Communicating judicial decisions:

Court press releases and their effect on the news media

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By

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Communicating judicial decisions:

Court press releases and their effect on the news media

Abstract

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Constitutional review courts construe constitutions in the light of legal, social, and political disputes. As such, constitutional review has become a key feature of modern-day democracies. However, judicial authority depends on their reputation and support within the public, as they are unable to enforce their decisions and sanction noncompliance. Only if the public is aware of the courts and their actions and lends them their support, elected politicians will more likely comply with court decisions. To create awareness and to enable public scrutiny, courts have several tools. Among others, a proactive strategy to communicate and transmit information on court decisions and, thus, to increase transparency and openness is perceived to be an essential tool that courts have at their disposal. Through communication, court decisions become more accessible, potentially better understood, and the courts and their judges are held accountable to the public.

In this dissertation, I study press releases by constitutional courts. Since the news media is the gatekeeper between the government and the public, I also assess how court communication shapes news media coverage of court decisions. I draw on the comparative judicial politics literature, the literature on policy agendas, and communication and journalism studies on the concepts of court reporting and news values. Throughout four empirical chapters,

I ask *which institutional structures influence the publication of court press releases, when and what kind of information courts communicate, and how these communication efforts shape the news media.* I extend the existing literature in two regards. First, I argue that press releases are of central importance for a court's agenda-setting power. Second, I argue that courts actively use the institutional tools at their disposal to create publicity and increase the chances of being reported on in the news. One such instrument is the publication of press releases, and this dissertation found that the strategic use of press releases enables courts to increase media coverage and, therefore, facilitate public scrutiny.

I test these arguments empirically by combining inference methods such as logistic regressions with methods from the fields of machine learning and computational text analysis. Throughout all chapters, I test my arguments using data on court decisions and press releases of the German Federal Constitutional Court. The German court is a suitable case as it enjoys a sturdy and robust public support and has a comparatively long history of public relations and issuing press releases.

The findings presented in the four chapters present a wide range of empirical evidence. In particular, I show that court decisions shape the policy issued discussed in the press releases through first-level agenda-setting dynamics. Additionally, I find evidence that press releases are published selectively and are more likely to occur when a decision declares a law unconstitutional. Concerning the news media, the results suggest that journalists rarely use court press releases when reporting on court decisions. However, if they use press releases for their reporting, they are more likely to use those that promote decisions that the public is already aware of. Finally, the likelihood of media coverage of FCC decisions is higher for those that were promoted with a press release and had high news value.

The findings of my dissertation confirm that press releases help a court to communicate its policy agenda to the public. Moreover, my results suggest that court communication efforts partially serve the media logic, as I found first, that court decisions are more likely promoted with a press release if they entail newsworthy characteristics like conflict, relevance,

and familiarity and second, that media coverage is more likely for decisions that entail these particular characteristics. Finally, since the likelihood of media coverage of court decisions is found to be higher when promoted with a press release, courts have considerable leverage to shape public opinion. Therefore, my results have implications for the research on strategic court behavior, court communication, and court reporting. Overall, since this dissertation offers novel perspectives on how courts communicate and how these efforts shape the media, it contributes to the growing discussion on open justice and the accountability of courts in times where judiciaries are under populist pressure. Hence, this dissertation has important implications for the sustainability of liberal democracy and the legitimacy of constitutional review in constitutional states.

Keywords: constitutional courts, court communication, press releases, public relations, logistic regression, computational text analysis, supervised machine learning

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Chapter 1

Introduction

> *"Publicity is the very soul of justice. It is the keenest spur to exertion, and the surest of all guards against improbity. It keeps the judge himself, while trying, under trial. [...] Without publicity, all other checks are fruitless: in comparison of publicity, all other checks are of small amount."*
>
> Jeremy Bentham (1843, pp. 316-317)

Jeremy Bentham's words have become a synonym for what scholars call the principle of open justice (Hess and Harvey, 2019a; Johnston, 2018). Generally speaking, open justice is "fundamental to courts and the judiciary laying open their doors, enabling the rule of law to be not only transparent and accessible, but open to external scrutiny" (Johnston, 2018, p. 525). In many respects, Bentham's elaborations are the result of philosophical discussions on the fairness of justice and the rationalization and humanization of the criminal law during the Enlightenment (Gierhake, 2019). Alongside thinkers such as Montesquieu, Voltaire, and Locke, German legal philosophy has also established essential legal doctrines on the importance of publicity as a fundamental principle of constitutional states. Katrin Gierhake (2019) argues that especially Kant, Hegel, and Feuerbach should be mentioned here. She demonstrates that Kant's philosophy based on the idea that justice is only achievable in public and that the slightest sign of secrecy already implies injustice. In contrast, Hegel and Feuerbach's ideas have shown that publicity and justice are interdependent and that this

connection causes the dependence of justice on public trust (Gierhake, 2019, pp. 108-110). Andreas Voßkuhle (2018), former president of the German Federal Constitutional Court, also follows this intellectual tradition in suggesting that the only way to counteract citizens' distrust in the justice system is through proactive public relations by courts and their judges.

The idea of the principle of open justice is simple: judicial bodies should conduct their proceedings in public. Additionally, decisions should be open and accessible – i.e., citizens should be able to receive information about the proceedings, and the judiciary should communicate this information accordingly – and all necessary information should be transparent – i.e., the actions of judicial bodies should be open to public scrutiny (Alemanno and Stefan, 2014; Grimmelikhuijsen and Klijn, 2015; Hess and Harvey, 2019a). Therefore, open justice demands cases to be negotiated in a transparent and accessible environment and decisions to be explained to the public. As such, open justice is a crucial element for the rule of law and the functioning of democracy, as it ensures the accountability of the judiciary (Hess and Harvey, 2019a). Moreover, judicial transparency and publicity exacerbate possible manipulation of judges as well as possible manipulation by judges. Hence, open justice is always about the courts themselves, their functioning, their accountability, their reputation, and their legitimacy (Garoupa and Ginsburg, 2015; Hess and Harvey, 2019a).

Open justice: A question of communication

Advocate General Michal Bobek (2016, para. 76) of the Court of Justice of the European Union states that "courts can no longer escape, as a matter of principle, openness as a value in their daily judicial activities." The idea that "justice must be seen to be done" (Hess and Harvey, 2019a, p. 9) is defined and guaranteed in several national, supranational, and international legal texts and official guidelines:

- Article 14 of The United Nations International Covenant of Civil and Political Rights (ICCPR) (1966).

- Article 6 (1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (2010).
- Article 47 (2) of the Charter of Fundamental Rights of the European Union (2012).
- Article 1, §9 of the Constitution of the State of Delaware as adopted in convention, June 4, 1897 with Amendments made subsequently thereto, through July 1, 2019 (1897).
- §169 (1) & (3) of the German Courts Constitution Act (1975).
- Article 30 of the Swiss Federal Constitution (2017) and Article 54 (1) of the Swiss Civil Procedure Code (2020).
- Brazilian Freedom of Information Act (2011) – Federal Act n. 12.527/2011.
- Netherlands Council for the Judiciary (2013): "Press Guidelines".
- International Criminal Court (2017): "A Practical Guide for the Media".
- European commission for the efficiency of justice (2018): "Guide on communication with the media and the public for courts and prosecution authorities".

This list is far from exhaustive. However, it gives a first impression of the extent to which the principle of open justice is internationally recognized. Ideally, constitutional review courts are the neutral arbitrator of the law, since their accountability is founded solely on the constitution. Accordingly, they need to keep a certain distance from politics and maintain a role as independent third parties. If the courts disclose too many details of the internal decision-making process, their impartiality and neutrality could be jeopardized. As the public opinion determines the reputation of the judiciary (Garoupa and Ginsburg, 2015), it may suffer damage if the information disclosed run counter to the interests of the dispute parties or reveal undue external influence on the judges. Judicial deliberations, therefore, always require a certain degree of secrecy in order to maintain judicial neutrality. Hence,

although open justice is about communication between the courts and the public, it also always depends on the question of the extent to which the courts should communicate with the public.

Jeffery Staton (2010, p. 188) argues that two considerations are essential for court communication: "In one sense, it is simply unbecoming for a judge to engage in nonadjudicatory appeals normally reserved to the politicians. [...] Second, public communication, especially insofar as it highlights noncompliance, can undermine the judicial image." Staton refers to the absence of effective mechanisms for the courts to enforce their own decisions. A gradual and carefully selected disclosure of decisions is crucial for the legitimacy of courts. "This appeal for judicial prudence suggests that perhaps strategic deference alone can advance legitimacy" (Staton, 2010, p. 188). However, if citizens are not sufficiently informed about the courts and their decisions, public support for the courts can quickly turn into skepticism and mistrust (VoSSkuhle, 2018). In other words, the assertiveness of a court is based equally on what it does and how it communicates what it does.

The dilemma between open justice and judicial prudence represents a challenge for legal professionals. In a recent interview, Andreas Voßkuhle argues that he is "firmly convinced that we need more communication in the justice system. [...] [W]e want to know from the judge why he decided this way and not otherwise" (Di Lorenzo and Wefing, 2020, p. 7).[1] Two years earlier, he stated that it is essential for courts to explain their decisions, as this is the best approach to minimize the risk of misunderstandings, misinterpretations, and incorrect news reporting (VoSSkuhle, 2018). Former Chief Justice John Doyle of the Supreme Court of South Australia argues that judges must provide information to the public to enhance the public's knowledge and understanding of the judiciary because courts are the third branch of government. Moreover, he noted that "because I see the media as exercising the public's

[1]Translation by the author. In original: "Aber ich bin fest davon überzeugt, wir brauchen mehr Kommunikation in der Justiz. Wir wollen heute von unserem Arzt erklärt bekommen, welche Krankheiten wir haben und welche Gründe für welche Therapie sprechen, und wir wollen auch vom Richter wissen, warum er eine Entscheidung so und nicht anders getroffen hat".

right of access, I think it's important to help the media as much as we can" (as quoted in Johnston, 2005, p. 80). In a similar vein, former Chief Justice Michael Black of the Federal Court of Australia states: "It is tremendously important that the public understand the work of the courts [...] And that means, where appropriate, assisting journalists in the work that they do, by providing summaries of judgments, better access to the court and so on" (as quoted in Johnston, 2005, p. 80).

These statements refer to the importance of the news media for the judiciary. The news media is the primary channel through which citizens receive information about courts (Hoekstra, 2003; Stoutenborough, Haider-Markel, and Allan, 2006). However, several studies showed that the media only selectively report on court decisions and that news values and considerations on the newsworthiness of a decision influence the news media gatekeeping process (see for example Holtz-Bacha, 2017; Davis and Taras, 2017; Davis, 2011; Johnston, 2005; Moran, 2014; Conway, Jordan, and Ura, 2018; Strother, 2017; Denison, Wedeking, and Zilis, 2020; Vining and Wilhelm, 2010). Since the public depends on the media for its information about the courts, journalists have the power to promote or destroy the judicial reputation and legitimacy and to determine the level of public attention that a decision receives. For example, in 1995, the German Federal Constitutional Court issued a decision on the constitutionality of crucifixes in classrooms (*1 BvR 1087/91*). This decision was heavily criticized by the media, which resulted in a sharp decline in public support for the Court (Vanberg, 2005; Schaal, 2015). According to judges involved, this crisis was the result of poor communication on the part of the Court, judicial secrecy, and the comparatively considerable leeway for journalists in their reporting on courts (Kranenpohl, 2010).

According to Denison and colleagues (2020), this journalistic leeway is caused by different aspects like missing leaks, rare information derived from informal contexts, and even rarer direct interviews with judges. Therefore, courts "should take an interest in ensuring that their reasoning is properly communicated to the public through the press" (Staton, 2010, p. 26). Tools that facilitate court communication and judicial openness are open courtrooms,

accessible and transparent data, and, most importantly, a proper public relations strategy (Hess and Harvey, 2019a): "By openly communicating the debate [...] and by clearly justifying its position [...] the courts create the forum for the parties and the public to see and assess whether all considerations were taken into account, whether the law was observed and thus monitor the administration of justice" (Hess and Harvey, 2019a, p. 18).

Previous studies have shown that press releases that promote and explain decisions are a useful tool for courts to disseminate and transmit information to the public (Staton, 2010; Hess and Harvey, 2019a; Davis and Taras, 2017; Meyer, 2019; Johnston, 2018; Peleg and Bogoch, 2014, e.g.,). In a similar vein, Andreas Voßkuhle (2018, p. 6) argues that "good press releases [...] today are indispensable for serious reporting. Specialized legal journalists are rarely found, even in national daily newspapers, which makes it all the more important to reduce the risk of misunderstandings or even incorrect news by formulating clear press releases".[2]

However, if "strategic deference alone can advance [the] legitimacy [of courts]" (Staton, 2010, p. 188), then the judges are confronted with the question of which decisions they should choose to communicate to the public. Advocate General Michal Bobek (2016, para. 3) expresses this in his opinion on *Commission v. Patrick*: "Practically speaking, should it indeed be incumbent on one of the parties or interveners to a case to disclose the pleadings of another party, if so requested? Should it not be the role of the Court? More broadly, on the normative level, what degree of openness ought to apply to the Court when it is carrying out its judicial tasks?"

[2]Translation by the author. In original: "Gute Pressemitteilungen sind heute unverzichtbar für eine seriöse Presseberichterstattung. Spezialisierte Rechtsjournalisten findet man selbst in überregionalen Tageszeitungen eher selten. Umso wichtiger ist es, durch die Formulierung von anschaulichen Pressemitteilungen das Risiko von Missverständnissen oder gar Falschmeldungen zu reduzieren."

The approach of this dissertation

The discussion on how courts can effectively communicate their decisions is of crucial importance. To contribute to this discussion, I will examine in this dissertation the communication efforts of courts and ask *which institutional structures influence the publication of court press releases, when and what kind of information do courts communicate, and how do these communication efforts shape the news media.*

This dissertation focuses on assessing the usage of press releases by constitutional review courts and the relationship between courts and the news media. It draws on the comparative judicial politics literature on legislative noncompliance, public awareness, and judicial policy agendas and on communication and journalism studies on the concepts of court reporting, news values, and newsworthiness. Two arguments are central to this dissertation. First, press releases are of central importance for a court's agenda-setting power. The court's ability to set its political agenda is limited to the cases on its docket, while the decision to publish a press release and to promote a particular decision and thus a particular political issue is solely within the court's competence. The second argument I make is that courts actively use the institutional tools at their disposal to create publicity and increase the chances of being reported in the news. One such instrument is a press release, the strategic use of which enables courts to increase media coverage and enable public scrutiny.

I test these arguments empirically by combining inference methods such as logistic regressions with methods from the fields of machine learning and computational text analysis. Throughout all chapters, I test my arguments using data on court decisions and press releases of the German Federal Constitutional Court (FCC). The FCC is a court with sturdy and robust public support (Schaal, 2015; Vanberg, 2005) and a comparatively long history of public relations and issuing press releases (Meyer, 2019; Holtz-Bacha, 2017).

This dissertation presents four empirical studies that examine the internal processes of court communication and its effects on the media. In particular, it analyzes how court de-

cisions and court press releases are related and whether the court's communication efforts are successful in attracting attention in the news. This dissertation reflects the internal institutional dynamics which lead to the publication of press releases and on the standards of how media coverage reports on the work of the courts, focusing in particular on the impact on judicial legitimacy and reputation. Besides, I also created a novel data set that captures the FCC's decisions and press releases over a comprehensive period, and that includes information, for example, on policy issues, case characteristics, and decision outcomes.

The empirical evidence suggests that although court press releases represent a policy agenda, the court decisions shape this agenda through first-level agenda-setting effects (*Chapter 2*). Press releases are published selectively and are more likely to occur when a decision declares a law unconstitutional (*Chapter 3*). Concerning the news media, the results imply that journalists rarely use court press releases when reporting on court decisions. However, if they do use press releases for their reporting, they are more likely to use those that promote decisions that the public is probably already aware of (*Chapter 4*). Finally, the likelihood of media coverage of FCC decisions is higher for those that were promoted with a press release and had high news value (*Chapter 5*).

Four main conclusions result from this. First, press releases help a court to communicate its policy agenda to the public. Second, courts adapt their communication efforts to serve the media logic: decisions that have newsworthy characteristics such as conflict, influence, and familiarity are more likely to be promoted by a press release. Third, since the likelihood of media coverage of court decisions seems to be higher if the Court issues a press release, courts have considerable leverage to shape public opinion. Fourth, although press releases influence the likelihood of media coverage, they do not influence the content of the media coverage, which implies that journalists use court press releases as a channel or trigger.

These results contribute to different research areas. For example, they provide evidence for the assumptions made by Staton (2006; 2010) regarding a higher probability of press releases in case of status quo changes. Besides, they support the considerations made by

Wheatley (2020) regarding the journalistic use of news sources. Moreover, this dissertation is the first that shows that the news value of court decisions are also relevant factors for the likelihood of media coverage outside the U.S. context (Vining and Wilhelm, 2010; Vining and Marcin, 2014; Strother, 2017; Yanus, 2009).

The remainder of this chapter presents the research areas and the research design of this dissertation in more detail. The first section emphasizes the research gap by reviewing the judicial politics literature on constitutional review, political evasion, and the demand for transparency. The second section positions this dissertation within the literature and discusses relevant studies on the dynamics of agenda-setting, court communication, and media coverage. The third section identifies the research questions central to this dissertation and discusses the case selection and data used for the empirical analyses presented in the following chapters. Finally, the third section presents the plan of this dissertation.

1.1 Constitutional review courts and the need to raise public awareness

Nowadays, constitutional review is a defining feature of modern democracies (Hirschl, 2011). The power of courts and their ability to influence societies has steadily increased since the end of World War II (Tate and Vallinder, 1995; Stone Sweet, 2002; Hönnige, 2007; Hönnige, 2011). Generally, constitutional review is defined as the power of judiciaries to control political actions and "to set aside ordinary legislative or administrative acts if judges conclude that they conflict with the constitution" (Vanberg, 2005, p. 1).

The idea of constitutional review has become a central aspect of the separation-of-powers systems. Nearly all democratic constitutions have some form of regulation regarding constitutional control and judicial review mechanisms (Ginsburg, 2003; Ginsburg, 2014; Hirschl, 2011). Constitutional review courts can be distinguished between specialized and diffuse

courts. Specialized courts are located outside the regular legal system and deal exclusively with constitutional disputes. The task of reviewing legislative and administrative acts is centralized in one institution, which is in most cases a Constitutional Court. By contrast, within the diffuse model of constitutional review, each court has the power to carry out constitutional control, while the supreme judicial authority lies within the Supreme Court (Epstein, Knight, and Shvetsova, 2001; Hönnige, 2007). Of course, there are also mixed types, whereby especially the very diverse institutions in South America should be mentioned here (Navia and Ríos-Figueroa, 2005).

A broad spectrum of approaches has emerged in the literature on judicial politics, ranging from comparative studies, behavioral models, content analysis, to detailed case studies. Scholars have described constitutional review courts as veto players (Tsebelis, 2002; Brouard and Hönnige, 2017), parallel governments (Hönnige and Gschwend, 2010), and agenda-setter (Yates, Whitford, and Gillespie, 2005). Nevertheless, all constitutional courts face a crucial dilemma. On the one hand, their decisions are binding for the political branches and actors.[3] Through their constitutional interpretation, constitutional courts can restrict all political actors within the respective political system. On the other hand, their (political) ability to enforce their decisions is rather limited (Dahl, 1957). Already Montesquieu (1989, p. 163) has remarked that courts are "only the mouth that pronounces the words of the law, inanimate beings who can moderate neither its force nor its rigor."[4] A similarly famous and probably similarly often quoted phrase is attributed to Alexander Hamilton, who states that constitutional courts are the *least dangerous branch* because they control neither the *purse* nor the *sword* and therefore have "neither FORCE nor WILL, but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of [their] judgments" (Federalist Papers No. 78 as quoted in Rosenberg, 2008, p. 15).

Constitutional courts have limited powers to enforce and implement their decisions.

[3]See, for example, for Germany §31 (1) of the law on the Federal Constitutional Court.

[4]"Les juges de la nation ne sont que la bouche qui prononce les paroles de la loi, des êtres inanimés, qui nen peuvent modérer ni la force ni la rigueur." Montesquieu, 1748, De l'esprit des lois, Liv. XI. Chap VI.

Whether or not a decision is effective in altering the law depends on the other government branches and their willingness to implement it (Vanberg, 2005; Stone Sweet, 2000). If a decision is in line with the preferences of the other branches, they have no reason not to comply with it in most cases. In contrast, if a court decision runs counter to the interests of the other branches or even overrides an essential legislative act, the court decision may be perceived by the other actors as a restriction of their political power. In such a case, the court's ability to enforce its decision is endangered, since the implementation of the decision is in the hands of actors who maybe have a keen interest in the court's decision not to implement it. Georg Vanberg (2005) argues that because this political noncompliance is usually not pursued openly and explicitly, the term political evasion is more appropriate.

Evidence of political evasion of court decisions can be found for decisions of various courts around the world, for example, in Italy, Germany, Mexico, and the United States (Vanberg, 2001; Vanberg, 2005; Carrubba and Zorn, 2010; Staton, 2006; Staton, 2010; Volcansek, 1991; Krehbiel, 2016). Thus, the constitutional review courts' limited competence to effectively control the branches of government and the possibility for political actors to evade unpopular court decisions are global phenomena. However, scholars have identified two interrelated aspects that offer possible solutions to this problem. First, there is the public support and reputation of the judiciary. Second, there is the transparency of the political environment and the possibility of public control if the public is aware of the court decisions.

David Easton (1965, p. 267) distinguishes between two concepts of public support that exist in "every system": the output-oriented *specific support* and the broad and system-oriented *diffuse support*. Easton (1965, p. 273) elaborates: "As we have seen, specific support flows from the favorable attitudes and predisposition stimulated by outputs that are perceived by members to meet their demands as they arise or in anticipation. The specific rewards help to compensate for any dissatisfactions at failing to have all demands met. But simultaneousliy, members are capable of directing diffuse support toward the objects of a system. This forms a reservoir of favourable attitudes or good will that helps members to accept or tolerate out-

puts to which they are opposed or the effect of which they see as damaging to their wants." For the judiciary, high public support – in particular diffuse support – means that the public perceives the courts as a legitimate and crucial part of the separations-of-powers systems and the rule of law (Cladeira and Gibson, 1995; Gibson, Caldeira, and Baird, 1998). The same applies to the reputation of the judiciary. As an institution's reputation depends on the individual assessment of the past performance, it is of particular importance for constitutional courts: "Armed only with pens, judges can only be effective if they are persuasive and authoritative to the parties before them, the legal community, and the public as a whole. To be authoritative requires, at bottom, a reputation for good decision making" (Garoupa and Ginsburg, 2015, p. 2).

Support and reputation are related to the courts' political assertiveness. Courts that have a high reputation and enjoy strong public support are less likely to be circumvented by political actors (Vanberg, 2005; Garoupa and Ginsburg, 2015). The vote-seeking motivation of political actors informs this assumption (Strom, 1990). Attempts to ignore the law in the case of a popular and respected court can lead to a public backlash and a significant loss of voters. As Vanberg (2001, p. 347) emphasizes: "The fear of such a backlash can be a powerful inducement for legislative majorities to respect judicial decisions." Accordingly, high public support and a strong reputation are the most critical aspects of the assertiveness of a court, because they are the "enforcement mechanism for judicial decisions (Vanberg, 2001, p. 347).

However, these aspects alone are not enough. Even a publicly supported court with a good reputation must ensure that the public can monitor its decisions and any subsequent political action to reduce the risk of political evasion. The courts have to ensure that the political environment is transparent and that the public is informed about their decisions to make effective use of the high level of public support, that most constitutional courts enjoy (Gibson, Caldeira, and Baird, 1998; Sieberer, 2006). In a nutshell, transparency enables public scrutiny and reduces the risk of political evasion: "The threat for public censure will only deter noncompliance if legislative majorities are sufficiently likely to be 'caught' if they

choose not to comply with a decision" (Vanberg, 2001, p. 347). Accordingly, public support will only help constitutional courts to control and restrict political actors if the public is aware of their decisions and legislative responses. Previous results suggest that transparency and public awareness facilitate the public to monitor and to punish noncompliance and evasion (Vanberg, 2001; Vanberg, 2005; Staton, 2006; Staton, 2010; Krehbiel, 2016).

Vanberg (2001, p. 358) argues that for "any given level of public support or degree of interest in a policy by legislative majorities, the court is able to garner respect for its decision only if the environment is sufficiently transparent." However, transparency is not automatically present in a political system, which is why political decision-makers can try to avoid complying with unfavorable decisions implicitly. One possibility of an implicit circumvention is to amend or renew the contested bill while simultaneously ignoring the unfavorable elements of the court's ruling.[5] Another possibility is to ignore the court decision (Vanberg, 2001; Vanberg, 2005).[6] Given these possibilities of evasion, the question remains whether courts can influence the degree of transparency and ensure compliance with their decisions.

Scholars have identified several tools for strategic judicial behavior to ensure compliance. For example, Krehbiel (2016) finds evidence of the strategic use of oral hearings by the German Federal Constitutional Court. The Court uses public oral hearings to address possible noncompliance and to familiarize the public and the media with the disputed issue. Other studies outline case characteristics that judges use to strategically draw attention to court decisions (see Stoutenborough, Haider-Markel, and Allan, 2006; Yanus, 2009; Linos and Twist, 2016). Additionally, Hale (1978) shows that the California Supreme Court uses press releases to shape media coverage and to increase public awareness for its decisions.

[5]See for example the elaborations by Vanberg (2005) on a decision regarding the regulations of political party finances by the German Federal Constitutional Court.

[6]Examples of both types of implicit avoidance are the legal disputes about the right to vote in Germany and the question of a disproportionate share of seats, that leads to overhanging seats in the German Bundestag. In 2008, the German Federal Constitutional Court declared the electoral law unconstitutional (*BVerfGE 121, 266-317*). Subsequently, in 2011 a new electoral law was introduced, which was again declared unconstitutional by the FCC in 2012, mainly because of the insufficiently solved problem of overhang seats (*BVerfGE 131, 316-376*). To date, there is still no new electoral law in Germany, which is an indicator that politicians are trying to ignore the decision (RoSSmann, 2016).

Similar findings are presented by Staton (2006; 2010) for the Mexican Supreme Court. He suggests that the Court strategically uses press releases to attract public attention and to strengthen its position vis-á-vis the other political branches.

By referring to the work of Vanberg (2001; 2005), Staton (2006; 2010) assumed that political evasion is more likely if the public is not substantially informed about court decisions. He argued that courts that face a non-transparent political environment are automatically threatened by a loss of legitimacy, as political actors are more likely to fail to comply with their decisions. Accordingly, the courts face a transparency problem as well as a legitimacy problem. For both, however, Staton (2010, p. 44) argued that "judicial public relations offer[s] a solution". Especially press releases enable courts to promote strategically selected decisions to "break the connection between judicial uncertainty about public information and decision making" (Staton, 2010, p. 110). The results by Staton (2010) imply that the Mexican Supreme Court uses press releases, especially when it opposes the other political branches by changing the political status quo through a declaration of unconstitutionality.

The ability to increase transparency by publishing press releases is due to the assumed effect press releases exert on the media. Communication and journalism scholars understood press releases as information subsidies that political actors use to transmit information to journalists and thereby try to influence media coverage (Gandy, 1982; Helfer and Aelst, 2016; Shoemaker and Reese, 2014; Wheatley, 2020). Media reporting on court decisions found to be sometimes inaccurate (Davis, 1994; Hale, 1978; Staton, 2010; VoSSkuhle, 2018), and inaccurate reporting is found to have adverse effects on the public approval and diffuse support of courts (Gibson and Caldeira, 2009a; Gibson and Caldeira, 2009b; Hitt and Searles, 2018). Accordingly, courts "should take an interest in ensuring that their reasoning is properly communicated to the public through the press" (Staton, 2010, p. 26) and press releases are the most efficient tool for courts to transmit information on their decisions and decrease the likelihood of incorrect the media reports (Staton, 2006; Staton, 2010). Moreover, Garoupa and Ginsburg (2015, p. 19) argue that press releases are an ideal instrument to strengthen

the reputation of the judiciary, which they define as the "[a]ssessment [...] based on public information [...] about the performance of the judiciary."

Although press releases seem to be an essential tool for courts, existing research is sparse. There is only limited knowledge on the internal dynamics and processes behind the publication of court press releases, on the determinants of the publication of court press releases, and the impact of court press releases on the news media. This dissertation tries to bridge this gap by using existing theoretical concepts on political public relations, agenda-setting, political communication, and open justice. I review the relevant literature in these research areas in the following section.

1.2 Literature review

In this dissertation, I ask *which institutional structures influence the publication of court press releases, when and what kind of information do courts communicate, and how do these communication efforts shape the news media.* Consequently, the general framework of this dissertation is the relationship between courts, their communication efforts, and the media. Particular emphasis is placed on three aspects:

1. The internal agenda-setting processes within a court and the role of press releases for a court's agenda-setting purposes.

2. How case characteristics influence court communication.

3. The interaction between courts and the news media.

The following sections review the existing literature on these three aspects.

1.2.1 Judicial policy agendas and the role of press releases

At first glance, it seems somewhat surprising to focus on policy agendas and agenda-setting processes. However, press releases and political agendas have some essential commonalities

when assessing the leverage press releases provide for courts to create public awareness and influence the news media.

Policy agendas are the "set of issues to which political actors are, at any given time, paying serious attention" (Dowding, Hindmoor, and Martin, 2016, p. 5), while agenda-setting is the process in which political actors define political problems to their advantage by prioritizing and re-framing policy issues (Jones and Baumgartner, 2005). Agenda-setting processes describe the transmission of policy issues from one to another agenda – i.e, first-level agenda-setting – and the transmission of attributes from one to another agenda – i.e, second-level agenda-setting (Baumgartner and Jones, 1993; Baumgartner, Breunig, and Grossman, 2019a; Kiousis et al., 2015; McCombs et al., 1997). However, political agendas are not infinite because political actors have only limited cognitive and material resources. Therefore, political actors tend to focus on only a few issues at a time. Consequently, the process of agenda-setting is perceived to be a zero-sum game (Alexandrova, Carammia, and Timmermans, 2012; Boydstun, Bevan, and Herschel, 2014; Jennings et al., 2011; Jones and Baumgartner, 2005).

