Political Decisions and Management Dilemmas Facing National and Local Officials in Complying with European Union Policies

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Compliance has been studied in many ways, but rarely has any study relied on multiple dependent variables to examine the relative importance of predictors. The paper examines first, motivations of local and national officials may have in making a political decision not to comply and second, management or other barriers officials face in implementing European Union policies. The theory herein follows the international regulatory regimes literature, but adds to it the important heuristic of multiple levels of authority. The dataset spans nearly 40 years of EU law infringements and crosses national borders and policy areas. Many hypotheses across seemingly opposing approaches are supported, particularly those related to structural difficulties with compliance in EU member countries. I find that a lack of political will to comply can be overcome by officials when faced with judicial proceedings.

The European Union, like many international organizations, is reliant upon its member states to implement EU policies within their borders. *Constitutionally*, the EU is required to rely upon the member states to implement and enforce EU directives within their territories. *Financially and organizationally*, the EU lacks the resources to directly implement: it has neither the budgetary nor bureaucratic capability to directly implement its own laws. Nonetheless, officials within the member states often take actions (or fail to take them) which cause the member-state to fail to comply with EU policy. Compliance is key to this quasi-federal organization because the ability to deliver policy is the justification for the EU's very existence (Scharpf 1999, Moravcsik and Vachudova 2002). Compliance theory is varied; many hypotheses have been proposed, and a number of theoretical frameworks have been utilized. However, there is yet a single framework which takes into account all features of the European Union's compliance regime.

This paper seeks the causes of policy non-compliance amongst officials within EU member states. First, I address the myriad theory in compliance studies, and present a two dimensional theory of international regulatory regimes which can be applied to a study of EU policy. Second, I turn to the hypotheses on compliance among the local and national officials in the EU. Based on theory and case study evidence, primary predictors of non-compliance at that level should be numbers of

governmental veto points, significant regional autonomy, negative public opinion (including negative economic factors that influence public opinion), lack of bureaucratic capacity, state budgetary crunches, corporatism, and high levels of corruption. All of these can be conceived within the theoretic framework and have support in the case study literature as well. Data at several points in the process will reveal whether some of the hypotheses represent more intractable factors of non-compliance. Third, the paper examines the European Union's compliance regime, the difficulty of measuring compliance, and the creation of the dependent variable dataset; however, the paper essentially follows Mbaye (2001) and Börzel et al. (2007) in its methodology. Finally, after a discussion of the operationalization of the predictors, the paper presents the results of the tests of the general impact of the hypotheses on EU policy compliance among local and national officials.

Theorizing EU Policy Compliance

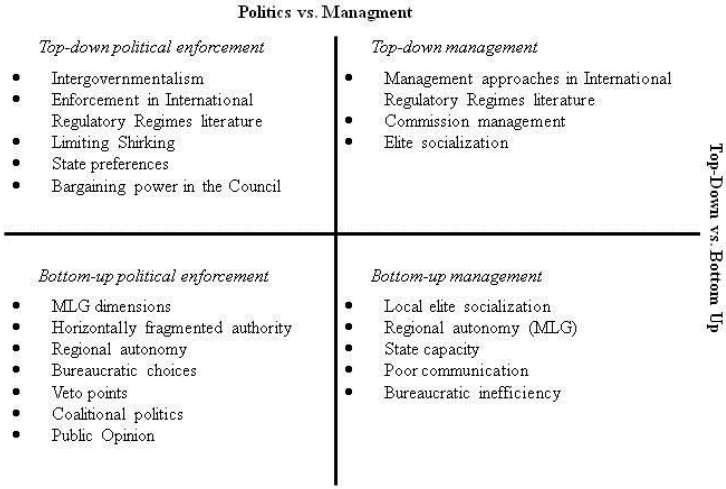
This paper uses compliance and implementation almost interchangeably, due to the sources of theory I utilize. Treib (2008:4) suggests: Policy implementation thus refers to 'what happens after a bill becomes a law' (Bardach 1977)… Compliance refers to 'a state of conformity or identity between actors' behavior and a specified rule' (Raustiala and Slaughter 2002: 539).

Treib suggests that "implementation" has grown out of domestic politics, while "compliance" has been conceptualized in studies of the fulfillment of international agreements. The EU displays features of *both* a domestic political arena and an international one; therefore, as Treib suggests: Irrespective of these semantic differences, most compliance and implementation research is interested in both the process of how a given norm is being put in practice and in the outcome in terms of rule conformity. In this sense, implementation and compliance are two sides of the same coin. Therefore, the context of the theory and hypotheses determine the choice of vocabulary.

