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Complying with the transposition deadlines of EU directives

Evidence from Italy*

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ABSTRACT

This article assesses the causes of the timing of transposition of 2179 EU directives, using an original dataset of 3183 laws adopted by the Italian authorities. Amendments to Commission directives are transposed sooner. Additionally, EU laws with longer time for adaptation present a lower risk of delay beyond the deadline. More intense supranational monitoring speeds up transposition and lowers the risk of delay. Interestingly, as the volume of EU laws to be incorporated increases, transposition *accelerates* and, since 1984, delay is less likely to occur. As expected, administrative and legal reforms undertaken at the national level have lowered the risk of delay and increased the likelihood of transposition. Finally, those legal instruments that offer the opportunity to potential veto players to voice their concerns and delay transposition do not appear to corroborate entirely our predictions. As expected, legislative and local authority measures increase the risk of delay, while ministerial acts both lower this risk and expedite transposition. But, contrary to our predictions, legislative and cabinet acts accelerate transposition and cabinet measures increase rather than reduce the likelihood of delay.

KEY WORDS • European Union • Compliance • Italy • Transposition

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1
Introduction

Pacta sunt servanda is a basic principle of domestic and international law. It is a brocard upon which modern states and the international community rely heavily in order to secure the achievement of important policy objectives such as arms control, free trade and sustainable environment. Any system based on parties agreeing on a set of mutual obligations works only if those clauses are ultimately fulfilled.

The European Union (EU) is above all a community of law. Legal integration is probably one of the most defining features of European integration and, rightly, it is intensively studied by the academic community. Indeed, almost on a weekly basis, EU legislators adopt laws that require national authorities to take measures to comply with their obligations. Do member states comply? If not, what explains noncompliance? The literature abounds with explanations but remains still relatively poor with regard to large-N studies.

This article studies compliance with the deadline to transpose EU directives in Italy. It derives a number of factors explaining noncompliance from the existing literature and tests the related propositions onto an original dataset of 3183 measures transposing 2179 EU directives into Italian law, covering a span of almost fifty years. In the next section, we critically review the current literature, highlighting the key results and the gaps of the existing studies. We then outline the different types of noncompliance in the EU and how they shape research strategies. Next, we introduce our dataset and explain the operationalisation of key variables. We then provide a substantive analysis of the causes of transposition and delay and conclude summarising our findings.

2
The roots of noncompliance: International, European and comparative perspectives

Is noncompliance significant?

We shall review the growing tide of political science studies devoted to the issue of compliance with EU legislation by primarily focusing on two questions: is noncompliance within the EU significant? Why does it happen? The debate about a *compliance deficit* in the EU began in the mid 80s, approximately in parallel with the discussions on the Single European Act, and it has not disappeared since. This is partly due to the European Commission's interest in keeping the issue constantly under the spotlight, in fulfilment of its role as 'guardian of the treaty'. Since 1984, the Commission has yearly reported to the European Parliament on the number and quality of state infringements which it has detected

or which have been referred by third parties. This information, along with the administrative and legal measures taken by the Commission and the European Court of Justice (ECJ) following art.226 EC, are collected in the *Annual Reports on Monitoring the Application of Community Law*.

Many works have made use of these data to draw attention to a systematic or pathological problem of noncompliance within the EU (Krislov, Ehlermann and Weiler 1986; Mendrinou 1996; Snyder 1993; Weiler 1988). Indeed, the number of infringement proceedings plummeted during the 1990s and it stabilised on an average of more than 1000 formal proceedings initiated per year. This conclusion has however been challenged by Börzel (2001) for reasons of unreliability, incompleteness and incorrect interpretation of the historical trends. According to Börzel, these data do not provide information about the actual level of noncompliance and the analyses do not control for changes in Commission's enforcement strategy, amount of regulatory activity and number of states. Additionally, noncompliance, when it has set in motion the infringement procedure, has not increased over time and has remained a temporary phenomenon. A minority of cases is referred to the ECJ and none of its sentences of noncompliance has been permanently ignored so far (Jonsson and Tallberg 1998; Tallberg 2002). Recently, in testing compliance with a similar policy originating at national, EU and World Trade Organization levels, Zürn and Joerges (2005) conclude that compliance with EU-level rules is actually the highest.

Yet, the debate cannot be settled here as new measures of the implementation deficit have been recently put forward. Mastenbroek (2003) highlights the existence of a delay in transposition which is not immediately apparent from the official Commission statistics[1]. She points out that about 60 percent of the directives adopted between 1995 and 1998 have been transposed late in the Netherlands, even though the cumulative backlog of not-notified directives as of 31 December 1992 was a meagre 4 percent. Following Mastenbroek, we measured the transposition deficit in terms of delay with respect to the directive's deadline. Our dataset shows that 75 percent of the directives is transposed after this deadline and, in a further 4 percent of cases, at least one national measure is late. The average delay of a national measure is two years with a standard deviation of almost three years. These results corroborate Börzel's findings (2001) which place Italy among the implementation laggards. What are therefore the causes of noncompliance?

1. The transposition scoreboards published periodically by the Commission refer only to member states' cumulative notification records at a specific point in time, see the critique of Mastenbroek (2003, 373-374).

The sources of noncompliance

We distinguish between two categories of variables that have been used to explain noncompliance: those that emphasise some intentional opposition against the content and effects of the law (strategy/preference-related issues) and those that emphasise capacity-related issues[2]. Additionally, a further distinction can be drawn within these two groups between national (country-related) and supranational (EU-related) variables.

Strategy/preference-related variables. The goodness of fit hypothesis affirms that the adaptation pressure, which the EU exerts on the member states, is determined by the degree of fit between EU legal obligations and either existing national structures and traditions or domestic policy instruments and problem-solving approaches (Börzel 2003; Börzel and Risse 2003; Caporaso, Cowles and Risse 2001; Duina 1997; Knill 1998; Knill 2001; Knill and Lenschow 1998). Compliance is better at low rather than high adaptation pressure, while it is a function of the preferences and resources of domestic coalitions and the structure of national institutions at an intermediate level of pressure (Knill 1998; Knill and Lenschow 1998). Duina (1997) provides one of the first empirical tests of this hypothesis. He claims that the time and extent whereby a directive is both transposed and applied depend on the fit between the requirements of the directive and the existing structure of interest groups and policy legacies. When a directive challenges this structure or prescribes a major policy shift, it is likely to be implemented poorly and with delays. The domestic opposition against the directive is led by national parliaments which «have acted as the guardians of the status quo, as the shield protecting national legal-administrative traditions and interest groups from radical demands descending from the EU» (Duina 1997,157). He corroborates his expectation with a study of the implementation of the 1975 Equal Pay Directive in the United Kingdom, Italy and Spain.