Research on political agendas and agenda-setting has become a distinct field of political science. Existing studies have a strong focus on executives, parliaments, political parties, the news media, and public relations (see, for example Baumgartner, Breunig, and Grossman, 2019a; Baumgartner and Jones, 1993; Boydstun, Bevan, and Herschel, 2014; Jones and Baumgartner, 2005; Kiousis and Strömbäck, 2014). In comparison, studies on judiciaries are rare. Baumgartner and Gold (2002) compare the agendas of the U.S. Supreme Court (SCOTUS) and the U.S. Congress and find evidence that both institutions have different agenda-dynamics. Robinson (2013) examines policy change dynamics and agenda punctuation at the policy agenda of the SCOTUS. In contrast to Baumgartner and Gold (2002), Yates and colleagues (2005) find that the policy agenda of the SCOTUS responds to the policy agendas of the president, the congress, and the public opinion. Further, they show that the ideological configuration of its bench also shapes the policy agenda of the Court.

Other studies have focused either on landmark cases (Rosenberg, 2008), the power of the SCOTUS to initiate policy change (Fogarty and Monogan, 2018; Grossmann and Swedlow, 2015), or on how the Court's agenda shapes media attention (Conway, Jordan, and Ura, 2018).

Only some studies have assessed political agendas of courts outside the U.S. context. For example, Brouard (2009) analyzes the issue composition of the policy agenda of the French Conseil constitutionnel and Rebessi and Zucchini (2018) compare the policy agendas of the constitutional court and the parliament in Italy. Nevertheless, we lack comprehensive knowledge of political agendas and agenda-setting processes for courts outside the U.S. context.

This disparity of knowledge between U.S. and European courts becomes even more interesting when we take at the various systems of docket control into account. Constitutional review courts cannot set their policy agenda since they are reactive institutions and unable to select political issues that might be of public concern. The attention of constitutional courts is always limited to the cases brought before them. However, there are differences, mainly due to the system of docket management.

Two types of docket control systems exist: discretionary and mandatory. Scholars have long argued that Supreme Courts are powerful agenda-setting actors because they have discretionary powers to set their dockets. In contrast, Constitutional Courts are less powerful agenda-setter as they have a mandatory docket (Fontana, 2011). However, this rather simplistic picture does not stand up to rigorous empirical scrutiny (Fontana, 2011; Soennecken, 2016; Engel, 2020). As I will show in the following, press releases are a vital tool for courts with a mandatory docket to gain a certain degree of agenda-setting power.

A discretionary docket is associated with the ability to grant *certiorari*. Certiorari permits a court "to address a constitutional issue when the timing is right for the court successfully to intervene to decide that issue" (Fontana, 2011, p. 627). For example, the U.S. Supreme Court can grant certiorari and is, therefore, able to "direct its verdict to causes on which it

wants to have a political impact, or [to] put an issue on the political agenda" (Engel, 2020, p. 261). Several studies have shown that the SCOTUS's decision to grant certiorari is affected by political pressure, legal disputes, the Court's previous knowledge on the particular issue, or the individual preferences and ideological orientations of the judges involved (Harvey and Friedman, 2009; Clark and Kastellec, 2013; Ulmer, 1984; Caldeira and Wright, 1988; Epstein and Knight, 2018; Epstein and Knight, 1998; Segal and Spaeth, 2002a). Overall, because the Court has the competence to issue certiorari and can decide on the timing of granting certiorari, it is perceived as a powerful agenda-setter (Baumgartner and Gold, 2002; Beim, Clark, and Patty, 2017).

In contrast, courts with a mandatory docket system miss the power of certiorari. These courts are obliged to hear every incoming dispute regardless of time and context (Fontana, 2011). For example, the German Federal Constitutional Court is obliged to "decide each and every case that is brought" (Engel, 2020, p. 261). Nevertheless, there are other instruments for paying attention to specific policy issues and taking some cases more seriously than others. To name only two: 1) admissibility checks, to select disputes that are legally admissible (Soennecken, 2016); 2) press releases, to draw the public's attention to a particular case (Engel, 2020). In the following, I focus on press releases and their value for the courts agenda-setting power.

Christoph Engel (2020, p. 270) argues that a "press release indicates that, in the Courts perception, the public has an interest in this particular case, or in the reasons for deciding it." By issuing press releases, a court attempts to draw the public's attention to individual decisions (see Staton, 2010, for a similar argumentation). I, therefore, argue that press releases constitute a self-chosen spotlight of a court's adjudication. Thus, court decisions constitute a political agenda covering all the cases that a court deals with, but which the court cannot shape autonomously because of its mandatory docket. In contrast, press releases represent an alternative political agenda that includes all the decisions a court has chosen to promote. Therefore, the policy issues on the decision agenda influence the policy issues

on the press release agenda. As such, intra-institutional agenda dynamics and first-level agenda-setting effects can be assumed. In the absence of previous research that provides evidence for this assumption, in *Chapter 2*, I present a first empirical assessment of these intra-institutional agenda-setting dynamics within the German Federal Constitutional Court. I analyze the composition of the decision agenda and the press release agenda and assess how court decisions and press releases are related and which policy issues the Court more likely promotes with press releases.

1.2.2 The usage of press releases by courts

Communicating information on decisions is an "effective response to the political pressures which threaten to undermine the independence of courts" (Hess and Harvey, 2019a, pp. 43-44). Through communication, courts can facilitate their image as neutral arbiters of the law, because citizens will be enabled to assess "whether a certain judgment took into account all the arguments put forward in the case, and whether the law was observed" (Alemanno and Stefan, 2014, p. 107). Accordingly, to improve the public's understanding of the role of the judiciary in a democracy, courts must take a proactive approach to the media to ensure that "the public is presented with complete and accurate information" (Hess and Harvey, 2019a, p. 41). As such, court communication fosters an open justice, which, in its essence, is about openness – i.e., the promotion of legitimacy and public trust in courts (see Grimmelikhuijsen and Klijn, 2015, for an empirical test of this statement) – and transparency – i.e., enabling public scrutiny and increasing a court's accountability – of the justice system (Hess and Harvey, 2019a; Johnston, 2018).

To communicate, courts have a magnitude of tools ranging from websites, blog entries, social media accounts, television broadcasting, to press conferences (Davis and Taras, 2017; Elena and Schalkwyk, 2017; Hess and Harvey, 2019a; Johnston and McGovern, 2013; Peleg and Bogoch, 2014).[7] Most fundamentally, court communication is about disseminating in-

[7]For a comprehensive list of possible communication tools for judicial actors see European Commission

formation about decisions and their justifications. In a landmark ruling the German Federal Administrative Court states that the publication of decisions is not only a public task but also a constitutional duty of every court.[8] Press releases are, as above-argued, the primary tool for courts to communicate decisions to the public (Hess and Harvey, 2019a; Garoupa and Ginsburg, 2015; Staton, 2010).

Press releases are used to transmit and disseminate information. Their purpose is to be picked up by journalists and be reproduced in the news reports, as they present information in a 'ready-made' format that is well crafted to meet the media's needs and reduces the costs of information gathering and content editing (Boumans, 2017; Lassen, 2006; Jacobs, 1999). The literature on public relations conceptualizes press releases as a one-way, information-out news channel targeted at both journalists – who should use and transmit the information – and the public – who should become aware of the information. Thus, press releases are understood as a typical example of an information subsidy that is clearly structured, easily consumable, and that news sources provide to the media (Gandy, 1982; Grunig and Hunt, 1984; Grunig et al., 1995; Kiousis and Strömbäck, 2014; Helfer and Aelst, 2016; Strömbäck and Kiousis, 2011; Shoemaker and Reese, 2014; Wheatley, 2020).

The literature on court press releases is sparse. Johnston (2018) conceptualizes press releases as a form of public-interest communication, which is used by courts to communicate objective and neutral information about the process of justice. She argues that by issuing press releases, courts intent to facilitate open justice instead of conveying a particular message or framing a specific issue. In their study of the communication efforts of Australian courts, Johnston and McGovern (2013) find similar evidence, showing that the courts are focused on the dissemination of accurate and accessible information. In a recently published study, I

For The Efficiency of Justice (2018).

[8]"Die Veröffentlichung von Gerichtsentscheidungen ist eine öffentliche Aufgabe. Es handelt sich um eine verfassungsunmittelbare Aufgabe der rechtsprechenden Gewalt und damit eines jeden Gerichts. Zu veröffentlichen sind alle Entscheidungen, an deren Veröffentlichung die Öffentlichkeit ein Interesse hat oder haben kann.", see: Urteil vom 26.02.1997 – BVerwG 6 C 3.96, ECLI:DE:BVerwG:1997:260297U6C3.96.0.

(2019)[9] show that four types of press releases can be distinguished for European apex courts: (1) decision-promoting press releases that summarize selected decisions (the most common type); (2) announcements of future decisions; (3) announcements of public oral hearings; and (4) miscellaneous (e.g., visits from foreign courts). Similar press release types are reported for other apex courts around the world (Davis and Taras, 2017).

In terms of quantity, existing research provides a heterogeneous picture. For example, the Mexican Supreme Court only promotes selected decisions (Staton, 2010), the High Court in Australia shortly summarizes its judgments (Spencer, 2017), the South Korean Supreme Court publishes scant and irregular decision-related press releases (Park and Youm, 2017), and the U.S. Supreme Court only announces upcoming decisions (Hitt, Saunders, and Scott, 2019). In contrast, the German Federal Constitutional Court not only promotes selected decisions but also announces oral hearings, future decisions, and various events (Holtz-Bacha, 2017; Meyer, 2019). Lastly, concerning the impact of press releases, Hitt and colleagues (2019) find evidence that press releases are capable of increasing public awareness of court decisions. The findings by Staton (2010) suggest that courts strategically use press releases for relevant decisions that either change the status quo or create legal conflicts in order to attract public attention and promote the independence of the judiciary and strengthening their position vis-à-vis the legislative branches.

In the *Chapters 3 & 4*, I use this literature to formulate and test assumptions regarding the probability that courts publish press releases and how press releases are more likely to affect news coverage. As I will show in the next section, the literature on media coverage of court decisions is only marginally concerned with the influence of court communication on media coverage.

[9] See *Chapter 3*.

1.2.3 Media coverage of court decisions

The news media usually cover the actions of executive and legislative bodies. In comparison, there is very scant reporting on the judiciary (Boydstun, 2013; Graber, 2010). This circumstance reinforces the general lack of knowledge and interest of the public in courts (Slotnick and Segal, 1998; Gibson and Caldeira, 2009b) since the news media is the public's primary source of information about courts and therefore inevitably the most important channel to gain knowledge about the justice system (Hoekstra, 2003; Strother, 2017). Collins and Cooper (2015) state that the media "make cases real" for the public and Epstein and Segal (2000) argue that media coverage of court cases helps citizens decide whether a case is relevant or not.

For the judiciary, media coverage is equally important. As above-argued, the political power and the institutional reputation of constitutional review courts depend on the public's familiarity and awareness with the judicial system in general and with the actions of the courts in particular (Dahl, 1957; Montesquieu, 1989; Garoupa and Ginsburg, 2015; Vanberg, 2005). Gibson and Caldeira (2009) find evidence that the public's awareness and the public's support of courts are interdependent. If the public supports a court and if the public is aware of its actions, elected politicians fear potential (electoral) costs if they evade or ignore the court's reasoning (Vanberg, 2005). However, the average citizen generally does not read a court decision. Indeed, it is challenging for the public to be aware of court decisions because they are inherently opaque and written in complex legal language, while court deliberations are secret, and courts tend to 'talk through' their decisions rather than explaining them to the public (Hitt, Saunders, and Scott, 2019; Kranenpohl, 2010; Strother, 2017). As Andreas Voßkuhle (Di Lorenzo and Wefing, 2020, p. 7) states: "Lawyers tend to be conservative, lawyers are often media-shy, and this means that the judicial system is actually not very willing to communicate openly."[10] Moreover, the news media is crucial for courts because

[10]Translation by the author. In original: "Juristen sind eher konservativ, Juristen sind häufig medienscheu, und das führt dazu, dass die Bereitschaft zu einer offenen Kommunikation in der Justiz tatsächlich nicht

citizens "do not directly monitor political institutions and elites, but instead allow the media to do this work for them" (Strother, 2017, p. 572).

Communication research shows that the media do not cover court cases randomly. The existing literature on media coverage of court decisions primarily concentrates on the U.S. Supreme Court and the U.S. State Supreme Courts. Already in the 1970s, Hale (1978) shows, based on an analysis of the media coverage of the Californian Supreme Court, that the press more likely reported on decisions that have specific characteristics such as dissenting opinions or oral hearings. With reference to Hale (1978), Davis (1994) describes general trends in the media coverage of the U.S. Supreme Court and shows that decisions are frequently misinterpreted by the media (an argumentation which Staton, 2010, used as a starting point for his analysis). Davis (1994) further shows that legal reporters define their role mainly as those who explain decisions rather than criticize them. According to Linos and Twist (2016, p. 229), this uncritical self-perception leads to a situation where "journalists may end up presenting one-sided, largely uncritical coverage." In a more recent analysis, Davis (2011) deals with the relationship between the SCOTUS and the press in general, thereby illustrating current and historical strategies of and incentives for the Court to go public. In his seminal analysis of the U.S. Supreme Court's ability to promote social change, Rosenberg (2008) finds no evidence that the Court can influence the quantity and quality of media coverage. However, its findings are somewhat exceptional, as the vast majority of the studies conclude that SCOTUS decisions do shape media coverage, and that specific case characteristics increase the likelihood of media coverage.

Understanding the concepts of news values and newsworthiness is crucial to understand why specific case characteristics can shape media coverage. News values help journalists to "predict what an audience will find appealing and important" (Shoemaker and Reese, 2014, p. 170). Thus journalists can judge the newsworthiness of a message or an event by considering its news values (Galtung and Ruge, 1965; Harcup and O'Neill, 2017; Kepplinger

sehr groß ist."

and Ehmig, 2006). In addition, political actors seem to adjust their actions to reflect the media logic. In particular, it has been shown that political actors adapt news values to make it into the news (Strömbäck and Aelst, 2013). Courts are no exception here, as several studies imply that courts use case characteristics to draw attention to court decisions strategically (see Stoutenborough, Haider-Markel, and Allan, 2006; Yanus, 2009; Linos and Twist, 2016). Classical news values are, for example, crime, tragedy, drama, entertainment, prominence, or proximity (Graber, 2010; Harcup and O'Neill, 2017; Shoemaker and Reese, 2014), while news values that are found essential for the coverage of court decisions include conflict or negativity, familiarity/continuity/follow-up, and political power/relevance (Machill, Beiler, and Hellmann, 2007; Chamberlain et al., 2019; Collins and Cooper, 2015; Sill, Metzgar, and Rouse, 2013; Strother, 2017; Vining and Marcin, 2014).[11]

Denison, Wedeking, and Zilis (2020) show that newspapers are more likely to cover court cases that show signs of conflict and negativity. Their results also suggest that the judges' voting behavior influences the tone of news coverage. Decisions taken by a broad majority or an unusual coalition of judges are more likely to be reported on more objectively. The study by Ura (2009) reveals that the quantity of media coverage increases significantly when the SCOTUS alters the political status quo by declaring a statute or law unconstitutional. In contrast, decisions that support the status quo have little to none impact on the media coverage, as these cases yield no conflict between the Court and the other branches.

Several other studies outline other chase characteristics that have news value to the media. Slotnick and Segals (1998) analysis of television coverage on U.S. Supreme Court rulings concludes that broadcasting stations are more likely to cover a decision if it deals with high-profile issues, such as First Amendment disputes, or if a political or social actor has submitted a *amicus brief*. In their assessment of New York Times articles on SCOTUS decisions over 54 years, Sill and colleagues (2013) reveal that elements such as dissents and

[11]The double terms are used, on the one hand, to show the ambiguity of terms within the scientific community and, on the other hand, to illustrate the diversity of research concepts.

changes to the status quo increase the likelihood of media coverage. Collins and Cooper (2015) report strong effects on the media coverage of changes to the status quo and the overturning of precedent cases. Strother (2017) shows that especially interest group participation via amicus curiae briefs influences the likelihood of pre- and post-decision media coverage. The results by Linos and Twist (2016) suggest that the SCOTUS can strategically use case characteristics to draw attention to decisions and that the media is more likely to cover politically relevant cases. Vining and Marcin (2014, p. 100) echo this result and argue that media coverage is more likely for relevant decisions and that "several characteristics of Supreme Court decisions make them newsworthy despite rational ignorance among citizens." Similar results are found for media coverage on U.S. State Supreme Court rulings. Yanus (2009), and Vining and Wilhelm (2010; 2010) show that media coverage is more likely if a decision has case-specific characteristics like amicus briefs, status quo changes, and dissents.

Two conclusions can be drawn here. First, news values shape the media coverage on decisions by the U.S. Supreme Court. Second, the studies are limited in two aspects. Except for Yanus (2009) and Vining and Wilhelm (2010), the reported studies are either focused on one - the New York Times (Sill, Metzgar, and Rouse, 2013) - or a maximum of four newspapers (Collins and Cooper, 2015). Further, the studies are concerned with media coverage on either the U.S. Supreme Court (Collins and Cooper, 2015; Sill, Metzgar, and Rouse, 2013) or the U.S. State Supreme Courts (Yanus, 2009; Vining et al., 2010; Vining and Wilhelm, 2010).

As above-mentioned, knowledge on media coverage of court decisions outside the U.S. context is limited. One exception is the edited volume by Davis and Taras (2017), where the different chapters describe public relations efforts by selected constitutional reviews courts around the world and provide short descriptive overviews about the general trends in media coverage on these courts. Additionally, some studies can be mentioned that analyzes news reporting of the German Federal Constitutional Court (FCC). For example, Schaal (2015) analyzes the nature of the media discourse on a salient FCC decision. His results

suggest that negative coverage also has a brief negative effect on public opinion. Based on a mixed-methods approach, Kranenpohl (2010) illustrates how media coverage influences the judges at the FCC. In a study by Patzelt (2005), media coverage of the Court was used as a proxy to measure the public's knowledge on the FCC. His results suggest that knowledge fosters the degree of support. Lembcke (2006) finds an increased quantity of news reports on the FCC over time. Finally, Krehbiel (2019, p. 66) asks whether media coverage of the FCC increases in times of elections and he shows that "the FCC does in fact tend to receive more coverage in the month leading up to an election but only when the media environment provides space for meaningful attention to the [C]ourts decision."

However, none of these studies has attempted to explain why and when the media reports on FCC decisions. Furthermore, none of the existing research links public relations efforts by courts, dynamics of intra-institutional agenda-setting, and in-depth analyses of media content and media coverage. In the following sections, I outline how this dissertation attempts to bridge these two research gaps.

1.3 Focus of this dissertation

In this dissertation, I ask *which institutional structures influence the publication of court press releases, when and what kind of information do courts communicate, and how do these communication efforts shape the news media.* By answering these questions, I aim to contribute to the discussions on open justice and on how courts should organize their communication. In the following section, I formulate four more fine-grained research questions and outline how they extend the reviewed literature. Because the crucial strands of the literature have already been discussed, this section concentrates on the central arguments to introduce each research question. Additionally, this section highlights the contributions, the answers to these questions make to the existing literature. Subsequently, I describe the case selection and the data used in the chapters that follow.

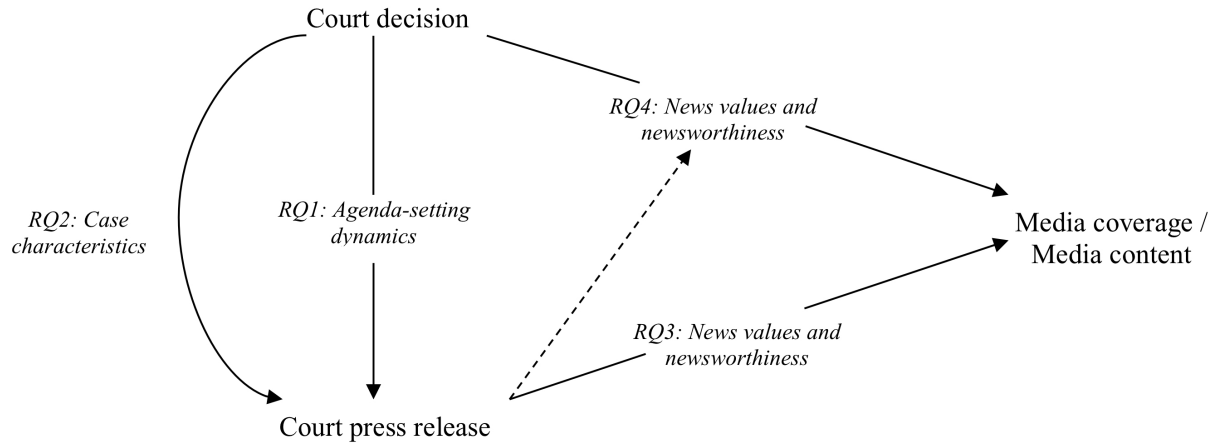
1.3.1 Research questions and research contributions

In this dissertation, I analyze the relationship between constitutional courts and media coverage. Particular attention is devoted to two aspects: court press releases as a means of court communication, and the effects of court decisions and press releases on the news. I extent previous work in three regards: First, I use the agenda-setting literature to show how courts can use press releases at their disposal to enhance their agenda-setting abilities. Second, based on the judicial politics literature on legislative noncompliance and the court's need for transparency, I explore how specific chase characteristics determine the publication of press releases. Third, I further explore how these case characteristics also contribute to the news value of court decisions and press releases and assess how they influence media coverage and news media content.

Figure 1.1 illustrates the central relationships analyzed in this dissertation. The Figure shows the assumed connection between court decisions and court press releases and their assumed influence on media coverage. It also depicts the assumed influence of court press releases on the news value of court decisions (denoted by the dashed line in Figure 1.1). Moreover, the Figure elucidates that this dissertation has to central foci: 1) internal institutional processes that shape court communication efforts, and 2) the effects that these communication efforts have externally on the news media.

Decisions of constitutional review courts deal with questions "emerging out of major political controversies" (Clark and Staton, 2015, p. 589), they define the national policy in the light of current developments and disputes and therefore have far-reaching policy implications (Clark and Staton, 2015; Yates, Whitford, and Gillespie, 2005). Moreover, constitutional review courts are, as a part of the separations-of-power-system, a central arena for the protection of political rights (Ginsburg, 2003). As such, court decisions represent a distinct policy agenda – i.e., the set of issues a to which a court, at a given time, pays serious attention (Dowding, Hindmoor, and Martin, 2016). Decision agendas are essential to every

Figure 1.1 Central relationships.



democracy, as they reflect significant conflicts and disputes. However, as above-discussed, the agenda-setting abilities of constitutional review courts are limited by how they have to manage their dockets. In this dissertation, I argue that press releases provide courts with the ability to set their policy agenda. Press releases offer courts the opportunity to communicate disputes and justify their position (Hess and Harvey, 2019a; Johnston, 2018). Therefore, I assume that if a court promotes a decision with a press release, it tries to draw attention to a specific policy issue that it deems important to the public (Engel, 2020). Consequently, press releases constitute a second policy agenda, which entails all the decisions the court has selected to promote.

This concept of two court agendas constitutes a unique approach to study inter-institutional agenda dynamics. Moreover, as the literature on judicial policy agendas is generally sparse (Baumgartner and Gold, 2002; Brouard, 2009; Rebessi and Zucchini, 2018; Yates, Whitford, and Gillespie, 2005), I extend the existing literature by assessing the two distinct policy agenda of a major European constitutional court. Research on inter-media agenda-setting and party-media agenda-setting shows that the issue salience on one policy agenda increases the salience of the same issue on another agenda – i.e., first-level agenda-setting effects

(McCombs et al., 1997). These studies ask whether political actors influence each other in the attention they devote to issues (Hopmann et al., 2012; Vliegenthart, 2014; Vliegenthart and Walgrave, 2011). I transfer this approach to court agendas and focuses on internal *agenda-setting dynamics* between court decisions and press releases (see Figure 1.1). I expect to find a clear first-level agenda-setting effect form the decisions to the press releases. Hence, the first research question this dissertation address is the following:

> RQ1: To what extent do policy issues discussed in court decisions influence a court's press release agenda?

While the question above explores the dynamics of intra-institutional agenda-setting, the next question excludes policy issues from the equation and asks whether certain *case characteristics* (see Figure 1.1) influence the likelihood that a court publishes a press release. Previous research finds that constitutional review courts around the world strategically use press releases to disseminate information on their decisions (Davis and Taras, 2017; Peleg and Bogoch, 2014; Staton, 2010). The results provided by Staton (2010) are of particular importance, as they suggest that courts promote decisions strategically. In particular, press releases are more likely for decisions that change the status quo and therefore oppose the other governmental branches. Furthermore, previous research has shown that courts issue press releases in different quantity and quality. The range extends from limited and irregular press releases (Park and Youm, 2017), brief decision announcements (Hitt, Saunders, and Scott, 2019), short summaries (Spencer, 2017), to regular and comprehensive explanations (Holtz-Bacha, 2017). However, there is no comprehensive research on the institutional conditions that influence the publication of court press releases. Accordingly, I extend this previous work by evaluating the determinants of press release publication. In particular, I expect to see press release to occur more likely for court decisions which have case characteristics that reveal the decision's legal and political importance and relevance. The second research question is the following:

RQ2: Which institutional characteristics determine the publication of press releases by constitutional courts?

The final questions are interrelated and explore the effects of court decisions and court press releases on the news media. I expect that *news values and newsworthiness* of court decisions and press releases influence the likelihood that media coverage occurs. Media coverage is pivotal for a court's political assertiveness. The news media is the public's central source for information of courts and court decisions (Hoekstra, 2003; Stoutenborough, Haider-Markel, and Allan, 2006), and public awareness, as argued in section 1.1, is a crucial resource for courts to reduce the risk of political evasion (Vanberg, 2005). Whereas the conditions of media coverage and the role of news values and newsworthiness are already studied for the U.S. Supreme Court (see, for example Collins and Cooper, 2015; Epstein and Segal, 2000; Sill, Metzgar, and Rouse, 2013; Stoutenborough, Haider-Markel, and Allan, 2006; Strother, 2017; Vining and Wilhelm, 2010; Yanus, 2009), I extend this previous work in two regards.

First, by singling out the effect of press releases on the news media content and by analyzing when court press releases are used by journalists and being reported on in the news. Previous research on press releases by political parties found that the news media reports are more likely on press releases if they have certain cues deemed as newsworthy (Donsbach and Brade, 2011; Haselmayer, Wagner, and Meyer, 2017). To assess whether similar expectations hold for court press releases, I raise the following question:

RQ3: How do court press releases influence news media content?

Second, by assessing media coverage of decisions by a European constitutional court (the German Federal Constitutional Court). As the research on the U.S. Supreme Court is not directly transferable to a European constitutional court, I use theoretical considerations from the literature on court reporting (Branahl, 2005; Chamberlain et al., 2019; Machill, Beiler, and Hellmann, 2007) to formulate expectations on when the media covers court decisions

of the German Federal Constitutional Court. A particular emphasis is placed on the role of press releases and whether they increase the probability of media coverage of decisions (denoted by the dashed line in Figure 1.1). These considerations lead to the fourth research question:

RQ4: What influences media coverage of court decisions?

The chapters that follow will extend the above-made arguments and provide more in-depth and chapter-specific elaborations regarding the relevant contributions for the fields of judicial politics, political communication, political science in general, and journalism studies. However, a central key innovation of this dissertation needs to be highlighted here in advance. All empirical analyses I present in this dissertation based on data that was created by using different automated text-as-data approaches. Although automated methods for text analysis have become a common approach in judicial politics (Denison, Wedeking, and Zilis, 2020; Fogarty, Qadri, and Wohlfarth, 2020; Hitt and Searles, 2018; Strother, 2017; Wedeking and Zilis, 2017) and political science in general (Grimmer, 2010; Grimmer and Stewart, 2013; Wilkerson, Smith, and Stramp, 2015), this dissertation provides a unique approach, as it combines different methods for content analysis. For example, to answer the first research question, I employ supervised text classification (see *Chapter 2*), and to answer the third and fourth research questions, I use local text alignment algorithms to detect text similarities (see *Chapter 4 & 5*). These methods were employed by using data on the German Federal Constitutional Court, a case selection that I will briefly describe in the following.

1.3.2 Case & Data: Press releases and decisions by the German Federal Constitutional Court

The literature reviews have shown that the majority of previous studies are focused on the U.S. context. Apart from a few rare exceptions such as the studies by Brouard (2009), Rebessi and Zucchini (2018), or the contributions in the edited volume by Davis and Taras

(2017), there is no analogous amount of research on court decisions, court agendas, court press releases, and media coverage of courts outside the U.S. context. In this dissertation, I extend the existing research to decisions and press releases issued by the German Federal Constitutional Court (FCC). As each chapter of this dissertation describes the FCC's institutional configuration, I will now focus on the aspects that explain why this particular court presents a suitable case.

The FCC and the U.S. Supreme Court represent two very distinct cases. While the FCC is a specialized constitutional court, and a blueprint for several apex courts, the SCOTUS is the prime example of a Supreme Court operating in a diffuse judicial system (Epstein, Knight, and Shvetsova, 2001; Holtz-Bacha, 2017; Hönnige, 2007; Navia and Ríos-Figueroa, 2005). According to Mitchell Lasser (2009), judiciaries in common-law countries like the SCOTUS are comparatively transparent and open due to individually signed and disclosing votes of the judicial panel. In contrast, judiciaries in civil-law countries like the FCC or the French *Cour de cassation* are less transparent and open due to collective decisions. Lasser (2009) further illustrates that both law systems have different concepts of judicial legitimacy. While common-law systems use substantive legitimacy, focusing on discursive judicial deliberations, civil-law systems use institutional legitimacy, focused on collective reputation. Additionally, Ridley (2020) argues that common-law systems, which are based on case law, foster a more personalized and case-focused media coverage compared to media coverage on court cases in civil-law systems. Hence, the FCC provides a unique case to answer the above-stated questions and to test established research assumptions outside the U.S. context.

Besides these system-based differences, I opted to use the FCC as a case for several other reasons. First, it is among the most powerful and influential courts worldwide (Kommers, 1994), and its decisions not only influence public opinion in Germany (Sternberg et al., 2015) but also affect the political systems in Germany and the European Union alike (Dyevre, 2011). Second, due to its considerably high and crisis-resistant public support (Schaal, 2015), the Court has developed strong legal and political authority (Krehbiel, 2019), which

has generally contributed to the mirroring of its institutional design by new apex courts around the world (Epstein, Knight, and Shvetsova, 2001; Holtz-Bacha, 2017; Hönnige, 2007; Navia and Ríos-Figueroa, 2005). Third, the Court's efforts to promote and explain decisions to the media are comparable to those of most European apex courts (Davis and Taras, 2017; Meyer, 2019). As such, the FCC presents an empirically important case that is representative of other constitutional courts and can serve as a starting point for understanding a larger – albeit similar – set of cases.

