cases: is it a case for which most judges prefer a decision which is strongly in favor of integration, or a case for which most actors favor a more anti-integration outcome?

- For the Advocate General player  $AG$ , the “ideal solution” for a legal question  $q_{AG,i,j}$  consists of a case parameter  $\omega_i$  and a combination of a fixed value for the individual Advocate General ( $\theta_{AG,j}$ ,  $j \in 1, 2, \dots, n_{AG}$ ) plus a randomly distributed error term  $\epsilon_{AG,i}$ .

$$q_{AG,i,j} = \omega_i + \theta_{AG,j} + \epsilon_{AG,i} \quad (5)$$

- Note that, for the court player  $C$ , the involvement of multiple judges requires assumptions about how the individual judges involved in the decision influence the  $q_C, i$ . I assume that  $q_{C,i,k}$  is the mean of the ideal points of all judges  $J$  involved in the decision:<sup>55</sup>

$$q_{C,i,k} = \omega_i + \frac{\sum_{k=1}^n \theta_{J,k}}{n} + \epsilon_{C,i} \quad (6)$$

We now plug in these equations into the condition for the occurrence of a disagreement. Remember that a disagreement with  $q_{AG,i,j} < q_{C,i,k,l}$  occurs ( $Y = -1$ ) if

$$q_{C,i,k,l} - q_{AG,i,j} \geq c_{AG} + c_C \quad (7)$$

Substituting for  $q_{AG,i,j}$  and  $q_{C,i,k}$ , we get

$$\left( \omega_i + \frac{\sum_{k=1}^n \theta_{J,k}}{n} + \epsilon_{C,i} \right) - (\omega_i + \theta_{AG,j} + \epsilon_{AG,i}) \geq c_{AG} + c_C \quad (8)$$

Note that  $\omega_i$  cancels out. Solving for  $\epsilon_{C,i} - \epsilon_{AG,i}$ , we get

$$\epsilon_{C,i} - \epsilon_{AG,i} \geq (c_{AG} + c_C) - \left( \frac{\sum_{k=1}^n \theta_{J,k}}{n} - \theta_{AG,j} \right) \quad (9)$$

Now, I set  $(\epsilon_{AG,i} - \epsilon_{C,i}) = \epsilon_i$ . Note that this requires that  $\epsilon_{AG,i}$  and  $\epsilon_{C,i}$  are independently

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54. See *infra*, Section 6.

55. In the empirical analysis, I use different proxies for the location of the court in order to ensure the robustness of the results.



and identically distributed. Also, I set  $c_{AG} + c_C = c$ . Then we get

$$\epsilon_i \leq \left( \frac{\sum_{k=1}^n \theta_{J,k}}{n} - \theta_{AG,j} \right) - c \quad (10)$$

Similarly, we can show that a disagreement with  $q_{AG,i,j} > q_{C,i,k,l}$  occurs if

$$\epsilon_i \geq \left( \frac{\sum_{k=1}^n \theta_{J,k}}{n} - \theta_{AG,j} \right) + c \quad (11)$$

Under the assumption of normally distributed error terms  $\epsilon_i$ , this is equivalent to an ordered probit model in which  $X_1$  is a matrix of variables indicating the involvement of individual Advocate General and judges in the case,  $\beta$  is a vector of estimates for the ideal points  $\theta$  of the actors involved, and  $\tau$  is an estimate for  $c$ :

$$\begin{aligned} P(Y = Disagr_{q_{AG,i,j} < q_{C,i,k,l}}) &= P(\epsilon_i \leq X_1' \beta - \tau) \\ P(Y = Disagr_{q_{AG,i,j} > q_{C,i,k,l}}) &= 1 - P(\epsilon_i \leq X_1' \beta + \tau), \quad \epsilon_i \sim \mathcal{N}(0, 1) \end{aligned} \quad (12)$$

## 5 Results

### 5.1 Judge ideal points and the political alignment of Member State governments

I use the theoretical frame work developed above to conduct two different empirical tests. First, the model allows the estimation of ideal points for each AG involved in the decision-making at the Court in the time period under investigation, and compare the ideal points of AGs appointed by one group of Member State governments with others. Ideal points locate all AGs on a scale displaying the integration-friendliness as expressed in his decision behavior compared to all other Advocates General. However, these ideal points do not have any meaning in themselves; most importantly, their absolute value is arbitrary.<sup>56</sup> I obtain ideal points for all Advocates General from an ordered probit regression including a factor variable capturing the identity of the AG, plus control variables for the composition of the judicial chamber.<sup>57</sup> Standard errors are clustered at the AG level. A *Chi*<sup>2</sup>-test indicates that the factor variable is weakly significant in this specification (*p* - *value* : .086). As conventional standard errors for factor variables always relate to one reference category and are not convenient for calculating standard errors for other categories, I

