ADMINISTRATIVE CONVERGENCE ACTUALLY –
An assessment of European Commission’s best practices for transposition of EU legislation in France, Germany, Italy, Sweden and Greece.


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ABSTRACT
In light of the mid-term review of the European Union (EU)’s Lisbon strategy, the study’s general concern is to explore how Member States have converged around the European Commission’s administrative best practices for the transposition of EU legislation. Embedded in the broader institutional change literature and the Europeanisation literature in particular, this study examines the Europeanisation of the public administration in five Member States. It evaluates whether national administrative settings in France, Germany, Sweden, Greece and Italy have converged around the most efficient solution to the European transposition problem. The study finds new evidence for converging tendencies towards the recommended administrative model in the EU. Since 2004, developments in Member States show that national coordination models for transposition have been adjusted, coordination mechanisms created, and special processes and procedures in line with the Commission’s recommended best practices established. Transposition data from 1995 to 2006, however, displays that the EU’s transposition problem does not seem to be solved yet which puts the use of European Commission recommendations and the Lisbon strategy more generally at stake.

Keywords: Administrative convergence, Europeanisation, transposition, neo-institutionalism
‘Even regulation of the highest quality is useless unless it is properly enforced’,

C. McCreevy, the European Commissioner for Internal Market and Services

INTRODUCTION

At consecutive EU summits, the European Council has repeatedly urged Member States to accord high priority to the transposition into national law of directives affecting the internal market. Recognizing the importance of a properly functioning internal market for the competitiveness of the European economy, the guardian of the treaties, the European Commission, however, has expressed concern about the poor Member States’ records. With the so-called Lisbon strategy, Member States agreed in 2000 on mainly five points to make the labor market more flexible, encourage entrepreneurship, stimulate innovation, spend more on research and complete the single market. The completion of the single market with explicit reference to the conclusion of transposition of internal market directives represents a major concern. In December 2003, the Inter-Institutional Agreement on better law-making further emphasized the need for Member States to comply with Article 10 of the Treaty and calls upon Member States to guarantee legal certainty by ensuring that Community law is properly and promptly transposed into national law within the prescribed deadlines to guarantee legal certainty. Non-transposition, otherwise, frustrates further European integration involving the free movement of goods, persons, services and capital (Art. 3(1)c). Based on the devastating Kok mid-term evaluation of the Lisbon strategy (2004), the European Commission laid down an improved strategy, entitled: *Better regulation for Growth and Jobs in the European Union*. Again one key objective in both reports was the timely and correct transposition. Hence, to ensure a simple and high quality of the regulatory environment in EU Member States, among others, serious attention to transposition is required.

Given the importance of full transposition and the repetitive nature of Member States’ failure to do so, in 2004, the European Commission, more specifically, urged ‘Member States to re-examine their administrative procedures and practices to ensure that they consistently meet this legal obligation’ (2004: 9). After more than 30 years of experience in the monitoring of the EU policies, the European Commission set out a
number of good practices which ‘should be followed by Member States to ensure better and faster transposition of internal market Directives’ (European Commission, 2004: 48). These recommendations are considered to be the most efficient solution to the overall European transposition problem, i.e. can ‘be expected to lead to an improvement in the speed and quality of transposition’ (European Commission, 2004: 49).

Six years after Lisbon and two years after the 2004 publication of these best practices, it is time to see what Member States have done. To what extent do we observe domestic administrative change and new administrative behavior and practices under the impact of the EU? Do we see Member States’ administrative convergence around one administrative coordination model to ensure timely and correct transposition of EU legislation?

The study is structured as follows: First, it explores the state of art of the existing Europeanisation literature dealing with administrative convergence. Then, the analytical framework is embedded in the organizational perspective arguing that institutions in a ‘shared institutional environment’ (Di Maggio and Powell, 1991) are likely to grow increasingly similar converging around the most efficient organizational form. Thereupon, the European Commission’s administrative best practices on transposition are presented as the structures and procedures that have proven to be the most successful. This study finds that there is some evidence that Member States have converged around the Commission’s best practices. In recent years Member States have bothered considerably about how to adapt their institutional settings to obey their membership obligations, i.e. to improve their transposition records. In a last step, this paper reveals, however, that despite the evidence for some convergence, Member States’ efficiency diverge independently from their degree of convergence. Whether the European Commission’s best practices, and the Lisbon strategy more generally, are useful will be discussed in the conclusions.

LITERATURE - ONE PLUS 27 EU COORDINATION MODELS?
Under the Europeanisation literature label falls a considerable set of studies dealing with the effect of European integration on national policies, politics and polities (Wallace, 1973; Siedentopf and Ziller, 1988; Toonen, 1992; Metcalfe, 1994; Pappas, 1995). This study applies a concept which is widely defined as ‘a process by which distinct structures of governance at the European level affect domestic structures and domestic politics’ (Cowles and Risse, 2001). More specifically, it is administrative convergence which is the study’s focus, rather than the evaluation of European policy outcomes and inputs (Knill, 2001: 17; Olson, 2002). Europeanisation refers to a process by which ‘administrative change occurs due to membership in the EU’ (Laegreid et al., 2004: 348).

