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RESEARCH NOTE

Are Judges on *Per Curiam* Courts Ideological? Evidence from the European Court of Justice

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Abstract

Institutional designers of judiciaries often want to provide the appearance of impartiality. As a result, many collegial courts issue *per curiam* rulings in which judges' votes are not public. An extensive scholarship, however, provides evidence that ideology and mechanisms of retention affect judicial decision-making. Do *per curiam* rulings actively mitigate or provide cover for ideological and career-oriented judicial decision-making? I argue that – when serving as the rapporteur (opinion-writer) – a judge on a civil law *per curiam* court can steer their panel towards the outcome their appointer prefers. When their appointing government turns over, nonetheless, a judge is not compelled to change their decision-making to be in line with their new government, as *per curiam* rulings protect them from retaliation. An analysis of decisions at the Court of Justice of the European Union provides evidence for this account.

Keywords: Court of Justice of the European Union; Judicial decision-making; per curiam

Introduction

Virtually all societies institutionalize dispute resolution systems to resolve conflicts between two parties. Establishing confidence in such systems is essential to maintaining their efficacy. One mechanism these systems employ is blinding the disputing parties to the process by which the adjudicators came to their decision. That is, by allowing the adjudicators to deliberate in private and reach a decision *per curiam* – or "by the court" – without revealing which side each one preferred to prevail in the dispute, the system creates the appearance that the adjudicators are independent, unified, and not biased in favor of one party over the other. An extensive scholarship, however, provides evidence that ideology (e.g., Harris and Sen 2019) and retention mechanisms (e.g., Stiansen 2022) affect the outcomes of institutionalized dispute resolution. Do *per curiam* rulings actively mitigate or provide cover for such ideological and career-oriented decision-making?

Although *per curiam* opinions do not reveal the votes of the judges *individually*, I argue judges can exert substantial influence on cases in which they are the

judge-rapporteur (JR, opinion-writer). If a JR is ideologically aligned with their appointer, they can steer their panel to the outcome their appointer prefers. Assuming this model of ideological decision-making is correct, if their appointer changes through government turnover, a JR should not be any more likely to favor their new appointer's preferences and, thus, they should not be any more likely to compel their panel to reach their new appointer's preferred outcome. Alternatively, JRs may be primarily retention-seeking in their decision-making – pursuing their new appointer's preferences following government turnover even when they are not ideologically aligned.

I evaluate my arguments with an empirical analysis of member state observations (*amici curiae* briefs) submitted to the Court of Justice of the European Union (CJEU)[1], a *per curiam* court. First, I find that when the JR receives an observation on a case from their appointer, their panel is more likely to rule in favor of the appointer's position. This finding alone, however, cannot distinguish between the aforementioned ideological alignment and retention-seeking explanations. To distinguish between them, I test whether this correlation persists when a JR's appointer turns over. I find that if the JR's appointer turns over to a different political party, their panel is not any more likely to favor the appointer's position when the appointer sends an observation. This evidence suggests that agreement between JRs and their appointers is driven more by ideological alignment than career incentives. Put differently, *per curiam* decisions both provide judges *political cover* for ideological decision-making and *institutional protection* from appointers' retaliation for unwanted rulings.

Per curiam decisions and the judge-rapporteur

A number of civil law collegial courts issue their decisions *per curiam* without identifying an individual judge's position on a case. Without the ability for judges to opine separately, a panel must produce a single judgment that accurately reflects its judges' viewpoints. An institutional feature that may allow a judge to disproportionately influence the outcome is their service as the JR. The JR is responsible for writing the court's judgment in a case. A court assigns a JR immediately after it receives a case and before any discussion among the court's judges. They collect information regarding the case and draft a preliminary judgment for deliberations with the panel. As a result, the JR plays an agenda-setting function and their opinion "has a greater weight in the eyes of the other judges […] [T]he rapporteur holds a near monopoly over knowledge of facts and other materials concerning the case, including the competing arguments, so the other judges may be left at an informational disadvantage" (Kelemen 2017, 43). The other panel judges, therefore, must exert effort to alter the JR's opinion, which may be especially costly if they have a substantial workload. As Kelemen (2017, 42-43) describes, "The pressure of time often prompts judges to defer to the rapporteur's opinion. In these circumstances, the other members of the panel are less likely to conduct their own research. So, in most cases the rapporteur's opinion becomes the opinion of the court, and s/he is also the author of the judgment." A judge that wants to convince their panel to support their appointer's position on a case, thus, should be in a more advantaged position to do so when they are serving as the JR.