Within EU compliance studies, theorizing is varied and contradictory (see Mastenbroek 2005 for a review of the abundant theoretic developments in compliance studies, and for a list of variables that authors have tested), and methodology is both quantitative and qualitative (see Falkner et al. for case studies of particular policies). This paper follows Börzel et al. (2007) in attempting to quantitatively explain EU compliance using international regulatory regimes theory (Chayes and Chayes, 1995; Downs, Rocke and Barsoom, 1986), but it adds to this an heuristic designed to help us understand this theory as it relates to the levels of policy compliance within the EU. Using literature that examines federalism's impact on implementation, and following the finding from Mbaye (2001) that countries with multiple internal levels of authority have more difficulty in complying with EU policy, I present an orthogonal theoretical framework that is designed to facilitate the

categorization of the many hypotheses discussed by Mastenbroek, and indeed, to make clear the relationship between multi-level governance and regulatory regime theory (see figure 1). While this paper is primarily interested in compliance from the bottom-up, it is necessary to examine the theoretic framework holistically. The framework of compliance theory presented herein is meant to guide this study, and to provide a framework within which academics and policy managers alike can understand infringement.

Figure 1: Theoretic Dimensions of EU Compliance



Top-Down Political Dimension. Authors in the upper left-hand quadrant of figure 1 tend to view non-implementation as a problem of elite political choices. This approach is rare in studies of domestic politics, but traditional international organization studies that cast the government as a rational actor which chooses whether or not to conform fit nicely here. Downs, Rocke, and Barsoom (1996) argue that enforcement incentives constrain the feasible choices of strategic elite actors, and therefore control infringements of law. Studies of compliance, then, must begin with agreement negotiations. States that are successful bargainers will implement the agreement they reach, whereas states who are unable to achieve an agreement close to their ideal point will not comply as well or as often. Fearon's (1998) argument suggests that the ability of state executives to bargain effectively in the Council of Ministers would be reflected in the number of infringements a state incurs. Powerful states will infringe less often. The implementation of the directive on urban waste water treatment in the Netherlands illustrates the importance of these top-down hypotheses (Kelder 2000). The Dutch government found it necessary to effect the reduction of pollution in water coming into the Netherlands from other countries

through a cross-national policy; the Dutch government has complied well with this policy.

Top-down Management Dimension. Theorists in the upper-right hand quadrant conceive implementation as a problem of management by elites. Institutional learning is fundamental to national adaptation to European norms. Paraskevopoulos (1998) argues that elite socialization to European governance models is a critical factor in the relative success of structural fund programs. Elites must learn how to cooperate; in addition, elites must write laws properly so that they may be implemented. Chayes and Chayes (1993, 1995) suggest that ambiguous or general treaty language is open to varied interpretations and is thus easier to implement, implying that ambiguous international law is less likely to result in infringement than more precisely worded statutes. However, an alternative suggests that ambiguous law may be interpreted incorrectly by managers in non-elite positions, leading to non-compliance. The Commission has sought to limit this type of non-compliance through clarification. Implementing the Habitats directive in the UK illustrates top-down management problems. According to Ledoux et al. (2000), the inflexibility of the tool is a failure of management of the tool at the top level and a failure to make the tough choice to implement the tool locally resulted.

Bottom-up Management Dimension. Authors in the lower right hand quadrant focus on national and sub-national management problems that may prohibit effective implementation. The primary issues here are state capacity and poor communication between the international regulatory regime and lower government levels. Jensen (2007), in his examination of administrative capacity, asserts that "ability rather than willingness" determines compliance levels within member states in his examination of 186 labor policy infringements from 1978-2000. These capacity factors create non-compliance with international obligations. National administrative structures can cause variation in policy output; corporatism may also be potentially important, because it may reduce the management problem by reducing the number of 'rogue' actors in a system. The involvement of EUREGIO in implementing cohesion policy in Germany and the Netherlands reveals the importance of good quality management at the local level, particularly as regards cooperative, cross-regional cooperation with the Commission in creating and managing regional programs (Perkmann 2002).

Bottom-up Political Dimension. The final quadrant is probably the least studied of all. Authors here focus on political decisions made by non-elite actors that influence implementation. Political choices made in the bureaucracy and the national administration can affect the implementation of international policy. Coalitional politics, governmental partners, and structural checks and balances can make it difficult for legislatures to comply with supranational law. In addition, in decentralized, federal systems, the central government may have difficulty in compelling local governments to implement international law simply because they

do not have the power to do so. Moreover, bottom-up political theorists include attention to the public opinion on integration and the government. Lampinen and Uusikylä (1998) assert that it is easier to implement EU law in countries where public support for the EU is high. In addition, they examine electoral participation, satisfaction with democracy, and political protest.

The Kouroupitos dump case, involving Greek officials in a dispute over a dump in Crete, illustrates the ability of political decisions made at the local level to cause compliance issues for a national government, in this case, Greece. Recalcitrant local officials who refused a toxic dump in their district made the Greek government fail to comply with EU law.