This study identifies three main features of the existing literature: First, the field is mainly characterized by a number of edited volumes addressing Member States individually. These studies are often long standing. Dating back to the 1980s, second, their overall scope is to describe mainly the EU policy making process leading up to new EU legislation in the Member States (Pappas, 1995; Kassim et al., 2000; Wessels et al., 2003; Bulmer and Lequesne, 2005). Furthermore, third, they disregard the interim phase of the EU policy cycle, namely: the national coordination of EU implementation.

Only few scholars pay particular attention to the transposition phase in single Member States (Giulinai and Piattoni, 2001; Beyers, Kerremans and Bursens, 2001). In line with Siedentopf and Ziller, 1988: 87, these scholars conclude that ‘the implementation of Community legislation follows the same patterns and meets the same obstacles as the implementation of the respective national legislation.’ Hence, policy-making models in the Member States remain ‘national’, i.e. national particularities persist. Distinctive national patterns of institutional adjustment ‘emerge as corresponding to a basic logic of differentiation indissociable from the integration process itself’ (Harmsen, 1999: 81). The argument is that common pressure from Brussels has not lead national systems to adopt similar methods of organizing the essential institutional dimension of their EU coordination systems.

To summarize, the administrative convergence literature is long standing and mostly atheoretical with a lacuna surrounding national transposition processes and their
respective administrative coordination. Addressing the convergence debate, scholars agree that despite the fact that all national administrations have been undergoing a ‘very drastic process of adaptation through the sudden immersion of the primacy of European law’, there is not one single national coordination model for EU policy making. They conclude unapologetic that there is no such one thing rather one plus twenty-seven EU coordination models. In the following, this study attempts to address some of the shortcomings and assesses, in the shadow of the Lisbon strategy and the European Commission’s recommendations towards achieving full transposition of internal market directives, the administrative coordination models across the EU. The conceptual framework guiding the analysis follows next.

**ANALYTICAL FRAMEWORK – ADMINISTRATIVE CONVERGENCE AROUND THE MOST EFFICIENT COORDINATION MODEL**

Administrative convergence can be understood in institutional terms. Among the most frequently discussed basic patterns of institutional change is the incremental, otherwise known as evolutionary, pattern. This entails continuous change in small, incremental steps along a single path in a certain direction (North, 1998). Scholars argue that institutional change occurs incrementally through ‘path-dependent mechanisms of feedback, increasing return, and choice within constraints’ (Campbell, 2005: 16). Based on the notion of increasing returns and imperfect markets, North (1990) argues that evolutionary change occurs around the most efficient solution to common problems for institutions in a shared environment (DiMaggio and Powell, 1991). Three causing factors can be identified, namely: coercion, mimicry and socialization (for an overview see Kassim, 2003).

Applying this view to national administrative coordination systems of EU transposition, Harmsen (1999) argues that the result of ‘optimization [is] a gradual convergence of national practices around the most efficient solutions to … common problems’ (ibid: 84) caused by ‘hard and soft’ rules. In line with Knill (2001), hence, administrative convergence is defined by the extent to which domestic administrative styles and structures ‘reveal similar characteristics because of the influence’ of EU membership. Driven by a consequentialist logic the anticipated result is
administrative convergence of national practices around the most effective administrative solutions when transposing EU legislation. EU Member States are expected to converge around a single coordination model through pressures deriving from their membership.

With reference to the broader Lisbon talk and the more specific 2004 European Commission’s best practices to administrative procedures and practices to ensure that they consistently meet Member States’ legal obligation, the following testable hypothesis can be derived:

*European administrative convergence hypothesis:* EU Member States have converged around the recommended most efficient administrative coordination model for the transposition of internal market directives.

**RESEARCH DESIGN**

*Dependent variable:*
The European Commission’s best practices for national administrations when transposing EU directives represent the most efficient administrative solution to the overall European transposition problem leading to a considerable improvement in the speed and quality of transposition. Twelve recommendations can be distilled and can be summarized in four groups: *the political priority assigned to transposition, the nature of the administrative coordination, parliament’s involvement and the nature of national implementing measures.*

To assess whether Member States have converged around the most efficient administrative solution over the last ten years, the study calculates a so-called *administrative convergence ratio.* Admittedly, there is no shared concept of administrative convergence (Olsen, 2002). But, the administrative convergence ratio may be a small contribution to get a hand on its operationalisation. This ratio score represents the simple division between the numbers of implemented best practices with the maximum number of possible recommendations. A convergence ratio above .6 illustrates that European Commission’s recommendations are being considered.
Scoring above .9 reads as almost perfectly converging around the recommended administration coordination model. Arguably not every recommendation has the same weight. National parliaments’ involvement before the adoption of the EU directive (recommendation 10) might be more important in terms of timely and correct transposition than so-called correlation tables recommended to be used by civil servants (recommendation 8). Following the logic of more and less important best practices for the final success I assigned ‘2’ and ‘1’ points to the recommendations respectively. This rather crude but manageable measure leads to a maximum score of 18, with six recommendations scoring ‘2’ and six recommendations scoring ‘1’. Table 1 illustrates the European Commission’s recommendations and their respective salience factor.

