

**WHAT ARE THE REASONS FOR
COMPLIANCE
OF MEMBER STATES WITH EU LAW?**

Ruslan Zdravkov

338266

International Public Management and Policy

Erasmus Universiteit Rotterdam

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ABSTRACT

The present research examines the driving forces behind the act of compliance of EU Member States with EU law. Three main factors are examined – the degree of consensus on Council meetings, the degree of public approval of the EU as an organization and the time spent as an EU Member State. Based on modern scientific literature, the current study develops three hypotheses featuring these three factors. Influenced by recent events in Europe, the present research chooses to examine the transposition of secondary binding EU law among EU-15 Member States: the piece of legislation chosen as the research object by the current study is directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of their racial or ethnic origin. Further on, the testing of the three hypotheses proves that the relationship between the transposition success of the provisions of directive 2000/43/EC and the three variables featured in the hypotheses is not as strong as expected. Due to many possible reasons, the transposition success was not affected by the consensus on the Council meeting in June 2000, where the directive in question was adopted and by the degree of public approval of the EU as an institution. In addition, the present research reveals the lack of relationship between the years spent in the EU and the degree of compliance of Member States with EU law in the specific research situation.

Chapter 1: INTRODUCTION

The act of compliance is a widely discussed phenomenon in research literature. Many authors have tried to explain it and go further in the process of understanding the driving forces behind this act. During the last years, some new assumptions have been introduced, more and more involving the social impact on the act of compliance. The current research also chooses to examine this relationship as a way of extracting more information about the reasons for compliance of EU Member States with EU law.

What are the reasons for compliance of Member States with EU law? The present research poses this question and designs three hypotheses in order to answer it. These three hypotheses feature variables which are relatively modern in their nature – the degree of consensus on Council Meetings, the degree of public approval of EU and the time spent as a part of EU. In addition, the present research chooses to rely on a specific approach towards the examined pieces of EU legislation; an approach already featured in modern empirical research in the relevant area. As discussed in Chapter 2, the examination of the bulk count of adopted EU law is not the only way to gather sufficient information about the transposition success of Member States with EU law under specific circumstances. Taking a closer look at the transposition phase of a single piece of legislation instead of the bulk count of EU law for a specific period improves the precision of the research in ways of examining national behavior towards a single common topic instead of overall transposition success. The main research EU piece of legislation chosen by the current study is directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of their racial or ethnic origin. First of all, the choice of the type of EU legislation is explained in detail in Chapter 2 where a discussion of the different types of EU legislation makes it obvious that not every EU law can be examined for sufficiently meeting the goals of the present research. Secondly, the controversial nature of this directive makes it hard to implement, which means that all successful transposition efforts by

Member States would indicate a strong relationship between the variables and not just a coincidence between provisions and national preferences. Further on, the aggregated data from researching these variables will serve as a ground for juxtaposition and exposition of an eventual relationship between them.

Being a part of an organization requires every member to work under a commonly agreed set of rules. It is essential for all members to put the teamwork efforts before the personal wants and needs in order for their organization to function properly. This is not an easy task, since teamwork does not always cover every member's private plans. For example, if a football team has agreed upon following a defensive strategy in a certain game, but the team striker is in great shape and feels like following their own rules which are against the team strategy that would surely lead to team problems during the game. A great game sometimes depends on the ability of the team striker to follow the team strategy for the price of sacrificing his own vision of the game.

The present research focuses on a slightly bigger team – the European Union, vaguely resembling a regular football team, but significantly different, consisting of 27 players, every single one of them promoting their own best practices for a certain situation, while trying to work as a team. The specific point of interest of the research is how have these players managed to follow the sometimes harsh rules of the Union and what is the driving force behind that steady will to be a good player. Is it the team spirit or maybe the capabilities? There are many explanations of the phenomenon of compliance, some of them mentioning specific reasons such as political capabilities, institutional functions on state level and strong belief in national sovereignty among other reasons. The present study takes a different stance, exposing a rather social factor as the culprit, which has already been introduced by many authors in relevant literature. This social factor is the public opinion of Member State citizens towards the European Union. One more factor will be tested as a

possible reason for the varying degree of compliance among Member States – the degree of consensus on Council meetings. In addition, the current study will test and expose the existence or absence of a relationship between the degree of compliance and the time that a country has spent under the EU flag. For further testing the three hypotheses, the current study develops a specific research design in order to bring more clarity to the main question about the causes for compliance by Member States with EU law.

The mystery behind the specific attitude of team players towards the Union rules can be solved easier after defining the attitude itself in the first place. In certain situations, a Member State's act of compliance with a rule or a set of rules may leave the observer under the impression that the player makes a huge sacrifice with their willingness to give up their style and adopt a new, common style. This would sound logical if the player is trying to be a good team member in a strictly authoritarian organization, where the option of choosing your own political attitude was never introduced and there was no freedom of will whatsoever. With its sometimes softly padded mechanisms for imposing new regulations, the European Union differs significantly from the image of the authoritarian organization mentioned above, even though the Euro-skeptic ideology would beg to differ. The fact that Member States sometimes comply with rules that could be easily obstructed or even avoided, and sometimes even exceed the EU requirements voluntarily, brings up questions, some of which will be discussed in length in the present study. After exposing the nature of compliance, the secret behind this process will be a bit easier to understand. A clear definition of the meaning of the term compliance needs to be presented. For doing so, this study resorts to reviewing relevant literature and compiling a plausible and clear definition of the term in chapter 2. Once after the common understanding of the nature of this phenomenon is presented in a clear manner, this study will focus on finding out more about its roots and driving forces.

Does compliance by Member States with EU rules spread to such great extent

or it is a myth, created by the European Commission for speeding up the process of Europeanization and expanding the faith in the Union? One simply might answer that without compliance, the Union would not be able to work properly, if not at all. But this answer fails to take in consideration the possibility of enforcement of rules upon the Member States. Even though the conditionality of the European Union is not clearly a voluntary approach, Member States do show signs of compliance instead of fighting back. The voluntary act of exceeding the requirements set in EU legislation draws the line between "*we have no choice but to do it*" and "*we want to do it*".

After making sure that compliance with EU rules by Member States indeed exists, this study will proceed to exposing the reasons for this phenomenon. Why have Member States accepted EU law over time even though sometimes those regulations have been inconvenient and hard to implement? What factors have affected Member States' behaviour towards increased compliance? What are the general reasons for compliance with EU law by Member States *per se*? Based on the relevant theoretical literature, this study presents three hypotheses in order to provide the basis for the empirical research. These three hypotheses are tested in detail based on existing empirical information regarding the variables which have been featured in the hypotheses.

Chapter 2: LITERATURE REVIEW

Understanding the act of compliance can be crucial for EU institutions when it comes to transposition of EU law. The importance of this phenomenon has motivated many authors to research it in order to support the improvement of the international policy implementation techniques. The present chapter examines relevant modern literature with the purpose of building steady empirical grounds for conducting the current research later on. Here, the current study presents theoretical definitions of the act of compliance made by political researchers. Further on, this chapter continues with presenting the development in modern political research in the area of understanding compliance. The first subchapter contains theoretical definitions about the act of compliance, taken from relevant literature. The second subchapter presents the types of EU legislation in order to explain the why did the present research choose the specific type of examined EU law. The third subchapter reviews recent political researches where the social phenomenon of public approval has been brought up. The fourth subchapter includes examples from research literature where the relationship between the act of compliance and the amount of time that a Member State has spent as a part of the EU has been discussed.

2.1 COMPLIANCE

A rather precise definition of compliance is provided by Young (1979) and Raustiala and Slaughter (2001), quoted by Hartlapp and Falkner in their paper on problems with compliance research. They argue that "*[c]ompliance can be said to occur when actual behaviour of a given subject conforms to prescribed behaviour, and non-compliance or violation occurs when actual behaviour departs significantly from prescribed behaviour*" (Young, 1979; similarly Raustiala and Slaughter, 2001, as quoted in Hartlapp and Falkner, 2002, p. 282). Building up from this literal explanation of the compliance phenomenon, Haas (1998) reinforces his definition of compliance by quoting Jacobson and

Weiss in his article about compliance with EU directives. According to them, *"compliance refers to whether countries in fact adhere to the provision of the accord and to the implementing measures that they have instituted"* (Jacobson and Weiss, 1995, as quoted in Haas, 1998, p. 18). Haas continues with further explaining his vision of the process of compliance with stressing on the difference between compliance and effectiveness – when focusing on effectiveness, one takes under consideration the achievement of predefined goals, while compliance does not necessarily involve goal achievement in its definition (Haas, 1998).

Hartlapp and Falkner quote Young and Raustiala and Slaughter in their work on problems with compliance. They stick to the logical explanation of the act of compliance, explaining it with the behaviour of a given subject that follows or deviates from the prescriptions of another subject. Haas brings it to a more politically relevant level by quoting Jacobson and Weiss, who explain the act of compliance as a phenomenon that *"refers to whether countries in fact adhere to the provision of the accord and to the implementing measures that they have instituted"* (Jacobson and Weiss, 1995, as quoted in Haas, 1998, p. 18). These definitions provide solid ground for building up the face of the curious phenomenon, set as the default image of compliance in the present research. However, the mere fact that the act of compliance is explained does not shed more light on the matters of affecting that act. Variation in the level of compliance can be explained with the help of supporting arguments and events, which will be introduced based on the specifics of the act of compliance itself.

Haas also states that compliance is an approach, used by the state for regulating its society. Finding out more about the ways in which Member States discipline their societies in order to comply with EU directives can also give valuable results, which will help for revealing the mystery of compliance. The point of interest in this area will be the actual act of compliance and not the effectiveness of compliance. In other words, the outcome of EU policy

transposition on national level will not be widely discussed in this paper, but the reasons causing changes in the compliance curve among Member States.

2.2 EU LEGISLATION

The shaping events behind the act of compliance can be revealed with the help of certain knowledge about the decision making mechanism in the European Union. Who makes proposals for EU legislation and who decides upon it – these details need to be made clear so that the present research could construct a hypothesis based on the specifics of the EU decision making mechanism. The current decision making process in the European Union grants decision making powers to the three major EU institutions – the Commission, the European Parliament and the Council of Ministers. The process itself consists of three different procedures, namely the co-decision procedure, the assent procedure and the consultation procedure. The co-decision procedure is commonly used for EU law-making. In this procedure, the Parliament and the Council make decisions on equal grounds, both of them have equal legal legislative power. There are rare cases where agreement between the Council and the Parliament cannot be reached – in this situation, the discussed piece of legislation is being put before a group of equal members of the both institutions, also known as a conciliation committee. After this committee reaches an agreement, the proposal goes back to the Parliament and the Council for final adoption. Such situations are indeed rare lately, as most laws are adopted in the first or second reading. The consultation procedure is most popular in such areas as agriculture and taxation. It starts with a proposal by the Commission. Based on this proposal, the Council consults the Parliament about a possible decision regarding the proposal. The major difference between the consultation procedure and the assent procedure, discussed below, is that here the Parliament can ask for amendments in case the proposal has flaws. If the Commission accepts the amendment proposals, it sends the updated proposal back to the Council, which can either accept the new proposal or further amend it. A different approach towards law adoption, the assent procedure,

requires an absolute majority in the Parliament, which allows the Council to take a decision. The Parliament cannot amend a proposal as in the Consultation procedure, but has to either accept or reject the proposal.

The discussion of a particular type of regulation needs to be introduced as well as choosing the same time period for data collection. After the new amendments in the Nice Treaty, which came into force in 2003, the EU institutions have been granted rights to directly apply provisions to Member States. However, aside from the primary legislation and the international agreements, another type of legislation is very significant for the research of the relationship between the consensus on Council meetings and the degree of compliance among Member States – the secondary legislation. This term refers to the total of all legislation, produced by the EU institutions for backing up the provisions of the treaties. Depending on the relationship between the legislation and the Member State, the secondary legislation can be divided to two categories – binding and non-binding legal instruments. There are three types of binding legal instruments, namely regulations, directives and decisions, all of them addressed to different groups of recipients. Regulations are addressed to all Member States and are directly applicable, which means that they take immediate action and cannot be obstructed or avoided by Member States. The present study focuses on the act of compliance, which in its nature is an act of agreement with the common rules and a choice of playing along instead of deviating from the prescribed behaviour. The prescribed behaviour in this scenario, is the undisputed transposition of the regulations, thus it is necessary for the present research to examine the process of discussion and transposition of these regulations. However, instead of taking in account the transposition of regulations, the present study focuses on the process of implementation of one of the other two binding legal instruments from the secondary legislation category, the directives. Unlike regulations, which are addressed to everyone, directives are addressed to Member States and their impact is not as instant as the impact of regulations. The choice of instruments and techniques for transposition of directives is left

to the Member States, but the directives are still binding. They only require a final outcome; they do not go in detail about the path to this final outcome.

