

Greening the East: Weak States and Even Weaker Societies?

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Abstract

Accession appears to be both a blessing and a curse to transition countries. On the one hand, EU membership supports their transformation from authoritarian regimes with centralized planning economies into liberal democracies with market economies. On the other hand, the accession countries face great difficulties in restructuring their economic and political institutions in order to meet the conditions for EU membership. The systematic involvement of non-state actors in the adoption of and adaptation to EU requirements was thought to be a remedy for the problems of European Enlargement towards “weak” transition countries. Companies and civil society organizations could provide the governments of the accession countries with important resources (money, information, expertise, support) that are necessary to make EU policies work. The paper explores the role of non-state actors in governing the double challenge of transition and accession. A comparative study of implementation of environmental policies in Poland, Hungary and Romania shows that accession was mainly shaped by the shadow of the past. State actors were harking back on command and control regulation that left little room for the involvement of non-state actors. Even where the policy process was successfully opened up for new actors, the shadow of hierarchy was maintained. The paper argues that both state and non-state actors in transition countries are often too weak to make cooperation work. The double weakness of transition countries seriously constrains the empowering of non-state actors by “Europeanization through accession”.

Introduction¹

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The starting assumption for our empirical case studies is that accession has posed a serious challenge to the CEE candidate countries that has the potential to empower non-state actors. On the one hand, the implementation of the *acquis* supports the transformation from authoritarian regimes with centralized planning economies into liberal democracies with market economies. These changes provide the necessary conditions for non-state actors to organize and act free from political control. On the other hand, the accession countries face great difficulties in restructuring their economic and political institutions in order to meet the conditions for EU membership. The adoption of and adaptation to the *acquis* run into serious problems concerning both the effectiveness and the legitimacy of EU policies. These problems cannot simply be solved in the “shadow of hierarchy” (command and control) since these countries are “weak” states that often lack the capacity (resources) rather than the willingness to effectively implement EU policies. Therefore, it is only rational for state actors to enlist the help of business and civil society to pool resources and share the costs. Next to tapping into the resources of non-state actors, their participation in the policy process helps to ensure effective implementation. The more the actors affected by a policy have a say in decision-making, the more likely they are to accept the policy outcome to be implemented, even if their interests may not have been fully accommodated. In short, involving non-state actors can significantly strengthen the capacity of state actors in public policy-making. Likewise, non-states actors also become empowered by getting (additional) access to and influence on public policy-making. In fact, the main incentive for non-state actors to get involved in the public policy-making is the exchange of their resources for influence on the

¹ We would like to thank our colleague Sonja Guttenbrunner for her work on the Polish case study. The case studies are explored in more detail in chapters of the forthcoming volume edited by Tanja Börzel, *Coping with Accession to the European Union New Modes of Environmental Governance in Southern, Central and Eastern Europe*. Houndsmill: Palgrave Macmillan.(Guttenbrunner, forthcoming) We thank Miranda Schreurs, JoAnn Carmin and Guy Peters for helpful comments on earlier versions of this paper. The research is based on the project “Coping with Accession. New Modes of Governance and Eastern Enlargement, part of the Integrated Project “New Modes of Governance in Europe”, funded by the 6th Framework Programme of the European Union (CIT1-CT-2004-506392).

policies by which they are affected (Héritier, 2003; Mayntz, 1997; Rhodes, 1997; Scharpf, 1978).

The paper analyzes how three Eastern European accession countries have coped with the challenge of adopting and adapting the EU environmental *acquis*. More specifically, we are interested in finding out to what extent non-state actors have been empowered by becoming involved in the implementation of EU environmental policies. Based on the most similar different systems design we selected Poland and Hungary as two accession states that became members in 2004 and also included Romania, which joined in 2007. The three CEE countries share a common heritage of state socialism but have chosen different paths of economic and political transformation and have diverging histories of civil society involvement. While sharing similar legal and administrative traditions, the three countries differ on terms of traditions of environmental mobilization and the pathways taken during economic transformation. By effectively using the space provided by the legalization of free associations and the rise of public concern on environmental damages for political mobilization, environmentalist groups became the main drivers of democratic transition in Hungary, providing a safe haven also for other opposition groups (Berg, 1999; Enyedi & Szirmai, 1998). After the regime change, the importance of the movement decreased but it is still the best organized segment of Hungarian civil society with a considerable number of professionalized groups actively engaging both in policy-making and protest (Kerényi & Szabó, 2006; Rose-Ackermann, 2005). As in Hungary, environmental activism was one of the few societal activities, which the communist regime had tolerated in Poland (Andersson, 2002; REC, 1997). In 1989, an ecological table was established at the round-table talks between Solidarity and the communist regime. Unlike in the two other countries, where environmental issues were central to the protest movements of the late 1980s, in Romania the strongly authoritarian political system prevented the existence of any kind of societal organizations. Although the environmental movement could recover after 1989, it is still mostly organized at the local level, financially dependent on external donors and remains often passive in lobbying or influencing policy-making (Olearius, 2006). Economically, both Poland and Hungary were among the fast movers regarding the dismantling of state socialist heritages, even though they differed in speed and openness towards foreign investors (Bohle & Greskovits, 2001). Romania, in turn, embraced economic liberalism rather reluctantly only in the mid-1990s (Cernat, 2006; Gallagher, 2005; Pasti, 2006). What they have in common, however, are that they all have been accession countries whose governance capacities were and still are much weaker compared to the Northern and Western European states. The dual weakness of state and non-state actors can be traced back to a joint legacy of state authoritarianism. For our paper this is also relevant to the extent that three countries share an administrative culture that tends to be hostile to the involvement of non-state actors in public policy-making.

The next section gives a short introduction into the debate around Europeanization, accession and the empowerment of domestic actors. To explore the domestic impact of accession on non-state actors, we focus on the Europeanization of environmental policy-making in three CEE accession countries - Hungary, Poland and Romania. In our comparative case studies we analyze environmental policy as an area of positive, market correcting integration that imposes significant costs in the implementation rather than in the decision-making stage. We look at two EU environmental policies that explicitly prescribe the involvement of non-state actors in the policy process but differ with regard to the stakeholders likely to be empowered. Our case studies analyze non-state actor involvement in two subfields of environmental policy: industrial pollution and nature protection. While the Integrated Pollution Prevention and Control Directive (IPPC; 96/61/EEC) is most relevant to industry as the main regulatory

target (Bohne, 2006; Lange, 2006), the Directives on Fauna, Flora, Habitats (FFH; 92/43/EEC), and Wild Birds Directive (79/409/EEC) are likely to empower civil society organizations (Wurzel, 2008). Due to the high compliance costs involved and the participatory requirements of its directives, EU environmental policy provides a most likely case for the emergence of “new modes of governance” potentially empowering non-state actors. While the three countries differ with regard to their domestic structures, they equally suffer from weak governance capacities as a result of the transition process, a shared legacy of state socialism and the challenge of accession to the EU. The two policy subfields both entail significant implementation costs and prescribe public involvement in the policy process. They differ, however, with regard to the non-state actors they may empower. We conclude with a summary of the most important findings and discuss the factors fostering and impairing the involvement of non-state actors in accession.

