EU MEMBERSHIP AND THE ENVIRONMENT: A COMPARATIVE PERSPECTIVE

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Abstract

This paper aims to analyze the challenges in the field of environmental policy faced by a new EU member state – Bulgaria – by resorting to a comparative politico-economic analysis of two paradigmatic models: the front-runner Denmark and the laggard Italy. The main issue is to investigate if Bulgaria's lagging in the policy is explained by the same factors that explain the lagging behind of Italy or the communist past is the most important reason for backwardness. I aim to identify the implementation challenges in the field of environmental policy faced by a new post-communist member state after EU accession.

After comparing the cases of Denmark and Italy the main hypothesis is derived, which is that poor implementation is caused by the low rank of environmental protection on the political elite's agenda, the insufficient administrative capacity of the state bureaucracy and the low degree of involvement of grassroots societal actors (NGOs and publics). This hypothesis is demonstrated to be valid for Bulgaria using expert interviews with officials from the Bulgarian Ministry of Environment and with a representative of Bulgarian environmental NGO, as well as party programs and Eurobarometer surveys.

Simultaneously, the role of the communist legacy is assessed and it is argued that although it cannot be ignored, it is not the root factor in explaining environmental implementation failures in the Bulgarian case since there is no evidence for a path dependent long term development of environmental policy.

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Introduction

Since the 1970s the European Community has turned its attention to the issue of environmental protection because it realized that it is an integral part of building a smoothly functioning common market. Uneven environmental laws produced negative externalities and accelerated intra-community trade distortions. This consideration, combined with the realization of the European people that there are limits to material growth, led to the formal incorporation of environmental protection requirements into the Single European Act (1987). Since then, more and more legislation in the field of environment has been adopted by the European Union (EU).

The development of EU environmental policy is driven by pressures to harmonize due to the transnational character of the policy and by the leader-laggard dynamic within the Union. Some states (the Nordic countries) are outperforming in the implementation of the policy while others (the Mediterranean block) struggle to keep up with it. In 2004 and 2007 twelve new member states joined the European club, most of them sharing common post-communist past. These new members immediately joined the laggard group in environmental policy but whether this will be a temporary or a permanent situation remains to be seen. There are numerous politico-economic challenges that both old and (especially) new member states face in the field of environment and it is worth comparing them using the exemplary cases of an old leader (Denmark), old laggard (Italy) and a newly joined post-communist laggard (Bulgaria).

Research Questions and Objectives

This thesis aims to analyze the challenges in the field of environmental policy faced by a new EU member state – Bulgaria – by resorting to a comparative politico-economic analysis of two paradigmatic models: the front-runner Denmark and the laggard Italy. The main issue is to investigate if Bulgaria's lagging in the policy is explained by the same factors that explain the lagging behind of Italy or the communist past is the most important reason for backwardness. I aim to identify the implementation challenges in the field of environmental policy faced by a new post-communist member state after EU accession. I have two closely interconnected research questions for this topic: Why are there differences in the level of implementation of environmental policy measures (i.e. why are there leaders and laggards) and is Bulgaria's lagging behind a sole consequence of its communist past or is it due to the low relative importance of the policy area for the society as seems to be the Italian case.

The Study of Implementation Problems: Why Bother?

This thesis contributes to the on-going debate that has emerged in the EU integration literature on the degree and relevance of non-compliance with European legislation on the part of old and new member states. Implementation problems matter not only because they damage reputations at the supranational level. Free-riding also creates an efficiency loss for all member states, the intended policy goals cannot be achieved and the policy burden is not equally shared. This is especially relevant for the issue of environmental protection because its effects transcend national boundaries and create a lot of externalities. Since non-compliance is costly for both EU and national-level actors, the

aim of this project is to explore potential explanatory factors contributing to implementation failures and delays. From the perspective of new member states, such a study may contribute to making clear what policy mistakes have been made in the past or are being made now and what can be done to correct them so that these countries do not turn into constant laggards.

Methodology

In investigating my research question I am first engaging in a comparative case study (Chapter 1). I am providing a comparative historical overview of the developments in environmental policy implementation in Denmark and Italy. The hypothesis that emerges from this analysis is that differences in implementation levels of environmental policy in Italy and Denmark are due to their different elite perceptions of the policy importance, the degree of involvement of grassroots societal actors and the administrative capacity of the state bureaucracies. Then, in Chapter 2, I am focusing on the Bulgarian case, testing whether the above hypothesis is valid for the country. If so, post-communist past is not the most significant factor for explaining backwardness. Italy has never been a communist state but it experiences similar problems. The primary means I am using to understand how the identified in my hypothesis causes play out in Bulgaria is through content and discourse analysis of expert interviews with officials from the Bulgarian Ministry of Environment as well as an interview with a representative of a Bulgarian environmental NGO. Also, party programs are analyzed to figure out to what extent environment is a priority for the current Bulgarian political elite. Environmental expenditures as percentage of GDP (data from the Bulgarian National Statistical Institute)

will be used to show what the real commitment to environmental protection measures is limited.

I operationalize the concept of environmental policy performance by utilizing the widely used in the literature dichotomy between "leaders" and "laggards". The distinction is based on how effectively EU environmental legislation has been a) transposed and b) implemented. Transposition (formal incorporation into the national legal system) is easy to measure – by reports from the European Commission and number of pending infringement cases in front of the European Court of Justice (ECJ). In contrast, implementation (the effective enforcement of law) is notoriously difficult to assess. The present project does not claim to overcome this problem but attempts to come closer to investigating the micro-level by using expert interviews on the national level.

My research is obviously case oriented because it aims at an in-depth study of the three countries (and especially of Bulgaria). My choice of countries is deliberate and follows the leader-laggard logic. Denmark is an active policy shaper in environmental issues (i.e. actively influences EU policy-making in the field) and is outperforming most other member states. Italy has long been a laggard, with good transposition but poor implementation record. Bulgaria is a post-communist state in which environmental legislation was highly inefficient before 1989. The country adopted modern environmental legislation as a package, mainly as a response to the external influence of the EU *acquis communautaire*. Implicit in my analysis is the assumption that the policy implementation process is similar and uniform enough so it is possible to tease out processes in one member state which can be applied to another. This is a reasonable and practical

assumption because it allows for applying lessons from old member states to new member states and brings in new practical policy-making insights.

Literature Review

There is a large amount of literature on the development of environmental policy in the EU. McCormick[1] outlines three periods in the policy evolution: the environmental revolution (1973-86), the establishment of legal competence (1987-92) and consolidation (1993-). That is why the time span of this thesis is between 1973 (which coincides with the accession of Denmark) and the present day. Since the 1970s a significant amount of environmental *acquis* was adopted so the debate is revolving around the degree of success in the implementation of the policy. Scholars have identified an implementation gap[2], especially in the Southern and Eastern member states. It is stated that political activism and environmental awareness are only just emerging in these societies, which means that public support for environmental protection is sparse and environmental interests have limited access to public policy-making.[3] Southern European countries (e.g. Italy) have political systems traditionally dominated by patronage, clientelism and disrespect for public authority. This Mediterranean political culture contradicts the northern European

[1] John McCormick, *Environmental Policy in the European Union* (Basingstoke: Palgrave, 2001)

[2] See, among others, Matthieu Glachant (ed.), *Implementing European Environmental Policy* (Cheltenham: Edward Elgar Publishing, 2001), Florian Trauner, "Post-accession Compliance with EU Law in Bulgaria and Romania: A Comparative Perspective", *European Integration Online Papers* 2:13 (2009), Tanja Börzel, "Non-Compliance in the European Union. Pathology or Statistical Artifact?", *Journal of European public Policy* 8:5 (2001)

[3] Geoffrey Pridham and Michelle Cini in M. Faure, J. Vervaele and A. Waele (ed.), *Environmental Standards in the EU in an Interdisciplinary Framework* (Antwerp: Maklu, 1994)

political culture (of which Denmark is an example) that is built on corporate forms of social organization (on which EU environmental policies are based).[4]

The dominant explanation in the literature about the causes of implementation problems is the so-called "goodness of fit" hypothesis[5]. According to that argument compliance is inversely proportional to the degree of necessary adaptation measures to EU legislation. The more the implementation of a piece of EU legislation or policy requires changes in the national institutional structures or policies, the greater the opposition and/or the difficulty in implementing it. This institutionalist reasoning will be adopted in the analysis of the case studies. Three levels of institutional structures will be established: elite, administrative and grassroots. The degree of compatibility of each of them to the EU harmonization pressures will be identified as the main cause of implementation challenges.

