Leveling and Spotlighting:
How International Courts Refract Private Litigation to Build Institutional Legitimacy

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Abstract

Private actors are increasingly turning to international courts (ICs). We argue that ICs can refract private litigation to build legitimacy and mitigate intergovernmental backlash. By leveling the odds for individuals and spotlighting their claims over those of more resourceful litigants, ICs cultivate civil society support and legitimate judicial policymaking in intergovernmental polities where individuals are disempowered. We evaluate this argument by scrutinizing the first IC with private access: the European Court of Justice (ECJ). We trace how ECJ judges privilege individuals in their advocacy and assess if they match words with deeds. Leveraging an original dataset, we find that the ECJ "levels," supporting individual claims over businesses boasting larger and more experienced legal teams. The ECJ also "spotlights" its support for individuals through press releases that get amplified in law reviews. Our findings challenge the view that ICs build legitimacy by stealth and the "haves" come out ahead in litigation.

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Introduction

Of all the transformations sparked by a cross-national "judicialization of politics," private litigants' expanding access to international courts (ICs) is amongst the most profound (Stone Sweet and Brunell, 2013; Hirschl, 2008; Alter, Hafner-Burton, and Helfer, 2019). Gone are the days when soliciting international justice was the exclusive prerogative of sovereign states. Since 1945, seventeen "new-style" ICs (Alter, 2012; Alter, 2014) have been established with access to individuals and businesses via direct actions or referrals from national courts (see Figure 1). While some of these ICs remain dormant, others have grown to adjudicate hundreds of cases each year.

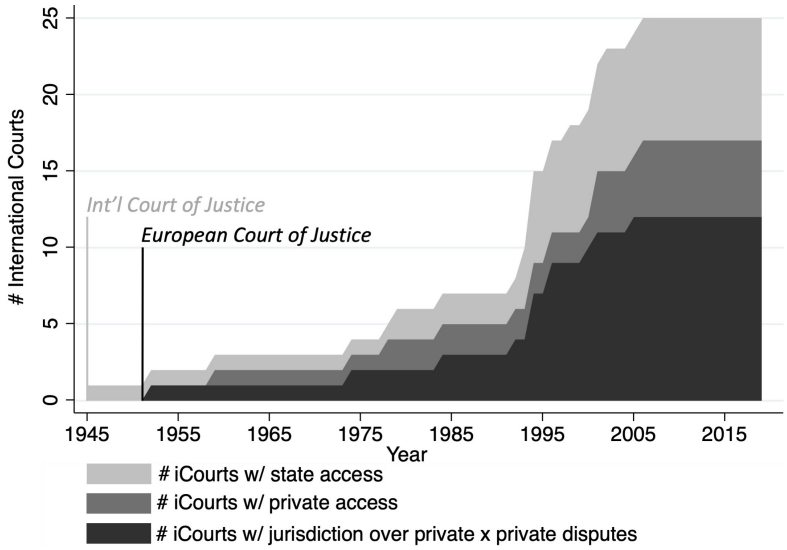

Figure 1: Proliferation of international courts with private access, 1945-2019

To date, political scientists and socio-legal scholars have primarily probed when and how new-style ICs expand opportunities for private actors to pursue their claims (Cichowski, 2007; Vanhala, 2012; Alter, 2006-02; Alter, 2014; Helfer and Voeten, 2014). But private litigation also creates opportunities for international judges themselves. Judges across ICs face a legitimacy problem: intergovernmental backlashes, such as efforts to starve them of cases

or curtail their jurisdiction, are nearly ubiquitous and potentially crippling (Alter, Gathii, and Helfer, 2016; Madsen, Cebulak, and Weibusch, 2018; Voeten, 2020; Pavone and Stiansen, 2021; Thatcher, Sweet, and Rangoni, 2022). Rather than fading into quiescence to obviate these threats, more ambitious ICs have developed "resilience techniques" to mobilize domestic compliance constituencies and cultivate public support (Voeten, 2013; Alter and Helfer, 2013; Caserta and Cebulak, 2021). Private litigation can thus become a vehicle for new-style ICs to build their institutional legitimacy and mitigate political attacks on their authority.

In this article, we argue that ICs can implement two legitimacy-building strategies by harnessing and refracting private litigation: *leveling* and *spotlighting*. ICs "level" by favoring the rights claims raised by weaker private parties – usually individuals – and counterbalancing their disadvantaged capacity to litigate vis-a-vis more resourceful litigants – usually businesses. Leveling the odds for individuals enables ICs to justify judicial policymaking not only by rectifying inequities, but also by casting themselves as protectors of individual rights against state or corporate interference. International judges can thus claim to alleviate democratic and social deficits in intergovernmental polities wherein individuals lack alternative avenues to advance their interests and shape policy. To then broadcast this message, ICs "spotlight" their support for individuals and their claims to domestic compliance constituencies. Allocating larger chambers and issuing press releases when they endorse individual rights claims enables ICs to focus the attention of subnational actors – like lawyers and judges – who can amplify their rulings and support their agenda in domestic politics (Stein, 1981; Weiler, 1994; Vauchez, 2015; Pavone, 2022). By publicizing rights-enhancing rulings that advance individual interests, new-style ICs showcase their relevance as allies to civil society, interlinking the cause of individual rights promotion with their own legitimacy-building efforts as international judges.

Our argument challenges the view that ICs build their authority by stealth, strategically "de-politicizing" their actions behind the "mask and

shield" of the law (Burley and Mattli, 1993; Louis and Maertens, 2021). We claim instead that ICs can successfully carve an institutional role for themselves in intergovernmental polities by broadcasting their policy agenda and soliciting the support of civil society. Our argument also breaks from the conventional wisdom in judicial politics and "party capability" research that individuals are disadvantaged in private litigation while the corporate "haves" necessarily come out ahead (Galanter, 1974; McGuire, 1995; Songer, Sheehan, and Haire, 1999; Haire, Lindquist, and Hartley, 1999; Szmer, Johnson, and Sarver, 2007; Nelson and Epstein, 2021). Although these power imbalances also exist at the international level, we posit that some new-style ICs have strong incentives to counterbalance them to build their institutional legitimacy. In other words, party capability is not destiny before ICs.

To assess our revisionist theory, we scrutinize the first IC to provide access to private parties, a court that has grown into a uniquely influential international judicial policymaker: the European Court of Justice (ECJ). Although scholars agree that private litigation has fueled the ECJ's institutional development, they disagree about whether the ECJ has primarily favored individuals or businesses (Conant, 2002; Börzel, 2006; Cichowski, 2007; Conant et al., 2018), and whether it has proceeded by stealth or by public advocacy (Stein, 1981; Burley and Mattli, 1993; Dederke, 2022; Blauberger and Martinsen, 2020). Triangulating between the public writings and outreach of ECJ judges and a novel dataset of nearly 7,000 cases involving private litigants referred to the ECJ by national courts, we find compelling evidence that the ECJ both "levels" and "spotlights." The ECJ disproportionately favors the rights claims raised by individuals over the economic claims raised by businesses, even though businesses consistently boast larger and more experienced legal teams. And the ECJ is more likely to allocate larger chambers and issue press releases when it supports individual rights claims, which attracts more commentaries in law reviews that amplify rulings where individuals win. The ECJ neither flies low nor favors the powerful. It flies high and favors the weak because doing so advances its institutional interests.

Our study is the first to theorize and systematically assess the relationship between judicial decision-making and private party capability before ICs. Our empirical findings break from the expectations derived from research on domestic courts, yet they can be reconciled. The fact that the ECJ systematically favors individual claims over those raised by businesses neither reflects the absence of resource inequalities nor selection effects. Rather, our findings are driven by judicial entrepreneurs responding to an oftentimes hostile intergovernmental context by carving a legitimacy-enhancing role for themselves with allies in civil society.

The rest of this article is organized as follows. We begin by elaborating a sequential theory of judicial leveling and spotlighting, explaining why some new-style ICs in particular are incentivized to adopt these legitimacy-building strategies. We next justify our case selection – the ECJ – and present qualitative evidence from ECJ judges' public writings that clearly state their intention to champion individuals and their rights claims as a means of building legitimacy. We then assess whether ECJ judges match words with deeds. Our econometric strategy analyzes unprecedented data on private litigation and ECJ decision-making, uncovering supportive quantitative evidence. We conclude by specifying scope conditions and highlighting how our findings advance comparative and international research on judicial politics and legal mobilization.

International Courts and Private Litigants: A Revisionist Theory

Comparative and international relations scholars agree that the expansion of private access to international justice has contributed to the judicialization of politics across many parts of the world (Alter, Hafner-Burton, and Helfer, 2019). Yet this process is neither uniform nor automatic. While some functionalist studies predicted that private litigation would spark a virtuous cycle of rights-claiming, judicial policymaking, and institutional development

(Stone Sweet and Brunell, 1998; Fligstein and Stone Sweet, 2002), many new-style ICs are seldom solicited by private litigants (Alter, 2014). In some cases, private actors are not aware of ICs and how they can benefit them; in others, recalcitrant governments deliberately attempt to starve fledgling ICs of private disputes (Madsen, Cebulak, and Weibusch, 2018; Pavone and Stiansen, 2021). Even when they are solicited, some new-style ICs struggle to broaden their appeal beyond a narrow set of corporate litigants and government elites (Alter and Helfer, 2017). This is hardly surprising, since 13 of the 17 new-style ICs established since WWII were designed as regional economic courts.

Opening an IC's doors to private litigants does not automatically flood it with rights-claims and policymaking influence. Instead, we need to understand the conditions under which private litigation opens opportunities for judicial entrepreneurs, and how judges convert these opportunities into actions to pursue their agendas and mitigate threats to their authority.

Our starting premise is that national governments are at best fair-weather friends for new-style ICs. All courts can be afflicted by noncompliance, jurisdiction-stripping efforts, and virulent public criticism, but ICs are particularly vulnerable to such threats (Madsen, Cebulak, and Weibusch, 2018; Stiansen and Voeten, 2020; Pavone and Stiansen, 2021; Thatcher, Sweet, and Rangoni, 2022). Lacking the centralized enforcement mechanisms and imprimatur of legitimacy that comes with being embedded in a state constitutional system, intergovernmental backlash and noncompliance campaigns can effectively cripple an IC (Carrubba, 2005; Pollack, 2021). To sustain judicial policymaking in such a perilous environment, some scholars posit that ICs strategically depoliticize their agenda by concealing it behind the "mask and shield" of the law (Burley and Mattli, 1993; Louis and Maertens, 2021). Yet no IC can escape political contestation for long, particularly in a climate of cross-national backlash to globalization and judicialization (Blauberger and Martinsen, 2020; Walter, 2021; Voeten, 2022). Instead, recent research has illuminated that some new-style ICs adopt public relations campaigns to

cultivate support (Caserta and Cebulak, 2021; Dederke, 2022). These efforts usually target compliance constituencies: interest groups and civil society actors who serve as transmission belts for ICs into domestic politics by raising awareness, amplifying their rulings, and supporting their authority(Voeten, 2013; Alter and Helfer, 2013; Pavone, 2019). And one strategy to cultivate these constituencies is to broadcast support for particular private litigants and their claims.

