Compliance in the new EU member states.
The role of socialization for EIA implementation processes.

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ECPR General Conference 2014 (Glasgow)

1 Introduction: Compliance and Socialization

Ten years after the Eastern “Big-Bang” enlargement, compliance records of the new EU member states appear to be better than expected.1 Classical compliance approaches for understanding variation in EU law implementation processes among the eight Central and Eastern European countries (CEEs), however, lack explanatory power and rely on standard indicators whose tendencies for invalidity have already been revealed for old EU member states compliance research and that, in addition lack transferability in the case of CEEs.2

For example, management school indicators, such as the Government Effectiveness data by the World Bank3 that relate compliance outcomes to implementation capacities provide researchers with too homogenous values. The so-called enforcement approach, ascribing low compliance efforts to low sanctioning sensitivity due to the countries’ relative political power status, is able to single out Poland as a potential compliance laggard, but lacks predictive power for the other countries that acceded in 2004, whose political power within the EU does not vary significantly in order to make a point. Last but not least, studies on the role of norms’ legitimacy for complying with international law provisions have failed to overcome their one-sided focus on unreliable attitude surveys, such as the Eurobarometer, thereby ignoring the possible added-value of interdisciplinary socialization studies that made causal effects of

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persuasion for sustainable norm internalization plausible already back in 2005.\textsuperscript{4} Generally, rationally inspired compliance studies tend to ignore objections raised by students who follow an argumentative logic of action, and, maybe, therefore oversee instances of socialization processes in the CEEs, such as the attempts by the European Commission that appeared in the accession context, for example Twinning, an exchange program for administrative officers from Western and Eastern Europe.

Thus, in order to overcome the stagnant development in compliance research, the author’s dissertation project aims at contributing a fresh perspective on the causes of compliance variance among the new EU member states, specifically asking under which conditions socialization may take place, which effects it had in the CEEs and whether these findings could enrich the deplorable state of the art in compliance research. The so-called persuasion hypotheses of socialization research shall be studied on the basis of a most likely case (the implementation of the European EIA-Directive in the CEEs). Compliance leader Lithuania and compliance laggard Poland shall be compared in order to refine the assumptions of the socialization approach and to illuminate the interdependency between the different independent variables suggested by compliance research.

2 State of the Art: Management, Enforcement and Legitimacy Approach

There is no comprehensive theory on compliance, a state defined as the “conformity [...] between an actor's behavior and a specific rule”.\textsuperscript{5} Although compliance behavior of EU member states constitutes an extensively researched topic among EU students, so far, few cumulative insights have been achieved due to inconsistent indicator use and the ever recurring focus on similar case studies.\textsuperscript{6}

In general, managerial variables, such as institutional compliance arrangements and the degree of bureaucratic efficiency, compete with enforcement approaches that see defection incentives rising with lower sanction sensitivity due to political and economic state power.


In the recent past, EU compliance research has witnessed the emergence of more sophisticated studies that make use of new statistical approaches, allowing for configurative causality and interaction effects between the established variables.\(^7\)

However, these dominant variables, which are informed by rationalist thinking, have been unsuccessful in predicting CEE compliance patterns.

For example, studies on CEE variance have ascribed compliance patterns to administrative coordination capacity differences and salience issues\(^8\) as well as legal misfit.\(^9\) But these studies have a weak explanatory power due to small-n test cases and weak indicators.

Some authors, trying to bring in line puzzling post-accession transposition patterns with their previously powerful, incentive-based assumptions, have invoked the so called ‘lock-in’ mechanism, which suggests that CEE transposition deficits after 2004 are rare due to the costliness of changing new institutional arrangements.\(^10\) However, while the accession process indeed “has left its mark in the administration and in civil society organizations”\(^11\), it remains unclear, why non-compliance should automatically require greater costs than compliance, especially with regard to Goetz’s observation of a strategic “institutionalization for reversibility”.\(^12\) Thus, rational institutionalists have a hard time in accounting for the “Eastern Miracle”, i.e. the surprising implementation dynamics within the new member states.\(^13\)

Unfortunately, the strong focus of EU compliance research on variables with rationalist background has been an impediment to a broadening of our theoretical horizons. To this date, there are no methodologically sound examinations of hitherto neglected factors that are generally associated with social constructivist approaches (the so-called ‘legitimacy approach’).