The rational institutionalist argument proved to have strong explanatory power in the cases of new member states because the acceding countries' adherence to EU rules before accession was mainly driven by rational cost-benefit calculations[6]. The crucial mechanism employed by the EU to make candidate countries accept its rules is the instrument of conditionality – in order to receive the benefits of membership, candidates have to comply with EU law. It can therefore be expected that the absence of the conditionality instrument after accession will decrease the level of compliance in the case

[4] Ibid.

[5] See, for example, Franceso Duina, "Explaining Legal Implementation in the European Union", *International Journal of the Sociology of Law*, 25 (1997); Christoph Knill, "European Politics: The Impact of National Administrative Traditions", *Journal of Public Policy*, 18 (1998); Christoph Knill and Andrea Lenschow, "Coping with Europe: The Impact of British and German Administrations on the Implementation of EU Environmental Policy", *Journal of European Public Policy*, 5 (1998)

[6] Frank Schimmelfenig and Ulrich Sedelmeier, "Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe", *Journal of European Public Policy* 11:4 (2004), Antoaneta Dimitrova, "Enlargement, Institution-Building and the EU's Administrative Capacity Building", *West European Politics*, 25:4 (2002)

of new members. Scholars, however, disagree whether that is the case. Ulrich Sedelmeier[7] claims that the eight new member states in Central and Eastern Europe (CEE) even outperform the old members in complying with the *acquis communautaire* due to their greater susceptibility to shaming and an institutional investment in legislative capacity during the pre-accession stage. However, Gerda Falkner et al.[8] conclude that the CEE countries form a "world of dead letters", where the implementation process is characterized by a relatively successful transposition but with systemic shortcomings at the application and enforcement stage. The present thesis will argue that in the Bulgarian case, the latter observation is more insightful because it does not simply rely on formal transposition data but goes deeper into application and enforcement issues which are a significant part of the implementation process.

There are studies that assess the individual historical performance of the countries I have chosen to compare. Lewanski[9] explores the question of Italy's environmental policy integration and argues that Italy's problems are due to poor institutional capacity and limited reach of different policy instruments. Peter Bursens[10] uses the case of Denmark and maintains that although it is a small member state, it has succeeded remarkably in "uploading" its environmental policy to the European level due to the tradition of corporatist policy-making. Moreover, in environmental policy Denmark has succeeded in becoming a green leader because it has traditionally had very strict standards. Since

[7] "After conditionality: post-accession compliance with EU law in East Central Europe", *Journal of European Public Policy* 15:6 (2008)

[8] *Compliance in the Enlarged European Union: Living Rights or Dead Letters* (Aldershot: Ashgate, 2008)

[9] in Andrea Lenschow (ed.), *Environmental policy Integration* (London: Earthscan Publications, 2002)

[10] Peter Bursens, "Why Denmark and Belgium Have Different Implementation Records: On Transposition Laggards and Leaders in the EU", *Scandinavian Political Studies* 25:2 (2002)

European directives regarding environmental regulatory policies often consist of minimum requirements, Denmark often does not have to upgrade its legislation. These are very useful insights and will be used when I compare the Danish case with the cases of the two laggards.

Notwithstanding all this literature, there have been very few attempts to critically examine the case of Bulgaria.[11] Although Bulgaria is a recent member of the EU, an evaluation of its environmental performance is needed, especially if one wants to understand the challenges facing the country at present and whether those challenges can be met. The post-communist country is not a policy shaper in the sense identified by Tobias Hofmann and Tanja Börzel.[12] They claim that member states that are good shapers (like Denmark) are also effective takers of supranational policies – not only due to the better fit between obligations and domestic settings, but also because the factors that enable member states to shape environmental policies help them to ensure their effective implementation. Operationalized in this sense, the concepts of policy shaping and policy taking will be utilized in my thesis when accounting for the reasons for the implementation gap. I will explore whether Bulgaria can be a successful policy taker even though it is not a policy shaper. Maybe the desire to catch up and to be a "good" member state on the one hand and the fear of severe sanctions on the other are strong enough motivators for effective enforcement of the policy.

[11] There is a brief overview of Bulgarian environmental policy in Liliana Andonova's *Transnational Politics of the Environment* (Cambridge, MA: MIT Press, 2004) and Alexander Carius et al., *Environmental policy and law in Bulgaria: towards EU accession* (Berlin: Ecologic, 2001)

[12] "The Double Curse of Lacking Capacity. Evidence from an Instrumental Variable Approach to the Making and Taking of European Environmental Policies", *Paper presented at the annual meeting of the ISA's 49th Annual Convention, San Francisco, CA* (2008), http://www.allacademic.com/meta/p251491_index.html

Chapter 1: Explaining Different Implementation Records in Denmark and Italy

The main claim of this chapter that emerges from the analysis of the literature on the implementation records of the two old member states under study in this paper is that differences in the level of implementation in Italy and Denmark are mainly due to the different relative importance of the environmental policy area which is caused by the differences in, on the one hand, how much governing elites perceive the policy area as important (i.e. what their political culture is) and on the other, how much the "grassroots" (domestic publics, NGOs) push for environmental agendas (i.e. how strong the bottom-up pressure is). Political activism and environmental awareness are not very strong in southern European societies, which means that public support for environmental protection is sparse and environmental interests have limited access to public policy-making[13]. Southern European countries (e.g. Italy) have political systems traditionally dominated by patronage, clientelism and disrespect for public authority. This Mediterranean political culture contradicts the northern European political culture (of which Denmark is an example) that is built on corporate forms of social organization.

1.1 Definitions

This thesis adopts the definition of effective implementation by Christoph Knill and Andrea Lenschow[14] as "the degree to which the formal transposition and the practical

[13] Geoffrey Pridham and Michelle Cini in M. Faure et al. (ed.), *Environmental Standards in the EU in an Interdisciplinary Framework* (Antwerp: Maklu, 1994)

[14] *Implementing EU Environmental Policy: New Directions and Old Problems* (Manchester: Manchester UP, 2000)

application of institutional and instrumental changes correspond to the objectives defined in European legislation." Hence, the compliance with these objectives (the degree of match between objectives and outcomes) rather than the evaluation of environmental quality improvements is of main concern here.

Before I start the comparative analysis, I will define the concepts of leader and laggard. The basic quantifiable difference is the percentage of environmental *acquis* that is transposed into national law and the number of infringement cases in the area in front of ECJ. Italy and Denmark nicely fit into the quantifiable criteria establishing leading and lagging. According to the statistics on environmental infringements, published by the Commission's DG Environment[15], the number of infringements by member state clearly indicates a difference between Denmark and Italy. The former has 13 infringement cases as of 31/12/2009 while the latter has 35. Most of them fall under the bad application type and not under the non-communication type which means that the problem lies not in the formal transposition but in the bad application of the already transposed legislation. Of course, one should be cautious not to draw big conclusions from the different number of infringements because the overall case load can also depend on factors such as the level of proactiveness of local environmental groups and citizens and how likely they are to approach the European Commission with their concerns rather than maybe turning to their national authorities or courts. Still, this difference in number of infringements is very useful (and easily measurable) and notwithstanding the limitations can be used to differentiate between leaders and laggards.

[15] *Statistics on Environmental Infringements*, 2009

A more sophisticated differentiation between the two concepts can be established through a policy shaping – policy taking dichotomy. Leaders are the ones who are far ahead in the implementation of the EU environmental policy and even upload on the EU level from their national legislation. This means that a leader would very often have more developed environmental policies than what EU regulations set and will try to actively influence EU policy-making in the field. Denmark is a great example of this process and can be labeled a policy shaper. On the other hand, laggards are those countries that have adopted most of their environmental legislation because they have to comply with the EU directives. They do not initiate any new policies, do not come up with new ideas and can be labeled policy takers because they only adjust to the developments on the EU level. One can argue that it is precisely because the laggard countries do not perceive environmental policies as coming from their own domestic interest (i.e. they do not participate in the policy formulation stage) that they have no incentive to effectively implement them. Low domestic salience of a policy area translates into poor implementation record if that policy is imposed from above.

This latter differentiation has far greater explanatory power but the question that now emerges is: Why is Denmark a policy shaper and Italy – a policy taker? In order to understand that, a comparative overview of the developments in environmental policy implementation in both countries will be useful.

