

**Neither Strengthening, Nor Weakening, Nor Transformation of
the State
The Europeanisation of Environmental Politics in Spain**

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Abstract:

The Impact of European policy-making on the domestic structures of the member states has gained increasing attention in the field of European studies. Despite the lively and ongoing debate on whether Europe ultimately strengthens, weakens or transforms 'the state', there seems to be a consensus in the literature that Europeanisation results in some domestic changes. This paper argues that Europe might not matter so much after all. The case study on the implementation of EU environmental policy in Spain indicates that Europeanisation only leads to changes in the domestic structures of a member state if the EU policies are taken up by domestic actors who pressure the domestic administration to effectively implement the EU policies.

I. Europeanisation and Domestic Change: Does Europe Really Matter So Much?

Research in the field of European studies used to focus on how to explain the dynamics and outcomes of European policy-making. Only recently, academics have shifted their attention towards the question of how the process and outcomes of European policy-making may affect the domestic structures¹ of the member states. Despite a lively and on-going debate on whether European policy-making ultimately strengthens, weakens or transforms 'the state', there seems to be a consensus emerging in the literature that Europeanisation² results in some changes in the domestic structures of the member states. The possibility that Europe has only little effect on the national states is often implicitly excluded. This „Null-Hypothesis“ should not merely be taken as a methodological consideration. There is empirical evidence of cases in which domestic structures of the member states tend to be reinforced rather than changed by Europeanisation (Goetz 1995; Börzel 1995). And organisational theory points at institutional inertia, resistance to change, and the capacity of institutions to adapt 'old structures' to 'new rules' by activating organisational slack (Héritier et al. 1996: 28; Olsen 1995: 8). Hence, there might be good reasons for expecting Europeanisation to result in far less 'spectacular' and more diverse domestic changes than assumed by some theories in the fields of European Studies and Public Policy.

This paper argues first that Europeanisation seldomly leads to profound changes in the domestic structures of the member states. The implementation of European policies does often require a systematic adaptation of national politics and policies. The national administrations, however, are more likely to respond to these pressures for adaptation by absorption, incorporation, or non-implementation of EU policies. In many cases, we can, at best, observe an incremental adjustment within domestic structures rather than a substantial shift towards new forms of domestic structures. And second, the impact of Europeanisation upon the domestic structures of the member states is diverse. As the empirical case study of

¹ Domestic Structures are understood here as the structure of political institutions, societal interest formation and aggregation, state/society relations, and the political culture (Katzenstein 1987; Risse-Kappen 1995).

² Europeanisation denotes the repercussions of European policy-making on the domestic politics, institutions, and policies of the member states. It has been aptly defined by Robert Ladrech as „an incremental process re-orienting the shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making,, (Ladrech 1994: 69; cf. Olsen 1995).

this paper on the implementation of EU environmental policy in the Spanish region of Catalunya shows, the effects of Europeanisation can vary already within one single region and within one single policy area. This paper strives to develop a model which accounts for these variations and which explains why there is so little change in environmental politics of Catalunya despite the quite high level of pressure for adaptation entailed in the implementation of EU environmental policy.

The first part of the paper briefly reviews the literature on Europeanisation and domestic change. Four different theoretical assumptions about the impact of European policy-making upon the domestic structures of the member states are identified. In the second part, an empirical case study analyses the effects of Europeanisation on domestic politics in Spain, with a particular focus on Catalunya, in the field of environmental policy and explores in how far the four competing assumptions can account for the findings. It is concluded that the four theoretical assumptions are too simplistic to explain the effects of Europeanisation on environmental politics in Catalunya. In the third part, a model of Europeanisation and domestic change is developed which provides an explanation for the different outcomes and the overall little change to be found in Catalan environmental politics, despite the high pressure for adaptation entailed in the implementation of EU environmental policy. The paper concludes that Europeanisation only results in domestic change if the external pressure for adaptation from the EU level is reinforced by an additional, domestic pressure for adaptation. Only if domestic actors take up the external pressure by systematically pushing the administration to put an EU policy into practice, the administration will be obliged to induce the changes necessary for practical application and enforcement of the policy.