The goodness of fit argument invites us to consider two factors. The first one is the difference between the EU measure and the national status quo policy. As we will argue in the next section, this element has predominantly capacity-related features. The second factor comprises the preferences of the actors that are involved in national implementation or, in other words, the *constellation of national veto players* which may be inhibiting the domestic adaptation to EU law. A veto player is an actor whose consent is needed for a change of the status quo and, as argued by Tsebelis (1995; 2002), the potential for policy change is a function of the number, the ideological distance

2. This distinction serves analytical purposes only. As we will show, in some cases, the clear-cut assignment to a category is problematic.

and the internal cohesion of these players. The focus on veto players has actually led to challenge the key expectation of the goodness of fit thesis. Haverland (2000) has employed this perspective to explain the divergent implementation paths taken by the Packaging and Packaging Waste Directive in Germany, the Netherlands and the United Kingdom. This case study suggests that the timing and extent of implementation of the directive was not dependent on the degree of misfit, but on the «number of institutional veto points that central governments have to face when imposing European provisions on their constituencies» (Haverland 2000, 83). Notwithstanding the low level of misfit, the implementation path in Germany was considerably more arduous compared to Britain and the Netherlands (countries whose national policy arrangements underwent a more extensive adaptation process). Haverland locates the reason for the poor performance in Germany in the opposition exerted by veto players in the course of the implementation process, in the specific case the resistance encountered by the directive in the *Bundesrat* (see also Héritier *et al.* 2001).

The explanatory power of the veto players hypothesis has also been tested quantitatively, but only Giuliani (2003) provides supporting evidence. These works however operationalise the independent and dependent variables somewhat differently. Their results are therefore not easily comparable. Mbaye (2001) follows Tsebelis' measurement of veto players, while Giuliani (2003) uses the same data source but he updates it to cover a wider range of countries and a longer time-span. Finally Börzel, Hofmann and Sprunk (2004) draw their data from Beck *et al.* (2001). As far as the dependent variable is concerned, Mbaye considers all individual cases referred to the ECJ by the Commission which ended with a sentence unfavourable to the state between 1972 and 1993. Börzel, Hofmann and Sprunk include all infringement proceedings between 1978 and 1998 which can clearly be assigned to a policy area and create a database of 7432 observations cataloguing all the infractions per legal act. Finally, Giuliani makes recourse to a standardised index of national adaptation, for the years 1986-2000, based upon four different measures of responsiveness to the challenges of EU policy making.

The enforcement perspective on compliance in international relations invites us to consider another factor. For this school, the incentives structure is the predominant source of noncompliance, hence this view stresses the importance of appropriate mechanisms to monitor and sanction state behaviour (Axelrod 1984; Axelrod and Keohane 1986; Downs, Rocke and Barsoom 1996; Tallberg 2002; Underdal 1998). When deciding whether to comply, a state has to balance both *costs and benefits* of its decision, which are determined by, for instance, the set of monitoring and sanctioning instruments at

disposal of international or supranational institutions. Accordingly, we should expect more compliant behaviour as the severity of monitoring intensifies.

Another factor, related to agency theory, deserves attention. EU directives can be adopted by either the Council and, if involved, the Parliament, or the Commission. The *type of actor* adopting the relevant measure should matter for compliance. Mastenbroek (2003) for instance finds that the risk of transposition increases in case of a Commission directive. The elaboration of a specific expectation has to take into account the rationale for delegating regulatory powers to the Commission, but it is not straightforward. On the one hand, ministers are more likely to delegate powers in secondary matters where the supranational executive does not have extreme views and, therefore, where transposition is likely to be less problematic. On the other hand, delegation to the supranational level also occurs to prevent national administrations from taking measures that jeopardise policy credibility. If the Commission adopts a directive under these circumstances, we should expect national implementation to incur serious obstacles.

Another approach looks at opposition to EU legislation at earlier stages of the policy cycle. The general hypothesis is that *opposition during the negotiation stage* should be correlated with delayed and incorrect implementation. Since the extension of the majority voting across a number of policy areas over the years has increased the risk of being outvoted and of introducing measures which conflict with national preferences, we should expect more frequent opposition in the implementation stage. In other words, the lessening of the voice option should lead to selective exit (Weiler 1991). If the national representatives in the Council fail to defend their position during the negotiation processes, it is likely that the policy will run into trouble in the implementation stage (Falkner *et al.* 2004). Siedentopf and Ziller (1988) make a related point by observing that the fewer the actors excluded from policy formulation the fewer the problems during implementation (see also Ciavarini Azzi 1988, 191). This line of inquiry runs into serious data collection problems however. Opposition can be gauged by observing a state's vote on a specific draft directive, but 'no' votes are the exception at this stage. There is a considerable amount of unobserved opposition. More revealing might be the scrutiny of the national voting declarations, and, yet, this cannot account for strategic preferences revelation. A state can free-ride on its partners by showing support for a policy during the negotiation phase and reneging its commitment in the implementation phase (Mitchell 1996, 12)[3].

3. A more promising research strategy has been recently employed by König,

Finally, the literature also abounds with factors that explain cross-national variation in compliance. Realism suggests that powerful states should be less likely to violate the rules because they can make their voice more effectively heard at the negotiation level. They should be relatively more compliant simply because the measures adopted are closer to their preferences (Haas 1998, 22-3). And yet, interestingly, power considerations could also lead to exactly the opposite conclusion. Following the enforcement perspective on compliance, powerful countries should contravene obligations more frequently because of their lower sensitivity to sanctions. Börzel (2001) shows that the five largest member states account for about 70 percent of the infringement complaints.

Some scholars have considered the possibility that the governments of countries which are supportive of the EU are more willing to transpose and implement directives punctually and accurately (Duina 1997; Lampinen and Uusikylä 1998; Mbaye 2001). This expectation is however blatantly challenged by, for instance, the poor compliance record of pro-European Italy and the rather pristine one of Euro-sceptic Denmark. Other works emphasise national cultural traits (e.g. Dimitrakopoulos and Richardson 2001; Falkner *et al.* 2005) or the national structure of interest representation. Lampinen and Uusikylä (1998) for instance use the degree of corporatism to explain the variation in the average transposition rates of member states between 1990 and 1995 by member. Because of the single country focus of this study, unfortunately we cannot speak directly to these arguments.

Capacity-related variables. In contrast to deliberate opposition, noncompliance may also be a consequence of inability, thereby evidencing the unintentional nature of the action. The stress on the need to address capacity-related deficiencies as one of the major causes of noncompliance was initially put by the management school in international relations. In an influential work, Chayes and Chayes (1995) singled out three factors related to noncompliant behaviour: inadequate capacity of the actors in charge of implementation, the temporal dimension of adaptation to treaty requirements (e.g. the time allowed to bring into line domestic arrangements with new requirements) and the ambiguity of the norm.