[Table 1 about here]

**Selection of Member States:**
Against the abovementioned conceptual framework, this study chose five Member States to explore the patterns of administrative convergence across the EU. The countries included in this study were selected to cover most of the important dimensions of variation among the European Commission’s areas of recommendation (policy-system and civil service characteristics). Germany, France, Italy, Greece and Sweden, offer similarities as well as contrasts. Germany and Italy are federalist countries, whereas France, Sweden and Greece clearly unitary states (Colomer, 2002). Some member states (France) are characterized as ‘rationalized’ (Knapp, 2004) parliamentary systems, whereas Sweden clearly has a strong unicameral parliamentary system (Strom, Müller, Bergman, 2006). Then, interest groups play a strong role in densely organized society like Germany and Sweden, whereas in Italy, Greece and France they do not (Mény and Knapp, 1998). Furthermore, Greece and Italy has a bureaucratic and particularistic bureaucracy coupled with a low level of professionalism (Papadoulis, 2005) and a crisis-driven approach’ in contrast to the German or Swedish bureaucracy and their technical and impartial problem-solving approach.

**Data:**
To assess the European administrative convergence in five Member States more generally and to cross-check the assignment of salience factors to the recommendations, the study extracts data concerning the four groups of recommendations from the European Commission questionnaire sent to the Member States in 2004. In addition, I rely on the scarce existing country reports in the scholarly field, but, foremost, conducted interviews gathering new data of experts and key players. Interview partners are civil servants involved in the national EU coordination process in each of the Member States and the European Commission. In total, I conducted 38 interviews in the five national capitals and Brussels which were either conducted in person or by phone between January 2005 and July 2006.

ANALYSIS

Addressing each of the twelve recommended best practices one by one, the following section analyses the national administrative coordination models in France, Germany, Italy, Greece and Sweden.

I Political priority:

Position of coordination body towards ministries:
In France, Prime Minister Raffarin reinforced the transposition issue by introducing a new Interministerial Coordination body in 27 November 2004. Since October 2005, the then most important body with regard to the implementation of EU policy, Secretariat General for Cooperation and Integration (SGCI), was shifted away from the Ministry of Finance to the Prime Minister at Matignon. Nowadays, the SGAE (Secretariat General for European Affairs) is directly responsible towards the Prime Minister.

In Germany, whereas the coordination of EU policy-making has been split up and somewhat shifting between mainly four institutions to different extent (the Ministry of Foreign Affairs, the Ministry of Economic Affairs, the Ministry of Finance and the Chancellery), the German coordination of the transposition of EU legislation has been always assigned to the Ministry of Economic Affairs.
Whereas the Italian Foreign Affairs Ministry has, for many years, dominated the preparation and implementation phase of EU policy in Italy, the Coordination Department of EU policies has become the main coordinating body in recent years. In 2005, the legislative act no.11 of 4 February 2005 introduced an Interdepartmental Committee for European Community Affairs (CIACE) in the Office of the Prime Minister coordinating the Italian transposition of EU legislation.

Like in all other member states at some stage, Sweden, since its membership in the mid-1990s until recently, had an EU Secretariat within the Ministry for Foreign Affairs coordinating the transposition process. Since 2005, however, the EU Coordination Secretariat in charge of monitoring and coordinating the implementation has been transferred directly to the Prime Minister's Office.

Greece is often said to have not yet found a workable formula for coordination of the EU transposition. To improve its stands towards other ministries, however, the Special Legal Department for the EU has been transferred to the Prime Minister’s Office in 2005 which has the responsibility for the coordination of the transposition process.

*Regularity of meetings:*

In France, since 2004, transposition issues are regularly discussed in the newly interministerial coordination body. Approximately every two to three months the Interministerial Committee on transposition jointly chaired by the SGAE and the SGG supervises and discussed detailed overviews on the progress of transposition.

In Germany, transposition issues have been regularly discussed in high-level meetings across the federal government since the 1980s. These meetings take place about twice every month, attended by the relevant directors of all ministries and monthly meetings of the Secretaries of State for Europe (*Europastaatssekretäre*).

In Italy, since 2005, the Interdepartmental Committee for European Community Affairs (CIACE) coordinates work with the legislative sector, monitors progress with the implementation of Community directives and submits the findings monthly to the
Council of Ministers for appraisal. Next to the monthly Council of Ministers meetings dealing explicitly with problematic transposition issues, the Interdepartmental Committee for European Community Affairs may convene an earlier meeting with a ‘laggard’ ministry.

While the Swedish coordination of the EU policies has been transferred from the Ministry of Foreign Affairs to the Prime Minister’s Office in 2005, formal transposition meetings hardly occur. Whereas the cabinet meets approximately once a month to discuss, among other things, issues of implementation, it is the widely applied informal communication among the policy-making and implementation across and within ministries which are named by all interview partners and that are conducted via electronic communication, phone calls or email correspondence.

In Greece, the Special Legal Department for the EU under the Prime Minister only sometimes organizes consultations with ‘problematic’ ministries. Whereas general transposition issues may be also addressed in the Council of Ministers, the regularity of inter-ministerial meetings remains ad-hoc depending on the urgency of the issue concerned. Table 2 summarises the findings in terms of political priority.