Individual claimants are especially useful vehicles for judges seeking to prove their relevance and to legitimate an active policy agenda. This is not because individuals are advantaged in the litigation process, but precisely because they are *dis*advantaged. Individuals' limited finances and capacity to hire effective legal counsel – what is usually termed "party capability" – means they are usually less successful in court compared to business litigants (Galanter, 1974; McGuire, 1995; Songer, Sheehan, and Haire, 1999; Haire, Lindquist, and Hartley, 1999; Szmer, Johnson, and Sarver, 2007; Nelson and Epstein, 2021). These power imbalances may be magnified before ICs, since mobilizing international law requires hiring expensive counsel with expertise that most lawyers lack (Kritzer, 1998; Pavone, 2022), and since individuals cannot turn to direct democratic avenues at the supranational level to exercise their voice. By counterbalancing individuals' dis-empowerment and favoring their rights claims, new-style ICs can justify judicial policymaking as empowering the "have nots." We refer to this strategy as "leveling," in the sense of judges wielding their agency to "level the odds" for weaker private litigants (Miller, Keith, and Holmes, 2015).

While any court can level in principle (Epp, 1999), in practice many do not. We posit that this strategy is more likely to be deployed by ambitious new-style ICs embedded in intergovernmental economic unions. We do not make this claim because we believe that these ICs are more rights-conscious or inherently committed to social justice. Rather, leveling bestows a unique *raison d'etre* for judicial policymaking in these institutional contexts. First, compared to national constitutional democracies with robust mechanisms

for citizen representation, the "political opportunity structure" (Kitschelt, 1986) of intergovernmental polities has fewer avenues for individuals to shape policy, generating frequent allegations of a "democratic deficit" (Dahl, 1999; Føllesdal and Hix, 2006). By leveling the odds for individuals and siding with "the little guy," ICs can justify judicial policymaking as enhancing the democratic legitimacy of the intergovernmental regimes of which they are part (Burley and Mattli, 1993, p. 64). Second, leveling is especially useful for ICs designed to operate primarily as economic courts. Compared to human rights regimes whose ICs are explicitly tasked with promoting individual rights, the "legal opportunity structure" (Vanhala, 2012; Vanhala, 2018) in intergovernmental economic unions usually reflects the interests of states and businesses over those of individuals. By supporting individual rights that create new entitlements, ICs can prove their relevance as change agents and frame judicial policymaking as enhancing the social legitimacy of economic integration.

Yet on its own, leveling is insufficient for building institutional legitimacy. This is because citizens and civil society actors often lack awareness of fledgling ICs and their decisions, especially when compared to established national courts (Voeten, 2013; Pavone, 2022). Without awareness of ICs, individuals are unlikely to mobilize in support of international judicial authority (Caldeira and Gibson, 1995; Gibson and Caldeira, 1995). ICs must thus broadcast their efforts to level the odds for individuals to prospective allies in civil society. We call this complementary strategy "spotlighting." Spotlighting is most effective when it targets domestic intermediaries who can inform individuals of their rights and define the fora wherein to claim them. In particular, IC judgements are amplified when legal practitioners – lawyers, legal scholars, and judges – learn of new rights claims from commentaries in law reviews and spearhead litigation campaigns to entrench these new entitlements (Stein, 1981; Weiler, 1994; Alter, 2014). ICs can shape coverage in law reviews by manipulating procedural rules – such as allocating larger chamber formations – and issuing press releases to spotlight cases

where they support individual rights claims (Dederke, 2022; Krehbiel, 2016). When national legal communities pick up and amplify these cases, ICs are well on their way towards building a reservoir of public support.

Figure 2 summarizes our argument, wherein leveling and spotlighting by ICs serve as the causal mechanism (the "entities engaging in activities;" see Beach and Pedersen (2019, pp. 99–100)) converting unequal private claiming (the inputs) into favorable attention in civil society (the outputs). Our theory thus identifies the conditions under which the expectations of legal mobilization and judicial politics studies should be flipped on their head. From courts in the US (McGuire, 1995; Songer, Sheehan, and Haire, 1999; Haire, Lindquist, and Hartley, 1999; Johnson, Wahlbeck, and Spriggs, 2006; Miller, Keith, and Holmes, 2015; Szmer, Songer, and Bowie, 2016; Nelson and Epstein, 2022), the Philippines (Haynie, 1994), Canada (Szmer, Johnson, and Sarver, 2007), and Taiwan (Chen, Huang, and Lin, 2015), existing research consistently finds that businesses hire larger, more experienced legal teams than individuals and are consequently more likely to win judges' support. We have no reason to believe that these inequalities are unique to domestic litigation; as we will demonstrate, they also pervade private claiming before ICs. Yet in stressing how money, expertise, and information drive judicial outcomes, capability arguments understate judges' agency and neglect other attributes of legal claims that courts may value. Our takeaway is that under certain conditions, claims lacking in legal expertise and financial backing can still be better vehicles for building institutional legitimacy, incentivizing judges to refract inequalities in party capability.

The European Court of Justice, Case Selection, and Hypotheses

To apply and assess our our argument, we scrutinize patterns of private litigation and judicial decision-making at the European Court of Justice (ECJ)

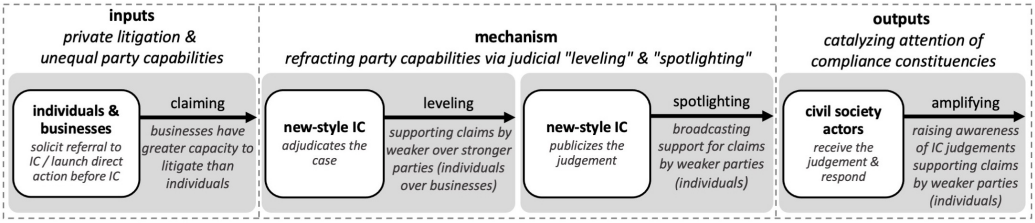

Figure 2: A theory of leveling and spotlighting by new-style ICs

in Luxembourg. In this section, we justify our case selection, contextualize the ECJ within the process of European integration and the universe of new-style ICs, and derive five hypotheses capturing the observable implications of our theory.

There are two reasons why the ECJ is a well-suited case for testing our theory. To start, the ECJ is not only the first new-style IC to procure access to private litigants; it has also developed into the most active and emulated IC in the world. Since the 1950s, the Court has adjudicated thousands of cases – the vast majority originating in disputes that private litigants raised before national courts and asked to be referred to the ECJ via the "preliminary reference procedure" (under Article 267 TFEU; see Kelemen and Pavone (2019)). The ECJ's success in cultivating private litigants triggered repeated attempts to "transplant" the Court to other regions: 11 new-style ICs established within intergovernmental economic unions were designed as "operational copies" of the ECJ (Alter, 2014, p. 1935; Alter, 2012). Yet, as we will argue, it is the Court's exercise of judicial agency – not just its institutional features – that has led to its success.

Second, if it is precisely these new-style ICs in intergovernmental economic unions that are most likely to build their institutional legitimacy by "leveling" and "spotlighting" private litigation, then we would expect to find supportive evidence in Luxembourg. In other words, the ECJ is not only a substantively "influential" case for understanding ICs; it is also a theoretically "critical" case for evaluating our argument (Seawright and Gerring, 2008; Gerring and Cojocaru, 2016, pp. 404–405).

That private litigation would fuel the ECJ's institutional development was neither preordained nor apparent when the Court was established. The ECJ was expected to operate as a relatively traditional IC to facilitate intergovernmental economic cooperation without compromising national sovereignty. During negotiations for the 1957 Treaty of Rome, policymakers devoted far more attention to the design of the European Community's political institutions – the Council of Ministers and the Commission – than to the ECJ (Boerger and Rasmussen, 2023). "Without much discussion" they approved the design for the preliminary reference procedure that lawyers in the *groupe de redaction* had inserted into the Treaty text (ibid., Chapter 4, 19). Member governments thus opened the ECJ's doors to private litigation "without awareness of this innovation's importance" and how it could empower the world's first new-style IC (Pescatore, 1981, pp. 159, 173).

By enabling private claimants to petition the ECJ, the preliminary reference procedure supplied the Court with opportunities to dismantle national barriers to the free movement of goods, persons, services, and capital (Weiler, 1991; Burley and Mattli, 1993; Stone Sweet and Brunell, 1998; Alter and Vargas, 2000; Cichowski, 2007; Kelemen and Pavone, 2019). The ECJ cajoled private litigants to support its creation of "a new legal order of international law" when in 1963 and 1964 it held that European law has primacy over conflicting national law and endows businesses and citizens with rights they can invoke before domestic courts (Rasmussen, 2014). Unsurprisingly, some member governments and national constitutional courts resisted this agenda. They targeted the ECJ's institutional legitimacy, lambasting its "activism (...) beyond the limits of the acceptable," accusing it of jeopardizing individual rights protections enshrined in national constitutions, and charging it with buttressing a European legal order lacking in democratic bona fides (Davies, 2012; Rasmussen, 1986, p. 62). The French government under Charles de Gaulle even sought to pack the Court and strip it of its jurisdiction to hear most preliminary reference cases (Fritz, 2015).

How the ECJ responded to these public attacks has generated a signif-

icant debate that our revisionist theory can advance. First, existing studies disagree about whether the ECJ responded privately or publicly. Some scholars claim that the ECJ went into hiding. "Tucked away in the fairyland Duchy of Luxembourg" (Stein, 1981, p. 1), the Court concealed its activism in cases raised by private litigants in"'technical' legal garb" (Burley and Mattli, 1993, pp. 70–72). Others claim that the ECJ responded publicly, grafting a doctrine of individual rights protections onto the economic scaffolding of the Treaty of Rome (Weiler, 1986; Weiler, 1991). Second, scholars disagree about whether the ECJ's paeans to individual rights had a concrete impact on the outcomes of private litigation. Some suggest the ECJ did come to favor individuals and their claims (Burley and Mattli, 1993; Cichowski, 2004; Cichowski, 2007; Stone Sweet, 2010), whereas others posit that the Court continued to disproportionately benefit powerful corporate interests (Conant, 2002; Börzel, 2006).

We expect that the ECJ sought to bolster its fledgling and contested institutional legitimacy by refracting private litigation via leveling and spotlighting. In particular, historians have traced how the ECJ sought to build support amongst legal practitioners who could amplify its rulings in legal commentaries and spearhead follow-up litigation campaigns (Pavone, 2022; Weiler, 1994, pp. 528–531). European lawyers' associations like the *Fédération Internationale pour le Droit Européen* (FIDE) aspired to serve as a "private army for the []European] Communities" (Rasmussen and Martinsen, 2019; Vauchez, 2015, p. 88) and founded law journals – the most prominent being the *Common Market Law Review* (CMLR) – "to provide legitimacy to the new jurisprudence of the ECJ" (Byberg, 2017, p. 46). ECJ judges tapped these support networks, contacting the CMLR's editorial board to suggest authors and topics. But what the Court most needed to supply legal practitioners and law journals was a steady diet of judgements that could be used to build public support and respond to "national [government] criticism of the ECJ's jurisprudence, to which CML[R] generally delivered counterattacks" (ibid., pp. 52, 57). In the words of Burley and Mattli (1993,

p. 64), "by presenting itself as the champion of individual rights... the ECJ also burnishes its own image and gives its defenders weapons with which to rebut charges of antidemocratic activism."

