



# NOTIFIED AND SUBSTANTIVE COMPLIANCE WITH THE EU LAW IN AN ENLARGED EUROPE: EVIDENCE FROM FOUR POLICY AREAS

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## Abstract

Whereas quantitative studies show that the ‘new’ EU entrants from Central and Eastern Europe (CEE) are the forerunners in the transposition of EU directives, detailed case studies indicate the existence of a gap between legal and practical compliance. This study aims to reconcile these divergent findings by comparing the member states’ performance regarding different compliance aspects: delayed transposition, correct legal implementation, and correct practical implementation. We address the following questions: Is there a systematic variation in compliance (a) among different EU member states and (b) across different forms of compliance? To what extent do preference- and capacity-based factors explain the differences in implementation between the EU-15 and EU-10 states? Our analysis shows that the CEE member states are generally more efficient in transposing the EU rules than their Western counterparts. Moreover, with the exception of Social Policy directives, the CEE member states do not lag behind the EU-15 countries with respect to practical implementation.

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## 1. Introduction

The success of the European integration project depends not only on the adoption of common European policy and the Union's expansion of its membership. The effectiveness of European integration is also conditional on the extent to which the European Union (EU) policies are incorporated and applied by each EU member state. Membership expansion could decrease the integration capacity of the EU if the Union opens its gates to states that lack the will or ability to fully meet their membership obligations. Concerns about increased implementation deficits have been especially prominent in the discussions regarding recent EU enlargement rounds to countries from Central and Eastern Europe (CEE).

However, recent research on the implementation performance of the new EU member states has uncovered a puzzling finding: the new member states appear to be the forerunners in the legal incorporation of EU directives into national law (Knill/Tosun 2009; Sedelmeier 2008). It has been argued that new entrants are more eager to improve their status as legitimate members of the EU by demonstrating their efficiency in implementing the EU rules (Perkins/Neumayer 2007; Sedelmeier 2008). By contrast, findings from case studies suggest that practical implementation remains a challenge for domestic actors (Versluis 2007), and compliance problems are especially pronounced in the new CEE member states where laws exist only on paper without being properly applied in practice (Falkner et al. 2008). Thus, there is lack of consensus in the literature regarding compliance and implementation effectiveness among the EU members.

The present study seeks to improve our understanding about the capacity of the EU to integrate the relatively new member states by addressing the following questions: Is there a systematic variation in compliance (a) between the 'old' EU-15 and the 'new' EU-10 member states, (b) between different indicators such as timely and correct legal and practical implementation, and (c) across different policy areas? To what extent do prominent preference- and capacity-based factors account for differences in implementation between the EU-15 and the EU-10 member states?

To address these questions, we combine data on infringement proceedings related to different types of violations and information provided by various expert evaluation reports and conformity studies in 27 member states. The data covers EU directives from four policy areas: Internal Market, Environment, Social Policy, and Justice and Home Affairs (JHA) directives. We compare member states' performance on substantive implementation outcomes (both legal and practical conformity) with standard indicators of compliance (timely notification of transposition measures and violations detected and pursued by the Commission).

Our findings suggest that the new CEE member states are generally more efficient in transposing the EU rules than their Western counterparts. Although transposition efficiency is not coupled with a similar quality of legal and practical implementation, the CEE member states do not lag behind the EU-15 with respect to practical implementation, with the exception of Social Policy directives. These findings suggest that the alleged implementation deficits in CEE are overstated due to the emphasis of studies on few directives from one policy area. Furthermore, differences in practical implementation could be explained

by relatively low levels of administrative capacity of some of the new CEE member states. By contrast, standard preference- and capacity-based explanations of compliance do not seem to account for variation in delayed transposition by the CEE member states relative to their Western counterparts. In sum, we do not observe a decline in the EU's ability to compel compliance by its member states after the accession of the EU-10 countries.

## 2. Research on policy implementation before and after EU enlargement

The topic of policy implementation has been a major part of the research agenda of Europeanization scholars (Cowles et al. 2001; Schimmelfennig/Sedelmeier 2005; for overviews see Börzel/Risse 2003; Sedelmeier 2011). There are two subfields within the Europeanization literature that address member states' implementation performance in an enlarged Europe: studies of EU enlargement and studies of member states' compliance with the EU laws.

The influence of EU conditionality on the CEE countries' progress in implementing the *acquis* has dominated the studies of enlargement (Hughes et al. 2004, Grabbe 2006; Schimmelfennig/Sedelmeier 2005; Sedelmeier 2011). This research suggests that conditionality upsets domestic equilibrium by introducing additional incentives for compliance with EU rules. The finding that the membership incentive was the key mechanism that led to the adoption of EU rules by the candidates makes the question of post-accession compliance even more notable (Dimitrova 2010; Schimmelfennig/Sedelmeier 2004: 677-79; Sedelmeier 2008). More precisely, after membership is granted, changes in the incentive structure are expected to affect member states' behavior and lead to deterioration of the implementation performance by the CEE countries.

By contrast, studies of member states' compliance with EU rules generally focus on countries' implementation performance in the absence of conditionality (for overviews of the literature, see Mastenbroek 2005; Toshkov 2010; Treib 2014). A rich body of literature has been dedicated to the research on transposition of EU directives by the EU-15 member states and infringement cases initiated by the EU Commission (e.g., Börzel 2001; König/Luetgert 2009; Mastenbroek 2003; Mbaye 2001; Thomson et al. 2007). Unlike the studies of conditionality, the EU compliance literature puts most emphasis on domestic factors to explain member states' behavior (Mastenbroek 2005). Whereas theoretical predictions focus on both the willingness (preference-based explanations) and the ability (capacity-based explanations) of domestic actors to implement the EU laws, most empirical findings reveal that non-compliance occurs as a result of low administrative capacity or coordination problems within national ministries (see Toshkov 2010 for an overview).

The findings of both the research on conditionality and the literature on member states' compliance suggest that the likelihood of implementation problems would increase in the aftermath of accession. From the perspective of conditionality scholars, the EU leverage to induce compliance with supranational policy decreases once the option of withholding membership becomes unavailable. In a similar vein, the

findings from compliance research suggest that the new CEE member states will lag behind their Western counterparts due to their relatively lower administrative capacity.

In contrast to common expectations, however, we observe consistently high compliance records among the CEE countries after accession. More surprisingly, based on the data on notification records and infringement cases, the CEE member states even appear to outperform their Western counterparts (Knill/Tosun 2009; Sedelmeier 2008, Zhelyazkova/Yordanova 2015). In particular, the CEE member states generally implement the EU directives before the specified deadlines and are less likely to be sanctioned for non-compliance by the EU Commission. Does this mean that we should dismiss concerns about increased compliance problems after enlargement? This question will be discussed in the following section.

### **3. Notified vs. substantive compliance in the EU**

Despite the empirical evidence, scholars have not fully embraced the finding that the new CEE member states are the forerunners of the EU integration process. Instead, findings about the better implementation performance by the CEE member states have invigorated the existing scholarly debates about the most appropriate level at which to study compliance in a multilevel system of governance like the EU (Hartlapp/Falkner 2009). In the EU context, the EU directives need to be both formally incorporated into domestic legal systems (a process that is referred to as transposition) and properly applied in practice by the relevant domestic actors.

