Conflict of Interest Regulation in European Parliaments:

Studying the Evolution of Complex Regulatory Regimes

Nicole Bolleyer, University of Exeter, UK

Valeria Smirnova, University of Düsseldorf, Germany

Fabrizio Di Mascio, University of Turin, Italy

Alessandro Natalini, Parthenope University of Naples, Italy[1]

Forthcoming: Regulation and Governance

Abstract

The growing complexity of parliamentary ethics regulation adopted over the last decades makes the systematic examination of its nature and the rationales underpinning regulatory choices an important endeavour. In this paper we introduce conceptualizations and measurements of conflict of interest (COI) regulation directed towards assuring the impartial and unbiased decision-making of national parliamentarians. We distinguish the strictness of rules, the nature of enforcement, sanctions and transparency requirements as core elements defining COI regimes. Applying our framework to 27 European democracies, we select two cases for in-depth analysis in which legislators chose very different solutions as response to growing pressures to regulate themselves to explore inductively the drivers underpinning the choice of COI mechanisms: the UK adopting a highly transparency-oriented and Belgium adopting a highly sanction-oriented COI regime. Echoing neo-institutionalist perspectives, the longitudinal analyses indicate how distinct answers to similar functional pressures are shaped by the two democracies' different institutional environments.

Keywords: Conflict of interest regulation; parliaments; cross-national indices; regulatory reform; longitudinal case studies

[1] This article is the result of a common undertaking and the authors equally contributed to the coding and compilation of the cross-national 'Conflict of Interest Regulation Dataset'. However, Di Mascio took the lead on writing the discussion section, Natalini on the Belgian case study, Smirnova on the cross-sectional analysis, while Bolleyer was in charge of the remaining parts of the paper, including its theoretical and conceptual foundation and the UK case study, as well as the overall set-up of the paper.

Introduction

Contemporary democracies have adopted a variety of accountability mechanisms for assuring that office holders act in the public interest (Olsen 2017: 30).[2] Trying to prevent the misuse of political power, they aim at establishing trust and bolstering the legitimacy of representative democracy which is widely perceived to be in decline (Dalton 2004; Rosanvallon 2008). Mechanisms applicable to elected office-holders have gained particular prominence as the 'rule makers' are also the 'rule takers' (Streeck and Thelen 2005: 13), i.e. office-holders often regulate themselves in sensitive areas such as the setting of MP salaries, regulation of expenses, parliamentary grants or funding for political parties (e.g. Demmke and Henökl2007: 35; Clark 2015; Biezen and Kopecký 2008; Allen 2011; CasalBértoaet al. 2014). Declining trust in traditional democratic institutions in conjunction with the rising complexity of regulation trying to remedy this problem make research on newly adopted accountability mechanisms paramount (Olsen 2017).

This paper conceptualizes and empirically investigates (cross-nationally and longitudinally) *conflict of interest (COI) regulation*[3] *applied to parliamentarians* in European democracies, an area that was traditionally characterized by self-regulation which has become less and less acceptable leading to what Williams has called an 'ethics eruption' (Williams 2006: 29; Atkinson and Mancuso 1991: 475; Allen 2008a; Saint-Martin 2008). The striking expansion of ethics regulation – including COI regulation– has been the subject to much debate. Meanwhile, the growing *diversity* of different combinations of COI mechanisms (e.g. Demke 2007; Nikolov 2013; Rose-Ackerman 2014) raises an equally

[2] Accountability mechanisms are understood as a set of behavioural rules and organized practices, according to which office holders have to justify their behaviour and performance and face sanctions for misbehaviour and power abuse (Olsen 2017: 30).

[3] Following James (2000: 327), regulation is defined as directed towards "achieving public goals using rules or standards of behaviour backed up by sanctions or rewards of the state", i.e. only rules are considered with which compliance is compulsory (Streeck and Thelen 2005: 10).

important puzzle about specific *regulatory choices* that has received less attention - namely which mechanisms different democracies choose to develop their COI regimes and why.

To address this question, we draw on comparative law to define COI regulation broadly as all formal-legal mechanisms directed towards either *preventing or disclosing those situations in which public officials' impartial and objective exercise of professional duties might be compromised* (Messick 2014: 114-115; Nikolov 2013: 412). Importantly, this definition captures bans and incompatibility rules on the one hand and disclosure requirements on the other, i.e. the full spectrum of COI mechanisms, which contrasts with existing cross-national studies, which tend to focus on financial asset disclosure (e.g. Djankov et al 2010; Krambia-Kapardis 2013; van Aaken and Voigt 2011).

Drawing on historical institutionalist theory we expect the choice of COI mechanisms to be shaped by institutional contexts emerging out of long-term path-dependent processes rather than by functional considerations how best to solve the problem at hand (Thelen 1999; Fioretos et al. 2016). More specifically, we draw on the strand of literature focusing on the institutionally determined variance of national administrative traditions and styles of regulation (Knill 1998; Adam et al 2017). Based on an analytical framework capturing the multidimensionality of this complex area of regulation, we comparatively assess core dimensions of COI regimes across 27 European democracieswith the help of three newly developed indices. This grounds our selection of Belgium and the UK as 'extreme cases' in terms of *reform choices* to explore different paths of COI reform and their institutional drivers longitudinally.

To propose tools for cross-national and longitudinal analysis of core elements of COI regulation and to explore whether and how institutional features shape the particular choice of COI mechanisms adopted is central to understand the working and evolution of increasingly elaborate and diverse ethics regimes applied to public office-holders. The insight that choices of COI mechanisms are shaped by internal, institutional factors has central implications for debates around regulatory innovation understood as processes that seek to encourage the development of domestic regulation according to 'best practice' standards provided by external organizations (Lodge 2005: 650): if the choice of different COI mechanisms as qualitatively different responses to the same problem is driven by the nature of the institutional setting in which parliamentarians operate, the scope of regulatory convergence through transnational communication is considerably restricted (Holzinger and Knill 2005: 790; Lodge 2003). This is highly salient in light of wide-spread attempts of international organisations such as the OECD or the Council of Europe to promote the adoption of specific COI mechanisms as "good practices" (e.g. OECD 2005; GRECO 2014a). Similarly, as far as the adoption of specific (and possibly particularly effective) COI mechanisms is unlikely due their 'misfit' with the given institutional environment, ethics reforms are less likely to resolve the problems they are – at least officially - supposed to address.

The paper is structured as follows. We first specify our research puzzle on the distinctiveness of regulatory choices used to address COI problems in the parliamentary arena, which we expect - in line with historical institutionalist theory - to be shaped by institutional factors that generate internal regulatory dispositions. We then present concepts and measures that allow us to assess the complexity of COI regimes comparatively across 27 European democracies, which, in turn, ground our selection of two cases for in-

depth study. The longitudinal analyses of UK and Belgian COI regulation reveal how entrenched institutional features structuring the political process constrain the choice of COI mechanisms when parliamentarians are pressured to adopt stricter ethics rules. We conclude by summarizing our findings and suggest avenues for future research.

Regulatory Dispositions and the Choice of COI Mechanisms: Theoretical Expectations

The expansion of COI regulation raises two fundamental questions. Its growth points to the puzzle why parliamentarians adopt and expand COI regulation which increasingly constrains their *own* behaviour. The growing *diversity* of COI mechanisms across democracies (e.g. Demmke et al 2008; Nikolov 2013; Rose-Ackerman 2014) points to the puzzle of what leads parliamentarians in different settings – when adopting stricter regulation – to choose such distinct COI mechanisms to strengthen their parliamentary ethics regimes, despite numerous parallels in the problem pressures parliamentarians are exposed to. This paper deals with this second puzzle from an historical-institutionalist perspective.

According to this perspective, COI regulation can be understood as a set of formalized rules 'that assign normatively backed rights and responsibilities to actors' - in our case parliamentarians - whose stability is not solely reliant on the self-interest of those involved but is a matter of 'public interest' (Streeck and Thelen 2005: 10-2). In many democracies the reform of COI regulation is best characterized as 'displacement': as the traditional configuration – i.e. the self-regulation of parliamentary ethics – has been discredited, alternative institutional solutions are cultivated (Streeck and Thelen 2005: 19-20). While COI regulation has been generally pushed into a more constraining direction, we expect *the nature of the particular responses* to be shaped by regulatory dispositions, which

follow particular institutional logics. As institutions are perceived as arising out of long-term processes shaping historical development along a specific "path" (Mahoney 2000; Pierson 2004), the same functional pressures are unlikely to generate cross-national convergence of reform choices. Instead, the effects of problem pressures are expected to be mediated by institutional features of the setting in which a reform takes place (Clift and Fisher 2004; Pollitt and Bouckaert 2017). Those institutional features (dis)favour the adoption of specific regulatory solutions depending on their (mis)fit with the respective domestic environment, thereby leading to different answers to the same problem (Maggetti 2012: 45; Knill 1998).

To examine how institutional features shape our outcome of interest in European democracies, requires us to move beyond the assessment of cross-national variation in current regulation towards tracking the *long-term evolution* of COI regimes with a focus on the institutional factors that influence the choice of COI mechanisms (Thelen and Mahoney 2015: 3). However, a systematic overview of cross-national differences is still essential to select suitable cases for in-depth study that have adopted (similarly) strict parliamentary COI regulation, while having done so *through different types of COI mechanisms*.

