(Non)renewable Terms and Judicial Independence in the European Court of Human Rights

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Do renewable terms compromise judicial independence? Scholars of various courts have demonstrated relationships between judges' voting patterns and the interests of actors responsible for their (re)appointment. However, it is typically unclear whether such relationships are (at least partially) explained by judges acting strategically to achieve reappointment or if they are (fully) attributable to selection effects. I exploit a 2010 reform of the European Court of Human Rights (ECtHR) to estimate the causal effect of removing reappointment opportunities on judges' independence. The ECtHR bench consists of one judge from each member state, and judges sit ex officio on cases involving their nominating state. Prior to 2010, terms were renewable. Judges seeking reappointment were therefore incentivized to favor their nominating states. In 2010, the terms were made nonrenewable, with immediate effect for judges on the court. I show that removing reappointment opportunities significantly reduced judges' tendency to favor their nominating states.

Courts are increasingly important for domestic and international politics (Alter 2014; Alter, Hafner-Burton, and Helfer 2019; Tate and Vallinder 1995). This judicialization of politics has made political actors more concerned with influencing judicial decision-making (Ferejohn 2002), particularly through the appointment and reappointment of judges (Dahl 1957; Elsig and Pollack 2014; Segal and Spaeth 2002; Voeten 2007). During the initial appointment of judges, such input from the political branches may be desirable for alleviating the countermajoritarian difficulty (e.g., Dahl 1957, 285). Yet, judicial independence requires that judges—once appointed—feel free to decide cases according to their own conscience and free from undue political interference (Brinks and Blass 2017).

Renewable terms is one institutional feature that may reduce individual judges' decisional independence from the actors that appoint them. Judges eligible for reappointment may be tempted to alter their decision-making if they (1) desire to remain in office and (2) believe that reappointment decisions will be contingent on their previous decision-making (Epstein 2009; Pérez-Liñán, Ames, and Seligson 2006, 286; Shepherd 2009; Stephan 2002, 567–87). Thus, in line with insights from the broader political agency literature (Ashworth 2012, 194–96), Dunoff and Pollack (2017) posit that judicial independence requires either that judges serve nonrenewable terms or that their individual votes are kept confidential so that their previous decisions cannot affect the reappointment process. Despite such advice, judges at 16 of 24 international courts are appointed for renewable terms (Larsson et al. 2019; Squatrito 2018). Renewable terms appear to be less common on domestic high courts, but Epstein, Knight, and Shvetsova (2001) report that judges on 7 of 27 European constitutional courts are appointed for renewable terms. While federal court judges in the United States are appointed for life, US state court judges frequently serve limited but renewable terms (Canes-Wrone, Clark, and Kelly 2014, 23).

Are judges serving renewable terms less independent from political actors? There is a surprising dearth of empirical scholarship suited to addressing this question. Scholars of various courts have noted correlations between the preferences of actors responsible for (re)appointment and the rulings of the judges they (re)appoint (Elsig and Pollack 2014; Voeten 2007, 2008). Yet, it is typically hard to discern whether such correlations are explained by careful screening and selection when judges are initially appointed or by judges allowing reappointment considerations to influence their decisions. After all, the correlation between the preferences of the appointing actor and judges'

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voting patterns is well established for the Supreme Court of the United States (Epstein and Segal 2005; Segal and Spaeth 2002), where judges are insolated from career considerations by lifetime appointments.[1] Observed correlations between judges' voting patterns and the interests of actors responsible for reappointments may be fully attributable to selection effects.

The empirical uncertainty is coupled with theoretical grounds for skepticism concerning the link between nonrenewable terms and judicial independence. First, judges appointed to high judicial offices will typically have professional reputations and well-defined judicial philosophies that they may be unwilling to sacrifice even to achieve reappointment. Second, and as noted by Ramseyer (2001, 331), "Research suggests several reasons rational politicians might not use career incentives to control judges." For instance, politicians may value judicial independence as a constraint on future office holders (Stephenson 2003) or because it renders their promises more credible (Landes and Posner 1975) and therefore refrain from allowing political considerations to influence reappointment decisions. Third, even if judges are influenced by career considerations and political actors sanction judges for their previous rulings, it does not necessarily follow that nonrenewable terms will make judges more independent. Political actors seeking to influence the judiciary have various means of rewarding loyal judges—for instance, through appointments to other offices—even if judges serve nonrenewable terms (Melton and Ginsburg 2014).

I exploit a 2010 reform of the European Court of Human Rights (ECtHR) to estimate the causal effect of removing reappointment opportunities on judicial independence. Although the link between (non)renewable terms and judicial independence is important for judicial politics across a variety of domestic and international courts, the design features and recent history of the ECtHR provides a particular useful context for credible causal inference. The ECtHR is composed of one judge nominated by each of the court's member states (currently 47) and judges sit ex officio in cases brought against their nominating state. The court considers cases brought against specific states and public dissents provide transparency concerning individual judges' votes. It is therefore straightforward to establish whether judges tend to favor their nominating state. A 2010 reform enables the study of how voting behavior changed as judicial terms suddenly were made nonrenewable. Between 1998 and 2010, ECtHR judges served six-year renewable terms. A judge seeking reappointment therefore had an incentive to favor the state responsible for her (re)nomination (Voeten 2008). In 2010, Russia (as the last state) ratified a range of reforms of the ECtHR after about six years of delay. The reform package included lengthening the terms of ECtHR judges to nine years and making the terms nonrenewable. This change affected judges serving on the court in 2010 (Hedigan 2011).

Analyzing the votes of individual ECtHR judges before and after Russian ratification of the reform, I find strong evidence that judges became less prone to favor their nominating states after they no longer were eligible for reappointment. Further analysis shows that this effect is driven by judges with a background in academia or private practice, who—absent reappointment—might have expected to be less reliant on government support for their careers than would other judges. By contrast, there is not evidence of a change in the behavior of judges with backgrounds from domestic courts, diplomacy, or the bureaucracy, who, even after becoming ineligible for reappointment to the ECtHR, were more likely to rely on the government of their nominating state for future employment opportunities. Similarly, there is only evidence of a change in the behavior of relatively young judges, who, in the absence of reform, may have aspired to serve multiple terms on the court.

These results reflect the changes in voting behavior associated with removing renewable terms. Assuming that judges' treatment of their nominating state relative to other states would not have changed without the introduction of nonrenewable terms, judges' reduced tendency to favor their nominating state following the reform may be interpreted as the causal effect of renewable terms for the judges serving at the time of the reform. Additional tests bolster the credibility of this assumption. The estimated change is, however, for judges who had originally been appointed to renewable terms. It is plausible that the introduction of nonrenewable terms may also influence political actors' initial selection of judges (Fearon 1999). If so, the results cannot necessarily be extended to judges originally appointed to nonrenewable terms.

