

iwp Wissenschaftsforum

# Co-Constructing Compliance with IFRS – A Field Study of the Role of Enforcement

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# Problemstellung

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## IFRS:

- Werden in über 140 Staaten angewandt
- Werden vom IASB als prinzipienorientierte Standards entwickelt
- Werden von nationalen Enforcern durchgesetzt

Sowohl bei der Anwendung als auch bei der Durchsetzung der Standards muss das „professional judgement“ (professionelles Ermessen) angewandt werden.

Forschungsfrage:

**How do accounting professionals and enforcers co-construct compliance with IFRS?**

# Theorie: endogeneity of law

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## Gesetze:

- Sind nicht immer eindeutig
- Geben oft keine klaren Handlungsanweisungen
- Gewinnen erst Inhalt/Bedeutung durch den Prozess der fachlichen Interpretation

Diese Mehrdeutigkeit transferiert das Konstruieren von „Compliance“ zu den Akteuren des „wider institutional environment“

# The construction of compliance with accounting standards

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- Prinzipienorientierte IFRS konfrontieren Akteure mit Unsicherheit über „Compliance“
- IFRS erlangen Bedeutung/Inhalt durch den fachlichen Interpretationsprozess
- Huikku et al. (2017) und Barker & Schulte (2017) zeigen Schwierigkeiten auf, die bei der Übersetzung von IFRS in die Bilanzierungspraxis auftreten können
- Aber auch Enforcers müssen IFRS interpretieren um diese durchsetzen zu können
- Die Rolle von Enforcers ist noch relative unerforscht

# Forschungsmethode

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- Qualitative Case-Study in Österreich und Deutschland
  - Beide Staaten haben gut funktionierende Enforcement-Systeme mit überdurchschnittlichen Ressourcen (ESMA, 2017)
  - Beide Staaten haben zweistufige Enforcement-Systeme
- 27 Semi-strukturierte Interviews mit 29 Interviewten:
  - 5 Enforcers
  - 8 Enforcement Advisors
  - 16 Abschlussersteller
- Weiter Daten wie Tätigkeitsberichte, Pressemitteilungen, andere Veröffentlichungen etc.

# Networks of co-construction

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- Austausch zwischen den Accounting Professionals
  - Austausch über Bilanzierungspraktiken
  - Austausch über Branchen-Best-Practices
  - Austausch über Erfahrungen mit Enforcement Prüfungen
- Austausch zwischen Accounting Professionals und Enforcers
  - Interaktionen

Oftentimes, I just call [the enforcer] and say: “I have this issue, how do you think about it?” Then I also learn something. [...] I also enjoy this and this happens on both sides. It can also be that the [enforcer] calls and says: “Hey, we have this issue. Have you ever dealt with this? What do you think?” (EA2)
  - Formeller Austausch

# Implicit co-construction

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- Durch die Unsicherheit werden interne Verfahrensweisen entwickelt
- Accounting Professionals:
  - Erhöhte Dokumentation
  - Erhöhte Reflexion
- Enforcers:
  - Schemata

*“We try to have, so to say, schemes, where we say, according to this [scheme] we treat [similar cases] equally, [for example, in terms of] certain deviations from the plan, thresholds of a certain magnitude. (E2)”*
  - Sorgfältige Argumentation

*“We only have the power of reasoning. We are not the police. We cannot say: ‘it is that way’.” (E2)*
  - Gemeinsame Entscheidungsfindung

# Erhöhte Dokumentation

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This is a process, you can certainly say that this is everywhere the same, that the documentation is ever increasing, compared to earlier times [before the introduction of an enforcement system]. It is also the case that I write everything down. [...] Sometimes you just can't remember which issue belonged to which financial statements and also who said: "We do it this way." Therefore, we have a lot more documentation. But that is certainly, so very certainly, due to the [enforcement body] that this is ever increasing. (P1)



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# Erhöhte Reflexion

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The whole topic of goodwill / goodwill allocation [to cash-generating units for impairment testing purposes] [...], if you are on the edge of the fairway, then you ask: how could the [enforcement body] react to that? What could be the questions, what could be our line of argument [...]? We always do this. This is not formalized but happens during the discussion. This has, so to say, become a completely normal part of the thought process. What strands of arguments could be used there? (P4)

# Implicit co-construction

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# Implicit co-construction

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- Accounting Professionals und Enforcers antizipieren das gegenseitige Verhalten
- Das führt oft dazu das Ermessen vorsichtiger ausgeübt wird von den Accounting Professionals

I do think that it actually has an impact, because many depictions of big transactions are significantly more driven by documentation and as soon as they are driven by documentation, you go less to the limit. (E5)

- Enforcers müssen bei der Fehlerfeststellung eine stichhaltige Rechtfertigung zu Grunde legen

I think the [enforcer] also had a learning process. They lost one or the other court case. [They realized] that it is not always that easy for the [enforcer] to find an error and to prove it. (P2)

# Explicit co-construction

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## Durchsetzung der „Compliance“ der Accounting Professionals:

- Bessere Branchenkenntnisse

The [enforcer] cannot really do the financial accounting better than we do it. It might sound a bit arrogant, but we know the facts better and we know the accounting standards at least as well as the [enforcer]. (P5)

- Mehr Ressourcen

*“The enforcer does not have the same opportunities to use all the resources that we have [as a big audit firm]. We also send them some books and we look for literature because they don’t have access. [...] And that is the task during an enforcement investigation, to give [the enforcement body] the knowledge. For example, about industry practices, about how the world accounts. They could not know about this and that is not something bad. That simply means: We help you [enforcement body] to build up this knowledge and thereby we could manage to argue some threatened errors away.” (EA4)*

# Explicit co-construction

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## Durchsetzung der „Compliance“ der Enforcer

- Enforcer sind teilweise „investigativ“ und stellen eigenes Ermessen über das Ermessen der Professionals:

*“The closer you are to faded shades of grey, the closer you get to an area where I would say that errors are somewhat unavoidable [...] maybe it is a little bit excessive [in this country] at the moment as the enforcer exercises its own discretion and then requires that this discretion should also have been the discretion of the preparer.” (EA2)*

- Trotz unterschiedlicher Meinung werden die festgestellten Fehler oft nicht angefochten, da eine Enforcement Prüfung sehr viele Ressourcen bindet.
- Accounting Professionals nehmen keine Reaktion des Kapitalmarktes wahr.
- Die hohe Fehlerannahmequote führt jedoch dazu, dass Enforcer wiederum selbstbewusst ihr Ermessen ausüben

# Conclusio

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- Der fachliche Diskurs auf unterschiedlichen Ebene spielt eine wichtige Rolle bei der Schaffung eines gemeinsamen Verständnisses von Compliance
  - Networks of co-construction durch ständigen Austausch
  - Implizite co-construction durch Antizipation des Verhalten
  - Explizite co-construction, die dazu führen kann dass die Interpretation der Professionals oder der Enforcer dominiert
- Enforcement spielt eine wichtige Rolle bei der Interpretation von IFRS
- Die Untersuchung zeigt wie wichtig die Koordination nationaler Enforcement-Aktivitäten ist, um eine nationalen Auslegungen der IFRS zu verhindern.