The relative importance of each of the hypotheses will vary across space and time. The extent to which infringement is a management or political issue hinges on whether the issue at hand has been politicized by national political parties, local party leaders, or even local people. When an issue 'matters' – or is perceived to matter by people or parties as an electoral advantage – political decisions should be more important in infringement. As political compliance is a conscious choice, and as the issue of whether to comply may matter either toward or against implementation, it is impossible to specify whether politicization has either a positive or a negative effect on overall compliance (though it makes all the difference in individual cases). If an issue involves national identity (or local identity), peoples' pocketbooks, or special interests, then an issue is more likely to be politicized through electoral politics. Therefore, it becomes more likely that political choices regarding compliance may be made. Political parties may take on an issue for reasons of their own and popularize the issue amongst their 'publics'. Issue salience is important, and political parties and local individuals are critical in constraining choices available to political officials (Hooghe and Marks, 2009). Also important, however, is the activity of the media, which frames issues, primes public opinion, and provides cues as to what people should think and the views they should have on compliance.

The relative importance of the top-down/bottom-up dimension is located in optimal authority issues. When coordination between levels is great and there is general agreement that policy is being made at the optimal level, we would expect fewer top-down/bottom-up compliance problems. However, if policy is being made at a suboptimal level – or it is generally thought that policy is being made such a level – then noncompliance will occur. If policy is made at a higher level than is optimal, then top-down noncompliance results. If, on the other hand, policy is made at a lower level than is optimal, bottom-up noncompliance will result. In the end, it is the lack of coordination between levels that creates non-compliance of the top-down and bottom-up varieties.

While the two regulatory regimes approaches are usually considered to be theoretically at odds (especially by their proponents), in practical applications, they tend to be used in combination (Tallberg 2002). In fact, the EU's compliance regime is an effective, realistic combination of the two theoretic approaches. First, the Commission seeks to build capacity through economic aid, cooperative administration, and policy clarification. At the same time, it punishes those who defect, through the threat and employment of treaty-based economic sanctions. Both management and enforcement approaches (the carrot and the stick) are employed. It is also clear that authority is diffused within member states, to varying degrees. This fact alone makes the existence of regional and local levels a key explanatory variable.

Compliance Predictors among National and Local Officials

The international regulatory regimes literature can be combined with US federalism literature and EU literature to produce a two dimensional theory of EU policy compliance (see figure one). This paper is focused on issues among national and local officials, seeking compliance problems among actors at the "bottom-up" level. Primary political predictors are governmental veto players, regional autonomy, and politicians' electoral response to negative public opinion (including negative economic factors that influence public opinion). On the management side, the paper examines bureaucratic efficiency, state budgetary constraints, corporatism, and high levels of corruption (see figure 1). The current work does not address top-down compliance predictors, due to the inability to examine the instrument with the data needed to test compliance at the national level.

Political Choice and Incentive Structure in the EU. Regulatory regimes literature suggests that political choices made in the bureaucracy and the national administration can affect the implementation of European policy. Tsebelis' veto players concept (see Tsebelis, *Veto Players*, 2002) suggests that as the number of coalitional partners, interest groups, other political parties are veto players who can increase the amount of non-compliance a member state will commit is expected to increase as well. A case study by Haverland (1999; see also Haverland 2000) suggests that the number of institutional veto players in the national government shape both the speed and the quality of implementation of EU law, regardless of whether those policies provide a 'good fit' between the national and the supranational law. Veto players, including structural checks and balances within the system, can inhibit legislatures from implementing supranational law. More veto points can create an incentive structure that leads to both a lower quality and slower speed of implementation and transposition (and therefore higher non-compliance) (Haverland, 1999).

Following Mbaye (2001) and others, I turn now to multilevel governance, whose proponents assert that decision-making competencies are shared across

multiple actors at the supranational, national, and sub-national levels (see Hooghe and Marks, 2000). Subnational actors include the regional and local governments within national states. The literature on federalism confirms the idea that non-elite players can act in political ways to limit implementation. Subnational elites *cannot* be ignored. In a decentralized, federal system, the central government may have difficulty in compelling local governments to implement international law simply because they do not have the power to do so. U.S. public policy literature points to the effects of federalism on implementation. Lowry (1992) states '[t]he danger of a federal system is that subnational policymakers will... [skew] policies to the extent that outcomes no longer match national outcomes (Lowry, 1992:4). This is entirely rational: policymakers want to implement laws in the most beneficial (and least painful) way possible. Both political and managerial impulses may motivate subnational authorities. In the EU, skewing by subnational actors can have the effect of causing infringement at the national level. A state that has a unitary system should have more impact upon local governments in choosing to implement law, and no question of ultimate responsibility can exist – the centralized government has both *power and responsibility* within its borders.

