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DOI:

[10.1080/01402382.2019.1572315](https://doi.org/10.1080/01402382.2019.1572315)

Document Version

Peer reviewed version

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Citation for published version (APA):

Kluger Dionigi, M., & Koop, C. M. M. (2019). Losing out on substance but winning procedurally? The European Parliament and accountability in crisis legislation. *WEST EUROPEAN POLITICS*, 42(4), 776-802.
<https://doi.org/10.1080/01402382.2019.1572315>

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LOSING OUT ON SUBSTANCE BUT WINNING PROCEDURALLY? THE EUROPEAN PARLIAMENT AND ACCOUNTABILITY IN CRISIS LEGISLATION

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ABSTRACT

Recent studies have found that the European Parliament (EP) had limited substantive influence on the European Union's response to the European debt crisis. It has been argued that Parliament compensated this loss by expanding its oversight powers over executive bodies in the implementation of crisis legislation. We systematically assess the conditions under which the EP has been successful in increasing its account-holding powers, using new data on the accountability provisions included in economic and financial legislation put forward between 2009 and 2014. We find that Parliament has indeed been more likely to gain oversight powers in crisis legislation. Levels of accountability are also higher in package deals and more salient legislation. Our findings provide a more nuanced picture of Parliament's inter-institutional gains and losses in recent years and give more insight into the EP's account-holding role.

KEY WORDS: accountability; economic governance; European debt crisis; European Parliament; inter-institutional bargaining

1. INTRODUCTION

With the entering into force of the Lisbon Treaty in 2009, the European Parliament (EP) was put on largely equal legislative footing with the Council of the European Union. The number of areas of European Union (EU) action covered by the ordinary legislative procedure increased from 43 to 85, including new domains such as international trade and agriculture, and extensions of co-decision in areas such as economic and fiscal policy. Yet, Parliament's

role in designing the EU's response to the European debt crisis post-Lisbon has been limited (e.g., Fabbrini 2013; Fasone 2014; Puetter 2012). This is partly a result of the fragmented legal framework put in place to deal with the crisis, including EU secondary legislation, coordination measures, and intergovernmental treaties. Even in crisis measures designed within the EU's legal framework, Parliament had to take a back seat in the legislative process (Bressanelli and Chelotti 2016) and played a limited role in the implementation of the legislation (Fasone 2014; Scharpf 2015: 39).

The EP has not been an idle bystander to its dwindling substantive powers. Case studies on crisis legislation suggest that it was able to secure procedural concessions in the form of enhanced account-holding powers (Bressanelli and Chelotti 2016: 519-521; Héritier 2017: 14-21; O'Keeffe *et al.* 2016; Rittberger 2014).¹ For instance, Parliament successfully pushed for the establishment of the economic dialogue, which allows for parliamentary debate on the compliance of member states with the economic governance framework and for political review of Council recommendations and warnings (see Fasone 2014: 175-177). These findings raise the question whether there is a more general pattern linking crisis responses to procedural 'gains'. This study, therefore, systematically analyses under what conditions the EP is able to increase its account-holding powers, with a particular focus on the role of crisis legislation.

We argue that there are two key reasons to expect parliamentary accountability to be more extensive in economic crisis legislation than in non-crisis legislation. First, the EU's crisis measures significantly increased the powers and discretion of the EU's implementing bodies, which led them to face more opportunities to shirk and/or misuse their authority. Second, the crisis measures have put into sharp relief the deficiencies in the EU's policy output, which raised questions about the democratic legitimacy of the EU's policies and actions. We expect both features of crisis legislation to have informed the politics of the legislative process, providing ammunition for the case that more parliamentary accountability is needed.

Empirically, we assess the link between the EU's crisis responses and formal parliamentary accountability by using new data on all economic and financial legislation introduced by the Commission in the seventh parliamentary term (2009-2014). This allows us to compare crisis and non-crisis legislation while holding a range of policy and institutional features constant (see Section 4). By formal parliamentary accountability, we mean the degree to which implementing bodies – the Commission and governments – are obliged by law to provide information on, and explanation of, their policy activities to Parliament, and may be sanctioned or rewarded for these activities (see also Section 4). We assess what difference the crisis

context makes for both relative and absolute accountability. By *relative accountability*, we mean the number of provisions for parliamentary accountability that are added to the Commission's proposal in the legislative process; in other words, provisions that Parliament 'gains' in the process. *Absolute accountability* refers to the total number of accountability provisions in a piece of legislation, regardless of whether Parliament gains more oversight powers in the process. Our theoretical argument on crisis measures should apply to both types. That is, we expect the high relevance of accountability for crisis measures to enhance Parliament's ability to gain account-holding powers during the legislative process. We also expect the other legislative bodies – particularly the Commission – to anticipate and acknowledge these dynamics by introducing more accountability provisions in legislation.

The economic and financial legislation introduced in the seventh term includes a range of accountability provisions, some of which are widespread while others are less common. They require the provision of information and explanation to Parliament, but do not grant the latter formal sanctioning powers. Using aggregate measures of relative and absolute accountability, we find that crisis legislation indeed includes more accountability provisions. Parliament may have had less influence on the substance of such legislation, but it has secured more account-holding powers in crisis legislation than in non-crisis legislation in the same policy field. Moreover, the EP does not have to be a formal co-legislator for accountability levels to be higher: legislation negotiated as part of a 'package deal' incorporates more accountability provisions than individually negotiated legislative files, even if some of the files in the package only require consultation of the EP. The salience of legislation also matters: levels of absolute and relative accountability are higher in files that have attracted more media attention.

Our study provides a more nuanced picture of the EP's inter-institutional gains and losses during the negotiation of EU legislation addressing the debt crisis. We also contribute to the debate on the legitimacy of the EU's economic governance. Critics have warned that the new system of economic governance risks further eroding the already fragile legitimacy of the EU. For instance, Fasone concludes that the EU's economic governance has been introduced and implemented by authorities that lack 'representative credentials according to democratic standards', while directly elected bodies have been marginalised (2014: 185; cf. Naert 2016). Fabbrini adds that the legitimacy of decisions on economic governance 'cannot be a derivative of the legitimacy enjoyed by the governments of its member states' (2013: 1022). As parliamentary accountability is 'one of the key indicators [of] the democratic quality of the EU' (Bovens *et al.* 2010: 5; cf. Harlow 2002), our study on accountability in economic

governance will contribute to our understanding of the EU's democratic legitimacy (see also Section 6).