In the following we present the analytical tools that are used to explore the core elements of COI regulation first across 27 European democracies and second over time within two case studies.

The Comparative Study Conflict of Interest Regulation

Defining Conflict of Interest Regulation -Preventive vs. Disclosing Mechanisms

To capture the diversity of COI mechanisms, we define COI regulation broadly as the range of legal mechanisms directed towards either *preventing* situations (e.g. through bans and

incompatibility rules) or *disclosing* situations (e.g. through transparency requirements) where public officials' impartial and objective exercise of professional duties might be compromised (Messick 2014: 114-115; Nikolov 2013: 412). This distinction allows us to systematically map out distinct types of constraints imposed on the office-holders across central substantive areas of COI regulation (e.g. the receipt of gifts or the holding of ancillary posts; see for all areas covered Table 1 below)and allows us to consider the *compensatory nature between* them: preventive mechanisms that restrict politicians in what they can legally do (e.g. through incompatibilities rules or bans) decrease the need for disclosure requirements, essential to arrive at unbiased cross-national measures of COI regulation.

Core Elements of COI Regimes, the Range of COI Mechanisms and their Purpose

Drawing on previous research (Allen 2008b: 56-7), we distinguish four basic elements of COI regimes reflecting distinct ways of constraining the behaviour of the office-holder they apply to (i.e. reflecting distinct purposes regulatory mechanisms are directed towards): the strictness of rules and the enforcement structures underpinning them capture aspects in the regime that ought to increase *the likelihood that formal COI violations are officially detected and notified*; COI sanctions capture the *costs imposed on parliamentarians when COI violations are detected* and transparencyrequirements capture*the institutional conditions for third party control*.

Table 1 categorizes the range of COI mechanisms according to the analytical distinctions introduced so far.

Table 1: Four Elements of COI Regimes, COI Mechanisms and their Purpose

Core elements of COI regulation	*Regulatory dimension*	*Purpose of COI mechanisms*	*Specification of COI mechanisms covered*
Strictness of rules	*Preventive*	To prohibit biased behavior of parliamentarians	Bans or restrictions on public and private accessory activities, assets, contracts with state authorities, employment offers (or cooling off regulations), income, liabilities, third party contacts, use of confidential information, handling of conflicts of interest in legislative decision-making[4]
	Disclosing	To revealbiased behavior of parliamentarians	Requirements to disclose public and private accessory activities, assets, contracts with state authorities, employment offers (or cooling off regulations), income, liabilities, third party contacts, use of confidential information, handling of conflicts of interest in legislative decision-making[5]
Enforcement	*Preventive*	To officially detect violations of preventive COI rules	Regulation ofenforcement body (its mandate and independence) monitoring implementation of preventive COI regulation
	Disclosing	To officially detect violations of disclosing COI rules	Regulation ofenforcement body (its mandate and independence) monitoring implementation of disclosing COI regulation
Sanctions	*Preventive*	Define costs for the violation of preventive COI rules	Non-criminal (e.g. fines) and/or criminal sanctions
	Disclosing	Define costs for the violation of disclosing COI rules	Non-criminal (e.g. fines) and/or criminal sanctions
Transparency	*Preventive*	To facilitate third party control (media, societal actors or citizens) of the impartiality of parliamentarians	Requirements to disclose information; scope of publicly available information; requirements to release information on violations of preventive rules (‘shaming through transparency’)
	Disclosing	To facilitate third party control (media, societal actors or citizens) of the impartiality of parliamentariansdecision-makers	Requirements to disclose information; scope of publicly available information; requirements to release information on violations of disclosing rules (‘shaming through transparency’)

[4] This contains two categories of regulation: those that obligate MPs to declare regarding individual decisions that they are affected by a conflict of interest (while still being able to participate) or provisions that require MPs to excuse themselves.

[5] The 11 regulatory areas were identified based on Djankov 2010; Nikolov 2013 and Mattarella 2014 .

By definition, if conflicts of interest remain unregulated, parliamentarians cannot violate any rules. Vice versa, the higher the number of areas, in which COI mechanisms are adopted (e.g. regulation of gifts, accessory posts, assets), the stricter and less ambiguous these rules are (e.g. the complete ban of certain behaviours), the more likely rule violations occur *and*become visible.We consequently assess a COI regime's *rule strictness* by capturing the type of COI mechanism employed (preventive and disclosing) and rank the respective regulatory configurations according to the constraints they imply for parliamentarians in each of the core areas of COI regulation listed in Table 1 (rows 1 and 2, right-hand column).[6]

The logic underpinning our COI Strictness Index illustrated by the example of the regulation of gifts: Score "zero" indicates the absence of constraints (neither preventive nor disclosure mechanisms are in place), meaning all gifts to MPs are allowed and there is no need for declaration. Score "one" indicates a relatively more constraining regime that requires disclosure but again does not prohibit the receiving of gifts. This configuration is followed – in terms of constraints - by two configurations that combine preventive and disclosing elements – a partial prevention of gifts (i.e. above a certain size gifts are banned) without the permitted gifts being declared (assigned a "two"), followed by a partial prevention of gifts where all permitted gifts need to be declared (assigned a "three"). Finally, we can think of regimes that regulate this area through a purely preventive strategy by banning all gifts which is assigned score "four" indicating the highest level of constraint. The interplay of the two logics - prevention versus disclosure - is visualized in Table 2.

[6] For more details on data, methodology and the construction of the index on rule strictness see Online Appendix A.

Table 2: Combinations of Legal Mechanisms and Rule Strictness Scores

Prevention on COI	No rules	No rules	Restrictions	Restrictions	Total ban
Disclosure of COI	No rules	Disclosure	No rules	Disclosure	-
Overall COI strictness score	0	1	2	3	4

Note: The darker the coloring, the higher the level of constraint in the combination of mechanisms.

If COI rules are monitored and their violation investigated and confirmed by*enforcement structures* formally in charge of implementing COI rules, the official detection of rule violations is most likely (Allen 2011: 213; Rosenthal 2005: 158; see also Gay 2006). If such COI-specificmonitoring bodies or units exist, we assess the nature of these bodies (or body – some countries use the same body for both types of COI rules, others use separate ones) considering their motivation and the capacity to monitor. Regarding the motivation to monitor, we assesswhether enforcement bodies are independent from parliament and not affiliated with any political party (Nassmacher 2003: 13; Clark 2015). Regarding monitoring capacity, we assess whether the body can examine the correctness of information provided by parliamentarians in relation to preventive or disclosing COI rules or not.

A strong enforcement structure for the implementation of regulation is usually associated with the capacity to sanction rule violations (e.g. Nassmacher 2003; O'Halloran 2011; Mattarella 2014). We nonetheless treat the *sanctions* underpinning COI rules as a separate element. First, COI sanctions impose a different type of constraint on the public office-holders. While strict rules combined with strong enforcement structures make it less likely that parliamentarians can hope for violations not to be officially detected, *sanctions shape the relative costs of rule violations once they are detected*. Second, the assumed link between COI sanctions and enforcement structures is only partial: not all sanctions attached

to violations of COI regulations are attached to or controlled by enforcement structures established for dealing with COI issue. We might have a COI regime that does not contain any enforcement structures specifically in charge of COI regulation. Yet COI violations might be underpinned by criminal sanctions controlled by courts. Focusing on sanctions as controlled by enforcement structures in charge of COI monitoring (rather than on the full range of sanctions underpinning COI rules) would lead to misleading comparative evaluations of COI regimes' properties.The costs of rule violations as defined by COI sanctions vary with the type of sanctions. In line with earlier work (CasalBértoa et al. 2014; Matterella 2014) criminal sanctions are treated as more constraining than non-criminal ones(e.g. fines). Hence, we differentiate between sanction regimes using non-criminal sanctions, criminal sanctions, or both.[7]

Rather than mere intra-institutional disclosure to a monitoring body, *public transparency requirements* (usually releasing informationonline) can provide the basis for 'third party control' by the media, interested organizations or individual citizens (Djankov et al 2010). We consider *whether information is disclosed publically* (whether no public access is possible, information is provided on request, or there is a free access via printed or online mass media); *the scope (or completeness) of information* that is made publicly available (whether the institutions that release information to the public present all or only part of the information they receive about the parliamentarian); and finally *whether information about rule violations by MPs is released or not*, a form of 'shaming through

[7] For our COI Sanction Index, we use the following coding categories: a country gets the lowest sanctions score ("zero") if it does not have any sanctions for either violations of preventive or disclosing mechanisms. It isfollowed by regimes that have non-criminal sanctions for both types of rules, which is followed by those that add criminal sanctions either to back up preventive or disclosing rules. The highest score means the regime has criminal and administrative sanctions to address both the violation of preventive and of disclosing rules respectively ("eight"). Finally, the index was standardized from zero to one.

transparency'.[8]Transparency measures are sometimes considered as a possible substitute for a strong institutional enforcement structure or as a complement to the latter (Nassmacher 2003: 10-12). As with sanctions, we treat transparency measures separately from COI enforcement.Indeed, the mere release of information on MPs' activities to the public might allow for third party control but does not necessarily contribute to the capacity of the COI regime to detect officially recognized non-compliance with COI rules - the theoretical underpinning of COI enforcement. While problematic practices might be occasionally picked up by the media and thereby generate reputational costs for the individual MP concerned (Krambia-Karpadis 2013: 46), this is not equivalent to the systematic monitoring of rule compliance by a public body detecting formal misconduct (Allen 2011: 213).