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\(^8\) Dimitrova and Toshkov, “Post-Accession Transposition and Implementation between Administrative Coordination and Political Bargaining.”

\(^9\) Steunenberg and Toshkov, “Comparing transposition in the 27 member states of the EU: the impact of discretion and legal fit.”


\(^13\) Daniela Chodorowska, “Compliance in den EU-Mitgliedstaaten. Fallbeispiel Flora-Fauna-Habitat-Richtlinie” (Diploma, Free University Berlin, 2010).
The importance of legitimacy factors, such as the influence of norms or social pressures on compliance, has been acknowledged by only very few EU compliance authors, above all by Hurd, Checkel and Beach.

There have been some attempts to correlate traits of national law culture with compliance outcomes among both, old and new, EU member states. But although some authors have found a positive correlation, either no significant effect has been measured or indicators have been of such low quality that inferences would have been unjustifiable.

With regard to the eight new EU member states, some researchers have pointed to the relevance of norm resonance and social processes, such as peer pressure mechanisms, for compliance, but, again, these studies are very limited in number and remain largely under theorized. In fact, most of these studies do not even identify themselves with social constructivist thinking.

This is not to say that instead of rationalism, social constructivism should be considered as the panacea for the theoretical challenges related to explaining EU non-compliance. However, if, on the one hand, variables associated with rationalism generally fail in predicting CEE compliance patterns and, on the other hand, legitimacy approaches are neglected due to methodological problems, then I think it is worth shifting somewhat our theoretical focus. Only by working out a more successful operationalization of variables, which focus on ideas and

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14 Legitimacy, here, is understood as “a [...] assumption that the actions of an entity are [...] appropriate within some socially constructed system of norms, values, beliefs, and definitions” (Mark C. Suchman, “Managing Legitimacy: Strategic and Institutional Approaches," Academy of Management Review 20 (1995): 574.
identities, will we be able to assess the value added by these ‘soft’ explanations for compliance outcomes.

3 Theoretical framework

A thorough analysis of the explanatory power of arguments that follow an argumentative logic is still missing in EU compliance research. The approach, which will be taken by this paper, and which is known under the name of “discursive institutionalism”\textsuperscript{20}, shall address this gap.

In order to understand the concept of discursive institutionalism, one has to differentiate between three different logics of action: instrumental, normative and argumentative rationality.\textsuperscript{21}

The term ‘instrumental rationality’ condenses the traditional rationalist stance on state behavior: the maximization of one’s own interests determines the goals of action. If, for example, an international organization asks its applicants to follow certain rules, the addressee will adjust to these demands, forasmuch it will serve its given interests.

The idea of instrumental rationality is of analytical help, especially when it comes to political conditionality. According to this principle, an organization needs to offer its members or applicants tangible incentives for conforming with its rules, so that cost-benefit-calculations of the respective agents are affected significantly. Thus, from an instrumental point of view, compliance can only occur, if the overall sum of implementation costs and harmonization benefits equals $> 0$.

Sociological institutionalists, by contrast, argue that one cannot detach actors from their cultural context. In order to discern which way to go, rationally bounded states have to hold on to the norms of international communities as “signposts”\textsuperscript{22} that point to appropriate ways of behaving (‘normative rationality’). Thus, according to this IR school, states do not (cannot) calculate the consequences of their actions, but become passively socialized by international institutions that provide them with guidance for “collective expectations about appropriate behavior”.\textsuperscript{23} As a result, socialized states adjust their behavior automatically to the expected one, because ‘this is simply what one has to do as a member’.