Although each chapter's analysis uses a different sample period and, therefore, a different number of observations, all share one data-specific aspect. The analyses in the chapters are conducted with two novel data sets created for this dissertation. Both data sets originate from the Court's official website. The first contains all decisions displayed on the Courts website, and the second contains all online available press releases that promote and explain decisions. I used automated text analysis methods and web scraping techniques to gather the necessary data (e.g., the full texts of the decisions and press releases and identifying the decisions' outcomes, oral hearings, dissenting opinions, and several more aspects). Appendix A provides a detailed description of the data gathering and data cleaning process.[12] As these two court document types – court decisions and court press releases – represent the units of observation of this dissertation, I will briefly discuss their origins individually:

1. **Court decisions:** The FCC publishes all "essential decisions" (*wesentliche Entscheidungen*) on its website, including senate decisions and a great amount of selected chamber decisions. The website provides detailed information on the docket number, the decision type (order or judgment), a short decision text up front, and the full decision text. I used web scraping techniques to gather the short and full text of the decisions, and next, I used computational text analysis methods to analyze the full texts and identify aspects like the outcome of each decision, whether an oral hearing was held,

[12] Although Appendix A focuses on the data used in *Chapter 3*; the described steps remain the same for the data used in the other chapters.

whether a dissenting opinion was written, or which proceeding type was present. Although the Court claims that the website covers decisions from the beginning of 1998, it nevertheless provides information on a few decisions issued previously.[13]. Until now (Mai 19, 2020), the decision data set contains more than 7,400 decision published between 1998 and 2019. The greatest advantage and the most significant contribution for future studies this newly compiled data makes, is the comprehensive collection of FCC chamber decisions over a comparatively long period (Hönnige and Gschwend, 2010).

2. **Court press releases:** All press releases the FCC has issued are also listed and accessible at the Court's website. The Court publishes press releases regularly since 1996. Occasionally, press releases are available for four decisions decided in 1952, 1993, 1994, and 1995. The FCCs press releases are written and published by the Courts public relations department, which was established in 1996. The department is headed by a press officer appointed by the president of the FCC. The press officers are typically trained judges who are seconded from a lower court for a four-year term. The office publishes four types of press releases: (1) decision-promoting press releases that summarize selected decisions (the most common type); (2) announcements of future decisions; (3) announcements of oral hearings, which – in most cases – also include an invitation for the public to attend; and (4) miscellaneous (e.g., visits from foreign courts). This dissertation focuses on decision-promoting press releases, as these are the most relevant to the public and political actors alike. These press releases explain and summarize decisions and are structured in a standardized way: (1) a summary of the decision's general theme and principles, which is written in layman's terms in order to provide the public with a basic understanding of the decision; (2) a description of the decision's circumstances and the arguments of the disputing parties; and (3) detailed elaborations on the Court's considerations. These press releases are summaries of the

[13]For the years 1951 to 1997, a total of 228 decisions can be found on the website.

decisions and entail large sections of verbatim copies. The decision to publish a press release is made by the respective judges of the decision, the chairperson of the respective senate, and the Court's press office (Meyer, 2019). Until now (May 19, 2020), the press release data set contains more than 1,600 press releases published from 1998 and 2019.

In the following chapters, I have used either only the press releases (*Chapter 4*), only the decisions (*Chapter 3 & 5*), or both data sets (*Chapter 2*). Each chapter uses a different set of independent variables, different time periods, and different numbers of observations, and I also used different methods for the analysis. Accordingly, each chapter has a specific "Data & Methods" section, which is why these aspects will not be elaborated here.

1.4 Outline of this dissertation

This dissertation contains four theory-driven empirical chapters. All chapters have been presented at international political science conferences and they have been either submitted to or published in peer-reviewed political science and communication journals:

- Chapter 2: Submitted and under review at *Journal of Public Policy*
- Chapter 3: Published in *Politics*, 40(4), 477-493, DOI: 10.1177/0263395719885753
- Chapter 4: Accepted for publication on August 22, 2020 in *Journalism Studies* and will be published and will be available via http://www.tandfonline.com/10.1080/1461670X.2020.1819861.
- Chapter 5: Published in *Political Communication*, OnlineFirst, DOI: 10.1080/10584609.2020.1784329

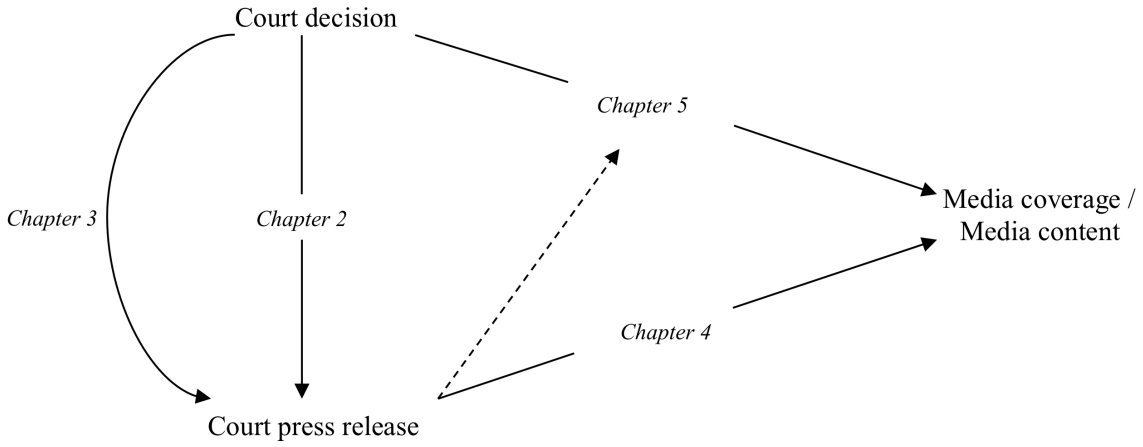
The analyses focus either entirely on the German Federal Constitutional Court (*Chapter 2 & 3*) or add data on media coverage of court decisions in Germany (*Chapter 4 & 5*). The

news media analyses cover a wide variety of national daily, weekly, and regional daily newspapers (see Appendix B for a comprehensive list). A schematic overview of the relationships studied in each empirical chapter is presented in Figure 1.2. The Figure is a modified version of Figure 1.1, in which the central aspects – agenda-setting, case characteristics, news values, and newsworthiness – are replaced by the chapter that deals with the particular aspect.

The first research question – *to what extent do policy issues discussed in court decisions influence a court's press release agenda?* – is addressed in *Chapter 2*. I focus on the agenda-setting dynamics between the FCC's decision agenda and the press release agenda. Based on supervised text classification and ensemble coding and by using ARIMA time series modeling, I analyze whether the policy issues discussed in the Court's decisions were also covered within the Court's press releases, and if so, how this linkage can be characterized. The study covers 7114 decisions and 1579 press releases, which were studied in 21 years between 1998 and 2019. I find evidence that the Court uses press releases to showcase the full range of policy issues. However, in the chapter, I also show that the court decisions exert first-level agenda-setting effects on the press releases.

The second question – *which institutional characteristics determine the publication of press releases by constitutional courts?* – is addressed in *Chapter 3*. I analyze the influence of chase characteristics on the probability that decision-promoting press releases occur. The main argument is that press releases by courts are a part of judicial public relations and are used to enhance openness and transparency surrounding specific court decisions. For the analysis, I used logistic regression models and quantities of interest to measure whether the FCC more likely publishes press releases if specific institutional elements of court decisions are at place. Empirically, this chapter uses 1131 decisions issued by the FCC's main branches – the senates – between 1996 and 2018. I can show that especially the outcome of status quo changes increase the likelihood that the Court publishes a press release. Furthermore, positive effects were found for different proceeding types like concrete reviews and constitutional disputes. These results partly confirm the assumptions made by Staton (2010) that

Figure 1.2 Schematic overview of the relationships addressed in the four empirical chapters of this dissertation.



courts use a press release to draw public attention for politically contested decisions. They also provide evidence for the considerations made by Garoupa and Ginsburg (2015), that courts need to communicate legal conflicts to safeguard their reputation.

The third research question – *how do court press releases influence news media content?* – is addressed in *Chapter 4*. In particular, I analyze whether court press releases are used by journalists to produce news content and, if so, which press releases are more likely reported on in the news media. For this analysis, a computational text analysis method – text alignment algorithms – was used to measure whether court press releases and newspaper articles address the same event and whether they contain identical phrases. I assess whether 584 FCC decision-promoting press releases were reported on in different German newspapers between 2010 and 2018. In particular, I argue that news values (conflict, political power, and familiarity) contribute to the newsworthiness of a press release and therefore increase the probability that a press release will be reported on in the news. Further, I elaborate on how information subsidies affect media gatekeeping. Although only 18 % of all press releases are reported on in the news, the study finds support that issues that are familiar to the public – measured by the previously held oral hearings – are more likely to be covered. This result

provides evidence for previous research results on the effects on oral hearings by Krehbiel (2016).

Finally, the fourth question – *what influences media coverage of court decisions?* – is addressed in *Chapter 5*. In this chapter, I cover a broader thematic spectrum and analyze media coverage on court decisions by the FCC in general. However, I also elaborate on how press releases contribute to the probability that a court decision is covered in the news (denoted by the dashed line in Figure 1.1 and Figure 1.2). Media coverage of court decisions is identified by using a computational text analysis method to measure whether court decisions and newspaper articles address the same event. The analysis is based on considerations regarding whether case characteristics contribute to the newsworthiness of court decisions. In particular, I conceptualize media coverage of court decisions as a form of justice reporting that focuses on serving the general public interest. The analysis is based on 3404 court decisions and 9436 newspaper articles, which were studied in the course of ten years (2008 to 2018). By using Firth's logistic regression models and quantities of interest, I demonstrate that media coverage is more likely when a decision is accompanied by a press release, an oral hearing, a dissenting opinion, or a combination of all three items. On the one hand, these results provide further evidence for the results of *Chapter 4*, that the familiarity news value is decisive. On the other hand, these results show that the German Federal Constitutional Court has the necessary instrument to influence media coverage independently.

Chapter 2

Understanding intra-institutional agenda-setting effects: An assessment of the two policy agendas at the German Federal Constitutional Court

Abstract: *This study focuses on two hitherto rarely considered aspects of judicial policy agendas: (1) judicial press releases and the policy issues which courts promote through them; and (2) intra-institutional agenda-setting between court decisions and court press releases. It expects that court decisions exert first-level agenda-setting effects on court press releases. Using original data on the German Federal Constitutional Court, this contribution analyzes and compares the issue diversity of both agendas and assesses their relationship. Through supervised text classification, policy issues in 7114 decisions and 1579 press releases between 1998 and 2019 were coded. Based on ARIMA time series modeling, the results show that the press release agenda is slightly more diverse than the decision agenda and that the latter exerts first-level agenda-setting effects on the press releases. Moreover, policy issues discussed at the Court's chambers have a slightly more robust influence on the press release agenda.*

Author: Meyer, Philipp. Manuscript under review at *Journal of Public Policy*.

2.1 Introduction

Research on policy agendas is focused on executives, legislatures, political parties, news media, and public relations (see for example Baumgartner, Breunig, and Grossman, 2019a; Baumgartner and Jones, 1993; Boydstun, Bevan, and Herschel, 2014; Jennings et al., 2011; Jones and Baumgartner, 2005; Kiousis and Strömbäck, 2014). Except for some studies on the U.S. Supreme Court and the Italian Constitutional Court (Baumgartner and Gold, 2002; Rebessi and Zucchini, 2018), scholarly attention on the policy agendas of constitutional courts is limited.

Constitutional courts are engaged in "rule construction – developing principles of law concerning political, social, and economic behavior in the context of salient questions of constitutional law emerging out of major political controversies" (Clark and Staton, 2015, p. 589) – and they are, as a part of the separations-of-powers systems, a central arena for political conflict between the minority and the majority (Ginsburg, 2003). Consequently, the policy agendas of constitutional courts matter, as they reflect the conflicts in which democracies find themselves struggling to develop and reconfigure the legal basics to bring their constitutional order into harmony with current developments.

Political actors like governments can autonomously set their policy agendas to react to recent events or to construct public policies (Jennings et al., 2011). In contrast, judicial agendas always depend on the cases brought, which is why their agenda-setting power originates from their dockets (Beim, Clark, and Patty, 2017). Nevertheless, courts have tools to place policy issues on the public agenda autonomously. Among other things, press releases are one of these tools.

Recently, court press releases have received increasing scholarly attention (Davis and Taras, 2017; Hitt, Saunders, and Scott, 2019; Moran, 2014; Staton, 2010; Meyer, 2019). Courts worldwide issue a wide variety of press releases to an evenly wide variety of occasions. The most common type are press releases that summarize and promote court decisions to the

public (Staton, 2010; Meyer, 2019). Previous studies have identified two reasons for courts to expand their resources in promoting decisions with press releases. First, courts promote decisions to increase transparency and avoid political evasion. The political assertiveness of a court rests equally on what it does and how it communicates what it does. Only if the public is "aware of [c]ourt decisions, and feel duty-bound to carry them out, [c]ourt orders will be implemented" (Rosenberg, 2008, p. 16). Overall, the purpose of press releases is to carry information that should reach the public (Kiousis and Strömbäck, 2014), while political actors are willing to evade court decisions if the political environment is transparent and political actions are under public scrutiny (Vanberg, 2005). One motivation to issue press releases is to enhance public awareness and to draw attention to decisions (Hitt, Saunders, and Scott, 2019; Staton, 2010). Second, courts promote decisions to safeguard judicial reputation and to serve the principle of open justice. Open justice requires that the rule of law is "not only transparent and accessible, but open to external scrutiny" (Johnston, 2018, p. 525). It helps the public to legitimize or delegitimize court rulings by assessing "whether a certain judgment took into account all the arguments put forward in the case, and whether the law was observed" (Alemanno and Stefan, 2014, p. 107). Open justice secures the right to receive information, and it ensures public scrutiny through available and openly communicated information (Hess and Harvey, 2019a). As such, it increases public trust in courts and strengthens their public image as neutral arbiters of the law. Tools that facilitate open justice are open courtrooms, accessible and transparent data, and, most importantly, active communication by the court (Hess and Harvey, 2019a). "By openly communicating the debate [...] and by clearly justifying its position [...] the courts create the forum for the parties *and the public* to see and assess whether all considerations were taken into account, whether the law was observed and thus monitor the administration of justice" (Hess and Harvey, 2019a, 18, emphases in original).

Constitutional court decisions are political because they deal with "questions of constitutional law emerging out of major political controversies" (Clark and Staton, 2015, p. 589).

Therefore, it can be assumed that if a court promotes a decision with a press release, it tries to draw attention to a specific issue that it deems vital for the public (Engel, 2020). Accordingly, I argue that courts that issue press releases have two distinct policy agendas: 1) a decision agenda; and 2) a press release agenda. I assume that both agendas share a connection, in the sense that the policy issues discussed at the decision agenda affect the policy issues promoted at the press release agenda. This linkage constitutes a first-level agenda-setting effect – i.e., the salience of issues on one agenda increases the salience of the same issues on another agenda (McCombs et al., 1997). Studies on intermedia agenda-setting and party-media agenda-setting typically ask to what extent different actors influence each other in the attention they devote to an issue (Hopmann et al., 2012; Vliegenthart, 2014; Vliegenthart and Walgrave, 2011). This study transfers this question to the context of courts and asks whether first-level agenda-setting effects can be detected between a court's decision agenda and its press release agenda.

This study contributes to the existing literature in three ways. First, it adds a novel approach to the analysis of agendas by building a theoretical model that proposes a causal relationship between two intra-institutional agendas. Second, this study extends the knowledge on policy agendas to the German Federal Constitutional Court (FCC). Third, it contributes to the data on policy agendas by collecting and coding two new datasets: FCC decisions and press releases.

The German case is particularly well suited for an empirical assessment of court agendas. First, the FCC is among the most powerful and influential courts worldwide (Kommers, 1994). Its decisions not only influence the public opinion in Germany (Sternberg et al., 2015), but they also affect the political systems in Germany and the European Union alike (Dyevre, 2011). Additionally, the FCC's agenda shapes the policy agendas of other political actors (Brouard and Hönnige, 2017). Moreover, due to its considerably high and crisis-resistant public support (Schaal, 2015), the Court has developed strong legal and political authority (Krehbiel, 2019), which has contributed to the mirroring of its institutional design by consti-

tutional courts around the world (Hönnige, 2007; Navia and Ríos-Figueroa, 2005). Second, the Court's efforts in promoting decisions to the media are comparable to those of most European apex courts (Meyer, 2019). Finally, its judges are involved in the decision-making process on whether or not to publish press releases. Hence, the relationship between both agendas is of particular interest. Overall, the FCC presents an empirically important case that is representative of other constitutional courts, which is why it serves as an appropriate starting point for understanding a larger – albeit similar – set of cases.

Empirically, I analyze 7114 court decisions between 1998 and 2019, of which 1579 were promoted with a press release. Two coders manually coded policy issues in 2000 court documents, to employ supervised text classification methods. To assess the relationship between both agendas, I measure their issue diversity with the Shannon H's entropy index (for similar approaches see Alexandrova, Carammia, and Timmermans, 2012; Boydstun, Bevan, and Herschel, 2014; Jennings et al., 2011; Rebessi and Zucchini, 2018). Finally, the first-level agenda-setting effects are analyzed with ARIMA time series analysis of aggregated quarterly-based measurements. Additionally, by creating subsets of the decision agenda, I assess whether the different branches of the Court – senates or chambers – shape the press release agenda.

The results show that the press release agenda is slightly more diverse and 'colorful' than the decision agenda. Its time trends also seem to mirror the political conflicts in Germany. Further, the study found evidence that the decision agenda exerts first-level agenda-setting on the press release agenda. Moreover, decisions by the Court's chambers have a slightly more substantial influence on the press release agenda. As the FCC's chambers deal with a wider variety of issues than the senates, the results imply that the FCC uses press releases to showcase the diversity of its decisions. As such, this study finds evidence that court press releases facilitate open justice.

2.2 Policy agendas and courts

Modern politics is embedded in an information-rich and complex world, composed of a multitude of different actors and an evenly broad spectrum of policy agendas. Each actor tries to define policy problems to their advantage through prioritizing and reframing issues, which is the essence of agenda-setting (Jones and Baumgartner, 2005). On the first level, agenda-setting is the transmission of issue salience from one to another agenda (Kiousis et al., 2015). On the second level, agenda-setting describes how attributes (e.g., the image of a politician) affect agendas (McCombs et al., 1997).

Policy agendas are defined as the "set of issues to which political actors are, at any given time, paying serious attention" (Dowding, Hindmoor, and Martin, 2016, p. 5). However, because policy agendas are finite and agenda-setting is a zero-sum game (Boydstun, Bevan, and Herschel, 2014), political actors typically focus on only a few issues at a time (Jones and Baumgartner, 2005). Therefore, to understand policy agenda dynamics, it is necessary to assess their issue diversity (Alexandrova, Carammia, and Timmermans, 2012; Boydstun, Bevan, and Herschel, 2014; Jennings et al., 2011). This study makes expectations on the diversity of court agendas and possible agenda-setting effects in the following sections.

2.2.1 Judicial policy agenda research so far

Scholars of judicial politics have studied judicial outcomes, how individual preferences shape them, and the strategic behavior or judges (Epstein and Knight, 1998; Hanretty, 2013; Segal and Spaeth, 2002b), others have assessed whether courts are veto-players (Brouard and Hönnige, 2017), or how public opinion influences court actions and vice versa (Krehbiel, 2016; Staton, 2010; Sternberg et al., 2015; Vanberg, 2005). In comparison, only a few studies on judicial policy agendas exist.

Foremost there is research regarding the agenda of the U.S. Supreme Court (SCOTUS).

Baumgartner and Gold (2002) compare the agendas of the SCOTUS and the U.S. Congress, while Robinson (2013) focuses on equal rights cases and examines policy change dynamics and punctuations. Yates and colleagues (2005) find that the policy agenda of the SCOTUS responds to the policy agendas of the president, the Congress, the public opinion, and the ideological configuration of its bench. Apart from the U.S. context, some studies analyze the issue agenda composition of the French Conseil constitutionnel (Brouard, 2009) or compare the agendas of the constitutional court and the parliament in Italy (Rebessi and Zucchini, 2018). Policy-centered studies have focused either on the qualitative analysis of landmark cases (Rosenberg, 2008) or on the quantitative analysis of how courts influence policy change (Fogarty and Monogan, 2018; Grossmann and Swedlow, 2015) or media attention (Conway, Jordan, and Ura, 2018). Studies on the diversity of judicial agendas are rare. Thus, there is a lack of comprehensive knowledge on that issue, which expands in the case of intra-institutional agenda dynamics.

2.2.2 One court, two agendas: decision agenda and press release agenda

Courts cannot set their agenda. Their issue attention is always limited to the cases on their docket. Two types of court dockets exist: discretionary and mandatory. Discretion or the power to grant certiorari permits courts "to address a constitutional issue when the timing is right for the court successfully to intervene to decide that issue" (Fontana, 2011, p. 627). The SCOTUS can grant certiorari and is, therefore, able to "direct its verdict to causes on which it wants to have a political impact, or [to] put an issue on the political agenda" (Engel, 2020, p. 261). Studies found that the decision to grant certiorari is affected by political pressure (Harvey and Friedman, 2009), by disputes between lower courts, the Court's knowledge on these disputes (Clark and Kastellec, 2015; Ulmer, 1984), or by amicus participation (Caldeira and Wright, 1988). Other studies have shown that this decision depends

on individual preferences, ideological orientations, and strategic behavior to further those preferences and ideologies (Epstein and Knight, 1998; Segal and Spaeth, 2002b). Overall, because the SCOTUS can grant certiorari and because it can decide upon the timing, it is perceived to be a powerful agenda-setter (Beim, Clark, and Patty, 2017). Nevertheless, there is also evidence that external policy agendas (e.g., from Congress) influence the SCOTUS's agenda (Yates, Whitford, and Gillespie, 2005).

Courts without the power to grant certiorari have a mandatory docket, as they are obliged to hear every incoming legal dispute regardless of time or context (Fontana, 2011). For example, the German Federal Constitutional Court (FCC) "must decide each and every case that is brought" (Engel, 2020, p. 261). Nevertheless, there are other tools to allocate policy attention and to take some cases more seriously than others: 1) admissibility checks to select disputes which are legally permissible (Soennecken, 2016); 2) press releases to indicate to the public, that attention should be drawn to a particular case (Engel, 2020). This study focuses on the second aspect.

Communication by courts is an "effective response to the political pressures which threaten to undermine the independence of courts" (Hess and Harvey, 2019a, pp. 43-44). By communicating with the public, courts facilitate their image as neutral arbiters, because citizens will be enabled to assess "whether a certain judgment took into account all the arguments put forward in the case, and whether the law was observed" (Alemanno and Stefan, 2014, p. 107). Hence, press releases serve the principle of open justice by transmitting information to the public, while also courts can craft their reputation by showing that justice is transparent and open to public scrutiny (Hess and Harvey, 2019a).

Other studies found connections between press releases and strategic judicial behavior. Hale (1978) outlines how the Californian Supreme Court influences public attention with its press releases, while Staton (2010) finds evidence that courts strategically use press releases to promote judicial independence by drawing public attention and to enhancing the transparency of its actions to strengthen its position vis-á-vis the other political branches. Staton

(2010) thereby expands upon the work by Vanberg (2005), who argues that courts are more likely assertive, and the chance that political actors evade or ignore court decisions is smaller if the transparency is high and public scrutiny is possible.

Public relations scholars argue that the purpose of press releases is to disseminate information that is accessible and 'ready to use' to reach the public (Kiousis and Strömbäck, 2014). Various studies found a positive relationship between press releases, media coverage, and public opinion (Haselmayer, Wagner, and Meyer, 2017; Helfer and Aelst, 2016; Kiousis et al., 2015). Similarly, for courts, press releases are a common phenomenon, and judicial public relations are found to shape media coverage (Staton, 2010; Vining and Wilhelm, 2010; Yanus, 2009). The empirical range of decision-promoting press releases spans from simple announcements of future decisions to comprehensive decision summaries. At the same time, their usage differs from scant and erratic (e.g., the Supreme Court in South Korea) to regular publications (e.g., the Constitutional Court in Austria) (Hitt, Saunders, and Scott, 2019; Spencer, 2017; Meyer, 2019).[14]

However, not every decision is promoted by a press release. Only those who are deemed politically or legally relevant get promoted – i.e., by changing the status quo through statute invalidations or the overturning of a lower court action (Staton, 2010). Again, this is due to the desired image of neutrality: "In one sense, it is simply unbecoming for a judge to engage in nonadjudicatory appeals normally reserved to the politicians. [...]. Second, public communication, especially insofar as it highlights noncompliance, can undermine the judicial image" (Staton, 2010, p. 188). However, an oversupply of information may lead to public confusion on the importance of a decision, which facilitates the chances of political evasion. Hence, selectivity and "strategic deference alone can advance legitimacy" (Staton, 2010, p. 188).

Accordingly, decision-promoting press releases always constitute a self-chose spotlight

[14]Besides decision-promotion press releases, constitutional courts are also found to use press releases to announce oral hearings, inform about visits (from or to the respective court), or inform about a judge's birthday or a former judge's death (Meyer, 2019). See Chapter 3 of this dissertation.

on a court's adjudication and its policy issues. I, therefore, argue that courts that promote decisions with press releases have two distinct policy agendas: 1) a decision agenda, composed of all cases the court has decided on, and 2) a press release agenda, composed of the decided cases the court has selected for promotion.

Nevertheless, which dynamics and agenda-setting effects shape the relationship between both agendas? Previous studies find evidence that the institutional characteristics of the courts condition the publication of decision-promoting press releases (Staton, 2010; Meyer, 2019). Based on this, the next section outlines theoretical expectations on the assumed agenda-setting effects between a court's decision agenda and its press release agenda.

2.2.3 Expectations

It is necessary to understand the composition of a court agenda to make assumptions about possible agenda effects. Previous research has shown that governments' policy agendas are primarily occupied by three core issues that mirror the most important governmental functions and, therefore, leave less space for minor issues: 1) regulating the economy, 2) asserting national interests in international relations, 3) running and maintaining government and administration (Jennings et al., 2011).

Similar core functions can be identified for constitutional courts. In general, constitutional courts interpret the principles of a constitution in the light of political or legal conflicts to secure the right of minorities and to provide authoritative legal interpretations (Ginsburg, 2003; Hönnige, 2011). By "serving as a countermajoritarian institution, judicial review can ensure that minorities remain part of the system, bolster legitimacy, and save democracy from itself" (Ginsburg, 2003, p. 22). Accordingly, the central functions of constitutional courts are: 1) securing the separations-of-power system; 2) protecting the fundamental rights and minorities; 3) reinterpreting and adjusting the society's social consensus. Ginsburg (2003, p. 255) argues that the core issues of courts are "fundamental rights and constraint of state

authority." However, these can be further differentiated into three issues: (1) civil and minority rights, (2) the rule of law, and (3) the control of political actions.

Similar to governmental policy agendas, I assume that a court's decision agenda, which mirrors all the decided cases, should be occupied by the three core issues (1) civil and minority rights, (2) the rule of law, and (3) the control of political actions. In contrast, as above-argued, court press releases facilitate open justice to "foster a better understanding of the role of the judiciary [and] to ensure that the public is presented with complete and accurate information" (Hess and Harvey, 2019a, p. 41). Consequently, only by showcasing the diversity of their decisions, courts secure open justice. Moreover, only through the communication of minor issues, courts can show that justice is served in even the smallest of disputes (Hess and Harvey, 2019a). Although the press release agenda should also reflect the core issues, I expect it to be more diverse and more colorful than the decision agenda. *Expectation 1: I expect that both court agendas are occupied by the core issues of constitutional courts - (1) civil and minority rights, (2) the rule of law, and (3) the control of political actions -, but a court's press release agenda should be more diverse in order to secure open justice.*

Court press releases promote decisions that are strategically selected by the court to create transparency and to enhance its position vice versa the other political branches (Staton, 2010). As such, they constitute a selected spotlight of all policy issues, indicating a causal unidirectional relationship and a first-level agenda effects from the decision agenda on the press release agenda. *Expectation 2: I expect a court's decision agenda to exert first-level agenda-setting effects on the press release agenda.*

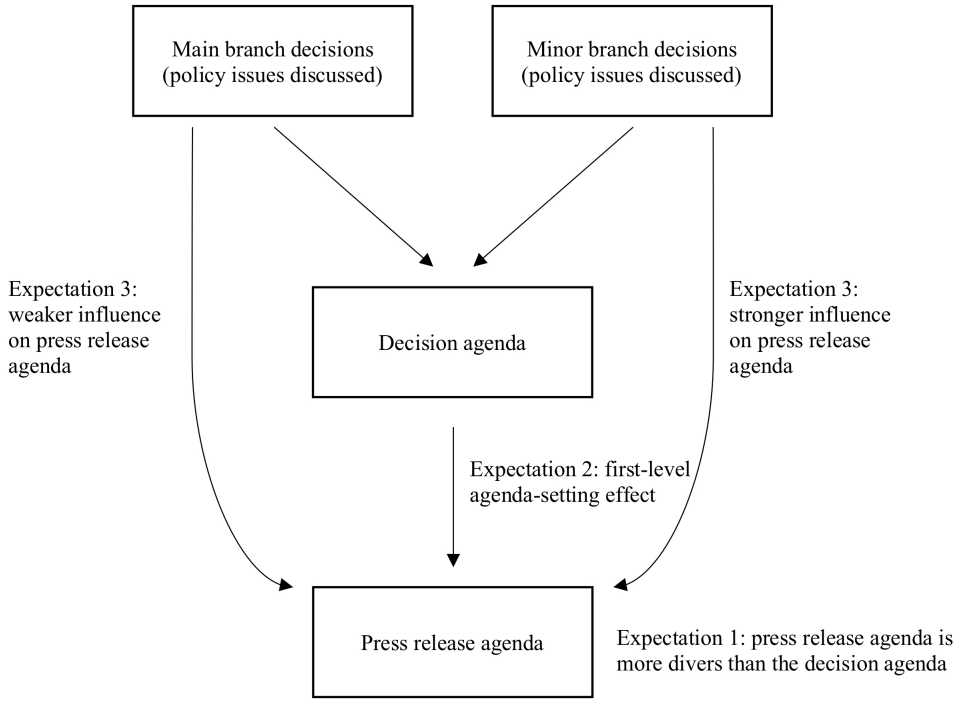
However, what determines the dynamics between both agendas? Figure 2.1 illustrates a simplified model of the relationship between both agendas. It shows the expected first-level agenda-setting effect between the press release agenda and the decision agenda (Expectation 2) and mentions the assumed higher diversity of the press releases agenda (Expectation 1). Additionally, the figure illustrates expected effects from institutional characteristics,

because previous studies found evidence that a court publishes a press release more likely if the promoted decision has specific institutional characteristics (Meyer, 2019).

