

# Supplementary Materials for “The Shadow Effect of Courts: Judicial Review and the Politics of Preemptive Reform”

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## A Transparency Appendix (TRAX): Source Material for Active Citations

This transparency appendix, available in full at the APSR Dataverse (see <https://doi.org/10.7910/DVN/GS05FP>), provides the source materials for our process tracing analysis. As recommended by Moravcsik (2014, 48), we have included excerpts from the analysis that allow readers to consider each piece of evidence employed and “assess precisely how they relate to broader claims, and evaluate whether they have been interpreted or analyzed correctly.” Accordingly, each entry below contains the excerpts from the source material needed to verify the key claims and place them in the appropriate context, the information needed to locate the source, and a brief description of how the source supports our empirical claims (Moravcsik, 2014, 50).

To further allow readers to understand how the different pieces of evidence increase confidence in the hypothesized pathway, Figure A1 reproduces Figure 2 from the article with the following changes: Instead of examples of hypothetical evidence, Figure A1 references each of pieces of evidence by their section numbers. Because the included evidence is all from a “low litigiousness + weak judicial review context”, our concern is tracing the lower pathway. The upper pathway, which has been studied by existing work considering the US case (Epp, 2010), is therefore shaded out.

The first part of the mechanism illustrated in the lower pathway is the recalcitrant