The paper proceeds as follows. In the next section, we describe the role of the EP in approving and negotiating crisis legislation. We then develop our two-pronged theoretical argument on the link between crisis legislation and relative and absolute parliamentary accountability. Thereafter, we turn to the measurement of formal accountability, discussing our operationalisation and descriptive findings on parliamentary accountability and our control variables. Subsequently, we present our analysis of the conditions under which levels of formal accountability are higher. In the final section, we summarise our findings and discuss their implications.

2. THE ROLE OF THE EUROPEAN PARLIAMENT DURING THE CRISIS

There is widespread agreement that the role of member state governments and supranational executive bodies – in particular, the Commission and the European Central Bank (ECB) – has increased in and by the EU's response to European debt crisis (e.g., Bauer and Becker 2014; Becker *et al.* 2016; Schmidt 2016). The European Council largely set the legislative agenda during the crisis, establishing, for instance, the framework of the Six-Pack, the Fiscal Compact, and the European Stability Mechanism (e.g., Bressanelli and Chelotti 2016). In addition, it played a crucial role in areas where EU-level fiscal capacity is required. The Commission, on the other hand, saw its supervisory powers grow in areas of policy coordination such as the Excessive Deficit Procedure and the Macroeconomic Imbalance Procedure, where member states are now subject to a continuous cycle of budgetary monitoring (e.g., Becker *et al.* 2016; Dawson 2015).

The EP was largely absent from key decisions made in response to the crisis, not least because many of the decisions were taken outside the EU's formal legislative process (see Fabbrini 2013; Puetter 2012). Even in crisis legislation where the EP enjoyed co-decision powers, its role was constrained to agreeing to increase the discretion of executive bodies rather than playing a central role in shaping and implementing the new rules (Bressanelli and Chelotti 2016, Scharpf 2015: 39). Rather than acting as co-legislator, the EP was trapped in its role before the Lisbon Treaty as an institution to be consulted on matters concerning the European Monetary Union (EMU) (Dawson 2015: 988-989). The EP held limited sway over both the overall doctrine behind the reforms and the details of specific crisis legislation. For instance,

the EP's call for a greater emphasis on the social dimension of the EMU largely fell flat. This included the EP's calls to establish Eurobonds, introduce flexibility in social investment, and include employment and social rights as important aspects of the EMU (Bressanelli and Chelotti 2017: 6).

The EP also struggled to leave its fingerprints on details of specific legislation, despite expectations that its newly acquired co-decision powers in the field would change the nature of economic governance (Bressanelli and Chelotti 2017). The Six-Pack and the Two-Pack were the first pieces of legislation where the EP had the opportunity to formally participate in shaping the rules of the EMU as a co-legislator. In reality, the EP was excluded from the preparation of the packages. For instance, the preparation of the Six-Pack took place in the European Council-led task force on economic governance, with representatives from the member states, the Council presidency, the ECB, and the Commission, but not the EP (Warren 2018: 8). The Commission's proposals on the Six-Pack reflected the agreement reached in the task force, giving the EP limited scope to influence the substance of the package. The EP's amendments were largely disregarded or watered down, unless supported by member states, and the final agreement did not deviate much from the Commission's proposal. Similarly, the EP's ability to influence the details of the Two-Pack was modest. The EP's committee report initially suggested introducing a European Redemption Fund and a European Debt Authority. These amendments were removed in the text voted by the EP plenary after intense member state lobbying of Parliament's national delegations (see Bressanelli and Chelotti 2018).

A number of explanations have been put forward to explain the EP's limited mark left on the substance of specific crisis legislation. Bressanelli and Chelotti (2018) argue that the ordinary legislative procedure works differently in areas that touch upon core state powers (on core state powers, see Genschel and Jachtenfuchs 2016). Policies close to core state powers – such as fiscal policy, migration, and foreign policy – tend to have their own dynamic, subordinating the EP in favour of member state action (Trauner and Ripoll Servent 2016). Norms of legislative responsibility – i.e., for the co-legislators to accommodate each other's stances – and anticipatory compliance inherent in the ordinary legislative procedure mainly apply to the EP when it comes to legislation close to core state powers (Burns and Carter 2010; Ripoll Servent 2011). The EP's role is particularly reduced when legislation imposes costs on member states (Shackleton 2000). The EP recognises the main responsibility resides with the member states and therefore refrains from pushing its demands too hard (Bickerton *et al.* 2015: 712-

713). Furthermore, MEPs risk jeopardising their own political career if they oppose their government on national sensitive matters.

Bressanelli and Chelotti (2017) identify a number of strategies used by member states to steer EMU reforms. Most notably, member states threatened the EP to ‘go intergovernmental’ if the latter’s amendments were too radical. For example, member states could rely on the Fiscal Compact as an intergovernmental fall-back option if agreement could not be found on the Two-Pack. In addition, in cases like the Six-Pack, member states involved the EP too late in the process, by the time that agreement had already largely been reached with the Commission. Member states also exerted intense pressure on MEPs and exploited internal divisions in the EP’s political groups. For instance, the Council sought to ‘divide-and rule’ ALDE to ensure that the EP’s plenary did not support the suggestions by the Committee on Economic and Monetary Affairs (ECON) to introduce a Redemption Fund in the Two-Pack. Finally, member states pressured the EP not to block or delay crucial reforms that were needed to promptly solve the crisis.

While the EP failed to leave its mark on the direction of EMU reform and the substance of specific legislation, it did not leave the negotiations empty-handed as it was granted procedural concessions in the form of account-holding powers. Qualitative research on the Two- and Six-Pack has demonstrated that the introduction of the economic dialogue was partially an institutional reward given to the EP to compensate for its limited influence on the substance of the packages (Bressanelli and Chelotti 2016: 521; cf. Héritier *et al.* 2015: Ch. 6). The economic dialogue may be seen as a symbolic victory as it takes place on a voluntary basis and does not give the EP any formal sanctioning powers. Yet, it does highlight the fact that the EP has managed to negotiate greater oversight powers over executive bodies in legislation addressing the European debt crisis. Others procedural ‘victories’ include the requirement of the ECB to appear before the ECON-committee in the context of the Banking Union and the Commission’s requirement to inform ECON about its assessment of countries under enhanced and post-programme surveillance, and to communicate the progress made in monitoring countries under adjustment programmes (O’Keefe *et al.* 2016).