Finally, there are a number of circumstances under which politicians may have compelling electoral reasons to avoid compliance. Lampinen and Uusikylä (1998) assert that it is easier to implement EU law in countries where public support for the EU is high. They argue that '[s]ince politicians often make policy choices that promote their re-election, it can be assumed that the lower the overall mass support for the country's membership in the EU, the higher the probability that a member state will face difficulties in implementing European policies' (Lampinen and Uusikylä, 1998:39). More broadly, implementation may be easier when political culture is stable, democratic, and satisfied. 'Political attitudes influence the types and extent of policies carried out…' (Lampinen and Uusikylä, 1998:239). Here, they used a scale that included electoral participation, satisfaction with democracy, and political protest (among other variables). Lampinen and Uusikylä found that institutions and political culture were the best predictors of infringements. Finally, it is also possible that public misery will influence compliance. Economic health and well being of the general public will influence the political decision of policy makers the same as the measured public opinion variables. When it is difficult to comply with EU law, policy makers will tend to protect their own reelection interests.

Management Problems and Administrative Negligence in the EU. Management problems at the national and subnational levels may prohibit effective compliance with EU laws. Problems of state capacity, poor communication between the EU and lower government levels, and administrative neglect could create non-compliance with EU laws.

Chayes and Chayes (1993:194) define state capacity as the extent to which administrations are able to make choices, have efficient bureaucracies, and have fiscal resources available. Geoffrey Pridham (1994:99) argues that 'the southern countries [Spain, Portugal, Greece, and Italy] do have particular problems of administrative procedure and competence and they are notably short of infrastructure [particularly in implementing environmental policy].' Institutional design matters, especially in terms of management by non-EU level actors. National administrative structures could cause variation in policy output. To extend this argument, Knill (1998) contends that disparities in national administrative patterns also cause dissimilarity in infringement patterns. States with small administrations and unmanageable bureaucracies will likely face more difficulty in implementing policies, thus creating more infringements. Therefore, states with problematic bureaucracies cannot comply as well as other states.

Carmel Coyle (1994) argues further that Ireland's administrative capacity governs her ability to implement policy. She emphasizes the smallness of Ireland's public sector, concluding that Ireland has trouble implementing policies because they overburden the system. State capacity, then, affects policy compliance in terms of state budget as well as bureaucracies. Governments with small public sectors and inefficient bureaucracies should generate more infringements.

In addition, a second line of reasoning highlights the role of practical capacity. Corporatism reduces the management problem by reducing the number of 'rogue' actors in a system, thus reducing non-compliance. Lampinen and Uusikylä (1998) argue that high levels of corporatism result in fewer infringements. '[C]orporatist arrangements increase the stability and degree of institutionalization of policy networks at the national level' (Lampinen and Uusikylä 1998:239). A close and cooperative arrangement between the state and interest groups may improve compliance. Therefore, a high level of corporatism should lead to low levels of infringement.

Similarly, one might also expect that corruption may cause management-based compliance problems. Systematic requirement of side-payments and patronage positions produce systems in which tasks are accomplished only when bureaucrats have personal incentive to get things done. If implementation does not produce personal incentives for the implementer, non-compliance can result. Corrupt countries should therefore infringe more often.

Finally, miscommunication may cause management problems. However, there are reasons to believe this to be a minor source of the implementation deficit in the EU. The Commission has typically taken an active role in clearing up cases of misunderstanding. Cases caused by miscommunication are resolved early in the process (as the Commission sends letters to the relevant state actors), and likely do

not reach the formal stage of the enforcement procedure. The data used to measure compliance would not reflect communication issues because compliance is measured in later stages. Table 2 presents a summary of the hypothesized effects of

Table 1: Hypothesized effects of Bottom-Up Predictors of Non-Compliance

Variables	*Predicted effect*
Political Approach	
Veto Points	+
Regional Autonomy	+
Satisfaction with Democracy	–
Satisfaction with EU membership	–
Misery Index	+
Managerial Approach	
State capacity	–
Bureaucratic efficiency	–
Corporatism	–
Corruption	+

governmental veto players, regional autonomy, several public opinion variables (including negative economic factors that influence public opinion), bureaucratic efficiency, state budgetary crunches, corporatism, and high levels of corruption.

Measuring Infringement and the European Union's Compliance Regime

I seek to explain compliance amongst local and national officials within a structured theoretic framework using a cross-sectional time-series dataset complied at two points in the compliance regime. Early quantitative work on the topic uses a count dataset of court data as the dependent variable (Mbaye 2001), while the best recent quantitative work has utilized the number of reasoned opinions that each act has drawn (Börzel et al. 2007). This study tests the bottom-up hypotheses drawn from the framework above against two dependent variables: a count of ECJ cases

and a count of Commission reasoned opinions. This section reviews the dependent variable.

Counting compliance is a little like trying to count safe car trips – it is nearly impossible to know how many safe car trips are taken. It is easier – and, indeed, less subjective – to count the number of crashes. Similarly, counting compliance is difficult. How many months does compliance have to take place before a state is "compliant"? Do all the state actors have to comply, or can one actor ruin it for everyone? These are difficult and subjective questions that can be avoided if non-compliance is measured instead. Non-compliance is defined herein as a function of whether the Commission has decreed non-compliance to be present, as assessed during the procedure laid out above.