1.2 The Case of Italy

Environmental policy in Italy developed with considerable delay when compared to other industrialized countries. A simple analysis of the dates in which institutions were set up and legislation was passed evidences that. The actual implementation and enforcement

of air-pollution control policies, for example, began only in the 1970s and was limited to a few areas of Northern Italy[16]. The Italian Ministry of Environment was established as late as in 1986 – a date formally marking the upgrading of the status of environmental policy *vis-à-vis* other sectoral policies. The fact that in the same year the Single European Act was being adopted is no coincidence. Italy was "acquiring" its environmental legislation from the EU level but environmental issues suffered from low visibility throughout the 1980s and 1990s. The basic reason for this was that the political elites were hardly giving any attention to an issue that was of little or no relevance for inter- and intra-party power relations[17]. Environmental issues were perceived by most politicians as offering very little payoff in electoral terms so their relative importance was low. It is therefore not surprising that few financial resources were allocated to deal with environmental problems. Total expenditure on environmental issues in Italy as percentage of GDP (1%) was lower than the EU average of 1.2%[18]. The ruling governments in the 1990s did not put environmental issues high on the agenda. An interesting example is that during the Berlusconi government of 1994-1995 the Minister of environment was a right extremist who showed no interest in environmental protection and openly claimed to be in favor of nuclear energy, highways and hunting in national parks[19]. Another major weakness in Italy was that it failed to promote intersectoral policy integration. It is common knowledge that unless environmental measures are integrated horizontally within other policy areas they have limited effectiveness. However, most of Italy's governments are coalitions in which

[16] Rodolfo Lewanski, "Environmental Integration: Is a Green Government Enough? Some Evidence from the Italian Case", in Andrea Lenschow (ed.), *Environmental policy Integration* (London: Earthscan Publications, 2002)

[17] Ibid.

[18] OECD, *Environmental Performance Review: Italy* (Paris: OECD Publications Service, 2002)

[19] Lewanski, 2002

power balances dominate the agenda. Any attempts to integrate sectoral policies can be perceived as reshuffling of powers and can destabilize the coalition.

In the early 2000s Italy has essentially caught up with other industrialized countries as far as legislation and resource allocation are concerned[20]. However, poor implementation by the administrative system decreases policy effectiveness. Some commentators have characterized the Italian case as "regulation without rules"[21] and that has not significantly changed. The explanation for that fact is that Italian policy appears to be highly reactive in the sense that policy measures in the environmental field have been directly triggered by exogenous inputs to the domestic polity – namely, policy obligations taken at the EU level. There is little doubt that much national environmental legislation would not have come into existence without the pressure of having to comply with EU directives.

As far as the choice of policy instruments is concerned, Italy has relied on the command-and-control approach[22]. The characteristic features of this approach are bureaucratism, formalism and uniform standards covering the entire national territory. Three problems immediately emerge from this approach. First, Italy is too diverse for the application of uniform standards. The Northern part of the country is much better developed economically and the political culture of its regions is more post-materialistic. In contrast, much of the South is still ruled by the mafia and there is very limited government presence. The two parts of the country require different policy designs. The second problem is that excessive bureaucratism is an unfavorable condition for policy

[20] Lewanski, OECD

[21] Giuliani, 1992

[22] Lewanski

innovation in general. Obstructionism within civil service hinders reform of existing procedures because it is perceived by the public administration as loss of power or even a threat to the very existence of a specific office. Finally, command-and-control measures tend to disregard the voice of the grassroots, businesses and NGOs. Environmental policy develops much more effectively via a bottom-up approach where policy ideas come from the actors who will actually have to comply with them. The case of Denmark clearly illustrates that argument.

1.3 The case of Denmark

Although Denmark is a small member state, it has succeeded remarkably well in uploading its environmental policy to the European level. This is very important because being able to upload national policies to the supranational level makes them easier to implement afterwards. This uploading mechanism refers to the capacity of a particular member state to convince the others to develop common European legislation in conformity with its own policies. Since European directives have to be implemented by all member states, those which have been able to sell their model to the rest will be able to download European policies with less effort and will have fewer implementation problems than those which have not. The great performance of Denmark is partly due to its coordination system – some unique special committees exist in the public administration and are composed of civil servants form different ministries and representatives of concerned interest groups[23]. Due to the tradition of corporatist policy-making, Danish interest groups are consulted at a very early stage and play a key role in policy formulation

[23] Peter Bursens, "Why Denmark and Belgium Have Different Implementation Records: On Transposition Laggards and Leaders in the EU", *Scandinavian Political Studies* 25, no. 2 (2002)

and implementation in general and in EU matters in particular. Also, regional and local authorities can be members of these committees, which increases the chance that local entities will cooperate smoothly during the implementation stage[24]. It is also typical of environmental policy that functional committees of the parliament are closely involved in the preparation of the Danish negotiating position. In addition, general coordination at the level of the special committees is guaranteed by the representation of the Foreign Affairs Ministry[25]. This way of working ensures that the Danish mandate is supported by a large community of public and private stakeholders. This bottom-up approach proves to be very effective.

In addition to the effectiveness of the coordination mechanism in Denmark, institutional capacities are much higher than in Italy. For example, the Ministry of Environment has a well-staffed special coordinating unit for EU affairs to ensure consistency with the EU level, to supply expertise to negotiators and to handle the relationship with the European Committee of the Danish Parliament (Folketing)[26]. The composition of the European Committee reflects the relative strength of the political parties in the Folketing. Thus, opinions in the Committee represent the opinion of the majority, hence constituting a workable European mandate for the Danish government. Also, when the Danish representative returns home after negotiations in Brussels, they are obliged to report to the European Committee thus informing the Parliament about the

[24] Peter Nedergaard, "The Case of Denmark", in S. Pappas (ed.), *National Administrative Procedures for the Preparation of Community Decisions* (Maastricht: European Institute for Public Administration, 1995)

[25] Bursens, 2002

[26] Ibid.

political context in the EU level[27]. This immensely helps the policy uploading process because Denmark can adjust its strategy more effectively.

A very important factor ensuring better implementation in Denmark is that it faces less adaptation pressure. Denmark has traditionally had very strict standards in the field of environmental policy[28]. Since European directives regarding this policy often consist of minimum standards, Denmark is usually not forced to upgrade its legislation. Moreover, in environmental policy Denmark has succeeded in becoming a green leader, able to push its own policies through at the EU level (the uploading mechanism), hence establishing compatibility between EU and Danish policies. Even in areas where there is no already existing compatibility, Denmark has various tools at its disposal to transpose EU directives, but more often than other member states it uses executive instead of legislative measures[29]. This leaves the implementation largely in the hands of civil servants, hence reducing it to a technical and legal matter and not – as is often the case in Italy – a political matter. The overall conclusion is that Denmark is an environmental leader due to the fact that Danish elites find it much easier to agree on environmental policy measures because it is a high-priority issue area and because efficient public administration ensures uniform policy implementation.

As far as the grassroots are concerned, the basic Danish attitude regarding law implementation is that when the lawmaking process has been completed, the law must be obeyed: "the Danes take pride in living up to agreements"[30]. The fact that interest groups

[27] Ibid.

[28] Ibid.

[29] Ibid.

[30] Soren Von Dosenrode, *The Case of Denmark* (Aalborg: University of Aalborg, 1997), p. 25-26

have taken an important part in the negotiation of the government position "obliges" them to comply with the European legislation even if Denmark has not succeeded in uploading its agenda. However, such failures are rarely the case in the field of environmental policy so the implementation commitment at the micro level is considerably high. The command-and-control approach of the Italian government is not needed in the case of Denmark.

1.4 New Versus Old Policy Approaches and Their Importance

The issue of policy approaches deserves more attention and the remainder of this chapter will focus on it. European environmental policy has been traditionally characterized by regulatory policy approaches. Initial policies of the Community were primarily command and control instruments. Recently, however, the EU has started to favor new forms of governance characterized by economic instruments and, in the terms of Holzinger, Knill and Schäffer, "context-oriented" governance. Starting in the 1980s the European Commission advocated economic incentive instruments, such as tradable permits and environmental taxes. Since the Fifth environmental action programme in the mid-1990s "context-oriented" instruments were added. Their aim was to leave the Member States more discretion in the implementation process, to include the addressees in policy formulation and enforcement, and to prescribe administrative procedures rather than substantial outcomes to be achieved[31]. The focal point was cooperation between public and private actors in formulating and implementing European environmental policy as well as

[31] Katharina Holzinger et al., "Rhetoric or Reality? 'New Governance' in EU Environmental Policy", *European Law Journal* 12, no. 3 (2006)

the flexible development of policies against the background of diverging conditions at the national and sub-national levels[32].