As noted earlier, the goodness of fit argument has also a capacity dimension. Following the different adaptation requirements underly-

Luetgert and Mäder (2005) who have use data from national parties' manifestos to construct sector-specific preferences varying across time and countries. The ideological distance between member state executives across each sector provides a measure of the degree of conflict in the Council. Consequently, they expect that higher conflict in the Council heralds problems in the implementation stage.

ing each directive, we should expect the resources of national implementers to be under more strain the greater the misfit between EU law and national pre-existing policies. The methodological challenges are however considerable and it is unsurprising that the bulk of works have been to date of a qualitative nature (Börzel 2000; Haverland 2000; Knill and Lenschow 1998). Indeed, measuring the misfit in a quantitative analysis represents an arduous task. It is necessary to find a measure of the national status quo ante and to determine the type and size of requirements embedded in the directive. Recently, Mastenbroek (2003) has made recourse to a necessarily rudimental proxy. She assumed that transposition by means of an amendment to existing national legislation would imply a relatively higher goodness of fit between domestic and EU legislation.

There is indeed a substantial literature, relying on comparative qualitative analyses and case studies, that investigates the *capacity of implementers* as a determinant of compliance (Ciavarini Azzi 1985; Falkner *et al.* 2005; Knill 2001; Pappas 1995; Pridham 1994; Siedentopf and Ziller 1988). These works offer detailed analyses of the features affecting the performance of national administrations with respect to transposition and application of EU legislation. The most salient capacity-related factors are: the organisation of the executive in its relationship with the European institutions, political instability, and the attitude, preparation, organisation and independence of national administrators.

Quantitative works have generally made recourse to a selected range of variables. In most cases, their preference went understandably to those indicators which allowed easy measurements across countries. Since the very concept of efficiency incorporates two dimensions, ownership of resources and capacity and willingness to use them, quantitative analyses have usually integrated both categories of variables. They have stressed the importance of fiscal and human resources and combined these measures with data on the level of perceived corruption and internal career dynamism within bureaucratic apparatuses (Börzel, Hofmann and Sprunk 2004; Mbaye 2001). The variables vary mostly cross-nationally rather than longitudinally. They are therefore of limited use for single country studies and are not specifically designed to account for transposition outcomes. More usefully, Mastenbroek (2003) employs instead the number of national measures as a proxy for the complexity of the implementation process and therefore, for the drain on resources.

From our perspective, the temporal dimension emphasised by the management school is related to the *time allotted* to member states to incorporate a directive into national law and the impact of the length of this period on compliance. A transposition deadline is set formally by the directive and is binding on the member states. As showed by

Mastenbroek (2003), the likelihood of transposition peaks around this deadline. The time dimension can also be viewed from a national standpoint. Duina (1997) for instance refers to the duration of the national legislative process as a cause of noncompliance. Siedentopf and Hauschild (1988, 46ff) however found that the granting of extended powers to the executive has not expedited transposition and, for Ciavarini Azzi (2000, 59), delay should be mostly attributed to governmental rather than parliamentary inadequacies.

Ambiguity of the rules inserted into EU directives has been often mentioned as another problem affecting transposition performance (Cini 2003; Dimitrakopoulos 2001; Jordan 1999; Mendrinou 1996; Tallberg 2002). However, assessing the impact of this factor on compliance is more complicated than it seems. In principle, a detailed directive is a device to keep the discretion of the implementers under control, but vague and open-ended directives are *more* likely to be complied with as they leave greater room of manoeuvre to national administrations (probably at the expense of a uniform EU-wide implementation and the achievement of policy objectives). Additionally, rule ambiguity is likely to result, at least to a certain extent, from concessions and compromises among EU legislators (Dimitrakopoulos and Richardson 2001; Héritier 1996). In other words, ambiguity could result either from unintentional shortcomings in drafting the legislative act, which may lead to inadvertent noncompliance, or from purposeful legislative bargaining designed to secure compliance.

In the next section, we discuss the different types of noncompliance in the EU and how they shape research strategies, before introducing our dataset and empirical analysis.

3
Types of noncompliance in the European Union and research strategies

To most legal experts, drawing of a line between compliance and noncompliance is far from straightforward and is often the product of a process of interpretation of prescriptions and of reconstruction of facts (Jacobson and Weiss 1998). However, owing to the almost unique level of legalisation reached by the EU (Goldstein *et al.* 2000), the process of ascertaining the presence of noncompliance seems to be less controversial. When national authorities apply or enforce EU law incorrectly or incompletely, when they take measures that violate legal obligations or when they fail to act are all typical cases of noncompliance[4]. For instance, in the late 1980s, France was found at fault for incorrectly applying the regulations on the conservation of

4. See Börzel (2001) for an overview of the types of infringements of EU law.

fisheries resources and for failing to supervise fishing activities. In 2001, the ECJ ruled that Belgium incorrectly implemented a directive on the interoperability of telecommunication networks. It failed to set up mechanisms for monitoring compliance and to delegate appropriate powers to the national regulatory authority[5].

Other types of infringements are related to the legal instruments used. EU regulations and, mostly, decisions, are directly applicable in the member states and do not require measures to be adopted by national authorities. Directives, instead, are not directly applicable, but are binding, upon each member state to which they are addressed, as to the results to be achieved. Every state is therefore free to choose the forms and means for achieving these results, but it has to carry out the task within the transposition deadline. Consequently, two new types of infringements may originate. First, national measures could incompletely or incorrectly transpose EU legal obligations into domestic law. Infringement proceedings and national judicial disputes provide the material to assess this infringement. For instance, the ECJ has ruled that Luxembourg failed to bring into force all the measures to comply with a directive regulating the procedures for granting authorisations to provide telecommunication services[6]. Second, national measures could be adopted after the deadline. This type of infringement is easily detectable by comparing the transposition deadline and the date of adoption of the national measures.

The cost of detection varies with the type of infringement and one can speculate on the relation that exists between cost and type. Since all the directives establish a transposition deadline, it is almost costless to see whether national measures have been adopted within the specified time limits. More effort is instead necessary to evaluate whether the transposition process is complete because it requires a detailed comparison between the obligations enshrined into EU law and the entire set of new and old national legislative measures. Even harder is to assess whether national measures properly incorporate EU legal requirements. Complex legal arguments and reasoning come into play here and, admittedly, interpreting legislators' intent through legal text is not a straightforward process. Finally, the last type of infringement occurs when the 'law on the books' does not become 'law in action'. Misapplication, lacking or delayed monitoring and enforcement can seriously jeopardise policy objectives, but a consider-

5. Case C-64/88. Commission of the European Communities *vs* French Republic. *European Court reports 1991 p. I-2727*. Case C-221/01, Commission of the European Communities *vs* Kingdom of Belgium. *European Court reports 2002 p. I-07835*.

6. Case C-448/99 Commission of the European Communities *vs* Grand Duchy of Luxemburg. *European Court reports 2001 p. I-00607*.

able amount of resources need to be invested to detect, assess and judge cases of incorrect application as they require much data gathering and analysis.