Among others, especially aspects of a court's institutional organization are crucial here. Most constitutional courts are institutionally segmented into different court branches to organize and handle their docket effectively (Hönnige, 2007). For example, the German Federal Constitutional Court is structured into two senates, the main branches, and each senate can appoint several chambers, the minor branches (Holtz-Bacha, 2017). Institutionally, the two senates deal with the more fundamental and politically and legally relevant disputes. The chambers check the admissibility of incoming complaints, direct the more fundamental questions to the senates, and decide on smaller and less substantial disputes (Hönnige, 2007; Vanberg, 2005). As such, the main branches' decisions are always more relevant than those issued by the minor branches. Scholars find this link between main branch decisions and relevancy for several constitutional courts worldwide (Epstein and Knight, 2018; Hönnige, 2007; Navia and Ríos-Figueroa, 2005). Accordingly, both main branch and minor branch decisions contribute to the decision agenda. However, minor branch decisions should have a more substantial effect on the press release agenda, since a court is assumed to showcase the diversity of its decisions to the public. *Expectation 3: I expect to see a more substantial first-level agenda-setting effect on a courts press release agenda in the context of cases decided by the courts minor branches.*

Figure 2.1 illustrates an approach to reveal theoretical and empirical insights on institutional policy agendas. Accordingly, parsimony characterizes the proposed theoretical expectations, which are, therefore, unable to deal with each court decision's complex coherencies. Additional aspects that possibly affect the agenda dynamics between both court agendas are, for example, proceeding types, decisional outcomes, or the salience of court decisions (Brouard and Hönnige, 2017; Clark, Lax, and Rice, 2015; Collins and Cooper, 2016). For example, each proceeding type represents a unique access route for a different set of claimants. Consequently, different types of proceedings also address different policy

Figure 2.1 Model of intra-institutional agenda dynamics within constitutional courts (own chart).



issues (e.g., constitutional complaints more likely dealing with civil rights issues). As each court has different procedures to allocate the proceedings to its branches (Brouard and Hönnige, 2017), it is not yet possible to make exhaustive assumptions on agenda dynamics and proceeding types.

Further, Staton (2010) finds evidence that courts promote decisions more likely when they change the status quo through declarations of unconstitutionality. Nevertheless, constitutional courts can also change the status quo by overturning lower courts, and those decisions require an open court communication to ensure "cooperation between the constitutional court and ordinary courts" (Garoupa and Ginsburg, 2015, p. 149). Again, we lack a comprehensive understanding of how outcomes affect a court's agenda dynamics. Therefore, this study focuses on the relationship between the agendas and the court branches, generating first insights into the internal agenda-setting dynamics of judiciaries and paving the way

for future research on the connections between proceedings, outcomes, and agendas.

2.3 Data and Methods

The empirical research on judicial agendas lacks comparative data. For example, the *Comparative Agendas Project* (CAP) lists only two datasets on courts: U.S. Supreme Court cases from 1944 to 2009 and the Italian Constitutional Court decisions from 1983 to 2013.[15] Moreover, scholars working on judiciaries outside the U.S. contexts have used rather unsatisfactorily operationalized policy issue categories (e.g., Krehbiel, 2016; Vanberg, 2005). This study uses a single case to contribute to the data on judicial agendas, and assessing press releases also adds a novel aspect to the study on policy agendas. Empirically, it uses the case of the German Federal Constitutional Court (FCC), which is not only mostly representative of constitutional review courts (Navia and Ríos-Figueroa, 2005) but more generally offer sufficient data availability.

2.3.1 Case selection

The FCC is a Court that 1) publishes decision-promoting press releases for a reasonable amount of time, that 2) requires its judges to take an active part in the decision-making process of whether or not to publish a press release, and that 3) provides sufficient information on decisions and press releases on its website. Its decisions can alter Germany's political system and that of the European Union (Dyevre, 2011). Due to its considerably high and crisis-resistant public support (Schaal, 2015), the Court has developed strong legal and political authority (Krehbiel, 2019), which has led to a mirroring of its institutional structure by various courts around the world (Hönnige, 2007; Navia and Ríos-Figueroa, 2005). Accordingly, the FCC presents an empirically important case that is representative

[15] For a list of all online available CAP data sets see https://www.comparativeagendas.net/datasets_codebooks (accessed February 14, 2020).

of other constitutional courts, which is why it serves as an appropriate starting point for understanding a larger – albeit similar – set of cases.

The FCC is a specialized constitutional court with the exclusive right of judicial review.[16] Institutionally, it is divided into two senates, each staffed with eight judges, while each senate forms three to four chambers with three judges each. Both chambers and senates are authorized to decide on cases; however, only the senates are entitled to declare a law unconstitutional or to resolve a dispute between constitutional organs (Vanberg, 2005). Although the Court's doctrine defines seven different proceeding types,[17] the most relevant are concrete and abstract reviews and constitutional complaints (Brouard and Hönnige, 2017).

Table 2.1 shows the official statistics of the FCC docket between 1951 and 2018. The table distinguishes between cases brought and cases that the Court has deemed as admissible and has decided on, which defines its decision agenda. It also differentiates between complaints, abstract and concrete reviews, and other proceeding types.[18] Constitutional complaints dominate the docket; however, only slightly more than two percent were deemed admissible. Abstract and concrete reviews and the other proceeding types have roughly equal shares on the Court's docket. Institutionally, the FCCs chambers control the admissibility of all cases brought, and they decide on constitutional complaints and concrete reviews. At the same time, they direct abstract reviews and all more fundamental cases like constitutional disputes but also some constitutional complaints to the senates (Vanberg, 2005).

The Court established its public relations department in 1996. The department is headed by a press officer appointed by the president of the FCC. The press officers are trained judges who are seconded from a lower court for a four-year term. The majority of press releases the

[16] Epstein, Knight and Shvetsova (2001) provide a comparative description of specialized and diffuse court systems. See also Chapter 1.

[17] The proceedings are: 1) conflicts between the federal state and individual federal states (Länder) about their respective competencies; 2) conflicts between constitutional organs about their respective competencies; 3) abstract review; 4) concrete review; 5) constitutional complaints; 6) prohibition of political parties; 7) election complaints. See Article 93 of the Basic Law and §13 of the Act on the Federal Constitutional Court.

[18] On December 31, 2018, the Court has in total 3,236 pending proceedings. See official Court statistics for the years 1951-2018, https://www.bundesverfassungsgericht.de/SharedDocs/Downloads/EN/Statistik/statistics_2018.pdf (accessed January 6, 2020).

Table 2.1 The docket of the FCC, 1951-2018.

All cases	Constitutional complaints	Abstract and concrete reviews	Other types	Total
Procceedings brought	229.899	3,861	4.288	238.048
Proceedings deemed inadmissible	221.618			221.618
Decision agenda (cases deemed admissible)				
Decisions	5.186	3.722	4.236	13.144
Proccedings still pending	3.095	139	52	3.236

Note: Data from the official FCC statistics for the years 1951-2018 (see footnote 17 for the detailed source).

Court publishes are decision-promoting press releases that contain comprehensive summaries of the respective decision. Additionally, the FCC uses press releases to announce an upcoming decision and oral hearings and inform the public about trivia like birthdays of judges (Meyer, 2019). I focus on decision-promoting press releases as they promote selected decisions and therefore constitute a selective spotlight of the Court's decision agenda.

The decision-promoting press releases usually contain two to four pages and have a standardized structure: 1) decision details; 2) general theme and principles; 3) arguments and motives of the dispute parties; 4) essential considerations. The second paragraph is written in layman's terms, which highlights the agenda-setting function of press releases. The choice to promote a decision with a press release is made collectively by the judges in charge, the chairperson of the respective senate, and the Court's press office (Meyer, 2019). The Court disseminates its press releases via an E-Mail newsletter, Twitter, and on the Court's website.

This study analyses and compares the policy topics in the FCC's decisions and press releases between 1998 and 2019. I opt for 1998 as the starting point because the press office needed time to be settled, staffed, and the judges needed time to accustom themselves to

the new office. I use all 7114 (senate and chamber) decisions, and 1579 decision-related press releases the Court has issued between 1998 and 2019 and has made online available.[19] The full texts of both document types and essential decisional attributes and outcomes (e.g., proceeding types, court branch, outcome) were scraped from the Court's website.[20]

2.3.2 Text classification of court documents

I followed the codebook of the Comparative Agendas Project (CAP) to code the documents, as it offers comparability with research on policy agendas around the world and across different institutions (Baumgartner, Breunig, and Grossman, 2019b). The codebook lists 21 major and 232 minor topics.[21] I attribute only one policy topic to every single unit of analysis. To sustain comparability with existing policy agenda research, I restrict the analysis to the major topics (e.g., Alexandrova, Carammia, and Timmermans, 2012; Jennings et al., 2011).

I use an automated supervised text classification method, which requires a set of manually coded documents and classifies documents mutually-exclusive to one code (Grimmer and Stewart, 2013). Supervised classification methods have proven to be very accurate for CAP-based coding (Wilkerson and Casas, 2017). The manual coding was done by two trained coders, who coded 2000 randomly selected court documents according to the CAP scheme. The coders coded the first paragraph. Only in cases of strong concerns or uncertainties, the full texts were checked. Diverging classifications were discussed collectively by the author and the coders and placed in a policy issue category. The codebook of the German Policy Agendas Project (version 2.4, July 2017) is used for the coding. It features an additional major topic concerning German reunification (Breunig and Schnatterer, 2019). The intercoder

[19] One evidence is the low overall quantity of press releases in 1996 and 1997, where the Court has published only 14 press releases in total.

[20] Details of each decision can be reached via https://www.bundesverfassungsgericht.de/SiteGlobals/Forms/Suche/Entscheidungensuche_Formular.html?language_=de(accessedJanuary6,2020) .Detailsofeachpressreleasecanbereachedviahttps://www.bundesverfassungsgericht.de/DE/Presse/presse_node.html (accessed January 6, 2020). See also Appendix A.

[21] See https://www.comparativeagendas.net/pages/master-codebook (accessed January 20, 2020).

reliability measured with Cohens Kappa was 0.92, and the absolute agreement between both coders was 94 %.

Based on ensemble coding to enhance the overall accuracy of the classification, I have used multiple supervised classification algorithms to code the remaining unlabeled documents. The algorithms were trained with the manual codes.[22] Ensemble coding uses multiple algorithms simultaneously to match the human-coding more accurately. The final code is the one that receives the highest agreement across all algorithm classifications (Grimmer and Stewart, 2013). The classification reached an excellent performance with a precision of 77 %, a recall of 67 %, and an F1-value of 72 %.

2.3.3 Measuring agenda diversity

To analyze intra-institutional agenda-setting, I measure the diversity of the agendas. Previous studies found evidence that analyzing the diversity of an agenda is a feasible way to understand how policy agendas change and how different agendas are connected (Alexandrova, Carammia, and Timmermans, 2012; Boydstun, Bevan, and Herschel, 2014; Jennings et al., 2011). Agenda diversity is defined as "the degree to which attention on an agenda is distributed across items, from complete concentration (a single item receiving all attention) to complete diversity (all items receiving an equal level of attention)" (Boydstun, Bevan, and Herschel, 2014, p. 174).

To measure agenda diversity, I use Shannon's H entropy index, which is a "probabilistic measure of the spread of objects or observations across a defined number of (discrete) nominal categories" (Jennings et al., 2011, p. 1011). Shannon's H is particularly suitable for policy agenda research, as it captures fluctuations more accurately through its high sensitivity for extreme values (Boydstun, Bevan, and Herschel, 2014). The index is calculated with the following equation:

[22]The classification was done in R with the package *RTextTools* (Collingwood et al., 2013).

$$-\sum_{i=1}^{n}(p(x_1)) \times lnp(x_1) \tag{2.1}$$

The policy issues are represented in x_i, while $p(x_i)$ is the proportion of the total attention a specific policy issue receives. Low values indicate an agenda concentrated on a few issues, and high values indicate an agenda that is diversified across several issues. Because the natural log of 0 is undefined, all zero values are replaced with a tiny proportion (0.00000001) (as suggested by Boydstun, Bevan, and Herschel, 2014).

2.3.4 Data

The dependent variable is the diversity of the press release agenda, and the independent variable is the diversity of the Court's decision agenda. The policy issues for both the decision agenda and the press release agenda are coded for each document. Subsequently, I measured the agenda diversity for both agendas on a yearly-basis and computed quarterly-based time series (N = 88). The quarterly measurement is justified because the Court does not issue decisions on a daily or weekly basis.

To assess the third expectation regarding the agenda effects of the court branches, I created two subsets of the court decision data: senate decisions and chamber decisions. Next, I repeated the above-described steps (yearly diversity measurement, quarterly time series computation). Accordingly, the diversity of the senate decisions and the chamber decisions represent two additional independent variables.

Table 2.2 lists the descriptive statistics of the time series. It reports the number of documents, the number of quarters, and the mean, the standard error, and the range of the entropy measures. The dispersion of the press release diversity is higher (S.E. = 0.33) than the dispersion of the decision agenda diversity (S.E. = 0.26), which suggests that the press

Table 2.2 Entropy of court agendas.

Time series (1998-2019)	Documents	Quarter	Entropy			
			Mean	SE	Minimum	Maximum
Decision agenda	7114	88	1.80	0.26	1.20	3.18
Press release agenda	1579	88	1.70	0.33	1.07	3.03
Decision agenda subsets						
Senate decision agenda	1113	88	1.46	0.35	0.65	2.65
Chamber decision agenda	6001	88	1.73	0.27	1.11	3.15

Note: SE = Standard error

release agenda has a greater degree of randomness. However, a pairwise t-test reveals that this difference is not significant. Moreover, the chamber decision subset has a higher mean entropy than the senate decision subset.

2.3.5 Method

Similar to research on intermedia agenda-setting, this study asks whether a courts decision agenda influences the courts press release agenda in its attention to policy issues, which implicates a one-directional causal relationship of first-level agenda-setting effects between both agendas. I opted to use an aggregated time series analysis with the ARIMA-framework (Vliegenthart, 2014). Because the dependent variable and the independent variables are measured at regular time intervals (quarter) for a more extended period (22 years), this study can sort out time order and make claims about causality (Vliegenthart, 2014).

ARIMA-models are used to assess one-directional causal relationships and are suitable "when it comes to establishing the size and delay of effects of preestablished independent variable(s) on a dependent variable" (Vliegenthart, 2014, p. 2430). I followed the steps suggested by Vliegenthart (2014). First, I tested the time series for stationary by using the Augmented Dickey-Fuller test to reject the null hypothesis that a unit root is present. If the

time series is non-stationary, differencing would be warranted. Table 2.3 presents the results of the test. All tests indicate the absence of a unit root since the values are smaller than the 5 %-critical value of −3,45. Next, to account for the time series past and to mimic white noise, I determined the autoregressive (A.R.) and moving average (M.A.) terms, which was done by comparing several models based on the pattern of the autocorrelation-function (ACF) and the partial autocorrelations (PACF). This process resulted in a seasonal ARIMA model with four periods. Finally, I added the explanatory variables and established their appropriate lag length by analyzing the independent and dependent variables' cross-correlation function (CCF). Only lags 0 to 3 are considered for the CCF because the Court is only allowed to issue a press release if all dispute parties are verifiably informed in advance (Meyer, 2019). For all independent variables, the strongest correlation was found at lag 0, which indicates that that intra-institutional agenda-setting is an immediate process that takes place within one quarter.

2.4 Results

2.4.1 Expectation 1: Agenda diversity

The first expectation based on two central considerations: 1) constitutional courts have three core issues: civil rights, government/political actions and the rule of law (Ginsburg, 2003); 2) courts use press releases to enhance transparency to strengthen their position (Staton, 2010) and to create openness to secure open justice by showcasing the diversity of their decisions (Hess and Harvey, 2019a; Johnston, 2018). I expect the FCC's decision agenda to be more focused on these three issues, while the release agenda should show a higher overall diversity of policy issues.

The Court's press release agenda is slightly more diverse and 'colorful' than the decision agenda. Table 2.4 lists the frequency and percentage shares of all policy issues on both

Table 2.3 Augmented Dickey-Fuller test for the various court agendas.

	Augmented Dickey-Fuller test
Press release agenda	−8.736
Decision agenda	−8.449
Senates agenda	−9.453
Chambers agenda	−8.543

agendas. The table shows that both agenda spaces are predominantly occupied with the identified core issues law and crime, civil rights, and government operations. The largest policy issue, *Law and Crime*, covers 48 % of the decision agenda space, and nearly 32 % of the press release agenda space. According to Kneip (2015), the FCC's docket is dominated by topics regarding the domestic and legal policy in Germany. Further, the decision agenda contains a large number of constitutional complaints, which were deemed admissible but got rejected by the chambers. These rejections are mostly due to procedural errors (Engel, 2020), they are classified under *Law and Crime* and its minor issue *Court Administration*, which captures procedural questions. The second-largest issue, *Civil Rights*, covers 17 %, respectively, 19 % of the agenda spaces. The FCC has dealt with several cases regarding equality politics, personal rights, and freedom of information.[23] *Government Operations* occupy 12 %, respectively, 18 % of the agenda spaces. Decisional subjects to be mentioned here are especially election regulations and inter-state fiscal adjustments.[24] Overall, these three issues capture 77,62 %, respectively 69,98 % of the agenda spaces, while the remaining policy fields attracted between 6 % to $<$ 1 % of the Court's agenda spaces. These first descriptive results show that the Court's press release agenda spreads over a slightly wider

[23]See for example *1 BvL 10/05* or *1 BvL 1/04* on the rights of transsexual people; *1 BvF 1/01* on registered partnerships of same-sex couples; 2 BvF 1/02 on the German immigration act; *1 BvR 2378/09* on eavesdropping operations in private residences. I list the docket numbers of the decisions since they are also used on the Court's website.

[24]For example, *2 BvC 3/07* or *2 BvF 3/03*.

Table 2.4 Agenda composition of the decision agenda and press release agenda.

Decision agenda (1998-2019)

Policy field	Frequency	Percentage
Law and Crime	3453	48.54
Civil Rights, Minority Issues and Civil Liberties	1206	16.95
Government Operations	863	12.13
Social Welfare	329	4.63
Labor	224	3.15
Healthcare	209	2.94
Macroeconomy	176	2.47
Remaining 12 policy fields (less than 2% each)	654	9.19
Total	7114	100

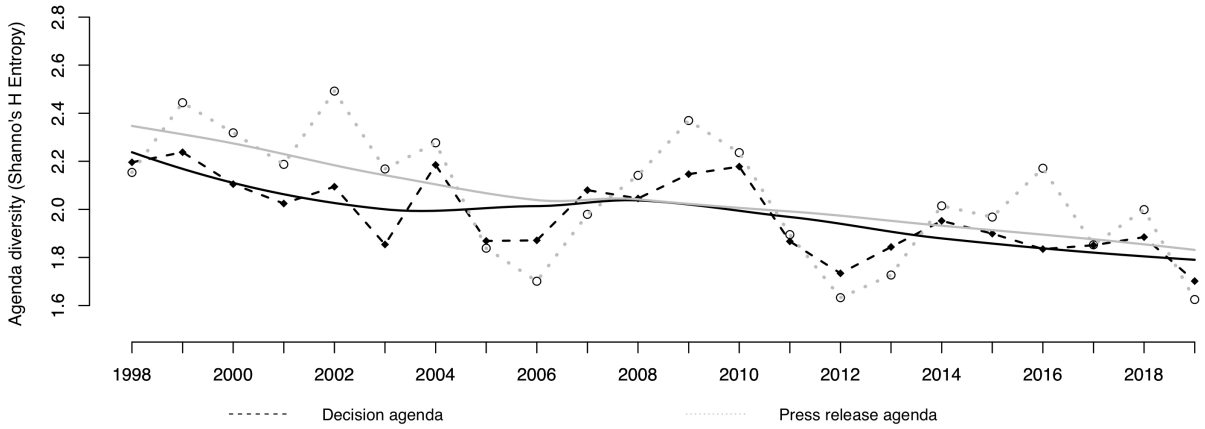
Press release agenda (1998-2019)

Policy field	Frequency	Percentage
Law and Crime	499	31.60
Civil Rights, Minority Issues and Civil Liberties	308	19.51
Government Operations	298	18.87
Social Welfare	101	6.40
Healthcare	64	4.05
Labor	63	3.99
Education	48	3.04
Macroeconomy	46	2.91
Remaining 11 policy fields (less than 2% each)	152	9.63
Total	1579	100

range of issues, while the decision agenda leaves less space to minor issues. Moreover, the press release agenda possess a higher share of the issue of governmental operations. It can be interpreted in the light of Staton's (2010) assumption that courts use press releases, especially for politically disputed cases, to strengthen their position vice versa the other political branches.

Figure 2.2 illustrates the yearly-measured Shannon's H entropy scores for both agendas. In the mean, medium-sized entropy scores of 2.03 (decision agenda) and 2.09 (press release agenda) are found for the 22 years. These measures are comparable with the agenda diversity of European governments, for which Jennings et al. (2011) found mean entropy values from 1.8 to 2.4, and with the diversity of the agenda of the European Council, for which

Figure 2.2 Yearly-measured agenda diversity of the decision agenda and the press release agenda, 1998-2018.



Alexandrova and colleagues (2012) found an average entropy of 2.25. The figure shows a decreasing trend for both agendas. However, the press release agenda has more extreme peaks. These seem to correlate with the political processes in Germany. For example, in 2002, several cases were brought before the Court by the former government party CDU/CSU in the wake of their electoral defeat in 1998 (Kneip, 2015). Similar explanations for the peaks in 2009 and 2016 correspond with changes in the governing coalitions (as the Social Democrats and Liberals became opposition parties, respectively). Overall, these descriptive results confirm the first expectation. The Court seems to use the advantages of press releases to autonomously select issues it wants to draw the public's attention. Press releases seem to allow the court to promote a broader range of issues than would be possible with its decisions on the cases that it is obliged to issue.

2.4.2 Expectation 2 and 3: Agenda-setting effects between the agendas

Table 2.5 presents the ARIMA models on the press release agenda series. Four models are reported: 1) the univariate model on the press release agenda series, 2) the decision agenda model, which adds the decision agenda series, 3) the court branches model, which adds the series for the senates and the chamber decisions, and 4) the full model. All models have negative autoregressive and moving averages terms, which indicates that its own past negatively shapes the press release series. For example, the negative moving averages indicate that the press release agendas series is impacted by high-diversity waves, followed by evenly sharp decreases.

The results in table 2.5 show that all independent variables exert a significant influence on the press release agenda diversity. The decision agenda model results indicate that each increase in the court decision agenda's diversity results in an on average, 0.77 higher diversity score at the press release agenda, which gives evidence to confirm the second expectation, that the decision agenda exerts first-level agenda-setting effects on the press release agenda. Moreover, the court branch model results suggest that the chamber decisions' issue diversity has a slightly more substantial positive influence (0.49) on the press release agenda than the issue diversity of the senate decisions (0.37). Hence, the FCC seems to uses press releases to open up its adjudication and to showcase the diversity of its decisions. Consequently, the third expectation can be approved: the first-level agenda-setting effect on the press release agenda is more robust for cases decided by the Court's minor branches.

Finally, the findings for the full model show that the court branches' effects vanish, which is not surprising, as the decision agenda subsumes the decisions of both branches and thus absorbs their empirical effects. The model fits improve model by model, as indicated by the decreasing AIC and BIC values, and the residuals display now signs of autocorrelation (see the results for Ljung-Box tests). Accordingly, the model's specifications seem to be very well,

Table 2.5 ARIMA model on the press release agenda series.

	Univariate model	Decision agenda model	Court branches model	Full model
AR (1)	-0.92^{***}	-0.97^{***}	-0.90^{***}	-0.95^{***}
	(0.08)	(0.10)	(0.07)	(0.08)
AR (2)	-0.77^{***}	-0.84^{**}	-0.74^{***}	-0.74^{***}
	(0.12)	(0.25)	(0.10)	(0.11)
AR (3)	-0.69^{***}	-0.77^{*}	-0.74^{***}	-0.71^{***}
	(0.17)	(0.36)	(0.09)	(0.10)
SMA (1)	$-0.38^{\dagger}$	-0.56	-0.69^{***}	-0.71^{***}
	(0.20)	(0.42)	(0.16)	(0.17)
SMA (2)	-0.31^{**}	$-0.26^{\dagger}$	-0.30^{*}	-0.28^{*}
	(0.11)	(0.13)	(0.13)	(0.14)
Decision agenda		0.77^{***}		1.26^{*}
		(0.11)		(0.56)
Senate decisions			0.37^{***}	0.17
			(0.06)	(0.10)
Chamber decisions			0.49^{***}	-0.58
			(0.09)	(0.48)
Ljung-Box Q (12)	3.01	6.24	4.79	5.18
AIC	53.51	9.94	4.70	1.79
BIC	68.3	27.2	24.43	23.99

Note: Statistically significant at †p<0.1; *p<0.05; **p<0.01; **p<0.001.
Standard errors in parentheses.

which results in the conclusion that the decision agenda influence the press release agendas' issue diversity and that the chamber decisions have a slightly more substantial influence.

2.5 Discussion and Conclusion

This study aimed to shed light on intra-institutional agenda-setting dynamics within the German Federal Constitutional Court. It proposed that if a court promotes its decisions with press releases, it has two distinct policy agendas: 1) a decision agenda, composed of all cases the court has deemed admissible and has decided on; and 2) a press release agenda, composed only of decided cases selected for promotion. The study, therefore, focused on an

until now not considered aspect of judicial policy agendas and asked whether agenda-setting effects from a court's decision agenda and its press releases can be detected.

The study has used the German Federal Constitutional Court (FCC) and used automated supervised text classification methods to code the policy issues in 7114 court decisions and 1579 court press releases issued and published between 1998 and 2019. The analysis was employed with aggregated time series analysis within the ARIMA-framework. The results showed that both agendas are predominantly occupied by the three core issues of constitutional review courts: law and crime, civil rights, and the control of political actions. However, the press release agenda was found to be more diverse and 'colorful' than the decision agenda, which implies that press releases allow the Court to open up adjudication by inviting the public's attention to a plethora of policy issues. Regarding the intra-institutional relationship between both agendas, the results indicate a clear first-level agenda-setting effect from the decision to the press release agenda. Furthermore, when considering the decisions by the FCC's court branches, the findings give evidence that the chamber decisions have a slightly more substantial positive influence on the press release agendas. As the FCC's chambers deal with a broader range of issues, these results confirm that the Court uses its press releases to showcase the diversity of its decisions to the public to enhance both transparency and openness. Finally, Staton (2010) has found evidence that courts use press releases to draw public attention, and promote judicial independence to strengthen its position, vis-á-vis the other political branches. These findings show that the court press releases also promote judicial reputation and openness, which was found to be the result of an active court communication (Garoupa and Ginsburg, 2015; Hess and Harvey, 2019a).

Two conclusions can be drawn for the findings of this study. First, although the FCC has a mandatory docket, it nevertheless seems to have methods to allocate its policy attention autonomously. Press releases seem to be a tool to promote issues that otherwise would disappear in the multitude of its decisions. Considering previous research, which has found that an active court communication helps a court secure its legitimacy, reputation, and open

justice (Garoupa and Ginsburg, 2015; Hess and Harvey, 2019a; Johnston, 2018; Staton, 2010), this study provides the first evidence for these claims by measuring policy issues. Second, the effect of the court branches on the diversity of press release agenda implies that the FCC uses press releases to highlight minor issues. Accordingly, the FCC seems to have tools to take some cases more seriously than others. Hence, this study contributes to the research on mandatory dockets, which has neglected the role of policy issues (Engel, 2020; Fontana, 2011; Soennecken, 2016).

This study uses a parsimonious theoretical model to assess agenda-setting dynamics within a court. However, this approach has several limitations. One drawback is that the study focuses on a single case, mainly because it does not take exogenous influences into account (as Yates, Whitford, and Gillespie, 2005, have shown it for the U.S. Supreme Court). How does political pressure influence judicial agenda dynamics? Do events such as elections shape the Court's agendas? Future research needs to address these questions. Another limitation of this study is its parsimony. It does not consider the effects of decision outcomes, oral hearings, or dissenting opinions. Scholars should formulate more substantive theoretical expectations of how different case characteristics contribute to the agenda-setting dynamics of a court.

Finally, several pathways for future research can be identified. First, this study presents two new data sets on the FCC's policy agendas. Hence, scholars are now able to assess the FCC's policymaking role within the German political system and the European Union. Second, the methods used to code the court documents are transferrable to courts that provide accessible information on decisions and press releases. Future research can go beyond the case of the U.S. Supreme Court and employ comparative research examining judicial agenda-setting variances. Furthermore, this could be linked to news media agendas to analyze the influence of court agendas. This seems even more interesting when incorporating judicial press releases into the equation, as each public relations effort is to influence the public.

Chapter 3

Judicial public relations: Determinants of press release publication by constitutional courts

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Chapter 4

Promoted media coverage of court decisions: Media gatekeeping of court press releases and the role of news values

Abstract: *The present study focuses on the effect of court press releases on media gatekeeping, a field that has remained largely uninvestigated to date. Using original data on the German Federal Constitutional Court, the study analyzes when court press releases are reported on in the media. Certain news values (e.g., conflict, political power, continuity/familiarity) are assumed to increase the probability that a press release will be reported on in the news. By using an automated content analysis approach, this study assesses whether 584 press releases were reported on in German newspapers over a period of eight years (2010-2018). Only press releases that promote decisions are used as they are the official information subsidies that the Court disseminates to the public through the media. Findings indicate that only 18% of press releases are reported on in the news. Furthermore, the news values of conflict and political power are found to have no influence on the success of a press release, while press releases that promote decisions with an oral hearing are more likely to be picked up by journalists. Hence, issues that are familiar to the public are more likely to be covered.*

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4.1 Introduction

Covering the courts is a compulsory task for the news media. First, it is an important element of the media's watchdog function as the judiciary is a part of the separation-of-powers system. Second, the general public has great interest in what courts do, and news reporting can demonstrate that justice has been served, that the law has been observed, and that a decision has taken into account all arguments put forward in a case.

However, news reporting on court decisions has been argued to sometimes be inaccurate (Staton, 2010). This inaccuracy is problematic as court decisions are found to be important in shaping a court's image as a neutral arbiter between the law and politics (Garoupa and Ginsburg, 2015; Staton, 2010). Furthermore, because the media's framing of a decision can affect a court's public approval (Hitt and Searles, 2018), inaccurate coverage may lead to a loss in public support (Gibson and Caldeira, 2009b). Hence, courts "should take an interest in ensuring that their reasoning is properly communicated to the public through the press" (Staton, 2010, p. 26). One tool that enables courts to exert influence on the media lies in press releases (Staton, 2010).