It is often stated that the adoption of new policy instruments would be a "panacea" to the wide implementation gap. It is believed that implementation problems arise due to wrong policy approaches and therefore can be solved merely by changing them. This argument is erroneous because it ignores the institutional drawbacks. It is not only the choice of policy type but also institutional adaptation requirements implied by EU policies that are responsible for implementation performance. The success of any policy reform depends on its level of congruence with already existing structures and practices to mobilize effectively the support of strong societal actors (be it elites or publics) in favor of institutional adjustment. This argument is very well supported by Christoph Knill and Andrea Lenschow.[33] They argue that not the type of instrument but the institutional and socio-political context are decisive with regard to implementation. Moreover, the authors demonstrate that new instruments also suffer from implementation deficit because they do not reduce politicization or the complexities of decision-making and institutional conditions. This is not to say that the new policy instruments should be ignored. It merely means that, for example, awareness-raising is not productive if it is not accompanied by fines and by regulatory limitations on environmentally harmful behavior. The two approaches should work together. Polluters are more likely to comply with regulations if legal pressure is combined with a newly realized self-interest.

[32] Ibid.

[33] *Implementing EU Environmental Policy: New Directions and Old Problems* (Manchester: Manchester UP, 2000)

In order to understand why and how the Italian regulatory approach can change, Andrea Lenschow's "New Regulatory Approaches in 'Greening' EU Policies" can be useful. Italy should "diversify" its mix of policy instruments and include new ones. Lenschow argues that the EU might not be taking the new governance approach far enough because it may neglect society's role. To accept the new governance principles, societal actors need to change behaviors and to learn[34]. Policy learning is a cognitive process in which policy makers adapt their views and change the way they make their choices. Lenschow warns that policy learning should not be applied to elites only, but to the general public as well. Not only should the elites learn to change their perceptions of the importance of green policies and sustainable development, but the society should pressure from below. In order to do that, the grassroots should be given an opportunity to organize into interest groups, to be given inexpensive access to courts in case they notice environmental infringements and to be stimulated with resources if they lack them[35]. Lenschow insightfully argues that environmental principles are more likely to gain acceptance on the general expert level but they face resistance where immediate trade-offs are felt. That is why competing interests should be taken seriously for a balanced and more socially accepted policy discourse. The reconciliation of conflicts may depend not only on deliberation and persuasion but also on financial compensation so that the perception that there are winners and losers is alleviated. In sum, new governance forms depend on the involvement of both elites and civil society.

[34] p. 31

[35] p. 32-33

1.5 Conclusion

In conclusion, based on the information about the countries in focus available in the literature, this chapter has argued that differences in implementation levels of environmental policy in Italy and Denmark are mainly due to their different elite perceptions of the policy importance, the degree of involvement of grassroots societal actors and the administrative capacity of the state bureaucracies. Denmark's elites have long put the environment protection as top priority; the country has consulted its interest groups at the policy formulation stage, has succeeded in uploading its policies to the EU level and has depoliticized the policy implementation process. In contrast, Italy's elites have perceived the environmental agenda to be of low salience and electorally "unprofitable". The country's political activism and interest group involvement are more limited, largely due to the bureaucratic top-down command-and-control approach of policy-making. Italy's policies are only reactive to the EU level dynamics and its relatively inefficient public administration has obstructed the implementation process due to political cleavages and power struggles within coalition governments.

Chapter 2: Politico-Economic Challenges for Bulgaria in Applying EU Environmental Legislation

After comparing the cases of the two old member states (one leader and one laggard) the thesis arrived at a working hypothesis that poor implementation in the field of environmental policy is rooted institutionally in three levels: elite, administrative and grassroots. The main purpose of this chapter is to examine in details whether the already identified problems at those three levels explain the current record of implementation of the policy in the main case study of the present project – Bulgaria. Simultaneously, the role of the communist legacy will be assessed and it will be argued that although it cannot be ignored, it is not the root factor in explaining environmental implementation failures in the Bulgarian case since there is no evidence for a path dependent long term development of environmental policy.

The chapter is structured as follows: first, a historical overview of environmental policy development in Bulgaria will be provided from the communist era through the transition period until nowadays. Special attention will be given to the preparation of the country for accession into the EU and the role of the international organization for environmental policy development. Second, the three institutional levels (elite, administrative and grassroots) will be examined one by one and the politico-economic challenges for Bulgaria in applying EU environmental legislation will be identified. It is namely the serious problems at all of those three levels that cause the poor implementation record of the country. Various data will be used to support the main claims, including

political party programs, environmental operation programs, environmental expenditure statistics and expert interviews.

2.1 Historical Overview of Environmental Policy Development in Bulgaria

2.1.1 State Socialism

Prior to 1989 Bulgaria, like other socialist countries, had had laws on environmental protection but they were not part of a comprehensive and enforceable environmental policy. Environmental standards were quite strict on paper but were inadequately enforced due to the planned economy system of production. The reality of communist environmental protection was complex. There was a formal recognition of the need for environmental management and the communist state had developed both institutions (Environmental Protection Committee, established 1976) and legal instruments to protect and manage the environment and in some respects had even achieved good results (e.g. the creation of extensive nature preserves)[36]. However, while the state formally acknowledged the importance of nature protection, its environmental policies were strictly subordinated to overriding economic goals. The type of developmental model pursued by the state socialist system imposed limits on the successful dealing with environmental problems. Fees and fines were used as basic environmental protection measures[37] but they had limited effectiveness since those fines were paid out of the soft budgets of state enterprises. The regulator and the regulated was the same entity so the

[36] Petr Pavlinek and John Pickles, "Environmental Pasts/Environmental Futures in Post-Socialist Europe" in JoAnn Carmin and Stacy VanDeveer (eds.), *EU Enlargement and the Environment: Institutional Change and Environmental Policy in Central and Eastern Europe* (London: Routledge, 2005), p. 242

[37] Alexander Carius et al., *Environmental policy and law in Bulgaria: towards EU accession* (Berlin: Ecologic, 2001)

state basically fined itself. Hence, those instruments had little chance to influence enterprise behavior.

It is a myth that there was total ignorance of environmental problems by state socialist governments. It is also a myth that the problems of the communist countries were completely different from those of the Western capitalisms. There were important similarities between state socialism and capitalism in extensive and energy-demanding production methods with parallels in environmental consequences.[38] These parallels grew as CEE governments were trying to emulate Western production methods. The environmental problems of the Eastern block, however, grew more severe due to its increasing indebtedness in the 1970s and 1980s which led to declines in environmental spending. Moreover, the soaring oil prices after the crisis of 1973 and the reductions in oil deliveries from the Soviet Union led to increased dependence on low-quality and highly polluting domestic coal.[39]

There are other factors that make sweeping generalizations about the state of the environment during the communist era in Bulgaria inappropriate. One example was the coexistence of heavily polluted areas with vast areas of pristine nature. What is more, the state socialist environmental data was skewed. Data collection was focused on the most heavily polluted areas and during periods with the highest levels of pollution.[40] Therefore, data overrepresented the level of environmental degradation in the communist countries. This fact seriously weakens the argument that the post-communist countries inherited all their problems from the state socialist times. No matter what the societal order is,

[38] Pavlinek and Pickles, p. 243

[39] Ibid., p. 243

[40] Ibid., p. 241

economic considerations always tend to supersede environmental ones. Industrialization was carried out everywhere so plants were polluting both in the East and in the West. It is much more accurate to blame bad technology and the general economic climate after the 1970s for the poor state of environment protection in the communist block.

