

Transparency or Newsworthiness?

The Probability of Constitutional Court Press Release Occurrence

Philipp Meyer

Leibniz University Hannover, Institute for Political Science
p.meyer@ipw.uni-hannover.de

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Question:

When do decision-related court press releases occur?

- Judicial politics
 - Courts promote decisions to enhance transparency
- Communication research
 - Political actors aim to attract media attention which is why courts promote decisions
- Little research about the occurrence of court press releases
- Based on a novel data set, this study tries to fill this research gap

Condition I: Transparency

- Dilemma: Courts face an implementation problem
- To be assertive courts need: 1) transparency; 2) an informed public
- Only if the public is able to monitor political behavior in the context of court decisions, non-compliance of politicians can be detected (Vanberg 2005)
 - A informed public is a “baseline source of power” for courts (Staton 2010, 13)

Condition I: Transparency

- Transparency is needed where political evasion is painful: decisions that strike down the status quo (Vanberg 2005)
- Court press releases enhance transparency (Staton 2010)
 - *Hypothesis 1*: Court press releases are most likely to occur if decisions change the status quo
- Transparency is harder to achieve for complex policy issues (Vanberg 2005, Krehbiel 2016)
 - *Hypothesis 2*: Court press releases are most likely to occur if decisions deal with complex issues

Condition II: Newsworthiness

- Effectiveness of policy is influenced by the media, which is why political actors adopt the media's logic to attract media attention (Esser 2013)
- This is done by presenting policy in a media-friendly way
 - Internalization of news factors & professionalization of communication style (Strömbäck / Van Aelst 2013)
 - Presenting newsworthy and easy consumable information

Condition II: Newsworthiness

- Press releases are used to present information and are defined as information subsidies which reduce journalists costs of gathering information (Gandy 1982)
 - *Hypothesis 3*: Court press releases are most likely to occur if decisions contain newsworthy aspects

Data

- Time frame: January 1997 - May 2018
- Decisions by the Germany Federal Constitutional Court, available on the court's website
→ $N = 6755$ decisions
- Decision characteristics and the decision texts are scraped and processed to create the data set

Methods

- Research aim: predict press release occurrence & identify factors which influence the occurrence
→ Binary logic: whether a press release occurs or not
→ Logistic regressions are suitable

- **Dependent variable**

- *Press release occurrence*: existence of a court press release accompanying a decision

- **Independent variables**

- *Status quo change*: existence of a status quo change **enhance** the probability of PR occurrence
- *Case complexity*: existence of a complex policy issue **enhance** the probability of PR
- *Newsworthiness*: existence of ...
 - ▷ ... an oral hearing **enhance** the probability of PR
 - ▷ ... a separate opinion **enhance** the probability of PR
 - ▷ ... a abstract review proceeding **enhance** the probability of PR
 - ▷ ... a constitutional complaint **enhance** the probability of PR
 - ▷ ... a concrete review proceeding **decrease** the probability of PR

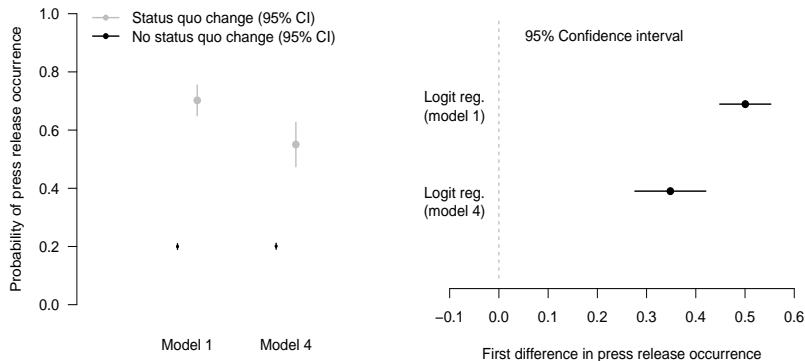
Table 1: Logit regression

	<i>Dependent variable:</i>				Hypothesis
	Occurrence of press releases				
	Model 1	Model 2	Model 3	Model 4	
Status quo change	2.221*** (0.134)			1.563*** (0.157)	+
Case complexity		0.596*** (0.059)		0.414*** (0.064)	+
Separate opinion			2.294*** (0.372)	2.125*** (0.383)	+
Oral hearing			2.923*** (0.232)	2.684*** (0.237)	+
Constitutional complaint			-0.164 (0.106)	-0.070 (0.108)	-
Concrete review			1.138*** (0.157)	0.765*** (0.166)	-
Abstract review			0.960*** (0.329)	-0.052 (0.356)	+ / -
Constant	-1.379*** (0.031)	-1.532*** (0.042)	-1.305*** (0.101)	-1.610*** (0.110)	
Observations	6,755	6,755	6,755	6,755	
Log Likelihood	-3,422.074	-3,523.076	-3,322.522	-3,246.090	
Akaike Inf. Crit.	6,848.149	7,050.152	6,657.043	6,508.180	
Percent Correctly Predicted	67 %	66 %	68 %	69 %	

Note:

*p<0.1; **p<0.05; ***p<0.01

Figure 1: Predicted probability and first differences



$N = 6755$ court decisions by the GFCC; 1000 simulations from the logit Models 1 & 4 in table 1. The status quo change is varied, while the other variables are held constant at their means.

- Average predicted probability shows that press releases are most likely to occur when the court changes the status quo

- Court press releases are an institutional tool which are most likely to occur when the court strikes down the status quo

→ Strengthens the assumption and findings of Staton

→ Problems:

- Unexplained variance (only 4 % of decisions change the status quo)
- Theory and operationalization only loosely connected (?)

→ Next steps:

- Build stronger theory on mediaization & newsworthiness (or replacing by litigation PR theories?)
- Expand the data set
- Enhance the complexity measurement

Thank you for your attention!

p.meyer@ipw.uni-hannover.de