\textsuperscript{23} Ibid.
However, this automatism resulting from passive socialization, is, generally, not followed by active norm internalization, i.e. a real understanding of the rule’s content.\textsuperscript{24} Thus, how do agents come to know which behavior is appropriate in which context?\textsuperscript{25} Here, discursive institutionalism can come to the rescue. For this purpose one has to look at processes of active socialization. In its seminal work on communicative action, Risse follows Habermas in depicting political actors as arguing agents.\textsuperscript{26} Within the context of deliberations\textsuperscript{27}, these actors, who, as a precondition, have to be open to persuasion, seek the truth, i.e. quest for the best argument (‘argumentative rationality’).

One the one hand, this quest can take place within policy communities, e.g. in the form of norm entrepreneurs. On the other hand, interest-changing communication also exists between politicians and citizen.\textsuperscript{28}

What matters is that, whereas rational institutionalists do not look into the black box of identity construction, discursive institutionalists see the interests of socialization targets “as subjective responses to material condition”.\textsuperscript{29} Thus, interests can be constituted by communicative processes, such as persuasion.

Hitherto, the message of argumentative rationality has been neglected by EU compliance research. This is a pity, since the use of the analytical template of this third logic of action, with its discourse toolkit attached, should help tracing shifts in interests and identities that, again, could explain behavioral change.

### 3.1 Hypotheses

To simplify matters, this paper shall grow on a century of social psychological insights that have to offer a lot for political scientists interested in identity construction.

#### 3.1.1 Persuasion

According to the homeostatic principle of dissonance theory, actors try to balance inconsistencies between attitudes and communications.\textsuperscript{30} Thus, by deliberately creating


\textsuperscript{25} The focus on structures and the concomitant neglect of agency has been a major weakness of ideational research (Schmidt, “Discursive Institutionalism: The Explanatory Power of Ideas and Discourse”).

\textsuperscript{26} Risse, “Let’s Argue!: Communicative action in world politics”

\textsuperscript{27} These can range from technical discussions to national narrative exercises.

\textsuperscript{28} Schmidt, “Discursive Institutionalism: The Explanatory Power of Ideas and Discourse”.

\textsuperscript{29} Ibid., 318.

inconsistencies via arguments, it is possible for third parties to influence the attitudes of an individual.

As described above, openness to persuasion is a necessary condition for argumentative rationality to become viable. Therefore, it is necessary to examine under which circumstances cognitive dissonances will generate such unbearable psychological stress that the individual will change its respective attitudes.

To date, two roads to successful norm internalization by persuasion have been established by social psychological research.\textsuperscript{31}

\textbf{3.1.1.1 Indirect route}

On the one hand, the quality of arguments can have an influence on attitude change, by inducing a motivated socializee to rationally weigh the pros and cons of a situation.

Then, attitude change via communication will be more successful, the more...

a) arguments are communicated consistently and comprehensibly, and
b) are rhetorically connected and, thus, compatible with related arguments and pre-attitudes of the socializee.

\textbf{3.1.1.2 Direct route}

On the other hand, the situations as well as the properties and capacities of socializer and socializee have a bearing on persuasion outcomes. What follows is a compilation of the corresponding hypotheses.

The situations:

Attitude change via communication will be more successful, the more...

a) arguments will be repeated over a long time, and
b) are being presented on non-public and intimate occasions.

The socializer:

Attitude change via communication will be more successful, the more...

a) authoritative, authentic and capable the socializer appears to be,
b) he/she deliberates rather than lectures, and
c) similarities can be found between socializer and socializee.

The socializee:

Attitude change via communication will be more successful, the more...

a) the socializee wants to adhere to the peer group of the socializer,
b) he/she lacks a powerful position and views the social environment as something new,
c) he/she fully and undistortedly understands the socializer’s message,
d) he/she is new to the persuasion topic, and thereby does not hold intense pre-attitudes.