Developing Cross-National Measures to Capture the Multidimensionality of COI Regimes

To measure the four COI elements across a wider range of democracies, we compiled a new dataset on the properties of parliamentary COI regulation based on the evaluation reports released by the "Group of States Against Corruption" (GRECO) which applies the collaborative practice of peer review to assess the performance of its member states (De Francesco 2016: 354).[9] More specifically, we drew on data from the 4thGRECO round on "Corruption prevention in respect of members of Parliament, judges and prosecutors", which provides the most encompassing and standardized information on COI regimes in place in European

[8]A COI regime has a transparency rank of "eleven" if all the transparency options are coded as present, which indicates the maximum possible level of transparency with regard to both preventive and disclosure rules and a "zero" if none are present. Rank "five" is assigned to regimes that, for instance, have transparency requirements in relation to both preventive and disclosing rules, yet in either case the scope of the information published is limited, while no information on rule violations is released. Note this is only one possible institutional constellation that might receive a rank "five".

[9]Greco is an international forum which is part of the Council of Europe. Greco was established in 1999 to monitor member countries' compliance with the organisation's anti-corruption standards.

democracies in the years 2012-15.[10] We restricted our sample to fully consolidated European democracies to assure basic unit homogeneity in terms of the centrality of parliamentary institutions, rule of law and of the basic administrative capacity to implement the regulation. This left us with a sample of 27 countries.[11]

Based on the specification of COI mechanisms detailed in the section above, we constructed an index for each core element: rule strictness, enforcement, sanctions and transparency. For each index we made use of rankings and a linear aggregation method. This choice is important as we are interested in capturing constraints across several COI dimensions with various predictors on an ordinal scale. As most composite indicators (OECD 2008: 31) our indices are basedon equal weights, emphasizing equal importance of indicators inherent in COI regimes. All indices are standardized from zero to one.[12]

How do the four dimensions relate? The Spearman test indicates that rule strictness and strictness of enforcementpositively, highly and significantly correlate (N=27, ρ= 0.73, p<.01). Wetherefore use one'COI Strictness Index', encompassing these two dimensions, capturing – in line with our conceptualization - the likelihood that formal COI violations are officially detected and notified.The other elements, in contrast,constitute separate dimensions. The 'COI Sanction Index' and the 'COI Transparency Index' correlate with the COI Strictness Index moderately (ρ=0.53, p<.01 and ρ=0.42, p<.05 respectively). The Spearman test between the COI Sanction Index and the COI Transparency Index is not significant indicating

[10] Even though the ethics regulation adopted for first and second houses of parliament (or national and regional chambers) can differ, we focus on the regulation of members of the first house of parliament as the central legislative decision-making body in a democracy which is bound to attract most attention and be subject of most concern.

[11] Details on the data source and coding are given in Appendix A.

[12] Details of the computation of the four indices based on the indicators specified above are available in the Online Appendices B, C and E.

the two dimensions' independence (ρ=0.2, p>.31).Consequently, the multidimensional nature of European democracies is best analyzed along three dimensions.[13]

The Diversity of COI Regimes in 27 European Democracies: Selecting Cases for In-Depth Study

Figure 1 visualizes the distribution of the three COI indices across the 27 democracies covered, grouped into old vs. new democracies. This is done as previous research points to substantial regulatory differences between these two groups (e.g. Biezen2008; 2012; CasalBértoa et al 2014).[14] It shows thatnew democracies, on average, tend towardsstricter COI regulation than old democracies. The Wilcoxon-Mann-Whitney test indicates that the difference between the new and old democracies on the COI Strictness Index and on the COI Sanction Index is statistically significant (z=2.99, p<.01 and z=2.68, p<.01, respectively). Furthermore, Figure 1 displays the relative variability of each of the indicators within the subsamples, showing that new democracies tend to be less internally diverse.[15]Unlike old democracies, new democracies have been subject to more intense external pressures to adopt ethics regulation as a part of a 'good governance agenda' promoted by international actors such as the European Union or the OECD (Börzel et al 2008; OECD 2013).

[13]See Online Appendix C for country scores for all indices across the sample.
[14] In line with earlier studies we categorized democracies stable since WWII plus Malta and Cyprus as old democracies and the Southern democracies Spain, Portugal and Greece plus the Central European democracies as new democracies (see Figure 1 below for details).
[15] See Table C1 in the Online Appendix C for the descriptive statistics on the two groups.

Figure 1: Distribution of COI Indices across 27 European Democracies

Source: Own data

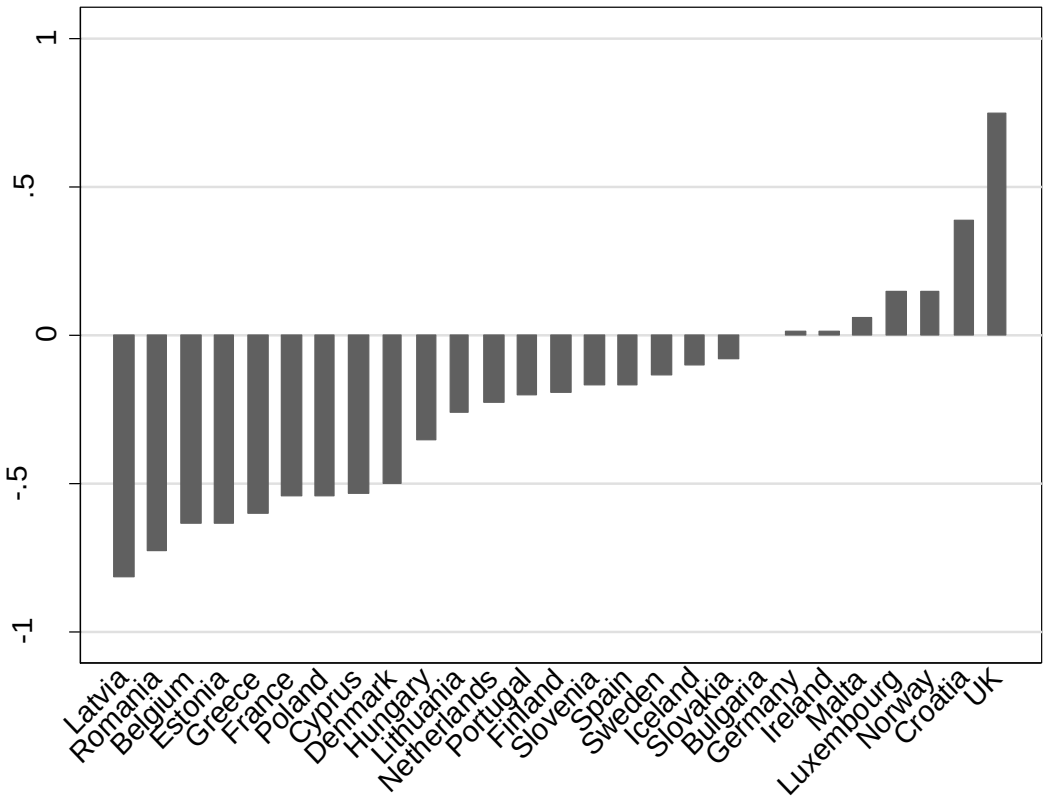
Considering the differences displayed by Figure 1, we select *two old democracies to carry out a paired comparison of factors driving the longitudinal development of COI regimes*, as in these systems regulatory choices can be more unambiguously linked to domestic institutional factors that constrain the selection of reform options according to the historical institutionalist approach (Lodge 2003). Hence, the selection of old democracies (which have developed their current COI regime over many decades) minimizes the influence of conditionality monitoring mechanisms, which in the case of new democracies interact or overlap with external pressures such as those exercised by GRECO reviews (Gorz 2018).

Suitable for an exploratory investigation of systemic dispositions shaping COI regulation over time, we moreover choose two extreme cases, which *maximize differences in the COI regulatory strategies chosen by old democracies.*[16] This is done based on countries' COI Sanction and COI Transparency scores, which – as shown earlier - are independent of each other, i.e. reflect separate regulatory strategies. Figure 2 shows the discrepancy between COI Sanction and COI Transparency scores across the 27 democracies, hence, the extent to which democracies develop their COI regime through transparency measures *rather than* sanctions or vice versa.[17] Most countries put a stronger emphasis on sanctions than transparency. Only one of 13 new democracies stresses transparency more than sanctions - Croatia. Importantly, we find more variation among old democracies: six of them stress transparency over sanctions; eight of them show the reverse patterns, showing a much more balanced distribution of 'regulatory dispositions'. We choose the two old democracies with the biggest discrepancy between COI Sanction and COI Transparency scores from our sample for in-depth study, the UK and Belgium.

[16]Matching procedure based on propensity scores is not possible for our small-N sample.

[17] As both indices are standardized between 0 and 1, they could be subtracted from each other. The difference is visualized in Figure 2 (see Figures C2 and C3 in the online appendix for the indices grouped into old and new democracies).

