

What works to make EU law work? An analysis of the usefulness of national, transnational, and supranational compliance instruments

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Propositions accompanying the dissertation

What works to make EU law work?

An analysis of the usefulness of national, transnational,
and supranational compliance instruments

Josine Polak

1. A one-size-fits-all approach to compliance management may not fit any member state at all. This is why the European Commission should employ a mix of compliance instruments that is flexible towards member states when possible, and uniform when legally required.
2. The EU's enforcement strategy must be reformed; the Commission should use its enforcement competences more transparently, more vigorously, and more wisely.
3. The Commission as 'guide of the treaties' should formulate post-legislative guidance taking into account the characteristics of individual policy domains and ensuring veritable consultation of member states in the guidance deliberation process.
4. 'Informality in formality' is key to ensuring the internal effectiveness of transnational networks; such networks should not be codified in EU legislation, but should exist within a facilitating framework that allows cooperation to be sustained.
5. Member states should remember that good faith efforts on their part are just as indispensable for making the EU's compliance management system work as efforts on the part of 'the others'.
6. EU implementation research could increase its relevance if it were to shift its emphasis away from analysing implementation problems, towards examining the effectiveness of possible solutions for such problems.
7. EU implementation research would benefit from interdisciplinary cooperation. But as long as lawyers refer to political-science research as 'socio talk', and political scientists think of lawyers as being fixated on 'black letters' only, effective cooperation is unlikely to occur.
8. Quantitative and qualitative research methods are complementary and should be looked at as such.
9. When practitioners talk about the need for 'better regulation', one cannot help getting the impression that they often tend to forget that regulation comprises not only rules, but also implementation.
10. The "cost of non-Europe" – "the untapped potential of the Single Market due to its incomplete implementation" (Cecchini report 1988) – needs to be calculated for every single member state, and for policy domains beyond that of the Single Market, to give states a 'rationalist' incentive to ensure effective implementation.
11. At a time that is brimming with the reduction of social matters to economic dimensions, one only needs to refer to the current events in the domain of migration to find a tragic illustration of how implementation gaps may affect lives, not only of those who – literally or metaphorically – take refuge in EU rules that offer them relief, but also of those who are otherwise affected by such rules.