

'It's the Bureaucracy, Stupid': the implementation of the Acquis Communautaire in EU candidate countries; 1999-2003

Hille, Peter; Knill, Christoph

Postprint / Postprint

Zeitschriftenartikel / journal article

Zur Verfügung gestellt in Kooperation mit / provided in cooperation with:

www.peerproject.eu

Empfohlene Zitierung / Suggested Citation:

Hille, P., & Knill, C. (2006). 'It's the Bureaucracy, Stupid': the implementation of the Acquis Communautaire in EU candidate countries; 1999-2003. *European Union Politics*, 7(4), 531-552. <https://doi.org/10.1177/1465116506069442>

Nutzungsbedingungen:

Dieser Text wird unter dem "PEER Licence Agreement zur Verfügung" gestellt. Nähere Auskünfte zum PEER-Projekt finden Sie hier: <http://www.peerproject.eu> Gewährt wird ein nicht exklusives, nicht übertragbares, persönliches und beschränktes Recht auf Nutzung dieses Dokuments. Dieses Dokument ist ausschließlich für den persönlichen, nicht-kommerziellen Gebrauch bestimmt. Auf sämtlichen Kopien dieses Dokuments müssen alle Urheberrechtshinweise und sonstigen Hinweise auf gesetzlichen Schutz beibehalten werden. Sie dürfen dieses Dokument nicht in irgendeiner Weise abändern, noch dürfen Sie dieses Dokument für öffentliche oder kommerzielle Zwecke vervielfältigen, öffentlich ausstellen, aufführen, vertreiben oder anderweitig nutzen.

Mit der Verwendung dieses Dokuments erkennen Sie die Nutzungsbedingungen an.

gesis
Leibniz-Institut
für Sozialwissenschaften

Terms of use:

This document is made available under the "PEER Licence Agreement". For more information regarding the PEER-project see: <http://www.peerproject.eu> This document is solely intended for your personal, non-commercial use. All of the copies of this documents must retain all copyright information and other information regarding legal protection. You are not allowed to alter this document in any way, to copy it for public or commercial purposes, to exhibit the document in public, to perform, distribute or otherwise use the document in public.

By using this particular document, you accept the above-stated conditions of use.

Mitglied der

Leibniz-Gemeinschaft



European Union Politics

DOI: 10.1177/1465116506069442

Volume 7 (4): 531–552

Copyright© 2006

SAGE Publications

London, Thousand Oaks CA,

New Delhi

'It's the Bureaucracy, Stupid'

The Implementation of the *Acquis Communautaire* in EU Candidate Countries, 1999–2003

◆ **Peter Hille**

University of Konstanz, Germany

◆ **Christoph Knill**

University of Konstanz, Germany

ABSTRACT

The Central and East European (CEE) countries that had applied for membership in the European Union were confronted with far-reaching requirements in order to bring domestic policies in line with EU standards. Notwithstanding these rather uniform pressures emerging from conditionality, there is considerable variety in alignment performance across the candidate countries and over time. To account for this, we use time series cross-sectional data on the implementation performance of 13 EU candidate countries between 1999 and 2003. Our results indicate that the bureaucratic strength and effectiveness of a country positively influence its ability to adjust domestic arrangements to EU requirements. By contrast, we find no support for veto-player theories of political constraints on legislative change. We hence conclude that the implementation of the *acquis communautaire* in candidate countries prior to accession has been a question of bureaucratic problems rather than of political veto-manoeuvres.

KEY WORDS

- Europeanization
- implementation
- policy change
- transformation countries

Introduction

Fundamental change has happened in large parts of Europe during the last 10 years. Those countries that had applied for membership of the European Union (EU) during the 1990s have undergone transformation of unprecedented scope and speed in order to bring their economic and political structures in line with EU standards. This implied far-reaching reforms of legislation, administration and macroeconomic policies. Most scholars agree that this process has been driven by the conditionality of EU membership and its prospective gains for the candidate countries (see Schimmelfennig and Sedelmeier, 2004). However, the candidate countries¹ have not carried out reforms at a steady pace and with equal success. Both between countries and across time, variation has occurred in the implementation of the *acquis communautaire*.

How can this variation in implementation performance be explained? When looking at the growing body of literature on the implementation of EU policies, it is difficult to come up with a clear answer to this question. This results from two factors. First, we are confronted with competing theoretical approaches in order to account for implementation effectiveness in the member states. Although a number of studies emphasize the influence of characteristics of the domestic administrative and legal system as well as their compatibility with European requirements (see Duina, 1997; Knill and Lenschow, 1998; Bailey, 2002), others point to the importance of institutional and political constraints affecting the domestic capacity of corresponding policy adjustments (see Haverland, 2000; Mbaye, 2001; Mastenbroek, 2003; Versluis, 2004).

Second, this persistence of theoretical ambiguity partially results from the lack of comprehensive empirical data. So far, there are only a limited number of case studies that have investigated the formal and practical implementation of EU law with regard to certain policies and countries. More comprehensive quantitative studies, by contrast, primarily concentrate on the aspect of formal transposition of EU law or infringement proceedings, where the relevant data are easily available from Commission sources (albeit questionable in terms of quality; see Börzel, 2001). Comprehensive theory-building is thus primarily based on the analysis of formal implementation, although it is highly debatable that this aspect constitutes a viable proxy for the effectiveness of practical application.

In this paper, we try to address these problems. We derive hypotheses from the differing theoretical arguments in order to test them empirically for the implementation performance of EU candidate countries. In this context, we investigate not only aspects of formal transposition but also the extent to

which EU requirements are applied in practice in the countries under investigation. Our study therefore addresses an important gap in existing implementation research.

We proceed in the following way. First, we discuss relevant theories that explain the preconditions for domestic policy change and hence effective implementation of EU requirements. Second, we use time series cross-sectional data on the implementation performance of 13 EU candidate countries between 1999 and 2003 to test several hypotheses derived from the theoretical discussion. Applying linear regression technique, we find empirical support for the claim that a candidate country's administrative strength positively influences its ability to adjust domestic arrangements to EU requirements. By contrast, our findings provide no support for veto-player theories of political constraints on legislative change. This leads us to the conclusion that the implementation of the *acquis communautaire* in candidate countries prior to accession has been a question of bureaucratic problems rather than political veto-playing.

