

**A thesis submitted to the department of Environmental Sciences and Policy of Central
European University in part fulfilment of the
Degree of Master of Science**

**Problems and challenges with the implementation of Natura 2000
Environmental network in Bulgaria**

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July, 2012

Budapest

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ABSTRACT OF THESIS submitted by:

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This work aims to explore in details the main reasons for the Natura 2000 implementation delays and failures. In order to answer the research question best interviews with Bulgarian Experts working in the environmental conservation field are used extensively.

Soon after Bulgaria joined the EU it became clear that the state, regional and local environmental institutions are not taking their responsibilities seriously. Bulgarian authorities took reactive rather than proactive attitude towards nature protection, only responding to direct pressure from the European Commission such as threats for infringement procedures or financial penalties. Halting biodiversity loss is high on the EU political agenda and therefore damaging Natura 2000 sites of Community importance in Bulgaria resulted in a recent (June 2012) warning for infringement procedure for the Bulgarian government.

This work identifies and discusses in details the main economical, political and social barriers for the poor implementation of the environmental legislation in Bulgaria. Economical pressure or what became known as “wild capitalism” coupled with the weak administration and corruption-prone institutions are seriously damaging the integrity of the network. Lack of educated and qualified environmental administration is another barrier for the poor implementation of the biodiversity directives. Civil society and NGO sector involvement in Natura 2000 implementation and management is also insufficient because the EU directives can only be effectively applied with widespread public participation.

Keywords: Natura 2000, Bulgaria, economic and political interest, civil society involvement, corruption

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LIST OF ABBREVIATIONS

Acquis Communautaire - AQ

Central and Eastern European - CEE

European Commission – EC

European Union - EU

Green Balkans - GB

Bulgarian Society for the protection of birds – BSPB

Ministry of agriculture and food - MAF

Ministry of Environment and Water - MoEW

World Wide Fund for Nature - WWF

INTRODUCTION

The European network Natura 2000 consist of protected areas designed to provide long-term survival of the most valuable and threatened species and habitats in Europe in accordance with key international agreements on environmental protection and biodiversity. The network is considered “centerpiece of European Union (EU) nature and biodiversity policy and a cornerstone for halting further biodiversity loss” (European Commission DG Environment). The establishment of the environmental network Natura 2000 is mandatory for all EU Member States. However, in spite of all the actions - the establishment of Natura 2000 network, Biodiversity strategies - taken at a European level to halt biodiversity loss in Europe and worldwide, it is still rapidly declining. Within the EU barely 17 % of the European habitats and species and 11 % of the important ecosystems are with favorable conservation status (European Commission 2011a). The newly accessed Bulgaria, on the other hand, is among the three European countries with highest biodiversity and with greatest total biodiversity among the Central and Eastern European (CEE) countries. Therefore, it provide valuable natural asset to the European one (Auer 2005).

As a candidate for EU membership, Bulgaria was required to undergo a monumental task and incorporate in timely manner the EU environmental law and nature protection policies into its domestic systems to ensure proper protection of the vast biodiversity hosted in the country. As noted by Auer (2005), environmental conditions are not the only or most important factor to determine if a country is eligible for accession or not. Nevertheless, they are “consequential”.

The inclusion of environmentally sensitive areas in Natura 2000 in the EU, however, is not enough to ensure adequate level of nature protection and preservation (Grodzinska-Jurczak and

Cent 2011). Ultimately conservation largely depends on the willingness and capability of the states, the responsible institutions and civic society. Difficulties with the implementation of Natura 2000 are not an isolated phenomenon in Bulgaria and the other newly accessed countries. Almost all older Member States at the beginning of the initiative experienced problems with formal process (determining the necessary scope of protected areas) followed by the practical one (the actual implementation of the environmental legislation) (Dnevnik 2011a).

Because of the enormity and the speed of the transformation process in Bulgaria, however, the building of new domestic institution and effective implementation environmental legislation proved challenging task. After the completion of the first stage of the implementation process, the question remains up to what extend the environmental reforms have penetrated the government, local administration and civic institutions.

This question is important because lot of the necessary adjustments were executed only formally by the Bulgarian authorities in order to close the negotiation chapter “Environment” of the Acquis communautaire (AQ) and make the country formally eligible for EU membership. The nature protection Directives were transposed quickly by copying and then pasting the existing EU legislation into Bulgarian one. Little consideration was given for the actual appropriateness and preparedness of the institutions for the implementation the whole body of nature protection legislation.

Moreover, most of the environmental reforms were carried out in a period of painful for the Bulgarian population political, economic and social transition from the Communist planned economy to capitalist democracy. However, as noted by Auer (2005) old communist habits

proved difficult to uproot even the EU membership context. On the contrary, they were further exacerbated by the transition hardships, such as institutional corruption, use of informal institutions and personal connections. All this resulted in lasting and significant obstacles to the implementation of the environmental legislation. During the pre-accession period and afterwards the strong investor interest and the absence or poor institutional control in Bulgarian nature controls placed even greater challenge for the integrity of Natura 2000 network.

Currently for Bulgaria there are two open infringement procedures connected with poor application of the Biodiversity Directives: one for incomplete implementation of the requirements under the Birds Directive (relating to insufficient coverage of the protected area of Kaliakra) and a second one is for the lack of Environmental Impact Assessment (EIA) for the construction of several public and private projects in areas protected under the Habitats Directive (Dnevnik 2011a). Quite recently (June 2012) the Commission continued with the next stage of the infringement procedure against Bulgaria because the country still neglects the impact of wind turbines and other projects on flora and fauna in protected areas around the cape Kaliakra in Bulgarian Black sea coast (Dnevnik 2012a). Brussels sent reasoned opinion to Bulgaria insisting that Bulgaria comply with the EU environmental legislation. If the country fails again, the case could be brought to the European court of Justice and request that the commission may request removal of the projects constructed in violation of Bulgarian and European environmental legislation.

Rationale for the study

The effective enforcement of the environmental sector is crucial since as noted by Carius et. al. (1999) the sector is “one of the few, if not the only, policy area where the Community has

extensive competence which require the transposition and implementation of wide-ranging legislation by the accession countries”. The lack of compliance and implementation failures and delays, therefore, might undermine and question the credibility of the country and its ability to fulfil its EU nature conservation obligations which are part of the EU membership requirements. Some research (Auer 2005) has been written regarding the application of the EU environmental Acquis in some Central and Eastern European countries but little is done to identify and address the implementation delays and compliance failures with nature protection and biodiversity Directives in Bulgarian context. A critical evaluation and assessment of the environmental compliance, or the lack of it, is crucial if the country is to meet its obligation as an EU member country in terms of environmental protection which is repeatedly highlighted as one of the EU priority policy areas. The question, however, is largely neglected by the Bulgarian authorities which has led to destruction of some Natura 2000 sites of Community importance. Therefore, this thesis aims to explore in details the key problems for the poor implementation of this new nature protection instrument as identified by five Bulgarian experts involved directly or indirectly with the protection and the management of Natura 2000 network. The contribution of this thesis would be to address these specific for Bulgaria socio-economic and political problems hindering the conservation of Natura 2000 network. Based on the research, some recommendations are made on how the implementation barriers can be dealt with more efficiently by the domestic actors - environmental state and local institutions, NGO sector, civic society, etc.

Aims and Objectives

The aim of this work is to identify possible barriers for the implementation of the EU Nature conservation Directives in Bulgaria - - political, economic and political.

The objectives are as follows:

- To describe the current progress (or lack thereof) contributing to implementation failures and delays of the European environmental network Natura 2000
- To explore the outcomes of the weak environmental implementation
- To find possible recommendations for more effective implementation of the Nature Directives and better management of Natura 2000 network

Structure

This work consists of six chapters. The introduction gives a short overview of the aim of Natura 2000 and outlines Bulgaria's responsibilities as one of the most biodiversity rich countries in Europe. Chapter one gives a rationale for choosing interviews as most viable research method for this work. The literature review (second chapter) provides some necessary background information for understanding such a complex issue like environmental law and policy compliance and Chapter four describes briefly Natura 2000 implementation stages in Bulgaria.

The chapter three gives general background of the environmental policies, laws and institutional framework starting from the communist period, going through the transition period and finish with EU accession. The four chapter gives comprehensive results of the research; discusses the main findings of the thesis and describes in details the main political, social and economic problems obstacles for the proper implementation of the biodiversity directives and management of the network. The conclusion chapter provides short summary of the main findings and on the basis of the identified problems gives recommendations for the improvement of the implementation of network.

1. METHODOLOGY

Environmental network Natura 2000 is relatively new nature protection instrument in Bulgaria and therefore the academic literature is still limited. In order to answer the research objectives best interviews with Bulgarian Experts working in the environmental conservation field are used extensively. To identify the main economic, political social barriers to more effective implementation, five comprehensive interviews with representatives of national and local NGOs were conducted. Most of the chosen interviewees have participated personally or are representatives of the environmental organization that have taken part in the designation of Natura 2000 sites in Bulgaria or are involved in following the control and management of the sites. Interviews were conducted with five representatives from the environmental organization Green Balkans (GB), Bulgarian Society for the protection of birds (BSPB), World Wildlife Fund WWF-Bulgaria and Toma Belev- director of Association of the parks in Bulgaria and former director of nature park Vitosha; with Nikolay Nedyalkov, the director of department Natura 2000, a structure of Ministry of Environment and Water (MoEW) responsible for the management and control of the network (for more detailed description of the position and discussed topic with the interviewees is provided at the end of this section - Table 1). The interviews were conducted in the capital city in Bulgaria where the Natura 2000 department and most of the NGO offices are, between 12 May -11 June 2012.