The research strategies that we use to analyse noncompliance are heavily influenced by the cost of detecting infringements. Unsurprisingly, many students of EU implementation rely on qualitative methodologies (Börzel 2003; Duina 1997; Héritier *et al.* 2001; Knill 1998). This approach undoubtedly provides considerable depth of analysis, stronger comparability across cases and clear exposition of the causal mechanisms at work. But the downside is that the cost of analysing (and detecting) noncompliance to such a detail and the drain on researchers' time and resources inevitably limit the possibility of extending these studies to more that a few units of analysis. Consequently, representativeness of the results is compromised and estimation of causal effects and probabilistic relations is unfeasible.

An alternative research strategy is to free ride on the (cost of) monitoring that is carried out by the Commission and other actors. A few scholars have analysed the infringement proceedings initiated by the Commission against noncompliant states (Börzel, Hofmann and Sprunk 2004; Giuliani 2003; Mbaye 2001; Mendrinou 1996). These studies however present two serious problems of selection bias. Firstly, only cases of real or suspected noncompliance are considered while cases of compliance are excluded as they are obviously of no concern to the Commission. The same observation applies to the cases brought before national courts and referred to the ECJ. Courts usually rule on cases which have already undergone extensive consideration by the complainants and many cases are likely to be solved without referral. Of course, if we want to understand noncompliance, samples should represent the whole population of compliant and noncompliant cases. Secondly, the number and quality of infringement proceedings are also a function of the preferences and strategies of the Commission. We know that the Commission has changed its monitoring priorities over time (Mendrinou 1996, 16). More infringement proceedings over time could well be related to a more assertive monitoring of the Commission.

In order to get around these problems – and this is our strategy -, other scholars have opted to concentrate their efforts on the simplest and easiest-to-detect type of noncompliance: delayed transposition (Mastenbroek 2003). This research strategy presents two problems. First, it limits the analysis to directives, as the other EU legal instruments do not require transposition. Second, this is arguably the least important type of infringement. EU policy makers may be more concerned about timely but incorrect transposition than delayed (within limits) but essentially correct one. On the other hand, cases of delayed transposition are taken seriously by the Commission and are

frequently brought before the ECJ, with serious reputational costs for the noncompliant state. In the five years up to January 2005, 37 percent of the judgements of the ECJ on proceedings brought by the Commission against member states are related to delayed transposition. Both the Commission's reports on the state of implementation in the EU and the internal market scoreboard emphasise the importance of transposition rates. Delayed transposition prevents, at least temporarily, citizens and businesses from enjoying their rights and impairs the correct functioning of the internal market. It could also be argued that delay is correlated with subsequent problems of incorrect transposition[7]. Finally, this research strategy eliminates selection biases because the samples include cases of both timely and delayed transposition and the behaviour of supranational institutions are unlikely to affect case selection.

4
The dataste

We have collected data on the measures that the Italian government has adopted to transpose the EU directives from CELEX[8], the public information retrieval system managed by the *Office for Official Publications of the European Communities*. CELEX stores over 250,000 documents which have been published in the *Official Journal* and by the ECJ, including primary and secondary legislation, case-law, preparatory documents, and parliamentary questions. Originally, it was conceived and managed as a tool of the Commission legal service aimed at organising the ever increasing volume of legal material available. It has been freely open to the public since July 1st 2004 but it was superseded by EUR-Lex on January 1st 2005.

In its current form, CELEX is not designed in a way that could be immediately used for research purposes. We have therefore migrated its data into an appropriately designed database and extracted rele-

7. The state of affairs is undoubtedly somewhat more complex. Faced with a problematic directive, one of the available solutions for the officials in charge of drafting the national legislation is to copy it literally into national law. This device allows the national actors to transpose the directive in time, as it is not necessary to interpret it, and to avoid a likely censure by the Commission for incorrectness. In other words, they metaphorically «pass the buck […] both to street-level implementers and the economic operators who must comply with or benefit from these provisions» (Dimitrakopoulos and Richardson 2001, 449). Nevertheless, a more responsible and painstaking approach to transposition does not prevent from the risk of incurring in a sanction because of 'over-implementation' (i.e. excessive) and 'under-implementation' (i.e. deficient transposition) of a directive's obligations.

8. CELEX stands for Communitatis Europae Lex. It is available at http://europa.eu.int/celex/.

vant dates such as the date of adoption of the directive, the date of transposition (i.e. the deadline within which the national implementing measures must be adopted)[9] and the date of adoption of each national measure. Further information was collected such as whether the EU law is amending and the number and types of national implementing measures.

The initial dataset consists of 3521 directives. In 1013 cases, the database does not contain any national implementing measure. This could be the combination of missing information, as the database may be incomplete, especially for earlier directives, and of failure by the Italian government to communicate the national measures to the Commission. These directives have been discarded (but see below for the inclusion of right censored observations).

Some directives do not require national implementing measures by the Italian state. Moreover, in some circumstances, the transposition dates are unspecified (e.g. they are linked to the adoption of other acts), in others, they vary across the articles of the directive or the dates of adoption of national measures are missing. Finally, 265 implementing measures have been passed at or before the date of the adoption of the directive. It is plausible that these acts were in national statute books prior to the adoption of the EU law. Observations with these features have been dropped, so we are left with 3183 national measures implementing 2179 directives. In several cases therefore, the transposition of a directive requires more than one national implementing measure.

5
Italy's compliance with the transposition deadline of EU directives

Transposition and delay

Our objective is to explain the timing of transposition, following Mastenbroek's (2003) similar analysis of transposition in the Nether-

9. If more than one transposition date is available, we have recorded the date of adoption (rather than the date of application). The date may vary across member states or across the articles of the directive. If the transposition date is missing, we have either used the deadline, if relevant, or the date of entry into force. If these are missing, we have used, for directives adopted after November the 1st, 1993, the publication date on the *Official Journal* plus twenty days (following art. 254 of the Maastricht Treaty) while, for directives adopted *before* the Maastricht Treaty, we have used the date of application as specified in the directive. Finally, if this last date is missing, we have used, in order of priority, the date of notification, the date of publication on the *Official Journal* or the date of the document.

lands. We have developed two variables. The first one, *Transposition*, measures the difference in days between the dates of adoption of the national measures and of the directive. In the text, we refer to this variable when talking about the risk of transposition. For instance, Directive 89/622 on the labelling of tobacco products has been adopted on November 13 1989. The relevant Italian minister adopted a decree transposing this measure on July 31 1990, a transposition time of 260 days, while the parliament approved a law on February 22 1994, 1562 days after the date of the directive.