2.1.2 Post-communist Transition

The above argument is not so say that environmental problems were not significant in many parts of the country. Forty-five years of intense and in many cases inefficient industrialization had their role. Bulgaria suffered air pollution in areas around thermal power plants and industrial enterprises. The situation with water quality was even more serious. Large-scale pollution of rivers and lakes was due to factories discharging their wastewater directly into rivers without sufficient, if any, treatment.[41]

Bulgarian society was not oblivious to those problems and in the first years after the fall of the communist regime there was a powerful drive for environmental reform both from the civil society and the ruling elites. Environmental protection received high priority in the initial years of transformation.[42] The Bulgarian Ministry of Environment was established in 1990 (with much broader competencies than the previous Committee), environmental protection was enshrined into the Constitution (article 15) and an Environmental Framework Act was adopted in 1991. The significant role of the environmental movement at the outset of the Bulgarian transformation process was illustrated by the creation of a number of non-governmental organizations (Green Balkans,

[41] Regional Environmental Center for Central and Eastern Europe, *Strategic Environmental Issues in Central and Eastern Europe: Volume 2, Environmental Needs Assessment in Ten Countries* (Budapest: REC, 1994)

[42] Pavlinek and Pickles, 2005; Carius, 2001; Andonova, 2004

Bulgarian Association for Bird Protection) and Ekoglasnost – the biggest Bulgarian green political party that enjoyed quite good electoral support in the first democratic elections.

However, a couple of years after 1989 the sense of urgency in dealing with environmental matters quickly evaporated because economic problems overwhelmed both the governments and the public. The power of Ekoglasnost significantly diminished due to internal conflicts.[43] All the gains in pollution reduction were due to the bankruptcy or closure of big industrial state enterprises and not to significant pollution abatement efforts. The electricity industry (thermal power plants) was the main polluter, but its powerful lobby blocked reforms.[44] In short, the combination of political instability, economic difficulties (which culminated in a full-blown banking and currency crisis in 1996-1997) and the powerful energy lobby put the environmental issue down in the priority list of both the Bulgarian elites and public. This fact fully supports the hypothesis of this thesis.

2.1.3 Light in the Tunnel: Privatization and EU Accession

After 1997 significant changes were taking place in Bulgarian transition. After the introduction of a currency board and change of government in 1997, macroeconomic stability finally came to Bulgaria. The road for privatization was paved and the process was started. It is reasonable to expect that privatization would result in the closure of inefficient (and more polluting) industrial facilities, helping to reduce inefficiencies and waste. Also, replacing the central planning system with a market economy would result in the adoption of new (cleaner) technology. However, the positive effects of privatization and market economy are not so clear-cut. On the one hand, there is no doubt that a high

[43] Carius, 2001

[44] Andonova, 2004

rate of technology substitution would bring positive results, but on the other hand increased growth in Bulgaria is giving rise to increasing pollution, especially in the transport sector. With growing prosperity the number of automobiles has risen significantly and Sofia is in constant traffic jams. Additionally, the adoption of capitalist practices, most notably the increase in material consumption, is contributing to the same unsustainable environmental outcomes commonly found in Western Europe. The moral of the story is that regimes cannot be labeled easily as pro- or anti-environment. Both state socialism and market capitalism have their shortcomings and it does not make sense to attribute problems merely to the type of system in place or its legacies. More fundamentally, the replacement of one system with another does not automatically solve environmental problems as seen in the case of Bulgaria. Italy has always been capitalist, but suffers from very similar challenges. This conclusion points to the fact that root causes of the problem should be traced not in the communist legacy but elsewhere, as this thesis does.

To reiterate, the effects of privatization on environmental protection are ambiguous, especially considering the fact that privatizers often took advantage of the lower environmental standards in Bulgaria because they could save on investment expenditure. But there is another much more powerful factor that changed environmental policy-making in Bulgaria, namely the European Union conditionality. The country was invited for accession negotiations in 1999. To become a member of the Union, Bulgaria had to implement a vast amount of European legislation (the *acquis*) in many policy areas, including environment. Bulgaria adopted almost wholesale the principles of EU

environmental protection regulations.[45] The process of accession to the EU was a major exercise in legal and administrative restructuring. This is because the EU expects the accession countries to implement most of the environmental *acquis* by the date of accession. To support the necessary upgrading of administrative structures and the needed investment (which, as was demonstrated, could not come as a result of privatization), the EU has established various funds and programs (PHARE, ISPA, SAPARD). The thesis will return to the more important issue of how well those funds were actually absorbed in Bulgaria in the section that assesses the administrative capacity problems. In addition, the Union has granted long transitional periods for certain provisions of its environmental legislation that are particularly difficult to implement. Whether those periods were long enough for Bulgaria will be examined later.

As a result of the above mentioned developments, the accession process has significantly affected environmental policy in Bulgaria. Environmental legislation has been modernized and EU pressure has to an extent compensated for the lack of domestic incentives for an active policy in the field. EU harmonization agenda affected the regulatory activity in the sphere of environmental protection and the ministry became "pushier"[46] because it could now use Bulgaria's international commitments. EU conditionality altered domestic policies but the question is to what extent. The next section of this thesis will argue that due to the factors outlined in the main hypothesis, the success of pre-accession conditionality was limited. The basic problem is that, in order to be effective, environmental activism should come from the domestic actors (the elites and

[45] Ibid.

[46] Ibid.

especially the grassroots). In the Bulgarian case it came from above (the external pressure of a supranational institution) so it is no surprise that (at least initially) implementation will be inefficient. If you do not participate in policy formulation (like Denmark does) it is very likely that policy implementation will be limited – just like in Italy and Bulgaria who have been rather passive policy takers.

The principle of conditionality (accept these rules or be denied membership) has parallels to state socialist practices of law creation which also lacked a public process and laws were essentially dictated. But one might ask if it would be possible for environmental initiatives to emerge otherwise. It is beyond the scope of this thesis to answer this rather philosophical question. What is for sure is that Bulgarian society is still not prepared for a change of the way it thinks about the environment as will be demonstrated in the next section.

2.2 Politico-Economic Challenges for Bulgaria in Applying Environmental Legislation

This is the core section of the thesis, attempting to analyze the current problems of Bulgaria's environmental policy implementation along the lines of the main hypothesis which is that poor implementation is caused by the low rank of environmental protection on the political elite's agenda, the insufficient administrative capacity of the state bureaucracy and the low degree of involvement of grassroot societal actors (NGOs and publics). Each of these three levels will be taken up one by one in the subsequent subsections.

2.2.1 Elite perceptions

The first basic problem in environmental policy implementation is the fact that environmental concerns are only weekly rooted into the Bulgarian political party system. The only green party that had electoral success – Ekoglasnost – is now long forgotten. Internal conflicts over power led to the breakdown of the party into insignificant entities which dissolved into other parties. The situation very much resembles the Italian case where party cleavages and power struggles eroded the possibility of a strong green movement (see Chapter 1). The problem is significant because, in the absence of leadership on the part of the elites, it is very hard for environmental issues to make it into the frontlines of government policy. To substantiate these claims, the party programs of the three biggest and former ruling political parties in Bulgaria will be examined: the leftist Bulgarian Socialist Party (BSP), which was heading the governing coalition from 2005 until 2009, the centrist NDSV (established around the personality of the former king Simeon II), which governed from 2001 until 2005 and was part of the coalition government between 2005 and 2009, and finally the rightist GERB which is currently in power.

The party program of BSP[47] contains exactly 3 paragraphs (6 sentences or half a page out of 45 pages) concerning the environment, which are respectively entitled *The Lands*, *The Waters* and *The Forests*. The content of those paragraphs is extremely broad (e.g. "Water is a decisive factor in human survival") and does not go into any specific actions or policy measures. The program of NDSV[48] is not very different, either. Although a little less broad and a little longer (4 paragraphs out of 76 concern the environment), it is

[47] BSP, *Program of the Bulgarian Socialist Party: For Bulgaria – Free Citizens, Just State and Solidarity in Society*, Sofia, 2008, http://www.bsp.bg/bg/pages/osnovnidokumenti (Author's translation)

[48] NDSV, *Party Manifesto: The Policy that Bulgaria Needs*, Gabrovo, 2008, http://www.ndsv.bg/content/1139.html (Author's translation)

still not very specific as regards policy instruments, calling for civil society involvement but without explaining how. All these facts are self-explanatory about the importance that environmental policy has in the manifestos of the most influential parties in Bulgaria.