The interviews were semi structured with mostly open ended which questions, allowing for what Seidman (1991) refers to as “in depth interviewing”. This structure allows for experimenting with new themes and issues that we not planned beforehand and were not included in the previously developed interview guide. As noted by Seidman (1991), the goal of the “in-depth

interviewing is to “see how their (the interviewee) individual experience interacts with powerful social and organizational forces [...] and we can discover the interconnection among people who love and work in a shared context”. Afterwards, the interviews were analyzed for similar and recurring issues and themes, which will be discussed further in Discussion section of this thesis. The questions used for the interviews are available in the Appendix at the end of this work.

Some secondary resources such as the official sites of the Bulgarian Ministry of the Environment and water as well sites of the European Union and were used as tool to assess compliance with the EU environmental legislation. Documents were used in Bulgarian since substantial part of the information regarding the implementation of Natura 2000 is not available in English. Press information, environmental NGO’s annual reports and additional Internet sources were also used as a supplementary materials.

Table 1.

Name of interviewee	Date of the interview	Position	Discussed issues
Toma Belev	22. May 2012	Director of main reasons for the Association of the implementation delays/failures of parks in Bulgaria, the Habitat and Birds Directives; former Director of sufficiency of the coverage of the nature park environmental network Vitosha	

Dobromir Dobrinov	28. May 2012	Green Balkans, Conservation officer	Designation of Natura sites; public involvement; main reasons for the implementation delays/failures of the Habitat and Birds Directives
Alexandar Duntchev	02. June. 2012	WWF, Law Enforcement Coordinator	Legal procedures for non-compliance with the EU environmental legislation; sufficiency of the coverage of the environmental network

Stoicho Stoichev	10.June.2012	Bulgarian Society for Bird Protection, Director	Legal procedures for non-compliance with the EU environmental legislation; sufficiency of the coverage of the environmental network
Nikolay Nedyalkov	12.June. 2012	Director of department Natura 2000, a structure of Ministry of Environment and Water (MoEW)	

2. LITERATURE REVIEW

Firstly, in order to identify the main barriers for more effective implementation of the biodiversity directives the literature review in the European integration field is closely examined. This section is structured around the main economic, political and social barriers. Most of the identified implementation problems in this chapter are also examined in details in the discussion section. There is an abundance European integration literature that can provide some explanation on Bulgaria's non-compliance with the EU legislation since the country joined the EU in 2007 (Andreev 2009, Sedelmeier 2008, Falkner et. al 2008. Knill and Lenschow 2000). The main barrier identified by the scholars in the field, however, are predominantly political. Little consideration is given to other possible rationales for the weak compliance. Also, little is being written on the lack of compliance with the EU environmental policies and legislation and what Bulgarian experts and practitioners in the field consider problematic.

2.1 Political Barriers

The scholars (Trauner 2009, Lynch 2000) have identified a number of possible explanations (lack of conditionality, misfit) for the backwardness of some Central and Eastern European countries in implementing the Community Acquis Communautaire. One of the dominant discourses in the literature for the non-compliance with the EU legislation in particular is what researchers in the field refer to as “goodness of fit” hypothesis (Borsel and Risses 2000, Knill and Lenschow 2000). This hypothesis provides a good explanation why Bulgaria has difficulties and is lagging with the implementation of the environmental legislation.

According to Knill and Lenschow (1998) implementation effectiveness follows a simple logic:

The countries that require fewer changes in order to adapt their policies and institutions to the EU ones are likely to comply more successfully with the EU's implementation requirements.

Therefore, the degree of policy and institutional compatibility between the EU and the member states is crucial when it comes to the successful implementation of the EU legislation.

Bulgaria, like most former communist countries, requires deep institutional and legislation changes and adjustment in order to comply with EU legislation and pre-accession requirements.

As Falkner (2008) highlights the implementation success is closely related to the degree of fit or misfit between the existing institution and policy tradition and structures and European ones.

Precisely because of the large degree of institutional and policy misfit Bulgarian meets serious resistance and adaptation pressure and is seriously challenged when it comes to complying with

the implementation requirements. To reiterate, one possible explanation for the implementation challenge that Bulgaria is facing the environmental field is the low degree of compatibility

between the national and European institutions and policies and the following adaptation pressure on both national structures and policies which lead to poor implementation results. This is

important because until good degree of policy and institutional compatibility between the

Bulgarian and EU is achieved, Bulgaria is likely to experience serious compliance challenges.

As explained by Kluvánková-Oravská et al., (2009) the difficulties with the implementation of the environmental network in Bulgaria came from the fact that "Natura 2000 was an example of

an entirely new institution placed into post-socialistic governance structures". According to

Kluvánková-Oravská et al. (2009) the institutional change in terms of biodiversity governance

turned out to be really challenging for the newly accessed countries. What is more, "the

institutional mismatch between post-socialistic and new institutions is still prevalent, resulting in

coordination problems between actors". The reason for this, as noted above, is the wide

institutional gap or vacuum that the transition from the socialist regime brought about in most Central and Eastern European Countries. So, in order for the environmental network to start working properly this institutional gap or mismatch need to be filled and coordination improved.

Schimmelfennig and Sedelmeier (2004) note that the rational institutionalist argument provide another good rationale for the different level of adherence to the Union's rules and regulation before the accession and after the EU membership. The scholars (Schimmelfennig and Sedelmeier 2004) point out that one reason for the poor implementation of EU legislation is the fact that the Union cannot any longer use the conditionality instrument once the countries gain full membership. What this means is that after the access the EU is no longer capable of exerting such strong pressure as in the pre-accession period. According to Sedelmeier (2008), the EU membership is the driving force or the "reward" for the compliance and adherence to the EU law prior to accessions. Once the countries joined the EU the incentive is gone. Because of the absence of conditionality, points Sedelmeier (2008) the level of compliance for the new member states is likely to decrease.

Similarly, the authorities in Bulgaria viewed the EU membership as the main motivation and driver for conformity with the biodiversity Directives, rather than a commitment for nature protection, which is the main focus of the Directives. According to Andreev (2008), precisely because of the lack of conditionality, the authorities in Bulgaria took reactive rather than proactive attitude, only responding to direct pressure such as infringement procedures or financial sanctions from the EU institutions. As a result, soon after the accession the country turned into a constant laggard in terms of implementation of the biodiversity directives. Furthermore, as noted by Sedelmeier (2008) because a country has gained the full EU membership, there is even

possibility of a strategic non-compliance and opposition against the rules and regulation that were imposed on by the EU. Bulgaria is a good illustration because the establishment of Natura 2000 network led to an open backlash against the rules that were perceived by some part of the Bulgarian population as unjust, since they are coming from the outside without taking into accounts the domestic and local specificities.

The literature in the field (Andeev 2009, Diahanna Lynch 2000, Sedelmeier 2008) has also identified that the EU legislation and policies are in some cases directly transferred or exported, and there is no meaningful dialogue between the policy makers (i.e older member states and the Commission) and the policy takers (the new member states). What this had led to is what Diahanna Lynch (2000) calls “asymmetric dependency”. Rather than having a real policy dialogue, the relationship is “skewed heavily in favour of the EU, leaving little room for consideration of the policy experience of ECE countries”.

The lack of consideration of the country’s specificities and political experience has led to what is know in the EU integration literature to “world of dead letters”. According to Falkner (2008) some of the countries in Central and Eastern Europe which would also be the Bulgaria case form separate “world of dead letters” when it comes to compliance with the EU legislation. For good part of the Central and Eastern European countries the “world of dead letters” can be seen as a process of more or less successful transposition of the European legislation and poor performance when it comes to practical application and enforcement of the legislation (Falkner 2008).

All new member states go trough a process of transformation in order to adjust to the EU requirements. This is what Radaelli (2003) defines as Europeanization which essentially is a

processes of (a) construction (b) diffusion and (c) implementation of formal and informal rules, procedures, policy paradigms, styles, "ways of doing things," and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic discourse, identities, political structures and public policies.

It should be noted that the Europeanization “Eastern style” is radically different from the “Western style”. Because of the historical backgrounds, the Central and Eastern European countries go through different adaptation processes compared with their Western counterparts, where the institutional and political change runs smoother (Trauner 2009). This is what Goetz (2000) refer to as an Europeanization Eastern Style as opposed to the Western style because of the specificities of the imposed process. In the case of the new EU member states, the Europeanization process is based on short term calculation about the benefits from the EU membership rather than long term vision about the appropriateness, compatibility and adequacy of the adapted legislations, new structures and institutions. Therefore, Bulgaria and the other newly accessed countries are more or less subjected to top-down relation which means that they are not actively participating in the creation of new rules in environmental legislation and are therefore lacking “ownership” as Sedelmeier (2008) puts it. On the contrary these countries, and this is especially true in the case of Bulgaria, are “downloaders” or policy-takers to use Goetz (2000) terminology. As a result the likelihood to influence the EU practices is rather negligible compared with the older member states, which had their influence with the formation of the community AC.