Theory: Capacities of pre-accession alignment

The central question addressed in this article is why we find differences with regard to the performance of EU candidate countries in implementing the *acquis communautaire* prior to accession (pre-accession alignment). We are interested in the extent to which the candidate countries were able to bring their policies – in both formal and practical terms – in line with the EU requirements. Given this conception of our dependent variable, the implementation performance of the countries under study is affected by two central aspects that define the capacity of a country to enact political change, namely (1) its decision-making capacity and (2) its capability to implement these decisions in practice.

This particular scope of our study has several consequences with regard to the development of our theoretical approach. These aspects will be discussed in the following section before our theoretical considerations are presented in more detail.

Pre-accession alignment and implementation theory

Although the analysis of pre-accession policy alignment in the EU candidate countries is closely related to questions of the implementation of EU law, we still need to clarify whether and to what extent existing theories on the implementation of EU legislation are actually suitable for the purpose of the underlying study.

First, we have to consider the fact that the situation of the candidate countries in the pre-accession stage crucially differed from that of existing member states. The candidate countries did not take part in any decision-making processes on primary or secondary EU legislation and other EU instruments and they were also not legally obliged to implement EU law. This is why we will not include hypotheses derived from theories of strategic non-compliance (e.g. Fearon, 1998) in our analysis.

Second, this constellation does not, however, imply that theories of policy change and policy implementation cannot be applied to account for performance variation in pre-accession alignment. There are two reasons for this. On the one hand, notwithstanding the absence of obligations emerging from Community law, legal requirements for policy adjustment in the candidate countries exist. Several free trade agreements that have been expanded into so-called Europe Agreements provide the institutional framework for bilateral relations between the candidate countries on the one side and the EU and its member states on the other.

On the other hand, Accession Partnerships were established at the start of accession negotiations between the EU and the candidate countries. In these documents, the candidate countries made precise commitments regarding the change in their policies in a large range of areas. Most importantly, the candidates committed themselves to implementing the *acquis communautaire*. From 1998 onwards, the Commission established a monitoring system of regular yearly reports to supervise and assess progress towards accession by each of the candidate countries. All these measures, labelled a 'pre-accession strategy' by the European Commission, are aimed at one decisive goal: the candidates' complete achievement of the Copenhagen Criteria, which were set out as preconditions to membership by the European Council in 1993, when the presidency concluded:

Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union. (European Council, 1993)

What they had to achieve – and are partly still undertaking – can be called 'policy alignment', which implies that the countries are able to decide on and implement far-reaching policy changes. In contrast to member states' steady implementation of EU policies, the candidate countries face a much greater degree of policy change within a much shorter period, which implies the

adjustment of existing policies not in line with EU legal requirements as well as the development of new policies in line with the *acquis*.

Third, based on this conditionality of accession combined with the applicant states' strong economic and political interests in joining the EU, we assume that the governments of these countries are generally willing to effectively align their policies. In other words, ineffective or delayed implementation should not be the result of a general lack of political commitment in the applicant states. Of course, this does not imply that the intensity of this commitment might not vary across countries and over time, hence causing variance in alignment performance. We will take this aspect into consideration by including the party political positions on the EU in our analysis.

Fourth, on the basis of our data, we are able to investigate the degree of both formal and practical compliance with EU requirements. As mentioned in the introduction, this contrasts with many quantitative analyses on the implementation of EU policies that are primarily based on data on formal transposition and infringements (for a concise overview of the state of the art, see Mastebroek, 2005). Our analysis thus contributes to overcoming existing research gaps with regard to a comprehensive assessment of practical compliance with EU law.

At the same time, however, the nature and focus of our data do not allow for a differentiated assessment of alignment performance with regard to single measures or directives. As a consequence, we will not consider theories that emphasize the legal design of European measures (e.g. the degree of legal specification or the timing of implementation deadlines) and the decision-making procedure as explanatory factors in order to account for variation in implementation effectiveness (see Mastebroek, 2003; Versluis, 2004). Moreover, this more general rather than issue- or policy-specific focus of the study does not allow for testing theories on the differential impact of conditionality, according to which the strength of conditionality as well as the clarity of the requirements should have a positive influence on implementation effectiveness (Schimmelfennig and Sedelmeier, 2004).

As a result of these considerations, we concentrate in the following on theories that address both political and bureaucratic capacities and constraints in order to account for variation in the candidate countries' performance in pre-accession alignment. The following sections will show that the theories applied in this context differ with regard to their explanatory focus; i.e. the extent to which they can account for the decision-making or implementation capacity of the political systems in question. As a first step, however, we will briefly clarify why the theories that were developed to explain the implementation of EU policies in the member states are also relevant with regard to the pre-accession alignment of candidate states.

Political capacities and constraints

There is a broad consensus in the literature that the institutional characteristics of domestic political systems have an important impact on their reform capacity and performance. This implies that differences in political institutions will have consequences for the ability of countries to cope effectively with EU requirements. However, although most authors agree that domestic institutions matter, contradictory expectations about the effects of different arrangements on implementation effectiveness can be found. An important debate in this respect refers to the extent to which institutional constraints on political decision-makers restrict or increase a country's capacity for effectively changing its policies.

Emphasizing the positive impact of institutional constraints on the policy performance of political systems, Lijphart (1984, 1994, and 1999) has investigated the respective effects of different institutional settings in democratic systems. Lijphart distinguishes consensus democracies from majoritarian democracies, arguing that democracies encompassing elements that increase the necessity for consensual decisions generally perform better than those whose decisions are based upon majoritarian rule. There are several reasons for this.