[Table 2 about here]

II Nature of administrative coordination:

Inter-ministerial coordination:
In France, the SGAE allocates the task of transposing the directive to the ministries which normally have already participated in the shaping of the French position in Brussels. Often this includes two or sometimes three different ministries at the same time. Since 1993, the SGAE has maintained an overview of all directives requiring transposition by setting up the before-mentioned implementation table. This data-base provides information on how the workload associated with transposition is divided between areas in which parliamentary law is required and those in which governmental regulations will suffice. But only since 2004, the SGAE convenes regular meetings of the inter-ministerial coordination body.
In Germany, any policy matter is attributed to one department of a ministry, which, then, works out the draft of the German legislation. If several departments or ministries are concerned, for example, the principle of ‘Federführung’ is applied, i.e. one department is assigned the leadership and the final responsibility for the preparation. Since the late 1990s, the Ministry of Economics has put a database in place in order to better deal with the administrative challenges (EU Richtliniencontrolling). The average implementation duration of the individual ministries, however, is not documented yet.

In Italy, for a long time, inter-ministerial rivalry has prevented any attempt at creating a body entrusted with inter-ministerial coordination on EC matters (Bindi and Cisci, 2005: 152). The in 2005 established Interdepartmental Committee for European Community Affairs (CIACE) monitoring the transposition of EC directives into national law has started to systemize the distribution of the directives between ministries. While maintaining a database which enables to establish at any time the record of the performances of Italian ministries, with the backing of the Prime Minister, it functions as a mediator between the ministries and takes decisions in case of inter-ministerial rivalries.

In Sweden, since 2002, the EU Coordination Secretariat keeps a list for internal use of all adopted directives. The responsible ministry is asked to present a time-table for the transposition of the directive. This time-table is included in the list of adopted directives. In terms of implementation figures, it is the Swedish National Board of Trade that keeps a central database where all the latest adopted directives are listed. Each month a copy of the adopted directives is sent to the EU Coordination Secretariat that in turn forwards the list to each responsible ministry. The ministries report back to the EU Coordination Secretariat when they expect to implement the directive, in which way and what problems may occur.

In Greece, since 2005, the ministries concerned cooperate with the Integrated Office of Legal Affairs attached to the Prime Minister’s Office, having developed a network of contacts with the above-mentioned ministries, and providing legal support to solve the problems encountered. A national data base including all European directives to be transposed and their Greek national legal instruments is administered since 2003.
by the Ministry of Foreign Affairs and was not transferred with the Secretariat to the Prime Minister’s Office.

**Intra-ministerial organization:**

The way in which the various ministries in France handle transposition varies and is not based on similar rules of procedure and has not radically changed over the last ten years (Philip, 2006; Sauron, 2000). In practice, ministries have not reviewed their structures with the demands of EU work in mind, but rather they have been concerned not to disturb the internal administrative balances between the old central directorates. Still most ministries do not have legal affairs unit at the level of a directorate or as a staff unit of the minister. The only exceptions seem to be the ministries of Foreign Affairs, Defense, and Economy and Finances and Agriculture, National Education and the Interior. However, the use of correlation tables seems to be already the dominant method in the ministries.

Next to the circulars by the subsequent Prime Ministers since 1986, there are no guidelines of transposition for the individual civil servants. Furthermore, policy-making teams and transposition teams hardly interact with each other. Here, it is often a question about number of staff in the different units whether members of the transposition team joined the working group sessions in the Council.

In Germany, any policy matter is attributed to one department of a ministry (the Referat) from the beginning of the negotiation process in the Council to the transposition process. In the meantime, all German ministries consist of an EU coordination division or at least a specialized unit on EU legal issues. Here, the responsible department works out a planning schedule for the transposition during the negotiations in the Council so that the drafting starts right after the adoption of the text. Normally, members of the policy-making team will be part of the transposition team. The competent civil servants, however, work out the draft of the instrument without relying on formal transposition guidelines. The interview partners contend, nevertheless, that the normal procedure is to set up a correlation table illustrating as far as possible the correspondence between directives and transposition measures.

In Italy, the level of intra-ministerial coordination on European affairs varies among the ministries from no coordination at all (Ministry of Environment) to little
coordination (Ministries for Telecoms, Health, Treasury, Transport and Agriculture) to the only example of effective coordination: Ministry of Finance. Here, the *unità di indirizzo* has been set up in 1999 at the Director General’s level to coordinate EU issues (Bindi and Cisci, 2005: 152). Italy does not have any guidelines for the transposition of EU legislation nor are the transposition teams composed of members of the policy-making team (due to high rates of fluctuations among civil servants). This is further aggravated by the fact that no planning schedule for transposition is worked out during the negotiation phase in the Council’s working groups nor have correlation tables systematically set up by the civil servants in charge of transposition.

In Sweden, while the Ministry of Justice and the Ministry of Finance have a special EU department, all other ministries have a legal unit which coordinates the actual transposition process within the ministry. It is primarily the legal secretariats of the different ministries that implement the directives; hence, the persons negotiating the directive are not always the same persons who are responsible for the transposition. There are, however, regular, informal contacts between these two groups both during the negotiations as well as during the implementation phase. Moreover, an early warning system exists through the central database which enables the coordinating unit to keep track of how Sweden performs. It also includes, among other information, the planning schedule worked out during the negotiation phase of the directive which provides information about the latest date for transposition, the responsible Swedish ministry, what kind of legislation is considered necessary for the transposition and the estimated date for adoption of this legislation. This database is public information and accessible by every ministry. In Sweden, only recently, in 2005, the EU Coordination Secretariat has set up a general note pinpointing to some possible pitfalls for civil servants transposing directives. Written guidelines, however, are still not existent.