This caveat notwithstanding, the results suggest that, in judicial systems with renewable terms, the tendency of judges to favor their appointing government results not only from ex ante screening of candidates for judicial office. Rather, governments appear to have been able to use the (often implicit) promise of reappointment to secure the loyalty of judges serving on one of the world's most important courts. Extant scholarship on the link between retention incentives and judicial behavior has centered on highly salient criminal cases in US state courts (e.g., Canes-Wrone et al. 2014; Hall 2014), and scholars have questioned whether these findings can be extended to other contexts, such as international courts (Alter 2008). My results show both that renewable terms can compromise judicial independence, but also that the importance of renewable terms as a sanctioning mechanism may depend on political actors' control of judges' career opportunities after their terms have expired.

1. However, Epstein et al. (2007) and Owens and Wedeking (2012) find some ideological drift.

My results also demonstrate that institutional reforms can be effective in influencing judicial behavior even in the short term. Comparative scholarship has debated the link between institutional design and de facto judicial independence (Hayo and Voigt 2019; Melton and Ginsburg 2014). I show that institutional reforms can have short-term effects on judicial independence. On the one hand, there is thus reason to be optimistic that designing institutions in ways that insulate judges from political influence may foster greater judicial independence from the actors responsible for appointments. On the other hand, as long as judges are not appointed for life, decisions of career-motivated judges may be affected by other types of career incentives. Particularly for courts that handle disputes in which there are strong private interests, one concern would be that deference toward appointing actors would be replaced with deference toward other actors with influence over judges' future careers. Moreover, the strong impact of institutional change should give cause for concern, as several governments are promoting institutional reforms that are likely to reduce judicial independence (Bugarič and Ginsburg 2016).

RENEWABLE TERMS AND JUDICIAL INDEPENDENCE

Judicial independence requires that judges are free to decide cases in accordance with their own interpretation of facts and law and without "undue regard" for the preferences of political actors (Brinks and Blass 2017, 306). Geyh (2008, 86) refers to the "capacity of individual judges to decide cases without threats or intimidation that could interfere with their ability to uphold the rule of law" as "decisional independence," which may be contrasted with the institutional independence of courts able to resist encroachment and attacks by other branches of government.

Institutional design may play an important role in promoting such decisional independence. In particular, it has been suggested that the desire to remain in office may influence the decision-making of judges serving renewable terms (Elsig and Pollack 2014, 2018; Hall 1992, 2014; Shepherd 2009). Simply put, judges wishing to keep their jobs have reasons to maintain the support of the actor(s) that select them and may be tempted to allow such considerations to influence their decision-making.

This concern mirrors insights from the broader political agency literature concerned inter alia with the conditions under which elected representatives are responsive to their voters (Ashworth 2012, 185, 194–96; Zupan 1990). This scholarship considers variations of a simple two-period policy-making process (here adapted from Ashworth 2012, 185) that may also be used to describe the decision-making of a judge serving a renewable term. In the first period, the judge makes a decision observed by a government, which, in the second period, decides whether to reappoint the judge. The judge has to decide whether the government has violated the law or not, $v \in \{0, 1\}$. She prefers $v = 1$, from which she receives a payoff $b > 0$, but knows that reappointment is more likely if she chooses $v = 0$. If reappointed, she receives a payoff $B > 0$ from staying in office. The judge will sacrifice her decisional independence and rule in line with the interests of the appointing government by choosing $v = 0$ if

$$B \times \Pr(\text{Reappointed}|v = 0) \geq B \times \Pr(\text{Reappointed}|v = 1) + b.$$

Thus, a judge will be more responsive to appointing governments when the benefit from remaining in office is greater (larger values of B), when the value of making her preferred ruling is relatively small (smaller values of b) and when she believes that her decision will significantly influence the likelihood of being reappointed ($\Pr(\text{Reappointed}|v = 0) > \Pr(\text{Reappointed}|v = 1)$). Of course, if terms are made nonrenewable, $B \times \Pr(\text{Reappointed})$ is always 0 and the above condition cannot be satisfied (Ashworth 2012, 185).

Variations of the above model are frequently used to describe the relationship between elected officials and their voters, including in situations, such as in some US state courts, where judges are elected by the public (Hall 2014). However, it is unclear whether the model accurately characterizes decision-making on other courts. Scholars of judicial politics have identified a catalogue of reasons that political actors might value judicial independence and therefore refrain from using career incentives to control judges. Electoral uncertainty may lead political actors to safeguard judicial independence even when judges rule contrary to incumbent governments' short-term policy preferences (Stephenson 2003) and a judiciary that, without concern for future retaliation, can uphold previous bargains may mitigate credible commitment problems (Landes and Posner 1975). Alter (2008) argues that international court judges are appointed to serve as "trustees" and are expected to adjudicate cases without concern for the immediate interests of their appointing governments. If governments desire independent judges, they may be expected to refrain from using reappointment processes to punish judges for voting sincerely. Judges who realize that governments have strong reasons to refrain from using career incentives to discipline them will not sacrifice their decisional independence to secure reappointment.

Judges serving on the top of the judicial hierarchy will often have well-developed judicial philosophies and professional reputations. Even if they wish to remain in office, it is not obvious that they will be willing to rule in ways that contradict their personal convictions. Empirical scholarship suggests that although judges might adapt their decision-making strategically, they are often less willing to modify their voting behavior

on particularly important cases, perhaps because they have strong personal policy preferences (Casillas, Enns, and Wohlfarth 2011). These may be thought of as conditions in which *b* is sufficiently large to offset other considerations. Although it does not follow that reappointment considerations never lead judges to vote insincerely, judges may be unwilling to do so in what they consider to be particularly important cases.

Even if judicial decision-making is, at least partially, motivated by career considerations, it is not clear that nonrenewable terms are sufficient to insulate judicial decision-making from such considerations. When judges are ineligible for reappointment, political actors may well find other opportunities to reward loyal judges. Judges serving nonrenewable terms will, after all, typically be on the market for another job once their term expires (Kosař 2015, 127). The effects of nonrenewable terms may therefore be conditional on whether judges also rely on government support for their subsequent careers. For instance, several previous ECtHR judges have later been appointed to serve on other international courts or domestic high courts. If judges seek such new appointments, nonrenewable terms may not increase their decisional independence. This aspect of the relationship between judges and appointing governments is different from the relationship between most elected representatives and their voters. While voters are unable to reward faithful politicians except through reelection, governments may have influence over a number of future career opportunities. Melton and Ginsburg (2014) therefore consider that lifelong tenure is needed to shield judicial decision-making from career considerations.

Extant empirical evidence concerning judges' responsiveness to retention incentives draws primarily on data from US state courts. State court judges are appointed or elected through a variety of mechanisms and often are eligible for reappointment and reelection (Canes-Wrone et al. 2014, 23). Particularly for judges who are popularly elected, there is some evidence that judges are responsive to retention incentives. Investigating the sentencing decisions of trial court judges in Pennsylvania, Huber and Gordon (2004) find that judges become more punitive as their retention election approaches. Hall (2014) shows that elected judges become less constrained by their electorate's preferences in death penalty cases if term limits make them ineligible for reelection. Gray (2019) finds that state court judges eligible for gubernatorial reappointment are deferential to governor interests in criminal appeal cases. Shepherd (2009) finds some evidence that judges are more likely to rule in a "liberal direction" when Democrats control their retention than when Republicans do. This finding is, however, largely limited to judges selected and retained through partisan elections. By contrast, Canes-Wrone, Clark, and Park (2010) and Canes-Wrone and colleagues (2014) find that judges facing nonpartisan elections are particularly likely to cater to public opinion in abortion and death penalty cases. However, Canes-Wrone and colleagues (2014) also show that these patterns of judicial responsiveness primarily emerged after the advent of so-called new-style campaigns, which have made judicial elections similar to other US elections.