The last of the binding group of legal instruments – decisions – are addressed to a particular Member State or EU citizen. The nature of this legal instrument is that it is being used when a certain situation requires ruling from an EU institution. Because of its binding nature, the discussion of this legal instrument in the EU institutions can also be significant for the process of clearing out the mystery behind the act of compliance. This is where the nature of the directives comes into play. The present research distinguishes binding documents based on their relationship with the national institutions. Even though the adoption of decisions can be seen as EU-friendly attitude, the examination of this particular area of international policy implementation cannot produce valid outcomes, since decisions are individual in their nature and their transposition gives information only for a particular Member State, but not for all Member States. Unlike directives, which cover all Member States, decisions provide limited information, thus the present hypothesis chooses not to take in consideration the process of their implementation on national level.

The same can be said about the non-binding instruments of the EU. Consisting of recommendations and opinions, this category and the work process around it do not need to be taken in consideration as well. Lacking any legal obligations, recommendations and opinions do not create that prescribed behaviour of following a set of rules sent from above, but only (as the name shows) recommend and give opinions about the attitude of Member State institutions regarding a certain issue. Even though the measurement of the volume of recommendations and opinions that have been followed can paint a relatively accurate picture of a Member State attitude towards the Union, it will not be of any help for researching the present hypothesis. The hypothetical rise of the compliance level is not to be sought in areas where loose actions are possible. If there is a leeway for postponing or simply declining to follow a

recommendation due to specific national preferences or limited capabilities, the measurement of compliance can produce rather distorted conclusions. Approving a prescribed behaviour, which requires you to bend your rules for the Union's sake is way harder than taking your own decisions about your future actions. One might argue that compliance is evident in situations where a Member State stands on a crossroad and takes the EU-friendly road without any pressure from above instead of taking the well known national-friendly road. The fact that a Member State complies with a non-binding legal instrument doesn't speak clear for the level of compliance, because of the high possibility of coincidences between the EU recommendation and the national preference. This coincidence might occur between national preference and a binding EU piece of legislation as well. The difference is that once you have met the requirements of the binding EU law, there is no need of doing more. But you are still following the prescriptions to some extent. Unlike non-binding law, with binding legislation you cannot choose whether to comply or take the advice and leave it half-way, or even not take it at all. Moreover, reaching consensus for a non-binding document is not that hard to do – when you know that there are no severe consequences if you don't do whatever the Union told you to do, you do not hesitate to accept it. Quite the opposite, reaching consensus for binding legal documents such as regulations is way harder, since a possible deviation from the rules would bring heavy sanctions. If compared to a simple sandbox play, reaching a consensus on Council meetings discussing binding documents is what needs to be examined when researching the present hypothesis, because approving of a piece of legislation that will bring major changes in your national sandbox shows that you are ready and willing to sacrifice your sand castle and change one or more of its towers or even built it anew. And, as mentioned above, sacrifice is a major cog in the mechanism of compliance.

2.3 PUBLIC APPROVAL

The phenomenon of compliance sometimes can be of crucial importance for the

relationship between a Member State and the Union. Many authors have delved in this matter with the purpose of providing more knowledge about the origin of this phenomenon and how to manipulate it in a positive manner. In different aspects, the process of compliance is not a shady unexplainable myth anymore, since its internal mechanism has been determined and revealed. However, there is no common agreement about what are the reasons for Member States to comply with the rules of the Union. Some researchers have employed variables for explaining the willingness of governments to play along with the Union rules. Mastenbroek (2005) examines the development of compliance research since the late 1980s. What can be seen from her summary is that the great crusade for understanding compliance has started rather eclectically in the late 1980s and early 1990s, searching for explanations in areas of state coordination, corporatism and legislative culture. Putting the structure of national organizations and their capability of legal interpretation in the spotlight apparently had not produced a valid outcome for explaining compliance. A certain metamorphosis in the researchers' approach towards understanding compliance can be observed in the late 1990s when another belief made its way to the top suspects.

One of the pioneers of the new belief, Duina (1997) introduces the option of the Europe-oriented support as the culprit, thus entering a whole new world of possibilities hidden in the public opinion and public mood swing. While others have researched the national institutions, here the shift towards mass opinion is obvious – since the citizens do have a say on national politics, they also need to be examined because their behaviour could also be of crucial importance for national compliance. Duina (1997) participates in the common belief, constructing an alternative hypothesis that suggests the existence of this relationship:

“The attitude of a country towards the idea of Europe determines its willingness to transpose and apply a directive and therefore the likelihood that the directive is well implemented.”(Duina, 1997, p. 160)

Referring to Putnam (1984) and George (1985), Duina elaborates on the assumption that public organizations and civil servants plot their actions according to their preferences, which usually consist of securing more votes or re-election. This driving force stands behind the developing of political attitude towards certain issues. The act of compliance is related to the political attitude of actors, which attitude can shape the general opinion of the public towards the European Union. Not ignoring the previously researched factors on national level, other authors also focus on the mood of the citizens, thus taking a rather modern course towards explaining compliance and starting a whole new era of compliance research.

Lampinen and Uusikyla include the high support for the EU among their four factors that influence the process of compliance. Dividing the four factors in two groups – those regarding the willingness to implement and those regarding the capability to implement, they put the EU support in the first group (Lampinen and Uusikyla, 1998). Falling in the same time period as Duina, they also follow the trend of introducing new, socially oriented assumptions for explaining the reasons for compliance.

2.4 YEARS OF EU MEMBERSHIP

One might presume that the high degree of compliance comes with long years of being a part of the EU mechanism. Political researchers share a somewhat common belief that the older the Member State is, the higher the degree of its compliance with EU law. Quite a logical presumption, having in mind that the high level of compliance is one of the most distinctive indicators for the process of Europeanization, characterized by many with the overall impact of EU institutions over the state administration and policy-making on national level. The longer a country has been a Member State, the bigger the chances for high compliance by this Member State. In other words, the time factor should have strong influence over the degree of compliance. The assumption that old

Member States comply more compared to new Member States is based on the possibility of a strongly non-compliant behaviour by new Member States because of their attempt to *"take 'revenge' for the strong pressure of conditionality"* (Falkner and Treib, 2008, p.293).

Falkner and Treib distinguish two general levels of compliance – the enforcement-driven pre-accession phase where the EU candidate simply follows the *"carrot"* put in front of it by the Commission and the second phase of compliance, consisting of the first couple of years after accession. The second phase is important to be taken in consideration when monitoring the level of compliance of new Member States from Central and Eastern Europe, since their pre-accession behaviour was fully shaped by the *"carrots and sticks"* relationship (Falkner and Treib, 2008, p.295). Despite the fact that the current study will not research EU-27 Member States, this type of logic can be applied to EU-15 Member States as well.

There is always a high possibility of developing negative attitude towards the person or organization that tells you what to do. Even though you want to be in the team, you still want to preserve your personal rules to some extent. But when the organization requires you to update your style or to change it significantly so that it can be compatible with the team rules, you would not be too happy about it. This conflict between wanting to be a part of the team and defending one's personal style can often result in a display of rather negative behaviour. Some argue that such event is more likely to occur within the new Member States and not in the old ones. The old Member States have already experienced the harsh conditionality of the accession procedures and have spent enough time as European Union Member States so that their reactions against EU legislation can decrease in negativity. Having less time to adapt to the fast-paced European rhythm, new Member States tend to seek *"revenge"* for the fundamental changes they were required to make on national level in order to successfully pass the accession phase. Falkner and Treib (2008) argue that this type of behaviour can be expected not only from new Member States,

but from old countries as well. They continue that the revengeful demeanor by new Member States can not only be blamed on their desire for payback, but for their actual incapability to restructure their national institutions so that they can be in tune with the rest of the European Union Member States. This only serves as an additional argument for the statement that new Member States experience more compliance issues than the old Member States as the latter have had enough time on their hands to update their political structures, and the former are just entering the game and the chance for non-compliance on their end increases because of the two reasons stated above – desire for “*revenge*” and mere political and social incapability to comply. Thus, expecting new Member States to comply less than old Member States seems rather logical.

What can be expected from researching the compliance behaviour of the newcomers is the low level of support for the Union, since said Union is technically the organization imposing the harsh conditionality and even though the overall desire of the state is to be accepted, the negative effects from performing the required reforms are strongly experienced by the state population. What has been perceived as a great idea – joining the EU – can now be thought of as a terrible idea. When the negative outcome of the state reforms hits the population, thus altering the face of the Union to a much darker shade, the support for this organization will drop even if it has been high before that. Based on these theoretical grounds, the present study engages in constructing an expectation that the level of compliance of Member States with less time spent in the EU will be lower than the level of compliance of the old players. This expectation follows Falkner and Treib's belief that the Europeization affects old Member States in a way that they comply more with EU rules. However, this belief is being followed only loosely, since Falkner and Treib distinguish between EU-15 Member States and the countries from the 2004 accession wave. The present research focuses only on EU-15 Member States, but no distinction between old and new Member States will be made. The reason for the absence of groups will be discussed in Chapter 3.

A rather important notion should be made about the origin of non-compliance. The similarities between the research of Lampinen and Uusikyla's hypothesis about EU approval and the present study's EU approval hypothesis, though considerably logical and valid, go only to a certain extent. Lampinen and Uusikyla categorize the EU approval as a part of their "*willingness to implement*" subcategory. The difference between the two approaches comes from the present study's decision to focus on the reasons for variation in the degree of compliance instead of researching non-compliance in detail as it could occur for many reasons, but in the same time, all of these reasons could be rendered obsolete by the state, thus providing leeway for compliance.

In attempt to provide more clarity for the act of Member State compliance with EU law, Zhelyazkova and Torenvlied (2011) conduct a research on Member States' transposition success of the provisions of Directive 2000/78/EC (also known as "*the Framework Equality Directive*"). Their study demonstrates a rather successful application of the new trends in political research by designing hypotheses aimed at finding a relationship between the population and the Member State attitude. Supporting the political research development outlined in Mastenbroek's summary from 2005 and the arguments made by Duina in his 1997 research, Zhelyazkova and Torenvlied point out the public opinion is one of the main factors that influence the act of compliance demonstrated by Member States regarding EU law. In their article, Zhelyazkova and Torenvlied examine the provisions of the Framework Directive, introducing a rather fresh approach – instead of researching bulk count of directives and their transposition on national level, they simply break down a single directive to its components – the provisions – and examine their transposition on national level. The argument they provide in defense of their chosen approach is that it would allow them to engage in "*an in-depth comparison between different aspects of a directive and member-states, while holding constant characteristics at the directive-level*" (2011, p. 691). Zhelyazkova and Torenvlied compile their dataset based on implementation

reports on the transposition success of Member States with the transpositions of the Framework Equality directive. They explain their choice of directive with its nature – equal treatment for EU citizens in the employment sphere. This directive is suitable for drawing conclusions upon, because due to the specific nature of this directive, there is a high possibility of occurring problems in the transposition phase; in other words, it is not an easy-to-implement directive. This allows for displays of compliance by transforming the internal national structure so that it follows the difficult requirements constituted by the Framework Equality directive. The present study chooses to employ the approach used by Zhelyazkova and Torenvlied for explaining the act of compliance. However, another directive has to be put on the examination table. The directive chosen by the present study is directive 2000/43/EC, also known as "*the Race Directive*". This Directive was adopted in June 2000 and implements the principle of equal treatment between persons irrespective of their racial or ethnic origin. The present study's choice of directive is mainly influenced by the nature of this directive and its controversy. Several provisions have been perceived as very controversial, thus hard to transpose. As common practice shows, unpopular politics are harder to push than popular politics. Racial tolerance is a modern-day good quality that every Member State more or less wants to have in order to display a more up-to-date image before the EU. However, the image specifics are not as important as the financial and economic well-being of a country, thus more effort should be put in transposing an economically related directive than a rather social directive such as the Race Directive. The research of the transposition phase of the Race Directive can reveal curious facts about the ability of Member States to keep up their promises to the EU. Even though the field of racial tolerance is not top priority for some countries, all of the EU-15 group countries have expressed their willingness to comply with the provisions of the Race Directive.