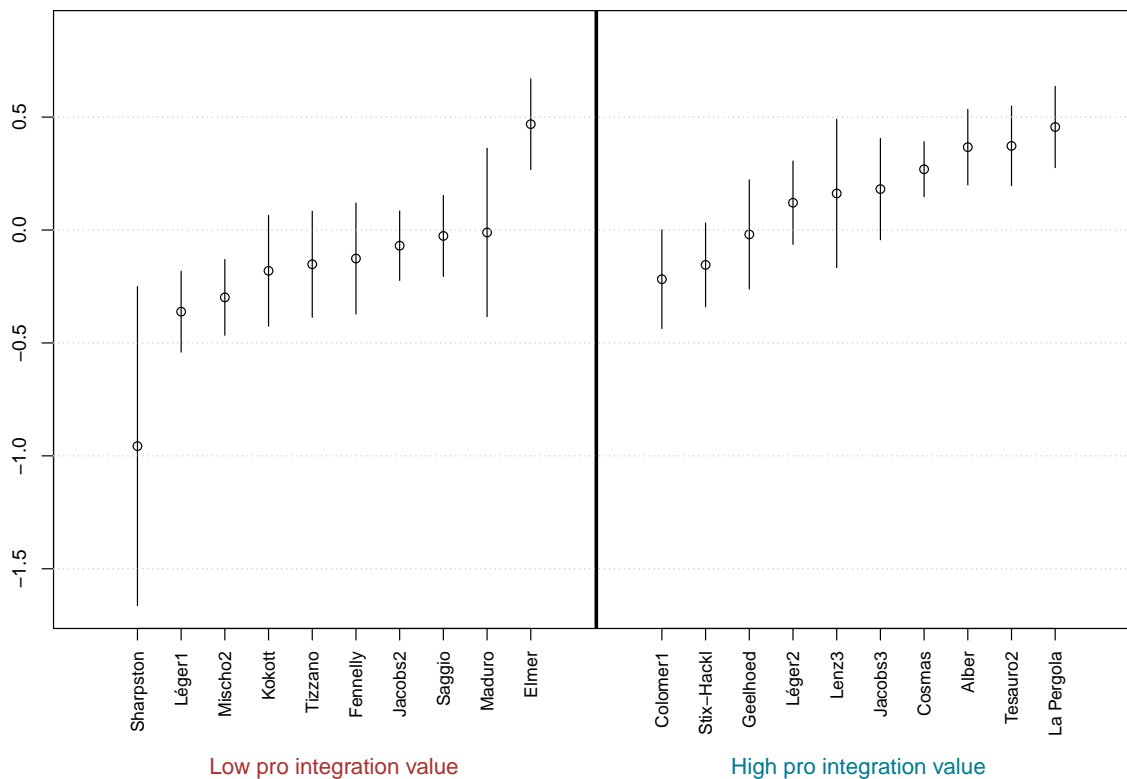
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56. See also Ho and Quinn 2010.

57. I construct these control variables as follows: I include one variable for each judge in the dataset. The variable is 0 in case the judge is not involved in the decision, and one divided by the number of judges involved otherwise.

report “quasi standard errors” (Firth 2003) for all judge ideal points.<sup>58</sup>

Figure 7: Ideal points and government preferences pro integration



Notes: Estimates for AG ideal points obtained from ordered probit regression. Dependent variable: Ordered factorial variable reporting the existence and direction of a disagreement between AG and the judicial panel. Control variable: Indicators for presence of judges in judicial panel. Standard errors are clustered at the AG level. Confidence bounds report  $\sim 2$  “quasi standard errors”. Roughly speaking, two ideal points are significantly different if the difference between both is larger than  $2\sqrt{qse_1^2 + qse_2^2}$ .

Figure 7 reports the results from this regression, for two groups of AGs: AGs that were appointed by Member State governments with a value for on the pro integration scale below the median value, and AGs appointed by Member State governments with a higher value on the pro integration scale. It is apparent that AGs appointed by the latter group of governments have on average higher ideal points, meaning that their presence increased the probability of the AG disagreeing with the judges on the pro-integration side (and decreased the probability of a disagreement in which the Advocate General took the integration-critical side). However, as is also clear from the picture, there is a lot of variation in the distribution of ideal points in both groups. The single highest ranking

58. Quasi standard errors are useful for giving a visual impression for whether the difference between two categories is significant. As a matter of principle, the standard error for a contrast between two categories  $SE(B_k - B_j)$  can be obtained from the quasi standard errors  $qse$  for the respective categories  $k$  and  $j$  as follows:  $SE(B_k - B_j) = \sqrt{qse_k^2 + qse_j^2}$ . For computation, I use Chen 2014. Note that quasi standard errors are potentially inaccurate, *see* Firth 2003, 7 et seq. Therefore, I will not use them for the purpose of hypothesis testing.

AGs was appointed by a Member State government showing a value on the pro integration scale that is in the lower half of the field. Also, two AGs appointed by governments with high values on the pro-integration scale show ideal points below some of their colleagues from Member States on the opposite side of the spectrum. Still, from this graph it seems reasonable to assume that political preferences of a Member State government with regard to integration are related to how AGs decide in comparison with their peers. This visual impression is backed by statistical tests for whether both groups have the same true mean ideal point: both a one sided t-test and a one-sided U-Mann-Whitney test (both not considering the median AG) show significant result ( $p - values : .014$  and  $.018$ ).<sup>59</sup>

## 5.2 Directly testing the influence of politics

Second, I conduct a more direct test of the relationship between the political alignment of Member State governments and the decision behavior of the AGs. Instead of using a factor variable aimed at inferring a judge's ideal point, I use the values of the appointing Member State governments on the two policy dimensions identified in Section 3 as regressors. Apart from this change, the mechanics of this model are similar to the one developed in Section 4 and applied in Section 5.1. Most importantly, I use control variables capturing the cast of judges involved in the decision. This setup allows a direct test of whether the involvement of an AG from a government with certain political preferences *vis-à-vis* integration is accompanied by an increase in the chance of the AG taking a more integration-friendly position as compared to the judicial panel. For this test, I run a regression model as specified in equation 13 below.