These case study findings raise the question whether the increase in account-holding powers is a feature specific to the Six-Pack and the Two-Pack, or a more general feature of crisis legislation. In the next section, we develop our theoretical argument on why and how we should expect the European debt crisis, and the EU’s need to respond to it, to matter for the EP’s success at gaining account-holding powers in economic governance.

3. CRISIS LEGISLATION AND ACCOUNTABILITY

As Bovens (2007) sets out, accountability for policy decisions and activities fulfils three key functions in democratic systems. First, from a popular democratic perspective, accountability provides the electorate and their representatives (in our case, MEPs) with a means to monitor and control the conduct of executive bodies. Second, from a constitutional perspective, it strengthens institutional checks and balances, preventing and reducing power concentrations and potential abuse of executive power. Third, from a learning perspective, account-giving enables policy-makers to learn and reflect, thus enhancing the effectiveness and efficiency of policy-making (Bovens 2007: 462-64).

Yet, accountability also has drawbacks. If used too vigorously, it can lead to red tape, overloads, scapegoating and blame games, the hampering of creativity and innovation, and even ‘accountability traps’ (Bovens 2010: 956, 958; Bovens *et al.* 2008: 227-29). Moreover, it is not evident that the increased policy-making openness associated with accountability contributes to trust in, and public understanding of, the public bodies that are held to account (e.g., Grimmelikhuijsen and Meijer 2014; O’Neill 2006).

Introducing accountability has more advantages for account-holders than for account-givers (see Curtin and Meijer 2006; Koop 2014). In the EU-context, it is attractive for the EP to push for more provisions for parliamentary accountability in EU legislation: holding the EU’s executive bodies to account increases Parliament’s control over the implementation process, and can enhance its reputation (Busuioc and Lodge 2016). However, from the perspective of the executive bodies the provisions are costly as account-giving is time-consuming and resource-intensive. Moreover, to the extent that parliamentary accountability leads to public scrutiny, it makes the account-giver vulnerable to criticism from the media, interest groups and NGOs, and the public at large (Busuioc 2013: 60; Koop 2014: 566-67). This is enhanced by the fact that coverage is more likely negative than positive due to the media’s tendency to focus on failure rather than on success (Curtin and Meijer 2006: 118). As a consequence, the room for manoeuvre of account-givers becomes more constrained as the mere anticipation of accountability makes potentially unpopular options less feasible (Thatcher 2005: 350).

Previous research has demonstrated that accountability to the EP has increased since the 1990s, including the accountability of the Commission (Brandsma 2016; Wille 2010), the Council of the EU (Curtin 2009: Ch. 9; Wille 2016), the European Council (Van de Steeg 2009), and,

more recently, European agencies (Busuioc 2012). The nature of the European debt crisis, and the EU's response to it, should constitute a condition for Parliament to be granted more account-holding powers in the legislative process. In a nutshell, we theorise that two features of crisis legislation make higher levels of formal parliamentary accountability more likely. First, the enhanced discretion and powers that are delegated to executive bodies in crisis legislation increase the risk of shirking and misuse of powers. Second, the debt crisis has exposed serious deficiencies in the architecture of the EMU, reducing the EU's output legitimacy in this area. As parliamentary accountability is – at least theoretically – an answer to both types of risk, we expect crisis legislation to grant Parliament more oversight powers than non-crisis legislation, both in relative and absolute terms. Let us elaborate on these points.

First, the EU's executive-dominated response to the crisis has enabled the executive bodies to make decisions in areas in which they were not active before (e.g., Bauer and Becker 2014; Becker *et al.* 2016; Schmidt 2016). Particularly in the case of the Commission and the ECB, the crisis responses have involved an expansion of their mandate, which adds to the discretion they have in exercising their powers (cf. Chun and Rainey 2005: 535; Wildavsky 1979: 30). Accountability mechanisms, including parliamentary accountability, provide a key means to reduce the risks associated with the expansion of powers and discretion as they serve to control executive power and to detect and prevent shirking and power misuse (Bovens 2007: 462-463; cf. Harlow 2002).

We expect Parliament to put emphasis on its role as account-holder and the need for accountability in the process of expanding the discretion and powers of executive bodies. Previous research by Héritier concludes that the EP has often relied on strategic bargaining to strengthen its own oversight role when EU executive competences were expanded – in particular, in the case of the completion of the single market (2007: 232). In line with this finding, the expansion of executive powers in the aftermath of the crisis – and the urgency to do so – should enhance Parliament's bargaining position in the negotiations over the procedures that are to accompany the substantive changes (cf. O'Keeffe *et al.* 2016: 227; Héritier 2017: 18-19). Moreover, we expect the Commission as agenda-setter and the Council as co-legislator to acknowledge the need for parliamentary accountability when expanding executive powers and discretion, and to anticipate Parliament's response.

Second, the increased risk of shirking and power misuse is not the only feature of crisis legislation that is expected to provide Parliament with ammunition in negotiations over procedural provisions. The debt crisis and the legislation responding to it have also highlighted

the democratic deficit of the European Union; in particular, the vulnerabilities in the output legitimacy of the EMU (e.g., Alcidi *et al.* 2014; Scharpf 2015; Smismans 2016: 248-49). Since the EMU's inception in 1999, the underlying assumption of its design was that its effectiveness and performance ('government for the people') were sufficient to secure its legitimacy. This was seen as partially compensating for the lack of input legitimacy ('government by the people'), which itself rests on public scrutiny by, and responsiveness to, citizens (Scharpf 1999; 2015; cf. Mair 2009).