In short, we expect that the ECJ pitted itself on the side of individuals and broadcast support for their rights claims to legal practitioners to legitimate its pro-European integration agenda. This expectation can be parsed into five hypotheses that mirror our theorized sequence of unequal claiming by private litigants, leveling and spotlighting by judges, and amplifying by civil society actors:

Hypothesis 1 - unequal claiming: *Businesses should boast higher quality legal representation than individuals in cases before the ECJ.*

Hypothesis 2a - leveling (words): *ECJ judges should publicly claim to level the odds for individuals so as to bolster the legitimacy of European legal integration.*

Hypothesis 2b - leveling (deeds): *The ECJ should be more likely to support the rights claims raised by individuals than businesses.*

Hypothesis 3 - spotlighting: *The ECJ should be more likely to publicize cases raised by individuals than businesses – particularly when it supports individual rights claims.*

Hypothesis 4 - amplifying: *Legal commentaries in journals – particularly European law journals like the Common Market Law Review – should focus disproportionate attention on ECJ judgements that support individual claims.*

To test these hypotheses, we adopt a multi-method research design to integrate qualitative and quantitative evidence (Seawright, 2016). We begin by establishing the face validity of leveling and spotlighting by the ECJ by assessing if its judges perceive this as a useful strategy for building institutional legitimacy. Specifically, we scrutinize historical evidence that ECJ

judges were conscious of inequalities in party capability, claimed to be leveling the odds in individuals' favor, and sought to draw attention to these efforts to legitimate judicial policymaking (H_{2a}).

Next, we move to an econometric approach. We verify the actual presence of unequal litigation capabilities amongst private litigants (H_1), assess if the ECJ has in fact refracted these inequities via leveling and spotlighting (H_{2b} and H_3), and probe if legal practitioners responded by amplifying the Court's agenda (H_4). To this end, we leverage the first integrated dataset of private litigation, ECJ decision-making, and legal commentaries in journals. Figure 3 matches each step in our theory of judicial leveling and spotlighting with the five hypotheses and types of data used to evaluate their explanatory purchase for the European case.

"Protector of the Individual:" The Legitimating Rhetoric of ECJ Judges

In a recent article, Conant et al. (2018, pp. 1384–1385) argue that assessing the ECJ's relative bias in favor of businesses or individuals "lies at the core of

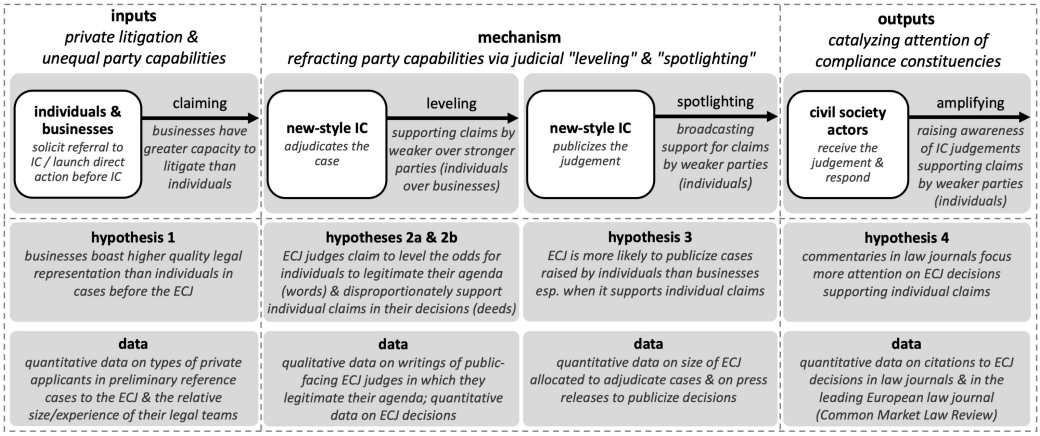

Figure 3: Correspondence of theory, hypotheses, and data

the normative argument about [...whether] European law can be a weapon of the weak or remains a 'hollow hope'." While existing research has shed limited empirical light on this puzzle, the ECJ has confronted it head-on. Here, we draw on a historical analysis of the writings of the ECJ's most influential judges to demonstrate that leveling the odds for individuals was a central theme in their public outreach efforts, consistent with H_{2a}.

The ECJ's self-legitimation as "protector of the individual" grew out of an internal disagreement within the Court. In the early 1960s, the Court was split between a conservative and an activist wing. The more conservative wing – headed by Dutch judge André Donner – resisted public appeals to individuals and their rights. Its adherents wished "not to break with the elements of international law and instead emphasise the contractual nature of the EEC Treaty" (Rasmussen, 2008a, p. 94). Conversely, the more activist wing – headed by Italian judge Alberto Trabucchi and French judge Robert Lecourt – wished to stress the "new-style" elements of the ECJ by appealing to individual citizens. When the latter prevailed in the 1963 *Van Gend en Loos* case – holding that European law safeguards "individuals [and] is also intended to confer upon them rights (...) which national courts must protect" – Donner resigned as ECJ President and Lecourt took on the post (Phelan, 2017; Rasmussen, 2008b). Lecourt became the ECJ's most influential President (Phelan, 2019)[1] and pioneered a rhetoric of institutional legitimation centered on leveling the odds for individuals.

Drawing on his past experience as a journalist and political organizer, Lecourt knew that the ECJ needed to craft a public narrative to counter criticisms of its institutional authority. As Phelan (2020, p. 11) has shown, "many parts of the Court of Justice's distinctive information and persuasion strategy as a whole also appear to have been directly connected with judge Lecourt," who adopted the role of ECJ "publicist." Lecourt recognized that grafting a doctrine of individual rights protections onto the economic scaf-

[1]Lecourt was judge at the ECJ from 1962 to 1976 and President of the Court from 1967 to 1976, a "foundational period" characterized by a number of revolutionary judgements advancing individual rights (Phelan, 2019).

folding of the Treaty of Rome was necessary but insufficient. The Court also needed to spur "publications in academic journals and mass-circulation media" so that the "Court's bold decisions were defended... and advertised to the wider public" Phelan (2020, pp. 8–9).

Lecourt's most renown work of public advocacy was his 1976 book, *L'Europe des Juges*. The book was crafted as an explicitly "popularizing" and justificatory manifesto directed at "national lawyers and judges who might apply European law in national litigation" and pen supportive commentaries (Phelan, 2017, p. 944). Therein, Lecourt repeatedly frames an ambitious judicial agenda as a means to level the odds for individuals and ensure that the EU legal order did not just serve "business Europe:"

> "The work of judges (...) [is] to discretely but peremptorily delegitimize the charge sometimes addressed at the [European Communities] that they are only preoccupied with business Europe. The work of judges testifies that a social Europe also exists (...)
>
> Certainly, litigation of Community law is most often economically-based (...) but (...) What would be the point [of the ECJ] if she did not precisely ensure the protection of individual rights... she would fail to live up to her primary role" (Lecourt, 1976, pp. 196–197, 211–212).

Lecourt concluded his book with a call to action: if legal "commentators" paid greater attention to the ECJ's role as "protector of the individual," they would help the Court build a more social and just Europe:

> "[Our] judicial motivations finally reveal an objective of the [European] Community that is rarely observed: its role as protector of the individual... judicial practice invites us to look beyond economic problems and to become conscious of the human objectives

> that they conceal. Community law would then appear in a completely new light. We would become more aware that next to a so-called technocratic Europe, or a business Europe, there also exists a Europe of consumers and shopkeepers, farmers and migratory workers, [a Europe] preoccupied with judicial protections and respect for fundamental rights, wherein the application of the law by the [ECJ] judge is dominated by their concern for protecting the weak"(Lecourt, 1976, pp. 308–309).

Lecourt's appeals to legal practitioners meant to mobilize a key compliance constituency in light of backlash by some member governments and constitutional courts in the 1960s and 1970s (Davies, 2012; Rasmussen and Martinsen, 2019). His emphasis on protecting individual claimants was designed to disarm concerns that the EU legal order would prioritize trade and corporate interests and run roughshod over individual rights.

As European integration became increasingly salient in domestic politics in subsequent decades, resistance to EU law and the ECJ was increasingly mobilized by a rising constellation of populist and Eurosceptic political parties (Hooghe and Marks, 2009). By then, another set of judges had taken the mantle of ECJ "publicists." As charges that the EU legal order suffered from a "democratic deficit" became recurrent (Føllesdal and Hix, 2006), individuals and their claims again served as vehicles for European judges to cast their agenda as an antidote. None was more prolific than judge Federico Mancini, who served as the Court's most influential judge from 1982 until his death in 1999. Mancini penned dozens of articles justifying the ECJ's activism as "distill][ing] as much equality as possible" for individual claimants and alleviating the EU's democratic deficit:

> "the Court has used Article 177 [enabling national courts to refer cases raised by private litigants to the ECJ] (...) to reduce the democratic deficit which has blighted the Community since its inception (...)

> (. . .) [ECJ] activism was often driven by a desire to extend the jurisdiction of the Community (. . .) to make up for the set-backs which (. . .) [it] has suffered at the decision-making level at the hands of the Member States (. . .) What is said about the founding fathers' frigidity towards social issues does not apply to the Judges of the Court. If ours is not just a traders' Europe, and if it is good that this is so, it is the Judges of the Court whom we must thank.
>
> Whilst not taking the "affirmative action" route, the Court has attempted to distill as much equality as possible from the EC Treaty and secondary legislation" (Mancini, 2000, pp. 24, 100, 128).

Like Lecourt before him, Mancini often concluded his public writings with calls to action. Acknowledging that the Court's authority "is still challenged and [its] jurisprudence has at times been the subject of threats" because it "is sadly lacking in democratic legitimacy" (ibid., pp. 142, 165), Mancini called on "ordinary men and women" to support the ECJ:

> "Perhaps, as the Court of Justice becomes increasingly visible (. . .) and as more and more people become aware of its ability to impinge positively on their lives, the politicians of Europe will realize that a further emasculation of the Court does not necessarily provide a vote-winning platform in elections or referenda (. . .) Perhaps (. . .) they will do well to look closely at the Court's case law and remember how many of Europe's citizens have benefited directly as a result of the Court's rulings (. . .)
>
> As long as the Court goes on handing down judgements that enable ordinary men and women to savor the fruits of integration,

> it will continue to demonstrate its usefulness. And the Member States, whose systems of government are (...) founded on the principles of democracy, will surely hesitate before embarking on an incisive whittling down of its powers" (Mancini and Keeling, 1995, pp. 24, 100, 128).

Lecourt and Mancini's framing remains central to the ECJ's public outreach. For instance, the Court's current president and most-public facing judge - Koen Lenaerts - justifies the ECJ's agenda as transforming EU law from an "economic device" into a tool for "protecting the fundamental rights of the people" and "recruit[ing]... private parties as allies" (Lenaerts, 1992, pp. 1–4, 23).

