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**How Can International Organizations Shape  
National Welfare States?  
Evidence from Compliance with EU Directives<sup>1</sup>**

by

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**ABSTRACT**

How can international organizations shape national welfare states? The answer depends on why national governments comply with international organization mandates. International relations scholarship offers two competing compliance models. Enforcement theories emphasize states' utilitarian calculus and predict that states' policy preferences determine implementation, while managerial theories attribute non-compliance to states' capability limitations and emphasize institutional variables. This paper examines the implementation of EU social policy directives through a new quantitative dataset and qualitative case studies of implementation in Greece and Spain. Three proxies for national social policy preferences – low labor costs, high unemployment and early national social legislation – predict implementation delays. At the same time, factors unrelated to national preferences on particular directives have at least as large an impact on timely implementation. Thus, a national bureaucracy's capacity and the absence of veto players reduce implementation delays. These findings suggest that capabilities influence compliance at least as much as preferences, but through mechanisms different from the ones emphasized in existing work. Although international organizations may not be especially successful in overcoming past policy legacies in favor of future commitments, they can reorient the axes of contestation from left-right to supra-sub national and thus shape national policies.

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## I. Introduction

Globalization challenges national welfare systems and stretches the creative capacities of citizens, political leaders and academics to invent suitable policy responses. Some labor advocates, fearing the erosion of worker rights, fight to limit free trade, while others seek to strengthen domestic labor laws. Other groups propose compensating displaced workers, or toughening labor standards in multinationals' corporate codes of conduct. Parallel to these national efforts, a more coordinated alternative is on the rise—international legislation regulating domestic labor and social conditions. While the ILO promotes a new wave of core labor rights, and the EU, NAFTA, MERCOSUR and ASEAN develop regional responses,<sup>2</sup> academics delay in including these increasingly important solutions in their studies. As supra-national organizations promote new and potentially powerful labor norms, a key question emerges: will national governments comply with their international obligations, and how will this shape national social systems?

At the intersection of the comparative politics literature on welfare state, and the international law and international relations literature on compliance with international organization mandates, this area is also fruitful for theoretical development. Beginning with an international relations framework, this paper juxtaposes two theories of compliance. Enforcement theories emphasize nations' material incentives to comply with or shirk from international law implementation, and propose sanctions as a powerful tool to shape these incentives. Managerial theories center on nations' capacity or inability to comply, and propose technical and administrative solutions to non-compliance. These broad frameworks are then filled out and nuanced with the rich understandings of national interests and capacities offered in the social policy literature. In the process of applying theoretical models to this new important problem, we overcome some methodological hurdles that have limited the empirical testing of important theories, and discover that international organizations matter more than welfare theories assume, and in ways that differ from those emphasized in international relations accounts. Although the data substantiates aspects of both enforcement and managerial theories of compliance, and some traditional social policy hypotheses as well, we find that international organizations, by changing the terms of national debates, by mobilizing new actors and (even more surprisingly) demobilizing established interests, can move national welfare policies in new directions.

Examining the most advanced system of regional and social employment coordination, the European Union, can help us understand how existing and upcoming international social policy agreements matter. The EU influences social policy through a multiplicity of channels. Instruments of EU law, including treaties, regulations, and di-

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<sup>2</sup>The 1993 North American Agreement on Labor Cooperation, NAFTA's labor side-agreement, sets up a Commission to enforce each country-member's national labor laws, with sanctions possible for violations of health and safety, minimum wage and child labor laws. In 1998, MERCOSUR governments issued the social-labour declaration, which they have been following up with other capacity-promoting efforts in the employment area. The 1976 Declaration of the ASEAN concord calls for cooperation between member states on labor affairs; efforts here however have been limited to information sharing, coordination of active labor market policy, and technical assistance. See Gitterman 2003 for a more detailed comparison of these organizations' labor provisions.

rectives, bind states to uphold labor and social standards. On the “soft law” side, the practice of issuing recommendations and other non-binding documents has been expanding into the Open-Method of Coordination of member state employment, pension and inclusion policies. The structural funds provide substantial monetary incentives for policy-making to benefit poor regions, sectors and individuals.<sup>3</sup>

The instruments under examination here, directives, bind states to reach specific policy objectives within a given timetable, but permit some flexibility in the specific means employed to reach these common goals. Key employment and social policy decisions are made through EU directives. From maternity leave minima, to maximum working-week hours; from the concentration of chemicals in the workplace air, to the structure of works councils, social policy designed at the EU level can have a large impact on member state activity in this domain. Almost all directives eventually get implemented. Critically, however, only a minority get implemented on time, and there is substantial variation in implementation delays. Indeed, an implementation gap threatening the European project has been much debated and decried.<sup>4</sup> Spurred by a wealth of fascinating but frequently contradictory case-studies concerning the implementation of particular directives, this study examines factors that shape the implementation of a broad set of directives in twelve member states over a fifteen-year period. Understanding the obstacles to international law implementation in the EU can in turn offer insights into the likely obstacles to other emerging international and regional initiatives.

### ***Compliance and Social Policy: A Theoretical Framework***

How can international relations theories guide this pursuit? A central debate in the literature on compliance juxtaposes enforcement and management approaches. According to George Downs and his collaborators, key exponents of the enforcement model, compliance depends on states’ rational calculation of the costs of changing their policy to meet international commitments, weighed against the benefits this change might bring. As compliance can often be costly, careful monitoring and strict enforcement by international organizations best tips the balance in its favor.<sup>5</sup> In contrast, the managerial thesis, associated most clearly with Abram and Antonia Chayes, attributes compliance failures not to rational calculation but instead to treaty ambiguity, capacity limitations of states, and uncontrollable social and economic changes.<sup>6</sup> In Oran Young’s formulation: “the effectiveness of international institutions varies directly with the capacity of the governments of members to implement their provisions.”<sup>7</sup> Whether a coercive strategy of monitoring and sanctions is preferable to a cooperative managerial approach, promoting capacity building and rule clarification, is a live debate whose resolution has been hindered by severe theoretical and methodological obstacles. As the tension between the two remedies stems from conflicting assumptions about the determinants of state behavior, drawing

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<sup>3</sup>For detailed evaluations of the impact of EU legislative instruments see Knill and Lehmkuhl 2002 and Rhodes 1996; on EU soft law and the open method of coordination see Cini 2001 and de la Porte, Pochet and Room 2001; on EU structural funds, see Evans 1999; Anderson 1996 and Rieger 1996.

<sup>4</sup>See Snyder 1993; Tallberg 1999; Brzel 2001.

<sup>5</sup>Downs, Rocke and Barsoom 1996.

<sup>6</sup>Chayes and Chayes 1993, 188.

<sup>7</sup>Young 1992, 183.

from related theoretical accounts can help delineate the appropriate scope for applying, testing and synthesizing these viewpoints.

How can international relations and social policy theories elucidate governments' cost-benefit analyses, as theorized by enforcement approaches? Realist scholars understand a country's national interest to result from its strategic and economic position in the world system, and expect states to comply with international law almost only when it happens to coincide with what they would have chosen anyway.<sup>8</sup> Aggregate measures of a country's social position, such as its demographic, employment or poverty conditions, might thus define its national interest. It is the liberal paradigm, however, that is more useful in understanding intra-EU relations; liberal scholars decompose the national interest into the, usually material, interests of relevant national sub-groups.<sup>9</sup> The dominant theory in the social policy field, the power resources approach, helps us theorize about which state-society interactions matter most. In this model, organized labor, supported by social-democratic governments, accounts for the introduction of extensive redistributive and labor protection mechanisms nationally; these groups' power should thus predict compliance with employment and social directives.<sup>10</sup> National interests can also be usefully broken down into short- and long-term considerations; concerns about long-term national reputation are often emphasized to explain compliance decisions that are costly in the short term.<sup>11</sup> In sum, these varied approaches help clarify how states might engage in the cost-benefit analysis underlying the enforcement model.

How might we better conceptualize national capabilities as the driving determinant of compliance, as the managerial model calls for? Domestic politics and reputational concerns are critical variables in managerial accounts, just as they are in rational actor models, but they influence outcomes through different pathways.<sup>12</sup> Theories that problematize the nature of institutions and the process by which national identity is constructed can help us clarify Chayes's understanding of how "the fundamental norm of international law," that "treaties are to be obeyed," operates.<sup>13</sup> Institutional theories emphasize that domestic and international institutions do not only function as "thin" rules of the game, channeling underlying societal preferences, but may substantially alter policy-making by bringing in new actors, facilitating certain strategic interactions, and redefining issues and interests. Two strands of institutional theories can be usefully applied to understanding compliance: institutionalist work examining international organizations

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<sup>8</sup>See Waltz 1979; Aron 1966.