One has to keep in mind that attempts of persuasion can also have a backlash effect. This relates to all of the abovementioned hypotheses. For instance, low quality arguments can reinforce existing negative attitudes.\(^32\)

3.2 Case selection

The European so-called EIA-Directive is a crucial case for socialization as the misfit of the regulatory ideas between the European and the national level cannot be easily surmounted through financial or technical assistance by international actors. Rather, the procedural and overarching character of the directive presents very complex adaptational challenges to a variety of compliance actors. This problem manifests itself in a large number of EU infringement proceedings related to EIA implementation deficits. The expected effect of financial and moral sanctions by the European Commission against the non-compliant countries appears to be weak, considering that systematic involvement of all stakeholders and parties to the proceedings can be guaranteed only via strong political will on all levels. In this context, cognitive resistance against changes seems improbable to become dissolved by pressure and coercion instead of persuasive arguments, especially regarding the fact that a whole range of actors need to act in concert for successful norm adherence. Therefore, an investigation into the challenges of EIA implementation appears to be worthwhile, since it represents a most likely case for preference shifts via persuasion. For reasons of complexity reduction a most similar system design has been chosen for the empirical probability test.

3.3 Operationalization issues

In the case of this paper, an inquiry into the mechanism of persuasion pursues two objectives. On the one hand, we shall see whether compliance-related persuasion efforts by EU socializers have contributed to attitude change of government individuals within the new EU member states. On the other hand, the author of this paper will explore to which extent

\(^{32}\) Ibid.
persuasion processes themselves have had different impacts among the individual CEE countries, since, up to date, there has not been any study on this question.

Unfortunately, and this fact accounts for the very small number of like-minded qualitative research papers, it is extremely difficult to reproduce the lines of thought of an individual, who, moreover, cannot be pictured as comprehensively self-aware. Since most of the criticism this paper will receive, will certainly center on this operationalization problem, it is of great importance to proceed as intersubjectively convincing as possible.

First of all, researchers affiliated to positivism will argue that one cannot relate norms to action in a consistent causal manner. How could one rule out the possibility that there have been other circumstances conducive to a specific behavioral outcome?

In this context, for many authors so-called process-tracing has been the method of choice. In their book on case study research, George and Bennet hold that, if the student proceeds wisely, “the historian’s method of causal imputation” should be seen as tantamount to causal inference models of positivist researchers committed to statistical analysis. They consider

> “causal interpretations [to] gain plausibility, if they are consistent with the available data (...) [Moreover], [t]he plausibility of an explanation is enhanced to the extent that alternative explanations are considered and found to be less consistent with the data.”

Ideally, for process tracing to work out, one has to find promising case studies and get engaged into the soaking and poking on the chosen topic. Primary and secondary literature, high quality and consistent interviews followed by triangulation, newspaper articles, in a word, any conceivable source must be tapped in order to generate a clear picture of the research subject and its cultural context. For example, if compliance with an EU directive is being studied, then one has to identify the relevant implementing actors, the areas of conflict in which those actors operate and the societal background to the policy in question.

Whenever possible, the collected data should be quantified, for instance by the help of ordinal scales.

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35 Ibid., 91
36 Ibid.
In a second and third step, the encountered phenomena have to be assigned with dependent and independent variables and be interpreted reliably.\textsuperscript{37}

Whatever the sophistication of the case study analysis method described above, an additional, specialized approach is being needed for the exploration of cognitive processes. A possibility to trace changes in attitude via persuasion is called cognitive mapping. We, thereby, oppose the attitudes of the socializee towards an object at two points in time, i.e. before and after the persuasion process.

Admittedly, it is very difficult to retrieve ex ante attitudes that may date back several years, therefore, some pragmatism is necessitated. Thus, if it becomes clear that those previous attitudes cannot be restored despite amplified efforts, one will have to rely on judgments by interviewees. These biased estimations then have to be assessed by principles that have been intersubjectively specified beforehand. Furthermore, one could also draw up a chart depicting the relationships between actors and their cognitive backgrounds in order to illustrate the contexts and possible routes of arguing.

In the end, as described above, any interpretative analysis has to be complemented by a test of competing hypotheses so that alternative explanatory variables can be eliminated.

\section{Empirical plausibility probe}

\subsection{Introduction}

For the purpose of this paper, persuasion hypotheses shall be submitted an empirical plausibility probe in order to assess the hitherto neglected explanatory potential of legitimacy approaches.