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[1]The CJEU consists of the Court of Justice and the General Court. All references in this paper are to the Court of Justice unless otherwise stated.

Mechanisms

An extensive scholarship in the American judicial politics literature provides evidence that ideology – as proxied by the party of the appointing president – is correlated with judicial decision-making (e.g., Harris and Sen 2019). Outside the United States, scholars have found similar evidence at the International Court of Justice (Posner and De Figueiredo 2005), the Italian Constitutional Court (Pellegrina and Garoupa 2013), and modest evidence at the European Court of Human Rights (e.g., Voeten 2008).

In most of this comparative scholarship, however, the judge's appointer is usually a party to the case. As a result, identifying the position the appointer favors is straightforward. Courts such as the CJEU, for example, do not allow judges to sit on cases involving their member state. Given the complexity of legal issues, it may not always be straightforward for a judge to discern their appointer's position. Appointers often communicate their position publicly through alternative means, such as through *amici curiae* briefs (e.g., Carrubba, Gabel and Hankla 2008; Larsson and Naurin 2016). When a judge receives a public signal from their appointer about their position on a given legal issue and is serving as the JR, they should be more likely to steer their panel towards their appointer's preferred outcome. This theorizing leads to my first hypothesis:

Hypothesis 1 *If the JR's appointer expresses their preferences over the outcome of a*

legal issue within a case, the JR's panel is more likely to rule in favor of the appointer's preferred outcome

The existing scholarship predominantly argues that publishing a single judgment insulates judges from outside political pressure, since their individual positions are not revealed. Dunoff and Pollack (2017, 238) argue *per curiam* judgments reduce judges' "vulnerability to retaliation for unwelcome rulings." As former CJEU judge Josef Azizi (2011, 55-56) explains, revealing judges' positions on cases could put a judge "under pressure to change his or her attitude in order to be in line with his or her member state […] and, consequently, bias his or her vote in an anticipative manner […] Every time a judge in office knows he or she will have to find himself or herself a future professional career […] the perception of his or her judicial behavior by a potential employer might have an influence on that behavior." Proponents of *per curiam* decisions argue, thus, that political actors are unable to seek retribution against judges for their votes.

A judge is arguably most vulnerable to such retaliation when there is government turnover, as a new government may be ideologically different from the one that appointed the judge. Scholars provide evidence that judges alter their behavior in the face of turnover to increase their chances of retention (e.g., Helmke 2005). If *per curiam* courts sufficiently shield judges from retaliation, I do not expect that judges will alter their behavior when their appointer changes. Assuming the ideological account is correct, if anything, judges may be less likely to advocate for their new appointer's position, as they may no longer be ideologically aligned with their new appointer. Finding supporting evidence for hypothesis 1 in combination with not finding a correlation between observations and outcomes following turnover would imply that judges' decisions are

more driven by *ideology* than *retention*. This theorizing leads to the following hypothesis:

Hypothesis 2 *If the JR has a new appointer that expresses their preferences over the outcome of a legal issue within a case, the JR's panel is no more likely to rule in favor of the new appointer's preferred outcome*

