EU Governance, Misfit, and the Partisan Logic of Domestic Adaptation:

An Actor-Centered Perspective on the Transposition of EU Directives

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Abstract

The success or failure of governance in the European multi-level system depends crucially on member states' willingness and ability to implement the decisions taken in Brussels. That is particularly true for the implementation of Directives, which are not directly applicable at the national level, but have to be transposed into national law before they may become effective in practice. It is the aim of this paper to shed light on the logic of this process. What are the causes of delays and deviations from the intentions laid down in the European policy measures? In this context, some scholars have pointed to the degree of fit or misfit between European demands and existing national structures and traditions as one of the major factors determining implementation performance. On the basis of empirical evidence from the transposition of six employment rights Directives in Germany, the Netherlands, Ireland, and the United Kingdom, the paper demonstrates the limited explanatory power of this approach. Instead, it stresses the importance of domestic party politics in determining transposition performance and discusses the implications of this finding for the governance capacity of the EU.

1 Introduction[1]

In recent years, European Union studies has witnessed an extensive debate about the "problem-solving capacity" of supranational governance (see e.g. Scharpf 1998, 1999; Grande/Jachtenfuchs 2000). Can the EU contribute to solving urgent political problems like mass unemployment, the financial overburdening of pension systems, or the increasing exhaustion of natural resources? Or should we rather place our hopes on the remaining governance capacities of the nation state? Scholars addressing these issues have so far almost exclusively focused on the question of whether the EU's decision-making procedures are able to generate policy measures that could *potentially* solve certain important problems, given the underlying interest constellation of national and supranational actors (Falkner 2000).

In this context, comparatively little attention has hitherto been paid to the implementation of European policies (but see Töller 2000). This is rather astonishing given the fact that for a proper assessment of the EU's governance capacity, it seems inevitable to know whether and to what extent it is able to ensure that the goals enshrined in European legal measures are actually put into practice. Do policies that might have the potential to solve certain problems really reach their targets, or is successful problem-

[1] I would like to thank Gerda Falkner, Armin Schäfer, Désirée Schauz, and Patrick Ziltener for their very helpful comments and suggestions on an earlier version of this paper. Furthermore, I am greatly indebted to Wolfgang Wessels for having been a supportive and stimulating supervisor of my dissertation project (Treib 2002), which forms the basis of the material presented in this paper.

solving thwarted by serious implementation deficits? This question appears to be even more important if it is taken into account that the EU does not have its own administrative machinery to implement its legislation, but has to rely on the member states to fulfill this task. In that respect, the European multi-level system resembles much more the German system of co-operative federalism, in which federal legislation is carried out by the administrations of the *Länder*, than the US model of dual federalism, where each level has its own bureaucracy to put the respective laws into practice (Scharpf 1988).

Compared to the execution of federal legislation in Germany, however, the EU's implementation structure appears to be even more precarious. If we focus on the implementation of *EU Directives*, one of the major legal instruments of the EU, we see that not only administrative enforcement is delegated to member states, but also part of the decision-making process itself. Directives only define goals *which have to be incorporated into national law by member states within a certain period of time*. It is only after transposition has been completed that the rules can be applied by societal target groups and enforced by administrations and the Court system at the domestic level. The transposition phase thus adds another important "clearance point" (Pressman/Wildavsky 1973) to the decentralized implementation structure of the European Union. In other words, there is yet another point at which the realization of the envisaged goals might fail.

A look at the official data published by the European Commission on infringement proceedings initiated against member states who have violated Community law suggests that the transposition phase is indeed one of the main causes of implementation (and thus governance) problems within the EU. Taking the year 2000 as the point of reference, approximately two thirds of all "Reasoned Opinions" and almost the same proportion of all referrals to the European Court of Justice concerned cases of belated or incorrect transposition of Directives (COM[2001] 309: Appendix II, Table 2.2). Although these data only cover breaches of European law that were actually detected and prosecuted by the Commission (Mendrinou 1996: 2), the high proportion of proceedings initiates due to transposition problems indicates that a significant part of the EU's implementation deficit can be attributed to the transposition of Directives.

As a consequence, it is the aim of this paper to study the logic of this phase of the implementation process in more detail. To what extent do member states fulfill their obligations arising from EU law by incorporating the standards laid down in EU Directives

into national law correctly as well as within the given time limits? And which factors are conducive to effective and timely transposition?

Many scholars who have recently focused on implementation processes within the EU have suggested that national implementation performance in essence is determined by the degree of fit or misfit between European demands and existing national structures and traditions. If a Directive requires only minor changes to the arrangements already in place at the domestic level, we should therefore expect smooth implementation without any major problems. If considerable reforms to the existing rules and regulations are called for, however, domestic resistance is likely to arise and implementation should hence be seriously hampered by long delays or significant flaws in terms of substantive accuracy (Duina 1997, 1999; Duina/Blithe 1999; Knill/Lenschow 1998b, 1999, 2000; Börzel 2000a, b).

This misfit hypothesis ultimately rests on historical and/or sociological institutionalist assumptions about the "stickiness" of deeply entrenched national policy traditions and administrative routines, which poses great obstacles to reforms aiming to alter these arrangements (see e.g. March/Olsen 1989; DiMaggio/Powell 1991; Thelen/Steinmo 1992; Immergut 1998; Thelen 1999; Pierson 2000). Seen from this angle, the interests of domestic actors are largely determined by the pre-existing national structures. When having to implement European policies, national governments, administrations, and parliaments are seen to act as „guardians of the status quo, as the shield protecting national legal-administrative traditions" (Duina 1997: 157). As a consequence, the governance capacity of the EU appears to be rather limited. Even if it were somehow possible to overcome diverse national interests and to adopt European measures that require significant changes at the domestic level, their subsequent implementation is almost inevitably bound to founder on the stickiness of pre-existing regulatory structures at the domestic level.

This hypothesis, which has been developed mainly on the basis of studies from the area of environmental policy, shall in this paper be confronted with results of a research project dealing with the transposition of six employment rights Directives in four member states. My findings cast serious doubts on the explanatory power of the misfit hypothesis. The degree of compatibility or incompatibility between European standards and regulatory traditions at the domestic level can explain only a small proportion of the observed adaptation patterns. Hence, I confront this structure-centered view with an actor-

centered perspective which stresses the fact that national political processes have a logic of their own and that national political actors play a crucial role in the transposition of EU Directives. When analyzing such processes, we need to take into account the interactions between the political parties in government, administrations, veto players outside government (if extant), and important interest groups. Providing a detailed account of how these interactions work in practice, however, would be impossible within the confines of this paper (see Treib 2002 for more details). For the purpose of the present analysis, therefore, I restrict myself to illuminating the role of one factor which has proven to be of particular importance in my empirical case studies, but which so far has been almost totally neglected in EU implementation research: the impact of *political parties and their programs* on the transposition of EU Directives.