It is unclear whether insights from scholarship on US state courts can be extended to other courts. Although this literature provides evidence of judicial decision-making being influenced by retention incentives, this relationship may be limited to circumstances in which judges face popular elections and election campaigns are similar to those for legislative and executive offices. The selection and retention of judges to most courts, whether domestic or international, are different in these respects.

We know less about how retention politics influence judicial behavior outside the United States. Scholars of international courts, including the ECtHR, have shown that judges tend to favor states in control of their reappointment (Elsig and Pollack 2014; Posner and De Figueiredo 2005; Voeten 2008, 2009). However, it is difficult to establish whether such correlations are evidence of judges' aspirations for reappointment or whether they are explained (only) by careful screening of judges before their initial appointment. After all, correlations between judges' voting patterns and the preferences of appointing actors have been established also for courts, such as the Supreme Court of the United States, with lifetime appointments (Epstein and Segal 2005; Segal and Spaeth 2002).

It is thus unclear whether judicial decision-making generally tends to be affected by reappointment considerations or whether observed alignments between judges and the actors that (re)appoint them are (fully) attributable to selection effects. This question has important implications for institutional design. For instance, in their proposal for a new multilateral investment court, the European Union and its member states (United Nations Commission on International Trade Law 2019, 5) argue that judges' "independence from governments would be ensured through a long-term nonrenewable term of office." Yet, removing the opportunity for reappointing experienced judges may reduce expertise on the bench, which may both be detrimental to the quality of judicial decision-making and risk empowering actors such as court registries at the expense of the judges. If potential candidates find it less attractive to be appointed for a nonrenewable term, it may become more challenging to appoint highly qualified judges (Larsson et al. 2019). Considering these potential trade-offs, it is crucial to establish whether nonrenewable terms actually increase judges' decisional independence. In the next section, I describe how a 2010 reform of the ECtHR can be leveraged to estimate judges' response to removing reappointment opportunities.

THE CASE OF THE ECTHR

The ECtHR is among the world's most prolific international courts, and its rulings have important consequences for law and politics across Europe (Helfer and Voeten 2014). It was established in 1959 to interpret and adjudicate alleged violations of the European Convention on Human Rights (ECHR). Its membership was expanded in the 1990s as postcommunist states joined the court. In 1998, the court was institutionally strengthened, and its jurisdiction over individual complaints was made compulsory for all Council of Europe states. Thus, the ECtHR is now a full-time court that hears complaints from residents of 47 states with a combined population of more than 800 million.

The ECtHR bench consists of one judge nominated by each member state. The judges are appointed as follows. Each member state nominates three candidates, and one of these candidates is elected by the Council of Europe's Parliamentary Assembly. The judge nominated by a state always sits in Chamber and Grand Chamber cases involving that state. By nominating a friendly judge, states can ensure that at least one of the judges hearing cases brought against them can be expected to be receptive to their views.

There is ample evidence that political considerations influence nominations. In 2003, an expert committee evaluating the appointment system concluded that "even in the most established democracies," governments tended to reward "political loyalty more than merit" when nominating judges (Limbach et al. 2003, 3). Systematic studies also find a relationship between the political preferences of nominating states and the voting behavior of judges they nominate (Voeten 2007, 2008). For instance, in 2014, the Danish government, concerned about the limitations that the ECtHR's case law placed on Denmark's asylum and immigration policies, nominated Jon Fridrik Kjølbro for the Danish ECtHR judgeship. Once appointed, judge Kjølbro has been among the judges least prone to rule against respondent governments, and several of his dissents concern immigration and asylum cases (Stiansen and Voeten 2020). As this example illustrates, alignments between governments' policy preferences and the voting behavior of the judges they appoint may, however, be fully attributable to the ex ante screening of candidates. Judge Kjølbro had previously been vice chairman of the Danish Refugee Board, and his views on immigration and asylum issues must have been well known to the Danish government.

Between 1998 and 2010, ECtHR judges served six-year renewable terms. Judges eager to stay in office therefore faced an incentive to rule in accordance with the perceived preferences of their nominating state. There is evidence that judges acted accordingly by being less inclined to vote in favor of violation findings in cases brought against their nominating state (Voeten 2008). Where judges did not retain the support of their nominating state, political considerations may have thwarted their renominations. For instance, in 2001, the Moldovan government decided not to renominate Judge Tudor Pantîru, vowing instead to only send "real patriots" to the court (Voeten 2009, 393).

Clearly, governments may be concerned also with the outcome of cases in which they are not themselves the respondent. For instance, after the ECtHR ruled in a 2009 Chamber judgment in the case of *Lautsi v. Italy* that placing crucifixes in classrooms violated the freedom of religion, multiple governments signalled their interest in the case by submitting third-party briefs when it was appealed to the Grand Chamber, which ruled in the opposite direction in 2011 (Lupu 2013, 450). Although ECtHR judgments are formally binding only for the respondent state, the ECtHR may be expected to follow its own case law. Judgments against one state may therefore have consequences also for cases involving other states (Helfer and Voeten 2014, 81). Moreover, in many states, domestic courts will apply ECtHR case law in their own rulings. Yet, states may not always prefer nonviolation rulings in cases involving other states. For instance, in the 2019 Grand Chamber case of *Strand Lobben and Others v. Norway*, concerning the adoption of a child placed in foster care, other governments intervened both on the side of the applicants and on the side of the respondent government. Because government third-party briefs are very rare in the ECtHR, it is, however, difficult to assess how responsive judges are to their nominating state in cases where this state is not the respondent. By contrast, government will generally prefer nonviolation rulings in cases in which they are themselves respondents. Without dismissing the idea that career considerations may also motivate judges' votes in other cases, the analysis therefore centers on judges' tendency to vote against violation findings in cases involving their nominating state (cf. Voeten 2008).

In 2004, the ECtHR member states agreed to replace the six-year renewable terms with nine-year nonrenewable terms (Dunoff and Pollack 2018, 99). The introduction of nonrenewable terms was part of Protocol 14 to the ECHR, which was a reform package aimed primarily at making the ECtHR more efficient in handling its large case load. Protocol 14 would introduce the opportunity for single-judge formations to strike out or declare inadmissible individual cases when "such a decision can be taken without further examination." It would also allow for three-judge formations that, subject to the same condition, could strike out cases or decide whether they were admissible. The three-judge formations would also, by unanimous vote, render judgments on the merits "if the underlying question in the case, concerning the interpretation or the application of the Convention or the Protocols thereto, is already the subject of

well-established case-law of the Court" (Member States of the Council of Europe 2004, Article 8). The goal of these changes was to allow the court to handle more efficiently the influx of cases that were either repetitive or clearly unfounded. In addition, Protocol 14 offered the European Union the opportunity to accede to the ECHR. The introduction of nonrenewable terms was the only component of the reform package aimed at enhancing judicial independence. In contrast to the other reforms, the introduction of nonrenewable terms was not originally on the agenda of the member states. Nonrenewable terms were instead proposed by an evaluation group, led by the ECtHR's president, Luzius Wildhaber, which had been asked to provide specific recommendations for reforms. The proposal was subsequently added to the reform package without opposition from any government (Lathouwers 2005).