The problem with this choice, however, is evident. With non-compliance data it is not possible to assess whether overall non-compliance is growing or not, because the amount of non-compliance measured is not adjusted with the ever-growing size of the common community law. It is not only laws issued this year that states must implement, but also laws issued in years past. Compliance is cumulative, and noncompliance as measured as discrete incidents is not. Despite this problem, it is possible to avoid the more intractable measurement problems above by measuring non-compliance rather than compliance. Whether or not there is a growing compliance problem is not the focus of this paper (see Börzel 2001 for discussion on the size of the EU compliance problem over time); rather, this paper is concerned with relative change in compliance from the administrative phase to the judicial phase of the process: the number of times a state does not comply with EU law can be measured at several stages of the process.

In practice, the Commission will open a dossier when a suspect case comes to its attention. About 40 percent of those are resolved at this stage (see the Commission's *Annual Reports on Monitoring the Application of Community Law*, yearly.). These cannot be considered part of the population of cases, because the Commission has not yet decided that failure to comply has occurred. Member states make necessary changes, or the Commission discovers that the state is already compliant. Informal negotiations occur at this point in order to weed out unintentional violations that can arise due to misunderstandings. However, if a state is found to be deficient, the Commission then sends a formal letter to the state concerned, informing it of the alleged infringement. The state responds, and a further 30 percent of the cases are resolved at this stage. If the reply does not satisfy, the Commission will issue a reasoned opinion informing the state what it must do. Twenty-three per cent of cases are solved here. This part of the procedure is the 'administrative' phase (Fernandez-Martin, 1996). According to the European Commission, the overwhelming majority of the cases that come to its attention are resolved before they reach the judicial phase of the enforcement procedure. The data

herein measures non-compliance at two stages: reasoned opinions and court decisions. This paper uses a count of how many reasoned opinions the Commission issued for each year and for each country between 1979 and 1999, provided by Tanja Börzel, which can be found at the EUI's website (http://www.iue.it/).

The present study is aimed at determining whether there is a difference in predictors between administrative non-compliance and judicial-stage non-compliance. Therefore, I counted every case in which the ECJ declared that a failure to fulfill treaty obligations from the years 1961 to 2004. It is thus within the scope of this paper to investigate the possible differences between cases in the administrative phase and the judicial phase.

While it can be argued that selection bias is present, it is important to note that data on implementation is very difficult to collect. The Court records may indeed produce a skewed picture; however, it is one of the few data sources to which researchers have full access. The Commission may act strategically when selecting cases that are to go before the ECJ─or to be sure, which cases will be issued reasoned opinions. However, there is evidence to suggest that the Commission tries very hard to treat all cases equally and that it has endeavored, particularly since the 1970s, to depoliticize the process of non-implementation (Tallberg 1999, Mendrinou 1996). Studies cannot address those underlying biases in the Commission with this dataset. Secondly, it may be that the Court acts strategically in deciding cases of non-compliance. While the first problem – that the Commission may act strategically─is a real issue, I have found that *almost all cases,* when the Commission brings a member state to the Court of Justice it typically wins, but can lose that case. The Court of Justice is not inclined to side with the Commission in every case, neither is it more likely to find in favor of one member state than another.

The *European Court Reports*, the *Bulletin of Proceedings of the Court of Justice*, and Curia, the online database of the Court of Justice's rulings (provided by the Court itself) were used in order to count the number of cases for each country. Following Mbaye (2001), three simple rules were used in coding infringements. First, the unit of measure was the individual court case, regardless of how many infractions were involved, because it could be a matter of researcher opinion as to how many different infractions are involved in a single court case. Second, each counted case resulted in a decision in which the state was found to be partially or fully failing to fulfill treaty obligations. Finally, only those cases in which the Commission brings suit against a state for failure to fulfill an obligation were considered. In the EU, it is possible for a state, a company, or an individual to bring suit against any one of the same for breaking laws and, when the defendant is a state, failure to fulfill obligations can be a reasonable cause for a suit. Generally, however, citizens and other states must go through the Commission when filing a complaint,

and the Commission takes over from that point.

The Commission's Cases before the Court were counted by country and by year of filing of the case, rather than by year of the decision. All members of the EU were counted, but obviously only for their years of membership. Due to the ECJ backlog, it can take between two and three years for a case to reach the Court. Lately, the Court's delay time has been reduced to something around one year. Since compliance studies are normally occupied with the conditions that created the infringement – conditions present prior to the filing of the case – the filing date is clearly the important date. The Commission brought 1464 cases to the Court of Justice between 1961 and 2004. Of those, the Court found that non-compliance was present in 1318.