My empirical findings suggest that governments do not merely act as guardians of the national status quo when incorporating EU standards into domestic law. On the contrary, they assess the usefulness of European demands (also) on the basis of their party political preferences. Thus, even far-reaching reform requirements may be fulfilled without major problems, if they correspond to the party political goals of the respective government. Conversely, the realization of minor adaptations is bound to fail, if these modifications are rejected on party political grounds. Moreover, the activation of party political support may lead to over-implementation, i.e. implementation that goes beyond the Directive's binding standards. This may provoke additional conflicts and thus give rise to transposition delays which cannot be explained by an exclusive focus on the minimum requirements of a Directive.

The paper is organized as follows: In the following section (2), I provide an overview of my empirical findings and demonstrate that these findings are only to a limited degree consistent with the expectations of the misfit hypothesis. Then, I present different effects of party politics on the transposition of EU Directives, illustrate each of these effects with empirical examples, and discuss the observed patterns against the background of the "parties-do-matter" hypothesis (3). The final section summarizes the main findings of the paper, explores the possibilities and limits of generalizing these findings, and points out their implications for the governance capacity of the EU (4).

2 The Limited Explanatory Power of the Misfit Hypothesis

In order to test the misfit hypothesis, I have carried out 24 comparative case studies on the transposition of six Directives in four member states. The selected Directives represent the most important pieces of legislation which have been adopted during the 1990s in the context of the 'social dimension' of the Internal Market. These Directives relate to the non-discrimination of part-time workers,[2] the right of male and female workers to parental leave,[3] the definition of maximum daily and weekly working time limits and the entitlement to paid annual leave,[4] the protection of young persons[5] as well as of pregnant women[6] at the workplace, and the right of workers to receive a written statement about their essential employment conditions.[7]

The selection of countries is intended to provide as much variance as possible with regard to the main factor to be tested, i.e. the degree of fit or misfit. As a consequence, I have chosen two continental countries, Germany and the Netherlands, which in general already have high employment rights standards (Weiss 1995; Rood 1995; Van der Heijden 1999), while the level of statutory labor market regulation in the voluntarist countries of Ireland and the United Kingdom is traditionally low (Hepple/Fredman 1992; Edwards et al. 1999; Prondzynski/Richards 1994; Prondzynski 1999). The need to transpose the six Directives thus should confront the latter countries with rather high degrees of adaptational pressure, while we should expect only minor changes to be required in Germany and the Netherlands.

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[2] Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC - Annex: Framework agreement on part-time work, OJ L 014, January 20, 1998, 9-14.

[3] Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC, OJ L 145, June 19, 1996, 4-9.

[4] Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time, OJ L 307, December 13, 1993, 18-24.

[5] Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work, OJ L 216, August 20, 1994, 12-20.

[6] Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC), OJ L 348, November 28, 1992, 1-8.

[7] Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship, OJ L 288, October 18, 1991, 32-35.

Since the concept of "misfit" or "adaptational pressure" is not always used coherently in the literature, I have based my analysis on a broad conceptualization so as to cover as many of the different notions as possible. I distinguish four dimensions of domestic adaptations which may be required by a European Directive. First, I look at *policy misfit*, i.e. the extent to which existing policies have to be changed in order to fulfill the European standards, taking into account both legal reforms and their *de facto* relevance (which may be diminished by pre-existing collective agreements or workplace practices). Second, implementing a Directive may require *administrative reforms*, such as the creation of new agencies or the assignment of additional tasks or resources to existing administrative entities. Third, implementation can demand changes to the *relationship between the state and interest groups*, e.g. by necessitating state intervention in an area which traditionally is regulated autonomously by both sides of industry. Finally, the *economic cost implications* of these changes, both for the state and for private employers, have to be taken into account. Following Knill and Lenschow (1998a; 1998b), I use a threefold scheme to classify different degrees of adaptational pressure and compare them between member states and Directives (low, medium, and high degrees of misfit).[8]

Empirically establishing the degrees of fit or misfit in the 24 cases reveals that the indirect forms of adaptational pressure, i.e. changes to pre-existing administrative structures or state-society relationships, did not play a major role in the cases at hand. The reform implications of the six Directives in the four countries were confined to the policy dimension and the ensuing economic costs. This observation leads to the conclusion that the EU-level policy measures under scrutiny predominantly required policy adaptations at the domestic level, which in itself should not come as a great surprise. However, there might very well be other cases in which the more indirect forms of misfit might be more important.[9]

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[8] To be sure, a Directive may also call for no reforms at all.

[9] Research carried out in the context of a collaborative project on "'New Governance' and Social Europe: Theory and Practice of Minimum Harmonization and Soft Law in the Multilevel System" at the Max Planck Institute for the Study of Societies in Cologne also covers the remaining eleven member states. It emerges from these studies that some of the Directives under scrutiny also required changes to the established relations between the state and the social partners at the national level, e.g. in Denmark. For intermediate results of the research group, see our project homepage at http://www.mpi-fg-koeln.mpg.de/socialeurope.