Surprisingly, the program of the current ruling party[49] is much more elaborate on environmental policy. It consists of 72 pages, 5 pages of which concern environment and waters. The environmental program is divided into sections: priorities, actions to achieve each one of them and results. It is very specific and policy-oriented. It remains to be seen whether it will stay in the sphere of wishful thinking or it will materialize, but the interviews the author of the thesis conducted with experts from the Bulgarian Ministry of environment confirmed the fact that the current government attaches much higher importance to environmental issues than previous governments. It has decided to channel a big portion of funds from the EU structural and cohesion funds into the aims of the National Operational Program "Environment" which is an unambiguous commitment. Unfortunately, the current government has been in power for less than a year at the time of writing of this thesis so a comprehensive and impartial assessment whether there is notable progress is still impossible.

The main reason for the low salience of green issues among Bulgarian political elites is the same as the Italian one – environmental discourse is not electorally profitable because the society is much more interested in economic and other social issues. People are much more concerned about what their wage is or how to find a job to make a living than about caring about nature preserves or birds facing extinction. This is why political

[49] GERB, *Program of Political Party GERB for European Development of Bulgaria*, Sofia, 2009, http://www.gerb.bg/bg/program/programlist/cat_id/21 (Author's translation)

elites rarely address environmental issues beyond general statements. The current government, however, might make an exception because of its more concrete discourse but the problems in administrative capacity and public involvement that Bulgaria faces may shadow this ray of optimism. Moreover, the current economic crisis does not provide a background conducive to a radical change in elite priorities. Elite involvement, even if it changes, is only the first step to address the implementation challenges that Bulgaria faces at this stage. The two other components – administrative capacity and public involvement – provide the solid building blocks for a real change but as will be shown in the following sections those blocks are still shaky.

2.2.2 Administrative (In)capacity

The account on Italy showed that a significant part of the country's environmental policy implementation problems are due to the problem of "regulations without rules" (i.e. the laws are there but are poorly enforced). The reason for that is the inefficient state bureaucracy, corruption practices and low level of expenditure on environmental protection as percentage of GDP. This subsection will show that the situation is not much different in Bulgaria.

Both the existing literature[50] and the author's expert interviews with two officials from the Bulgarian ministry of environment (Mr. Kalin Iliev – director of "EU Affairs Coordination and International Cooperation" directorate and Mr. Hristo Stoev – senior expert at the "Environmental Strategies and Programs" department)[51] confirm that the

[50] Florian Trauner, "Post-accession Compliance with EU Law in Bulgaria and Romania: A Comparative Perspective", *European Integration Online Papers* 2:13 (2009)

[51] The interviews were conducted on the 8th and 9th April 2010 in Sofia

level of formal transposition of EU environmental regulations is very high. In January 2009 Bulgarian notification rate of transposing the EU environmental directives was 99.4 % (see Table 1), making the country rank sixth in transposition record among all member states. Currently, there are only 2 open infringement procedures against the country for non-communication. The total number of infringement procedures against Bulgaria in the field of environment is still quite low (7 in 2008 and 17 in 2009)[52] in comparison to Italy (45 and 35, respectively)[53] but this could be misleading. The absolute number matters less than the tendency because Bulgaria is a recent member of the Union and infringements usually take quite some time to be reported and proceedings to be initiated. In this sense, Bulgaria is not doing very well because of the sharply increasing upward tendency. As already mentioned, most of the infringements do not come from non-communication but rather from bad application. This is an unambiguous sign that, similarly to Italy, the problem in Bulgaria comes not from bad transposition but from bad application and enforcement (the more substantial part of the implementation process), the roots of which can be to a big extent traced to the poor administrative capacity of Bulgarian state bureaucracies. To investigate the latter claim, three main problematic issue areas will be outlined: financial resources, human resources and the degree of horizontal integration of environmental policies into other sectoral policies.

The amount of environmental expenditure as a portion of Bulgarian GDP has varied from 2002 until 2009 between 1.46% and 1.87 % (see Table 2). This is less than the EU average and even less than in Italy, which currently spends around 2 to 2.5 % of its GDP

[52] European Commission, *Statistics on Environmental Infringements*, 2009, http://ec.europa.eu/environment/legal/law/statistics.htm (accessed 20 May 2010)

[53] Ibid.

on environment.[54] The good news is that the tendency is upward (especially after 2007 - the year of accession), which can be explained by the availability of EU cohesion and structural funds. Still, these percentages are not very impressive, especially taking into account that the country is eligible for much more funding. However, this funding and the money from the pre-accession instruments like ISPA have been absorbed only in minimal quantities. This is a fact acknowledged by the government experts that have been interviewed for this project. When asked why the absorption capacity is so low, they both admitted that the main reasons are low administrative capacity (especially on the local level), slow legal procedures and sometimes even corruption and misuse. Slow absorption leads to lagging behind in environmental policy implementation because priorities and issues that should have been resolved before accession are on the agenda now while current EU priorities need to be postponed for later. Mr. Iliev mentions that if in the years before accession the ISPA funds were properly absorbed, money from structural and cohesion funds could now be directed towards the implementation of newer and more stringent objectives.

Not only were money of limited availability, but they have also been allocated inefficiently. The experts mention that there is evidence that financial resources have been channeled to projects of lower priority (e.g. building water treatment plants in small villages while big towns lack them). This can lead to significant problems for Bulgaria in the near future because the "deadline" of the country to build water cleaning facilities in towns of more than 10 000 inhabitants is the end of 2010. This proves the inability of the

[54] ISTAT, *Government Expenditure by Function*: *Years 2000 – 2008*, 2010, http://en.istat.it/salastampa/comunicati/non_calendario/20100121_00/government_expenditure_en.pdf (accessed 26 May 2010)

administration to keep the commitments Bulgaria made in front of the EU when negotiating the length of its transition periods. While it is true that transition periods are needed to lay the infrastructural foundations for making policy changes, one of the policy experts placed too much emphasis on them, arguing that such periods are essential to making the necessary changes "bearable" to businesses and society. This might be indicative of an overall lack of dynamism in Bulgarian public administration, where changes happen slowly and on external stimulus only. Such inertia is by no means peculiar to the Bulgarian case and, as mentioned in the literature review part of the paper, is shared by other Central and Southern European bureaucracies. As Miranda Schreurs mentions[55], capacity problems are hardly unique to the newly acceded countries but often bedevil the old member states themselves. This is to point out that the communist past, while adding to bureaucratic setbacks, is not the root factor in causing them. Much of the experts that work now in the administration of the Bulgarian ministry of environment have not been working there during communist times. Generations have changed, but lack of financial resources and corruption is the new plague in the public administration.

To some up the conclusions so far, misuse, corruption and bad prioritizing of funds are classical symptoms of administrative incapacity, be it on the national or the local level. The next factor contributing to this problem is the quality of the staff that works for the ministry and its 16 regional inspections which are the control agencies on the regional level. The challenge of staffing is multifaceted, encompassing the need to increase the number of personnel engaged in environmentally related issues (quantity), to provide them with sufficient training to execute their duties competently (quality) and to retain qualified

[55] in *EU Enlargement and the Environment*, 2005

staff by compensating them adequately. Bulgaria has difficulty in all three aspects and especially in the last one.

The total number of people working in the ministry and its regional inspections is around 1000.[56] This is not an impressive but still a reasonable number. However, quality counts more than quantity. Even good education does not guarantee success because it needs to be coupled with experience. The problem of the ministry is not as much to attract educated labor force but to keep it. Both interviewed experts acknowledge that fact and claim that although there are a good number of professionals in the environmental field in the country, there is a visible outflow of qualified personnel from the ministry and it becomes more and more difficult to work. Most often, trained staff goes to the private sector where the payment is better (e.g. they do consultancy which earns more money). Mr. Iliev shares that he has been in the ministry since the beginning of 2003 and his impression was that in that year there was a big inflow of very qualified personnel because of the urgency of EU negotiations. Then, after the accession date (2007) many people quitted. He adds that this is a problem of the whole state administration, not particularly of this ministry so there is an overall tendency in public service of outflow of competent cadres.

The final problem hindering the administrative capacity of the Bulgarian environmental bureaucratic entities is the low degree of horizontal integration of environmental policies into other sectoral policies. According to Mr. Hristo Stoev, the biggest problem in implementation of environmental policy is that the strategies, plans and programs of different ministries are often not compatible with each other. There is no coordination between environmental and other sectoral policies. There are even

[56] Interview with Kalin Iliev

discrepancies between aims and priorities in different strategic documents coming from different government offices. The environmental expert complained that his ministry does not participate in the formulation process of the strategic documents of other sectoral agencies (industry, agriculture, energy, transport) and gets them too late when it cannot react. In this regard, it can be inferred that the environmental ministry's coordinating and consultative roles are usually only on paper which is a clear indication of its lack of administrative power. The capacity challenge is especially pressing at the regional and local levels and both interviewees mentioned that local authorities often lack the know-how to make good projects so that they can receive European funding or they don't have the means to control those projects. It is interesting that Mr. Stoev mentions the word "control" over 10 times during the interview. This can be a sign of the high importance his ministry puts on enforcement activities and more specifically of the seriousness of the problems the institution faces in the implementation process.