II. Strengthening, Weakening, or Transformation of the 'State'?

In the literature, three major theoretical assumptions can be identified about the Europeanisation of the domestic structures of the member states. Proponents of a 'Europe of the Regions' suppose an increasing importance of the regional level and an up-grading of regional actors in European politics (Bell 1988; Voß 1989; Sturm 1991; Hill 1992; Marks 1993; George 1993; Minc 1993). A simultaneous gain of competencies of the European Union and the domestic regions at the expense of the nation state is expected, as the state is 'too small' to deal with problems of transbordering character as well as 'too big' to provide adequate

solutions for problems at the regional and local level. This 'sandwich' scenario coincides with neofunctionalist and transnationalist approaches towards European integration, which argue that the dynamic of European integration is increasingly eroding the state and simultaneously strengthening domestic territorial collectivities (Marks 1992; 1993) and (trans)national interest groups (Sandholtz/Zysman 1989; Buzan 1994; Cameron 1992; 1995; Sandholtz 1996), which form coalitions with European institutions to *by-pass* the nation state.

Advocates of intergovernmentalist or realist approaches towards European integration, on the other hand, suggest just the contrary - a general strengthening of the nation state, which acts as a *gatekeeper* of sub-national interests trying to enter the European arena (Hoffmann 1982; Putnam 1988; Taylor 1991; Milward 1992; Moravcsik 1994; Golub 1996). This assumption is supported, e.g. by a series of comparative studies of the changing role of domestic regions in European politics, which present rather "sceptical reflections on a Europe of the Regions" (Anderson 1990; cf. Benz 1993; Engel 1993; 1994; Borrás et al. 1994; Bullmann 1994; McAleavey 1994; Jones/Keating 1995; Rhodes 1995).

Finally, some scholars do not expect either a 'withering away' of the state or its 'obstinate resilience'. Rather, they suggest a general *transformation* of the state³, which does not follow the zero-sum game logic of neofunctionalist and intergovernmentalist approaches (Christiansen 1994; Grande 1994; Kohler-Koch 1996). Instead of looking for changes in the balance of power between the different levels of government or between public and private actors, these authors focus on processes of the de-bordering of the autonomy of action and the reformulation and reinterpretation of principles of action ("*Prozess der Entgrenzung von Handlungsspielräumen und der Neuformulierung und Umdeutung von Handlungsprinzipien*" Kohler-Koch 1995: 9). The Europeanisation of the domestic structures of the member states is perceived as a process which fosters the emergence of a new mode of governance, marked by a shift from hierarchical, state-centred co-ordination to non-hierarchical self co-ordination of public and private actors across all levels of government, which leads to a fundamental transformation of the state⁴ (Grande 1994; Jachtenfuchs 1995; Kohler-Koch 1996; Rhodes 1996).

³ Whereas both the „strengthening the state“ and the „weakening the state“ assumption usually equate „state“ with national government, i.e. the central state executive, the „transformation of the state“ literature, largely drawing from works in public policy, do not conceive the state as an actor but as a structure, „a dynamic web of interactional processes among governmental and societal actors working together in giving shape to the substance of policy, in the sense of both formulation and implementation“ (Héritier et al. 1996: 29).

⁴ The term 'transformation of the state' is used in the literature in two fundamentally different ways. Whereas some authors refer by it to transformations within the member states as a consequence of European integration (Héritier et al. 1996; Kohler-Koch 1996), others point at the emergence of a system of governance which is no longer based on the principles of territoriality and state sovereignty (Schmitter 1991; 1992; Ruggie 1993; Christiansen 1994; Christiansen/Jørgensen 1994; Jachtenfuchs 1995).

Although the outcome of Europeanisation is controversial, there appears to be a consensus in the literature that European policy-making has a substantial impact upon the domestic structures of the member states. And even though some authors acknowledge that Europeanisation results in rather „subtle, and complex changes that are less politically visible“, it is still felt that the cumulative effects of such changes are of „immense significance for national state structures“ (Héritier et al. 1996: 331). A fourth possible outcome of the Europeanisation of domestic structures is thereby often overlooked: the principal compatibility of domestic and European politics. The case of the Federal Republic of Germany, for instance, clearly indicates that European policy-making has in fact reinforced rather than fundamentally changed the relationship between the Federal State and the *Länder*, which is based on the principle of co-operative federalism (Goetz 1995; Börzel 1995).