Yet, output legitimacy arguments become questionable when policies do not deliver. The debt crisis and recession in Europe have exposed several shortcomings of the EMU, including an excessive focus on deficits, a lack of surveillance of competitiveness and macroeconomic imbalances, weak enforcement, slow decision-making, and the absence of a mechanism for emergency financing (European Commission 2013). As long as the EMU performed well, questions of the legitimacy of its policies could be addressed with reference to output. However, in the policy areas that the crisis legislation deals with, the focus on output is no longer as convincing as it may have been before the crisis. As Chalmers puts it, 'the high levels of policy prescription emerging from supranational institutions question the extent to which insulating the EP from economic governance can be as easily justified as it was before the crisis began' (2012: 692). Moreover, citizens are increasingly blaming Europe for the dire economic problems and austerity measures and trust in EU actors is declining compared with levels before the crisis (Hobolt and Tilley 2014).

The crisis also made clear that the EU has moved well beyond Majone's (1996) initial characterisation of the EU as 'a regulatory state'. Majone defended the EU's insulation from citizens and democratic politics by emphasising its focus on market failure rather than redistributive and value-allocative issues. This made 'non-majoritarian institutions' appropriate as they are in the best position to ensure Pareto-optimal outcomes (Majone 1998; cf. Moravcsik 2002). If the EU's policies have ever been invariably regulatory in nature, this is certainly no longer the case. The decisions taken to address the debt crisis have very obvious redistributive consequences for European citizens and countries, with identifiable 'winners' and 'losers' (Cramme and Hobolt 2015; Genschel and Jachtenfuchs 2016; Majone 2012). These include fiscal transfers from net creditor to net debtor member states as well as declining economic prospects for younger people compared with older citizens, particularly in Southern Europe (Hix 2015).

The increased democratic deficit further enhances Parliament's bargaining power in negotiations over procedures. Héritier points out that while democratic legitimation arguments were never a sufficient condition for the empowerment of the EP, they were used strategically by Parliament in the negotiation process (2007: 232). Indeed, we expect Parliament to have relied on arguments revolving around good governance in the EU and 'legitimization through accountability' (Wille 2016: 697).

Together, the two features of crisis measures will have provided the EP – as 'accountability entrepreneur' – with a policy window, which made it easier to effectively push for increased account-holding powers. New accountability arrangements can also be seen as a tool for the Commission and governments to increase their own legitimacy and reputation (see Busuioc and Lodge 2016), to defend the expansion of executive powers and discretion, and to increase the trust of citizens in the EU's economic governance (Black 2010). For instance, the ECB regards its monetary dialogue with the EP – where the ECB's president appears in a hearing before the ECON committee four times a year – as an instrument to enhance its democratic legitimacy (Jabko 2003: 719). Parliamentary hearings provide an institutional setting (the EP) within which political accountability can be discharged publicly. In particular, the economic dialogue highlights the deliberative dimension of political accountability (Weale 2011: 63).

Following this two-pronged argument, we expect the European debt crisis to matter for the degree of parliamentary accountability that is incorporated in legislation, both in relative and absolute terms. We therefore formulate the following two hypotheses:

- H1:* Crisis legislation includes more provisions for parliamentary accountability than non-crisis legislation
- H2:* The number of provisions for parliamentary accountability that are added in the legislative process is higher in crisis legislation than in non-crisis legislation

4. DATA AND OPERATIONALISATION

To test our hypotheses, we created a new dataset of all economic and financial legislation proposed by the Commission in the seventh parliamentary term (EP7), and finalised either in the seventh or the eighth term. Including legislation introduced in the seventh term (2009-2014) allows us to compare acts that were initiated in response to the European debt crisis, which set off in the second half of 2009, to acts in the same policy area that were proposed for other reasons. We selected economic and financial legislation by including in our dataset those

legislative acts that – following to the EP’s Legislative Observatory (OEIL) – fell under the responsibility of the EP’s ECON Committee. As this committee dealt with both crisis and non-crisis legislation in the period under investigation, we assess the impact of ‘crisis’ while holding constant the broader policy area and the experience and policy-making practices of EP committees. All legislation was introduced by the same Commission and in the same legislative period (2009-2014). As we are interested in the dynamics of the legislative process, we excluded non-legislative acts (non-legislative enactments, delegated and implementing acts, the EP’s legislative and own initiatives, and the EP’s resolutions on topical subjects). We also excluded non-concluded files and files that were withdrawn by the Commission (by February 2017). This resulted to a dataset of 76 files, including 60 ordinary legislative procedures (COD; the former co-decision procedures), 14 consultation procedures (CNS), and 2 consent procedures (APP). Most files were concluded in the seventh term; some were finalised in the eighth term.

Relative and absolute accountability

By formal parliamentary accountability in an EU-context, we mean the degree to which the implementing bodies are obliged by law to provide information on, and explanation of, their policy activities to Parliament, and may be sanctioned or rewarded for these activities (cf. Bovens 2007: 450; Koop 2011: 216; Mulgan 2000: 555). We consider accountability to be a matter of degree, with actors being more or less accountable (cf. Koop 2011; Font and Pérez Durán 2016). While degrees of accountability are higher when actors are not only required to provide information and explanation, but may also face sanctions, actors who do not face sanctions are still considered to be accountable to a certain degree. Moreover, actors who are, in a formal sense, subject to ‘accountability without sanctions’ may still face informal sanctions such as negative publicity and the loss of reputation (Bovens 2010: 952).

We focus on the accountability provisions imposed on the Commission, the member states, and the Council and European Council as the voice of member state governments in the implementation process.² We distinguish between *relative* and *absolute* levels of formal parliamentary accountability, whereby the former refers to the number of accountability provisions that are added to the Commission’s proposal in the legislative process (the number of provisions that Parliament ‘gains’), and the latter to the total number of accountability provisions in a piece of legislation.

To capture the accountability provisions empirically, we made an inventory of accountability provisions included in economic and financial legislation. We aimed to establish categories of provisions, which every piece of legislation could, in principle, include. As Table 1 demonstrates, this led us to distinguish nine categories. The table also shows the frequency of the different accountability provisions in the 76 files included in our analysis. The table clearly highlights the multitude of account-giving obligations in the legislative acts. It also shows that we focus on three types of actors that need to render account to the EP: the Commission, the Council/European Council, and member states.

Most provisions concern the Commission as a supranational implementing body, with the most prevalent provisions requiring the Commission to submit to the EP a periodical review of the efficiency and effectiveness of the legislation (68.4 percent). Provisions requiring the Commission to report on its activities – usually the implementation of the file – are also common (63.2 percent). In 11 legislative acts (14.5 percent), we found provisions allowing the EP to hold oral hearings of the Commission. The Council and member states are subject to similar provisions in seven pieces of legislation (9.2 percent). Other accountability provisions are rare, but include provisions requiring the Council to report on the implementation of an act, provisions requiring the Commission and the Council to communicate their position on specified issues, and requirements for the Commission to provide the EP with information upon request.

