

**Does Transparency Make a Difference?**  
**The Example of the European Council of Ministers**

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## **Introduction**

In the panoply of European institutions that have been criticized for their secrecy and lack of accountability, the European Council of Ministers certainly ranks near the top of the list. The Council and its subordinate institutions debate largely in private, and they often arrive at decisions without taking a formal vote. Critics of Europe's democratic deficit have called for reforms to make the Council more transparent in order to promote the development of democratic politics at the EU level (Follesdal and Hix, 2005). Other scholars suggest that the secrecy of the policy process within the EU is exaggerated, and that the public already has access to plentiful information about decision-making (Moravcsik, 2002). In this paper I consider empirical evidence that may help us identify to what extent secrecy of the EU Council of Ministers is costly, and to what extent secrecy might actually be beneficial. I also examine the effect of efforts made by the Council since 1993 to become more open in its proceedings. My task is inevitably complicated by the fact that because it is a secretive institution, there are limits to the information available about behaviour within the Council of Ministers. As I show, there are nonetheless several recent empirical studies which can be used to draw inferences about the effects of Council secrecy, in addition to a number of enlightening examples.

I begin by developing several theoretical predictions about the effect of having a collective decision-making body deliberate in public or in private. These predictions rely on the principal-agent approach used by Prat (2005) as well as several other recent game-theoretic contributions.<sup>1</sup> My predictions are also closely related to several conclusions drawn in contributions on representative government, as well as in negotiation theory. Though I focus in this paper on whether contributions of individual members of a decision-making

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<sup>1</sup> See Fingleton and Raith (2005), Levy (2005), and Stasavage (2004a, 2004b).

body are observable, there are more basic levels of transparency that might be considered, in particular whether there is a “giving reasons requirement” whereby a decision-making body is obliged to provide an explanation for its decisions.<sup>2</sup> It should also be acknowledged that, as emphasized by Heald (2005) in this volume, transparency can take on many different meanings for different observers, and as a result I make no pretence to provide a comprehensive treatment of the issue of transparency within the European Union. In the theoretical section of the paper I argue that when constituents can better observe decision-making, this has the advantage of disciplining representatives, but transparency can also have costs involving increased incentives for representatives to posture and to ignore private beliefs about appropriate policies. I next proceed with a review of available empirical evidence about the costs and benefits of the secrecy that has prevailed within the European Council of Ministers. I conclude by considering whether recent European experience suggests that transparency may sometimes be irrelevant. This could be the case if reforms designed to make deliberations public simply result in the “real” discussions moving to other venues.

### **Transparency and incentives**

Much of the recent policy-oriented literature on transparency assumes that openness is unambiguously beneficial. When they are exposed to greater public scrutiny, representatives are more likely to take decisions with public, rather than private, interests in mind. While transparency can clearly have this important effect, what is less often considered is that openness may also have costs. These costs have been recognized by theorists of

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<sup>2</sup> Majone (1998) has emphasized the establishment of a giving reasons requirement as the primary mechanism to ensure greater transparency in European governance. In doing so he draws on Shapiro (1992).

representative democracy, as well as in recent work by scholars using game-theoretic models of relationships between a “principal” and an “agent”.<sup>3</sup> Potential costs of transparency have also been identified by negotiation theorists, and in particular in the canonical contribution by Walton and McKersie (1965). In what follows I provide a brief sketch of how principal-agent models can be used to provide insights about the costs and benefits of transparency.

Consider first a set of assumptions that one could use to construct a game-theoretic model of the costs and benefits of transparency. There is a collective decision making body (like the European Council of Ministers) where each member (an agent) represents a separate constituency (a principal). Assume also that representatives have two objectives: they would like to implement their preferred policy, and they would also like to convince their constituents that they are “faithful”, “unbiased”, or “committed” (in game theoretic terms they would like to convince constituents of their “type”).<sup>4</sup> Each constituency would like its representative to argue and vote for the “best” policy, given constituent interests. However, constituents may be uncertain which action is most likely to maximize their interest. There may be two types of uncertainty.

For one, constituents may be uncertain about the link between actions and outcomes. This is the type of uncertainty considered in the contributions on transparency by Prat (2005) and Stasavage (2004b). So, for example, will liberalizing the European service sector ultimately make them better off? In this case while constituents may have a fixed preference in terms of their ultimate objective (a higher level of personal income), their policy preference is subject to revision. So for example they might initially be dubious about the

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<sup>3</sup> Elster (1998, 1991) provides one of the core contributions in democratic theory on the costs and benefits of transparency.

