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Responsive Withdrawal? The Politics of EU Agenda-Setting

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Abstract

This contribution asks whether and why the newly political environment of EU law-making impacts on the European Commission's choice (not) to announce the withdrawal of legislative proposals. We argue that the Commission uses 'responsive withdrawal' to signal self-restraint or policy-determination to different audiences and, thus, reacts to bottom-up political pressure by either politicising or depoliticising the legislative agenda. Bottom-up pressures are driven by 1) the national contestation of 'Europe'; 2) visible controversy about optimal (crisis) governance; and 3) the domestic salience of EU legislation. Our hypotheses are tested on a new dataset of all ordinary legislative files concluded, withdrawn, rejected or ongoing between 2006 and 2018. 'Withdrawal announcements' are more likely when Euroscepticism is high and when legislation touches core state powers, but less likely when legislation is domestically salient. We also demonstrate the continued importance of cyclical and technical reasons. Our analysis complements extant explanations of withdrawal as the upshot of functional factors or of uncertainty, and contributes to the nascent debate about whether, why and how supranational actors respond when the systems in which they operate—and the policies they produce—come under attack.

Key words: Agenda-Setting, European Commission, Legislation, Politicisation, Depoliticisation, Withdrawals

1. Introduction

Over the past decades, the European Union (EU) and its policies have become more visible, contested and relevant across the Union's member states. The European Commission is at the forefront of such contestation. Frequently framed as the 'epitome of Brussels', the Commission is seen and criticised as symbolic of the system under attack. The institution has also become more salient: its presidency has been deliberately politicised, and the Commission itself claims to have become a more 'political' supranational actor.

We ask whether this 'new environment' impacts on the Commission's key role in the EU's legislative process: agenda-setting. More specifically, we explore the Commission's choice to announce the withdrawal of its proposals. We argue that the Commission, motivated by both survival and policy, uses withdrawals as a tool to respond to political pressure. 'Responsive withdrawal' can have different effects on EU law-making: by taking legislation off the table, the Commission signals self-restraint, reduces supranational visibility and, thus, depoliticises the agenda; by keeping legislation on the table under adversity, the Commission signals political determination and policy clout. Our analysis contributes to the wider debate about whether, why and how supranational actors respond when the systems in which they operate—and the policies they produce—come under attack.

Indeed, it is well-established in both public debate and scholarship that 'Europe' is becoming more politicised. At the national level, contestation is on the rise, shown by Eurosceptic public opinion, the popularity of challenger parties, European integration as an issue in national elections, and highly polarised referendum campaigns. At the supranational level, more visible conflict emerged with the 2014 and 2019 *Spitzenkandidaten* process, European Central Bank decisions during the Eurozone crisis, more openly confrontational relations between member states, and the composition of the Eighth and Ninth European Parliaments (EPs). In short, visibly debated, fundamentally contested and increasingly relevant, European integration (in)famously has gone from 'permissive consensus' to 'constraining dissensus' (Hooghe & Marks 2009).

We explore whether this new environment matters for agenda-setting by the European Commission. Does the oft-repeated diagnosis of a 'more political Commission' actually bear out empirically? Does the Commission respond to political pressure, in particular when

choosing what to withdraw from the legislative agenda? What consequences do these decisions have for the (de)politicisation of EU law-making?

To answer these questions, we analyse the Commission's announcements to withdraw legislation, made in its annual work programmes (WPs) between 2006 and 2018. Under political pressure, we assume, the Commission uses these announcements as signals. Drawing from scholarship on responsiveness and non-majoritarian institutions, we argue that the Commission's response to pressure is driven by two motivations: bureaucratic survival and policy solutions that matter for Europe's citizens; drawing from the literature on politicisation, we suggest that pressure increases with 1) national contestation over 'Europe'; 2) visible controversy about (crisis) governance; and 3) the domestic salience of EU legislation.

In testing these arguments, we aim to make two main contributions. Empirically, we know a lot about the EU's politicisation at the domestic level (e.g., De Wilde 2011; Grande & Kriesi 2014). There is also a vivid debate about the 'newly political' Commission and the tension between the institution's initially non-majoritarian mandate and its increasing visibility, including in Europe's electoral politics (e.g., Peterson 2017; Nugent & Rhinard 2019). Finally, scholars have analysed the Commission's influence, success and failure in EU agenda-setting (e.g., Kreppel & Oztas 2017; Boranbay-Akan et al. 2017). Yet, we know a lot less about whether and how political pressure affects the Commission's everyday role in EU law-making. Legislative programming more specifically—including priorities and withdrawals—and its communication in the Commission's WPs has remained surprisingly unexplored, and surprisingly untapped as a data source (but see Tholoniati 2009; Lupo 2018; Osnabrügge 2015; Kreppel & Oztas 2017). Our analysis contributes to filling this gap.

Theoretically, we develop an explicitly political argument to explain the Commission's choice to withdraw legislative proposals. In doing so, we complement the two extant explanations of withdrawal: first, the position that withdrawals are, essentially, functional and technical (Ponzano et al. 2012); second, the argument and evidence of withdrawal as 'failure', resulting from the Commission's incomplete information about the co-legislators' future positions when proposing laws (Boranbay-Akan et al. 2017). Individual instances of politicised withdrawal are well-known—the circular economy is a prominent case (Bouts 2014). Yet, a systematic analysis of whether and why 'politics matters' for the Commission is

still lacking. In developing and testing such an argument, we build on—and contribute to—a recent but growing literature that shows the impact of domestic (electoral) politics on EU-level actors and behaviour (e.g., Hagemann et al. 2017; Koop et al. 2018; Wratil 2018; Rauh 2019; Schneider 2019).

The paper proceeds as follows. Section 2 introduces the process and politics of withdrawal. Section 3 develops our theoretical argument, while Section 4 introduces our new dataset and operationalisation. Section 5 tests the hypotheses. We show that ‘withdrawal announcements’ are more likely when Euroscepticism increases and when legislation touches on core state powers, but less likely when legislation is domestically salient. Cyclical and technical reasons also drive announcements to withdraw. Section 6 concludes on ‘responsive withdrawals’, suggests that responsiveness can politicise *and* depoliticise the EU’s agenda, and discusses our contribution to the nascent debate about supranational responsiveness.

2. The Process and Politics of Withdrawal

This article explores the Commission’s response to domestic political pressure when carrying out its core task in EU law-making: agenda-setting. Empirically, we zoom in on one specific signal the Commission can send into this process, namely the announcement to withdraw its proposals. Since 2006, such announcements have been annexed to the annual WP so as to ‘pre-alert the other institutions’ (Lupo 2018: 320). Usually published in October, WPs serve as the roadmap for the legislative year ahead. We explain the Commission’s *intention* to withdraw, not *actual* withdrawal. Actual withdrawal can—but need not—follow the announcement.