Table 1: Accountability provisions in the legislative act

Accountability provision vis-à-vis Parliament	Presence (N ^o)	Presence (%)	Total
1. Commission to send review of legislation	52	68.4	76
2. Commission to report on its activities	48	63.2	76
3. Commission subject to hearings	11	14.5	76
4. Council/European Council subject to hearings	7	9.2	76
5. Member states subject to hearings	7	9.2	76
6. Council/European Council to report on its activities	3	4.0	76
7. Commission to communicate its position	2	2.6	76
8. Commission to send information upon request	1	1.3	76
9. Council/European Council to communicate its position	1	1.3	76

In line with previous studies of the EP's account-holding practices (e.g., Naert 2016; Van de Steeg 2009; Wille 2010; 2016), we found that the legislative provisions primarily concern the provision of information and explanation. Though implementing bodies may face informal sanctions – including criticism in parliamentary hearings (see Van de Steeg 2009) –, Parliament is ultimately constrained in what it can do when it is unhappy with the policy activities of the implementing bodies. Legislation does not introduce formal sanctioning powers.³ Even when all or most of the provisions in Table 1 are included in legislation, there are limits to the account-holding powers of the EP.

To use single measures of relative and absolute accountability in our analyses, we created count measures by adding up the number of provisions added to the text in the legislative process (relative accountability) and the total number of provisions in the final legislative act (absolute accountability). This also implies that all provisions are attributed equal weight. We consider this appropriate given that we capture different aspects of accountability – including different account-givers – and there are no obvious theoretical reasons to consider some provisions more important than others.

Explanatory and control variables

To test our hypotheses on the European debt crisis, we created the dummy variable *crisis response*, which takes the value of 1 when the explanatory memorandum of the legislative proposal one way or another indicates that the act is a response to the European debt crisis. Examples include measures introduced ‘in response to the financial crisis’, ‘in the light of the economic and financial crisis’, and ‘against the background of the financial crisis’. Typical formulations also include: ‘the crisis highlighted the need to [...]’, ‘the extent of the financial crisis has exposed unacceptable risks pertaining to [...]’, and ‘[e]xperience of the financial crisis has exposed important failures in [...]’.

We also included a number of control variables in our analysis. First, we created the dummy variable *co-decision*, which takes the value of 1 for co-decision files, and 0 for other files. We expect co-decision files to include higher levels of accountability for the reason that they grant the EP veto powers in the legislative process, thus allowing Parliament to credibly threaten to delay or veto policy proposals unless its views are accommodated (Farrell and Héritier 2003). Indeed, the EP has not been afraid of utilising its veto powers to set a precedent and gain more powers in the long run (Héritier 2007, 2017; Rittberger 2005). The literature of EU regulatory agencies also tells us that the EP has gained a greater say in shaping the design and governance structures of agencies when it has acted as a co-legislator. Busuioc, for example, finds that the EP has been able to insert new oversight provisions in European agencies’ constituent acts when it gained co-decision powers (2013: 35). We expect these dynamics to affect Parliament’s bargaining powers – and thus the level of relative accountability –, but we also expect the other bodies – particularly the Commission – to anticipate the EP’s veto power by introducing and allowing for higher levels of overall (absolute) accountability.

Second, we include the variable *package deal*, which takes the value of 1 for files that are part of package deals, and 0 for other files. When assessing the bargaining power of the Parliament, it is important to also take into consideration whether legislation is negotiated individually or as part of a package. The EP can gain leverage by so-called ‘arena linking’ – the use of veto powers on one issue (piece of legislation), or in one arena, to gain more powers on issues or in arenas where it holds more limited powers (Héritier 2012). This can be done when two or more related dossiers are negotiated at the same time either separately or as part of a package. Héritier (2017) indeed finds that the EP engaged in arena linking in its (successful) attempts to expand its procedural powers in selected cases of economic governance. Hence, we expect legislation

negotiated as part of a package to include more accountability, both in relative and absolute terms.

Third, we control for the degree of *media salience* of legislative files. We know from previous research on the accountability of (national and European) agencies that agencies dealing with more salient policy issues are subject to more accountability provisions than agencies operating on low salience-issues (Koop 2011; Font and Pérez Durán 2016). There are good reasons to think that a similar picture emerges when we look at parliamentary control over implementation by the Commission and the Council. Time and resources are always short in supply in parliaments. The degree of salience is likely to play a role for MEPs' awareness of and willingness to hold implementing bodies to account. Politicians are expected to be more interested in the activities of implementing bodies that are tasked with highly salient issues. They are also likely to be more concerned about issues of shirking and misuse of power when delegating powers to implementing bodies on highly salient issues. To assess the importance of salience, we use the measure created by Reh *et al.* (2013; Bressanelli *et al.* 2016), which measures media attention in newspapers in four languages and six member states in the period between the Commission's proposal and the adoption of the final act. We updated the measure for all ECON files introduced in EP7.

Fourth, the level of accountability included in legislation is expected to be higher when the legislation allows the Commission (and in some cases the Council) to introduce implementing and delegated acts after adoption of the basic legislative act. While the EP is, in the case of delegated acts, able to veto the proposed acts (e.g., Kaeding and Stack 2015), we consider implementing and delegated acts first and foremost tools that expand the power and discretion of the Commission (and sometimes Council), and that thus increase the risk of shirking and abuse and misuse of power. As there is no straightforward answer to the question of whether implementing acts or delegated acts grant more power and discretion (see Brandsma and Blom-Hansen 2017, Ch. 1), our dummy variable *delegation* takes the value of 1 when a legislative allows for implementing and/or delegated acts.

Finally, we include the variable *recitals*, which is a count of the number of recitals in the Commission proposals (log-transformed as the original data are highly right-skewed), and which serves as a proxy measure of the level of complexity of the file (see Reh *et al.* 2013). Complex files tend to be more under the radar, with it being less obvious to a general audience what they are about and what their (distributional) consequences will be (Reh *et al.* 2013: 1124). Because of the lower degree of attention, we expect Parliament to be less interested in

pushing for accountability when legislation is more complex. The summary statistics of all variables are included in Table A in the Online Appendix.