<sup>9</sup>Moravcsik 1997; 1998.

<sup>10</sup>Korpi 1989; Esping-Andersen 1990; Bradley *et al* 2003; Korpi and Palme 2003.

<sup>11</sup>For an early influential account of the effect of reputation on compliance see Keohane 1984, 105-8; for more recent refinements of reputation theories see Simmons 2000; Sartori 2002 and Downs and Jones 2002.

<sup>12</sup>Young 1992; Chayes and Chayes 1995.

<sup>13</sup>Chayes and Chayes 1995, 8. The Chayes' framework is also compatible with constructivist theories of international relations, which examine how cultural rules constitute actors and define legitimate or desirable goals for them to pursue (Finnemore 1996). However, as debates between constructivists and rational actor theorists indicate, transforming an ontologically persuasive approach into testable propositions is a challenge constructivist scholars have yet to overcome (for some excellent first efforts, see Checkel and Moravcsik 2001 and Downs 2000). This paper thus does not explicitly test constructivist theories, but does highlight evidence that would be consistent with these.

and institutionalist work examining national systems.<sup>14</sup> A classic application of the first strand of institutionalist logic to compliance is the hypothesis that democracies are more likely to follow international rules.<sup>15</sup> Framed at a general level, this hypothesis may not help distinguish between EU member states. However, analogous arguments explain how the structure of EU member state democracies shapes Europeanisation.<sup>16</sup>

Social policy work develops analogous institutionalist arguments in the domestic context. Path dependency—arguing that early choices have determinative impacts on later outcomes; veto players arguments—focusing on the number of agents whose assent is required for change to happen; and varieties of capitalism—explaining how the fit of particular institutions with the national macro-economic context matters—are the three commonly applied frameworks.<sup>17</sup> Each of these can also be useful in understanding compliance with international law; thus, the following section translates these theories into testable hypotheses. In summary, a variety of international relations theories help explain the underlying logic of the enforcement and managerial approaches to compliance; these theories vary in their assumptions concerning the composition, strategic behavior, and time-horizon of key decision makers.

Despite rich theoretical insights, substantial methodological hurdles have marred theoretical progress in the literature on compliance. Central among these are endogeneity and biased selection, inadequate specification of testable hypotheses, and data limitations. Here I discuss these problems and explain how the present study contributes to their resolution. The problem of endogeneity and selection bias has received considerable attention in the compliance literature.<sup>18</sup> In Downs' formulation, unless one controls for "the depth of cooperation" that a treaty calls for, one cannot infer the effectiveness of a regime by looking at compliance patterns. A treaty's depth of cooperation is the extent to which it requires a state to depart from what it would have done in the treaty's absence. Downs' assertion holds because international treaties are generated by the very states that must then comply with them; states may often have incentives to set these standards low so as to be able to meet them, creating the illusion of an effective regime. Empirical studies of cooperation have been understandably slow in controlling for "depth of cooperation"; constructing a counterfactual about a treaty that could have been agreed to is no easy feat.

This paper's research design offers two solutions. First, to the extent that there exist bodies of international law whose development depends less tightly on the prefer-

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<sup>14</sup>For an overview and helpful classification of the diverse scholarship adopting institutionalist approaches see Hall and Taylor 1996.

<sup>15</sup>Different rationales for this pattern include the arguments that norms of legalism can spill over from the domestic to the international regime (Dixon 1993), that the incorporation of international norms into domestic law makes democracies more likely to comply with the former, given their respect for the latter (Fisher 1981), and that in democracies activists can better challenge government non-compliance (Sikkink 1993).

<sup>16</sup>These range from the neo-functionalist literature that uses the concept of spillovers to explain the construction of expansive agreements, to the multi-level governance literature that explains how the preferences of supra- and sub-national governments alter the process of Europeanisation, to recent contributions that explicitly examine the impact of EU-level developments on member state domestic institutions. (Mattli and Burley 1993; Marks, Hooghe and Blank 1996; Knill 2001; Cowles, Caporaso and Risse 2001).

<sup>17</sup>Pierson 1994, 1995, Immergut 1992, Hall and Soskice 2001.

<sup>18</sup>Downs *et al* 1996; Downs 2000; Simmons 1998.

ences of national governments called upon to implement them, EU directives may form the best example. The European Commission's substantial resources in terms of staffing and consequent information access, as well as its privileged legal position as an initiator of legislative proposals account for this unique status.<sup>19</sup> Although a powerful independent bureaucracy mitigates the endogeneity problem, it does not solve it; despite expansionary desires, the Commission acts strategically to propose directives that national governments could potentially agree upon and implement. Thus, a more complete solution to the endogeneity problem comes from shifting the question: one can use compliance statistics without trying to estimate the effectiveness of the regime directly, but aiming instead to examine the patterns of non-compliance. There is no expectation that these findings will be biased in the manner Downs suggests. Understanding why some countries fail to comply with a given set of international norms is a central question in itself, which in turn might improve our estimates of the effectiveness of international regimes.

A second central problem in the compliance literature results from difficulties in framing testable hypotheses. Although international relations scholars all agree that domestic politics matters, and different scholars tell us whose preferences to focus on, defining exactly what these preferences are is no easy task. Yet, since many of the theories hinge on distinguishing preferences of various domestic actors, preferences for the short term and the longer term, and preferences that may change through the process of negotiation, a rigorous specification is necessary. To address this concern, this paper draws heavily from developed hypotheses on domestic interests from the field of comparative politics. When hypotheses are listed in the subsequent section, I identify whether they fit best with the enforcement or the managerial model.

A third central problem in the compliance literature stems from inadequate data. Although the EU and its member states offer better data than possibly any other international system, data challenges are evident in existing studies of directive implementation. Many qualitative studies provide excellent in depth-analysis of particular directives,

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<sup>19</sup>Although directives stem from broad treaty commitments, to which national representatives must agree, the EU Commission, a sizeable bureaucracy and very "creative" agenda setter, has the (until recently exclusive) right to initiate particular pieces of legislation. The Council of Ministers, representing national governments, must consent before a directive is issued. (See Borchardt 2000 for details on how directives are issued). Since the 1986 Single European Act, an absolute majority of the Council of Ministers, rather than unanimity, has been required to pass directives in the area of health and safety at work, while since the 1992 Maastricht treaty, qualified majority voting was expanded to include working conditions, information and consultation of workers, equal opportunities, and the integration of people excluded from the labor market. Almost all directive proposals end up as directives, and while the content changes through the directive writing process, Hull estimates that the final proposal adopted by the Council contains around 80 percent of the Commission draft (Hull 1993). Although many of these changes water down sensitive clauses, the growing involvement of the European Parliament and social partners leads to changes in the opposite direction. Finally, the role of experts drafting the texts is seen as critical to setting directives at very high standards, "not only because technical experts share a common orientation to solutions representing the technological state of the art, but also because of the incentives following the double-edged logic of delegation: the delegate has only fulfilled his task if he or she is able to claim that the outcome reached in committee can be considered a success, and hence should be accepted by the minister. The minister in turn will find it awkward to denounce a compromise that was accepted by the national delegation in committee" (Eichener 1998, 603).

but often offer conflicting predictions, and may sacrifice breadth for depth. Insights from particular case studies are discussed in the hypothesis section below.

Lisa Martin,<sup>20</sup> Torbjörn Bergman,<sup>21</sup> Risto Lampinen and Petri Uusikyla,<sup>22</sup> and Heather Mbaye<sup>23</sup> examine the factors that influence the adoption of EU directives in a quantitative fashion. These important works shed light on some of the facets of directive implementation and point to the issue's theoretical and practical significance. Nevertheless, none of these works is able to explicitly juxtapose major theories of compliance,<sup>24</sup> and none of them directly examines the dependent variable of interest—the delay in directive transposition.<sup>25</sup> These two methodological limitations call for a reexamination of the data.

This study overcomes these obstacles to the testing of the dominant theoretical approaches through three innovations: a research design that permits the explicit juxtaposition of these dominant theories, a dataset that measures the dependent variable directly, and novel measures for relevant independent variables. Instead of using the entire set of directives and trying to surmise government preferences from the limited information of the voting record, this study focuses on a subset of directives on which government preferences can be inferred. As the hypotheses below illustrate, because the literature on social policy is well developed, the combination of information on party orientation, national labor costs and unemployment levels, government voting records, and past legislative efforts at the national level should provide substantial information on national preferences.

The subsequent section outlines the specific hypotheses under investigation. The third section presents the empirical results. The final section discusses the implications of these results.

## II. Hypotheses and Operationalization

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<sup>20</sup>Martin 2000.

<sup>21</sup>Bergman 2000.

<sup>22</sup>Lampinen and Uusikyla 1998.