Table 1: Adaptation Requirements, Transposition Performance, and the Misfit Hypothesis

Timeliness and Correctness of National Transposition		**Adaptation Requirements** large	medium	small/none
essentially in time	essentially correct	UK Pregnant Workers	NL Parental Leave UK Part-Time Work IRL Pregnant Workers	(D Part-Time Work) NL Employment Contract Information NL Pregnant Workers NL Working Time NL Part-Time Work UK Employment Contract Information
	important parts incorrect	(UK Parental Leave) (IRL Parental Leave)		D Working Time
6-12 months late	essentially correct		IRL Part-Time Work	D Young Workers IRL Employment Contract Information
	important parts incorrect			
12-24 months late	essentially correct	(UK Working Time) (IRL Working Time)		D Employment Contract Information
	important parts incorrect			NL Young Workers
more than 24 months late	essentially correct		UK Young Workers II[ab] IRL Young Workers	D Parental Leave UK Young Workers I[a]
	important parts incorrect		D Pregnant Workers	

Dark shaded cells represent cases which are inconsistent with the misfit hypothesis. Blank cells refer to areas of empirical reality for which no clear expectations may be derived from the hypothesis. Light shaded cells denote cases which are in principle consistent with the misfit hypothesis. Cases in brackets appear to be in line with the hypothesis at first sight, while a closer inspection reveals that they may be explained by other causal factors.

a: The Young Workers Directive granted the UK a six years transition period in which the latter did not have to implement some of the main standards of the Directive. Therefore, this transposition process is represented by two separate cases here.

b: The transposition of the second part of the Young Workers Directive in the UK was classified as "essentially correct" even though the relevant draft Regulations have not come into force yet, so that it is not entirely clear at the moment whether they will finally fulfill the requirements of the Directive.

If we look at the transposition of the six Directives in the four selected countries from a perspective which confronts the respective degrees of fit or misfit with the observed transposition performance in terms of timeliness and correctness, a mixed picture emerges, which is only partly in line with the expectations of the misfit hypothesis (see Table 1).

About one third of all observed transposition patterns are completely at odds with the misfit hypothesis. A further seven cases are located in the area of medium adaptational

pressure for which no clear expectations may be derived from the hypothesis. In order to explain these cases, Knill and Lenschow (2001: 124-126) simply point to the presence or absence of a “supportive actor constellation” without specifying how such a constellation should look like. The theoretical models of scholars like Börzel (2000a; 2000b) or Duina (1997; 1999) do not cover this area altogether, although it is far from being negligible empirically. Less than half of all cases appear to be in line with the hypothesis at first sight, while a closer empirical inspection reveals that five of these apparently fitting cases may be explained by other causal factors besides the degree of match or mismatch. In order to elucidate this point a bit further, I will portray some of these cases in more detail in the next section. As a consequence, in only five out of a total of 25 cases may the empirically observed transposition patterns be explained by an *exclusive* focus on the degree of fit or misfit between European standards and existing regulatory traditions at the national level.

3 Parties Do Matter: European Demands and the Partisan Logic of Domestic Adaptation

The results of my empirical case studies suggest that national political processes have a logic of their own which has to be taken into account much more systematically than has hitherto been done by the advocates of a misfit-centered view on implementation processes within the EU. Hence, I start from an actor-centered perspective which stresses the independent role of national governments, administrations, and interest groups in the transposition of EU Directives. More specifically, I argue that the positions of these actors *vis-à-vis* a particular Directive are not determined by the latter’s (in-)compatibility with national policy traditions. On the contrary, national actors have their own political preferences on the basis of which they decide whether they should support or oppose the reforms demanded by European policy measures.

In my empirical studies on the national transposition of employment rights Directives, *domestic party politics* have turned out to be of particular importance in this context. The partisan composition of government played a decisive role in almost half of all cases. Therefore, I concentrate my present analysis on illuminating the influence of this factor. I argue that the positions of national governments *vis-à-vis* the implementation of EU Directives are only to a small extent formed by the match or mismatch between European standards and national arrangements. In other words, governments do not

merely act as guardians of the status quo. In my cases, party political preferences have been much more important determinants of government behavior. If these preferences were activated, two reactions with very different implications for transposition performance may be distinguished.

- If a Directive contradicts the party political goals of a government, it is likely that, irrespective of the degree of fit or misfit involved, this government will respond with *explicit opposition*. In this case, time lags and incorrect transposition are to be expected.
- If the standards of a Directive harmonize with the party political preferences of a national government, however, *active support* of the measures even in the face of considerable misfit is likely. Such support often leads to swift and correct transposition or even to over-implementation.

In the following, I will present a number of empirical examples to elucidate these reactions. Then, I discuss which party constellations are likely to evoke which reactions and in how far my findings are consistent with the "parties-do-matter" hypothesis.

3.1 Party Political Opposition, Deliberate Delays, and Intentionally Flawed Transposition

Opposition against a Directive and its transposition may arise at different points within a government. In this respect, we first have to distinguish between single-party and coalition governments. As far as coalition governments are concerned, it makes a difference whether the hostile party holds the department which is primarily in charge of implementation or just one of the other ministries. In the case of single-party governments and parties holding the primarily responsible department, explicit opposition against certain aspects of a Directive often leads to deliberate "paralyzation" of transposition, while unwillingness on the part of a coalition partner gives rise to conflicts between the parties forming the coalition, which in turn may cause serious delays. Moreover, resistance based on party political grounds can also result in intentionally flawed transposition.

Party Political Opposition and Deliberate "Paralyzation" of Transposition

If a particular European Directive is opposed by a political party which is in control of a single-party government, it is very easy for that party to put its unwillingness into prac-

tice, since it usually does not have to respect the positions of any other actors.[10] Among the selected countries, this constellation was to be found only in the UK. Under these conditions, the low number of veto players in the British Westminster system, which is usually seen to be conducive to effective policy making, turned out to be an equally effective instrument of political obstruction.

This was demonstrated by the *UK*'s transposition of the *Working Time Directive*, where the Tory government under John Major was firmly opposed to the European standards and refused to accept their implementation until it finally was voted out of office in May 1997. At first glace, this determined resistance by the UK government is in line with the expectations of the misfit hypothesis, since the Directive required significant reforms which involved enormous costs for private and public employers. The UK's tradition of voluntarism, together with the deregulation policies of Margaret Thatcher, meant that prior to the Directive, there were neither any statutory annual leave entitlements nor any legal provisions on working time limits or rest periods in the UK. This lack of state intervention in the area of working time was coupled with a pronounced "long-hours culture" (Interview UK 4: 187). Government estimates revealed that in the early 1990s, about 2.7 million workers (equaling almost 12 per cent of the total workforce) were regularly working longer than the Directive's limit of 48 hours per week (Financial Times, April 30, 1992: 9).

The actual source of political controversies around the Directive in the UK, however, was the fact that it met with a specific mixture of euro-skepticism and neo-liberalism prevailing within the Conservative Party. Seen from that perspective, the Directive not only appeared as a measure imposing considerable burdens on the British economy, but also as an economically wrong and politically illegitimate interference of Brussels into the internal affairs of the UK.[11] As a result of the European Commission's "treaty-base

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[10] This certainly does not apply to minority governments which depend on the support of one or several opposition parties. Under these conditions, the opposition parties supporting the government have veto power.