$$\begin{aligned}
 P(Y_{i,j,k} = -1|X) &= 1 - \Phi(\beta_1 \ln(\text{pro\_int}_{i,j}) + \beta_2 \ln(\text{anti\_int}_{i,j}) + \gamma d_{i,k} - \alpha_1) \\
 P(Y_{i,j,k} = 1|X) &= \Phi(\beta_1 \ln(\text{pro\_int}_{i,j}) + \beta_2 \ln(\text{anti\_int}_{i,j}) + \gamma d_{i,k} - \alpha_2)
 \end{aligned}
 \tag{13}$$

In this model,  $\text{pro\_int}_{i,j}$  and  $\text{anti\_int}_{i,j}$  are the measure for integration-friendliness and integration-criticalness for the governments which (re-)appointed the AGs involved in the different cases. Note that I use logarithmic versions of the variables due to their right-skewness.<sup>60</sup>  $d_{i,k}$  is a vector indicating the involvement of judges in different roles in

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59. I omit a similar graph for the anti integration dimension. For this measure, the picture is not as clear as for the pro integration measure. AGs from country with low values on this scale show the highest ideal points in the field, but many of them also appear among the AGs with the lowest ideal points. One potential explanation for this is the observed positive correlation between the pro integration measure and the anti integration measure. In the direct statistical test developed in Section 5.2 below, I control for these effects.

60. See also *supra*, Section 3.2. As some values for both variables, in order to take the logarithm, one has to add a constant to the variable. The choice of this constant is somewhat arbitrary. I decided to use the lowest non-zero value of each variable divided by 5. A different choice of this variable does not strongly affect the outcomes reported below.

the decision. In the main regression, I use controls similar to the ones used in Section 5.1 above. Later, I will introduce variations in order to ensure the robustness of the results.  $\alpha_1$  and  $\alpha_2$  are estimators for the cutoff points required for the ordered probit model to work.

Under the null hypothesis that the behavior of the AGs is unrelated to the political preferences of the Member State governments, the estimates  $\beta_1$  and  $\beta_2$  should show insignificant results. Significant results for these estimates, by contrast, provide evidence in favor of the alternative hypothesis that the political preferences of Member State governments affect the behavior of AGs.

Table 2 reports regression estimates from a number of different estimations. All estimates are obtained from ordered probit regression, using the existence and direction of a disagreement between the AG and the Court as an ordered categorical outcome variable.<sup>61</sup> I report standard errors clustered at the AG level. Note that I treat observations involving the same AG, but in different periods of appointment, as part of the same cluster.<sup>62</sup> The reason behind that is that it seems reasonable to assume that any specific characteristics of the decision-making of one AG would exist throughout his time in office and not end after a reappointment.<sup>63</sup> Also note that I use logarithmic and scale the political background variables in order to facilitate model estimation.<sup>64</sup>

Column (1) reports the results from the most straightforward regression model. In line with the assumptions of the theoretical model in Section 4 above, I control for the ideological location of the judicial panel by including variables indicating the involvement of all judges sitting in the panel.<sup>65</sup> The coefficient for the pro integration measure is positive and strongly significant ( $p$ -value : .001). This means that a high value on the pro-integration scale significantly increases the probability of an disagreement in which the Advocate General takes the integration-friendly position, while it decreases the probability of a disagreement in which the positions are reverted. The coefficient for the anti integration measure, by contrast, is negative and also strongly significant ( $p$ -value : .009). Accordingly, a higher measure on this scale increases the probability of an AG disagreeing in the integration-critical direction, while decreasing the probability of a disagreement with the AG taking the integration-friendly position.

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61. This variable is coded as  $-1$  in case of a disagreement in which the AG takes the integration-critical position *vis-à-vis* the judicial panel, as  $0$  in case of an agreement or a disagreement with no discernible tendency regarding integration, and  $1$  in case of an disagreement in which the AG takes the integration-friendly position.

62. For a discussion of problems related to cluster-robust inference in regressions with small numbers of clusters, see Cameron and Miller 2015.

63. Note that changing the cluster level does not change the size of the standard errors significantly.

64. Scaling means subtracting the mean and dividing by the standard error. Scaling does not jeopardize the validity of the results, as the absolute values are not important, and relative changes are the same across all observations. Accordingly, while scaling leads to a different size of estimates it does not affect t-ratios. Besides, scaling results in estimates the sizes of which can be compared in a meaningful way.