<sup>23</sup>Mbaye 2001.

<sup>24</sup>Not including controls for important alternative theories does not only limit one's ability to comment on these contrasting explanations. It may also lead to biased assessments of one's preferred theory. For example, Mbaye and Lampinen and Uusikyla both report the paradoxical finding that pro-Europe public opinion is positively correlated with a weaker implementation record (Mbaye 2001; Lampinen and Uusikyla 1998). It is likely that this is the result of omitted variable bias; for example, less developed EU member states may both draw greater advantages from the EU, and thus be more supportive of it, and have bigger difficulties in and disincentives for implementing EU policy promptly.

<sup>25</sup>More specifically, Mbaye uses European Court of Justice (ECJ) cases initiated and won by the commission, while Martin, Bergman, and Lampinen and Uusikyla use percentages of directives implemented on time each year, sometimes broken down by broad subject matter categories. The problem with using ECJ cases as a dependent variable is that directives not implemented by the deadline do not always end up in the ECJ. Moreover, the sample is chosen not randomly but instrumentally by the Commission. The alternative approach, using percentages of directives implemented of time, makes key types of analysis impossible, including analyses incorporating directive-level information, and analyses of delays in implementation. Additional excellent studies that report aggregate implementation statistics and draw interesting theoretical insights from these, without however connecting dependent and independent variables through a regression framework, include Brzel 2001 and Talberg 2002.

As outlined above, although competing international relations perspectives offer useful framework devices, substantial efforts are needed to transform them into testable propositions and to find suitable measures. This section explores possibilities for such a specification.

### *Hypotheses concerning directive congruence with national preferences*

The argument that countries whose national objectives coincide with particular directives are more likely to implement these quickly has strong face validity. Nonetheless, advocates of the enforcement model clash with supporters of the managerial model on the centrality of this theme as an explanatory variable. A first measure of the congruence between a directive and the national interest of a member state is an affirmative vote in the Council of Ministers.<sup>26</sup> I put votes in the regression model under two separate coding schemes; first, coding all affirmative votes as 1 and all abstentions or negative votes as 0 (Vote 1 below), and second coding all affirmative votes as 1, abstentions as 0, and negative votes as -1 (Vote 2 below).

Although most decisions are still made unanimously, the relationship between an abstention or negative vote and a delay in the implementation of a directive is theoretically straightforward. Nonetheless, the scarcity of negative votes and abstentions makes the voting record unlikely to explain much of the variance in implementation rates, as an affirmative vote does not distinguish between an enthusiastic supporter of a particular directive, and a very hesitant player tagging along while planning to delay implementation.<sup>27</sup>

*H1 Countries that have voted in favor of a particular directive are more likely to implement it quickly.*

A second proxy for national preferences on a particular subject is national level legislation. The hypothesis tested states that countries that have pioneered legislation in the field of a directive will be more likely to implement the directive promptly. This hypothesis rests on the extensive literature on European welfare states, which describes the process of policy development as one of accretion, with strong institutional dynamics impeding cutbacks and past choices constraining future options.<sup>28</sup> An analogous argument is made in several case studies on EU directive implementation, which argue that the fit of the directive with national institutions determines the likelihood of its rapid implementation.<sup>29</sup>

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<sup>26</sup>As mentioned above, qualified majority voting was introduced for health and safety issues in 1986, and was expanded in 1991 to cover directives on working conditions, information and consultation of workers, equal opportunities, and the integration of people excluded from the labor market.

<sup>27</sup>I was also able to access to a portion of the Minutes of the Council of Ministers. Again however, the statements in opposition to the directive at the final stage of the debate were quite limited.

<sup>28</sup>See Pierson 1994. Although the conflict between new and existing legislation could, in theory, render difficult the reconciliation of a directive with existing legislation, this is unlikely to be a major problem as a) the directives are frequently more advanced than existing national laws; b) they set minimum standards, permitting countries that already have higher national standards to keep these intact (and prohibiting them from using the directive as an excuse to lower national standards).

<sup>29</sup>See, for example, Knill 2001 and Duina and Blithe 1999.

The ILO Natlex database offers a thorough compilation and categorization of national legislation on employment and social security.<sup>30</sup> In the interests of creating a measure that required as few assumptions about the content of directives and about the appropriate national law as possible, I used a very broad classification.<sup>31</sup> The EU Commission annual reports break down employment and social policy directives into four broad categories: a) occupational health and safety; b) gender equality; c) migration; and d) employment legislation.<sup>32</sup> I used a similarly broad scheme to classify each EU member as an early or late developer in each of the listed fields.<sup>33</sup>

*H2 Countries that introduced national legislation in the subject area of the directive early on are more likely to implement it quickly.*

Although hypotheses 1 and 2 are general and apply across directives, data constraints make them incomplete proxies for national interest. By limiting the directives examined to the subset concerning work and social policy, one can substantially improve a model of preferences. The directives in question add to labor protection and thus to the cost of production. Thus, one expects governments with low levels of protection to be more hesitant to adopt them, given that they will face a greater increase in labor costs. Similarly, one expects governments experiencing high levels of unemployment to be hesitant to introduce additional protection.<sup>34</sup> Unemployment and labor cost data came

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<sup>30</sup>National governments must inform the ILO about legislative changes on labor and social security matters. Labor law experts conclude that at least for the 1980s and 1990s, the Natlex database offers complete and cross-nationally comparable classifications (Scholz and Trantas 1995).

<sup>31</sup>A more detailed coding scheme was not chosen for reasons of reliability. Many of the directives fall under more than one narrow categories, and, using narrow categories, the same directive might be categorized differently in different legal systems. As this is a new measure, I was happy to find that, within the NATLEX database, early introduction of measures in a particular subfield was correlated with ample law production in that field. External confirmation of this measure comes by comparing the classification of early and late developers with an existing expert classification of early and late developers in health and safety, and noting the substantial overlap (Eichener 1997).

<sup>32</sup>Migration policy was not an active subject of EU social policy directives in the period studied; thus no directives on migration were in the dataset.

<sup>33</sup>I developed strict criteria to code whether countries had developed national legislation on particular topics. If countries had legislation on occupational safety hazards related to toxic substances and agents prior to 1980 they were considered early developers in matters of occupational health and safety; according to this scheme, all countries except for Greece, Spain, Portugal and Luxembourg were early developers. If countries had legislation on equal opportunity prior to 1990s or maternity protection legislation prior to the 1980s, they were considered early developers in matters of women and employment. According to this scheme, all countries except for Greece, Spain and Ireland were early developers. The remaining category of employment measures proved the most challenging to code. Directives in this area fell into four ILO categories: conditions of employment, conditions of work, employment and industrial relations. In the classification scheme used here, countries that were late developers in two or more of these categories were coded as late developers for the general category of employment directives; these countries were Greece, Ireland, Italy, Spain, Luxembourg, Portugal and Denmark. I did not set one single cut-off date across issue areas because this would not match changing patterns of legislative activity—occupational health and safety, for instance, has preoccupied countries throughout the century, while gender equality did not become a dominant theme until the 1970s. In the data the gaps between early and late developers are substantial; a variety of cut-off points would have resulted in the same classifications of early and late developers.

<sup>34</sup>Indeed, in their careful quantitative analysis of welfare state growth and retrenchment, Evelyne Huber and John Stevens single out unemployment as the primary motor behind retrenchment for the post 1980 period

from Eurostat.<sup>35</sup> Labor costs are mean hourly costs for workers in industry in ecus, while unemployment rates are harmonized annual averages.

*H3 Countries with low labor costs should implement social policy directives more slowly.*

*H4 Countries with high unemployment levels should implement social policy directives more slowly.*

Finally, a standard expectation of comparative politics is that the ideological position of the government should matter. Directives on social policy either call for standards higher than those already in place in many member states, or set minima, according to which states with more developed protections need (and ought) not lower their standards. Left-wing governments are expected to support additional worker protection, and thus to be more favorable towards directive implementation in employment and social policy matters.<sup>36</sup>

*H5 Left-wing governments should increase the speed of directive implementation.*

Similarly, governments with a more favorable attitude towards the European Union should make greater efforts to implement directives. Attitudes towards the EU can serve as an indirect proxy for reputation effects. As Downs and Jones explain the reputation thesis: “a major—if not the major—reason why states keep commitments, even those that produce a lower level of returns than expected, is because they fear that any evidence of unreliability will damage their current cooperative relationships and lead other states to reduce their willingness to enter into future agreements.”<sup>37</sup> Governments that are supportive of the EU should be more concerned about the success of current, and the prospects for future, cooperative arrangements than governments hesitant about further EU integration. Thus pro-EU governments should be more willing to implement directives punctually.<sup>38</sup>

Dummy variables for left-wing and pro-European governments were used in this analysis. Woldendorp, Keman and Budge<sup>39</sup> and annual updates to their work, Müller and Strom,<sup>40</sup> Keesing’s record of world events,<sup>41</sup> as well as various internet sources were used to determine the exact tenure dates of governments. I followed the Bohrer and Tan<sup>42</sup> clas-

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(2001, 6). Korpi and Palme argue, in a parallel fashion, that during periods of high unemployment, labor is in a weaker negotiating position (2003, 428).