Consistent with H_{2a}, the rhetoric and outreach campaigns of leading ECJ judges wielded individuals and their claims as legitimating vehicles. They highlighted the business-centered foundations of EU law and individuals' limited capacity to exercise their voice to carve a role for the ECJ beyond intergovernmental politics. Instead of de-politicizing the Court and lying low, they cast the ECJ as the protector of individuals and a counterbalance to "business Europe;" they likened their efforts to affirmative action; and they claimed to be bolstering the social and democratic legitimacy of European integration. This qualitative evidence confirms that ECJ judges claimed to refract inequities amongst private litigants to cultivate civil society support. Yet rhetorical appeals do not necessarily align with judicial practice. To assess whether the ECJ converted words into deeds, we need to turn to quantitative evidence.

From Words to Deeds? Quantitative Data and Modeling Strategy

Our quantitative analysis proceeds in two steps to evaluate if ECJ decision making reflects judges' stated strategy of leveling and spotlighting. We compile an original dataset of all parties and their legal counsel involved in the 6,919 cases referred to the ECJ (under Article 267 TFEU) from 1961 to 2016. For each case, we document the litigants and the people (usually lawyers or teams of lawyers) that represented them. We then categorize litigants according to their type (*individual*, *business*, *interest group*, *state institutions* and *others*). This constitutes the main explanatory variable in our empirical analyses, wherein we focus on comparing individuals and businesses (for a comprehensive description of the data and variables, see the Appendix).

Unequal Claiming and Judicial Leveling

Our first objective is to empirically corroborate whether the ECJ levels the odds for individuals. To this end, we show that inequalities in party capability exist and are similar to those plaguing litigation before domestic courts, yet individuals' win rate at the ECJ is far higher than expected given their capability disadvantages. We then trace this discrepancy to the Court's decision making in individual rights cases.

Unequal claiming (H_1): Individuals have a capability disadvantage

Both the ECJ judges cited in the prior section and existing research on EU legal mobilization assume that businesses are "comparatively [more] resourceful" than individuals (Conant et al., 2018, p. 1384). Yet, this claim has never been systematically verified.

We empirically show that the litigation capabilities of individuals and businesses indeed align with the distinction between the "have nots" and the "haves" posited by legal mobilization research (H_1). To this end, our

dependent variable constitutes the *quality of legal representation* that private parties can muster. To ensure that our results are comparable with existing research, we draw on three common operationalizations to measure party capability (McGuire, 1995; Wahlbeck, 1997; Szmer, Songer, and Bowie, 2016; Nelson and Epstein, 2022) and include these measures in three regression models.

First, we consider whether litigants submitted an *observation* before the ECJ. When cases are referred to the ECJ by national courts, the private parties involved are invited to submit their views in a written observation. If the Court proceeds to a hearing, they are also invited to clarify their positions through oral observations. While it may seem self-evident that making your voice heard matters, poorly-represented litigants might not recognize its importance: some 19% of the private litigants in our dataset did not communicate their views to ECJ judges. Our first model is a binomial logistic regression that captures the probability that a litigant submitted an observation.

We then use two indicators to capture the quality of a private litigant's legal team. These measures seek to approximate what Kritzer (1998) refers to as "substantive" and "process" expertise. Larger legal teams are more likely to hold specialized knowledge of EU law through their division of labor, while more experienced litigators are more likely to dexterously navigate the ECJ's procedures. The *size of parties' legal team* varies substantially. While the median private litigant that submitted an observation relied on a single lawyer, one in five had a team of two or more lawyers on their payroll. Next, *lawyer experience* counts the number of ECJ appearances of the most experienced member of a party's legal team. Both measures serve as dependent variables in hurdle models: we treat the size and experience of a litigant's legal team as a joint probability of first submitting an observation (a binary outcome) and – conditional on this outcome – hiring high-quality legal counsel (a count outcome) (Long, 1997). The models treat each side in a case as a litigant, resulting in a data set with 12,142 observations. Our

explanatory variable of interest is the type of litigant involved in a dispute (individual vs. business). The models control for whether several cases were joined together by the ECJ (*joined case*), whether the litigant is an applicant or defendant, and decade fixed effects.

The results of our analysis are reported in Table 1 and illustrated in Figure 4. Our findings provide strong support for H_1: individuals have lower capacity to litigate than businesses. Not only are individuals less likely to submit observations before the ECJ, but they also rely on smaller and less experienced legal teams.

Table 1: Unequal claiming: the quality of legal representation varies across types of litigants.

	Dependent variable: Quality of legal representation		
	Submitted observation	Size of legal team	Lawyer experience
	logistic	*hurdle*	*hurdle*
Individual (ref. business) (H_1)	-0.654^{***}	-0.154^{***}	-0.391^{***}
	(0.060)	(0.028)	(0.016)
Interest group (ref. business)	0.753^{***}	0.267^{***}	-0.305^{***}
	(0.153)	(0.043)	(0.029)
State institution (ref. business)	-2.165^{***}	-0.171^{***}	-0.348^{***}
	(0.055)	(0.034)	(0.020)
Other (ref. business)	-0.077	0.166^{***}	-0.063^{**}
	(0.103)	(0.044)	(0.025)
Defendant in main proceedings	-0.446^{***}	-0.090^{***}	-0.243^{***}
	(0.048)	(0.025)	(0.014)
Joined cases	0.430^{***}	0.695^{***}	0.026
	(0.081)	(0.029)	(0.022)
Constant	1.926^{***}	0.331^{***}	1.492^{***}
	(0.060)	(0.026)	(0.014)
Observations	12,286	12,286	12,286
Log Likelihood	$-6{,}499.223$	$-16{,}519.540$	$-45{,}065.550$
Akaike Inf. Crit.	13,022.450		
Note:			*p<0.1; **p<0.05; ***p<0.01

Specifically, businesses are 1.9 times more likely to submit an observation to the ECJ than individuals involved in comparable disputes. One in four individuals do not submit an observation, with a predicted submission rate of 78%. By contrast, only about 1 in 10 companies neglect to submit an observation, for a submission rate of 87%. To the extent that it is important for litigants to communicate their claims to ECJ judges, then businesses have a notable capability advantage.

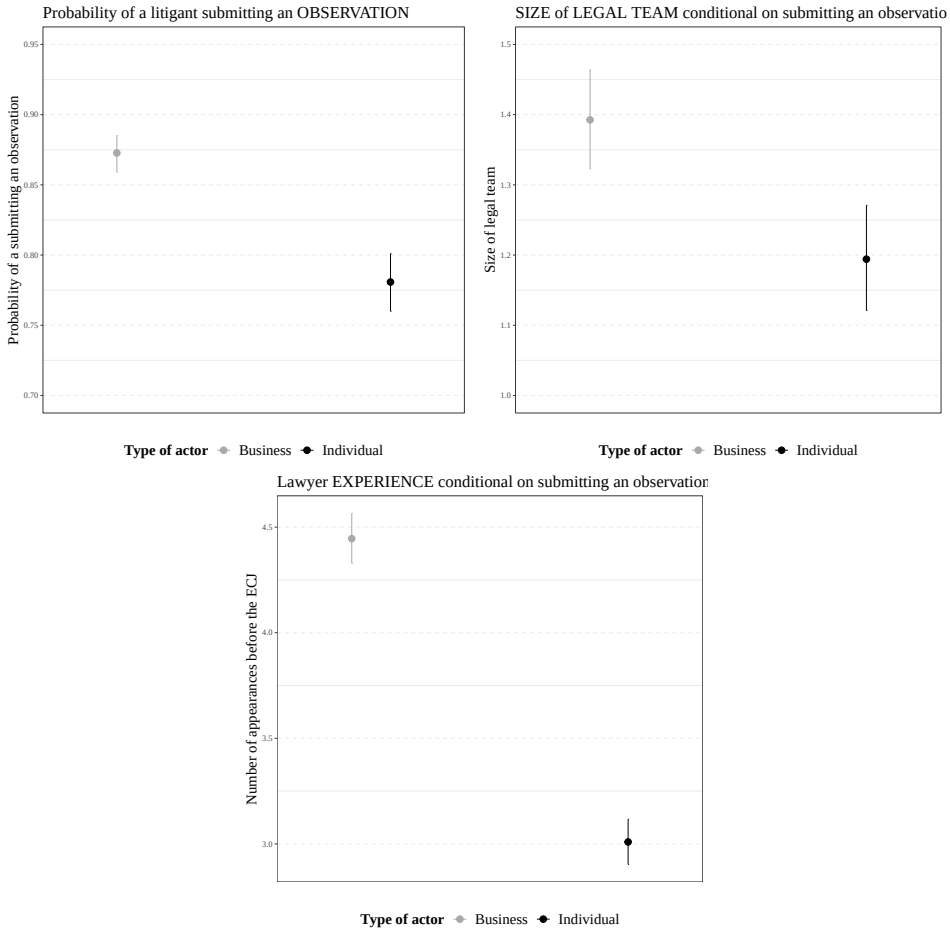

Figure 4: Unequal claiming: businesses are represented by larger and more experienced legal teams than individuals (illustration of models in Table 1).

Inequities in party capability also surface in the subset of private litigants that submit observations. Individuals hire on average legal teams that are 14% smaller than those of businesses. Since team size tends to correlate with "substantive" expertise (Kritzer, 1998), then businesses possess a clear advantage. Businesses are also advantaged when we consider the experience of their legal counsel. Individuals rely on lawyers with 32% less experience of litigating prior cases before the ECJ than the lawyers hired by businesses. Since lawyers who repeatedly appear before a court accrue greater "process expertise" (ibid.), this result once again indicates that individuals are at a disadvantage.

In sum, the same capability inequalities afflicting private litigation before national courts also surface in litigation before the ECJ. This begs the question of whether the ECJ has wielded its agency to refract these inequalities by leveling the odds for disadvantaged individuals. In other words, has the European Court matched words with deeds?

Leveling (H_{2b}): the ECJ is more likely to support individuals' rights claims than businesses' economic claims

In a second series of models, we probe litigants' win rate to demonstrate that the ECJ refracts inequalities in party capability in individuals' favor. We then identify the types of cases in which individuals win to argue that it is individual rights claims in particular that open the door for judicial entrepreneurship.

To measure which claims the ECJ supports, we build on two influential projects that have coded the legal positions of litigants and the ECJ. Both projects elaborate an outcome measure for (potentially) different legal questions nested within judgments. We run two identical linear probability models: one that includes ECJ judgments from 1961 and 1997 (Carrubba, Gabel, and Hankla, 2008), then another from 1996 and 2008 (Larsson and Naurin, 2016). Since the type of litigants only vary at the case level, we weight down cases by the number of questions addressed and cluster the standard errors

accordingly. By measuring who wins across two time periods using two established coding schemes, our goal is to bolster confidence that our results are neither time-dependent nor driven by idiosyncratic measurement.

In our analysis, *win* is a binary variable indicating if the Court supported an applicant's claims. Descriptive statistics already suggest that the ECJ favors the claims raised by individuals over those raised by businesses: in the 1961-1997 period, the ECJ supported 58% of individual claims (41% in 1996-2008), compared to only 45% of business claims (30% in 1996-2008). Yet these descriptive statistics may be biased by two types of errors. On the one hand, our analysis may *underestimate* the ECJ's propensity to level the odds. If capability theories are correct that better legal representation increases a litigant's chances of winning, the ECJ's higher base-line probability to support individual claims may be masked by individuals' capability disadvantage. We therefore control for the net difference in the quality of legal counsel between the parties. Nevertheless – as we will show – we find no evidence that higher quality legal counsel systematically impacts ECJ decison making.