In Greece, since 2005, the transposition teams include more and more often civil servants following the EU directive from earlier stages in the Council’s working groups. The responsibility for the transposition of directives lies with the ministries that participated in the drafting of the directives. However, there are only few ministries that have specialized units for the transposition of EU legislation. Whereas the Ministry’s for Agriculture special unit for legal affairs is well organized for the transposition of EU legislation, it is, for example, the Ministry for Public Health
which lacks a similar unit leading to considerable delays. In addition, there is no general rule about the start of the transposition process, nor do general guidelines for transposition exist. Furthermore, a systematically set up planning schedule for transposition in the negotiation phase is still missing. Table 3 summarizes the findings for the second group of recommendations concerning the nature of administrative coordination.

[Table 3 about here]

III. Nature of parliament’s involvement before and after the adoption of the EU directive:

The French Parliament is immediately informed about directive proposals presented by the Commission, but it has hardly any influence in the EU bargaining phase. The National Assembly and the Senate have to adopt an opinion only if the Commission’s proposal falls under Article 88-4 of the French Constitution; otherwise, they do not have a compulsory mandate. If Parliament is required to react (on those components that are legislative), however, fails to communicate while agreement of a proposal by the Council of Ministers is expected, the minister responsible for the negotiations or the Junior Minister for European Affairs can ask the Parliament to accelerate their examination. Since late 2003, the government aims to intensify the debate in the preparation phase with the help of monthly consultations with the parliament. In addition, a reduced version of the impact data sheet or fiche² is sent to Parliament. Parliament lists these proposals in the parliamentary information bulletin and since 2003 MP Christian Philip (in coordination with the Standing Committee on European Affairs) drafts a yearly report on the state of France’s transposition performance; known as the Philip report.

In Germany, generally speaking, the federal government has to inform the two parliamentary chambers before any decision that would become binding EU law – a decision taken with the adoption of the Maastricht Treaty. Whereas the Bundestag executed an ex-post control in the past, since 2006, an agreement between the German government and parliament has considerably improved the situation. It foresees an
earlier distribution of information about relevant EC documents and a right of consultation which may even lead to a scrutiny reservation. In the transposition phase, Germany meets the Commission’s recommendations by sending timetables right after the adoption and keeping the parliament informed about the transposition process by reports every three months.

In Italy, with the *legge Fabbri* (1987) the parliamentary committees receive regularly all the draft EC decision. In 2005, with legislative act no. 11 this task was even further enforced by requiring the government to put all draft EU Community Acts and the preparatory documents for them (including White Papers etc.) before both Houses of Parliament. Another particularly important novelty is provided by section 4 where the institution of ‘reserved Parliamentary powers’ which the government must raise whenever Parliament has not begun, or has not completed, its examination of Community acts submitted by the Ministry of Community Policies. When this is done, the government is required to lay the text before both Houses to receive their opinion within 20 days thereafter. Since recently, he Community act contains the government’s report to Parliament on the state of conformity between Italian law and Community law, and any infringement proceedings against Italy, and the case-law of the ECJ (Giuliani and Piattoni, 2006). Furthermore, it provides a list of the directives implemented or awaiting implementation through administrative channels; and it explains the reasons for any failure to transpose directives when the transposition date has already expired or is about to expire.

Since its membership in 1995, the Swedish Parliament has always been very much involved in the EU negotiation phase. The Swedish parliament’s advisory committee on European Affairs was modeled on the Danish committee in most respects. The Advisory Committee on EU Affairs allows Parliament to consult with the government which has to inform the *Rijksdag* about all matters that are dealt with by the Council and has to confer about Sweden’s positions on important issues more generally (Johansson, 2003: 377). The responsible ministry has to write a position paper concerning the Commission proposal which is then submitted to the Swedish Parliament, preferably no later than five weeks after the proposal has been submitted to the Council. Then, the government’s position in upcoming Council sessions are presented and discussed, but the advisory committee is not entitled to instruct
ministers. The Committee convenes every week ahead of meetings in the EU’s Council of Ministers and is attended by the relevant minister and advisers, or exceptionally by state secretaries and under-secretaries of state if ministers are unable to attend. In the end, it may request a scrutiny reservation and a memorandum from the government on any case it wishes. In the transposition phase the parliament is kept informed about developments in the transposition process also for non-legislative acts. It receives reports every three months including an updated timetable of the transposition process. Moreover, the report provides an overview of missed deadlines and reasons for the latter.

The Greek cabinet has an obligation to inform the parliament on all Commission draft proposals. However, the scope of information that the parliament receives on the EC issues has been limited and the information transfer is very dependent on the government. In the meantime, however, they are informed about every Commission proposal via the Parliamentary Committee for European Affairs, which was established in 1990. It was the last parliament to introduce, i.e. the ‘only Member state that did not have such a committee’ (Spanou 2000:174), which meets about seven or eight times per year. But its influence and visibility is low. Interview partner argue that it monitors the EU policy cycle in a rather ‘rudimentary and unsystematic way’. The Greek Parliament is only involved in the transposition process at the stage where the legislative act is voted (Gange, 2004). Furthermore, it is still not regularly informed about the transposition of other EU legislation requiring a non-legislative act. Table 4 summarizes the findings for the role of national parliaments.