Studies reporting better compliance records by the new member states base their findings on readily available statistics that generally capture trends in formal compliance, but are not sufficient to provide insights regarding how the EU rules are applied in practice. It is even questionable to what extent the existing datasets account for the actual conformity of domestic legal outputs with the EU requirements. This is because most large-N quantitative studies of EU implementation rely on member states' self-reported implementation measures to the EU Commission, thus ignoring that member states may have incentives to exaggerate their actual levels of compliance (Zhelyazkova/Yordanova 2015). By contrast, the findings from carefully crafted case studies demonstrate the existence of gaps in practical compliance (e.g. Haverland 2000; Knill/Lenschow 1998; Börzel 2003), even if the member states have legally implemented the EU rules (Falkner et al. 2005; Falkner et al. 2008, Versluis 2007).

The propensity of states to follow the rules only formally while preserving the existing practice has been the focus of various strands of literature. For example, institutional theory stresses that existing inconsistencies between formal requirements and organizational practice lead to 'decoupling' of formal structures from day-to-day work by avoiding integration or neglecting implementation (e.g., Meyer/Rowan 1977). Many Europeanization scholars have adopted neo-institutional explanations to the study of EU compliance (Knill/Lenschow 1998; Cowles et al. 2001) by focusing on the degree of compatibility between the EU rules and domestic institutional and regulatory systems as a necessary condition for compliance. However, this research generally does not distinguish between legal and practical phases of compliance.

Instead, decoupling could be manifested in cases where member states adopt rules only superficially, for instance, by meeting specified deadlines for implementation (timely transposition) but without actually implementing these rules in conformity with the EU requirements (legal or practical implementation).

While decoupling is likely to be a general feature of multi-level implementation processes, the phenomenon has been especially attributed to the new CEE member states. For example, studies on democratization of the post-Communist countries from CEE have suggested that domestic actors could exploit rent-seeking opportunities by only partially implementing policy reforms (Hellman 1998). Furthermore, in their first years of transition to democracy and market economy, 'illiberal' governments were more likely to undertake superficial economic and political reforms in order to demonstrate allegiance to the EU without endangering their domestic power base (Vachudova 2005). While this research acknowledges the existence of differences among the CEE countries, a recent study by Falkner et al. (2008) alludes to a more consistent implementation gap in countries with communist legacies. In particular, their study argues that in the CEE member states, the EU social policy requirements are often incorporated only in formal terms, but domestic laws remain 'dead letters' – in other words, the responsible institutional actors do not apply the requirements in practice. Nevertheless, it is unclear whether these patterns exist in other policy areas as well, or if they simply represent an idiosyncratic case. In addition, even if the member states implement the EU laws on time to avoid infringement allegations, this does not mean that domestic transposition is in conformity with the EU requirements. In other words, scholars assessing the impact of enlargement on the implementation of EU law should also incorporate more substantive aspects of implementation performance to ascertain that formal compliance actually leads to behavioral change in the CEE member states.

#### **4. Data collection on legal and practical implementation**

The EU context provides an excellent opportunity to study variation in implementation outcomes across countries and policy areas due to the multilevel structure of the implementation process. In the context of this study, we distinguish between three types of (non-)compliance: delayed transposition, incorrect legal implementation, and incorrect practical implementation. To collect data on legal and practical implementation, we rely on information provided by expert evaluation reports. A common feature of these reports is that they were prepared at the request and with the financial assistance of the respective Directorate-General (DG) in the EU Commission. It is a common practice that the EU Commission delegates the evaluation of member states' implementation of EU directives to external agents (mostly consultancies).

While evaluation reports provide detailed information about member states' actual implementation activities, the richness of this data makes coding compliance for all EU policies unfeasible. To make the data collection process manageable and ensure variation in compliance with EU rules, we focus on four policy areas: Internal Market, JHA, Environment, and Social Policy. According to the most recent Commission report on the application of the EU law, the four policy areas vary significantly in the number of infringement

cases opened by the Commission over violations of EU rules. Furthermore, these policy areas developed differently regarding their level of centralization at the EU level. The integration of Internal Market and Environment policies is much more developed than that of Social Policy and JHA directives, as the latter two areas deal with employment and immigration issues that largely remain under national competences.

The selection of directives is determined by the availability of evaluation reports that satisfy several criteria. First, we coded only those reports that provided explicit evaluation of member states' implementation performance. In addition, in cases of incorrect transposition or application, the reports should describe the rationale behind the expert evaluations. Second, the reports should evaluate the major provisions of a directive separately rather than provide a general description of member states' compliance with the directive as a whole. Third, conformity studies should cover all or most EU member states; and finally, they should have been prepared between 2007 and 2013 and at least several years after the transposition deadline.

Our final data set contains information about legal conformity on 65 directives across 27 member states (14 Internal Market directives, 22 Environment directives, 11 Social Policy directives, and 18 JHA directives). Information about practical implementation is limited to 24 EU directives only (three Internal Market directives, three Environment directives, four Social Policy directives, and 14 JHA directives). Table 1 in the appendix presents the sources and different types of information that were used for this paper.

## 5. Measurement of compliance indicators

As already discussed, the reports evaluate member states' legal and/or practical compliance with separate provisions in a specific directive. Both practical implementation and legal compliance are coded at the provision level. Relevant provisions refer to all articles or sub-articles that were assessed as separate issues in the reports and were evaluated as either implemented in conformity or not. For example, in the context of anti-discrimination directives, member states had to implement a 'reversal of the burden of proof' provision obliging the defendant to prove there had been no breach of the principle of equal treatment. However, a comparative study by Milieu (2011) reports that these requirements were not integrated into the official court procedures of all countries, impeding application of the principle of equal treatment by domestic courts. Both compliance indicators are transformed into directive-level measures by calculating the share of correctly transposed (legal) and applied (practical) provisions relative to all relevant provisions. We exclude provisions that are not applicable to particular member states.

We also collected information about member states' notification records from the EUR-lex database. Because member states report multiple measures to the Commission in relation to a single directive, we took the first (earliest) implemented measure after the official adoption of a directive by the EU. Timely notification is coded as 1 if a member state reported a measure in relation to a directive no later than six weeks after the adoption of the directive. Otherwise, if reported later, it is coded as 0.

While timely notification directly measures member states' efficiency in implementing the EU directives, measures reported by the member states may not necessarily be relevant for the implementation of a particular directive (Zhelyazkova/Yordanova 2015). Therefore, we identified all cases for which the EU Commission established that a member state had violated a directive from our sample (based on the Commission's infringement database). This is generally reflected in the first formal stage of the infringement procedure, where the Commission sends a 'reasoned opinion' to a non-compliant member state demanding a reformative action (coded as 1, otherwise 0). In addition, we make a distinction between infringement proceedings opened against delayed transposition and more substantive problems related to the implementation of EU directives. However, infringement cases do not distinguish between legal and practical implementation problems. Furthermore, many EU law evaluations do not end up in the infringement database because the Commission prefers more amicable solutions before publicly accusing a member state of non-compliance (Tallberg 2002; Börzel 2001). Therefore, external expert evaluation reports used by the Commission to assess compliance provide an alternative source of information regarding member states' implementation performance.