<sup>35</sup>Eurostat 2001.

<sup>36</sup>See, among many others, Esping-Andersen 1990, Korpi and Palme 2003 and Bradley *et al.* 2003.

<sup>37</sup>Downs and Jones 2002, S69.

<sup>38</sup>This metric does not directly capture how much a government is influenced by reputational concerns. It is hard to think of a measure that would. Indicatively, Simmons’ leading work on the effects of reputation on compliance relies on the following proxies for reputation: whether other countries in the region comply, and whether a country respects the rule of law (Simmons 2000, 595). Simmons asks: “when will reputational costs have their greatest impact?” (594). Analogously, the hypothesis here is that these costs should matter most for pro-EU governments.

<sup>39</sup>Woldendorp, Keman and Budge 1993.

<sup>40</sup>Müller and Strom 2000.

<sup>41</sup>Keesing’s record of world events 2001.

<sup>42</sup>Bohrer and Tan 2000.

sification of left-wing parties, which updates the standard Castles and Mair<sup>43</sup> and Huber and Inglehart<sup>44</sup> classifications of party ideology. Leonard Ray followed a similar expert-survey design, and scored parties on their position on European integration on a 7-point scale.<sup>45</sup> Governments including at least one left-wing party were coded as left-wing (1), while governments with at least one party scoring at least a 6 on Ray's 7-point scale were coded as pro-Europe (1).<sup>46</sup>

*H6 Pro-Europe governments should increase the speed of directive implementation.*

### ***Hypotheses concerning national capacities to implement EU directives***

In contrast to the enforcement model, which predicts that countries' preferences on international agreements will determine compliance, the managerial model sees countries' capacities to comply as the primary factor explaining compliance. How can we model national capacity to comply? First, one might expect countries whose decision-making processes require the consent of many actors to have greater difficulty in implementing legislation.<sup>47</sup> Extensive qualitative examinations apply this general proposition to directive implementation, and find limitations on executive and parliamentary coordination to be key obstacles to implementation.<sup>48</sup> Both the number and ideology of coalition partners in particular governments, and institutions, such as federalism, should raise the threshold of consensus needed for directive implementation, and thus delay this process.<sup>49</sup> Again, qualitative work emphasizes that regional governments with important legislative powers in federal systems, hesitant to implement agreements they had little role in negotiating, delay implementation.<sup>50</sup>

Data on multi-party governance come from Tsebelis (2002a). For practical purposes, this veto point data corresponds to the number of parties in governing coalitions, although they are adjusted slightly for the ideologies of the partners, and for the existence of other veto players. Data on the representation of regional players come from Hooghe and Marks (2000), and range from 0, (no representation of regional interests at the central level), to 4.

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<sup>43</sup>Castles and Mair 1984.

<sup>44</sup>Huber and Inglehart 1995.

<sup>45</sup>Ray 1999.

<sup>46</sup>Although alternative codings of parties' orientations towards Europe are not available in the literature, this is not the case for party positioning on the left-right dimension. Three classifications of party positions are widely used, those by: Castles and Mair (1984), Laver and Hunt (1992) and Warwick (1994). Using data provided by George Tsebelis, I tested for each of the alternative codings of left-wing party orientations (Tsebelis 2002).

<sup>47</sup>Tsebelis 1995, 2002b; Haverland 2000.

<sup>48</sup>Siedentopf and Ziller 1988a, 1988b; Siedentopf and Hauschild 1989.

<sup>49</sup>A minority viewpoint in comparative politics distinguishes between collective and competitive veto players (Birchfield and Crepez 1998; Lijphart 1999). These authors argue that although competitive veto points, such as regional players, impede the policy-making process, collective veto players, such as multi-party governments, facilitate cooperative policy-making and thus speed up the process. Although this theory implies that hypothesis seven should be signed in the opposite direction, it underscores the need for two separate hypotheses on veto players.

<sup>50</sup>Siedentopf and Hauschild 1989.

*H7 Countries whose governments are composed of few and ideologically similar parties will be better able to implement directives quickly.*

*H8 Countries with regional governments represented at the central level are expected to implement directives more slowly.*

Furthermore, one might expect the ability of national bureaucracies to process directives to matter. The Chayes theoretical analysis centers on capacity, and they present multiple empirical illustrations from a variety of treaty frameworks where scientific, technical, bureaucratic and financial limitations of developing countries impeded compliance.<sup>51</sup> Case studies on EU directive implementation also support this hypothesis; for example, in her work on directive implementation in Greece, Calliope Spanou decries the assumption of “the universality of Weberian-type bureaucracies” and draws our attention to national administrative traditions and especially to more informal aspects of implementation processes.<sup>52</sup>

As Polidano’s survey of possible measures of public sector capacity indicates, no such measure exists.<sup>53</sup> Thus, three related proxies were used here. First, following Mbaye,<sup>54</sup> ratings of national bureaucracy effectiveness derived from Auer, Demmke, and Polet’s 1996 survey of civil services were used.<sup>55</sup> The second proxy for government effectiveness is a transparency score produced by the Internet Center for Corruption Research<sup>56</sup>—the more transparent the government, the higher the score. The third measure is a score on government responsiveness. The International Institute for Management Development published these scores for the 1990-2000 period on the basis of national experts’ answers to the following question: “Does the government adapt its policies to new economic realities effectively?”<sup>57</sup> Responsive governments were given higher scores.<sup>58</sup>

Despite each of these measures’ limitations, their high correlation indicates that they capture a similar underlying dimension and are thus reasonably good proxies for a measure of government capacity.<sup>59</sup>

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<sup>51</sup>Chayes and Chayes 1995.

<sup>52</sup>Spanou 1998, 468.

<sup>53</sup>Polidano 2000.

<sup>54</sup>Mbaye 2001.

<sup>55</sup>This indicator has two shortcomings for the purposes of this work. First, this is a direct measure of civil service hiring methods, which captures their effectiveness only indirectly. Second, this measure does not vary over time.

<sup>56</sup>ICCR 2001.

<sup>57</sup>World Competitiveness Yearbook, Various Years.

<sup>58</sup>Besides the limited nature of this data, the particular question is somewhat problematic. Not only is it indirect, but it may also tap onto a dimension of conservatism in economic policy that runs counter to responsiveness as understood in the context of increasing labor regulation.

<sup>59</sup>A fourth measure, a survey question available through the World Competitiveness Yearbook on state efficiency as evaluated through the implementation of government decisions was not used, as it was only available for the 1998-2000 period. However, the high correlation between this measure and the transparency and responsiveness measures increases confidence that these variables are good proxies of government capacity to implement legislation. See the subsequent section for more information on how these variables were placed in the regression models.

*H9 Countries with more efficient and more transparent bureaucracies will implement directives more quickly.*

Finally, Martin<sup>60</sup> and Bergman<sup>61</sup> both argue that countries whose parliaments scrutinize EU directives in the early stages of their development have better implementation records. Early parliamentary examination permits national governments to prepare themselves for the directive, and also signals a credible commitment to implementation. Although both find empirical support for this proposition, they do so without controlling for many alternative explanations, and invite further research on this matter.

Parliamentary involvement in EU affairs was scored from 0 to 3; a 0 indicates that the country had no EU committee in a particular year, a 1 indicates a committee with minimal involvement and a 3 indicates substantial involvement. The scoring of parliamentary involvement follows Bergman;<sup>62</sup> dates of committee foundation come from Raunio and Wiberg.<sup>63</sup>

*H10 Countries that scrutinize directives prior to agreeing to them will implement them more quickly*

Table 1 below summarizes these hypotheses.

***Table 1: Predicted Effects on Directive Implementation Speed***

Presence/High level of Variable	Predicted Coefficient Sign
<i>Preference Measures</i>	
Vote on directive	+
Early legislation	+
Labor costs	+
Unemployment	-
Left government	+
Pro-europe government	+
<i>Capability Variables</i>	
Multi-party government	-
Regional representation in central government	-
Bureaucratic capacity	+
Parliamentary involvement	+

<sup>60</sup>Martin 2000.

<sup>61</sup>Bergman 2000.

<sup>62</sup>Bergman 1997.

