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Incentives to comply: The impact of national governments' and stakeholders' preferences on compliance with EU laws

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Abstract

Established explanations of differences in compliance outcomes highlight the policy preferences of implementers. The application of these theories to compliance with EU laws focuses on national governments and stakeholders. This study improves on existing conceptualisations of governments' and stakeholders' preferences by distinguishing between their incentives to deviate from, conform to and exceed the standards contained in EU laws. We apply these concepts to detailed evidence on national governments' and stakeholders' policy preferences and national governments' transposition records. The study finds that incentives to conform and exceed are generally more frequent than incentives to deviate. Moreover, the policy preferences of national governments and stakeholders are linked, as governments' preferences often agree with national stakeholders' demands. Both national governments' and stakeholders' incentives to comply positively affect the timeliness of transposition.

Keywords: compliance, transposition, interest groups, preferences

Researchers and practitioners regularly find stark differences in the quality and timing of policy implementation, and they have invested much effort in explaining these differences (Hill and Hupe 2002; Matland 1995; Mazmanian and Sabatier 1983; Oosterwaal and Torenvlied 2012; O'Toole 1986; 2000). Two sets of explanations stand out. First, managerial explanations focus on implementation agencies' capacity to implement. Here, compliance failures are explained by implementers' structural constraints on their ability to comply. Second, preference-based explanations focus on implementation agencies' policy preferences, which may deviate from the policies they are charged with implementing (e.g. Thomson, Torenvlied, and Arregui 2007; Torenvlied 2000). Here, cases of non-compliance are explained by implementers' policy preferences, usually their incentives to deviate, and the political context, including institutional constraints and opportunities, that shape their behaviour.

This study contributes to this second class of explanation in two related ways. First, it develops and applies an improved conceptualisation of actors' policy preferences in relation to the decisions to be implemented. While previous research focused mainly on implementers' incentives to deviate, our conceptualisation distinguishes between incentives to deviate from, conform to and exceed the standards contained in the decisions to be implemented. When member states transpose European Union (EU) directives, incentives to exceed the standards do not imply non-compliance, because directives usually refer to minimum standards to which states must adhere. This conceptualisation develops two previous studies that alluded to a similar distinction between incentives to introduce lower or higher standards (Dimitrova and Steunenberg 2000: 212-13; Thomson 2010: 583). We develop and apply this distinction to implementers, which in the context of this study are national governments, and to other relevant actors, namely national stakeholders.

Second, we develop the explanation of compliance that focuses on the role of national stakeholders in ensuring compliance. We argue that these stakeholders only sometimes encourage

compliance. Stakeholders that have an interest in compliance may put pressure on implementers to act accordingly. When stakeholders do so, they may function as non-compliance fire alarms (McCubbins and Schwartz 1984). If stakeholders can alert enforcement agents to cases of non-compliance and implementers are aware of this, they prevent non-compliance from occurring in the first place. Thus, the costs of control are moved from decision-makers to stakeholders with an interest in compliance (Banks and Weingast 1992).

The empirical testing ground for our argument is the transposition of EU directives (Keating 2006; König and Luetgert 2009; Thomson, Arregui, and Torenvlied 2007; Zhelyazkova and Torenvlied 2009). We examine a small number of directives on which we have detailed evidence on member states' and national stakeholders' policy preferences. We identify national stakeholders' preferences from consultations held prior to the introduction of the legislative proposals that became the directives we examine. In doing so, this study links different stages of the EU policy process: the policy formation stage and the transposition stage.

The next section contains our argument regarding the mechanisms through which policy preferences and stakeholder involvement affect compliance and how this argument applies to the EU context. We then describe the research design, followed by the analysis and conclusions.

Policy preferences and stakeholders in explanations of non-compliance

The implementation stage begins when a group of policymakers take a political decision, which includes passing a law. In the spatial model of politics, that decision is represented as a point in a policy space (Bendor, Glazer, and Hammond 2001). The implementation agent also has a preferred policy position that can be represented as a point in the policy space. If that position differs from the political decision, the implementer is said to have an "incentive to deviate", which equals the

distance between the decision and the implementer's preference (Torenvlied 2000; Weingast and Moran 1983). Implementers may prefer policies other than those chosen by their political masters for a range of reasons. It might be that implementers prefer to maintain the status quo as a consequence of entrenched bureaucratic procedures and established interests. It might be that implementers have specialist information about what works in their respective policy fields.

Policymakers have a range of enforcement mechanisms to compel implementers to comply, such as charging another agent – an enforcement agent - with monitoring the implementation of the policy and taking measures to ensure compliance if deviations are detected. Enforcement agents employ various procedures to overcome information problems associated with monitoring implementation agents. They may closely monitor the behaviour of agents for issues that are highly salient to them, thus efficiently allocating their scarce resources (Thomson, Torenvlied, and Arregui 2007; Torenvlied 2000, Zhelyazkova and Torenvlied 2009). Another procedure is to rely on the fire-alarm mechanism (McCubbins, Noll, and Weingast 1989). These fire alarms include stakeholders (organizations and natural persons) that can sound an alarm to signal that there is a compliance problem.