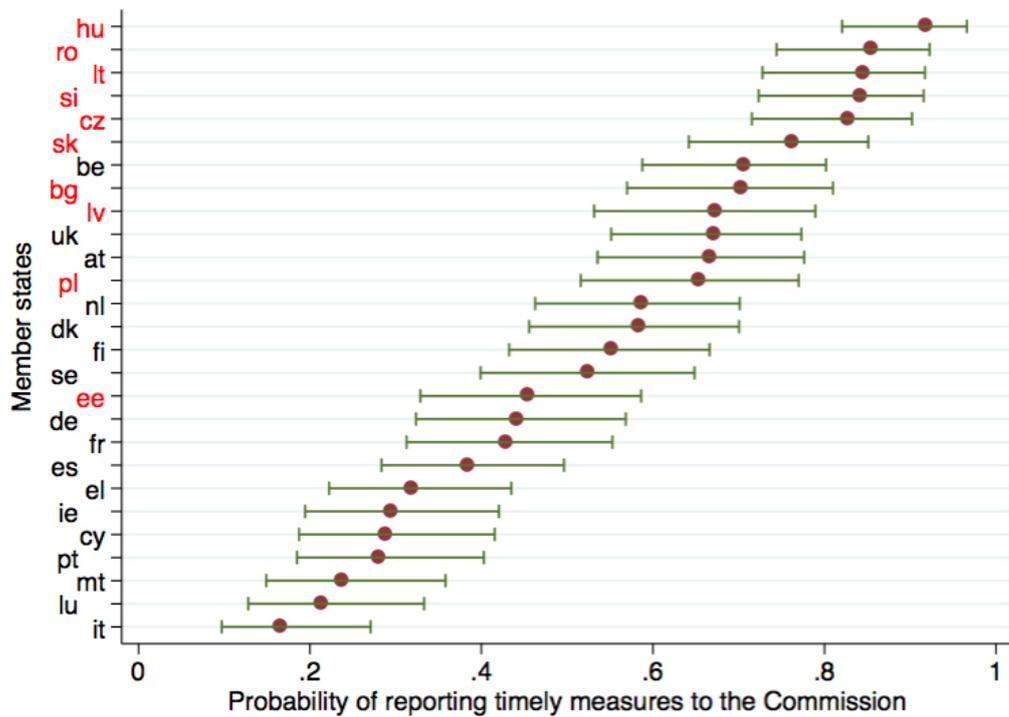
## **6. Comparison of compliance indicators across member states and policies**

How do the EU member states perform according to different compliance indicators? Are patterns of decoupling a distinctive feature of the CEE member states? To what extent are the observed relations more prominent in some policy areas than others? In this section, we address these questions empirically by comparing member states' implementation performance across three compliance indicators – timely notification, legal implementation, and practical implementation – using different data sources.

First, Figure 1 illustrates each member state's average probability of reporting domestic measures to the EU Commission before a directive's deadline. The results support existing findings showing that the new CEE member states outperform their Western counterparts with respect to their efficiency in the transposition of EU law. More precisely, with the exception of Estonia and Poland, the CEE member states are more likely to implement the EU directives before the specified deadline. Interestingly, this pattern cannot be extended to the 'new' member states, as Malta and Cyprus are generally less likely to implement a given EU directive on time. Furthermore, the observed patterns also support findings from existing research on all policy areas that show a very similar pattern of member states' transposition rates (Yordanova/Zhelyazkova 2011). In other words, while the selected sample of directives is not random, it is representative of the population of directives at least in terms member states' notification rates.

Arguably, self-reported measures are likely to exaggerate both the efficiency and the actual conformity of member states' implementation measures with the EU requirements. Some of the measures reported by the EU member states may not be even relevant for the implementation of a particular directive, prompting the Commission to open infringement cases due to delayed transposition. Furthermore, Figure 1 does not include information about the extent to which the content of the notified measures conforms to the EU standards and how the EU member states apply the law in practice.

Figure 1: Probability of timely notification by member states

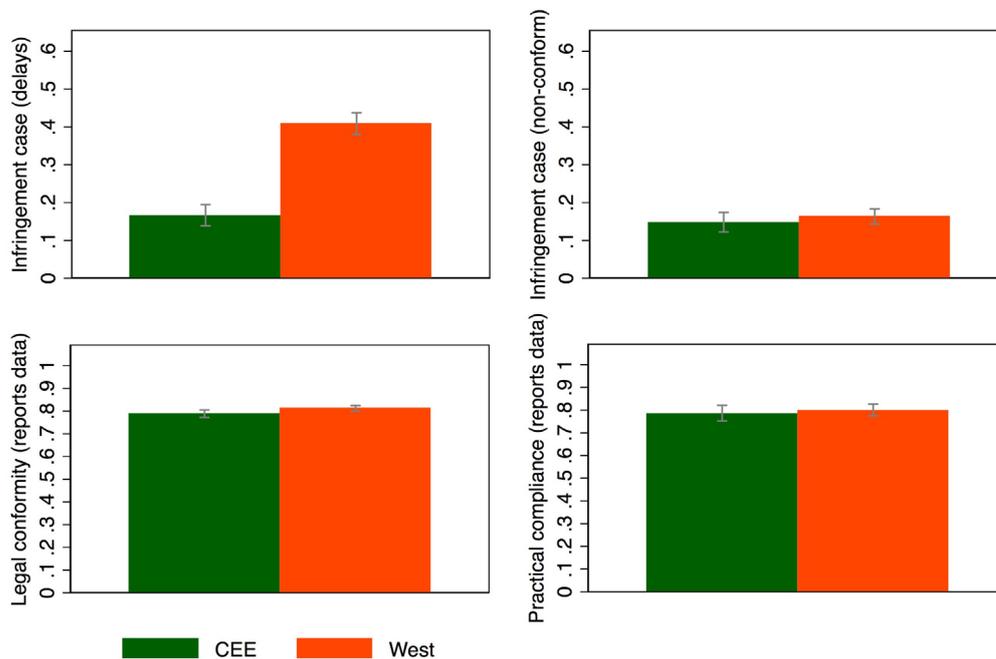


Source: Authors.

In Figure 2 we directly compare the performance of the CEE and Western member states across different indicators of compliance: delayed transposition, legal conformity, and practical implementation. We use infringement cases opened by the Commission as a more reliable indicator for transposition efficiency<sup>1</sup> and distinguish between two different reasons for starting the infringement procedure: delayed transposition or other types of violations (i.e., legal and/or practical compliance problems). More importantly, Figure 2 also compares the CEE and Western member states in terms of their legal conformity and practical implementation as assessed by the expert evaluation reports.

<sup>1</sup> Nevertheless, data on notification records paints exactly the same picture as reasoned opinions opened due to delayed transposition.

Figure 2: Comparisons between the CEE and Western member states across different indicators of compliance



Source: Authors.