Legislative programming is a key executive tool across political systems; in the EU, programming is driven by the Commission. After a European election, the new Commission, in a process called ‘(dis)continuation’, reviews the pipeline of legislation left by the previous EP and Commission, and decides which files to withdraw and which to keep (Corbett et al. 2016: 313-315). Since the late 1990s, an incoming Commission has also published ‘Political Guidelines’—previously known as ‘Multi-Annual Strategic Objectives’ (Tholoniati 2009)—to set overall parameters and political structure for policy activity over its term. Fine-tuned annual programming, involving the President’s ‘State of the Union’ address, intra-

institutional coordination between General Secretariat and Directorates-General (Hartlapp et al. 2014: 247-252), and inter-institutional coordination between Commission and co-legislators (Lupo 2018: 319-322) eventually results in the annual WP, with annexed lists of files to be prioritised and withdrawn in the 12 months to follow.

To capture the conditions under which the Commission marks a proposal as ‘to be withdrawn’, we generated a dataset of all legislative files concluded, withdrawn, rejected or ongoing under the Ordinary Legislative Procedure (OLP) by the end of June 2018.¹ The 2007 WP—published in October 2006—was the first to include an appendix with announced withdrawals; therefore, our data starts with all proposals on the agenda by October 2006. A file remains ‘at risk’ of being withdrawn from the moment it is tabled until the Council of the EU has acted (Lupo 2018: 313). Therefore, the observations in our dataset are ‘file-years’: each proposal is included in every year in which its withdrawal could have been announced. The dataset has 3,681 file-year observations for a total of 1,288 OLP files. Withdrawal announcements are relatively rare; they account for 151 observations. Eight legislative files were announced to be withdrawn, but not actually taken off the agenda. Figure 1 shows announced withdrawals, as a number and percentage of all legislative files on the Commission’s agenda in a given year.

¹ We only include ongoing legislation proposed before the end of 2016, because by June 2018, these files would have either been withdrawn or would still be ongoing.

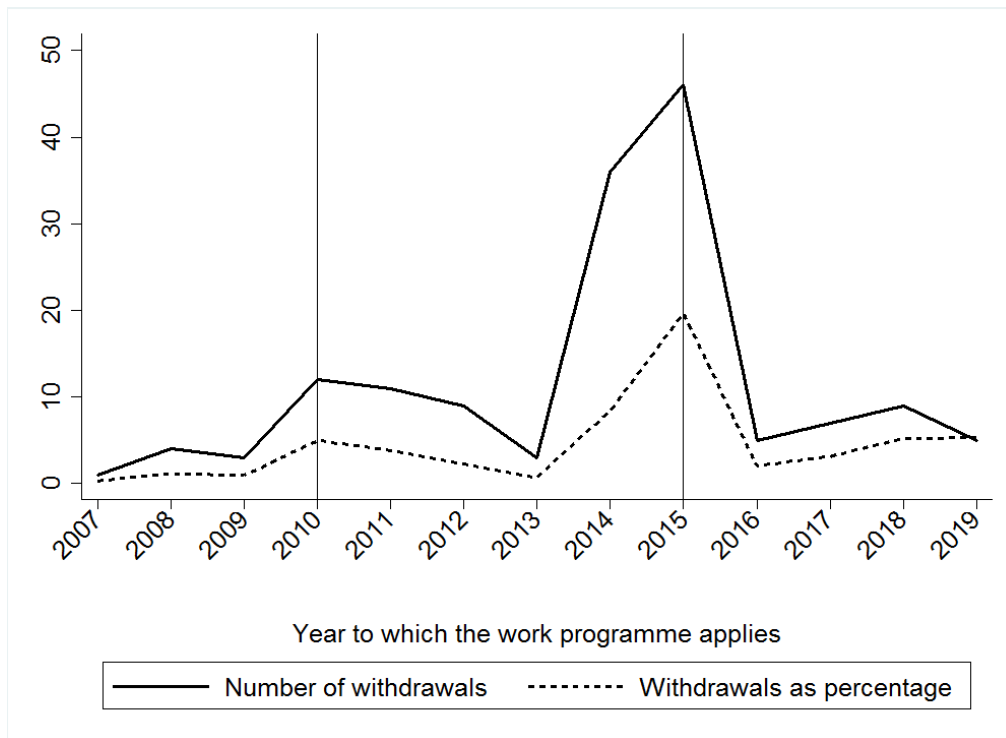


Figure 1: Number and percentage of announced withdrawals, by WP year

Contrary to the Commission’s monopoly of legislative initiative (Art. 17(2) TEU) and right to amend a proposal ‘[a]s long as the Council has not acted’ (Art. 293(2) TFEU), withdrawal is not regulated in the EU’s Treaties. Yet, withdrawal has been seen as the logical flipside of initiative and amendment. The European Court of Justice (CJEU) confirmed this view in 2015, but tied the Commission’s right to a set of conditions: withdrawal should not amount to a veto right, be justified, and comply with ‘the principles of conferral of powers, institutional balance and sincere cooperation’ (Lupo 2018: 313). In 2016, and as part of more general ‘proceduralisation and parliamentarisation’ (Lupo 2018: 319), the Commission and the co-legislators enshrined the Court’s principles in the *Interinstitutional Agreement on Better Law-Making* and in a new Rule 37(4) in the EP’s *Rules of Procedure* (European Parliament et al. 2016; European Parliament 2019). The CJEU and the inter-institutional agreement (temporarily) settled the conflict over when and how the Commission is allowed to take its own proposals off the table (Corbett et al. 2016: 313-315).

Announcing the intention to table, prioritise and withdraw EU legislation is the Commission’s prerogative. In this process, WPs translate political guidelines into concrete annual agendas; hence, they are at the core of the Commission’s political narrative, strategic communication and signalling of legislative intentions to the co-legislators and the public.

Traditionally framed as ‘technical’, withdrawals may therefore matter for a Commission that has described itself as ‘political’. Indeed, the Juncker Commission’s first two WPs demonstrate a marked shift in framing and listing withdrawals: the main text links withdrawals explicitly to political priorities and legislative ambition (European Commission 2014: 2-4; 2015: 3), while the annexes distinguish between withdrawals due to ‘obsolescence’ and due to other reasons. Yet, so far, evidence of the Commission announcing withdrawals for more ‘political reasons’ or as a ‘threat’ (Lupo 2018: 326) has remained anecdotal.

In sum, the annual WPs offer us the most explicit data available on what (no longer) matters to the Commission in EU law-making, and the most comprehensive insights into how the Commission intends to use its agenda-setting power in the legislative year to come. We draw on this data to systematically explore whether and under what conditions the Commission uses withdrawal announcements as a tool in response to bottom-up political pressure.

3. ‘Responsive Withdrawal’: The Argument

The Commission sets the EU’s legislative agenda in a new environment: the Union and its policies are increasingly important across the member states, and this importance generates political pressure across the EU’s multi-level system. We develop a three-step argument about why and how the Commission uses withdrawals in response. First, bottom-up pressure on the Commission varies with national contestation over ‘Europe’, visible controversy about the EU’s (crisis) governance, and the domestic salience of European legislation. Second, under pressure the Commission uses withdrawal announcements to signal either self-restraint or policy-determination. Third, when doing so, the Commission is driven by two motivations: survival and policy. Hence, the Commission’s choice of signals is shaped by the interplay between political pressure and actor motivation, with visible contestation triggering agenda-restraint, and the salience of (crisis) legislation triggering agenda-responsiveness.