Laws, Funds and Expertise: Enlargement and the Empowerment of Non-state Actors

Europeanization processes have significant effects on state-society relations (cf. (Ladrech, 2005); (Eising, 2007)). EU-integration provides domestic non-state actors with the opportunity to circumvent their national governments and become either directly involved with policy-making in Brussels or put pressure on their governments at the domestic level. This is particularly visible in the implementation of EU policies. Domestic pressure for adaptation often arises from domestic mobilization. EU policies usually have direct effects on domestic actors, imposing constraints for some while offering opportunities to others. Policy-makers, administrators, and business actors, who have to bear the costs of EU environmental policies, tend to resist their implementation. This resistance, however, can be counterbalanced by other domestic actors, such as NGOs, who strive to “pull down” the EU policy to the domestic level by pressuring the public administration to legally incorporate, practically apply and enforce it. However, changes in the political opportunity structure due to potential chances on the European level do not automatically change domestic power structures or repertoires of action available for political actors (Andretta & Caiani, 2005; Della Porta, 2006; Eising & Kohler-Koch, 2005; Kriesi, Tresch, & Jochum, 2007). Domestic pressure can materialize through different channels. First, NGOs have considerable scope for mobilizing public opinion and influencing public attitudes. They can raise concerns about the proper implementation of policies vis-à-vis the government. Second, NGOs can act as ‘watchdogs’ drawing the attention of both public authorities (national and European) and the public opinion on incidents of non-compliance with EU environmental legislation. Since the influence of NGOs on European policy-making tends to be limited, they concentrate on the legal implementation of EU Directives in their country by lobbying national policy-makers for a correct and complete transposition into national law. When it comes to practical application and enforcement, citizens and environmental groups are an important source of information for the European Commission, which lacks proper monitoring capacities. Moreover, NGOs, in alliance with the media, often launch public campaigns to shame their government for serious instances of non-compliance. Last but not least, NGOs can play a major role in the enforcement of European Law through national courts. Theories of social movements suggest that less resourceful actors with limited opportunities to pursue their interests in the policy process, might in some cases benefit from the opportunities for participation offered by international courts, such as the European Court of Justice (Imig & Tarrow, 2001; Marks & McAdam, 1996). Societal mobilization can play a role in ensuring governments to implement European law (Cichowski 2004; Conant 2002). Given its supremacy and direct effect, European legislation confers rights to any affected individual to

challenge non-compliance before national courts (Börzel, 2006). Domestic mobilization can become particularly effective if it is able to link-up with European institutions, which yield additional pressure for adaptation from above by invoking conditionality (pre-accession) and initiating infringement proceedings (post-accession).

Accession conditionality made governments of the candidate states exposed and vulnerable to criticism by non-state actors, which often informally provided the Commission Delegations with information needed for the preparation of the Annual Monitoring Reports. At the same time, Europeanization coincided with and reinforced the endogenously driven professionalization and institutionalization of civil society groups (Stark, Bruszt, & Vedres, 2006; Szabó, 2007). Though less explicitly discussed in the literature dealing with Europeanization in the accession states (but see Peres-Solozorano, 2004; Perez-Solorzano Borragan, 2003), the impact of the EU on business actors in CEE has been also considerable, even if it was more difficult to trace than in the case of non-profit actors. Arguably, major influences exerted by the accession process were the economic possibilities and pressures for business actors to participate in the EU's single market. At the same time, the accession process was paralleled by massive inflow of FDI into the CEE, resulting in changing ownership structures and technological upgrade in different industrial sectors.

The accession process has provided non-state actors in the CEE candidate countries with a similar opportunity structure (Borragán, 2004; Hicks, 2004). The impact of Europeanization on non-state actors can be conceptualized as related to changes in the legal settings (*law*), financial resources (*funds*) and cognitive capacities (*expertise*) available for civil society organizations and business actors during the accession process. First, the harmonization with the almost 200 legal pieces of EC environmental law has meant a deep-going change in the environmental policy field of the accession countries. For non-state actors, both for profit and not-for profit, this has opened the possibilities to provide the Commission with information on violations of EU law, bring legal cases before national courts and mobilize the public (Börzel, 2006; Hilson, 2002). At the same time, several EU policies explicitly prescribe public participation, access to information and transparency. Horizontal legislation, such as Environmental Impact Assessment or Strategic Impact Assessment call for access to environmental information for the public in order to involve citizens in the process of decision-making, thus quite efficiently widening the field where civil society actors can become active.

Second, when the accession process has started, EU-pre-accession funding schemes became available for non-state actors. Capacity-building through technical assistance programs of the EU as well as the funding lines especially set up for promoting small and medium enterprises, civil society organizations (ACCES) included extensive references to "participation" or "joint ownership" (Smismans 2006). Capacity-building should not only foster the effective adoption of and adaptation to the *aquis communautaire*. The stronger involvement of non-state actors is part of the Commission's effort both to achieve higher effectiveness of EU policies by tapping into the knowledge-base of non-state actors and at the same time to address criticism concerning the democratic deficit of the EU (Cram, 2006).

Third, the accession process has also provided NGOs from the CEE countries with connections to like-minded organizations in the old member states as well as interest groups and transnational networks active at the EU-level. Environmental NGOs active on the Brussels level have played important roles in making their CEE counterparts acquainted with the rules of EU policy-making (Bomberg, 2007). At the same time, the accession process has

provided access of CEE business actors (such as employers' organizations or sectoral lobbies) to participation in EU – level professional confederations (Andonova, 2004).