Table 2: Mean of non-compliance in the EU, by member country

Country	*Reasoned Opinions Issued by the Commission 1978 to 1999*	*Cases Adjudicated By the Court of Justice 1961 to 2004*
Austria	28.75	4.00
Belgium	28.17	5.12
Denmark	4.36	.63
Finland	7.25	1.44
France	31.09	5.06
Germany	21.82	3.39
Greece	35.67	5.55
Ireland	17.82	2.13
Italy	44.68	8.76
Luxembourg	17.45	2.09
Netherlands	12.41	1.67
Portugal	31.21	2.06
Spain	22.64	4.94
Sweden	8.75	1.11
United Kingdom	12.55	2.03

A summary of the data by country for the years in which we have both administrative and judicial phase data is found in Table 1 alpha by county. Denmark is the best complier in both the administrative and judicial phase, and Italy is the worst; most others are in approximately the same relative position. However, the glaring exception is Portugal. Portugal is a bad complier in the administrative phase, but looks like a good complier in the judicial phase. A high ranking person in the European Commission's compliance unit indicated that this could be expected. He indicated in conversation in 2000, before the data collection was complete and before the data was analyzed, that government preference in Portugal is set against going to Court, and therefore makes every effort to settle cases prior to the judicial phase. This result indicates that it is necessary to examine both the judicial and the administrative to get a more complete picture of compliance. The descriptive summary statistics of the two dependent measurements of non-compliance are presented in table three.

Operationalization of Predictors

The descriptive statistics for the predictors can be found in table four. As an indicator of fiscal resources, the current receipts of the government for each year as a percentage of the GDP are used (gathered from the International Monetary Fund's *Direction of Trade Statistics*). A scale of bureaucratic efficiency that tracks the professionalism of the bureaucracy has been constructed using the statutory construction of the civil service for each country. This hypothesis assumes that the more professional a civil service is, the more efficient it will be (see Auer, et al.).While this indicator varies cross-sectionally, it does not vary across time.

Table 3. Descriptive Summary Statistics of the Dependent Variables

	ECJ Cases	Reasoned Opinions
N	341	256
Mean	1.9589	22.5078
Median	1.0000	17.0000
Standard Deviation	2.9919	18.6749
Variance	8.9513	348.7529
Minimum	.00	.00
Maximum	19.00	94.00

Finally, the corruption index is the historical comparison of corruption among some 54 countries produced by the Internet Center for Corruption Research, and found on their website. Corrupt countries have low scores; theoretically, extreme corruption scores zero. The corruption indicator should have a negative value in the model. This indicator varies through time and across countries, but is not a yearly variable.

Corporatism is operationalized as the level of integration that an economy possesses, which is taken from Schmidt (1982). For discussion of the comparative qualities of various measures of corporatism, see Siaroff (1999). The corporatism measure used here addresses exactly the qualities of economic partnership that are important in terms of implementation. When national governments have to satisfy their social and economic partners, they cannot implement effectively.

Veto players data are found at George Tsebelis' website and are of his creation. These data are composed of several components: the number of governments, the number of coalition partners in a government, the ideological score (on a left-right axis) of each coalition partner, and other facets of the central government and the actors involved therein. The veto player data is unavailable for Greece, although it should score very low.

The regional autonomy index (regionalization) is an updated version of the regional autonomy index found in Hooghe and Marks (2000). The index presents a summary score between zero and twelve for each member state for each of four time periods. Countries score between zero and four on Constitutional Federalism ('constitutional or legal provisions relating to regional governance in the state as a whole'), zero and two on Special Territorial Autonomy ('constitutional or legal provisions for home rule in special territories'), zero and four on the Role of Regions in the Central Government ('extent of regional power-sharing in central government through (a) constitutional or legal provisions granting regional representation in the national legislature, and/ or (b) constitutional provisions, legislation, or explicit intergovernmental agreements for policy coordination among regional and national executives'), and zero and two on Regional Elections ('direct or indirect elections of regional assemblies at regular intervals') (Hooghe and Marks, 2000). This indicator varies both across countries and across time. While it can be said that highly regionalized states will have more veto players than do other states, it is apparent that these two indicators do not tap the same underlying facets of the member state. Veto players data are concerned with the central government and regional autonomy is concerned with actors in addition to the central government.

Public support for national membership in the EU is found in the Eurobarometer, as is political satisfaction. These data are yearly figures for member states and are found in the summary file Eurobarometer titled European

Communities Studies, 1970-1992 (Inglehart et al., 1994). Finally, public misery has been operationalized as the standard misery index of yearly inflation rate plus the yearly unemployment rate.