First, proportional representation is to be preferred to plurality. Consensual political institutions, consisting of multi-party legislatures, sharing government responsibility through coalitions and collegial executives, and proportional electoral systems have a greater capacity to represent diffuse groups and are less pressured by special interest groups. Second, consensus democracies have a greater capacity to implement policies, given the broad representation of affected interests during the decision-making process – an aspect that might outweigh greater needs to accommodate diversity during the stage of decision-making (Birchfield and Crepaz, 1998). Third, consensus democracies have a greater capacity to develop policies over a longer period of time, avoiding the problems of stop-and-go policy-making found in majoritarian systems (Crombez, 1996).

Lijphart's findings suggest that consensus democracies are performing 'at least as effectively in public policy-making' (Lijphart, 1994: 8) as majoritarian ones. These results are backed by other scholars who assert that federalist structures improve governments' ability to provide security and pass effective legislation (Elazar, 1987; Ostrom, 1991; Crombez, 1996). Hellman (1998: 231) shows for post-communist countries that governments with many veto players have been more successful in adopting and implementing economic reforms. He argues that a more inclusive political system is better able to produce comprehensive reform and is less prone to partial reforms

serving particularistic interests. We should therefore also expect consensus democracies to perform better than majoritarian systems with regard to the formal and practical implementation of EU policies. On the basis of the arguments advanced by Lijphart, we can derive the following hypothesis:

H1: The more a candidate country reveals characteristics of a consensus democracy, the better it will be able to align its policies towards EU policies.

The veto-player approach as developed by Tsebelis (1995, 2002), however, questions this expectation. Instead of distinguishing between different forms of democracy – comparing presidential with parliamentary systems or unicameral with bicameral legislations – Tsebelis looks directly at the number and constellation of actors that are involved in decision-making processes. Veto players, i.e. those actors 'who can block the adoption of a policy', are crucial (Tsebelis, 1995: 305). Tsebelis hypothesizes that policy change becomes more difficult, *ceteris paribus*, with a growing number of veto players; i.e. the more players it takes to change the status quo.

Moving beyond the institutionalist approach applied by Lijphart, Tsebelis also includes actors' preferences in his model. Tsebelis (2002: 330–3) introduces an 'absorption rule', according to which the number of veto players is not relevant to policy stability if they have similar preferences. The policy stability of the state then grows not only with the number of veto players in the system but also with certain constellations of the veto players' preferences.

First, the *congruence* of veto players' preferences is of importance. The more they differ in their policy positions, the less probable is policy change. Tsebelis applies his concept of the size of win-sets to show that, with increasing distance between the veto players, the number of outcomes that can replace the status quo may be reduced. Secondly, the *internal cohesion* of collective veto players is relevant because it determines whether they can easily agree on a common position. If one or more veto players are internally divided, changing legislation may become harder in cases of low congruence between veto players.

In empirical tests of his theory, Tsebelis (1995, 2002) finds support for the suggested relationship between the numbers and preference distances of veto players and the probability of policy change. The results of his regression analyses with data for 18 advanced industrialized countries suggest that there is a negative relation between the number and distance of veto players on the one hand and the number of important laws passed on the other hand. Tsebelis' finding is thus consistent with the expectations put forward in his work, which is theoretically backed – among other things – by literature on divided government (e.g. Fiorina, 1992) and earlier work on federalism (Riker,

1964). Recent studies on the implementation of EU legislation also underline the argument (see, for instance, Haverland, 2000; Giuliani, 2003).

H2: The fewer the political constraints – from both constitutional and partisan actors – prevailing in a candidate country, the better it will be able to align its policies towards EU policies.

In sum, we are thus confronted with partially contradictory expectations regarding the implementation effectiveness of EU law in the countries under study. Whereas the theory of consensus democracy emphasizes the advantages of the dispersion of political powers, and hence of more rather than fewer veto points, the theory of veto players points in exactly the opposite direction. It is important to emphasize in this context, however, that, by taking the performance of political systems as the dependent variable, Lijphart's approach constitutes a more encompassing perspective on implementation effectiveness, including not only the capacity to enact political reforms but also the potential for the effective application of these decisions. Tsebelis, by contrast, is concerned only with the decision-making capacity of political systems, without examining more closely the effects of these decisions on actual performance.

Bureaucratic capacities and constraints

Theoretical approaches to account for varying degrees of implementation effectiveness of EU policies in the member states are not restricted to the analysis of the institutions and actor constellations of national political systems. Rather, there are numerous studies that emphasize the need to investigate the resources and characteristics of the national bureaucracies. This is particularly true when it comes to the analysis of the practical application of EU law; i.e. the extent to which national administrative practices and structures are adjusted to EU requirements. In the literature, emphasis is especially placed on three characteristics of national administrations, namely, their financial resources, their strength, and the degree of fit of existing administrative arrangements with European requirements.

With regard to the first aspect, *financial capacities*, conventional wisdom has it that 'money makes the world go round'. But does it also spin the wheel of policy-making? Answering in the affirmative, Chayes and Chayes (1993: 178) assume that 'governmental resources for policy analysis and decision making are costly and in short supply' (see also Haas et al., 1994). This 'management approach' assumes that failure to implement international treaties can rarely be attributed to a deliberate decision but is more often the result of problems of state capacity, namely, governmental or general resource scarcity. Falkner et al. (2004: 461) put it clearly: 'Sufficient financial or

personnel resources are crucial for efficient implementation.' Their study of the implementation of six directives in 15 member states reveals that – besides political opposition and issue-linkage – administrative shortcomings were the 'prime source of transposition failure' (2004: 466) in 7 infringement cases out of 29. Pridham (1994: 99) acknowledges the same problem for the implementation of EU legislation in saying that the relatively poor 'southern countries do have particular problems of administrative procedure and competence'. In more detailed studies of EU environmental policy, both Krämer (1996: 31) and Demmke (2001) identify insufficient financing as the main cause of member states' implementation problems in this field.