This argument complements two extant explanations of withdrawal. First, recent inter-institutional conflict over the Commission’s right to withdraw notwithstanding (Lupo 2018: 311), actual withdrawal has been explained with functional and temporal factors, as well as obsolescence and non-adoptability (Ponzano et al. 2012; Lupo 2018: 325-327). We explore whether legislative programming has, instead, become a tool for a more political Commission. Second, scholars have demonstrated, for an earlier time period, that withdrawal, effectively, equals legislative failure; withdrawal happens because the Commission, when proposing legislation, has incomplete information about the co-legislators’ future positions (Boranbay-Akan et al. 2017). We agree that conflict can increase and legislative positions change during a file’s ‘lifetime’; yet, we complement Boranbay-Akan et al.’s focus on the uncertainty of EU law-making by arguing that withdrawal announcements can also be deliberate political signals. Finally, our analysis uses original new data and focuses on a more recent legislative period.

To identify bottom-up pressure, we draw on De Wilde et al.’s three dimensions of EU politicisation in national politics (2016; see also De Wilde 2011), namely 1) the EU has become *more visible*; 2) the EU has become *more contested*; 3) there is *broader engagement* with the EU. Our analysis translates these dimensions into pressure-generating conditions: contestation is expressed in mass-level Euroscepticism; controversy over the optimal scope and level of crisis governance increases visibility; stakes and engagement show in the

salience of EU legislation. Pressure subsequently travels bottom-up, requiring EU-level actors to respond.

Indeed, recent studies show, *inter alia*, that Euroscepticism in the member states impacts Council decision-making (Hagemann et al. 2017; Wratil 2018), and that national election proximity affects voting behaviour in the EP (Koop et al. 2018). Likewise, the role of the Commission in this context—in particular, the politicisation of its top-level appointments and policy-choices, and the greater relevance of ideological cleavages and coalitions within and across the EU’s institutions—has been subject to vivid commentary and debate (e.g., Hobolt 2014; Peterson 2017; Nugent & Rhinard 2019; Rauh 2019). By analysing the Commission’s use of its agenda-role in response to bottom-up pressure we aim to connect these literatures.

Albeit originally designed as a non-majoritarian institution, insulated from ideological and electoral conflict (Majone 2002), the Commission should respond to political pressure for two reasons. First, the Commission’s monopoly of legislative initiative, in particular, was to protect the agenda from constituency-level politics, short-term bias and the ‘cycling’ of proposals (Pollack 2003). Yet, the new environment visibly contests delegation both to the supranational level and to ‘technocrats’, with the Commission—the ‘public face’ of technocracy in Europe—at the centre of attacks. Hence, sheer survival is on the line: of the Commission itself and of the political system it serves. Under such conditions, the Commission—like a survival-oriented bureaucracy—needs to avoid the loss of competences, defend its ‘turf’, and protect its reputation (cf. Carpenter 2001). In response to bottom-up pressure, the Commission should therefore aim for depoliticisation through self-restraint, shrinking the agenda and taking visible conflict out of EU law-making. Withdrawal announcements are well-suited signals to do so.

Yet, the view of the Commission as an ‘insulated bureaucracy’, designed to provide expertise, lower transaction costs, and facilitate credible commitment has always been contested (e.g., Sandholtz & Zysman 1989). Motivated, first and foremost, by policy-problems that matter for Europe’s citizens, the Commission, instead, aims to shape the agenda politically and, to an extent, independently (e.g., Becker et al. 2016; Peterson 2017; Nugent & Rhinard 2019). This view gained particular traction with the Juncker Commission. Coming into office in 2014, after an EP election aiming for a more direct electoral connection between the Commission’s President and Europe’s voters and run under the slogan of ‘this

time is different', President Juncker, indeed, used his first State of the Union address to pledge a more political Commission (Juncker 2015). Yet, Juncker's pledge was policy-seeking, not party-political, emphasising a Commission committed to its priorities, and to addressing the challenges faced by Europe's citizens (Juncker 2014).² In response to pressure, such a policy-seeker will politicise the EU's agenda through its political determination—even if such clout is perceived as activism. Not withdrawing legislation under visibility and adversity is a well-suited signal to do so.

In sum, both survival and policy should drive the Commission to use the announcement (not) to take legislation off the table strategically, with the concrete signalling choice shaped by how bottom-up pressure interplays with the actor's motivations. Bottom-up pressure on the Commission increases under three conditions: contestation, visibility and salience.

First, political pressure increases with mass-level contestation over 'Europe'. Indeed, recent studies have shown that domestic public opinion matters at the supranational level, impacting on voting behaviour in the Council (Hagemann et al. 2017), on governments' position-taking on the left-right dimension (Wratil 2018), and on the EU's legislative output (Toshkov 2011). Euroscepticism puts the Commission at the centre of its critique, and the louder the critique, the more incentivised the Commission will be to respond (cf. Rauh 2019). Perceptive of domestic dissent and of being its prime target, the Commission is acutely aware of the need to be seen to 'listen'—as shown in former President Barroso's statement on 'the challenge of winning citizens' trust' in the midst of the Eurozone crisis (European Commission 2012). Euroscepticism, ultimately, questions the EU as a political system, its institutions, and the Commission's competences and reputation. Hence, we expect mass-level contestation to trigger agenda-restraint; as a survival-oriented bureaucracy, the Commission will fight to protect its turf and reputation, by signalling its willingness to listen and by fighting the perception of 'over-bureaucratisation'. Displaying behaviour similar to Europe's Court (Blauberger & Schmidt 2017), the Commission should use withdrawal announcements as part of this 'fight'. 'Less action but better action' (Santer 1995) is a much-quoted slogan, summing up the Santer (and subsequent) Commissions' attempts to take legislation off the

² This is also reflected in the Juncker Commission's WPs. The first programme stated that the Commission was 'voted into office with a commitment to make a difference: to do different things and to do things differently' (2014: 2), while the second programme read: 'The ten priorities set out in the Agenda for Jobs, Growth, Fairness and Democratic Change—which is both the Juncker Commission's mission statement and the basis on which we were elected—address these challenges' (2015: 2).

table to signal restraint when faced with public pressure ‘against’ Brussels. We therefore submit:

H1 The European Commission is more likely to announce the withdrawal of a legislative proposal under higher levels of Euroscepticism.

Second, conflict over legislation is more visible—with pressure increasing accordingly—when a policy-problem is pressing and when the competence to address the problem is contested; we also know that responsiveness increases on visibly important files (Page & Shapiro 1983: 181-182I, 183I). Legislation on core state powers (Genschel & Jachtenfuchs 2018) falls into this category. On the one hand, legislation on finance and migration is at the core of national sovereignty and, more recently, of national electoral politics; hence, supranational involvement is controversial. On the other hand, legislation on finance and migration is integral to Europe’s multiple crises; hence, pressure has been put on the EU to act in precisely these areas. In short, legislation on core state powers is both visible and visibly contested. In response, the Commission should use withdrawal announcements strategically, but the signalling choices of a survival-oriented bureaucracy and a policy-seeker will differ. A survival-oriented bureaucracy should announce withdrawal to signal restraint to governments that feel challenged to the core of their sovereignty; a policy-seeker, by contrast, would want to act precisely on crisis-files, to be seen responsive on issues that matter to Europe’s citizens. We therefore submit two alternative hypotheses:

H2a The European Commission is more likely to announce the withdrawal of a legislative proposal if the file touches on a core state power.