<sup>4</sup> This distinction between biased and unbiased agents (or representatives) is emphasized in the principal-agent model of Morris (2001) and has been used to consider the costs and benefits of democratic accountability by Maskin and Tirole (2004).

benefits of liberalization, but they might revise their judgement if given new information by representatives about liberalization's potential benefits.

There is also a second type of uncertainty - constituents may be relatively certain of their preferred policy action (liberalizing or not liberalizing), but they may be uncertain how good a deal their representative can get for them when bargaining with other constituencies who have different views. Here one might consider a case where constituents of country A prefer to liberalize the service sector, constituents of country B prefer not to do so, and each side is uncertain what sort of compromise will be acceptable to the other group. This is a context considered by negotiation theorists like Walton and McKersie (1965) as well as in the game-theoretic bargaining models of Fingleton and Raith (2005) and Stasavage (2004a).

Using the above set of assumptions, we can examine how incentives for representatives vary under two different scenarios for decision-making. Under the first scenario, secrecy, constituents observe the policy chosen by the decision-making body, but they observe neither votes nor bargaining positions taken during negotiations by individual representatives. Under the second scenario, publicity, constituents observe both the final outcome and all individual statements and votes made by their representatives. The risk of secret decision-making is that those representatives who are "biased" will find it easier to pursue private interests without the public being able to directly observe their actions. So, if constituents in country A believe that liberalizing the service sector is undesirable, even if their representative favors this action, perhaps because he or she is influenced by an industry lobby, they will not necessarily know to what extent their representative was responsible for a collective decision to liberalize. Moving to transparent decision-making helps eliminate this problem, because outsiders can trace back from policy choices to stances taken by

individual representatives. As a result, transparency can have a beneficial effect of “disciplining” representatives.

A closer investigation reveals that transparency may also have important costs. When representatives know that their individual bargaining positions and/or votes will become part of the public record, they may have a greater incentive to take positions that will demonstrate loyalty to a constituency, even if this means taking an action that they know is less likely to produce the policy outcome they think is best. In game theoretic terms, they will use their bargaining positions or votes as a signal. There are two main possibilities here, each of which refers to one of the two types of uncertainty for constituents referred to above.

First, take the case where constituents are certain of their policy preferences but uncertain how good a bargain they can achieve. Under these conditions, transparency can prompt representatives to “posture” by adopting excessively tough bargaining positions that are designed to demonstrate loyalty to constituencies. The problem with posturing is that it poses the risk of a breakdown in negotiations, and thus a dramatic loss of efficiency. This effect of public bargaining has long been emphasized by negotiation theorists (Walton and McKersie, 1965).

Second, take the case where constituents are uncertain about the merits of a particular policy. Under these conditions, when decisions are made in public then representatives will be less likely to follow their own private beliefs about which policy is best and more likely to follow prior beliefs held by the public. This stance taken by representatives will again be motivated by the desire to signal that they are committed to their constituents. This strategy is often referred to as “pandering” though one might prefer to avoid the term since it inevitably invokes negative connotations about the public’s level of knowledge. Morris

(2001) refers to this strategy as the “political correctness effect”. Political correctness of this sort can lead to a dramatic loss of efficiency in policy choice. So, for example, if representatives have access to expert information suggesting that liberalizing the service sector will improve overall welfare, to the extent the public has a strong prior belief to the contrary, then the representative may ignore his or her private belief about which policy is best.

In addition to the above arguments, there are also two further potential negative effects that transparency might have on bargaining efficiency. First, under conditions where the problem is not that representatives may be biased, but that certain special interest groups may have undue influence over a decision (say in a WTO negotiation), then secrecy can have the useful effect of shutting such groups out of the initial stages of the process (Koremenos, 2004). This is a plausible argument, though it remains to be explained why exactly an interest group that has the strength to block an agreement during the initial stages of a negotiation could not still do the same once a provisional agreement becomes public. A second and similar possibility is that secrecy may be beneficial because it will allow a representative to negotiate a deal which can be better explained to constituents once all provisions are clear.<sup>5</sup>