The second variable, *Delay,* is the difference in days between the date of adoption of the national measures and the date of the deadline for transposing the directive. We refer to this variable when we discuss the risk of delay or, its inverse, the risk of delayed transposition. For instance, Directive 89/622 specifies that member states have to comply with its provisions by July 1st 1990. The ministerial decree has been adopted with a delay of 30 days, while the parliament approved the law 1332 days after the deadline. If national measures are adopted before the deadline, the delay is zero. This coding however creates problems in the event history analysis that we will use to evaluate the causes of delay. Observations with delay equals to zero enter and exit the data set at t0 and are therefore excluded from the analysis. Excluding all the national measures adopted on time creates serious problems of selection bias. In order to avoid this, we have coded all the measures adopted on time as delay equals to 1 and the late measures as real delay plus one day.

Covariates and control variables

We take into consideration the specific features of every national implementing measure, its process-related features and some temporal characteristics of the context in which transposition occurs. We have considered thirteen covariates and one control variable.

Five variables describe supranational features, two are related to strategy or preferences, the remaining three to capacity. *Commission* is a dummy variable that takes the value of one in case of a Commission directive and zero for a Council and, where involved, Parliament directive. *Commission* is linked to issues of political preferences, at least to the extent that the measures taken by the supranational executive may or may not conflict with national policy views. Mastenbroek (2003) finds that the risk of transposition increases in case of a Commission directive but we have decided to leave expectations open. As discussed earlier, ministers are more likely to delegate regulatory powers to the Commission either in secondary matters where the supranational executive does not have extreme views or when national implementation lacks credibility and is likely to incur into problems.

The second strategy-related covariate, *Monitoring*, measures the number of letters of formal notice received by the Italian government in a given year. Sending a letter of formal notice, in which the Commission requires the state to justify its actions or omissions, is only the first step of the infringement procedure under article 226 EC and it does not constitute proof of noncompliance. However, since the Commission has varied his enforcement strategy over time, we intend to use the annual number of letters as a proxy for the intensity of supranational monitoring. Data are available only from 1983 and are included in the dataset with one year lag. Therefore, when *Monitoring* is included, the statistical analysis is limited to directives with deadlines from 1984 onwards. *Monitoring* gauges the strategic interaction between the supranational and national level of governance in the EU and should alter the national consideration of costs and benefits of complying with EU law. More monitoring should decrease the risk of delay, as it is a clear violation of EU law, and may speed up transposition (see also Steunenberg and Rhinard 2005).

Of the remaining supranational variable, *Amending* is a dummy that takes the value of one if the directive amends an existing EU law. Following Mastenbroek (2003), though in relation to the supranational level, we consider *Amending* as a proxy for adaptation pressure. Most of times, amending directives represent a moderate change of the existing policies. Moreover, we can expect that a process of learning has occurred in the meanwhile, thus facilitating the task of legal experts[10]. We expects that the likelihood of transposing amending legislation is higher as one could plausibly expect that less regulatory activity is necessary in these circumstances. The risk of delay should therefore be lower. *Load* gauges the demand, in terms of regulatory activity, that the EU poses on member states. It measures the number of directives that have to be transposed in any given year. For instance, Directive 89/622 had to be transposed by July 1990, its load is 101 as this was the number of directives that had to be transposed in that year[11]. The greater the load the higher the risk of delay and the lower the risk of transposition. The temporal dimension is gauged by *Length Deadline* which measures the difference in days between the deadline for transposition and the date of adoption of the directive[12]. Longer deadlines should decrease both the risk of delay and, probably, of transposition.

10. Indeed, we are aware of the counterargument according to which «planting new trees should be easier than rearranging old forests» (Falkner et al. 2005, 295), therefore amending legislation should be more prone to delayed transposition.

11. The annual load has been calculated considering the deadlines of 3345 directives.

12. This variable takes the value of zero in the few cases where the date of transposition precedes the date of adoption.

If a state has more time to comply with EU law is less likely to be late, but may also be under less pressure to transpose a measure sooner rather than later. *Amending*, *Load* and *Length Deadline* are related to issues of capacity as the drain on national administrative resources is likely to be lower in case of amending directives with long deadlines and when demands on regulatory activity from the EU are limited.

Eight covariates gauge national features, four are related to strategy or preferences, four to capacity. Four dummy variables codify the types of national measures used for transposition. *Legislative*, *Cabinet, Ministerial* and *Local Authority* take the value of one if the national measure is adopted, respectively, by the parliament, the cabinet, a ministry or national administration, and a local authority (region or province)[13]. The table in the Appendix provides further details on how we have codified the types of national measures. Short of an argument stating that specific types of measures are more likely to be adopted in case of more extensive national reforms, it is plausible to conjecture that those instruments that give opportunities to many actors to exercise the power of veto are likely to decrease the risk of transposition and increase the risk of delay[14]. This should apply to *Legislative*, *Cabinet* and, maybe, *Local Authority* variables. *Ministerial* measures should instead have the opposite effect.

A caveat is in order here however[15]. It is plausible that the most important measures, such as laws, are more likely to be reported to the Commission or that a law is a prerequisite for the adoption of other measures, such as a ministerial decree, and therefore it precedes them. If these concerns were correct, a law could perform opposite to our expectations for reasons, such as biased reporting or hierarchy of legal instruments, that are clearly distinct from our theoretical conjectures. In order to control for these potential problems, we have included a control variable, *Sequence,* that measures the ordering at which each national measure has been adopted. For instance, Council Directive 89/684 has been transposed with a law, adopted on February 1992, and a ministerial decree of December 1992. *Sequence* takes the value of one for the law and two for the decree.

As far as administrative capacity is concerned, *National Measures* counts the number of national policies that have been adopted to

13. In 244 cases it has not been possible to assign a type to the relevant national measure as the available information was not sufficiently clear.

14. We are aware that these variables only roughly account for Tsebelis' argument that an increase in the number of heterogeneous veto players decreases the likelihood of policy reform, which is what is required from transposing EU directives. In order to fully account for his expectation, we should control for the preferences of national actors taking the relevant measures and for the direction of the reform, but this is not feasible in this context.

15. We thank Ellen Mastenbroek for pointing out these issues.

transpose a given directive. Mastenbroek (2003) considers the number of national measures as a measurement of policy complexity, but she does not find a significant relation with the likelihood of transposition. Whether this interpretation is correct or more measures simply means more extensive reform of the existing national legislation, both views imply a more intense use of national resources for adapting to EU obligations. It is therefore plausible to assert that this variable should decrease the risk of transposition and increase that of delay. *Election* is a dummy variable that takes the value of one if a transposition deadline falls during an election year. Elections obstruct the normal proceedings and impose external constraints to the routine legislative and administrative cycles. Therefore, it is likely to decrease the likelihood of transposition and increase that of delay (Steunenberg and Rhinard 2005).