H2b The European Commission is less likely to announce the withdrawal of a legislative proposal if the file touches on a core state power.

Finally, bottom-up pressure on the Commission increases with issue-specific salience. Indeed, both the comparative and the EU-specific literature tell us that salience drives the responsiveness of national and supranational actors (e.g., Soroka & Wlezien 2010; Hagemann et al. 2017; Rauh 2019). In line with this argument, we expect a policy-seeking Commission to prioritise issues of direct concern to Europe’s citizens, and to show commitment to solve policy-problems that attract public attention across the Union’s member states (see also Klüver & Spoon 2015; Sternberg 2016). Hence, the Commission is likely to keep salient

legislation on the agenda, as announcing its withdrawal would signal lacking political determination and policy clout in the face of adversity. We therefore submit:

H3 The European Commission is less likely to announce the withdrawal of a legislative proposal if the file is domestically salient.

4. Data and Operationalisation

To analyse the conditions under which the Commission marks a file as ‘to be withdrawn’ in its annual WP, we generated a dataset of all OLP files ‘at risk’ of withdrawal between October 2006 and June 2018. As noted, a file is ‘at risk’ from its tabling until the Council has formally expressed a position. The data starts in 2006, as no withdrawals annex was published before. WPs are normally published in October; therefore, 1 October is the start of the year to which the WP applies, and the following 30 September is the end point. To recall, our dataset includes 3,681 file-year observations for 1,288 OLP files; hence, on average, 2.9 observations per file.

Our dependent variable *withdrawal* is dichotomous and coded 1 when a file is mentioned in the withdrawals annex of a WP in a given year. Withdrawal announcements are rare: only 151 of the 3,681 observations in our dataset (4.1 percent). In theory, the same procedure could be ‘at risk’ in multiple years. Yet, this is the case for only two procedures in our dataset.³ All descriptive statistics are included in Table A; the correlation matrix is presented in Table B in the Online Appendix.

To test our first hypothesis (H1), *Euroscepticism* captures the percentage of citizens who answer ‘a bad thing’ to the question: ‘Generally speaking, do you think that [our country]’s membership of the EU is ...? (a good thing/a bad thing/neither good nor bad)’. We use data from the Eurobarometer’s autumn waves. The variable is lagged by one year, because the Commission will need some time to perceive, process and react to national-level pressure.

Core state powers (H2) is a dummy variable capturing contestation in policy areas close to national sovereignty: economic governance, budgetary policy, asylum and migration (cf. Genschel & Jachtenfuchs 2018). These policies were also at the core of Europe’s recent crises and are, therefore, integral to the new environment of EU decision-making.

Issue salience (H3) captures a file’s media attention. The variable is measured as the average number of references in English-, German-, French- and Italian-language print media, made between the Commission proposal and the date of the file’s conclusion, withdrawal or

³ Procedures 2005/0127(COD) and 2013/0059(COD).

rejection, or, for ongoing procedures, the end of June 2018 (following Reh et al. 2013; Bressanelli et al. 2016). Given the positive skewness of the variable, we use its natural log.

Our analysis includes two sets of control variables. These capture the two extant explanations of withdrawal—uncertainty due to incomplete information, and functional factors—which have not been tested on the data used and the time period covered in our analysis.

The first two variables capture the uncertainty of agenda-setting, and control for factors shown to drive actual withdrawals between 1993 and 2009 (Boranbay-Akan et al. 2017). The variables are adapted to fit our data structure. *Gridlock* measures the interval between the left-most and right-most pivotal actors needed to pass legislation under an extant procedural rule.⁴ A larger gridlock interval makes the approval of legislation more difficult (Crombez & Hix 2015), and may not have been anticipated by the Commission when tabling its proposal (Boranbay-Akan et al. 2017). Hence, the likelihood of announced withdrawal should increase with the size of the gridlock interval. We assume a one-dimensional, left-right policy space, due to the increased importance of ideological alignment and conflict within and between EU institutions (Klüver & Sagarzazu 2013; Crombez & Hix 2015). This is further justified by our focus on ‘ordinary’ legislation rather than ‘constitutional’ choices like treaty revision or enlargement, where the ‘pro-anti integration’ dimension will be more dominant.

We calculated the gridlock interval by estimating the positions of the OLP’s three pivotal actors under the relevant majority rules: the left and right pivots in the Council, and the median Europarliamentarian (MEP; see Crombez & Hix 2015; Broniecki et al. 2018). The two most ‘extreme’ positions make up the gridlock interval. We draw on Broniecki et al. (2018) for October 2006 to September 2014, and updated the data until June 2018. Positions are obtained from the Chapel Hill Expert Survey (Bakker et al. 2012; Polk et al. 2017). The Council pivot positions are the average positions of the governing parties, weighted by their seats in national parliaments. The EP position for the entire period is the national party position of the median MEP, who is needed for an (absolute) majority. A single point-estimate was calculated on 1 October of each year and matched to our annual periods. Like

⁴ Unlike Boranbay-Akan et al. (2017), we exclude ‘procedural change’ as a variable. Our ‘codecision-only’ dataset starts in 2006 and does not include proposals transferred to the OLP. Following the Lisbon Treaty, consultation files that could have become OLP files were not automatically transferred to a new legal basis; they were either withdrawn (as consultation files) or re-introduced as new OLP proposals (see European Commission 2009). By contrast, prior to the Amsterdam Treaty consultation files were automatically transferred to the OLP (under ‘reconsultation’) and, in many cases, subsequently withdrawn.

Euroscepticism, *gridlock* is lagged by one year; here, too, the Commission will need time to adjust its agenda in response to the co-legislators' ideological make-up.

Following Boranbay-Akan et al. (2017), we include the variable *national elections*. This control accounts for the uncertainty about future positions which the Commission faces when tabling a proposal, and when deciding whether to withdraw or not. We calculated the population-weighted number of parliamentary and (directly-elected) presidential elections held during the year of the respective WP. By including elections in all member states, our measure differs from Boranbay-Akan et al.'s (2017: 179): although the largest member states 'matter' more in the computation of our variable, the Commission is unlikely to be insensitive to elections held in other member states, particularly when elections are clustered.

The second set of controls captures functional explanations. Starting with file-characteristics, our variable *substantive* distinguishes between procedural changes (adaptation, recast, and codification are coded 0), and substantive amendments or introduction of new legislation (coded 1). The EU has changed the implementation of broader procedural changes over time, and withdrawn procedurally-obsolete proposals (particularly under Barroso II; see below). Hence, *substantive* should have a negative sign. We also control for *complexity*. Our continuous variable counts the number of recitals in the proposal, updating data in Reh et al. (2013) for 2009 to 2018. Given greater up-front investment by the Commission, complex proposals should be less likely to be withdrawn. As the variable is positively skewed (see Table A), we used its natural log. Similarly, given the Commission's investment and institutional interest, withdrawal announcements should be less likely when files expand the Union's competences. Our variable *EU expansion* is coded 1 if the file increases (i) the level, (ii) the scope, or (iii) the inclusiveness of EU action (cf. Franchino 2007, Ch. 3; for details see Online Appendix).