5. ANALYSIS

We use Poisson regression models for our analysis, as our dependent variables are count measures. The use of a count model – and in our specific case the Poisson model – is most appropriate because the assumption of normality of ordinary least square regression is violated and our dependent variables are non-negative counts.⁴ As is recommended for Poisson models, we include robust standard errors (Cameron and Trivedi 2009). In terms of interpretation, the regression coefficients in the models represent the change in the response – in this case, the expected (natural) logged count – corresponding to a one unit change in a predictor variable, given the other variables are held constant. The results are presented in Table 2. Models 1 and 3 include our main variables of interest in models for relative and absolute accountability, respectively. In Models 2 and 4, the control variables are added.

In a nutshell, our findings suggest that levels of both relative and absolute accountability are higher in *crisis responses* and in legislation negotiated as a *package* compared with, respectively, non-crisis responses and non-package deals. Furthermore, higher levels of *salience* are associated with higher levels of relative and absolute accountability, while levels of relative accountability are lower when legislation includes more *recitals*.

Starting with the variable of main interest (*crisis response*), our analyses confirm that levels of parliamentary accountability are significantly higher in legislation that responds to the European debt crisis than in legislation that is introduced for other reasons. This is the case for relative as well as absolute accountability, thus confirming hypotheses 1 and 2. The findings suggest that Parliament has not only been able to gain more oversight powers in the negotiating process, but has also seen higher overall levels of accountability in crisis legislation as compared to non-crisis legislation. We should emphasise that this finding holds regardless of the salience of legislation. Crises often function as a focusing event, sparking intense media and public attention to a previously ignored issue (Jones and Baumgartner, 2005). Salience indeed matters for levels of accountability, as discussed below, but crisis legislation includes higher levels of accountability even when controlling for salience. This suggests that there are specific dynamics at play in the negotiation of crisis files. It also suggests that the EP has been

‘compensated’ for its loss of substantive influence on crisis legislation by gaining more (procedural) account-holding powers.

The veto powers of Parliament also seem to matter, but only in the forms of *package deals*. Having co-decision powers does not make a significant difference for accountability to Parliament, but having de facto veto powers in negotiations on package deals does. This suggests that package deals give Parliament veto power, whether or not the legislative files formally fall under the co-decision procedure. In other words, de facto veto powers seem to be more important for levels of accountability, both in relative and absolute terms, than de jure veto powers. When negotiating package deals, Parliament tends to gain more accountability provisions, with overall accountability levels also being higher. This is because the EP can use its powers in a ‘linked arena’, in which one or more files in a package for which the EP has de jure veto powers can be taken hostage to obtain more influence on files where the EP does not enjoy formal veto powers.

Media salience is also of crucial importance. We expected the EP to be more interested in accountability when the issue at stake is more salient as the political risk of shirking and abuse and misuse of power is higher on such issues. This should make Parliament more interested in investing time and resources in account-holding. Our findings suggest that this is, indeed, the case: acts on issues that are more salient include more provisions for accountability to the EP, both in relative and absolute terms.

We also controlled for the *delegation* of more responsibilities and discretion to the Commission (and in some cases to the Council), expecting provisions for implementing and delegated acts to be associated with higher levels of accountability. Yet, such delegation does not seem to matter for accountability when controlling for other variables. One explanation may be that implementing and delegated acts have their own, delegation-specific mechanisms for accountability: the sole provision of information to the EP and the EP’s power to veto, respectively. Hence, the inclusion of ‘delegation’ in legislative files may only be subject to delegation-specific bargaining processes; namely, bargaining over whether the file should allow for implementing acts or for delegated acts (see Brandsma and Blom-Hansen 2017).

Table 2: Analysis of relative and absolute accountability

	Relative accountability			Absolute accountability		
	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
	Coef (SE)	Coef (SE)	Coef (SE)	Coef (SE)	Coef (SE)	Coef (SE)
Crisis response	1.40 (0.43)***	1.55 (0.49)***	1.55 (0.48)***	0.60 (0.17)***	0.44 (0.18)**	0.56 (0.19)***
Codecision	-0.00 (0.57)	0.31 (0.54)		0.64 (0.44)	0.50 (0.44)	
Package deal	1.25 (0.29)***	1.18 (0.29)***	1.25 (0.29)***	0.77 (0.15)***	0.68 (0.13)***	0.72 (0.13)***
Media salience		0.07 (0.03)**	0.07 (0.03)**		0.05 (0.02)**	0.05 (0.02)**
Delegation		-0.14 (0.28)			0.10 (0.27)	
Recitals (log)		-0.60 (0.19)***	-0.61 (0.17)***		0.08 (0.13)	
Intercept	-1.80 (0.57)***	-0.24 (0.57)	-0.06 (0.51)	-0.74 (0.40)***	-0.93 (0.45)**	-0.27 (0.18)
McFadden pseudo R ²	0.24	0.33	0.32	0.18	0.20	0.18
Log pseudo-likelihood	-87.22	-77.69	-78.06	-107.82	-105.24	-107.92
N	76	76	76	76	76	76

Note: Poisson coefficients with robust standard errors are reported. *p<0.10; **p<0.05; ***p<0.01 (two-tailed)

Finally, the level of complexity, as measured by the number of *recitals* in legislation, matters, but only for relative accountability. Levels of absolute accountability in legislation do not differ between complex and non-complex legislation, but Parliament ‘gains’ fewer accountability provisions during the legislative process when legislation is complex. The reason may be that complex files are, in general, more challenging for Parliament to deal with. Moreover, Parliament may be less keen on ‘fighting for’ accountability provisions in complex legislation, as it is more under the radar and not picked up as quickly by the media, the public, and probably Parliament itself than legislation that is ‘easier to digest’. Future research will need to unravel the dynamics of complexity in the legislative process.