As a result of the pre-accession agreements and requirements Bulgaria was obliged before the date of accession (2007) to go through long and painful process of Europeanization. In order to comply with the EU environmental requirements the country had to implement Natura 2000 and

transpose the Birds and Habitat Directives without any possibility of opting out during the negotiation process. What Andreev (2009) sees as a particularly disturbing in the top down approach (from European to national level) is that the newest members states are forced to transform significantly without being given a viable alternative to strengthen their institution at their own speed. According to Andreev (2009) what should also be taken into account is the significantly lower starting point of political and institutional transformation compared to their Western European counterparts. This leads to speeded and often times rushed adjustment procedures with little reflection and “shallow understanding” of the EU policies and laws which has lead to further implications at the practical implementation stage once a country joined the EU. As a result of the top down approach and the there has been insufficient deliberation and comprehension of the EU regulation and law (Andreev 2009).

Another factor influencing the poor implementation of the environmental network Natura 2000 is the administrative incapacity (Hille and Knill 2006, Carius 1999). This problem is important because as argued by Carius et al (1999), “accession will lead to significant improvement of environmental protection if it is accompanied by effective implementation of the enforcement measures”. According to Andreev (2009) The inability of the state administration in Bulgaria to cope with the enforcement of EU legislation and develop the necessary initiations to deal with the whole body of AC legislation is partly due to the difficult transition from socialist state administration to new democratic ones and the institutional immaturity in Bulgaria. The ongoing transformation of the institutions and state administration, is one with a lot of difficulties accompanying the substitution and re-adjustment of the structures Andreev (2009).

One rationale for the lack of willing and capable administration dealing with Natura 2000 is the comparatively low salaries that the employees in the nature protection sector receive. A recent report (Gantioler et al. 2010) shows that the average salary for experts employed in Natura 2000 activities is the lowest in Bulgaria. For instance, barely 3 846 euros compared to 60 000 euros in Austria which reflects the salary rate which marks among the lowest in the whole EU. Therefore, in the case of Bulgaria a lot of the implementation failures are partially due to the lack of modern state and well-trained and competent state and local administration due to the poor payment for their labour. Other scholar also highlight the importance of the administration that is willing to carry out their duties.

To sum up, the literature in the field of European integration provides some reasonable explanation for the poor enforcement and compliance with the environmental legislation in Bulgaria. Once the country joined the EU, the membership conditionality instrument could not longer be used to exert direct pressure in cases of non-compliance with the EU Natura 2000 rules and regulations. With the lack of conditionally instrument, however, the most used tool on behalf of the EC for exerting pressure has become the infringement procedures. As noted by Andreev (2009) the large number of “letters of formal notice”, which is the first step towards infringement procedure, clearly point out that the European legislation is poorly incorporated and transposed in Bulgaria. Among the main political barrier for the weak implementation of Natura 2000 is the lack of willing and capable administration at state and local levels responsible for the management of the network. This is largely due to the insufficient payment for the employees in the nature protection sector.

2.2 Economic barriers

The country's lack of adequate environmental enforcement and compliance can be explained by what has been referred to among the citizens in some eastern European countries, including Bulgaria, as "wild capitalism" destroying habitats of Community importance (EurActiv 2010). What "wild capitalism" stands for is the race for economic development regardless of the environmental damages accompanied by the absolute role of money, corruption at all levels of the state and local administration and government. The country has been largely criticized for its total failure to address and fight high and low level petty corruption. Particularly critical was the last European commission monitoring report on the progress of Bulgaria regarding the corruption and organized crime. The report states that the Commission is no longer convinced that there is a political will for dealing with the corruption. The government was critiqued for the lack of any satisfactory results in the fight against corruption and organized crime. Brussels highlighted that there are no signs of active targeted action against corruption in high levels in the government and the state administration." As Andreev (2009) puts it "it is impossible to understand the post-accession trajectory of Bulgaria ..., without paying specific attention to the overarching problem of corruption". He further argues that issues such as corruption has not only remained unresolved from the pre-accession period but the ruling class have failed and as a result "they have grown bigger and out of control" despite the warnings of the Commission in the annual reports. While domestic motivation and political will for dealing with corruption during the pre-accession was almost negligible despite the EU conditionality instrument. The increasingly paralyzing corruption at all levels government, state administration and society by 2007 EU and the failure to respond to the EU criticism jeopardized the very accession of the country (Racovita 2011). The corruption context is closely related to the compliance issues because noted by Auer (2005)

“environmental policies or policies that affect the environment are nor impervious to dishonest deal making, conflict of interest, and other extralegal practices”. As a result of the development priorities and the failure of the ruling governments to address the unresolved issue of corruption in the years of political transition (Andreev 2009), there has been total negligence of the environmental issues and destruction of environmentally sensitive areas from Natura 2000 network .

The resources availability as a key issue largely influencing the implementation performance of the state and regional administration (Auer 2005). Therefore, another obstacle is the lack of sufficient financial resources required for the implementation of Natura 2000. As noted by Gantioler et al. (2010) the effectiveness of the Natura 2000 network depends to a large degree on the “allocation of sufficient resources for its implementation and ongoing protection and management”. Since 2007 the financing of Natura 2000 is secured by integrating its objectives into existing funds. This integrated approach, however, has proven far more unsuccessful than expected because the budgetary funding for the network is extremely limited. The amount of allocated funds varies between 550 and 1150 million annually, and projected funding needs of the network are estimated at 5.8 billion euros annually (Gantioler et al. 2010).

As noted by Gantioler et al. (2010) due to the immaturity of the environmental network the expenditure for the maintenance of Natura 2000 are expected to grow even further. The reason pointed out is that the network is still under continuing development. This means that a lot of the necessary funding would not be adequately and precisely defined. As one of the countries with the largest Natura 2000 network coverage the resources available under this financial mechanism

will have direct repercussions for Bulgaria. Resource availability will ensure proper management of Natura 2000 areas in Bulgaria and visa versa.

Another major obstacles to accessing EU funding for nature protection and Natura 2000, however has always been the “lack of capacity to access EU funds”. Co-financing for some of the funds might be another obstacle to uptake for most of the new members states as Bulgaria (Capital 2012). Therefore, the effectiveness of the environmental network depend largely on the provision enough resources to ensure the proper management of Natura 2000.

2.3 Social barrier

Scholars (Carmin and Vandever 2004, Auer 2005) also often cite the lack environmental activism as another major social barrier for the poor environmental implementation performance. What is crucial for the successful implementation of legislation and nature protection is not only governmental and state administration capacity development but also building and capacity of local actors and structures, NGO's, civil society.

Similarly to other Central and Eastern European countries Bulgaria has a short history of civil society participation (Auer 2005). According to Carmin and Vandever (2004) implementation barrier can be the lack of democratization of the environmental governance, which they define as “ways to divest the central government of responsibility to outside organization”. Essentially, this mean shifting certain responsibilities to local authorities or regional actors such as NGO sector, public actors etc. Carmin and Vandever (2004) argue that too much attention has been given to legal and regulatory development rather than on capacity building and development of the state

and local actors to assist the implementation of that environmental legislation. The authors actually distinguish between capacity building and development. Essentially, the difference is that the capacity building “fails to assess the actual root of constraints on the performance of individuals and organization”. So the actual abilities of counties to implement successfully the extensive new body of environmental law and regulation remains largely debatable (Carmin and Vandever 2004). This was largely the case in Bulgaria. As noted by Andreev (2009) “islands of excellence” were created consisting of units of well educated and trained environmental experts. Their main task was the transposition of the environmental legislation but with the accession there was an outflow of the experienced staff (Andreev 2009). So, what this resulted in was that there was a process of formal transposition and capacity building at central level but there were no regional or local administrative or public bodies to implement and enforce the EU nature protection regulations and policies.

In fact in the year following the EU accession, the condition of the civil society and non-governmental organizations sector in Bulgaria not only has not been improved but a recent study shows that it has been deteriorating steadily (Capital 2012). The recent NGO Sustainability Index of the U.S. Agency for International Development (USAID) shows that the country lags behind NGO sector participation and involvement compared with all other Central and Eastern European countries from the former Socialist block. Index of USAID also shows that NGOs have no or rather limited opportunities to influence policy-making in Bulgaria. Moreover, in most cases when representatives of civil society are involved in working groups or committees, they cannot vote and their opinion is rarely accounted for or taken into consideration. Ministries often impose additional requirements on them that do not apply to other members (Capital 2012).

Moreover, for the previous year there have not been available structural funds for development of civil society capacity building, establish NGO Sustainability Index cited by Capital (2012). For the third year are granted EU funds to NGOs were transferred to the Operational Programme "Administrative Capacity" (OPAC). The civil sector is virtually isolated from participation in public procurement as the organizations can not meet the heavy financial demands, says also the report. There is also no significant increase in donations for the sector, the situation is complicated by the fact that after Bulgaria's accession EU withdrew from the country very powerful international donors and ultimately the civil sector is totally dependent on funds allocated by government (Capital 2012).