The altogether four competing assumptions about Europeanisation and domestic change, identified above, share a ‘common bias’. They all implicitly presume that European policy-making has a uniform impact upon the domestic structures of the member states, either strengthening, weakening, transforming the state or not resulting in any substantial changes at all. Neither can account for variations in outcome, nor do they specify the conditions under which a certain outcome could be expected. Some authors, like Andrew Moravcsik (1994), Wayne Sandholtz (1996), and Beate Kohler-Koch (1996) suggest causal mechanisms of how Europeanisation might lead to domestic change. These mechanisms, however, do not indicate conditions of domestic change and are not easy to operationalise for doing empirical research.⁵

Nevertheless, taken together, the four assumptions cover the range of possible outcomes of the Europeanisation of domestic structures. Hence, for the case study of this paper, they are taken as possible variations of the dependent variable. Due to the lack of testable hypotheses, a more inductive approach is chosen. The case study on the Europeanisation of environmental politics in Catalunya explores the ways in which European policy-making may affect the domestic structures of a member state and to what kinds of outcomes this process might lead. From the findings of the case study, some general conclusions are to be drawn about the relationship between European policy-making and changes in the domestic structures of the member states, summarised in a model a general hypothesis of Europeanisation and domestic change is derived from.

⁵ An exception is the study of Héritier et al. (1996) on the Europeanisation of clean air policy in three member states. The book, however, does not put forward any falsifiable hypotheses.

III. The Greening of a Polity?

1. The Analytical Approach

One way of conceptualising the phenomenon of Europeanisation is to focus on the implementation of European policies by the member states. Starting point is the assumption that European policies often embody problem-solving approaches and policy instruments different from those to be found in the corresponding policies of the member states. This 'mismatch' of European and domestic policies results in a pressure for adaptation stemming from the necessity to integrate the respective EU policy into the pre-existing domestic policy-making system (Héritier et al. 1996: 2/3). The degree of compatibility of EU and national policies varies across countries and also across policy areas leading to different levels of pressure for adaptation. It is assumed that the introduction of new problem-solving approaches and policy instruments through the implementation of a European policy, respectively the adjustment of existing domestic problem-solving approaches and policy instruments to those introduced by a European policy, eventually leads to changes in the administrative structure and the patterns of administrative interest intermediation. Specific problem-solving approaches are linked to a distinct set of policy instrument and bear certain implications for the administrative structure and the patterns of administrative interest intermediation in a policy-making system. The implementation of a 'new' EU policy might lead to a redistribution of political resources (competencies, information, money, expertise etc.) among domestic actors by providing some actors with additional political resources, while depriving others, or by up-grading the importance of some political resources in relation to others. Such changes in the resource dependency among domestic actors in the policy-making process can finally alter the administrative structure and/or the patterns of administrative interest intermediation. To state an example, the introduction of an environmental impact assessment for the authorisation of classified activities provides societal actors with additional resources (information, right to allegation) and might open up the authorisation process for third actors (environmentalists, neighbourhood initiatives etc.) eventually changing the patterns of administrative interest intermediation.

Some Definitions

The independent variable is the external pressure for adaptation arising from a divergence between or incompatibility of European and domestic problem-solving approaches and policy instruments:

Problem-solving approach refers to the general understanding of an administration how to tackle problems of environmental pollution. Four pairs of ideal types are used to conceptualise different problem-solving approaches:

- a) *legalistic/interventionist*: imposing legally binding, abstract standards to be uniformly enforced vs. *flexible*: setting (quality) standards which allow for a more 'pragmatic' application to be negotiated with the actors which finally have to apply the policy
- b) *reactive*: reducing harmful effects for the environment vs. *precautionary*: prevention of harmful effects for the environment
- c) *technology*: introducing the best available technology irrespective of the cost involved compared to the potential benefit for the environment vs. *cost/benefit*: balancing the costs of technology against potential environmental improvements
- d) *emission*: imposing general standards applicable by all polluters irrespective of the differing local quality of the environment vs. *quality*: setting quality standards for a territory not to be superseded