65. These variables are equivalent to the control variables used above in Section 5.1. See *supra*, note 57.

Table 2: Regression estimates

	Dependent variable: Ordered categorical variable								
	-1: AG integration-critical. 0: agreement. 1: AG integration-friendly disaggregated data (legal question level)						aggregate data (case 1.)		
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
<i>ln(pro_int)</i>	.130*** (.001)	.169*** (.000)	.151** (.003)	.093 (.054)	.126*** (.001)	-	.085* (.021)	.125** (.004)	.113* (.013)
<i>ln(anti_int)</i>	-.113** (.009)	-.112* (.049)	-.110* (.047)	-.101 (.059)	-.103* (.012)	-	-.100 (.060)	-.110 (.125)	-.112 (.097)
<i>rile</i>	-	-	-	-	.033 (.325)	0.061 (.207)	-	-	-
<i>alpha</i> <sub>1</sub>	-1.59	-1.82	-2.14	-1.54	-1.59	-1.58	-1.37	-1.59	-1.79
<i>alpha</i> <sub>2</sub>	1.57	1.58	1.18	1.52	1.57	1.56	1.39	1.44	1.17
Court proxy:									
<i>Judge involvement</i>	x	x	x	-	x	x	x	x	x
<i>JR dummies</i>	-	x	x	-	-	-	-	x	x
<i>President dummies</i>	-	x	-	-	-	-	-	x	-
<i>N</i>	971	971	971	971	971	971	501	501	501

Notes:  $p$ -values in parentheses. Heteroskedasticity-robust standard errors clustered at the Advocate General level.

\*  $p < 0.05$ , \*\*  $p < 0.01$ , \*\*\*  $p < 0.001$ .

In columns (2)-(4), I report results from similar regressions in which I use different proxies for the ideological position of the judicial panel. The motivation behind this is to dispel concerns that the results are just an artifact of the one specific specification used in the model. In column (2), in addition to the control variables included in the regression displayed in column (1), I use dummy variables capturing the identity of the *Judge Rapporteur* and the President of the Chamber. As mentioned above, the *Judge Rapporteur* has a special responsibility for guiding the case through the proceedings, is likely to know it best among his colleagues, and arguably has more influence than other judges due to his responsibility for drafting the opinion. Similarly, it seems possible that the President of the Chamber has more influence than his fellow judges. By using dummy variables, I open a way for such special influences to be captured by the model. The estimates for pro integration are still strongly significant ( $p$ -values : .000 and .003), and the one for anti integration significant at the 5%-level ( $p$ -values : .047 and .047). All estimates keep their signs and remain roughly of the same size. Column (4) reports a regression that omits any controls for judge participation. Again, the coefficients keep their size and magnitude, although they are only weakly significant ( $p$ -values : .054 and .059).

Columns (5) and (6) report regressions that include the measure for the location of a government on the left/right scale. Somewhat surprisingly, a position of a Member State government to the right of a left/right scale has a significant effect that goes in the same direction as ranking high on the pro-integration measure. However, this effect is

insignificant irrespective of whether the other political background variables are included. This confirms the hypothesis that the location of a government on the left/right scale is a poor indicator for whether a governments has preferences in favor of or against European integration.

In columns (7)-(9), I replicate the estimations in columns (1)-(3), but with a different dataset reporting aggregate data on the case level.<sup>66</sup> The reason behind this is that in the original dataset, numerous observations come from one single case, potentially resulting in overconfident results. Clustering on the Advocate General level should mitigate this problem,<sup>67</sup> however, it might not fully eliminate it. Aggregating data on the case level, on the other side, risks loosing a lot of detailed information from the data. For example, it is different whether an AG disagrees with the judges only on one matter among four, or whether he argues for a different solution across the board. In aggregate data, it is not possible to take into account these differences. The results from these additional regressions show estimates of the same sign and roughly the same magnitude. The only estimate that is considerably lower than for disaggregated data is the one for the position of a government on a left/right scale. The estimates for the pro integration measure is still significant ( $p - values$  : .021, .004 and .013) the estimates for the anti integration measure mostly weakly significant.

The coefficients reported in Table 2 are normal coefficients from an ordered probit model, and have no direct interpretation. Also, as mentioned above, I use the logarithmic version of the variables, which further complicates interpretation. Therefore, I show in Figure 8 Panel (a) the estimated impact in differences on the pro integration scale on the probabilities of a hypothetical case ending in a disagreement of either direction. In this figure, the red area under the lower line represents the probability of an disagreement in which the AG takes the integration-critical position, the second red area above the upper line represents the opposite outcome, and the green area represents the probability of a case ending in an agreement over integration. For the same hypothetical case (and assuming that the other political variables are the same), an AG appointed by a government on the lower end of the pro integration scale has a probability of roughly 1.3% of disagreeing from the judges in the integration friendly direction, while for an AG appointed by a government on the opposite side of the scale, this probability would be roughly 6%. Similarly, the first AG would have a probability of more than 17% to disagree on the integration-critical side, while for the second AG this probability is around 5.5%. Note that the effects for the other variables of interest are largely of the same magnitude. As I use scaled variables, the economic impact of differences along these dimensions is

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66. For details on the construction of this dataset, *see supra*, Section 3.

67. The reason for this is that all observations from the same case are dealt with by the same Advocate General. Therefore, the case variable is nested within the broader variable indicating the participation of a particular Advocate General. *See also* generally Cameron and Miller 2015, who as a general rule recommend clustering at the higher level. *Id.*, 17.

roughly similar.

Of course, it is unlikely that two AGs will ever be similar in every dimension except for one political background variable. In particular, as the pro and anti integration measure show a slightly positive correlation,<sup>68</sup> one might be worried that for the AGs in the datasets, these effects cancel out. Therefore, I report in Panel (b) of the same figure differences in the estimated probabilities for the AG to disagree with the judges in the one or the other direction in the same hypothetical case. Again, one can observe significant differences between the individual AGs. AG Lenz in his second period in office, who for these predictions is shown as the most integration-friendly AG, is expected only to take the integration-critical position as compared to the judges with a probability of 6%, while AG Léger on the opposite side of the spectrum does the same with a probability of more than 16%. Note that these estimates are not based on the observed behavior of the AGs, but on the political background variables of the appointing governments.