On the other hand, our results might be *overstated* because of adverse selection. Individuals' capability disadvantage may lead them to only solicit a referral when they have exceptionally well-founded claims. Businesses, in contrast, may have sufficient resources to act as repeat players and pursue claims with a lower likelihood of success (Galanter, 1974). Individuals' higher win-rate would thus be due to adverse selection rather than judicial leveling. We assuage these concerns by drawing on existing research and in our modeling strategy. We also test observable implications of our theory that cannot be driven by adverse selection (namely the Court's effort to selectively spotlightcases where individuals win (in the next section)).

First, if individuals only go to court when they have well-founded claims, then a selection effect should also be discernible in domestic litigation. Yet as we outlined, unequivocally domestic party capability studies find that individuals lose more often than businesses. This is likely because individuals

tend to be "one-shotters" (Galanter, 1974) who lack sufficient procedural and substantive knowledge of the legal system to predict their likelihood of winning in the first place (Kritzer, 1998). National courts can in principle level the odds for individuals by only referring well-founded claims to the ECJ by their own motion. Yet recent studies of European legal mobilization have uncovered that most national judges lack the time, resources and knowledge to solicit ECJ on their own accord (Pavone, 2018; Glavina, 2020; Pavone, 2022). Referrals to the ECJ are thus primarily triggered by the litigants.

Next, we address adverse selection in our empirical analysis in two ways. First, we seek to approximate the merits of a legal claim. While this is notoriously hard to estimate, we use the information available to prospective litigants about the Court's previous case law. Existing research finds that claims seeking the interpretation of an EU law for the first time are more ambiguous, hence ECJ decisions are more likely to be swayed by intergovernmental pressures (Hermansen, 2020). This uncertainty dissipates the more a specific law is litigated and the more prospective litigants can solicit referrals to the ECJ only in cases with clear, predictable merit. This implies that litigants' win rate should be higher in cases governed by established case law. We thus compare outcomes strictly between cases that relate to laws that has been litigated an equal number of times, leveraging a fixed-effects linear probability model.

Finally, we compare the success rates of individuals with similar party capabilities to mitigate adverse selection and identify the specific claims that the ECJ most favors. We include an interaction term between the type of litigant and the type of claim they raise. In so doing, we compare the win rate of individuals that claim individual rights to individuals that raise the same economic claims as businesses (usually in their capacity as farmers and small business owners).

To identify *individual rights* cases, we rely on the Court's topic classification system (for a full list, see the Appendix). A large part of these individual rights cases mobilize the EU legal principle of free movement of

people, such as in family rights cases or disputes involving social benefits for migrant workers. The Court has over the years given a broad interpretation of what constitutes a worker with rights of residence and family reunification to include students and job seekers. This category also includes questions relating to fundamental rights, social security and pensions, as well as freedom from sexual, racial and religious discrimination.

Our modeling strategy is explicitly ground in our theory. Businesses and individuals often – but not always – bring substantially different claims to the ECJ. Specifically, 61% of the cases brought by individuals in the 1961-2016 period pertain to topics relating to individual rights, compared to only 13% in cases brought by businesses. We have argued that it is individual rights claims that create opportunities for the ECJ to build institutional legitimacy and rally civil society support around the cause of rights protection. As we will show, the Court's leveling strategy can mostly be traced back to these individual rights cases.

Finally, our models control for other factors that influence ECJ decisions. Existing studies have demonstrated that the ECJ treats national governments' observations ("amicus curiae briefs") as political signals, often supporting claims aligned with the preferences of the majority of these government submissions (Castro-Montero et al., 2018; Larsson and Naurin, 2016; Carrubba, Gabel, and Hankla, 2008). To factor out the part of individuals' win rate that may be attributable to these intergovernmental pressures, all models control for the *net number of government observations* in favor of the applicant. We also control for the few instances where *the validity of an EU law is being challenged*, since such cases may have a lower success rate given the ECJ's pro-integration bias. Lastly, we control for the type of litigant that the applicant is facing.

Evidence consistent with judicial leveling is displayed in Table 2 and visualized in Figure 5. In contrast to studies of domestic judicial decision making, we find compelling evidence that the ECJ disproportionately sup-

ports individual claims (H_{2b}). As the first and third columns in Table 2 make clear, from 1961 to 1997 the ECJ was 12% more likely to support claims raised by individuals compared to claims raised by businesses (10% more likely for the 1995 to 2008 period).

Furthermore, as is clear from the interaction term in the second and fourth columns in Table 2, the ECJ's pro-individual bias is driven primarily by cases where citizens raise rights claims that they can only bring as individuals – that is, precisely the types of worker, pension, and fundamental rights highlighted by judges Lecourt and Mancini in their public writings. The two effect sizes are similar, although in the second model the effect falls just shy of conventional thresholds for statistical significance. When individual rights are invoked in the 1995-2008 period, the probability of an individual winning

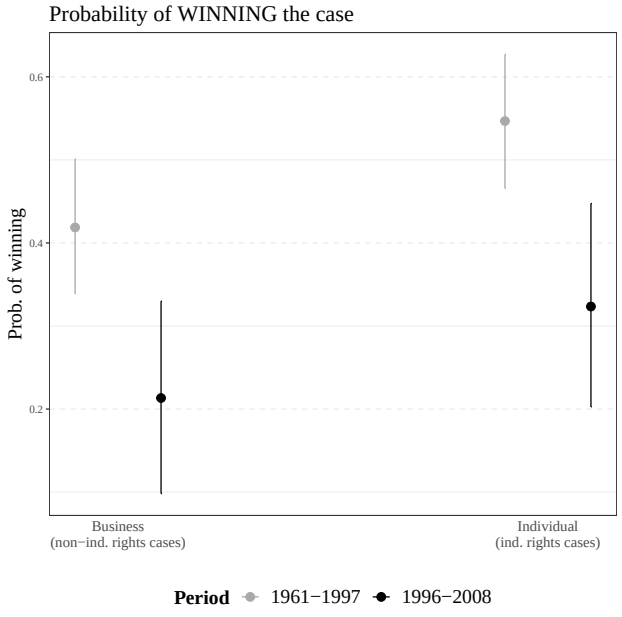

Figure 5: Leveling the odds: the ECJ is more likely to support claims raised by individuals than businesses for both periods under study (illustration of models 1 and 3 in Table 2).

the Court's support is 13.5% (12.2% in the 1961-97 period) higher than in any case brought by a business or by individuals unrelated to said rights. We find no indication that the ECJ levels the odds for individuals whose claims mirror the predominantly economic claims raised by businesses – such as tax-related claims invoked by business owners. This finding is consistent with the ECJ favoring precisely the types of individual rights claims that we theorized are most useful for new-style ICs seeking to build institutional legitimacy.

The behavior of our control variables aligns with previous research, bolstering confidence in our analysis. The ECJ is less likely to support challenges to the validity of EU laws. Furthermore, the ECJ tends to support claims that are also supported by the majority of member state submissions (Carrubba, Gabel, and Hankla, 2008; Larsson and Naurin, 2016). Thus for a business to match an individual's probability of winning the ECJ's support, it would need to receive 1.3 (1961-97) and 1.9 (1996-2008) additional supportive government observations. Strikingly, our findings do not support the conventional claim that the quality of parties' legal representation impacts ECJ decision making. Larger and more experienced legal teams gain businesses little traction over the outcome of the cases they bring.

Yet even if the ECJ levels the odds for individual claimants, judicial entrepreneurship has its limits. The ECJ cannot fully erase inequities in access that shape the distribution of disputes that it adjudicates. That is, businesses outnumber individuals 3 to 2 in disputes brought before the ECJ. This lopsided distribution likely reflects a combination of businesses' greater capacity to absorb the costs of litigation and the disproportionate economic focus of EU legislative output highlighted by judges Lecourt, Mancini, and Lenaerts. Thus even if the ECJ wields its agency to favor and expand individual rights claims, on aggregate it delivers more judgments supporting business claims (735 vs 676 supportive judgements in 1961-97, and 463 vs 252 supportive judgements in in 1996-2008). To the causal observer, then, it may appear that the ECJ has a pro-business bias even though we have

shown that the opposite is true.

In sum, the ECJ consistently levels the odds in favor of individuals when they raise rights claims. While this result breaks from the prevailing findings of party capability research, it is consistent with the public assertions of ECJ judges and the expectations of our revisionist theory. In the next subsection, we show how the Court strategically broadcasts its decisions by publicizing cases where individuals win - and how legal professionals then mirror and amplify this strategy in law journals.

Spotlighting & Amplifying: Broadcasting Decisions Where Individuals Win

Granting wins to citizens when they raise individual rights claims is only half the battle. To cultivate support beyond intergovernmental politics by establishing itself as the fulcrum of a new individual rights regime, an IC like the ECJ must also attract the attention of domestic compliance constituencies capable of amplifying its judgements domestically. In H_3, we thus hypothesized that the European court seeks to raise awareness in the legal community about the new entitlements that it creates by spotlighting particular cases over others. Here, we provide compelling evidence that the ECJ disproportionately spotlights decisions where it supports individual rights claims and verify that the Court's message is received and amplified by commentaries in law journals (H_4).

Spotlighting (H_3): the ECJ is more likely to publicize decisions that support individual claims

The Court has several procedural choices at its disposal to publicize cases. We test whether the ECJ makes use of this discretion in three ways. We expect that the Court allocates resources to highlight individual rights claims during the litigation proceedings (Krehbiel, 2016) and after delivering a favorable judgement.

In the first stage, the number of judges allocated to a case can serve as a signal of the attention and importance that the Court attributes to a case. Hence our first econometric model is an ordinal regression where we assess the *size of the chamber* that the ECJ allocates to hear cases (small/medium/large) involving individual claims versus business claims. After delivering a ruling, the ECJ can then issue a *press release* to publicize its support for particular claims over others. Our second model is therefore a binomial logit regression meant to capture whether the ECJ disproportionately issues press releases in cases involving individual claims. Finally, we run a third regression model that includes an interaction effect to verify if the ECJ conditionally spotlights decisions where individuals win.

Our data across the foregoing models is at the case level. While the first model covers the entire history of ECJ preliminary references, our model of ECJ press releases is limited to the years where these data are available (1995-2016). Similarly, our third model is limited to cases where the outcome is available (1961-2008). All three models include the same control variables. Since the Court may convene a larger chamber in more politically salient cases - that is, after more governments have submitted their observations (Carrubba, Gabel, and Hankla, 2008; Dederke and Naurin, 2017; Brekke et al., 2023) - we control for the *proportion of member states submitting observations* in any given case. We furthermore control for the age of the case law (*times that EU law is applied*) as well as the quality of the parties' legal teams. Finally, since the Court's reliance on smaller chambers and its use of press releases has increased over time, all models include decade fixed effects.

Evidence consistent with judicial spotlighting are reported in Tables 3 and 4 and illustrated in Figure 6. The ECJ disproportionately publicizes cases involving individuals over those involving businesses, and it is especially likely to spotlight decisions where it endorses individual rights claims.