Yet, EU-accession has not only created new opportunities for non-state actors. The „top-down” nature of „Europeanization through accession” and the focus of the Commission on strengthening the absorption capacities of the candidate countries often intercepted with the empowerment of non-state actors (Goetz, 2006). Moreover, the increasing reliance on external donors led in some cases to the detachment of civil society organizations, such as environmental groups, from their root constituencies (Fagan, 2006). At the same time, weak organizational capacities and the absence of domestic and supranational lobbying experience hinder societal groups from CEE to actively use the opportunities provided by the EU multilevel system (Hallstrom, 2004). Rather than empowering non-state actors, external dependency, the emergence of new cleavages and inequalities due to liberalization and deregulation, combined with the communist legacies led to a decline in political participation and the weakening of civil society (Howard, 2003). These findings contradict the assessment of some studies, which contrast the low level of political participation measured on the individual basis with the rapid growth of civic organizations, some of which demonstrate significant policy and mobilizing capacities (Petrova & Tarrow, 2007). In short, the impact of Europeanization on the balance of power between state and society appears to be ambivalent and it is likely to be differential. Even if accession has provided a new political opportunity structure, research on old member states clearly indicates that Europeanization has not always resulted in changes of domestic power structures or repertoires of action available to political actors.

The Greening the East: Making EU Environmental Policies Work

The adoption of and adaptation to the EU environmental *acquis* met with a multi-faceted environmental situation in Central and Eastern Europe. On the one hand, the CEE countries enrich the EU with vast areas of pristine wilderness, large spots of untouched nature, and a high biodiversity. At the same time, they suffer from the socialist legacy of forced and intensive industrialization leading to a significant number of environmental hotspots in the region (Auer, 2004; Turnock, 2001). After the regime changes and during market liberalization, most CEE countries witnessed a period of “natural clean-up” due to the breakdown of the state economy. With economic growth taking up in the second half of the nineties, however, they started to experience similar environmental problems as the old member states did decades before (Pavlinek & Pickles, 2000). While some of the CEE countries had developed environmental regulations back in the 1970s, their effectiveness remained limited and did not meet the requirements of the environmental *acquis*. Environmental policy-making has been largely carried out by using reactive end of pipe approaches and has been generally based on command-and-control regulation resonating well with the long standing traditions of an authoritarian state (Archibald, Banu, & Bochniarz, 2004; Caddy, 2000).

In the EU accession process, the CEE countries were confronted with the challenge of implementing some 200 environmental directives. This transfer of European environmental policy has not only imposed heavy costs on their weak fiscal capacities, swallowing two to three percent of their GDP (DANCEE, 2001; EDC, 1997; Homeyer, Bär, Carius, & Deim, 2001; Schreurs, 2004).² It also meant to implement regulations that were mostly alien to their

² OECD countries spend between one and two percent of their GDP on environmental policy cf. http://www.uni-mannheim.de/edz/pdf/dg4/ENVI106_EN.pdf, last access May 31, 2007.

political and economic systems as they clashed with the legacies of the socialist period (Pavlinek & Pickles, 2005). Next to the immense financial burden, the adoption of the green *acquis* and the adaptation of national law required comprehensive administrative capacity as well as scientific expertise and technical expertise in order to transpose EU requirements and ensure their practical application, monitoring of compliance and enforcement on the grounds. Given their overall weak resources, the accession countries faced a serious capacity gap. Not only did they lack financial resources to acquire additional personnel, expertise and technical equipment. State actors were also unable to compensate potential losers of a policy. Finally, public administration has often suffered from difficulties in pooling and coordinating the scarce existing resources (ECOTEC, 2000), particularly if they have been dispersed among various public agencies and levels of government. These capacity problems have been aggravated by the inherently weak standing of environmental administrations within governments that often prioritized economic development (Archibald et al., 2004).

Next to state capacities, the implementation of costly EU environmental policy has also often lacked the support of its target groups (see Table 1). While the degree of environmental mobilization was high during the 1980s, the level of environmental engagement (Greenspan Bell, 2004; Hallstrom, 2004; Hicks, 2004) and awareness of environmental problems has remained low and even decreased in the early 1990s (Homeyer, 2004). Citizens have been more concerned with socio-economic issues, such as employment and income security (Gerhards & Lengfeld, 2006; Lee & Norris, 2000). Against this background, state actors would have required the capacity to engage different societal actors in the formulation and implementation of environmental policies – not only to get hold of their resources but also to ensure voluntary compliance.

| | Estimated Costs (in MEUR) | % of GDP | Average Organizational(2001) Membership (2004) | ENGOS | Bureaucratic Capacity (2003) | Env regulatory capacity (2005) |
|-----------------------|------------------------------|-----------|---|------------|------------------------------------|--------------------------------------|
| Bulgaria | 8.6 | 56 | 0.36 | 191 | -0.20 | 44.9 |
| Czech Republic | 9.4 | 13 | 1.04 | 643 | 0.72 | 66.8 |
| Estonia | 4.4 | 70 | 0.51 | 82 | 0.85 | 67.6 |
| Hungary | <i>10</i> | <i>13</i> | <i>0.45</i> | <i>505</i> | <i>0.79</i> | <i>67</i> |
| Latvia | 2.2 | 18 | 0.41 | 94 | 0.70 | 63 |
| Lithuania | 1.6 | 11 | 0.26 | 57 | 0.65 | 61.2 |
| Poland | <i>42.8</i> | <i>15</i> | <i>0.39</i> | <i>397</i> | <i>0.64</i> | <i>64.6</i> |
| Romania | <i>29.9</i> | <i>45</i> | <i>0.31</i> | <i>125</i> | <i>-0.30</i> | <i>45.3</i> |
| Slovakia | 4.8 | 10 | 1.13 | 76 | 0.43 | 65.4 |
| Slovenia | 2.4 | 17 | 0.98 | 103 | 0.89 | 73.9 |

Table 1: Costs and Capacities of Environmental Accession³

³ Sources: Environmental Cost Estimates according to DANCEE (DANCEE, 2001). Average Organizational Membership is based on European Value Survey Data (EVS/WVS 2004). The Number of Environmental NGOs is based on the Non-Governmental Organization (NGO) Directory maintained by the Regional Environmental Centre in Szentendre, Hungary (online version). Bureaucratic capacity is based on the dataset Governance Matters V: Governance Indicators for 1996–2005 by D. Kaufmann, A. Kraay, and M. Mastruzzi. Environmental