Protocol 14 required ratification by all member states to enter into effect. By the end of 2006, it had been ratified by all states except Russia (Council of Europe 2004). In December 2006, the Russian Duma voted against ratification despite President Vladimir Putin's public support of ratification (Reiss 2009, 305). Russian resistance to Protocol 14 was explained by Russian concerns with the procedural reforms and by Russian dissatisfaction with the ECtHR for ruling against Russia (Reiss 2009, 305–9). In particular, Russia was unhappy with a 2004 Grand Chamber ruling in the case of *Ilascu and Others v. Moldova and Russia*, which—subject to dissent by the Russian judge—held Russia responsible for events in Transdniestria (Mowbray 2007, 609). Nonrenewable terms do not receive attention in scholarly accounts of the Russian nonratification (Mowbray 2007; Reiss 2009).

Contemporaneous accounts suggest the ECtHR, the Council of Europe bodies, and other observers did not expect any imminent change in the Russian position. As late as in April 2009, one member of the Council of Europe's Parliamentary Assembly noted in a debate that Russian ratification was unlikely in "the near future" (quoted by Mowbray 2009, 652). In 2009, the Council of Europe members, supported by the court's president, agreed to an interim solution known as "Protocol 14bis," which allowed the procedural elements of Protocol 14 to enter into effect with respect to consenting states (Council of Europe 2009). Thus, rather than anticipating imminent Russian ratification, actors within the European human rights system adapted to a situation in which Protocol 14 would not be ratified (Mowbray 2009).

Because of the Russian refusal to ratify Protocol 14, judges continued to be eligible for reappointment. Judicial terms would not be affected by the interim solution, and states continued to reappoint judges. Thus, even if states had, in principle, committed to making judicial terms nonrenewable, judges serving on the court could realistically continue to hope for reappointment. This situation continued until February 18, 2010, when the Russian Duma unexpectedly voted to ratify Protocol 14, allowing the full reform package to enter into force beginning June 1, 2010. The Russian ratification removed reappointment opportunities for the judges serving on court at the time (Hedigan 2011, 1721). Judges who were serving their first term had their term extended to nine years (Hedigan 2011, 1721), but were no longer eligible for reappointment. Other judges had their terms extended by two years and were also no longer eligible for reappointment. In any case, the unexpected Russian ratification of Protocol 14 in February 2010 suddenly removed their incentive to favor their nominating state in order to secure renomination.

The sudden Russian ratification facilitates a difference-in-differences design that leverages not only the difference in how judges vote in cases concerning their nominating state before and after the reform, but also how this difference compares to changes in their voting behavior in other cases during the same period. Assuming that there are not other changes coinciding with the introduction of nonrenewable terms that affected judicial decision-making differently depending on whether the case concerned their nominating state, this *difference-in-differences* can be interpreted as the causal effect of nonrenewable terms for the judges affected by the reform.

Because the introduction of nonrenewable terms was part of a larger reform package, an important concern is whether other components of Protocol 14 might also have influenced judges' tendency to favor their nominating states. First, and as noted above, Protocol 14 was not primarily aimed at increasing judicial independence. The introduction of nonrenewable terms was the only part of the reform package aimed at increasing judicial independence. Other parts of the reform may, however, have influenced the ECtHR's docket by reducing the number of both clearly unfounded cases and repetitive cases that would have to be decided by a full chamber. The type of cases that Protocol 14 was designed to filter out are exactly those in which there is broad agreement among the judges on the case dispositions. Thus, although the procedural reforms may have influenced the overall violation rate, changes in voting patterns should not be expected to differ depending on whether the judge acts as the national judge. As shown below, there is little evidence that the procedural reforms contributed to a reduced tendency for judges to favor their nominating state relative to other states.

Second, there is no reason to believe that the introduction of nonrenewable terms was coupled with member states expressing a preference for their judges to act more independently. The proposal to make judicial terms nonrenewable did not originate from the member states, but from the evaluation group asked to design specific reforms. Rather than calls for

greater independence, the early 2010s were marked by government criticism of the court and calls for the judges to be more deferential toward state interests (Stiansen and Voeten 2020). Moreover, if changes in judges' sensitivity toward their nominating states were the result of a perceived preference for greater independence among the nominating states, the change in behavior should, arguably, have occurred already when the member states reached agreement on Protocol 14 in 2004 and all states except Russia committed to the reform package through ratification by the end of 2006.

HYPOTHESES

The Russian ratification of Protocol 14 allows the assessment of the causal effect of reappointment opportunities on judges' independence from actors in control of the appointment process. If judges' tendency to favor their nominating states was linked to their desire to secure renomination, we should expect this tendency to have been reduced (but not necessarily removed) after the Russian ratification.

> **H1.** The 2010 introduction of nonrenewable terms weakened judges' tendency to favor their nominating state.

As discussed, governments control a number of other career opportunities that are attractive for judges, including appointments to other prestigious international and domestic courts. If judges desire such appointments, the introduction of nonrenewable terms may be insufficient to foster greater decisional independence from their governments. The changes in behavior associated with the reform may thus be limited to judges whose future careers would be less dependent on continued government support. Appendix B provides data on the careers of the judges affected by the reform. These data show that after their final term in the ECtHR, judges were more likely to proceed to positions—primarily in academia—that did not require political support than to receive new appointments by political actors in their nominating state. To the extent that these career trajectories align with judges' expectations and ambitions during their time at the court, the removal of reappointment opportunities may be expected generally to have reduced judges' tendency to favor their nominating states. Removing reappointment opportunities also removed a main source of government leverage, and judges would not necessarily require government support for the future careers.

Nevertheless, judges' precourt careers may have influenced the extent to which judges anticipated relying on government support for their postcourt careers. Some judges had long careers as government appointees at domestic courts or as government agents in the diplomacy or domestic bureaucracies. The career profiles of these judges may have led them to expect that they would continue to rely on government support after their final term in the ECtHR ended. By contrast, other judges had backgrounds from academia and private practice and may have expected to return to such independent positions after their tenure in the ECtHR. At least with respect to judges with academic backgrounds, this expectation is supported by the data on postcourt careers: judges with academic backgrounds tended to retain close ties to academia during their tenure at the ECtHR and to return to professorships after their period on the ECtHR bench. If government control over postcourt careers conditioned the effect of introducing nonrenewable terms, a stronger effect may be expected for judges with backgrounds from academia or private practice than for judges with backgrounds as career judges or government agents.

> **H2.** The reduction in judges' tendency to favor their nominating state after the 2010 introduction of nonrenewable terms is greater for judges with a background in academia and private practice than for judges with backgrounds as career judges or government agents.