Stakeholders or interest groups are part of the context in which political decisions are both formulated and implemented. They are relevant to explaining differences in compliance in at least two respects. First, involving stakeholders in the preparatory stage of decision-making may help avoid compliance problems. Stakeholders may communicate the concerns, policy preferences and knowledge of the policy community affected by the political decision, even including those of the relevant implementation agents. To the extent that stakeholders' input adds expert information to the decision-making process, it may improve the quality of political decisions (Kaya 2019). Second, stakeholders' extensive information about the behaviour of implementation agents mean they are able to bring cases of non-compliance to the attention of policymakers and enforcement

agents. Stakeholders may also lobby policymakers and enforcement agents to take action against non-compliance if detected. The possibility of such actions may also prevent non-compliance from occurring in the first place if implementers anticipate negative publicity and possible sanctions from policymakers in response to non-compliance.

These general arguments are readily applicable to the transposition of EU directives. The relevant policymakers are the European Commission, the European Parliament and the member states' representatives in the Council. The first stage of the implementation process consists of the transposition of directives into national laws. Directives contain transposition deadlines, by which times member states are obliged to bring into force national legislation to implement the directives and to report their national implementing measures to the Commission. National governments are among the decision makers in the EU and are also responsible for transposing directives.

The Commission is an enforcement agent with respect to directives. The Commission is responsible for monitoring compliance with European law and has considerable legal powers with which it can compel states to comply, ultimately by challenging states before the European Court of Justice (Pollack 2003: 86; Thomson 2010). Zhelyazkova and Torenlvlied (2009) find that if states fail to transpose a directive before the deadline, they respond to a letter of formal notice from the Commission by transposing soon thereafter.

Here, we shift the focus from the Commission as the main enforcement mechanism to national stakeholders, which is appropriate given the limited resources of the Commission relative to the scale of the implementation it is charged with monitoring. In doing so, our research relates to existing studies of interest group politics in the EU, The Commission is highly consultative, which means that it often seeks out the opinions of a range of relevant stakeholders before it formulates policy proposals (e.g. Beyers and Kerremans 2004; Coen and Richardson eds. 2009; Klüwer 2011; Bunea 2013; Bunea and Thomson 2015; Judge and Thomson 2019). Existing research focuses

mainly on the inputs into these consultations, including the balance of interests that participate. For instance, Bunea's (2013) and Judge and Thomson's (2019) research examines how interest groups' policy demands affect the contents of legislative proposals and member states' negotiating positions. Rasmussen and Toshkov (2013) find that legislative proposals preceded by consultations took longer to adopt than proposals that were not preceded by consultations. Kaya (2018) finds that member states with more diverse stakeholder environments transpose lower proportions of directives correctly, particularly when the directives grant little discretion. In settings with diverse stakeholders and little discretion, national governments face significant challenges to incorporating the views of all stakeholders when formulating national transposing legislation. The prevalence of transposition problems in these settings indicates that failure to incorporate stakeholders' views is inconducive to compliance.

Implementers' and stakeholders' incentives to *comply* are theoretically of equal importance to their incentives to deviate from the decisions to be implemented. However, existing research on compliance generally focuses on implementers' incentives to deviate (Torenvlied 2000; Weingast and Moran 1983, Thomson, Torenvlied and Arregui 2007). Dimitrova and Steunenberg (2000: 212-13) and later Thomson (2010: 583) noted that EU directives generally contain minimum standards to which states must adhere. National governments whose policy preferences differ from the contents of a directive may take positions that favour lower standards or higher standards. While a preference for lower standards implies an incentive to deviate, a preference for higher standards does not. On the contrary, it implies a preference to exceed the minimum standards stipulated in the directive. We therefore distinguish between:

- 1) incentives to deviate, which are preferences for lower standards;
- 2) incentives to conform, which are preferences for the standards contained in the directive; and

3) incentives to exceed, which are preferences for standards that exceed those contained in the directive.

Incentives to conform and exceed (2 and 3) may be subsumed under a general heading of incentives to comply, since their consequences for compliance are likely to be similar. Furthermore, the preferences of national governments and stakeholders are linked, because national governments are most responsive to the policy demands of stakeholders from their own national territories (Judge and Thomson 2019).

Our study is situated in a wider field of research on variation in compliance with EU laws, in which a wide range of explanations have been put forward (for an overview see Angelova, Dannwolf, and König 2012). Our preference-based explanation is linked to other explanations based on member states' characteristics. For instance, one relatively robust finding is that a close fit between existing national laws and the requirements of new directives is conducive to compliance. The complexity of directives to be implemented also influences compliance outcomes. These characteristics of member states and directives shape member states' policy preferences in relation to directives, thereby conditioning their incentives to deviate or comply. To the extent that the available evidence enables us to do so, we check that our findings are robust to control variables regarding states' administrative capacity and the relative complexity of directives.