Court press releases have garnered increasing interest from scholars. For example, Staton (2010) has assessed the solutions that press releases offer to problems induced by the separation-of-powers systems. Others have analyzed how press releases shape media coverage (Vining and Wilhelm, 2010; Yanus, 2009), how they serve the principle of open justice (Hess and Harvey, 2019a; Johnston, 2018), and how the occurrence of press releases can be predicted (Meyer, 2019). However, no study has yet analyzed media gatekeeping for court press releases. Journalists function as gatekeepers who determine which messages reach the public, and their "decisions to incorporate events or actors in the news and to give them the space to present their points of view are steered by particular media routines and standards of newsworthiness rather than by what political actors consider to be relevant" (Aelst and Walgrave, 2016, p. 504). In order to assess media gatekeeping processes in the context of

court press releases, this study investigates exactly when court press releases are successful in being reported on in the news.

In this paper, I examine the use of news sources by the media with particular reference to press releases by constitutional courts. The media-source relationship is characterized by mutual dependence and reciprocity: Political actors transmit information to the media in order to allow it to reach the public, and the media uses political actors as sources of information (Aelst, Sehata, and Dalen, 2010). This relationship has been well researched in communication studies (Boumans, 2017; Gandy, 1982; Kiousis, Popescu, and Mitrook, 2007; Lewis, Williams, and Franklin, 2008; Vonbun-Feldbauer and Matthes, 2018; Wheatley, 2020). News sources are channels "through which the issue or event gain[s] the journalist's attention and start[s] to develop" (Wheatley, 2020, p. 283). Hence, sources can contribute to news stories by disseminating information, but they can also serve 'merely' as a news story's trigger (Vonbun-Feldbauer and Matthes, 2018; Wheatley, 2020). Sources can be either routine (e.g., press releases) or non-routine (e.g., whistle-blower information), with routine sources assumed to have several advantages for journalists: 1) legitimacy and credibility, 2) verifiable and traceable content, and 3) easy accessibility and low costs (Boumans, 2017; Wheatley, 2020).

Two components lie at the center of this study: 1) *Press releases* are a classical information subsidy that sources provide to journalists (Wheatley, 2020). Courts are no exception here as several courts around the world issue press releases (Meyer, 2019; Staton, 2010). 2) *News values* are an established concept for predicting media coverage. They are considered helpful for journalists to assess the newsworthiness of a message (Galtung and Ruge, 1965; Harcup and O'Neill, 2017), and political actors have been found to adapt news values in order to make it into the news (Strömbäck and Aelst, 2013).

News values that have been found to be important for the coverage of court decisions include conflict (e.g., dissenting opinions), political power (e.g., the involvement of the chief justice), and familiarity/continuity (e.g., oral hearings) (Collins and Cooper, 2015; Sill, Met-

zgar, and Rouse, 2013; Strother, 2017; Vining and Marcin, 2014). I argue that if a court press release has at least one of these news values, it has a certain degree of newsworthiness, and its chances of being reported on in the media increase.

The empirical analysis is based on original data on the German Federal Constitutional Court (FCC). The German case is particularly well suited for several reasons. To begin, the FCC is among the most powerful and influential courts worldwide (Kommers, 1994). It enjoys steadily high public support, which has contributed to its strong legal and political authority (Krehbiel, 2019) and has led to a mirroring of its institutional design by other courts (Holtz-Bacha, 2017). Second, the Court's public relations is comparable to that of European apex courts (Meyer 2019), with coverage varying from high to low (Vanberg, 2005). The Court is therefore an empirically important case that is representative of other constitutional courts. Third, the German media system is classified as democratic-corporatist. As this model is characterized by high journalistic professionalism with comparable standards for news selection and production, media outlets share general principles of how to use sources as well as a general understanding of news values (Hallin and Mancini, 2004).

I measure whether a press release is successful in being reported on in the media throughout 36 regional and national German newspapers. I compute textual alignment based on 6,605 newspaper articles and 584 FCC press releases from between 2010 and 2018. Based on this measurement, two trained coders manually coded whether a press release was picked up by the article (i.e., through copies or identifiable references). Finally, this manual coding is used to identify whether a press release was successful in being reported on in at least one newspaper article.

Overall, 18% of press releases were found to be reported on in the media. Regarding news values, the results indicate that only press releases that promote decisions that have continuity in the news successfully make it into the news. News continuity in the context of the FCC is only possible for decisions for which the main arguments have been publicly discussed during an oral hearing as these cases are the only occasions for the media to cover

a case before the Court issues a decision (Krehbiel, 2016). Conflict and political power do not increase the probability that a press release will be reported on by the media.

This study adds to the growing body of literature on communication and judicial politics by assessing both the impact of press releases and the news values they carry and by adding a theoretical model to explain when press releases are reported on in the media. The study is unique in that it scrutinizes news values in the context of decisions by the German Federal Constitutional Court and in that it establishes an empirical link between press releases and news content.

4.2 Press releases and media gatekeeping

In contrast to existing studies that analyze media coverage of court decisions (Sill, Metzgar, and Rouse, 2013; Strother, 2017; Vining and Marcin, 2014; Yanus, 2009), this study aims to explain the success of court press releases in being reported on in the media. I propose a theoretical model that takes into account when court press releases influence media gatekeeping (Figure 4.1). This model builds on existing models in an effort to shed light on the media-source relationship (Donsbach and Brade, 2011; Haselmayer, Wagner, and Meyer, 2017). Since the link between court decisions and the media (dashed arrow) has already been widely studied, the present study focuses on the effect of press releases (solid arrows).

The media-source relationship is both mutually dependent and reciprocal and can be described by the intereffication model: Journalists and sources adapt routines to successfully influence one another, and both induce communication stimuli to create resonance from the other (Donsbach and Brade, 2011). As the news media has standard practices and routines, news production is determined by shared beliefs of what is considered newsworthy (Galtung and Ruge, 1965; Harcup and O'Neill, 2017). Accordingly, the intereffication model should also apply to the communication of courts as their assertiveness depends on the publics ability to monitor their actions (Krehbiel, 2016; Staton, 2010; Vanberg, 2005). I therefore

assume that courts adapt news values when selecting a decision to be promoted by a press release (Figure 4.1, link (1)) in order to increase the chance of reaching the public through the media (Figure 4.1, link (2)).

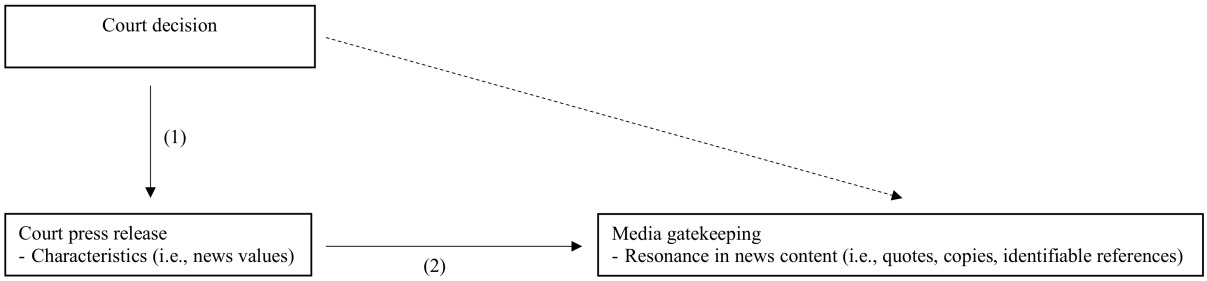
In the following sections, I first explain how press releases influence media gatekeeping. Subsequently, I describe court press releases and explain why courts only selectively issue them. Finally, these elements are connected to provide an explanation of when court press releases are successful in being reported on in the media.

4.2.1 Press releases and news making

News coverage is "a sampling of sources portrayals of reality, mediated by news organizations" (Sigal, 1986, pp. 27-28), and the purpose of press releases is to present such a 'portrayal of reality' to the media (Jacobs, 1999). Press releases transmit information in order for it to be picked up by journalists and reproduced as accurately as possible (Jacobs, 1999). The information is presented in a 'ready-made' format that is well crafted to meet the media's needs and reduces the costs of information gathering and content editing (Boumans, 2017; Jacobs, 1999). Press releases are a one-way channel of information that are targeted at both journalists - who should transmit the information – and the public – who should become aware of the information. Overall, press releases present information in a clearly structured and easily consumable fashion in order to allow it to reach the public through the media. As such, they are a typical information subsidy that sources provide to the media (Gandy, 1982; Grunig and Hunt, 1984; Wheatley, 2020).

From an economic perspective, journalists and their sources have different preferences. Journalists are interested in keeping down costs and increasing their consumer share as well as their share on the advertising market (Boumans, 2017; Lewis, Williams, and Franklin, 2008). On the other hand, political actors are interested in framing issues to their advantage and in shaping public opinion (Aelst and Walgrave, 2016). News media content is therefore

Figure 4.1 Model of judicial public relations and media gatekeeping (Adapted from Haselmayer, Wagner, and Meyer (2017)).



Note: Solid arrows indicate the elements analyzed in this paper; dashed arrow illustrates an existing link that is not considered here.

a product of "market exchanges": Sources provide information that reduces the medias costs as these information are "heavily subsidized [and aligns with] [...] news values" (Strömbäck and Aelst, 2013, p. 348), and the media provides the space to present this information to the public (Aelst, Sehata, and Dalen, 2010; Kiousis, Popescu, and Mitrook, 2007).

4.2.2 Court press releases

Courts have two motives to issue press releases: (1) to increase transparency in order to avoid political evasion and (2) to enhance openness by providing objective and accurate information (Hess and Harvey, 2019a; Staton, 2010). Reaching the public is a crucial task for courts. If the public is "aware of [c]ourt decisions, and feel duty-bond to carry them out, [c]ourt orders will be implemented" (Rosenberg, 2008, p. 16). A court's assertiveness thereby rests equally on what it does and on how it communicates what is does. Based on the considerations by Vanberg (2005), who has shown that political actors are less willing to evade court decisions if the political environment is transparent and actions are under public scrutiny, Staton (2010) has argued that one motivating factor for courts to issue press releases is to increase transparency and enhance the public's awareness of the case. Another motive for courts to expend their resources on press releases originates from the principle of open justice. Jeremy

Bentham's notion that "the rule of law [is] not only transparent and accessible, but open to external scrutiny" (Johnston, 2018, p. 525) can be taken as general principle of open justice. If open justice is served, the public can legitimize or delegitimize court rulings by assessing "whether a certain judgment took into account all the arguments put forward in the case, and whether the law was observed" (Alemanno and Stefan, 2014, p. 107). Open justice secures citizens' right to receive information and to ensure public scrutiny through available and openly communicated information (Hess and Harvey, 2019a). It therefore strengthens a court's neutrality and legitimacy and increases the level of public trust. Tools argued to have facilitated open justice include open courtrooms, accessible and transparent data, and – most importantly – active communication that disseminates objective, accurate, and accessible information (Hess and Harvey, 2019a). Johnston (2018, p. 530) has argued that court press releases are a one-way form of public-interest communication in which a court is more of a "facilitator and enabler of open justice rather than [an institution] that pro-actively seeks to manage a message."

Court press releases exists in varying types and are issued for varying occasions. For example, four types of press releases can be distinguished for European apex courts: (1) decision-promoting press releases that summarize selected decisions (the most common type); (2) announcements of upcoming decisions; (3) announcements of oral hearings, which – in most cases – also include an invitation for the public to attend; and (4) miscellaneous (e.g., visits from foreign courts) (Meyer, 2019). The contributions in the edited volume by Davis and Taras (2017) report similar types of press releases for courts around the world. These studies also point out that most courts have special press offices.[25] In terms of quantity, research has revealed a heterogenous picture. For example, the Mexican Supreme Court only promotes selected decisions (Staton, 2010), while the U.S. Supreme Court only announces

[25]The denominations of the press offices further strengthen the notion of public-interest communication. For example, the Australian High Court and the U.S. Supreme Court use the term "public information", the German Federal Constitutional Court uses "press office" (*Pressestelle*), and the Austrian Constitutional Court uses the more personalized term "media officer" (*MediensprecherIn*).

upcoming decisions (Hitt, Saunders, and Scott, 2019). In contrast, the German Federal Constitutional Court not only promotes selected decisions but also announces oral hearings and upcoming decisions (Meyer, 2019).

This study focuses on decision-promoting press releases for several reasons. First, through their decisions, courts not only interpret the law but may also change the legal and political status quo by questioning a statutes constitutionality or by overturning a lower court. Court decisions are hence of general public interest, and reporting on these decisions is part of the media's watchdog function. Second, a decision-promoting press release is an effort by a court to transmit information. These press releases are thus basically the cheapest way for journalists to obtain accurate and objective information. Third, decision-announcement press releases have been shown to be capable of increasing a court's public awareness (Hitt, Saunders, and Scott, 2019), but whether decision-promoting press releases have similar effects remains unclear.

Nevertheless, not every decision is promoted by a press release. Existing studies suggest that courts use decision-promoting press releases only for relevant decisions, which either change the status quo or entail cues of legal conflict (Meyer, 2019; Staton, 2010). These studies argue that a selective promotion contributes to a court's image as a neutral arbitrator of the law: "In one sense, it is simply unbecoming for a judge to engage in nonadjudicatory appeals [that are] normally reserved [for] [...] politicians. [...]. Second, public communication, especially insofar as it highlights noncompliance, can undermine the judicial image" (Staton, 2010, p. 188). Moreover, an oversupply of information may lead to public confusion regarding the importance of decisions, which increases the chances of political evasion. Hence, "strategic deference alone can advance legitimacy" (Staton, 2010, p. 188).

4.2.3 Court press releases and media gatekeeping

Thus far, this study has revealed how press releases are information subsidies used by political actors, who adapt news values to become the object of media coverage. Furthermore, I have highlighted the fact that courts issue decision-promotion press releases to increase transparency and openness, which is why the disseminated information is accessible, accurate, and objective. However, these considerations do not reveal when journalists report on a court press release. I thus now turn to connecting both strands of discussion and argue that in order to be successful in being reported on in the media, court decisions that are promoted by press releases need to have characteristics that have news value.

Media coverage of courts can be divided between court reporting and justice reporting (Branahl, 2005; Chamberlain et al., 2019; Machill, Beiler, and Hellmann, 2007). Court reporting focuses on criminal cases at ordinary courts and mainly fulfils the public's desire for sensationalism, which is why classical news values, such as crime, tragedy, drama, and personalization, are the common denominator of such news stories (Chamberlain et al., 2019; Machill, Beiler, and Hellmann, 2007). Justice reporting, by contrast, has been found to provide more comprehensive coverage of supreme, constitutional, and international courts and is much more orientated toward detailed explanations of court decisions, their procedural details, outcomes, and disputed laws. Justice reporting assesses the news value of a court decision in terms of its potential to arouse public interest (Branahl, 2005; Chamberlain et al., 2019).

As constitutional court decisions lack news values such as celebrity, personalization, and drama (Harcup and O'Neill, 2017), their newsworthiness originates from their political magnitude and their potential to alter the legal and political status quo (Staton, 2010; Vanberg, 2005). As justice reporting focuses on elements such as procedural details and outcomes, I argue that certain characteristics of a decision have news value to the media. I follow previous research in identifying three news values that indicate whether a decision has political

magnitude (Collins and Cooper, 2015; Sill, Metzgar, and Rouse, 2013; Strother, 2017; Vining and Marcin, 2014): conflict, political power, and familiarity.

First, conflict is one of the most common news values (Harcup and O'Neill, 2017; Shoemaker and Reese, 2014). Moreover, the media more likely emphasizes two sides of each issue in order to "simplify multifaceted and complex issues and to maintain an appearance of being unbiased" (Collins and Cooper, 2015, p. 27). Court decisions can entail several cues for conflict either politically – through a decision that opposes the legislative majority – or legally – through inter- and intra-branch disunity (Sill, Metzgar, and Rouse, 2013; Strother, 2017; Vining and Marcin, 2014; Yanus, 2009). As such, I expected for press releases that promote decisions that overturn a lower court (inter-branch conflict), that declare statutes unconstitutional (political conflict), or that are accompanied by a dissenting opinion (intra-branch conflict) to represent judicial conflict and relevance and to therefore more likely be the object of media coverage.

Second, research on press releases by political parties has revealed that powerful politicians have a greater likelihood of being the object of media coverage (Helfer and Aelst, 2016). Similar assumptions have been tested for the U.S. Supreme Court (Collins and Cooper, 2015; Vining and Marcin, 2014). For courts organized in a bench system, individuals are less decisive than institutional branches. For example, the President of the German Federal Constitutional Court is powerful (alongside his function as a representative of a constitutional organ) because he or she is also the chairperson of one of the two main branches of the Court. I expected that when a press release promotes a decision that has been issued by a court's main branch, it should be more likely to be the object of media coverage.

Third, journalists are more likely cover issues with which the public is already familiar. Familiarity (Collins and Cooper, 2015; Vining and Marcin, 2014), continuity (Galtung and Ruge, 1965), and follow-up (Harcup and O'Neill, 2017) are terms that describe the media coverage of issues that are already in the news and that are more likely to be reported on again as costs are reduced when simply adding to already-existing stories (Vonbun-Feldbauer

and Matthes, 2018). One particularly important way for the public to become familiar with a court case prior to the final decision is via oral hearings, in which all arguments are publicly presented and discussed (Krehbiel, 2016). Oral hearings provide a unique opportunity for the media to gain insights that are normally not openly available and hence ensure a certain degree of news continuity with the issue at stake. I therefore expected that press releases that promote decisions in which a court has held an oral hearing should be more likely to be object of media coverage.

4.3 Data and Methods

4.3.1 Case selection: The German Federal Constitutional Court

For this study, I investigate media gatekeeping on press releases by the German Federal Constitutional Court (FCC) and by German newspaper articles. The empirical analysis is based on content analyses on press releases and newspaper articles published between 2010 and 2018. The media system in Germany is classified as a democratic-corporatist model that is characterized by a broad spectrum of media outlets, medium political parallelism, and high media professionalism (Hallin and Mancini, 2004). The main news sources are newspapers, television and radio broadcasting, and the Internet. This paper focuses on printed newspapers as they are frequently used (Esser and Brüggemann, 2010) and considered to be among the most trusted news sources (Newman et al., 2018). More importantly, as printed newspapers follow a regular publishing routine, I am able find a causal link between press releases and subsequent news reporting.

The cited research on court-media relations mainly focuses on understanding media coverage in the U.S. context and is therefore arguably unsuitable for understanding media coverage of the FCC not only because the media systems of Germany and the U.S. differ (Hallin and Mancini, 2004) but also because the judicial tradition in both countries is con-

tradistinctive. The United States has a common-law tradition based on case law, whereas Germany has a civil-law tradition that distinguishes between ordinary law and constitutional law. As a consequence, a more personalized and case-focused style of coverage dominates in the U.S. as compared with Germany (Ridley, 2020). However, the media systems also share one important similarity, which can be used to develop a basic understanding of court-media relationships. Both systems are characterized by a high degree of journalistic professionalization, and news reporting is hence determined by shared routines (Hallin and Mancini, 2004). Moreover, the adaption of news values by political actors also appears to be a phenomenon that is unbound by country contexts (Aelst and Walgrave, 2016). Therefore, although it is not possible to simply assume that all findings for the U.S. apply in the German context, it is nevertheless reasonable to assume that German media outlets use comparable news values to select news stories.

The German Court has sixteen judges, who are divided among two senates – the Court's main branches. Each senate is further subdivided into three chambers consisting of three judges each. Proceeding types vary widely and range from abstract and concrete reviews to constitutional complaints (Brouard and Hönnige, 2017).[26] Only the senates are able the make declarations of unconstitutionality and to settle constitutional disputes between governmental branches. Senates and chambers alike are authorized to decide on complaints and to settle legal conflicts in the context of concrete review cases (Vanberg, 2005). Furthermore, oral hearings – which are reserved for the most significant cases, are selected by the Court, and in which the arguments of the disputing parties are publicly debated (Krehbiel, 2016) – and dissenting opinions – minority opinions of judges or of a group of judges who disagree with the Courts majority – are possible.

The FCC's press releases are written and published by the Court's public relations department, which was established in 1996. The department is headed by a press officer appointed

[26]See Hailbronner and Martini (2017) for a brief overview of the Court's structure, composition, jurisdiction, caseload, argument structure, and key issues.

by the Constitutional Court. The press officers are normally trained judges who are seconded from a lower court for a four-year term. The decision-promoting press releases have a standardized structure containing (1) a summary of the decision's general theme and principles, which is written in layman's terms in order to provide the public with a basic understanding of the decision; (2) a description of the decision's circumstances and the arguments of the disputing parties; and (3) detailed elaborations on the Court's considerations. These press releases are essentially summaries of the decisions, with large sections of verbatim copies. The decision of whether a press release should promote a decision is made by the respective judges of the decision, the chairperson of the respective senate, and the Court's press office (Meyer, 2019). Press releases are disseminated via an email newsletter, Twitter, and on the Court's website. This study uses all 584 decision-promoting press releases issued by the FCC between 2010 and 2018. As the Court made all press release publicly available on its website, I gathered the full texts as well as additional information (e.g., decision date, outcome) from there.

4.3.2 Dependent variable

I measure whether a Court press release was successful in being reported on in the media by analyzing whether a press release was picked up (i.e., through copies or identifiable references) in at least one newspaper article (1) or not (0).

I collected newspaper articles from in the German LexisNexis database. The search was conducted in two steps: First, all available national and regional German quality newspapers were selected, which resulted in a total of 36 newspapers, including four national dailies, three national weeklies, as well as regional daily newspapers from nine different federal states (*Bundesländer*).[27] Next, in order to find suitable articles, I conducted a keyword search with the term "*Bundesverfassungsgericht*" (German Federal Constitutional Court) in the selected newspaper. After excluding duplicates, the search resulted in 6,605 newspaper

[27]The list of all newspapers can be found in Appendix B.

articles published between 2010 and 2018.

To detect whether a press release was reported on in a newspaper article, I created dyads by matching each press release with each article published within 10 days of the publication of the press release. This method ensured that weekly newspapers were considered and resulted in a total of 12,818,000 press release newspaper article dyads. Next, I applied a text reuse approach to detect textual similarities within each dyad. Text reuse has been found to be useful in providing "evidence for direct or indirect contact between different social actors" (Smith, Cordell, and Dillon, 2013, p. 86). I used the Smith-Waterman local alignment algorithm (Wilkerson, Smith, and Stramp, 2015), which compared text sequences of the dyads and created a score for each dyad. The score increased for each sequence in a dyad that matched and decreased for each mismatch. Examples of dyads with high and low alignment scores are provided in the online supplementary appendix.[28]

Next, I created a random selection of the dyads, attached the full text of the promoted decisions, and disguised the computed alignment score. Subsequently, two trained coders went through this random selection to assess whether the newspaper articles reported on the promoted decision. The coding was structured by two rules: (a) The article had to cite the decision that the press release promoted (by mentioning the docket number or by naming the decisions title), and (b) the article had to deal with the same topic as the promoted decision and had to mention the FCC. If at least one rule applied, the coders assigned the value of 1 to the dyad; if not, the coders assigned a 0. The intercoder reliability using Cohen's kappa was 0.97.

Finally, I attached the computed alignment score to the manually coded dyads and tested whether a score threshold that indicated whether a newspaper article reported on a press release could be identified.[29] This threshold was then used to check whether a press releases

[28] Additionally, the examples display the text of the Court decision in order to illustrate the similarity between the Court's press releases and the decisions they promote.

[29] An alignment score of 9 was found to be a suitable low-bar threshold. The two coders coded 90% of the dyads with an alignment score equal to or greater than 9 as being related. A detailed explanation of the text-alignment measurement, the coding procedure, and the threshold detection is available in Appendix B.

was reported on in at least one newspaper article. The dependent variable – *media success* – was thereby scaled down from the 12,818,000 dyads to the 584 decision-promoting press releases and measured whether a press release was reported on in the news in at least one article (1) or not (0).

4.3.3 Independent variables

The independent variables mirror the news values. To create the variables, text-analysis methods were used to screen the full texts of the promoted decisions for common phrases and acronyms. The decision texts are publicly available on the Court's website, and each press release that promotes a decision has a direct link to the respective text. This procedure represents a feasible method of extracting information because the Court has an established and uniform method of formulating and arranging its texts (Hailbronner and Martini 2017) and because the press releases closely mirror the texts of the decisions they promote. In the following section, the operationalization of each independent variable is briefly described (names are reported in *italics*).

Conflict was associated with declarations of unconstitutionality, dissenting opinions, and the overturning of lower-court actions. First, the variable *declaration of unconstitutionality* measured whether a promoted decision invalidated a statute by declaring it either null and void or merely incompatible with the constitution (1) or not (0). Second, the variable *overturning of a lower court* captured whether a promoted decision by the FCC overruled a verdict by a lower court or remanded a decision to a lower court if a contested statute was deemed unconstitutional (1) or not (0). The variable dissenting opinion measured whether a dissenting opinion was issued (1) or not (0).

The news value of political power was associated with the diverging competences of the different Court branches. Because the FCC does not report the individual voting behavior of its judges, it is not possible to analyze the effect of a senate's chairperson or the Court's

President. This study uses decisions by the senates as a proxy for political power. Accordingly, the variable *main branch decision* indicated whether a promoted decision was reached by one of the two senates (1) or by one of the chambers (0).

Finally, familiarity was associated with oral hearings. The variable oral hearing measured whether an *oral hearing* was held during a case (1) or not (0). Table 4.1 provides information on the descriptive statistics for each variable.

4.3.4 Control variables

Several control variables need to be considered. First, I controlled for the level of information contained in a Court document. The length of a Court decision is a valid proxy for its complexity. Complex cases may discuss a greater range of arguments, thereby leading to a longer final reasoning and rendering them more difficult to deal with (Strother, 2017). Because journalists seek to reduce the costs of news and since press releases summarize decisions, I expected press releases that promote lengthy Court decisions to be more likely to be reported on in the news. The variable *decision length* measured the word count of the decision that a press release promoted. Second, I controlled for the *press release length* by measuring the word count of each press release. Finally, I controlled for possible time effects. The FCC's press release policy only allows for promoting a decision when all disputing parties are verifiably notified in advance. Press releases can hence be published several days or weeks after a case has been decided. The variable *time difference (decision-press release)* measures the difference in days between a decision and press release.

4.3.5 Methods

Table 4.1 reveals that 18% of the press releases were reported on in the media. Because of this rare occurrence, standard logistic regression models (which are suitable since the dependent variable is binary) would underestimate the estimated probabilities. I therefore used Firth's

Table 4.1 Descriptive statistics and variable descriptions.

Variable	Mean	SD	Type	Description	Source
Dependent variable					
Media success	.18	.39	Binary	Press release reported on in at least one news report? 1 if yes, 0 if no	Lexis-Nexis & FCC press release
Independent variables					
Declaration of unconstitutionality	.09	.28	Binary	Promoted court decision invalidates statute(s) & law(s)? 1 if yes, 0 if no	FCC decision
Overturning a lower court	.03	.18	Binary	Promoted court decision overturns a lower-court action? 1 if yes, 0 if no	FCC decision
Dissenting opinion	.04	.19	Binary	Dissent was written in a promoted case? 1 if yes, 0 if no	FCC decision
Main-branch decision	.38	.49	Binary	Promoted court decision was decided by one of the two senates? 1 if yes, 0 if no	FCC decision
Oral hearing	.09	.29	Binary	Oral hearing was previously held? 1 if yes, 0 if no	FCC decision
Control variables					
Decision length	7,528.51	9,522.87	Discrete	Word count of the promoted court decision	FCC decision
Press release length	1,081.90	673.41	Discrete	Word count of the press release	FCC press release
Time difference (decision — press release)	24.37	26.45	Discrete	Days between decision and press release	FCC website

N = 584 court press releases

logistic regression, which has become a standard approach for analyzing rare events (Puhr et al., 2017). To facilitate the understanding of the regression coefficients, two quantities of interest are reported. First, changes in predicted probabilities indicate the change in the probability that a press release will have success in being reported on as the value of the independent variable changes from one value to another (from 0 to 1 for dichotomous variables and from the minimum to the maximum for discrete variables; all other variables are held constant). Second, relative risks indicate the relative change in the likelihood that a press release will be successful in being reported on. Values greater than 1 indicate an increase, values less than 1 represent a decrease, and values equal to 1 suggest no or only little difference.

4.4 Results

Justice reporting on FCC decisions hardly uses Court press releases, with only 18% of decisions having been successful in being reported on in at least one newspaper article (table 4.1). This figure is comparable to media success rates for press releases by political parties in Austria, where 16% of all analyzed press releases attract media coverage (Haselmayer, Wagner, and Meyer, 2017), and in Germany, where diverging success rates between 8 and 30% can be found (Donsbach and Brade, 2011). Moreover, for organizational press releases in the Netherlands, Boumans (2017) found that only 16% were successful in being covered.

Table 4.2 illustrates the results from Firth's logistic regression for the models of media success. Model 1 displays the results without control variables, and Model 2 displays the results with control variables. Based on the penalized-likelihood criteria (AIC and BIC), the following elaborations focus only on Model 2.

Only oral hearings prove to have a substantive impact on media success, whereas the variables related to conflict and political power do not achieve empirical significance. Journalists hence seem to not use information from the Court when covering Court decisions (a) that alter the legal or political status quo, (b) that show signs of internal disputes, or (c) for which the more important Court branch is in charge. Indeed, earlier studies have found that press releases that entail conflict are less likely to be copied by journalists (Donsbach and Wenzel, 2002). Moreover, preliminary findings on the influence of news values on the media coverage of FCC decisions suggest that media attention is stronger for conflictual decisions, while the existence of press releases also has a strong and simultaneous impact on the probability that a decision will be covered.[30] Court press releases could therefore be assumed to be more a trigger for journalists to write a news story and for their content to be edited and enriched with additional views and interpretations.

[30]In Chapter 5, I assessed the effect of case characteristics on the probability that the news media in Germany will cover a decision by the FCC. I found strong evidence that judicial disunity and the occurrence of press releases affect media coverage.

Table 4.2 Rare-event logistic regression for explaining the media success of press releases, 2010-2018.