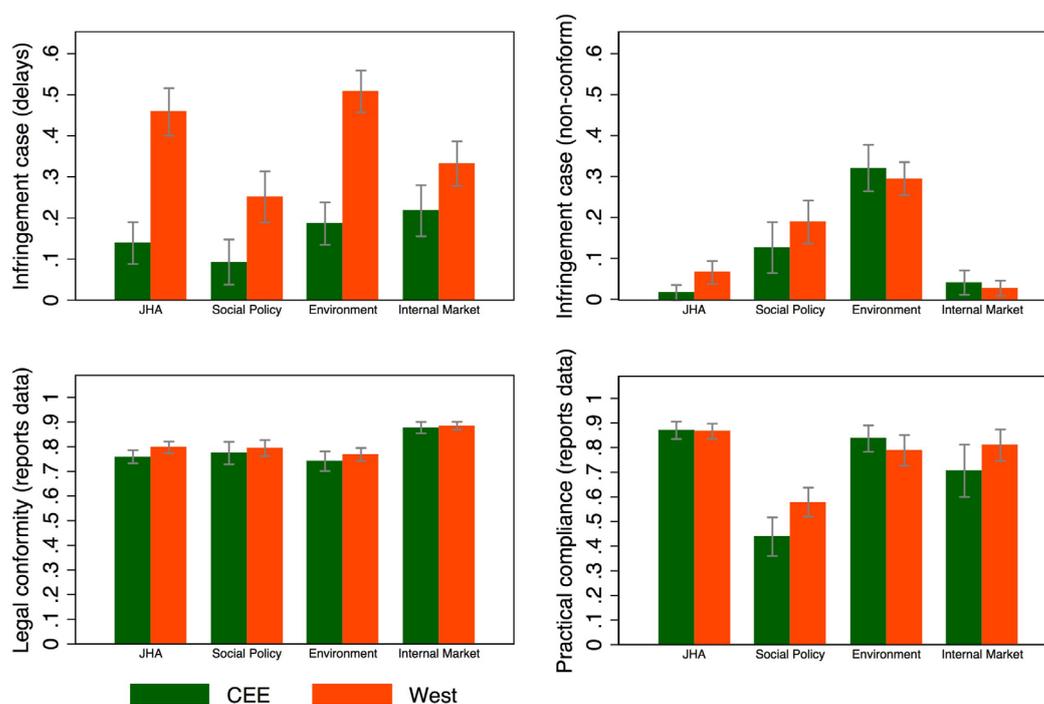
The most notable finding from the comparative analysis of compliance indicators is that the superior performance of the CEE member states exists only in transposition delays, but not in more substantive aspects of compliance. More precisely, although the CEE member states receive on average fewer infringement cases due to delayed transposition, we do not observe significant differences between the CEE and Western member states in legal and practical implementation or in the number of infringement cases opened over violations other than delays. In fact, the EU-15 member states perform slightly better with regard to legal conformity and practical implementation based on the assessments of external experts.

While these differences are not significant, the performance of the CEE and Western member states may vary across different policy areas. Figure 3 displays the compliance performance of the CEE and Western member states across the four policy areas. Again, we observe that the CEE member states outperform their Western counterparts in transposition efficiency across all policy areas, receiving significantly fewer reasoned opinions. According to the infringements data for non-conformity and incorrect application, there are barely any differences between the CEE and the EU-15 member states. The evaluation reports on legal conformity also show that member states' compliance is generally higher for Internal Market directives for both the CEE and Western member states. No significant differences exist in other policy areas, and the CEE and Western member do not seem to differ in the correct transposition of the EU directives. Moreover, our data generally show no significant differences in practical implementation across

policy areas or between the CEE and Western member states. A notable exception is Social Policy. Not only are the Social Policy directives hardest to implement in practice, but this is also the only policy field where the Western member states significantly outperform the CEE member states in terms of practical implementation.

In sum, while the CEE member states are significantly more efficient in transposing the EU directives on time, they do not perform better when it comes to correctly transposing and implementing the EU requirements. Conversely and with the exception of Social Policy directives, the CEE member states also do not significantly lag behind the Western member states in practical implementation. In the following sections, we analyze to what extent the observed differences in transposition timeliness and practical implementation can be explained by standard factors related to member states' preferences and capacities.

Figure 3: Comparisons between the CEE and Western member states across different indicators of compliance and policy areas



Source: Authors.

## 7. Explanatory analysis of observed compliance variation

The analysis above shows that the CEE and Western member states perform differently in terms of timely compliance and practical implementation of Social Policy directives. In order to explain the differences, we analyze the relevance of standard preference- and capacity-based explanations on two separate dependent variables: infringement cases (reasoned opinions) opened on the grounds of late transposition and practical implementation (the share of correctly applied provisions based on the evaluation reports).

Following the existing studies of compliance with EU law, we focus on factors related to member states' willingness and capacity to implement the EU rules. According to the literature (see Toshkov 2010; Treib 2014), two factors explain member states' capacities: administrative capabilities and coordination problems (e.g., the number of veto players). Existing studies show that member states with more efficient bureaucracies are more likely solve their problems early (e.g., Mbaye 2001; Haverland/Romeijn 2007; Perkins/Neumayer 2007). To measure administrative capabilities, we used the 'government effectiveness' indicator from the Worldwide Governance Indicators (WGI) project (Kaufmann et al. 2008). The indicator captures perceptions of the quality of public/civil services as well as the quality of policy formulation and implementation in countries. The number of domestic actors with a potential veto is another factor that may affect member states' capacity to comply. High number of veto players in the implementation process increases the likelihood of disagreements and hampers compliance (e.g., Haverland 2000; Haverland/Romeijn 2007; Kaeding 2006). The variable for veto players is measured by the number of ministers responsible for practical implementation based on the information provided in the evaluation reports.<sup>2</sup>

Policy preferences of prominent political actors can also explain implementation outcomes. It is argued that political actors with incentives to deviate are more likely to receive infringement allegations (Thomson et al. 2007). Therefore, we identified the main governing party for each member state (the party of the prime minister) at the time of the transposition of a directive and its party affiliation from the Political Yearbooks of the European Journal of Political Research. Information about policy-specific preferences was obtained from different editions of the Chapel Hill survey (Bakker et al. 2012). Because the dataset does not provide any information on the party positions in Cyprus, Luxembourg, and Malta, we exclude these countries from our explanatory analysis.

Our analysis also controls for other standard factors that may explain member-state and directive differences in compliance. For example, we expect the degree of complexity of a directive to affect how fast EU directives are transposed into the national law (Kaeding 2006). The number of recitals in a directive is the most widely used indicator for complexity (Treib 2014). Furthermore, the number of transposing measures reported by member states also reflects the amount of changes required to implement a directive and thus the difficulty they experience during this process. In addition, we expect amending directives to be transposed faster than new directives (Kaeding 2006; Mastenbroek 2003). Lastly, the involvement of the European Parliament in the decision-making process (co-decision) could account for the level of

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<sup>2</sup> If this was not possible, we relied on the information in main domestic transposing measures that are used to transpose a directive. Main transposing measures were also discerned from the evaluation reports.

salience/importance attached to a particular directive (Mastenbroek 2003). We also included policy sector indicators to control for any systematic differences among Internal Market, JHA, Environment, and Social Policy directives.

We employed two different statistical models depending on the dependent variable. In the analysis of infringement cases on the grounds of late transposition, we employed a multilevel crossed-effects logistic regression, because the dependent variable is binary and the outcomes are nested in both member states and directives. In the analysis of practical implementation, a fractional logit analysis was employed, because the dependent variable is a ratio-variable ranging between 0 and 1.