We tested the robustness of our findings in two additional ways. First, the legislation scrutinised by the ECON committee still covers a range of economic and financial issues. Indeed, our 76 legislative files have their legal basis in eight different Treaty titles (see Table B in the Online Appendix). We ran our reduced accountability models 3 and 6 on the still more similar subset of 44 legislative files that have Title VII of Part III of the Treaty as their legal basis (‘Common rules on competition, taxation and approximation of laws’).⁵ We again found significantly higher levels of relative and absolute accountability in crisis legislation as compared to non-crisis legislation (see Table C in the Online Appendix). Our findings on package deals also remain the same, though media salience no longer independently affects accountability in the models, which may be due to the fact that crisis responses themselves tend to be more salient. Second, as set out in Section 2, the conclusions of previous qualitative research on the EP’s procedural gains rely heavily on the cases of the Two-Pack and the Six-Pack. Given the modest number of observations in our analysis, these legislative files may have a considerable impact on the results.⁶ Therefore, we ran Models 3 and 6 on a subset of legislative files excluding the Two-Pack and Six-Pack. The effect of ‘crisis’ is still positive and significant, with crisis responses being associated with higher levels of relative and absolute accountability than non-crisis responses (see Table D in the Online Appendix). Package deals – which the Two-Pack and Six-Pack were important examples of – no longer significantly affect the EP’s relative accountability, and the effect of media salience is not significant in either model. In sum, though not all variables retain their effect across all model specifications, the significant effect of ‘crisis’ is rather robust.

As Poisson regression coefficients are difficult to interpret, Figures 1 and 2 below show the substantive importance of the factors shaping relative and absolute accountability. Figure 1 presents the predicted number of accountability provisions gained during the negotiations

between the Commission’s proposal and the final act (i.e., relative accountability). Figure 2 shows the absolute levels of accountability included in final acts. The figures present the predicted counts for both the minimum and the maximum value on an explanatory variable. We should note that the scale of the two figures is different.

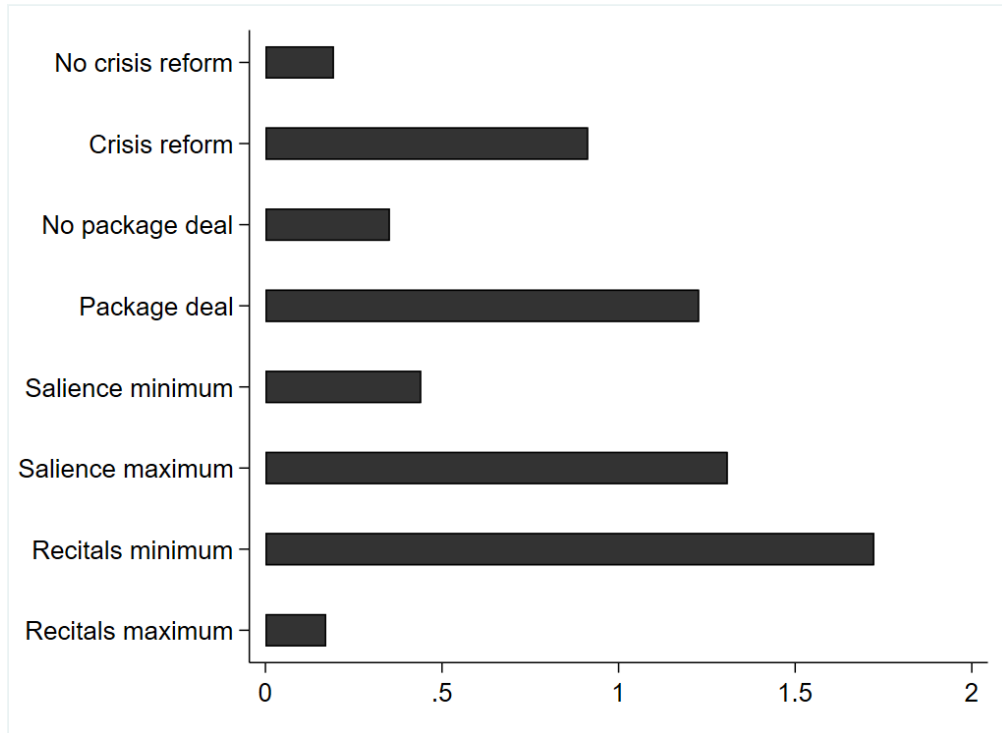


Figure 1: Predicted number of accountability provisions gained (Model 3)

Figure 1 shows the difference that *crisis response* makes for the predicted number of provisions ‘gained’ in the legislative process. As we saw before, the difference is significant. However, the other variables in the model – *package deals*, *media saliency* and *complexity* – make slightly more of a difference. A similar picture emerges when we look at the levels of absolute accountability (Figure 2), though *crisis responses* make a somewhat bigger difference here, suggesting that the higher levels of parliamentary accountability in the legislation are driven by Parliament’s negotiation strategy as well as by the acknowledgement and anticipation of the crisis dynamics by the other legislative bodies, particularly the Commission. Package deals also make a key (and even bigger) difference for levels of absolute accountability.

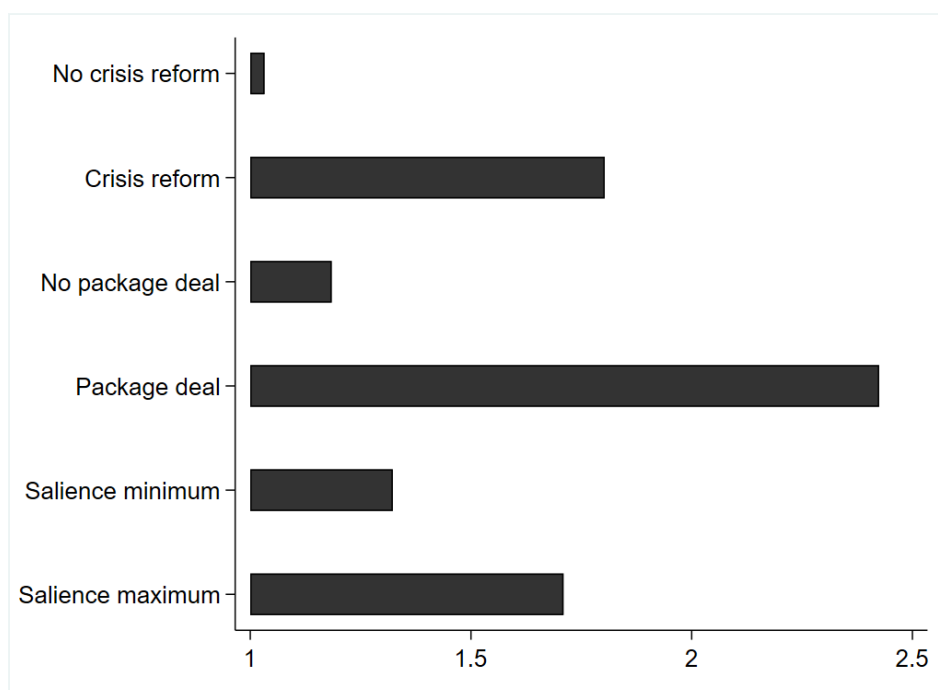


Figure 2: Predicted number of total accountability provisions (Model 6)

