

Chapter 6 Conclusion

Introduction

The research questions

This research was undertaken with three questions in mind. First, an assessment of the average extent of implementation, to see if the assumption of deficiency in the general implementation literature also hold true for implementation of European law. Second, to understand the patterns of variation in implementation between member states. As argued in the introduction the empirical evidence so far does not point in a clear direction, and perhaps this research will add to a more complete picture. Third, the national polities were reviewed to see if they have an effect on implementation. It was argued that since the implementation of European law takes place in the member states the key to understanding positive and negative influences lies in those same member states, in both their political and administrative systems.

Plan of this chapter

The main goal of this chapter is answering the research questions, set out in the introduction. In the four sections answers will be formulated, and given without further consideration or reflection. “The average extent of implementation” will treat question 1, “Variation in implementation record” will treat question 2, “Explaining implementation in the member states” will look at the individual member states to characterise implementation and give an explanation, and in “Common factors” the four general factors describing aspects of the national polity will be evaluated. The last section, titled “Implementation in Europe” will reflect on the meaning of the findings.

The average extent of implementation (question 1)

Table 6-1 shows the results at the most general level, the extent to which EU law is implemented in five countries, averaged for all sectors. This includes both legal and administrative implementation and is calculated by looking at the realised assessment scores as a percentage of the maximum possible assessment scores.

Table 6-1: The extent of implementation for all sectors combined. Assessment score as percentage of maximum possible assessment score.

	All sectors
Denmark	69.55
France	57.15
Germany	63.78
Spain	57.71
UK	83.09
Average	66.26

Looking at the most general level, that of the sectors combined, the average extent of implementation is 66.26 per cent. This indicates that across the board European law influences the state of affairs in the member states. Member states change their national legislation, and there are observable consequences in the actual fields the legislation is supposed to impact.

To know what exactly the 66.26 per cent “extent of implementation” means it could be helpful to retrace the procedure of the investigation. In four sectors or industries European law directives ordering changes in the structure of industry have been analysed. On the basis of economic theory on the behaviour of utility industries, which gives fairly specific predictions on what is going to happen after liberalisation of a utility and which even prescribes a most desirable form of intervention and an ideal structure of relations between government and privatised companies, a (theoretically) ideal set of activities and consequences has been formulated in the form of the four variables:

- (1) regulatory renewal: describes what kind of regulatory framework governments should create to deregulate the industry
- (2) market renewal: describes what changes should be observable on the market
- (3) efficiency and innovation: contains specific predictions on the working of the industry
- (4) price development: predicts that prices should decline.

The ideal of government activities and consequences, specified in more detailed indicators for every variable, is compared to the actual and realised activities and con-

sequences, so as to be able to compare ideal and reality. All indicators have been expressed in quantitative assessment scores. The ideal is represented by the notion of the “possible maximum” assessment scores, the real situation by the actual assessment scores¹. The 66.26 percent indicates the extent to which actual assessment scores deviate from the ideal, the possible maximum, or 100 per cent of the assessment scores. So, to say that the extent of implementation is just above 66 per cent means that European law is translated into results by the member states and that of a large set of pre-specified ideal outcomes some 66 per cent is realised².

Variation in implementation records (question 2)

Do the implementation records vary? Table 6-1 has already made clear that they do: differences in the average extent of implementation exist. The question then becomes: how systematic are these differences? Are there member states that always or often display weak implementation skills, while others always or often display strong implementation skills? Do the data support the notion of a north v. south conflict or are more subtle variations present?

Variation of the average extent of implementation

Table 6-1 also gives the scores for the individual member states. One thing is clear: this research does not clearly support a north v. south conflict. Only the UK performs clearly better than the other member states with an average extent of 83.09 per cent. The other member states perform between the 57 per cent and 69 per cent range. So if there is a dichotomy, it is a divide across the Channel. Spain (and France, depending on where one wishes the south to begin) does perform less well, but so does Germany, which is not part of the south. Most clearly discrediting the notion of a

¹ Although doubt is shed on evaluation of implementation that proceeds by looking at whether pre-scribed goals are met on the grounds that goals in legislation can be vague and inconsistent (Ingram, 1990:467-8) this research is grounded in the thought that that is precisely the way to execute evaluations of implementation. The vagueness of and inconsistencies and contradictions in legislation that surround the implementation process should not change this evaluation method, but it should be factored in in the eventual assessment of the quality of implementation. Rather than forgoing assessment it must take into account that perfect implementation is unattainable.

² The decision to overhaul Europe’s utilities is not in itself part of the formal analysis of this investigation, and the research does not answer the question whether or not liberalisation was the right thing to do and whether or not it has improved the lives of Europeans. The focus is on what Pressman and Wildavsky (1984:177ff) call the control problem.

north v. south conflict is the fact that the data do not show a clear north vs. south dichotomy (Spain, or Spain and France clearly lower, others clearly higher). Instead the data indicate that there is a gradual slope downward from the country with the best to the country with the worst record. The pattern of implementation is not a simple dichotomy.