The explanation for the present study's choice of the Race Directive is that it is quite similar to the Framework Equality Directive due to its hard-to-implement nature. Recent events in Norway have shown that Europe still isn't quite the

race-blind haven, and issues with the results of diversity promotion are still at hand, thus welcoming any constraints on racial intolerance (stated in the provisions of the Race Directive) by EU Member States' citizens could be rather difficult among some of the more intolerant Member States. Due to these arguments, the present study will examine the transposition success of the provisions of the Race Directive in order to expose a possible relationship between the Ministerial behaviour on Council meetings, the public opinion towards the EU, the time factor and the compliance of Member States with EU law. However, the outcome of this testing will be influenced by the nature of the researched EU document; the outcome of researching a different, economically oriented directive, would surely bring up a different result due to the different level of importance of both topics for Member States. However, the demonstration of racial tolerance is a way of stating that your country is a civilized member of the modern world. Failing to do so, due to specific prioritizing on national level or due to influences by the public, especially after making a formal promise to succeed in the transposition phase, will expose the inability of some countries to comply with the European requirements on a rather secondary level.

It is easy to see how explaining in greater detail the mechanism that makes countries unite and serve a common set of rules can be of crucial significance in certain situations. If the link between certain events and high compliance is exposed clearly and explicitly through a consistent research and employing all previous conclusions on the matter, then the whole relationship between the Union and its Member States would become a bit more transparent and easy to understand. When you know why a certain mechanism works the way it does, you can easily navigate this mechanism for serving your purposes. For example, if Member States comply more with EU rules when these rules are more convenient for reaching consensus upon, then the policy makers of the European Union would prefer designing a more user-friendly piece of legislation instead of what they originally thought of as a great set of rules. In a nutshell, getting more familiar with the mechanism of compliance will only help all

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future efforts of policy making in a way of being one step ahead of the national preferences of the Member States.

Chapter 3: THEORETICAL FRAMEWORK

The previous chapter has discussed and presented modern literature's perceptions of compliance and the supporting events around it. This allows the present chapter to continue with the process of revealing the relationship between the assumed factors and the act of compliance by presenting the research question and the supporting hypotheses. The hypotheses will be developed according to essential findings in relevant literature, meaning that the expectations of the present research will be more or less in the same direction as the conclusions in modern literature.

The present research focuses on a phenomenon that requires introduction of specific concepts in order to be measured and observed in detail. Once the concepts are defined and introduced, another step towards understanding the act of compliance will be taken. This next step will consist of designing precise mechanisms for performing accurate measurement of those concepts. First of all, the present study employs the definition of compliance, introduced earlier in Chapter 2, based on the research of Hartlapp and Falkner and Haas. Understanding the phenomenon of adhering to other people's rules is only the first step of the long run that is the process of locating and defining the reasons for compliance. During that long run, the present study designs and suggests possible reasons for the occurrence of the phenomenon in question. These reasons consist of several variables that make the process of concept measurement more approachable and provide a possibility for finding answers by researching the relevant empirical data. The common expectation in the three hypotheses is based on Falkner and Treib's findings summarized in Chapter 2. New Member States are expected to have more implementation issues than old Member States due to the different amount of time they have had for restructuring their national institutions in order to meet the requirements of the Union.

The current study will take the same stance towards the public opinion as the

common belief that originates from the late 1990s. One of the three hypotheses developed in greater detail in the present chapter follows the same path as the trend in the late 1990s – it suggests a clear relationship between the way EU citizens think of the fact that their country is a part of a multinational organization and the degree of the willingness of those countries to follow the team rules of the same organization. In short, the second hypothesis in the present chapter suggests that the high approval of EU by Member States' citizens leads to high compliance with EU law. Further on, the operational measurement of this hypothesis will generally follow the framework of Lampinen and Uusikyla, who apply the aggregate data research design, consisting of compiling and collecting data from official surveys about the general citizen opinion towards the EU, published by the Commission, as well as Zhelyazkova and Torenvlied's approach consisting of breaking down a single Directive to provisional level and research the transposition success of the provisions into national law.

The variables used in the present research as an assumption of what affects Member States' compliance with EU law refer to three measurable subjects – the degree of consensus on Council meetings, the degree of EU approval by European citizens and the amount of time that a country has spent as an EU Member State. The next step, after stating the three explanations, is to measure them. Though it seems as an easy task, some rules need to be introduced for preserving the high validity and reliability of the three independent variables – the degree of consensus, the degree of approval and the amount of EU membership years.

What has affected Member States' compliance with EU law? The answer of this question can be found after exposing the driving force that makes governments agree to ignore their national preferences and follow the lead of the EU institutions - national preferences in the means of formulation and implementation of state-specific laws that have great impact on the nation. It doesn't sound like an easy task, especially for states that put their national

sovereignty above the team spirit. Yet, they do engage in EU law implementation without much resistance. This phenomenon is quite curious and had raised many questions among scientific researchers throughout the past. The pursuit of answers had included many explanations and variables so far, ranging from general national politics to detailed social attitude. In order to join in the crusade for explaining the process of compliance, the present research develops three hypotheses that would serve as a ground for determining and explaining the reasons for compliance with EU law. These three hypotheses will take three factors in consideration while disregarding the general effect of compliance as its specifics would not be valuable for reaching a conclusion. Despite the fact that the effect of compliance is a curious phenomenon itself, it is irrelevant to the research question and it will not be discussed in length.

A specific area of national politics can sometimes be a highly insurmountable obstacle that has a negative effect on national compliance with EU law. When you are required to stick to the team rules and these rules are conflicting with your personal rules, you will be asked to rethink your personal matters in favor of the team spirit. What area can be touchy and hard to make compromises about? That would be the area of legislative politics. The present study chooses to consider this national function as the most difficult to redesign in a EU-friendly fashion, because the two other national functions – executive and judicial depend on it and are easier to modify, since their core can remain the same. For example, if a certain state is required to change the way of implementing a certain regulation but not the regulation itself (provided that the regulation in question was designed by the state), it would be easier for this state to follow the EU rules instead of the situation where the state is required to change the whole regulation. Following up this consideration and the general conclusions in modern literature, the current study presents its first hypothesis for factors influencing compliance.

Hypothesis A: Member States that vote positively on Council meetings are more likely to comply with EU law.

The present hypothesis focuses on the willingness of Member State governments to implement EU law and its dependency on the voting process on Council meetings. Instead of looking for a relationship between these two in cases of voting and transposing a bulk count of regulations, the operationalization of this hypothesis will narrow its scope down to researching the Council meeting where the Race Directive was voted and the Member States' behaviour after the vote – whether a commonly approved policy was transposed without any problems, or whether certain Member States, who voted in favor of the piece of legislation, had a difficult process of transposition on a state level after that. The general expectation of this hypothesis is that there is a connection between the positive vote and the successful transposition after the voting process.

Even though the independent variable (in this hypothesis – the degree of consensus at Council meetings) can be described as an effect of compliance, the research of this hypothesis in Chapter 4 will focus on relationship with the act of compliance. The high degree of consensus on Council meetings can be perceived as a compliance enhancer because when the topic of discussion on a particular Council meeting enjoys a high degree of consensus, that would mean that this topic doesn't affect the Member States in a negative way and they are willing to work on it without any extra pressure from the EU institutions.

Recent trends in political research have evolved as much as to allow consideration of social factors as the driving forces behind the act of compliance. The current research continues in the same fashion by presenting its second hypothesis, which assumes that the opinion of European citizens about the European Union is what matters when it comes to explanation of compliance.

Hypothesis B: High approval of EU by Member States' populations leads to high compliance with EU law.

The belief that public opinion is one of the main reasons for variations in compliance is supported by many political researchers. The assumption of the present hypothesis is in tune with this belief. The research question seeks for reasons causing compliant behaviour by Member States. However, not only the high degree of consensus on Council meetings can influence the EU-friendly political attitude of Member States. The present hypothesis follows in the footsteps of theoretical literature and common beliefs. A rather logical one, the present hypothesis focuses on the degree of approval of the EU as an institution by Member States' populations. Researching the independent variable, which in this hypothesis will be the degree of approval of Member States' citizens, will serve as a basis for further proof of the importance of this factor for the degree of compliance of Member States with EU law.

Unlike the previous hypothesis, the present one chooses to examine the public mentality and the social mood swings and their relationship with the phenomenon of national compliance with international law. The literature review in Chapter 2 exposed a major shift in the explanations of compliance in the late 1990s, when Duina and other political researchers had introduced the possibility of an existing relationship between the public opinion towards the European Union and the level of compliance of Member States with EU law. This possibility allows the present research to follow up what has been done so far in this area and continue to explain the phenomenon of compliance by developing a hypothesis, which is based on said possibility. As Duina argues, the political attitude of state actors is important for shaping the public opinion towards the Union. State leaders have certain incentives that shape their political discourse. Re-election is a widely spread goal for politicians and state leaders not only in Europe, but worldwide. When your actions determine your future, you act smart and sometimes you even resort to populist techniques as

to do what is being requested by your voters in order to please them. In a hypothetical scenario where your voters do not approve of the EU institutions and their attempts to redesign your national policy so it meets the requirements of their regulations, it will be hard for you as a state representative to play it EU-friendly and say "yes" to whatever has been requested from you by the Union. Following the public opinion and serving the needs of your society would raise the possibility of re-election; pushing an unpopular piece of legislation would not. Moreover, not only your political credibility suffers from introducing an unpopular piece of legislation, but the process of policy implementation becomes significantly harder as the changes supporting the introduction of the new policy will inevitably trigger a negative reaction from the public. Respectively, an EU-friendly society will embrace your decision to follow the prescribed behaviour and transpose as much EU legislation as your capabilities allow you to.

Hypothesis C: Member States that have been a part of the European Union for a long time are more likely to comply with EU law.

The time factor has been perceived as a strong reason for variations in the degree of compliance of Member States with EU law. Many authors have distinguished between old and new Member States in order to expose an existing relationship between the time factor and the degree of compliance. Despite the fact, that the trends include distinguishing between EU-15 Member States and the countries from the recent accession waves, the principle of juxtaposing old versus new players is valid for smaller groups of countries as well. However, the present research will not divide EU-15 to groups in order to compare the transposition success of old and new Member States; instead it will regard EU-15 as a whole group. Further on, the research of the independent variable (in the case of Hypothesis C, this would be the time spent as an EU Member State) will provide the present study with enough information to either prove or disprove the relationship between the variables. Some argue that the longer a country has spent as a part of the Union, the

more it adapts to the organizational culture and complies more with the common set of rules. The present hypothesis follows the same path by juxtaposing the compliance degree of countries that have spent more time as EU Member States and countries that have recently joined the EU.

One of the most important requirements of political research is the precision and accuracy of information. The present study engages in researching the possible reasons for variations in the compliance level of Member States with EU law. For doing so, it will require gathering information about the political relationship between the Member States and the European Union. However, this relationship is very broad in terms and can be interpreted in many ways, but the most important step is to choose the best term for the purposes of the present research. Information about political behaviour towards the EU can be gathered from many sources – the trick is to choose the most relevant one. Since the phenomenon in research is the act of compliance, it would be most appropriate to focus on the transposition stage of EU law by Member States. But even though the scope is narrowed down to just one stage, it is still very broad and cannot provide precise information, required by the current study for further testing its hypotheses. What needs to be done here is to follow the footsteps of previous researchers in this area, who have chosen to focus on a single event of the transposition stage. This event is presented as a valid information source in many studies, including König and Steunenberg. In general, recent literature offers many reasons for choosing the consensus on Council meetings as an explanation of the variations in the compliance curve of Member States. For further developing the operationalization of Hypothesis A, the current study will stick to Steunenberg's belief that researching the transposition stage of selected EU law provides more detailed and precise information about a Member State's willingness to comply than researching the number of infringement cases against Member States. Moreover, Hypothesis A requires a detailed research of the meetings of the Council of Ministers, which means that attention must be paid to the voting process where the piece of legislation chosen by the present research has been adopted.