[11] In a speech delivered in April 1992 at the annual meeting of the Institute of Directors, an association of UK business leaders, the Prime Minister claimed that he was convinced of the need to pursue a policy of deregulation and hence was absolutely not prepared "to let Brussels intervene in areas which Westminster had decided to leave alone." More specifically, he characterized the European working time proposals as "unnecessary interference with working practices", and added: "They are not for us. No one should be in any doubt. A Conservative government will strongly oppose such damaging regulation wherever it is found, and we will not readily acquiesce in any attempts to impose these costs on our industry" (quoted from Financial Times, April 29, 1992: 14).

game" (Rhodes 1995: 99), the Working Time Directive had been tabled on the basis of Article 118a ECT as a health and safety measure and thus required only a qualified majority of votes in the Council of Ministers to be adopted. Unlike with many other initiatives at the time, the UK government hence could not block the proposals. Although the UK government protested vociferously against the choice of this legal base, arguing that the proposals belonged to the field of labor market regulation and therefore required unanimity (Gray 1998: 327-329), it could not prevent the Directive from being adopted in November 1993.

Instead of accepting its defeat in Brussels and subsequently implementing the provisions of the Directive in the UK, the Major government challenged the measure in the European Court of Justice, seeking to annul the Directive on the grounds that it had been issued on a wrong legal basis. The government moreover announced that it would not take any steps to implement the Directive until the Court had issued its ruling (Financial Times, June 2, 1993: 1). A few days before the end of the implementation deadline in November 1996, the European judges handed down their decision in which they rejected all major points of the UK challenge.[12] But even then did the Tory government's opposition continue. It openly refused to accept the Court ruling and demanded that the Treaty be revised in the ongoing Intergovernmental Conference so that the UK would not be covered by the Directive (House of Commons Hansard Debates, November 12, 1996, Cols. 152 and 155). As a result, the government did not take any decisive steps to comply with the Directive until the end of its office in May 1997 (Interview UK 4: 285-300).

It was only under the Labour government, which had made transposition of the Directive a pre-election manifesto commitment (Interview UK 3: 532-534), that the European working time rules were finally incorporated into UK law. As a consequence of the delaying tactics of its Conservative predecessors, however, the Blair government could not help exceeding the implementation deadline by almost two years. The very different positions of the Tory government and its Labour successors show that the considerable transposition delay was not primarily caused by the significant reform implications of the Directive in the UK, but by the different party political "lenses" through which both

[12] Judgment of the Court of 12 November 1996, United Kingdom of Great Britain and Northern Ireland v Council of the European Union, Case C-84/94, European Court Reports 1996, p. I-05755.

governments looked at these reform requirements, provoking fundamental opposition on the one hand and support or at least acceptance on the other.

The same pattern of deliberate non-transposition due to politically motivated resistance from within government may occur under the conditions of coalition governments, if the unwilling party holds the primarily responsible department and if there are no other actors in the coalition who would have an interest in giving effect to the provisions in question. The transposition of the *Parental Leave Directive* in *Germany* is a case in point. The degree of changes required by the Directive was rather low, since the overall level of protection guaranteed by the pre-existing German Parental Leave Act was already well above the requirements of the European Parental Leave Directive.

Nevertheless, the law did not conform fully to the Directive. The right to take parental leave did not apply to employees whose partners were staying at home because they were not employed (Interview D 3: 556-566, see also Hornung-Draus 1996). This system was therefore inconsistent with the Directive, which guaranteed an *individual right* to parental leave for all employees *irrespective of the employment status of their partners*. The practical implications of this inconsistency between the European Directive and the German legislation appear to be limited, since male employees (who will typically have been affected by the clause because their wives tend to stay at home in order to take care of the household and the raising of children) traditionally have accounted for only two per cent of all employees taking parental leave (Vascovics/Rost 1999: 42). Since a single-income family will not be able to make a living if the sole breadwinner takes parental leave and thus receives only state parental leave allowance, which amounts to a maximum of 460 euro per month, it is highly unlikely that a large number of newly entitled employees will make use of their right.

Despite the fact that the overall impact of the changes required by the Directive was rather slight, the Directive was transposed no sooner than two and a half years after the expiry of the implementation deadline. This seemingly surprising pattern may be explained by the *political unwillingness* of the conservative-liberal German government to adapt the German legislation, which had been created in the mid 1980s under its own aegis, to the requirements of the European Directive. In particular, the equal treatment impetus of the Directive ran counter to the conservative family policy of the Christian Democratic coalition partner (Interview D 9: 143-150). The government had already argued at the time the Directive was adopted at the European level that it was not willing

to change the German law in response to the Directive (Ministerrat 1996). Since the department in charge of implementing the Directive was headed by a Christian Democratic minister, and since the Liberal coalition partner did not show any interest for the Directive, it was easy to quietly "draw the curtain" over the issue.

Only after the "Red-Green" government coalition between the Social Democrats and the Green Party had assumed power in October 1998 was transposition of the Directive accomplished by a fundamental overhaul of the Parental Leave Act. The new legislation, which came into force on January 1, 2001, not only extended the right to take parental leave to single-income couples, as necessitated by the Directive, but even went far beyond the minimum requirements of the Directive, thus reflecting some of the non-binding recommendations laid down in the European measure. In particular, the reform increased the threshold limiting the amount of part-time work which can be performed during parental leave from 19 to 30 hours per week. Moreover, it introduced a legal right to work part-time during parental leave and allowed parents to take parental leave simultaneously.

In sum, this case demonstrates that even small adaptations may be doomed to fail, if they are at odds with the political preferences of an important government party, while a government whose ideological profile is in line with the thrust of the required changes may accept such adaptations without any problems and even "gold-plate" them by considerable over-implementation.

Party Political Opposition, Partisan Veto Players, and Transposition Delays

Party political resistance against a Directive and its transposition may also give rise to intra-coalition disputes. Since all members of a government coalition have veto power over government decisions (Tsebelis 1995), fundamental disagreement between coalition parties can cause protracted conflicts within a government. That was exemplified by the transposition of the *Employment Contract Information Directive* in *Germany*. The overall impact of the Directive in Germany was only limited. Although there was no legislation guaranteeing that workers be issued a written statement about the essential terms and conditions of the employment relationship, comparable entitlements were provided by collective agreements, mostly in the form of a written employment contract. As a result, approximately 80 per cent of all employees already had entitlements

which were roughly equivalent to the standards set down in the Directive (Interview D 6: 56-88).