The underlying causal mechanism of these assertions is relatively straightforward: greater financial resources allow for a more prompt, comprehensive and sophisticated implementation of policies because civil servants, their training, their computers, their offices and their cars, cost money. Moreover, resources can buy the infrastructure that enables the steady flow of information that is essential for the accountability of lower levels of hierarchies (Phedon, 2003) and for the monitoring of the effects of policies. In addition, administrations that are in charge of greater resources also possess a greater capacity to provide citizens with positive incentives in order to increase their compliance with regulatory requirements.

H3: The more financial resources are available to a candidate country's government, the better it will be able to align its policies towards EU policies.

The administrative capabilities to implement European legislation are affected not only by the financial resources of the bureaucracy but also by the effectiveness and quality of organizational structures and practices. This general *strength of the bureaucracy* is determined by several aspects. First, it depends on the extent to which national bureaucracies can perform their functions with a certain degree of autonomy from political pressure. Especially in transformation countries, which have been characterized by rapid changes in government, a certain degree of bureaucratic stability and independence from political developments has to be seen as an important precondition to ensure continuity when adjusting domestic arrangements to EU requirements. By contrast, in countries that lack the cushioning effect of an autonomous and well-developed bureaucracy, there is a higher probability that a change in government will yield negative effects with regard to the performance of policy formulation and day-to-day administrative functions. Second, bureaucratic strength increases with the extent to which administrative activities are based on clearly specified legal rules. Third, accountability is generally seen as a crucial factor that increases the quality and effectiveness of administrative authorities (see Evans and Rauch, 1999; Knill, 2001: 61–85; Peters, 2001).

H4: The greater the strength of its bureaucracies in terms of bureaucratic autonomy, accountability and legal specification of administrative behaviour and procedures, the better a country will be able to align its policies towards EU policies.

Implementation problems, however, can be traced not only to a lack of bureaucratic strength or sufficient resources. They might also be the result of *a lack of compatibility of domestic administrative styles and structures* with the requirements emerging from European legislation (see Duina, 1997; Knill and Lenschow, 1998; Knill, 2001; Börzel, 2001; Bursens, 2002). In this context, it is argued that effective implementation can be expected only as long as European requirements do not challenge well-established administrative styles and structures at the national level. Thus, a positive relationship between the institutional fit of national administrations and their performance in implementing EU legislation is hypothesized.

However, in contrast to existing member states, the candidate countries were undergoing a far-reaching process of political, administrative and economic transformation while trying to bring domestic arrangements in line with European requirements. As a result of this development, we consider theories emphasizing institutional fit as a crucial predictor of implementation performance to be of limited relevance. We can hardly expect administrative traditions in the sense of well-established administrative styles and structures to be of explanatory relevance because these traditions themselves are subject to fundamental changes in the context of the transformation process. We will therefore not consider theories based on these arguments in closer detail.

Empirical test

On the basis of the theoretical discussion, we have derived several factors that might account for the variation in the implementation of the *acquis* in the candidate countries, including the number of veto players, the resources of the bureaucracy and bureaucratic autonomy. In the following, the hypotheses based on our theoretical assessment will be tested empirically.

Variables and operationalization

Following the central research question addressed in this paper, the performance of the candidate countries in aligning their policies towards EU requirements is conceived as the dependent variable. This variable is not easily quantified and measured. However, the task is facilitated by the fact that the European Commission has been closely monitoring the process of alignment

in the candidate countries on a yearly basis from 1998 to 2004, and continues to monitor the countries that have not yet become members of the Union.² These reports were introduced to provide a measure for exactly what we have conceptualized as policy alignment. They encompass candidate countries' progress with regard to not only the formal transposition of EU policies but also the aspect of practical application.

We use these documents to construct an indicator that quantifies the countries' performances in the years 1999 to 2003. For reasons of missing data, we exclude the year 1998. We also leave out the year 2004 because in this year most of the countries under study lost their status as accession countries and became EU member states.

Obviously, this indicator would not be a valid measurement of the above concept if the European Commission were biased – by political or other reasons – towards under- or overestimating the performance of certain of the candidate countries. In particular, it might be argued that the different starting positions of the countries (e.g. in terms of their economic performance or the development of human rights or environmental standards) have a decisive influence on the dependent variable, implying that countries starting from a more advanced position are generally evaluated better than countries revealing a much bigger gap between the domestic status quo and EU requirements. However, this argument of a systematic influence on the dependent variable by the distance of a country from the desired status does not hold because the Commission reports focus on relative changes – i.e. the progress of a country – rather than on absolute gaps. 'The accession conditions apply to all the candidates, regardless of how far they are from membership. Both front-runners and those further from accession need to show that they are making progress' (Grabbe, 2001: 1016). We thus assume that the Commission reports constitute a sound indicator to measure progress in pre-accession alignment in the candidate countries.

Using content analysis, we apply a word-in-context³ method that measures the frequency, direction and intensity of criticism or approval of the candidate countries' performances. The Commission's reports appear to be appropriate for this kind of analysis because they use strongly formalized language. Even though the reports are prepared by different country teams, their structure and wording are very similar.

We consider only word groups that clearly relate to the application of EU policies, i.e. that appear close to or are mentioned in a clear context with words such as *acquis*, Accession Partnership Priorities or certain policy fields' denotations such as 'in the environmental sector'. Furthermore, we consider only words that appear in a context that assesses the *progress* of a candidate country over one year and not statements that concern the overall level of

alignment independent of actions taken or not taken during the year under consideration.

For these word groups we first define the direction of the statement, which can point to either criticism or approval. Then the intensity of the statement is determined: we differentiate between strong, medium and weak. Statements that include adverbs such as *very, strongly, significantly, urgently* or adjectives such as *substantial, serious, major, important* are considered to be strong. Weak statements include words such as *some, partially, limited*, as well as notions of incompleteness and recommendations that are formulated in the subjunctive form. All remaining word groups are categorized as implying medium intensity. Next, every word group of weak criticism is evaluated with one minus point, medium criticism with two minus points and strong disapproval with three minus points. The same logic applies to word groups that express approval, such as the statement 'in the field of food safety, substantial progress has been made'. In a comprehensive coding scheme, we determined all the specific words to be counted in the content analysis. Finally, the total points for each country and each year were summed to give an overall and comparable assessment of their alignment performance during the particular year. This indicator might be subject to the many shortcomings associated with the rather indirect measuring that content analysis provides. It has, however, the benefit of being an easily replicable and reliable measurement of the concept of policy alignment. (An inter-coder reliability test with a different coding person yielded a value of 0.78 for Lin's concordance.)