[Table 4 about here]

IV. Nature of national implementing measures:

Fast track procedure:
In France, two national instruments are of particular interest to adopt legislative measure at rather short notice. An authorization law (loi d’habilitation), which provides the government with the authority to adopt ordinances. This instrument helps since it bypasses a length political debate in both chambers of Parliament and the
shuttling of a proposal back and forth between the National Assembly and the Senate. An ordinance only needs to be approved by Parliament in a yes-no vote, without the possibility of amendment. This instrument has been applied more regular since the last years. In 2000, 50 directives were transposed using this instrument; in 2004 an authorization law was approved for the transposition of 23 directives. The other instrument is the omnibus bill (DDAC). Twice a month for half a day the parliament has reserved time to examine omnibus bills, which helps to speed up the parliamentary procedure to adopt a new law. In contrast to ordinances, the omnibus bill follows the normal parliamentary procedure, which also means that members of parliament may propose amendments. The omnibus bills are mostly reserved for politically non-controversial and often technical directives. In the last couple of years about three omnibus bills have been introduced per year (Philip, 2006) to transpose EU legislation promptly.

The German set of transposition measures does not provide a fast track instrument transposing EU legislation. Recently in some exceptional cases, clauses have been included in laws which provide for the automatic transposition, i.e. dynamic implementation of EC directives at the moment that they enter into force in the EC. In rare cases where EC law must be implemented word for word, ‘automatic implementation’ allows the smooth implementation of a directive. An automatic implementation clause has been included, for example, in the Road Traffic Ordinance (Strassenverkehrs-Zulassungs-Ordnung).

In Italy, when urgent action is needed, a decree (decreto legge) may be issued by the cabinet, and such decree is immediately in force though it has to be later approved by Parliament to become ordinary law. In addition, although omnibus bills follow the procedure as a bill they transpose a number of directives covering different policy areas. One example is the omnibus bills in the late 1980s through which ca. 100 directives of different kind transposed in once. Recently, ‘La Pergola’ is being reformed suggesting that, in urgent cases, directives can be transposed outside the comprehensive bill (Giuliani and Piattoni, 2006: 92-93).

The Swedish policy-making system does not provide any acceleration procedures in case of a legislative act. Greece, to the contrary, allows the adoption of omnibus-bills
and prioritizes voting on bills transposing EU directives. Table 5 summarizes the findings concerning a fast track procedure.

[Table 5 about here]

Summary of findings
Assessing the administrative models for transposition of France, Germany, Italy, Sweden and Greece, this study finds some evidence of convergence towards the European Commission’s recommended most efficient administrative model. Over the last ten years, all Member States have gone through a radical process of change. Especially over the last two years, since the formal adoption of the European Commission’s best practices in early 2004, a handful newly adopted legislative and statutory initiatives across all Member States have entailed adjustments of existing and the creation of new actors. All five Member States have put in place or have adjusted specific arrangements for coordinating EU policy implementation and established special processes and procedures.

In absolute terms, table 6, which reports the administrative convergence scores, displays that without exception all Member States have attained relatively high administrative convergence ratio scores. Whereas France, Germany and Sweden score above .9, Italy reached a score of .72 and Greece of .61. Administrative change implying a reduction of variance and disparition in administration arrangement, more generally, is found. All Member States have assigned a senior member of government to coordinate the transposition process; one ministry is responsible for monitoring transposition as a whole; and civil servants normally use correlation tables when translating EU legislation into national law.

Nevertheless, these numbers highlight that despite the recent efforts across Member States and a relatively high degree of convergence around the recommended administrative model, national differences persist- not only in Italy and Greece. Recommendation 9 is still not fully implemented by none of the five Member States; no transposition guidelines exist.

[Table 6 about here]
DISCUSSION AND CONCLUSION – EVIDENCE FOR ADMINISTRATIVE CONVERGENCE BUT DIVERGING EFFICACY

To what extent is there support for the European administrative convergence hypothesis? This assessment shows that there is no prove for divergence. The interview partners contend that the national administrative coordination models for national transposition processes have converged mainly over the last two years following new legislative and statutory initiatives by Member States’ governments. Although clear differences remain, one cannot speak of ‘various models in the national administration’s EU model’ like scholars have done in case of national EU policy-making models (Spanou, 1998). Convergence and change are more typical than persistence (Laegreid, Smari Steinhorsson and Thorhallsson, 2004); administrative convergence implying ‘a reduction of variance and disparities in administrative arrangements’ (Olsen, 2002: 1) proven; a trend towards Europeanisation of the public service evident (Bossaert et al., 2001: 248).

Wright (1996), however, reminds us that ‘observing the machinery alone is insufficient’. To account for efficiency transposition figures might give a first impression. Table 7 presents the transposition deficit figures for the five Member States over the last decade.

[Table 7 about here]

Table 7 illustrates that transposition records have systematically and steadily improved across Member States since 2000. Italy and Greece reduced their deficits from remarkable 11.3% and respective10.2% to less than 4%. But also Germany, France and Sweden improved their records from an average of 7% deficit to below 2%. While one finds a uniform tendency of improvement since the launch of the Lisbon Agenda, the 2004 stimulus has entailed less systematic effects. Member States transposition performances have varied considerably. The figures display that only Germany and France have experienced a considerable improvement in transposition records since 2004 while Sweden only slightly decreased its transposition deficit. The
performance scores of Greece and Italy, to the contrary, have even worsened. Greece and Italy have gone into reverse gear, recording their worst transposition deficits for many years despite the newly introduced reform programs in both countries.