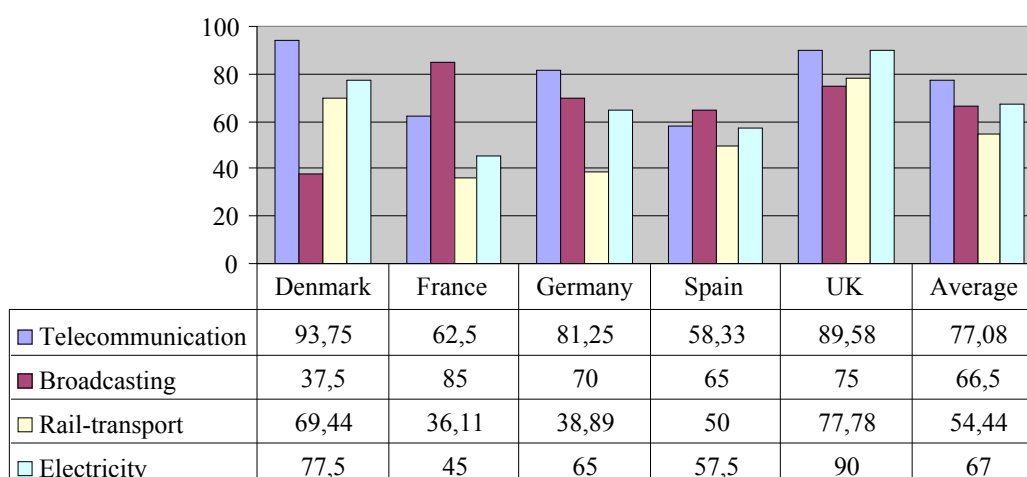
It is not the notion of weakness of the southern administrations that is rejected. Spain is the weakest performer in the cluster of countries, and the characteristics of southern states as brought forward by the proponents of the north v. south conflict are usually a good description of the political and administrative situation, and explain what is happening in Spain. What is rejected is the supposed stark dichotomy with the northern European states who are supposed to perform clearly and consistently at superior levels. They do not. Weaknesses in administration are not restricted to the south. The northern states do not as a cluster perform strongly or at equal levels. So, while there is a weakness in the political and administrative systems of the south, there are *also* weaknesses in northern member states' political and administrative systems. Germany is a case in point in this research: a northern state performing at almost southern levels. For instance its electricity deregulation was executed hurriedly without much thought for the practicalities and difficulties of regulation, resulting in a weak regulatory structure, and altogether not unlike the traditional view on southern administrations.

Beyond the average

That the reality is far more complex becomes clear once the averages are broken down, as table 6-2 does. What becomes clear is that there is considerable variation, but no clear pattern. The differences between member states (clearly visible in the graph) do not reveal a clear pattern. Some member states are highly variable in their performance, others not. Denmark has the highest score for the implementation of telecommunications directives, but the lowest for broadcasting. France has the highest score for broadcasting implementation, but the lowest for rail transport. Germany is also quite variable in its performance. Other member states however are fairly stable, albeit at different levels. Spain and the UK score respectively generally low and generally high. An easy division of member states in "strong" versus "weak" member states is only possible for Spain and the UK, not for the others.

In conclusion and answering question 2: implementation varies across member states. Strong indications of a systematic variance are absent.

Table 6-2: National differences in the extent of implementation of sectors. Assessment score as percentage of maximum possible assessment score.



Explaining implementation in the member states (question 3)

It as been argued in the introduction that understanding implementation supposes an understanding of circumstances in the member states. There the actual implementation takes place, and there success or failure can be explained. The analysis will proceed as follows: first the results for each member state will be evaluated and explained. Then a closer look will be given to common factors worked out in Chapter 1 that go beyond understanding implementation in individual member states but shift the focus to implementation in the EU.

Denmark

Denmark's implementation record as it shows up in this research is hard to catch in one sweeping statement. In three fields it does perform above average, indicating a potential for strong institutional performance, but there are big differences in actual implementation. The most dramatic low is broadcasting reform. Here it has the lowest score of all member states.

The general potential for strong performance in government policy execution should come as no surprise since Scandinavian political systems are characterised by a “professional, largely non-politicized civil service” (Page, 1995:278). The main problem to be explained is why this potential apparently does not lead to good results in all circumstances.

Table 6-3: Performance of Denmark. Percentage and rank and actual and maximum assessment scores (rr = regulatory renewal mr = market renewal, ei = efficiency and innovation, p = price development).