Only three countries have faced hard case trials. Infringement procedures due to non-conformity have been initiated against Poland, the Czech Republic and Hungary. By contrast, Slovenia and the Slovak Republic have ‘only’ failed to notify their national transposition of the EIA directive. Latvia as well as Lithuania even have succeeded in appeasing the EU Commission, before it could transfer their cases to the first official stage (cf. table 1).

\footnote{Ibid.}
Table 1: Cases of EIA infringement proceedings against the CEEs

<table>
<thead>
<tr>
<th>Case Description</th>
<th>EU member state</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Conformity</td>
<td>Poland, Czech Republic, Hungary</td>
</tr>
<tr>
<td>Non-Communication</td>
<td>Slovenia, Slovak Republic</td>
</tr>
<tr>
<td>Below the threshold</td>
<td>Latvia, Lithuania</td>
</tr>
</tbody>
</table>


As we can see, the distribution of EIA infringement proceedings in table 1 approximately corresponds with the findings of fig. 1. Thus, an exemplary investigation of compliance with the EIA directive in compliance laggard Poland with compliance leader Lithuania, will probably include and reflect some of the major topics related to overall compliance deficits. Thereby we can assume that a certain degree of representativity will be ensured in the following.

However, the abovementioned infringement data on the EIA directive has to be treated with caution. It is impossible for a handful of EU officials to supervise comprehensively the EIA implementation in 27 member states.

This becomes even more obvious, if one keeps in mind that the EU member states have been given plenty of scope to nationally animate the legal EIA framework provided by the European Commission. Naturally, every single country differs regarding its commitment to the EIA provisions. For instance, some states apply more appropriate, i.e. lower intervention thresholds than others. Thus, EU compliance data should be supplemented by additional qualitative input, since the EU Commission is not able to track and rectify all of the compliance deficits present within the CEEs.

However, as my dissertation project is still in an early phase, the process-tracing below necessarily will have to rely on fragmentary data.

### 4.2 EIA implementation deficits in the CEEs

The Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (in short EIA directive) has been amended three times.\(^{38}\)

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Environmental protection and transparency with regard to policy planning lie at the core of the directive’s purpose. First of all, systematic and timely assessments of the effects of construction projects shall help avoiding unnecessary environmental degradation ("precautionary problem-solving approach"). Secondly, a strong element of public participation shall enhance the effectiveness of public planning policy by providing a source of appropriate supplementary information.

Many administrations in the new EU member states have lacked the skills and competences to cope smoothly with the enormous complexity of the EIA directive. Delays due to EIA provisions have increased investment costs significantly, in the case of obligatory public participation, for instance, on average by 3200 €. Overall, the costs of EIA application can add up to 100,000 € per IA.

Aside from financial aspects, issues such as legal definitions, cross-sector policy integration or transboundary consultations have proven so very sophisticated that even the old EU members still struggle to resolve them. In the aggregate, many of the new EU member states have perceived the constraints under the EIA directive as a stumbling block for economic development and competitiveness rather than a helpful tool for environmental protection.

4.3 Tracing non-compliance with the EIA directive in Poland and Lithuania

Today, both, Lithuania and Poland, draw on approx. thirty years of environmental assessment experience. Nonetheless, they did not increase their commitment to the idea of EIA before EU adaptation pressure became feasible during the 1990s. Thus, their strong longing for a ‘return to Europe’ was accompanied by a radical reform of their outdated, formerly socialist,
environmental assessment systems.\textsuperscript{46} Thereafter, further legal as well as practical modifications were being introduced step by step, taking into account new experiences.\textsuperscript{47}

During the accession process, the EU Commission saw capacity building as a major topic for securing compliance with the EIA directive. Thus, within PHARE, an EU pre-accession assistance program, old member state experts were sent to Poland and Lithuania, to monitor implementation progress and increase administrative skills in the respective departments (so-called Twinning).\textsuperscript{48}

