

Explaining EU Policy Implementation Across Countries: Three Modes of Adaptation

by

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<http://www.mpifg.de/socialeurope>

This document contains the summary of a text that will be published as Chapter 15 of the following co-authored book:

Complying with Europe
EU Harmonisation and Soft Law
in the Member States

by

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Miriam Hartlapp
Simone Leiber

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15 Making Sense of Compliance Patterns: A Typology

Summary

The project group on "New Governance and Social Europe" (<http://www.mpifg.de/socialeurope>) studied 90 cases of implementation performance, related to six labour law Directives and 15 member states. We derived a large number of hypotheses as to when compliance or non-compliance with EU law should be expected from the different literatures on implementation theory and on "Europeanisation", and we formulated a couple of fresh hypotheses (see Chapters 2 and 14 of our book forthcoming with CUP). However, an untidy overall picture emerged at the end of this exercise: no causal arrow pre-supposed by existing theories or by our own theoretical considerations seemed either necessary or sufficient in practice across the 90 cases.

We then followed the methodological recommendations of the "grounded theory" school to work on the theoretical and empirical levels repeatedly and in turn in order to allow fresh insights from each field to improve our work in the other. We thus went back to the information on each country that we had derived from our interviews and stopped simply testing the prevailing hypotheses against our cases. When re-focussing on the broader knowledge about the countries we had gained in the interviews, we finally discovered three clusters of countries, each showing a specific typical pattern of reacting to EU-induced reform requirements.

In fact, some EU member states displayed quite a regular pattern of compliance or non-compliance, regardless of how the specific provisions actually matched the relevant national policy legacies and governmental ideologies. We discerned three ideal-typical patterns of how member states handle the duty of complying with EU law, three different "*worlds of compliance*" within the EU15: a "world of law observance", a "world of domestic politics", and a "world of neglect". The specific results of particular examples of (non-)compliance tend to depend on different factors within each of the various worlds: the compliance cultures in the field can explain most cases in the worlds of law observance and neglect, while in the world of domestic politics the specific fit with domestic political preferences in each case plays a much larger role.

These "worlds" are not necessarily visible if we only look at the overall implementation performance of member states. In contrast, our argument is that similar implementation records may be due to completely different factors in different groups of countries. We also do not claim that the categorisation of "three worlds of compliance" is able to predict *individual* cases of implementation in the mem-

ber states. However, we feel confident that it does cover the *typical* patterns of how member states deal with their duty to comply with EU Directives – definitely in the area of social policy, but probably even far beyond that.

In this context, a crucial question is *how a “world of law observance” can persist* next to other worlds that do not take their EU-related duties as seriously. Our research revealed a number of elements that can be combined to form a larger picture suggesting a *“socio-political mechanism”* that reinforces tendencies to take compliance seriously.

This mechanism interrelates cultural and actor-related aspects in stressing that institutionalised patterns create expectations and cost–benefit calculations that induce actors (here governments) to behave in a certain way. Although this is deemed to be a probabilistic mechanism rather than an automatism – governments may at times act against a national culture of good compliance – our cases indicate every bit as much as aggregate statistics that this “good compliance mechanism” produces rather regular effects in some member states.

A number of *facilitating factors* may support the birth or continuation of a good compliance culture: consensus orientation, corporatism, a culture of law-abidingness and an administration that is both reliable and transparent. These background conditions tend to make good compliance easier to establish and uphold if a government prioritises compliance. At the same time, it is not impossible to improve compliance records in any given member state, even in the absence of these facilitating factors.

If you are interested in receiving draft chapters for feedback, please contact (falkner@ihs.ac.at). Related articles on specific sub-topics can be found on our project homepage: <http://www.mpifg.de/socialeurope>.



Complying with Europe EU Harmonisation and Soft Law in the Member States

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What does EU law truly mean for the member states? Do they abide or don't they? This book presents the first encompassing and in-depth empirical study of the effects of 'voluntaristic' and partly 'soft' EU policies in the member states. The authors examine 90 case studies across a range of EU Directives and shed light on burning contemporary issues in political science, integration theory, and social policy. They reveal that there are major implementation failures and that, to date, the European Commission has not been able adequately to perform its control function. While all countries are occasional non-compliers, some quite frequently put their domestic political concerns above the requirements of EU law. Others neglect these EU obligations as a matter of course. This innovative study answers questions of crucial importance for politics in theory and in practice, and suggests how implementation of EU law can be fostered in the future.

For further information, please consult our website:

<http://www.mpifg.de/socialeurope>

Complying with Europe

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Gerda Falkner, Oliver Treib, Miriam Hartlapp, Simone Leiber

Cambridge University Press 2005

- 1 Introduction: Flexible EU Governance in Domestic Practice
- 2 Theorising the Domestic Impact of EU Law: The State of the Art and Beyond
- 3 EU Social Policy Over Time: The Role of Directive
- 4 The Employment Contract Information Directive: A Small But Useful Social Complement to the Internal Market
- 5 The Pregnant Workers Directive: European Social Policy Between Protection and Employability
- 6 The Working Time Directive: European Standards Taken Hostage by Domestic Politics
- 7 The Young Workers Directive: A Safety Net with Holes
- 8 The Parental Leave Directive: Compulsory Policy Innovation and Voluntary Over-implementation
- 9 The Part-time Work Directive: A Facilitator of National Reforms
- 10 Voluntary Reforms Triggered by the Directives
- 11 The EU Commission and (Non-)Compliance in the Member States
- 12 Beyond Policy Change: Convergence of National Public-private Relations?
- 13 Implementation Across Countries and Directive
- 14 Why Do Member States Fail to Comply? Testing the Hypotheses Suggested in the Literature
- 15 Three Worlds of Compliance: A Typology
- 16 Conclusions: Myth and Reality of 'Social Europe'

Paperback available: <http://www.cambridge.org/catalogue/search.asp>