	Telecommunication				Broadcasting				Rail transport				Electricity			
Extent	93.75				37.50				69.44				77.50			
Rank	1				5				2				2			
	rr	mr	ei	p	rr	mr	ei	p	rr	mr	ei	p	rr	mr	ei	p
Assessment	24	7	7	8	10	2	2	1	7	12	6	-	15	6	1	9
Maximum	24	8	8	8	24	8	4	4	12	16	8	-	16	8	4	12

A common point of departure in scholarship on Denmark is its “Nordic” character - it being a part of the Scandinavian group of countries whose postwar politics have been dominated by socialist governments which built extensive welfare states committed to income maintenance and accessible public services for all (e.g. Lane, 1997:188ff). But this universal starting point cannot sufficiently explain the diversity of reactions to European policies. It does fit Denmark’s hostility towards the liberalisation of broadcasting and its refusal to recognise the legitimacy of the EU’s proposals, leading ultimately to mere “pseudo-implementation” of the Television Without Frontiers directive. There was a short period in which telecommunications reform was also looked upon suspiciously, but after its initial qualms were overcome Denmark became an enthusiastic forerunner. And it went along with rail restructuring, and tried to play an active role in electricity reform. The latter was done, admittedly, to make sure that the environment got sufficient attention, but the market reforms were accepted. The “Nordicness” has thus only limited explanatory power. It can only explain Denmark’s position in broadcasting, and part of the reluctance in the early stages of telecom reform. One might even go as far as to explain the still strong position of the incumbents in telecommunications and rail transport to a commitment to public services, but that exhausts the argument, and there is still much to be explained, like the easy acceptance of rail reform, or the later enthusiasm for telecommunications reform, or the attempt to play a lead role in electricity reform. If its Nordic character, and its commitment to public goods were the main driving force behind Danish politics it would have blocked all reform to the maximum extent possi-

ble, and it would have ended at the lowest place in this research, rather than at the second place.

The question then becomes: how Nordic is Denmark actually, today? The long succession of socialist government is over. Denmark now has a centre-right coalition led by a free-market oriented prime minister³, and the influence of right-wing populism is on the rise⁴. The current government also tried to alter the traditional green image of Denmark; it has appointed Bjorn Lomborg, a critical environmentalist who maintains that the earth is in a better shape than it was, to lead the Institute of Environmental Assessment, to the surprise and dismay of traditional greens⁵. Welfare, solidarity and a traditional view on care for the environment are thus hardly themes to endear Danish voters today, and it would seem that the country is losing its Nordic character in high tempo. It has also become increasingly critical towards the process of European integration. It has opted out of numerous European policies, and its activism in European decision making seems to be aimed at satisfying its self interest⁶, which, together with the tougher stand on immigration, could be understood as a decline of the importance of the idea of solidarity in European and international politics.

In this light, the position of Denmark, now embracing reform, then rejecting reform, can perhaps be understood as the behaviour of a country in transition, moving away from the traditional welfare state to a more neo liberal approach. It certainly fits the time frame: broadcasting reform is the oldest of the European reforms; and encountered a more Nordic Denmark than the other, later liberalisations, which found a Denmark swinging to the political right, and thus accepting liberalisation more readily.

France

With the exception of its broadcasting reform France's performance is mediocre to low. Although France has supported some mild reform in telecommunications, what in fact happened was that *France Telecom* was established as a national champion and has been well protected ever since. France did not want to privatise *France Tele-*

³ "Anders Fogh Rasmussen", *The Economist*, 22-11-2001.

⁴ "Toxic but containable", *The Economist*, 25-04-2002.

⁵ "Howls from greens", *The Economist*, 28-02-2002.

⁶ "Variety show", *The Economist*, 21-01-1999.

com, nor did it want it to lose its incumbent position, let alone that it should face the disgrace of international competition on French territory. The same attitude reigns in the railways: *SNCF* is the dominant company delivering a public good. Both in telecommunications and rail the French government has used obvious ploys to skew the regulatory framework in its own direction. For instance, new entrants to the telecommunications market had to pay a contribution to R&D, almost a tariff barrier to market entry, and rail regulation only serves to formally comply to EU laws, while it protects the position of the *SNCF*. In the energy sector the basic position is the same.

Table 6-4: Performance of France. Percentage and rank and actual and maximum assessment scores (rr = regulatory renewal mr = market renewal, ei = efficiency and innovation, p = price development).

	Telecommunication				Broadcasting				Rail transport				Electricity			
Extent	62.50				85.00				36.11				45.00			
Rank	4				1				5				5			
	rr	mr	ei	p	rr	mr	ei	p	rr	mr	ei	p	rr	mr	ei	p
Assessment	16	3	5	7	20	8	2	4	4	4	5	-	10	2	1	5
Maximum	24	8	8	8	24	8	4	4	12	16	8	-	16	8	4	12

There is a state company operating a host of nuclear power plants, and the only reason the French government “strategically” supports economic reform is that France needs open access to energy markets to sell its excess energy production. It refuses, however, to open its own market to energy suppliers, for instance from Spain. But what about the success in broadcasting reform? Indeed, France has liberalised its broadcasting sector, but in a conscious attempt to break the power of a Gaullist broadcasting establishment.