The public opinion is important for EU institutions because it presents a picture of the grounds where EU law will be applied. Due to many reasons, such as social feedback, the EU develops and maintains several institutions for monitoring and measuring public opinion. Eurobarometer is one of them, serving its main purpose of providing the Commission with detailed reports and surveys on various social events, including public opinion. For researching Hypothesis B, the present research will rely on Eurobarometer reports in order to collect statistical data about the public opinion of European citizens towards the EU.

For researching the degree of compliance, the present study chooses to focus on examining the process of transposition of a single directive for one main reason. As Zhelyazkova and Torenvlied argue, the detailed research of directive transposition on provisional level provides more information about the willingness of a Member State to comply, because all Member States start from the same point, namely the single directive. The choice of researching a single directive comes from the fact that compliance can be seen more clearly in the act of adherence to the provisions of a piece of legislation that is the same for all countries instead of calculating the average success of transposition of several directives, due to the fact that transposition success may vary since some directives are closer to the political preferences of certain countries. Regulations impose their provisions without any options of defecting. Directives can be delayed or even not transposed, since there is room for taking decisions on national level; however, they are still binding documents. The difference between being a good team player in the binding and the non-binding area is that an eventual deviation from the prescribed behaviour for a non-binding document (discussed below) does not indicate non-compliance, neither does the transposition of that non-binding document. The transposition of directives however can be seen as an act of compliance, because Member States agree to overcome or ignore their limited capabilities or national preferences instead of defecting – the option of defection is possible in the process of transposing

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directives. Applied to the non-binding document transposition, the positive attitude towards a single document might indicate compliance, but it also might indicate a coincidence between the national preferences and the preferences of the Union.

Chapter 4: RESEARCH DESIGN

After the previous chapter presented and explained the hypotheses, the research can continue with constructing a specific research design for testing these hypotheses. The present chapter brings more clarity about the actual process of hypothesis testing by introducing the research design and operationalization. Broken down in subsections containing the dependent and the independent variables, Chapter 4 takes the next step towards the actual research process.

There are many types of research designs, developed and customized for serving the needs of different researches. Based on the type of research and its specifics such as unit of analysis and variables, the approach of these designs varies in many terms. While some research designs focus on examination of isolated one-time occurrences and cases, others widen their scope to multiple cases for selected time periods. One of the research designs, developed for data aggregation on complex units of analysis over long periods of time is the cross-sectional design. This particular type of research design aims at presenting data on certain events occurring as a result of actions taken by entire populations at a predefined time instead of researching the behaviour of the individual. This approach makes the cross-sectional design a convenient tool for conducting researches on international events due to the fact that it takes in consideration the general public behaviour towards international events such as EU directives, for example. Being a common non-experimental design, the cross-sectional design has been widely used and widely improved. Even though it still has negative sides and considerable flaws, its general structure responds well to the requirements of the present research; the several questions supporting the three hypotheses can be answered by using the cross-sectional design for public behaviour examination as well as aggregating data for Council meetings. The main advantage of the cross-sectional design is that the research of the specific phenomenon (in the case of the current study – the factors influencing the act of compliance) is performed

without conducting experiments, which means that the observation is not distracted by time discrepancies or other negative events (Buttolph Johnson et al., 2007). The external validity of the cross-sectional design is generally improved by that fact. However, the internal validity suffers. For further maintaining the external validity, the cross-sectional design requires juxtaposing nearly equal comparison objects, which in the case of the present research will be represented by EU Member States. Even though one cannot assume that two genuinely different countries can be perceived as equal, the current study will ignore the differences between Member States in order to focus on the possible relationship between a single difference (the public opinion towards the Union instead of the reasons for the variations in this public opinion) and the act of compliance. In general, the use of the cross-sectional design allows the current study to draw valid conclusions on national behaviour after a complete and consistent data aggregation.

Since the goals of the present research and its three hypotheses require focusing on statistical data of population behaviour as well as specific attitude triggered by multiple political events (percentage of EU positivism *per capita* for Member States, degree of consensus on Council meetings, provisions transposed by Member States, etc.) and not focusing on single isolated cases, the most appropriate research design is the cross-sectional design. Obviously, choosing different research designs such as conducting a randomized controlled experiment would not provide relevant data for drawing conclusions about the hypotheses, nor would do a single-case study, since a conclusion cannot be drawn based only on a single Member State's behaviour. Even though conclusions can be drawn on aggregated data about less than all Member States, the single-case study design still fails to meet the requirements of the current research. However, the cross-sectional design will successfully serve the purposes of the research by providing a sufficient approach towards data aggregation and analysis.

The current study will rely on the framework of the cross-sectional design as it

seems reliable enough and there is enough accessible data for an aggregate data analysis which will make possible measuring both the independent and the dependent variables. The fact that conclusions will be drawn from statistical data is going to threaten the external validity. The approval of EU by Member States' citizens has been measured for recent years as well as for periods in the past. If there are many cases of increased approval of the functions and purpose of EU by Member States' citizens, followed by increased adoption of EU law by Member States, then the hypothesis elaborating on a clearly linear relationship between how fond are the people of EU and how well they accept its laws and regulations will be proven correct.

The same approach will be used for further researching the connection between the degree of consensus at Council meetings and the level of Member States compliance in the first hypothesis. The truth behind the act of compliance can be revealed by researching a certain event where consensus might occur. After this study presents the reader with a clear picture of the nature the Council meeting where the Race Directive was adopted, the next step would be employing statistical data regarding the degree of compliance of the Member States (measured in count of transposed provisions) for the same time period.

After the choice of the most appropriate research design has been done, the next step is to outline the actual units of analysis and variables that will be tested further on. The present research is curious about the specific events influencing the degree of compliance of EU Member States with EU law. A closer look at the research question and the hypotheses can help presenting the units of analysis and the variables which are to be tested. Since the current study works towards understanding of the driving forces of national compliance with prescriptions issued by an international institution, the unit of analysis will be the nations, or the Member States. Their behaviour towards the EU is being examined, so the nations become the unit of analysis in the research question. When it comes to the hypotheses though, the units of analysis are different.

Let's examine Hypothesis A: the consensus on Council meetings leads to high degrees of compliance. The unit of analysis here is the Council, because the hypothesis is interested in what is happening on Council meetings. The further research of this hypothesis requires identifying the independent variable which will be applied to the dependent variable in order to either prove or discard the assumption of the hypothesis that consensus on Council meetings leads to high degree of Member State compliance with EU law. So what is the independent variable here, which will be measured later on? Since the unit of analysis in the present hypothesis is the Council of Ministers and the specific events occurring on the Council meetings are expected to affect the degree of compliance of Member States with EU law, the independent variable is the exact type of behaviour on Council meetings, or, as the hypothesis puts it, the degree of consensus. How can this be measured? By extracting data about the actual voting process for the Race Directive and its provisions, the current study will provide a statistical background for the Ministers' stance towards the provisions. Once this has been done, the research can continue with juxtaposing the country-specific Ministerial behaviour on Council meetings with the transposition success of Member States of the Race Directive provisions.

Hypothesis B deals with the public opinion – the high degree of EU approval leads to high degree of compliance. Here, the unit of analysis will once again be the Member States, exactly the same unit of analysis as in the research question. What attitude do Member States' populations have towards the European Union, how does this attitude affect the willingness of these Member States to implement EU law – these questions will be answered by analyzing the public opinion. The independent variable in Hypothesis B contains the type of attitude expressed by the public towards the European Union. The dependent variable here is the degree of compliance of Member States with EU law; the same dependent variable as in Hypothesis A.

Hypothesis C takes in consideration the difference between the compliance

degree of Member States that have spent a different amount of time as EU players. The unit of analysis here is the same – the Member States. The time that a country has spent as an EU Member State is the independent variable which will be researched further on in Chapter 5 in order to seek for a relationship between the time factor and the degree of compliance.

Naturally, the testing of these variables needs to be conducted in a specific time period, which must be the same for researching the dependent variable. Choosing different time periods for researching the independent variables and the dependent variable will inevitably lead to imprecise results and wrong conclusions. The specific political behaviour of a country is directly affected by the events occurring in the same time period. Even though there are many political events with long-term impact, the nature of the independent variables requires setting the same time period for data collection. The degree of consensus among Ministers affects the current state affairs immediately. So does the public opinion. Therefore, focusing on the same time period for both variables is a top requirement for the clarity and precision of the current research. The present study focuses on the time period between 2000 and 2004 when EU-15 Member States have transposed the provisions of the Race Directive.

The degree of consensus on Council meetings will be examined for the same time period as the level of compliance of the relevant Member States. This criterion preserves the precise nature of the present research by focusing on a time period, in which certain events in a Member State and in the Council are most likely connected and influenced by the same state of national political mood. As already stated, if the variables are tested using data for different time periods, then there is a high chance of corrupted outcome. Demonstrating high levels of compliance by a Member State in a certain period could not be explained with a high positive vote by the same Member State ten years later after the period, in which high compliance was measured. But if there is a high positive vote and a high count of implemented EU regulation by a certain

Member State for the same time period, then a strong possibility of an existing connection between the two events is at hand. The same goes for researching the second hypothesis, where the EU-positivism can also fuel up EU-friendly domestic policy. Only if there is a high rate of EU approval and adopted EU regulations in a certain Member State for a certain period, a conclusion about the correlation between the two events is possible. Making such conclusions based on researching EU approval for a certain period and count of adopted EU regulations for a different period would not be precise and would produce impure outcome.

The following subchapter presents the operationalization of the hypotheses. Indicators have been introduced for each variable in order to test the relationships between the variables. Each indicator follows the principles of validity and reliability. An indicator is reliable when it brings up the same or nearly the same results after multiple testing and re-testing of the same situation. In addition, an indicator should maintain internal and external validity. Internal validity requires the indicator to represent a relevant measurement of the test subject in order to improve the final outcome. External validity allows the results from measuring the indicator to be applied to other research subjects. Divided per variable, the indicators featured in the present research are supported by explanations of their reliability and validity.

4.1. OPERATIONALIZATION

The operationalization stage of the current study continues with presenting the variables which are going to be tested. United by the same dependent variable – the Member State compliance with EU law, the hypotheses developed and explained in Chapter 3 feature three independent variables, which will be researched in detail further on. How exactly will they be tested? The present sub-chapter contains explanations and specifics about the way in which the present research will extract, compile and present statistical data in order to provide grounds for either proving or disproving the research hypotheses. In

short, the act of compliance will be measured by the level of successful transposition of the provisions of the Race Directive by Member States for the period between 2000 and 2004. The consensus on Council meetings will be measured by researching the voting process on the June 2000 meeting where the Race Directive was adopted. The time factor of EU membership will be measured for all Member States without dividing EU-15 to groups. And last but not least, the public opinion – the present research will illustrate the variations in public opinion towards the EU for the period between 2000 and 2004 by presenting data from statistical organizations employed by the EU for the purpose of providing EU institutions with feedback about their actions.

The measurement of relationship between variables can be performed in various ways. Depending on the type of data, several statistical methods are applicable to the current study. A widely used method, the Pearson correlation comes at hand in cases where both variables can have ranging values. The essence of this method is to expose a positive or negative bivariate relationship between the researched variables by using a gamma ranging from -1.00 to +1.00 where values close to ± 1.00 mark a strong positive or negative relationship and values close to 0.00 indicate absence of relationship. This method will be applied in the testing of the variables featured in Hypothesis B – EU approval and transposition success. In hypothesis C, the correlation method will be used for exposing a state-specific relationship between the number of EU membership years and the number of transposed provisions of the Race directive. However, the Pearson correlation cannot be used for exposing the relationship between the variables in Hypothesis A due to the fact that one of the variables (the type of vote on the Council meeting in June 2000) will have a constant value. The Race Directive was adopted with unanimity on the Council meeting in June 2000, thus the independent variable in Hypothesis A will be constant. The relationship between the degree of consensus and the transposition success will be exposed using a different method explained further in the present chapter.

4.1.1 COMPLIANCE

The act of compliance is featured as the dependent variable in the three hypotheses. The actual research and observation of this variable requires a theoretical definition of the phenomenon. As mentioned in Chapter 1, the act of compliance refers to the process of adjusting one's behaviour in order to follow prescriptions for this behaviour. In other words, the act of compliance as a dependent variable will be regarded by the present research as transposing the provisions of the Race Directive on national level as well as exceeding the requirements by the transposed law. Any cases where the requirements of the EU law have not been met will be regarded as cases of non-compliance.