Overall, these results show economically significant effects for all variables of interest in the model. For those coefficients where one could form clear expectations about the direction of the effect (the measures for pro integration and anti integration), this effect shows the right sign, is consistent in the direction and magnitude across different specifications, and consistently significant. The coefficients for the government's location on a left/right scale, on the other hand, are insignificant. When using data aggregated on the case level, the coefficient for pro and anti integration are still mostly at least weakly significant. Overall, these results should allow for a confident rejection of the null hypothesis that the political alignment of Member State governments appointing AGs to the ECJ does not matter for the subsequent decision behavior of the AGs.

## 6 Discussion

This result has major implications for our thinking about the behavior of judges in different legal systems. It points to the possibility that judicial decision-makers in civil law countries, just as judges in the U.S., are influenced in their decision-making by the broader societal and particularly political context in which they exercise their duties. It also suggests that the realist model of judicial decision-making, which is today dominant in U.S. legal theory, is not limited to the U.S. context. On the contrary, the present finding raises the possibility that it might be equally well suited to describe the behavior of judges outside the U.S., and also outside traditional common law countries.

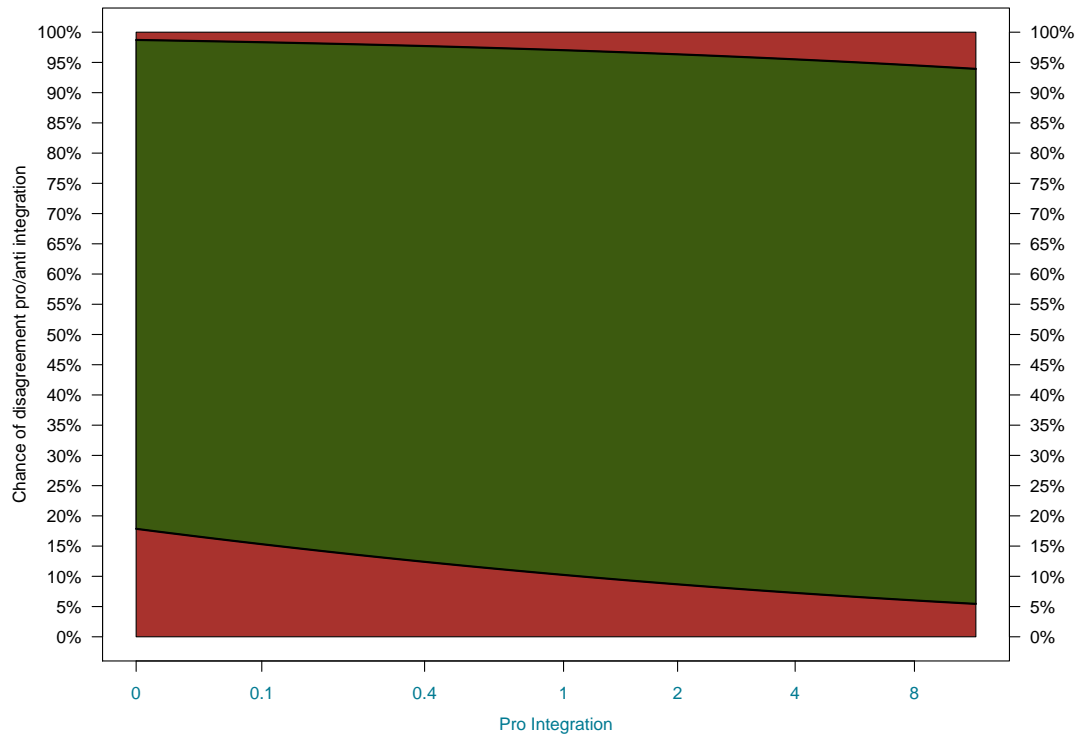
Furthermore, the result has important implications for the EU law discourse. While the ECJ is considered an activist court by many,<sup>69</sup> little is known about the role individuals play at the Court. In particular, if Member States have the possibility to appoint