The above discussion provides several empirical implications. First, the more secretive a decision-making environment, the greater the likelihood that we will see representatives take positions that deviate from the prior views of their constituents about policy. Second, we should also expect that secretive environments help to produce compromises in bargaining. Finally, we should also observe that secretive decision making environments are more likely to produce frank exchanges of views, and free deliberation about policies when

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<sup>5</sup> I would like to thank an anonymous referee for suggesting this possibility.

compared with more public venues.<sup>6</sup> This is an interesting implication given that the literature on “deliberative democracy” has placed heavy emphasis on the benefits of having deliberation take place in public.<sup>7</sup>

### **Decision-making in the European Council of Ministers**

The formal decision-making procedures of the European Council of Ministers and its auxiliary bodies are highly complex. The Council of Ministers is made up of the ministers of EU member states, and it meets under several different configurations depending on what type of subject is being examined. As part of this decision-making process, EU heads of state and government also meet at regular summits as part of the “European Council”. Work for the Council of Ministers is prepared by another body, the Committee of Permanent Representatives (COREPER) which itself helps to coordinate the work of a number of subsidiary and related committees. In what follows, rather than provide a detailed description of Council procedures, I will limit myself to presenting the most salient organizational facts relevant to the subject of this chapter.<sup>8</sup>

First, discussions on the Council of Ministers are largely secret, though the extent to which the Council reveals information has evolved over time. Before 1993 the Council published neither the votes of individual member states, nor records of the debates that preceded decisions. In December 1993 the Council decided to make available official documents related to its proceedings, though it specified that they would need to be requested on an individual basis, and access could be refused in order “to protect the

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<sup>6</sup> This point has recently been made by Checkel (2005).

<sup>7</sup> See in particular Habermas (1996) as well as the application of ideas about deliberation to international institutions by Risse (2000).

<sup>8</sup> For complete discussions of Council procedures see Westlake (1995), Hayes-Renshaw and Wallace (1997), as well as the general text on EU institutions by Hix (2005).

confidentiality of the Council's proceedings".<sup>9</sup> This obviously left very substantial leeway for the Council to maintain secrecy. The subsequent refusal by the Council to deliver a number of documents to a journalist from *The Guardian* newspaper resulted in a court challenge in the European Court of First Instance. In 1995 the Court found against the Council, though the content of its judgement left considerable room to maintain the secrecy of debates, provided that the Council exercised "proper discretion" when refusing requests for documents.<sup>10</sup>

In a series of subsequent decisions, the Council of Ministers has gradually altered its policy regarding document disclosure. Within the Council, Denmark, Finland, the Netherlands, and Sweden appear to have been the strongest advocates of transparency (in some cases supported by the UK and Ireland) while French and Germany, together with several southern European have favoured continuing to limit disclosure (see Bjurulf and Elgström, 2004). Since 2001 the Council has increased access to documents, but its new rules still leave substantial room for refusing documents for fear that this would impair the "decision-making process" within the Council.<sup>11</sup> In addition to allowing individuals to request specific documents, the Council now also publishes on its website both a monthly "Summary of Council Acts" which contains the voting positions taken by individual states, and a series of "Council Minutes". These minutes are restricted to listing actions and stages of the discussion, with only very limited references to positions taken by members of individual member states. As a result, they provide a very incomplete record of debates.

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<sup>9</sup> Council Decision 93/731/EC of 20 December 1993 on public access to Council documents.

<sup>10</sup> Judgment of the Court of First Instance (Second Chamber, extended composition) of 19 October 1995, John Carvel and Guardian Newspapers Ltd v Council of the European Union, Case T-194/94.

<sup>11</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council, and Commission documents.

As mentioned above, a second critical feature of Council of Ministers proceedings is that the majority of the decisions taken by the Council are actually negotiated by its subsidiary body, COREPER, which is generally described to be even more insulated from the public eye (see Lewis 2005). When the member state representatives to COREPER have reached a consensus on a given policy, the decision is typically listed as an “A” point which is submitted to the Council of Ministers for approval, but which is not actually discussed by the Council or subjected to a formal vote. Policy discussions by ministers are limited to “B” points on the Council agenda. While estimates vary, it seems clear that the majority of the decisions taken by the Council of Ministers are approved as “A” items.<sup>12</sup>

One final important feature of Council decision making is that though voting records of individual member states are now readily accessible, the shift towards publishing votes cannot be said to have resulted in the Council becoming significantly more “transparent” as an institution. The reason for this is that the Council of Ministers operates on a well established consensual norm whereby the majority of decisions are taken without a formal vote, and even in those cases where a formal vote is taken, dissents are relatively infrequent.<sup>13</sup> This pattern of presenting a united public front despite clear internal divisions is frequently observed in committee decision-making, in particular in cases like the Federal Reserve’s Federal Open Market Committee (see Meade 2005) and the US Supreme Court in the period before 1940 (Epstein et al). Likewise, Steinberg (2002 p.342) has described the norm of consensus in the GATT/WTO as “organized hypocrisy” whereby a procedural fiction of consensus is used as an “external display to domestic audiences”.