Environmental policy and state-society relations in Hungary, Poland and Romania

While this paper makes a general argument regarding the weakness of both state and non-state actors capacities in the new EU member states, it is important to highlight the prevailing differences between the three countries we analyze. In *Hungary*, environmental administration fighting an uphill battle against more influential departments such as economy or agriculture, EU accession emerged as a welcome opportunity both to further integrate and upgrade environmental policy and legislation, as well as to secure additional financing for environmental projects (Bell, 2005). The adoption of and adaptation to the EU environmental *acquis* did not only bring new regulations. It often came with the need to change national or regional level institutional settings of the environmental administration, altering the institutional balance within the structure of the administration. For state administration, institutional restructuring together with the huge policy overload resulted in a quasi-permanent state of emergency during the accession period, which was absorbing most of the state capacities available (Interview, Ministry of the Environment, Budapest, 29/11/2005). The perception of constant flux was further aggravated by the changing composition of the environmental unit, which undertook a veritable odyssey through different parts of the state administration, becoming consecutively united with transport, water management, agriculture and regional development branches (Buzogány, 2009). These changes have often resulted in serious tensions between the different policy communities that have been forced to work closely together in implementing EU policies (Mocsári, 2004a). Next to administrative fragmentation and conflict, high turnover rates within public administration due to its politicization (Meyer-Sahling, 2006) and uncompetitive salaries were hindering the consolidation within the departments and the stabilization of external ties. EU membership did not lead to a consolidation of the civil service either, as the post-accession administrative reform endorsing a “lean state” has been accompanied both by budget cuttings and suspension of up to 30% of staff employed in the regional level environmental administration and the national park directorates (Jávor & Németh, 2007).

The Hungarian environmental movement has belonged to the main drivers of transition by effectively using the space provided by the legalization of free associations and the public concern on environmental damages for political mobilization (Enyedi & Szirmai, 1998; Pickvance, 1998; Rose-Ackermann, 2005). After the regime change, its importance decreased permanently but it is still one of the best organised segments of Hungarian civil society with a considerable tradition and a relatively high number of professionalized groups actively engaging in policy-making (Boda & Scheiring, 2006; Hajba, 1994). Organized business has emerged in Hungary following the rather early privatization process. It was strongly shaped by sectoral networks between administration and business, which tend to pre-exist also after the privatization process. Heavy FDI inflow during the nineties has resulted in technological modernization of whole sectors, eventually leading to the adaptation of less dangerous production methods, though with strong sectoral differences.

In *Poland*, very much as in Hungary, ecological activism was one of the few societal activities, which the communist regime had tolerated (Andersson, 2002; Glinski & Koziarek, 2008; REC, 1997). While environmental concerns were high on the political agenda after the regime change, public interest in ecological issues soon faded during the economic reforms

regulatory capacity is calculated based on the Social and Institutional components of the Environmental Sustainability Index (Esty, Levy, Srebotnjak, & De Sherbinin, 2005).

and gave way to more pressing social and economic issues (Żylicz, 2000). Cooperation between state and non-state actors in Poland could not rely on established forms of interest intermediation (Guttenbrunner, forthcoming). In general, state actors have mostly lacked political will to give civil society, such as environmental organizations actors a real say in decision-making (Interview Polish Environmental Law Association, Wrocław, 14/10/2005). Despite of this, the Polish environmental sector went through a process of consolidation and professionalization during the nineties featuring a large variety of organizations reaching from national umbrella groups (League of Nature Protection, Polish Ecological Club), national branches of international NGOs (WWF Poland) to expert, think-tank type organizations (Polish Environmental Law Association, Institute for Sustainable Development). At its turn, the strength of organized business, which has emerged during the transition process, is sectorally highly differentiated. Typically, sectors in which foreign investment play a crucial role, are better organized than sectors, which are still controlled by the state or dominated by domestic private companies. Nevertheless, several highly polluting industrial sectors remained at least partially state-owned and could compensate this with privileged access to decision-making arenas.

Romania was the last of the ten CEE candidate countries to open negotiations on Chapter 22 of the *acquis communautaire*. Environmental issues emerged as a major stumbling block on the countries' road towards accession. Romania received a warning "red flag" in the last regular EC Country report before accession in 2005, meaning that membership could be postponed because of the lacking progress in adapting EU-conform industrial pollution legislation (European Commission, 2005). Capacity problems were listed as a primary concern, as environmental administration remained understaffed on all levels (ECOTEC, 2000). Nevertheless, non-state actor's involvement was far from emerging as a typical feature of environmental accession in Romania. Severe time pressure on legal adaptation did effectively bind the limited resources available in the environmental administration (Buzogány, forthcoming-b). The underpaid administration on both the national and the regional level has regarded the involvement of non-state actors as a rather time-consuming and non-rewarding exercise which was to be fulfilled in order to please the EU (Interview Ministry of Environment and Water Management, Bucharest, 25/11/2005). In most of the cases, the perception prevailed that the drafting guidelines of the EU did not provide much leeway for domestic adaptations, but rather entailed a "downloading" of the legislation followed by the "copy-and-paste method" of transposition (Interview Consultancy, Bucharest, 12/01/2007). Institutional restructuring and conflicts within the administration did further weaken administrative capacities and left not much time to include new actors in the policy process.

Compared to Hungary and Poland, environmental organizations are much weaker in Romania and their ties with state administration are less intensive (Dragomirescu, Muica, & Turnock, 1998). Environmental NGOs have extremely weak resources, are regionally scattered and rarely hold sufficient capacities for active involvement in policy-making (Olearius, 2006). Due to their high donor dependence, they often switch in their focus of interest or are rather active in redistributing external funding to other organization, which does not help them build specific policy expertise that could be used either in transposition or the application of EU environmental policies (Interview, Ministry of Environment and Water Management, Bucharest, 23/11/2005). The low level of trust and conflicts among environmental NGOs does further hinder them to become regarded as serious partners by state actors. Networking among environmental groups remains weak and the lack of public support prevents them from having a high policy impact. Moreover, local level activism is increasingly adopting environmental "watchdog" strategies that are more protest-oriented and do not seek actively to become involved in policy-making on the national level. In contrast to the NGO sector, relations

between state and business in Romania have typically been quite close but based on informal rather than formal ties (Cernat, 2006; Gallagher, 2005; Pasti, 2006). These patronage-based clientelistic networks, rather than formal business associations became central players of the reluctant privatization and industrial restructuring processes, which favoured domestic actors vis-à-vis foreign strategic investors during most of the accession period.

Coping with the Challenge of Accession in CEE: Non-state Actors on the Rise?