Research design

We selected nine directives that are a subset of those included in the Decision-Making in the EU (DEU) project (Thomson et al. 2006; 2012). The nine directives were those that were at the proposal stage after 2007 and that were the subject of consultations prior to their introduction as legislative proposals. For four of these directives, we were able to obtain the contents of stakeholders' written submissions, which means we could code the details of their policy

preferences as described below. These four directives with detailed preference data are the directives on payment services (Dir. 2007/64/EC), broadcasting (Dir. 2007/65/EC), waste (Dir. 2008/98/EC), and illegally staying third-country nationals (Dir. 2008/115/EC). For the other five directives, we do not have information on each stakeholder's policy preferences, but we do have information on the numbers of stakeholders from each member state that participated in the consultations. These five directives are the directives on air quality (Dir. 2008/50/EC), pesticides (Dir. 2009/128/EC), postal services (Dir. 2008/6/EC), emissions trading (Dir. 2008/101/EC) and marine strategy (Dir. 2008/56/EC).¹

The fact that these directives were decided on between 2007 and 2009, which is ten years or more from the year of this study, has the advantage that we are able to study a sufficiently long period of time during which member states should have transposed these directives into national laws. The selection of proposals based on the existence of EU-level consultations also has the advantage of focusing our attention on the national stakeholders that are most relevant to influencing national compliance. These are the stakeholders that have the awareness, resources and interest to participate in the formulation of relevant EU legislative proposals. The same characteristics are likely to make them active participants in the subsequent national transposition processes, whether it be to encourage or stymie national compliance.

The main unit of analysis is the member state-directive dyad and the dependent variable is the number of weeks delay between the transposition date and the date on which the last registered national implementing measure in the member state came into effect. The transposition deadlines stipulated by the nine directives vary from the earliest of 1st November, 2009 for the payment services directive to 31st December 31, 2012 for eleven member states for the postal services

¹ More information on the selected directives can be found in the Online Appendix.

directive. The other member states had a transposition deadline of 31st December 2010 for the postal services directive. We used the EUR-Lex database to identify national implementing measures in relation to each directive. Therefore, our dependent variable can be more accurately described as the delay in the end of the national transposition process with the information available at the time of writing (June 2019). There are no censored cases, i.e. cases in which a member state did not report any national implementing measure. Some of the cases are missing in that a national implementation measure is reported in the database, but the date is missing. There are also a small number of cases where a directive did not apply to a member state. For instance, the directive on illegally staying third-country nationals does not apply to Denmark, Ireland or the United Kingdom. For the nine directives, we have 237 observations (state-directive combinations) in our analysis. For the four directives on which we have more detailed data on national stakeholders' policy preferences, we have 104 observations.

The dependent variable ranges from 0 to 431 weeks of delay: mean 120.14; standard deviation (s.d.) 130.27; n=237. The cases with no delay are cases in which the member state's last national implementing measure came into force on or before the transposition date. A total of 37, or 15.61 percent, of the 237 observations had no delay in this sense. We add one to this delay variable before applying the Cox regression survival model so that the cases without delay remain in the analysis.²

² This operationalisation of the dependent variable, which focuses on the last registered national implementing measure, gives more variation, and therefore statistical power, than the first registered national implementing measure. The last implementing measure also provides more relevant information on the duration of the transposition process than the first implementing measure, as indicated by the fact that there has been no significant transposition activity in the two years before these data were collected.

The key explanatory variables in our analysis refer to the preferences of national governments and stakeholders. National governments' preferences are identified in the DEU data (Thomson et al. 2006; 2012). For each directive, key informants mapped out the main controversial issues as policy scales. In the original DEU dataset, these policy scales were quantified to range from 0 to 100. In the present analysis, however, we are simply interested in the ordering of the policy positions taken, the contents of these policy positions, and their relation to the decision outcomes that were agreed in the directive.

Table 1 illustrates the DEU data on which we draw with an example of an issue from each of four directives. The first issue was raised in the highly controversial payment services directive, which set common rules for credit transfers, direct debits and card payments. The issue concerned the standard for the maximum duration of payments between banks in the EU. Austria, Bulgaria and Germany favoured a relatively low standard of at most five days. The other member states favoured a far higher standard, which was adopted in the directive, of at most one day. Therefore, we code Austria, Bulgaria and Germany as having an incentive to deviate, and the other member states as having an incentive to conform to the outcome agreed on this issue.

<Table 1>

Table 1 also includes an example from the waste directive, which set standards for classifying the incineration of waste as recovery. The outcome of the negotiations was a compromise favoured by the Commission and several member states including Finland and Germany, which we code as having an incentive to conform. Belgium, France and Italy favoured a lower standard, and therefore have an incentive to deviate. Austria, Cyprus and others favoured a higher standard than that which was agreed in the law, and therefore have an incentive to exceed the requirements set in the

directive on this point. Member states that took no position are coded as having no incentive. A legislative proposal can raise several controversial issues. It is therefore possible for states to have more than one incentive to deviate, conform or exceed, and to have several combinations of preferences for a directive. Given the modest numbers of observations, it is appropriate to combine the categories of incentives to conform and exceed, since these have the same theoretical implications for compliance.

There are issues that do not raise compliance issues, or are resolved in such a way that compliance issues were avoided. For example, one of the controversial issues raised by the payment services directive (not depicted in the table) was resolved by granting member states discretion in setting national standards. The issue concerned the type of standards that should be set for non-banks that provided credit to consumers. Some states preferred a liberal regime, while some states preferred a highly regulated regime in which non-banks would only be allowed to provide credit to consumers for short periods of time. The outcome allowed member states to limit the provision of credit by non-banks if they chose to do so. In such cases, member states and national stakeholders are coded as having no incentive. For the nine selected directives, the DEU dataset identifies 29 issues, 19 of which raised compliance issues and ten did not. The regression analysis includes a variable that for each member state that measures the count of issues in each proposal on which the state had an incentive to deviate from the contents of the directive. A similar variable is included that measures the count of issues on which the state had an incentive to comply with the contents of the directive.