Application: Court of Justice of the European Union

To test my hypotheses, I examine the European Union's highest court, the Court of Justice. I choose to analyze the CJEU for a few reasons. First, the CJEU is a powerful court, and EU member states have a vested interest in affecting its decision-making. Second, the CJEU is a *per curiam* court in which each member state appoints one judge for a six-year renewable term. Having both *per curiam* decision-making and renewable terms is empirically useful, as most civil law courts do not have both features. Third, although the EU treaties state that judges "shall be appointed by common accord of the governments of the Member States," in practice, member states have historically seldom opposed other member states' appointments to the CJEU.[2] Fourth, previous research provides a method to measure member states' preferences over case outcomes on the CJEU by leveraging observations (*amici curiae* briefs) that member states send to the Court (e.g., Carrubba and Gabel 2015). Fifth, the Court's President assigns a JR to each case that arrives at the CJEU, with the JR having similar responsibilities to those at other civil law courts (e.g., Zhang, Liu and Garoupa 2018). Lastly, few articles focus on how individual judges on the CJEU affect the Court's decision-making as a whole (e.g., Hermansen 2020; Wijtvliet and Dyevre 2021).

The CJEU's primary task is to adjudicate disputes regarding the application of, and compliance with, EU law. Disputes arrive at the CJEU through a variety of mechanisms and parties. The CJEU's wide jurisdiction and ability to exercise judicial review has substantial implications for member states and can affect, for instance, their gains from trade. Relatively unexplored in the literature, however, is how individual judges affect the CJEU's decision-making. If a judge is ideologically aligned with their member state government or – since they are subject to six-year renewable terms – prefers to keep their seat on the CJEU, they may have incentives to please their (re) appointing government. To reduce the likelihood of this conflict of interest, CJEU judges do not hear infringement cases brought against their member state or preliminary reference cases originating from their member state. Nonetheless, since court rulings may affect the interpretation and application of law across the EU, member states may have a vested interest in cases in which they are not a party.

One means by which member states express their interest in a case is through submitting observations directly to the CJEU. All EU member states and institutions have the ability to submit observations on any pending case before the CJEU. Member states use these observations to express their beliefs on how the CJEU should rule in a particular case (e.g., Dederke and Naurin 2018). I argue an observation can be particularly influential if the JR is ideologically aligned with their member state's government. Similar to other civil law courts, the CJEU's President

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[2]The Lisbon Treaty introduced a panel to evaluate judges member states appointed to the CJEU. Although this panel serves as a quality check, member states still retain the ability to ignore the panel's recommendations and appoint their judge even if the panel disapproves of their selection.

assigns the JR before any deliberations. As Zhang, Liu and Garoupa (2018, 146) explain, "even though conceptually each judge in the chamber is entitled to the same voting power, in reality their influence may vary depending on [whether they are the JR] in any given case. This group dynamic may, therefore, influence judicial voting." Similarly, I expect that the JR's influence should affect case outcomes.

Data & empirical evidence

Data. Carrubba and Gabel (2015) conducted the first large scale systematic data collection effort to assess member state observations' impact on the CJEU's decision-making. Covering every judgment the Court issued from 1960 to 1994 (3,719 cases), they use these data to test a series of hypotheses regarding the Court's sensitivity to threats of noncompliance and legislative override. The unit of analysis within these data is within-case legal issues (5,434 legal issues across the 3,719 cases).[3] For example, if a case had two legal issues and France sent an observation to the CJEU regarding the first legal issue and not the second, this within-case variation is reflected. The dependent variable of interest in these data is a binary variable (*CJEU Ruling for Plaintiff*) that takes the value of 0 when the CJEU ruled against the plaintiff's position in the legal issue and the value of 1 when the Court rules in favor of the plaintiff's position. Although I do not have data on each individual judge's vote, as the CJEU's decisions are *per curiam*, if my theory about the influence of the JR is correct, the panel outcome should be correlated with the JR's preferences.

Additionally, for each legal issue, these data include whether an actor (member state or European Commission) submitted a brief in favor of the plaintiff or defendant. Combining these data with data from Cheruvu (2019) and Fjelstul (2019) on panel composition, I create a variable indicating whether the JR of a case received an observation from their member state favoring the plaintiff (+1) or the defendant (−1) in a case, taking the value of 0 otherwise (*JR Net Observations*). For example, the panel consisting of Judges Kakouris (JR, Greece), Mancini (Italy), and Hirsch (Germany) heard the case *Elida Gibbs Ltd v Commissioners of Customs and Excise* (CELEX number 61994CJ0317), which only concerned a single legal issue. Greece submitted an observation in favor of the defendant. Since Greece submitted an observation in favor of the defendant to a panel that contained the judge it appointed to the CJEU and their judge is the JR, *JR Net Observations* takes a value of −1.