Why? Do European Commission recommendations understood as measures for efficiency entail unintended consequences which influence Member States’ performances in a negative way? Whether European Commission recommendations are helpful or not goes beyond the scope of this study. But, applying these recommendations as measure for efficiency may entail reverse effects. Two sub-optimations may be identified in the Member States, namely: a so-called paper implementation culture and measurement fixation.

**Paper-implementation culture:**
This analysis has probably only shown that in the departments of the Member States’ ministries a paper-implementation culture reigns. Member States have reorganized their coordination system on paper, i.e. all coordinating bodies, for example, fall meanwhile under the direct authority of the prime minister – formally. But, the translation of the European Commission’s best practices may only lead to informal mimicking without improvement of performance. European Commission’s recommendations are followed, the institutional settings formally adapted, but may be little more than symbolic behavior. And despite the ensuing increased political priority, interview partner confirm that it is still the approaching deadline for the next official scoreboards which makes capitals hurry to get transposing measures adopted. A so-called ‘external evaluation committee-on-visit-effect’. Moreover, the regular convening coordination meetings among the transposition actors normally only discuss problematic cases and not the transposition process of every EU legislation. Hence, not the overall performance is improved, but it is an ‘emergency first-aid supply’ and does not go beyond.

**Measurement fixation:**
Measurement fixation is a likely second sub-optimation of best practices. It is often referred to as the ‘emphasis on single measures of success rather than on the underlying objective’ (van Thiel and Leeuw, 2002: 290). Member states instead have learned which aspects of performance are measured (perverse learning next to positive
learning by Meyer and Gupta, 1994: 330-342). This measurement fixation ends in a tunnel vision which ‘can be defined as an emphasis on phenomena that are quantified in the performance measurement scheme at the expense of unquantified aspects of performance’ (Smith, 1995: 284). Aspects of quality, fairness, justice and accountability matter less and less. Whereas a fast track transposition measure is advised and found preferred compared to the slower national implementing instruments (recommendation 12), it may undermine the role of national parliaments. It is these acceleration procedures that may give rise to legitimacy concerns when reducing national parliaments’ role to rubber-stamp. Is there no lesson to learn from Denmark (Dimitrova and Mastenbroek, 2005:1) to synchronize the system of parliamentary scrutiny with that of EU decision-making, so as to give parliaments more leverage over the latter process and bolster democracy?

To conclude, the effects of European Commission’s recommendations for the administrative coordination of national transposition processes may be more or less effective. But, Member States have not only acknowledged and acted accordingly. Since 1997, consequently, the EU has placed administrative issues high on the enlargement agenda. The 2004 round of enlargement, for the first time, included an assessment of the existing administrative systems (Dimitrova, 2002). Nevertheless, scholars (Mastenbroek, 2003; Sverdrup, 2004) show that transposition is hampered by multi-layered governance, a diversity of administrative settings, but also a variety of legal, cultural and socio-economic contexts and language. Transposition is by no means an apolitical process. In fact, it seems ‘a prime example of multi-level politics in practice’ (Falkner et al., 2005: 342). If so, and in light of the reported unintended consequences of measures for efficiency, this and the findings of the study will challenge the European Commission and scholars to rethink the degree to how administrative arrangements matter when transposing EU legislation in Member States.

Notes:
1 Note that you can think about convergence in a ‘broad’ and in a ‘strict’ sense. In the strict sense one can speak of convergence if a decrease in the dissimilarities between cases over time is observable. In a broader sense, one can speak of convergence if considerable similarities between cases are
observable. In the following, this study will the questions ‘whether there is convergence’ in both senses of the term.

Next to information about the background and legal base of the Commission proposal, the fiche includes an assessment of the impact of the proposal on the French legal order, the relevance of the proposal to France and the initial position of the government, based on the discussions between the line ministries and the SGCI, on the proposal.

References:


Tables:

Table 1. Presentation of European Commission’s recommendations

<table>
<thead>
<tr>
<th>I Political priority</th>
<th>European Commission’s recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Position of coordination body</td>
<td>1) Senior member of government at Minister or Secretary of State level visibly supported by the Head of Government (factor 2)</td>
</tr>
<tr>
<td>Regularity of meetings</td>
<td>2) Monthly discussion of transposition records to keep up visibility (factor 2)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>II Nature of administrative coordination</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Inter-ministerial coordination</td>
<td>3) One ministry is responsible for monitoring the transposition as a whole (factor 1)</td>
</tr>
<tr>
<td></td>
<td>4) Maintaining a central national data base to establish at any time the record of the Member state as a whole and by Ministry (factor 2)</td>
</tr>
<tr>
<td>Intra-ministerial coordination</td>
<td>5) Working out of a planning schedule for transposition during negotiations of the Directive so that the drafting starts right after its publication (factor 2)</td>
</tr>
<tr>
<td></td>
<td>6) Ministry should have a transposition contact point (factor 1)</td>
</tr>
<tr>
<td></td>
<td>7) The negotiation team in the ministry should have strong links to the transposition team in the same ministry (factor 1)</td>
</tr>
<tr>
<td></td>
<td>8) Civil servants should use correlation tables (factor 1)</td>
</tr>
</tbody>
</table>
III Involvement of parliament

Parliament’s involvement before the adoption of the EU directive

10) Parliaments are sent directive proposals as soon as presented by the Commission (factor 2)