The analysis includes information on the numbers of stakeholders from each member state for all nine directives. A major advantage of this measure is that it is exogenous to member states' compliance performance. These consultations were held many years prior to the adoption of the directives and subsequent national transposition. This explanatory variable also varies a great deal

among the observations, ranging from 0 to 515 across the 237 observations relating to the 12 directives (average 13.16; s.d. 35.98). The outlying highest number refers to the number of French stakeholders in relation to the pesticides directive. Since both the count of stakeholders from each member state is skewed, we take the natural log of each count after adding one to the original measures.³

We also have detailed information on stakeholders' preferences for four directives (payment services, waste, broadcasting and illegally staying third country nationals). We coded each stakeholder's submission to estimate its position on the DEU policy scales. This enables us to classify each stakeholder's position on each issue as an incentive to deviate, conform or exceed the standards set in the directive that was adopted. For example, in relation to the payment services directive, 31 national stakeholders took positions on the desired standard concerning the longest permitted duration of payments (Table 1). Most of these national stakeholders were traditional banks that favoured the lowest standard. Banks preferences for low standards have also been documented in related analyses of more recent proposals (Spendzharova, Versluis and Redulova 2016). In relation to the waste directive, ten nationally based stakeholders expressed positions on the issue of standards for classifying waste as recovery. All favoured the legislation of a low standard. As described below, the numbers of national stakeholders are highly skewed across the cases. The regression models therefore include a dichotomous measure of whether or not there was one or more national stakeholders that had an incentive to deviate from the contents of the directive on at least one of the issues it raised. A similar dichotomous variable measures the presence of one or more national stakeholders with an incentive to comply.

³ The addition of one is necessary since there are cases with zero interest groups. This also avoids the steep part of the natural log function between 0 and 1.

In the next section, we present parsimonious models with only the explanatory variables of theoretical interest in this study. We also ran robustness tests that include two of the most relevant control variables, states' administrative capacity and the directives' complexity, and we report that our results are robust. For administrative capacity, we use data on "government effectiveness" in 2007 developed by World Bank researchers (Kaufmann, Kraay and Mastruzzi 2010: 4). We measure complexity by the number of recitals in each directive. Similarly, Kaeding (2006: 236) used the number of recitals to measure the amount of detail in laws. We do not control for the Commission's policy preferences in relation to each directive, as there is relatively little variation in these across directives. Unsurprisingly, the Commission generally supports the same or higher standards than those contained in the directives adopted. We emphasise that characteristics of directives and member states are merely controls in a robustness test.

Analysis

Figure 1 depicts the relative frequencies of incentives to deviate from, conform to and exceed the standards set in directives. The nine selected directives raised a total of 29 issues at the proposal stage, 19 of which raised compliance issues in the sense that states' policy performance could potentially deviate from the standards set in those directives when they became laws. Therefore, the maximum number of any type of incentive is 19.

For most states, incentives to conform to and exceed standards generally outnumber incentives to deviate. On average, member states have an average of 5.56 incentives to deviate, 3.59 incentives to conform, and 5.30 incentives to exceed. Member states that took no position on an issue are coded as having no incentive.

<Figure 1>

There are some noteworthy differences among member states and EU actors in the distribution of their incentive types. The highest frequencies of incentives to deviate are held by Germany, Slovakia, Austria and Malta, each of which had incentives to deviate on eight issues. Of the member states, the lowest frequencies of incentives to deviate are held by Sweden (three), Finland (two) and Denmark (one). The highest frequency of incentives to exceed standards is held by Sweden (12) and the lowest by Bulgaria (one). As we would expect to find, the Commission's and EP's policy positions seldom reflect an incentive to deviate, and more commonly reflect incentives to conform to or exceed the standards set in directives. This supports the face validity of the measure.

Figure 2 turns to the evidence on national stakeholders' demands expressed during the consultations prior to the introduction of the legislative proposals that became these directives. This evidence refers to the four directives on which we have detailed information on the contents of national stakeholders' policy demands: payment services, broadcasting, waste and third-country nationals. The first important finding from Figure 2 is that there is substantial variation among national stakeholders' preferences in relation to compliance issues. Large member states have considerably more stakeholders that express relevant demands than medium-sized and small states. Stakeholders from the UK, Germany, France and Italy voice demands that map onto the controversial compliance issues most frequently. Stakeholders from the UK, for instance, voiced 72 demands on the 12 compliance issues from the four selected directives. By contrast, there were few or no demands from stakeholders from most of the member states that joined in 2004 and 2007. This variation is caused to a large extent by some outlying cases. If we consider state-issue combinations, 80 percent of these (368 of 459 state-issue combinations) had no national

stakeholder voicing a demand that could be categorised as an incentive either to deviate or comply. The average number of demands was 0.57 (s.d. 2.00; n=459, ranging from 0 to 28). The outlying case with 28 demands concerns demands raised by UK stakeholders on the broadcasting directive (Table 1). Previous analyses indicate that these stakeholders include individual companies, business associations, trade unions, professional associations, consumer groups, and environmental groups (Judge and Thomson 2019). We did not include the few national ministries that made submissions as stakeholders, because these are obviously not distinct from national governments.