I also include a number of theoretically relevant controls in my analyses. First, I include a control for the net total of all observations member states submitted for a given legal issue favoring the plaintiff or the defendant (*Net Observations*) excluding observations already included in the statistical model through the *JR Net Observations* variable. In the aforementioned case *Elida Gibbs Ltd v Commissioners of Customs and Excise*, Germany, Italy, and the United Kingdom each submitted observations in favor of the defendant. *Net Observations*, thus, takes the value of −3. By including this control in my models, I am accounting for the possibility that panels are ruling in favor of the plaintiff (defendant) to preclude the possibility of legislative override (e.g., Carrubba and Gabel 2015; Larsson and Naurin 2016) and are

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[3]As Carrubba, Gabel and Hankla (2008, 440) explain, "This coding scheme has at least two advantages. First, we can accurately depict the Court's ruling when, in the same case, its ruling favors one litigant on one set of issues but the other litigant on other issues. Second, we can map third-party [observations] filed in a case to the particular issues the [observations] discuss."

not only catering to the preferences of the member state that appointed its JR. If panels are mainly concerned with the probability of legislative override, then including this control should also eliminate the effect of *JR Net Observations.*

Second, I control for the type of case the panel heard (infringement, preliminary reference, annulment, failure to act, staff case). This distinction may be relevant since the CJEU, for example, tends to overwhelmingly rule in favor of the Commission in infringement cases. As a result, the probability a member state observation affects a case's outcome may differ depending on the type of case. Relatedly, I control for whether the Commission is a plaintiff or defendant in a case and whether the Commission submitted an observation favoring the plaintiff or defendant in the case, as research finds that the Commission has a substantial influence on the CJEU's decisions (e.g., Stone Sweet and Brunell 1998). Furthermore, I control for whether a government is a litigant in a case (e.g., Carrubba and Gabel 2015). Additionally, I control for the number of judges hearing a case (*Chamber Size*), as existing scholarship provides evidence that larger chambers hear more important cases (e.g., Kelemen 2012). Lastly, I control for the advocate-general's (AG's) position for each legal issue using a binary variable that takes the value of 1 when the AG favors the plaintiff. Scholars find that the AG's opinions are strongly correlated with the CJEU's decision-making (e.g., Larsson and Naurin 2016). Table 1 provides descriptive statistics for variables included in the models.

Empirical approach. I estimate a series of linear probability models to test hypotheses 1 and 2. All results are also robust to a logit specification. To test hypothesis 2, I create a variable *Turnover* that takes the value of 1 if the party of the prime minister in power at the time of a case is different from the party of the prime minister that appointed the JR. For robustness, I present results for alternative measurements of this variable in the Appendix, such as a change in the prime minister (Table A3) – even of the same political party – (Garoupa, Gili and Gómez Pomar 2021), change in left-right ideology (Table A4), and change in EU ideology (Table A5) sourcing from ParlGov. Formally, the OLS specifications for my analyses, where i indexes the legal issue, are:

Table 1. Descriptive Statistics for Variables in Models

Variable	Mean	St. Dev.	Min	Max
Turnover	0.415	0.493	0	1
Change in EU Ideology	0.349	0.831	0.000	4.668
JR Net Observations	−0.011	0.206	−1	1
Net Observations	−0.090	0.805	−10	10
Chamber Size	6.226	2.843	3	13
Commission Observation Plaintiff	0.264	0.441	0	1
Commission Observation Defendant	0.279	0.449	0	1
Commission is Plaintiff	0.117	0.321	0	1
Commission is Defendant	0.200	0.400	0	1
AG for Plaintiff	0.500	0.500	0	1
Government is litigant	0.240	0.427	0	1
Infringement Case	0.109	0.312	0	1
Annulment Case	0.100	0.299	0	1
Failure to Act Case	0.004	0.066	0	1
Preliminary Reference Case	0.599	0.490	0	1
Staff Case	0.131	0.338	0	1