Parliament’s involvement after the adoption of the EU directive

11) They are sent timetables right after the adoption and kept informed about the transposition process by reports every three months (factor 1)

IV Nature of national legal instrument

Fast track procedure

12) The adoption under an acceleration procedure in case of a legislative act should be envisaged (factor 2)

Table 2. Political priority

<table>
<thead>
<tr>
<th>Commission’s recommendation</th>
<th>France</th>
<th>Germany</th>
<th>Greece</th>
<th>Italy</th>
<th>Sweden</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Senior member of government at Minister or Secretary of State level visibly supported by the Head of Government</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>2) Monthly discussion of transposition records to keep up visibility</td>
<td>(x)</td>
<td>x</td>
<td>(x)</td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>

Legend: x stands for full implementation whereas (x) stands for partly implemented policy

Table 3. Nature of administrative coordination

<table>
<thead>
<tr>
<th>Commission’s recommendation</th>
<th>France</th>
<th>Germany</th>
<th>Greece</th>
<th>Italy</th>
<th>Sweden</th>
</tr>
</thead>
<tbody>
<tr>
<td>3) One ministry is responsible for monitoring the transposition as a whole.</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>4) Maintaining a central national data base to establish at any time the record of the Member state as a whole and by Ministry.</td>
<td>x</td>
<td>(x)</td>
<td>x</td>
<td>x</td>
<td>x</td>
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<tr>
<td>5) Working out of a planning schedule for transposition during negotiations of the Directive so that the drafting starts right after its publication.</td>
<td>x</td>
<td>x</td>
<td></td>
<td>x</td>
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<tr>
<td>6) Ministry should have a transposition contact point</td>
<td>(x)</td>
<td>x</td>
<td>(x)</td>
<td>(x)</td>
<td>x</td>
</tr>
<tr>
<td>7) The negotiation team in the ministry should have strong links to the transposition team in the same ministry.</td>
<td>x</td>
<td>x</td>
<td>(x)</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>8) Civil servants should use correlation tables</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>9) Transposition guidelines</td>
<td>(x)</td>
<td></td>
<td>(x)</td>
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Table 4. **Involvement of national parliament**

<table>
<thead>
<tr>
<th>Commission’s recommendation</th>
<th>France</th>
<th>Germany</th>
<th>Greece</th>
<th>Italy</th>
<th>Sweden</th>
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<tr>
<td>10) Parliaments are sent directive proposals as soon as presented by the Commission.</td>
<td>x</td>
<td>x</td>
<td>(x)</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>11) They are sent timetables right after the adoption and kept informed about the transposition process by reports every three months.</td>
<td>x</td>
<td>x</td>
<td>(x)</td>
<td>x</td>
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</tbody>
</table>

Legend: x stands for full implementation whereas (x) stands for partly implemented policy

Table 5. **Nature of national legal instrument**

<table>
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<th>Germany</th>
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<th>Italy</th>
<th>Sweden</th>
</tr>
</thead>
<tbody>
<tr>
<td>The adoption under an acceleration procedure in case of a legislative act should be envisaged.</td>
<td>x</td>
<td>(x)</td>
<td>x</td>
<td>x</td>
<td></td>
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</tbody>
</table>

Legend: x stands for full implementation whereas (x) stands for partly implemented policy
Table 6. Evaluation of Member States’ implementation of Commission’s recommendations

<table>
<thead>
<tr>
<th>Commission’s recommendation</th>
<th>France</th>
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<th>Italy</th>
<th>Sweden</th>
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<tr>
<td>Recommendation no.1 x factor 2</td>
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<td>(x)</td>
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<tr>
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<td>x</td>
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<td>Recommendation no. 4 x factor 2</td>
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<tr>
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<td>(x)</td>
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<td>(x)</td>
<td>x</td>
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</tbody>
</table>

Total number of implemented recommendation  

| 17.5/18 | 16.5/18 | 11/18 | 13/18 | 16.5/18 |

Convergence ratio  

| 0.97 | 0.92 | 0.61 | 0.72 | 0.92 |

Legend: x stands for full implementation whereas (x) stands for partly implemented policy.

Table 7. Transposition deficit across Member States 1995-2006

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Germany</td>
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<td>6.6</td>
<td>6.4</td>
<td>3.3</td>
<td>4.5</td>
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<td>2.8</td>
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<td>3.5</td>
<td>1.4</td>
<td>1.8</td>
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<tr>
<td>France</td>
<td>7.3</td>
<td>8.2</td>
<td>6.4</td>
<td>5.6</td>
<td>6.2</td>
<td>5.2</td>
<td>3.5</td>
<td>3.1</td>
<td>3.3</td>
<td>3.5</td>
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<tr>
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<td>1.0</td>
<td>1.6</td>
<td>1.4</td>
<td>1.4</td>
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<tr>
<td>Italy</td>
<td>11.3</td>
<td>9.9</td>
<td>7.5</td>
<td>6.4</td>
<td>5.9</td>
<td>3.4</td>
<td>2.6</td>
<td>1.7</td>
<td>3.9</td>
<td>3.0</td>
<td>4.1</td>
<td>3.8</td>
</tr>
<tr>
<td>Greece</td>
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<td>7.2</td>
<td>6.2</td>
<td>7.9</td>
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<td>3.1</td>
<td>3.7</td>
<td>3.8</td>
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