Figure 2: Discrepancies between COI Sanctions and COI Transparency across 27 Democracies



Composed by the authors

Consequently, the selection of the UK and Belgium as extreme cases to engage in a pair-wise comparison of COI evolution has several advantages: first, it is particularly suitable to explore the trajectories of COI reform as they allow us to distil the drivers underlying the distinct regulatory choices that pushed the nature of the two COI regimes into a transparency-oriented (UK) as opposed to sanction-oriented direction (Belgium) "in especially stark or obvious forms" (Bennett 2004: 40; Seawright and Gerring 2008: 297). Second, they are among the four old democracies with the highest COI Strictness scores (see Figure C1, Online Appendix C). Both have repeatedly suffered from serious political crises that pushed parliamentarians to tighten their COI regimes over the last decades, a similarity that allows us to focus on the particular COI mechanisms chosen in these processes, taking

the overall trend towards stricter COI regulation as a given. Third, given our interest in the influence on COI regimes of regulatory dispositions underpinning democracies' domestic institutional settings, these can be more easily 'isolated' in old democracies less influenced by international pressures.

The Long-Term Evolution of COI Regimes in the UK and Belgium

As earlier studies on regulatory reform (e.g. Clift and Fisher 2004; Jones 2007; Quack and Djelic 2005; Little et al 2013; Hine and Peele 2016), we reconstruct the evolution of COI regimes applicable to national parliamentarians in the UK and Belgium from the introduction of the first COI elements until 2015 using document analysis. The latter combines primary legislation and regulation as well as failed draft proposals, backed up by parliamentary debate and official reports justifying provisions, their amendment or rejection, complemented by secondary literature.

UK: The Evolution of a Transparency-Oriented COI Regime

Though conflicts of interest have been long regulated by parliamentary conventions alone, over time, the House of Commons (HoC) has adopted an increasing number of resolutions formalizing those conventions and made existing provisions stricter, usually in the aftermath of scandals in an attempt to re-establish public confidence(Hine and Peele 2016).

The *transparency dimension* has been strengthened most unambiguously. This started in 1974 with the introduction of the Register of Members' Interests, a compulsory

public register to disclose MPs' pecuniary interests, and the formalization of the long-standing convention for MPs to have to declare financial interests in parliamentary debate (House resolution of May 22 1974). Both provisions were overseen by a permanent select committee created in 1976.[18] In the aftermath of the Poulson bankruptcy hearings of 1972 which revealed that MPs took bribes to secure lucrative government contracts, the pressure to create a compulsory register (which had been proposed before but rejected) had become intense. While the proposal to publish MPs' income tax return was rejected due to privacy considerations, the new register aimed at protecting the public reputation of the House. The resolution required the register to be "available for public inspection" – annually published in the House of Commons paper.[19]Transparency was further strengthened by the online publication of the register introduced as partof the Nolan reforms in 1995 in the aftermath of the Matrix Churchill affair of 1992 and the cash for questions scandal of 1994. The proposal to hold evidence hearings of the committee in public, however, was again rejected.[20] As far as 'shaming through transparency' goes, initially unresolved disputes about non-compliance – be it regarding asset or conflict of interest declarations - would initially go to the select committee overseeing the Members' register without the MP's name being mentioned. Transparency of (suspected or established) non-compliance was eventually introduced in 2010, in the aftermath of the expenses scandal. Since then, information on all inquiries (including relevant evidence) and outcomes (concerning

[18] Since 1967 there was a voluntary register established by Liberal MPs, available for public inspection, Aspects of Nolan – Members' Financial Interests, Research Paper 95/62, 16 May 1995, Home Affairs Section, HoC Library, p. 1

[19]Ibid, pp. 4, 6.

[20] Ibid, pp. 31-2. See also: https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/parliamentary-commissioner-for-standards/registers-of-interests/register-of-members-financial-interests/, retrieved August 14 2016.

disclosing and preventive rules) are released online.[21] Statistics about complaints, identifying Members under inquiry, are published monthly (GRECO 2013: 19). These basic steps were accompanied by expanding what ought to be included in the asset declarations, i.e. enhanced rule strictness, thereby making transparency requirements more significant.While strongly held notions about popular control of representatives are central to British parliamentary traditions, recent developments took place in a context of strong legal provisions to assure freedom of information that shaped parliamentary regulation generally, as illustrated by the expenses scandal triggered by freedom of information requests.[22]

Comparing the use of *disclosing as compared to preventive constraints*more generally, the UK system relies much more on the former than latter. Considering the following much debated preventive measure is indicative for a disinclination to impose *actual* constraints on MP behaviour: in 1996, the newly created Code of Conduct of the House enshrined a pre-existing ban on paid advocacy and expanded it. Already since 1947 a House resolution prohibited initiation of parliamentary proceedings solely or principally due to a contractual agreement with an outside interest, as such practices would undermine MPs' ability to represent constituency and broader society in favour of sectional interests. After 1992 the regulation was tightened with MPs needing to declare their interest in select committees, not only in debate, and stand aside if their pecuniary interests were concerned.[23] The post-Nolan regulations then prohibited the initiating of proceedings as well as participating in any

[21] Parliamentary Commissioner for Standards: Review of the Guide to the Rules relating to the Conduct of Members, Consultation Paper, 19 January 2012, p. 46.
[22] The Freedom of Information Act 2000 in force since 2005, allows members of the public to request disclosure of information from public bodies.
[23] Parliamentary Commissioner for Standards: Review of the Guide to the Rules relating to the Conduct of Members, Consultation Paper, 19 January 2012, p.36.

delegation to ministers or public officials[24], while introducing rules regulating the use of confidential information (Coxall 2001: 103). A proposed ban on holding consultancies with multi-client lobbying companies recommended by Nolan, however, was not picked up (Foreman 2002: 279).Even more, in 2002, the 1996 regulationwas relaxed, allowing initiation and participation in proceedings as long as doing so does not generate 'exclusive benefit' to someone the member has financial relationship to, meaningas long as at least one less dominant provider benefits as well. Despite criticisms that this provision de facto legitimizes MPs to "undertake lobbying which might substantially have benefited a dominant presence in a particular market"[25] and renewed debates around it in 2010 and 2012, it has remained unaltered until today. This was justified by the importance of MPs being able to bring their current outside experience to parliamentary proceedings[26], arguably being incompatible with any effective restrictions on their ability to lobby for the interests they are involved with, as long as they declare their financial interests in the process.

Similarly, *resistance against independent enforcement and a more robust sanction regime* shapes the COI regime until today. This is justified referring to reputational costs imposed by the citizens as the ultimate sanction for politicians, while insisting that the House (i.e. MPs) needs to maintain sole jurisdiction over its own matters, including the sanctioning of MPs for breaking House rules (Oliver 1997: 543). The permanent select committee created in 1976 to oversee the Members' register was only entitled to act when getting complaints but would 'under no circumstances' act as enforcement officer with powers to inquire in

[24]Ibin, pp.35-6.
[25]Ibin, p.39.
[26]Ibin, p.38-40. See also: Committee on Standards and Privileges, Ninth Report of Session 2010-12, HC 654, Volume II, paragraph 733.

circumstances of members.[27] The Nolan reform in the mid-1990s strengthenedCOI enforcement.The new commissioner for standards dealing with MP violations of COI regulation, however, was and is still is an officer of the House. He/she has to work with a Committee of Standards (composed of MPs) and – yet again - had for a long time no authority to proactively examine a case without a complaint being issued, though post-Nolan they were allowed to actively check the facts and make enquiries.[28]Meanwhile the House as a whole remained the ultimate decision-maker in serious cases of misconduct.[29] Nolan's proposal to create an offence of misuse of public office applicable to MPs failed (Foreman 2002: 280), being in tension with the principle of 'parliamentary privilege' which gives MPs immunity for actions or statements made in the course of their legislative duty.[30]Also later proposals to strengthen the independence of the Standards Commission, such as by introducing an investigative tribunal with a legal chairman were rejected.[31]After the Expenses Scandal in 2009, yet again discrediting parliamentary self-regulation, a House resolution in 2010 broadened the commissioner´s scope of review allowing for pro-active investigations(without receiving a complaint on a matter first). A report in 2012, however, suggested that the resolution had not been implemented.[32]Since 2013, three lay members form part of the Committee of Standards who proposed for equal numbers of MPs and lay

[27] Aspects of Nolan – Members' Financial Interests, Research Paper 95/62, 16 May 1995, Home Affairs Section, HoC Library, p. 7, 9, 25.
[28]Ibin, p. 30.
[29] Summary of the Nolan Committee's First Report on Standards in Public Life, www.pavs.org.uk/about/documents/TheSevenPrinciplesofPublicLife.doc, retrieved August 14 2016. Committee on Standards - Sixth Report -The Standards Systems in the House of Commons –Committee on Standards, 10 February 2015, (point 71) http://www.publications.parliament.uk/pa/cm201415/cmselect/cmstandards/383/38305.htm, retrieved August 12 2016.
[30]http://www.lawcom.gov.uk/wp-content/uploads/2016/01/ape_previous.pdf, retrieved August 14 2016. See also Committee on Standards in Public Life (the Wicks Committee), Sixth Report, January 2000, recommendation 9.
[31] Committee on Standards in Public Life (the Wicks Committee), Sixth Report, January 2000.
[32] Parliamentary Commissioner for Standards: Review of the Guide to the Rules relating to the Conduct of Members, Consultation Paper, 19 January 2012, p.46.

members on the Committee, whichhas been adopted in 2015.While lay members can issue a 'minority report' to Committee publications (a right that to date has not been used), they have no voting rights, leaving MPs in control.[33]

The regulation of *COI sanctions* underwent least change. Still today the House controls any penalties for MP misconduct which conventionally include reprimands, repayment of moneys, a written apology, an apology to the House or a period of suspension (with loss of pay and pension rights) and expulsion (last used in 1947). In 1999, a proposal for the introduction of fines as a sanction was made but not realized.[34]Until today the House code of conduct only contains a brief reference that sanctions can be imposed by the House, without specification what they are and which violations they apply to.[35]Only recently, the Sixths Report of the Committee of Standards - while recognizing that it is problematic that MPs have a final say over their own sanctions - pointed to 'strong constitutional reasons against purely external regulation of standard issues'. The committee considered the range of sanctions 'appropriate and sufficient' and stressed the reliance of the system on 'reputational costs'[36], which again highlights the centrality of the normative foundation of British democracy, whose basic functioning relies on notions of popular control exercised by citizens, rather than institutional checks and balances between institutions.