Despite all reforming efforts, administrative inexperience and socialist legacies contributed to a still unsatisfactory state of affairs.\textsuperscript{49} As one of the consequences, the EU Commission sent out a Reasoned Opinion to Poland in 2006, demanding a revision of certain legal definitions in the transposed national EIA laws.\textsuperscript{50} Today, Poland has not arrived at the official closure of this infringement case. Lithuania authorities, by contrast, managed to soothe EU Commission concerns about certain Lithuanian EIA provisions, which the latter had articulated in a first warning letter in 2006.\textsuperscript{51} Thus, the case was dropped soon thereafter.\textsuperscript{52}

However, as indicated above, infringement proceedings offer us a very rudimentary illustration of EIA realities in Poland and Lithuania, especially with regard to EIA law application.

\subsection*{4.3.1 Administrative EIA capacities in Poland and Lithuania}

So far, Poland has proven incapable of ensuring a high quality EIA process. During transition times, EIA implementing laws were designed inconsistently. Thus, today, complicated provisions hamper successful vertical as well as horizontal administrative coordination.\textsuperscript{53}

\begin{flushright}
\textsuperscript{46} In fact, Poland’s EIA reform took place somewhat earlier than Lithuania’s, since the latter became an officially recognized membership candidate only in 1999 (Cherp “EA legislation and practice in Central and Eastern Europe and the former USSR. A comparative analysis,” 339).
\textsuperscript{49} Woloszyn, “Evolution of environmental impact assessment in Poland: problems and prospects,” 112.
\textsuperscript{52} Interview with a Lithuanian MoE official, September 15, 2011.
\textsuperscript{53} Woloszyn, “Evolution of environmental impact assessment in Poland: problems and prospects,” 112.
\end{flushright}
Moreover, there are no guidelines for quality assurance. Although training workshops for EIA staff have been realized, they turned out to have little impact, due to inadequate funding and unqualified consultants.\(^{54}\) Administrative reforms to strengthen subnational levels have not been accompanied by an increase in personnel and wages. As a result, local EIA administrators face work overload, while lacking skills and equipment, being prone to influence by private interests. Informal communication practices with the center also give rise to transparency deficiencies.\(^{55}\)

Between 2001 and 2003, the Polish EIA system has been submitted a quality check by the EU Commission. During 18 months, a German EIA expert was residing within the Polish Ministry of the Environment, trying to raise EIA awareness among officials and citizens during a 60-hour workweek.\(^{56}\)

As a result of the Twinning project, new effective networks and information systems have been established and best practice examples laid down.\(^{57}\)

However, during the whole project, great resistance by governmental officials had to be overcome. A general disinclination towards cooperation with an external counsel, on top of that a 'German', has led to a situation in which whole departments refused to get involved into the capacity building project. Especially young MoE employees shun the light, fearing a deterioration of their career prospects, their labor contracts being terminable within 2 weeks.\(^{58}\)

Overall, the influence of EU-skeptics within the MoE was clearly noticeable. Even more resistance has been encountered with regard to the involvement of stakeholders into the EIA procedures. Presumably a socialist legacy, disclosure of politically sensitive information seems out of the cognitive reach of some crucial officials. As a result, the Twinning official’s attempts to get in touch with relevant societal groups have been deliberately sabotaged.\(^{59}\)

In the beginning, Lithuania did confront serious skill shortages with regard to the EU acquis implementation, as well. However, as it did not become included in the first negotiation round in 1997, Lithuania then anxiously stepped up its efforts and succeeded in building sufficient capacities in order to please the European Commission and to become at least a "second


\(^{55}\) Ibid., 26.

\(^{56}\) Interview with a Lithuanian MoE official, September 15, 2011.

\(^{57}\) Ibid.

\(^{58}\) Ibid.

\(^{59}\) Ibid.
round candidate”. Today, Lithuania excels in being the only new EU member state with quality review guidelines in place.  