Table 1 presents the results on the probability of receiving a reasoned opinion for delayed transposition. According to Model 1, being a Western member state increases the likelihood of delayed transposition, even when we account for the possible mechanisms that could drive the effect (e.g., administrative efficiency, coordination problems, etc.). In Models 2 and 3, we also analyzed to what extent the preference-based and capacity-related factors have different effects for the Western and CEE member states by testing two interaction effects (see Table 1). Both interaction variables are significant, suggesting that differences between the CEE and Western states are conditional on member states' capacities and preferences.

Figure 4 illustrates these differences more clearly. The first graph shows that being a Western member state increases the likelihood of receiving a reasoned opinion for delayed transposition if government effectiveness is below 1. In other words, compared to the four Western member states<sup>3</sup> with relatively low administrative capabilities, the CEE member states with similar government effectiveness scores are faster in transposing the EU legislation. Given the similar values of government effectiveness between the CEE and Western member states, the efficiency in the CEE member states seems to be explained by particular skills other than administrative capabilities, which were acquired during the pre-accession period when these countries had to transpose significant amounts of EU rules into their national law. Differences between the CEE and Western member states disappear when they score above 1 on government effectiveness, although we can only interpret these differences within the range for which we have observations for both groups of member states. Regarding the effect of preference-based explanations, Figure 4 shows that differences between the CEE and Western countries are no longer significant when the main governing party (the party of the prime minister) is highly supportive of a particular EU policy. Overall, policy preferences do not influence the likelihood of delayed transposition in the CEE member states. Conversely, a more supportive main governing party (the party of the prime minister) in Western member states increases the likelihood of timely transposition.<sup>4</sup> Moreover, member states that report more transposition measures are more likely to delay transposition. The amendment dummy is only marginally significant. Lastly, JHA and Social Policy directives are more likely to be transposed on time than the environmental directives. Other explanatory variables neither explain timeliness of transposition nor show different effects on timely transposition across two groups of countries.

3 Greece, Italy, Portugal, and Spain.

4 The results remain stable if we use government preferences rather than the preferences of the governing party only.

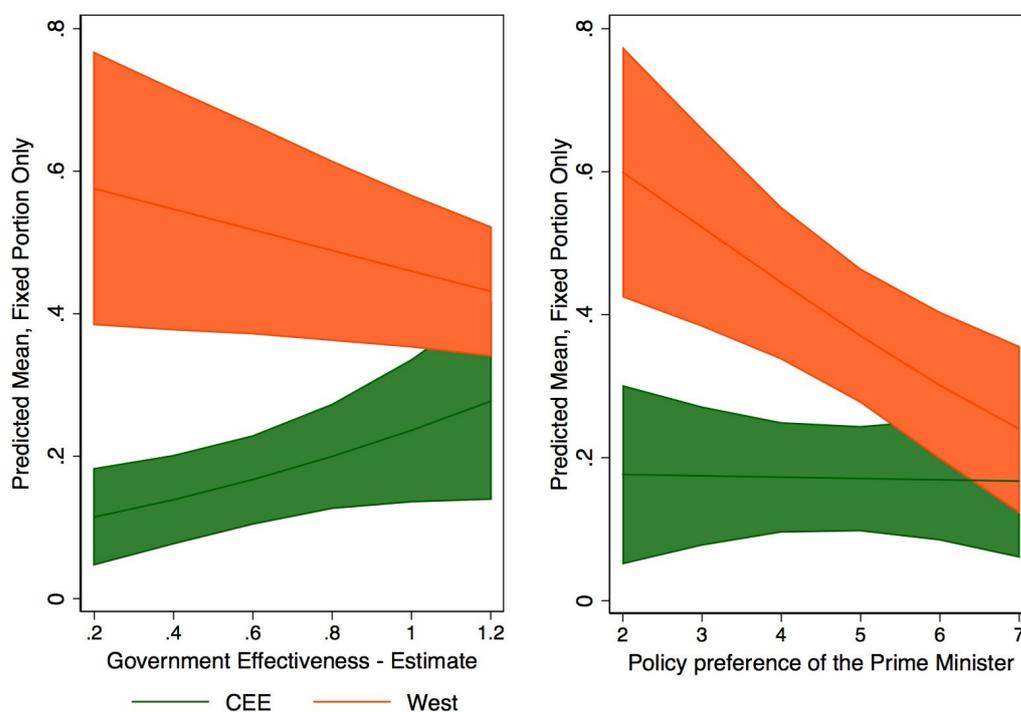
Table 1: Results of multilevel crossed-effects logistic regression: infringement cases opened against delayed transposition

	Dependent variable: Reasoned opinion		
	Model 1	Model 2	Model 3
Western member state	1.417*** (0.416)	2.996*** (0.661)	2.923*** (0.806)
PM support	-0.210* (0.101)	-0.209* (0.100)	-0.014 (0.134)
Government effectiveness	-0.164 (0.302)	1.168* (0.563)	-0.183 (0.308)
Number of ministers	0.078 (0.058)	0.087 (0.059)	0.076 (0.059)
N notified measures	0.025*** (0.007)	0.025*** (0.007)	0.025*** (0.007)
Amending (1 = yes)	-0.445† (0.265)	-0.473† (0.271)	-0.459† (0.266)
Co-decision (1 = yes)	0.252 (0.426)	0.239 (0.434)	0.216 (0.426)
Number of recitals	-0.002 (0.007)	-0.002 (0.007)	-0.002 (0.007)
West * Government effectiveness		-1.816** (0.641)	
West * PM support			-0.317* (0.143)
Internal Market	-0.291 (0.376)	-0.330 (0.379)	-0.245 (0.377)
Home Affairs	-0.815* (0.394)	-0.879* (0.401)	-0.772† (0.395)
Social Policy	-0.989* (0.475)	-1.021* (0.483)	-0.986* (0.475)
Constant	-0.638 (0.709)	-1.480† (0.767)	-1.534† (0.827)
Random effects (variance)			
Member-state level	-0.457* (0.216)	-0.645** (0.239)	-0.428* (0.213)
Directive level	-0.724*** (0.274)	-0.681** (0.264)	-0.728** (0.278)
N	888	888	888

Note: † p<0.1; \*p<0.05; \*\*p<0.01; \*\*\*p<0.001

Source: Authors.

Figure 4: The impact of capacity and preferences variables on predicted outcomes of late transposition between the CEE and Western member states



Note: Predicted probabilities shown only for cases for which there are observations for both the CEE and Western member states.

Source: Authors.

Despite the clear differences in transposition efficiency, descriptive statistics show that the CEE and Western member states do not differ in more substantive aspects of compliance except for practical implementation in the field of Social Policy (see Figure 2). To explain these differences, three models were constructed and the results are presented in Table 2. In contrast to the previous analysis, the models control for some key characteristics of the evaluation reports. To control for potential biases from practical implementation reports, we accounted for length (number of pages of evaluation allotted to a particular country) and time of the reports (number of days between a directive's transposition deadline and the publication of the first report). Due to the lack of variation in directive-level characteristics, we only control for the number of recitals as a measure for policy-level complexity.