[33] See: https://www.parliament.uk/business/committees/committees-a-z/commons-select/standards/lay-members/, retrieved May 30 2018.
[34]Ibin, p.5.
[35] The Standing Order of the House only refers to possible sanctions (withdrawal from the House, suspension from the services of the House) for grossly disorderly behaviour or disobedience (Art 44, 45), http://www.publications.parliament.uk/pa/cm201011/cmstords/700/700.pdf, retrieved November 20 2016
[36]The Standards Systems in the House of Commons – Sixth Report- Committee on Standards, 10 February 2015, http://www.publications.parliament.uk/pa/cm201415/cmselect/cmstandards/383/38305.htm, retrieved August 12 2016, sections 72-4; 150-7.

Belgium: The Evolution of a Sanction-Oriented COI Regime

Though some COI mechanisms go back to the 1930s, the development of the COI regime as it exists today started in the 1990s. Since the 1991 election, in which alienation between citizens and established parties triggered the national breakthrough of the extreme right *Vlaams Block* party, the Belgian political system has been confronted with major governance crises. The Augusta-Dassault affair[37], a corruption scandal, as well as policy failures like the phaedophilia Dutroux's case, exacerbated the crisis in the late 1990s. Belgium scored relatively low on the level of perceived corruption and almost no MPs were convicted of corruption in connection with their mandates (GRECO 2014b: 4). Meanwhile, Belgium was one of the countries with the highest level of party patronage in Western Europe (Müller 2000: 151). Hence, the overall legitimacy of the system rather than the failures of particular MPs fueled reform debates (Maesschalck and Van de Walle 2006: 1012). COI regulation became a part of wider statutory reforms of public governance (*inter alia* federalization, public management reform, anticorruption) launched to restore public trust, with COI regulation applicable to public officials (including parliamentarians) aiming at curbing partisan control of the Belgian state (DeWinter and Brans 2003; Transparency International 2012; Van de Walle, Thijs and Bouckaert 2005).

Among the core COI elements sanctions have been reinforced most unambiguously, while transparency measures were only adopted reluctantly. In the late 1980s, calls for *disclosing mechanisms* emergedto complement long-existing*preventive rules* such as restrictions on the concurrent holding of public offices introduced by the Belgian Constitution 1831 and

[37]The scandal broke in the early 1990s over bribes that had been paid in the procurement of helicopters for the military. Several high-profile politicians, including several government ministers from the Walloon and Flemish Socialist parties resigned as a result of the scandal.

reinforced in the Law of 6th August 1931, which also contained the requirement of a "cooling off" period for MPs before being appointed to other paid public positions. Calls for transparency gained further saliencyin the 1990s as consociational bargaining between major government parties was increasingly considered dysfunctional (Peters 2006: 1081),and MPsbeing suspected to serve hidden interests.[38]

The first set of laws introducing the *disclosure of declarations of interests* (covering appointments, activities and professions) was passed on 2nd May 1995. Parliamentary debates predating this show MPs' reservations though. Such declarations – so the argument –would provide incentives for politicians to no longer take on outside positions crucial for the development of technical skills and competences[39] (an argument used in the UK to fend off stricter rules on paid advocacy). More significantly, the initial legislative proposal of 1993 planned to make asset declarations public as well, to let citizens decide whether MPs are subject to conflicts of interest. This was substituted in the 1995 legislation by a requirement to provide an asset declaration in a sealed envelope to the Court of Accounts which could only be opened in the event of a criminal investigation for illicit enrichment. MPs justified this provision following recommendations of the Belgian data protection authority, which indicated that publicly open declarations restrict MPs' privacy and might lead to harmful consequences for MPs, their spouses and relatives.[40] Instead of publishing MPs' declarations, the 1995 lawsrequired the publication of a ´black list´ of those MPs who failed to submit declarations of interest or asset declarations to publically shame non-compliant MPs.

[38]Senate de Belgique, *Doc. Parl*., 1994-1995, n. 1334/3, p. 3 and 21.
[39]Senate de Belgique, *Doc. Parl*., 1994-1995, n. 1334/3, p. 4.
[40]Chambre des Representants de Belgique, *Doc. Parl.,* 1995-1996, 457/6, p. 15; Senate de Belgique, *Doc. Parl.,* 1994-1995, 1334/3, p. 29; Senate de Belgique, *Doc. Parl.,* 1997-1998, 621/12, pp. 39-40 and 48.

Already watered down, this legislation only existed on paper for many years. In a country like Belgium the *Rechtsstaat* administrative tradition requires that the procedural details of rule application and enforcement are codified by law. The broad scope of COI regulation encompassing thousands of individuals across different categories of public office holders at the national and local levelsfurther heightened the already high costs for passing operational provisions in the fragmented consociational Belgian system due to struggles over how to apply the same framework to such a diversity of officials. Meanwhile, some MPs pushed for delays given the uncertainty on when and how declarations should be lodged and reviewed.[41] Consequently, operational provisions wereonly adopted in 2004leading to the publication of the first ´black list´ in 2005, nine years after the initial law had been passed.[42] At the same time, the 2004 legislationadded a 'procedure of resolution' which allowed non-compliant MPsto appeal to the parliamentary commission deciding about the inclusion of MPs in the 'black list', thereby allowing parliament to prevent the public shaming of non-compliant MPs. It further allowed for corrections to be made to declarations at different stages, including *after*non-compliance had been detected, reducing instances in which non-compliance areopenly publicized (GRECO 2014b: 21).

The publication of declarations of interestin the official gazette was delayed even longer (17 years after the 1995 law, 8 years after the 2004 operational provisions) as disagreement on its content persisted until 2012.[43]Proposals to disclose compensation for public jobs were presented in 2006 and 2010 and for all jobs in 2015 (along with a new call for the publication of asset declarations), complemented by recommendations by GRECO to enhance public disclosure (2017: 3-4). All of them were rejected reflecting parliamentary

[41] See Senate de Belgique, *Doc. Parl,* 1997-1998, 621/12, pp. 15-78.
[42]Ordinary and Special Laws of 26th June 2004.
[43] See Chambre des Representants de Belgique, *Doc. Parl*., 2005-2006, 2652/001, pp. 9-20.

traditions not granting extensive rights to access information about the legislature in a context where privacy is constitutionally protected (Article 22). Freedom of information applies only to the administrative functions of parliament as an institution, while MPs enjoy the same protections of privacy as ordinary citizens.[44]

In the meantime, long-standing *preventive measures* were strengthened. The Law of 5th April 1999 prohibited MPs to become board members of public companies, reinforcing the long existing provisions included in the Belgian Constitution and in the 1931 Law (see above). Moreover, parliamentary mandates could not be combined with more than one paid executive office and a cap was set on the remuneration that could not exceed the equivalent of half of the parliamentary allowance (DeWinter and Brans 2003: 61).

Another deep political crisis a decade later opened another window of opportunity for reform. The coalition agreement of October 2011 suggested a major state reform to overcome tensions between different segments of the Belgian society (Brans, Pattyn and Bouckaert 2016: 453), which contained a chapter on ethics (Di Rupo 2011: 5-7). It proposed Codes of Deontology for both houses of parliament that were adopted on 17th and 19th December 2013 respectively, including disclosing and preventive measures. In the case of the Chamber of Representatives, the code required MPs to declare orally any conflict of interest in parliamentary proceedings and prohibited them to receive any financial or material benefit in return for acts performed in connection with their parliamentary mandate, including any gift which exceeded a symbolic value. The code also prohibited MPs to share confidential information.

[44] See Chambre des Representants de Belgique, *Doc. Parl*., 2014-2015, 0951/001, p. 4.; Global Right to Information Ranking, www.rt-rating.org, retrieved 14 July 2017.