The isolation of the NGO and public sector can have a serious repercussion on the implementation of the EU environmental legislation and policies. As highlighted by Howard (2003), as a highly decentralized system, the EU depends on monitoring and reporting for breaches in AQ and it "relies largely on private actors and different interest groups at a national level to raise complaints with the Commission and for litigation in the country's courts in case of violation of the EU law". This explains why the number of infringement procedures in the environmental sectors is quite low compared to the older members states with long democratic history and public participation. According to the data available on the EC site, the infringement procedures for Bulgaria in the environmental field are barely 7 for the first year after the country's accession (2008) and 17 for the second (2009) (European Commission). While this is relatively low, it should be nevertheless pointed out that the low case load might be misleading due to the time required by the European Commission to report and instigate a procedure. Still, an upward tendency is clearly visible.

To summarize, another hindrance for the implementation deficit of Natura 2000 is the insufficient civic society and NGO sector involvement and the rather limited opportunities to influence policy-making in Bulgaria. have not been available structural funds for capacity development of civil society and environmental NGO sector.

This literature section examined some of the main political, social and economic barriers for more effective implementation of the biodiversity directives as outlined in the existing European integration literature. There is an abundance European integration literature that can provide some explanation on Bulgaria's non-compliance with the EU legislation since the country joined the EU in 2007. The main barrier identified by the scholars in the field, however, are predominantly political – incompatibility between EU and Bulgarian institutions and policies, lack of conditionality, unresolved political issues such as corruption. Little consideration is given in the European integration literature to other possible explanatory factors for the weak compliance. Also, little is being written on the lack of compliance with the EU environmental polices and legislation and what Bulgarian experts and practitioners in the field consider problematic.

3.HISTORICAL BACKGROUND

This chapter briefly examines some of the major nature conservation problems and challenges in historic context. This overview of the communist to the post-socialist or transition is necessary explaining some of the root causes for implementation challenges that the country is facing now.

3.1 Environmental policies in State Socialism

Similar to other satellite counties in the Soviet bloc there was some form of formal environmental legal protection and institutions were built. In 1976 Committee for Environmental Protection was established that was responsible for the protection of the environment and the management of natural recourses (MoEW). However, those institutions were more or less paper institution and law was rarely or poorly enforced. During the socialist period ecological concern unregulated by the socialist government were regarded as revolutionary activity (Pollack and Wielgoths 2004).

As a matter of fact, nature protection was far from being a priority largely due to the Communist legacy. Auer (2005) maintains that the socialist past is one of the main factors determining the environmental performance as a result of the ideological legacy from the past. The basic reasoning behind this argument is that the environmental was considered to have a single purpose which is more or less to serve the human needs and therefore had no value other than this. Therefore environmental conservation and were not high on the political agenda and nature protection was disregarded activity. Nevertheless, because the industry at that time was highly centralized, the environmental degradation was more or less concentrated in the industrial zones, leaving large areas of the territory untouched by industrial development (Auer 2005).

Although the socialist past is an often cited reasoning for the backwardness in the environmental field, it has nevertheless, limited explanatory power. The role of the communist past is by far overrated and oversimplified (Kitanov 2010). Precisely during the socialist period large territories were set aside for national and nature reserves. According to Kitanov (2010) the communist past should not be ignored when analyzing the Bulgaria's poor compliance with EU legislation but it is by far not among the main factors determining the lack of compliance. Rather it is the difficult transition process from Soviet state to democratic transition (Kitanov 2010).

In 1988, however, was launched the first environmental movement in the country - the Public Committee for the Protection of Ruse. The movement was created as a reaction against the chronic pollution from Romanian chlorine. As noted by as Pollack and Wielgoths (2004) the protest turned out to be his first attempt to create an organized civil resistance against the communist regime in Bulgaria. About that time the first Green political party focusing on environmental pollution Ekoglasnost was established focusing its activities largely on significant environmental, human rights and political problems (Todorov 2007). Ecoglasnost won wide popularity and public support, becoming the main opposition force opposing the rule of the Bulgarian Communist Party. In the late 1989 the reformist environmental movement gathered more than 4 000 supporters in Sofia for the first informal demonstration permitted since Bulgaria fell under communist rule. As a result a lot of the activist from the party were arrested and jailed. Only a week after the mass protest organized by "Ecoglasnost" Todor Zhivkov, the chairman of the communist party was fired. However, as Pollack and Wielgoths (2004) point out that "Ecoglasnost delivered the crucial blow to the Communist Political system".

3.2 Environmental policies in post-socialist Bulgaria

In the very beginning of the transition period in most CEE including Bulgaria there was strong social pressure for the development of new environmental rules and regulation and institutions to enforce them. As highlighted by Auer (2005) the state recognized the need of some kind of environmental protection as long as it does not get on the way of the overriding goal of socialist type economic development. Later on the environmental concerns were totally ignored in the face of the extreme hardships brought about by the difficult transition period. In the 90's the country had to deal with acute economic problems, serious political instability, sky-rocketing inflation and soaring unemployment rates. The development priorities triumphed over the environmental protection and conservation. The chaos with the economic transition, industrial restructuring and privatization brought about even more possibilities for institutionalized corruption and bribery (Auer 2005).

Ministry of environment was established in 1990 with National Assembly decision with much broader responsibilities than the communist era Committee for Environmental Protection (MoEW). Environmental legislation was quickly adapted and as a consequence suffered from frequent revisions and amendments. Most of the newly established institutions, however, were paper institutions and even the poor environmental standards and laws were rarely applied and enforced. According to Cellarius (2007)

one challenge facing nature conservation efforts in Bulgaria is that while some protected areas exist on paper, in many cases, the existing parks and reserves in the early 1990s had little in the way of on-the-ground management and oversight.

The environmental officials and institutions were not held accountable for their actions or inactions to the civic society. As noted by Baker and Baumgartl (2004) Bulgaria failed to depoliticize its public administration sector. As a result, with every election there were sweeping

changes in of the environmental state and regional administration and structures in most CEE countries including Bulgaria (Baker and Baumgartl 2004).

The local and state environmental and forestry authorities who often had no sufficient nature protection and management education and training and were lacking any will to carry out their duties and responsibilities whatsoever (Auer 2008). Civic sector was more or less deprived from the right to engage actively in the environmental protection and management of the natural resources in the country and the sector was largely politicized.

As a result of all this at the transition period the country failed to enforce effective environmental legal protection.

3.3 Environmental policies in the context of EU membership

The EU accession did not miraculously solved all the environmental problems and that have been accumulated during the year of transition. Many activists had high hopes that EU membership will speed up the environmental reform and bring about compliance with the EU nature protection rules and regulation (Kluvankova-Oravska 2009). On the same note, the Union also had unreasonably high expectations about Bulgaria's ability to implement and comply with a whole new set of far more stricter norms (Andreev 2009). However, the accession did not have the disciplining effect of the environmental institutions and administration and that many activist and EU officials hoped for and the disillusionment that the EU accession would force to take seriously their environmental responsibilities as an EU member were rather short lived. Nature protection policies and law, which were poorly applied before, were further impaired by its sometimes contradictory nature and complicated implementation procedures due to some institutional and policies shortcomings (Auer 2005).

It should be made clear that the positive effects of EU accession and environmental legislation harmonization are not so obvious and clear-cut. As noted by Auer (2005) “certain accession programs sponsored by the European Union have occasionally reinforced development versus environmental dichotomy rather than reconcile it”. Particularly controversial in Bulgaria were some highway and road development projects in some environmentally sensitive areas funded under the Instrument for Structural policies for Accession (ISPA) (Auer 2005).

Although the environmental Directives call for wide public participation because of the urgency for rapid transposition and this was never done in properly in Bulgaria. This is important because as noted by Auer (2005) “environmental protection requires widespread societal efforts, not just changes in one governmental body or set of rules and principles”. As a matter of fact the ordinary citizens and the NGO sector with very few exceptions had only a limited chance to influence the whole accession process. Instead the government created special administrative units of highly educated and experienced staff that were responsible for the environmental transposition task creating what Andreev (2009) refers to as an “island of excellence”.

Nature protection is far from being a priority in Bulgaria not only in the communist but in the transition period. Environmental conservation was not high on the political agenda and nature protection was disregarded activity. This legacy and attitude towards nature protection helps explain some of the implementation problems that Bulgaria is facing now.

4. NATURA 2000 IN BULGARIA

Natura 2000 sites within are designated according to two major environmental Directives of the European Union - Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitats Directive) and Directive 2009 / 147/ES the conservation of wild birds (Birds Directive). The directives are applied to both terrestrial and marine environment. Given the great natural diversity in the European Union under the Habitats Directive in the European Union is divided into bio-geographical regions (European Commission DG Environment 2002).

The two “twin” directives establish the Natura 2000 network consisting of Special Areas of Conservation (SAC) under the Habitats Directive and Special Protection Areas (SPAs) under the 1979 Birds Directive (European Commission DG Environment 2002).

The main requirements of both directives are transposed and integrated in the Bulgarian legislation through the Biological Diversity Act adopted by the National Assembly in 2011. Under the current legislation the country's protected areas are declared as part of a national ecological network. These are places of the terrestrial and marines areas of the country that important biodiversity and plant species and habitat types listed in the Annexes of the Habitats Directive (MoEW n.d.)

The sites are designated based on specific objectives, methodology and criteria for protected areas under the two different EU Directives (Habitats and Birds). According to Habitats Directive the only acceptable criteria for determining the boundaries of the territories is the scientific criteria. After this stage, however, begins the most important stage in the process of delivery -

consultation with stakeholders on the arrangements on the implemented in protected areas. Only the regimes which are being recognized, accepted and adopted by stakeholders (owners and users of land and forests, etc..) rather than those written on paper can and help achieve the European environmental network goal - long-term conservation of favorable conservation status of habitats and species (European Commission DG Environment 2002).