The official mentions that to address the problems on the local level, various information campaigns, trainings and meetings with municipalities are organized on a regular basis in hope that mutual dialogue will help the local authorities draft good projects and absorb the EU funds. According to Mr. Stoev the ministry should help the municipalities in their every step, otherwise no progress can be made. This is very indicative of the fact that in Bulgaria stimulus comes from above – the EU pressures the national level and the national level stimulates the regional level. While such pressure might be necessary to a certain extent, the bottom-up approach seems to be dead. A large part of environmental activism is supposed to come from the grassroots but there are strong reasons to believe that this mechanism is not functioning. The next subsection of the

thesis will deal with the last of the identified issues in the main hypothesis, taking into consideration the activism of Bulgarian environmental NGOs and the degree of interest and involvement of the publics in the green discourse.

2.2.3 Civil Society Involvement

There are a number of Bulgarian NGOs and Bulgarian offices of international environmental organizations which are active in the sphere of environment. The biggest are the Bulgarian Association for Bird Protection (BABP), Green Balkans, For the Earth, the Regional Environmental Center for Central and Eastern Europe (REC), the World Wide Fund for Nature (WWF). It is noteworthy that the most successful ones are either those that have narrowly defined tasks (such as bird conservation) or are part of big international organizations (like WWF). The reason for that is that in the first case they possess highly specialized knowledge and can assist the environmental ministry. For example, BABP helped a lot for the development of Natura 2000, thus helping the country in implementing European legislation.[57] In the second case, the mother organization is able to provide more ample funding for operational processes and as a result they are more successful.

Environmental NGOs in Bulgaria, like their counterparts in Central and Eastern Europe, are not particularly strong and influential for three main reasons. First, Bulgarian NGOs suffer from insufficient membership and financial resources. For example, the

[57] Interview with Hristo Stoev

membership of Green Balkans (one of the biggest organizations) is 4500 people.[58] This is an extremely low number. A representative of REC – Bulgaria told the author that most of the environmental NGOs in Bulgaria have membership consisting of fewer than 1000 people. As far as financial resources are concerned, after the EU membership many external donors (such as US or Swiss organizations) withdrew from the country. Most of the funding now comes from EU projects but in the words of the REC expert, EU money is not easy to get, because it is not so abundant. The only alternative is national funding, but as the previous subsection already demonstrated, environmental spending in Bulgaria as a percentage of GDP is quite modest.

Second, NGOs lack institutionalized access to decision-makers. Their lobbying activities are rather ad-hoc so their voice is seldom heard in the sectoral agencies other than the ministry of environment. Even with that ministry there are conflicts. Mr. Iliev commented that some of the NGOs are not as constructive and their sole purpose is to complain in front of the European Commission and to "sabotage" the work of the ministry. On the other side, environmental NGOs claim that the ministry does not support their activities enough. The REC representative maintained that other than moral support for broad issues like ecological education, the ministry is unwilling to provide financial or infrastructural support to NGOs. Evidently, if conflicts take priority over cooperation, implementation success is not the likely outcome. Environmental NGOs are currently the only corrective of the ministry[59] and their voice is crucial to the effective and balanced implementation of EU environmental objectives in Bulgaria. Moreover, NGOs have much

[58] Green Balkans, http://www.greenbalkans.org/category.php?language=en_EN&cat_id=57 (accessed 30 May 2010)

[59] Phone interview with a REC expert, 20 May 2010

more human resources to come up with successful projects that can be implemented on the regional level than local municipalities.

Finally, the most important weakness of environmental NGOs in Bulgaria is the same as the one in Central and Eastern Europe identified in the literature[60]: they tend to be apolitical and their unwillingness to link environmental concerns to broader political and ideological issues reduces their ability to enter into strong alliances with political parties. At the same time, due to low membership, there is a certain reluctance to stage public protests and direct actions[61], which encourages political passivity.

At the level of individual citizens, it is worthy to investigate to what extent the publics perceive environmental problems as important. As mentioned in the section dealing with elite perceptions, public interest in environmental issues can make them electorally profitable, therefore increasing the commitment of the governing elite towards the achievement of environmental objectives. The opinion of the publics in all EU 27 member states on various issues (including environment) is nicely captured by the Eurobarometer survey and can be compared and analyzed. This thesis uses the most recent survey[62] when conducting its analysis.

When asked what the two most important issues facing their country at the moment are, only 1% of Bulgarians and 3% of Italians mention the environment. In contrast, 16% of the Danes perceive environmental issues as top priority for their country. Clearly, civil society in Bulgaria (similarly to Italy) does not hold green issues among its biggest

[60] Lars Hallstrom, "Eurocratising Enlargement? EU Elites and NGO Participation in European Environmental Policy" in *EU Enlargement and the Environment*, 2005

[61] Ibid.

[62] European Commission, *Standard Eurobarometer 72*, Autumn 2009, http://ec.europa.eu/public_opinion/archives/eb/eb72/eb72_en.htm (accessed 30 May 2010)

concerns. In addition, a bigger number of Bulgarians (48%) agree with the statement "Economic growth must be a priority for our country, even if it affects the environment" (versus 42% who tend to disagree). The picture is again similar to the Italian one (53% vs. 40 %) and opposite to the one in Denmark where the majority (63%) disagrees with the statement. The most frequent explanation for these figures is that Bulgaria is still catching up economically and until it reaches the EU-average income levels, economic growth will take precedence over environmental concerns. However, this statement might not be correct. Even in much wealthier member states (such as Italy, Belgium, and UK) economy "trumps" environment which means that the problem may be rooted more in the society's way of thinking and less in its level of economic development. As Mr. Iliev noted, the best way to improve the level of implementation of EU environmental policy in Bulgaria is by changing the way of thinking of its citizens. Mr. Stoev suggests information and educational campaigns for improving sustainable behavior.

Coming back to the public opinion survey, it shows that low public interest in environmental issues does not come from unawareness – 75% of Bulgarians perceive the current situation of the environment as bad (again, in contrast, the Danish believe that their country's situation is quite good). But problems such as unemployment, taxation and inflation overshadow environmental ones which decreases the level of public involvement in green issues. A final factor pointing to the fact that Bulgarians are much more concerned about economic than about environmental issues is their answer to the question "Which aspects should be emphasized by the European institutions in the coming years, to strengthen the European Union in the future?". Only 15% mention environmental issues

(as opposed to 36% in Denmark) and 35% of Bulgarians want the internal market strengthened (and just 10% of the Danes).

2.3 The Road Ahead: Path-Dependency and Outlook

The purpose of this concluding section is to provide an outlook for the road ahead of Bulgaria in environmental policy implementation. Also, I am going back to the issue of the importance of communist past for the development of environmental policy in Bulgaria.

Both experts from the ministry praise the new government, stating that a lot of corruption and "under-the-table" practices are dealt with and that transparency is now higher and money goes for priority projects. The natural question now is if they express their honest opinion. There is a reason to believe that they are thinking what they are saying, since they work in the ministry since 2003 and 2007, i.e. have not been appointed by the current government. Moreover, they would not win much by praising the current ruling party in front of a student researcher. Finally, their discourse is in accord with the concrete and detailed party program of GERB with its environmental emphasis.