We also control for temporal factors. *Time on agenda* captures the years passed since a proposal's introduction. The longer this time, the more likely a withdrawal announcement. The variable takes the value 1 in the first year of a file's existence, and then counts every subsequent agenda year. *Cycle: first-last year* is a dummy controlling for regular 'activity peaks'; the variable separates the first and last years of a legislative cycle from the 'in between' years.

Finally, we control for the different *Commissions* (Barroso I, Barroso II, Juncker). Given specific contextual factors and dynamics, commissions may use WPs differently (cf. Kreppel & Oztas 2017). For instance, Juncker applied the principle of ‘political discontinuity’ liberally when taking office, while Barroso-II is known for ‘cleaning up’, by removing procedurally-obsolete proposals that are pending, because there is no ‘time-out’ for legislative proposals.

5. Analysis

As our dependent variable is dichotomous, we used logistic regression to estimate the likelihood of withdrawal announcements. Such announcements are uncommon but their number in our data (151 ‘events’) allows us to use regular logistic regression rather than logistic regression for rare events. We clustered our observations by legislative file as our observations are pending proposals in a specific annual period.

We estimated five models. Table 1 presents the models and includes both coefficients and odds ratios. Models 1 to 3 include the control variables to explore established explanations of withdrawal. Model 1 includes the functional-temporal controls, capturing the Commission’s work cycle (*cycle: first-last year*), *time on agenda*, and the different Commissions. Model 2 adds file-characteristics (*substantive; complexity; EU expansion*). Model 3 includes the controls for uncertainty: *gridlock* and *national elections*. Model 4 introduces our ‘political’ variables: *Euroscepticism, core state powers, and issue salience*.⁵ Finally, Model 5 is a reduced version of Model 4, excluding the controls that did not have a significant effect.

All controls in Models 1 and 2 have significant effects, except *EU expansion*. As expected, the Commission announces significantly more withdrawals in the *first and last year* of its time in office. Indeed, as Figure 1 suggested, both Barroso II and Juncker used their first WP to ‘clean up’ (there are no withdrawals annexes for the first years of Barroso I), while the last WP of the cycle mattered in particular for Barroso II. Compared to Barroso I, *Barroso II* and *Juncker* announced more withdrawals, suggesting ‘normalisation’. Finally, *time on agenda* is

⁵ As robustness checks, we ran a model with an alternative operationalisation of ideological conflict; a model estimated on a subset of observations excluding Barroso I (where withdrawals were rare); and two models changing the sequence of including different categories of variables. The results do not differ substantively. All models are presented in Table C in the Online Appendix.

positive and strongly significant. Proposals staying on the agenda for long are more likely to become obsolete, and, finally, be removed. In line with extant explanations, Model 2 demonstrates that *substantive* and more complex proposals are less likely to be withdrawn. The link between expansion and withdrawal is negative, but not significant.

We also find some support for the extant explanation of withdrawal based on incomplete information and uncertainty. Model 3, which adds *gridlock* and *national elections*, shows a weak positive link between the gridlock interval and withdrawal. Hence, the larger the gridlock interval, the more likely a withdrawal announcement. Yet, this relationship is only just significant; in line with the extant literature (cf. Osnabrügge 2015, 248-9, 253), gridlock seems at best a weak predictor of Commission behaviour. We do not find a relationship between *national elections* and withdrawal announcements; depending on the model specification, the effect is either positive or negative, but never significant.

Importantly, our models show that politics matters. Model 4 adds *Euroscepticism*, *core state powers* and *issue salience*. In line with H1, the Commission is more likely to announce a withdrawal when Euroscepticism increases. The model includes all controls; this means that the effect holds even when we control for *Barroso II*—the Commission operating under peak Euroscepticism. The results are substantively the same in Model 5, which excludes those variables that were not significant in Model 4. This is a first indication of withdrawal announcements in response to what is perceived as bottom-up pressure; more specifically, the Commission seems to signal agenda-restraint when Europe’s public becomes more sceptical.

Table 1: The likelihood of Commission withdrawal announcements (2006-2018)

	Model 1		Model 2		Model 3		Model 4		Model 5	
	Coef (SE)	e^β	Coef (SE)	e^β	Coef (SE)	e^β	Coef (SE)	e^β	Coef (SE)	e^β
Euroscepticism							0.30 (0.07)***	1.35	0.29 (0.07)***	1.33
Core state powers							0.86 (0.29)***	2.35	0.74 (0.30)**	2.10
Issue salience							-0.75 (0.35)**	0.47	-0.80 (0.33)**	0.45
Gridlock					1.26 (0.69)*	3.54	1.53 (0.87)*	4.64	1.30 (0.70)*	3.66
National elections					0.24 (0.72)	1.27	-0.73 (1.02)	0.48		
Substantive			-0.78 (0.22)***	0.45	-0.77 (0.22)***	0.46	-0.79 (0.22)***	0.46	-0.82 (0.22)***	0.44
Complexity			-0.47 (0.14)***	0.63	-0.44 (0.14)***	0.64	-0.34 (0.14)**	0.71	-0.41 (0.12)***	0.67
EU expansion			-0.48 (0.29)	0.62	-0.48 (0.29)*	0.62	-0.46 (0.29)	0.63		
Cycle: first-last year	1.25 (0.20)***	3.49	1.24 (0.21)***	3.46	1.27 (0.21)***	3.54	1.57 (0.26)***	4.80	1.62 (0.26)***	5.06
Time on agenda	0.57 (0.07)***	1.77	0.54 (0.07)***	1.71	0.56 (0.08)***	1.75	0.60 (0.07)***	1.82	0.60 (0.07)***	1.82
Commission										
Barroso II	0.80 (0.39)**	2.23	1.09 (0.42)***	2.98	1.59 (0.55)***	4.91	1.04 (0.72)	2.83	0.85 (0.61)	2.34
Juncker	1.00 (0.41)**	2.71	1.55 (0.45)***	4.72	1.98 (0.54)***	7.27	1.48 (0.65)**	4.38	1.31 (0.58)**	3.72
Constant	-6.47 (0.43)***		-4.74 (0.52)***		-6.67 (1.06)***		-11.56 (1.81)***		-11.11 (1.56)***	
N	3681		3681		3681		3681		3681	
Log-pseudolikelihood	-471.07		-448.62		-446.08		-431.51		-433.86	
McFadden-adj. R ²	0.24		0.28		0.28		0.30		0.29	
Nagelkerke R ²	0.29		0.32		0.33		0.35		0.35	

Note: Robust standard errors, clustered by proposal. ***p<0.01, **p<0.05, *p<0.1 (two-tailed)

Models 4 and 5 also include our measure of core state powers. In line with H2a, the effect of this variable is positive and significant. Hence, in the face of member states' opposition and concerns over sovereignty, the Commission seems more likely to announce withdrawals and does not push 'its' legislation. Two examples are the 'Visa Policy Package' and the '2013 Smart Border Package'; in both cases, the Juncker Commission withdrew its original proposal following criticism from the co-legislators, particularly the Council. Initially, we submitted two alternative hypotheses on core state powers. Our findings suggest a Commission driven by survival and ready to announce the withdrawal of contentious legislation in sensitive areas for the member states, such as economic governance, budgetary policy, asylum and migration.