Despite the fact that the reform implications for Germany were rather moderate in overall terms, the Department of Economic Affairs, headed by a Liberal minister, wanted to avoid "unnecessary red tape" especially for small enterprises, and thus called for taking advantage of a clause which allowed part-time workers with a weekly working time of up to eight hours to be excluded from the scope of the scheme. However, the Department of Labor and Social Affairs, which was headed by Norbert Blüm, at the time one of the most prominent representatives of the Christian Democratic Party's trade union wing, argued that such an exclusion of part-time workers, while explicitly allowed by the Directive, would indirectly discriminate against women, who made up the largest portion of part-time workers in Germany. The possibility to exclude this category of workers, albeit explicitly stated in the Directive, would hence breach the relevant case law of the European Court of Justice and should therefore not be used (Interview D 6: 185-210). Settling this time-consuming inter-departmental conflict, which actually has to be understood as a dispute between the two parties in government, took so much time that the implementation deadline had already expired for more than two years when the implementing legislation finally came into force.[13]

Party Political Opposition and Intentionally Flawed Transposition

Obviously, resistance and conflicts stemming from party political factors may not only give rise to implementation delays, but can also cause intentionally flawed transposition. The latter could be observed in the case of *Germany's* implementation of the *Working Time Directive*. The provisions of the Directive did not call for major reforms in Germany, given that existing German legislation on working time and paid annual leave already fulfilled the main standards of the Directive. In some important dimensions, German law was even considerably more favorable to workers than was required by the European measure. In essence, the Directive obliged Germany to improve the

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[13] The compromise formula finally reached did not include the eight hours threshold, but introduced another threshold excluding workers whose annual working time did not exceed 400 hours. This exemption could be justified on the basis of another clause of the Directive which allowed the exclusion of employees whose work was "of a casual and/or specific nature". In the meantime, the Center-Left government under Gerhard Schröder has repealed this 400 hour threshold in the course of reforming the rules governing "marginal part-time employment" (*"geringfügige Beschäftigung"*) in 1999 (Interview D 6: 210-235).

health and safety of night workers (Anzinger 1994: 7) and to increase statutory annual leave from three to four weeks. The latter reform, however, *de facto* only affected a very small proportion of the total workforce, since collective agreements already provided a great majority of all workers with much more generous annual leave entitlements (BT-Drucksache 12/6990: 45).

Neither the German position in the EU-level negotiations nor the national transposition process were affected to a noticeable degree by these adaptation requirements. Far more important for an understanding of the German reaction to the Directive was that the negotiations on the European Directive interfered, and in some important respects even collided, with a parallel domestic reform effort. There had already been several attempts by the conservative-liberal government in the 1980s to considerably increase the flexibility of the rather rigid statutory working time scheme from 1938, and to replace its National Socialist jargon with more appropriate modern terminology. These initiatives repeatedly foundered on the resistance of the churches and the trade unions, which both had powerful allies within the Christian Democratic Party in government (see Zohlnhöfer 2001: 129-136).

Nevertheless, a new effort was started in 1992. This process then became intermingled with the EU-level negotiations on the Working Time Directive. In the national reform, there were two instruments to increase flexibility: Besides highly controversial plans to ease the restrictions on Sunday working, the main tool to give companies more flexibility in arranging their working time regimes consisted in a considerably extension of the reference period used to calculate maximum weekly working hours. While the existing legislation only allowed for minimum flexibility in that respect, it was above all the Liberal Minister for Economic Affairs, Günther Rexrodt, who pressed for increasing the reference period as much as possible. With this step, companies should be allowed to have their employees work much longer than the usual weekly maximum of 48 hours in periods of high demand, provided that the overtime is compensated within a certain period of time by shorter weekly working times (Frankfurter Allgemeine Zeitung, June 15, 1993: 15; July 13, 1993: 11).

Given these domestic plans, the German government called for the draft EU Directive to provide maximum flexibility. More specifically, it wanted to lay down a reference period of up to twelve months. This demand, however, met with fierce opposition by some other governments, in particular the French one (ArbuR 1993; Lewis 1998: 388-

390). In the end, the Germans could not push through their demands in the EU negotiations. The Common Position and also the final Directive provided for a basis reference period of only four months. The only concession made to the German position was that this basic period could be extended to six months in certain sectors, and to twelve months on the basis of a collective agreement. But that could not conceal the fact that the German government had been defeated in Brussels, which placed it in the uncomfortable position of having to reduce the reference period of six months that had hitherto been laid down in the respective national draft legislation. Even though the need to adapt the domestic plans was well-known within the Department of Labor and Social Affairs (Günther 1993: 20), and despite the fact that there would still have been enough time for such a step in the ongoing legislative process, the Centre-Right government upheld the original six months reference period. In addition, the final version of the German Working Time Act allowed the social partners to lay down longer reference periods on the basis of collective or company agreements without any upper ceiling, whereas the Directive defined a maximum reference period of twelve months for such cases.

While at the time of its adoption, many observers criticized that the Directive's standards were extremely flexible (see e.g. European Industrial Relations Review 235, August 1993: 15-18, Lörcher 1994), the degree of flexibility obviously was not high enough for the German government. The Kohl government openly refused to let its attempts at considerably increasing flexibility be restricted by more stringent European rules. The result of this political decision is that the German working time legislation has been breaching the European Working Time Directive for more than six years now. In the meantime, this violation has also been noted in the European Commission's official implementation report (KOM[2000] 787: 18). So far, however, the Commission has not initiated legal proceedings against Germany in relation to this issue.

3.2 Party Political Support, Effective Transposition, and Over-Implementation

Contrary to the empirical examples of party political opposition presented so far, I have also observed a number of cases in which party political support by the respective governments facilitated swift and correct transposition. Moreover, my empirical studies have revealed that if a government actively supports the goals of a Directive on party political grounds, this may also lead to over-implementation which means that govern-

ments go beyond the European minimum requirements when incorporating a particular Directive into national law.

In several of my cases, party political support paved the way for correct and rapid adaptation. The already mentioned instances of deliberate "paralyzation" of transposition by unwilling Center-Right governments in Germany (Parental Leave) and the UK (Working Time) could be relatively quickly resolved after the respective governments had been replaced by Leftist successors.