In contrast to Poland, the EIA Twinning project in Lithuania has a success story. Cooperation between Finnish experts and Lithuanian officials was very close and fertile. Herein, the head of Lithuanian EIA division sees a source of the relatively satisfactory state of EIA affairs in Lithuania. Even though EU demands are often regarded as pretty hard-edged, the benefits of EU membership prevail within the relevant political debates. No significant number of EU-skeptical officials related to the EIA process could be detected.

4.3.2 EIA stakeholder involvement

According to art. 6, par. 4 of the EIA directive,

“[t]he public concerned shall be given early and effective opportunities to participate in the environmental decision-making procedures referred to in [the directive] and shall, for that purpose, be entitled to express comments and opinions before the decision on the request for development consent is taken.”

As described above, public participation has been a major challenge to Polish EIA authorities, due to mentality issues as well as ambiguous legal provisions. NGOs report on systematic reprisal and bribing by several public and private EIA actors. Typical participation problems involved denial of file accession, concealment of deadlines and disinformation regarding transboundary consultations. The negative impact of these schemes is being reinforced by the low level of civil society consolidation in Poland.

Lithuania, when compared to Poland, has encountered quite contrary difficulties with the involvement of public actors. Since the fall of the Soviet Union, one of the overwhelming

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62 Interview with a Lithuanian MoE official, September 15, 2011.
63 Ibid.
66 Interview with a German Twinning official, November 18, 2011.
68 Börzel, Coping with accession to the European Union. New Modes of Environmental Governance.
69 Interview with a Lithuanian MoE official, September 15, 2011.
priorities of the Lithuanian government, aside from EU membership, has been the creation of an energetically independent Lithuania. However, meanwhile, the Lithuanian population has watched government plans, such as the transnational energy interconnection LitPol Link, with growing environmental concerns. As a result, societal groups have filed countless complaints against alleged environmental degradation in their backyard. Thus, EIA public participation features are used functionally by Lithuanian citizens, thereby hampering infrastructural development. Moreover, NGO fragmentation on energy issues can be detected, e.g. with anti-nuclear movements competing with bird-protection and local community wind power plants opponents.

5 **Interpretative analysis**

In the light of the findings, the author of this paper holds that persuasion efforts by the European Commission have suffered a backlash effect in Poland, while interpersonal communications between the EU and Lithuania have contributed to an improvement of the EIA system.

If we look on the data collection above, we can assign several findings to distinctive variables.

On the part of the dependent variable, on the one hand, non-compliance with the EIA directive in Poland seems more intense than depicted by EU Commission data. On the other hand, Lithuania, has proved that language matters in handling EU Commission charges. Thus, although the tendency of non-compliance extents is indicated correctly, infringement data is not sufficiently reliable if compared to qualitative material.

On the part of the independent variables, the tenor of the persuasion approach has flashed here and there.

The ‘quality’ of arguments seems to have mattered for Lithuania, if we look at their Twinning partners, who are seen as excellent EIA experts. This is also in line with an observation by the German Twinning partner. According to him, “Lithuania has been an attractive case for aspiring Twinning officials, therefore Twinning projects in Lithuania have been of greater quality than elsewhere”.

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70 Ibid.
72 Interview with a Lithuanian MoE official, September 15, 2011.
73 Ibid.
74 Interview with a German Twinning official, November 18, 2011.
With regard to the persuasion *situation*, Twinning projects are highly intensive interaction processes, therefore probably conducive to at least some impact of communication. In fact, while Lithuanian EIA Twinning seems to have taken place in an intimate atmosphere, Polish administrators have tried to keep the *stranger* at distance, for example by introducing strict communication formalities.

This leads us to the *relationship between socializer and socializee*, specifically the perception of the old member state experts by the authorities in Poland and Lithuania. While Finnish expertise has been regarded as helpful and authoritative by Lithuanian administrators, Polish officials have had problems in accepting external influence on their matters. The interviewee experienced hostile feelings in light of his persuasion attempts, presumably, not least, due to his German background. Especially aged, EU-skeptic officials, often seated at important switch points, were eager to emphasize the sovereignty of the Polish state and to suppress his critical assessment reports. Thus, diplomatic tact had been extraordinarily important in order to evoke at least a minimum of acceptance and cooperation in Poland.