<Figure 2>

The relative frequency of stakeholders' incentives to deviate and to comply are fairly evenly balanced. The 263 national stakeholders' demands categorised in Figure 3 consist of 130 (49 percent) incentives to deviate, 42 (16 percent) incentives to conform, and 133 (35 percent) incentives to exceed. Incentives to comply only very slightly outnumber incentives to deviate among the preferences of national stakeholders. Again, there is considerable variation among stakeholders from different states in the relative frequency of incentives to deviate and comply.

Figure 3 turns to the relationship between national governments' incentives and stakeholders' incentives (see also Judge and Thomson 2019). The figure compares the relative frequency of national governments' incentive types by the relevant national stakeholders' incentive types. There are significant differences among the distribution of national governments' incentive types depending on the occurrence of different national stakeholders' incentives. National governments are more likely to have incentives to deviate if there are national stakeholders that express demands reflecting incentives to deviate. Similarly, national governments are more likely to have incentives to exceed standards if there are also national stakeholders with incentives to

comply (either to conform or exceed). The figure compares the distribution of member states' incentive types across the 459 state-issue combinations (27 states and 17 issues) relating to the four directives on which we have detailed information on national stakeholders' demands. As noted above, for 80 percent (368 of 459) of these state-issue combinations, there were no relevant demands expressed by national stakeholders. There are substantial percentages of cases where national governments had incentives to deviate, conform or exceed that do not conform to national stakeholders' demands. For instance, regarding the directive on illegally staying third-country nationals, both Germany and France called for lower standards than did the national stakeholders from each of those countries (Table 1).

<Figure 3 here>

Table 2 presents two Cox regression models. The first model refers to observations from the nine selected directives. The second model refers to observations from the four of these nine directives on which we have information on the content of national stakeholders' submissions. The unit of analysis in each model is the state-directive combination. The dependent variable in each of the model is the number of weeks delay between the transposition date in each directive and the date of the last national implementing measure registered by the state. We add one to this variable so that observations with zero delay remain in the analysis; these are cases where all national implementing measures were passed on or before the deadline. Exponentiated coefficients ($\exp(b)$) of greater (less) than one indicate that an increase in the value of the relevant explanatory variable increases (decreases) the hazard – loosely the likelihood – of national transposition being completed relative to the baseline hazard. In other words, exponentiated coefficients of greater than one indicate that the relevant explanatory variables positively affect timely national compliance.

We ran the Grambsch and Therneau test, which assesses whether the proportional hazards assumption holds for each of the explanatory variables and found no evidence that the assumption is violated. This implies that the effects of the explanatory variables have a uniform effect over time, or at least that there is no evidence of a non-uniform effect.

<Table 2>

Both national governments' and stakeholders' incentives to comply significantly expedite transposition. The variable "State's incentive to comply" is the count of issues on which the national government of the state had an incentive either to conform to or exceed the standards set in the directive, and it ranges in value from zero to four. The coefficients for this variable are positive and significant in both models. In Model 2, the exponent of the coefficient is 1.33. This means that for every one-unit increase in a state's incentive to comply, the hazard of the national transposition process being completed increases by 33 percent.

National stakeholders' incentives to comply also have a positive effect on the timeliness of transposition. The variable "National stakeholder with incentive to comply" is a dichotomous variable, which distinguishes between cases where there are no (0) and one or more (1) national stakeholders with preferences reflecting an incentive to conform to or exceed the standards in the directive. As mentioned above, it is appropriate to dichotomise this variable given its distribution. The exponent of the coefficient of this variable is 1.98; this indicates that the hazard of the transposition process being concluded is almost twice as high when there is at least one national stakeholder with an incentive to comply than when there is none.

In contrast to the significant findings relating to incentives to conform, there are no significant coefficients relating to incentives to deviate. This applies to both national governments and

stakeholders. The coefficients are not even in the expected direction, as all coefficients are positive. We also do not find consistent evidence of an effect of the sheer numbers of national stakeholders. Model 1 does not indicate an effect, while Model 2 indicates a significant negative association. The exponent of the relevant coefficient – that associated with the variable “Log of count of national interest groups + 1” – is negative and significant: $.63$, $p=.00$. This means that the hazard of national transposition being completed decreases by 37 percent, relative to the baseline hazard function, as our measure of the count of national interest groups increases by one unit. An increase from 0 to 1 in the variable “Log of count of national interest groups + 1” represents an increase in the count of national interest groups from 0 to 1.72. An increase from 1 to 2 in the value of the variable represents an increase in the count of national interest groups from 1.72 to 6.39. Although this is noteworthy, it is not a robust finding since it is not present when we examine the larger number of observations in Model 1.