<sup>63</sup>Raunio and Wiberg 1999. Although committee strength may vary over time, Bergman's more recent classification shows that, at least between 1996 and 1999, these shifts were relatively minor (Bergman 2000).

### III. Data Analysis and Results

Two dependent variables are of theoretical interest as measures of implementation delays. First, a binary variable indicates whether a country implemented a particular directive on time (on or before the deadline). Second, where a directive was implemented after the deadline, a duration variable measures the distance between the deadline and the actual implementation date. Annual information on whether particular directives have been implemented in particular years, available in the European Commission's Annual Reports on the Monitoring of the Application of Community Law, was used to construct these two variables.<sup>64</sup> This project analyzes all directives identified by the Commission as belonging to the field of employment and social policy, whose implementation deadlines fell between the years 1985 and 2000. Appendix I lists the 53 directives studied.

The ontime implementation variable is binary, making a logit model appropriate. Delay in implementation is a duration variable, making survival analysis appropriate. A Cox proportional hazards model was chosen, as unlike parametric models, it does not require an assumption about the baseline hazard rate.<sup>65</sup> The hazard rate can be interpreted as the instantaneous probability that the directive will be implemented in the interval  $[t, t+\Delta t]$ , provided that it has not already been implemented in a prior interval.

In the Cox model, the hazard rate consists of an unspecified baseline hazard  $\lambda_0(t|X)$  and a simple transformation of the covariates which prevents them from making the hazard rate negative:

$$\lambda(t|X) = \lambda_0(t|X)\exp(\mathbf{x}'\boldsymbol{\beta}).$$

More than one measure is available for three of the independent variables: bureaucratic capacity, left-wing government, and a government's vote on a particular directive. In the case of the proxies for left-wing government and government vote, I placed each of them sequentially (and separately) in the models; as they never appeared significant, I did not combine them. Three highly correlated independent variables did influence the dependent variables—bureaucratic efficiency, responsiveness and transparency. Since they were all intended as proxies for the same concept, bureaucratic capacity, and were highly correlated, they could not all be placed in a model at the same time.

Factor analysis was used to combine these variables for the years during which data was available on all three measures. I report regression models with the transparency measure rather than the bureaucratic capacity factor or the other variables as the transparency measure varies over both time and space, is available for the entire period under study, and is easiest to interpret. When transparency is replaced by responsiveness, effi-

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<sup>64</sup>Although annual information may not appear as precise as the exact date on which the Commission was notified about the implementation of a particular directive, it is unclear that such detail would convey useful information, rather than noise associated with the organization of the legislative cycle in each country.

<sup>65</sup>Cox 1972. Maximum likelihood methods were used to estimate these models. The exact marginal method was used to resolve ties. Data sample size was not an important concern here, as over fifty directives were implemented in twelve countries. Right censoring was also not a problem here, as almost all directives were implemented within the observed time frame. Linear interpolation was used to impute missing values where possible; otherwise, listwise deletion was used.

ciency, or by the factor of these variables, results remain very similar, increasing confidence in the models presented below.<sup>66</sup>

Table 2 presents summary statistics on the independent variables. The number of observations corresponds to the number of countries multiplied by the number of directives multiplied by the number of years for which the directive was in the dataset.<sup>67</sup>

**Table 2: Summary Statistics on Implementation Predictors**

Variable	Obs	Mean	Std Dev	Min	Max
<i>National Preference Measures</i>					
Vote 1	1091	0.98	0.14	0.00	1.00
Vote 2	1091	0.97	0.18	-1.00	1.00
Early legislation	1286	0.63	0.48	0.00	1.00
Labor costs	1356	17.00	6.20	2.98	28.66
Unemployment	1329	9.39	4.72	1.70	24.10
Left government (binary coding)	1356	0.62	0.49	0.00	1.00
Left government (Laver and Hunt)	1117	11.30	3.36	0.00	17.20
Left government (Castles and Maier)	913	5.31	1.62	2.00	8.40
Left government (Warwick)	1056	-0.55	1.55	-3.50	3.00
Pro-europe government	1356	0.86	0.35	0.00	1.00
<i>Structural Variables</i>					
Multi-party government	1356	2.07	1.46	0.00	6.00
Regional Representation in Central Government	1356	0.90	1.22	0.00	4.00
Bureaucracy's Responsiveness	1228	4.79	1.19	2.33	7.90
Bureaucracy's Transparency	1292	6.81	1.78	2.99	10.00
Bureaucratic Efficiency	1356	1.43	0.70	1.00	3.00
Parliamentary Involvement	1356	1.16	0.77	0.00	3.00

<sup>66</sup>I tried three alternative specifications of the Cox model to test whether the results were driven by cross-national differences not captured by the independent variables presented. I ran a fixed effects model, a model with a dummy for Italy (following Mbaye 2001), and a model including GDP per capita as a proxy for other cross-national variation. The coefficients retained their sign and size across specifications. Some of the variables that varied predominantly over space lost their significance in the fixed effects model, corruption lost its significance in the model with the Italy dummy, and labor costs and unemployment lost their significance in the model that included GDP. The overall regularity of these patterns, with deviations matching theoretical expectations, increases confidence in the results presented below.

<sup>67</sup>A directive enters the dataset in the year of its implementation deadline, and exits when it is implemented.

## Quantitative Results

Table 3 presents the Kaplan-Meier survival function; these figures represent the probability that a directive will not be implemented by the end of a certain period. For example, overall, only 32 percent of the directives were implemented within the calendar year of the implementation deadline. Some clear leaders appear — notably Denmark and Britain — while Italy stands out as a laggard. Variation around country means (not shown) is such that one can distinguish these countries from the remaining ones, but cannot make statistically significant distinctions between the ratings of other countries. Data comparing directive implementation in different years (not shown) indicate slight variation from year to year, but no overall time trend.

These country patterns are striking in light of some national preference theories. For example, the two leaders in directive implementation, Britain and Denmark, have national systems of voluntary agreements at odds with the regulatory model promoted through EU directives.<sup>68</sup> Moreover, Britain has been the vocal opponent of EU social policy. Country rankings thus serve as an early indication that distance from existing political positions may not be the key predictor of timely directive implementation. This question is explored further in the regression models below.

**Table 3: Implementation Delays by Country**

Country	Kaplan-Meier Survivor Function				
	(Probability directive won't be implemented x years after deadline)				
	0	1	2	3	4
Belgium	0.72	0.37	0.24	0.11	0.05
Denmark	0.45	0.15	0.12	0.00	0.00
Germany	0.70	0.43	0.15	0.03	0.00
Greece	0.77	0.43	0.22	0.07	0.04
Spain	0.66	0.44	0.29	0.21	0.13
France	0.57	0.27	0.13	0.09	0.09
Ireland	0.58	0.34	0.21	0.10	0.03
Italy	0.91	0.64	0.34	0.13	0.00
Netherlands	0.85	0.50	0.23	0.14	0.05
Luxembourg	0.64	0.31	0.12	0.00	0.00
Portugal	0.81	0.36	0.14	0.05	0.03
UK	0.47	0.21	0.04	0.02	0.00
Total	0.68	0.38	0.18	0.08	0.04

Table 4 presents a logit model predicting the ontime implementation of directives. Table 6 presents a Cox model predicting the duration of the delay in directive implementation. In both cases, Model I places all the variables in the regression, while Model III includes only the variables that ever appear significant. Models II and IV are identical to

<sup>68</sup>Rhodes 1996.

Models I and III, respectively, except that they exclude the early legislation variable. Both the novel nature of this measure, and its theoretical connection to labor costs warrant testing whether its inclusion substantially changes the size and significance of other coefficients. As logit coefficients are difficult to interpret, table 5 presents first differences, which indicate the effect of a one-unit change in the independent variable on the probability of ontime implementation, with other variables held at their means. Table 6 presents hazard ratios, which can be directly interpreted. A hazard ratio of 1 indicates no effect; a value between 0 and 1 indicates a decrease and a value greater than 1 an increase.