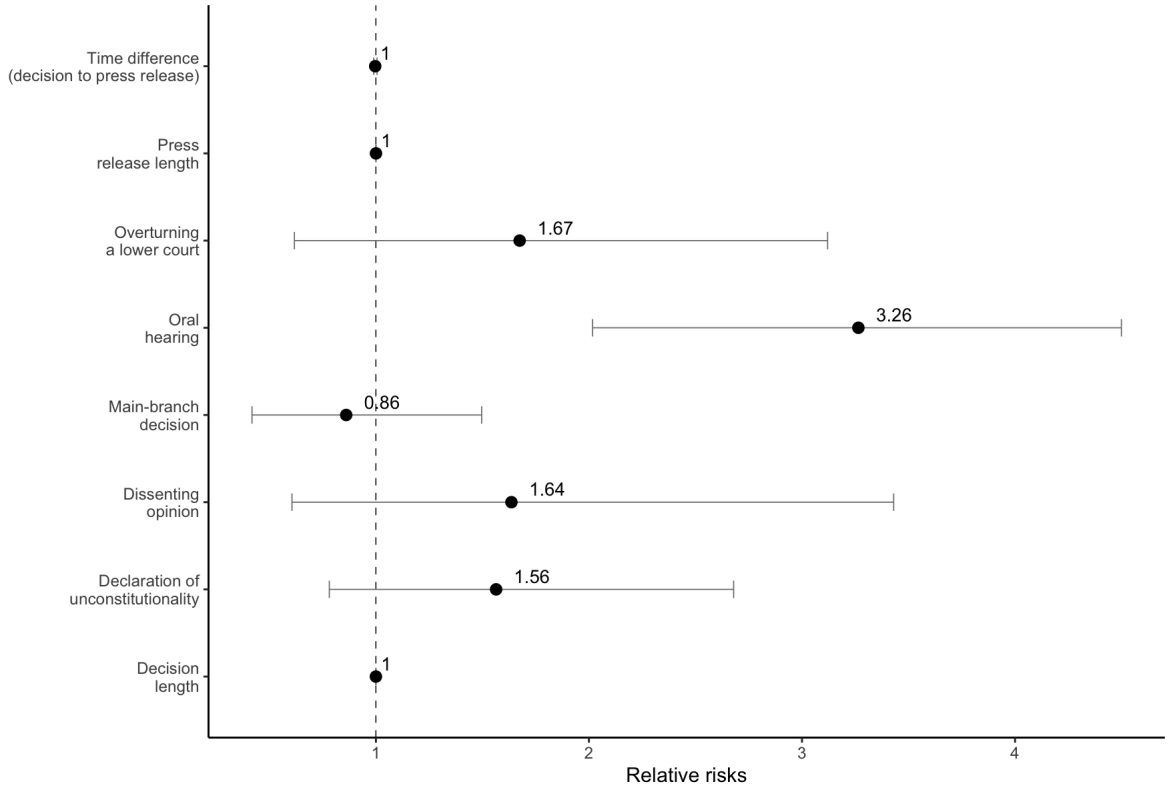
	Model 1			Model 2		
	Coefficient	Z score	Change in predicted probability	Coefficient	Z score	Change in predicted probability
Declaration of unconstitutionality	0.883* (0.416)	2.120	0.09 →0.19	0.582 (0.438)	1.331	0.05 →0.09
Overturning a lower court	0.972† (0.568)	1.710	0.09 →0.21	0.680 (0.584)	1.164	0.05 →0.10
Dissenting opinion	1.651** (0.597)	2.766	0.09 →0.34	0.646 (0.646)	1.000	0.05 →0.10
Main-branch decision	0.406 (0.317)	1.281	0.09 →0.13	−0.181 (0.367)	−0.492	0.05 →0.04
Oral hearing	3.020*** (0.430)	7.023	0.09 →0.64	1.892*** (0.500)	3.785	0.05 →0.27
Decision length				0.001* (0.001)	2.561	0.05 →0.99
Press release length				0.001 (0.001)	−0.843	0.05 →0.48
Time difference (decision — press release)				0.001 (0.001)	1.718	0.04 →0.06
AIC	425.19			412.33		
BIC	400.66			333.65		
Observations	584			584		

Statistically significant at †p<0.1; *p<0.05; **p<0.01; ***p<0.001. Standard errors in parentheses.
Note: Changes in predicted probabilities for an increase in the independent variable from 0 to 1 for binary variables and from the minimum to the maximum values for discrete variables (decision length, press release length, time difference); all other variables are held constant at their means or mode.

Because these coefficients are not directly interpretable, the changes in predicted probability and relative risks are more informative. The greatest change in predicted probability can be observed in press releases that promote decisions with oral hearings, which increase the probability that a press release will be reported on in the media from 0.05 to 0.27, with all other variables held constant.

Figure 4.2 displays the relative risk ratios and therefore illustrates the relative change in the likelihood of media success. The greatest substantive impact among the independent variables is for oral hearings, which render media success more than three times more likely. Ceteris paribus, the likelihood that press releases will be reported on in the media for a

Figure 4.2 Relative risks of media success.



Note: Relative risks are based on Model 2 (Table 4.2); all other variables are held constant at their means or modes. Whiskers indicate 95% confidence intervals.

declaration of unconstitutionality, the overturning of a lower-court decision, or a dissenting opinion increases by a factor of 1.56, 1.67, and 1.64, respectively. For main-branch decisions, a decrease in the likelihood of media success can be found, and the relative risk of the control variables displays no difference in the likelihood of media success.

I used two tests to check the robustness of these results. First, I checked whether the results remained stable when using ordinary logistic regressions. Second, I tested whether the effects changed when using an alternative dependent variable. Because the results remained stable for both robustness checks,[31] journalists can be concluded to not strongly rely on

[31] I checked whether a newspaper article cited a docket number and whether this docket number matched with the docket number of a promoted decision. I used the same 10-day restriction to create the dyads, which resulted in a binary measurement of whether a docket number matched in at least one newspaper article. The docket numbers of 19% of the promoted decisions matched with at least one newspaper article.

the information subsidies provided by the Court, with only 18% of all press releases being successful in being reported on. Moreover, the news values of conflict and political power show no impact on the success of press releases. Since these news values are linked to elements such as legal and political status-quo changes and internal disputes, these findings suggest that the Court is not in a position to influence news content for cases for which Staton (2010) argues that a court needs this influence the most.

By contrast, press releases that promote decisions for which an oral hearing was held are more likely to be successful in being reported on. Oral hearings provide the only opportunity for the media to cover cases prior to the Court's decision (Krehbiel, 2016). Hence, the findings indicate that journalists are more likely to report on press releases if the issue is already known. However, as justice reporting is said to focus on decisions of general interest and oral hearings are nearly exclusively held in highly significant cases (Krehbiel, 2016; Vanberg, 2005), journalists could also be assumed to report on the respective disputes in greater detail during the process of adjudication and to use Court press releases only to report the final outcome. Accordingly, since oral hearings are cues that provide information about the relevance of a dispute (Krehbiel, 2016), these results also indicate journalistic interest in cost-effective reporting on Court decisions that have presumably already been introduced in prior media coverage.

4.5 Conclusion

The reputation of a court in a society is determined by the public's assessment of the court's actions (Garoupa and Ginsburg, 2015). However, a court's public awareness is mediated by the news media, from which the public receives its information about the court's actions (Hitt, Saunders, and Scott, 2019; Hitt and Searles, 2018; Strother, 2017). Court press releases that promote selected decisions to the media in order to influence the news have

Detailed results are available upon request.

become a point of interest in judicial politics and communication studies alike. Press releases are linked to the relationship between sources and news media and to the discussion of whether public relations contributes to the representation of a diversity of views in the media or whether external interests dominate journalism and undermine the media's watchdog function (Boumans, 2017; Donsbach and Brade, 2011; Shoemaker and Reese, 2014; Wheatley, 2020). This study investigated whether court press releases and the news values they carry affect the news media and introduced a measure to empirically assess the impact of court press releases on news content.

The results reveal a similar degree of media success for court press releases that was found for press releases of political parties and organizations in Austria, Germany, and the Netherlands (Boumans, 2017; Donsbach and Brade, 2011; Haselmayer, Wagner, and Meyer, 2017). First, only about 18% of the press releases were found to be successful in being reported on in the media. Second, the media success of a press release is mainly influenced by the familiarity news value, whereas no substantial impact was found for conflict or political power. This finding is in line with earlier findings both regarding the usage of press releases for conflict-laden issues, for which journalists have been shown to be more likely to invest their resources and write original news stories (Donsbach and Wenzel, 2002), and in terms of findings on familiarity, which show that issues that are already on the media's agenda and are familiar to the public are more likely to be covered again (Haselmayer, Wagner, and Meyer, 2017; Vonbun-Feldbauer and Matthes, 2018).

Overall, the results produced no evidence to indicate that the news coverage of Constitutional Court decisions in Germany is influenced by the Court's own public relations material. The results therefore refute the normatively justified concern about an overly strong influence of political PR on media content, at least in the context of justice reporting. Furthermore, although media outlets are widely known to face economic hardship and the accompanying struggles for reader- and advertising shares (Lewis, Williams, and Franklin, 2008), these findings suggest that justice reporting in Germany does not appear to merely copy and paste

press releases in order to produce cost-free news content. However, the positive relationship between oral hearings and the media success of press releases does indicate cost-efficient reporting on Court decisions that had *presumably* already been introduced in prior media coverage (Krehbiel, 2016). To make more precise inferences on whether pre-decision coverage affects post-decision coverage and journalists' usage of press releases, a broader-based study that takes the media environment as well as pre- and post-decision media coverage into account is warranted. The academic community has just begun to unravel these dynamics for the media coverage of decisions by the U.S. Supreme Court (Strother, 2017), but there is a need to expand this research in order to provide a comparative perspective as well as to find elaborate theoretical considerations that are applicable across country contexts.

This study adds to the literature on political public relations, communication, and judicial politics by assessing the impact of press releases and the news values they carry on the news media. Furthermore, it is the first study to elaborate news values in the context of decisions made by the German Federal Constitutional Court. This study is unique in its scrutiny of the impact of judicial public relations on news content. Moreover, since news values are also prevalent in decisions by lower courts that also issue press releases (Machill, Beiler, and Hellmann, 2007), the study's theoretical model could be used to investigate the effects of public relations efforts on the news media by ordinary courts.

Future research should examine whether press releases actually enhance the quality and accuracy of justice reporting, as has been previously assumed yet not tested (Staton, 2010). In addition, as this study focused on the Court's messages and omitted the work of journalists, more research is needed to assess inductions by journalists (e.g., the editing of the message) in the context of justice reporting. Finally, comparisons between the impact of judicial public relations on the media should be explored given that courts worldwide issue press releases and engage in other public relations efforts (Davis and Taras, 2017; Meyer, 2019; Staton, 2010).

In closing, active court communication is a crucial element of open justice as it ensures

accurate and accessible information and therefore guarantees the democratic accountability of courts (Garoupa and Ginsburg, 2015; Hess and Harvey, 2019a). An open and accessible court enables the public to monitor the process of justice and therefore also to take an active part in the democratic process. This study hence represents a necessary addition to the development of judicial public relations theory as it opens the door to further research on the link between openness, transparency, and judicial accountability. Future studies should investigate and identify these processes in greater detail in order to come to a broader understanding of how democracies benefit from public relations.

Chapter 5

Explaining media coverage of Constitutional Court decisions in Germany: The role of case characteristics

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Chapter 6

General discussion

In political systems that are based on the rule of law and constitutional sovereignty, constitutional review courts are the sole institutions that enforce constitutional constrains and restrict political power (Stone Sweet, 2002). Nevertheless, constitutional review courts occupy a delicate position within democracies. On the one hand, they are the 'balance-wheels' of constitutions as they preserve individual and political liberties, the rule of law, and safeguard governmental prerogatives (Ryder, 2019). On the other hand, they exercise political power through judicial review.

However, constitutional review courts are, in most cases, composed of a small group of judges that are (ideally) independent of political pressure (Hönnige, 2007). Hence, for democracies they are a 'counter-majoritarian difficulty' (Bickel, 1986). In other words, these courts represent "the problem of a very small number of independent and irremovable judges imposing legal constraints derived from the short and often unclear text of the constitution upon elected parliamentarians who represent the political majority of the people" (Giegerich, 2019, p. 143). To circumvent this problem and to be perceived as a legitimate part of the separation of power system, constitutional review courts depend on the acceptance and the support of the general public (Garoupa and Ginsburg, 2015; Gibson, Caldeira, and Baird, 1998; Giegerich, 2019; Vanberg, 2005).

Three sources of legitimacy are relevant for apex courts: 1) input legitimacy (public

support of the court as a governmental branch that interprets the constitution), 2) output legitimacy (public support of the court as a governmental branch that restricts political power, safeguards political and social liberties, and shapes public policy), and 3) social legitimacy (public support of the court as a governmental branch that is a neutral and independent arbiter of the law) (Ryder, 2019). Without openness and transparency, however, these sources of legitimacy are nothing but empty shells (Hess and Harvey, 2019a).

This interdependence is not new, and it is an object of scholarly discussions since the Enlightenment. Immanuel Kant has argued that justice is only achievable in public, and the slightest sign of secrecy is already a sign of injustice (Gierhake, 2019). In a similar vein, Jeremy Bentham (1843, p. 317) has argued that judicial review and all other aspects of political control are powerless without publicity: "in comparison of publicity, all other checks are of small amount." Hence, to serve justice, courts need to be open and transparent, while public scrutiny must be enabled: "access to the courts and public scrutiny provide for the judicial process to be carried out properly and ensure that that framework can be properly challenged, articulated, and developed both through the legal process and through stimulating public, and democratic debate" (Ryder, 2019, p. 128). Nowadays, the concept of open justice or also "observational justice" (Ryder, 2019, p. 128) becomes particularly important, as populists and nationalists attack the independence of the judiciary. Thus, courts need to establish structures to inform the public about their activities (Hess and Harvey, 2019a). Only if the process of justice can be seen, the public can legitimize and support the courts and their actions and can entrust them the necessary (judicial) reputation to be politically assertive (Garoupa and Ginsburg, 2015; Gibson, Caldeira, and Baird, 1998; Vanberg, 2005).

In a nutshell, the public needs to be "aware of [c]ourt decisions, and feel duty-bond to carry them out" (Rosenberg, 2008, p. 16). However, awareness can only be granted if openness and transparency are prevalent. Hess and Harvey (2019) define transparency rather narrowly as the notion of 'seeing into activities' and openness as the broader concept

that comprises transparency, and also other aspects like access to documents, publicity, and accountability. In the introduction of this dissertation, I have listed several constitutional and statutory texts and official guidelines that recognize and guarantee an open, transparent, and accessible judiciary. These documents share several aspects that provide a general understanding of the concept of open justice. First, public hearings and open trails allow the public to participate in the process of justice (Gierhake, 2019). Second, the public needs to have access to court decisions to assess whether all arguments in a case were taken into account (Alemanno and Stefan, 2014; Ryder, 2019). Third, citizens should be able to access courts and file a complaint without restrictions. Fourth, openness and transparency demand courts to have a strategy to communicate with the public (Johnston, 2018). In other words: "By openly communicating the debate taking place between the parties, and by clearly justifying its position towards both parties, the courts create the forum for the parties *and the public* to see and assess whether all considerations were taken into account, whether the law was observed and thus monitor the administration of justice" (Hess and Harvey, 2019a, 18, emphases in original).

In this dissertation, I have dealt with the fourth aspect: court communication. Scholars assume that a pro-active strategy to communicate what happens in the courts fosters the public trust in the judiciary (Hess and Harvey, 2019a; Johnston, 2018) and facilitates the reputation of the judiciary (Garoupa and Ginsburg, 2015). Michal Bobek (2019) argues that the 'principle of publicity' serves specific goals for judiciaries: enabling public control, enhancing independence and neutrality, protecting against arbitrary trials, fostering trust, and serving justice and the rule of law. Although each of these goals has slightly different consequences – e.g., regarding the quantity and quality of the communicated information – their overall purpose is to foster the public's understanding of the judicial system (Bobek, 2019). Consequently, communicating judicial decisions is perceived to help "not so much to safeguard the interest of individual litigants as to safeguard the administration of justice itself" (Chainais, 2019, p. 60).

Courts have a wide variety of tools to communicate with the public. For example, several courts use official websites to provide basic information on their institutional structure, legal foundations, and to publish decision texts (Elena and Schalkwyk, 2017). Some courts also use social media, internet blogs, and of course classical means of communication like press conferences and press releases (Davis and Taras, 2017).[32] Although these tools should help courts to communicate with the public, in practice, courts, as every governmental branch, communicate with the news media, which is the gatekeeper between politics and citizens (Shoemaker and Vos, 2009). In other words, citizens "do not directly monitor political institutions and elites, but instead allow the media to do this work for them" (Strother, 2017, p. 572). Generally, the news media is the public's primary source for becoming aware of and gaining knowledge on courts and their actions (Boydstun, 2013; Graber, 2010; Hoekstra, 2003; Stoutenborough, Haider-Markel, and Allan, 2006).

In this dissertation, I have dealt with one specific tool of court communication: press releases (Davis and Taras, 2017; Hale, 1978; Staton, 2010). As I have elaborated in *Chapter 4*, press releases are, even today, in times of new media technologies that create opportunities to communicate directly with the public, still significant aspects of every public relations strategy (Strömbäck and Kiousis, 2011; Shoemaker and Reese, 2014). They represent an essential channel for journalists, as they transmit 'ready-made' and therefore comparatively cost-free information (Gandy, 1982; Grunig and Hunt, 1984; Jacobs, 1999; Wheatley, 2020).

I argued that constitutional courts have two motives to publish press releases: (1) to increase transparency in order to avoid political evasion and (2) to enhance openness by providing objective and accurate information. Both motives are derived from literature reviews on legislative (non)compliance, open justice, and judicial public relations (e.g., Davis and Taras, 2017; Hess and Harvey, 2019a; Johnston, 2018; Staton, 2006; Staton, 2010; Vanberg, 2001; Vanberg, 2005). To contribute to the existing literature as well as to the ongoing

[32]The 'Guide on communication with the media and the public for courts and prosecution authorities' published by the European Commission for the Efficiency of Justice (European Commission For The Efficiency of Justice, 2018) provides a list of possible means of communication.

discussion on how courts can effectively communicate their decision, I have examined court press releases that promote court decisions and have asked *which institutional structures influence the publication of court press releases, when and what kind of information do courts communicate, and how do these communication efforts shape the news media.*

The presented results suggest that aspects of transparency and openness are essential for the analysis of court communication efforts and their effect on the news media, as illustrated in Figures 1.1. and 1.2., this dissertation was divided into two parts: internal or intra-institutional processes and external effects. First, courts publish press releases strategically for politically or legally relevant decisions, in which transparency is most needed (see *Chapter 3*). Concerning the judicial policy agendas, I have shown that the court decisions exert first-level agenda-setting on the press releases. Nevertheless, the press releases are found to represent a more diverse and 'colorful' policy agenda (see *Chapter 2*). Hence, in this dissertation, I was able to show that internal considerations and intra-institutional dynamics regarding the publication of press releases are influenced by considerations on how to draw public attention and how to showcase the diversity of issues. Second, court press releases are found to have external effects as they influence the media coverage of court decisions. Court decisions promoted with press releases are found to be more likely covered by the media (see *Chapter 5).* Because promoted decisions are, in most cases, politically or legally relevant decisions (see *Chapter 3*), I provide evidence that the salience of a case shapes the media gatekeeping process. As such, this dissertation contributes to the ongoing scholarly discussions on how courts can strengthen their position vice versa the government (see, for example Collins and Cooper, 2015; Staton, 2010). However, although promoted decisions are more likely to be covered by the news, the results also reveal that journalists do not overly rely on the courts' public relations efforts (see *Chapter 4*). Quite the contrary, the findings suggest that journalists use the court press releases as a news channel and story trigger to write unique content (see Wheatley, 2020, for a discussion on news channels see).

In this final chapter, I summarize the findings of the four empirical chapters. Subse-

quently, I discuss central contributions for the research on judicial politics, political communications, journalism, and highlight possible avenues for future research. Finally, I will present some concluding remarks on the value of court communication for democracies.

6.1 Summary

In this dissertation, I have investigated how a major European constitutional court uses press releases to communicate with the public. I have drawn on the comparative judicial politics literature, the literature on political communication with a particular focus on aspects of news values and newsworthiness, the policy agenda literature, and the literature on journalism studies with an emphasis on the concept of court reporting. The existing literature is extended in three regards. First, I argued that constitutional courts use press releases at their disposal to enhance their agenda-setting abilities. Second, I explored how specific chase characteristics determined the occurrence of press releases and argued that considerations on transparency and public awareness are linked to the publication of press releases. Third, I linked these case characteristics with considerations on the news value and newsworthiness of court documents and showed how they shape the media coverage in general and the content of the media coverage in particular.

These arguments were tested empirically by using inferential methods such as logistic regression on new data on court decisions and press releases, compiled with text analysis methods, and supervised learning techniques. Throughout all chapters, I assessed the German Federal Constitutional Court (FCC), a court with a long tradition in judicial public relations and consistently high levels of public support. As such, the FCC was a suitable starting point to extend the literature beyond the American context, which is also a significant contribution of this dissertation.

The empirical chapters provide empirical evidence on various aspects of the FCC's public relations efforts. First, *Chapter 2* illustrated that the FCC has two distinct policy agendas

– the decision agenda and the press release agenda – and that it uses its press releases to showcase the issue diversity of its decisions. Second, *Chapter 3* exemplified that the Court more likely publishes press releases for decisions that are politically or legally relevant. Third, *Chapters 4* and *5* found evidence that news values and cues of newsworthiness shape the news reporting on the FCC. Each chapter answers a specific research question, and the answers determine the achievements of this dissertation and its contributions to the existing research. The following sections are captioned with the research questions of each chapter and summarize the answers to these questions.

6.1.1 Chapter 2, RQ1: To what extent do policy issues discussed in court decisions influence a court's press release agenda?

Based on the research on policy agendas, agenda diversity, and court dockets (Alexandrova, Carammia, and Timmermans, 2012; Baumgartner, Breunig, and Grossman, 2019a; Baumgartner and Jones, 2002; Boydstun, Bevan, and Herschel, 2014; Engel, 2020; Fontana, 2011; Jennings et al., 2011; Soennecken, 2016), I made two central arguments in *Chapter 2*. First, a court that promotes its decisions through press releases has at least two policy agendas: 1) a decision agenda, composed of all cases the court has decided on, and 2) a press release agenda, composed of the decided cases the court has selected for promotion. Second, based on the distinction between discretionary and mandatory docket control, I argued that press releases are a crucial tool for courts with a mandatory docket to have some degree of power to set their policy agenda. In comparison, a discretionary docket control system equips a court with strong agenda-setting powers and enables it "to address a constitutional issue when the timing is right for the court successfully to intervene to decide that issue" (Fontana, 2011, p. 627).

Using supervised text classification and ensemble coding methods, I classified the policy topics in all court documents following the codebook of the Comparative Agendas Project.

Based on issue diversity measurements and time-series analysis within the ARIMA-framework, the results in *Chapter 2* suggest that the decision agenda exerts fist-level agenda-setting on the press release agenda. Hence, the answer to the above-displayed question is rather straightforward: policy issues in court decisions do influence the policy issues a court promotes with its press releases. Nevertheless, the results also imply that the press release agenda is more diverse and 'colorful' than the decision agenda and that the FCC's minor branches – the chambers – have a strong influence on the diversity of the press release agenda. These findings constitute the main implication of this chapter: press releases equip courts with a tool to highlight minor issues and to take some cases more seriously than others (this was previously assumed but not tested by Engel, 2020). Moreover, this chapter was the first to shed light on intra-institutional agenda-setting dynamics by assessing two agendas within the same institution and by combining the research on press releases with existing theories on policy agenda-setting. Finally, *Chapter 2* contributed to the data on policy agendas by collecting and coding two new data sets: FCC decisions and press releases.

6.1.2 Chapter 3, RQ2: Which institutional characteristics determine the publication of press releases by constitutional courts?

In *Chapter 3*, I have investigated a central aspect of judicial public relations: the publication of press releases. Results from previous studies have revealed that courts around the world use press releases to disseminate information and to draw public attention (Davis and Taras, 2017; Johnston and McGovern, 2013; Peleg and Bogoch, 2014; Staton, 2010). Moreover, the analysis in *Chapter 2* has shown that the FCC uses press releases to showcases the diversity of issues. However, it was unclear how institutional characteristics determine the occurrence of press releases. To bridge this gap, in *Chapter 3*, I analyzed the likelihood that a court promotes a decision with a press release by taking the effect of different chase characteristics into account. Motivated by previous research from Staton (2006; 2010),

Vanberg (2001; 2005), and Krehbiel (2016), I formulated two central arguments in *Chapter 3*. First, press releases are an essential tool of judicial public relations. Second, press releases are strategically used by the courts to enhance openness and transparency surrounding specific court decisions to strengthen a court's position vice versa the other governmental branches.

Through the investigation of characteristics of FCC senate rulings, the analysis in *Chapter 3* demonstrated that the publication of press releases is more likely if the promoted decisions change the political status quo. Moreover, constitutional disputes and concrete review cases also foster the probability that a press release promotes a decision. Overall, the results presented in *Chapter 3* suggest that the FCC is eager to publish press releases more likely to communicate legal and political conflicts (e.g., status quo changes and concrete reviews) as long as the conflicts are not internal or instances of intra-judicial dissent (e.g., dissenting opinion or overruling of a lower court case). These results contribute to the existing literature in two ways. First, compared to previous studies (for example, the contributions in the edited volume by Davis and Taras, 2017) *Chapter 3* facilitates a more empirically focused understanding of the communication efforts of constitutional review courts. Second, the findings support previously made research assumptions on the value of court communication for judicial reputation (Garoupa and Ginsburg, 2015) and the courts' need for transparency (Staton, 2010).

6.1.3 Chapter 4, RQ3: How do court press releases influence news media content?

The discussion in *Chapter 4* widens the focus of this dissertation. While the theoretical and empirical considerations in the *Chapters 2* and *3* are focused on internal processes within the FCC and its public relations efforts, in *Chapter 4* I turned the attention to potential influences of court press releases on the news media. The main theoretical arguments in this chapter are motivated by previous research on the process of mediatization and the influence

of news values on media outlets and political actors alike (Donsbach and Brade, 2011; Haselmayer, Wagner, and Meyer, 2017; Shoemaker and Reese, 2014; Aelst and Walgrave, 2016; Walgrave and Aelst, 2006). In particular, I argued that political actors adapt the media logic and use specific news values as cues for journalists to influence the media gatekeeping process. For example, Haselmayer and colleagues (2017) showed that political parties use news values when publishing press releases to increase their chances to be reported on in the news. In *Chapter 4*, I transferred these considerations to communication strategies by constitutional courts. In particular, I assumed that specific news values – conflict, political power, and continuity – increase the probability that a court press release is reported on in the news.

Based on automated text analysis methods, I compared the content of court press releases and newspaper articles in terms of their textual similarity, to measure how court press releases influence the content of newspaper articles. The results in *Chapter 4* show a weak influence of press releases on the content of newspaper articles. The newspaper articles used only a small portion of all court press releases (18 %) for their reports. Furthermore, no influence on the success of press releases could be detected for the news values conflict and political power. In contrast, the results imply that press releases that promote decisions that are already familiar to the public – due to a previously held oral hearing – have the highest probability to be reported on in the news. Overall, the considerations made in *Chapter 4* contributed to the growing body of research on court communication by assessing both the impact of press releases and the news values they carry. The approach I used in *Chapter 4* is unique, as it scrutinizes news values in the context of decisions by the German Federal Constitutional Court and establishes an empirical link between press releases and news content.

6.1.4 Chapter 5, RQ4: What influences media coverage of court decisions?

Although the findings presented in *Chapter 4* showed only weak evidence for an influence of judicial press releases on the news content, it was still unclear how, why, and when the media covers decisions by the FCC. Drawing from research on media coverage of decisions by the U.S. Supreme Court (e.g., Sill, Metzgar, and Rouse, 2013; Strother, 2017; Vining and Wilhelm, 2010; Yanus, 2009) and from theoretical considerations regarding the journalistic practice of court reporting (Branahl, 2005; Chamberlain et al., 2019; Machill, Beiler, and Hellmann, 2007), the main argument I have made in *Chapter 5* was that media coverage of FCC decisions needs to be understood as a form of justice reporting that serves the general public interest by focusing on procedural and case details. In a nutshell, I expected that media coverage is contingent on case characteristics that indicate a decision's newsworthiness: If a decision exhibits specific characteristics, it is newsworthy, and the media more likely covers it.

By employing local text alignment measurements, I compared court decisions and newspaper articles and identified if court decisions are featured in the newspaper articles at least once. I then used this measurement to provide an explanation of the media coverage of decisions by the FCC. The results in *Chapter 5* demonstrate that the probability that an FCC decision gets covered is higher: 1) if a press release promotes the decision, 2) if an oral hearing was held during the process of adjudication, 3) if a dissenting opinion was filed, or 4) if a decision exhibits a combination of all three items. Although the German constitutional court has already been researched extensively (Brouard and Hönnige, 2017; Dyevre, 2011; Krehbiel, 2016; Krehbiel, 2019; Vanberg, 2005), *Chapter 5* expanded the existing knowledge not only by incorporating media coverage but also by revealing that the Court has institutional leverage in shaping this coverage. Additionally, I contributed to the political communications literature by demonstrating that the concept of justice reporting provides a

suitable theoretical foundation for explaining the media coverage of court decisions outside the U.S. context.

6.2 Contributions and avenues for future research

As above-discussed, the four chapters have stimulated several contributions and implications for the research on judicial politics, political communication, and journalism research. In the following section, I want to highlight and discuss the three most significant research contributions of this dissertation. Next, I will show possible paths for future research projects that derive from this dissertation.

6.2.1 Contribution 1: A novel data set on decisions an press releases by the German Federal Constitutional Court

One line of argumentation is present throughout all chapters of this dissertation: the lack of available studies and data on judicial behavior apart from the U.S. context. For example, scholars of the U.S. Supreme Court can make use of the Supreme Court Database (see for example Clark, Lax, and Rice, 2015; Denison, Wedeking, and Zilis, 2020; Robinson, 2013; Sill, Metzgar, and Rouse, 2013, who uses the data set for their research).[33] In comparison, the scarcity of available data on European courts and their composition and decision-making is astonishing. As a consequence, empirical legal studies on European courts lag behind the research in the United States.

In the course of this dissertation, I created a novel data set. It contains all decisions and press releases the German Federal Constitutional Court has made available online. It covers the years 1996 to 2020 and some individual decisions from previous years. Until now (28 May 2020), the data set contains 7,470 court decisions from both the senates and the

[33]The Supreme Court Database is a research project organized by Harold Spaeth, Lee Epstein, Ted Ruger, Jeffrey Segal, Andrew D. Martin, and Sara Benesh. For detailed information see: http://scdb.wustl.edu/about.php.

chambers and 2,517 press releases (including decision promotions, announcements of oral hearings, information about past visits, information on birthdays of present or former judges and more). Compared to other data sets like the soon to be published Constitutional Court Database (Hönnige et al., 2015), the data gathered for this dissertation has the advantage to entail not only senate decisions but also chamber decisions as well as all available press releases.

By using several computational text analysis methods and web scraping techniques, I collected the full text of all decisions and press releases and created additional data entries to capture for example the decision date, the date a press release was published, the prevalent proceeding type, whether a dissent was filed, and, most importantly, decisional outcomes like declarations of unconstitutionality or whether a lower court was overruled.[34] As the empirical chapters of this dissertation have shown, this data set has the potential to inspire empirical studies on judicial behavior. As such, it represents a viable new resource for empirical legal scholars, political scientists, and communication scholars to conduct research projects on the empirical aspects of the FCC's decision-making and public relations efforts.

