This book argues that Europeanization and globalization have led to ever more intensive legalization at transnational level. What accounts for compliance beyond the nation-state? The authors tackle this question by comparing compliance with regulations that have been formulated in a very similar way at different levels of governance. They test compliance with rules at the national level, at the regional level (EU), and at a global level (WTO), finding that in fact the EU has higher levels of compliance than both international and national rules. The authors argue that this is because the EU has a higher level of legalization, combined with effective monitoring mechanisms and sanctions. In this respect it seems that the European Union has indeed achieved a high level of legalization and compliance, though the authors add that this achievement does not settle the related queries with the legitimacy of transnational governance and law.


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The evolving European systems of governance, in particular the European Union, challenge and transform the state, the most important locus of governance and political identity and loyalty over the past two hundred years. The series *Themes in European Governance* aims to publish the best theoretical and analytical scholarship on the impact of European governance on the core institutions, policies and identities of nation-states. It focuses upon the implications for issues such as citizenship, welfare, political decision-making, and economic, monetary, and fiscal policies. An initiative of Cambridge University Press and the Programme on Advanced Research on the Europeanization of the Nation-State (ARENA), Norway, the series includes contributions in the social sciences, humanities and law. The series aims to provide theoretically informed studies analyzing key issues at the European level and within European states. Volumes in the series will be of interest to scholars and students of Europe both within Europe and worldwide. They will be of particular relevance to those interested in the development of sovereignty and governance of European states and in the issues raised by multilevel governance and multinational integration throughout the world.

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Law and Governance in Postnational Europe

Compliance beyond the Nation-State

Edited by

Michael Zürn and Christian Joerges
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Preface

It is difficult to find a book on compliance that would not refer to Louis Henkin’s *How Nations Behave*, citing his classic observation: “Almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time.” A second disciplinary observation by Henkin is a bit less well known: “The student of law and the student of politics . . . purport to be looking at the same world from the vantage point of important disciplines. It seems unfortunate, indeed destructive, that they should not, at the least, hear each other.” Together, these two quotes point directly to the core of this book. *Law and Governance in Postnational Europe: Compliance beyond the Nation-State* discusses the sources of compliance and non-compliance with legal rules. It originated from an interdisciplinary project that involved both vantage points: law and politics.

And it took its time. Back in 1997, Christian Joerges, a lawyer focusing in his research on European and international economic law, asked Michael Zürn, a political scientist focusing on international relations, to join the Center for European Law and Policy (ZERP) at the University of Bremen. Since then we have been continuously engaged in comparing and discussing the perception of law by legal and political science. That co-operation led to a project submitted to the Deutsche Forschungsgemeinschaft (DFG) as part of the program on *Regieren in Europa* (Governance in Europe). The funds we received were used to bring Jürgen Neyer and Dieter Wolf on board this project. This enabled Christian Joerges, Jürgen Neyer, Dieter Wolf and Michael Zürn to act for some time as team-mates in this project in Bremen. Our co-operation became more complicated when Christian Joerges moved to the European University Institute in Florence, Jürgen Neyer joined him there for some months as a Jean Monnet Fellow, but then moved further to Berlin, while Dieter Wolf accepted a position in Munich.

Complex structures need not be unproductive, however. The European University Institute hosted two workshops on which we could discuss our work extensively and systematically with colleagues from both
disciplines. In addition we have presented individual chapters at various occasions at changing places: at the ECPR workshop “Why do social actors comply?” in Mannheim in March 1999; at the Max Planck Institute for the Study of Societies, Cologne, in June 2000; at a workshop at the Humboldt University, Berlin, funded by the DFG programme on “Governance in Europe” in July 2000, and a panel at the annual conference of the International Studies Association in August 2000 in Los Angeles, at the University of Osnabrück in November 2000, and at the University of Toronto in 2001. Last but not least: with the start of the DFG-funded Research Center (Sonderforschungsbereich) on “Transformations of the State” the majority of the group could be brought together again in Bremen and finally finish and polish the manuscript.

It took a time-consuming effort to arrive at Law and Governance in Post-national Europe: Compliance beyond the Nation-State. The many changes in affiliations and the interdisciplinary approach came at a price; but that price was to some degree unavoidable – and hopefully as rewarding as envisaged by Robert J. Beck in 1996: “Students of both International Relations and International Law have begun in earnest to address variations of this ‘compliance’ question, and it would appear to constitute an area where significant gains can be jointly achieved.”

We are at any rate indebted to many institutions and individuals, to the Deutsche Forschungsgemeinschaft for funding the project, to the Center for European Law and Policy (ZERP) at the University of Bremen for hosting it initially, the European University Institute in Florence and the Sonderforschungsbereich on “Transformations of the State” in Bremen for their support. It is hardly possible to list all the scholars who have helped us with useful comments. Special thanks go to Beate Kohler-Koch, the co-ordinator of the Schwerpunktprogramm on Governance in Europe, who has given us much advice, and to Karen Alter, Tanja Boerzel, Klaus Eder, Josef Falke, Thomas Gehring, Oliver Gerstenberg, Peter Katzenstein, Martti Koskenniemi, Alexandra Lindenthal, Markus Jachtenfuchs, Thilo Marauhn, Renate Mayntz, Ronald B. Mitchell, Andrew Moravcsik, Claus Offe, Louis Pauly, Ernst-Ulrich Petersmann, Thomas Risse, Fritz W. Scharpf, Christoph Schmid, Beth Simmons, Anne-Marie Slaughter, David Victor, and Bernhard Zangl. We would also like to thank Joseph Corkin who corrected our continental English and Monika Sniegs for her editing of the whole book.