The performance of France can be well understood. Wherever it can it will protect its civil service, national champions, and public service commitment, except in cases when political expediency dictates otherwise, as with the personal vendetta of President Mitterrand against the Gaullists in broadcasting. It does not shy away from obvious tricks and ploys to fulfil its obligations under the Treaty formally, but not materially. A British journalist noted about France: “The authorities in Paris may pay lip service to free trade, but protectionism and state regulation lie deep in the French soul. It was Louis XIV’s mighty minister, Jean-Baptiste Colbert, who gave his name to the doctrine of the state ring fencing for the economy from foreign depredations - and his spirit lives on” (Fenby, 1998:144).

There is some change, however. A large number of French companies is now partially in foreign hands and although “French politicians and businessmen huff and

puff (largely for domestic consumption) about keeping out the Anglo Saxons, they know globalisation is coming”⁷. There is also criticism on the *Ecole nationale d’Administration* and the way it moulds the French bureaucracy into an elitist, closed system⁸, but it is only fair to point out that criticism on the *ENA* is as old as the school itself (e.g.: Mandrin, 1967). It remains to be seen how deep and how far the French state will in fact change, or has already changed. Allowing foreign ownership of companies could be an indication, but it is still far removed from allowing other companies to compete on French markets, thereby putting French workers out of jobs, and it has little to do with the commitment to public service. During the 1990s French industrial policy “has managed to sustain Total and Elf; Renault and PSA Peugeot Citroën; Dassault and Aerospatiale; Rhône-Poulenc and Elf Atochem; Sanofi and Synthelabo; Générale des Eaux and Suez Lyonnaise des Eaux; and half a dozen retail banks”⁹, which hardly supports the idea that French industrial policy has changed deeply.

In conclusion: protectionism, national champions and public service commitment seem, in spite of some changes in the air, the explanation for the unwillingness to implement the European liberalisation packages fully.

Germany

Germany performs moderately across the board, in spite of its sometimes enthusiastic support of economic reform. In telecommunications, rail and electricity the European reforms were embraced by the political system, albeit because of different reasons. In telecommunications the problems brought on by the unification made privatisation an attractive way out of the financial burden, in rail, after subsidising operating losses for such a long time without any attempt to improve the state of affairs, the European initiative broke the lethargy, and the enthusiastic support for electricity reform may have had something to do with the 1998 election campaign in which Helmut Kohl was criticised for not restructuring the economy. But there was support for the liberalisation of these sectors. In the broadcasting sector it is hard to find a clear tendency in the reactions because so many different parties are involved. Furthermore, the sector is very fearful of media conglomerates because of the fear of

⁷ “French Dressing”, *The Economist*, 08-07-1999.

⁸ “Plus ça change”, *The Economist*, 07-08-1997.

media domination which goes back to the 1930s, when the media were under the control of the Nazi party.

Table 6-5: Performance of Germany. Percentage and rank and actual and maximum assessment scores (rr = regulatory renewal mr = market renewal, ei = efficiency and innovation, p = price development).

	Telecommunication				Broadcasting				Rail transport				Electricity			
Extent	81.25				70.00				38.89				65.00			
Rank	3				3				4				3			
	rr	mr	ei	p	rr	mr	ei	p	rr	mr	ei	p	rr	mr	ei	p
Assessment	21	6	5	7	18	6	2	2	5	5	4	-	9	8	1	8
Maximum	24	8	8	8	24	8	4	4	12	16	8	-	16	8	4	12

Somehow, however, real results have failed to materialise. In telecommunications and rail the incumbent enjoyed protection, and because of the rush to privatisation in electricity a defective regulatory framework was created and as a consequence the liberalisation did not have the expected consequences. Media reform did not get off the ground because the many parties involved, and because so much power was in the hands of the *Länder*.

All in all Germany gives an impression of muddling through rather unsuccessfully. The complex government structure in which “Federalism, local self government and division of power are the dominant principles” (Klages and Löffler, 1996:132) is likely an important part of the explanation since this is not a setting that breeds quick and decisive action.

The re-unification of Germany adds an unfortunate circumstance. While it must have weakened Germany’s administrative potential by sucking away resources and attention, it has also sped up liberalisation. With the reunification large parts of the German utility industries were all of a sudden technically outdated and financially insolvent, and the only way to bring in cash or to improve management was found in fast privatisation. Electricity liberalisation for instance was a hasty piece of work which resulted in an inadequate regulatory framework, but the speed was dictated by the run-down electricity sector in the former German Democratic Republic which needed quick action because it was technically and organisationally inadequate. The merger of *Deutsche Bahn* with the rail company in the former GDR simply added a rail company in a very bad state to a rail company that had big problems on its own already.

⁹ “French Dressing”, *The Economist*, 08-07-1999.