At present (after several stages of Natura 2000 development, see Table 2), with a decision of Council of Ministers are adopted:

- 118 protected areas for conservation of wild birds, covering 22.6% of the territory of Bulgaria

- 231 protected areas to conserve habitats covering 30% of the territory of Bulgaria.

13 areas within the two Directives overlap. Total in Bulgaria have been adopted by the Council of 336 protected areas Natura 2000 sites. Bulgarian Natura 2000 coverage ranks second in the whole EU after Slovenia. Protected area in the country is 34.3% of the area since the last national network expansion by May 2011 (MoEW n.d.).

Table 2. Natura 2000 stages in Bulgaria

December 31, 2006 – the date of Bulgarian accession to EU and the initial date by which the Ministry of Environment and Waters had to finish the inventory and propose to the Commission of the EU list of potential Natura 2000 sites; the list was not submitted on time

March 2007 - Government proposed only 18.2% of national territory to be protected by

the Natura 2000. Because of immense economic pressure from developers the Bulgarian Council of Ministers reduced by half the proposed Natura 2000 areas. Excluded were places of “investment interest” in Pirin, Rhodopi Mountain, Rila mountains, as well as on the Black Sea coast (Tilova and Avramov 2010).

December 2007 - After reviewing the proposal, the coverage of the environmental networks was assessed as insufficient by the European Topic Centre on Biological Diversity (ETC-BD / European Topic Centre on Biological Diversity). However, it was not until the Commission started infringement procedure for insufficiency of the Natura 2000 that a new list of sites covering 33.8% of the country were designated as Natura areas and later supported and adopted by the European Commission.

May 2011 - following the recent extension of the network, Natura 2000 covers 34.3%

5. DISCUSSION SECTION

The inclusion of a place in the Natura 2000 is not enough for the network to be preserved. Ultimately conservation largely depends on the willingness and capability of the states and the responsible institutions. However, there are a number of barrier causing the implementation and compliance problems with the biodiversity directives are complex and nuanced. Some of the main barriers for the lack of compliance can be divided in three different larger groups – economic, political and social. It should be noted, that the division is made in order to present the barriers in a more easy to structure and comprehensive way. As already noted the issues are not clear cut and isolated. On the contrary, the social, political and economic issues causing implementation problems are often connected and interplaying and are sometimes difficult to distinguish between the different groups of issues. The problems were briefly or more elaborately discussed in the literature review chapter and will be further discussed here. From all the barriers that came out during the conducted interviews, this thesis is going to focus on the main, most relevant barriers within those three categories.

5.1 Political Barriers

5.1.1 Administrative Incapacity

As noted previously in the literature review section, for the purpose of guaranteeing effective and successful implementation and compliance of the EU conservation policy adequate administrative capacity is a must. However, since the country joined the EU little is being done to address those weaknesses and enhance the capacity of the responsible environmental implementation and enforcement structures on governmental level and to ensure compliance

(Toma Belev, Dobromir Dobrinov in interviews). The capacity challenge is a pressing issue at both national and regional levels but the state of the quality of work of the Bulgarian environmental administrations seems to be particularly inefficient on the local level. As a result, the administrative incapacity proved to be yet another critical barrier to the effective domestic implementation of the Directives in Bulgaria, agree the experts. There is a deficit of qualified staff which results in dysfunction of the administrative structures at a national and regional level working on NATURA 2000. However, it should be noted that the lack of quality personnel in the state administration is a common problem throughout the country and is not an isolated issue within the environmental ministry and its local structures. According to Toma Belev:

The capacity of the institutions in terms of people dealing with the Natura 2000 in the Ministry and the regional inspections is close zero. The state administration lack adequate education and training. Its far insufficient to exercise control, let alone management of the Natura 2000 sites.

The responsibilities for the proper enforcement of the EU environmental legislation and the management of the Natura 2000 sites lies with the 16 Regional Inspectorates for Environment and Water which directly report to the environmental ministry, which should control the quality of their work. However, for each regional inspectorate there is one or maximum two officers responsible for Natura 2000 sites. In the directorate their number is 10. As explained by Nikolai Nedqlkov.

The challenges are huge because of the large percentage of network coverage in Bulgaria. We are simply not enough people to adequately control, monitor and manage bearing in mind the huge workload with so many procedures, appeals, coordination of plans and projects

The Biodiversity directives provide that any project that might have substantial adverse effect must be subjected to Environmental Impact Assessment before the start of the project. At the

same time, the EIA directive should ensure that each project that is not directly related to supporting the network and might have any adverse impact on areas that are part of the network "Natura 2000" are properly assessed before being given an official approval from the responsible administrations – the ministry of the environment or the regional inspectorates. On a national scale this means that there are a lot of projects and assessments, complains Nedyalkov.

According to European Commission, however, Bulgaria has failed to comply with these EU Birds and Habitat directives (Europa Rapid Press Releases 2012) largely because of the low quality assessments done by the hired experts. As a result, presently the biggest threat for the integrity of the network is still a lack of unbiased and objective and expert-driven Environmental Impact Assessment for investment projects. Currently for Bulgaria there are two open infringement procedures: incomplete implementation of the requirements under the Birds Directive (relating to insufficient coverage of the protected areas of Kaliakra) and the second one is for the lack of EIA for the construction of several public and private projects in areas protected under the Habitats Directive (Dnevnik 2011a).

Smaller projects are carried out without EIA based on expert positions from the regional environmental inspections that assessment is unnecessary for the construction of some tourist complexes, wind farms on the northern coast, and most recently photovoltaic parks, complains Alexanar Duntchev.

In December 2008 and September 2011 the European Commission sent reasoned opinion (formal letter before the case is resolved or brought to European Court in case no actions are taken) to Bulgaria because of fears that failure to implement the directives could lead to loss of protected species and negative effects on the environment. Although Brussels has maintained regular

contact with Sofia on the issue, the country has not taken the required by the EC actions. Quite recently (June 2012) the Commission continued with the next stage of the infringement procedure against Bulgaria because the country still neglects the impact of wind turbines and other projects on flora and fauna in protected areas around the cape Kaliakra (Dnevnik 2012a). Following the recommendation of the Commissioner for Environment Janez Potocnik, Brussels sends reasoned opinion to Bulgaria insisting that Bulgaria comply with the European Union environmental legislation. If the country fails again, the case could be brought to the EU court of Justice and request that the commission may request the removal of the projects constructed in violation of Bulgarian and European legislation (European Commission 2012). About 500 other projects were authorized in the region of Cape Kaliakra without adequate assessment of their potential environmental impact on the habitats or the migratory birds flying from Africa through one of the most important migratory corridor Via Pontica. As a result of the uncontrolled construction in the cape, the areas designated as Special Protection Areas under the Birds Directive has become insufficient for maintaining good conservation status of the species of Community importance.

The problem with the EIA in Bulgaria is that the impact assessment procedure has proved to be seriously flawed and corruption-prone, agree most of the interviewed experts. Under current Environmental Protection Law, the investors pay directly to an authorized expert to evaluate the project or plan. This direct financial relationship between the investor and the hired expert creates opportunities for corruption. Independent experts are usually from private companies that have no interest to issue a negative assessment because they will lose a customer.

Same experts are not they pay for their labor if it does not meet an investor's interests. The investor can always hire another company to carry out the assessment once again. This is often

the case in Bulgaria when there is no prior information and analysis for the potential impacts ,but, the investor has already purchased land in order to implement the investment plan. As best summarized by Stoicho Stoichev from the Bulgarian Society Birds Protection:

This system just does not work well in Bulgaria. The experts who are doing their jobs just don't get paid and the result is a what I call natural selection. Investors just have to find out the name of the experts have are more willing to give easily positive EIA. In other European countries such practices would be impossible because the environmental institutions are working properly when it comes to evaluating the quality of the assessment. There are some serious sanctions for low quality assessment; they might even lose their license. This has never happened here.

In addition to predominantly positive evaluations, a serious additional problem comes from lack of quality control and checks on behalf of the responsible authorities: the Ministry and the regional inspectorates. There are many cases that show the negligence, incompetence or unwillingness from the local state administration to perform their duties. Most of the cases are pretty illustrative about the total lack of care of the administration to comply with the law and at least to provide a good reasoning behind it decisions. A good example is illegal holiday complex "Golden Pearl" has gained a reputation as one of the most emblematic illegal constructions in Bulgaria. The complex was located within the Nature Park Strandja was demolished this April (2012) after seven years of court cases. In 2006 Tsarevo Municipality issued ten building permits for the project without an Environmental Impact Assessment (EIA). However, because the slow reaction from the responsible institutions including the regional environmental inspectorate in Bourgas the complex was built violating Bulgarian Environmental Protection Act (Dnevnik 2012b).

Another problem besides the slow work of the environmental institutions is the large quantity of issues positive assessments. When asked for the reason why there are so many issued construction permits in environmentally sensitive areas the current environmental minister Nona Karadjova admits for an interview for Tema magazine (2010):

To put it mildly the work of the regional inspection in Varna is absolutely incompetent. Contrary to professional standards there is inconceivably huge number of permits issued without an in-depth evaluation and managerial chaos. Corruption cases are more difficult to be proved, admit the environmental minister. Luckily enough, many projects were not implemented and there is quite a chance to remain only on paper.