Specifically, the likelihood of the ECJ allocating a larger chamber to a

case increases by 48% if a dispute involves individuals compared to a dispute involving businesses. After delivering a ruling, the Court is then twice more likely to issue a press release in cases raised by individuals compared to businesses. Only the comparatively rare cases involving interest groups obtain a similarly high level of spotlighting by the Court (columns 1 and 2 in Table 3).

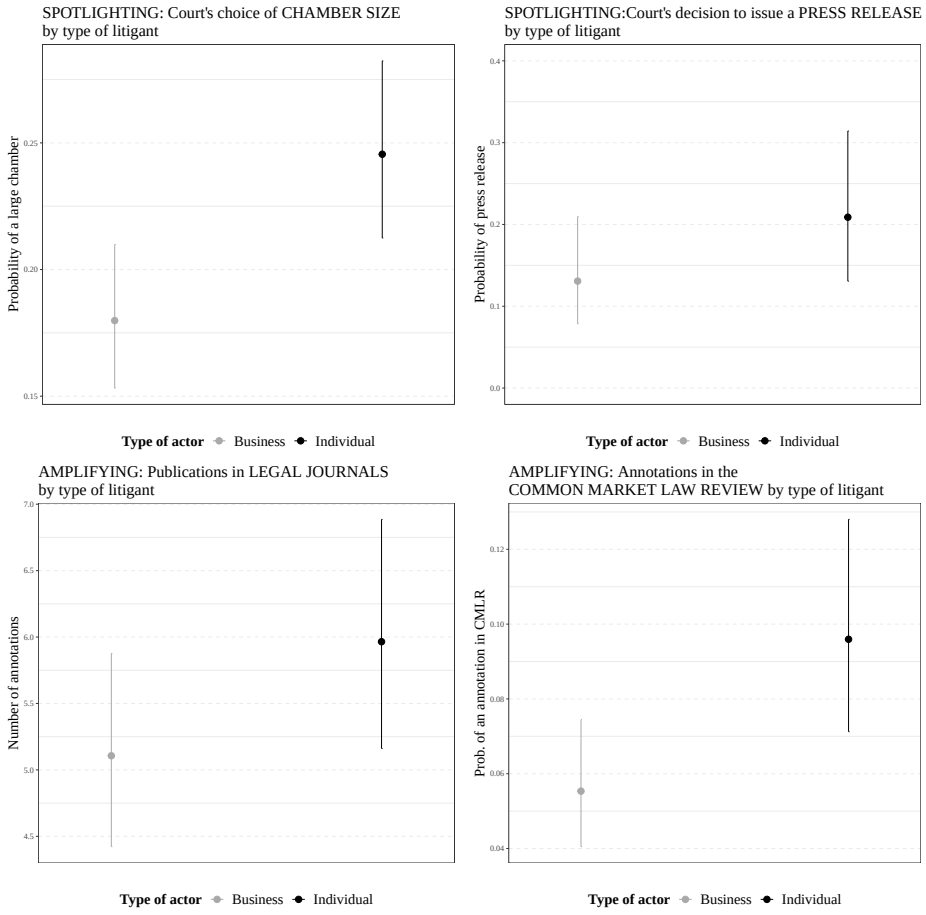

Figure 6: Spotlighting and amplifying: The ECJ and legal commentators disproportionately publicize cases involving individual claims compared to business claims (illustration of models in Table 3).

Even more revealing is that judicial spotlighting by the ECJ is not only

conditional on the type of private party before it, but also on the outcome of the case. It is only when individuals win their case that a significant pro-individual bias in spotlighting emerges. The Court is more than twice as likely to publicize judgments via a press release where it *supports* an individual applicant's claim compared to when individuals lose (column 1 in Table 4). Conversely, the Court is no more likely to spotlight an unsuccessful individual claim compared to an unsuccessful business claim. No other type of private litigant sees the same favorable shift in the Court's outreach strategy when they win their case.

These findings strongly support the inference that the ECJ is most concerned with drawing attention to its decisions when they align with a pro-individual rights narrative. Yet, they also beg a crucial question: to what extent is the ECJ's spotlighting strategy successful? Is there evidence that national compliance constituencies respond to and amplify the ECJ's efforts to publicize judgements supporting individual claims? We test for this dynamic in the next subsection.

Amplifying (H_4): legal commentators echo the ECJ's spotlighting strategy

Historians and legal scholars have traced how ECJ judges hoped to catalyze favorable commentaries in law reviews, especially in European law journals like the *Common Market Law Review* (CMLR) (Weiler, 1994; Phelan, 2017; Phelan, 2020). Commentaries of judgments (referred to as "annotations") not only attract attention to ICs and their activities; they also serve as crucial sources of information about new legal opportunities created by ICs that national lawyers, judges, and academics can seize in litigation campaigns to pressure governments into compliance. Legal commentaries are thus a crucial mechanism for international judges to build a reservoir of institutional legitimacy outside intergovernmental politics.

Has the ECJ been successful in focusing law journals' attention to its efforts to level the odds for individuals? To shed empirical light on this ques-

tion, we count the number of *annotations* that ECJ judgements generate in law journals generally and in the most influential European law journal (the CMLR) specifically. We pay particular attention on whether these commentaries mirror the ECJ's spotlighting strategy: that is, if they amplify ECJ decisions that support individual rights claims.

We first run a poisson regression model to estimate the total number of annotations in legal journals that an ECJ decision attracts, with fixed effects to control for the national origin of the underlying dispute. Annotations prove quite rare even in journals seeking to popularize knowledge of the ECJ and its case law. For instance, only 10% of ECJ judgments have received annotations in the CMLR. To zero-in on the CMLR's coverage, we therefore rely on a binomial logistic regression estimating which ECJ decisions are favored by the journal's editorial team, using the same set of controls.

Results consistent with law journals amplifying the ECJ's pro-individual decisions are reported in the last column in Tables 3 and 4, and they are illustrated in the two bottom panes of Figure 6. Our findings support H_4 and reveal an astonishing similarity between judicial spotlighting by the ECJ and the commentaries by legal professionals. In short, the ECJ has successfully mobilized law journals to amplify its pro-individual rights message domestically.

Specifically, on average an ECJ judgement in a case involving an individual person attracts 17% more journal annotations than a judgement in a case involving a business. This pro-individual bias in coverage is even more stark when we zero-in on the commentaries published in the *Common Market Law Review*: ECJ decisions on individual claims are 81% more likely to be annotated in the CMLR compared to decisions on business claims.

Crucially, Figure 7 reveals that law journals devote greater attention to precisely the subset of cases with outcomes that the ECJ disproportionately highlights in its press releases. When the ECJ supports individual claims, the

number of commentaries in legal journals increases by 28% compared to ECJ decisions that do not support these claims. Similarly, the CMLR is 78% more likely to publish a commentary on an ECJ decision when individuals win.

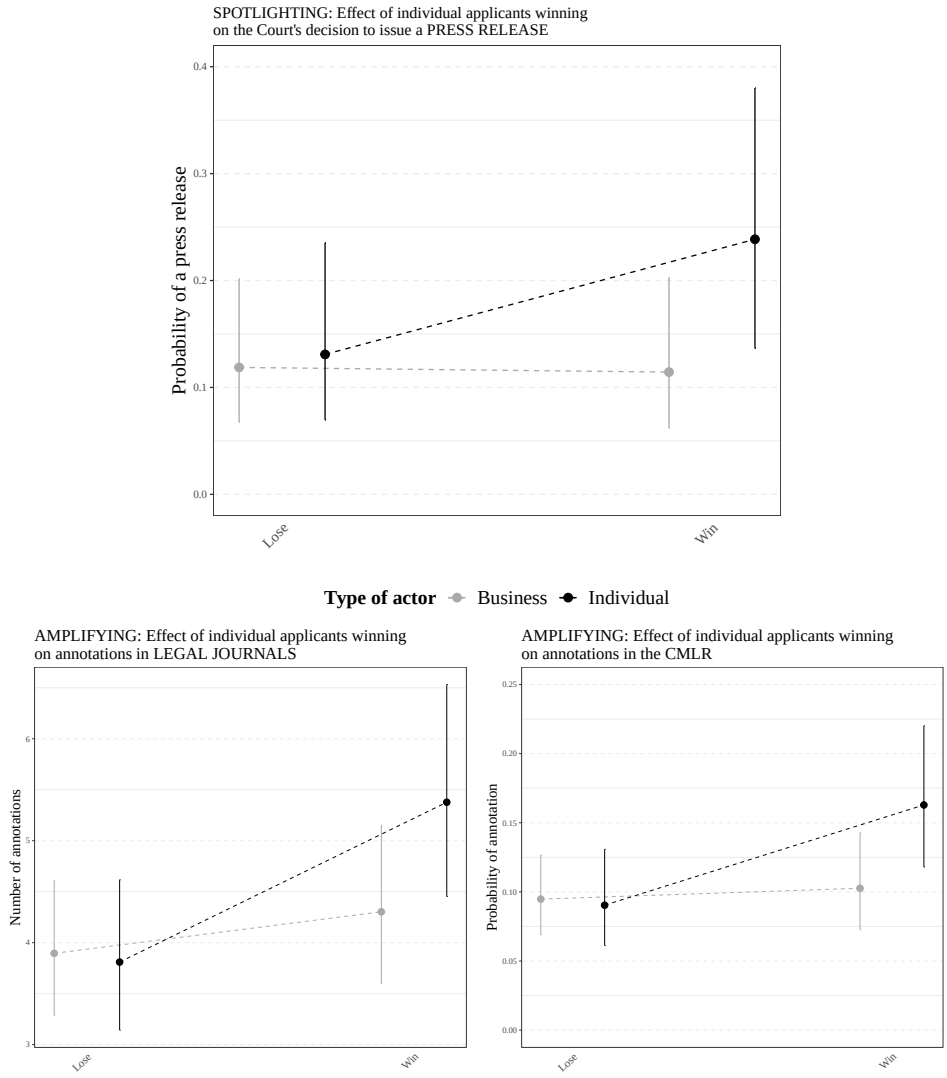

Figure 7: Spotlighting and Amplifying: The ECJ is more likely to issue press releases (pane 1) and legal journals – such as the Common Market Law Review – are more likely to publish commentaries (panes 2 & 3) for cases where individuals win.

By contrast, law journals and the CMLR devote comparable (if minimal) levels of attention to decisions involving unsuccessful individuals compared to businesses. And when businesses win the ECJ's support, they are no more likely to have these decisions highlighted in journal annotations compared to when they lose. Figure 7 thus places in stark relief how an IC's efforts to spotlight its pro-individual bias is amplified by a crucial domestic compliance constituency.

Table 2: Leveling the odds: the likelihood of the ECJ supporting an applicant's claim varies across types of litigants.

