

European Environmental Advisory Councils and the EU Enlargement

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I. Challenges of EU Enlargement

The Eastern enlargement of the European Union (EU) poses more challenges than previous enlargements. With ten Central and Eastern European Countries (CEEC) as well as Cyprus and Malta, the number of candidate countries is substantially higher than for previous accessions. The economic disparity between current EU Member States and the accession countries is also considerably greater than with previous accessions. As these countries have limited economic capacities, problems could arise both in transposing existing Community laws and passing new laws, for example in cases where the transposition of specific pieces of legislation requires substantial investments.

In addition, the CEECs applying for EU membership have inherited different political, administrative and economic traditions and structures from their common past under communist rule. The perseverance of some of the traditions and structures, the resulting political, economic and environmental problems as well as the process of transition towards western practices may cause additional complications in the accession process. Not only do these countries have to adopt the EU's *acquis communautaire*, but they must also, and more or less simultaneously, fundamentally reform their economic and legal institutions by, among other things, introducing new regimes of ownership, privatization and the dismantling of heavy state subsidies.

Finally, since previous enlargements, European legislation has not only increased in number but has also changed in terms of its content and scope. On the one hand, European Community (EC) law covers a greater range of policy areas than ever before. This is most evident in the field of Economic and Monetary Union (EMU). However, even within specific sectors, EC law has started to place greater demands on the member state institutions responsible for its implementation. This is particularly evident in the field of environmental policy where the Community now relies more heavily on procedural rules (for example, participation and information requirements) and pays special attention to the administrative preconditions for integrating environmental policy with other relevant policy areas. These increased requirements are coupled with a shift in emphasis of EU environmental policy towards the effective implementation of existing legislation.

Given these general conditions, Eastern enlargement of the EU will require considerable adaptation not only on the part of the Accession Countries but also the EU and its present Member States. Both will be presented with major challenges:

1. The environmental situation in the candidate countries presents particular challenges to the enlargement process. In comparison to EU member states, the most notable difference in respect to the environment in candidate countries is still the

wide disparity between very heavily polluted "hot spot" regions and expansive, relatively unspoiled areas, which are often marked by high levels of biodiversity. However, the process of accession poses a threat to endangered species and habitats.

2. Compatibility of the process of political and economic transformation in the candidate countries with the adoption of Community environmental law must be achieved:

This challenge comprises economic, political and technical components. It includes the provision of the financial and technical means required for the implementation of the environmental acquis and at the same time fosters a functioning civil society and, in particular, a strong political constituency for environmental protection.

3. The environmental acquis must be fully implemented when joining the EU:

Transitional periods are likely to be granted, primarily for Directives requiring considerable investment and/or capacity building. However, candidate countries will have to present, and adhere to, strict implementation schedules.

4. A coherent national environmental policy must be formulated and implemented:

This requires the development of effective and efficient administrative structures, including monitoring and reporting mechanisms as well as institutionalized channels for consultation of relevant societal and state actors, such as NGOs, industry and various government institutions.

5. The administration must be modernized, especially at the regional and local levels where qualified staff, technical equipment and competencies are frequently lacking.
6. To cover the considerable investment needs for the implementation of Community environmental law, most CEECs have to spent a higher share of their gross domestic product (GDP) on the environment than the average EU Member State.

II. Challenges at the EU level

The Eastern enlargement of the European Union also poses substantial challenges at the EU level:

1. The EU urgently needs to reform both its Common Agricultural Policy (CAP) and the methods it uses to calculate the extent of member states' financial contributions for agriculture. Although the urgency of the required changes is doubtless partially a consequence of the planned enlargement, reform is also necessitated by factors independent of enlargement; in particular the German reunification and the efforts of the US and other countries to globally liberalize agricultural markets.
2. In addition, one should also consider that Eastern enlargement will not only intensify existing EU problems – such as the need to reform the CAP and the issue of member states' contributions – but also create new ones. In substantive terms, this will particularly affect EU structural policy. If the financial mechanisms currently in place were to continue unchanged after enlargement, this would place a substantially increased burden on current member states. Eastern enlargement

therefore also necessitates a rethinking of the Structural Funds. In this context, it is worth noting that the means used by the Community to successfully incorporate the Southern countries into the EU – substantial compensation payments from the Structural Funds and the creation of the Cohesion Fund – are, as a result of restricted financial capacity, not open to the EU for Eastern enlargement.

3. Eastern enlargement also raises new problems for the EU's decision-making mechanisms. The increased number of member states participating in the Council of Ministers would greatly increase the risk of deadlock in the decision-making process if the existing rules, which require either unanimity or a qualified majority, were not substantially modified. Similarly, a significant increase in the number of Commissioners is likely to reduce the efficiency of decision-making procedures and administrative arrangements in the European Commission. In view of these problems, the Treaty of Amsterdam provides for an intergovernmental conference to consider and initiate the necessary reforms to EU institutions.
4. Efforts to develop a differentiated harmonization strategy must be continued. Such efforts are exemplified by the use of framework Directives and the growing importance of procedural rules in Community environmental law. Differentiated harmonization provides for transitional periods, limited exceptions, delegation of decision-making, involvement of civil society, etc. It therefore appears to be more suitable to accommodate a further increase of diversity among Member States than the traditional, more rigid approach to environmental regulation.

From a point of view which focuses less on complete implementation of the *acquis* than the Commission does, it is possible to see enlargement as a unique opportunity to develop and benefit from a "pan-European" environmental policy, where Europe is understood as encompassing both Eastern and Western Europe. For example, the marginal costs for the reduction of environmental pollution in the accession countries are, as a result of the generally lower environmental protection and price levels, substantially lower in the CEECs than in the current EU member states. In addition, European environmental policy is seen by the European Commission and the Parliament as a motor for state and economic modernization in the accession countries.