The present research collects data from Eurobarometer reports in order to provide statistical background for testing the variables. The process of collecting and presenting data about the variations in the degree of compliance among Member States over the years requires isolating a certain time period for data collection – the period between 2000 and 2004. As already stated in chapter 3, this is crucial for the outcome precision of the research. Moreover, since this variable will be tested in both hypotheses, it is even more important to choose a convenient time period so that data collection for the independent variables could also be performed. If there is enough information about the dependent variable and one of the independent variables, but scarce and incomplete information about the other independent variable, the overall result would fail to present a clear picture of the relationship between these variables. Even though the testing can prove an existing relationship between the degree of compliance and the degree of EU approval by the public, it might fail to expose the relationship between compliance and the degree of consensus on Council meetings just because the chosen time period for data collection was not precise and there was not enough data for testing the independent variable.

This dependent variable will be equally measured for the three hypotheses.

The type of EU legislation used for the data aggregation process will not include mandatory legislation such as treaty provisions and EU regulations. Instead, the present study will focus on the provisions of the Race Directive and their history from the voting procedure to the transposition phase. After presenting the data on provision transposition, the current study will continue with presenting data on the other variables featured in the research hypotheses, namely – consensus on Council meetings, the public opinion towards the EU and its organizations, and the years of EU membership per country.

The variable of Member State compliance with EU law is used in the three hypotheses as the dependent variable. As stated in Chapter 3, only the transposition of EU directive provisions will be used as a compliance measurement technique. Partially following Treutlein's steps in her 2007 article, where she relies on compliance literature for her choice of examining Member States' failure to comply with EU directives as a compliance measurement tool, the current study will partially employ the same sources for its purposes, although the final goal is different than Treutlein's goal. Since the European institutions have shown their appreciation of transparency, and various programs specializing in international political and social monitoring provide them with summaries and statistics about Member States' behaviour in, among other areas, the EU policy implementation stage, the research of this variable will be made possible by examining these summaries and statistics. Contrary to Treutlein's argument that "quantitative compliance studies count member states' expositions to EU infringement procedures" (Treutlein, 2007, pp. 5-6), the current work focuses on the other side of the issue, namely the actual transposition of the provisions of the Race Directive by Member States. As mentioned in Chapter 2, the infringement procedures do not provide precise information about a Member State's willingness to comply. Steunenbergh's decision was to look at the implementation stage of EU law, not at the punishment stage. The present research will follow the same path by extracting and compiling data about transposition of the Race Directive

provisions instead of counting the cases where a Member State has been punished for not being able to implement the piece of legislation on time.

The Race Directive consists of 19 provisions. The present research focuses on 12 of them. This choice is based on the available results in the literature mentioned in the data sources subchapter. The data aggregation for the transposition success of Member States with the Race Directive will be performed about the following provisions:

Article 2: *Concept of discrimination*

Member States are required to follow the definitions for direct/indirect discrimination and harassment, stated explicitly in the Race Directive.

Article 3: *Scope*

Member States should apply the provisions of the Race Directive in the both the public and private sector.

Article 4: *Genuine and determining occupational requirements*

Member States should ensure that there is no difference of treatment in the occupational sector based on characteristics related to race and ethnic origin.

Article 5: *Positive action*

The principle of equal treatment shall not prevent Member States from adopting measures for compensating disadvantages linked to racial or ethnic origin.

Article 7: *Defense of rights*

All persons who feel that their rights have been violated based on racial or ethnic origin should be able to defend their rights or be defended by associations, organizations or other legal entities.

Article 8: *Burden of proof*

The respondent should provide evidence that there has been no violation of the principle of equal treatment in cases where persons feel discriminated and file a complaint before a court.

Article 9: *Victimization*

Member States should ensure that there is no adverse treatment to persons

who have filed a complaint for violation of the principle of equal treatment.

Article 10: *Dissemination of information*

The provisions of the Race Directive should be made known to all persons concerned.

Article 11: *Social dialogue*

Member States should promote social dialogue between the two sides of the industry.

Article 13: *Bodies for promotion of equal treatment*

Member States are required to designate a body for promotion of equal treatment.

Article 17: *Report*

Member States should provide the Commission with detailed reports on the transposition success of the Race Directive.

The testing of this variable will be only made possible after the introduction of an indicator for the state-specific degree of compliance among Member States. The present research assumes that for the chosen time period, the provision transposition by Member States could vary. For measuring the variations, the present research introduces the following indicators – if a Member State transposes a provision without complications, or even exceeds the requirements of the provision, the code for this provision would be 1; if the transposition of the provision is unsuccessful, it is coded as 0. Presented this way, the indicator of compliance becomes easy to measure, but is it valid and reliable? The logical connection between the high count of transposed provisions and the high degree of compliance reinforces the validity of this indicator. The strong reliability of this indicator comes from the fact that successful transposition or exceeding the requirements speaks well for the intentions of the Member State to comply with the directive. This indicator is valid because indicated this way, successfully transposed provisions can be easily measured per country. It is also reliable, because it provides a clear picture of the transposition success of a specific Member State for a certain period of time. Further on, for the purpose of presenting precise outcome, the

degree of compliance will be measured by calculating the average percentage value of provision transposition by each Member State for the chosen time period. In other words, the value for this variable will present how many provisions have been successfully transposed out of the total count of 12 researched provisions.

4.1.2 CONSENSUS ON COUNCIL MEETINGS

Explaining the actual meaning of the term consensus is required for further developing the variable testing. The present study comes up with a genuine definition of consensus – it assumes that the consensus on council meetings represents a general collective agreement and sharing the same stance on a particular issue among Ministers. This allows for the introduction of another indicator in order to make the actual testing possible. Since Hypothesis A suggests that the high degree of general collective agreement on discussed issues is connected to the high degree of compliance by Member States with EU law, the logical indicator for measuring this relationship would be the type of vote by each Minister regarding the provisions of the Race Directive. But is this indicator valid? The fact that there are no obstructions or negative votes means that Ministers demonstrate a positive attitude towards the particular topic in discussion. Such positive attitude would not be demonstrated if the discussed issue conflicts with the national preferences of Member States, because the Ministers will most likely choose to vote against the issue and preserve their national sovereignty. A positive vote on a potentially harsh topic would also mean that Member States are ready and willing to ignore the fact that the will of the Union differs from their own national will, and instead of obstructing the provision, choose to follow the team rules even though they could require major changes in the internal administrative, political or economical structure. In addition, the discussed indicator is also reliable, because of the purely technical fact that more positive votes on different topics mean more willingness to follow the prescribed behaviour.

The testing of this variable will consist of collecting data and statistics about the Council meeting in June 2000 where the Race Directive was adopted. The next step will seek a possible connection between the high degree of consensus reached on the meeting, and the high count of transposed provisions by Member States for the chosen research period. The research on this hypothesis shows that the vote on the Council meeting in June 2000 was unanimous, thus one of the indicators in this hypothesis will be constant. This prevents the current study from applying the Pearson correlation method used in the rest of the hypotheses. Instead, the present research introduces an indicator for measuring the degree of consensus on the Council meeting. This indicator will focus on the voting procedure for the chosen directive. Every positive vote will be marked as 1; every negative vote will be marked as 0. If there are 15 positive votes, that implies that the following transposition phase of the adopted directive will be supported by a strongly compliant behaviour by the Member States. The nature of the indicator is perceived by the present study as solid in validity, because the consensus itself suggests that governments are displaying high team spirit. The fact that the link between the number of topics that consensus has been reached on and the positive attitude towards EU policy implementation is somewhat obvious only improves this indicator's reliability.

The Pearson correlation cannot be used for measuring the relationship between the variables featured in Hypothesis A. The two variables represent the degree of consensus on the Council meeting in June 2000 and the transposition success of Member States with the directive adopted on that meeting. Since all Ministers have voted positively and the Race Directive was adopted with unanimity, the Pearson correlation method cannot be applied due to the fact that one of the variables will be constant – all 15 values for the independent variable will be the same. For measuring the relationship between the consensus and the transposition success, the present research assumes that full consensus leads to perfect transposition success. However, this measurement needs to be more precise since the values are too general. The

dependent variable in Hypothesis A will be presented exactly as in the other hypothesis – by calculating the percentage of successfully transposed provisions by each Member State. The next step will be to introduce a scale which can expose the relationship between the two variables more precisely. The present research chooses to rely on the gamma value scale used by Blaikie (2003). This scale explains the relationship between two variables by introducing several percentage based values. In the case of Hypothesis A, where the relationship between consensus and compliance is being measured, the scale will be as follows: No relationship (average value of all EU-15 Member States transposed provisions is 0%); Negligible relationship (average value is in the range between 0.01% and 0.09%); Weak relationship (average value is between 0.10% and 0.29%); Moderate relationship (average value is between 0.30% and 0.59%); Strong relationship (average value is between 0.60% and 0.74%); Very strong relationship (average value is between 0.75% and 0.99%); Perfect relationship (average value is 100%).

4.1.3 EU APPROVAL

The present study perceives the act of EU approval as an act of understanding and acceptance of the function and purposes of the European Union as an organization by the populations of Member States. Since the existence of feedback for the functioning of the EU institutions is practically mandatory for maintaining said functioning, there are plenty of sources that can provide the current study with sufficient data about the public opinion towards the European Union. The data aggregation will be made possible by relying on these sources; however the data analysis requires the introduction of a specific indicator which would help distinguishing between high and low degree of EU approval. When dealing with large units of analysis (in this case, the populations of EU Member States), the most appropriate indicator for measuring the independent variable would be the percentage of Member State population that expresses the independent variable – EU approval. Quite measure-friendly, this indicator is also valid, because the usual EU-positive

population would most likely embrace the idea of implementing more EU legislation than an EU-skeptic population. The reliability of this indicator stems from the fact that populations affect the political attitude of their leaders. If the public wants to be in tune with the European Union, the leaders should follow because that would provide them with incentives such as re-elections. On the contrary, if the public wants to preserve the national sovereignty and avoid EU interference in national politics, the state leaders would most likely take the same stance towards the Union.

The aggregate data collection for testing this variable featured in Hypothesis B will be based on international surveys about the general opinion of societies towards the EU. A connection between the degree of approval of these societies and the degree of compliance of respective Member States will prove or disprove the hypothesis that higher public approval of EU institutions leads to more willingness to play by the rules of these institutions. If the citizens of Member States are fond of the EU and they approve its functions, perhaps they would affect the leaders of Member States in a positive manner. Thus the state leaders will adopt more regulations that come from an institution widely approved and welcomed by the population of their country.

Elaborating more on this hypothesis will require resorting to a similar approach as the one presented for testing the variable featured in Hypothesis A. First of all, the indicator for the dependent variable will remain the same – the level of compliance will be regarded as positive when all provisions of the Race Directive have been transposed without any problems. But what would lead to reaching positive degree of compliance or at least going as near as possible to this stage? Another indicator for the dependent variable will help answering this question. In the present hypothesis, this will be the degree of EU approval of Member States' populations. In order to measure approval of EU, the present research needs to provide a valid indicator for the general opinion of a whole population. As stated, the ground for measuring societal opinion in this thesis will be a compilation of national surveys about the public opinion of

Member States towards the EU. Hypothesis B poses a question about the image of the Union in the eyes of EU citizens, thus a valid indicator for this variable will be the percentage of approval of EU institutions by Member State citizens. This indicator gains validity because of the clear connection between high EU approval and high compliance. If your society is EU-friendly, then it will let you transpose the provisions of the directive more easily, while a more EU-skeptical society will act against your willingness to follow the EU-prescribed behaviour. As quoted by Duina (1997), Meritt and Puchala (1968: vii) argue that modern leaders face more and more difficulties to deviate from the prescribed behaviour, as the idea of Europe gains popularity, thus converting more and more believers from European societies, who also influence their leaders' actions. The fact that such trends were detected in the 1970s brings up the assumption that, following the global political and socio-economical development, those EU-friendly trends are more likely not only to still exist, but to thrive in the environment of increasing integrity of today's modern state. Moreover, the reliability of the public opinion indicator originates from the fact that democratic societies do have a say on their leaders' actions since the global fall of communism and it is highly improbable that a democratic state could maintain a policy discourse that is in conflict with its society's political mood swing. Not to forget Duina's belief regarding the personal preferences of state leaders, who often seek re-election with their public-friendly and sometimes even populist political discourses.

