

Supplementary online appendix

Table A1: List of all environmental and JHA Directives covered in the data-set

Dir. N.	Directive name
Environment Directives	
1994/62/EC	The Packaging waste Directive
2000/60/EC	The Water Framework Directive
2000/76/EC	The Waste Incarceration Directive
2001/18/EC	Directive on the deliberate release of GMOs
2001/42/EC	The Strategic Environment Assessment (SEA) Directive
2001/80/EC	Large Combustion Plant Directive
2001/81/EC	National Emission Ceilings (NEC Directive)
2002/95/EC	The Restriction of Hazardous Substances in Electrical and Electronic Equipment (RoHS) Directive
2002/96/EC	The Waste Electrical & Electronic Equipment (WEEE) Directive
2003/35/EC	The Public Participation Directive
2003/4/EC	Directive on public access to environmental information
2003/87/EC	The EU Emmissions Trading System (ETS) Directive
2004/12/EC	The Packaging Waste Directive (amending)
2006/118/EC	The Groundwater Directive
2006/21/EC	The Mining Waste Directive
2006/66/EC	The Batteries Directive
2006/7/EC	Bathing Water Directive
2007/2/EC	The INSPIRE Directive on establishing an Infrastructure for spatial information)
2007/60/EC	The Flood Risks Directive
2008/105/EC	The Environmental Quality Standards Directive
2008/56/EC	The Marine Strategy Framework Directive
Justice & Home Affairs Directives	
2003/86/EC	Family reunification
2001/55/EC	Temporary protection
2004/81/EC	Victims of trafficking
2004/83/EC	Qualification
2003/110/EC	Assistance for transit
2001/51/EC	Carriers liability
2002/90/EC	Facilitation of unauthorized entry and stay
2003/109/EC	Long-term residents
2001/40/EC	Mutual recognition
2003/9/EC	Reception conditions

Table A2: Information on data collection

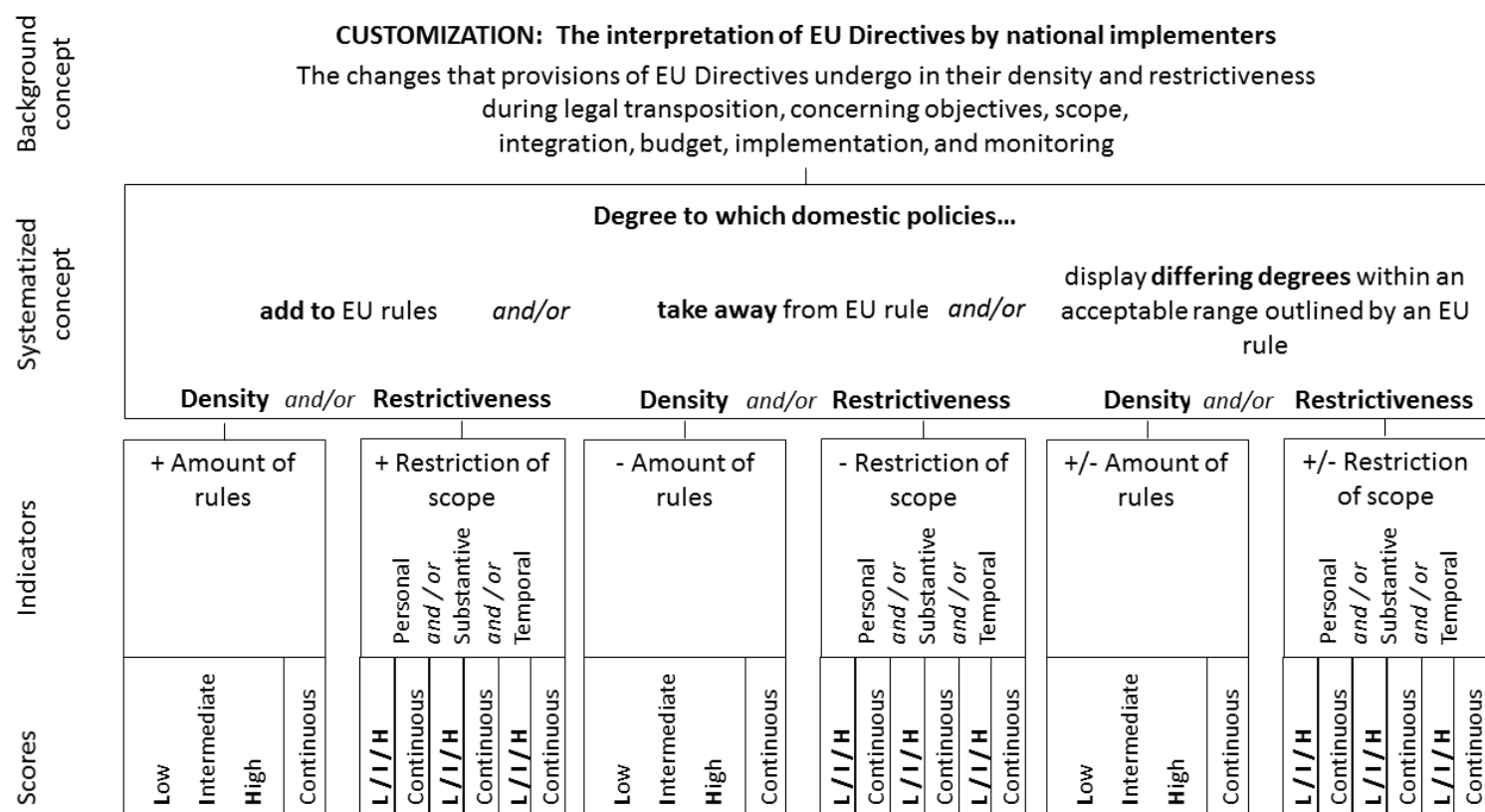
In the area of Environment, the Commission has regularly contracted one particular legal consultancy agency (Milieu Ltd) in the period between 2005 and 2013 to evaluate the compliance of member states' transposition outcomes. Country legal experts prepared concordance tables including 1) the content of each Directive's provision, 2) an English translation of the corresponding domestic transposing measure(s) and 3) an evaluation of the level of conformity of the transposed provision by the expert. All TOCs follow exactly the same structure and were prepared by the same agency. Most of the assessed environmental Directives were adopted between 2000 and 2008.