Running a logistic regression of the candidate countries' performances as measured by this indicator on their chance of accession, we find that with one word group of weak criticism above average a country's probability of joining the Union in 2004 sank by 0.08 approximately, at a significance level of 0.1%. This means that a country that obtained more than the average criticism in the Commission reports of 1999–2003 was less likely to become a EU member state in 2004. Thus, disregarding political biases inside the Commission, the indicator seems to be at least associated with the Copenhagen criteria of alignment towards EU policies.

Based on our theoretical considerations above, we consider the following independent variables in order to account for variation in the alignment performance of the candidate countries: political capacities and constraints, governmental financial capabilities, and the general strength of the bureaucracy.

For the measurement of the concept of political capacities and constraints resulting from institutional and partisan veto players we rely on data collected by Witold Henisz (2002).⁴ Henisz's Polcon III index is a measure that estimates the feasibility of policy change in a country in a given year. Henisz has

successfully used this indicator as an explanatory variable for infrastructure investment.

To construct the index, Henisz first identified the number of independent branches of government that possess institutional veto power over policy change in a country. Assuming a uniform and one-dimensional policy space, he then incorporated the distance between the preferences of these actors into his index. To do this, he used data on party alignment and the party composition of the executive and legislative branches. Furthermore, the degree of preference heterogeneity within each of the collective actors was included. The Polcon III index is thus constructed according to Tsebelis' concept of veto players outlined above and should provide a valid measure of institutional and partisan constraints on overall policy change in the candidate countries.

At the same time, we use the Polcon III index as an indicator for identifying the extent to which the countries under investigation reflect a more consensual or majoritarian democratic system. We are aware of the fact that this procedure might be criticized because the items covered in the index are not fully congruent with the analytical categories suggested by Lijphart. On the other hand, there is a broad overlap between the categories used by Henisz and Lijphart, the basic difference being that Polcon III contains information on the preferences of political actors, an aspect that is not considered relevant in Lijphart's theory. Moreover, alternative sources and indicators that explicitly concentrate on the measurement of consensus versus majoritarian democracies for our countries under study are not yet available. By employing Henisz's indicator of political constraints we include the impact of institutional and partisan veto players in the empirical test. To be sure, the preferences of these actors are considered only under the assumption of a uniform and one-dimensional policy space.

It is important to emphasize, however, that preferences towards the EU might or might not be correlated with veto players' left-right preferences that Henisz considers in his approach. We thus control for actors' policy positions towards the EU. Yet, such data are not readily available for all the relevant actors that Henisz introduces in his measure. Still, we can come up with a measure for the preference of the single most important actor in the game: the government. We take data from the data set on party policy in modern democracies (Benoit and Laver, 2006) to construct an indicator that measures the government's political position towards EU membership.

The data set, building on expert surveys, provides a measure ranging from 1 to 20 for the various political parties in the countries considered. A party obtaining a value of 1 is strictly opposed to the country's membership in the EU, and a party attaining a value of 20 is totally in favour of accession

to the EU. We merge the values of the different parties in government by weighting them with their strength in the coalition. Strength is defined as a party's percentage of the government's combined share of votes in the last parliamentary election. It seems reasonable to assume that governmental parties with fewer parliamentary seats also have less influence on the government's position concerning EU membership. If this control variable shows a strong positive influence on the alignment performance of a candidate country, then political willingness is crucial for alignment, and institutional factors may have lesser influence.

The quantification of governments' and bureaucracies' financial capabilities should not pose a problem: hard currency will do the job. We include data on yearly government expenditures⁵ in US dollars as a proxy for financial administrative capacities. We also incorporate PPP-corrected data on gross domestic product per capita in Euros⁶ as a control variable.

To measure the strength of the bureaucracy, we rely on an indicator of overall bureaucratic quality, as measured by the World Bank's index in *Governance Matters IV: Governance Indicators for 1996–2004* (Kaufmann et al., 2005). The indicator combines analysts' ratings of the quality of the bureaucracy, including the independence of the civil service from political pressure, political stability, bureaucratic accountability and transparency as well as the extent to which administrative activities are based on legal rules and proceedings in the candidate countries. This measure thus provides us with a proxy for the overall strength of the bureaucracy and, together with our measure for the financial resources of the executive and veto players, allows us to compare the influences of structures at the implementation level and of structures at the decision-making level on the success of alignment with the *acquis*.

Empirical findings

Our data reveal a large amount of variation between the candidate countries' implementation performance. Figure 1 depicts the mean performance of the various countries between 1999 and 2003.

The units of analysis for the empirical analysis are 65 country years, i.e. the 13 candidate countries in the years 1999, 2000, 2001, 2002 and 2003.⁷ In order to test whether the independent variables outlined above can account for some portion of the variation shown above, an ordinary least squares regression is performed. The regression model is fitted to the cross-sectional time-series nature of the data and allows for an estimation in the presence of temporal autocorrelation within panels. It is specified that there is temporal autocorrelation⁸ with regard to the errors for countries and that the coefficient of the process is specific to each country. The linear OLS regression of the five