**Table 4: Predicting Ontime Implementation**

		Coefficient (std. err.)				
		Exp. Sign	I (n=347)	II (n=359)	III (n=445)	IV (n=457)
<i>Preference Measures</i>						
	Vote	+	0.78 (0.94)	0.48 (0.91)		
	Early legislation	+	0.76* (0.32)		0.57* (0.28)	
	Labor Costs	+	0.06 (0.04)	0.08* (0.04)	0.06* (0.03)	0.07* (0.03)
	Unemployment	-	0.02 (0.03)	0.02 (0.03)	0.02 (0.03)	0.02 (0.03)
	Left government	+	-0.22 (0.29)	-0.36 (0.27)		
	Pro-europe government	+	0.30 (0.33)	0.08 (0.32)		
<i>Capability Variables</i>						
	Multi-party government	-	-0.33* (0.14)	-0.23 (0.13)	-0.23* (0.11)	-0.17 (0.11)
	Regional Representation	-	-0.41* (0.15)	-0.47* (0.14)	-0.47* (0.13)	-0.54* (0.12)
	Bureaucracy's Transparency	+	0.17* (0.10)	0.21* (0.10)	0.18* (0.09)	0.22* (0.08)
	Parliamentary Involvement	+	0.11 (0.17)	0.06 (0.17)		
	Constant		-3.39* (1.27)	-3.18* (1.22)	-2.50* (0.73)	-2.82* (0.71)

\* = significant at the 0.95 level

**Table 5 Predicting Ontime Implementation: First Differences**

	Exp. Sign	First Differences [95% Conf. Int.] Model III (n=445)
<i>Preference Measures</i>		
Early legislation	+	0.12* [0.01, 0.23]
Labor Costs	+	0.02* [0.0002, 0.03]
Unemployment	-	0.004 [-0.008, 0.016]
<i>Capability Variables</i>		
Multi-party government	-	-0.05* [-0.11, -0.002]
Regional Representation	-	-0.11* [-0.16, -0.05]
Bureaucracy's Transparency	+	0.04* [0.003, 0.08]

\* = significant at the 0.95 level

**Table 6: Predicting Delays in Implementation**

	Coefficient (std. err.)				
	Exp. Sign	I (n=791)	II (n=861)	III (n=1025)	IV (n=1095)
<i>Preference Measures</i>					
Vote	+	0.95 (0.45)	0.67 (0.26)		
Early legislation	+	1.44* (0.23)		1.32* (0.03)	
Labor costs	+	1.02 (0.02)	1.04* (0.02)	1.04* (0.01)	1.05* (0.01)
Unemployment	-	0.97 (0.01)	0.97* (0.01)	0.97* (0.01)	0.97* (0.01)
Left government	+	0.85 (0.11)	0.81 (0.09)		
Pro-europe government	+	0.98 (0.17)	0.89 (0.15)		
<i>Capability Variables</i>					
Multi-party government	-	0.80* (0.05)	0.85* (0.05)	0.79* (0.00)	0.82* (0.04)
Regional Representation	-	0.78* (0.06)	0.76* (0.05)	0.78* (0.00)	0.75* (0.04)
Bureaucracy's Transparency	+	1.09 (0.05)	1.10* (0.05)	1.08 (0.05)	1.09* (0.04)
Parliamentary Involvement	+	1.06 (0.09)	1.03 (0.08)		

\* = significant at the 0.95 level

The first key finding concerns the variables that were not significant. The ideological identity of the party in government was insignificant, both on the left-right and the

pro-/anti-Europe dimensions. This held true for each of the measures of left-right government position presented above. Similarly, the national voting record, and parliamentary involvement were always insignificant.

Early legislation and labor costs were the two proxies for national preferences that were significant predictors of both ontime implementation and of the duration of the delay in implementation. A one-ecu increase in a country's hourly labor cost increases the probability of ontime implementation by 1 percent. It reduces the delay in implementation by 4 percent.<sup>69</sup> The range of this variable was large: indicatively, in 1998, the gap between Greece, the country with the lowest labor costs, and Germany, the country with the highest labor costs, was fifteen ecus. If a country had introduced social legislation early on, it is 12 percent more likely to implement a directive by the deadline, and speeds up its implementation by 32 percent. As early legislation is a binary variable, a one-unit shift represents the maximum distance between cases. Unemployment mattered only in predicting delays in implementation. A 1 percent increase in the unemployment rate increased the implementation delay by 3 percent. In summary, it is notable that several predictors of national preferences, including a government's position on the left-right scale, its position on the pro-/anti-Europe scale, and its vote on the directive never mattered. Instead, labor costs and early legislation have moderate to sizeable effects. This pattern invites an intriguing hypothesis for further investigation: to the extent that preferences matter, it is longstanding features of the country, or past government choices, rather than more fleeting expressions of current policy, that predict compliance.

Variables measuring national capability to comply have substantial effects. A one-unit increase in a government's transparency score increases the probability of on-time implementation by 4 percent and reduces the delay in implementation by 8 percent. Indicatively, the gap between Italy, the least transparent country in the sample, and Denmark, the most transparent, was 5.4 units in 2000. Conversely, the addition of a coalition partner to a government decreases the probability of timely implementation by 5 percent and increases the delay in implementation by about 21 percent. Indicatively, this variable ranged from 1 for single-party governments typical of Britain to 6 for multi-party coalition governments in Italy and Belgium. The addition of one point on the regional government score reduced the probability of on-time implementation by 11 percent and increased the overall delays in implementation by 22 percent. This variable ranged from 0 for unitary governments such as Denmark's to 4 for federal governments such as Germany's.

### ***Qualitative Results***

Qualitative evidence coheres with the quantitative analysis in showing capability limitations to be at least as important as national preferences in delaying directive implementation. This qualitative evidence also sheds light on the pathways through which particular preferences and capability limitations matter. International organizations shift the

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<sup>69</sup>Model III estimates are cited in this discussion. Across the board, the independent variables are better predictors of the duration of the implementation delay than of ontime implementation. This is consistent with the theories underlying this analysis: each of these variables is expected to influence the duration of the process directly, and be only indirectly related to whether the process has been completed by a particular cutoff date.

axes along which social policies are contested, from left-right to supra-sub national; however, International Organizations cannot always shift the relevant time frame—past decisions continue to weigh more heavily than future commitments.

Case studies available in the secondary literature, a broad Commission survey on the question of directive implementation and interviews with policy makers make up this study's qualitative evidence. The qualitative research focuses on Greece and Spain, two member states whose poor implementation record has provoked considerable concern in compliance debates.<sup>70</sup> As these states are expected to have both substantial incentives to delay directive implementation as a matter of national social policy, and substantial capability limitations, taking a closer look permits us to examine specific aspects of both accounts more closely.<sup>71</sup>

Three types of secondary works were especially useful in the evaluation of this paper's theories: recent theoretical work elaborating on the importance of fit – be it legal, institutional, administrative or substantive – between a directive and a member state, comparative studies tracing not only the results but also the process of directive implementation, and country studies of directive implementation in Greece and Spain.<sup>72</sup>

The Commission conducted a broad qualitative survey of its own directorates, as well as national representatives, to investigate obstacles to timely directive implementation.<sup>73</sup> Two main advantages of this research are breadth—information from fifteen member states across ten policy areas — and depth — into particular structural variables. The main disadvantage was the lack of investigation of certain plausible but unspeakable obstacles to implementation. For example, while the survey asked several detailed questions with multiple sub-parts about coordinating mechanisms put in place to facilitate directive implementation, there was no question on whether particular interest groups opposed to the content of the directive pressured the government to delay its implementation. This omission makes the Commission survey useful in specifying mechanisms through which capability variables matter, but less useful for the purposes of evaluating the preference approach.

Given the existing broad Commission survey, I targeted interviews to explore puzzling results. I spoke to actors who had the knowledge and incentives to shed light on

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<sup>70</sup>See, for example, Brzel 2000, for a discussion and partial rebuttal of such views in the case of environmental directives.

<sup>71</sup>Peter Lange illustrates that the South European countries are expected to be consistent losers in the social harmonization process. He proposes they accepted these regulations so as to receive other side payments (1993). Thus, they should have the greatest incentives to use any flexibility in the transposition process instrumentally to delay implementation. For a discussion of the capacity limitations thought to impede directive implementation in the South see Brzel 2000.

<sup>72</sup>For excellent studies on directive fit with national structures see Knill 1998, 2001; Knill and Lehmkuhl 2002; and Duina and Blithe 1999. Falkner *et al.* 2002 offer an especially insightful case study of the politics of the directive implementation process. They study the transposition of the parental leave directive, a process that reopened the debate on parental leave in all member states, some of which ended up completely revising their own legislation and going above minimum called for by the EU. For useful examinations of directive transposition in Greece, see Spanou 1998 and Dimitrakopoulos 2001, and in Spain, see Threlfall 1997 and Carlin, Estrin and Schaffer 2000.

<sup>73</sup>Commission 2001.

how both preferences and capabilities mattered, and pointed my questions in ways that directed their attention to puzzling findings. Commission officials in the employment and social policy directorate general as well as national bureaucrats in employment, social affairs and health ministries, are generally very informed about the directive implementation process. Unlike their counterparts in more political roles, they have fewer incentives to hide information on lobby groups and other pressures that might frustrate their work. Labor union representatives should be even more willing to report on possible employer pressure intended to delay social policy directive implementation. I conducted seven interviews with officials in the Commission Employment and Social Affairs and Health and Consumer Safety Directorates General, seven interviews with officials in the Spanish Health and Employment Ministries, eight interviews with current and former officials in the Greek Health and Employment Ministries and six interviews with social partner representatives (labor union leaders, labor union research institute directors, and national social and economic council members) in Greece and Spain.