On the other hand, politically motivated support may also lead to over-implementation. This could already be observed in the context of the considerably "gold-plated" implementation of the Parental Leave Directive by the Red-Green government in Germany (see above). But the best example for this pattern is the transposition of the *Part-Time Work Directive* in *Germany*. The Framework Agreement concluded by the European peak associations of management and labor, which formed the basis of the Directive, had been criticized by several observers, above all by the German trade unions, on account of its meager substance.[14] At least the disappointment of the German unions is comprehensible. The only binding standard of the Directive provided that part-time workers may not be treated less favorably with regard to their working conditions than comparable full-time workers. Apart from some minor details, this principle was already guaranteed by German legislation. Hence, German part-time workers could only hope for some small improvements of their legal situation (Interview D 1: 201-216). Besides that, the Directive consisted of a great many non-binding recommendations. But when the Center-Left German government under Gerhard Schröder transposed the Directive, it took almost all of these soft-law provisions into account and turned them into "hard law", which meant that the modest minimum requirements of the Directive were considerably "gold-plated".

A particularly good example of this is the way the German government dealt with the provision on stimulating part-time work. The Directive only contained a very weakly-formulated clause recommending that "as far as possible, employers should give consideration to […] requests by workers to transfer from full-time to part-time work that

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[14] When the draft agreement was accepted by the Executive Committee of the European Trade Union Confederation, the German trade union representatives, along with some of their counterparts from France and Luxembourg, voted against the results of the negotiations because of their insufficient contents (Dürmeier 1999).

becomes available in the establishment" (Clause 5.3 of the Framework Agreement on Part-Time Work). The German government turned this recommendation into a *binding legal right to work part-time* for all who are employed in establishments with more than 15 workers. Hence, an employer can refuse requests by workers to reduce their working-time only on the basis of "business-related reasons" that would make such a step economically infeasible. There are also a number of other examples where the government went beyond the European minimum requirements by taking on board non-binding provisions of the Directive. The reason for this far-reaching over-implementation is that the government considered the stimulation of part-time work an effective instrument to reduce unemployment. To this end, the left-wing government was determined to enact fundamental reforms that should boost the number of part-time workers (Interview D 6: 628-648).

Business organizations were fiercely opposed to what in their view placed unnecessary and damaging burdens on employers. In order to contain these massive protests, the government tied the transposition of the Part-Time Work Directive to the implementation of the Directive on Fixed-Term Contracts. While employers' organizations fought hard against the former, they had a vital interest in the swift enactment of the latter. This interest was triggered by the fact the German law enabling employers to conclude fixed-term contracts without the need to give special reasons had itself been enacted in 1985 only for a limited duration. After two extensions of that period, the Act would have expired at the end of 2000. Without appropriate follow-up legislation, therefore, the conclusion of fixed-term contracts de facto would have become very difficult. This package deal facilitated the timely transposition of the Part-Time Work Directive, which otherwise would have been highly problematic given the fierce resistance by employers' organizations. But even with the package deal, the negotiations were complicated and time-consuming enough to force the German government to make use of the option laid down in the Directive of extending the implementation deadline by one year to take account of special difficulties (Interviews D 1: 957-965; D 5: 397-413, 729-779; D 6: 750-783).

3.3 Over-Implementation as a Stumbling Block for Timely Adaptation

The case I have just presented also demonstrates that the activation of party political support does not necessarily have to produce positive effects in terms of transposition

performance. On the contrary, it may also lead to attempts at over-implementation which often times are highly contested and thus might hamper the timely implementation of the minimum requirements of a Directive. This mechanism was particularly obvious in the case of *Ireland's* transposition of the *Working Time Directive.* As in the UK, the Directive implied huge reform efforts and significant costs. Although legislation on daily and weekly working time limits and rest periods already existed in Ireland, these rules did not apply to a number of important sectors, most of the standards enshrined in them were much less stringent than required by the Directive, and above all, they had already been enacted in the 1930s, which was so far back that they had become virtually irrelevant for contemporary practice within Irish companies (Interview IRL 4: 263-267). In 1993, therefore, between six and seven per cent of the total workforce in Ireland regularly worked longer than the Directive's limit of 48 hours per week (Irish Times, August 26, 1993: 15). Moreover, the Directive required that paid annual leave entitlements be extended from three to four weeks. This measure improved the situation of approximately 20 per cent of all workers who had previously not been covered by equivalent entitlements based on collective agreements (Dáil Éireann 1996: 56-57).

Despite the considerable misfit between the Directive's standards and the existing domestic rules and regulations, the Center-Left government coalition between Fine Gael, Labour and the Democratic Left, which was in charge of transposing the Directive, firmly supported the goals set down in the EU measure. The government hoped that a significant diminution of working hours would help reduce unemployment, which was still a serious problem for Ireland in the mid 1990s. Among the most enthusiastic supporters of this strategy was the Labour Party, which played a crucial role in the process since it held responsibility for labor market affairs within the government. When the respective Minister of State, Eithne Fitzgerald, put forward her plans to transpose the Directive, she followed her party's line and refused to take advantage of a clause allowing workers to individually sign opt-out agreements exempting them from the 48 hour week. The Minister of State justified her decision by pointing out that the widespread use of such an individual opt-out possibility would seriously hamper the positive labor market effects of the reform (Irish Times, November 15, 1996: 4, Dáil Éireann 1996: 53-68).

This attempt to go beyond the minimum requirements of the Directive was endorsed by Irish unions, but met with fierce resistance by employer' organizations and opposition

parties. The opponents argued that such a step would have negative consequences for Ireland's competitive position *vis-à-vis* the UK, whose government had already indicated that it would make use of this opt-out clause, in attracting foreign direct investments from the United States (Irish Times, November 22, 1996: 4, February 25, 1997: 16, Dáil Éireann 1997: 784-785, 792-794). Confronted with these massive protests, the government agreed to allow the individual opt-out possibility, but only under very restrictive conditions and only for a transition period of two years (Interview IRL 4: 888-938). The controversial debates about this issue, and the protracted process of finding a compromise, meant that the Directive could be transposed only with considerable delays, which could have been avoided (or at least reduced) if the government had restricted itself to implementing the absolute minimum required by the Directive.