Judges' response to the introduction of nonrenewable terms should also be conditional on their age. In terms of the political agency model described above, age may be thought of as affecting both the utility derived from reappointment and the unconditional likelihood of reappointment (Gray 2019, 429–30). For instance, Judge Nona Tsotsoria from Georgia was first appointed to the court in 2008 and was only 37 in 2010. If judicial terms had remained renewable, she could reasonably have expected to have the opportunity to be reappointed, potentially multiple times. By contrast, judges closer to the mandatory retirement retire age of 70 would either have been ineligible for reappointment irrespective of Russian ratification or would only have been eligible for reappointment to a relatively short period. The incentives of these judges to favor their nominating state should therefore not have weakened after the reform. As there may be some variation in whether judges in their late 60s would desire (and realistically hope for) reappointment for a shorter final term, it is difficult to set of precise threshold for the judges considered too old to be affected by the Russian ratification. However, the effect should at least have been weaker for the 13 judges that were 65 years or older in 2010.

> **H3.** The reduction in judges' tendency to favor their nominating state after the 2010 introduction of nonrenewable terms is greater for judges younger than 65 in 2010 than for judges who were 65 or older.

The political agency model also suggests that judges' response to the introduction of nonrenewable terms may depend on how strongly they prefer to vote sincerely in the case at hand. Previous research finds that judges are more likely to strategically modify their votes in less important cases than when more is at stake (Casillas et al. 2011). Measuring the legal and political importance of different cases is challenging. Yet, at least on average, judges might be expected to perceive Grand Chamber judgments to be more important than Chamber judgments. Cases reach the Grand Chamber either because a Chamber ruling is appealed or because the Chamber judges consider the case sufficiently important to relinquish authority to the Grand Chamber. Reaching the Grand Chamber is thus indicative of a case's legal or political importance.

H4. The reduction in judges' tendency to favor their nominating state after the 2010 introduction of nonrenewable terms is greater in Chamber cases than in Grand Chamber cases.

RESEARCH DESIGN

To assess how the introduction of nonrenewable terms affected the decisional independence of ECtHR judges, I employ data on the individual votes of ECtHR judges on all Chamber and Grand Chamber merits judgments rendered during the relevant period. These data are available from Stiansen and Voeten (2020), who manually coded the votes of each judge based on dissenting opinions. I consider only votes in judgments rendered after Protocol 11 established the permanent court in November 1998.

My unit of analysis is the vote of each judge, *j*, on each judgment, *i*. For the main analysis, I limit the data set to the votes of the 46 permanent judges serving on the court at the time of Russian ratification of Protocol 14.[2] These votes constitute the subset of the data set in which internal validity is strongest. After this restriction, there are a total of 75,970 votes by judges affected by the reform in 15,223 judgments rendered between 1999 and 2016. The results are, however, robust to considering the votes of all judges serving on the court between 1999 and 2016 (irrespective of whether they were serving in 2010), as well on judgments rendered only in close proximity to the reform. A list of all the included judges is available in appendix A.

Consistent with extant scholarship concerning the link between retention incentives and judicial decision-making (e.g., Canes-Wrone et al. 2014, 28), my dependent variable is the vote of each judge concerning the disposition of the case. Although the substance of votes in the ECtHR concern whether the respondent state has violated the European Convention on Human Rights, the institutional context is the same as in other courts in which judges vote inter alia on whether a policy or legislation is constitutional or whether to convict the defendant in a criminal case. The dependent variable, Violation_{ij}, is thus a binary variable that takes the value of 1 if judge *j* voted for at least one violation finding in judgment *i*, and 0 otherwise. Although there is substantial variation in the types of cases the ECtHR considers, violation findings are generally contrary to the interests of the respondent state, which needs to have opposed the applicant's claims for the case to reach the court (Voeten 2008). Most ECtHR judgments end in unanimous violation findings, and about 90% of the votes are in favor of violation findings.

My main independent variables are a dummy variable, National_{ij}, indicating whether judge *j* was nominated by the respondent state in case *i*; a dummy variable, Reform_i, indicating whether case *i* was decided after the Russian ratification of Protocol 14; and an interaction term, $\text{National}_{ij} \times \text{Reform}_i$. ECtHR judges always sit on Chamber and Grand chamber cases against their nominating governments, and almost 12% of the votes in the data set are thus by a judge nominated by the respondent state.[3] Because some of the judges had been reappointed several times before Protocol 14, more votes are observed before the reform than after. Still, almost one-third of the votes in the data set were rendered after the Russian ratification made it clear that judges would no longer be eligible for reappointment. Close to 4% of the votes are rendered after Russian ratification by the judge nominated by the respondent state.

Because the dependent variable is binary, I employ logistic regression. I thus estimate variations of the following model:

$$\begin{aligned}\Pr(\text{Violation}_{ij} = 1) = \Lambda(&\beta_0 + \beta_1 \text{National}_{ij} + \beta_2 \text{Reform}_i \\ &+ \beta_3 \text{National}_{ij} \times \text{Reform}_i \\ &+ \gamma \text{Controls}_{ij} + \mu_j),\end{aligned}$$

where Λ represents the cumulative standard logistic distribution and μ_j represents each judge's individual tendency for voting for violation findings. Because there is only one judge from each respondent state, the judge fixed effects also capture unobserved variation at the country level. Because I observe multiple votes from the same judgments, I cluster the standard errors on judgments. To ease interpretation and to

2. On the date of the Russian ratification, there were only 46 judges. The Ukrainian judge, Volodymyr Butkevych, had not been reappointed for a third term in 2008, and his successor, Ganna Yudkivska, did not assume office until June 15, 2010.

3. For rare cases from which the national judge recuses herself, an ad hoc judge is appointed.

allow for the inclusion of judge fixed effects, I estimate split-sample models to assess hypotheses 2, 3, and 4. In the appendix, I report the results from three-way interaction models. Results from the split-sample and three-way interaction models are consistent.

As discussed, this research design can be interpreted as a difference-in-differences design that considers within-judge variation in how judges treat their nominating state relative to other states before and after the reform (see Puhani 2012 for a discussion of the nonlinear difference-in-differences estimator). Assuming that other changes—for instance, in the type of cases reaching the court—do not have differential impacts on judges' voting depending on whether the responding state was their nominating state, β_3 may be interpreted as a causal effect (Puhani 2012, 86). The potential for credible causal inference is thus stronger than in most designs relying on observational data. To account for potential temporal changes, I nevertheless control for a set of other variables that might affect judicial decision-making in the court. Moreover, because these variables predict violation votes, they may increase the precision of the estimated coefficients.