- *Policy instruments* refer to the 'techniques' applied to reach a policy goal by inducing certain behaviour in actors. They can be classified according to the following dimensions:

- e) *regulatory*: regulating behaviour through prescriptions and prohibitions threatening negative sanctions in case of non-compliance vs. *market-oriented*: offering financial incentives vs. *communicative*: providing information, formulating recommendations, deliberation
- f) *substantial*: regulation by legally binding standards vs. *procedural*: regulation through process, such as the balancing of cost and benefit

The dependent variable are changes in the administrative structure and the patterns of administrative interest intermediation of a member state:

- *Administrative Structure* relate to the horizontal and vertical distribution of competencies within the administrative system of a member state. The following ideal-type distinctions can be made:

- a) vertical/territorial dimension: changes in the distribution of competencies between the central state, the regional and the local level of government towards:
 - *centralisation*: policy-making competencies are centralised at the national level of government
 - *decentralisation*: competencies are delegated to subnational territorial corporations

- *joint-decision-making*: competencies are shared rather than strictly divided-up between the different levels of government
- b) horizontal/sectoral dimension:
 - *concentration*: the policy-making competencies are located within one administrative body
 - *fragmentation*: the policy-making competencies are dispersed among different sectoral administrative bodies
 - *coordination*: the sectorally dispersed policy-making competencies are coordinated by one administrative body
- *Patterns of Administrative Interest Intermediation* refer to the patterns of interaction between public and social actors in the policy-making process, which can be characterised according to the:
 - c) the mode of governance:
 - *hierarchical coordination*: the administration imposes policies without attempting to reach consensus with the societal actors bearing the cost of the policies
 - *deregulation/privatisation*: policy-making functions are delegated to the market or to private actors
 - *non-hierarchical coordination*: policies are made in consultation and under the participation of societal actors affected by the policies
 - d) the structure of the policy-making process for societal actors:
 - *pluralist*: equal access for the different societal interests competing for influence in the policy-making process
 - *corporatist*: institutionalised privileged access for some societal interest to the policy-making process
 - *policy networks*: access for societal interests to the policy-making process through informal relations with the public administration
 - *statist*: hardly any access for societal interests to the policy-making process

Other dimensions of change could be added, such as the aggregation of societal interests via political parties, the political culture (cf. Katzenstein 1987; Risse-Kappen 1995) or belief systems of public actors (Héritier et al. 1996; Kohler-Koch 1996). For reasons of feasibility,

this study, however, will only focus on the administrative structure and the administrative interest intermediation.

The Field of Study

EU environmental policy involves a high potential of pressures for adaptation in the member states. With the Fifth Environmental Action Programme (1993-98), there is a shift towards a 'new' regulatory approach⁶ based on a precautionary, more flexible problem-solving approach and a set of instruments of procedural regulation, self-regulation, market incentives, and communication. This new approach is supposed to complement the traditional „command and control“ approach in environmental policy entailing a more reactive, interventionist problem-solving approach and regulatory instruments of prescription and prohibition. But not only the more recent EU environmental policies, such as Environmental Impact Assessment (EIA), Access to Information, Eco-Audit, and Integrated Pollution Prevention and Control (IPPC) do challenge the prevailing domestic policies and politics of many member states. Also 'older' policies, such as Drinking Water or Large Combustion Plants (LCP) Directive, exert considerable pressure for adaptation in some member states.

The case study on the implementation of EU environmental policy in Catalunya looks at eight different policies: the *Directive on Environmental Impact Assessment* (85/337), the *Directive on the Freedom of Access to Information* (90/313), the *Eco-Audit Regulation* (1836/93), and the *Directive on the Integrated Pollution Prevention and Control* (96/61) as examples of the 'new' types of regulatory policy, and *Drinking Water Directive* (80/778), the *Directive on Large Combustion Plants* (88/609, together with the *Framework Directive on Industrial Plants* 84/360), the *Directive on Urban Wastewater Treatment* (91/217), and the *Directive on the Incineration of Hazardous Waste* (96/67) representing more 'traditional' types of regulatory policy. The eight policies entail different problem-solving approaches and policy instruments carrying different implications for the Catalan administrative structure and the patterns of administrative interest intermediation.