To enforce the new code, a Federal Ethics Committee was established by the Law of 6th January 2014. Its composition and the appointment procedure resemblethe ones of the Constitutional Court to enhance the body's independence - though the complexity of the appointment procedure, requiring the qualified majority of two thirds, delayed the appointment of its members until May 2016.[45]That said,*independent enforcement*had already replaced parliamentary self-regulation by 1995 when MPs entrusted the Court of Accounts as an actor outside parliament trusted by MPs and the public to keep both declarations of interests and assets.However, its ability to operate was curtailedas long as operational provisionshad not been adopted (see on this above). Concerns were raised about the ability of the Court of Accounts to manage the excessive workload resulting from a declaratory system applicable not only to MPs but to thousands of office holders at the central and local levels. The 2004 Lawtherefore streamlined the submission procedure. Nonetheless,concerns remain that the Court of Accounts is not able to accurately verify the declarations it receive [46] and is reluctant to enforce the consequences of an inaccurate/incomplete declaration, which undermines the transparency of the system (GRECO 2014: 20-1; Court des Comptes 2015: 21-29).

In contrast, the *sanctions*underpinning COI disclosing mechanisms introduced in 1995 were severe and little contested as they signaled the credibility of reform efforts in a context marked by severe dissatisfaction in face of an extensive level of party patronage (De Winter et al. 1996).[47] Article 6 of the 1995 law penalizes the non-submission of both declarations with a fine between 600-6000€. It also postulates that criminal sanctions are applicable for

[45] See Chambre des Representants de Belgique, *Doc. Parl.*, 54 1828/001, 19th May 2016.
[46] This explains several proposals for further simplification of the declaratory system in the post-2004 period. See Chambre des Representants de Belgique, *Doc. Parl.*, 2008-2009, 1507/001, p. 5.
[47]Debate Senate 6 april 1995, *Doc. Parl.,* 1994-1995, 1334/3, p. 16.

the public office-holders in case of forgery and use of falsified documents (Article 194 of the Criminal Code) with ten to fifteen years' imprisonment plus incidental penalties (Article 31 of the Criminal Code). Regarding sanctions underpinning preventive mechanisms, the anticorruption Law of 10th February 1999 introduced criminal penalties for any person holding public office who acquired interests unlawfully (Transparency International 2012: 49).[48] This already extensive arsenal of sanctions was complementedin 2014 by the new Rules of Procedure of the Low Chamber. They introduced political sanctions (exclusion from confidential proceedings, possibly all proceedings) and pecuniary sanctions (withholding of emoluments) for the misuse of confidential information.[49]

Discussion

Table 3 reports key findings of the case studies, identifying four institutional features as central for shaping the choice of COI mechanisms in line with our theoretical expectations (e.g. Knill 1998; Lodge 2003; Clift and Fisher 2004). In essence, the nature of the *executive-legislative relations* as well as the nature of *administrative traditions* fundamentally shaped the 'fit' of transparency measures and formal-legal sanctions in the two institutional settings analyzed. This finding is coherent with previous research that drew on historical institutionalist theory to assess the impact of politico-administrative structures upon cross-national variation in reform choices (Pollitt and Bouckaert 2017).

[48] Article 245 of the Criminal Code carries a prison sentence of one to five years and/or a fine and/or exclusion from office, separating taking an interest while holding public office from instances of corruption.
[49]Legal Department of the Belgian House of Representatives, Rules of Procedure of the Belgian House of Representatives, Rule 67, October 2014.

With regard to the *nature of the executive-legislative relations*, our analysis confirms that majoritarian systems like the UK facilitate rapid and large-scale reform whereas incremental decision-making takes place in consensual systems like Belgium (Pollitt and Bouckaert 2017: 47; Lijphart 2012). It also shows that majoritarian systems generate an appreciation of transparency since their accountability processes are based on popular control which apportions blame to individuals or groups (McCarthy-Cotter and Flinders 2018: 201). Accordingly, UK parliamentarians – to a considerable extent – were able to fended off demands for independent enforcement and sanctions to start with, referring to long-standing notions of parliamentary privilege and sovereignty. Conversely, consensual systems like Belgium are built on a notion of keeping the process of elite bargaining secret, with little direct intervention by the public at large (Peters 2006: 1087). This gave elites some latitude to accommodate fragmented interests by means of patronage but it raised credibility issues that were dealt with through independent enforcement and sanctions.

As for the nature of the *administrative tradition*, *Rechtsstaat* systems like Belgium are stickier and slower to reform than 'public interest' systems like the UK (Pierre 1995: 8). This is because reform choices and their implementation do not require statutory action in the latter (Pollitt 2013). Conversely, a codified body of law regulates any action of public office holders in Belgium where the judiciary assures that legal procedures are being followed. Differences between administrative traditions are amplified by broader variations in societal values, such as differences in power distance and uncertainty avoidance (Hofstede 2001). Belgium scores a lot higher than UK on both indexes and this widens the gulf between the legalist and the flexible approaches to reform, which are embedded in the two administrative traditions respectively (Pollitt and Bouckaert 2017: 63-66).

Furthermore and also in line with institutionalist accounts of path dependency (Mahoney 2000: 528), the *link between COI and state reform* (Bezes and Parrado 2003: 45) played an important role. Whereas in the UK COI reform has been developed on an *ad hoc* basis, in Belgium it has been part of comprehensive state reforms. This link has broadened the scope of COI reform, thus multiplying veto points as well as exacerbating legalist intricacies of implementation. Finally, *pre-existing legal provisions shaping the rights and the obligations of parliamentarians* fed into debates on whether to adopt disclosing or preventive COI measures respectively. Sensitivity towards the downsides of transparency measures has been higher in Belgium with its stronger protections of MP privacy, whereas in the UK strong freedom of information provisions supported their adoption instead.

Table 3: Differences in COI Reform and their Implications

Institutional Factors	BELGIUM	UK
Nature of Executive-Legislative Relations	High number of parties working in oversized coalition governments bridging ideological and territorial divides Implications: • Blurred lines of accountability and secrecy facilitating agreement between multiple partners creating resistance against transparency measures • Decision-making costs of negotiating/passing reform proposals high	Alternation between ideologically narrow, single party governments Implications: • Clear lines of accountability enhancing the suitability of transparency as a disciplining mechanism • Decision making costs of negotiating/passing reform proposals low
Administrative Tradition	"Rechtsstaat" System Implications: • Demanding legal procedures for changing COI machinery • Involvement of state authorities outside parliament (e.g. courts) in rule implementation • Broad cultural climate of high uncertainty avoidance and power distance strengthening the legalist approach	"Public Interest" System Implications: • No need of statutory change for changing COI machinery • No involvement of state authorities outside parliament (e.g. courts) in rule implementation • Broad cultural climate of low uncertainty avoidance and power distance sustaining the flexible approach
Intersection between COI and State Reform	COI reform linked with broader reform efforts tackling wider systemic crises (i.e. partitocracy and federalism) Implications: • Broad scope of the reforms encompassing multiple public offices beyond Parliament • Increasingly stricter reforms, but delayed implementation due to the scope of regulation	COI reform not linked to other reform efforts Implications: • Narrow scope of the reforms confined to Parliament • Reforms as a short-term responses to specific scandals allowing for policy reversals when salience decreases
Pre-existing Legal Provisions on Parliamentarians' Rights / Obligations Affecting COI Regulation	Weak freedom of information provisions applicable to parliamentarians/strong provisions to protect MPs' privacy Implications: • Resistance against transparency measures	Strong freedom of information provisions applicable to parliamentarians/weak provisions to protect MPs' privacy Implications: • Underpinning transparency measures

Importantly, our case studies have highlighted the importance of types of reform sequences which can be reactive or self-reinforcing (Mahoney 2000; Pollitt 2008; Howlett 2009). COI regimes in both the UK and Belgium have become more constraining over time as visible in their high strictness scores (see Figure C1, Online Appendix C). Yet once attention on parliamentary ethics died down in the UK, provisions were partially relaxed – mostly justified by practical difficulties in implementation or by undesirable side-effects of overly strict regulation that was quickly adopted in the aftermath of a crisis. These reactive 'cycles' reflecting the salience of COI issues echo not only the majoritarian character of British *executive-legislative relations* with the government (usually) able to rely on stable parliamentary support but also the fact that COI reform is implemented through changes of intra-parliamentary rules as statutory action is not required by the 'public interest' model of *administrative tradition*. The lack of interaction between COI reform and other areas of state reform, contributed to keeping the reform process flexible, allowing for COI mechanisms to be designed as a narrow response to scandals involving MPs. As a response to scandals, transparency measures were expanded for citizens to punish the government in office as 'alternative enforcement mechanism', mechanisms unsuitable in the Belgian setting with its oversized government coalitions and its strong protection of privacy.

In the Belgian context the embeddedness of COI reform in wider state reform sequences operates in conjunction with the consensual nature of executive-legislative relations and the *Rechtsstaat* tradition. By extending the scope of COI regulation to a wide array of public office holders, this factor has increased political costs of reform as well as making legal procedures for implementing change more demanding. The 'spill over' effect produced by the inclusion of COI reform into a broader agenda of administrative modernization contributed to the reproduction of an institutional pattern in which COI rules

are changed through statutory reforms implying independent enforcement by state authorities that are equipped with severe sanctions. Legal provisions have proliferated over time in a "self-reinforcing" fashion but they have become increasingly complex, reflecting Belgium's legalistic tendencies towards rigid legal procedures associated with Napoleonic legal traditions (Heibraut and Storme 2006: 648-9; Beck et al 2003) that parliamentarians exploited to delay implementation.