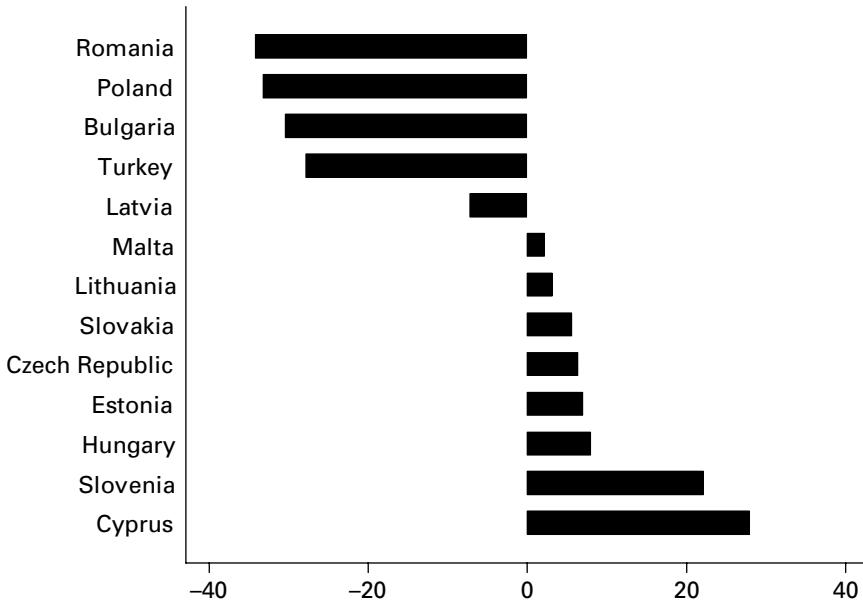


Figure 1 Mean alignment performance, 1999–2003.

independent variables as operationalized above on the dependent variable – performance in alignment towards EU policies – yields the results shown in Table 1.

First, the *political constraints index* seems to be relevant. It shows a distinct and statistically significant (at the 95% level) positive correlation between candidate countries' political constraints and their performance in implementing EU policies. This finding supports hypothesis 1 and contradicts hypothesis 2. This lends support to promoters of systems of checks and balances and is in sharp contrast to Tsebelis's (2002) theory of the impact of veto players. It seems that, for the countries considered, a higher number of veto players is associated with relatively good alignment performance.

Secondly, the positive correlation between the *GDP per capita* control variable and alignment performance supports the idea that a candidate country's performance in aligning towards EU policies is dependent on its economic capabilities. It could be that transformation towards the EU regulatory style, characterized by strong economies that can cope with policies of market liberalization, is undertaken more easily in a country characterized by a strong economy. It might thus be mainly EU policies on industry, service and agriculture liberalization that are troublesome for poorer candidate countries. However, the positive correlation of *GDP per capita* with alignment

Table 1 Results of the regressions

<i>Candidates' performance in implementing EU policy (candidatesperformance)</i>	<i>Model 1 (n = 65)</i>	<i>Model 2 (n = 65)</i>
Political constraints index (polconIII)	78.21** (28.04)	76.85** (28.30)
Financial capabilities (government expenditures in US\$ million per capita) (financialcap)	0.06 (2.30)	-0.03 (2.40)
Gross domestic product in thousand €, PPP, per capita (GDPpc)	1.75* (1.03)	1.82 (1.24)
Bureaucratic strength (bureaustrength)	25.86*** (5.15)	25.63*** (5.48)
Government's position (govposition)	0.99 (0.63)	0.97 (0.63)
Level of democracy (polityIV)	-	-0.11 (1.64)
Wald-chi-squared	173.16	169.97
Prob > chi-squared	0.00	0.00

Notes: Standard errors are in parentheses.

* $p < .05$, ** $p < .01$, *** $p < .001$.

performance could also reflect certain attitudes inside the Commission. The reports on alignment from which the data were obtained could be biased against poorer countries if there was a fear of endangering the economic stability of the Union by accepting economically weak countries as members. In order to fully research the causality behind the detected correlation, a more comprehensive analysis disentangling different policy fields is needed.

Yet, the *GDP per capita* variable is statistically significant only at the 90% level. Moreover, referring to governments' financial capabilities, the more direct measurement of *government spending per capita* does not show any statistically significant correlation with the dependent variable. The idea stated in hypothesis 3 that a candidate country's performance in aligning towards EU policies is dependent on its government's financial capabilities is thus contradicted by the data. These rather ambiguous findings suggest that it might be relatively rich countries with relatively slim, well-functioning administrations that have the least problems in aligning towards EU policies. This is supported by the positive correlation between the *quality of the bureaucracy* and the candidates' alignment performance, which is statistically significant at least at the 99% level. Thus, the data do not contradict hypothesis 4. Countries with independently and effectively operating bureaucracies have fewer problems in aligning to EU policies.

These findings are valid independently of the political willingness of the government to implement EU regulations; i.e. its stance towards accession. The variable *government's position*, controlling for its eagerness to align to the EU, shows no statistically significant correlation with the performance of governments during pre-accession – even though the coefficient has the expected positive sign. Government parties' anti-European preferences seem not to be clearly related to the performance of candidate countries in aligning to the *acquis*.

In a second model, we have also controlled for the *level of democracy* in the acceding countries with data from the PolityIV project (Gurr and Jaggars, 2003). It has been argued that leaders of more democratic countries had a greater incentive to push ahead with alignment with EU rules and institutions because of pressure from the electorate (Mattli and Plümper, 2004: 313). Yet the variable does not show a statistically significant positive impact on our measure of candidates' performance. We have to acknowledge, however, that there is not much variation in levels of democracy in our small sample of EU candidate countries, which have all achieved a high level of democracy. The inclusion of the variable does not reduce the significance of the political constraints index and the quality of bureaucracy measure, which seem to be robustly associated with the candidates' alignment performance.

Conclusion

This article aimed to find explanations for differences in candidate countries' performance records of implementing EU policies prior to accession. Several theories on the preconditions for policy change and on implementation problems were surveyed and reconsidered in their applicability to pre-accession alignment. Subsequently, four hypotheses on the impact of political constraints and financial and administrative capabilities on pre-accession alignment were fashioned.

Empirical testing of our hypotheses suggests several interesting findings. First, and probably most surprising, veto-player theory has found no support in our data on candidate countries' performance in adopting the *acquis communautaire* of the EU. On the contrary, the data support the idea that consensus decision-making increases the prospects of quick and comprehensive implementation of the *acquis*. Obviously, a higher number of veto players favoured not only effective decision-making in order to comply formally with EU requirements but also the domestic capacities to apply the relevant decisions in practice. Second, the quality and effectiveness of their bureaucracy is of great importance for candidate countries in aligning national

policies towards the EU. This finding suggests that the characteristics of the bureaucracy are at least as important as the nature of their political systems for the performance of countries. In contrast, the political position of governments towards accession, i.e. their willingness to align policies, seems to be less important once accession negotiations have started and clear conditionality for membership is in place.