Transposing and Implementing Pollution Control Legislation

In Hungary, the introduction of the integrated environmental permitting systems as envisioned by the Integrated Pollution Prevention and Control (IPPC) Directive required a thorough restructuring of the environmental permitting procedure and a departure from the dominant regulatory approach. The introduction of a precautionary problems-solving approach and the concept of best available technologies (BAT), which is at the core of the IPPC Directive, implied a change from the legalistic, prescriptive approach towards one based on coordination and communication between the regulators and the regulated that was largely alien to Hungarian administrative practice. Moreover, it involved a process of administrative decentralization since regional authorities had to get more autonomy in setting the permit conditions. Paradoxically, while the Directive provides business actors with considerable possibilities to influence sectoral regulations, Hungarian business actors only reluctantly started becoming active in this field. Even though the Directive explicitly encourages case-by-case treatment in issuing environmental permits based on consultations between administration and business actors, the lack of trust by both industry and public authorities has given rise to uncertainties. Both state and non-state actors have tended to “harden” initially soft instruments for the everyday administrative use. Thus, they resorted to traditional command and control regulation even applying stricter standards than EU legislation would require (Mayer & Dragos, 2005). Public authorities have often felt too weak to monitor compliance with new and non-binding agreements. The lack of trust in the enforcement capacities of public authorities is why also business actors, such as the Federation of Hungarian Employers, have preferred hard regulation, too (Center for Environmental Studies, 2003). Whereas voluntary agreements are recognized as an opportunity to improve policy implementation, the lack of transparency and enforcement capacities were seen within the business community as a major obstacle to the uniform application of the IPPC Directive across different regions and sectors. In short, business actors shied away from cooperation with state actors as an alternative to command-and-control regulation to avoid distorting effects for competition. At the same time, public opinion remained also skeptical of the involvement of business in the policy process for fears of corruption. Saturated with news on abuses of public resources, different derogation periods or phasing-in arrangements could easily become misinterpreted as corrupt practice and are therefore only cautiously applied (Center for Environmental Studies, 2003).

While the involvement of business in the proactive adaptation to the IPPC Directive in Hungary is overall limited, some sectors have been more active than others. Financial resources and expertise available to business actors are crucial in shaping relations with the authorities, resulting in significant differences among industry sectors. Thus, highly competitive export-oriented industry branches had no difficulties in playing a proactive role in designing the Best Available Techniques (BATs) for their industrial sector by providing the technical expertise demanded by the IPPC Directive. In these industrial sectors, the application of IPPC is both necessary and financially viable, as it is crucial for market access

and comes with relatively low information costs. In the case of the pharmaceutical industry, for instance, the used technologies are very up-to date in order to survive on a highly competitive market. While the pharmaceutical industry was perceived as a leading sector in IPPC adaptation, chemical industry in general, one of the potential great polluters, has also started relatively early to prepare its members to meet the requirements of the IPPC Directive (Bonis, 2001). After a longer crisis period in the nineties, this industry re-shifted its profile partially through FDI from western multinationals and became a good performer both in economic and environmental terms (Fonyó, Szépvölgyi, & Harangozó, 1999). In contrast, small and medium enterprises, mostly from the agricultural sector are often lacking even information on the demands of the directive and are confronted with huge capacity problems they can hardly solve (Mayer & Dragos, 2005; Népszabadság Online, 2005 July 14). In sum, while there is general reluctance to formally involve stakeholders into the permitting process and the definition of the BAT both on the side of public administration and most of the business actors, leading and internationally exposed industrial sectors are increasingly able to proactively participate and co-shape the IPPC permitting procedure.

Polish public administration has not only been overburdened with the practical application of new laws transposing the environmental *acquis*. State actors have also lacked experience and know-how on how to negotiate with different kinds of non-state actors or on how to monitor and enforce informal accords or voluntary agreements that could have helped in adopting and adapting to EU environmental legislation (Interview, environmental think tank, Wroclaw, 14/10/2005). In the case of the IPPC Directive, companies and policy consultants have indeed participated in the preparation of national guidance documents for integrated permits as required by the directive. The incentives for state actors to include business actors are their know-how and human resources, but also their financial contributions. Business, in turn, has had an incentive to offer its resources to avoid legal uncertainty and economic disadvantages they may face if the standards are not adopted within the time frame set by the directive as a result of which they would not be able to get the integrated permits required by the IPPC Directive. Building on its political influence, sectoral associations, such as the Polish Steel Association have successfully bargained for longer transition periods (until 2010) for receiving the permits. In return, they offered expertise and financial resources of its members. Steel companies have financed the training of public administrators and other projects to help strengthen the administrative and cognitive capacities of state actors necessary to apply and enforce the directive (Interview Polish Steel Association, Warsaw, 23/10/2005). Despite corporate engagement, state actors largely refrained from the possibility to use flexible standards, which could be adapted to the local conditions of individual companies. Very much like in Hungary, they have felt that they lack the expertise to interpret the technical details of the directive. Given the superior expertise and technical know-how of industry, public authorities feared to be “captured” by economic interests in the negotiations on which standards a specific company has to comply with (Interview Consultancy, Warsaw, 9/10/2006; Interview Consultancy, Warsaw, 16/10/2006; Interview Polish Environmental Ministry, Warsaw, 11/10/2006). In sum, both business actors and state administration did only rather reluctantly use the new requirements of the IPPC Directive and preferred to build on long established networks of extra-legal influence on policy-making.

Compared to Hungary and Poland, industrial restructuring in Romania has proceeded with a much slower pace. Large parts of industry remained owned or co-owned by the state when the accession process has started. This is particularly true for heavy industry and other sensitive sectors, such as energy, which are among the main targets of the IPPC Directive. While business actors often had to bear substantial costs relating to the modernization of installations imposed by the new legislation, they hardly sought institutionalized ways of asserting

influence on the state administration. As close relations between business actors, politicians and administration survived the partial restructuring of Romanian industry, informal relations still remain the preferred way to influence policy outcomes (Cernat, 2006). State ownership of large combustion plants under the IPPC Directive made the involvement of non-state actors futile, as costs for fulfilling the requirements had to be carried from the state budget (Interview Ministry of Environment and Water Management, Bucharest, 25/11/2005). Therefore, collaboration between state and non-state actors has emerged to prevent or to postpone compliance with EU legislation. Large combustion plants, including steel factories and power plants generating heating for public and industrial use were mostly able to move the authorities to negotiate individual transition periods with the European Commission, hoping that necessary environmental investments could be covered after accession from the Structural Funds or through external bank credits. As a result, more than one fourth of the installations affected by EU air pollution control directives have been exempted from the requirements for a period of up to 10 years (Interview Ministry of Environment and Water Management, Bucharest, 23/11/2005 and Interview Consultancy, Bucharest, 12/01/2007). In sum, EU accession has led to high adjustment challenges for Romanian business. Rather than empowering business actors' vis-à-vis the state, the immediate effect of the IPPC is the re-enforcing of state-business relations vis-à-vis EU requirements in order to postpone the implementation of this cost-intensive legal piece.