In Spain, responsibilities in environmental policy are highly decentralised. Therefore, the regional rather than the central state level was chosen as the principal unit for analysis. The case study focuses on the Spanish region of Catalunya as Catalunya provides an example for a public administration with both considerable competencies and material capacity to implement (EU) environmental policy and being at the same time subject to a considerable degree of external pressure for adaptation arising from some of the eight policies.

⁶ The distinction between new and old types of regulatory approaches is not to be mistaken by the contrast between new regulatory policy, regulating the conditions for market access and market operation, and old regulatory policy, aiming at curbing negative external effects on the public (Héritier et al. 1996: 9).

The following section analyses the implementation of each of the eight policies under investigation in Catalunya. The different external pressures for adaptation, the Catalan administration is facing in the implementation process, are briefly described and the ways how the administration reacted to these pressures are explored. The empirical study is based on a documentary analysis (official documents, publications etc.) and a series of 34 interviews with representatives of the central state, Catalan and local administration, environmental groups, employer associations, trade unions, the management of a water plant and two combustion plants, and several consultants (for a complete list see Annex 2).

2. The Case Study

2.1. Environmental Policy-Making in Spain and Catalunya

The Problem-Solving Approach

Environmental policies have only recently entered the political agenda in Spain. It is difficult to identify a general problem-solving approach in Spanish environmental policy-making. Unlike in other countries, environmental policies in Spain are not based on some clear principles derived from a certain philosophy of environmental protection. Environmental policy-making has evolved through laws and regulations addressing specific and urgent environmental problems (Aguilar 1992: 45). There is no consistent regulatory framework for environmental policy. The only principle, Spanish policy-makers seem to be firmly committed to, is the one of sustainable development. Economic considerations have clear priority over environmental concerns. Coinciding with the general state tradition, Spanish environmental policies in general reflect a legalistic and interventionist, reactive approach, which does not entail technology or cost/benefit considerations.

The Policy Instruments

Environmental policy-making in Spain and Catalunya heavily relies on regulatory instruments. There are hardly any elements of market-oriented or communicative regulation. Substantial criteria, such as emissions or quality standards, are uniformly imposed, being legally binding and usually not allowing for flexibility in implementation. The majority of environmental legislation, however, has been neither consequently applied nor complied with (Aguilar 1992: 45).

The Patterns of Administrative Interest Intermediation

The Environmental policy-making process in Catalunya is closed and based on hierarchical coordination rather than cooperation or deregulation/privatisation. There has never been a systematic participation either of industry or other societal interests such as environmentalists and consumer groups in environmental policy-making, neither at the formal nor at the informal level (Font 1996). If societal interests gain access to environmental policy-making, it is through informal relations with the administration. And for actors representing non-economic interests, such informal relations are sporadic and result from lobbying activities in particular cases rather than from regular consultations on behalf of the administration (DEPANA, interview March 1997; UGT, Fomento de Trabajo Nacional, interviews April 1997). Economic interests, on the other hand, enjoy some privileged access to the policy-making process via close, informal relations between the public administration and business (policy communities). The only institutionalised form of societal participation in the administrative policy-making process are the directing boards of the *Junta de Sanejament* and the *Junta of Residus*, two public companies responsible for wastewater treatment respectively waste management, which are composed of representatives of different societal actors such as the environmentalists, consumer groups, employer associations, the trade unions, and experts from university.

The Administrative Structure

In Spain, (environmental) competencies are strongly decentralised. For the implementation of EU environmental policy, this basically means that the transposition of EU directives into national law lies with the responsibility of the central state, whereas execution and enforcement fall into the competencies of the CCAA and the municipalities. Nevertheless, some CCAA, including Catalunya, are allowed to directly transpose EU directives if they dispose of the right to legislatively execute international law and have the respective competence in the area of environmental protection. These CCAA do not have to wait for the central state's transposition of an EU directive (Ordóñez Solís 1994). This vertical fragmentation is usually complemented by a horizontal fragmentation at the national and regional level, where authorisation, execution and enforcement competencies for different environmental issues are dispersed among the administrative unit responsible for environmental affairs and several other Ministries and Departments (industry, public health,

public works). Being quite young institutions (Catalunya was the first administration to establish a Department of the Environment in 1991), the political weight of the environmental departments is still very weak, especially vis-à-vis traditional departments such as industry or agriculture, which represent the interests of powerful domestic actors. In sum, environmental competencies and functions are both vertically and horizontally fragmented. There are only very few mechanisms of horizontal and vertical coordination between the administrative bodies involved in environmental policy-making at the different levels of government and in the different policy sectors (cf. Font 1996: 112-114).