This interview research supported the broad position that national capabilities are at least as important as preferences in explaining directive implementation. The consensus among Commission officials was that no country showed bad faith in delaying directive implementation. In follow-up questions, some conceded the possible existence of national lobby groups impeding directive implementation, but in general, they attributed the delay to national structural factors. Representatives from the national bureaucracies attributed delays almost exclusively to their own incapacity to process directives. Even in pointed follow-up questions, I very rarely elicited a response that hinted at the existence of pressures from above, or from lobby groups, to delay directive implementation. Indicatively, I present part of a typical interview as Appendix II—the interviewee in this case was the general director for health and safety of the Greek Employment Ministry from the late 1980s to the late 1990s.

Besides offering broad support for capabilities theories, qualitative data also indicate *how* preferences and capabilities matter. In interviews, Commission officials cited various administrative difficulties as the main obstacles to implementation, while the Commission Report highlights good coordination between ministries, strong executives, and bureaucracies where the same civil servant is responsible for a directive from proposal through to implementation, as the primary reasons for a good implementation record.<sup>74</sup> The Report's case-by-case analysis also highlights opposition from regional veto players as a persistent obstacle to implementation.<sup>75</sup> This evidence suggests that a locus-of-authority contestation becomes increasingly relevant once a social policy issue moves from an established pattern of domestic decision-making to other fora. Even more interesting than the activation of new players once a new dimension of a question becomes salient is the apparent loss of interest from established actors. Most impressive among the

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<sup>74</sup>*Id.*, 45-46.

<sup>75</sup>This regional opposition can be especially strong where regions are represented in national parliaments, as in the case of the German Bundesrat. For reports on how federalism delayed the implementation of health and employment directives see Commission 2001, 51, 69. Indeed, because the Spanish Senate is not organized territorially, the jury is still out on how much Spanish regions contribute to implementation delays. However, debates on who should have authority on health and safety law is considered among the main reasons for Spain's considerable lag in this area (Threllfall 1997, 15).

interview data was testimony from labor union representatives. Neither in Spain nor Greece did they report much employer opposition to directive implementation.<sup>76</sup> The assumption they shared was that any lobbying would have had to occur prior to the directive implementation phase; they saw the government claim that it was implementing an EU agreement as a trump all national debate.<sup>77</sup> This evidence supports the assertion that international organizations had succeeded in reorienting the axes of national debates, from left-right redistribution into supra-sub national actor authority.

Qualitative data also help us better understand patterns in political time revealed by the quantitative analysis. Future oriented aspects of the enforcement model suggest that governments should be able to forego short-term gains in order to improve their reputation and thus benefit in the long term. However, the quantitative data showed no difference between pro- and anti-EU governments, whose reputational concerns should point them in different directions. Similarly, interviewees in national bureaucracies cited no differences in pressures put on them by less-EU friendly administrations. Like concerns about future reputation, so institutions aimed to increase governments' capacity to smooth out future obstacles to implementation were not demonstrably influential.<sup>78</sup>

While government implementation choices are not bound by the future, they are heavily shaped by the past. The importance of past choices in accounting for the present is well established in purely domestic social policy accounts,<sup>79</sup> and also figures prominently in qualitative work on directive implementation.<sup>80</sup> Spain and Greece are challenging cases for this hypothesis due to their history of dictatorships. Labor protection structures introduced in the francoist era and a social protection system reinforced under the colonel's dictatorship should be among the easiest to dismantle in the modernizing efforts of the "new" democracies. This is not what we observe. In both Greece and Spain, directives on working conditions and social dialogue, compatible with the pre-existing legal framework, were relatively easy to incorporate. Instead, it is the health and safety directives, requiring both substantial legal changes, and even greater physical infrastructure upgrades, that caused the greatest implementation delays.<sup>81</sup> In summary, qualitative data

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<sup>76</sup>For a similar account of limited employer opposition to directive implementation in Spain see Threlfall 1997.

<sup>77</sup>For most of the period under study the assumption of effective union lobbying at the EU level is not borne out by the data; tensions between the European Trade Union Confederation and national trade unions, eager to prioritize varied national concerns and preserve their autonomy, among other obstacles, impeded it. See Hyman 1999 for a review of this literature.

<sup>78</sup>However, there is limited evidence that institutional preparations for the future mattered. The regression variable measuring parliamentary consultation has a sign in the right direction, if insignificant. Denmark's policy to negotiate directive texts in parliament early on was referenced both in the Commission report and in an interview. The difficulty in drawing conclusions from this evidence arises because parliamentary pre-approval is one of many Danish good governance practices, and thus it is unclear that it has an effect on implementation independent of overall bureaucratic capacity.

<sup>79</sup>See, for example, Pierson 1994 and Hacker 1998.

<sup>80</sup>See, for example, Knill 2001 and Duina and Blithe 1999. However, the view that the "fit" of the directive with past national policy determines implementation patterns is not uncontroversial; see Haverland 2000 for a critique.

<sup>81</sup>Threlfall 1997; interviews in Spain and Greece. An exception to this pattern arises when we look at gender equality directives, which were relatively easily implemented despite challenging the more paternalistic pre-existing national structures. More research is needed to examine the areas in which the past matters

also helps us understand why the past, rather than the future dominates implementation patterns.

#### IV. Conclusions and Implications for Further Research

Why do countries sometimes fail to comply with international organization mandates? Some answers emerge from a study of systematic delays in the implementation of EU directives. Delays in directive implementation are not the product of coherent national policy intended to achieve particular social policy outcomes. Although national preferences matter, state structures unrelated to national interest on social policy, such as multi-party governments, federalism, and bureaucratic capacity, have at least as large an impact on timely directive implementation as government preferences on this matter. Two broad conclusions for the study of compliance result. First, although preference-based enforcement models explain part of the variation in compliance patterns, capability-based managerial models offer at least as much promise. Second, the pathways through which preferences and capabilities operate differ from the ones emphasized by these literatures. Implementation data show international organizations to matter by re-orienting the axes of contestation. Employment and social issues fought along left-right lines when initiated at the national level end up contested instead as issues of authority of the national, supra-national and sub-national levels. At the same time, while many compliance theories suggest that international organizations shape policy by permitting *future* constraints to enter current decision making, through mechanisms such as reputation or commitments, the evidence presented offers greater support for historical institutionalist pathways emphasizing the heavy weight of the *past*.

This conclusion first summarizes the evidence on the features of the enforcement, preference-based model and the aspects of the managerial, capabilities-based model that matter. Next, it explores how we might use these insights to move towards a new theory of compliance to better understand how existing and upcoming international efforts to coordinate social policy can shape national systems.

Only some aspects of the enforcement approach predict implementation delays. The clear expression of a government's short-term preferences on a particular issue, its vote on a directive, is shown not to matter. Nor does the government's position on the left-right scale, or its attitude towards the EU seem to be of import. To the extent that this latter variable captures governments' preferences on future EU cooperation, I do not find much support for reputation concerns as motivating compliance. Instead, the legacies of past policy choices – proxied by early activism in the social policy field and high current labor costs – constrain government preferences and shape compliance patterns. Interviews with participants in the policy process confirm the limited impact of partisan differences, while case studies support the view that past choices shape compliance.

I find some support for the managerial model's emphasis on technical and bureaucratic capacity. Certainly, more competent bureaucracies appear better able to process directives and reduce implementation delays, but structural variables that go beyond the

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most, but one might speculate that where the obstacles to implementation have more to do with ideology and less with capacity, the past may weigh less heavily.

national civil service – namely, veto players at the national level as well as veto players at the sub-national level – are equally important predictors of delay. Additionally, further research is needed to illustrate exactly why capability matters. Institutionalist but also constructivist theories are consistent with the sizeable capability effects observed. For example, poor bureaucracies may provide fewer opportunities for frequent contact between their officials and their counterparts in other EU member states, thus impeding learning. Similarly, EU bureaucrats may have greater ease in communicating with countries whose leadership is unified than with countries in which multiple parties must be brought to the table.

How can we synthesize this evidence to move towards a new compliance model? I argue that international organizations shape political time and political space, and can thus bring about important substantive changes. Qualitative and quantitative data indicate that whereas debates on social policy initiated at the national level are fought principally between labor unions and left-wing parties, on the one hand, and employers and more conservative parties, on the other, the axes of contestation shift where international organizations take on policy-making. Here, national debates between the left and right matter little, and instead it is center-region, executive-legislative, and executive-bureaucracy tensions that gain prominence. An extensive literature on agenda-setting and policy-making explains that major shifts in policy occur when issues are re-defined and previously uninterested actors join the debate.<sup>82</sup> International organizations can trigger such reorientations, and thus shape national policy systems.