Based on Model 1 in Table 2, Western countries are more successful in applying the Social Policy directives than the CEE countries. However, once we account for different levels of bureaucratic efficiency (see Model 2) the effect of being a Western member state disappears and better administrative capabilities improve the quality of practical implementation of the Social Policy directives. Unlike the findings on delayed transposition, bureaucratic efficiency explains the observed differences between the EU-10 and the EU-15

member states in the practical implementation of the EU directives. The practical implementation of the Social Policy directives, which requires member states to change judicial procedures, set up semi-judicial bodies, and institutionalize social and civil dialogue, is relatively costly and places a heavy burden on member states' governments as well as public services.

*Table 2: Results of fractional logit analysis: practical implementation of Social Policy directives*

	<i>Dependent variable: Practical implementation</i>		
	Model 1	Model 2	Model 3
Western member state	0.639*** (0.187)	-0.065 (0.223)	0.224 (0.229)
PM support	-0.025 (0.087)	0.073 (0.090)	0.226* (0.096)
Number of ministers	0.032 (0.074)	0.043 (0.063)	0.013 (0.065)
Government effectiveness		0.724*** (0.187)	2.147** (0.705)
Number of recitals	-0.011 (0.024)	-0.007 (0.023)	2.269*** (0.661)
Evaluation period	-0.000 (0.000)	-0.000 (0.000)	-0.000 (0.000)
Length of the report	-0.055 (0.039)	-0.053 (0.037)	-0.049 (0.051)
Constant	1.089 (1.446)	0.040 (1.443)	-2.817 (1.783)
N	107	107	41

Note: † p<0.1; \*p<0.05; \*\*p<0.01; \*\*\*p<0.001

Source: Authors.

We should note that government effectiveness scores are not equally distributed across the CEE and Western member states. In our dataset, the average score of government effectiveness of the Western member states is still higher than the maximum score for the CEE member states. Therefore, we included a third model that constrains the level of government effectiveness by excluding the scores that are observed for only a certain group of countries. In this way, the analysis compares only the CEE member states and the Western member states with similar levels of administrative capacity. Model 3 presents the results for the sample of middle range capacity member states that include eight CEE member states (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovenia, and Slovak Republic) and four Western member states (Greece, Italy, Portugal, and Spain).<sup>5</sup> The results show that the coefficient of government

5 For example, Bulgaria and Romania are CEE member states and are the only countries with extremely low administrative capabilities, whereas ten Western member states (Austria, Belgium, Denmark, Finland, France, Germany, Ireland, the Netherlands, Sweden, and the United Kingdom) have very high administrative capabilities, with no CEE country showing comparable scores.

effectiveness significantly improves and the coefficient for the Western member states remains non-significant. Interestingly, not only administrative capabilities but also policy preferences can affect practical implementation in these countries. This finding indicates that preferences do matter for member states with average capacity, but not in high- and low-capacity countries. Instead, in countries with 'extreme' scores of government effectiveness, support by the prime minister is not sufficient to ensure compliance (low-capacity countries) or disrupt day-to-day administrative practices in the implementation process (high-capacity countries). Contrary to what we expected, higher number of recitals has a positive effect on the practical implementation of the Social Policy directives in Model 3. However, this result is based on very few observations.

In sum, the explanatory analyses show that the relatively worse compliance performance of the CEE member states in the practical implementation of Social Policy directives could be explained by limitations in their administrative capacity. By contrast, neither bureaucratic efficiency nor preferences of governing parties explain the pronounced efficiency of the CEE member states in transposing the EU directives more generally. These differences disappear only in extreme scenarios: when the government of a Western member state is exceedingly supportive of the EU policy or when both the CEE and Western member states have very high administrative capacities.

## **8. Conclusion and discussion**

More than ten years after the 'big bang enlargement' of the EU, we still lack a systematic analysis of how the CEE countries comply with the EU requirements relative to the existing member states. Comparison between the compliance records by the EU-15 and the EU-10 states could help address the long-standing concerns about potentially detrimental effects of EU enlargement on the functioning of the EU. This study attempted to address these debates by comparing member states' performance across three different indicators for compliance: timely transposition, legal conformity, and practical implementation.

Our analysis showed that the CEE member states outperform the Western member states in transposing the EU directives on time. Although these observed differences in transposition efficiency are not reflected in the way the member states apply the EU rules in practice, we do not observe a significant 'east-west divide' in the practical implementation of EU directives. The only exception relates to the Social Policy directives, where the CEE member states significantly lag behind the Western members in implementing the EU requirements. In fact, most studies that find the existence of a gap between legal and practical implementation in the new member states focus their analysis exclusively on the EU Social Policy. However, the findings of the present study suggest that compliance patterns associated with the Social Policy directives are the exception rather than the rule.

While the new CEE member states do not represent a distinctive group in terms of 'substantive' forms of compliance, the following question remains: why are the CEE member states consistently more likely to transpose the EU directives before the specified deadline if they are unable to excel in more substantive

implementation phases? Whereas administrative capacity explains differences in the application of the EU directives, neither preference-based nor capacity-related factors seem to account for the observed differences between the CEE and Western countries in their efficiency in meeting the directives' transposition deadlines. Instead, differences may be the result of the CEE countries' acquired experience in adopting vast amounts of legislation within a limited amount of time and the relatively low costs of continuing the same pattern after accession to the EU. Other scholars support this claim by arguing that the new member states have built specific capacities to meet the relatively strict conditionality criteria. In addition, faced with negative expectations about their implementation performance after enlargement, the CEE member states may be more eager to demonstrate their readiness to meet the EU requirements by prioritizing the transposition of the EU legislations (Sedelmeier 2008).

This finding nevertheless suggests that the picture provided by notification records is too rosy and does not reflect the actual implementation performance in the CEE member states. The observation that neither administrative capacity nor political elite preferences matter for the efficiency of the transposition process in the new EU-10 member states suggests that transposition is isolated from political influences and general state bureaucratic performance.

Finally, our analysis showed that member states respond differently to directives related to the four policy areas. Policy area features may prove to be equally or even more relevant than member states' characteristics with respect to explaining patterns of non-compliance. Future research should put more emphasis on disentangling policy area variation across different compliance indicators.

## 9. References

- Bakker, R.; de Vries, C.; Edwards, E.; Hooghe, L.; Jolly, S.; Marks, G.; Polk, J.; Rovny, J.; Steenbergen, M. and Vachudova M.A. (2012) 'Measuring Party Positions in Europe: The Chapel Hill Expert Survey Trend File, 1999-2010', *Party Politics* 21(1): 143-152.
- Börzel, T. A. (2001) 'Non-compliance in the European Union: Pathology or Statistical Artifact', *Journal of European Public Policy* 8(5): 803-824.
- Börzel, T. A. (2003) *Environmental Leaders and Laggards in Europe: Why There Is (Not) a 'Southern Problem'*, Aldershot: Ashgate.
- Börzel, T. A. and Risse, T. (2003) 'Conceptualising the Domestic Impact of Europe', in K. Featherstone and C. M. Radaelli (eds), *The Politics of Europeanization*, Oxford: Oxford University Press, pp. 55-78.
- Cowles, M. G.; Caporaso, J. A. and Risse, T. (eds) (2001) *Transforming Europe: Europeanization and Domestic Change*, Ithaca, NY: Cornell University Press.
- Dimitrova, A. L. (2010) 'The New Member States of the EU in the Aftermath of Enlargement: Do New European Rules Remain Empty Shells?', *Journal of European Public Policy* 17(1): 137-148.
- Falkner, G.; Hartlapp, M.; Leiber, S. and Treib, O. (2005) *Complying with Europe: EU Harmonization and Soft Law in the Member States*, Cambridge: Cambridge University Press.
- Falkner, G.; Treib, O. and Holzleithner, E. (2008) *Compliance in the Enlarged European Union: Living Rights or Dead Letters?*, Ashgate: Aldershot.
- Grabbe, H. (2006) *The EU's Transformative Power: Europeanization through Conditionality in Central and Eastern Europe*, New York/Basingstoke: Palgrave Macmillan.
- Hartlapp, M. and Falkner, G. (2009) 'Problems of Operationalization and Data in EU Compliance Research', *European Union Politics* 10(2): 281-304.
- Haverland, M. (2000) 'National Adaptation to European Integration: The Importance of Institutional Veto Points', *Journal of Public Policy* 20(1): 83-103.
- Haverland, M. and Romeijn, M. (2007) 'Do Member States Make European Policies Work? Analysing the EU Transposition Deficit', *Public Administration* 85(3): 757-778.
- Hellman, J. (1998) 'Winners take all', *World Politics* 50(2): 203-234.