We have included two further time-varying covariates related to issues of administrative capacity. The first Spadolini government established the department for the co-ordination of EU policies and appointed Abis as the minister without portfolio in charge of its activities[16]. The dummy variable *Department* is used to take this administrative reform into account. In case of *Delay,* it takes the value of one if the dates of the deadline and of the adoption of the national measure are posterior to June 28 1981. Observations are instead split into two episodes if June 28 1981 falls in between these two dates. In case of *Transposition, Department* takes the value of one if the dates of the directive and of the national measure are subsequent to June 28 1981. Observations are similarly split if this date falls in between[17]. A second important event has been the adoption of La Pergola law no.86 on March 9 1989[18], which entered into force on April 23 1989. The law was designed to expedite and better coordinate the process of national compliance with EU law in view of the 1992 deadline of completion of the single market. The dummy variable *La Pergola* is coded following the same procedure used for *Department*, the only difference being the use of April 23 1989 as the split date. We should expect that both *Department* and *La Pergola* increase the likelihood of transposition and decrease the risk of delay, as these were the intentions behind the establishment of the department and the adoption of the law.

Table 1 summarises the covariates and their expected impact on the risk of transposition and of delay.

16. See Chiti (1991) for an analysis of this department and its recurrent reforms. Its current title is *Dipartimento per le Politiche Comunitarie.*

17. *Department* is dropped from the statistical models that include only directives with deadlines from 1984 onwards.

18. Legge 9 marzo 1989, n. 86 – Norme generali sulla partecipazione dell'Italia al processo normativo comunitario e sulle procedure di esecuzione degli obblighi comunitari. G.U. 10 marzo, n. 58.

TAB. 1. *Risks, covariatesand expectations.*

Covariates	*Risk of transposition*	*Risk of delay*
Supranational:		
Commission	?	?
Monitoring	+?	-
Amending	+	-
Load	-	+
Length Deadline	-?	-
National:		
Legislative	-	+
Cabinet	-	+
Ministerial	+	-
Local Authority	-?	+?
National Measures	-	+
Election	-	+
Department	+	-
La Pergola	+	-

Note: The risk of transposition is intended as the risk of adopting a national measure. Higher risk means shorter survival times and, therefore, more compliance - t0 is the date of adoption of the directive. The risk of delay is intended as the opposite of the risk of (delayed) transposition and is measured with regard to the date of the deadline. Higher risk means longer survival times and, therefore, more delayed transposition - t0 is the date of the deadline.

Methodological issues

Various issues need to be taken into account before proceeding to the substantive analysis. The first one is censoring. Although some data are missing because of the incompleteness of CELEX, it is also plausible that national transposition measures of some directives have not been adopted as yet on December 31 2004, the date of termination of our data collection. These right-censored observations may vary systematically from uncensored ones and should be included in our dataset to avoid the risk of selection bias (Box-Steffensmeier and Jones 2004, 19). Therefore, since the mean transposition time of a directive is 721 days, we have included, as right-censored observations, the 160 directives whose deadline is between the January 10 2003 and December 31 2004.

The second methodological issue concerns model selection. In our research, we do not need to make explicit inferences about duration dependency, namely of how the passage of time affects *per se* the risk of transposition or delay. We are primarily interested in the relationship between our covariates and transposition. Therefore, as recommended by Box-Steffensmeier and Jones (2004), the Cox proportional

hazards model is the most appropriate technique because it makes no assumptions about the distributional characteristics of the baseline hazard rate.

Thirdly, the event structure consists of multiple and unordered events. In other words, the transposition of a directive could consist of the adoption of more than one national measure without a predetermined sequence. The estimated standard errors could be biased in these circumstances because the transposition times of the national measures of a single directive are likely to be correlated. Therefore, in the context of the Cox model, we employ Lin and Wei's (1989) robust estimators, clustered on the directives, to account for this problem. This clustering correction deals also with the problem of serial dependence emerging from the use of the two time-varying covariates. Finally, we have used the Efron (1977) method to handle tied events for the risk of transposition. However, the computational intensity of this technique has made its use prohibitive in case of the risk of delay, where timely transposition is coded as a tied event. Therefore, we had to resort to the Breslow (1974) method.

Several post-estimation diagnostic tests have been conducted. The appropriateness of the Cox specification has been evaluated using the link test and inspecting the Cox-Snell residuals. Each covariate has been plotted against the martingale residuals to assess whether the functional form of the covariates is correct. Lastly, the proportional hazards assumption has been tested using the Schoenfeld residuals and following Box-Steffensmeier and Jones (2004, 131-7). The problems emerging from these diagnostic tests are highlighted in the analysis and, where possible, steps have been taken to correct them.

Analysis of results

Tables 2 and 3 illustrate the results from the Cox models. The second columns of the tables include cases from the entire time period but they exclude the *Monitoring* variable as pre-1983 data are unavailable. The third columns include only post-1984 cases but they exclude the *Department* variable because it does not vary over this time period.

While tests of functional form mostly confirm the appropriateness of the model, not all tests of general specification do so. Therefore, we will also discuss the results from parametric models. As many covariates violate the proportional hazards assumption, we have included terms interacting these covariates with time or the logarithm of time as suggested by Box-Steffensmeier and Zorn (2001) and Box-Steffensmeier and Jones (2004, 136)[19].

19. The 1984-2004 Cox model of transposition in Table 2 includes only interactive terms of covariates that violate the proportional hazard assumption with a

TAB. 2. *Cox models of transposition.*

	Period			
Covariates	*1958-2004*		*1984-2004*	
Supranational:				
Commission	0.323	*(0.045)***	0.123	*(0.050)**
Monitoring	-	-	0.148	*(0.016)***
Monitoring * ln(t)	-	-	-0.024	*(0.002)***
Amending	0.131	*(0.051)***	0.094	*(0.058)*
Load	0.160	*(0.011)***	-0.001	*(0.001)*
Load * ln(t)	-0.024	*(0.002)***	-	-
Length Deadline	0.0001	*(0.0001)*	-0.0002	*(0.0001)*
Length Deadline * t	-0.0000001	*(0.0000002)*	-	-
National:				
Legislative	23.791	*(2.550)***	0.561	*(0.086)***
Legislative * ln(t)	-3.436	*(0.361)***	-	-
Cabinet	24.902	*(2.600)***	0.489	*(0.135)***
Cabinet * ln(t)	-3.589	*(0.370)***	-	-
Ministerial	24.956	*(2.465)***	0.805	*(0.087)***
Ministerial * ln(t)	-3.599	*(0.347)***	-	-
Local Authority	0.318	*(0.465)*	-4.618	*(2.270)**
Local Authority * ln(t)	-	-	0.888	*(0.293)***
National Measures	0.098	*(0.032)***	0.027	*(0.024)*
National Measures * t	-0.0001	*(0.00004)**	-	-
Election	-0.133	*(0.055)**	0.099	*(0.043)**
Department	0.611	*(0.103)***	-	-
La Pergola	-0.644	*(0.566)*	22.107	*(1.281)***
La Pergola * ln(t)	0.162	*(0.084)*	-2.919	*(0.169)***
Sequence	0.737	*(0.338)**	-0.116	*(0.054)**
Sequence * ln(t)	-0.118	*(0.052)**	-	-
N	3887		2534	
Log pseudolikelihood	-16687.043		-11056.511	

Note: * p<.05, ** p<.01. Robust estimators, standard errors in parenthesis adjusted for clustering on directives. Efron method for ties. º Included only interactive terms of covariates that violate the proportional hazard assumption with a $\chi2>50$ in the Grambsch and Therneau's test.

