

When the Commission Comes Running: Explaining Patterns in the Enforcement and Application of EU Law

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April 6, 2011

Abstract

Scholarly interest in European legislative compliance research has grown with each successive accession round and treaty revision. As the scope and depth of integration continue to advance, intense debates have emerged on topics related to the transposition, application and enforcement of EU law. Although the European Commission is formally charged as “guardian of the treaties”, cases of poorly applied EU legislation can be enforced through either centralized (Commission direct action) or decentralized (preliminary rulings procedure) means. The empirical evidence strongly suggests that the Commission is selective in initiating infringement proceedings. Yet, there is surprisingly little research on how direct action by the European Commission and enforcement by national courts are used interdependently in pursuit of cases of bad application. The aim of this study is to investigate patterns in the application of the infringement and preliminary ruling procedures in a unified framework. By looking at both centralized and decentralized enforcement, this study highlights the often neglected role of the European Commission in the process of legal integration. This contribution systematically investigates enforcement efforts in fifteen member states over a fifteen year period. The results reveal variation across both member states and policy sectors that is best explained by institutional factors, legitimacy concerns and public awareness.