Transposing and Implementing Nature Protection Legislation

The EU's Directives dealing with nature protection are among the most visible – and controversial – regulations, as they affect a high number of actors and open possibilities for public participation of environmental NGOs. In Hungary, EU compliance pressure generated important incentives for state actors to take the “helping hand” of non-state actors. After Hungary failed to meet the deadline for the transposition of the FFH Directive due to low administrative capacities and conflicts between different branches of the government (Mocsári, 2004b), the ministry decided to delegate the information campaign about the designation process to the “NATURA 2000 Coalition” formed by some of the most powerful environmental NGOs, such as CEEWEB, MME/BirdLife Hungary, the National Society of Conservationists and WWF Hungary. The ministry could use the information dissemination capacities of NGOs it was lacking itself, try to increase the legitimacy of this directive and effectively prevent a complaint to the European Commission, which the NGO coalition threatened to file if the administration did not proceed with the designation process (CEEWEB, 2005) (Interview National Society of Conservationists, Budapest 02/12/2005). During the implementation period, site designation has led to a rapid increase of litigation both from affected landowners, environmental organizations and the Environmental Inspectorate.⁴ Several landmark cases, such as the Zengő Hill, where the Ministry of Defence planned to install a radar-system in a Natura 2000 site, have received wide public attention (Vay, 2005). Societal and legal mobilization against these plans has finally forced the Ministry to withdraw from them. Nevertheless, despite some successes, environmental groups are often likely to lose court cases, as the Natura 2000 legislation remains often contradictory and the judiciary is lacking specific training on how to interpret environmental law. Both legal decisions of the courts and the permitting procedures of the different Regional Environmental Agencies remain highly inconsistent, leading to different outcomes on comparable cases. Nevertheless, several environmental organizations are increasingly shifting

⁴ The number of legal cases concerning NATURA 2000 designation has doubled each year since 2006 (Interview, Public Servant, Budapest, 28.03.2008)

towards using litigious strategies and towards providing legal training for judges and environmental organisations to explain Natura 2000 legislation. Due to their limited capacities in detecting breaches of law, collaboration between specialized environmental groups and the Environmental Inspectorate increased mostly after finalizing the designation process. Compared with early stages of transposition and implementation, which were characterized by unclear preferences and chaotic institutional set-up, the availability of legislation dealing with biodiversity and the consolidation of the role to be played by the Environmental Inspectorate has forged interest-coalitions across the state-non-state divide. As much as state administration cannot be regarded as being homogenous – the same is true also for the environmental NGOs, which are characterized by a strong division of labour regarding applied repertoires. Only resourceful organizations, with extensive domestic and international ties, such as WWF Hungary or National Association of Conservationists have the capacities following multiple strategies. Many other groups specialize either on the local level, or acquire expertise in different forms of action, such as litigation or public protest. Most of these activities are coordinated through the long-established networks of the green movement and remain domestically focused.

Where cooperation between state and non-state actors emerged, it has been largely controlled by state actors and characterized by a high level of path-dependency. Thus, public administration has used the possibility to selectively resort to long-established, formal and informal contacts with NGOs. Environmental groups holding highly specialized specific knowledge, such as MME/BirdLife Hungary actively participated in the designation of protected areas while local NGOs helped providing expertise and data (MTVSZ, 2003). The hand-picking of partners for consultation has several advantages. Most importantly, state actors can effectively mobilize information and expertise unavailable to the administration. Moreover, they are able to filter participation by involving loyal and trusted non-state actors in a timely manner without compromising the strict transposition schedules dictated by the EU. This selective inclusion of non-state actors into the implementation of EU environmental policies tends to reinforce the opportunity structures available for actors that are already part of established networks rather than empowering new actors to join in.

In sum, the conflicting coexistence of the “old” and the “new” administrative style remains characteristic for environmental politics in Hungary and leads to a typically incremental policy process, which is further strengthened by frequent re-structuring of the national and regional environmental administration (Mocsári, 2004a). While we have witnessed some examples of non-state actor involvement, EU accession has not led to their systematic empowerment in Hungarian environmental policy. Conditionality and time pressure have resulted in rather top-down adoption of and adaptation to the environmental *acquis*. Consultation in the shadow of hierarchy has been the most typical mode of non-state actors’ involvement. Moreover, these rather weak forms of involvement are often dominated by tightly knit policy-networks that bridge the state–non-state actor divide easing the EU pressure on Hungarian authorities to adopt a more participatory approach in environmental policy-making. Even though Hungarian environmental policy-making is still largely dominated by state actors there is nevertheless evidence for a slow proliferation of more inclusive governance modes that involve non-state actors more systematically. This development seems to be a result of both a joint socialization of state and non-state actors in the policy process as well as of the increasing willingness of non-state actors to offer their expertise. There has been rising consolidation and professionalization of a quite vociferous segment of well-established environmental NGOs that from the mid-1990s on started to seek cooperation with the state administration. This is paralleled by the development of a consultancy-oriented for-profit environmental professional sector, which could readily offer

its services to both state and non-state actors (Bell, 2005). EU accession strengthened governance capacities by providing additional funding possibilities, exchange of information and know-how (Kerekes & Kiss, 2003; Mocsári, 2004a). For central level environmental administration, EU accession increased political capacities vis-à-vis other branches of government and enforced the adaptation of EU-like patterns of professionalization, “projectification” (Kovach & Kucerova, 2006) but also protest (Kerényi & Szabó, 2006) among non-state actors. Most of the funding was channeled through PHARE financed institutional twinning projects, which brought together relevant stakeholders from old and new member states. While some of these projects remained confined to short-term achievements with regard to clearly defined policy issues, others deployed long-term effects by contributing to the establishment of trust relations between different sets of actors (Interview, Ministry of Environment and Water Management, Budapest, 29/11/2005).