The effects of national governments’ and stakeholders’ incentives to comply are robust to a range of relevant model specifications. The models presented contain only the explanatory variables of primary interest. Our research is not designed to capture the impact of explanatory variables that vary mainly among laws or among member states. Nonetheless, we re-ran Model 2 with three additional control variables: recitals, which is an indicator of complexity; World Bank indicators of government effectiveness (Kaufmann, Kraay and Mastruzzi 2010), which is an indicator of administrative capacity; and a dichotomous indicator of whether or not the state in question joined the EU in 2004 or later. The coefficients for the variables State’s incentives to comply and National stakeholder with incentive to deviate remained of a similar size and statistically significant (State’s incentives $b=.25$ $p=.04$; National stakeholder $b=.52$, $p=.04$). The control variables themselves were insignificant, except the dichotomous indicator for new member states, which was negative and significant, indicating that the hazard of timely transposition is

lower for new member states. We also ran a model with interactions between member states' and stakeholders' preferences, which were insignificant. While these are reassuring robustness tests, the models in Table 2 are most relevant to our theoretical argument.

Conclusions

Implementers are constrained not only by their political principals and enforcement agents, but also by stakeholders involved in the policy field in which implementation takes place. These stakeholders function as a fire-alarm mechanism, whereby their potential to sound the alarm in response to non-compliance can prevent it from occurring (McCubbins, Noll, and Weingast 1989). This mechanism is applicable to the EU. Member states – national implementers – transpose directives more rapidly when national stakeholders express support for the standards in those directives. Researchers have recognised the importance of consultations with stakeholders during the formative stage of decision-making (e.g. Beyers and Kerremans 2004; Coen and Richardson eds. 2009; Bunea 2013). However, the analysis presented here is among the first to link consultations at the formative stage with the much later transposition stage (see also Kaya 2018; 2019). Future research may further develop knowledge of this area by theorising and analysing the impact of different types of stakeholders on the correct transposition of different parts of directives.

The preferences of key actors in relation to the regulatory standards to be implemented has significant explanatory power, and incentives to comply matter more than incentives to deviate. It is remarkable that most implementation research focuses solely on implementers' incentives to deviate (Torenvlied 2000; Weingast and Moran 1983). The distinction between different incentive types in relation to compliance outcomes builds on previous work by Dimitrova and Steunenberg (2000: 212-13; see also Thomson 2010: 583). The insignificance of incentives to deviate is worthy of future research. It may be that Commission and other stakeholders use the presence of incentives

to deviate as a cue to intensify monitoring of compliance, thereby negating the negative effect of such incentives. There are also many opportunities for future studies that link a preference-based approach to interest groups with existing explanations of compliance that focus on structural and contextual factors.

Replication materials

Supporting data and materials for this article can be accessed on the Taylor & Francis website, doi: [publisher to add the doi at proof].

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Tables and figures

Table 1. Examples of issues with incentives to deviate, conform and exceed the standards set in the directive

Type of policy preference and content	Member states' and EU actors' positions	National stakeholders' demands
<i>From the payment services directive: Longest permitted duration of payments</i>		
Low standard/ deviate. At most five days	AT, BU, DE,	AT(2), DE(3), IT(1), LU(1), PL(1), SE(1), SI(1), UK(4)
Medium standard/ deviate. At most three days		AT(1), DE(3), FR(3), IE(1), LU(1), NL(1), SE(1)
High standard/ outcome / conform. At most one day	COM, EP, BE, CY, CZ, DK, EE, FI, FR, EL, HU, IE, IT, LV, LT, LU, MT, NL, PL, PT, RO, SI, SK, ES, SE, UK	BU(1), DK(1), ES(1), FI(1), FR(2)
<i>From the broadcasting directive: Inclusion of non-linear services</i>		
Narrow scope/ deviate. Exclude non-linear services	SK, UK	BE(1), DE(5), ES(2), FI(1), FR(4), NL(1), UK(23)
Medium scope/ outcome/ conform. Include non-linear with restrictive definitions	CY, DK, NL, ES	DE(4), FR(4), IE(1), IT(2), LT(1), PT(1), UK(1)
Broad scope/ exceed. Include non-linear with broad definitions	COM, EP, AT, BE, FI, FR, DE, EL, IE	AT(1), BE(3), DE(3), EL(1), ES(1), FR(4), IE(1), IT(5), PL(1), UK(4)
<i>From the waste directive: Standards for classifying incineration as recovery</i>		
Low standard/ deviate. Low energy efficiency requirements for classifying as recovery	BE, FR, IT	DE(2), FI(3), FR(1), UK(4)
Medium standard/ outcome/ conform. Medium energy efficiency requirements	COM, FI, DE, EL, IE, LU, NL, PT, UK	
High standard/ exceed. High energy efficiency requirements	EP, AT, CY, CZ, DK, EE, HU, LV, LT, MT, PL, SI, SK, ES, SE	
<i>Directive on illegally staying nationals: Minimum rights for those awaiting deportation</i>		
Low standard/ deviate. No minimum rights in EU law	AT, CY, DE, EL, MT, SK	
Medium standard/ outcome/ conform. Basic services, such as some housing and health care	CZ, EE, FR, IT, LV, LT, NL, PL, ES	DE(1), ES(1), UK(1)
High standard/ exceed. Full social services	COM, EP, BE, FI, HU, LU, PT, SE	FR(1)

Note: Numbers in parentheses in the last column refer to the numbers of national stakeholders that expressed that position. AT: Austria; BE: Belgium; BU: Bulgaria; COM: Commission; CY: Cyprus; CZ: The Czech Republic; DK: Denmark; EE: Estonia; EP: European Parliament; FI: Finland; FR: France; DE: Germany; EL: Greece; HU: Hungary; IE: Ireland; IT: Italy; LV: Latvia; LT: Lithuania; LU: Luxembourg; MT: Malta; NL: The Netherlands; PL: Poland; PT: Portugal; RO: Romania; SI: Slovenia; SK: Slovakia; ES: Spain; SE: Sweden; UK: The United Kingdom.