The mere act of presenting statistical data is not enough for providing solid ground for conclusions. In order to conduct a statistical research as precise as possible, the current study chooses to introduce a statistical method for calculations. The specific statistical method used for testing the variables of the current study is the Pearson correlation method. A widely used quantitative measurement method, the Pearson correlation method applies to cases where a possible dependency between two variables has to be measured. This method is applicable to Hypothesis B since the variables presented in the hypothesis are assumed to be connected. For measuring the dependency

between the degree of public approval of the EU and the transposition success of Member States with the Race Directive, the current research will rely on the correlation scale introduced by Pearson, where the relationship measurement indicators range from -1.00 to +1.00. The strength of the relationship between the two variables can be perfect (when the gamma is ± 1.00 – perfect positive for +1.00 and perfect negative for -1.00), or non-existent (when the gamma is 0.00) (Healey, 2002). As mentioned, the degree of compliance will be measured by calculating the average percentage value of transposed provisions by each EU-15 Member State for the research period. EU approval will be similarly measured. For computing gamma, the present research collects data on the degree of EU approval from Eurostat reports for the years from 2000 to 2004 and the transposition success of Member States with the Race Directive based on the Commission communication and the report by Duvel et al. Both variables will be presented using the same measurement – percentage. The degree of EU approval for each Member State will be presented by calculating the average value for the research period, based on positive responses to the question whether the EU membership is a good or bad thing. In addition, the transposition success will be measured based on the number of provisions successfully transposed by each Member State. Since the researched reports on the transposition success include a total amount of 12 provisions (Preamble and 11 provisions), the percentage for successful transposition by each Member State will be measured by accepting 12 transposed provisions as 100% successful transposition and 0 transposed provisions as 0% successful transposition. The introduction of a single measurement for both variables is required for a clear and precise outcome.

4.1.4 YEARS OF EU MEMBERSHIP

The long years of EU membership are believed to have an effect on the political attitude of the Member States. The present hypothesis engages in constructing expectations whether this effect causes Member States to change their degree of compliance with EU law. The independent variable in this hypothesis – the

years of EU membership – will be measured for all EU-15 Member States, without dividing them to groups. The time factor can be perceived as reliable because it shows how the number of years under the EU flag has influenced the political behaviour of Member States towards the rules of the EU. The external validity of this indicator is improved by the fact that it has already been used in research literature but for different control groups and proven usable.

The starting point for measuring the time factor in Hypothesis C is 1952, the year when the Treaty of Paris, signed by France, Italy, West Germany and the Benelux countries (Belgium, Netherlands and Luxembourg) came into force, thus establishing the European Coal and Steel Community. The end point is 2004, the first year after the deadline for transposing the provisions of directive 2000/43/EC.

4.2 DATA SOURCES

The present subchapter outlines the main sources for data aggregation divided by variables. First, the researched directive and the supporting reports on its transposition by the Commission as well as other reports will provide enough information for empirically testing Hypothesis A. Second, the public approval for the research period will be monitored by examining statistical surveys by Eurobarometer. The third variable – the time factor – will not require data sources as its nature allows a simple count of the years of EU membership to provide enough data for empirical testing.

DIRECTIVE 2000/43/EC

After the adoption of the Race Directive, several organizations and researchers have provided statistical feedback for the transposition success of its provisions. In 2006, the European Commission submits a communication to the Council and the European Parliament where it presents the application of

the Race Directive. This communication mainly outlines the good practice and the cases where Member States have exceeded the requirements of the Race Directive. Broken down to provisional level, the communication consists of detailed data about EU-15 Member States' progress in the transposition phase of the Race Directive including the period from 2000 to 2006. Despite the difference in the time frame, the present research will only rely on statistical data for the period from 2000 to 2004.

Duvel et al. go down the same road with their report from 2004 where they also present the transposition success of the Race Directive among EU-15 Member States. Again, the report is broken down to provisional level, thus providing detailed information about each Member State's progress in the transposition phase of the Race Directive for the period from 2000 to 2004.

Another very important source of information is the annual report on the transposition success of the Race Directive, presented by the European Monitoring Centre on Racism and Xenophobia (EUMC). Established in June 1997 and situated in Vienna, the EUMC studies the specific developments of such phenomena as racism and xenophobia and provides relevant statistical information for further research as well as feedback for social organizations. In February 2007 the EUMC was replaced by the Fundamental Rights Agency (FRA), but during its functioning period, it provided, among other data, sufficient information about the transposition success of the Race Directive. The present research examines not only the Commission communication to the Council and the European Parliament and the report by Duvel et al., but also the annual EUMC reports on the Race Directive transposition by Member States and extracts statistical data about the implementation success of its provisions in order to provide statistical material for testing the two hypotheses.

CONSENSUS ON COUNCIL MEETINGS

The transcript from the 2269th Council meeting contains detailed information

about the debates over directive 2000/43/EC as well as the voting process and the types of vote by each Member State. The present study will rely mainly on this source for providing the necessary information for testing Hypothesis A.

Zhelyazkova and Torenlvlied design a hypothesis based on their assumption that conflict on Council meetings increases the degree of compliance among Member States. For testing this hypothesis, they take data from the "Decision in the European Union" (DEU) data set. As stated above, the current study features a slightly different hypothesis about the effect of Council meetings on compliance. The source, however, provides information, relevant to the goals of the present research as well, thus it will be used for extracting statistical data in order to test the variables featured in the hypotheses.

EU APPROVAL

Receiving feedback for your actions helps you perform better and realize where you went wrong last time. For its actions, the European Union relies on different statistical agencies to provide them with feedback from the EU Member State citizens and national organizations. Somewhat mimicking Newton's Third law of Motion, every EU action faces a reaction. Examining this reaction helps EU institutions to maintain an internationally relevant performance. Launched in 1973 by Jacques-René Rabier, the Eurobarometer program serves this exact purpose, providing the European Commission with consistent analysis of the public opinion in EU Member States.

Among their other hypotheses, Lampinen and Uusikyla (1998) also employ the assumption of a correlation between a rather positive attitude of EU Member State citizens towards the Union and the degree of implementation of EU regulations in the Member States. In their research, they include several statistical sources about relationships between different national aspects such as the degree of corporatism, and implementation failure; the present research will take under consideration Lampinen and Uusikyla's conclusions regarding

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the relationship between public EU-positivism and successful implementation of EU regulations.

Chapter 5: RESULTS

The present subchapter reveals the results from the examination of different data sources, which the current study chooses to use in order to provide statistical material for testing its hypotheses. Based on the data sources mentioned above, this sub-chapter exposes the variations of compliance among Member States as well as data about Council meetings and the changes of public opinion towards the EU. As already mentioned, the main research subject is the transposition of the Race Directive, and more specifically – its provisions. For the chosen period, many Member States demonstrate variation in compliance; moreover, the attitude of their populations towards the Union changes too. Hypothesis A fails to meet the expectation that a positive vote indicates high degree of compliance later on. Hypothesis B shows that the relationship between the public opinion towards the EU and the degree of compliance of Member States with EU law is not strong and will not hold for other cases. Hypothesis C shows that the relationship between

5.1 COMPLIANCE

This subchapter presents the variations of compliance among Member States. Since the current study grants compliance the status of dependent variable, it will be featured in the testing of both hypotheses. The previous subchapter stated the sources of information about the degree of compliance among Member States as well as the specific approach for measuring it.

In its 2002 report on the transposition measures taken by Member States regarding two directives – directive 2000/43/EC (the Race Directive) and Directive 2000/78/EC (the Employment Equality Directive) – EUMC concludes that even though some Member States tried to exceed the requirements, the overall picture was not quite good. Facing a deadline in 2003, most of the Member States had failed to fulfill their obligations and only a few had remotely reached a near-compliant status. What is more surprising is that

there are Member States that had not even made the slightest step towards law transposition.

The deadline for transposing the provisions of the Race Directive was 19 July 2003. The opening statement of the 2003-2004 EUMC report informed that by the middle of 2004 most Member States fully or partially transposed the provisions. Naturally, there were Member States that could not keep up with the deadline. In the middle of 2004, the European Commission was taking legal action against five Member States. The EUMC report was submitted in the same year when 10 accession countries were expecting to join the EU. These accession countries were also included in the report for purposes of issue comparison. The report summarizes a detailed examination of the same sectors as the ones monitored in the previous annual EUMC report from 2002 – racial and xenophobic issues in the education and employment sectors, racial crime rate and discrimination.

After the EU enlargement in 2004, the EUMC was required to include the new Member States in its annual report on the transposition of the Race Directive. This is also the first report that includes event coverage from 2004, the year when the Race Directive had finally come into force after its transposition deadline in the middle of 2003. The 2005 report registers quite “mixed messages” about the transposition of the Race Directive in means of positive and negative outcomes of the efforts of Member States to update their law on national level. While most Member States had successfully transposed the provisions of the Race Directive by the middle of 2004, there were still four Member States that were facing charges for their inability to meet the deadline. Moreover, not all Member States had succeeded to fulfill one of the provisions of the Race Directive referring to mandatory establishment of a specialized body for discrimination victims’ assistance and equal treatment promotion. In general, while some Member States were busy promoting diversity, others had informally displayed negative attitude towards immigrants.

The following results have been extracted from a communication by the European Commission to the Council and the European Parliament on the transposition progress of the Race Directive submitted in 2006. Another report on the transposition progress of Member States regarding the Race Directive, presented by Duvel et al. provides more detailed data about the success of Member States with transposing directives 2000/43/EC and 2000/78/EC. The two reports share the same approach towards examining and presenting the transposition success of Member States – they examine cases of good practice and exceeding of the requirements by Member States. As the present study states, this is regarded as an indicator of compliance. Both reports examine the transposition of specific provisions and outline the actions taken by Member States for meeting the requirements of these provisions. Some Member States have done more than the provisions had required them to do, others have done less or haven't even bothered to try. The Race Directive consists of 19 provisions, some of which are clearly expository, and others have not been included in the reports. The overall count of examined provisions in both reports is 12, including the Preamble.

According to the reports by Duvel et al. and the Commission, there is a considerable difference between the transposition success of Member States for the period between 2000 and 2004. Table 2 presents the country-specific count of correctly transposed provisions and provisions where Member States have exceeded the requirement by applying voluntary measures. If a provision is transposed correctly or exceeded, it is coded with 1; if the provision was not transposed correctly, it is coded with 0. The percentage of correctly transposed provisions is calculated based on the total count of 12 researched provisions.

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	Preamble	Art.2	Art.3	Art.4	Art.5	Art.7	Art.8	Art.9	Art.10	Art.11	Art.13	Art.17	Total	%
Austria	0	1	1	1	0	0	0	1	0	0	0	1	5	41,66%
Belgium	1	0	1	0	0	1	1	1	0	1	1	0	7	58,33%
Denmark	1	1	1	0	0	1	0	1	0	1	0	1	7	58,33%
Finland	1	1	1	1	1	1	1	1	1	0	0	0	9	75,00%
France	0	0	1	1	0	1	0	0	1	0	0	1	5	41,66%
Germany	0	0	0	0	0	0	0	1	0	0	0	1	2	16,6%
Greece	0	0	0	0	0	0	0	0	0	0	0	0	0	0,00%
Ireland	0	1	1	0	1	1	1	0	0	0	1	0	6	50,00%
Italy	1	1	1	0	0	1	0	0	0	1	0	0	5	41,66%
Luxembourg	0	1	1	1	0	0	0	0	1	0	0	0	4	33,33%
Netherlands	1	0	1	1	1	1	1	1	1	1	1	0	10	83,33%
Portugal	1	1	1	1	0	1	1	1	1	0	0	1	9	75,00%
Spain	0	0	0	0	1	0	0	0	0	0	0	0	1	8,33%
Sweden	0	1	1	0	0	1	1	0	0	0	1	0	5	41,66%
UK	1	1	1	1	1	1	1	1	0	0	0	1	9	75,00%

Table 1: Correctly transposed provisions of directive 2000/43/EC for the period 2000-2004

As seen from Table 1, the transposition success of Member States with the provisions of the Race Directive varies significantly. There are countries that have failed to transpose more than two thirds of the provisions as well as countries that have correctly transposed or exceeded the requirements of nearly all 12 provisions. The most notable examples for unsuccessful transposition are the countries of Greece (no successfully transposed provisions during the research period), Spain (successfully transposed only one provision – Article 5) and Germany (two successfully transposed provisions – Article 9 and Article 17). On the other end of the success scale, the Netherlands manages to transpose 10 out of 12 provisions and three countries – Finland, Portugal and the UK – transpose 9 provisions.