Spain

Spain's performance is not strong. It has supported the reforms of its utilities mainly because the general feeling was that modernisation of these sectors would further strengthen the economy, or would, as in the case of broadcasting, bring in structural support to improve media industries. Yet, as in the case of Germany, but more so, support was not translated into results.

The government apparatus is characterised by a bureaucratic elite with a weak status and lack of cohesion (Page, 1995:278), so that alone is a limiting factor for institutional performance. In addition, Spain's history plays a role.

Table 6-6: Performance of Spain. Percentage and rank and actual and maximum assessment scores (rr = regulatory renewal mr = market renewal, ei = efficiency and innovation, p = price development).

	Telecommunication				Broadcasting				Rail transport				Electricity			
Extent	58.33				65.00				50.00				57.50			
Rank	5				4				3				4			
	rr	mr	ei	p	rr	mr	ei	p	rr	mr	ei	p	rr	mr	ei	p
Assessment	19	5	2	2	17	5	1	3	5	7	6	-	14	5	1	3
Maximum	24	8	8	8	24	8	4	4	12	16	8	-	16	8	4	12

The Franco period left the country with technically obsolete utilities and infrastructures, giving it a problematic starting position. Then, during the 1980s and 1990s much energy must have been put into building democratic institutions rather than in executing European policy. So although the general commitment to Europe is large in Spain¹⁰, and there was specific support for the policies in question, Spain is being held back by its past. Chirot (1977:26) places Spain (and Italy) in the group of semi-peripheral societies with slower modernisation paths. Fast modernisation tends to be associated with northern Europe, and slow modernisation with southern Europe. In a typical description of the north vs. south argument, this one regarding environmental law, Börzel and Gupta write: "The failure to effectively implement international and European environmental regulations is often considered as a 'Southern problem'. It is argued that developing countries and the southern member states of the European union lack the capacity for compliance. Insufficient economic, administrative, and political capacity and a civic culture inclined to individualism, clientelism, and cor-

ruption are believed to undermine the ability and willingness of southern states to comply with environmental law” (Börzel and Gupta, 2000). According to Collier and Golub (1997) there exists a “Mediterranean Syndrome” consisting of a lack of public interests, frail ethics and pre-modern political values. The “cronyism” in broadcasting (Pérez-Díaz, 1993:212) is a good example. Altogether this goes a long way to explaining the generally weak performance of Spain, although, as said before, the idea of a dichotomy with the north is rejected because northern states do not consistently perform better.

The UK

Table 6-7: Performance of the UK. Percentage and rank and actual and maximum assessment scores (rr = regulatory renewal mr = market renewal, ei = efficiency and innovation, p = price development).

	Telecommunication				Broadcasting				Rail transport				Electricity			
Extent	89.58				75.00				77.78				90.00			
Rank	2				2				1				1			
	rr	mr	ei	p	rr	mr	ei	p	rr	mr	ei	p	rr	mr	ei	p
Assessment	22	8	7	6	18	7	4	1	10	13	5	-	16	8	1	11
Maximum	24	8	8	8	24	8	4	4	12	16	8	-	16	8	4	12

The UK has not really been implementing European directives - it had already re-structured its utility industries on its own, and implementation of EU directives usually came down to adjusting pieces of an already existing framework, although sometimes considerable force was needed to make the UK conform to EU directives, as in the case of electricity where the UK sought to exclude its nuclear stations from fair market principles. But on the whole, there has not been a principal discord between the EU and the UK.

The case of the UK serves to illustrate two points. First, it shows that the passing of time is an underestimated, but ultimately important “policy instrument”. The strong performance probably has much to do with the fact that structural changes such as utility reform, take time to take effect, and having started early on, the UK is now already in an advanced stage of market reform.

The case of the UK also illustrates that the successful execution of public policy does not always lead to good service to the public. Hogwood and Gunn wonder “what

¹⁰ Support for EU membership among the population and the part Europe plays in shaping identity was highest in Spain compared to the other member states in this research (*Standard Eurobarometer nrs.46-55*).

‘good’ implementation of a basically misconceived policy would mean” (1984:201). Users of British utility services might know the answer for in the UK the success of implementation is coupled with much dissatisfaction among the public.

Common factors (question 3)

In Chapter 1 four factors explaining how the national polities influenced the implementation of EU law were put forward. To what extent they can explain the level of implementation will now be explored.

Factor 1: The “big” political economic current. As long as a European policy follows the “big” current governments of any political colour will execute it to the same extent.

Do left-wing governments execute right-wing policies as faithfully as right-wing governments? If so, that would be an indication that a “big” idea or a ruling paradigm is more important than ideology.

Table 6-8: Political colour of governments and success of policies. TC = telecommunication reform; BC = broadcasting reform; RT = rail transport reform, E = electricity reform.