Analysis and results

The two dependent variables have a cross-national, event count, time-series structure. A single case is a country-year in both datasets. In addition, countries were only included for that period of time that they were a member. Therefore, not every country is included in the analysis for the entire period. This paper uses a negative binomial regression to analyze both dependent variables, as the dependent variable is in count form.[2]

Table 4. Descriptive Summary Statistics of Local and Regional Compliance Predictors

Variable	*N*	**Mean**	*Standard deviation*	*Minimum*	*Maximum*
Political Approach					
Veto Points	360	2.45	1.22	1	6
Regional Autonomy	382	2.29	2.13	0	7
Satisfaction with Democracy	202	2.48	.29	1.93	3.43
Satisfaction with EU Membership	212	1.46	.25	1.12	2.23
Misery Index	366	12.84	6.78	1.5	30.4
Managerial Approach					
State capacity	349	254.11	744.32	.475	5253.89
Bureaucratic efficiency	382	2.03	.88	1	4
Corporatism	382	20.1	1	1	5
Corruption	382	2.46	1.49	0	6.58

Table 5 displays the results of the full negative binomial regression model on each dependent variable. The first notable result is that several predictors are not significant. While veto points, regional autonomy, satisfaction with democracy, misery, state capacity, and corporatism are significant for reasoned opinion infringement, others have no impact. Regional autonomy, satisfaction with democracy, misery, and state capacity are predictors of court cases. In effect, results do not hold across both dependent variables. Bureaucratic efficiency is the only variable that is insignificant for both models. Dropping that variable – and other insignificant variables for each model – produces the parsimonious model found in Table 6.

Results for the two dependent variables are not identical. Only one variable, the

misery index, has dropped from both. The models' results indicate that the year variable remains obviously significant, demonstrating that as time has passed, the EU has had an across the board increase in non-compliance. Several variables,

Table 5. Negative Binomial Regression Model of Implementation Infringement [a]

Variables	***Reasoned Opinions***	***Court Judgments***
Political Approach		
Veto Points	.14**	.10
	(.06)	(.08)
Regional Autonomy	.09***	.09***
	(.02)	(.03)
Satisfaction with Democracy	.49*	1.83***
	(.25)	(.43)
Satisfaction with EU membership	–.93**	–.53
	(.30)	(.55)
Misery Index	.02	.06**
	(.01)	(.02)
Managerial Approach		
State capacity	.0002**	.0004*
	(.0000)	(.0002)
Bureaucratic efficiency	–.12	.22
	(.11)	(.22)
Corporatism	–.33***	.104
	(.10)	(.144)
Corruption	–.13**	.011
	(.06)	(.100)
Country	–.01	–.058
	(.02)	(.037)
Year	.056***	.094***
	(.012)	(.02)
Lagged dependent variable	.052**	.005
	(.025)	(.004)
Constant	–108.56***	–5.13***
	(24.02)	(0.0)
α [b]	.15	.31
	(.03)	(.09)
Pseudo r^2	.13	.16

*Significant at the p<.10 level **Significant at the p<.05 level ***Significant at the p<.01 level. [a] The coefficients presented are the negative binomial estimators. The standard errors are in parentheses. Note that the coefficients presented are not interpreted as in a multiple regression model.

[b] The α statistic suggests that the use of the negative binomial model is correct. If zero, the Poisson model would be the accurate model.

however, have opposite effects to the hypothesized impact. First, the misery of the population has no effect in either model. It seems that unemployment and inflation rates are not significant factors in the decision or ability to comply with international law. Increased veto points faced by a national government increases the number of compliance problems, as does increased regional autonomy. The more actors are

Table 6. Parsimonious Negative Binomial Regression Model of Implementation Infringement [a]

Variables	**Reasoned Opinions**	***Court Judgments***
Political Approach		
Veto Points	.13***	.25***
	(.05)	(.06)
Regional Autonomy	.09**	.12***
	(.16)	(.03)
Satisfaction with Democracy	.77**	-
	(.21)	
Satisfaction with EU membership	–.72***	-
	(.23)	
Managerial Approach		
State Capacity	.0002**	
	(.0001)	
Bureaucratic efficiency	–.20***	–.032***
	(.07)	(.09)
Corporatism	–.13***	–.44***
	(.07)	(.08)
Year	.07***	.07***
	(.01)	(.01)
Constant	–131.55	–145.51
	(20.6)	(16.4)
α[b]	.15	.32
	(.03)	(.09)
Pseudo r^2	.13	.13

*Significant at the p<.10 level **Significant at the p<.05 level ***Significant at the p<.01 level

[a] The coefficients presented are the negative binomial estimators. The standard errors are in parentheses. Note that the coefficients presented are not interpreted as in a multiple regression model.

[b] The α statistic suggests that the use of the negative binomial model is correct. If zero, the Poisson model would be the accurate model.

involved, the greater is the chance for non-compliance. Public opinion, too, seems to have an effect in the administrative phase: as public appreciation for the EU and for EU membership falls, so the number of compliance issues rises. A population angry, unhappy, or disillusioned with the EU makes local and regional officials less likely or less able to comply with EU laws.

