

## **Why Greece Does (Not) Comply with EU Environmental Acquis: The Case of Renewable Energy Sources Policy Deployment in Euboea**

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### **Abstract**

*The purpose of this article is twofold. On the one hand, it evaluates the EU impact on national environmental policy and the domestic response to the external pressure. On the other hand, it aims to shed some light on the fundamental problems of Greece that keep this country lagging behind. Problematic implementation and poor performance constitute systemic characteristics of the Greek case. Government's unwillingness to bear the costs of implementation of EU Directives has been classified by many studies as the main factor responsible for implementation deficit. Greece is a 'laggard' country on environmental issues (Sbragia 1996) and therefore lacking capacity to 'upload' national policies to EU level. The bigger the 'misfit' between EU and national policy, the higher the adaptational cost for implementation and the lower the willingness of governments to comply (Boerzel 2005). Nevertheless, compatibility is neither a necessary nor a sufficient condition for compliance. What happens though when government is willing to comply with EU obligations? By examining the actual implementation of the 2001/77/EC Directive on the promotion of electricity from renewable energy sources, it will be shown that political will does make little sense. This article argues that effective implementation is not simply a matter of political will but of institutional and administrative capacity as well as of social acceptability.*

**Keywords:** Renewable Energy Sources, governance, Europeanization, policy compliance, public policy reform, local development

### **1. Introduction**

Although environmental protection was recognized by the Constitution of 1975 (Article 24), there was 'no specific legal and institutional means until the mid-1980s<sup>1</sup>' (Giannakourou 2004:52). Given that Greece's environmental policy had been only weakly developed before 1986, the high degree of adaptational pressure should have brought about important changes at the domestic level. This argument based on the 'goodness of fit' hypothesis. According to the aforementioned hypothesis, Europeanization matters only if there is a 'misfit' in policies and structures between European and national level (Boerzel 1999; Cowles et al. 2001). However, policy or institutional 'misfit' is a necessary but not a sufficient condition for domestic change (Boerzel and Risse 2003:58). It is widely accepted that domestic factors play a significant role regarding the direction of change.

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<sup>1</sup> The first substantive step was taken by the establishment of the Framework Law 1650/1986.

Those domestic factors –either actors or institutions– are being ‘activated in the implementation phase’ and ‘follow their own logic’ (Kazakos 1999:388). The process of formal and practical implementation is the most critical test for the evaluation of Europeanization<sup>2</sup> of public policies. If Member States do not comply with European rules domestic changes cannot be justified as a result of external pressure. Therefore, Europeanization of national environmental policy requires from Member States to adapt their domestic structures to the European rules. In order to evaluate the response of domestic factors to external constraints this study is based on qualitative method and focuses on the later stages of implementation (namely, enforcement and application).

While Hellenic authorities did not incorporate any Directive during the first five years of EU membership, progress has been made since the 1990s. Consequently, it is more useful to examine how imported formal rules and policies operate and their interaction with informal practices than when EU Directives incorporated. The environmental developments at EU level had a positive impact on Greece. EU membership has been ‘a major stimulus to environmental policy’ (Pridham et al.1995:246). The obligations stemming from EU legislation and funding are the main causes for the establishment of new environmental structures and policies (Pridham 1996; Kazakos 1999). Greece has made progress even in sectors that were considered taboo–issues such as Physical Planning. However, its response to the Europeanization process remains reactive, fragmented, and half-hearted. Hellenic authorities tend to focus on the letter rather than the spirit of law.

In this article, we chose to examine the actual implementation of the 2001/77/EC Directive on the promotion of electricity from renewable energy sources. The main purpose of this Directive is to promote an increase in the contribution of renewable energy sources to electricity production in the internal market for electricity and to create a basis for a future Community framework thereof (Commission of the European Communities 2008). Renewable energy sources have been identified as sources based on the principles of sustainable development and ecological modernization. Ecological modernization promotes the win-win advantages of institutional and technological changes in response to the environmental crisis (Baker 2007:298). The use of cleaner energy seems to be the solution to address environmental and energy supply problems in Europe. Energy policy will therefore be at the heart of the European Union’s efforts to address the Lisbon agenda, to achieve the Kyoto Protocol as well as the Paris Agreement targets<sup>3</sup> and to guarantee energy security for its citizens (European Community 2008). Greece can be seen as the appropriate country for the thriving of renewable energy sources (especially solar and wind energy). Wind and solar energy should become the comparative advantage of Greece. The potentiality of Greece in this area is, by all means, the best in Europe<sup>4</sup>. Moreover, the enhanced use of renewable energy and the promotion of energy efficiency are strongly supported by the public (Eurobarometer 2008). Hence, not only is the practical implementation of the Directive (2001/77/EC) against the interests of Greek government, but it has countless benefits. Nonetheless, Greece still has a relatively ‘poor’ performance in this area. The remainder of this article is as follows. The first section explores the main factors responsible for non – compliance and suggests a framework for analysis. The next section presents RES barriers in Greece. Section three examines the case of South Euboea. The last one concludes.