III. Areas of involvement of the EEAC Network

Given these challenges and problems in regard to the implications for environmental policy of the Eastern enlargement of the European Union, the Network of European Environmental Advisory Councils (EEAC) will constructively influence this policy process by providing its expertise and scientific and advisory resources.

European Environmental Advisory Councils differ in their aims, composition and available tools. They range from scientific and independent advisory boards and representative bodies of societal interests to sustainable development committees within government institutions. They design, implement and/or influence environmental policy making. These different structures and means allow the Network of European Environmental Advisory Councils to benefit from this diversity, namely by stimulating reflection on innovative approaches.

During the seventh conference of the European Environmental Advisory Councils in Budapest, the following aspects of possible areas of involvement of the Network were discussed.

1. Environmental Advisory Councils in Western and Eastern Europe jointly take the responsibility to stress environmental policy aspects within the enlargement process

The network of EEAC formally invited respective bodies of Central and Eastern Europe to the conference to discuss the multiple environmental policy dimensions and implications of the Eastern Enlargement of the European Union.

Given the current focus of governments and national administrations concerned with different tasks within the pre-accession strategy or accession negotiations, the Network of European Environmental Advisory Councils should provide guidance and expertise to allow for the strict integration of environmental concerns during the accession process. European Environmental Advisory Councils in the current Member States and those in Central and Eastern Europe will cooperate and jointly help their governments to successfully implement the *acquis communautaire* and sustainable development strategies in Europe, thus contributing to European environmental policy standards at the highest level.

2. Benefiting from synergetic effects by providing expert knowledge and best practice approaches and by providing scientific input into policy making processes

Based on the growing impact of the European Environmental Policy on respective national policies, the Network of European Environmental Advisory Councils provides considerable scientific resources, expert knowledge and best practice studies that are of relevance for policy making processes in other countries. Central and Eastern European States need to deal with the challenges of rapidly adapting or establishing sector policies in order to fulfill the accession requirements. In the course of the last twenty years, the current Member States of the European Union developed policy strategies that might serve as examples for successfully dealing with these challenges and might help to avoid or reduce the mistakes and unsustainable patterns of Western Europe.

3. Providing experience in developing and implementing national environmental policy strategies

Furthermore, the EEAC may provide examples of innovative approaches to solving sector specific problems and to designing and implementing comprehensive national sustainable development strategies and environmental policy plans. There seems to be a special need for such strategies, mainly in areas not covered explicitly or sufficiently by the environmental *acquis*.

4. Involving CEEC in current policy planning and policy making networks to allow for early and sustainable integration

The involvement of government institutions and non-governmental bodies of Central and Eastern Europe in policy planning and policy making processes should be intensified at both the national and European level. The Network of European Environmental Advisory Councils may serve as a forum for facilitating the exchange

of relevant experience in policy planning arrangements and for lobbying for a closer involvement of CEEC in the debate of current policy and legal initiatives at the European level.

5. Providing experience on implementation of EC environmental law

The transposition and implementation of the environmental *acquis communautaire* poses tremendous challenges to the accession and applicant countries. Recent results of the screening of the European Commission on the implementation of community law in these countries highlighted the implementation deficits, especially of those directives that require substantial administrative reform and financial investment. However, also the current Member States of the European Union still lack full implementation of environmental community law and benefit from transitional periods in several areas. The Network of European Environmental Advisory Councils may facilitate the exchange of experience regarding problems with the implementation of community law and regarding the receptive approaches in the Member States.

6. Providing innovative approaches and instruments in environmental policy

The Regional Environmental Center (REC) recently published a study on the existing economic instruments in environmental policy in the CEECs. Given the strict focus on regulatory approaches for the implementation of the *acquis communautaire* mainly through national legal acts, the CEEC may benefit from the experience of the current Member States and some EEAC Councils on how to efficiently apply market based instruments, strategic environmental assessments and environmental liability and how to integrate them into a broader regulatory framework.

7. Providing assistance and practical solutions for using the pre-accession funds in a sustainable manner

The pre-accession strategy of the European Union provides three main financial instruments to support the CEEC in their aim to successfully implement the *acquis communautaire* and fulfill the accession obligations. The Phare programme provides grants for investment as well as large scale institution building programmes, including as central elements the twinning instrument and the Special Preparatory Programme for the Structural Funds (SPP). A new Instrument for Structural Pre-Accession Aid (ISPA) that has similar goals and functions as the current Cohesion Fund has been available since January 1999. Parallel to ISPA, specific structural assistance for the agricultural sector is envisaged for January 2000 through the new Special Aid for Pre-Accession in Agriculture and Rural Development (SAPARD) programme, under whose auspices certain environmental measures can be funded.

The EEAC may provide their expertise in safeguarding these investment programmes and implementing necessary procedures and mechanisms to maximize environmental benefits. Since CEECs will benefit from the European Union's structural funds after accession, early implementation of appropriate rules, procedures and control mechanisms are necessary in order to guarantee the sustainable use of these financial resources and reduce environmental impacts by large infrastructure projects.

8. Fostering cooperation between MS and CEEC and among CEEC

Accession and candidate countries alike are facing similar challenges in reforming and strengthening their environmental policies. However, the current accession negotiations resulted in more competition among CEEC. EU Member States are intensifying their bilateral activities and cooperation programmes with CEEC in the course of the accession process. The European Environmental Advisory Councils may assist in identifying issues and sectors that need further cooperation and facilitate further cooperation among CEEC.