Governments of the left			Governments of the right			Government change		
Country/sector	Year first directive	Extent of implementation	Country/sector	Year first directive	Extent of implementation	Country/sector	Year first directive	Extent of implementation
Denmark (TC)	1990	93.75	Germany (TC)	1990	81.25	France (RT)	1991	36.11
France (TC)	1990	62.50	UK (TC)	1990	89.58	France (E)	1996	45.00
Spain (TC)	1990	58.33	Germany (BC)	1989	70.00	Germany (E)	1996	65.00
Denmark (BC)	1989	37.50	UK (BC)	1989	75.00	UK (E)	1996	90.00
France (BC)	1989	85.00	Germany (RT)	1991	38.89			
Spain (BC)	1989	65.00	UK (RT)	1991	77.78			
Denmark (RT)	1991	69.44	Spain (E)	1996	57.50			
Spain (RT)	1991	50.00						
Denmark (E)	1996	77.50						
Average		66.56	Average		70.00	Average		59.03

Source: Economist country profiles

To test this the 20 implementation cases were categorised according to the composition of the dominant government party in the three years after the publication in the Official Journal of the first directive in a policy field. That government will have had an important role in starting and shaping the first crucial policy responses to the

Brussels' impetus. A government can be left (social democrats or Labour forms government or is dominant party), right (Conservative or Christian democrat forms government or is dominant party), or mixed, in which case a change of government composition occurred within the period of three years. Table 6-8 gives an overview of the categorisation, and gives the average extent of implementation for the three types of government.

Governments of the left are so close behind governments of the right that they seem to be no less committed to the implementation of new right agendas. This could optimistically be interpreted as a wish to implement European policy to its fullest extent regardless of the ideological character of policy, but it is more likely an indication that governments of the left have been almost as committed to the neo-liberal agenda as governments of the right - one could even assert that left-wing governments have changed ideology rather than policy.

The end of the 1990s saw an increasing popularity of "third-way" socialism which favoured socialism or social democracy in a market-oriented society¹¹, and already in the late 1970s the disillusionment with Keynesian policies forced left-wing governments to look to the right for new ideas¹². It seems then that "big" ideologies, like Keynesianism in the 1960s and 1970s and market orientation in the 1980s and 1990s determine what political parties of whatever colour do. This is consistent with what Kingdon says about the "national mood". He describes how politics, like a pendulum, makes large swings from left to right, and shows how ideas can be alive in one period, and dead in the next (Kingdon, 1995:148). These pendulum swings explain why the left has been implementing new right agendas in the 1990s.

Factor 2: politicians. The interests of important politicians help getting a policy support.

¹¹ "Third Way club gathers members", *The Guardian*, 03-05-1999.

¹² George Schultz, visiting Europe as Secretary of State in 1982 remembers the following conversation with González, who had then just entered office as Prime Minister in Spain: "I owe a great debt to President Mitterand," [González] said. "How is that?" I asked. "President Mitterand," González replied, "came in with a big majority on a Socialist ticket, just as I did. He put the Socialist program into place, and the result was a catastrophe for France. Therefore, I have learned something: don't implement the Socialist program. Use the market-place. Encourage investors. That is what I am going to do" (Schultz, 1993:150-51). Also in the UK, the socialists themselves shelved Keynes - at the party conference in Blackpool in 1976 to be precise, where Labour leader James Callaghan announced nothing less than the death of Keynesianism (Hennessy, 2000:382-3).

In two instances the self interest of national politicians - Kingdon's "visible participants" (1995:68-70) - seems to have influenced the support for a measure. The electricity package gained support in Germany because Chancellor Kohl needed to show his commitment to economic reform, and in France President Mitterrand wanted to use broadcasting liberalisation to get rid of the Gaullist state broadcasting establishment. In the German electricity case Kohl's support may not have been more than a contributing factor speeding things up - the Christian Democrats were not fundamentally opposed to economic reform, but in the French broadcasting case the influence of Mitterrand's wish to settle some old scores must have been far more important because the liberalisation of broadcasting did go against the natural tendency of socialists to give the state a large influence over broadcasting. Furthermore, it went against the French idea of the role of the state - if in all sectors the idea of public service and public goods have been important in shaping what France ultimately did with European reform initiatives - not too much generally - it is surprising that these ideas have been abandoned in broadcasting, which might point at some personal involvement of the President.

Factor 3: existing national policy. If a European policy resembles an existing national policy it will be executed better.

Few European policies are new in the sense that the policy domain did not previously exist in the member state and that the member state did not have its own policy. To examine whether prior policies affect the implementation of European policy the pre-EU policies have been characterised as follows:

- (1) No prior reform initiative: the existing state monopoly with exclusive production rights is kept intact.
- (2) Public sector reform: rationalisation of the production of services to improve cost effectiveness; monopoly and/or exclusive production rights are/is kept intact to a very large extent.
- (3) Market reform: termination of exclusive production rights to introduce other producers and effective competition.