In the following two tables, the four basic features of Catalan environmental policy-making are contrasted to the problem-solving approaches and policy instruments entailed in the eight different EU environmental policies and their potential implications for the administrative structure and the patterns of administrative interest intermediation. The next section analyses in more detail which external pressures for adaptation the Catalan administration is facing in the implementation of each of the eight policies and how it has responded to them.

Figure 1a: Pressure for Adaptation in Catalunya: Drinking Water, Urban Wastewater Treatment, Incineration of Hazardous Waste, and Large Combustion Plants

Administrative System (Ideal Types)	Catalan Administrative System	Drinking Water (80/778)	Urban Wastewater Treatment (91/271)	Incineration of Hazardous Waste (94/67)	Large Combustion Plants (84/360, 88/609)
<p><i>administrative problem-solving approach</i></p> <ul style="list-style-type: none"> • legalistic/interventionist vs. flexible • reactive vs. precautionary • technology vs. cost/benefit • emission standards vs. quality 	<p>legalistic/interventionist</p> <p>reactive</p> <p>not applied</p> <p>emission</p>	<p>legalistic/interventionist</p> <p>reactive</p> <p>quality</p>	<p>legalistic/interventionist</p> <p>reactive</p>	<p>legalistic/interventionist</p> <p>reactive</p> <p>emission</p>	<p>legalistic/interventionist</p> <p>precautionary</p> <p>BATNEEC</p> <p>total emission standards</p>
<p><i>policy instruments</i></p> <ul style="list-style-type: none"> • regulatory vs. market-oriented and communicative • substantial vs. procedural 	<p>regulatory</p> <p>substantial</p>	<p>regulatory</p> <p>substantial</p>	<p>regulatory</p> <p>substantial</p>	<p>regulatory</p> <p>substantial</p>	<p>regulatory</p> <p>substantial</p>
<p><i>patterns of administrative interest intermediation</i></p> <ul style="list-style-type: none"> • hierarchical vs. deregulation vs. cooperative • pluralist vs. corporatist vs. policy networks vs. statist 	<p>hierarchical</p> <p>statist, privileged access for industry</p>	<p>hierarchical</p>	<p>hierarchical</p>	<p>hierarchical</p>	<p>hierarchical</p>
<p><i>administrative structure</i></p> <ul style="list-style-type: none"> • centralised vs. decentralised vs. joint-decision-making • concentrated vs. fragmented vs. coordinated 	<p>decentralised (quasi federal)</p> <p>fragmented</p>	<p>centralised (reporting)</p> <p>decentralised (monitoring)</p>	<p>centralised (reporting)</p>	<p>centralised (reporting);</p>	<p>centralised (reporting); decentralised (monitoring)</p>

Figure 1b: Pressure for Adaptation in Catalunya: Environmental Impact Assessment, Eco-Audit, Access to Information, and Integrated Pollution Prevention and Control