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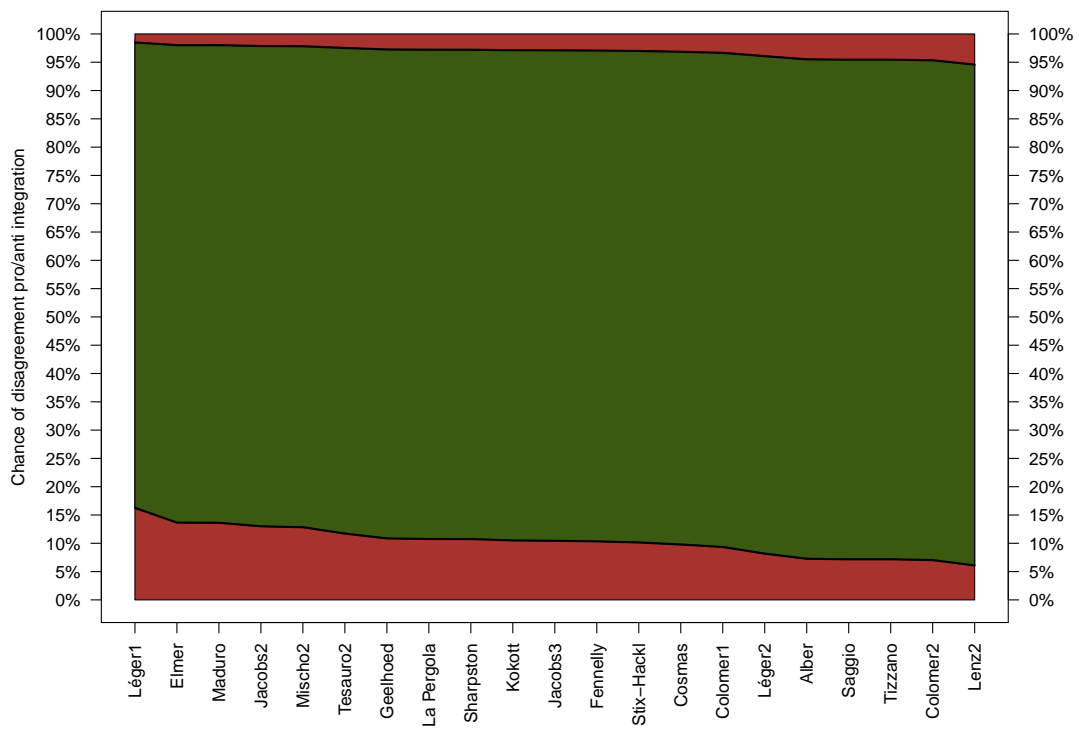
68. *See supra*, Section 3.

69. *See, e.g.*, Stone Sweet 2004.

Figure 8: “Economic” significance of variation in political background variables



(a) Prediction for changing value of pro integration measure



(b) Prediction for Advocates General in the dataset



members of the ECJ that later vote in accordance with their political preferences, one can argue that the ECJ is more an “agent” than a “trustee” of the Member States.<sup>70</sup> Of course, this result is only a first step towards a better understanding of the behavior of individuals at European courts in general, and at the ECJ in particular. With regard to the ECJ, it is important to note that the present research presents evidence based on comparing the decision-behavior of different Court members without analyzing whether any decisions, on an absolute scale, are close to the policy goals of appointing Member State governments. In other words, the findings above are limited to showing that decision-makers appointed by Member State governments that have certain political preferences decide, on average, more in line with these preferences than others. This does not necessarily mean that they are advancing the cause of the appointing governments. It is perfectly possible that the ECJ as a whole pursues an agenda that the Member States do not approve of, just that those ECJ members coming from an integration-critical Member State exercise slightly more restraint than others.

Like any empirical work using structural modeling, the analysis presented above relies on a number of strong assumptions, here in particular on the nature of the collaboration between the AG and the judges. First, as described in Section 4 above, the model makes a strong assumption about the uni-dimensionality of cases before the court. This assumption presumes that, in all cases and irrespective of the members involved in the decision, a certain ideological distance between the solutions preferred by the two players will always lead to a disagreement. This is a key identifying assumption in the model. Of course, this assumption is not an accurate description of reality. Some cases are more contentious than others. However, variations in the contentiousness alone are unlikely to threaten the validity of the model. If, on balance, all individuals involved in the decision-making deal with a similar set of cases, variation has the potential to blur any true effect, but not to create overconfident estimates. The true challenge here comes from non-random, and potentially strategic, case assignment. To understand why, consider the possibility that, for whatever reason, one AG gets assigned a large number of highly contentious cases in which he always appears ideologically on one side of the judge panel. Even if he is not an ideological outlier compared to his peers he might then falsely appear in the model as ideologically extreme.

This assumption constitutes an important limitation of this research. However, one can argue that it is unlikely to be solely responsible for the result we observe in Section 5.2 above. If cases are in fact strategically assigned to individual AGs, one can expect more contentious cases to be assigned to ideological moderates. By assigning only unimportant and uncontentious cases to ideological outliers, the majority could keep them from furthering the preferences of their Member State governments. If a violation of

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70. See Favale, Kretschmer, and Torremans 2015 for a discussion about the interpretation of the role of the ECJ *vis-à-vis* the Member States.

the assumption of uni-dimensionality was to create or falsely inflate the results observed in Section 5.2, by contrast, contentious cases would have to be assigned more often to those Advocates General who have a more extreme ideological background. Ultimately, I leave it to future research to explore ways to relax this assumption. One potential avenue could be the simultaneous estimation of “discrimination parameters” under a more complex nested model.

A second important assumption in the model is the identical and independent distribution of error terms. This is a standard assumption in empirical models. Here, however, it contains a number of specific claims that are worth exploring. First, on a more theoretical level, it means that the random elements linking ideal points to preferred case locations for both players in the model must be uncorrelated.<sup>71</sup> This concern is alleviated through the introduction of case location points that capture case-specific deviations from the players’ ideal points that simultaneously affect both the judges and the AGs. Maybe more importantly, the assumption also requires that the ideological location of the judicial panel does not systematically vary (in a way that is not captured by the controls for the personal composition of the judicial chamber) with the assignment of the case to individual AGs. Again, non-random case assignment is one potential cause for such systematic variation. If one AG gets assigned to a set of cases for which the judges take an extraordinarily integration-friendly position, he might appear in the model as integration-critical, even though in reality his decision behavior is in no way different from that of his peers. Again, one might wonder how realistic this possibility is, given that cases are assigned to AGs in an early stage of the proceedings at which the position of the judges regarding the case will in most cases not be knowable. However, this possibility cannot be fully ruled out, and constitutes a second important limitation of this research.