$$CJEU\ Agrees\ with\ Plaintiff_i = \beta_1 \cdot JR\ Net\ Observations + \delta \mathbf{X} + \psi + \epsilon_{ip} \qquad (1)$$

$$\begin{aligned} CJEU\ Agrees\ with\ Plaintiff_i = {} & \beta_1 \cdot JR\ Net\ Observations + \beta_2 \cdot Turnover \\ & + \beta_3 \cdot JR\ Net\ Observations \cdot Turnover \qquad (2) \\ & + \delta \mathbf{X} + \psi + \varepsilon_{ip} \end{aligned}$$

with $\delta \mathbf{X}_i$ a vector of the aforementioned control variables, ψ_p JR fixed-effects, and ε_{ipt} standard errors clustered by JR. The JR fixed-effects control for JR-specific factors that may affect their decision-making on a case. For equation 1, a positive β_1 would be evidence in support of my hypothesis 1, indicating that when a member state sends an observation to the JR they appointed favoring the position of the plaintiff, the probability that the CJEU rules in favor of the plaintiff increases.

Results. Table 2 presents the results of the analysis testing hypothesis 1. Conforming with expectations for hypothesis 1, an observation from the JR's appointer

Table 2. Hypothesis 1 Results

	CJEU Agrees with Plaintiff					
	(1)	(2)	(3)	(4)	(5)	(6)
Constant	0.482***		0.116***	0.393***	0.079***	
	(0.013)		(0.007)	(0.021)	(0.029)	
JR Net Observations	0.205***	0.207***	0.099***	0.136***	0.075***	0.074***
	(0.044)	(0.042)	(0.027)	(0.037)	(0.024)	(0.023)
AG for Plaintiff			0.729***		0.593***	0.594***
			(0.013)		(0.019)	(0.019)
Commission Observation Plaintiff				0.449***	0.155***	0.154***
				(0.025)	(0.021)	(0.022)
Commission Observation Defendant				−0.206***	−0.132***	−0.127***
				(0.027)	(0.023)	(0.023)
Commission is Plaintiff				0.405***	0.100*	0.107*
				(0.024)	(0.057)	(0.057)
Commission is Defendant				−0.098***	−0.022	−0.009
				(0.025)	(0.020)	(0.018)
Net Observations					0.027***	0.027***
					(0.006)	(0.006)
Chamber Size					9.16×10^{-5}	−0.0001
					(0.002)	(0.002)
Government is Litigant					0.029	0.030*
					(0.018)	(0.018)
Infringement Case					0.101*	0.099*
					(0.054)	(0.054)
Annulment Case					0.060***	0.054***
					(0.020)	(0.020)
Failure to Act Case					−0.021	−0.033
					(0.060)	(0.059)
Preliminary Reference Case					0.117***	0.121***
					(0.029)	(0.026)
Staff Case					0.018	0.011
					(0.030)	(0.029)
Observations	5,434	5,434	5,434	5,434	5,434	5,434
JR fixed-effects		✓				✓

Note: Standard errors clustered by JR are in parentheses *p < 0.1; **p < 0.05; ***p < 0.01.

favoring the plaintiff increases the probability the JR's panel rules in favor of the plaintiff. Model 1 presents the results for a bivariate regression with *JR Net Observations* as the independent variable. Each additional observation favoring the plaintiff increases the probability the CJEU rules in favor of the plaintiff by 20.5 percentage points ($p < 0.01$). Model 2 shows that this result is robust to the inclusion of JR fixed-effects ($\beta = 0.207$, $p < 0.01$). Model 3 includes *AG for Plaintiff* as a control, model 4 includes controls for the Commission's involvement in a case, model 5 includes all controls, and model 6 includes all controls and JR fixed-effects. Across all model specifications *JR Net Observations* is positive and statistically significant, with an observation favoring the plaintiff increasing the probability the CJEU rules in favor of the plaintiff by 7.4 percentage points in model 6. For robustness, I run the aforementioned specifications as a logit in the Appendix and obtain similar results (Table A1).