First, I control for the extent to which the case presented a new legal question for the ECtHR to consider. This control is important, because Protocol 14 also included procedural reforms aiming to reduce the number of ill-founded and repetitive cases that would have to be dealt with in a Chamber or Grand Chamber ruling. Most ECtHR judgments concern questions that already have clear answers in the court's case law. Often it takes several years (sometimes more than a decade) for a respondent state to comply with violation judgments (Hillebrecht 2014; Stiansen 2019a, 2019b). While such judgments remain unimplemented, other applicants in similar situations often bring similar cases to the court, and these cases will often end in violation findings. Moreover, an ECtHR ruling is only legally binding for the respondent state. Often, the ECtHR will receive similar applications from different respondent states. If the ECtHR has previously held that a practice constitutes a convention violation in one state, judges are also likely to find a violation in cases involving a similar practice in another respondent state. I therefore control for the judgment's importance level, as classified by the court's registry. There are four different importance levels: judgments that are sufficiently important to be selected for publication in the court's official reports (case report judgments); other judgments that make a significant contribution to the "development, clarification, or modification" of case law (importance level 1); judgments that do not make a significant contribution but still go beyond "merely applying the existing case law" (importance level 2); and judgments that just apply existing case law (importance level 3; European Court of Human Rights 2021). Because case importance is measured at the ordinal level, I introduce it as a set of dummy variables using case report judgments as the reference category.

Second, I control for whether the judgment was decided in a seven-judge Chamber or in a seventeen-judge Grand Chamber. As discussed, whether a case reaches the Grand Chamber is indicative its legal and/or political importance.

Third, to account for changes in the nature of the alleged human rights violations that are adjudicated, I include a set of dummies for the convention articles that are frequently alleged violated. These are the right to life (Article 2), the prohibition of torture (Article 3), the right to liberty (Article 5), the right to a fair trial (Article 6), the right to respect for private and family life (Article 8), the freedom of expression (Article 10), the right to effective remedy (Article 13), the prohibition of discrimination (Article 14), and the right to private property (Article 1 of Protocol 1). Because a case may involve allegations of the violation of more than one article, these categories are not mutually exclusive.

Finally, judges' decision-making may change as they age or become more experienced. I therefore control for judges' age when the judgment is rendered and for the number of years the judge been on the ECtHR bench at the time of the judgment. Summary statistics for all included variables are reported in table A2 (available online).

RESULTS

Figure 1 summarizes the coefficients of interest and the associated 95% confidence intervals from a set of logistic regression models with proviolation votes as the dependent variable. All models include the dummy for whether the judge was nominated by the respondent government, the dummy for whether the judgment was rendered after Russian ratification of Protocol 14, the interaction between these two dummies, judge fixed effects, and the full set of controls. Standard errors are clustered on the case. The full regression models and summary statistics comparing judges' voting behavior before and after the reform are reported in appendixes E and C.

Model 1 is estimated on all votes rendered by judges affected by the reform. In line with previous scholarship (Voeten 2008), the model confirms that prior to Russian ratification of Protocol 14, the national judges were significantly less likely than other judges to vote for violation findings. Moreover, the model suggests that judges other than the national judge were less likely to vote for violation findings after the 2010 Russian ratification. This finding is consistent with Stiansen and Voeten (2020), who find that the ECtHR as an institution has become more restrained in its rulings as it has become subject to increasing levels of backlash and resistance in recent years. Most important for the purposes of the current analysis, the interaction

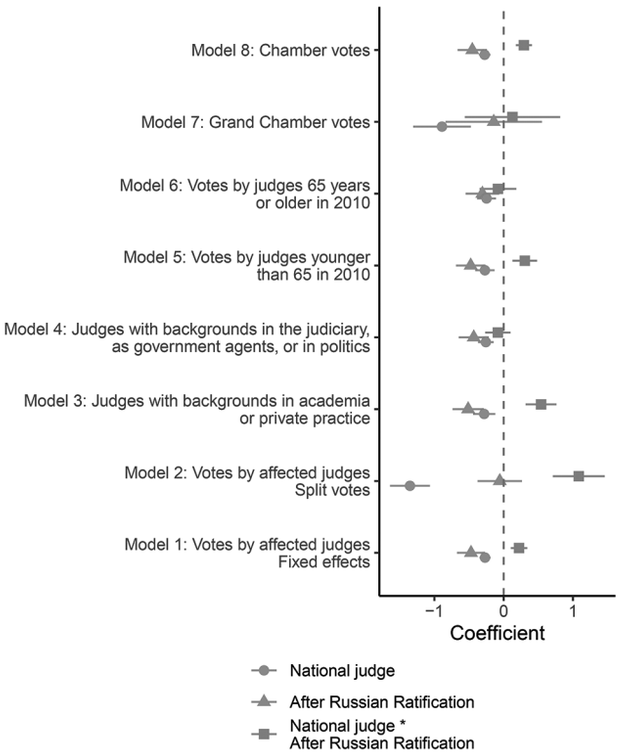

Figure 1. Coefficients of interest from fixed effects logistic regression models. Error bars indicate 95% confidence intervals. Color version available as an online enhancement.

term—the average treatment effect of the reform—suggests that judges' tendency to vote against violation findings in cases involving their nominating state was significantly reduced after the reform.

In line with hypothesis 1, there is thus evidence that the introduction of renewable terms had the desired effect of making judges more independent from their nominating states. The increased willingness of national judges to vote for violation findings after the reform is in the opposite direction of judges' reduced tendency to find violations in cases involving other states. It is thus unlikely that the national judges' increased willingness to vote for violation findings results from unobserved changes in the type of cases the court considered. It is also worth noting that this finding is based only on within-judge comparisons: the same judges who, prior to Russian ratification, displayed a tendency to side with their nominating state became less prone to do so after it became clear that they would not be eligible for reappointment. This important finding suggests that the prereform tendency of ECtHR judges to favor their nominating state was not simply because of selection effects, but also because of career considerations. When the career incentive to side with the nominating state was weakened, judges adjusted their behavior. This finding is thus informative both of considerations that motivate judges at one of the world's most powerful international courts and illustrative of the potential of institutional reform to foster greater judicial independence.

Model 1 is estimated on the full set of votes by judges affected by the reform. Most of these judgments concern relatively straightforward cases and result in unanimous rulings. Pooling all cases may therefore underestimate how career incentives influence voting patterns where there are competing plausible conclusions to the case. By contrast, model 2 is estimated only on split judgments. This model thus considers only cases in which there was some disagreement among the judges on the panel concerning how to dispose of the case. Removing unanimous judgments increases the magnitude of both the pre–Protocol 14 tendency of judges to favor their nominating state and the estimate of how much this tendency has been reduced after Protocol 14. By contrast, when considering only votes in split judgments, there is no evidence that judges' voting patterns have changed in cases that do not involve their nominating state.