6. CONCLUSION AND DISCUSSION

In this paper, we have addressed the question whether the EP has been able to win or ‘be compensated’ in procedural terms in legislation dealing with the European debt crisis – legislation which previous research has characterised as low on parliamentary influence. To answer this question, we used original data on the accountability provisions present in 76 legislative economic and financial acts introduced during the EP’s seventh parliamentary term. Our results show that economic and financial legislation includes various accountability provisions, with levels of accountability – both relative and absolute – indeed being higher in crisis legislation. This provides support for the suggestion made in previous case study research that Parliament has been compensated for its loss in substantive influence on crisis legislation by means of additional account-holding powers. We also find that accountability levels are higher in legislation negotiated as part of package deals, which give Parliament de facto veto power even if they are not formal co-legislators.

Furthermore, while levels of relative accountability are lower when a legislative file is more complex, levels of saliency are associated with higher levels of accountability. The latter makes sense theoretically. Firstly, the more importance is attached to files, the more likely politicians are to keep a close eye on the implementation of the legislation. This may be for electoral

reasons or because they genuinely care about avoiding agency drift and misuse of power on important files. This finding tallies with previous findings on political accountability of national and EU agencies, where (media) salience was also found to matter.

What do these findings tell us about the position of the EP? We have focused on economic and financial affairs as one particular EU policy area. This is a policy area that traditionally goes to the very heart of core state powers and sovereignty, similar to foreign policy, justice and home affairs, and social and employment affairs. The substantive influence of Parliament may be more limited in such areas as the member states have a clear preference to be in the driving seat in these areas (Genschel and Jachtenfuchs 2016). Precisely for that reason, it may be ‘easier’ for Parliament to increase its role as account-holder in response to its relative loss of substantive influence in the decision-making on the files. At the same time, our findings may reflect a more general trend in inter-institutional relations in the EU in areas traditionally associated with core state powers. There may be a more general increase in Parliament’s oversight role in areas where it participates less in shaping the substance of legislation and the implementation process. Future research in other policy domains needs to further investigate this hypothesis to shed light on the extent to which our findings can travel to other policy areas.

The findings of this study also suggest that when international agreements decided outside the EU’s legal framework will eventually be fully integrated in the EU Treaties, as planned for, the EP might be able to reclaim some lost powers. This is most likely to happen if the measures are salient and/or subject to package deals. Completing the EMU is not only a step in the direction of strengthening its output legitimacy, but also its democratic accountability and thus input legitimacy, even though accountability to the EP may not be sufficient (Scharpf 2015). However, safeguarding formal accountability provisions is not a guarantee for actual accountability. The way in which MEPs fulfil their oversight role is equally important. This opens the door for future research on whether and how the EP’s formal oversight powers are used in practice, including the process of actively monitoring and demanding answers from executive bodies.

Finally, the observation that various provisions for parliamentary accountability are included in economic and financial legislation – and particularly in salient legislative files – may be reassuring from the perspective of democratic legitimacy, especially since legitimacy is a great concern in economic governance (Fabbrini 2013; Fasone 2014). However, our findings also point to the limits of the EP’s account-holding powers: while legislation often offers the EP the opportunity to monitor and interrogate the implementing bodies, Parliament has hardly any

formal sanctioning powers, and has to rely on informal sanctions – including public statements of disapproval – to express its concerns about policy activities. To the extent that informal sanctions are inconsequential, the implementation process may still be regarded as largely executive-dominated.

NOTES

1. We use the terms ‘substance’ and ‘procedure’ in the context of EU legislation to refer to, respectively, the policy responses that are laid down in legislative files and the steps that need to be followed in the process of implementing these policies – in particular, the accountability requirements.
2. The Commission and governments (in the Council) are not the only actors involved in the implementation of economic and financial legislation; various EU agencies – including the European Central Bank – play a role, too. Yet, as these agencies are not parties to the legislative process in which formal parliamentary accountability is decided on, (partially) different factors will account for their levels of accountability. For this reason, we do not focus on the accountability of EU agencies in this study.
3. Parliament can, as a last resort, dismiss the College of Commissioners by means of a vote of no confidence. Yet, in the absence of more moderate sanctioning tools – for instance, the possibility to disapprove proposed Commission action – the threat to dismiss the entire College, the ‘nuclear option’, becomes largely empty (cf. Ayres and Braithwaite 1992: Ch. 2).
4. As our data are not overdispersed, we use a Poisson model rather than another type of count model.
5. This is the only subset with a sufficient number of files to run the analyses. The next two subsets – Title IV of Part 3 (‘Free movement of persons, services and capital’) and Title VIII of Part 3 (‘Economic and monetary policy’) – only include 13 and 12 files, respectively.
6. In line with the findings of case study research, the files in the Two-Pack and the Six-Pack have among the highest scores on both relative and absolute accountability.

ACKNOWLEDGEMENTS

We would like to thank the editor and three anonymous reviewers for their helpful comments and suggestions. An earlier version of this article was presented at the workshop ‘The European Parliament in the New Europe: Institutionally Empowered, Policy Side-Lined?’ organised at King’s College London in May 2017. The article benefitted from the feedback of the participants and particularly our discussant Christine Reh.

AUTHORS’ CONTRIBUTION

The authors would like to acknowledge their equal contribution.

FUNDING AND GRANT-AWARDING BODIES

This study was supported by the European Union’s Horizon 2020 research and innovation programme under grant agreement No 649484.

DISCLOSURE STATEMENT

No potential conflict of interest was reported by the authors.

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