For further exposing the relationship between the degree of compliance and the variables featured in the two hypotheses, the present research calculates the average value of transposed provisions by all EU-15 Member States for the years between 2000 and 2004. With countries reaching values close to complete transposition failure and perfect transposition success, the average value for transposing the Race Directive for the research period is 46.66%. This percentage will be used further on for measuring the relationship between the degree of compliance and the consensus on Council meetings.

5.2 HYPOTHESIS A

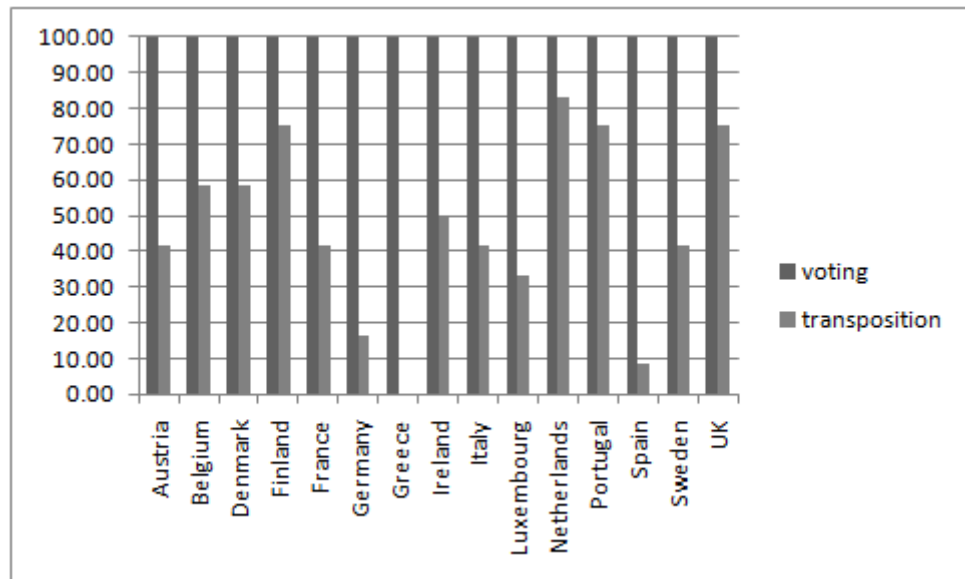


Table 2: Voting on Council meeting and transposition success

The transcript of the 2269th Council meeting on June 6 2000 in Luxembourg states that "*[a]fter just 5 months of examination, the Council was able to reach unanimous political agreement on a proposed directive implementing the principle of equal treatment between persons irrespective of their racial or ethnic origin.*" (Council, 2000) This states that directive 2000/43/EC was adopted with unanimity on the 2269th Council meeting meaning that all Ministers had voted positively on the provisions of the Race Directive. As the current research has already stated, the present hypothesis assumes that consensus on Council meetings leads to high degree of compliance. Since the Pearson correlation method is not applicable for measuring the relationship between the variables of this hypothesis, the current research has introduced a different measurement technique by assuming that unanimity or full consensus leads to perfect or nearly perfect transposition success (average percentage value of correctly transposed provisions somewhere between 75% and 100%).

The average value for transposition success of Member State with the Race Directive is 46.66% as mentioned above. According to the relationship

measurement table introduced in the Operationalization sub-chapter, this value falls in the 0.30%-0.59% marking a Moderate relationship between the two variables. This means that even if there is an existing relationship between the positive vote on Council meetings and the degree of transposition success of respective Member States, it is not strong enough to be considered as a solid fact. Moreover, this result cannot be perceived as statistically relevant as it only examines a particular case and not all cases where compliance can be measured. The fact that one of the variables has a constant value prevents the present research from applying correlation or factor analysis in order to measure the relationship between positive vote and transposition success. The purpose of the method used in the present hypothesis is to illustrate the relationship between the variables and not to defend the statistical relevance of the results due to the fact that bivariate relationship can be measured between variables and not constant values. In general, the present hypothesis proves that there is an existing, yet moderate relationship between the degree of consensus on Council meetings and the transposition success of Member States with EU law, which cannot be perceived as statistically significant due to the fact that it cannot be computed because at least one of the variables is constant.

5.3 HYPOTHESIS B

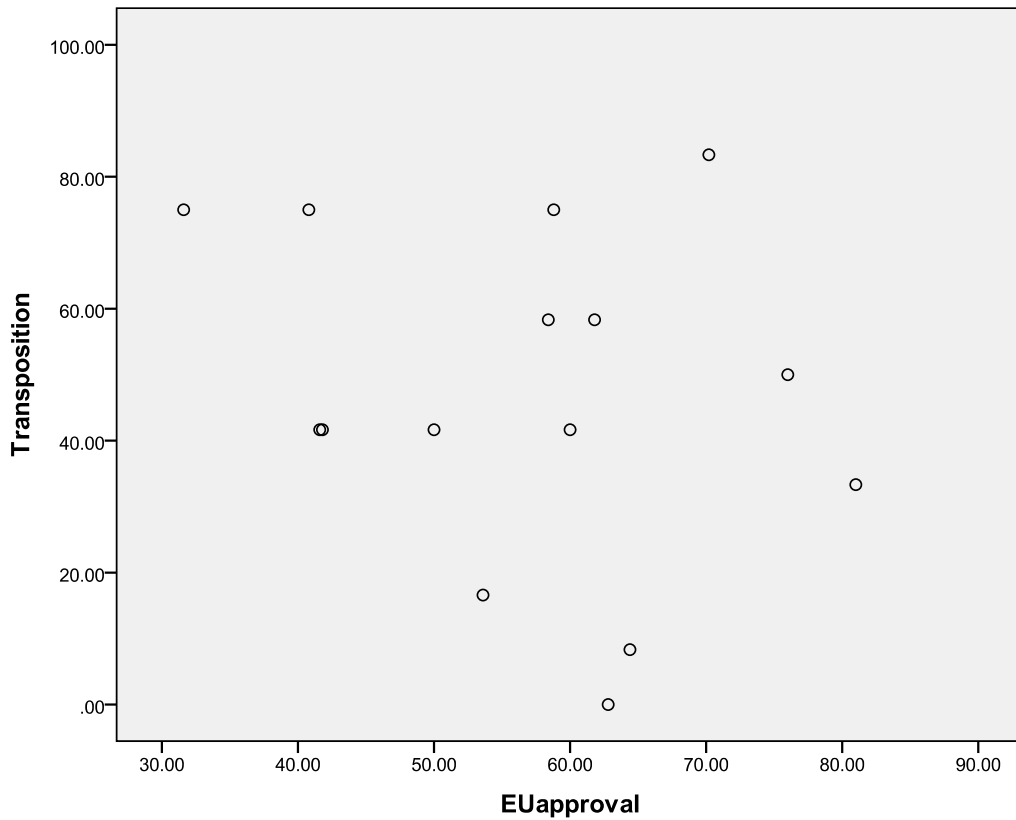


Table 3: EU approval by European citizens and transposition success with the Race Directive

The present hypothesis tests the relationship between the transposition success of Member States and the opinion of their populations towards the EU. Table 3 presents the results from the data collection based on Eurobarometer surveys for the period between 2000 and 2004 as well as the degree of transposition success of Member States for the same time period. Both variables are graphically presented with their average percentage values for each Member State. Dark gray bars indicate the degree of EU approval by Member State citizens based on annual surveys featuring the question whether or not the respondent supports the fact that their country is a part of the European Union. For testing the hypothesis, the present research takes only the positive answers to this question and calculates the country-specific average percentage value based on all five annual percentage values for the period between 2000 and 2004. Table 3 illustrates the disparity between the

degree of EU approval and the transposition success of Member States, which is quite the opposite to the assumptions of the present hypothesis that the positive opinion of European citizens about the European Union affects the political discourse of their leaders so they can transpose EU law without complications. This disparity will be examined in greater detail further on when the relationship between the two variables will be tested according to the Pearson bivariate correlation method.

The variable indicating the transposition success of Member States with the Race Directive serves the purpose of the dependent variable in this hypothesis as well as in the previous hypothesis. This variable, according to the assumption of the present hypothesis, depends on the mood swing of EU citizens. As discussed in Chapter 3, this hypothesis tests the probability of the statement that the degree of public opinion affects the act of compliance. For the actual testing of this hypothesis, several data sources come in handy for painting the picture of the public opinion towards being a part of the Union and letting it control their social and political environment. The annual surveys presented by Eurobarometer for providing the Commission with detailed feedback from Member States' populations about various EU-related topics, feature statistical data about the support of the Union by the citizens of its Member States. The current research examines the data available in Eurobarometer reports for the period from 2000 to 2004 and presents summarized state-specific data about the degree of EU approval. Table 4 presents a more detailed view of the average percentage value of EU approval by Member States' populations. As already seen in Table 3, there is a considerable variation in the percentage of EU approval among Member States. For example, on the one end Luxembourg stands out with a stunning overall result of 81% EU approval by its population; on the other end, the citizens of Member States like the UK and Finland do not see the participation of their countries in the EU as a good thing – the degree of EU approval for those countries is respectively 31.6% and 40.8%. Coincidentally, the degree of EU approval of these countries is counter-proportional to the degree of their

transposition success with the Race Directive – Luxembourg successfully transposes only four provisions of the Race Directive for the research period, while Finland and UK transpose nine out of 12 provisions each. Further on, the testing of this hypothesis will give an answer to the question whether this is a widespread tendency among EU-15 Member States or if it is an isolated case.

	2000	2001	2002	2003	2004	AVG
Austria	38.00%	44.00%	46.00%	35.00%	46.00%	41.80%
Belgium	62.00%	58.00%	60.00%	56.00%	73.00%	61.80%
Denmark	51.00%	62.00%	61.00%	57.00%	61.00%	58.40%
Finland	39.00%	37.00%	41.00%	39.00%	48.00%	40.80%
France	48.00%	50.00%	52.00%	44.00%	56.00%	50.00%
Germany	48.00%	55.00%	59.00%	46.00%	60.00%	53.60%
Greece	61.00%	68.00%	62.00%	62.00%	61.00%	62.80%
Ireland	75.00%	81.00%	74.00%	73.00%	77.00%	76.00%
Italy	59.00%	64.00%	62.00%	58.00%	57.00%	60.00%
Luxembourg	79.00%	81.00%	83.00%	77.00%	85.00%	81.00%
Netherlands	71.00%	74.00%	69.00%	62.00%	75.00%	70.20%
Portugal	61.00%	63.00%	56.00%	55.00%	59.00%	58.80%
Spain	63.00%	57.00%	68.00%	62.00%	72.00%	64.40%
Sweden	34.00%	43.00%	43.00%	40.00%	48.00%	41.60%
UK	28.00%	33.00%	31.00%	28.00%	38.00%	31.60%

Table 4: Average value of EU approval by Member States' population

The present hypothesis assumes that there is a positive relationship between the degree of compliance of Member States with EU law and the degree of EU approval by European citizens. As stated in the operationalization sub-chapter, the current study chooses to rely on the Pearson bivariate correlation method for testing the variables in order to illustrate the nature of the relationship between them. This method exposes the bivariate relationship by computing a gamma which can range in the ± 1.00 area. The relationship can be either perfect positive (when the gamma nears +1.00), perfect negative (when the gamma is near -1.00) and absent (when the gamma is 0.00). Positive relationship declares a proportional connection between the two variables – when the degree of EU approval increases, the degree of transposition success also increases. A negative relationship suggests a counter-proportional connection between the variables – increasing EU approval leads to decreasing

degree of EU law transposition. According to the assumptions of the present hypothesis, the gamma should be positive in order for the hypothesis to be proven correct. However the calculation of the bivariate relationship between the degree of EU approval and the degree of transposition success produces a result which is rather negative: $-.227$ (as seen from Table 5), thus proving that the connection between the researched variables in the present hypothesis is not positive.

		transposition	EU Approval
transposition	Pearson Correlation	1	-.227
	Sig. (2-tailed)		.415
	N	15	15
EU Approval	Pearson Correlation	-.227	1
	Sig. (2-tailed)	.415	
	N	15	15

Table 5: Pearson coefficient for bivariate correlation between EU approval and compliance

As it can be seen from Table 5, the significance of the correlation between the two variables is 0.415. Only values lower than 0.05 indicate a statistical significance of the output, which means that the present output is not statistically significant. In other words, the result from the examination of the particular case where the transposition success of EU-15 Member States with the provisions of directive 2000/43/EC is juxtaposed to the degree of EU approval by their population cannot be perceived as valid for all similar juxtapositions. When the indicator for significance (Sig. (2-tailed)) is greater than 0.05, it can be concluded that the correlation between the variables is applicable only to the examined situation.