To sum up, the above-noted collection of preliminary evidence points at the relevance of at least some of the persuasion hypotheses. Therefore, compliance research no longer should ignore the fact that prolonged communicative contacts can have an influence on the success of a European policy.

### 6 Alternative explanations

*Social influence* represents a promising approach according to which actors can get socialized passively due to real or imagined peer pressure. The significance of social pressure for human behavior is related to its intrinsic need for social acceptance, i.e. norm conforming behavior can be rewarded socially. Actors may not comply with norms, because they believe in their appropriateness or their truth, but because they seek to maximize their status by behaving in a manner that bestows on them the image of a community member of integrity.

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75 Ibid.
76 Interview with a Lithuanian MoE official, September 15, 2011; Interview with a German Twinning official, November 18, 2011.
77 Interview with a German Twinning official, November 18, 2011.
78 Ibid.
Exemplary EIA compliance behavior by Lithuania, indeed, seems to be influenced by such status considerations, probably due to its fear of perceived Russian imperialism. For instance, it is one of the few new EU member states to constantly make amending proposals, e.g. with regard to considerably enlarging the Annexes of the EIA Directive. It also actively tries to enhance difficult transboundary consultations by being the only one to provide assessment texts in several languages.

In the light of these findings, the social influence variable certainly deserves more attention in future research.

Another possible explanation centers on ‘personal preferences’ of governmental officials. According to this idea, domestic pressures are seen by political actors as career-enhancing, if tackled wisely.

For instance, environmental policy and EIA are very sensitive topics in Polish politics. Stakeholders are very critical towards the present EIA form due to its costs, its bureaucracy and its property as an impediment to investment. Most bureaucrats, who are constantly confronted with these charges, will often react politically opportunely and pass these ideas to those in higher positions, who, as described, think along the same EU-critical lines. Thereby, even low-level officials can become carriers of socialization within a ministry and petrify negative attitudes towards EIA.

Since this approach, especially suitable for explaining non-compliance persistence, is still under researched, it would be interesting to explore its potential by tracing the patterns of idea diffusion within national settings.

Last but not least, one should check for the explanatory power of the so-called ‘management and enforcement’ approaches. As mentioned above, due to weak indicators as well as the failure to correctly predict post-accession compliance patterns within the CEEs, those rationalist hypotheses have their weaknesses. However, one should not overlook material facts, such as the size of the wealth of a country.

A look on the national income per capita does not offer any insights for this study, since Poland and Lithuania numbers are comparably low. Even though corruption seems to be more

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80 In Lithuania, there has never developed such a thing as a significant anti-EU movement. This explains the extraordinarily high approval of EU membership in the 2003 referendum. European Election Database, Lithuania. EU Related Referendums, accessed November 17, 2011, http://www.nsd.uib.no/european_election_database/country/lithuania/eu_related_referendums.html.


82 Ibid., 129.


Interestingly, the enforcement approach clearly predicts more non-compliance deficits for Poland than for Lithuania. In view of the relative number of EU Council seats (27 to 7), enforcement advocates would argue that Polish sanctioning sensitivity is significantly lower than Lithuania’s. Unfortunately, the enforcement approach does not tell us the whole story: that Lithuania seems to live in fear of social sanctions due to the ‘Russian threat’; that more EU-skeptic officials are involved in the Polish EIA process than in the Lithuanian one, etc.

7 Future work

As we have seen, a considerable range of independent variables competes for the explanation of compliance outcomes across the CEEs. However, the solution cannot be to mix a cocktail of all our explanatory ideas. Therefore, in her dissertation project, the author of this paper will focus, first and foremost, on a major research gap, i.e. the question, to which extent persuasion processes can account for compliance variance in the new EU member states. Unfortunately, it is extraordinarily difficult to operationalize the persuasion hypotheses. Nonetheless, this paper’s results show that it is worth the struggle, and they even only represent the tip of the iceberg.