$\chi2>50$ in the Grambsch and Therneau's test. The inclusion of interactive terms of variables violating the assumption at a lower $\chi2$ creates problems of collinearity and covariates are dropped from the model randomly.

TAB. 3. *Cox models of delayed transposition.*

	Period			
Covariates	*1958-2004*		*1984-2004*	
Supranational:				
Commission	0.284	*(0.041)***	1.194	*(0.164)***
Commission * ln(t)	-	-	-0.188	*(0.028)***
Monitoring	-	-	0.023	*(0.004)***
Monitoring * ln(t)	-	-	-0.004	*(0.001)***
Amending	0.011	*(0.042)*	0.083	*(0.071)*
Load	0.001	*(0.001)*	0.044	*(0.005)***
Load * ln(t)	-	-	-0.008	*(0.001)***
Length Deadline	0.001	*(0.0002)***	0.001	*(0.0002)***
Length Deadline * ln(t)	-0.0002	*(0.00003)***	-0.0001	*(0.00003)***
National:				
Legislative	-0.207	*(0.084)**	0.162	*(0.090)*
Cabinet	1.691	*(0.215)***	2.121	*(0.363)***
Cabinet * ln(t)	-0.318	*(0.037)***	-0.339	*(0.056)***
Ministerial	1.618	*(0.177)***	1.680	*(0.185)***
Ministerial * ln(t)	-0.276	*(0.031)***	-0.250	*(0.031)***
Local Authority	-1.852	*(0.368)***	-1.063	*(0.629)*
Local Authority * t	0.001	*(0.0003)***	0.001	*(0.0004)***
National Measures	0.086	*(0.017)***	0.058	*(0.028)**
National Measures * t	-0.0001	*(0.00002)***	-0.0001	*(0.0001)***
Election	-0.031	*(0.043)*	0.053	*(0.062)*
Department	5.992	*(1.121)***	-	-
Department * ln(t)	-0.800	*(0.151)***	-	-
La Pergola	0.683	*(0.078)***	0.660	*(0.077)***
La Pergola * t	-0.0005	*(0.0001)***	-	-
Sequence	0.449	*(0.116)***	0.507	*(0.161)***
Sequence * ln(t)	-0.077	*(0.019)***	-0.062	*(0.025)**
N	3724		2435	
Log pseudolikelihood	-19178.499		-12124.135	

Note: * p<.05, ** p<.01. Robust estimators, standard errors in parenthesis adjusted for clustering on directives. Breslow method for ties.

With regards to the supranational variables, results strongly reveal that Commission directives are likely to be transposed sooner and, if delayed, the delay is likely to be shorter. The likelihood of transposition is 38.1 percent higher for Commission directives. If transposition is delayed beyond the deadline, the risk of delay is 24.7 percent lower. For the post-1984 period, these values are 13.1 and 69.7 percent, but the effect of a Commission directive on delay wanes over time, such that after one year and a half of delay its influence is close to zero. This result reinforces Mastenbroek's (2003) findings and suggests that compliance with measures that originate from the powers delegated to the Commission is less problematic. This may reveal broad acceptance of this delegation by national governments or reticence by the Commission to adopt measures that generate controversy and delay. Equally, it may mean that the Council reserves to itself the power to regulate those controversial issues that are likely to face stronger national opposition and delay.

Intensification of supranational monitoring has the expected effect. A standard deviation increase of the *Monitoring* mean (i.e. approximately 26 letters of notice) augments the probability of transposition by 49 times and decreases the risk of delay by 54.2 percent. In both circumstances however the accelerating effect of more intense monitoring diminishes rather rapidly over time, becoming relatively marginal after approximately a year.

Results are less clear-cut with regard to the three capacity-related supranational covariates. As expected, the risk of transposition is 14 percent higher for amending directives, but this effect does not hold for the post-1984 period. Once the measures are delayed, the amending status does not influence the risk of delay. Although the length of the deadline does not affect the likelihood of transposition, there is clear evidence that longer deadlines diminish the risk of delay. A standard deviation increase of the *Length Deadline* mean (i.e. approximately 312 days) reduces the risk of delay by 69.1 percent, but this effect wears out after less than one year.

An interesting result is how the annual load of directives influences the risk of transposition. Exactly opposite to our expectations, a standard deviation increase of the *Load* mean (i.e. approximately 34 measures per annum) *increases* the likelihood of transposition by a considerable 21301.3 percent - transposition is 214 times more likely. Additionally, although this effect diminishes over time, it takes two years to become negligible. A similar dynamics is at work for post-1984 delayed transposition, where a standard deviation increase of *Load* generates a 22.6 percent *reduction* in the risk of delay, but this effect wears off after only six months.

In sum, amending and Commission directives are transposed sooner, probably because they are less controversial or require less

adaptation at the national level and learning may be well under way. Interestingly, the need to incorporate many EU laws into the national statute books *accelerates* transposition and this effect endures over a notable time period. This dynamics is probably the result of anticipatory behaviour by national administrations which, faced with a large backlog of measures to transpose and the related risk of infringement, speed up compliance with EU obligations. However, only one covariate (*Commission*) remains significant in the post-1984 model while, as expected, increased supranational monitoring speeds up transposition.

Finally, Commission directives with longer deadlines present a lower risk of delay and, in line with our conjectures, more monitoring also reduces the risk of delay. The accelerating effect of the load appears to surface only in the post-1984. From this year onwards, the effects of these covariates tend to wane over a period of between six and eighteen months[20].

As far as national variables are concerned, legislative and cabinet measures affect transposition in the *opposite* way compared to our conjectures. The likelihood of transposition is a staggering 2.1^{12} and 6.5^{12} percent *higher* for legislative and cabinet measures respectively. Ministerial measures too increase the probability of transposition, here as expected, by a considerable 6.9^{12} percent. All these effects wane after almost three years. Also more in line with our predictions, local authority measures lengthen the transposition period, but this effect is limited to the post-1984 period.

Results are more in line with our expectations in case of delay. The risk of delay is 23.0 and 537.5 percent higher when transposition occurs via legislative and local authority[21] measures respectively. It is 80.2 percent lower in case of ministerial measures. Unexpectedly, cabinet measures lower the risk of delay by 81.6 percent. It should also be noted that the effects of legislative and local authority measures on the risk of delay disappear in the post-1984 period[22].