Besides, this study ignores one potentially important dimension of the decision-making at the ECJ. Neither Advocates General nor judges act alone in writing judgments and opinions and in the other tasks involved in preparing the case. As recently described by Huyue Zhang 2015, they are assisted by their cabinet comprised of a number of legally educated staff. It seems well possible that these persons have an important influence in shaping the decisions of the ECJ members.<sup>72</sup> Therefore, it would be interesting to investigate the role of individuals at the ECJ beyond the level of the judges and AGs. However, given the culture of secrecy at the ECJ, it seems unlikely that quantitative investigations will be able to analyze this dimension in the near future. Also, as the members of the ECJ are responsible for hiring their staff, it seems reasonable to attribute their actions to the respective judge or AG.

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71. I am grateful to Holger Spamann for pointing this out.

72. See Huyue Zhang 2015, who even claims that some weaker members of the ECJ are “dominated” by their staff.

One last limitation relates to the manual coding through which the outcome variable was obtained.<sup>73</sup> Manual coding, especially when done by the researcher himself, can question the replicability and reliability of the results.<sup>74</sup> However, the coding of the legal opinions is, as I contend, too complex to allow outsourcing. Note that I took a number of precautions to ensure the objectivity of the coding. First, I completed the coding before starting the works on the theoretical model, and before obtaining political background variables. Second, I coded the operative part of the decisions not knowing who the author of the respective judgment or opinion was. Therefore, I contend it is unlikely that the results are the result of coding biases.

## 7 Conclusion

This project is one of the first to provide quantitative evidence for the political nature of the decision making at the European Court of Justice. Focusing on the Advocates General, I document that the political background of Member State governments appointing individuals to the Court correlates with their later decision-making. This finding indicates that politics, whose relevance for the workings of U.S. courts have been broadly documented, also play a role in the decision-making of the members of an international court. This is so even though, one can argue, this court actively tries to shield its members from close scrutiny by the Member States through a culture of intransparency and homogeneity. Also, the finding suggests that the realist model of judge behavior might be a good description not only of judges in the U.S. and other common law countries, but also of decision-makers at an institution dominated by civil law countries.

One recent institutional change suggests that the influence of politics might have changed since the time period under investigation in this research. The Lisbon Treaty, which entered into force in 2009, established an independent commission responsible for weeding out candidates that are not suitable for the position they have been selected for by their home government.<sup>75</sup> First reports about the work of that commission suggest that it has already rejected a number of candidates.<sup>76</sup> It remains to be seen whether this institutional change has the power to change the relationship between the political alignment of the Member State governments and the decision-behavior of the Advocates General.<sup>77</sup>

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73. *See supra*, Section 3.1.

74. *See* for an in-depth discussion Hall and Wright 2008.

75. Art. 255 TFEU.

76. Waele (2015, 44 et seq)..

77. *See, e.g.*, Kelemen 2015, 255: "... [the 255 Panel] might even help screen out judges perceived to be ideological or partisan extremists of one stripe or another."

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## Appendix – List of cases

C-90/94	C-261/96	C-247/97	C-97/98	C-464/98	C-385/99
C-18/95	C-266/96	C-254/97	C-102/98	C-473/98	C-389/99
C-67/95	C-270/96	C-255/97	C-108/98	C-1/99	C-390/99
C-97/95	C-274/96	C-258/97	C-109/98	C-3/99	C-393/99
C-120/95	C-291/96	C-259/97	C-160/98	C-15/99	C-413/99
C-189/95	C-292/96	C-262/97	C-165/98	C-16/99	C-430/99
C-225/95	C-304/96	C-275/97	C-176/98	C-33/99	C-443/99
C-284/95	C-315/96	C-280/97	C-190/98	C-42/99	C-451/99
C-322/95	C-325/96	C-290/97	C-195/98	C-43/99	C-459/99
C-334/95	C-336/96	C-294/97	C-200/98	C-54/99	C-462/99
C-337/95	C-343/96	C-302/97	C-209/98	C-63/99	C-470/99
C-338/95	C-348/96	C-307/97	C-220/98	C-66/99	C-479/99
C-341/95	C-350/96	C-311/97	C-224/98	C-85/99	C-510/99
C-347/95	C-360/96	C-328/97	C-228/98	C-87/99	C-513/99
C-349/95	C-367/96	C-329/97	C-233/98	C-94/99	C-515/99
C-382/95	C-369/96	C-337/97	C-238/98	C-109/99	C-516/99
C-1/96	C-370/96	C-340/97	C-246/98	C-119/99	C-17/00
C-15/96	C-389/96	C-350/97	C-251/98	C-135/99	C-19/00
C-36/96	C-400/96	C-355/97	C-254/98	C-141/99	C-31/00
C-44/96	C-402/96	C-366/97	C-281/98	C-157/99	C-53/00
C-51/96	C-410/96	C-371/97	C-293/98	C-164/99	C-55/00
C-54/96	C-1/97	C-373/97	C-301/98	C-169/99	C-60/00
C-55/96	C-5/97	C-378/97	C-309/98	C-178/99	C-92/00
C-57/96	C-41/97	C-379/97	C-310/98	C-184/99	C-99/00
C-69/96	C-61/97	C-383/97	C-314/98	C-187/99	C-112/00
C-80/96	C-67/97	C-391/97	C-324/98	C-191/99	C-115/00
C-85/96	C-76/97	C-394/97	C-339/98	C-192/99	C-121/00
C-90/96	C-77/97	C-405/97	C-348/98	C-201/99	C-123/00
C-97/96	C-86/97	C-412/97	C-356/98	C-205/99	C-136/00
C-98/96	C-87/97	C-424/97	C-357/98	C-213/99	C-137/00
C-104/96	C-93/97	C-439/97	C-366/98	C-223/99	C-143/00
C-108/96	C-124/97	C-6/98	C-368/98	C-226/99	C-153/00
C-118/96	C-131/97	C-27/98	C-379/98	C-234/99	C-159/00
C-142/96	C-147/97	C-31/98	C-380/98	C-235/99	C-162/00
C-143/96	C-162/97	C-35/98	C-381/98	C-253/99	C-172/00
C-160/96	C-193/97	C-37/98	C-383/98	C-255/99	C-182/00
C-163/96	C-210/97	C-38/98	C-397/98	C-257/99	C-188/00
C-171/96	C-212/97	C-44/98	C-399/98	C-268/99	C-190/00
C-176/96	C-215/97	C-48/98	C-405/98	C-277/99	C-208/00
C-200/96	C-222/97	C-49/98	C-411/98	C-285/99	C-244/00
C-201/96	C-224/97	C-55/98	C-423/98	C-288/99	C-245/00
C-203/96	C-230/97	C-58/98	C-441/98	C-306/99	C-251/00
C-212/96	C-233/97	C-61/98	C-448/98	C-309/99	C-255/00
C-213/96	C-234/97	C-65/98	C-455/98	C-317/99	C-257/00
C-228/96	C-237/97	C-67/98	C-456/98	C-324/99	C-259/00
C-237/96	C-241/97	C-94/98	C-463/98	C-371/99	C-260/00