Based on model 2, figure 2 displays the predicted probability of a proviolation vote in split judgments conditional on whether the judge was the national judge before and after Russian ratification of Protocol 14. Other variables are kept at their mode (categorical variables) or mean (continuous variables). The figure shows that in split judgments, national judges only had a .28 probability of voting in favor of violation finding prior to the Russian ratification. After Russian ratification, the predicted probability of the national judge voting in favor of a violation increased to .52 and became relatively similar to

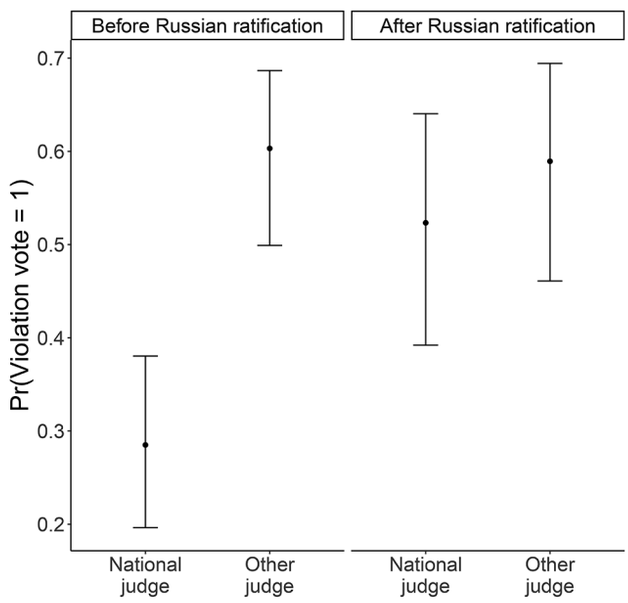

Figure 2. Predicted probabilities for proviolation votes in split-vote judgments (based on model 2). Error bars indicate 95% confidence intervals. Control variables are fixed at their mean or mode values.

that of the other judges. Even if most judgments both before and after the reform have been unanimous violation rulings, these changes may be highly important for the perceived legitimacy of the court, as split judgments are likely to attract public attention. The reform has thus removed a main source of the perception that ECtHR judges are not sufficiently independent from their nominating states (Limbach et al. 2003).

As discussed, governments may have several other means for rewarding loyal judges besides reappointment. In particular, judges may require government support also for other employment opportunities, such as appointments to other courts or to prestigious ministry jobs. If judges desire such future appointments, the introduction of nonrenewable terms may be insufficient to increase their decisional independence. Hypothesis 2, therefore, anticipates that judges with backgrounds in academia or in private practice, who had good postcourt career opportunities independently of their appointment governments, were more affected by the reform than judges with career backgrounds that made it likely that they would continue to rely on government support for their future careers. Model 3 is estimated only on judges with backgrounds from academia or private practice, while model 4 is estimated on the other judges with backgrounds as government agents, judges, or (in one case) in politics.[4] Comparing the two models shows that both sets of judges had a prereform tendency to favor their nominating state and have been less likely to vote for violation findings in cases involving other states in the postreform period. Only judges with a background in academia or private practice have become less likely to side with their nominating state after the introduction of nonrenewable terms. For other judges, the estimated change associated with the reform is small and not statistically distinguishable from zero. There is thus evidence that the effect of (non) renewable terms is conditional on government control over other career opportunities, which bolsters the interpretation that the changes in judicial behavior are attributable to changing career incentives. Yet, the conditional effect also suggests that while institutional design may affect judges' independence, the importance of reappointment opportunities is conditional on the other means governments have for sanctioning judges.

Recall that the political agency model suggests that judges' sensitivity to the removal of reappointment opportunities should depend on their utility derived from reappointment and their unconditional likelihood of reappointment. Because judges already faced a retirement age of 70 years, older judges would not have faced the same likelihood of reappointment in the absence of the reform as their younger counterparts. If reappointed, the new terms of the older judges would, in any case, have been limited by the retirement age. Thus, hypothesis 3 anticipates that the change in behavior was greater for the judges that were younger than 65 in 2010 than for the judges that were 65 or older. To assess this hypothesis, models 5 and 6 are estimated separately on the votes by the two age groups. In line with hypothesis 3, a comparison of the two models suggests that while the relatively younger judges became less likely to side with their nominating government after their terms became nonrenewable, the estimated change in behavior of judges who were already close to the retirement age was close to zero and is not statistically significant.

Judges' age may, of course, influence judicial decision-making in a variety of ways. Yet, both groups of judges had displayed the same long-term tendency to favor their nominating state, and both groups of judges have become more restrained in their decision-making over time, reflecting the general turn in the court's decision-making. The only difference between judges younger than 65 in 2010 and the older judges appears to be that only the younger judges adapted their approach toward their nominating state after reappointment opportunities were removed. The difference between the two age groups is thus best seen as additional evidence that the behavioral change associated with the introduction of nonrenewable terms is explained by judges' career considerations.

Another additional implication from the political agency model is that judges should be less sensitive to career considerations when they have stronger preferences regarding the outcome of the case. While it is difficult to measure the utility a judge derives from voting for what she perceives to be the "correct outcome," the cost of voting insincerely should, at least on average, be greater in Grand Chamber than in Chamber judgments. Thus, hypothesis 4 anticipates that judges' tendency to favor their nominating state was weakened more in Chamber than in Grand Chamber judgments after the reform. To assess this expectation, models 7 and 8 are estimated only on Grand Chamber and Chamber judgments, respectively. The results are inconclusive. The change in behavior is only statistically significant for Chamber cases. For Grand Chamber cases, the estimated change in behavior is smaller and statistically indistinguishable from zero. Yet, the coefficients are imprecisely estimated for Grand Chamber cases, and I cannot reject the null hypothesis that the behavioral change was the same in Chamber and Grand Chamber cases.

ADDITIONAL EVIDENCE OF A CAUSAL RELATIONSHIP

The above evidence suggests a causal relationship between removing reappointment opportunities and judges becoming less

4. The one judge with a background in politics also had a long career in the domestic judiciary. I therefore group him with the judges with backgrounds as judges or state agents. The results are robust to instead omitting the observations from this judge.

prone to favor their nominating governments. The key assumption invoked in justifying this interpretation is the parallel trends assumption: in the absence of the introduction of nonrenewable terms, any trends in judicial decision-making would have been the same in cases in which judges acted as the national judge and in other cases. This assumption would be violated if other temporal changes have a differential impact on judicial decision-making depending on whether the case concerns their nominating state. Another potential violation would arise if judges' prereform trends were not parallel—for instance, because judges changed their behavior in anticipation of the reform. Appendix G reports the results of a series of tests that bolster the credibility of the parallel trends assumption. Figures 3 and 4 summarize two particularly important results.

Figure 3 summarizes a model estimated to assess whether the changes in judicial behavior result from the introduction of nonrenewable terms or the procedural reforms that were also enacted as part of Protocol 14. As discussed, because they did not anticipate an imminent Russian ratification of Protocol 14, the member states negotiated a temporary protocol, Protocol 14bis, that introduced the procedural reforms for cases involving consenting states, but did not influence judges' reappointment opportunities. During 2009, Protocol 14bis became operative for cases involving 14 states. If changes in judicial behavior resulted from procedural reforms, judges nominated from these states should be expected to have changed their behavior already from the dates on which Protocol 14bis became operational. Therefore, I interact judges' status as the national judge with both whether Protocol 14bis was operational and whether the case was decided after Russian ratification of the full reform package. As shown in figure 3, the procedural reforms were not associated with a reduced tendency for judges to side with their nominating state. If anything, the change associated with the procedural changes is in the opposite direction. Only after Russian ratification made it clear that reappointment opportunities would be removed did judges become less prone to siding with their nominating state. As shown in the appendix, there is also little reason to expect broader temporal changes to account for the results: the results are robust to only considering a narrow window of cases before and after the Russian ratification. There is thus not reason to expect that changes in judges' tendency to favor their nominating state result from temporal changes other than the introduction of nonrenewable terms.