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<sup>12</sup> Van Schendelen (1996) provides evidence on the use of the A point procedure for the Agricultural Council. Anderson and Rasumussen (1998) suggest that the A point procedure is less heavily used in the case of environmental policy.

<sup>13</sup> See Mattila and Lane (2001) and Mattila (2004) for analyses of Council voting.

## **Costs of Council Secrecy**

As described above, if the advantage of transparency of discussions is that it allows members of the public to hold representatives accountable, then the main cost of secrecy of debate is that it allows individual member state representatives to avoid responsibility for the positions they take. It is difficult to provide firm evidence on this phenomenon, precisely because the Council deliberates largely in secret. Nonetheless, there are several recent examples that can be used to illustrate this point.

The most direct example has been provided by a documentary shot by a Danish film crew during the European Council meeting of December 2002. The crew was allowed to film the entirety of the Council's proceedings, but apparently without the knowledge of participants that the footage would appear on Danish TV the following Spring. The film revealed that a number of participants took positions in private that differed significantly from those they had expressed in public. This was most noticeably the case with Germany's foreign minister, Joschka Fischer, who made negative comments about Turkey's possibility of joining the EU despite having supported the Turkish application in public.<sup>14</sup>

There have also been several recent examples where French government representatives have agreed to a certain policy during a European level meeting, even if this directly contradicts statements they have made to domestic audiences. The effect of these incidents has been to breed a sense of mistrust on the part of French citizens about the extent to which their government has actively supported their interests in Brussels. In particular, there is a widespread sentiment that the closed-door character of EU deliberations makes it easy for French politicians to say one thing in Brussels and another in Paris.

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<sup>14</sup> "Fury Sweeps Capitals of Europe as TV Shows What Summit Leaders Really Said", *Financial Times*, April 19, 2003.

Following an EU summit meeting during the Spring of 2002, it was revealed that the two main opponents in the French presidential election campaign, Jacques Chirac and Lionel Jospin, had agreed at a European Council meeting to a declaration in favour of raising the average retirement age by five years. These declarations contradicted both Chirac's and Jospin's positions on the issue as stated to the French national press.<sup>15</sup> Though the Council statement in favour of raising the average retirement age (as opposed to the official retirement age) was public, and though both Chirac and Jospin subsequently responded to French press questions on the topic, there was a clear sense in the French media that the European Council declaration had been prepared in a non-transparent manner. The French daily *Le Monde* quoted a third presidential candidate, François Bayrou, as observing "Who debated this decision?, who was allowed to add their part? which deputy? which parliamentarian was invited to help prepare this capital decision? No one".<sup>16</sup>

A similar incident occurred during the Spring of 2005 involving the proposed "Bolkestein directive" on liberalization of services in the EU's internal market.<sup>17</sup> A draft version of the directive had originally been proposed to the Council and the European Parliament by the European Commission in January 2004. During the course of 2004 the proposed directive was reviewed by the Committee of Permanent Representatives, and in November 2004 it was the subject of a discussion at the ministerial level in Brussels. At this stage, while the French government expressed some reservation about the directive's "country of origin" principle, subsequent interviews with participants suggested it nonetheless supported the text.<sup>18</sup> The minutes of the Brussels meeting were published by

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<sup>15</sup> *Le Monde*, April 4, 2002, "L'Europe demande un accélération de la réforme des régimes de retraites."

<sup>16</sup> *Le Monde*, April 4, 2002.

<sup>17</sup> The full title for the proposed directive is "Proposal for a Directive of the European Parliament and of the Council on Services in the Internal Market", Brussels, March 5<sup>th</sup>, 2004.