Administrative System (Ideal Types)	Catalan Administrative System	Eco-Audit (1836/93)	Access to Information (90/313)	Environmental Impact Assessment (85/337)	Integrated Pollution Prevention and Control (6/61)
<p><i>administrative problem-solving approach</i></p> <ul style="list-style-type: none"> • legalistic/interventionist vs. flexible • reactive vs. precautionary • technology vs. cost/benefit • emission standards vs. quality 	<p>legalistic/interventionist</p> <p>reactive</p> <p>not applied</p> <p>emission</p>	<p>flexible</p> <p>precautionary</p> <p>BATNEEC</p>	<p>precautionary</p>	<p>precautionary</p>	<p>precautionary</p> <p>BAT</p>
<p><i>policy instruments</i></p> <ul style="list-style-type: none"> • regulatory vs. market-oriented vs. communicative • substantial vs. procedural 	<p>regulatory</p> <p>substantial</p>	<p>mix: market-oriented, communicative</p> <p>procedural</p>	<p>communicative</p> <p>procedural</p>	<p>regulatory</p> <p>procedural</p>	<p>procedural</p> <p>mix: substantial, procedural</p>
<p><i>patterns of administrative interest intermediation</i></p> <ul style="list-style-type: none"> • hierarchical vs. deregulation vs. cooperative • pluralist vs. corporatist vs. policy networks vs. statist 	<p>hierarchical</p> <p>statist, privileged access for industry</p>	<p>cooperative</p> <p>pluralist</p>	<p>cooperative</p> <p>pluralist</p>	<p>cooperative</p> <p>pluralist</p>	<p>hierarchical</p> <p>pluralist</p>
<p><i>administrative structure</i></p> <ul style="list-style-type: none"> • centralised vs. decentralised vs. joint decision-making • concentrated vs. fragmented vs. coordinated 	<p>decentralised (quasi federal)</p> <p>fragmented</p>	<p>decentralised</p> <p>concentrated</p>	<p>concentrated</p>	<p>decentralised</p> <p>concentrated</p>	<p>centralised; JDM</p> <p>concentrated</p>

2.2. The Implementation of EU Environmental Policy in Catalunya

General Distribution of Competencies in the Implementation Process

Urban Wastewater Treatment, Incineration of Hazardous Waste, Large Combustion Plants, Environmental Impact Assessment, and Access to Information, are fully implemented by the Catalan administration. The central state administration intervenes in the implementation of Drinking Water, Eco-Audit, and Integrated Pollution Prevention and Control. The municipalities, depending on their size, can theoretically participate in the implementation of all eight policies.

Drinking Water (80/778)

The Drinking Water Directive was transposed three years after Spain had joined the EC by the *Real Decreto* 1138/1990, 14.9.1990 (BOE No 226, 20.9.1990), in which the substantial parts of the Directive are literally taken over. Besides, the already existing national law, establishing a *Reglamentación Técnico-sanitaria* for the provision and the quality control of drinking water, *Real Decreto* 1423/1982, 18.6.1982 (BOE 151, 29.6.1982)⁷, was largely integrated into the new law. Several parameters were added and the maximum admissible concentration for some parameters had to be lowered down. There are only two noticeable changes for the Catalan administration. First, the regional Department of Public Health (*Departament de Sanitat i Seguretat Social*) must report on the quality of drinking water to the national Ministry of Public Health and Consumption. And second, the Department of Public Health can now authorise temporal derogation from the maximal admissible concentration. There is a consensus among the *Departament de Sanitat i Seguretat Social* (interview January 1997), responsible for monitoring the compliance with the Directive, AGBAR, Barcelona's biggest drinking water supplier (interview March 1997), and the environmentalists (DEPANA, Greenpeace, ADENA, AEDENAT, interviews March 1997) that the practical implementation of the Directive has not caused any major problems. This is explained by the fact that water quality, unlike water quantity, in general is no problem in Spain, and that the pre-existing national legislation established quite similar standards for water quality and control. Besides, most of the drinking water is taken from the two big

⁷ This Spanish law of 1982 shows strong similarities with the Directive of 1980, both in structure and content. It might well be that the Directive served as a model for the law.

rivers of Catalunya, Llobregat and Ter, of which none flows through extensively cultivated areas (agriculture is concentrated in the South of Catalunya; ground water is only used if the rivers do not carry enough water). The only implementation problems mentioned by regional and local administration as well as by the water company are the limited resources of many municipalities, owing and/or controlling local water companies. Some of the tests required by the directive are very expensive (pesticides, heavy nitrates). Insufficient monitoring might provide an alternative explanation for the apparently unproblematic implementation of the Drinking Water Directive. In any case, the pre-existing Spanish law on the quality of drinking water was, like the Directive, based on a legalistic, interventionist problem solving philosophy imposing legally binding quality standards, which do not leave much flexibility in implementation. Hence, there is no substantial pressure for adaptation involved in the implementation of the Drinking Water Directive.