To justify to a certain extend the lack of control, another explanation for the poor quality control is offered by Nona Karadjova:

A few (dozen) reports per day enter a day at the Varna inspectorate. This is way beyond the capacity of a small team or a biodiversity expert to inspect and assess the quality of the document and assessment reports.

Exactly because of the large number of application for wind farms in areas of "Natura 2000" and the lack of capacity to process the application in 2009, the environmental ministry came up with an idea of placing a temporary moratorium on construction of renewable energy installation until the new national plan for development of green energy is adapted. The moratorium, however, did not last long because of another EU commitment: 16% of the total consumed energy to be from renewables. However, it is pretty illustrative for the chaos due to the large number renewable projects and the lack of quality and quantity staff to process the applications.

Currently at various stages of approval are nearly 5,000 windmills and projects for solar installations have a total area 74,000 acres which is a disturbing number for a small country like Bulgaria (Tema magazine 2010). In Dobrudja ,where most of the current wind farms were constructed, are planned another 3928 Windmills (Vesti 2011).

Approval of the project occur even within the context of advanced infringement procedures of the European Commission against Bulgaria for failing to provide adequate protection of the Natura 2000 network According to Alexander Duntshev from WWF Bulgaria the majority of the projects with controversial environmental assessment requested and received approval for its prior performance. This means that in practice even the decision to be appealed in court, the execution of the project would have started. However, there is some progress recently. Many of the decisions saying that there is no need for EIA are later disaffirmed by the environmental ministry because they would not stand in court, says Duntshev.

According to Toma Belev a good illustration for the administrative incapability to carry out their duties and EU requirements is the serious delay in the inventory and mapping of the target species and habitats under the two environmental directives. The mapping was supposed to be performed by the Ministry of Waters and the subcontractor hired under Operational Program “Environment” by the end of this year but is seriously protracted because of administrative difficulties and is unlikely to be done. The project aims to determine with precision where the protected species and habitats are within each zone. This would reduce the fears of environmentalists that environmental impacts assessment may be biased because they are not based on valid scientific data. This can have serious repercussion and implications in the future if the information is used for future planning or for carrying out Environmental Assessment impacts

for example. The mapping is inherently flawed because it lacks the necessary and adequate data for the exact location, extend of the habitats or the birds population for instance. There is also a lack of adequate scientific input.

According to the experts Toma Belev and Dobromir Dobrinov Bulgaria will very likely be late with the national report for species and habitats conservation status biodiversity under the Habitats Directive which is responsibility of each country. In order to assess the favorable conservation status of species and the habitats what needs to be done also is identify what the main threats are and what are the ways to deal with or mitigate the negative effects. However, until now there is no assessment of favorable conservation status at national level to secure our respective areas, “only very rough expert estimations on few species and even less natural habitats” (Tilova and Avramov 2010). Toma Belev’s worries are that the country would not be able to achieve the objectives of the favorable conservation status if the responsible institutions do not know what the status is in the first place. Generally management plans are not mandatory, what it is required are some measures which ensure a favorable conservation. It us up to each country to assure adequate protection - it could be law, regulation, order or a management plan status (European Commission 2002). The data shows that there are no management plans but at the same time there are no other management measures or other tools to ensure the proper management of Natura 2000 areas (Tilova and Avramov 2010). Bulgaria is among few of the countries with management plans that covers less than far less than 10% of Natura 2000 sites in the country (Tripolszky 2011). As noted by Tripolszky (2011) countries like Bulgaria with insufficient coverage of the management plans “have no realistic chance to bring their Natura 2000 network under effective management in the foreseeable time”.

The interviews show that another critical hindrance for the poor application of the Biodiversity Directives is the lack of administrative capacity. The state and especially local or regional administration is often incompetent and lacks adequate training and education to carry out their duties. Negligence, corruption often result in poor quality EIA which is one of the main causes for the deterioration of Natura 2000 network integrity.

5.1.2 Corruption

High public expectations to overcome the corruption problems were not justified by the continuing lack of will and capacity of the legislative, executive and judiciary powers. Under conditions of deepening economic recession Bulgaria registered a decline in anti-corruption efforts in the first two years of full membership in the EU. (Center for the study of democracy 2009). As stated by Dobromir Dobromirov from the environmental NGO Green Balkans:

The struggle of the environmental organization is simply for the enforcement and compliance with the existing Biodiversity laws. We want nothing more or less.

The hopes of the environmental NGO sector that the EU accession would speed up the long-delayed environmental reforms and enforce stricter EU nature protection laws, regulation and standards were largely unjustified. The legislative and institutional changes in the judiciary system did not have the expected result on corruption. Five years since the country joined the EU the government is still not taking its environmental responsibilities seriously. On the contrary, the corruption practices and clientelism become even more apparent. Since the country joined the EU,

the allocation of accession and pre-accession EU funds has become one of the main corruption channels (Telegraph 2008).

From 2004 onwards the public and the private sector have been exposed to a growing corruption practiced from the state and local administration. As clearly stated in the "Crime Without Punishment" report:

“the political morality and responsibility needed to counter such forms of corruption are missing, while oligarchy-style organized crime is clearly tolerated. Oligarchic cliques have been allowed to take control over entire sectors of the economy and to use public resources to the benefit of political parties or individuals”.

The legislative and institutional reforms in the judiciary and law enforcement systems have proved to be too slow and largely ineffective for the reduction corruption and “under the table” practices (Center for the Study of Democracy 2009). The negative tendencies were confirmed by the last two monitoring reports on the progress of Bulgaria. The tenth Commission recommended Bulgaria should achieve concrete results in large-scale anti-corruption project (European Commission 2012b). The last monitoring report which assesses the five years of Bulgaria's membership in the EU was even more critical than the previous one saying that all important reforms are the result of external pressure only, rarely there is political will to cope with problems such as organized crime and corruption (European Commission 2012c).

A good exemplary story to best illustrate the close ties between some business circles and some high-rank officials is the amendment in the highly controversial Forestry act proposed by the currently ruling, center-right party Citizens for European Development of Bulgaria, GERB. The case is a good illustration of the continuing corruption and ties between the government and certain oligarchs in the country. Many outside observers and NGO representatives accuse the

GERB party official of securing laws clearly benefiting handful of closely tied to the government oligarchs and private companies with unregulated governmental support. The amendments in the forestry act would have allowed for the construction of ski runs and lifts in national and nature park and Natura 2000 areas. The reason was that amendment providing for construction without a changing the status of the land use of forest areas, explains Toma Belev. Moreover, this would have allowed for getting building rights without public bids and tenders which would have saved the millions bulgarian levs of fees to close to the ruling party GERB circles (Dnevnik 2012c)

“The amendments of the Forest Act go against the public interest and contravene EU and Bulgarian legislation on competition as well as nature protection”, said Konstantin Ivanov, head of Communications at WWF Bulgaria. The government, however, stepped back but only because of the strong public resentment and backlash and fears for another infringement procedure for unregulated government support (Dnevnik 2012c).

To sum up, corruption is one of the most important political barriers causing weak environmental implementation.

5.1.3 Crimes against nature

Another major drawback of the Bulgarian environmental administration, which falls within the political barriers, is the negligible or disproportionate low penalties compared to the extent of violations. On a visit to Bulgaria on the verification of two ongoing criminal procedures in the country in April 2011, Jean-Francois Brakelan, head of legal department of the Directorate General Environment said that most of the sanctions for crimes against nature are a “joke” (Dnevnik 2011c). He gave as an example lifts and slopes built in Pirin by the offshore company "Ulen", which largely exceed the permitted area but was fined with 2000 BGL (about 1000

euros). He said that Bulgaria has to transpose the European directive for crimes against nature, which requires much higher penalties for violators of environmental rules, proportionate to the infringement but the government has still not done so.

What most Bulgarian experts see as a problem is not the low sanctions, rather the fact that the environmental ministry and its local agencies are applying the lowest possible sanctions.

According to Toma Belev, chairman of the Association of the parks in Bulgaria:

“The problem is not that the sanctions are low but rather that the responsible bodies applied the smallest possible penalties. If the government and responsible institutions are doing their job as it should, many investors would think twice before violating the law”.

Another problem is that the judicial system responsible for ensuring compliance with the environmental Directives “does not work in 90% of cases” says Belev. What is needed is trained people working on Nature Conservation issues in administrative and criminal courts.

At this stage often the prosecutors that deal with environmental cases do not understand the nature of the violence and end the court cases. “The Commission is acting extremely slowly but under the current situation this is the only instrument we can use since the national judicial system simply does not work

adds further Belev.

So, another reason for the poor compliance with the existing environmental legislation is that the sanctions and penalties applied in Bulgaria for crimes against Nature are often not serious enough to discourage people from violation the existing norms and regulations. To make matters even worse, because of the lack of judges specialized in environmental law, the Commission is often considered to be the only source of environmental justice in Bulgaria.