## ***2.Implementation deficit in the Greek case: a framework for analysis***

### **2.1 Preliminary Remarks**

As it has also been argued the Member States are charged with the responsibility to implement environmental decisions, which are made at the EU level. Under these circumstances, Greece, a country with a relatively new environmental policy, is responsible for the transposition, enforcement, and application to the society of EU environmental acquis. Greece has been classified as a ‘laggard’ country on environmental issues (Sbragia 1996) and therefore lacking capacity to ‘upload national policies to the EU level in order to minimize the costs of adaptation’ (Boerzel 2005:164). The bigger the ‘misfit’ between EU and national policy, the higher the adaptational cost for implementation and the lower the willingness of governments to comply (ibid). Nevertheless, compatibility is neither a necessary nor a sufficient condition for compliance.

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<sup>2</sup> In this study, Europeanization is being conceptualized as the domestic adaptation to pressures stemming directly or indirectly from EU (Featherstone and Radaelli 2003:7).

<sup>3</sup> The 2015 United Nations Climate Change Conference, known as COP 21 or CMP 11, was held in Paris, France, from 30 November to 12 December 2015. It is a global agreement on the reduction of climate change.

<sup>4</sup> Interview with Mr Giorgos Menegas – Expert on Renewable Energy.

For example, while successive Greek governments have shown political will to develop Renewable Energy Sources, Greece's performance is moderate<sup>5</sup>. Other domestic pathologies are responsible for delays. Studies on Southern Europe have emphasized the interaction between domestic informal practices and European formal rules (Aguilar – Fernandez 2003; Spanou 1998). Spanou (1998: 475) has characterized the Hellenic administrative system as one that combines 'a low degree of institutionalization, a gap between formal rules and informal practices, and fragmentation'. Other scholars have emphasized the 'clientelistic' nature as one of the major barriers to the process of practical implementation (Featherstone 1998; Kazakos 1999). Some studies have stressed the importance of structural problems such as bureaucratic lethargy, corruption, a centralized but fragmented administrative system (Pridham 1996) and a failure for effective co-ordination which is more a matter of personalities than institutional mechanisms (Makridimitris and Passas 1993). Administrative deficiencies play an important role for non-compliance. 'Fragmentation of, and confusion about, responsibilities may be a distinct source for administrative failure' (Kazakos 1999:376), which in many cases lead to inter- ministerial conflicts. Other crucial explanatory factors derive from political culture. Falkner and her collaborators (2007) have stressed the importance of cultural dimensions in the implementation process. In their words, there are 'three worlds of compliance': a 'world of law observance', a 'world of domestic politics' and a 'world of transposition neglect' (ibid). According to this typology, the first type involves a 'compliance culture' where Member States are guided by a sense of duty to comply with EU law regardless the costs, while in the second world 'the specific fit with political preferences in each case plays a much larger role', and in 'the world of transposition neglect' compliance with EU law is not a goal in itself (Falkner et al 2007:404). Greece seems to belong to the third category. A weak civil society (Diamandouros 1994), a low level of trust, and a restricted social capital<sup>6</sup> are reasons that can explain Greece's lag. Social capital depends on social norms<sup>7</sup>, trust, and social networks that can lead to collective action (Putnam 1993). High level of trust can eliminate free-riding behaviors (Coleman 1990). Jones et al. (2009: 598) have shown the influence of social capital on environmental issues, where 'successful implementation depends on the acceptance of the policy by the citizens'. Therefore, the effective implementation relates to high stocks of social capital<sup>8</sup>.

The above elements derive from and depend on institutions<sup>9</sup>. As Acemoglu and Robinson (2012: 57) argue 'aspects such as the extent to which people trust each other or are able to cooperate, are important but they are mostly an outcome of institutions, not an independent cause'. The lack of necessary institutions or an ill-designed institutional framework may lead to inertia. Thus, institutions define trust and social capital. This study argues that establishment of reliable institutions is the key for Greece to restore its credibility and to increase the stock of social capital and trust.