3.4 The Transposition of EU Directives and the Parties-Do-Matter Hypothesis

As a general tendency, my empirical studies have shown that explicit opposition against Directives was mostly associated with Center-Right governments, while active support of employment rights reforms was typically related to Center-Left governments. This observation at first glace seems to confirm the expectations of the "parties-do-matter" hypothesis. The proponents of this argument, which was developed in comparative politics and has been controversially debated in that field of research for a long time, argue that the policies pursued by governments are decisively shaped by their party political compositions, and especially by the ideological positions of the parties in government on the left-right dimension (Castles 1982; Schmidt 1996a, b; 2000: 378-389). The hypothesis starts from the assumption that Christian Democratic, Liberal, or Social Democratic parties have clearly distinguishable policy programs, since they represent the interests of different constituencies, and that these programmatic differences also result in different policy choices made in the everyday operation of these governments.

Looking more specifically at the area of economic and social policy (and thus also at employment rights regulation), we can summarize the expectations of the "parties-do-matter" hypothesis as follows: Social Democratic and other Leftist parties should be in favor of state intervention and market regulation, and they should in general pursue a rather worker-friendly policy. On the other hand, Christian Democratic, Conservative, and especially Liberal parties should strive for less state intervention, more free market self-regulation, and they should in general pursue a policy leaning more towards the in-

terests of employers' organizations and business associations. Seen from that angle, we should expect Center-Left governments to be more amenable to the goals of employment rights Directives than Center-Right governments. Thus, the former should perform better in transposing such measures than the latter. Although my case studies confirm the general thrust of this hypothesis, that is, parties do indeed matter in the implementation of EU employment rights Directives, my results point to a more differentiated relationship between the partisan composition of governments and their transposition performance.

First, party political differences were only activated in part of my cases. Whether or not such politicization is actually triggered, seems to depend on several national context factors. At any rate, it is important to note that the activation of partisan politics is not a function of the degree of fit or misfit involved. While partisan differences in Ireland only became relevant when the costly Working Time Directive had to be transposed, there were several cases where only small degrees of misfit were enough to trigger party political support or opposition in Germany. Of decisive importance, therefore, is the substance of the changes required, and their match or mismatch with certain party political positions. Hence, the activation of party political differences is not a question of *how much* reform requirements a Directive implies, but *what* these demands actually look like. Which issues are politicized under which circumstances and by which actors, may vary widely between individual cases. Among other things, the reaction (or non-reaction) of political parties may depend on the extent to which the issues at hand may be "sold" to the relevant constituencies or fit in with contemporary cycles of public debate and media attention, or on the general importance attached to complying with European law.

Second, my empirical results indicate that a differentiated approach is needed if we are to assign individual parties to different party families. On the basis of observations about the behavior of the government parties in my case studies, it is possible to distinguish between four different party families with different basic policy positions on employment rights regulation (see Table 2).

Table 2: Basis Policy Positions of Four Party Families on Employment Rights Regulation

	Against State Intervention		In Favor of State Intervention	Empirical Examples from the 1990s
Neo-Liberal Parties	X			FDP (D), VVD (NL), Conservatives (UK), PD (IRL)
Christian Democrats and Conservatives	◄-------	X	-------►	CDU (D), CDA (NL), FF (IRL), FG (IRL)
“modern” Social Democrats	◄-------	X	-------►	PvdA (NL), Labour Party (UK)
“traditional” Social Democrats			X	SPD (D), Labour Party (IRL)

Parties with a clear *neo-liberal* profile like the German FDP or the British Conservative Party are deeply skeptical towards the regulation of the labor market, while we may expect *traditional Social Democratic parties* like the Irish Labour Party or the German SPD to be generally in favor of regulations aiming to improve the protection of workers' rights. Situated between these two poles are *Conservative and Christian Democratic parties* like the German CDU, the Dutch CDA, or the two Irish “catch all” parties Fianna Fáil and Fine Gael. These parties are in general not hostile to the creation and improvement of statutory employment rights, but place much more emphasis on market principles and on needs and demands of business and employers' organizations than traditional Social Democrats do. It is important to note that *“modern” Social Democratic parties* like the British Labour Party under Tony Blair or the Dutch PvdA have similar positions. Within these parties, general worker friendliness is also to a considerable extent moderated by the aim of keeping burdens on business as minimal as possible (see also Seeleib-Kaiser 2002). Hence, it is very well possible that governments led by such “new” Social Democratic parties also pursue policies of deregulation, which may bring them in opposition to EU employment rights standards, as was the case with the transposition of the Young Workers Directive in the Netherlands (Treib 2002).

While the actual position of the latter party groupings *vis-à-vis* individual labor market regulations is determined by several factors such as the relative strength of different party factions or the economic costs of the issues at hand, there is an unequivocal difference between these two families with regard to *family policy and gender issues*. Christian Democratic and Conservative parties are usually inclined to a traditional con-

ception of the familial and professional roles that men and women should play in life. As a consequence, they are normally not very enthusiastic about political measures aiming to improve gender equality. Contrary to that, the secular origins of both “traditional” and “modern” Social Democratic parties makes them much more open to accept and support such initiative.

Third, the impact of different party political constellations on transposition performance has to be differentiated in terms of time and substance. As has been shown above, party political opposition often led to delayed or flawed implementation. Party political support, however, had a differential impact on the temporal and substantive dimensions. The active support of Directives by Center-Left governments mostly had a positive impact on timely adaptation and on the substantive outcome of transposition. Sometimes, such support even caused over-implementation. Such attempts to go beyond the minimum requirements of as Directive, however, entailed the danger of delays, because they might give rise to conflicts about the additional, non-compulsory issues.

In sum, my results stress the significance of different party political constellations for the transposition of EU employment rights Directives, thereby demonstrating the limited explanatory power of a misfit-centered view on implementation processes. However, my findings only partly confirm the expectations of the “parties-do-matter” hypothesis. They rather point to a more differentiated relationship between the partisan composition of governments and the observable transposition performance.

4 Conclusions

It was the aim of this paper to explore the determinants of correct and timely, or incorrect and belated, transposition of EU Directives and to address the question of what we might learn from such an analysis for the governance capacity of the supranational polity. In theoretical terms, the paper focused on testing the so-called misfit hypothesis which enjoys considerable prominence in recent research in this area. According to this hypothesis, national adaptation to European policies is mainly determined by the degree of match or mismatch between EU standards and pre-existing arrangements at the domestic level.