Finally, the models show a negative and significant relationship between *issue salience* and withdrawal: legislation 'show-cased' in the national media is less likely to be withdrawn. As hypothesised (H3), this result demonstrates a Commission focused on policy-outputs in areas of direct concern, relevance and visibility for Europe's citizens.

In a next step, we delved deeper into the question of variation across commissions. Do different Commissions use withdrawal announcements differently? In particular, does the allegedly 'more political' Juncker Commission focus on files with different characteristics than its predecessor? To address these questions, we ran our analyses on subsets of the data for Barroso II and Juncker, including those variables that significantly affected withdrawal announcements in the above models.⁶ We excluded *Euroscepticism* from the analysis: the variable only varies over time, and including five of its values in the separate Commission analyses (for the five years in office), together with the *cycle* variable, would be problematic. The results—coefficients and confidence intervals—are plotted in Figure 2.

⁶ Our data also include the Barroso I period, but the number of announced withdrawals is so low (only eight) that we cannot run a separate analysis for that Commission. This is relevant in itself, suggesting that the power to withdraw has only recently been embraced as an agenda-setting tool.

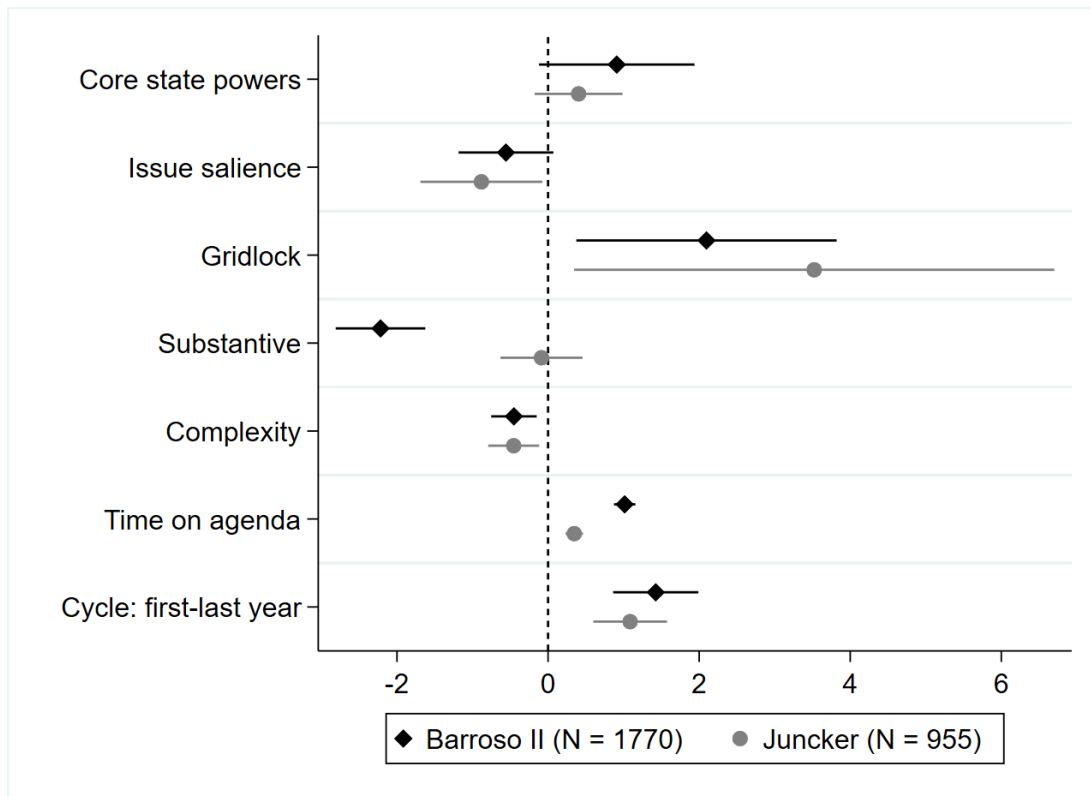


Figure 2: Withdrawals under Barroso II and Juncker

Note: Robust standard errors, clustered by proposal

Figure 2 demonstrates that Barroso II and Juncker use withdrawal announcements somewhat differently. Both are more likely to announce the withdrawal of files that spent a long time on the agenda, and in the *first and last year* of their terms. In both cases, withdrawal announcements are more likely when the *gridlock* interval is large—although the large confidence intervals call for cautious interpretation—and less likely when *complexity* increases. Yet, under Barroso II, the likelihood of withdrawal announcements decreases considerably for *substantive* files, while this file characteristic does not seem to affect Juncker.⁷ This is in line with the previous emphasis on a ‘cleaning exercise’ initiated by Barroso II. *Issue salience* also makes withdrawal announcement less likely, but only under Juncker. The variable *core state powers* remains (just) below significance in the Commission subset analysis.

⁷ The difference in approaches is confirmed when adding an interaction between *Juncker* and *substantive* files to Model 4 in Table 1. The effect of the interaction is positive and significant, indicating that the patterns of withdrawal announcement differ significantly under Juncker (see Table D and Figure A in the Online Appendix).

Table 2: Marginal changes (based on Model 4)

Variables	Change
Euroscepticism	0.06***
Core state powers	0.03**
Issue salience	-0.04***
Gridlock	0.06
National elections	-0.01
Substantive	-0.03***
Complexity	-0.06**
EU expansion	-0.01*
Cycle: first-last year	0.05***
Time on agenda	0.83***
Barroso II	0.03
Juncker	0.06*

Note: Change from minimum to maximum value

Finally, Table 2 shows the marginal effects based on Model 4, which included all ‘political’ variables. These effects need to be interpreted with care, but the values add insight into the relative importance of the variables. By far the largest change is ‘caused’ by *time on agenda*; very ‘old’ files face almost certain withdrawal announcement. A considerable—if smaller—difference is made by *Euroscepticism*, *complexity* and legislative *cycle*, followed by *issue salience*, *core state powers* and *substantive*. The marginal effects of *EU expansion* and *Juncker* are less significant; the effects of *gridlock*, *national elections* and *Barroso II* are not significant.

6. Conclusion and Discussion

This study theorised and analysed how the new environment of EU law-making impacts on the Commission as an agenda-setter, and on its choice to announce withdrawal of legislative proposals. We argued that bottom-up pressure on the Commission intensifies under domestic contestation, visibility and salience; that the Commission faces pressure as both a survival-oriented bureaucracy and a policy-seeker; and that withdrawal announcements serve as signals.

Our analysis suggests that established functional and temporal explanations continue to apply: no matter how contested ‘Europe’ or how ‘political’ the Commission, withdrawal announcements are more likely at the beginning and end of the legislative term; for technical, obsolete or non-complex legislation; and for ‘old’ proposals. Yet, politics matters too. The Commission signals restraint when Euroscepticism grows and when legislation is close to core state powers; under such conditions, withdrawal announcements become more likely. By contrast, the Commission seeks policy on issues of importance for Europe’s citizens; domestically salient files are less likely to be withdrawn. Importantly, the Commission is more responsive to pressure from the public and from the member states than to the co-legislators’ conflict on the left-right dimension.