Information about member states' conformity with EU rules was obtained from a large-scale study on the "Conformity checking of the transposition by Member States of 10 EC Directives in the sector of Asylum and Immigration" coordinated by the European Commission and the *Odysseus Academic Network for Legal Studies on Immigration and Asylum in Europe*. Table A indicates the ten EU Directives included in the analysis. The output from the Commission study includes *national reports* about the implementation of each of the ten Directives in each of the 27 member states, *Tables of Correspondence* (TOCs) to check the implementation by member states and a *Synthesis report* providing a summary of the findings. This study mainly uses information from the TOCs, which contain already pre-coded evaluation about member states' implementation performance.¹ Each table gives a precise overview of the implementation of separate provisions within the concerned Directive, the state of transposition (has the provision been transposed correctly or not) and the situation in practice (in case of transposition, is there a practical problem?). Another important advantage of the study is that it evaluates the policy developments of non-participants (opt-outs) regarding the EU Directives. Upon the request of the Commission, national rapporteurs filled the questionnaires and the TOCs, as if those states were legally bound to implement the concerned Directives. The cut-off date for the national rapporteurs was 1st October 2007.

Table A3: An example taken from the conformity table of Austria regarding 2001/42/EC
(Environment)

Article	EU obligation	National provision (legal ref & art)	National provision (in English)	Fully in accord? (yes/no)	Notes/ Problems
Art. 3(2)(a)	<p>Subject to paragraph 3, an environmental assessment shall be carried out for all plans and programmes,</p> <p>(a) which are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use and which set the framework for future development consent of projects listed in Annexes I and II to Directive 85/337/EEC, or</p>	<p>Art 3 par 1 SPV-G ;Art 8a par 1 first sentence AWG 2002; Art 55i par 5 WRG; Art 55j par 1 WRG;Art 8 par 1 No 1 LärmG; Art 9c par 1 IG-L</p>	<p>§ 55j para. (1) Apart from national water management plans, an environmental report shall be prepared according to the provisions set out in § 55i para. 5 when water management plans that will be likely to have significant environmental effects (para. 4) are prepared and developed, in particular those plans setting the framework for future consents of projects that are subject to an environmental assessment or plans for which an assessment in the light of their likely effects is considered necessary when implementing Article 6 and 7 of the Directive (EEC) No. 92/43, Official Journal No. L 206/7.</p> <p>(Excerpt)</p>	Yes	<p>There is no reference to EIA Directive, but such a procedure is foreseen for any national water management plans. This is more stringent than the Directive.</p> <p>·</p> <p>Coding: In this case, “more stringent” is interpreted as “more restrictive” than the Directive. The expert evaluation does not provide sufficient information regarding the level of customized density.</p>

Figure A1: Conceptualization and measurement of customization



Source: Authors' own illustration, based on Adam *et al.* 2015, Adcock and Collier 2001, Knill *et al.* 2012, Thomann 2015.