<sup>18</sup> *La Croix*, March 23, 2005 p.18, "Comment a surgi la "directive Bolkestein"?"

the Council, though as is common, they do not refer to positions taken by individual member states.<sup>19</sup> The French government position quickly changed during the month of January 2005 as opponents of the European Constitution within France seized on the “Bolkestein directive” as an example of the way in which future European legislation would inevitably result in undesirable competition in the services industry, with potentially severe implications for public services.<sup>20</sup> As a result of this heavy domestic criticism, the French President, Jacques Chirac, shifted to adopting a public position of suggesting that the Bolkestein directive should be reworked entirely so that it conformed to the “European social model”. This decision was taken at a summit of EU heads of state and government in March 2005.<sup>21</sup> As with the previous incident regarding the retirement age, the episode regarding the Bolkestein directive helped to cement the impression in France that politicians could use the secrecy of EU decision making to avoid taking public stances on key policy issues.

### **Benefits of Council Secrecy**

While the experience of the EU Council of Ministers supports existing notions about the costs of secrecy in government, it has also been observed by EU specialists that the secrecy of the Council and its subsidiary bodies has advantages. Numerous authors have referred to the Council’s “culture of compromise”, suggesting that this pattern of behaviour derives directly from the secrecy of the setting. Heisenberg (2005 p.68) suggests that secrecy

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<sup>19</sup> The summary of the discussion by the Council presidency observes “The country of origin principal was discussed extensively. Member States supported this principle as an essential element of the proposed Directive. Some Member States expressed specific concerns although they could accept the country of origin principle as a starting point for discussions”. See Draft Minutes 2624<sup>th</sup> meeting of the Council of the European Union, held in Brussels on 25 and 26 November 2004.

<sup>20</sup> *Le Monde*, January 19, 2005, “La directive Bolkestein, nouveau chapitre de la querelle européenne au PS”.

<sup>21</sup> *Le Monde* 23 March 2005, “Le Projet de directive Bolkestein sera révisée en profondeur”

on the Council helps ensure that “there is less public posturing and little payoff for obstruction”. Lewis (2005), Naurin (2005), and Wallace (2002) provide similar observations.

The most direct evidence in favour of the interpretation that secrecy facilitates bargaining is that provided by the Council of Ministers itself. In response to the legal challenge launched by *The Guardian* newspaper, in 1994 the Council was obliged to provide a justification for its refusal to disclose certain documents. Rather than emphasize the risk of providing information to third parties, or refer to abstract notions of executive privilege, the Council suggested the following.

The Council normally works through a process of negotiation and compromise, in the course of which its members freely express their national preoccupations and positions. If agreement is to be reached, they will frequently be called upon to move from those positions, perhaps to the extent of abandoning their national instructions on a particular point or points. This process, vital to the adoption of Community legislation, would be compromised if delegations were constantly mindful of the fact that the positions they were taking, as recorded in Council minutes, could at any time be made public through the granting of access to these documents, independently of a positive Council decision.<sup>22</sup>

The above statement is a surprisingly frank admission of the importance of secrecy for reaching compromises within the Council.

While most discussions of the benefits of Council secrecy focus on a bargaining context, where members states have fixed positions and they seek to reach a compromise, there are also examples where a closed-door format has given governments greater leeway to freely deliberate over policies. Lewis (2005) presents an interesting study of the adoption in 1994 by EU foreign ministers of a local elections directive (94/80/EC) which established rights for “non-national” EU citizens to vote in local elections. Precisely because this issue was a politically sensitive one, a number of European capitals instructed their representatives in Brussels to keep discussions on the local elections directive restricted to the insulated

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<sup>22</sup>Emphasis in original. “Statement of Defence of the Council of the European Union in Case T-194/94”, Brussels, 13 July 1994.

setting of COREPER, rather than having the directive be directly debated by foreign ministers within the General Affairs Council, a setting where there was a greater risk of debates becoming public. Lewis (2005 p.37) reports an interview with one representative who was instructed to “keep it away from the press, where it would have been politicized quickly”.

In addition, Lewis (2005) provides convincing evidence that because negotiations took place in a closed-door setting, negotiations on the local elections directive resembled an actual deliberation rather than a session of hard bargaining. Individual representatives presented logical arguments either for or against granting specific exceptions for specific countries, and it appears that in most of these cases the force of the better argument prevailed. So, Luxembourg received a derogation given that 30 percent of its residents are non-nationals, but a number of other requests for derogations were rejected as being unjustified. Lewis (2005 p.37) provides another telling quote from a representative who suggested “We all knew that if the discussion was put a certain way we never would reach agreement. Because of the press, pressure from national populations, the idea that ‘We will be run by foreigners?..”