How can these partially surprising results be explained? First, the rejection of the veto-player hypothesis might be traced to the fact that – in contrast to other studies on the implementation of EU policies supporting this argument (see Haverland, 2000; Giuliani, 2003) – the focus of this study was not just on formal but also on practical implementation. Practical application is basically a matter of bureaucracy rather than the realm of politics, implying that veto players are of less importance during this stage of the implementation process. Looking at both formal and practical implementation, our findings hence indicate that implementation effectiveness seems to be more affected by problems of practical application than by formal transposition of European requirements.

Second, our findings support the arguments by Grabbe (2001: 1029) that EU conditionality in the candidate countries generally implied a strengthening of the core executive at the expense of parliaments and other branches of government. As a result, the influence of veto players with regard to pre-accession might be lower than expected from the outset.

Third, it might be the case that countries that took the decision to join the Union – and thus to fulfil the preconditions for joining – with the consent of a greater number of veto players might find it easier to adopt and implement the *acquis* because the different national actors will support this process. We can assume that there is a clear preference in such consensus democracies towards accession among not only the majority but a broad political coalition. It then seems reasonable that governments that are even more anti-European would not dare to decelerate the pace of accession. In contrast, for countries where governments decided to apply for EU membership and faced no veto-playing constraints in taking that decision, there is some probability that EU-sceptical minority groups might try to hinder the quick and comprehensive alignment of policies. Moreover, even minor changes in the median voter's preferences in these countries could result in a decisive majority opposing the accession process.

Even if we assume relatively stable preferences because of the high costs linked to breaking out of accession agreements once the process of aligning has started, obstruction is possible in the implementation phase of policy-making. Impeding alignment might be not only dependent on institutional veto power but also possible in the stage of policy implementation. Here, the

strength of the bureaucracy is of utmost importance. Where bureaucratic strength is high and bureaucratic action is less dependent on possibly unstable political input, the process of alignment towards the EU, once started, can go ahead smoothly.

In conclusion, our results suggest that the functioning and the quality of the domestic bureaucracy constitute crucial preconditions for effective alignment with EU policy requirements. This holds true in particular if the focus is not only on the formal transposition but also on the practical application of EU requirements. This finding is of interest for further pre-accession strategies. Support for the setting up and improvement of administrations has, according to the data used, a greater effect than the funding of governments. Appeals to achieve political consensus on increasing efforts towards alignment seem to be of less relevance for the success of enlargement than efforts to strengthen administrative structures. Moreover, our results indicate that the peculiarities of national bureaucracies might play a central role in shaping processes of Europeanization and implementation of EU policies in general.

Notes

- 1 For the purpose of this article, we refer to all of the following countries as EU candidate countries in the period 1998–2004, notwithstanding changes in the official status of their application: Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey.
- 2 The Commission's regular reports on progress towards accession are accessible at URL (accessed 25 April 2006): http://europa.eu.int/comm/enlargement/report_11_98/index.htm#report. The conclusions of the regular reports, which are executive summaries with already reduced data, are used.
- 3 See Weber (1990) for the advantages and shortcomings of this approach.
- 4 The data were accessed at URL (consulted January 2006): <http://www.management.wharton.upenn.edu/henisz/>.
- 5 We take these numbers from the CIA World Factbook series, accessible at URL (consulted January 2006): http://www.theodora.com/wfb/abc_world_fact_book.html
- 6 These data are provided in the appendices to the Commission's regular reports, accessible at URL (consulted January 2006): http://europa.eu.int/comm/enlargement/report_11_98/index.htm#report.
- 7 A negative binomial regression could also be performed because data on reforms and the passing of legislation could also be considered to be count data. However, we prefer to include the intensity dimension in our indicator since success and failure vary greatly in the Commission report. Therefore, we use the index of implementation progress discussed above and take country years as units of analysis. We thus assume that our data are ordered on an interval scale, which is of course disputable.

- 8 In a Woolridge test, the hypothesis that there is no serial correlation could not be refuted, with an F -statistic significant at the 0.5 level only.

References

- Bailey, Ian (2002) 'National Adaptation to European Integration: Institutional Vetoes and Goodness-of-Fit', *Journal of European Public Policy* 9: 791–811.
- Benoit, Kenneth and Michael Laver (2006) *Party Policy in Modern Democracies*. London: Routledge.
- Birchfield, Vicki and Markus M. Crepaz (1998) 'The Impact of Constitutional Structures and Collective and Competitive Veto Points on Income Inequality in Industrialized Democracies', *European Journal of Political Research* 34(2): 175–200.
- Börzel, Tanja A. (2001) 'Non-Compliance in the European Union: Pathology or Statistical Artefact?', *Journal of European Public Policy* 8(5): 803–24.
- Bursens, Peter (2002) 'Why Denmark and Belgium Have Different Implementation Records: On Transposition Laggards and Leaders in the EU', *Scandinavian Political Studies* 25: 173–95.
- Chayes, Abram and Antonia Handler Chayes (1993) 'On Compliance', *International Organization* 47(2): 175–205.
- Crombez, Christophe (1996) 'Legislative Procedures in the European Community', *British Journal of Political Science* 26(2): 199–228.
- Demmke, Christoph (2001) 'Towards Effective Environmental Regulation: Innovative Approaches in Implementing and Enforcing European Environmental Law and Policy', Harvard Jean Monnet Working Paper 5/01, Harvard Law School.
- Duina, Francesco G. (1997) 'Explaining Legal Implementation in the European Union', *International Journal of the Sociology of Law* 25(2): 155–79.
- Elazar, Daniel J. (1987) *Exploring Federalism*. Tuscaloosa: University of Alabama Press.
- European Council (1993) 'Conclusions of the Presidency – Copenhagen, June 21–22 1993', SN 180/1/93 REV 1: 13.
- Evans, Peter and James E. Rauch (1999) 'Bureaucracy and Growth: A Cross-National Analysis of the Effects of "Weberian" State Structures on Economic Growth', *American Sociological Review* 64: 748–64.
- Falkner, Gerda, Miriam Hartlapp, Simone Leiber and Oliver Treib (2004) 'Non-Compliance with EU Directives in the Member States: Opposition through the Backdoor?', *West European Politics* 27: 452–73.
- Fearon, James (1998) 'Bargaining, Enforcement, and International Cooperation', *International Organization* 52(2): 269–306.
- Fiorina, Morris P. (1992) *Divided Government*. New York City, NY: Macmillan Press.
- Giuliani, Marco (2003) 'Europeanization in Perspective: Institutional Fit and Adaptation', in Kevin Featherstone and Claudio M. Radaelli (eds) *The Politics of Europeanization*, pp. 57–80. Oxford: Oxford University Press.
- Grabbe, Heather (2001) 'How Does Europeanization Affect CEE Governance? Conditionality, Diffusion and Diversity', *Journal of European Public Policy* 8(6): 1013–31.