	Dependent variable:			
	Wins the case			
		panel		
		linear		
	1961-1997	1961-1997	1996-2008	1996-2008
Individual * Individual rights (H_2)		0.135**		0.120
		(0.065)		(0.090)
Individual rights		−0.034		0.053
		(0.046)		(0.053)
Individual (ref. business)	0.117***	0.055	0.105***	−0.0003
	(0.029)	(0.040)	(0.040)	(0.063)
Interest group (ref. business)	0.016	0.023	0.025	0.024
	(0.062)	(0.062)	(0.067)	(0.066)
State institution (ref. business)	0.050	0.047	0.092	0.090
	(0.044)	(0.044)	(0.065)	(0.065)
Other (ref. business)	0.011	0.017	−0.044	−0.046
	(0.062)	(0.063)	(0.117)	(0.116)
Net support from MS observations	0.087***	0.087***	0.056***	0.056***
	(0.009)	(0.009)	(0.008)	(0.009)
The validity of an EU law is in question	−0.121***	−0.117***	−0.083	−0.087
	(0.038)	(0.038)	(0.062)	(0.061)
Defendant is ... an individual (ref. business)	−0.061	−0.047	−0.022	−0.025
	(0.044)	(0.045)	(0.070)	(0.073)
... interest group (ref. business)	−0.016	−0.024	0.021	0.001
	(0.068)	(0.069)	(0.099)	(0.096)
... state institution(ref. business)	−0.002	−0.009	0.059	0.066
	(0.034)	(0.034)	(0.043)	(0.043)
... other type of actor (ref. business)	−0.001	−0.017	0.025	0.007
	(0.046)	(0.047)	(0.094)	(0.095)
Difference in legal team size	0.003	0.004	0.0005	−0.0003
	(0.010)	(0.010)	(0.012)	(0.012)
Difference in lawyer experience	−0.002	−0.002	0.001	0.001
	(0.002)	(0.002)	(0.002)	(0.002)
Observations	3,661	3,661	2,521	2,521
R^2	0.053	0.058	0.059	0.066
Adjusted R^2	−0.006	−0.001	−0.037	−0.030
Note:				*p<0.1; **p<0.05; ***p<0.01

Table 3: Spotlighting and amplifying: ECJ judges and legal commentators project varying attention to cases depending on the type of litigant involved.

	Dependent variable: Judicial and academic attention			
	Chamber size	Press release	Case annotations	CMLR annotatio
	ordered logistic	*logistic*	*negative binomial*	*logistic*
	1961-2016	1995-2016	1961-2016	1961-2016
Applicant is... an individual (ref. business) (H_3 and H_4)	0.393***	0.559***	0.155***	0.594***
	(0.056)	(0.151)	(0.029)	(0.107)
... interest group (ref. business)	0.246**	0.522**	0.070	0.187
	(0.101)	(0.238)	(0.052)	(0.169)
... state institution (ref. business)	−0.183***	−0.549***	−0.670***	−0.161
	(0.063)	(0.170)	(0.032)	(0.117)
... other type of actor (ref. business)	−0.191**	−0.546*	−0.359***	−0.345*
	(0.090)	(0.319)	(0.048)	(0.183)
Size of applicant's legal team (log + 1)	0.527***	0.908***	0.272***	0.719***
	(0.060)	(0.178)	(0.032)	(0.111)
Size of defendant's legal team (log + 1)	0.328***	0.302*	0.231***	0.338***
	(0.068)	(0.182)	(0.035)	(0.119)
Experience of applicant's lawyer (log + 1)	0.090**	−0.088	−0.094***	0.075
	(0.037)	(0.095)	(0.020)	(0.067)
Experience of defendant's lawyer (log + 1)	0.005	−0.309**	−0.018	0.041
	(0.051)	(0.144)	(0.026)	(0.088)
Times an EU law is applied (log)	−0.044***	−0.111**	0.004	−0.226***
	(0.015)	(0.044)	(0.008)	(0.035)
Proportion of MS observations	8.321***	7.176***	4.659***	5.204***
	(0.337)	(0.733)	(0.139)	(0.412)
Small—medium chamber	−0.029			
	(0.106)			
Medium—Large chamber	2.775***			
	(0.113)			
Intercept		−2.473***	1.579***	−3.825***
		(0.300)	(0.077)	(0.213)
Decade fixed effects	Yes	Yes	Yes	Yes
Country of origin fixed effects	No	No	Yes	No
Observations	5,928	1,292	5,928	5,928

Note: *p<0.1; **p<0.05; ***p<0.0

Table 4: Spotlighting and amplifying: ECJ judges and legal commentators devote varying attention to cases depending on whether individuals win.

	Dependent variables: Spotlighting and amplifying		
	Press release	Case annotations	Annotated in CMLR
	logistic	*negative binomial*	*logistic*
	1997-2008	1961-2008	1961-2008
Applicant won * individual (ref. business) (H_3 and H_4)	0.775**	0.247**	0.578*
	(0.370)	(0.109)	(0.316)
... won * interest group (ref. business)	0.385	−0.044	−0.907
	(0.650)	(0.221)	(0.620)
... won * state institution (ref. business)	−0.108	−0.444***	−0.397
	(0.611)	(0.152)	(0.500)
... other type of actor (ref. business)	0.325	−0.237	−0.619
	(1.117)	(0.274)	(1.026)
Times an EU law is applied (log)	−0.128***	0.041***	−0.179***
	(0.044)	(0.013)	(0.042)
Proportion of MS observations	7.831***	4.766***	5.249***
	(0.751)	(0.199)	(0.475)
Applicant won	−0.048	0.098	0.090
	(0.243)	(0.071)	(0.214)
Applicant is... other type of actor (ref. business)	0.121	0.121	−0.069
	(0.642)	(0.171)	(0.565)
... state institution (ref. business)	−0.204	−0.073	−0.068
	(0.358)	(0.098)	(0.314)
... interest group (ref. business)	0.569	0.327**	0.750**
	(0.371)	(0.137)	(0.321)
... an individual (ref. business)	0.112	−0.022	−0.048
	(0.229)	(0.073)	(0.215)
Intercept	−15.896	1.505***	−2.868***
	(338.029)	(0.125)	(0.186)
Decade fixed effects	Yes	Yes	Yes
Country of origin fixed effects	No	No	Yes
Observations	1,292	3,266	3,266
Note:			*p<0.1; **p<0.05; ***p<0.01

Conclusion

That the "haves" come out ahead is arguably the most consistent finding across legal mobilization studies. Yet we have shown that judges can wield their agency to counterbalance inequalities amongst private litigants. Judges facing a shortfall in institutional legitimacy and the threat of government backlash may find individual rights claims to be useful vehicles for legitimating their agendas. Drawing on novel qualitative and quantitative data of private litigation before the world's first new-style IC – the ECJ – we demonstrate that it is actually the "have nots" that tend to come out ahead. Not only is the ECJ more likely to support individual claimants than their better-resourced corporate counterparts, but European judges strategically broadcast their endorsement of individuals' claims in ways that get amplified by domestic legal practitioners. Through this sequential strategy of leveling and spotlighting, ECJ judges demonstrate that party capability need not predetermine judicial decision-making.

To our knowledge, this is the first study to theorize and empirically substantiate the conditions under which judges are most likely to level the odds for individuals and spotlight their claims. Our findings may be heartening, yet they need not rest on optimistic assumptions about judges' commitment to social justice. Instead, leveling and spotlighting is consistent with international judges seeking to overcome the institutional challenges that they face. Like other international institutions, ICs face two major obstacles as policymakers: their fledgling authority is regularly contested by national governments, and domestic compliance constituencies may ignore their existence or their impact. Broadcasting support for individuals and their rights claims enables new-style ICs to tackle both problems. It allows ICs to justify judicial policymaking as democracy-enhancing, assuaging critiques that they suffer from social and democratic deficits. And it allows ICs to cultivate the attention of prospective domestic allies – such as legal practitioners – who can amplify their rulings and pressure governments into compliance. Individuals may be unable to amass resources and trade expertise as effectively as well-

resourced corporate litigants. Yet, individuals can trade in legitimacy, and it is legitimacy, perhaps above all else, that is in short supply for ambitious ICs confronting the threats of intergovernmental backlash, noncompliance, and court-curbing (Alter and Helfer, 2013; Cohen et al., 2018; Voeten, 2020; Pavone and Stiansen, 2021).

Our findings imply that depoliticization may not be the most effective strategy for international institution-building - and that some international judges know it. The reason is that depoliticization decouples institutions like ICs from civil society, precluding their members from building a reservoir of social support beyond the vicissitudes of intergovernmental politics. True, by delivering expansive rulings endorsing individual claims in salient policy areas like immigration, fundamental rights, and labor and consumer protections, ICs risk becoming targets of intergovernmental backlash. But this strategy also enables judges to broadcast their agenda and mobilize the support of civil society. What distinguishes effective from ineffective ICs is precisely their degree of social embeddedness and their capacity to cultivate domestic compliance constituencies, which renders them less dependent on intergovernmental support (Alter, 2014).

Our argument also opens fertile avenues for future research. Scholars could probe the portability of our theory by assessing if other new-style ICs in intergovernmental economic unions – such as the Andean Tribunal or the European Free Trade Area Court (Alter and Helfer, 2017; Pavone and Stiansen, 2021) – also prove more supportive of individual claiming than party capability theories predict. Our theory also implies that leveling and spotlighting waxes and wanes with judicial ambition and the vibrancy of civil society. Where international judges do not seek to legitimate an expansive policymaking role or face a quiescent civil society unable to mobilize as allies, the dynamic of claiming, leveling, spotlighting, and amplifying that we identified may never take root. An IC whose judges level the odds but fail to cultivate social support by spotlighting their efforts is less likely to build institutional legitimacy and attract private litigants. Similarly, judicial spot-

lighting is more likely to fall flat in a political context lacking autonomous networks of legal professionals that can mobilize IC judgments against corporate or state encroachment. By highlighting these scope conditions, we invite political scientists and socio-legal scholars to craft a more nuanced comparative understanding of how private litigation and judicial institution-building interact.

Finally, although we advance a story of judicial entrepreneurship, our findings also highlight opportunities that private litigants and the "have nots" can exploit to advance their interests. Individuals tend to be even more disempowered in international polities than their home states, given that intergovernmental unions lack mechanisms of democratic participation. While resourceful corporations can nonetheless influence international policymaking via lobbying (Coen and Richardson, 2009), turning to new-style ICs may be individuals' best bet to project their voice. This route is not without obstacles: to effectively mobilize ICs, private litigants must obtain access, win support for their claims, and draw attention to their cause. Persuading a national court to refer a case to a new-style IC can be a serious bottleneck. It is at this stage that private litigants are most hampered by their limited capacity to hire the expert legal counsel necessary to persuade national judges to solicit an IC (Pavone, 2022). Once before an IC, however, individuals face a more favorable opportunity structure. For whether the "haves" or the "have nots" come out ahead is not merely a question of amassing the most resources and lawyers. It is also a question of raising claims that are useful to international judges seeking to legitimate and amplify their policy agenda. And at least in this respect, it is pensioners, consumers, and migratory workers who are better positioned than their corporate counterparts.

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Appendix

We rely on four different data frames which draw on largely the same variables to perform our analyses. Here, we describe the operationalization of the variables, the data structure and provide descriptive statistics.

Variables

Company `type_company` A dummy. The litigant is a company. This variable is used as the reference category in the analyses.

Individual `type_individual` A dummy. The litigant is an individual.

Interest group `type_ngo` A dummy. The litigant is an interest group.

State institution `type_state_institution` A dummy. The litigant is a public body/state institution.

Other `type_other` A dummy. All other actors are lumped together in this category. It includes such bodies as social security bodies, etc.

Role `role` Categorical. Actors are classified as being either the applicant or the defendant in the main proceedings (i.e. the case before the national court). The original data also include observers. These form the basis for our count of member state observations in the analysis of issue attention.