The local elections directive example suggests that the only reason deliberation was able to occur was that it took place in private. Recent observers of other EU bodies that are subsidiary to the Council have drawn similar conclusions. The Economic and Financial Committee is characterized by frank exchanges of views about economic policy, precisely because it is a more insulated setting than is ECOFIN, the Council of Ministers of Finance. Likewise, Puetter (2003) has argued that the informal arrangement of the Eurogroup also facilitates deliberative discussions because it meets behind closed doors and holds press conferences only sporadically. The fact that deliberation might be most likely to occur in a

closed-door environment poses a potential complication for theorists of “deliberative democracy” who emphasize that the benefits of deliberation occur when it takes place in public.

### **Is Transparency Irrelevant?**

One feature of decision-making within the European Council of Ministers is that despite a number of changes implemented since 1993 designed to make the Council more transparent, few observers today would suggest that the institution is truly open. One obvious reason for this, already mentioned above, is that even though votes of individual member states are now made public, the fact that most Council decisions are taken without a formal vote nullifies the effect of this reform on transparency. One might also ask, however, whether the problem is more fundamental than this. In any decision-making body that is obliged to become more formally transparent, are there inevitably opportunities for decision makers to shift their substantive discussions to other venues? Take the example of the game-theoretic model referred to at the beginning of the chapter. Whenever transparency is imposed, if representatives can create a prior round of secret and confidential communications then the official decision-making format (secrecy/publicity) may be irrelevant.

The heavy reliance of the Council of Ministers on subsidiary committees would seem to make the above problem particularly relevant in the European context. To the extent that meetings between actual ministers become more public, there is always the possibility of pushing substantive discussions to COREPER, or to a lower level. For this reason Van Schendelen (1996) suggests that the issue of publishing minutes of the auxiliary bodies is no less relevant than is publishing minutes of the Council itself, yet critics of the democratic

deficit have generally focused on the latter issue. Some observers might suggest that even if all meetings of all subsidiary bodies to the Council were made public, there would still be a possibility for backroom discussions or for deals to be done over lunch. However, it would seem that even in the extreme case where all substantive discussions were displaced, formal transparency could still have an important effect by forcing individual member states to take public stances on issues. Take the example of the debate over the “Bolkestein directive”. Even if the policy debate over the directive took place in secret, it might have made a substantial difference for discussions in France if the French government had been obliged at an earlier date to take a public stance on the proposed reform.

A final possible interpretation of the relative failure of existing transparency reforms on the Council is that they also result from the fact that no one is really listening. Unless developments within the Council of Ministers are actively reported and commented on by media, it may make little difference how nominally “transparent” the Council is in its activities. One might argue that even the little information already available about Council of Ministers debates is not reported in-depth in national media. Information about the Bolkestein directive was available to the French media for almost a year before the issue was raised by major newspapers like *Le Monde*.<sup>23</sup> One might also argue that the fact that few pay attention to Council debates is prompted by the scarcity of international media outlets at the European level. Jürgen Habermas (2001) has argued that ultimately, overcoming the democratic deficit in the European Union will require the development of a European public sphere that involves the establishment of truly transnational media outlets and discussion.

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<sup>23</sup> A survey of French newspaper reporting from 2004 and early 2005 shows that before January 2005, the Bolkestein directive was ignored by all major French newspapers with the exception of the Communist daily *L'Humanité*.

## **Conclusion**

In this chapter I have suggested that the experience of the European Council of Ministers provides a useful example of the costs and benefits of transparency in government. Secrecy of Council proceedings has led to a serious problem of accountability, as representatives are able to say one thing in public and another in private, while evading taking firm positions on policy. At the same time, the closed-door setting for Council decisions has facilitated attempts to strike bargains. Interestingly, we also see evidence that within the Council and its subsidiary bodies, there is a much greater propensity for deliberation to take place in those settings that are the most secretive, such as COREPER and the Economic and Financial Committee. This poses a conundrum for advocates of deliberative democracy within the EU who emphasize the importance of deliberation taking place in public. More generally, the experience of the EU Council of Ministers suggests that advocates of transparency need to consider both the positive and negative impact of such measures.

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