What is aimed at here is not to convey a naïve belief that Bulgaria suddenly will become a green leader but to show that there is optimism, that the status-quo can be changed. There is a chance that the path of development of Bulgarian environmental policy implementation is not predestined, that Bulgaria won't be a constant laggard. The EU has significantly reshaped and changed the course of development in the policy. In other words, there is no evidence for a long-term path dependency of environmental policy development. Communism did not kill the green idea in Bulgarian society. It is a myth that state socialism was characterized by a total neglect of the environment. Let us recall that

the beginning of transition was the only period where there existed a strong environmental party because environment was seen as a societal priority. It is not communism, but the hard transition to capitalism that suffocated the green momentum in Bulgaria. The new regime brought about a greater concern over economic growth and catching up than over environmental protection. Inherent in the capitalist system is a greater salience of growth and employment than of green issues. This fact is visible in other well-developed but environmentally lagging Western European countries such as Italy and Belgium. This is not to say that communist past did not shape to a significant extent the Bulgarian developmental path. But to claim that communist legacies brought about disregard of the environment is a huge oversimplification. The picture is far more nuanced, with various actors playing differently in different periods. This chapter explored in detail whether the reasons for poor implementation in Bulgaria and Italy coincide and the result is that they do so to a very big extent. Historical differences cannot be ignored, but in order to analyze policy-making one needs to identify policy (and not historical) roots of the problems. The claim that state socialist legacy caused poor implementation is not only oversimplified – it is also impractical since it does not offer any policy solutions and hence has limited pragmatic value.

Last but not least, the concern that Bulgaria would stay in the environmental laggard group of EU states may be misguided. Recent studies on the implementation of environmental policy commitment demonstrate that older and wealthier member states (like Italy) may lack implementation capacity as well.[63] Contrary to commonly held notions, the implementation challenge increasingly looks like one that newly acceded

[63] McCormick, 2001; Knill and Lenschow, 2000

countries have in common with their long-standing fellow EU members on issues from wastewater treatment to environmental impact assessment. This insight further weakens the "legacy" argument.

What casts a big shadow of uncertainty over the path of development of environmental policy in Bulgaria and in Europe in general at the present moment is the economic turmoil that dominates the policy-makers' agenda. Unfortunately, the time right now is not the most conducive to a profound change in discourse. Green revolution is unlikely to happen but the key issue currently is whether or not there is political will to enact policies that are inevitably controversial, fiscally demanding and disadvantageous to powerful interests in society. Without political will, no progress on any of the identified challenges is possible. So far, the imperative to enter the EU as quickly as possible, rather than any substantive commitment to improve environment *per se* has been the overriding motivator of the newly acceded countries to fulfill the demands of the EU regarding the environmental *acquis*. A change in thinking is required both at the elite and the public level. They both need to be convinced that complying with the environmental legislation (despite its costs) is overall in the best interest of their countries. There are substantive quality of life and health-related benefits likely to ensue from compliance with the *acquis*, such as decreased spending on public health, less damage to critical natural resources, promotion of eco-tourism, etc. In short, what is needed is Bulgaria to move on the policy taking – policy shaping continuum in the latter direction.

Conclusion

This paper took up the issue of the reasons for non-uniform implementation records of EU environmental policy in different member states. The widely spread in the literature dichotomy between leaders and laggards was utilized based not only on the number of infringement cases and transposition notification figures, but also on the policy taking – policy shaping spectrum. In this sense, leaders are identified as those states that actively pursue their environmental policies (and even upload them on the EU level) due to the high level of involvement of both their elites and grassroots and because of the high administrative capacity of their state bureaucracies.

Three cases were examined to investigate the research question and they were selected on the basis of the leader-laggard dynamic within the Union as far as environmental policy implementation is concerned. Italy and Denmark were chosen as instances of two old member states that fall in the group of foot-dragging and front-running, respectively. After careful examination of the literature on the historical development of EU environmental policy implementation in those two countries, the main hypothesis of this thesis emerged, namely that the difference in implementation records are caused by the different rank of environmental protection on the political elites' agenda, the different administrative capacity of the state bureaucracies and the various degree of involvement of grassroots societal actors (NGOs and publics) in shaping of the policy on the domestic level. Denmark's elites have long put the environment protection as top priority; the country has thoroughly consulted its interest groups at the policy formulation stage, succeeded in uploading its policies to the EU level and depoliticized the policy

implementation process. In contrast, Italy's elites have perceived the environmental agenda to be of low salience and electorally "unprofitable". The country's political activism and interest group involvement are more limited, largely due to the characteristic for Southern European societies low level of political activism and environmental awareness and the rigid top-down command-and-control approach of policy-making. Italian policies are only reactive to the EU level and its relatively inefficient public administration has obstructed the implementation process due to political cleavages and power struggles within coalition governments.

Now that the main hypothesis emerged, Chapter 2 dealt with applying it in the central for the thesis case of Bulgaria. It is interesting and non-trivial to examine whether the reasons for poor implementation are the same in an old and a new member state having different historical backgrounds. To be able to do that, this paper makes the implicit assumption that the policy implementation process is universal and uniform enough within the boundaries of the European Union and can be compared among its member states. This assumption is reasonable since the EU *acquis* is the same for all member states and Italy and Bulgaria have similar political cultures and similar modes of bureaucratic regulatory policy approaches. Part of the thesis turns its attention to the differences of traditional regulatory versus new bottom-up approaches arguing that both have their flaws and need to be combined in order to stimulate better implementation behavior.

Bulgaria is a post-communist country and it has become customary to blame all its failures in every policy on the legacies of its past. This paper adopts a more pragmatic policy (and less historical) approach and argues that the above claim is oversimplified and of limited practical value. While it is true that the communist legacy augments the existing

problems of Bulgarian implementation of EU environmental protection measures, it is not their root cause. Communism did not kill the green idea in Bulgaria and the country had a strong environmental party immediately after the change of regime. Also, during communist times much of the now existing environmental infrastructure was laid down (e.g. sewage systems) and huge areas of nature preserves were established.

It turned out that the root factors contributing to the poor state of environmental implementation in Bulgaria are the same as in Italy. To be able to prove that point, the paper looked at various documents, interviews and statistical data. The programs of the biggest Bulgarian political parties revealed that, with the exception of the current ruling party, environment receives scant attention, i.e. is not perceived as a top priority by a large part of the political elite. In addition, the administrative capacity to implement EU environmental policy is not very strong. The level of environmental expenditure as a percentage of GDP is among the lowest in the EU, the ministry suffers from a lack of financial and human resources (with a significant outflow of qualified personnel) and the level of horizontal integration of green policies in other sectoral policies is very low. The ministry experts complained that they are not consulted by the energy, transport or industrial state agencies and as a result have a limited say in the development of the economic strategies of the country. The third component in the main hypothesis – civil society involvement – is also similar to the Italian case. Bulgarian environmental NGOs are weak because their financial resources are scarce after the walking away of large foreign donors, because they have limited membership and because they lack institutionalized access to decision-makers (hence their capacity to lobby is significantly reduced). Even with the ministry of environment there are sometimes conflicts and a lack

of cooperation. At the level of the ordinary citizens, the most recent Eurobarometer survey was used to show that Bulgarian people do not put environment among their main concerns and that the bigger part of them would prefer economic growth to cleaner environment. Considering that fact, it is no wonder that Bulgarian elites do not put so much emphasis on green issues since they turn out to be electorally unprofitable. Although there are signs that the new government takes environmental issues more seriously, the moment for a sharp change in discourse doesn't seem to be right considering the current economic turmoil characterizing this part of Europe.

It is worthy to point out that this project does not aim at building grand universal theories of policy implementation. Instead, it is quite pragmatic, with a policy and institutional orientation. What it does aim is to contribute to the better understanding of the challenges that a new EU member state faces in the field of environmental policy implementation and possibly to devising strategies to overcome them.

While attempting to answer its main questions, this paper leaves unresolved some other issues deserving further research. For example, it would be interesting to investigate the conflict between economic and ecological considerations in the countries of Eastern Europe in the minds of their elites and publics. Would "green growth" be a model for zero growth, for catch-up or for enhanced cohesion spending? Also, some more light could be cast on the question to what extent an internal green consciousness can emerge in post-communist societies outside of the EU-induced measures so that those countries can become better policy-shapers.

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Tables

Table 1: Bulgaria's progress in notifying national measures implementing all EU directives

Period	November 2007	April 2008	October 2008	January 2009
Percentage	99.63%	99.77%	99.68%	99.39%

Source: Secretariat General of the European Commission, *Situation of the Notification of National Measures of Implementing All Directives in Force for Chosen DG* (different tables), http://ec.europa.eu/community_law/directives/directives_communication_en.htm (accessed 28 May 2010)

Table 2: Environmental Expenditure as a Percentage of Bulgarian GDP

Year	2002	2003	2004	2007	2008
Percentage	1.46%	1.66%	1.71%	1.26%	1.87%

Source: Bulgarian National Statistical Institute (different tables), http://www.nsi.bg/otrasal.php?otr=15 (accessed 28 May 2010)