Relations between state and non-state actors in the field of nature protection have developed rather conflictive in *Poland*. During the preparation of the NATURA 2000 designation process, environmental organizations have been actively involved from the outset (Cent, Kobierska, Grodzinska-Jurczak, & Bell, 2007). Conflicting political, economic and regional interests regarding the designation of sites, however, have rapidly diminished cooperation between state actors and environmental organizations. State actors’ reluctance to cooperate with non-state actors was only to overcome with the help of EU pressure. In the case of the FFH Directive, it was the EU Commission that made the Polish administration to accept the expertise of non-state actors in drawing up the inventory of protection sites required by the Directive. After a coalition of environmental groups, including WWF Poland, the Polish Society for the Protection of Birds, the Naturalist Club and the Polish Society for Protection of Nature "Salamandra", had prepared a “shadow list”, identifying far more conservation areas than included in the “official list” of the Ministry of Environment, the European Commission demanded a revision of the list from Poland. As a consequence, the Ministry of the Environment asked the NGOs to draw up parts of the inventory (Interview Ministry of Environment, Warsaw, 12/10/2005; Interview WWF, Warsaw, 12/10/2005).⁵

Civil society organisations have continued to play a central role also after the NATURA 2000 sites became designated. A major conflict, eventually leading to an EU infringement proceeding against Poland, resulted from an official complaint to the European Commission sent by the Polish Society for the Protection of Birds (OTOP), WWF Poland and Polish Green Network concerning road constructions through the city of Augustow, which were crossing Special Protection Areas under the Birds Directive and should be proposed as Sites of Community Importance under the Habitats Directive. National environmental NGOs, together with Brussels-based networks, actively participated in the domestic trials against the authorisation of this road project, highlighting the obligation to comply with EU directives and consider alternative solutions (Interview, CEE Bankwatch, Brussels, 23/11/2007).

In sum, serious capacity problems in coping with both transition and accession have not changed the traditional approach of command-and-control regulation in Poland. Only nascent forms of non-state actor involvement, such as outsourcing, consultations and cooperation in the shadow of hierarchy have emerged. Cooperation between state and non-state actors was often impaired by unstable power relations within the Polish state, leading to a slow and unreliable legislative process. It took years for the Environmental Protection Act, the main document regulating the environment in Poland, to come into force because of frequently changing majorities that needed to be accommodated. The instability of power relations does

⁵ See also http://www.wwf.pl/projekty/eng/natura_2000_shadow_en.php, last access June 12, 2007.

not only make it difficult for state actors to establish stable relations with non-state actors. Non-state actors are hardly inclined to exchange their resources for influence on a policy that may never be adopted or be significantly changed in the legislative process (Interview University of Wroclaw, Wroclaw, 13/10/2005; Interview Consultancy, Warsaw, 18/10/2006). While hierarchical coordination remains still dominant in Polish environmental policy-making, specific EU requirements for the involvement of non-state actors, EU compliance pressure and EU capacity-building in form of twinning and funding as well as territorial decentralization may empower non-state actors. But weak governance capacities and missing trust relations between state and non-state actors have so far impaired a more sustainable involvement of business and civil society organizations in the implementation of EU environmental policies.

In *Romania*, the EU accession process has clearly helped strengthening capacities of non-state actors by providing technical and financial resources in order to fulfil some of the legal and administrative requirements of adaptation in the field of nature protection. Targeting both state and non-state actors, PHARE twinning projects, LIFE and ISPA instruments, often stocked up with bilateral assistance from the EU member states, were financing new facilities or linking together policy actors. EU capacity-building has not only strengthened the capacities of state and non-state actors. It can also lead to shared ownership of policies. Professional NGOs, holding relevant and scarcely available knowledge have played a major role in the designation of protection sites. Thus, SOR/BirdLife Romania and the Milvus Group signed a partnership agreement with the Ministry for the cooperation on designating bird areas (SPAs). The partnership received funding mainly through EU programmes, such as PHARE CBC and LIFE (Papp, 2006). At the same time, influential organizations with extensive external ties, such as the WWF's Danube-Carpathian Programme could bring in its policy experience in order to speed up the NATURA 2000 designation process. External assistance was important to enable environmental NGOs to participate in nature conservation policy and increasingly facilitate implementation and enforcement of environmental legislation.

The empowerment of non-state sector in nature protection has happened through several channels. Capacity-building measures have developed around strong and influential NGOs that could build on their experience, financing and external ties. One of the most important groups is WWF Danube Carpathian Programme, that emerged as a network actor in nature conservation, by setting up and coordinating the work of the NGO Coalition Natura 2000, securing own and external financing, using its experience and ties from former accession rounds and becoming increasingly involved in lobbying on nature conservation matters. Currently, the NGO Coalition Natura 2000 includes 36 member organizations, which are organizing a range of capacity-building and awareness-raising activities, e.g. public consultations, elaborations of agro-environmental schemes, monitoring (Coalition ONG Natura 2000 Romania, 2007). The influence of the Coalition did increase both because it could effectively bring together environmental groups that were acting in different regions and secure financing through EU-programmes such as PHARE, ACCESS or bi- or multilateral aid programmes directed towards the strengthening of civil society organizations. While – often unsuccessfully – pushing towards becoming more actively involved in the policy process and developing close ties with state administration, environmental NGOs are also employing more adversarial strategies. The WWF DCP has been successfully lobbying for personal changes in the Biodiversity and Biosafety Directorate of the MESD. At the end of 2007, the General Assembly of the NGO Coalition Natura 2000 decided lodging a complaint to the European Commission and presenting a „shadow list“ of designated sites as well as alarming developments in Romanian protected areas, mostly linked to forestry and road constructions

through protected areas (Coalitia ONG Natura 2000 Romania, 2007). By contrast, legal enforcement through domestic courts, one of the most used tools in implementing the provision of the Directive in the old member states and increasingly in Hungary and Poland, has received little attention until now. One reason for this lies in the low level of awareness of the Natura 2000 network as well as the short time that has passed since accession. At the same time, prevalent and endemic corruption in courts makes societal groups to refrain from this opportunity.

While environmental NGOs had been hardly involved in the rather secretive transposition process of the nature protection directives, the right to Access to Information included in the EU directives did empower civil society actors, which are slowly starting to make use of these possibilities (Olearius, 2006). The case of the Rosia Montana gold mine became a first major test for the empowerment of non-state actors by EU law. The gold mine is owned by a Canadian-Romanian joint-venture and the Romanian state. Due to its detrimental effects on the environment, Alburnus Maior, a local NGO, has organized protests and invoked environmental impact assessment, nature protection and industrial pollution legislation to oppose the project (Buzogány & Kök, 2009; Kühnle, 2009; Parau, 2009). After Romania has joined the EU in 2007, environmental NGOs did also ask the European Commission to investigate whether the FFH Directive has been infringed upon and were successful in stopping further mining activities in the region (Baga & Buzogány, 2009).

In sum, in Romania, the involvement of non-state actors is even less pronounced in environmental policy than in Hungary and Poland. This is due to the weaker governance capacities of both state and non-state actors. Moreover, in industrial sectors not yet privatized, quasi-corporatist relations between state and business actors based on exclusive access to resources do not make further cooperation necessary. Finally, environmental NGOs favor more confrontational strategies seeking to act as “watchdogs” rather than partners of state actors in the implementation. The EU’s push and pull for a stronger involvement of non-state actors is often merely symbolic but may become instrumental if non-state actors hold the necessary resources to make use of the new opportunities offered by EU demands.