- Gurr, Ted R. and Keith Jagers (2003) 'PolityIV: Political Regime Characteristics and Transitions 1800–2002', URL (consulted May 2005): <http://www.cidcm.umd.edu/inscr/polity/polreg.htm>.
- Haas, Peter M., Robert O. Keohane and Marc A. Levy (eds) (1994) *Institutions for the Earth: Sources of Effective International Environmental Protection*. Cambridge, MA: MIT Press.
- Haverland, Markus (2000) 'National Adaptation to European Integration: The Importance of Institutional Veto Points', *Journal of Public Policy* 20(1): 83–103.
- Hellman, Joel S. (1998) 'Winners Take All: The Politics of Partial Reform in Post-communist Transitions', *World Politics* 50(2): 203–34.
- Henisz, Witold J. (2002) 'The Institutional Environment for Infrastructure Investment', *Industrial and Corporate Change* 11(2): 355–89.
- Kaufmann, Daniel, Aart Kraay and Massimo Mastruzzi (2005) *Governance Matters IV: Governance Indicators for 1996–2004*. World Bank Policy Research Working Paper Series No. 3630.
- Knill, Christoph (2001) *The Europeanisation of National Administrations: Patterns of Institutional Change and Persistence*. Cambridge: Cambridge University Press.
- Knill, Christoph and Andrea Lenschow (1998) 'Change as "Appropriate Adaptation": Administrative Adjustment to European Environmental Policy in Britain and Germany', *European Integration Online Papers* 2(1).
- Krämer, Ludwig (1996) 'Defizite im Vollzug des EG – Umweltrechts und ihre Ursachen', in Gertrude Lübke-Wolff (ed.) *Der Vollzug des europäischen Umweltrechts*, pp. 7–36. Berlin: Schmidt.
- Lijphart, Arend (1984) *Democracies: Patterns of Majoritarian and Consensus Government*. New Haven, CT: Yale University Press.
- Lijphart, Arend (1994) 'Democracies: Forms, Performance and Constitutional Engineering', *European Journal of Political Research* 25: 1–17.
- Lijphart, Arend (1999) *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*. New Haven, CT: Yale University Press.
- Mastenbroek, Ellen (2003) 'Surviving the Deadline: The Transposition of EU Directives in the Netherlands', *European Union Politics* 4(4): 371–95.
- Mastenbroek, Ellen (2005) 'EU Compliance – Still a "Black Hole"?', *Journal of European Public Policy* 12(6): 1103–20.
- Mattli, Walter and Thomas Plümpert (2004) 'The Internal Value of External Options: How the EU Shapes the Scope of Regulatory Reforms in Transition Countries', *European Union Politics* 5(3): 307–30.
- Mbaye, Heather A.D. (2001) 'Why National States Comply with Supranational Law: Explaining Implementation Infringements in the European Union, 1972–1993', *European Union Politics* 2(3): 259–81.
- Ostrom, Vincent (1991) *The Meaning of American Federalism: Constituting a Self-Governing Society*. San Francisco, CA: ICS Press.
- Peters, B. Guy (2001) *The Politics of Bureaucracy*. London: Routledge.
- Phedon, Nicolaides (2003) *Improving Policy Implementation in an Enlarged European Union: The Case of National Regulatory Authorities*. Maastricht: European Institute of Public Administration.
- Pridham, Geoffrey (1994) 'National Environmental Policy-making in the European Framework: Spain, Greece, and Italy in Comparison', *Regional Politics and Policy* 4: 80–101.

- Riker, William H. (1964) *Federalism: Origins, Operation, Significance*. Boston, MA: Little, Brown.
- Schimmelfennig, Frank and Ulrich Sedelmeier (2004) 'Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe', *Journal of European Public Policy* 11(4): 661–79.
- Tsebelis, George (1995) 'Decision Making in Political Systems: Veto Players in Presidentialism, Parliamentarism, Multicameralism and Multipartism', *British Journal of Political Science* 25: 289–325.
- Tsebelis, George (2002) *Veto Players: How Political Institutions Work*. New York/Princeton, NJ: Russell Sage Foundation/Princeton University Press.
- Versluis, Esther (2004) 'Explaining Variations in Implementation of EU Directives', *European Integration Online Papers* 8(19).
- Weber, Robert (1990) *Basic Content Analysis*. Newbury Park, CA: Sage Publications.

About the authors

Peter Hille is a graduate student in the Department of Politics and Management, University of Konstanz, Fach D 91, 78465 Konstanz, Germany.

Fax: +49 7531 88 2381

E-mail: peter.hille@gmx.de

Christoph Knill is Professor of political and administrative science in the Department of Politics and Management, University of Konstanz, Fach D 91, 78465 Konstanz, Germany.

Fax: +49 7531 88 2381

E-mail: christoph.knill@uni-konstanz.de