While international organizations can reorient the political space, it is not as clear that they can shift issues over political time. Thus, the evidence did not support arguments that pro-EU governments, likely to have more to lose in terms of their reputation when they fail to meet directives deadlines, ended up meeting deadlines more frequently. This study sheds light on why this may be so, by emphasizing the importance of various veto points. Theories on reputation assume an identity of interests and incentives between parties making an agreement and parties implementing it. However, only the former are directly motivated by reputational concerns—the greater the disjuncture between treaty-signer and treaty-implementor, the less reputation may end up mattering. Instead, national pasts play a bigger role than national futures in shaping present compliance decisions. When past national choices are consistent with the direction of the new international text, this is more speedily implemented.

A study of areas where international organizations face resistance from national governments shows international organizations to be nonetheless quite influential in shaping national decisions. First, the simplest model of international organization irrelevance, according to which governments comply or fail to do so on the basis of pre-defined national self-interest is proven false. Moreover, international organizations are shown to work as powerful motors for change as they reorient debate axes at the national level. At the intersection of growing international law-making in the areas of trade liberalization and human rights, international and regional labor law coordination is growing in importance.<sup>83</sup> While the European Union is a unique community, the obstacles it faces

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<sup>82</sup>Baumgartner and Jones 1994.

<sup>83</sup>Macklem 2002.

are likely shared by other international systems. Perhaps international organizations interested in improving compliance patterns would be better off demphasizing the conclusion of expansive agreements with national executives, and focusing more on including the concerns of domestic players who might have the power to delay or stop implementation. In this regard, building relationships with traditional partisan groups may be less fruitful than creating links to different layers of the national governance machinery.

## Appendix I – Employment And Social Policy Directives

Number	Directive Title
82/605	Council Directive 82/605/EEC of 28 July 1982 on the protection of workers from the risks related to exposure to metallic lead and its ionic compounds at work (first individual Directive within the meaning of Article 8 of Directive 80/1107/EEC)
83/477	Council Directive 83/477/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC)
84/466	Council Directive 84/466/Euratom of 3 September 1984 laying down basic measures for the radiation protection of persons undergoing medical examination or treatment
84/467	Council Directive 84/467/Euratom of 3 September 1984 amending Directive 80/836/Euratom as regards the basic safety standards for the health protection of the general public and workers against the dangers of ionizing radiation
86/0613	Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood
86/188	Council Directive 86/188/EEC of 12 May 1986 on the protection of workers from the risks related to exposure to noise at work
86/378	Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes
88/35	Commission Directive 88/35/EEC of 2 December 1987 adapting to technical progress Council Directive 82/130/EEC on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres in mines susceptible to firedamp
88/364	Council Directive 88/364/EEC of 9 June 1988 on the protection of workers by the banning of certain specified agents and/or certain work activities (Fourth individual Directive within the meaning of Article 8 of Directive 80/1107/EEC)
89/0391	Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work
89/622	Council Directive 89/622/EEC of 13 November 1989 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the labelling of tobacco products
89/0654	Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
89/0655	Council Directive 89/655/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
89/0656	Council Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
90/239	Council Directive 90/239/EEC of 17 May 1990 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the maximum tar yield of cigarettes
90/0269	Council Directive 90/269/EEC of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (fourth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
90/0270	Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment(fifth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
90/0394	Council Directive 90/394/EEC of 28 June 1990 on the protection of workers from the risks related to exposure to carcinogens at work(Sixth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
90/0679	Council Directive 90/679/EEC of 26 November 1990 on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)
91/0269	Commission Directive 91/269/EEC of 30 April 1991 adapting to technical progress Council Directive 82/130/EEC on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres in mines susceptible to firedamp

Number	Directive Title
91/0322	Commission Directive 91/322/EEC of 29 May 1991 on establishing indicative limit values by implementing Council Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work
91/0382	Council Directive 91/382/EEC of 25 June 1991 amending Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC)
91/0383	Council Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed- duration employment relationship or a temporary employment relationship
91/0533	Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship
92/0029	Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels
92/0041	Council Directive 92/41/EEC of 15 May 1992 amending Directive 89/622/EEC on the approximation of the laws, regulations and administrative provisions of the Member States concerning the labelling of tobacco products
92/0056	Council Directive 92/56/EEC of 24 June 1992 amending Directive 75/129/EEC on the approximation of the laws of the Member States relating to collective redundancies
92/0057	Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
92/0058	Council Directive 92/58/EEC of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work(ninth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
92/0085	Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding(tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
92/0091	Council Directive 92/91/EEC of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in the mineral- extracting industries through drilling(eleventh individual Directive within the meaning of Article 16 (1)of Directive 89/391/EEC)
92/0104	Council Directive 92/104/EEC of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries(twelfth individual Directive within the meaning of Article 16 (1)of Directive 89/391/EEC)
93/0088	Council Directive 93/88/EEC of 12 October 1993 amending Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
93/0103	Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
93/0104	Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time
94/0033	Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work
94/0044	Commission Directive 94/44/EC of 19 September 1994 adapting to technical progress Council Directive 82/130/EEC on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres in mines susceptible to firedamp
94/0045	Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees
95/0030	Commission Directive 95/30/EC of 30 June 1995 adapting to technical progress Council Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
95/0063	Council Directive 95/63/EC of 5 December 1995 amending Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

Number	Directive Title
96/0034	Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC
96/0071	Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services
96/0094	Commission Directive 96/94/EC of 18 December 1996 establishing a second list of indicative limit values in implementation of Council Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work (Text with EEA relevance)
96/0097	Council Directive 96/97/EC of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes
97/0042	Council Directive 97/42/EC of 27 June 1997 amending for the first time Directive 90/394/EEC on the protection of workers from the risks related to exposure to carcinogens at work (Sixth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
97/0059	Commission Directive 97/59/EC of 7 October 1997 adapting to technical progress Council Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
97/0065	Commission Directive 97/65/EC of 26 November 1997 adapting, for the third time, to technical progress Council Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (Text with EEA relevance)
97/0074	Council Directive 97/74/EC of 15 December 1997 extending, to the United Kingdom of Great Britain and Northern Ireland, Directive 94/45/EC on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees
97/0075	Council Directive 97/75/EC of 15 December 1997 amending and extending, to the United Kingdom of Great Britain and Northern Ireland, Directive 96/34/EC on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC
97/0081	Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC
98/0023	Council Directive 98/23/EC of 7 April 1998 on the extension of Directive 97/81/EC on the framework agreement on part-time work concluded by UNICE, CEEP and the ETUC to the United Kingdom of Great Britain and Northern Ireland
98/0059	Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies
98/0065	Commission Directive 98/65/EC of 3 September 1998 adapting to technical progress Council Directive 82/130/EEC on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres in mines susceptible to firedamp (Text with EEA relevance)

## Appendix II – Interview Extract

Extract from interview with the general director for health and safety of the Greek Employment Ministry from the late 1980s to the late 1990s (my translation).

“Why is it that Greece delayed in implementing social policy directives?”

“Following the Single European Act, we were faced with a flurry of directives. Although we could transpose directives with presidential decrees, even with ministerial orders, it was just very difficult to do this in a timely fashion. We didn’t have the experience, the manpower...”

“Were you pressured by industry, labor or other parties to modify a law in their favor?”

“Yes, all our policies go through social consultation. But this was consultation; we didn’t have to change our policies because of it.”

“Did you ever find yourself changing the content of a decree in response to such pressure?”

“Yes, once the Council of State forced us to change the content of a decree. We thought we had struck a compromise with the labor view on the question of time limits for the work hours of employment experts. In the end the Council of State required us to limit the hours these could provide services to the eight-hour-day [...]”

“What about directive 89/391?<sup>84</sup> Why did Greece delay so much in implementing it?”

“You know that the 1990-1993 period was a difficult one for Greek politics.<sup>85</sup> It was just very difficult to get any work done then.”

“A right-wing government was in power for much of this period. Did they seem any less willing to promote social policy legislation?”

“No, that didn’t matter. It’s just the government was changing all the time; the political leaders were changing. It’s very difficult to do policy when you’re shut in your office, doing it on your own.”

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<sup>84</sup>89/391 is a framework directive “on the introduction of measures to encourage improvements in the safety and health of workers at work.”

<sup>85</sup>From 1982 to the present, Greece has been ruled by a socialist government almost continuously. 1989 to 1993 marks the exception. After a couple of brief coalition governments, first between the mainstream right and the reformed communists and then between all the major parties, the right wing party took office in April 1990 and stayed in power until September 1993.

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