

## Summary and conclusions

The central question of this research project is: What kind of transposition instruments and techniques are used in Germany, Denmark, France, Italy, the United Kingdom, and Spain to transpose EC-directives in the national legal order in a timely, precise and legally correct way. The premise of this research is that the Netherlands can also learn from these foreign examples. In answering the central question – and the different sub-questions resulting from it – this project has made an inventory of the available transposition instruments and techniques which has been enriched and analyzed in relation to the context of national policy processes. The different dimensions of national policy process play an important role as regards the timely and correct transposition of EC directives.

We have performed a comprehensive comparative literature study combined with a series of in-depth, expert interviews to get an – as rich and accurate as possible - insight in the different national transposition instruments and techniques and the way in which the used techniques and instruments are embedded in the national policy processes. Interviews have been conducted in Denmark, France, the United Kingdom and Spain, based on the comparability of these countries with the Netherlands and the variety a legal instruments and techniques involved. The studies into the situation in Italy and Germany are based on a literature study only.

On the basis of our comparison between those six countries, the research reaches the following conclusions ;

- the introduction of special legal instruments and techniques dedicated to the transposition of EC Directives is not in itself and on its own an explanation for the improvement of timeliness in the transposition of the directives;
- the regular national legal system (including the common procedure, and legal instruments) is the point of reference for transposition – and as a consequence commonly used - in the countries involved in this research;
- there does not seem to be a preferred or best technique for the transposition of directives, which is not already in use in the Netherlands;
- delays in transposition are caused by combinations of several constitutional, legal, political and operational factors of which the effect cannot be judged independently but they can only be considered as interrelated elements of the national system;
- important sets of legal factors improving the transposition speed are the transposition of directives with delegated instruments (subordinated legislation), avoiding national extras when transposing directives and avoiding complications at the transposition stage by anticipating transposition-issues during the negotiation stage of a directive;
- important political factors are: giving priority to transposition and activating the national parliament at the negotiation stage; and
- important operational factors are a clear-cut lines of administrative responsibilities for transposition, working with multidisciplinary project teams and an accurate and frequent monitoring of progress.

Of these conclusions we have highlighted those which are particularly relevant for the Dutch situation.

On the basis of these findings we recommend the following:

- activate the Dutch parliament by the introduction of a parliamentary scrutiny reserve,
- pursue an active strategic policy with respect to the transposition of EC-directives by organizing more efficiently the responsibility for the monitoring of progress for the transposition,
- transpose the directive in the lowest possible legal instrument and use the existing legislative system and instruments to the full extent, instead of introducing new, special transposition instruments or procedures, alien to our constitutional system;
- try to come up with a broadly-based and joint Dutch influence on European dossiers.