## **2.2 The main RES barriers in Greece**

To attain the Kyoto Protocol as well as the Paris Agreement targets and guarantee energy security, the EU has taken initiatives to promote the principles of sustainable development and ecological modernization. More precisely, EU has developed "bidding" legislation and Member States have to comply with. Apart from its direct pressure through coercion, it has also exercised indirect influence on Greece to become a pilot even by affecting European Investment Bank to finance RES projects<sup>10</sup>. EU decisions have served as a guide for Greek judges and legislators. As the latter tried to transpose EU law, they had to face many conflicting issues that demanding regulatory interventions. This led to complicated legislation. In this legislative abyss, any new laws thwarted the last ones<sup>11</sup>. Multi-legislation was the main reason for the delayed RES deployment, as the rules of the game were not clear and the regulatory framework was and still constantly changing.

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<sup>5</sup> According to the European Commission, Greece (13,1%) was far below the target of 20,1% in 2010 (COM 2011, available at [http://ec.europa.eu/energy/renewables/reports/2011\\_en.htm](http://ec.europa.eu/energy/renewables/reports/2011_en.htm)). However, in another report it recognizes that Greece has made progress in removing the administrative barriers (COM 2013:8, 175 Final).

<sup>6</sup> Social capital refers to informal norm that promotes co-operation between individuals. Fukuyama (2001: 7) perceives trust, networks, and civil society, as epiphenomenal of social capital.

<sup>7</sup> Social norms define what is wrong and right in a society (Anderson 2006).

<sup>8</sup> However, some scholars have stressed its negative implications (Rodriguez and Pascual 2004) such as clientelistic networks, usurpation of public goods in favor of small groups, and so on.

<sup>9</sup> According to North's (1990: 3) definition, "institutions are the rules of the game in a society or, more formally, are the humanly devised constraints that shape human interaction".

<sup>10</sup> Interview with Mr. Ch. Malandrakis-CEO, Quest Energy.

<sup>11</sup> See, among others, the latest ones 3468/2006, 3734/2009, 3851/2010, 4093/2012

For instance, some years ago, in 2011, the Greek government encouraged photovoltaics' deployment and market has rocked. And now they increase retroactive tax from 28% to 42%<sup>12</sup>. In this typical case, the Hellenic State violates its own rules while lack of trust is perpetuated. It can be argued that the majority of Greek political and economic elite have recognized the benefits of renewable energy sources. Nevertheless, the political will was not enough to overcome administrative barriers and institutional lag, such as the absence of a National Cadastre and until recently, of Physical Planning<sup>13</sup>. The lack of institutional tools triggers conflicts and reactions. As it was mentioned, "we have many times tried to start a project and there have been citizens who took legislative measures against us or against our land leases as they claimed that they were the owners of this land and not the ones we have agreed with. So we were obliged to wait until the case has become final. The lack of a National Cadastre that defines who owns which piece of land is the largest obstacle for investors<sup>14</sup>".

Moreover, lack of co-ordination and inter-ministerial conflicts constitute critical factors for delays or cancellations. For example, "while the Ministry of Environment (YPEKA) had decided to allow the deployment of photovoltaics parks within the 1% of the total high productivity land of every prefecture, the Ministry of Agriculture decided to forbid RES in specific areas. The situation is much worse in the phase of actual implementation, during which the decisions are not fully supported by an effective administration. Especially the various departments of Urban Planning are a basic reason for inertia where specific local rules apply for different areas<sup>15</sup>".

Local acceptability is of crucial importance for RES deployment in Greece. Many licensed projects are cancelled because of strong reactions. "These projects cannot move forward without social consent<sup>16</sup>". Greece seems to suffer from a 'NIMBY Syndrome', where the majority of people are in favor of RES, but only few want them in their own hometown. However, our research indicates that the main factor that determines the stand of communities towards RES is the existence or absence of land use conflicts.

### ***3. The case of South Euboea: it could be a win-win situation***

South Euboea is among Greece's largest wind power producing regions. Initially, RES projects development in the region came across no reactions from the local community and deployment has been rapid. Public acceptance results from the absence of land use conflicts as wind farm development was not causing any substantial problems for other actions to evolve. Moreover, wind power stations did not have any significant environmental impact because no large, established national parks, RAMSAR sites etc. existed in the area<sup>17</sup>. Furthermore, financial incentives have played a key role in accepting such projects. As it has been mentioned, "alternative energy production meant substantial profit because local governments would cash in on a 3% tax on energy production as compensation for development actions. Moreover, new jobs were created for local population<sup>18</sup>". Geographic proximity (see energy map) to the region of Attica has been a key asset in selecting Karystos. Fewer resources are necessary for infrastructure projects (power grid) and electric power transmission losses are kept to a minimum.