Contrary to the assumption of the present hypothesis, when the public opinion increases, the degree of compliance will decrease. However, this correlation coefficient falls in the statistically insignificant area, which is evident from Chart 1. Only values ranging between -1.00 and -0.5 as well as between 0.5 and 1.00 can be perceived as statistically significant. This comes to say that

the results from the testing of the present hypothesis can be taken in consideration when referring to the connection between the degree of compliance and the EU approval; yet they cannot be applied universally as their statistical significance is low.

5.4 HYPOTHESIS C

The data aggregation about the variables in the present hypothesis can be seen in Table 6. There are obvious variations in the transposition success of both old and new Member States. The founding six countries have the longest EU background, spending 52 years under the EU flag. However, not all of them transpose the provisions of the Race Directive equally good. For example, there is a staggering difference between the transposition success of Germany and the Netherlands, both old Member States – as seen in the results for Hypothesis B, the Netherlands transposes the highest count of provisions of the whole EU-15 group (10 provisions), while Germany is among the underachievers with only two successfully transposed provisions. Similarly, there are differences in the transposition performance among some of the new Member States – two of the three fresh newcomers, Austria and Sweden, transpose five provisions each, while Finland, the third country from the 1995 accession wave, transposes nine provisions. Quite similar to the first group of the founding six, the 1995 accession wave displays a difference in the transposition performance, while sharing the same amount of years as a part of the EU.

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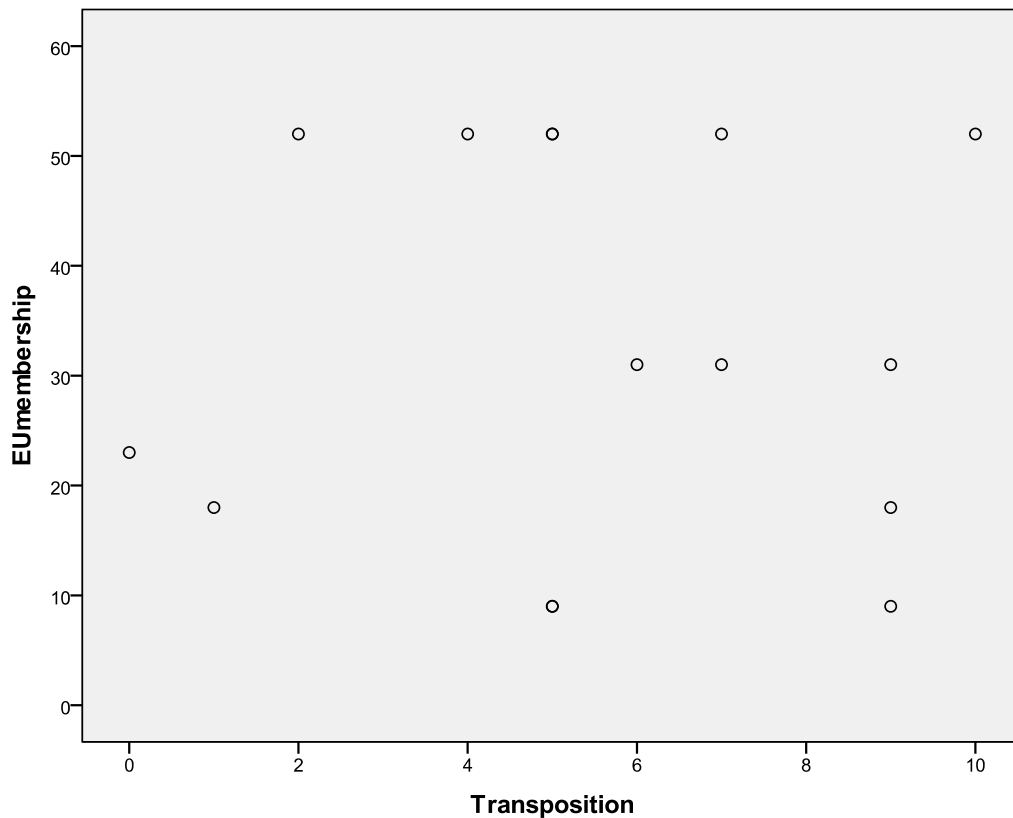


Table 6: Years of EU membership and count of transposed provisions

Having that in mind, the correlation coefficient is not surprising – after applying the Pearson method, the current study exposes the absence of relationship between the variables in Hypothesis C – as seen from Table 7, the correlation coefficient is $-.001$, which shows the lack of relationship between the variables in the present case. In addition, the statistical relevance of this result is low, since only values lower than 0.5 indicate statistically relevant results, and the significance coefficient for the current hypothesis is 0.998. Resembling the outcome of the testing of Hypothesis B, the present outcome cannot be regarded as valid for all other similar situations due to the relevance coefficient.

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		Years in EU	Transposition
Years in EU	Pearson Correlation	1	-.001
	Sig. (2-tailed)		.998
	N	15	15
Transposition	Pearson Correlation	-.001	1
	Sig. (2-tailed)	.998	
	N	15	15

Table 7: Pearson coefficient for bivariate correlation between years in EU and transposition

A possible reason for the absence of relationship between the years of EU membership and the degree of compliance is the type of document that is to be transposed. In the case of the Race Directive, although socially important, the topic of racial discrimination is not as important as financial and economic topics. Moreover, the conclusion made by Falkner and Treib (2008) that low degrees of compliance can be seen among old Member States is applicable to the current result.

Chapter 6: CONCLUSION

In the beginning of the present research, the European Union was compared to a football team consisting of 27 players. This comparison came to explain the importance of the willingness of players to play along with the team instead of going solo, thus causing negative effect on the team image. And since nobody wants to be a part of a team with bad image, the willingness of Member States to be good EU players has to be maintained and improved. For doing so, many political researches have set out to expose the driving forces behind that willingness so as to explain its mechanism and provide European institutions with valuable lesson-drawing sources for future policy making. The specific term for this good will towards the team is compliance.

The present research has tried to expose the relationship between the act of compliance and three factors – the degree of consensus on Council meetings, the public opinion of EU Member State populations and the amount of years of EU membership. Three hypotheses were developed based on recent political literature. Further on, these hypotheses presented specific indicators, which were statistically tested in order to prove or disprove the assumptions of their respective hypotheses.

The choice of EU legislation was dictated by the nature of EU documents. As primary legislation was considered incompatible with the purposes of the present research as the transposition of primary legislation does not leave any room for defecting, the choice of legislation was logically set in the secondary legislation area. Following the approach of Zhelyazkova and Torenvlied, the current study has narrowed its scope down to a single directive research on provisional level instead of aggregating data for several directives. Having all these factors in mind, the present research has chosen to examine the voting process and transposition phase of directive 2000/43/EC implementing the principle of equal treatment irrespective of racial or ethnic origin. In the dawn of the new century, with major historical events supported by display of racial,

ethnic and religious discrimination left in the past, Europe seems to be ready to embrace the idea of equality and diversity. The ever-developing multicultural setting of the European Union has brought up the notion of equal treatment in order to avoid conflicts and discrimination. However, recent events in Europe had indicated that there is still racial and ethnic intolerance among European citizens. The average transposition success of the Race Directive shows that the attempts to battle this intolerance are not sufficient. Most of the EU-15 Member States have failed to transpose enough provisions, despite from the willingness to promote diversity and tackle racial inequality.

Among other explanations for the act of compliance, presented in recent political literature including Europeanization and state-level political capability, the present research has added two other assumptions for the driving forces between this important phenomenon. The degree of consensus on Council meetings, the public opinion of EU Member States towards the European Union and the years of EU membership have been examined and statistically tested so that any existing relationship between the three factors and the act of compliance could be exposed and explained.

The findings of the present research have proved that there was an insignificant relationship between the three variables and the act of compliance. By applying the cross-sectional design, the present research has collected sufficient amounts of statistical data about all variables featured in the hypotheses.

The research phase of the variables featured in Hypothesis B has produced a clear outcome, which has exposed the nature of the relationship between the public opinion and the degree of compliance. By using the Pearson bivariate correlation method, the current study has calculated that there is a small negative correlation between the two variables. Some Member States with high public opinion towards the EU have failed to transpose the Race Directive correctly, while other Member States with low support for the EU have

performed better by transposing more provisions of the Race Directive. However, the significance of this outcome was calculated to be low, which means that the conclusion based on this result cannot be universally applied, but only to the specific research situation.

The time factor featured in Hypothesis C was also proven not to be of any significance to the act of compliance. In the case of the present research, the degree of compliance of Member States with the Race Directive was not influenced by the time that each Member State has spent as an EU member. The relationship between the variables was proven nonexistent according to the Pearson correlation method, but this result can only be applied to this specific research situation.

In general, the certain factors chosen for examination by the present research were statistically proven to have little impact on the act of compliance in the particular situation with transposing the Race Directive. The statistical outcome for the relationship between the transposition of the Race Directive and the independent variables is relevant only to this specific situation, due to the controversial nature of the directive. It became evident that rules based on requiring race-blind attitude are hard to accept and easily ignored, despite the obvious willingness of state representatives to comply with the provisions of the Race Directive. Public approval of the EU as an organization was proven to have insignificant impact on the way of transposing EU law on state level. Citizens may approve of the EU and its general functions, but when it comes to mandatory non-discrimination, the situation becomes quite different. This comes to say that the mutual agreement among Council Ministers and the approval of the EU by the citizens of their respective Member States is clearly not enough for correct transposition of a rather important social law such as directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of their racial or ethnic origin.

The absence of relationship between the variables can be a result of the nature

of the researched directive. Due to the rather secondary status of ethnic and religious diversity, Member States may not have done their best to transpose all provisions of the Race Directive. Should it be a more economic-related directive, the outcome might be significantly different, because Member States would more likely be willing to overcome difficulties with transposing provisions regarding their financial stability, instead of working towards building up a better social image. The Race Directive has been perceived as a controversial directive because it focuses on unpopular policies. Researching this directive in attempt to find out more about the ability of Member States to prioritize in favor of less important topics has only shown that there is still a lot to be done in the anti-discrimination field; however, the choice of directive has inevitably affected the final outcome. Even though the topics of the Race Directive are very relevant to recent disturbances in the European ethnic peace, its research does not reveal a strong relationship between the act of compliance and the discussed variables. Moreover, the fact that the present research applies Zhelyazkova and Torenvlied's method for researching a single directive instead of a bulk count of directives, also affects the final outcome, rendering the results inapplicable to other similar situations due to their low statistical significance.

Future work in this area should elaborate more on the significance of the type of document that is to be transposed. The nature of the Race Directive is quite important for the modern world where racial diversity and ethnic equality are being widely promoted. However, the outcome of a similar research could be considerably different if the examined EU document was from the financial or economic area. Member States might react differently to EU law that is of greater financial or economic importance than a rather well-wishing document such as the Race Directive. Despite the humanitarian nature of this directive, it is easy to postpone or neglect its transposition because it would not bring great financial or economic losses; this implies that the attitude of Member States towards a different type of directive might be different.

Since the only hint of relationship between variables became evident while testing Hypothesis B, the present study suggests that perhaps elaborating more in this direction could reveal more details about the impact of the public opinion on the degree of compliance of Member States with EU law. As seen in Chapter 5, the relationship between the degree of EU approval and the degree of compliance was negative. This might indicate that actually the low opinion of EU citizens about the EU is affecting the degree of compliance. Future work in this field should take in consideration the possibility of a compensatory behavior on behalf of state leaders, who try to restore skeptical societies' belief in the EU as an organization.

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