Conclusion

Over the last decade, the diversity of conflict of interest (COI) regulation applied to national parliamentarians (as well as other public officials) has grown significantly in many democracies. Defined as the range of formal-legal restrictions to assure parliamentarians' impartial or unbiased decision-making (Nikolov 2013: 407), COI regulation embraces diverse mechanisms such as requirements for asset disclosure but also incompatibilities of parliamentary office with other private or public roles. This growing diversity creates a major challenge for cross-national research: the development of measures capturing the different components of increasingly complex ethics regimes in an unbiased fashion, able to 'travel' a wider range of democracies, as well as understanding the rationales behind often very distinct regulatory choices in this contentious area of regulation.

This paper conceptually distinguished core dimensions of COI regimes and developed cross-national indices to capture the nature of COI regimes currently in place in Europe empirically: COI Strictness (covering the strictness of rules and enforcement), COI Sanctions and COI Transparency. Based on a new dataset covering 27 European democracies we showed that these three indices capture empirically separate dimensions, stressing the

importance of systematically exploring and studying the sources of the diversity within COI regimes applied to national parliamentarians. Studying the empirical variation allowed us to select two extreme cases in terms of the particular choices of COI mechanisms – Belgium (a sanction-oriented regime) and the UK (a transparency-oriented regime) – to explore the institutional drivers of these regulatory tendencies over time.

Our case studies revealed how the nature of the institutional settings constrain the choice of reform measures chosento address the same problem, by making the same arguments more or less effective depending on the environment parliamentarians operated in.Measures imposing reputational and political costs on MPs through public disclosure were brought up in both systems as alternative to external enforcement and formal-legal sanction mechanisms, but were much more effectively employedin the majoritarian democracy of the UK than in consensualBelgium, underpinning a focus on transparency measures in the former. Similarly, privacy considerations fed into debates on COI transparency measures in both settings, yet were much more effectively used againstthe adoption or to weaken the COI transparency measures in Belgium. The functioning of the latter fundamentally rests on often secretive negotiations between party elites, lowering expectations towards the clear-cut responsibility of individual political actors and raising sensitivity towards the downsides of transparency measures.

These findings are of particular relevance for old democracies, which unlike new democracies are less affected by external pressures, hence, where reform processes are most exposed to domestic institutional factors highlighted by historical institutionalist accounts of cross-national variation of reform choices (Pollitt and Bouckaert 2017).This is especially the case for countries like France or Norway with similarly strong tendencies

towards sanctions or transparency mechanisms respectively (see Figure 2). Though the study of extreme cases allowed us to distil the drivers of highly distinct regulatory choices with particular clarity, to avoid overgeneralization (Bennett 2004: 40-1) future research needs to complement our findings with the study of cases that have adopted constraining COI regimes by combining both types of mechanisms. Ideally such a study would include not only old but also new democracies, and contrast internal institutional constraints as explored in this paper with external pressures pushing COI regimes in new democracies increasingly into similar directions (see Figure 1). While these challenges need to be addressed in future research, the cross-national assessment provided here, can provide a systematic foundation to address them.

Finally, our findings points to the institutional constraints that are involved in processes of regulatory innovation such as those promoted by GRECO evaluations. If COI regimes are shaped by institutional factors, we can expect limited effectiveness of collaborative peer reviews in promoting the implementation of those measures that require far-reaching changes in existing institutional arrangements (Holzinger and Knill 2005: 791). This scenario applies to the evolution of the Belgian case after the GRECO evaluation, in which the reform process remains at an "embryonic stage" (GRECO 2018: 15) with regard to the implementation of recommendations on transparency measures. The comparative analysis of developments triggered by GRECO evaluation is a promising avenue for future research, which can draw on our set of institutional factors to investigate how international standards are adopted in countries with different historical trajectories.

Acknowledgements: We are grateful to the three referees of the journals and to Patricia Correa Vila and Nicholas Dickinson for their helpful feedback on the manuscript. We also thank all participants in the Research Seminar of the Department of Politics, University of Southampton, who discussed an early version of this paper. This research has received funding from the European Research Council under the European Union's Seventh Framework Programme (FP7/2007-2013) / ERC grant agreement n° 335890 STATORG and from an ADR Discretionary Fund of the College of Social Sciences and International Studies, University of Exeter. This support is gratefully acknowledged.

Bibliography

Adam, Christian,Hurka, Steffen andChristophKnill(2017).Four Styles of Regulation and their Implications for Comparative Policy Analysis.*Journal of Comparative Policy Analysis*19 (4), 327–344.

Allen, Nicholas (2008a). A New Ethical World of MPs?*Journal of Legislative Studies* 14(3): 297–314.

Allen, Nicholas (2008b). The Nolan Reforms and their Impact on the House of Commons.Unpublished PhD Thesis, University of Essex.

Allen, Nicholas (2011).Dishonourable Members? Exploring Patterns of Misconduct in the Contemporary House of Commons, *British Politics* 6 (2): 210-40.

Atkinson, Michael, M. and Maureen Mancuso (1991). Conflict of Interest in Britain and the United States: An Institutional Argument, *Legislative Studies Quarterly* 16 (4): 471-493.

Beck, T., Demirgüç-Kunt, A., and Levine, R. (2003).Law and Finance: Why does Legal Origin Matter? *Journal of Comparative Economics* 31: 653-675.

Bennett, A. (2004) Case study methods: design, use, and comparative advantages, in: *Models, Numbers, and Cases: Methods for Studying International Relations*, edited by Detlef F. Sprinz and Yael Wolinsky-Nahmias, Michigan: University of Michigan Press, pp. 19-55.

Bezes, Philippe and Parrado, Salvador (2013). Trajectories of Administrative Reform: Institutions, Timing and Choices in France and Spain. *West European Politics* 36 (1): 22-50.

Biezen, Ingrid van (2008).State Intervention in Party Politics.The Public Funding and Regulation of Political Parties.*European Review* 16 (3), 337–353.

Biezen, Ingrid van (2012). Constitutionalizing Party Democracy: The Constitutive Codification of Political Parties in Post-war Europe, *British Journal of Political Science* 42 (1): 187-212.

Biezen, Ingrid van and Kopecký, Petr (2008). The State and the Parties: Public Funding, Public Regulation and Rent-Seeking in Contemporary Democracies, *Party Politics* 13 (2): 235-254.

Borz, Gabriela (2018). Combating Corruption in Europe: A Stimulus-response Approach, *European Political Science*, Online First.

Börzel, Tanja A., Yasemin, Pamuk and Andreas Stahn (2008). Good Governance in the European Union, *Berliner Arbeitspapier zur Europäischen Integration* Nr. 7, Januar 2008.

Brans, M., Pattyn V. and Bouckaert G. (2016). Comparative Lessons from Belgium's Longest Caretaker Government, *Journal of Comparative Policy Analysis* 18(5): 448-463.

CasalBértoa, Fernando, FransjeMolenaar, Daniela R. PiccioandEkaterina R. Rashkova (2014).The World Upside Down: Delegitimising Political Finance Regulation, *International Political Science Review* 35 (3): 355-375.

Clark,Alistair (2015). The Relationship between Political Parties and their Regulators, *Party Politics* 23 (6): 646-656.

Clift, Ben and Justin Fisher (2004). Comparative Party Finance Reform: The Cases of France and Britain,*Party Politics* 10 (6), 677–699.

Cour des Comptes (2015).*Rapport Annuel 2014.*Bruxelles: Belgian Court of Accounts.

Dalton, Russell, J. (2004). *Democratic Challenges, Democratic Choices: The Erosion of Political Support in Advanced Industrial Democracies*. Oxford: Oxford University Press.

De Francesco, Fabrizio (2016). Transfer Agents, Knowledge Authority, and Indices of Regulatory Quality, *Journal of Comparative Policy Analysis* 18 (4): 350-365.

De Jong, M., Lalenis, K., and V.D. Mamadouh(eds) (2002). *The Theory and Practice of Institutional Transplantation: Experiences with the Transfer of Policy Institutions.* Dordrecht: Kluwer Academic Publishers.

Demmke, C., M. Bovens, T. Henökl, K. van Lierop, T. Moilanen, G. Pikker and A. Salminen (2008).*Regulating Conflicts of Interest for Holders of Public Office in the European Union: A Comparative Study of the Rules and Standards of Professional Ethics for the Holders of Public Office in the EU-27 and EU Institutions*,European Institute of Public Administration, Maastricht, June 2008.

Demmke, Christoph and Thomas Henökl (2007). Managing Conflicts of Interest- Ethic Rules and Standards in the Member States and the European Institutions, *EIPASCOPE* 2007/3, 35-41.

De Winter, Lieven and MarleenBrans (2003). Belgium: Political professionals and the crisis of the party state. In *The Political Class in Advanced Democracies*. Borchert J. and Zeiss J. (eds), Oxford: Oxford University Press, pp. 45-66.

De Winter, Lieven, Donatella Della Porta and Kris Deschouwer (1996). Comparing Similar Countries: Italy and Belgium, *Res Publica* 38 (2): 215-235.

Di Rupo, E. (2011). *Un EtatFédérale plus Efficaceet Des Entités Plus Autonomes: Accord Institutionelle Pour la SexièmeRéforme de l'Etat*, 11 October 2011.