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<sup>12</sup> Interview with Mr. N. Papadellis-Supply Manager, Silcio.

<sup>13</sup> Greece established a special RES-related Physical Planning in 2008 (Common Ministerial Order – KYA 49828/3 December 2008).

<sup>14</sup> Interview with Mr. N. Papadellis-Supply Manager, Silcio.

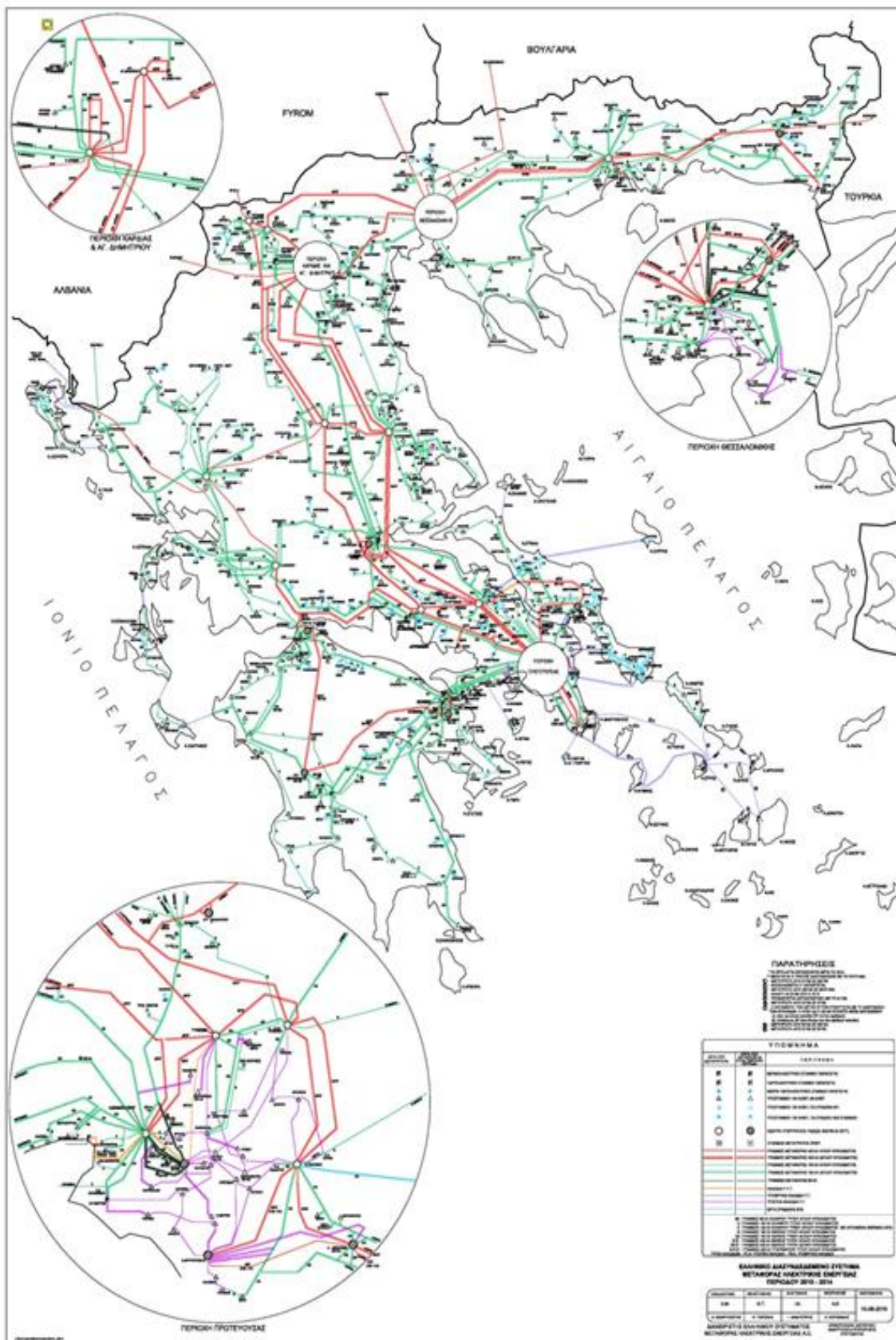
<sup>15</sup> Interview with Mr. N. Papadellis-Supply Manager, Silcio.