The control variables I included in these models also provide notable results. As expected, across all model specifications, when the Commission submits an observation favoring the plaintiff (defendant), it is positively (negatively) and significantly correlated with the probability the CJEU rules in favor of the plaintiff. Likewise, when the Commission is the plaintiff in a case, it is positively correlated with the probability the CJEU rules in favor of the plaintiff – as the vast majority of cases in which the Commission is a plaintiff are infringement cases in which they strategically decide which cases to bring the CJEU (e.g., Cheruvu 2022). Furthermore, the AG's opinion is highly correlated with the CJEU's decision-making in accordance with the existing literature, as an AG opinion in favor of the plaintiff correlates with a 59 percentage point increase in the probability the CJEU rules in favor of the plaintiff. Lastly, *Net Observations* has a positive and statistically significant coefficient, indicating that for each additional observation member states submitted to the CJEU in favor of the plaintiff for a given legal issue, the Court is about 2.7 percentage points more likely to support the plaintiff in a legal issue, complementing the primary result from Carrubba, Gabel and Hankla's (2008) analysis.

Table 3 provides the results for the analysis testing hypothesis 2. Model 1 presents the results of the simple interaction, while model 2 includes JR fixed-effects. Both specifications have a negative and statistically significant coefficient on the interaction term. Nonetheless, the statistical significance disappears and magnitude is significantly reduced with the inclusion of the AG's position (model 3), Commission's position (model 4), and case characteristics (model 5). The fully specified model also does not demonstrate statistical significance (model 6).[4] To substantively interpret the interaction models, I plot the predicted outcome for each value of *JR Net Observations* conditional on turnover in Figure 1. The left pane of the figure visualizes model 1, while the right pane visualizes model 5. In both panes, for the no turnover condition, both nonzero values of *JR Net Observations* are significantly distinguishable from zero. In the turnover condition, however, the confidence intervals overlap zero. Focusing on the right pane, the point estimates for *JR Net Observations* are remarkably similar irrespective of the value of turnover – explaining the lack of statistical significance on the interaction term in model 5.

One possibility for the discrepancy in results is that little meaningful ideological variation exists between governments following turnover during the time frame of

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[4]For robustness, I run the specifications as a logit in the Appendix and obtain similar results (Table A2).

Table 3. Hypothesis 2 Results

	CJEU Agrees with Plaintiff					
	(1)	(2)	(3)	(4)	(5)	(6)
Constant	0.472*** (0.015)		0.108*** (0.009)	0.390*** (0.020)	0.074** (0.029)	
JR Net Observations	0.271*** (0.049)	0.278*** (0.049)	0.102*** (0.024)	0.152*** (0.049)	0.074*** (0.025)	0.075*** (0.024)
Turnover	0.025 (0.023)	0.044* (0.026)	0.020* (0.011)	0.006 (0.014)	0.014* (0.008)	0.006 (0.012)
JR Net Observations × Turnover	−0.153* (0.080)	−0.164** (0.074)	−0.005 (0.055)	−0.036 (0.067)	0.001 (0.057)	−0.001 (0.057)
AG for Plaintiff			0.729*** (0.013)		0.593*** (0.019)	0.594*** (0.019)
Commission Observation Plaintiff				0.449*** (0.025)	0.154*** (0.021)	0.154*** (0.022)
Commission Observation Defendant				−0.206*** (0.028)	−0.132*** (0.023)	−0.127*** (0.023)
Commission is Plaintiff				0.404*** (0.025)	0.101* (0.057)	0.107* (0.057)
Commission is Defendant				−0.099*** (0.025)	−0.022 (0.020)	−0.009 (0.018)
Net Observations					0.027*** (0.006)	0.028*** (0.006)
Chamber Size					1.26×10^{-5} (0.002)	-9.58×10^{-5} (0.002)
Government is Litigant					0.029 (0.018)	0.030* (0.018)
Infringement Case					0.099* (0.054)	0.099* (0.054)
Annulment Case					0.061*** (0.020)	0.054*** (0.020)
Failure to Act Case					−0.020 (0.060)	−0.032 (0.059)
Preliminary Reference Case					0.117*** (0.028)	0.121*** (0.026)
Staff Case					0.017 (0.030)	0.011 (0.029)
Observations	5,434	5,434	5,434	5,434	5,434	5,434
JR fixed-effects		✓				✓