5.2 Social barriers

5.2.1 Lack of Public Participation and Awareness

As noted by Grodzinska-Jurczak and Cent (2011) the experience of the countries which were the first to implement union directives show that they cannot be effectively applied without widespread public participation. This, however, never happened in Bulgaria where the public was excluded from the very beginning of establishing Natura 2000 network and this exclusion caused some serious obstacles for the proper implementation of the network. Namely because of the lack of timely and extensive information campaign about the nature, goals, objectives, the benefits and opportunities, there was total unawareness and misconception regarding the aim of the nature conservation network.

The introduction of Natura in Bulgaria 2000 soon became an apple of discord and met serious resistance in some network areas in the country. Despite (or because) the significant range of protected areas, Bulgaria has witnessed many protests "for" and "against" Natura 2000 in the early period of our country's membership in the EU. In the initial vote of network coverage, the government decided to cut proposed by the experts over 30% to 15% in early 2007 which sparked protests by environmentalists in Sofia (Dnevnik 2011a).

At the same time in the countryside were organized protests against the large Natura 2000 network coverage by landowners and local authorities. Many of them considered that the network is a threat to economic development, will increase unemployment and migration and will deprive the local people of their land (Dnevnik 2011a).

The roots of the social discontent connected with the network can be traced back to the very first stages of the implementation process, when due to delays with the designation of Natura 2000 sites, the civic society was practically excluded from the processes connected to Natura 2000 designation and approval. All this triggered a lot of protests for and against Natura 2000 and had serious implications in the implementation process at the later practical stages of the network implementation, says Toma Belev.

The reason for the large discontent was that in order to accelerate the already slow process of establishing Natura 2000 in Bulgaria in order to close Environment negotiation chapter, the Biodiversity law was revised in 2005. The new amendments of the law repealed the legal requirement for public hearings on proposed protected areas. Until then, the law had provided for prior public consultations and hearings on the proposed sites prior to the declaration of new zone. The only action required by the biodiversity act on public awareness during the scientific research process stated that prior to the official declaration of the protected areas, the Ministry of Environment and Water and Ministry of Agriculture and Forestry ensure that national and regional campaigns are carried out in order to explain the purpose and objectives of the protected areas (Biodiversity Act 2002). As admitted by most of the interviewees (Toma Belev, Nikolay Nedyalkov, Dobromir Dobrinov) at that time the two ministries responsible for the information campaign - the Ministries of environment and water and the Ministry of agriculture and food - failed to conduct a massive information campaign needed. The justification of the environmental ministry is that the process of designation of the Natura 2000 areas is an expert-driven process based on scientific criteria and environmental considerations and therefore there

is no way to get all the stakeholders involved so many people. Nevertheless, the head of Natura 2000 Department Nikolay Nedyalkov admits that:

there were not enough information campaigns and public hearings which could have gained more public support and awareness prior to the official designation of the site boundaries. The poor communication campaigns resulted in largely shared misconception about the network which resulted in low acceptance level especially in the Natura 2000 areas. The poor communication is clearly a gap that the government and the our ministry is taking the full responsibility for. At that time out efforts were directed in more problematic, conflict areas on the Black sea coast and the mountain regions.

However, it should be admitted the Bulgarian legislation today provides for some form of public hearings and consultations on anticipated plans and programs but only on a later stages. According to the Biodiversity Act, the designation of protected areas is made by the Minister for the Environment and Water on the basis of existing scientific information. Draft version for the protected area shall be published in at least one national daily newspaper and the website of the Ministry of Environment and Water. The stakeholders (including NGOs and citizens) can make recommendations, comments, requests regarding the designation of the areas only within this one month. But these are the mechanisms involving the public of a late stage and giving the impression of an opportunity to participate in a fairly low. According to Toma Belev, however, this provision of is another EU requirement that remains largely on paper.

The lack of large public support can also be explained with some factors specific for Bulgaria and some other Central and Eastern European socio-historical. According to Nedyalko Nedyalkov, part of the population who in the communist past has suffered nationalization in Bulgaria was afraid of losing their land. Due to the lack of adequate information campaign of the essence of the

network, a substantial part of the population was led to believe that the functioning of the European environmental network would directly impact the economic development of the regions within Natura 2000.

As already noted above, there was strong dissatisfaction among some of the communities in Bulgaria with the very procedure of the designation of the sites in the country. As a result of all this, after the EU accession the level of Natura 2000 public acceptance was particularly low in the alpine and Black sea coast areas, where the majority of the sites are located, says Nedyalko Nedyalkov, head of Natura 2000 Department in the Ministry of environment and waters. The anxiety among the land owners in these areas was further exacerbated in the first year of the program because no adequate funding program was available to compensate for some of the limitation of the physical activities that can be carried out within the network boundaries. For instance, due to administrative incapacity, the owner of agricultural land in Bulgaria in Natura 2000 could apply for compensation from the Program for Rural Development 2007-2013 four years after Bulgaria joined the EU (Dnevnik 2011a).

Despite the fact that the ministry recognizes their mistakes (as admitted in the interview with Nedyalko Nedyalkov), little is done to address the issues. There is still also a lack of an information campaign on the benefits and opportunities for financing activities in Natura 2000 network. A major drawback of the campaigns is that most of the Natura 2000 information campaigns are concentrated in the capital Sofia. This is because as explained by Toma Belev the information campaigns are still targeted towards the wrong “audience”.

Currently the information activities are aimed at the capital Sofia, where there activities connected with Natura 2000 are limited. Information campaigns at central level are meaningless.

To sum up, one of the main social barriers for the poor of compliance with the Biodiversity Directives is the lack of public support and acceptance of the networks especially in some Natura 2000 areas largely due to poor communication campaigns. As already noted experience show that wide public participation is required so that the environmental legislation is effectively applied.

5.3 Economic barriers

5.3.1 Economic Pressure

Many see one of the problems with the implementation of Natura 2000 to be the involvement of the economic and political interests. “In MOEW most decisions are political, rather than based on sound scientific and expert decisions which is really worrying” says Toma Belev. The economic and political pressure is strongest in the regional inspectorates, where the implementation of the EU environmental legislation is enacted only on paper, agree some of the experts in the field.

Often heart complaint during among the interviewees is that environmental agency are often acting as a ministry of economy rather than environmental ministry, often taking the business side. On the other hand, investors are very successful at benefiting from the weakness of the local administration and some loopholes in the environmental legislation. According to Dobromir Dobrinov some of the loopholes were left “on purpose” when the directives were transposed in order make it easier for investors to carry out their interests and projects.

Therefore, the environmental network has not only not contributed to the cessation of construction in the chaotic sea and the mountains. On the contrary, some experts (Toma Belev, Alexander Dountshcev, Dobromir Dobrinov) argue that the accession of the country further aggravated the situation and has even contributed significantly to increase because, as part of the EU, Bulgaria has become a more reliable investment place. What the environmentalist think is that so far it is the financial crisis that has stopped the construction projects of solar or wind power plants or tourist complexes in some environmentally sensitive areas.

5.3.2 Lack of Natura 2000 Financing

Each EU member is obliged to pay for the conservation work and the management of the Natura 2000 sites within their territory. However, financing is also available through different structural fund including Life +. The fund is managed directly by the Environment Directorate of the European Commission. Money is also available such as structural funds and agri-environment measures. Operational Programme "Environment 2007-2013" and through Measure "Agri-environment payments included in the "Program for Rural Development and Operational Programme "Fisheries and Aquaculture (2007 to 2013) For LIFE + fund the European Commission annually provides funds to support projects, the funds for biodiversity conservation generally are up to 50% of the total amount allocated to the country but exceptions are also possible. Although the Structural Funds provide funding for environmental initiatives and sustainable development, Life + remains the first and only instrument of direct application of EU environmental legislation. In fact, the total budget of Life + for the period 2007 to 2013 totaled 2.143 billion Euros in more than 350 billion euros (Miller and Kettunen 2006).

Unfortunately, very few candidates in Bulgaria are able to benefit from this, because they have to compete with projects from the all over the EU. Moreover application procedures are quite complicated. Even in the UK 50% of the money under the program remains unused. This also applies to Bulgaria. The country was provided with 4 mln. Euro for Natura 2000 projects but by the end of 2010 the country carried out a total of 8 projects under the program, which were far below the financial limit available for that program (Dnevnik 2011b). In the beginning of the program and according to Toma Belev things have not change much Bulgarian administration had only a limited experience in appropriation of EU funds for the implementation of the program. This combined with the complex application procedures leads to under-utilization of allocated funds. Therefore, Bulgaria does not fully benefit from Life +.

Although it has the highest percentage of green areas in the European Natura 2000 network, so far few organizations manage to receive funding under the program. According to Stoichev

co-financing is the main problem for Bulgaria. Life projects have budgets of around EUR 1 million. In the best case scenario we can receive funding up to 75% of the total value of the project. This requires 250,000 financing from the partner organization and the Bulgarians amount is almost impossible for most of the NGO and public sectors.

In Poland and Hungary, the stated provides for with the missing financing for LIFE + projects. In those countries the governments accept as sufficient evidence for sustainability of the project the fact that it won EU funding.