The presented empirical results from a study on the transposition of six employment rights Directives in four countries indicate that only a very small proportion of the observed transposition patterns may be explained by an exclusive focus on the structural

fit or misfit between European requirements and existing national policy legacies. Hence, I suggest a perspective that pays much more attention to the support or opposition of *political actors* with their own independent preferences. Against this background, this paper has concentrated on demonstrating the central role of party politics in the transposition of EU Directives. Hence, the main argument of this paper is that national governments do not simply act as the guardians of the domestic status quo when they transpose EU Directives, but that their reactions are to a considerable extent determined by their party political preferences.

My empirical case studies have shown that party political opposition may occur even if the total degree of changes required by the respective Directive is only moderate. Such opposition then may give rise to deliberate "paralyzation" of transposition or consciously flawed implementation. On the other hand, active party political support of a Directive's goals can guarantee swift and correct adaptation even if the required changes are considerable. Moreover, such active support by the parties in government sometimes even resulted in over-implementation. In general, the adaptation to the Directives in question was met with explicit opposition mostly by Center-Right governments, while active support could typically be observed if Center-Left parties were in power.

However, this finding only party corroborates the simple expectations of the "parties-do matter" hypothesis. My results reveal that there is a more complex relationship between the ideological positions of government parties and the resulting transposition outcomes. First, party political preferences are only activated under certain conditions. Second, only the standpoints of neo-liberal parties on the one hand and "traditional" Social Democratic parties on the other are unambiguous and stable enough to let us derive clear expectations as to their likely positions *vis-à-vis* employment rights regulations, i.e. opposition in the former and support in the latter case. The positions of Christian Democratic and "modern" Social Democratic Parties are influenced by worker-friendly and free-market-oriented views at the same time. Hence, their actual reactions are more ambiguous. Third, if we want to assess the impact of party politics on transposition outcomes, we have to distinguish between two dimensions: time and substance. In that respect, party political support may bring about positive results in the substantive dimensions, but at the same time have a negative effect on timeliness, if attempts at over-

implementation bring additional conflicts into the process, whose resolution may then cause delays.

In sum, my empirical results suggest that not only structural matches or mismatches between European policies and national arrangements, but also party political preferences have to be taken into account if we want to explain cases of successful or failed transposition of EU Directives. Party political goals act as "lenses" through which governments look at the reform requirements implied by a Directive. The actual reactions of governments depend on whether these reforms correspond to, or disagree with, these party political preferences, or whether they leave them unaffected. Hence, it is not so much the "misfit" created by a particular Directive that is crucial, but rather the evaluation of the required changes on the basis of party political positions. If this party political evaluation results in unequivocal opposition or explicit support, the degree of misfit itself only plays a minor role in the transposition process. Under these circumstances, even small adaptations may be refuted, as was the case with the non-transposition of the Parental Leave Directive by the Center-Right Kohl government in Germany. Similarly, it is possible that even far-reaching reforms are put into practice with relatively little problems, as was the case with the transposition of the Working Time Directive by the Irish Center-Left government in office at the time.

Although these findings indicate that the compatibility or incompatibility between European demands and national structures is much less significant than suggested by the proponents of the misfit hypothesis, this does not mean that this factor should be dismissed altogether. First of all, the degree of adaptational pressure certainly has a bearing on the *intensity* of party political opposition – given the massive costs implied by the Working Time Directive, the resistance of the British Tory government against this measure was certainly more intense than the opposition of the German Center-Right government against the relatively moderate reform demands of the Parental Leave Directive. And secondly, as I have already shown above, party political support or resistance is activated only under certain conditions. In cases in which no such activation takes place, the absolute importance of the misfit dimension should be higher.[15]

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[15] But note that there are also a number of additional factors besides parties and structural matches or mismatches which have to be taken into account. For example, my empirical studies have shown that transposition performance may be decisively affected by the *positions and the relative influence of interest groups*, by the *availability or lack of sufficient administrative resources*, and by

Moreover, the absolute significance of partisan politics certainly varies between different policy areas. The central role played by party political support or opposition in the present analysis is certainly due to the high degree of politicization to be found in the area of social and labor market policy in general. The level of partisan contestation, however, may be much lower in other policy fields. Most of the studies advocating a misfit-oriented approach indeed had their empirical basis in environmental policy, where politicization between left-wing and right-wing parties might be less important than the question of structural matches or mismatches. As a consequence, I do not plead for completely dismissing the degree of adaptational pressure in future research on implementation processes within the EU. But my results suggest that we need to base our research on a much broader analytical approach which takes into account structural as well as actor-centered factors. In my own empirical research, one particular agency-based causal condition, i.e. the logic of partisan politics, has turned out to be of particular significance.

These findings shed new light on the governance capacity of the European multi-level polity. It seems that successful governance within the EU is hampered to a much lesser degree by structural barriers than has hitherto been suggested by many scholars. After all, the arguments put forward by misfit-oriented researchers imply that the EU should refrain from ambitious reform initiatives since the far-reaching domestic adaptations required by such measures will almost inevitably founder on the stickiness of existing national arrangements.

In light of the results presented in this paper, however, such a strategy of regulatory self-restraint appears to be neither necessary nor particularly helpful to avoid serious implementation deficits. I have shown that member states are very well able to put into effect far-reaching reform requirements imposed by Brussels. In other words, it is by no means inevitable that such wide-ranging reforms fail at the implementation stage. Hence, the structural diversity of national regulatory traditions in many policy areas does not pose insurmountable obstacles to successful minimum harmonization within the multi-level system, as long as there is sufficient political willingness on the part of national actors to carry through the necessary reforms. On the other hand, the fact that

possible *issue linkages* between the provisions to be implemented and other, potentially very contested and time-consuming national reform processes (Treib 2002).

domestic governments have their own political preferences, and act according to their own logic, may give rise to additional problems for the EU's governance capacity which so far have not been explored in great detail. Hence, even moderate reforms are doomed to fail if they are politically rejected by national governments.

At any rate, my results suggest that an analysis of policy-making and implementation within the European multi-level system will have to take into account much more thoroughly the *political contexts* in the member states, and in particular the impact of party politics on government behavior, than has often been the case in previous research. In order to understand the problem-solving capacity of EU governance, we will thus not only have to study comparative handbooks of labor-market, environmental, or consumer-protection policies at the domestic level, but also national election results, coalition agreements, and party programs.

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