In a nutshell, withdrawals continue to be announced on functional and temporal grounds. Yet, the Commission also uses withdrawal announcements as signals in response to bottom-up pressure. It does so in a nuanced way: as a survival-oriented bureaucracy, the Commission aims to actively depoliticise the agenda, to protect its prerogatives and to de-escalate through restraint; as a policy-seeker, the Commission politicises the agenda by keeping strategically important legislation in play, even under visible adversity.

Finally, our findings on ‘responsive withdrawal’ provide evidence for a ‘more political’ Juncker Commission. Indeed, the WPs indicate that Juncker announces withdrawals more strategically—using political discontinuity to focus on and promote legislative priorities, and making announcements to pressure the co-legislators (for instance, European Commission 2014: 2-4; 9). We also show that the Juncker Commission—different from Barroso I and II—selects non-substantive *and* substantive proposals for withdrawal, and—as befits a Commission with clear agenda-priorities—is particularly responsive to issue salience.

Our analysis contributes to the nascent debate about bottom-up politicisation, and signposts a number of future research avenues. First, we know that political pressure matters for those actors at the supranational level that have an electoral connection into domestic democratic arenas; our results show that even the Commission’s announcements to withdraw legislation—arguably, the most technical dimension of agenda-setting by a non-majoritarian institution—are affected by contestation, visibility and salience in the member states. This finding encourages extended exploration of the Commission’s agenda-setting and

communication under pressure and speaks directly to the comparative literature on how agencies, bureaucracies and courts respond to public opinion and issue salience (see Koop and Lodge 2019: 10-15).

Second, by presenting an institution that seeks both survival and policy, we contribute to the debate about the Commission's different—arguably competing—roles in the EU's political system: non-majoritarian bureaucracy on the one hand, proto-executive on the other. In using withdrawal announcements under pressure, the Commission is clearly responsive, but not to party ideology or electoral politics. Instead, a 'political' Commission responds to Europe's public and governments by focusing on legislative priorities and outputs—even if these outputs have become more contested and visible—and by protecting its competences to continue agenda-setting in future too. Fine graining our understanding of how the Commission responds to public opinion across issues and policy areas would be fruitful further research, and generate more extensive empirical evidence to assess the (political) nature of the European Commission.

Finally, our analysis of annual WPs leads us to, tentatively, expect more 'responsive withdrawals'. The withdrawal process is the subject of inter-institutional debate; there is anecdotal evidence of withdrawal announcements to pressure the co-legislators; and given both Barroso's and Juncker's 'clear-out' of obsolete proposals, the incoming Commission can announce withdrawals more strategically on the fewer—especially fewer 'technical'—files left on the table. Truly far-reaching, in the run-up to her appointment, Commission President-elect von der Leyen supported a right of legislative initiative for the EP. Hence, agenda-setting, legislative programming and the Commission's strategic use—and defence—of its prerogative is likely to feature prominently in intra- and inter-institutional conflict to come.

In short, we find responsiveness to political pressure in the EU's multi-level system in a somewhat 'unlikely' place—and, thus, identify a promising inroad into the question of how supranational actors respond to the new politics of EU law-making, and into what these responses mean for the EU's political system, competences and institutions.

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Online Appendix

Table A: Descriptive statistics

	N	Mean	SD	Min	Max
Withdrawals	3,681	0.04	0.20	0	1
Euroscepticism	3,681	15.80	1.77	12.39	18.5
Core state powers	3,681	0.09	0.29	0	1
Issue salience	3,681	0.75	2.86	0	46
Issue salience (log)	3,681	0.27	0.56	0	3.85
Gridlock	3,681	1.11	0.34	0.78	1.78
National elections	3,681	0.28	0.15	0.06	0.57
Substantive	3,681	0.78	0.41	0	1
Complexity	3,681	22.83	22.40	0	284
Complexity (log)	3,681	2.86	0.79	0	5.65
Cycle: first-last year	3,681	0.36	0.48	0	1
EU expansion	3,681	0.40	0.49	0	1
Time on agenda	3,681	2.37	1.59	1	13
Barroso I Commission	3,681	0.26	0.44	0	1
Barroso II Commission	3,681	0.48	0.50	0	1
Juncker Commission	3,681	0.26	0.44	0	1

Operationalisation of the variable *EU expansion*

We consider legislation as expanding the competencies of the EU when it:

- (a) extends the rights of the European Commission or other supranational institutions (e.g., the European Central Bank) vis-à-vis the member states (e.g., ‘Economic governance: common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit in the euro area. “Two pack”’);
- (b) strengthens the decision-making power of the European Commission and increases implementation demands imposed on national authorities (e.g., ‘Environment: implementation of the Community law, minimal criteria for inspections’);
- (c) extends the inclusiveness of EU policies and increases the extent to which constituencies can influence them (e.g., ‘Socrates programme: including Turkey as a beneficiary country’);
- (d) creates a new agency or supranational institution with a set of competences (e.g., ‘Maritime safety: creation of a European Agency, package Erika II’);
- (e) introduces minimum requirements, mandatory labelling requirements or other rules in an area where the minimum requirements were not set at the EU-level before, whether related to a new category of products or to a new sector (e.g., ‘Transport of dangerous goods by road, inland waterways or rail: examination requirements for safety advisers’);
- (f) introduces a new line of activity with a new budget, including in developing countries (e.g., ‘Combating Aids, malaria and tuberculosis: research partnership Europe/developing countries’).

Table B: Correlation matrix: Independent variables

	Euroscepticism	Core state	Issue salience	Gridlock	National elections	Substantive	Complexity	EU expansion	Cycle	Time on agenda
Euroscepticism	1									
Core state powers	-0.033 [^]	1								
Issue salience	-0.000	0.041 [^]	1							
Gridlock	-0.206 [*]	-0.071 [*]	-0.009	1						
National elections	0.514 [*]	-0.002	-0.000	-0.035 [^]	1					
Substantive	0.068 [*]	0.082 [*]	0.119 [*]	-0.141 [*]	0.028	1				
Complexity	0.038 [^]	0.122 [*]	0.286 [*]	-0.197 [*]	0.007	0.117 [*]	1			
EU expansion	0.003	0.169 [*]	0.215 [*]	-0.067 [*]	0.027	0.220 [*]	0.009 [*]	1		
Cycle	-0.383 [*]	-0.022	-0.005	-0.190 [*]	-0.271 [*]	-0.037 [^]	-0.038	-0.033 [^]	1	
Time on agenda	-0.034 [^]	-0.001	-0.033 [^]	-0.281 [*]	-0.091 [*]	-0.003	-0.003 [^]	0.004	0.145 [*]	1

Note: *r < 0.01; [^] r < 0.05

Robustness checks

To check the robustness of our findings, we estimated a set of additional models, presented in Table C.

Model 1 presents the full model (Model 4 in Table 2) with an alternative operationalisation of the uncertainly derived from ideological ‘conflict’ between the co-legislators. *Distance EP-Council* captures the ideological distance on the left-right dimension in the relevant annual period. We rely on raw data from Broniecki et al. (2018) for the period up to October 2013, and calculated the positions ourselves for later years, using the Chapel Hill Expert Survey for the party positions. We used a two-step procedure to estimate the Council position. First, we calculated the average position of the government parties in each member state, weighted by seats in parliament; second, we computed the population-based weighted average of the member states’ positions. The EP position corresponds to the national party position of the median MEP. A single point-estimate was calculated for 1 October of each year and matched to our year-periods. The effect of *distance EP-Council* is (still) positive with this alternative operationalisation, but not significant.