Note: Standard errors clustered by JR are in parentheses *$p < 0.1$; **$p < 0.05$; ***$p < 0.01$.

these data, reducing the impact of the binary turnover variable on case outcomes after accounting for relevant covariates. In other words, even though a JR's appointer turned over, it may be true that on issues before the CJEU, the new government has similar preferences over case outcomes to the previous one. To address this explanation, I rerun the models using ParlGov's *eu_anti_pro* variable in Table A5 in the Appendix,[5] taking the absolute value of the difference between the ideological score of a JR's appointing government and the new government to create a new variable

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[5]The *eu_anti_pro* variable does not have values for political parties from Luxembourg, which reduces the number of observations in the dataset.
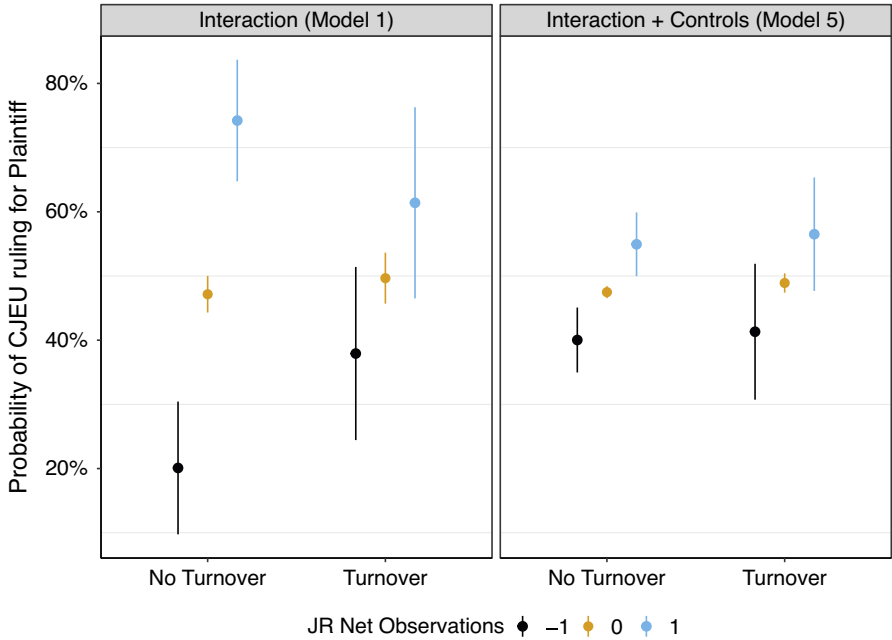
Figure 1. Left Pane Based on Table 3 Model 1 and Right Pane Based on Table 3 Model 5. This figure provides predicted outcomes for all values of *JR Net Observations* conditional on *Turnover* with 95% confidence intervals clustered by JR.

titled *Change in EU Ideology* (higher values indicate a larger ideological difference, while 0 indicates no turnover).