Another constraint for the more successful use of Life + financing is that the program is aimed primarily at public and NGO sector. This is a problem for the civic and environmental organizations because as stated by Toma Belev “the government is not interested in including the

third sector – the NGO and civil society”. So far the government has worked for the inclusion of the business sector and municipalities”. As a result Bulgaria is going really slow with in the appropriation of the funds available for nature protection trough different EU instruments. Another possible explanation is offered by Nikolay Nedyalkov:

As a new member of the EU in 2008 Bulgaria started the process of absorption of European structural funds. The European Anti-fraud Office reported of several cases fraud which showed that there are serious problems with the practices of appropriation of EU funds as well as communication and cooperation between Bulgarian and European. As a result part of them was temporary closed and out of ten proposed projects only one project was approved. Because a lot of project did not receive approval, there was a total disappointment and outflow of candidates.

Despite the fact that Bulgaria has one of the largest Natura 2000 network coverage in Europe, which requires serious investments in the management and conservation of the network, the country is far from benefiting from the different financial instrument available from the program. Large part of the resources available for the program remains unutilized because of the limited experience of the administration with EU funds and the complex application procedures.

5.3.3 Low payments

The inadequate payment for the personnel in state and regional environmental administration often is the cause for the lack of motivation. It can also provide a possible explanation for corruption practices in the environmental institutions.

With a salary between 300 and 400 bulgaria leva (about 150-200 euros) most of the employees here in the ministry and in the regional inspectorates work for the personal satisfaction rather than payment.

shares, Nedyalko Nedeyalkov. Because of the outflow of well educated and trained personnel the quality of work is being compromised because the staff left is not willing or capable of executing their duties and responsibilities competently enough.

The low salaries also create serious precondition for corruption practices among the poorly paid administrative bodies involved in the environmental implementation structures. But what most of the NGO sector sees as most problematic is the fact that most of the experienced experts and competent staff doing their job properly are forced to quit or resign. The younger staff, on the other hand, lacks the necessary work experience, is easily manipulated, is susceptible to economic and political pressure or is afraid of being fired. Therefore, the quality control and management of the environmental institution are highly questionable and compromised, considers Alexandur Duntchev from WWF.

To sum up, the main social barrier for the proper implementation of the Biodiversity Directives is the outflow of quality personnel from the local and state environmental institutions largely due to the inadequate payment. This compromise the quality of the work of the staff and creates precondition for the corruption and for bad protection and management of the network.

In a nutshell, some of the problems that fall within those three barriers and were discussed in this chapter are the economic and political pressure for development of areas included in Natura 2000, dysfunctional environmental institutions, insufficient capacity of well-educated and experienced state and local administration, lack of citizen participation and awareness of the very nature and purpose of the network, and the overarching problem of corruption in Bulgaria.

CONCLUSION

The aim of this work is to identify in details possible barrier for the implementation of the EU Nature conservation Directives in Bulgaria and analyze the reasons behind the poor compliance with the EU nature conservation legislation. The root of the problems causing the implementation and compliance problems with the biodiversity directives identified in this research are various and nuanced so easy and straightforward answer is hard to find. Although the issue is rather complex, this work was structured around three larger groups of implementation barrier - political, economic and political that were identified after conducting comprehensive interviews with Bulgarian experts in the field of environmental protection and extensive desk based research.

Among the main socio-economic factor for the weak implementation that was identified during the research was the lack of willing and capable administration at all levels of the state administration from national to regional and local to carry out their duties and responsibilities. Another explanatory factor is the negligible civil society inclusion and involvement in the processes and stages of Natura 2000. As already noted in the literature section because as already noted in the literature section the implementation of union directives cannot be effectively applied without widespread public participation. The ordinary citizens and various NGO sector simply have limited power and capacity to exert influence on the state and the public institutions. The Natura 2000 integrity was also threatened by increasingly intensified pressure for economic development. Since Bulgaria joined the EU, the country has become attractive place for foreign and domestic investors. This, coupled with the weak administration and corruption-prone institutions, seriously damaged some Natura 2000 sites of Community importance. Some part of

development projects included construction on environmentally sensitive areas, and they were carried out with poor quality EIA or even worse without EIA. Further urbanization of old and development of new ski and sea resorts, wind and solar farms have had a serious impact on some of the most pristine natural areas in Bulgaria. Because of the increased flow of foreign investments and money from accession and preaccession funds the corruption grown even stronger with some serious corruption scandals connected with the misappropriation and misuse of EU funds and programs (Telegraph 2008).

The country is also far from utilizing all available resources and mostly EU allocated funds, largely due to limited experience of the state and local administration in appropriation of EU funds and to the sometimes complex application procedures.

Also, while the role of communist past can offer some explanatory power, it is by far not the most powerful explanatory factor for the poor compliance with the environmental legislation. On the contrary, it provides pretty overrated and simplistic approach (Kitanov 2010). Rather, it is the extremely difficult and two-decades long economic, social and political transition that are to blame for the low degree of environmental protection and lack of compliance with the stricter European environmental standards. The long and perverted transition to democratic society and capitalist economy or what became known in some Eastern European countries as “wild capitalism” could provide a better understanding of the underlying processes and practises contributing to the weak implementation of the biodiversity directives (EurActiv 2010). At the very early stage of the regime transition the environmental concerns were high on the agenda. However, they were quickly replaced by other more urgent domestic issues such as the economic downturn, paralyzing and overarching corruption, privatization and high unemployment rates

which for the year to come occupied the ordinary citizens and political elites and government's attention.

The need for environmental protection was brought back on the political agenda only more than a decade later in the context. However, the high hopes and expectations that the EU accession would speed up the long-delayed environmental reforms by incorporating the stricter EU nature protection laws, regulation and standards were largely unjustified. Five years since the country joined the EU government is still not taking its environmental responsibilities seriously. Once the country joined the EU and the membership conditionality instrument could not longer be used, the Bulgarian government and authorities placed the economic development before the environmental priorities and concerns. The internalization of the EU AQ did not translate into active implementation of the norms forming a huge "implementation gap" between the formal stage (transposition of the biodiversity directives) and the practical stage (their actual application). Bulgarian authorities viewed the EU membership as the main motivation and driver for conformity with the biodiversity directives, rather than a commitment for nature protection and biodiversity which are the main focus of the Directives.

Further to this, with the lack of conditionality, the authorities took reactive rather than proactive attitude, only responding to direct pressure such as infringement procedures or financial sanctions from the EU institutions. Therefore, soon after the accession the country turned into a constant laggard in terms of implementation of the biodiversity directives.

Policy recommendations

Based on the major finding of this work policy recommendation addressing the three main groups of barriers – social, economical and political – are made. The recommendations are intended to help improve the efficiency of the institutions making decisions regarding the network. This can be institutions or environmental NGO's directly or indirectly with the implementation of the Biodiversity Directives – MoEW, Natura 2000 Directorate and its local environmental inspectorates as well as environmental NGO's. The recommendations are made following the structure of the implementation problems as discussed in the discussion chapter.

Political barriers

- *Improve the work quality of the MoEW and the regional inspectorates*

The administrative capacity of Directorate Natura 2000 network should be enhanced. MoEW should exert more direct pressure on the state and local structures to carry out their duties and responsibilities properly by doing more checks and control their work; the administration should receive adequately payment for their work to avoid corruption and low quality work; where needed more personnel should be hired

- *Control over the licensed firms doing Environmental Impact assessments*

The firms which have been proved to carry out poor quality assessments or to issue primary positive assessment without good scientific reasons should be deprived of their license by the MoEW.

- *Approve management plans as soon as possible*

Management plans with clear conservation objectives should be approved. A precise deadline should be given to the responsible institutions (MoEW, regional inspectorates)

- *Depoliticize the state, local and regional environmental administration*

Political control is often exerted on state and local environmental institution. Depoliticizing the systems would guarantee that decisions concerning the environment are based on sound scientific base rather than political or economic pressure.

- *Improve the cooperation of the responsible for Natura 2000 agencies and bodies*

Intersectoral communication and cooperation between the MoEW and its local and regional inspectorates should be enhanced as for now it is largely insufficient. This can happen through regular meetings or with a new coordination body

Economic barriers

- *Increase the utilization of EU funding available for Natura 2000 sites:*

Natura 2000 is insufficiently financed in Bulgaria although there are funds available for that purpose. So what is needed is more effective management to the otherwise available funding opportunities for Natura 2000 which have been available through different operational programs. Education and training the staff in fundraising, accessing and managing EU Funds is a must.

Social barriers

- *Increase information campaigns and awareness*

What is also needed is more information and communication campaigns for the general public and especially for the stakeholders in order to avoid miscommunication and misconception about the purposes of the network which hindered considerably the implementation of the biodiversity directives in the first years following the introduction of Natura 2000 in Bulgaria; organize public hearings and consultations when designating new sites

- *Promote public and NGO interest*

Civic society and NGO sector should be given more incentives and opportunities to actively engage and participate in Natura 2000 control, protection and management. This can be done by increasing the availability and distribution of Natura 2000 related information on the institutions website; it should also be making it easily accessible and user friendly

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APENDIX:

1. Do you think there is enough institutional capacity at local, regional and state level for the proper implementation and management of Natura 2000 network?
2. In your opinion which are the main problems/challenges with the implementation of the network. How can they be overcome?
3. How do you assess the work of the responsible institutions? Overall, is it satisfactory? Is there something that needs to be changed/improved. If yes, what?
4. Do you think the sanctions and penalties for crimes against nature are adequate?
5. The main instrument for financing Natura 2000 is LIFE +. Do you think resources from the program and other programs such as the Program for regional development are easily accessible and available?