Defendant in the main proceedings Binary. Flags whether the actor was the defendant in the main proceedings. Derived from the above-mentioned variable.

Joined case Binary. Flags whether several cases where joined by the ECJ into the same judgment. The number of actors behind the data point – and thus the likelihood of seeing some legal representation among parties on the same side of a conflict – is higher in these cases.

Observation Binary. Flags whether the actor submitted an observation to the Court. When a preliminary reference is filed with the Court, all relevant actors – the parties to the main proceedings at the domestic level, the member state governments and EU institutions – are notified and invited to submit their views ("observations") to the Court within 6 weeks. If the Court holds an oral hearing, the same actors are invited to submit their oral observations.

Legal team size `n_lawyers` Count. Enumerates the number of lawyers that signed the submitted the observation. All lawyers are listed with their names. This forms the basis of our variable on Lawyer experience.

Lawyer experience `n_appearances` Count. Enumerates the number of times the most experienced lawyer on the team has appeared before the ECJ.

Wins the Court's support `win` Binary. Reports whether the applicant in the main proceedings wins the ECJ's support (`win == 1`). However, the Court may provide a mixed answer or an answer that is irrelevant to the case of the applicant. In other words, the reference category is not that the applicant "loses", but rather does not win (`win == 0`). The variable is derived from two different coding projects (Carrubba and Gabel, 2011; Larsson and Naurin, 2016). For more information, please refer to the discussion on the data structure.

Net support from member state observations `I(govobspl - govobsdef)` Numeric. Reports the net support in favor of the applicant among member state governments who submitted an observation. The variable is derived from two different coding project. For more information, please refer to the discussion on the data structure.

Age of case law `n_iteration` Count. Reports the number of times the ECJ has interpreted the same EU law. To aggregate the data, we

report the relevant number of the most recent EU legislation applied by the ECJ in the judgment.

The validity of an EU law is in question `challenge` Binary. Flags cases where the Court has decided on the validity of one or more EU laws. Source: EUR-Lex.

Difference in legal team size `I(n_lawyers_applicant - n_lawyers_defendant)` Numeric. Derived from the previous variables on role and legal team size.

Difference in lawyer experience `I(n_appearances_applicant - n_appearances_defendant)` Numeric. Derived from the previous variable on role and lawyer experience.

Individual rights `ind_rights` Binary. Flags cases involving issue areas in which the Court has taken a proactive role in granting rights to individuals. These include the free movement of people/workers, social policy including pensions, consumer rights and fundamental rights.

In order to obtain a comprehensive coding, the cases are identified using two sources: The Court's reporting of the "subject matter" of the case as well as from the keywords reported in the head of each judgment. The vocabulary we searched for was the following: Subject matter: "Social security", "Freedom of movement for workers", "Social policy", "Consumer protection", "non-discrimination". Keywords: "free movement of persons", "freedom of movement for persons", "workers - freedom of movement", "free movement - workers", "freedom of movement for workers", "freedom of movement - workers", "freedom of movement of persons", "freedom of movement - migrant worker", "free movement of workers", "social security", "social policy", "handicapped ", "sickness insurance","citizenship","vocational training", "pension", "social provision", "social legislation","consumer protection" ,"protection of consumer", "fundamental rights", "fundamental human right",

"fundamental personal right".

Proportion of MS observations `prop_observations` Numeric. Reports the proportion of member states that submitted an observation *exept* for the member state of origin. The size of the EU has changed substantially over the period of study, so the variable is a normalization of the attention that governments give the case.

Chamber size `chamber_size` Ordinal. Reports the size of the chamber in which the judgment was passed. The effective number of judges assigned to cases has changed over time. We therefore rely on a normalization of the chamber size ranging from "small" (3 judges), "medium" (5-7 judges; small plenary/chamber of 5) and "large" ($>$ 7 judges; full court/grand chamber).

Press release `press_release` Binary. Reports whether the Court issued a press release in relation to the publication of the judgment. Press releases are available from 1996 and on wards. In the last subsection, we combine this with data on the outcome of cases, such that the analysis is based on Court judgments published in the period between 1996-2008.

Annotations `n_annotations` Count. Reports the number of publications discussing the case in academic venues; i.e. "case annotations". Source: EUR-Lex.

Annotations in the Common Market Law Review `I(n_annotations_cmlr >0)` Binary. Reports whether the cases was annotated in the *Common Market Law Review*. The review has existed since the beginning of the Court's history and has reported on approximately 10% of the Court's cases per year. Source: EUR-Lex.

Data structures

Our original data frame lists all lawyers and actors involved in a case: the litigants, third party observers as well as government- and EU-level observers in all of the preliminary reference cases delivered by the ECJ (1961-2016). However, our analyses are performed on aggregated versions of the data. Because of data availability on court outcomes and press releases, some of our models also rely on a subset of the cases.

Quality of legal representation: Data on each side of a litigation

(`df_role`)

Summary statistics for the data and variables used to test H_1 are reported in Table 5. The unit of analysis in this data frame is defendants and applicants in the case referred to the ECJ from the domestic court. We thus have 12286 observations of litigants nested in 6143 ECJ judgments. For comparability between cases, we have excluded all criminal procedures from our data. Although the policy area is highly relevant for our arguments about individual rights, there is only one applicant with no formal defendant in the case. This makes it harder to elaborate a unified strategy to control for quality of legal representation.

While there may be several litigants on each side – for example because several cases were joined to receive the same decision by the ECJ – we have aggregated the data so that one observation remains for each side. As a result, an actor may be coded as several types. A worker ("individual") may for example be joined by a trade union ("interest group") when bringing their case to the Court.

Leveling the odds: Data on applicants

(`df_app`; `df2_app`)

Table 5: Summary statistics of role-level data

Statistic	Min	Pctl(25)	Mean	Median	Pctl(75)	Max	N
written	0	0	0.64	1	1	1	12,286
n_appearances	0	0	2.44	1	1	209	12,286
n_lawyers	0	0	1.18	1	2	25	12,286
company	0	0	0.37	0	1	1	12,286
individual	0	0	0.22	0	0	1	12,286
ngo	0	0	0.04	0	0	1	12,286
state_institution	0	0	0.35	0	1	1	12,286
other	0	0	0.05	0	0	1	12,286
joined_case	0	0	0.08	0	0	1	12,286

We rely on two previous coding projects to identify whether the applicant in the main proceeding gains the Court's support. As a result, we rely on two different data sets. Summary statistics for the data and variables used to test H_{2b} are reported in Tables 6 and 7. Both data frames are structured at the issue-level nested within each court case. All variables are furthermore coded with respect to the applicant (one per case).

The period 1961-1997 thus ends up with a data frame listing 3893 legal issues/questions in 2206 judgments. We outcome variable as well as the position of the member states are based on the efforts done to identify actors' positions in the European Court of Justice Data project (Carrubba and Gabel, 2011).

The period 1996-2008 relies on a data frame listing positions in 3094 legal questions nested in 1369 cases. It is based on the efforts done to identify actors' positions by Larsson and Naurin (2016). Coders where instructed to identify questions asked to the court and reformulate these into "yes"/"no" answers. All actors may thus be coded as "yes"/"yes, but" and "no"/"no, but", as well as various other categories. We have coded as a "win" when the applicant and the Court both answer yes/no, while all other answers are coded as non-support. The member states' positions are coded in the same way.

Table 6: Summary statistics of applicant-level data (1961-97)

Statistic	Min	Pctl(25)	Mean	Median	Pctl(75)	Max	N
win	0	0	0.51	1	1	1	3,741
ind_rights	0	0	0.31	0	1	1	3,893
company	0	0	0.47	0	1	1	3,893
individual	0	0	0.33	0	1	1	3,893
ngo	0	0	0.05	0	0	1	3,893
state_institution	0	0	0.15	0	0	1	3,893
other	0	0	0.04	0	0	1	3,893
net_support	−11	−1	−0.18	0	0	11	3,893
net_lawyers	−14	0	0.47	0	1	12	3,893
net_appearances	−67	0	2.48	0	2	70	3,893
challenge	0	0	0.15	0	0	1	3,810

Table 7: Summary statistics of applicant-level data (1995-08)

Statistic	Min	Pctl(25)	Mean	Median	Pctl(75)	Max	N
win	0	0	0.51	1	1	1	3,741
ind_rights	0	0	0.31	0	1	1	3,893
company	0	0	0.47	0	1	1	3,893
individual	0	0	0.33	0	1	1	3,893
ngo	0	0	0.05	0	0	1	3,893
state_institution	0	0	0.15	0	0	1	3,893
other	0	0	0.04	0	0	1	3,893
net_support	−11	−1	−0.18	0	0	11	3,893
net_lawyers	−14	0	0.47	0	1	12	3,893
net_appearances	−67	0	2.48	0	2	70	3,893
challenge	0	0	0.15	0	0	1	3,810

Spotlighting and Amplifying: Data on the case level

(`df_case`)

Summary statistics for the data and variables used to test H_3 and H_4 are reported in Table 8. The data frame aggregates observations to the case-level. The outcome variables in the data are the Court's chamber size and press releases, as well as whether the case was annotated in the *Common Market Law Review* and the total number of annotations in legal journals. All outcomes are collected from EUR-Lex.

To zoom in on the Court's spotlighting efforts, we interact the outcome (whose claims were supported) with the Court's and legal journal's decisions to spotlight/amplify. The win-variable is here aggregated to report the proportion of legal questions/issues in which the Court supported the applicant in the case.

Table 8: Summary statistics of case-level data

Statistic	Min	Pctl(25)	Mean	Median	Pctl(75)	Max	N
company_applicant	0	0	0.49	0	1	1	6,143
individual_applicant	0	0	0.33	0	1	1	6,143
ngo_applicant	0	0	0.05	0	0	1	6,143
state_institution_applicant	0	0	0.14	0	0	1	6,143
other_applicant	0	0	0.04	0	0	1	6,143
written_applicant	0	1	0.77	1	1	1	6,143
n_appearances_applicant	0	0	3.27	1	2	198	6,143
n_lawyers_applicant	0	1	1.45	1	2	25	6,143
win	0.00	0.00	0.45	0.33	1.00	1.00	3,371
ind_rights	0	0	0.32	0	1	1	6,143
press_release	0	0	0.22	0	0	1	4,080
n_annotations	0	1	6.17	3	8	160	6,143
n_annotations_CMLR	0	0	0.08	0	0	3	6,143
small	0	0	0.24	0	0	1	6,143
medium	0	0	0.50	1	1	1	6,143
large	0	0	0.25	0	1	1	6,143
n_iteration	1	1	31.33	4	22	465	5,928
observations_prop_tot	0.00	0.04	0.10	0.08	0.14	0.93	6,143
company_defendant	0	0	0.25	0	1	1	6,143
individual_defendant	0	0	0.12	0	0	1	6,143
ngo_defendant	0	0	0.03	0	0	1	6,143
state_institution_defendant	0	0	0.57	1	1	1	6,143
other_defendant	0	0	0.07	0	0	1	6,143
written_defendant	0	0	0.51	1	1	1	6,143
n_appearances_defendant	0	0	1.61	0	1	209	6,143
n_lawyers_defendant	0	0	0.90	1	1	14	6,143