There are 20 cases of implementation (four fields times five countries). If these 20 cases are divided in the three categories, and averages are calculated the following pattern emerges (table 6-9).

Table 6-9: Reform initiatives before EU policy.

	Telecommunication		Broadcasting		Rail transport		Electricity	
	Reform	Implementation	Reform	Implementation	Reform	Implementation	Reform	Implementation
Denmark	No prior reform ¹³	93.75	Market	37.50	No prior reform	69.44	No prior reform	77.50
France	Public sector	62.50	Market	85.00	No prior reform	36.11	No prior reform	45.00
Germany	Public sector	81.25	Market	70.00	Public sector	38.89	(some) Public sector	65.00
Spain	Public sector	58.33	Market	65.00	Public sector	50.00	Public sector	57.50
UK	Market	89.58	Market	75.00	Market	77.78	Market	90.00

In the cases in which the member states had already embarked on a course of market reform, the average extent of implementation is markedly higher than in the cases where such a policy was not yet in train, so the policy current affects implementation. There is, however, a counterintuitive result: countries that started public sector reform score *lower* than countries that had not started any specific utility policies at all. So, the countries whose policies were already going in the direction of market reform do worse than the countries that had not started any reform at all.

Table 6-10: Average scores for extent of implementation categorised as to pre EU national reform policy¹⁴.

	No prior reform (n=5)	Public sector reform (n=7)	Market reform (n=8)
Average extent of implementation	64.36	59.07	73.73

There is a good explanation, however: changing an existing policy may be harder to accomplish than starting from scratch. Countries that had started public sector reform were already committed to policies, had sunk resources in those policies and were, simply, already on the move. Changing an ongoing policy is a form of incremental-

¹³ Denmark followed a course of consolidation, a belated form of industrial modernisation, which is unique in this sample of member states, but was, as indicated in chapter 2, in fact contemplated by other member states.

¹⁴ The cases with previous market reform are concentrated in the broadcasting sector (5 out of n=8) so there could be a sector effect. However, if the broadcasting cases are removed from the analysis (leaving three cases with previous market reform) the pattern remains unchanged with average extents of implementation as follows: No prior reform: 64.86; public sector reform: 59.08; market reform: 85.79.

ism which involves fitting in steps already taken like ongoing processes of legislation or compromises already reached.

To conclude, the relation between EU implementation and prior policies is rather straightforward, and supports classic public administration literature. If a member state already had a policy similar to the EU initiative, implementation unexpectedly works better than in cases where prior policy differed from the EU initiative.

Implementation in Europe

There were three topics central to the research: deficiency, variation, and the national polity. Now that the research questions have technically been answered it becomes time to reflect on the meaning of these findings, and see what exactly the contribution of this study is to the study of implementation in the European Union.

Deficiency

Is there an implementation deficit? This study shows that, yes, implementation in the EU is, as the general literature predicts, deficient. Technically and formally the answer is: yes. It is even possible to put a number on the deficiency. Of a set of pre-specified changes in national legislation and regulation, market-change and changes in industry behaviour, some 66 per cent was actually carried out or observable, so there is an implementation deficit of around 34 per cent. Of course this number should be regarded with some care. The number is based on assessments of indicators that are not completely quantitative. Where possible they were, but for instance the assessments of the effectiveness of legislation are less exact, of course, than assessments of well-documented price developments or the number of new entrants on a market. The numbers indicate orders of magnitude, nothing more, but most certainly nothing less.

Now to the 34 per cent deficit. This figure could be interpreted as a sign of a large implementation deficit and it would seem that a large part of the intentions of the EU are not realised and that the prediction of From and Stava (1993:61) that “given a legalistic understanding of implementation, a situation with rapidly expanding EC policies, one would expect the frequency of non-implementation or problematic implementation to increase” has come true. But this would be jumping to conclusions without having put a proper perspective on the extent of implementation found in this

study. The work of Pressman and Wildavsky (1984) and Hogwood and Gunn (1984) among others makes clear that perfect implementation is an unrealistic ideal and that many factors contribute to deficits in implementation. Practical circumstances and chance incidents like protesting farmers and fishermen, lack of budget, unclear goals and objectives, and turf-battling civil servants do not usually create an atmosphere in which policies can be flawlessly executed, and the multi-national and multi-level polity that the EU is makes its own contribution to failure. EU implementation should not be held to the unrealistic standard of perfect implementation and in that light the average extent of implementation of 66.26 per cent should be seen. In particular in view of the extra implementation problems federal structures experience (Peters, 1995:323), this score is rather good. The pessimism on implementation of the 1970s and 1980s is not, or no longer perhaps, warranted by the data.