Conclusions

The adoption and adaptation to the EU’s environmental *acquis* in the field of integrated pollution control and nature protection has posed serious challenges both to state and non-state actors in Hungary, Poland, and Romania. The transfer of European environmental policies came with significant costs compared to the weak state capacities and meant a thorough legal and institutional reshuffling based on regulations that were often contradicting the policy-making traditions of these states. Given the limited capacities of state actors, the inclusion of non-state actors in the transposition and practical application of EU environmental policies offered an obvious possibility to compensate for state weakness by pooling resources and reducing implementation costs. Given the legacy of state authoritarianism under the socialist regimes, the involvement of non-state actors would constitute a significant empowerment in CEE countries.

Our comparative studies confirm that the implementation and application of EU environmental *acquis* has imposed significant costs on the accession countries. Next to the financial burden, particularly the application of technically sophisticated policies, such as the Fauna Flora Habitats and the Integrated Pollution Prevention and Control Directives, require significant personnel with the necessary legal, scientific and technical expertise. Thus, state

actors have had an incentive to seek the cooperation with companies, scientific experts, and environmental groups, who could offer resources, such as technical know-how and scientific expertise. Likewise, non-state actors have had an interest in exchanging these resources against influence on the legal and administrative application of the Directives since their transposition into domestic law did not leave much leeway. While companies sought to reduce compliance costs by increasing flexibility and receiving derogations, environmental organizations wanted to secure the strict application of EU requirements.

Although state and non-state actors have often shared incentives to cooperate, non-state actors hardly got involved in public policy-making. Our analysis of Hungary, Poland and Romania finds limited evidence for the emergence of sustained cooperation with state authorities in the accession period. The traditional *command-and-control* approach has prevailed in all three countries and in some cases, especially in Romania, was even reinforced by the high time pressure and accession conditionality of the accession process. We have only found nascent forms of non-state actor involvement. Generally speaking, even these remain feeble and non-systematic entailing rather weak participative modes such as outsourcing, consultation or asymmetrical cooperation.

| | | | |
|----------------|--------------|--------------------------------------|------------|
| | <i>State</i> | | |
| | | Strong | Weak |
| <i>Society</i> | Strong | Choice Mutual cooption | Dependence |
| | Weak | Imposition Command and control | Incapacity |

Table 2: State and society capacities. Source: (Peters, 2005)

The main reasons hindering the involvement of non-state actors in the adoption of and adaptation to EU environmental policies are related to the limited governance capacities of the accession countries, particularly the low administrative capacities of the state and the weakness of private interest and civil society organizations. The accession process coincided with political and economic transition taking-up most of the already scarce state resources and entailing high institutional uncertainties, which have been reinforced by frequent changes in government and administration. This made it difficult for non-state actors to establish stable relationships with state actors. Furthermore, the three CEE countries share an institutional legacy of an authoritarian state that heavily interfered with society and economy. The organization of societal and corporate interests used to be weak. Even after transition, structures of interest intermediation remained fragile. Thus, systematically involving non-state actors in the making and implementation of public policy does neither resonate well with the traditional paradigm of a strong state nor can it build on stable state-society relations. Likewise, societal and economic interests tend to lack the necessary resources and/or the political willingness to organize and offer themselves as reliable partners to the state. Civil society actors often do not have sufficient organizational resources to serve as a reliable partner in the cooperation with state actors. Companies, in turn, shy away from cooperation because they doubt that state actors are capable of translating mutual agreements into policy

outcomes given unstable majorities in parliament and frequent government turnovers. Political instability weakens the credibility of state actors to unilaterally adopt and impose costly policies. State actors themselves see their weakness as a major obstacle for cooperation with non-state actors. Not only has industry little incentive to offer its resources for the making of policies that incur significant costs upon them. State actors are also afraid of being captured by business, if it has superior resources. Next to the fear of “state capture”, policy-makers and administrators are often faced with public scepticism against non-state actor involvement, which is seen as part of the socialist legacy (clientelistic networks) and in contradiction to democratic institutions. Finally, the privatization or delegation of public tasks to non-state actors meets strong opposition at the local level.

While the involvement of non-state actors in EU environmental policy-making appears to be slightly more prevalent in Hungary, the governance capacities of state and non-state actors are also stronger than in the other two countries. In Romania, we have found the least evidence for the empowerment of non-state actors. Romania belongs to the European countries with the lowest governance capacity. Moreover, the effects of EU compliance pressure and capacity-building on practical application have been delayed since Romania joined more than two years later than Hungary and Poland. The findings on our three CEE countries confirm that (EU) capacity-building and EU compliance pressure may be necessary but not sufficient to empower non-state actors (Börzel, 2003, 2006). On the one hand, state actors have to be capable of absorbing EU resources, as non-state actors have to have the capacity to make use of the new opportunities offered by the EU. Put bluntly, the new opportunities of accession appear to be distributed among non-state actors according to the *St Matthew's principle* – those that already had, got more, but those that did not have, remained empty-handed (Buzogány, forthcoming-a; Kriesi et al., 2007).

On the other hand, both state and non-state actors have to generate trust in mutual cooperation as effective means to implement EU policies. State actors often perceive the involvement of non-state actors as time-consuming and a further obstacle in taking decisions that are not geared towards particularistic interests. And even if the involvement of non-state actors may help increase effective implementation, it may not always be seen as a legitimate way of policy-making due to the often informal character and the selective inclusion of non-state actors. Non-state actors, in turn, have only limited confidence in state actors to make credible commitments and enforce them, respectively. While the weakness of state actors may be a major incentive for them to involvement of non-state actors, the lack of a credible shadow of hierarchy may have precisely the opposite effect on non-state actors. This finding is in line with a general argument of the governance literature: Cooperation between state and non-state actors is most likely to emerge if both are neither too strong nor too weak compared to each other (Mayntz & Scharpf, 1995; Scharpf, 1997). Indeed, according to Guy Peters, cooperation between state and non-state actors is most likely in cases where both actors are strong (see Table 2). If this assumption holds, transition countries face a serious dilemma or even paradox: their low governance capacities create a demand for the non-state actor involvement, to cope with accession, which is, however, unlikely to be met precisely because neither state nor non-state actors have sufficient capacities to engage with each other (Börzel, forthcoming). As a result, we should not expect non-state actors to become systematically empowered in transition countries, at least not by EU accession.

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