Notes: L = limited, I = intermediate, H = high. Other ordinal scales are possible.

We propose that customization scores can be measured on a continuous scale or an ordinal scale. A continuous scale depicts the full possible range and degrees of customization, but requires that the counted entities of change are defined such that they are directly comparable (equivalent) (Adcock and Collier 2001: 534). Often, however, defining possible degrees of customization requires a close understanding of a certain policy field under investigation (Adam *et al.* 2015: 6). An empirically-driven, ordinal, qualitatively defined scale based on a clearly documented comparative inspection of the transposing countries' implementation can increase context-sensitivity and equivalence, but also renders the results contingent on the analyzed sample.

Figure A2: Relationship between restrictiveness and density across two policy areas

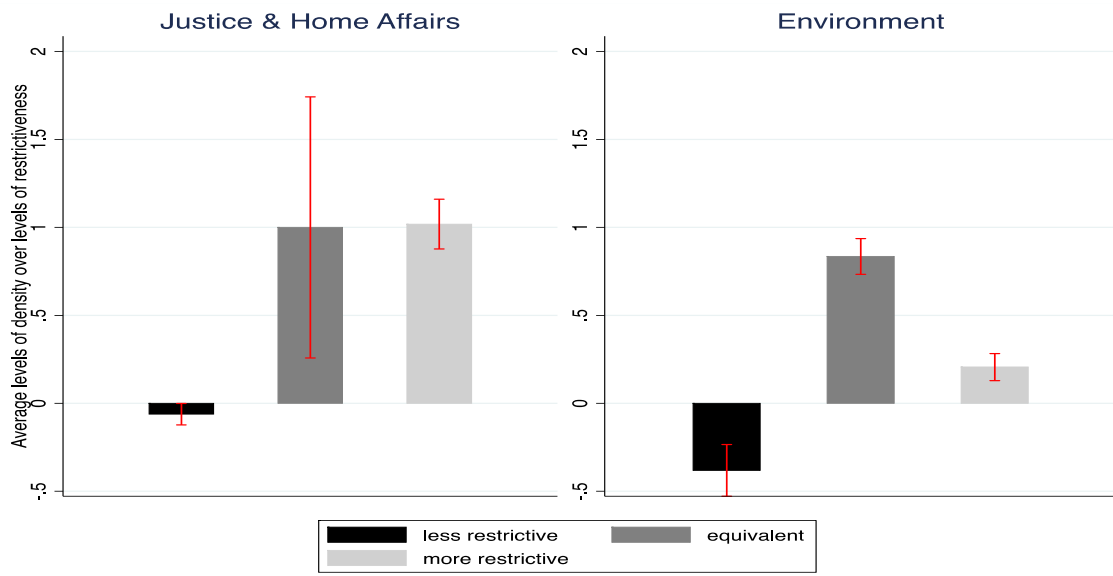


Figure A3: Combined customization index across member states and policy areas

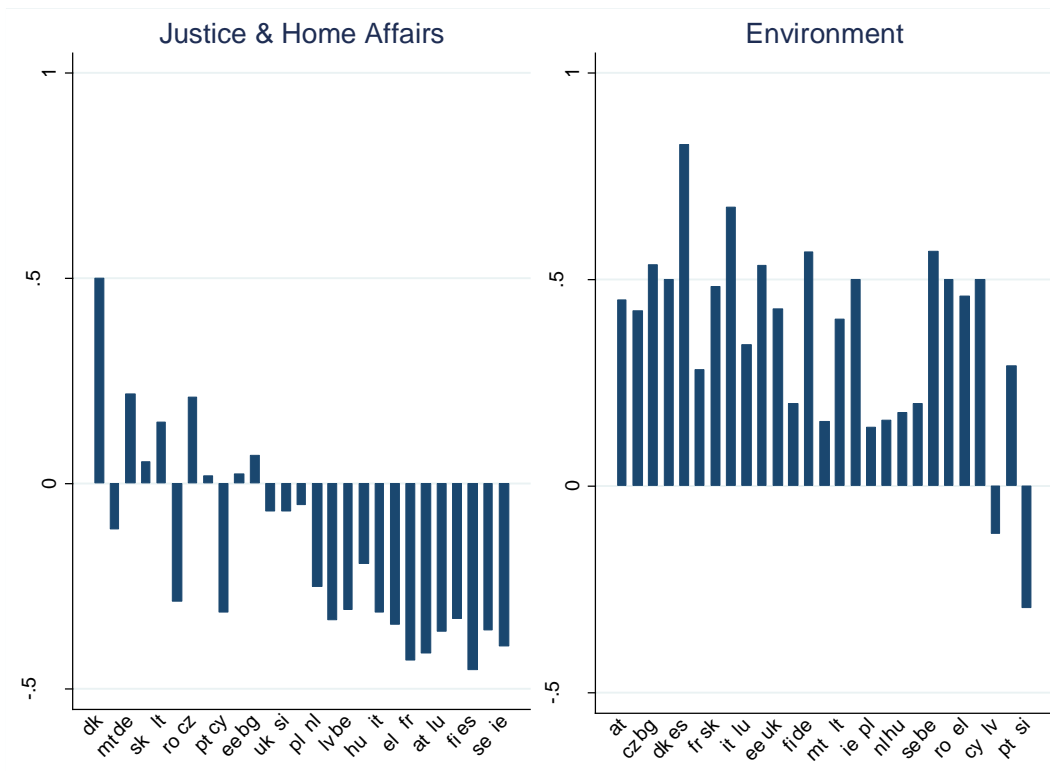


Figure A4: Customization, customized restrictiveness and compliance across two policy areas

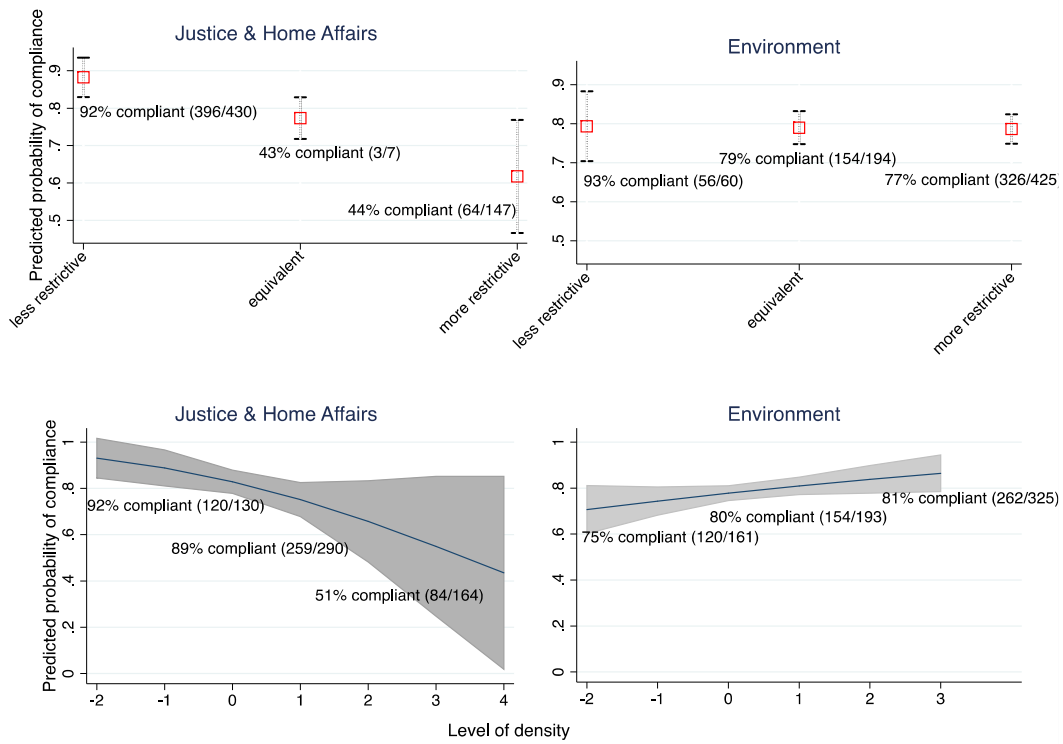


Figure A5: Customized density across member states for compliant national laws