Model 2 presents the original model (including *gridlock*), but is estimated on a subset of observations excluding Barroso I, the period which saw extremely few withdrawals. The results are very close to the ones in the original model, though *gridlock* is no longer significant.

Models 3 and 4 change the sequence of the inclusion of different categories of variables, taking the political variables as a starting point now. Model 3 includes the political variables as well as the functional-temporal controls; Model 4 adds the file characteristics. The results are not substantively different from the ones presented in Table 2.

Table C: Robustness checks

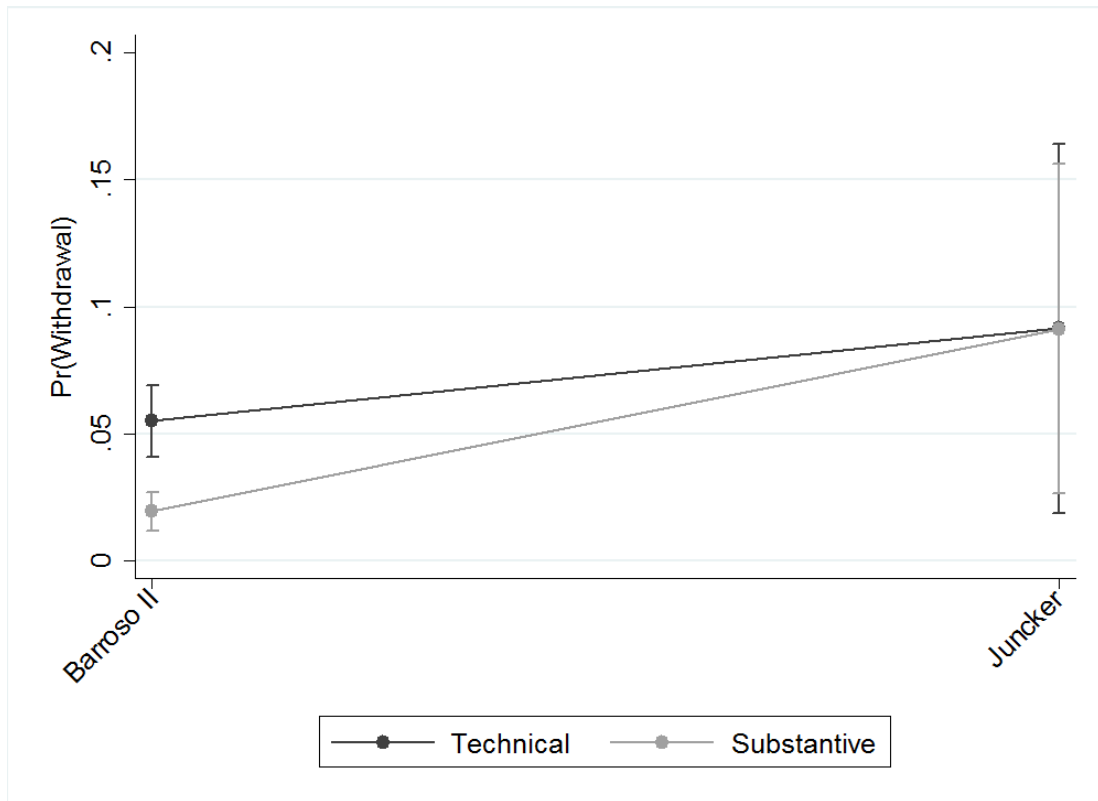
	Model 1		Model 2		Model 3		Model 4	
	Coef (SE)	e^β	Coef (SE)	e^β	Coef (SE)	e^β	Coef (SE)	e^β
Eurocepticism	0.30 (0.07)***	1.35	0.30 (0.07)***	1.34	0.31 (0.07)***	1.37	0.30 (0.07)***	1.35
Core state powers	0.85 (0.29)***	2.34	0.98 (0.30)***	2.67	0.46 (0.28)*	1.59	0.74 (0.03)**	2.10
Issue salience	-0.74 (0.75)**	0.48	-0.67 (0.36)*	0.51	-1.26 (0.38)***	0.28	-0.77 (0.33)**	0.46
Gridlock			1.37 (1.07)	3.95				
Distance EP-Council	0.94 (0.67)	2.58						
National elections	-0.44 (0.99)	0.64	-0.75 (1.05)	0.47				
Substantive	-0.80 (0.22)***	0.45	-0.90 (0.22)***	0.41			-0.83 (0.22)***	0.44
Complexity	-0.34 (0.14)**	0.71	-0.39 (0.14)***	0.67			-0.43 (0.12)***	0.65
EU expansion	-0.46 (0.29)	0.63	-0.60 (0.30)**	0.55				
Cycle: first-last year	1.58 (0.27)***	4.85	1.57 (0.27)***	4.81	1.65 (0.25)***	5.21	1.62 (0.25)***	5.04
Time on agenda	0.59 (0.07)***	1.80	0.59 (0.07)***	1.81	0.60 (0.06)***	1.83	0.58 (0.06)***	1.79
Commission								
Barroso II	0.07 (0.54)	0.58			-0.13 (0.48)	0.88	0.16 (0.51)	1.17
Juncker	0.74 (0.52)	1.08	-0.47 (0.26)*	0.62	0.36 (0.45)	1.43	0.76 (0.50)	2.14
Constant	-9.50 (1.26)***		-9.56 (1.87)***		-10.93 (1.17)***		-9.28 (1.24)***	
N	3681		2735		3681		3681	
Log-pseudolikelihood	-433.22		-384.63		-449.14		-435.89	
McFadden-adj. R ²	0.31		0.29		0.27		0.31	
Nagelkerke R ²	0.35		0.36		0.32		0.35	

Note: Robust standard errors, clustered by proposal. ***p<0.01, **p<0.05, *p<0.1 (two-tailed)

Table D: Model with Juncker-substantive files interaction

	Model with interaction	
	Coef (SE)	e^{β}
Euroscepticism	0.32 (0.07)***	1.38
Core state powers	0.79 (0.30)***	2.20
Issue salience	-0.76 (0.34)**	0.47
Juncker X Substantive	1.34 (0.46)***	3.82
Gridlock	1.56 (0.88)*	4.78
National elections	-0.82 (0.18)	0.44
Substantive	-1.34 (0.25)***	0.26
Complexity	-0.39 (0.13)***	0.67
EU expansion	-0.37 (0.28)	0.69
Cycle: first-last year	1.60 (0.26)***	4.97
Time on agenda	0.61 (0.08)***	1.84
Commission		
Barroso II	1.16 (0.73)	3.20
Juncker	0.72 (0.67)	2.06
Constant	-11.56 (1.84)***	
N	3681	
Log-pseudolikelihood	-426.38	
McFadden-adj. R ²	0.30	
Nagelkerke R ²	0.36	

Figure A: The withdrawal of substantive legislation across Commissions



Note: Estimates from Table D