Hughes, J.; Sasse, G. and Gordon, C. (2004) *Europeanization and Regionalization in the EU's Enlargement to Central and Eastern Europe: The Myth of Conditionality*, New York/ Basingstoke: Palgrave Macmillan.

Kaufmann, D.; Kraay, A. and Mastruzzi, M. (2009) 'Governance Matters VIII: Aggregate and Individual Governance Indicators, 1996-2008', *World Bank Policy Research Working Paper* No. 4978, available at <http://ssrn.com/abstract=1424591>, accessed 8 April 2016.

Kaeding, M. (2006) 'Determinants of Transposition Delay in the European Union', *Journal of Public Policy* 26(3): 229-253.

Knill, C. and Lenschow, A. (1998) 'Coping with Europe: The Impact of British and German Administrations on the Implementation of EU Environmental Policy', *Journal of European Public Policy* 5(4): 595-561

Knill, C. and Tosun, J. (2009) 'Post-accession Transposition of EU Law in the New Member States: A Cross-country Comparison', in F. Schimmelfennig and F. Trauner (eds), *Post-accession Compliance in the EU's New Member States*, European Integration online Papers (EIoP), Special Issue 2(13), available at <http://eiop.or.at/eiop/texte/2009-018a.htm>, accessed 8 April 2016.

König, T. and Luetgert, B. (2009) 'Troubles with Transposition? Explaining Trends in Member-State Notification and Delayed Transposition of EU Directives', *British Journal of Political Science* 39: 163-194.

Mastenbroek, E. (2003) 'Surviving the Deadline: The Transposition of EU Directives in the Netherlands', *European Union Politics* 4(4): 371-395.

Mastenbroek, E. (2005) 'EU Compliance: Still a 'Black Hole'?', *Journal of European Public Policy* 12(6): 103-120.

Mbaye, H. A. D. (2001) 'Why National States Comply with Supranational Law: Explaining Implementation Infringements in the European Union, 1972-1993', *European Union Politics* 2(3): 259-281.

Meyer, J. W. and Rowan, B. (1977) 'Institutionalized Organizations: Formal Structure as Myth and Ceremony', *American Journal of Sociology* 83(2): 340-363.

Perkins, R. and Neumayer, E. (2007) 'Do Membership Benefits Buy Regulatory Compliance? An Empirical Analysis of EU Directives 1978-99', *European Union Politics* 8(2): 180-206.

Schimmelfennig, F. and Sedelmeier, U. (2004) 'Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe', *Journal of European Public Policy* 11(4): 661-679.

Schimmelfennig, F. and Sedelmeier, U. (eds) (2005) *Europeanization of Central and Eastern Europe*, Ithaca/ London: Cornell University Press.

Sedelmeier, U. (2008) 'After Conditionality: Post-Accession Compliance with EU Law in East Central Europe', *Journal of European Public Policy* 15(6): 806-825.

Sedelmeier, U. (2011) 'Europeanisation in New Member and Candidate States', *Living Reviews of European Government* 6(1): 1-52.

Tallberg, J. (2002) 'Paths to Compliance: Enforcement, Management, and the European Union', *International Organization* 56(3): 609-643.

Thomson, R.; Torenvlied, R. and Arrequi, J. (2007) 'The Paradox of Compliance: Infringements and Delays in Transposing European Union Directives', *British Journal of Political Science* 37(4): 685-709.

Toshkov, D. (2010) 'Taking Stock: A Review of Quantitative Studies of Transposition and Implementation of EU law', *Working Paper No.01/2010*, Institute for European Integration Research, Vienna.

Treib, O. (2014) 'Implementing and Complying with EU Governance Outputs', *Living Reviews in European Governance* 9(1), available at <http://www.europeangovernance-livingreviews.org/Articles/lreg-2014-1/>, accessed 8 April 2016.

Vachudova, M. A. (2005) *Europe Undivided: Democracy, Leverage, and Integration after Communism*, Oxford: Oxford University Press.

Versluis, E. (2007) 'Even Rules, Uneven Practices: Opening the 'Black Box' of EU Law in Action', *West European Politics* 30(1): 50-67.

Yordanova, N. and Zhelyazkova, A. (2011) 'Reversed Economic Left-Right Ideology? Transposition of EU Legislation in Eastern and Western Europe', Paper presented at the EUSA 12th Biennial International Conference, Boston, MA, 3-5 March.

Zhelyazkova, A. and Yordanova, N. (2015). 'Signalling 'Compliance': The Link between Notified EU Directive Implementation and Infringement Cases', *European Union Politics* 16(3): 408-428.

## 10. Appendix I: Selection of directives within four policy areas

Table 3: Directives and sources of information

	Practical implementation	Legal implementation	Transposition acts & ministers
<b>JUSTICE AND HOME AFFAIRS</b>			
2001/40/EC	Odysseus Reports (2008)		
2001/51/EC	Odysseus Reports (2008)		
2001/55/EC	Odysseus Reports (2008)		
2002/90/EC	Odysseus Reports (2008)		
2003/9/EC	Odysseus Reports (2008)		
2003/86/EC	Odysseus Reports (2008)		
2003/109/EC	Odysseus Reports (2008)		
2003/110/EC	Odysseus Reports (2008)		
2004/38/EC	Milieu Ltd (2013)	Milieu Ltd (2008)	
2004/81/EC	Odysseus Reports (2008)		
2004/82/EC	Milieu Ltd (2012)		
2004/83/EC	Odysseus Reports (2008)		
2004/114/EC	GHK Consulting (2010)		
2005/71/EC		ICMPD Reports	
2008/52/EC		Milieu Ltd	
2008/115/EC	Matrix (2013)	Tipik (2013)	
2009/50/EC		Tipik (2013)	
2009/52/EC		Tipik (2013)	
<b>INTERNAL MARKET AND SERVICES</b>			
2000/31/EC		Tipik (2012)	
2001/29/EC	N/A	Queen Mary Institute (2007) (partially coded)	
2004/25/EC	N/A	Marccus Partners (2012)	IBA (2008)
2004/48/EC	N/A	Tipik (2012)	
2004/109/EC	CESR (2008), Mazars (2009)	CESR (2008)	
2005/56/EC	N/A	Lexidale (2013)	
2006/48/EC	N/A	DLA Piper UK LLP (2009)	
2006/49/EC	N/A	DLA Piper UK LLP (2009)	
2006/123/EC	Siemens Report (2008), Eurochambers (2011), Commission Report (2012)	Milieu Ltd (2011), Eurochambers (2011), Stelkens et al. (2012), Commission Report (2012)	
2007/64/EC	N/A	Tipik (2011)	
2008/6/EC	Copenhagen (2010), EGRP (2011), WIK (2013)		
2009/109/EC	N/A	Tipik (2013)	