6.2.2 Contribution 2: New data for the research on policy agendas

Another data-driven contribution of this dissertation is the policy issue coding for FCC decisions and press releases. Until now, the empirical study of judicial agendas lacks comparative and comprehensive data. For example, the Comparative Agendas Project (CAP) lists only two online available data sets regarding judiciaries: U.S. Supreme Court cases from 1944 to 2009 and decisions by the Italian Constitutional Court from 1983 to 2013.[35] Additionally, some scholars like Brouard (2009) have published empirical studies on policy agendas of individual constitutional review courts in Europe. As a consequence, scholars working on

[34] Appendix A provides a basic description of the data gathering process. Although it is tailored to capture the analysis presented in *Chapter 2*, the steps that are described there are identical for the complete data set.

[35] For a list of all online available CAP data sets see https://www.comparativeagendas.net/datasets_codebooks.

judiciaries outside the U.S. contexts have used broad and unsatisfactorily operationalized policy issue categories (see for example Krehbiel, 2016; Vanberg, 2005, who use broad policy issue categories to measure the complexity of court decisions).

By employing supervised text classification methods based on previously hand-coded court documents, I created two new judicial policy agenda data sets: FCC decisions and press releases. As the data gathering and coding process were guided by the codebook of the Comparative Agendas Project (CAP), these data sets possess broad applicability and comparability for future research beyond the boundaries of judicial politics research. The CAP coding scheme has become the gold standard for quantitative policy agenda research (Baumgartner, Breunig, and Grossman, 2019a). It has "generated a rich set of easily accessible data, which, because it employs a consistent method of coding and a standardized set of policy codes, can be used to measure the evolution of the policy agenda across time and between countries" (Dowding, Hindmoor, and Martin, 2016, p. 4). Hence, this dissertation broadens the spectrum of cases of judicial policy agendas, and it adds another policy agenda dimension by also considering the policy issues promoted by court press releases. Additionally, by drawing on existing research on inter-media agenda-setting (Vliegenthart, 2014), I also added a novel approach to the analysis of policy agendas by conceptualizing a theoretical model that proposes a causal relationship between two intra-institutional policy agendas.

6.2.3 Contribution 3: The value of press releases as a tool for courts to communicate and engage with the public

Although the approach to conceptualizing intra-institutional agenda-setting by assessing the agenda dynamics between court decisions and court press releases is a unique and crucial new avenue of research, the most significant contribution to the existing literature I made is due to the extensive work on court press releases, their functions, and their effect on the

news media.

Throughout the chapters of this dissertation, I argued that press releases have at least three central functions for courts: 1) to draw public attention and promote judicial independence (Davis, 2011; Davis and Taras, 2017; Hale, 1978; Staton, 2006; Staton, 2010); 2) to serve the principle of open justices by communicating the process of justice to the public (Garoupa and Ginsburg, 2015; Hess and Harvey, 2019a; Johnston, 2018; Moran, 2014); 3) to be used as information subsidies that transmit information that is 'ready-made' and easy to use to the media in order to get reported on in the news (Boumans, 2017; Gandy, 1982; Shoemaker and Reese, 2014; Vonbun-Feldbauer and Matthes, 2018; Helfer and Aelst, 2016; Wheatley, 2020). While these arguments are not new, this dissertation is the first to combine these different elements and to provide a comprehensive picture of the values and pitfalls of press releases for judiciaries.

In particular, I was able to show that the German Federal Constitutional Court uses its press releases to highlight minor policy issues and to ensure that also more specific cases receive a necessary degree of seriousness (see Engel, 2020; Soennecken, 2016, for a similar argumentation see). Additionally, chase characteristics that indicate legal or political conflicts are found to increase the likelihood that the Court publishes a press release, while inter- and intra-judicial dissents decrease it. As such, I systematically decomposed the press release strategy of the FCC into its parts, whereas previous studies have been either descriptive (e.g., Davis and Taras, 2017; Johnston and McGovern, 2013; Moran, 2014) or focused on only a particular aspect of court press releases (e.g., Staton, 2010; Peleg and Bogoch, 2014). Concerning communications research, this dissertation was the first that illustrated that court press releases have a (small) impact on the news media content but a considerably significant impact on the media coverage of FCC decisions. This combination of content comparison and media coverage analysis constitutes a unique approach. It provides further evidence for previous results in journalism studies, that press releases are news channels and trigger for journalists to write news stories rather than just broadcast or copy the press releases content

(Vonbun-Feldbauer and Matthes, 2018; Wheatley, 2020).

Finally, a further contribution is to demonstrate that court press releases positively influence media coverage and, therefore, public awareness. So far, scholars have only assumed that proactive dissemination of information helps courts cultivate their reputation (Garoupa and Ginsburg, 2015; Hess and Harvey, 2019a). Similarly, the research by Staton (2006; 2010) implies that courts strategically use press releases to draw attention and to strengthen their position vice versa the other governmental branches. My findings provide further evidence that a court can also shape the level of publicity a decision receives by issuing a press release. Furthermore, as this dissertation has compiled comprehensive data on the German Federal Constitutional Court, it is a suitable starting point to extend the research on the role of court press releases for legislative compliance with court decisions.

6.2.4 Avenues for future research

The findings of this dissertation open up several pathways for future research. I will now highlight three possible avenues.

1. Comparative analysis of judicial public relations

Although this dissertation focuses on the German Federal Constitutional Court, it nevertheless paves the way for comparative studies that include several apex courts as well as for single-case studies on other constitutional review courts. Two reasons can be named here.

First, I relied on computational text-analysis methods to gather, clean, and to analyze the court data. Text analysis methods have already widely been used in studies on the U.S. Supreme Court (Black and Spriggs, 2013; Hitt and Searles, 2018; Hitt, Saunders, and Scott, 2019; Wedeking and Zilis, 2017; Wedeking, 2010), while European constitutional courts have received less attention in this regard. Hence, future research can use the data gathering and data cleaning methods I outlined in the previous chapters to investigate the behavior of European courts. Although most European apex courts do not nearly provide as much

data as the U.S. Supreme Court, this aspect for future research is particularly important for research on judicial public relations as the second reason will show.

Second, I conducted the empirical analysis in this dissertation almost exclusively by using online available (text) data on court decisions and press releases. Accordingly, this approach is easily transferable to courts that provide accessible information on decisions and press releases. Several previous studies (see especially Davis and Taras, 2017; Elena and Schalkwyk, 2017; Hess and Harvey, 2019b) and also *Table 3.1.* in *Chapter 3* have shown that constitutional review courts worldwide provide access to decision texts on their websites, but also conduct public relations by publishing press releases, using social media networks, and broadcasting hearings on television and online. Accordingly, the framework I presented in this dissertation could help scholars go beyond the case of the U.S. Supreme Court and make use of the online accessible judicial documents and employ comparative research examining judicial decision making and judicial public relations efforts.

2. Disentangling the role of courts in the news media

In the *Chapters 4* and *5*, I demonstrated how court decisions and press releases influence news media content and media coverage. Whereas the media coverage of U.S. Supreme Court decisions has already been subject to scholarly attention (e.g., Denison, Wedeking, and Zilis, 2020; Hitt and Searles, 2018; Sill, Metzgar, and Rouse, 2013; Strother, 2017; Yanus, 2009), only sparse research efforts have been realized on media coverage of European courts. Four possible pathways for the research on the court-media relationship can be named here.

First, previous research has shown that news values are crucial for the media coverage of decisions by ordinary courts in Europe (Chamberlain et al., 2019; Machill, Beiler, and Hellmann, 2007; Moran, 2014). However, these studies or not focused on the effects of news values and treat them more like side effects. Hence, moving forward, future studies could use the theoretical considerations I made in the *Chapters 4* and *5* to investigate how and when the news media covers ordinary courts and whether and how ordinary courts employ

communication strategies and engage with the news media.

Second, in *Chapter 5*, I measured media coverage by controlling whether a decision was covered in at least one article. This measurement is, however, somewhat limited. For example, it is incapable of capturing the details of the news content like its tone or the frames used in the news story. Previously, scholars on the media coverage of U.S. Supreme Court decisions have shown that the media's framing of a decision affects the public approval of the SCOTUS (Hitt and Searles, 2018) and that the SCOTUS can influence the tone of the coverage (Denison, Wedeking, and Zilis, 2020). Accordingly, as the data sets compiled for this dissertation entail the full texts of the decisions and the press releases, similar measurements to capture the tone and the framing by the German Federal Constitutional Court are now feasible.

Third, moving forward in assessing the effects of court communication on the media, scholars should now turn its attention to additional promotion tools. The studies by Kranenpohl (2010) and Rath (2015) have shown that besides press releases, the FCC has additional methods of promoting its decisions. For example, the yearly held press conference, off-the-record conversations, or the open house day (the former president of the FCC also highlighted the importance of the open house day for the Court, see VoSSkuhle, 2018). The effects of these additional promotion tools on the Court's assertiveness are unknown. Hence, in order to obtain a detailed picture of judicial public relations, future research needs to analyze all possible means of communication that courts have to promote their decisions.

Fourth, similar research efforts are necessary to foster a better understanding of the role that court communication plays for the media coverage of court decisions. For example, studies on inter-media agenda-setting look at the "question to what extent different newspapers influence each other in the attention they devote to the issue" (Vliegenthart, 2014, p. 2439). Similar questions are asked to analyze how policy issues evoked by political parties shape the media agenda (Hopmann et al., 2012). Accordingly, since the results of this dissertation suggest that courts use press releases to promote the diversity of their policy agenda,

and that press releases influence the quantity of media coverage, future studies should assess possible court-media agenda-setting effects and should investigate how policy frames promoted by courts influence the news media agenda. In addition, as I have focused on the Court's messages, I have overlooked to analyze the work of journalists. Hence, more research is needed to assess inductions by journalists (e.g., the editing of the message) in the context of justice reporting (on journalistic inductions, see Donsbach and Brade, 2011).

3. Influences on and effects of court communication

Finally, due to the focus of this dissertation, several aspects were left out. First, the possible effects of court communication on the institutional standing of courts vice versa the other political branches. Second, the possible external effects on communication efforts by courts. Drawing from the results of this dissertation, I will highlight three possible new avenues for future research on court communication.

First, Garoupa and Ginsburg (2015) have claimed that courts can use press releases to communicate with the public to increase and strengthen their reputation. Similar arguments can be deducted from the work of Gibson and Caldeira (2009) as well as from the literature on open justice and its focus on accountability and legitimacy through court communication (Hess and Harvey, 2019a; Johnston, 2018). However, until now, these arguments remain untested. As the data used in this dissertation contains both aspects – court communications and media coverage – future studies could combine this data with measurements on public trust and support on the German Federal Constitutional Court to test theses theoretical claims (see for example Sternberg et al., 2015).

Linked to this is the second aspect: external influences on the two court agendas. Yates and colleagues (2005) found evidence that the SCOTUS's decision to grant certiorari is influenced by external political pressure. Similar research on European courts and their policy agendas does not exist. How does political pressure or events like elections influence agenda dynamics and court communication at European courts? Future research needs to

address such questions and theoretical considerations.

Third, the open justice literature argues that an open and accessible court enables the public to monitor the process of justice and, therefore, also to take an active part in the democratic process (Hess and Harvey, 2019a). This dissertation hence represents a necessary addition to the literature on court communication as it opens the door to further research on the link between openness, transparency, and judicial accountability. Future studies should investigate and identify these processes in greater detail in order to come to a broader understanding of how democracies benefit from court communication and political public relations in general.

6.3 Concluding remarks

Not only since Tate and Vallinder (1995) scholars have been investigating the possible influence of constitutional jurisdiction on democratic processes (Dahl, 1957). The judicialization of politics is one of the most crucial developments of democratic government. According to Ran Hirschl, since the late twenty-century political actors and the public have started to rely on constitutional review courts to discuss moral predicaments and settle political controversies: "Armed with newly acquired judicial review procedures, national high courts worldwide have been frequently asked to resolve a range of issues from the scope of expression and religious liberties and privacy to property, trade and commerce, education, immigration, labor, and environmental protection" (Hirschl, 2011, p. 253).

In times in which courts and judges increasingly interfere in the political and social sphere, "it is only natural that there will be greater interest in the operation of the judiciary and demands for greater judicial accountability" (Garoupa and Ginsburg, 2015, p. 49). Accordingly, today's courts must provide trustworthy, openly accessible, and transparent information to the public. However, transparency and openness are irrelevant and without purpose, if there are no publicity (Bobek, 2019). Openly accessible court documents that

come without additional explanation and information confront citizens with the problem of perceiving what information is significant and how to interpret it. This could result in the misinterpretation of court decisions (see Staton, 2010, for a similar assumption) and in a decrease of public trust, confidence, and finally, a damaged judicial reputation (Garoupa and Ginsburg, 2015). Consequently, openness and transparency need to be combined with publicity, which requires a communication strategy by the courts. If the public is aware of what happens in the courts, it is more likely to trust the judiciary and to have confidence that justice will be served. Accordingly, only openness, transparency, and publicity can guarantee the democratic accountability of the courts (Hess and Harvey, 2019a).

The recent developments in Poland, Hungary, and the United States show that populist actors try to undermine the judiciary's independence by generating skepticism among the population about the democratic quality of the judicial review. Recently, Andreas Voßkuhle (2018) expressed concerns about the growing legal skepticism among the population in Germany by arguing that mistrust in the rule of law increases the power of populist actors and facilitates authoritarianism. In his opinion, the only way to counteract this skepticism is an even stronger and more openly conducted communication by courts and judges alike: "Justice should be visible and present! This requires more than the publicity of negotiations and court decisions. [...] Ultimately, there must be a fundamental change in the way the justice system thinks about communication. Judges and public prosecutors can no longer retreat to the traditional position of speaking only through their decisions, but not about their decisions. Court presidents, in particular, need to attend appropriate occasions to explain how justice works beyond the individual decision." (VoSSkuhle, 2018, p. 6).[36]

In this dissertation, I have evaluated the relevance of press releases for courts to commu-

[36]Translation by the author. In original: "Justiz sollte sichtbar und präsent sein – auch in der Fläche! Dazu gehört mehr als die Öffentlichkeit von Verhandlungen und Verkündungen.[...] Letztlich muss es zu einem Umdenken in der Justiz insgesamt kommen, was die Kommunikation anbelangt. Richter- und Staatsanwaltschaft können sich nicht länger auf den traditionellen Standpunkt zurückziehen, nur durch ihre Entscheidungen, nicht aber über ihre Entscheidungen zu sprechen. Insbesondere die Gerichtsdirektoren und -präsidenten müssen nach außen treten und bei geeigneten Anlässen über die einzelne Entscheidung hinaus erklären, wie Rechtsprechung funktioniert."

nicate their decisions to the public. I investigated when courts publish press releases, how courts use press releases to set their policy agenda, and how press releases influence news media content and media coverage of court decisions. However, although press releases are still important tools of political public relations (Strömbäck and Kiousis, 2011) and online public relations (Schweiger and Jungnickel, 2011), rapid technological developments facilitate direct ways of communication. An increasing number of different social media channels offer new possibilities for courts. Simultaneously, it forces them to change the application of the open justice principle to adapt to these changing circumstances: What is the appropriate technology for courts to communicate with the public? How is it possible to simultaneously secure the privacy of the dispute parties and to create openness? Is it possible to communicate court decisions by using only 140 characters? Should courts conduct 'digital' trials that are made available online to the public?[37] Should judges engage in peer-to-peer communication via social media? Finding answers to these questions is not only important from a scholarly perspective, but it is also crucial for the democratic accountability of courts, and thus for the judicial reputation and the sustainability of the rule of law and liberal democracy.

[37]In 2009, the Supreme Court of Canada became the first national Supreme Court to webcast its hearings. Additionally, several apex courts in South America open up their adjudication through public hearings, television broadcasting, and accessible online hearings (Arguelhes and Hartmann, 2017; Elena and Schalkwyk, 2017).

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Appendix

The following appendices here were prepared for the submission of the respective papers at the respective journals. Like the paper in the chapter of this dissertation, the appendices are not modified in any way for this dissertation.

Appendix A

Chapter 3

This technical appendix contains two sections: 1) a description concerning the creation of the general data set; 2) a description concerning the creation of the independent variables.

A.1 Data set

The data set covers 1127 senate rulings and includes a broad range of variables, representing different characteristics of these rulings. These variables originate from two sources: 1) the information available online on the FCC website; 2) the full texts of the rulings also available online. Both sources are consecutive, meaning that the texts are compiled in the course of the collection of the data from the FCC website. Figure A.1 illustrates the steps of the data set creation. The FCC website is structured as a list, sorted chronologically. Each entry contains information about one particular court ruling, further sub-divided into at least three and maximum four if a ruling is accompanied with a press release informational elements. The different informational levels are listed in the following:

1. Docket number (e.g. 1 BvL 12/14)
    a. Deciding senate (1)
    b. Proceeding type (BvL)
    c. Number of the incoming referral (12) in a given year (14)
2. Type of ruling and date (e.g. Urteil vom 10. April 2018)

a. Type of the ruling; which can be a judgment (Urteil) or an order (Beschluss)

b. Date of the ruling (10. April 2018)

3. Short description text one or two sentences covering the general theme of the ruling

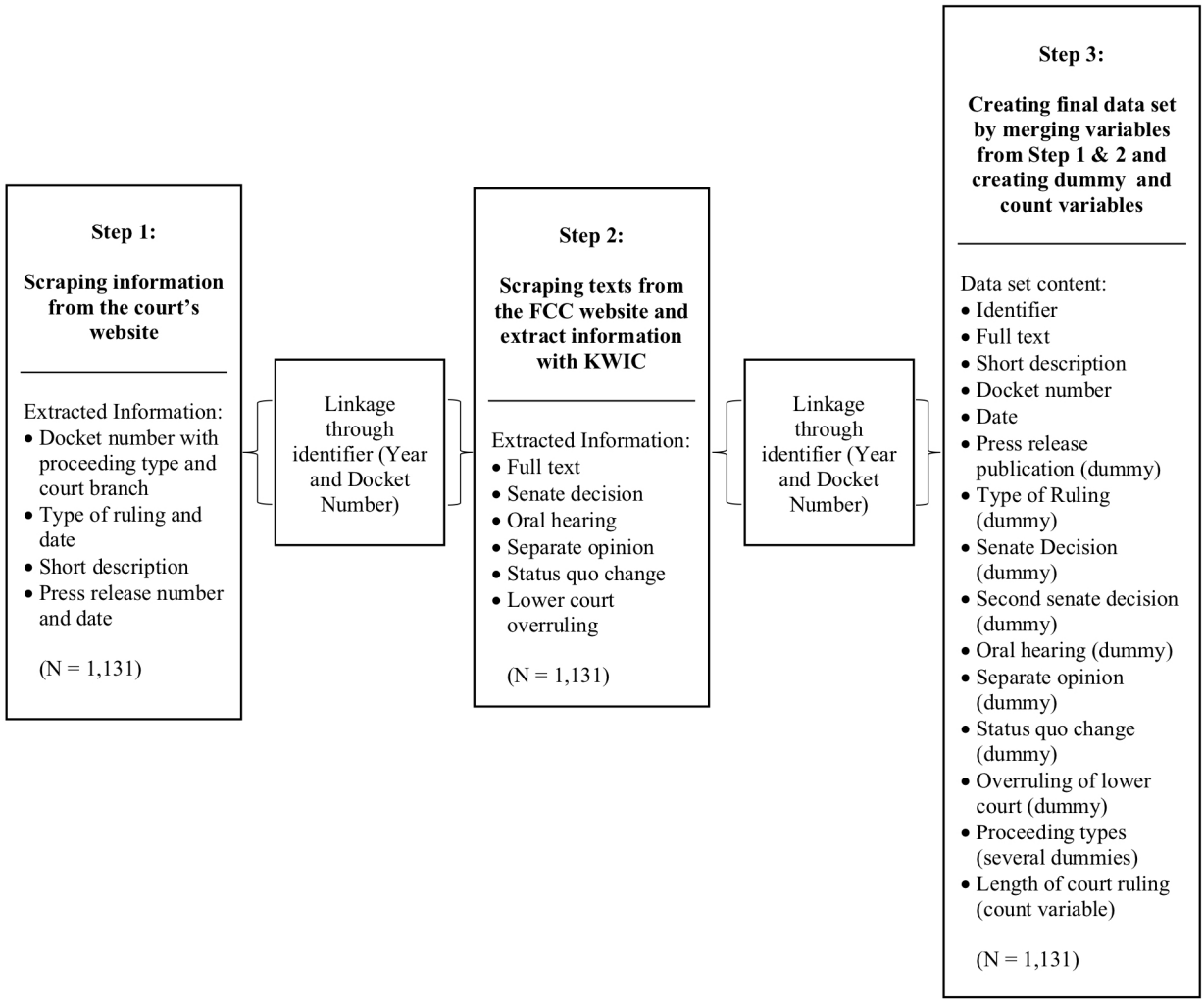
4. Press release information (e.g. Pressemitteilung Nr. 21/2018 vom 10. April 2018)

a. Number of the press release (21) in a given year (2018)

By writing and using a script written within the programming environment R, the four general informational elements and the sub-divisional informational elements are scraped from the FCC website for each ruling and compiled into a data frame. The rulings are treated as the observations (rows) and the informational elements as variables (columns). Since press releases do not occur for every ruling, NAs are created for those without a press release. Additionally, a decision identification variable containing the date and the docket number (e.g., for the example in the list: *20180410_1bvl001114*), is constructed in order to identify each ruling accurately.

In a second step, another R script was created to scrape the texts for each ruling from the court's website and to store each as a plain text file. The script automatically opens every entry listed on the website and extracts the texts. In order to be able to link the texts with the entries in the data frame, each text file is named in the same way as the above-mentioned identification variable. Following this, the texts are merged into the data frame. In a third step, some of the collected variables are fragmented into their different pieces and transformed into dummy variables. These transformations are required to differentiate between the two senates, the two ruling types, and the press release publication. Subsequently, the texts are used to create several variables which represent the independent variables. These will be explained in the following section.

Figure A.1 Steps to create the data set.



A.2 Variables

As mentioned in the paper, the independent variables are created by checking the texts for the existence of common phrases and acronyms the FCC used in order to indicate an oral hearing or a dissenting opinion. This way of extracting details from the decision text is feasible because the FCC has established a uniform way of formulating and arranging its rulings (Hailbronner and Martini, 2017, Section B).

To extract the above-mentioned phrases and acronyms, the texts are examined with

the help of a *KWIC analysis* (*key word in context*). KWIC depicts text concordance by using pre-defined phrases to identify the mentioned characteristics. In the following, the phrases used to create the independent variables will be explained individually. For each independent variable, a binary variable measures the existence (1) or the non-existence (0) of the particular phrases.

Oral hearings: Oral hearings are by default listed in the preamble of a ruling, located between the listing of the involved judges and the opinion of the court and visually stressed by paragraphs above and below. They are introduced as "aufgrund der mündlichen Verhandlung vom [Datum] durch" ("based on the oral hearing held at [decision date] by").

Dissenting opinion: Dissenting opinions are located at the bottom of a decision, clearly stressed as a paragraph separate from the decision text and naming the respective dissenting judge(s). Exemplary, for an individual judge the phrase reads as follows "Abweichende Meinung der Richterin/des Richters ... zum Beschluss/Urteil" ("Separate opinion of the judge ... regarding the order/decision").

Status change: Several different phrases are chosen to derive status quo changes. Some phrase examples are: "[...] dem Grundgesetz unvereinbar" ("[...] incompatible with the Basic Law"), "[...] ist verfassungsgerichtlich unzulässig" ("[...] is constitutionally inadmissible").

Overruling of lower court: This variable was created by extracting the court decisions, which are concrete reviews and constitutional complaints and which have a recorded status quo change. In a second step and to avoid double designation, the value of *status quo change* variables for constitutional complaints respectively, concrete reviews changed to 0.

Proceeding types: The identification of proceeding types is accomplished by checking the docket number of each ruling. For example, the docket number *2 BvR 883/18* indicates that the decision-making body was second senate (2), the proceeding type was a constitutional complaint (BvR), the incoming referral was number 883 in the year 2018. Subsequently, in order to identify proceeding types, the acronyms listed in the second place of the docket number are used. In detail, abstract reviews are marked with BvF, and concrete reviews

are marked with BvL, complaints with BvR, disputes between federal organs with BvE, and disputes between the Federation and the Länder with BvG. Accordingly, binary variables are created within which the value 1 indicates one of the particular proceeding types.

Appendix B

Chapter 4

B.1 List of German newspapers

Table B.1 List of German newspapers found in Lexis-Nexis.

	Newspaper	**Total circulation** (fourth quarter 2018, unless otherwise reported)
National		
	Die Welt (+ Welt Kompakt)	173.746
	Der Tagesspiegel	95.668
	Frankfurter Rundschau	49.350
	taz, die tageszeitung	46.599
Weekly		
	Die Zeit	517.986
	Welt am Sonntag	350.924 (fourth quarter 2007)
	Jüdische Allgemeine	9.936
Regional (*Bundesland*)		
DE-BW	Südwest Presse	265.900
	Stuttgarter Zeitung/ Stuttgarter Nachrichten	202.374
	Schwarzwälder Bote	10.687
DE-BY	Nürnberger Nachrichten/ Nürnberger Zeitung	250.095
	Paussauer Neue Presse	162.268
	Bayrische Gemeindezeitung (until 2001)	10.000 (second quarter 2001)
DE-BE	Berlin Kompakt (Berliner Kurier/Berliner Zeitung)	165.963
DE-HH	Hamburger Morgenpost	73.340
DE-HE	Darmstädter Echo	81.326
	Wiesbadener Kurier/ Wiesbadener Tagblatt	53.563
	Frankfurter Neue Presse	49.350
	Main-Taunus-Kurier	40.057
	Gießener Anzeiger	25.116
	Main-Spitze	11.344
	Kreis-Anzeiger	10.995
	Gross-Gerauer Echo	9.690
	Lauterbacher Anzeiger	5.903
	Oberhessische Zeitung	5.808
	Usinger Anzeiger	5.077
	Bürstädter Zeitung/ Lampertheimer Zeitung	4.211
	Hofheimer Zeitung/ Hochheimer Zeitung	3.400
DE-NI	Nordwest-Zeitung	97.851
DE-NW	Kölner Express	393.380
	Rheinische Post	272.616
	Kölner Stadt-Anzeiger/ Kölnische Rundschau	254.026
	Aachener Nachrichten/ Aachener Zeitung	99.621
	General-Anzeiger	66.635
DE-RP	Allgemeine Zeitung	16.249
	Wormser Zeitung	14.019
DE-SN	Sächsische Zeitung	207.390
	Mitteldeutsche Zeitung	166.080

Notes: Circulation data derived from http://daten.ivw.eu/index.php (last access March 18, 2019). Regional newspapers are arranged alphabetically by the *Bundesländer* (ISO 3166-2:DE codes are used for the shortcuts).

B.2 Measurement of *media success*

This supplementary online appendix provides further information on the text alignment measurement, the hand-coding procedure, and the threshold detection used to create the final dependent variable (media success). It also provides illustrative examples of document pairs with high, low, and medium alignment scores.

The text alignment measurement for detecting text similarities between court press releases and newspaper articles was realized with the help of the R package textreuse, which was developed by Lincoln Mullen 2016. This package provides a workflow for users to compare the similarity of document pairs and was explicitly constructed to compare lengthy documents. Various algorithms for document-pair comparison are included in this package, from which the Smith-Waterman local alignment algorithm was used. The Smith-Waterman algorithm compares text sequences rather than entire texts and produces an alignment score that displays the textual similarity between the compared document pairs. The score increases for each text sequence that matches within a document pair (a match values $+1$) and decreases for each mismatch (a mismatch values -1).

As described in *Chapter 4*, each press release was matched with each newspaper article published within 10 days of the publication of the press release. For each dyad, a new observation was created, resulting in 12,818,000 dyads. The local alignment algorithm was then used to measure the text-similarity between each dyad. The dyad with the lowest detected similarity reached a score of 2, and the document pair with the highest detected similarity reached 79 (see section B.3, for example).

In the next step, this alignment score was used to detect a threshold, with which it was possible to identify whether the document pairs were related in terms of content. This threshold should hence have identified the media success of court press releases. First, a random selection of dyads was drawn as a basis for manual coding by two trained coders. I attached the full texts of the Court decisions and disguised the computed alignment score

from the randomly selected dyads. The coding's main task was to compare the dyads and to code whether the news article reported on a promoted Court decision. For this purpose, the following two coding rules were formulated:

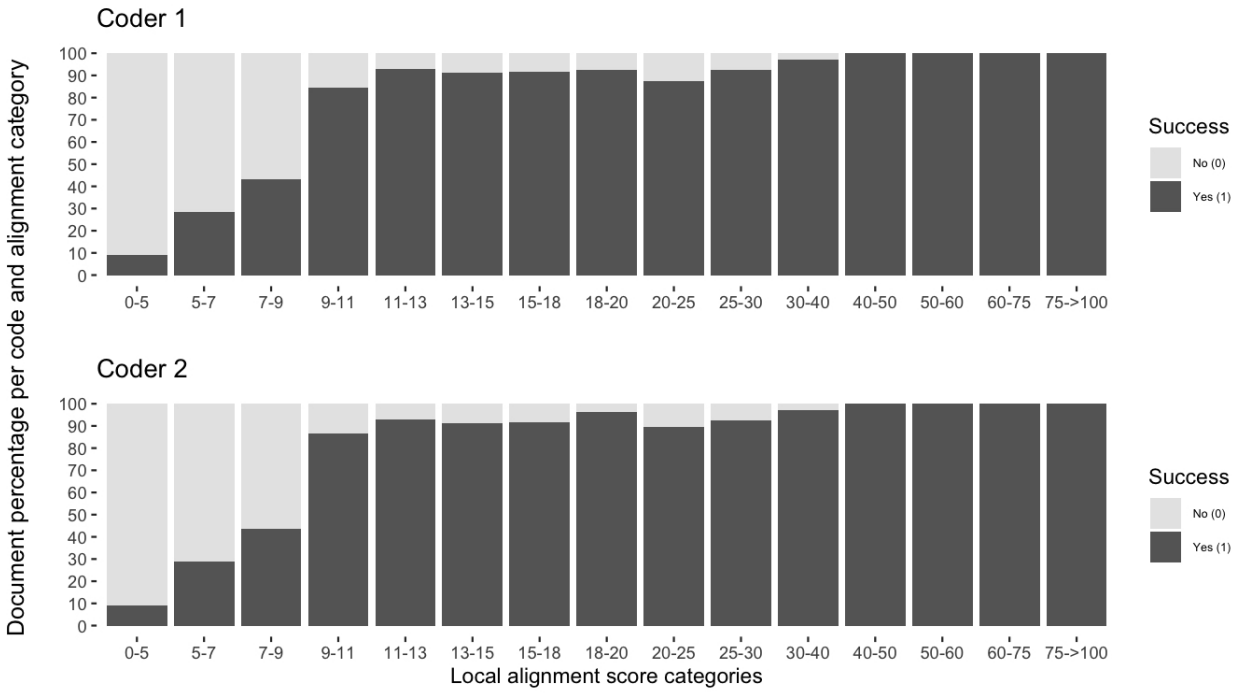
a. The article cites the respective promoted decision (by mentioning the docket number or by naming the title of the decision) or

b. the article deals with the same topic as the promoted Court decision and directly mentions the Court.