Variation

That implementation varies is generally acknowledged, but how it varies remains a matter of dispute. A clear north *v.* south pattern, as is observable in studies on environmental law, does not show up in this study. Spain and France do not belong to the top performers of this study, but other member states are too often deficient to declare that a clear strong *vs.* weak dichotomy congruent with north *vs.* south exists. The member states perform well in some sectors, and badly or middle-of-the-road in others. There is even variation in the stability of performance: the UK and Spain perform fairly stably, albeit at different levels, while the performance of the other member states swings.

These results support Knill and Lehmkuhl who assert that “the domestic impact of Europe varies somewhat unsystematically across both policy sectors and countries” (2002:255). The suggestion, however, that more research will eventually result in some clear pattern is rejected. Knill and Lehmkuhl argue that “we are still confronted with rather puzzling and inconsistent empirical and theoretical findings” (2002:255). “Still confronted” implies that there will be a moment - perhaps after more research - when the mist currently shrouding implementation will lift. It is, however, not to be expected that more measurement of implementation will finally reveal some lasting pattern. It is more likely that the unsystematic variation of implementation across member states *is* the pattern. After all, this is, as Knill and Lehmkuhl indicate, the most frequent finding so far. Scholars obviously like pattern and system, but the ab-

sence those preferred tendencies could very well indicate that system and pattern themselves are absent and that the real world is messier than hoped for or expected. The case for lasting messiness becomes even stronger when the role of the national polity is taken into consideration.

The national polity

This study has tried to broaden the focus on the member states. The member states do play a role in implementation literature, but it is somewhat one dimensional: they are mostly portrayed as abusing European law implementation for their own goals. While there is more to the role of the member states than just that it should be stressed that this does occur. Where member states have a problem with a European policy they do indeed use implementation as a second round. France, for instance, is quite open in its refusal to restructure the economy according to the principles of the new right, and resorts to ploys and pseudo-implementation in order to keep the traditional structure of state influence in national champions intact, and to limit competition of foreign companies on its markets. Denmark's broadcasting implementation shows similar traits¹⁵.

This study has however aimed at a more comprehensive and balanced understanding of the role member states' polities play in the implementation of European law. The main point is that the national scene influences street level implementation, but in an unstructured way. This study could not identify one or a set of clear reasons why implementation should succeed in one, and fail in another country. A number of factors positively or negatively influencing the likelihood of implementation have been identified, but it is not possible to make clear predictions using these factors.

The nature of EU implementation

¹⁵ It should be noted that in the end these may appear to have been short-term victories. The "supremacy" doctrine in European law holds that when national norms conflict with EU norms, the latter prevail. This may be the result of creative jurisprudence, as Stone writes, but it means that "every subject of EC law - including individuals and companies - may sue EC member states for injuries caused by member states' failure to comply with their obligations under EC law" (Stone, 1995:310). And the importance of the Court can hardly be overstated: "At the national level, ECJ rulings declaring national laws incompatible with EC laws *routinely* generate corrective revision processes" (Stone, 1995:311, italics added). So, the national implementation may be a second round, but it is not the last round and the European Court of Justice can rectify national deficiencies.

A short review of the member states makes clear that not only very different factors play a role, but that what is to be explained also differs from one member state to another.

Table 6-11: Overview of salient characteristics and main explanations.

Member state	Average extent of implementation	What was to be explained	Explanation
Denmark	69.55	Differences between sectors	Political transition
France	57.15	Generally mediocre to low reform performance, strong performance in broadcasting reform	Independent industry politics, role of political expediency in broadcasting reform
Germany	63.78	Muddling through	Division of power, reunification
Spain	57.71	Low performance	Weakness in administration
UK	83.09	Strong performance	Early reform

Table 6-11 illustrates the precise problem with implementation, and might incidentally serve as a warning against a purely quantitative approach. Take for example France and Spain. The extent of reform is about the same in both countries, but the average is the result of strongly different numbers and factors. France's performance in reform is difficult to capture in one word since sectors differ, in Spain all sectors are at a comparably low level. France's performance is the result of conscious choice, Spain's performance the result of weaknesses in administration that go back to its Francoist past and troubled economic situation. The performance of France would have been lower if President Mitterrand had not decided that he wanted to break the hegemony of public broadcasting, for political, even personal, reasons. Or take the difference between France, the weakest performer, and the UK, the best reformer. It is not that France lacks something, some clear factor, that the UK possesses. In fact, both countries were committed to the policies they carried out, and they pursued them vigorously. The "only" problem was that France's course happened to be at odds with the EU's, while in the only industry where it *did* implement EU policy satisfactorily, the broadcasting industry, it did not do so out of love for the EU.

The unstructured unevenness where some factors sometimes play a crucial role, but are absent in other cases brings to mind the image Kingdon paints of decision making and agenda setting. These are messy processes that are hard to predict, and in which factors interplay in varying ways in the policy stream, and apparently the

policy stream also determines how implementation works. This also explains why there is no clear pattern of implementation, and why the variation across member states and sectors in no particular pattern will likely remain a good description of implementation.