C-276/00	C-112/01	C-9/02	C-387/02	C-330/03	C-293/04
C-290/00	C-113/01	C-10/02	C-396/02	C-374/03	C-300/04
C-294/00	C-152/01	C-12/02	C-400/02	C-376/03	C-311/04
C-318/00	C-167/01	C-14/02	C-414/02	C-403/03	C-331/04
C-324/00	C-168/01	C-25/02	C-429/02	C-411/03	C-339/04
C-355/00	C-171/01	C-36/02	C-434/02	C-446/03	C-340/04
C-356/00	C-209/01	C-42/02	C-438/02	C-451/03	C-346/04
C-360/00	C-215/01	C-46/02	C-442/02	C-458/03	C-353/04
C-379/00	C-216/01	C-47/02	C-443/02	C-467/03	C-366/04
C-385/00	C-222/01	C-56/02	C-444/02	C-468/03	C-372/04
C-386/00	C-224/01	C-71/02	C-456/02	C-495/03	C-386/04
C-388/00	C-232/01	C-91/02	C-467/02	C-512/03	C-392/04
C-411/00	C-234/01	C-92/02	C-17/03	C-513/03	C-406/04
C-416/00	C-241/01	C-102/02	C-20/03	C-515/03	C-410/04
C-421/00	C-243/01	C-112/02	C-21/03	C-537/03	C-419/04
C-422/00	C-245/01	C-115/02	C-26/03	C-544/03	C-434/04
C-435/00	C-255/01	C-133/02	C-28/03	C-3/04	C-438/04
C-436/00	C-285/01	C-138/02	C-72/03	C-23/04	C-452/04
C-438/00	C-290/01	C-145/02	C-134/03	C-39/04	C-456/04
C-453/00	C-292/01	C-148/02	C-136/03	C-40/04	C-465/04
C-466/00	C-300/01	C-153/02	C-152/03	C-89/04	C-466/04
C-469/00	C-313/01	C-200/02	C-169/03	C-96/04	C-467/04
C-6/01	C-317/01	C-203/02	C-170/03	C-109/04	C-470/04
C-15/01	C-322/01	C-222/02	C-195/03	C-140/04	C-479/04
C-18/01	C-337/01	C-224/02	C-209/03	C-147/04	C-493/04
C-34/01	C-364/01	C-239/02	C-210/03	C-151/04	C-506/04
C-56/01	C-383/01	C-240/02	C-211/03	C-154/04	C-514/04
C-57/01	C-387/01	C-247/02	C-215/03	C-158/04	C-517/04
C-63/01	C-405/01	C-275/02	C-227/03	C-192/04	C-10/05
C-78/01	C-411/01	C-289/02	C-230/03	C-196/04	C-11/05
C-79/01	C-413/01	C-293/02	C-231/03	C-201/04	C-50/05
C-92/01	C-421/01	C-309/02	C-242/03	C-213/04	C-140/05
C-95/01	C-422/01	C-315/02	C-253/03	C-222/04	C-149/05
C-99/01	C-452/01	C-319/02	C-265/03	C-226/04	C-169/05
C-100/01	C-462/01	C-327/02	C-293/03	C-247/04	C-290/05
C-108/01	C-482/01	C-338/02	C-306/03	C-258/04	
C-109/01	C-485/01	C-361/02	C-327/03	C-265/04	
C-110/01	C-8/02	C-386/02	C-329/03	C-290/04	