If at least one rule applied, the coders assigned the value of 1 to the dyad (media success). If neither was true, the coders assigned a 0 (no media success). Figure B.1 displays two stacked bar plots, which illustrate the results of the manual coding. The alignment scores are separated into sections, which are represented on the x-axis. The bars represent the dyads in each alignment score section. The black bar illustrates the percentage of dyads coded with a 1 (the media reports on the promoted court decision), and the grey bar illustrates the percentage of the dyads coded with a 0 (the media does not report on the promoted court decision). The intercoder reliability using Cohen's kappa was 0.97, and the absolute agreement between both coders was 99 %.

Figure B.1 reveals that 90 % of the dyads with an alignment score between 9 and 11 were identified as being related. The proportion of dyads coded with 1 also increased with increasing scores. Therefore, the alignment score value of 9 was used as a low-bar threshold to identify the media's success in press releases. For this matter, the new dependent variable of media success was created in which each document pair that reached an alignment score equal to or greater than 9 was coded with the value of 1 and each pair with an alignment score below 9 was coded with the value of 0. This coding was used to check whether each of the 584 court press releases was reported on in at least one newspaper article. Based on this process, 18% of press releases were found to have been reported on in the media at least once. This measurement built the dependent variable used in the paper.

Figure B.1 Hand-coded classification of media success by two coders based on local alignment scores.



B.3 Examples of dyads.

The following table displays exemplary extracts from randomly selected dyads with varying alignment scores. The list displays the text of the court decision, the text of the court press releases, and the newspaper articles. The alignment score was computed based on the court press release and the text of the newspaper article.

Table B.2 Examples (extracts) of document pairs with high, medium, and low alignment scores (# indicates a mismatch).

Alignment score: 79

Court press release & decision	**Newspaper article**
Press release *Press release number:* **14/2015** *Press release date:* **March 13, 2015**	***Aachener Nachrichten, March 14, 2015, P. 2*** **Kopftuch als Symbol der Toleranz**
"Lehrerinnen und Lehrer #### in der Schule keine politischen, religiösen, weltanschaulichen oder ähnliche äußere Bekundungen abgeben, die geeignet sind, die Neutralität des Landes gegenüber Schülerinnen und Schülern sowie Eltern oder den politischen, religiösen oder weltanschaulichen Schulfrieden zu gefährden oder zu stören. Nach ########### Satz 2 ist insbesondere ein äußeres Verhalten unzulässig, welches bei Schülerinnen und Schülern oder den Eltern den Eindruck hervorrufen kann, dass eine Lehrerin oder ein Lehrer gegen die Menschenwürde, die Gleichberechtigung #### ####### ### #############, die Freiheitsgrundrechte oder die freiheitlich-demokratische Grundordnung auftritt. Gemäß Satz 3 widerspricht die Wahrnehmung des Erziehungsauftrags nach ####### ### ### der Landesverfassung ########## ### ###### ################## und die entsprechende Darstellung christlicher und abendländischer Bildungs- und Kulturwerte oder Traditionen ########### nicht dem Verhaltensgebot nach Satz 1."	"Lehrerinnen und Lehrer dürfen in der Schule keine politischen, religiösen, weltanschaulichen oder ähnliche äußere Bekundungen abgeben, die geeignet sind, die Neutralität des Landes gegenüber Schülerinnen und Schülern sowie Eltern oder den politischen, religiösen oder weltanschaulichen Schulfrieden zu gefährden oder zu stören. #### Insbesondere #### ist ########### ein äußeres Verhalten unzulässig, welches bei Schülerinnen und Schülern oder den Eltern den Eindruck hervorrufen kann, dass eine Lehrerin oder ein Lehrer gegen die Menschenwürde, die Gleichberechtigung nach Artikel 3 des Grundgesetzes, die Freiheitsgrundrechte oder die freiheitlich-demokratische Grundordnung auftritt ###### #### ###########. Die Wahrnehmung des Erziehungsauftrags nach Artikel 7 und 12 Abs. 6 der ################ Verfassung des Landes Nordrhein-Westfalen und die entsprechende Darstellung christlicher und abendländischer Bildungs- und Kulturwerte oder Traditionen widerspricht nicht dem Verhaltensgebot nach Satz 1.
https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2015/bvg15-014.html	
Court decision *Docket number:* **1 BvR 471/10** *Decision date:* **January 27, 2015**	
"(4) 1 Lehrerinnen und Lehrer dürfen in der Schule keine politischen, religiösen, weltanschaulichen oder ähnliche äußere Bekundungen abgeben, die geeignet sind, die Neutralität des Landes gegenüber Schülerinnen und Schülern sowie Eltern oder den politischen, religiösen oder weltanschaulichen Schulfrieden zu gefährden oder zu stören. 2 Insbesondere ist ein äußeres Verhalten unzulässig, welches bei Schülerinnen und Schülern oder den Eltern den Eindruck hervorrufen kann, dass eine Lehrerin oder ein Lehrer gegen die Menschenwürde, die Gleichberechtigung nach Artikel 3 des Grundgesetzes, die Freiheitsgrundrechte oder die freiheitlich-demokratische Grundordnung auftritt.	

3 Die Wahrnehmung des Erziehungsauftrags nach Artikel 7 und 12 Abs. 6 der Verfassung des Landes Nordrhein-Westfalen und die entsprechende Darstellung christlicher und abendländischer Bildungs- und Kulturwerte oder Traditionen widerspricht nicht dem Verhaltensgebot nach Satz 1. 4 Das Neutralitätsgebot des Satzes 1 gilt nicht im Religionsunterricht und in den Bekenntnis- und Weltanschauungsschulen." https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2015/01/rs20150127_1bvr047110.html	

Alignment score: 40	
Court press release & decision	**Newspaper article**
Press release *Press release number:* 108/2014 *Press release date:* November 28, 2014 "[...] ob die Eltern dem Kind vermittelten und vorlebten, dass es 'sinnvoll und erstrebenswert ist, zunächst Leistung und Arbeit in einer Zeiteinheit zu verbringen, sich dabei mit anderen messen zu können und durch die Erbringung einer persönlichen Bestleistung ein Verhältnis zu sich selbst und damit ein Selbstwertgefühl aufbauen ########## zu können', [...]" https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2014/bvg14-108.html	***Stuttgarter Zeitung, November 29, 2014, P. 26*** **Verfassungsgericht stärkt Elternrechte.** "[...] vermittelten und vorlebten, 'dass es sinnvoll und erstrebenswert ist, zunächst Leistung und Arbeit in einer Zeiteinheit zu verbringen, sich dabei mit anderen messen zu können und durch die Erbringung einer persönlichen Bestleistung ein Verhältnis zu sich selbst und ##### ein Selbstwertgefühl ######## entwickeln zu können'."
Court decision *Docket number:* 1 BvR 1178/14 *Decision date:* November 19, 2014 "Die Erziehungseignung wurde unter anderem davon abhängig gemacht, ob die Eltern dem Kind vermittelten und vorlebten, dass es 'sinnvoll und erstrebenswert ist, zunächst Leistung und Arbeit in einer Zeiteinheit zu verbringen, sich dabei mit anderen messen zu können und durch die Erbringung einer persönlichen Bestleistung ein Verhältnis zu sich selbst und damit ein Selbstwertgefühl aufbauen zu können, [und es] selbst wenn die Kindeseltern arbeitslos sind, sinnvoll ist, sich eigeninitiativ um Arbeit zu bemühen, an Trainingsmaßnahmen teilzunehmen, Termine beim Sozialamt wahrzunehmen',[...] " https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2014/11/rk20141119_1bvr117814.html	

Alignment score: 22	
Court press release & decision	**Newspaper article**
Press release *Press release number:* 9/2013 *Press release date:* February 19, 2013 "bb) Der Ausschluss der Sukzessivadoption ist nicht damit zu rechtfertigen, dass dem Kind das Aufwachsen mit gleichgeschlechtlichen Eltern schade. Es ist davon auszugehen, dass die behüteten Verhältnisse einer eingetragenen Lebenspartnerschaft das Aufwachsen von Kindern ebenso fordern können wie die einer Ehe." https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2013/bvg13-009.html **Court decision** *Docket number:* 1 BvL 1/11 *Decision date:* February 19, 2013 "aa) Der Ausschluss der Sukzessivadoption ist nicht damit zu rechtfertigen, dass dem Kind das Aufwachsen mit gleichgeschlechtlichen Eltern schade. (1) Es ist davon auszugehen, dass die behüteten Verhältnisse einer eingetragenen Lebenspartnerschaft das Aufwachsen von Kindern ebenso fördern können wie die einer Ehe (vgl. BVerfG, Beschluss des Zweiten Senats vom 19. Juni 2012 - 2 BvR 1397/09 -, juris, Rn. 76)." https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2013/02/ls20130219_1bvl000111.html	***Der Tagesspiegel, February 20, 2013, P. 2*** **Gleich und gleicher Das Urteil des Bundesverfassungsgerichts zum Adoptionsrecht stärkt homosexuelle Paare.** " ###### Eltern ###### Es ist davon auszugehen, dass die behüteten Verhältnisse einer eingetragenen Lebenspartnerschaft das Aufwachsen von Kindern ebenso fordern können wie die einer Ehe. "

Alignment score: 9	
Court press release & decision	**Newspaper article**
Press release *Press release number:* 69/2018 *Press release date:* August 21, 2018 "[...] den Strafgesetzen zuwiderlaufen oder die sich gegen die verfassungsmäßige Ordnung ####### oder gegen den Gedanken der Völkerverständigung richten."	***Kölner Stadt-Anzeiger, August 22, 2018, P. 4*** **Kutte, Hakenkreuz, Halbmond** "[...] #### 'den Strafgesetzen zuwiderlaufen' oder 'sich gegen die verfassungsmäßige Ordnung Richten' oder gegen die 'Völkerverständigung'."

https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2018/bvg18-069.html

Court decision
Docket number: 1 BvR 1474/12
Decision date: July 18, 2018

"Angenommen wurde die bis heute geltende Fassung des Art. 9 Abs. 2 GG: 'Vereinigungen, deren Zwecke oder deren Tätigkeit den Strafgesetzen zuwiderlaufen oder die sich gegen die verfassungsmäßige Ordnung oder gegen den Gedanken der Völkerverständigung richten, sind verboten.' "

https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2018/07/rs20180713_1bvr147412.html

Alignment score: 4

Court press release & decision	Newspaper article
Press release *Press release number:* 39/2013 *Press release date:* May 8, 2013	***Der Tagesspiegel, June 7, 2013, P. 2*** **Vor der Steuer gleich; Das Ehegattensplitting gilt nun auch für homosexuelle Lebenspartner. Was bedeutet das Karlsruher Urteil?**
"[…] um die Ungleichbehandlung von […]"	"[…] um die Ungleichbehandlung von […]"

https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2013/bvg13-039.html

Court decision
Docket number: 1 BvL 1/08
Decision date: May 8, 2013

"[…] um die Ungleichbehandlung von […]"

https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2013/05/ls20130508_1bvl000108.html

Alignment score: 2

Court press release & decision	Newspaper article
Press release *Press release number:* 5/2013 *Press release date:* January 22, 2013	***Berliner Zeitung, February 1, 2013, P. 25*** **Köln zahlt Rundfunkgebühr, aber nach altem System**
"zu erklären ####, dass der erweiterte"	"zu ######## ####, dass #### ####"

https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2013/bvg13-005.html

Court decision
Docket number: 1 BvL 18/11
Decision date: December 19, 2012

“So findet der erweiterte, [..]”

https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2012/12/ls20121219_1bvl001811.html

Appendix C

Chapter 5

This appendix contains three parts.

C.1 describes the text alignment measurement, the hand-coding procedure, and the threshold detection used to create the final dependent variable (media coverage) and provides illustrative examples of document pairs with high, low, and medium alignment scores.

C.2 reports robustness checks by using logistic regression and rare-event logistic regressions with the ReLogit approach by King and Zeng 2001, with media coverage as the dependent variable.

C.3 reports robustness checks by using Firth's logistic regression, the standard logistic regression model, and rare-event logistic regression with the ReLogit approach by King and Zeng 2001, with an alternative measurement for the dependent variable (docket match).

C.4 reports the results for models when excluding the press-release variable.

C.1 Text alignment measurement, hand coding, threshold detection, and examples of document pairs

The text alignment measurement for detecting text similarities between court decisions and newspaper articles was realized with the help of the R package *textreuse*, developed by Lincoln Mullen 2016. This package provides a workflow for users to compare the similarity of document pairs and was explicitly constructed to compare lengthy documents. Various algorithms for document-pair comparison are included in this package, from which the

Smith-Waterman local alignment algorithm was used. The Smith-Waterman algorithm compares text sequences rather than entire texts and produces an alignment score that displays the textual similarity between the compared document pairs. The score increases for each text sequence that matches within a document pair that matches (each match valued +1) and decreases for each mismatch (each mismatch valued -1). In the present dissertation, the score's minimum is 1 because each document pair shares at least one word (the search term *'Bundesverfassungsgericht'*), and the score's maximum depends on the size of the respective texts and their degree of alignment.

As described in the paper, each ruling was matched with each newspaper article that was published within 100 days of the rulings. For each document pair, a new observation[38] was created, resulting in 816,713,000 document pairs. The local alignment algorithm was then used to measure the text similarity between each document pair. The document pairs with the lowest detected similarity reached a score value of 1 (since both documents shared the search term *'Bundesverfassungsgericht'*. which was the search term used to conduct the newspaper article search in LexisNexis). The document pair with the highest detected similarity reached a score of 261 (see Table C.1 for examples).

In the next step, this alignment score was used to detect a threshold, with which it is possible to identify whether the document pairs were related in terms of content. This threshold should hence have identified media coverage of court decisions. First, a random selection of 2,341 document pairs was drawn as a basis for manual coding by two trained coders. The coding's main task was to compare the document pairs and to code whether the news article covered the court decision or not. For this purpose, the following two coding rules were formulated:

[38] ruling 1 – newspaper article day 1
ruling 1 – newspaper article day 2
ruling 1 – newspaper article day n
...
ruling 3,404 – newspaper article day 1
ruling 3,404 – newspaper article day 2
ruling 3,404 – newspaper article day n

a. the article cites the respective decision (by mentioning the docket number or by naming the title of the ruling) or

b. the article deals with the same topic as the court decision and directly mentions the Court.

If at least one rule applied, the coders assigned the value 1 to the document pair (media coverage). If neither was true, the coders assigned a 0 (no media coverage). Figure C.1.1 displays two stacked bar plots, which illustrate the results of the manual coding. The alignment scores are separated into sections, which are represented on the x-axis. The bars represent the document pairs in each alignment score section. The black bar illustrates the percentage of document pairs coded with a 1 (the media covered the court decision), and the grey bar illustrates the percentage of the document pairs coded with a 0 (the media did not cover the court decision). The intercoder reliability using Cohen's kappa was 0.97. The absolute agreement between both coders was 99 %.

Figure C.1 reveals that 90% of the document pairs with an alignment score between 9 and 11 were identified as being related. The proportion of document pairs coded with 1 also increased with increasing scores. Therefore, the alignment score value of 9 was used as a low bar threshold to identify the media coverage of court rulings. For this matter, the a new variable media coverage was created in which each document pair that reached an alignment score equal to or greater as 9 was coded with the value 1 and each pair with an alignment score below 9 was coded with the value 0. This coding was used to check whether each of the 3,404 court rulings was covered in at least one newspaper article.

Based on this process, 6% of the 3,404 court rulings were covered by the media at least once. This measurement built the dependent variable used in the paper.

Figure C.1 Hand-coded classification of media coverage by two coders based on local alignment scores.

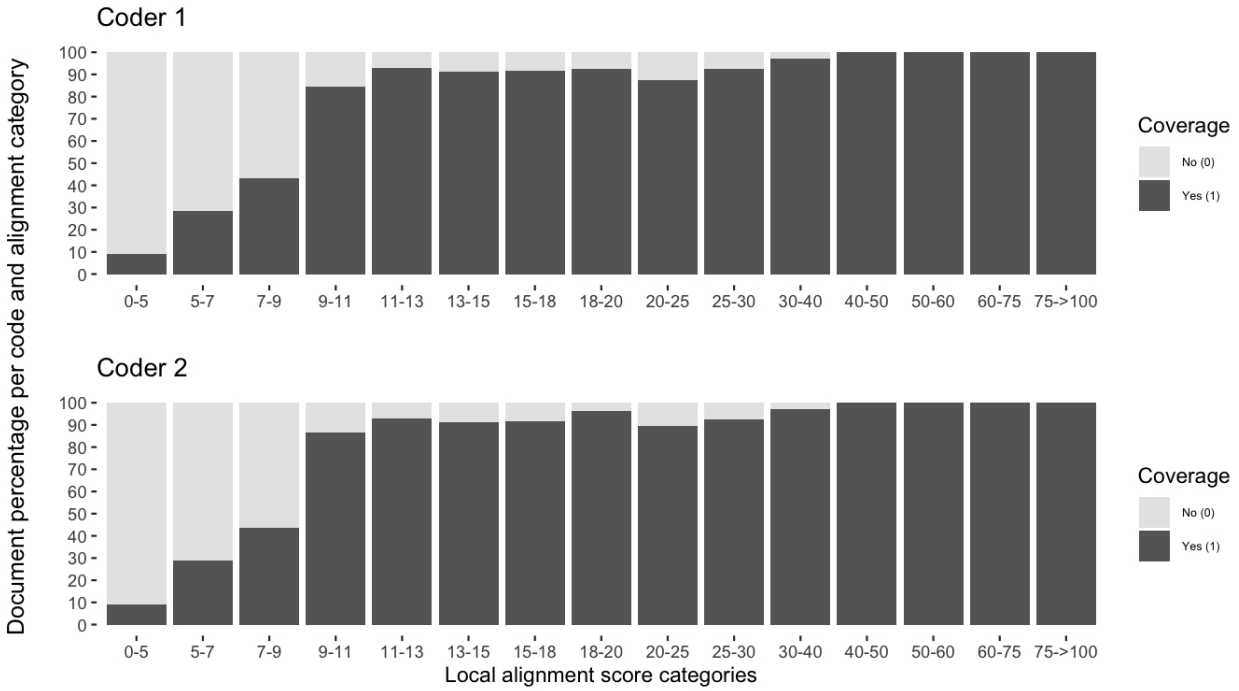


Table C.1 Examples (extracts) of document pairs with high, medium, and low alignment scores (# indicates a mismatch).

Alignment score: 261

Court ruling	Newspaper article
Docket number: 1 BvR 370/07 **Ruling date: February 27, 2008**	***Die Welt, February 28, 2008, P. 9*** **Nur bei Gefahr für Leib, Leben und Freiheit; Das Urteil des Ersten Senats des Bundesverfassungsgerichts vom 27. Februar 2008 in Auszügen**
" 1. Das allgemeine Persönlichkeitsrecht (Art. 2 Abs. 1 i.V.m. Art. 1 Abs. 1 GG) umfasst das Grundrecht auf Gewährleistung der Vertraulichkeit und Integrität informationstechnischer Systeme. 2. Die heimliche Infiltration eines informationstechnischen Systems, mittels derer die Nutzung des Systems überwacht und seine Speichermedien ausgelesen werden können, ist verfassungsrechtlich nur zulässig, wenn tatsächliche Anhaltspunkte einer konkreten Gefahr für ein überragend wichtiges Rechtsgut bestehen. Überragend wichtig sind Leib, Leben und Freiheit der Person oder solche Güter der Allgemeinheit, deren Bedrohung die Grundlagen oder den Bestand des Staates oder die Grundlagen der Existenz der Menschen berührt. Die Maßnahme kann schon dann gerechtfertigt sein, wenn sich noch nicht mit hinreichender Wahrscheinlichkeit feststellen lässt, dass die Gefahr in näherer Zukunft eintritt, sofern bestimmte Tatsachen auf eine im Einzelfall durch bestimmte Personen drohende Gefahr für das überragend wichtige Rechtsgut hinweisen. [...]" https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2008/02/rs20080227_1bvr037007.html	" 1. Das allgemeine Persönlichkeitsrecht (Art. 2 Abs. 1 i.V.m. Art. 1 Abs. 1 GG) umfasst das Grundrecht auf Gewährleistung der Vertraulichkeit und Integrität informationstechnischer Systeme. 2. Die heimliche Infiltration eines informationstechnischen Systems, mittels derer die Nutzung des Systems überwacht und seine Speichermedien ausgelesen werden können, ist verfassungsrechtlich nur zulässig, wenn tatsächliche Anhaltspunkte einer konkreten Gefahr für ein überragend wichtiges Rechtsgut bestehen. Überragend wichtig sind Leib, Leben und Freiheit der Person oder solche Güter der Allgemeinheit, deren Bedrohung die Grundlagen oder den Bestand des Staates oder die Grundlagen der Existenz der Menschen berührt. Die Maßnahme kann schon dann gerechtfertigt sein, wenn sich noch nicht mit hinreichender Wahrscheinlichkeit feststellen lässt, dass die Gefahr in näherer Zukunft eintritt, sofern bestimmte Tatsachen auf eine im Einzelfall durch bestimmte Personen drohende Gefahr für das überragend wichtige Rechtsgut hinweisen. [...]"

Alignment score: 48

Court ruling	Newspaper article
Docket number: 1 BvR 3255/07 **Ruling date: February 25, 2008**	***Der Tagesspiegel, March 22, 2008, P. 4*** **Grundrecht auf Neid**
"[…] Veröffentlicht werden nicht die für die persönliche Lebensgestaltung entscheidenden Einkünfte der Beschwerdeführer, zu denen auch Zuflüsse aus anderen Quellen zählen können, sondern lediglich die von Seiten der Krankenkasse gezahlten Vergütungen und Versorgungsleistungen. Rückschlüsse auf Einkommen oder gar Vermögen der Beschwerdeführer sind daher nicht umfassend möglich. ##### Zudem ##### ist #### zu ####### berücksichtigen ### dass ######## ### ######### ### ############## die Beschwerdeführer ####### aufgrund ihrer Funktion beim Träger einer gesetzlichen ###### ###### insbesondere durch Beiträge der Versicherten finanzierten Krankenkasse unter besonderer Beobachtung der Öffentlichkeit […]" https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2008/02/rk20080225_1bvr325507.html	"[…] "Veröffentlicht werden nicht die für die persönliche Lebensgestaltung entscheidenden Einkünfte der Beschwerdeführer, zu denen auch Zuflüsse aus anderen Quellen zählen können, sondern lediglich die vonseiten der Krankenkasse gezahlten Vergütungen und Versorgungsleistungen. Rückschlüsse auf Einkommen oder gar Vermögen der Beschwerdeführer sind daher nicht umfassend möglich." Hinzu kommt nach Ansicht des Gerichts das Interesse der Beitragszahler. Die Beschwerdeführer stünden aufgrund ihrer Funktion beim Träger einer gesetzlichen, insbesondere durch Beiträge der Versicherten finanzierten Krankenkasse unter besonderer Beobachtung der Öffentlichkeit […]"

Alignment score: 28

Court ruling	Newspaper article
Docket number: 1 BvR 1036/14 **Ruling date: February 26, 2015** "[…] genießen ################## den Schutz des Grundrechts, ohne dass es darauf ankommt, ob die Äußerung begründet oder grundlos, emotional oder rational ist, als wertvoll oder wertlos gefährlich oder harmlos eingeschätzt wird. (BVerfGE 90, 241 <247>; 124, 300 <320>). Der Aufdruck ######## FCK CPS ist ###### nicht ###### von vornherein offensichtlich inhaltlos sondern bringt eine allgemeine Ablehnung der Polizei ### und ########## ein ########## Abgrenzungsbedürfnis gegenüber der staatlichen Ordnungsmacht zum Ausdruck. […]" https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2015/02/rk20150226_1bvr103614.html	***Die Welt, April 29, 2015, P. 5*** **Anti-Polizei-Slogans sind legal, urteilt das Verfassungsgericht;** **Tragen des "FCK CPS"-Stickers ist Meinungsfreiheit** "[…] genießen Meinungsäußerungen "den Schutz des Grundrechts, ohne dass es darauf ankommt, ob die Äußerung begründet oder grundlos, emotional oder rational ist, als wertvoll oder wertlos, gefährlich oder harmlos eingeschätzt wird". ####### ## ### ### ### ### ### Der ######## Ausdruck FCK CPS ### drücke ##### mithin ### ########## ############## ######### ####### ###### eine allgemeine Ablehnung der Polizei aus und artikuliere ein zulässiges "Abgrenzungsbedürfnis gegenüber der staatlichen Ordnungsmacht". […]"

Alignment score: 9

Court ruling	Newspaper article
Docket number: 1 BvR 2455/08 **Ruling date: November 18, 2009** "[…] nicht entgegen ####### dass es sich bei #### der […]" https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2009/11/rk20091118_1bvr245508.html	***Berlin Kompakt (Berliner Kurier & Berliner Zeitung, February 15, 2010, P. 4*** ***Der Hartz-IV-Pfusch und die SPD*** "[…] nicht ######## gewusst dass es sich bei zwei der […]"

C.2 Robustness check with standard logistic regression and rare-event logistic regression using the ReLogit approach by King and Zeng (2001)

Table C.2 Results for models of media coverage, 2008-2018.

	Dependent variable:	
	Media coverage	
	Model 1 (Logistic regression)	Model 2 (ReLogit)
Declaration of unconstitutionality	0.253	0.252
	(0.311)	(0.310)
Overturning a lower court	0.024	0.071
	(0.475)	(0.475)
Unanimous decision	-1.379^{*}	$-1.269^{\bullet}$
	(0.739)	(0.738)
Dissenting opinion	1.135^{**}	1.113^{*}
	(0.467)	(0.466)
Oral hearing	1.826^{***}	1.790^{***}
	(0.297)	(0.296)
Main branch decision	-0.470	-0.349
	(0.741)	(0.740)
Press release	1.707^{***}	1.699^{***}
	(0.180)	(0.179)
Constant	-2.496^{***}	-2.523^{***}
	(0.749)	(0.748)
Observations	3,404	3,404
Akaike Inf. Crit.	1,215.361	1,215.4
Note:	$^{\bullet}$p<0.1;*p<0.05; **p<0.01; ***p<0.001	

C.3 Robustness check with Firths logistic regression, standard logistic regression, and rare-event logistic regression using the ReLogit approach by King and Zeng (2001) based on an alternative measurement of the dependent variable

An alternative method of measuring whether a newspaper article covers a court decision can be realized in two steps. First, it is necessary to check whether or not an article reports the docket number of a court decision. Second, it is necessary to check whether or not the docket number reported in the newspaper article matches with the docket number of a court decision by the German Federal Constitutional Court.

The Courts docket numbers follow a clear and uniform format. For example, docket number *1 BvL 12/14* provides the following information:

a. Deciding senate (1)

b. Proceeding type (BvL)

c. Number of the incoming referrals (12) in a given year (14)

The court assigns such a number to each decision. To identify whether a newspaper article mentions a docket number, regular expressions were used, and each article was checked. In a second step, I created new binary variable *docket match* by checking the docket numbers in the articles against the docket number of the court decisions. The value 1 was assigned to Court decisions for which a match was found, and the value 0 was assigned to mismatches. Finally, this coding was used to check whether the docket number of each of the 3,404 court decisions was mentioned at least once in a newspaper article. As a result, the docket numbers

of 5% of the 3,404 court decisions were mentioned at least once.

Table C.3 illustrates the results for the models with this alternative dependent variable. The table lists three models. This first model represents the results from Firth's logistic regression method, which was used in the *Chapter 5*. The second and third models represent the results for a standard logistic regression model and for a rare-event logistic regression model by using the approach by King and Zeng 2001.

Table C.3 Firth's logistic regression, standard logistic regression, and rare-event logistic regression results for a model of docket match, 2008-2018.

	Dependent variable:		
	Docket match		
	Model 1 (Firth's logit)	Model 2 (Logistic regression)	Model 3 (ReLogit)
Declaration of unconstitutionality	0.175	0.434	0.429
	(0.415)	(0.323)	(0.323)
Overturning a lower court	−0.547	0.453	0.484
	(0.914)	(0.467)	(0.467)
Unanimous decision	−0.004	−1.507*	−1.355
	(0.942)	(0.849)	(0.849)
Dissenting opinion	1.211**	0.781	0.773
	(0.513)	(0.495)	(0.495)
Oral hearing	1.808***	2.233***	2.184***
	(0.361)	(0.324)	(0.323)
Main branch decision	0.991	−0.484	−0.323
	(0.953)	(0.854)	(0.854)
Press release	2.495***	2.894***	2.858***
	(0.450)	(0.268)	(0.267)
Constant	−6.120***	−3.626***	−3.467***
	(1.032)	(0.879)	(0.878)
Observations	3,404	3,404	3,404
Akaike Inf. Crit.	403.510	846.890	846.890
Note:			•p<0.1;*p<0.05; **p<0.01; ***p<0.001

C.4 Results for the models when excluding the press-release variable

As press releases are used to disseminate information to the public and the news media routinely uses press releases as sources for 'ready-made', easily accessible, and therefore nearly cost-free information, the news-selection processes could be argued to be different when press releases are provided. To control whether or not the press-release variable produces a misleading result, Table C.4 displays the results for a Firth's logistic regression model, with media coverage as the dependent variable. The Table reveals that the overall model fit becomes weaker, and the results are generally comparable to the results presented in *Chapter 5*.

Table C.4 Firth's logistic regression for models of media coverage when omitting the press-release variable, 2008-2018.

	Dependent variable:
	Media coverage
	(1)
Declaration of unconstitutionality	0.536*
	(0.306)
Overturning a lower court	0.444
	(0.457)
Unanimous decision	−1.463**
	(0.670)
Dissenting opinion	1.366***
	(0.460)
Oral hearing	2.264***
	(0.292)
Main branch decision	−0.005
	(0.670)
Constant	−1.879***
	(0.674)
Observations	3,404
Akaike Inf. Crit.	1,303.921
Note:	•p<0.1;*p<0.05; **p<0.01; ***p<0.001

Eidesstattliche Erklärung

Vor- und Zuname: Philipp Meyer
Geburtsdatum: 11.06.1987
Geburtsort: Siegen

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