20. The parametric models confirm most of these results, with the following exceptions (here, I refer only to the best fitting parametric models): *Amending* is not significant in the log-logistic regression of transposition, *Amending* and *Load* are significant in the opposite direction in the exponential regression of delayed transposition. Results from these variables should therefore be treated with caution.

21. Measures taken by most of the Italian regions (i.e. those a *statuto ordinario*) require a national law prior to acting. It could be argued that this requirement explains the greater risk of delay (and longer transposition time) in case of local authority measures but this effect is controlled by the variable *Sequence* in our models.

22. Parametric regressions confirm these results. The only difference is that *Local Authority* is positive and significant (hence the risk of transposition decreases – as expected) in the log-logistic regression of transposition, but it is not si-

It is important to highlight the disparity of these findings. Regression results in Table 2 throw some serious doubts to the proposition asserting that instruments giving more opportunities to exercise veto power decrease the risk of transposition (hence, impeding policy reform). Only ministerial and, partially, local authority measures perform as expected. Covariates behave more as predicted in case of the risk of delay, with the exception of cabinet measures. Although we have only partially characterised the veto player argument, results appear very strong and further research is necessary to explain these different outcomes.

Of the four capacity-related national covariates, two behaves broadly as expected. The likelihood of transposition is 84.1 percent higher after the establishment of the EU department in June 1981. The risk of delay is prodigiously 401 times *less* likely and it takes almost five years for the effect of this covariate to become negligible. The entry into force of the La Pergola law in 1989 appears to have speeded up transposition, increasing the likelihood of occurrence of this event by a massive 4.0^{11} percent and this effect remains significant for over five years. It must however be noted that the significance of this relation is limited to the 1984-2004 period. The law has also decreased the risk of delay by 49.5 percent, with its impact lasting for almost four years. It is plausible to conclude that these reforms have broadly yielded the expected fruits.

The impact of *Election* is more puzzling. Irrelevant for the risk of delay, an election year lowers as expected the likelihood of transposition by 12.4 percent. But it *raises* the probability of this event occurring by 10.4 percent in the post-1984 period. The latter result appears to be the less convincing though, because the dataset covers a shorter time period and because we had to drop some highly collinear interactive terms. Finally, the prediction about the effects of the number of national measures is disconfirmed. This covariate significantly affects the risk of transposition and delay, but in the *opposite* direction. A standard deviation increase of the *National Measures* mean (i.e. more than 4 measures) *increases* the probability of transposition by 51.8 percent and it decreases by 69.9 percent the risk of delay. These effects last for more than three years[23].

gnificant in the post-1984 log-logistic regression of transposition.

23. Parametric regressions cast doubts on the robustness of at least some of these results. Rather than being insignificant, the coefficient of *La Pergola* is significant, but in the opposite direction, in the log-logistic regression of transposition. In three out of the four regressions, *Election* produces different results. It either looses significance (e.g. in the post-1984 log-logistic regression of transposition – here it was incorrectly signed in the Cox results anyway) or it becomes significant in the wrong direction (e.g. in the log-logistic regression of transposition and in the post-1984 lognormal regression of delayed transposition). Finally,

In sum, it appears that parliamentary and cabinet measures do not offer actors the possibility of voicing their concerns and, therefore, prolonging transposition as we expected. Their effect is actually opposite of our predictions. Legislative measures do however increase the risk of delay. Further analysis is necessary on this issue. Also ministerial measures behave as predicted, increasing the probability of transposition and lowering the risk of delay. Local authorities transpose measures later (at least since 1984) and their involvement in the implementation process is likely to increase the risk of delay. Finally, administrative reforms (i.e. the establishment of a department and the adoption of La Pergola law) have produced the expected results. There is some, not particularly robust, evidence that an election year slows down transposition. Contrary to our expectations, when more measures are necessary to transpose an EU directive, transposition happens sooner and the risk of delay is lowered, but parametric regressions do not confirm these results.

6
Conclusion

Asserting whether the EU suffers from an implementation deficit and whether this deficit is effectively detrimental depends predominantly on our normative standpoint. The Commission argues that noncompliance should be minimised for integration to work as it «damages the effectiveness of Union policy and undermines the trust on which the Union depends» (Commission 2005, 4). Some scholars have instead observed that implementation problems are inherent in every political system and some level of noncompliance is a fundamental safety valve which smoothes out the inevitable frictions of member states adaptation to EU obligations (Dimitrova and Steunenberg 2000; Jordan 1999; Peters 1997).

We have shown that delayed transposition of EU directives is extremely common in the case of Italy, but the time employed to abide by EU law also vary considerably. The article has tried to explain the timing of transposition of 2179 EU directives, using an original dataset of 3183 measures adopted by the Italian authorities. We have considered strategic- and capacity-related factors that can be identified at both supranational and national level.

Of the supranational variables, amending and Commission directives are transposed sooner. Additionally, laws with longer time for adaptation present a lower risk of delay beyond the deadline. More intense supranational monitoring speeds up transposition and lowers

the coefficient of *National Measures* is insignificant in all the parametric regressions.

the risk of delay. Interestingly, as the volume of EU laws to be incorporated increases, transposition *accelerates* and, since 1984, delay is *less* likely to occur.

Of the national variables, administrative and legal reforms undertaken at the national level have, as expected, lowered the risk of delay and increased the likelihood of transposition. Those legal instruments that offer the opportunity to potential veto players to voice their concerns and delay transposition do not appear to corroborate entirely our predictions. As expected, legislative and local authority measures increase the risk of delay, while ministerial acts both lower this risk and expedite transposition. But, contrary to our predictions, legislative and cabinet acts accelerate transposition and cabinet measures increase rather than reduce the likelihood of delay.

Future research could consider extending this work to all the member states, better operationalising our independent variables, such as the interaction between preferences and instruments, or developing a more advanced measurement of noncompliance.

APPENDIX Table on the Classification of National Measures.

Legislative Measures Measures adopted by the parliament	Law Legislative Decree
Cabinet Measures Measures adopted by the cabinet	Decree of the President of the Council of Ministers Decree of the President of the Republic Law-Decree (*Decreto-Legge*)
Ministerial Measures Measures adopted by a ministry or national administration	Advise Circular Circular of the Bank of Italy Ministerial Communication Ministerial Decree Ministerial Ordinance Regulation of CONSOB Regulation of the Bank of Italy
Local Authority Measures Measures adopted by any subnational authority	Provincial Deliberation (*Deliberazione della Giunta Provinciale*) Provincial Law (*Legge Provinciale*) Regional Decree (*Decreto del Consiglio Regionale, Decreto del Presidente della Giunta Regionale*) Regional Deliberation (*Deliberazione della Giunta Regionale*) Regional Law (*Legge Regionale*) Regional Regulation (*Provvedimento del Consiglio Regionale, Regolamento Regionale*)

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