Figure 2 – based on Table A5 model 5, which includes controls – plots the predicted outcome for each value of *JR Net Observations* conditional on the change in EU ideology between governments. Although the coefficient on the interaction term is statistically significant ($\beta = -0.038$, $p < 0.1$) and the slopes for the predicted outcomes for each value of *JR Net Observations* are different from one another, this relationship seems driven by turnover between the United Kingdom (UK)'s Labour and Conservative parties (*Change in EU Ideology* = 4.668, or approximately 5.617 standard deviations), as the highest value tick mark on the rug plot demonstrates. Indeed, within these data, the UK accounts for approximately 18% of all member state observations and 11% of data points in which *JR Net Observations* = 1 or −1 and *Turnover* = 1. Nonetheless, taking all of the results together, these empirical findings suggest that the correlation between an appointer's preferences as expressed through observations and outcomes is driven by *ideology* and not by retention incentives. It may also be the case, however, that the relative stability of national interests is more important than an appointer's ideological bent for contextualizing a judge's decision-making at international courts such as the CJEU. Under either interpretation, a judge's home member state's interests are relevant to their decision-making.
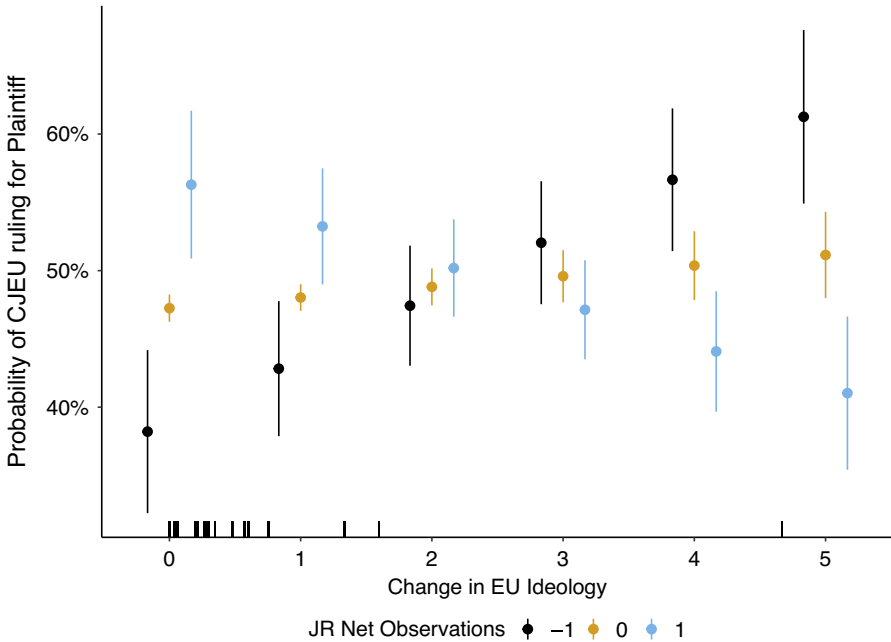
Figure 2. Based on Appendix Table A5 Model 5. This figure provides predicted outcomes for all values of *JR Net Observations* conditional on *Change in EU Ideology,* with 95% confidence intervals clustered by JR.

Conclusion

Courts issue decisions *per curiam* to provide the appearance of impartiality, but scholars have seldom explored whether they live up to these ideals. I provide evidence that a judge at the CJEU can compel their panel to reach the outcome their appointer prefers when serving as the JR. When their appointing government turns over and a JR is no longer ideologically aligned with their appointer, this correlation disappears. Although the CJEU combines *per curiam* rulings and renewable terms,[6] these findings can generalize to collegial settings in which judges issue *per curiam* rulings *and* governments have control over the selection, promotion, and discipline of judges. Governments may strategically promote ideologically aligned judges to high judicial posts. Upon government turnover, however, if a judge is on a panel that issues a ruling adverse to the new government, *per curiam* rulings provide a judge plausible deniability regarding the role they played in the outcome. Future research can disentangle the contributions of each individual judge on a panel to reaching a judgment's final outcome. In particular, such scholarship can further investigate how mandating *per curiam* rulings affect case outcomes and whether this feature is normatively desirable.

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[6]Other examples include the Andean Tribunal of Justice (Alter and Helfer 2010) and the European Free Trade Association Court (Pavone and Stiansen 2022).

Workshop, ECPR Standing Group on Law and Courts Webinar Series, the Berkeley European Politics Working Group, the 2021 Southern Political Science Association Conference, and the UT Dallas Political Science Working Paper Series.

Data availability statement. Replication materials for this article are available at the Journal of Law and Courts Dataverse.

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