Table 2. Effect of national stakeholders' and states' preferences on the timeliness of national transposition

	Model 1			Model 2		
	Exp(b)	b (s.e.)	p	Exp(b)	b (s.e.)	p
State's incentive to deviate	1.02	.02 (.09)	.84	1.23	.21 (.17)	.24
State's incentive to comply	1.20	.18 (.05)	.00	1.33	.28 (.12)	.02
Log of count of national stakeholders	.99	-.01 (.05)	.90	.63	-.47 (.15)	.00
National stakeholder with incentive to deviate				1.80	.59 (.36)	.10
National stakeholder with incentive to comply				1.98	.68 (.21)	.00
n (state – directive combinations)	237			104		
n weeks in analysis	28,710			12,782		
n directives	9			4		
Log pseudolikelihood	-1062.62			-374.11		
Wald chi2 (p)	14.81 (.00)			42.62 (.00)		

Note: Cox regressions. Dependent variable: Number of weeks delay from the transposition deadline to the date of the last national implementing measure. Unit of analysis: member state – directive. Robust standard errors clustered by member state.

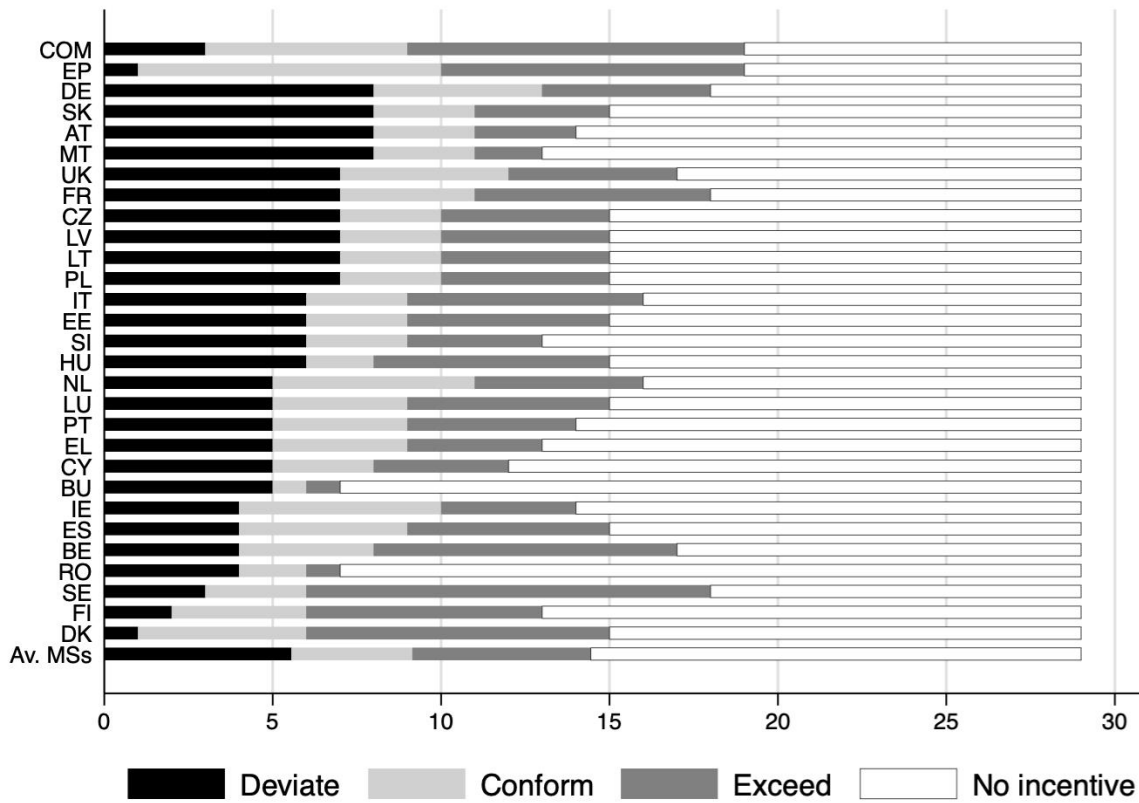


Figure 1. Frequency of Member States' and EU actors' incentives in relation to compliance
 Note: Bars refer to the frequency of each type of incentive across 29 issues from nine directives.