<sup>16</sup> Interview with Mr. Gakis-Quest Energy and Dr Chaidarlis-legal adviser to the Municipality of Karystos.

<sup>17</sup> Interview with Dr Marios Chaidarlis – legal adviser to the Municipality of Karystos.

<sup>18</sup> Interview with ex – Mayor of Karystos.

### Energy map of Greece



In view of the above favorable factors, the Hellenic government has included Karystos in Priority Regions for Wind Energy through a special RES-related land use plan. RES coverage rate may not exceed 8% of the municipality's area. However, subject to city council's consent, this may go up to 30%. From 1995 to 2009, eight wind energy companies have taken up business in the region with wind turbines in operation totaling 219. RES planning allows for a fivefold increase in wind farms evidenced in the number of installation licenses issued by Regulatory Authority for Energy (RAE). When implementation reaches an end, Karystos will account for 50% of the country's total wind power capacity.

Nevertheless, major trouble and strong reaction took up in the region in early 2009. As a result, installation works have been lagging behind over the past four years. Reactions stem from the land property issue that lies in the absence of a National Cadastre and has its grass roots at the time when Euboea became part of Greece. To gain better understanding of the issue, one should examine the region's property rights regime history. Ottoman administration had a complicated system in place for property rights; it would withhold bare ownership of the property while land exploitation (tasarruf) could be granted to individuals by means of official concession titles (tapi). It was just after the Greek War of Independence that Greece had to face the major issue of public vs. private land property. The Greek State was established by virtue of the London Protocol (02/03/1830); the State would now be responsible for managing real property rights of liberated regions. To settle disputes and controversies over property rights, Greece took the following decisions based on the 1830 London Protocol: 1) Uncultivated land belonged to the Ottoman State and remained with it even if concession titles (tapi) had been previously issued; 2) Individuals could claim land ownership only if able to provide proof of their cultivating land. Hence, uncultivated lands have been appropriated by the Greek State as a prize of war. Yet Euboea remained under Ottoman rule even after the London Protocol and, rather than liberated, the territory was granted to Greece by virtue of the 1832 Treaty of Constantinople. Ottoman citizens kept the fields they owned and were granted with the right to sell them.

For the most part, the area of Euboea was then transferred by means of title deeds to individuals, while successive property transfers by acquisition or inheritance have been taxed by the State since 1885. These title deeds were not challenged by anyone and therefore holders have never deemed necessary to seek for judicial recognition of ownership. Problems arose with ratification of Law 3468/2006. RAE licensing for RE projects would require among others for stakeholders to secure the right of use for the installation land site. Such a right could be obtained by lease or acquisition of land. Certain stakeholders have appealed to competent local forest authorities to designate such land as woodland and challenge the respective title deeds. Claimant owners, supported by the Municipality, have been in litigation with the Forest Authority ever since, bringing thus RE projects to a halt. The local government has submitted a written statement to YPEKA calling for amendment of Article 62 of Law 998/1979 (Forest Code) to include the region, thus waiving the presumption of ownership for the Greek State. The Municipality of Karystos has stated in a unanimous resolution that no RE installation shall be performed until the Property Issue has been resolved.

#### **4. Concluding thoughts**

Greece has experienced major delays in implementing EU-wide directives. Even when transposition has been completed, this has not had the expected outcomes. Although EU, with its all pressure mechanisms, has a positive impact on the policy content and structures, Greece has been classified as a 'laggard' country on environmental sector (Sbragia 1996). Having been a Member State of the EU for more than thirty five years, the response of national environmental administration to the European initiatives remains reactive. Problematic implementation and poor performance constitute systemic characteristics of the Greek case. Many scholars argue that lack of political will, because of the high adaptational cost for implementation of Directives, is the main explanatory factor for the analysis of implementation deficit. By examining the case of 2001/77/EC Directive, it is obvious that political will is not a sufficient condition for the solution of problems. Hence, it has been argued that government's willingness is not enough for effective implementation. Administrative and institutional capacity along with social reactions can explain Greece's environmental policy lag. The Greek State has repeatedly violated its own rules. As a result, low-level of trust has been perpetuated. Although the case of South Euboea could be a win-win situation, the institutional legacy of Ottoman Empire and Greece's inertia to resolve the Property Issue have led to a standstill. Due to citizen's reactions in the subject matter, the local authorities do not allow further RES deployment. Renewable Energy Sources could become a comparative advantage of Greece.

To do so this country should put forward a generous public administration and institutional reform. Institutions and actors' credibility are crucial factors for increasing the stock of social capital.

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