2009/110/EC	N/A	Tipik (2013)	
2010/78/EU	N/A	Tipik (2013)	
<b>ENVIRONMENT</b>			
1994/62/EC	N/A	Milieu (2005 - 2012)	
2000/53/EC	European Parliament (2010)	Milieu (2005 - 2012)	
2000/60/EC	N/A	Milieu (2005 - 2012)	
2000/76/EC	N/A	Milieu (2005 - 2012)	
2001/18/EC	N/A	Milieu (2005 - 2012)	
2001/42/EC	N/A	Milieu (2005 - 2012)	
2001/80/EC	N/A	Milieu (2005 - 2012)	
2001/81/EC	AEA Energy & Environment (2008), European Environmental Agency (2013)	Milieu (2005 - 2012)	
2002/95/EC	N/A	Milieu (2005 - 2012)	
2002/96/EC	N/A	Milieu (2005 - 2012)	
2003/35/EC	N/A	Milieu (2005 - 2012)	
2003/4/EC	N/A	Milieu (2005 - 2012)	
2003/87/EC	N/A	Milieu (2005 - 2012)	
2004/12/EC	Ecologic & IEEP (2009)	Milieu (2005 - 2012)	
2006/7/EC	N/A	Milieu (2005 - 2012)	
2006/21/EC	N/A	Milieu (2005 - 2012)	
2006/66/EC	N/A	Milieu (2005 - 2012)	
2006/118/EC	N/A	Milieu (2005 - 2012)	
2007/2/EC	N/A	Milieu (2005 - 2012)	
2007/60/EC	N/A	Milieu (2005 - 2012)	
2008/56/EC	N/A	Milieu (2005 - 2012)	
2008/105/EC	N/A	Milieu (2005 - 2012)	
<b>SOCIAL POLICY</b>			
2000/43/EC	Milieu Ltd (2011)	EU network of legal experts in non-discrimination field (2012)	
2000/78/EC	Milieu Ltd (2011)	EU network of legal experts in non-discrimination field (2012)	
2002/14/EC	N/A	Labour Asociados (2007)	ETUI-REHS (2006)
2002/74/EC	N/A	European Human Consultancy – Middlesex University (2007)	
2003/72/EC	N/A	Labour Asociados (2008)	
2003/88/EC	N/A	Commission Report (2010)	

2004/113/EC	Milieu Ltd (2011), Human European Consultancy/Ludwig Boltzman Institute of Human Rights (2010)	EU network of legal experts in the fields of employment, social affairs and equality between men and women (2009)
2006/54/EC	Milieu Ltd (2011), Human European Consultancy/Ludwig Boltzman Institute of Human Rights (2010)	EU network of legal experts in the field of gender equality (2008)
2008/104/EC	ETUI (2012)	ETUI (2012)
2010/18/EU		Legal experts in the field of gender equality (2015)
2010/41/EU		Legal experts in the field of gender equality (2015)

## 11. Appendix II: Conformity reports

Practical conformity is coded based on expert evaluation assessments structured in: 1) general reports, where compliance with the directives' provisions was evaluated across member states, and 2) country reports, where country experts evaluated compliance for each provision. At least three coders coded the reports independently and all discrepancies were discussed afterwards. When conflicts could not be resolved, the respective cases were excluded from the analysis. Table 4 provides an example for the exposition of compliance problems in the area of Justice and Home Affairs. In addition to explicitly pointing out the countries with issues in practical implementation for a particular provision, the reports also explain the nature of the problems and provide justifications for their evaluations

*Table 4: Excerpt from the Synthesis report on the Qualification directive (Justice and Home Affairs)*

Article 4(1), second clause, Q. 8 from the national report	
NO TRANSPOSITION AT ALL	Bulgaria, Lithuania
LEGAL PROBLEM	Czech Republic, France, Romania, Spain
PRACTICAL PROBLEM	Luxembourg, Slovakia

With regard to information about legal conformity, most of the reports include tables of correspondence (TOCs) evaluating legal conformity of national law with directive provisions. Currently, all data on legal compliance with Environment directives and Justice and Home Affairs directives (12 out of 14 directives) relies on tables of conformity. All TOCs (irrespective of the policy areas) identify the EU provision; whether it was transposed into national law or not (provision number and English translation); assessment of transposition correctness; and explanations about both positive and negative evaluations (see Table 5).

In those instances where there are no TOCs available (all Internal Market and Social Policy directives), expert evaluations provided the same information as the TOCs in terms of transposition measures, evaluation of their correctness, and reasons behind these evaluations, despite the different structure.

Table 5: Examples taken from the conformity table of Austria regarding the directive on the quality of bathing water (Environment)

Article	EU obligation	National provision (legal ref & art)	National provision (in English)	Fully in accord? (yes/no)	Notes/ Problems
Art. 1(3)	This Directive shall apply to any element of surface water where the competent authority expects a large number of people to bathe and has not imposed a permanent bathing prohibition, or issued permanent advice against bathing (hereinafter bathing water)	§ 1 (1) point 8: BHygG § 2a BHygG	This law act has to be applied on bathing water. Bathing water shall be any element of surface water where 1.a large number of people to bath is to be expected and 2. no permanent bathing prohibition has been imposed nor a permanent advice against bathing has been issued.	Yes	Effective transposition  Pursuant to Article 1 of the BHygG as the law applies to bathing water, defined by Article 2a of the BHygG in line with Article 1 (3) of the Directive.
Art. 3(1)	Member states shall annually identify all bathing waters and define the length of the bathing season. They shall do so for the first time before the start of the first bathing season after 24 March 2008	§ 9a (2) BHygG § 9a (3) BHygG § 3 BGe-wV		No	Incorrect transposition As the Directive has been transposed in July and October 2009 (late transposition), the deadline of 24 March 2008 could not be reflected in the transposing legislation. Therefore, transposition is considered as incorrect.
Art. 4(2) 7th par.	Member states may not change the applicable assessment period more than once every five years.				



**“Maximizing the integration capacity of the European Union: Lessons of and prospects for enlargement and beyond”**

The ‘big bang enlargement’ of the European Union (EU) has nurtured vivid debates among both academics and practitioners about the consequences of ‘an ever larger Union’ for the EU’s integration capacity. The research project MAXCAP will start with a critical analysis of the effects of the 2004-2007 enlargement on stability, democracy and prosperity of candidate countries, on the one hand, and the EU’s institutions, on the other. We will then investigate how the EU can maximize its integration capacity for current and future enlargements. Featuring a nine-partner consortium of academic, policy, dissemination and management excellence, MAXCAP will create new and strengthen existing links within and between the academic and the policy world on matters relating to the current and future enlargement of the EU.