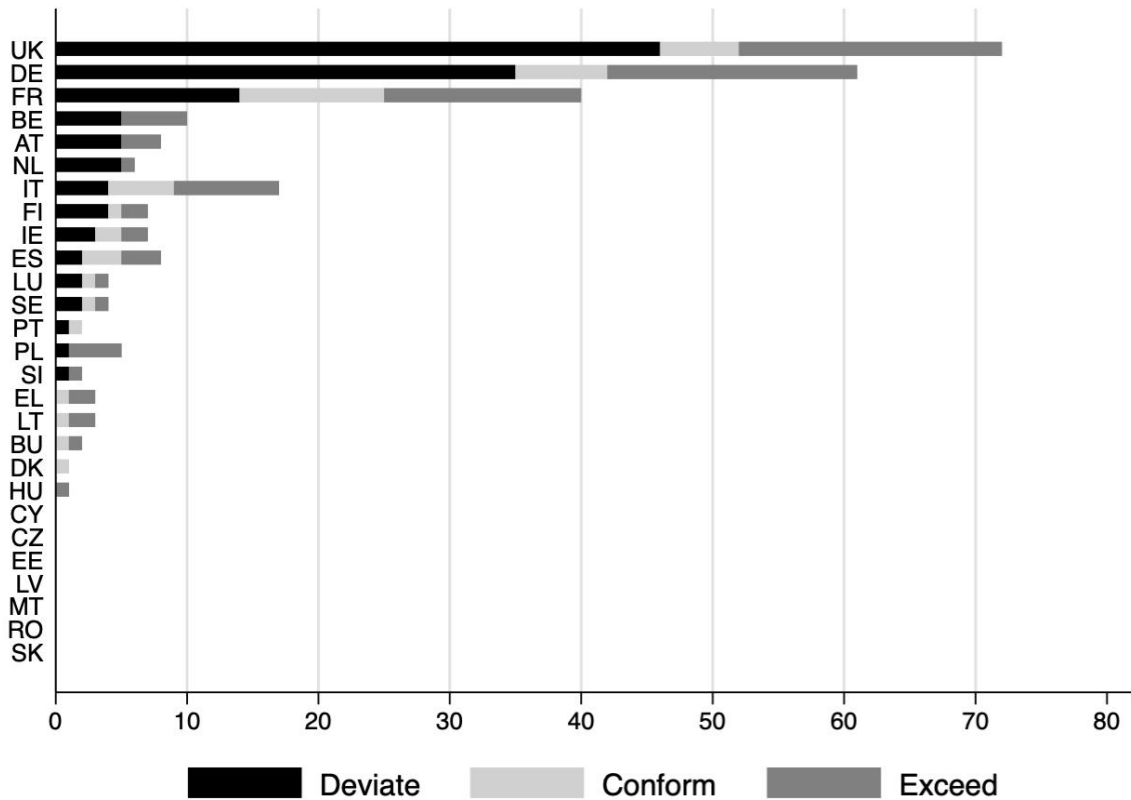


Figure 2. Frequency of national stakeholders' demands in relation to compliance

Note: Frequency of each type of demand across 17 issues from four directives.

Deviate/conform/exceed: Implementation of the stakeholder's preference would mean that the policy implemented would deviate from, conform to or exceed the requirements of the directive on that issue.

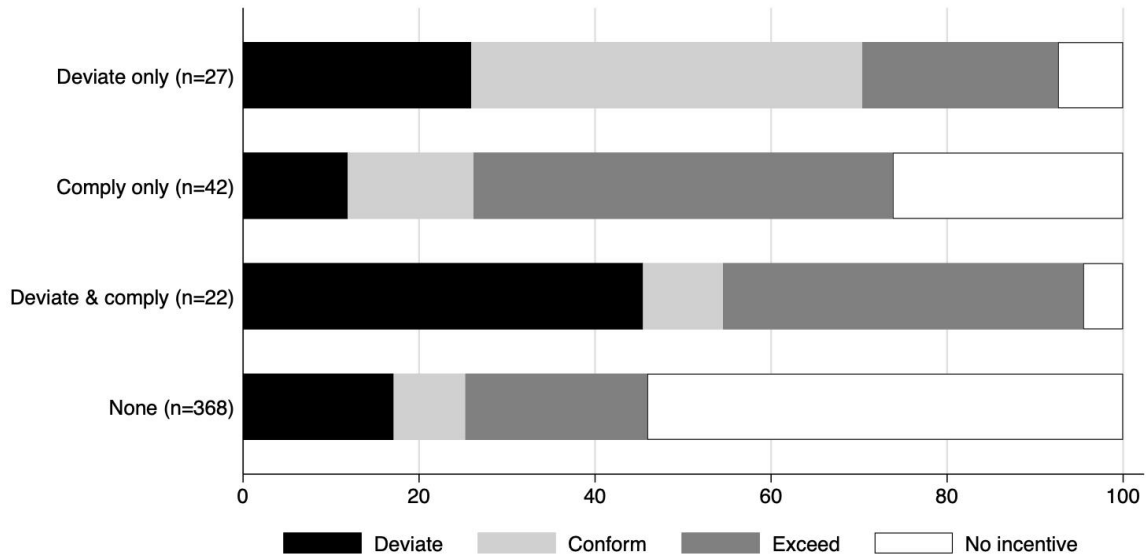


Figure 3. Relative frequency of states' incentives by their national stakeholders' demands

Note: $\chi^2 = 81.29$, $p = 0.00$. Relative frequency of states' incentives to deviate/conform/exceed and no incentive. Deviate only (Comply only): Cases (member state – issue combinations) in which there were only national stakeholders' demands supported deviation from (compliance with) the directive. Deviate & comply: Mix of national stakeholders' preferences.