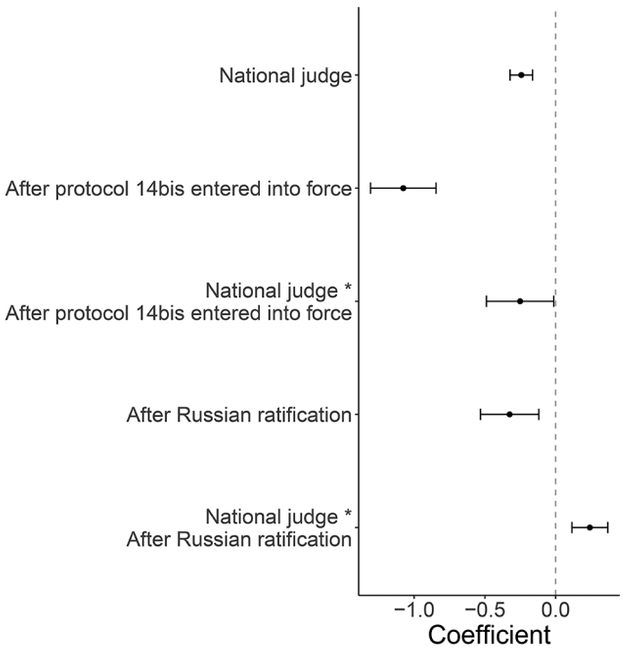

Figure 3. Coefficients of interest from a fixed effects logistic regression model estimating judges' response to Protocol 14bis becoming operational and to Russian ratification of Protocol 14. Error bars indicate 95% confidence intervals.

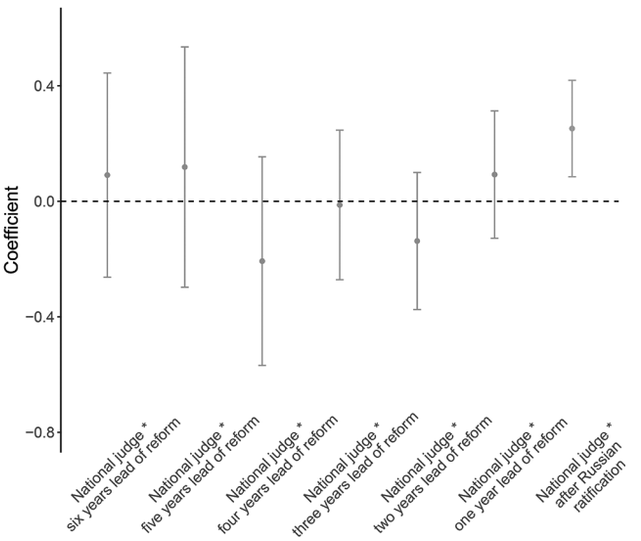

Figure 4. Coefficients for interaction terms between leads and actual timing of the reform and whether the judge acted as the national judge. Error bars indicate 95% confidence intervals. Color version available as an online enhancement.

Another main concern is that judges' anticipation of the reform would lead to differences in judges' prereform trends between cases for which they acted as the national judge and other cases. Figure 4 summarizes a model that includes yearly leads of the Russian ratification of Protocol 14 going back to 2004, which is the year in which the member states initially agreed on Protocol 14. As can be seen, the model does not suggest differential effects associated with any of the leading values of the Russian ratification. Thus, there is no evidence that judges' anticipation of the reform led to differences in the prereform trends. As shown in the appendix, this conclusion holds also if estimating a model with the leading values of the

reform replaced with a single indicator for whether the judgment was rendered after the initial agreement on Protocol 14. Judges changed their behavior only after Russian ratification ensured that reappointment opportunities would be removed, but not in anticipation of the reform.

CONCLUSION

The appointment and reappointment of judges are primary mechanisms through which political actors can influence judicial decision-making. While there is strong evidence that political considerations often affect appointment processes, it is difficult to establish whether judges alter their decision-making in order to secure reappointment. However, exploiting the sudden 2010 introduction of nonrenewable terms for ECtHR, I find strong evidence that they do. Removing reappointment opportunities significantly reduced judges' tendency to side with the states that previously were in control of their reappointment. The evidence of a behavioral change is, however, limited to judges with career backgrounds that reduce their reliance on government support for their postcourt career goals and to relatively young judges who could reasonably have hoped for reappointment to one or more terms if judicial terms had continued to be renewable. For judges who were more dependent on government support for their postcourt careers and for older judges, the changes in behavior are small and statistically insignificant. These results provide strong support for the expectation that alignments between judges and the actors that appoint them are not only the result of selection effects, but also of career considerations.

My research design exploits the institutional context and history of the ECtHR. Therefore, the extent to which the results generalize to other constitutional and international courts is an important question. The importance of career incentives cannot be expected to be limited only to cases in which the appointing actor is a party. Political actors will often have interests concerning a variety of legal issues, and court decisions can set important precedents. Thus, at least as long as judges have a sense of the interests of the actors in control of their reappointment, and those actors are able to determine the extent to which judges advance their interest (e.g., through the publication of individual judges' votes), renewable terms may be expected to reduce judges' decisional independence.

The results suggest that institutional design matters for judicial independence and that institutional reforms can be successful even in the relatively short term. Provided that the goal is to maximize judges' decisional independence from appointing states, actors such as the European Union and its member states (United Nations Commission on International Trade Law 2019) may thus be right to push for nonrenewable terms when negotiating the design of new international courts. The benefits of making judicial terms nonrenewable may outweigh potential drawbacks, such as reducing a court's ability to retain valuable expertise and potentially reducing the pool of available candidates. At the same time, removing reappointment opportunities may lead career-motivated judges to cater to other actors in control of future employment opportunities. Particularly in legal areas with powerful private actors, future private sector opportunities may also influence the decision-making of judges appointed for limited terms.

While there is evidence that the introduction of nonrenewable terms increased the decisional independence of judges serving on the court at the time of the reform, the longer-term consequences for the court's decision-making are more uncertain. Future scholarship should consider how ECtHR member states have adapted to the reform. Weakening states' ability to sanction judges may be expected to lead states to rely more on the initial appointment as a control mechanism (Fearon 1999). If so, we might except states to be more cautious in nomination processes following the introduction of nonrenewable terms.

Another avenue for future research is to consider how the desire to be reappointed affects decision-making on courts on which judges need to satisfy a broader constellations of actors in order to be (re)appointed. Examples of such systems include the International Court of Justice and the Inter-American Court of Human Rights, where there are fewer judges than member states. In these systems, judges are typically elected by general assemblies and need to satisfy broad coalitions of states in order to be (re)elected (Dunoff and Pollack 2018, 72–73; Larsson et al. 2019, 8). Although the exact research design of this study may not be replicated for these courts, it would be possible to exploit institutional constraints, such as limits on reappointments, to probe how reappointment incentives influence the decisional independence of judges on a variety of other international and constitutional courts.

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