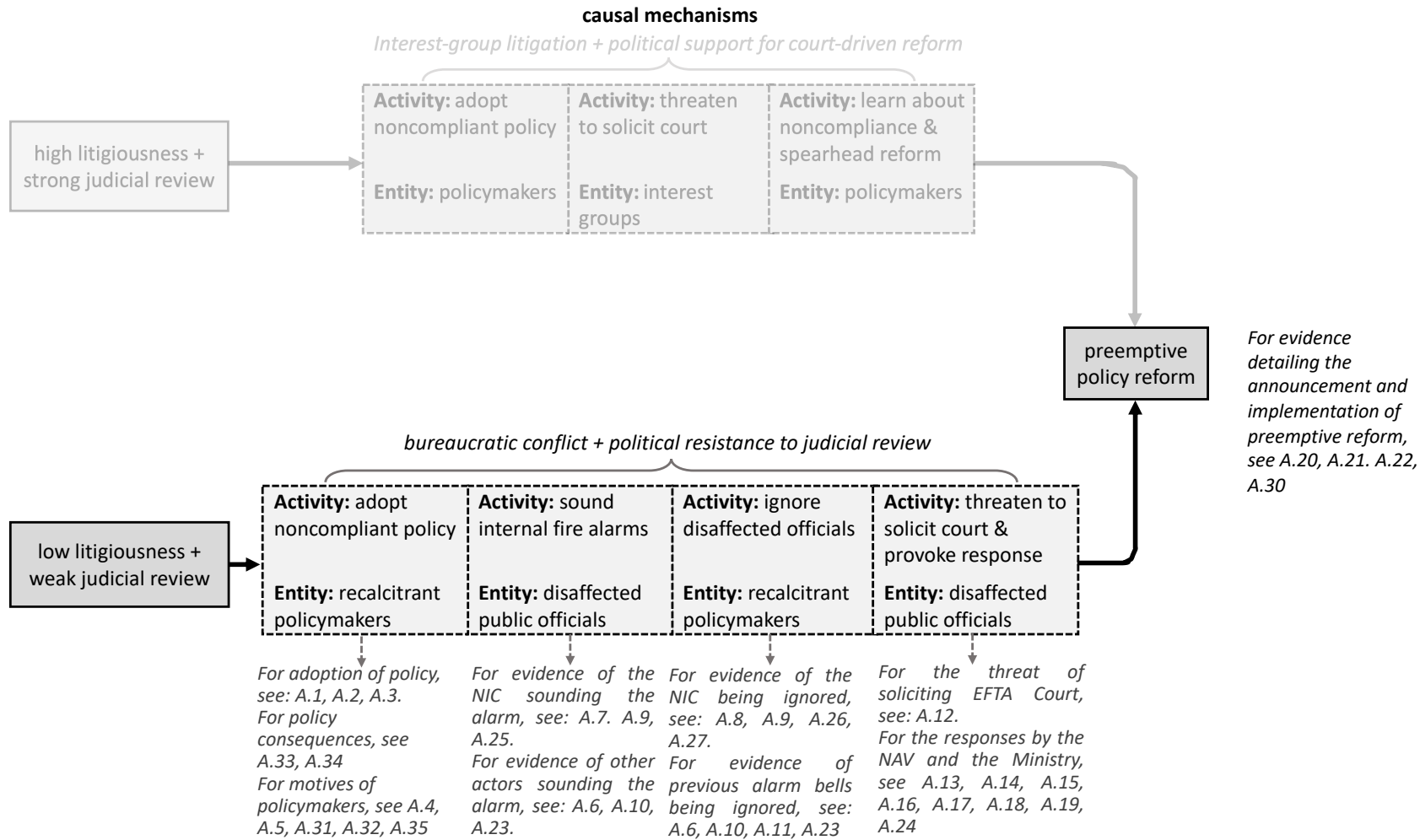


Figure A1: Unpacking Shadow Effects into Entities, Activities, and Pieces of Evidence as Referenced in Transparency Appendix

policymakers adopting a noncompliant policy. Here, our evidence can be grouped in three categories. First, sections [A.1](#), [A.2](#), and [A.3](#) provide evidence of the legislation making residency in Norway a condition for receiving sick pay and the decision of policymakers to not adapt to the changing EU regulations prohibiting such a residency requirement. Sections [A.33](#) and [A.34](#) provide evidence of the consequences of this policy, as reported in the Norwegian and English language media. Finally, sections [A.4](#), [A.5](#), [A.31](#), [A.32](#), [A.35](#) provide evidence of the motivations of the “recalcitrant policymakers” that adopted “the noncompliant policy”.

The second part of the mechanism is the “sounding of internal fire alarms” by “disaffected public officials”. Sections [A.7](#), [A.9](#), and [A.25](#) provide evidence of the National Insurance Court (NIC) sounding the alarm. We also include evidence of previous (unsuccessful) attempts by other actors to sound the alarms, as these unsuccessful efforts help demonstrate how the threat of soliciting the EFTA Court was crucial for triggering a politics of preemptive reform. This evidence is included in Sections [A.6](#), [A.10](#), and [A.23](#).

The third part of our mechanism is the “recalcitrant policymakers” ignoring “the disaffected officials”. The evidence of how the NIC was ignored (and why) is provided in sections [A.8](#), [A.9](#), [A.26](#), and [A.27](#). Similarly, we also provide evidence of policymakers’ decision to ignore previous attempts to sound the alarms. This evidence is included in sections, [A.6](#), [A.10](#),[A.11](#), and [A.23](#).

The letter providing evidence of disaffected officials in the NIC threatening to solicit the EFTA Court is included in section [A.12](#) and evidence of the reactions and responses this threat prompted by “recalcitrant policymakers” in the NAV and the Ministry of Labor is provided in sections [A.13](#), [A.14](#), [A.15](#), [A.16](#), [A.17](#), [A.18](#), [A.19](#), and [A.24](#).

Finally, evidence detailing the outcome of the process – the announcement and implementation of preemptive reform – is included in sections [A.20](#),[A.21](#),[A.22](#) and [A.30](#).

In addition to the evidence of each part of the mechanism we trace, sections [A.28](#) and [A.29](#) provide excerpts from the newspaper skirmishes between former president of the EFTA Court, Carl Baudenbacher, and the Norwegian Attorney General, Fredrik Sejersted. These excerpts provide contextual evidence of the relationship between the

EFTA Court and the Norwegian government and of the Norwegian strategy towards the Court.