Djankov, Simeon, Rafael La Porta, Florencio Lopez-de-Silanes and Andrei Shleifer (2010). Disclosure of Politicians, *American Economic Journal* 2: 179-209.

Fioretos, Orfeo, Tulia G. Falleti and AdamSheingate (2016).Historical Institutionalism in Political Science. In: Fioretos, Orfeo, Falleti Tulia G., Sheingate Adam (eds) *The Oxford Handbook of Historical Institutionalism*, Oxford, Oxford University Press, pp. 3-38.

Gay, Oonagh (2006) Comparing Systems of Ethics Regulation, *Public Ethics and Governance: Standards and Practices in Comparative Perspective* 14: 93-107

Gerring, John (2007). *Case Study Research: Principles and practices*. Cambridge: Cambridge University Press.
Heclo, Hugh (1974).*Social Policy in Britain and Sweden*. New Haven: Yale University Press.

Heibraut, Dirk and Matthias E. Storme (2006).The Belgian Legal Tradition: From a Long Quest for Legal Independence to a Longing for Dependence? *European Review of Private Law* 5/6: 645-683.

Hine, David and Gillian Peele (2016): *The Regulation of Standards in British Public Life: Doing the right thing?* Manchester: Manchester UP.

GRECO (2013).*Evaluation Report: UK, Eval IV Rep (2012) 2E*, Council of Europe, Strasbourg.

GRECO (2014a). 15th General Activity Report (2014), Council of Europe, Strasbourg.

GRECO (2014b). *Evaluation Report: Belgium, Eval IV Rep (2013) 8E*, Council of Europe, Strasbourg.

GRECO. 2017. *Fourth Evaluation Round: Compliance Report Belgium*, Council of Europe: Strasbourg.

GRECO. 2018. *Fourth Evaluation Round: Interim Compliance Report Belgium*, Council of Europe: Strasbourg.

Hofstede, Geert H. (2001). *Culture's Consequences: Comparing Values, Behaviors, Institutions, and Organizations across Nations*. Thousand Oaks: Sage.

Holzinger, Katharina and Knill, Christoph (2005).Causes and Conditions of Cross-National Policy Convergence, *Journal of European Public Policy* 12 (5): 775-796.

Howlett, Michael (2009). Process Sequencing Policy Dynamics: Beyond Homeostasis and Path Dependency, *Journal of Public Policy* 29 (3): 241-262.

James, Oliver (2000). Regulation inside Government: Public Interest Justifications and Regulatory Failure, *Public Administration* 78 (2): 327-43.

Jones, Kate (2007). Daring and Discretion: Paying Australian Legislators, *The Journal of Legislative Studies* 13 (2): 235-253

Knill, Christoph (1998). European Policies: The Impact of National Administrative Traditions, *Journal of Public Policy* 18 (1): 1-28.

Lijphart, Arend (2012). *Patterns of Democracy:Government Forms and Performance in Thirty-six Countries.* New Haven: Yale University Press.

Little, Gavin, and David Stopforth (2013).The Legislative Origins of the MPs' Expenses Scandal, *The Modern Law Review* 76 (1): 83-108.

Lodge, Martin (2003). Institutional Choice and Policy Transfer: Reforming British and German Railway Regulation, *Governance* 16 (2): 159-178.

Lodge, Martin (2005). The Importance of Being Modern: International Benchmarking and National Regulatory Innovation, *Journal of European Public Policy* 12 (4): 649-667.

Maggetti, Martino (2012). *Regulation in Practice: The de facto independence of regulatory agencies*, Colchester: ECPR Press.

Mahoney, J. (2000). Path Dependence in Historical Sociology, *Theory and Society*, 29 (4): 507-548

Maesschalck, Jeroen and Stevenvan de Walle (2006). Policy Failure and Corruption in Belgium: Is federalism to blame? *West European Politics*, 29(5): 999-1017.

Mattarella, Bernardo Giorgio (2014). 'The Conflicts of Interest of Public Officials: Rules, Checks and Penalties' InJean-Bernard Auby, Emmanuel Breen and Thomas Perroud (Eds.)*Corruption and Conflicts ofInterest,* eds., Cheltenham: Edward Elgar, pp. 30-38.

McCarthy-Cotter, Leanne-Marie and Flinders, Matthew (2018).'Accountability in Liberal Democratic, Parliamentary Systems'. In Edoardo Ongaro and Sandra van Thiel (Eds.): *The Palgrave Handbook of Public Administration and Management in Europe*. Basingstoke: Palgrave Macmillan, pp. 187-206.

Messick, Richard E. (2014). 'Policy Considerations When Drafting Conflict of Interest Legislation'. In Jean-Bernard Auby, Emmanuel Breen, ThomasPerroud (Eds.): *Corruption and Conflicts of Interest. A comparative law approach*. Cheltenham: Edward Elgar, pp. 113–123.

Müller, Wolfgang C. (2000). 'Patronage by National Governments'.In: Blondel Jean, Cotta Maurizio (eds) The Nature of Party Government, Basingstoke, Palgrave Macmillan, pp. 141-160.

Nassmacher, Karl-Heinz (2003). 'Introduction: Political Parties, Funding and Democracy.'Reginald Austin and Maja Tjernström (eds) In *Funding of Political Parties and Election Campaigns*. Stockholm: International Institute for Democracy and Electoral Assistance, pp. 1-19.

Nikolov, Nikolay (2013). Conflict of Interest in European Public Law, *Journal of Financial Crime* 20 (4): 406 – 421.

O'Halloran, Kerry (2011).*The Politics of Charity,* London: Routledge.

OECD (2005).Managing Conflict of Interest in the Public Sector. A Toolkit, http://www.oecd.org/gov/ethics/49107986.pdf, accessed July 10 2015.

OECD (2008).*Handbook on Constructing Composite Indicators.Methodology and User Guide*. Paris.

Olsen, Johan P. (2017): *Democratic Accountability, Political Order and Change. Exploring accountability processes in an era of European transformation*. Oxford: Oxford University Press.

Peters, GuyB. (2006). Consociationalism, Corruption and Chocolate: Belgian Exceptionalism, *West European Politics* 29(5): 1079-1092.

Pierre, Jon (1995). *Bureaucracy in the Modern State: An Introduction to Comparative Public Administration*. Aldershot: Edward Elgar.

Pierson, Paul (2004). *Politics in Time: History, Institutions, and Social Analysis*. Princeton: Princeton University Press.

Pollitt, Christopher (2008). *Time, Policy, Management: Governing with the Past*. Oxford: Oxford University Press.

Pollitt, Christopher (2013). 40 Years of Public Management Reform in UK Central Government, *Policy & Politics* 41 (4): 465-480.

Pollitt, Christopher and Bouckaert, Geert (2017).*Public Management Reform: A Comparative Analysis*. Oxford: Oxford University Press.

Rosanvallon, Pierre. (2008). *Counter-Democracy: Politics in an Age of Distrust*. Cambridge: Cambridge University Press.

Rose-Ackerman, Susan (2014). 'Corruption and Conflicts of Interest.' In: *Corruption and Conflicts ofInterest,* eds. Jean-Bernard Auby, Emmanuel Breen and Thomas Perroud, Cheltenham: Edward Elgar, pp. 3-14.

Rosenthal, Alan (2005). The Effects of Legislative Ethics Law: An Institutional Perspective, *Public Ethics and Governance: Standards and Practices in Comparative Perspective* 14: 155-77.

Saint-Martin, Denis (2008). The Watergate Effect: Or, Why Is the Ethics Bar Constantly Rising? In Christine Trost, Alison L. Gash(eds) *Conflict of Interest and Public Life: Cross-National Perspectives*, Cambridge: Cambridge UP, pp. 35-55.

Streeck, Wolfgang and Kathleen Thelen (2005). 'Introduction: institutional change in advanced political economies', *Beyond Continuity: Institutional Change in Advanced Political Economies*, eds. Wolfgang Streeck and KathleenThelen, Oxford: Oxford University Press, pp. 1-39.

Thelen, Kathleen (1999). Historical Institutionalism in Comparative Politics, *Annual Review of Political Science* 2, 369-404.

Thelen, Kathleen and James Mahoney (2015). Comparative-historical analysis in contemporary political science, in *Advances in Comparative-Historical Analysis*, eds. James Mahoney and Kathleen Thelen, Cambridge: Cambridge University Press pp. 3-38.

Transparency International (2012).Evaluation du Systèmed'IntégritéBelgique, Brussels.

Van Aaken, Anne and Stefan Voigt (2011). Do Individual Disclosure Rules for Parliamentarians Improve Government Effectiveness?,*Economic Governance* 12, 301-24.

Van de Walle, S., N. Thijs and G. Bouckaert(2005). Political Crisis, Political Realignment and Administrative Reform in Belgium, *Public Management Review* 7(3): 367-390.

Williams, Robert (2006). The Ethics Eruption: Sources and Catalysts, *Research in Public Policy Analysis and Management* 14: 29-42.

Quack, Sigrid and Djelic, Marie-Laure (2005).'Adaptation, Recombination and Reinforcement: The Story of Antitrust and Competition Law in Germany and Europe', in *Beyond Continuity: Institutional Change in Advanced Political Economies*, eds. Wolfgang Streeck and KathleenThelen, Oxford: Oxford University Press pp. 255-83.