Interestingly, public satisfaction with democracy increases the likelihood that a state will refuse to comply. This runs contrary to what theory and earlier studies would have us expect. Implementation appears to be easier with a public that is not satisfied with the current state of the government. Perhaps it is the case that in states where public satisfaction is low, EU policies are seen as a way to increase satisfaction and to increase the legitimacy of the national government. The public, unhappy with the state of democracy in their country, might believe that change is necessary and therefore might welcome EU policies that bring change (Rohrschneider, 2002). However, it could also be the case that when a public is dissatisfied, it tunes the government out – thus making government action easier for officials implementing EU policies. Elite actors in the early days of EU politics favored downplaying the EU and, in a sense, hiding the EU from the public. If a disaffected public isn't paying attention, it should be easier to implement EU policies.

Managerial hypotheses find favor in the data as well. State capacity, interestingly, creates a larger likelihood of non-compliance: richer states do not comply as well. This lends credence to the political approach – more powerful, richer, larger states can afford to decide not to comply, and reinforces the realist view of international relations. Rich and powerful states don't have to play by the rules, even when they make them. In addition, as expected, states with more efficient bureaucracies are less likely to fail to comply with EU aw, and states with a high degree of corporatism are less likely to find themselves at odds with the Commission.

Corruption presents an interesting conundrum: why does a higher level of corruption seem to lead to fewer compliance cases in the administrative phase of the EU compliance regime? The European countries tested here tend to do very well on the corruption scale as opposed to other areas of the world. The countries that score the highest – Italy, Spain, Portugal, and Greece – tend to score in the 4-6 range on a 10-point scale. Most other countries, including Belgium, which tends to have a high level of non-compliance, score very low, in the 1-2 range. During the period under study, Portugal and Spain score highly on the corruption scale but have few compliance cases, in part because they were relatively new members. Spain and Portugal were only just beginning their EU membership – only a few years of data exist for these two countries, and for about half of those years, they are still in the EU "honeymoon" phase, in which they are working within an EU-granted grace period in which to fully integrate their systems of law with the EU *acquis communitaire*. The Commission does not file as many cases against Spain or Portugal as they might if the offending member state was France or Italy, yet these two score higher, on average, on the corruption scale. In addition, Belgium has a low score on the corruption scale, yet is the second worst complier in the EU. Perhaps with increased data for the two Iberian countries and discounting the skewing effect

of Belgium, the predicted effect would be realized.

Conclusion

This paper has examined the causes of non-compliance at the local and national level within the confines of a regulatory regimes framework, using a cross-national, cross sectional dataset and referencing hypotheses from the case study literature. The hypotheses were tested at two points: in the administrative and judicial phase. Support for both management and enforcement theories confirms the usefulness of combining these into a single theoretic framework that will help policy practitioners and academics alike understand the reasons that non-compliance occurs. However, most interestingly, the two models are different. Using data from two points helps to delineate the relative intractability of non-compliance factors. The administrative phase measurement model, reasoned opinions, contains several predictors that were insignificant in the later phase of the compliance procedure. While the direction and effect of veto points, regional autonomy, bureaucratic efficiency, and corruption remains similar for both models, several variables that effect compliance as measured in the administrative phase do not have a systematic effect on compliance as measured in the judicial phase.

Most importantly, *the variables that carry over into the judicial phase are structural*. Governments cannot easily change the number of veto players, the federal nature of the state, the structural efficiency of the bureaucracy, or the corporatist nature of the state. They can and, evidently, do ignore public opinion, budgeting, and power considerations when faced with a Commission intent on ensuring compliance. The threat of court action is apparently enough to bring about change in all but the most inflexible structural state circumstances. This suggests that the ability of state and local officials to improve compliance records is limited by the structure of the state. Officials can, seemingly, get around the problems of negative public opinion and lack of funds if they are faced with judicial action. Power considerations, too, appear to fall by the wayside. But federalism and veto points, constitutionally created, are a block to compliance and there is little that officials can do to overcome these obstacles. Similarly, state government officials faced with coalition partners must often sacrifice compliance upon the alter of maintaining the coalition and remaining in power. Corporatist arrangements, which made economic policy so well after World War II, are a block to compliance with many EU policies, and present an effective barrier to local officials who wish to bypass them. Finally, structurally inefficiencies in the bureaucracy are both maddening and difficult to evade in complying with EU law.

This paper has demonstrated the importance of using a theoretic framework which includes multiple levels of EU authority in conjunction with international regulatory regimes theory in understanding compliance among local and national

officials, rather than simply throwing every possible hypothesis at the data. Moreover, it is a fruitful enterprise, resulting in a new understanding of compliance problems local and national officials confront. However, further study is needed in order to examine the way that politics and management factors shape compliance at the *supranational* level. However, based upon the data herein, structural and constitutional concerns must be addressed if officials in the EU are to further reduce the number of compliance problems a state may incur. This is no easy task, either for state governments or the Commission. It may well be a matter of years or decades─if ever─before near full compliance with EU law can be achieved.

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