Urban Wastewater Treatment (91/271)

Whereas Spain was sent an Article 169 Letter by the Commission in 1993 (Commission 1994: 311), followed by a reasoned opinion in 1994 (Commission 1995: 251) and a threat of the case being referred to the European Court of Justice in 1995 (Commission 1996: 376) for not taking national measures to implement the Directive, the Catalan Parliament decided in 1994 to reach compliance with the objectives set out in the Directive seven years before the time due. The regional administration is aiming at providing all agglomerations bigger than 2.000 inhabitants with collecting systems for urban waste water already till the end of 1998 in order to target afterwards those agglomerations smaller than 2.000 inhabitants till 2005 (Junta de Saneamiento 1996a). For the rather ambitious implementation of the Directive, some institutional changes were undertaken. The *Junta de Saneamiento* (Wastewater Agency), a former subunit of the Department of Public Works, was turned into a public company and provided with considerable resources to put into place the Wastewater Treatment Plan set up in 1995 to implement the Directive (Junta de Saneamiento 1996b: 9). Two new water fees were introduced to finance the construction of new and the enlargement of existing purification plants (altogether more than 300), one on domestic consumption of water and another on the consumption and the level of contamination by the industry. The implementation of the directive is considered to be a success so far. 71 new plants are under construction and 24 are being up-graded (Junta de Saneamiento 1996a: 4). The relatively

high amount of resources invested in the implementation of the Directive⁸ has been justified by the enormous problems Catalunya has with the supply and contamination of water (Junta de Saneamiento 1996a). Hence, although the Urban Wastewater Treatment Directive does not involve any substantial pressure for adaptation, the Catalan administration initiated some institutional changes, which might carry some affect upon the administrative structure. The ambitious implementation of this EU environmental policy can be seen as an attempt of the regional administration to consolidate its competencies and to present itself as a model region vis-à-vis the central state and the other Spanish regions as well as vis-à-vis the EU (*Junta de Saneamiento*, interview January 1997). Such attempts of the regional administration to develop governance capacity, which can be also observed to a certain extent in the case of the Directive on the Incineration of Hazardous Waste and the Eco-Audit Regulation, will be referred to as „institution-building“ or „state-building“.

Incineration of Hazardous Waste (96/67)

The proposal for the national transposition of the Directive is still debated at the central state level. Catalunya, on the contrary, did not even wait for the Directive to be finally decided on in the Council of Ministers. It transposed the proposal for the Directive on November 4, 1994 (*Decreto* 323/1994, DOGC 1986, 16.12.1994), six weeks before the Directive was passed in the Council of Ministers (OJ L 365/34, 31.12.1994). Besides, the Catalan *Decreto* added an emission limit for NO_x, neither included in the directive nor in the national draft to transpose the Directive.

In terms of its problem-solving approach and policy instruments, the Directive does not pose any problems to the Catalan administration. Yet, it is acknowledged that the very few existing plants in Catalunya are not able to comply with the limits laid down in the Directive (*Junta de Residus*, interview January 1997). The administration intends to develop common programmes, which will allow the plants to gradually adapt to the standards of the Directive. „*Mejorar sin trauma*“ (improvement without provoking a trauma) is said to be the underlying ‘problem-solving’ approach (*Junta de Residus*, interview January 1997). The actual rationale behind the pre-emptive implementation of the Directive is the introduction of an active ‘incineration of hazardous waste’ policy by the Catalan administration. This policy is aimed

⁸ In 1995, the budget of the *Junta de Saneamiento* comprised 17 bln. Pts, of which 10 bln. were provided as a loan from the European Investment Bank (*Junta de Saneamiento* 1996a: 8).

to initiate the construction of a big, Catalan incineration plant in Constanti (Tarragona), which would be able to process all the hazardous waste produced in Catalunya now 'exported' to France due to the limited capacity of the few, small existing incineration plants. Again, this could be interpreted as an attempt of institution or state-building.

Large Combustion Plants (84/360; 88/609)

The framework directive of 1984 has neither been transposed into Spanish legislation nor practically implemented. There are several national regulations for the authorisation of new and the modification of existing industrial plants.⁹ But the BAT principle has never been in any way enforced (DMA, interview January 1997; Besos, Termicas de Besos, DEPANA, interviews March 1997). The LCP Directive of 1988 was incorporated into the existing national legislation by the *Real Decreto* 646/1991, 22.4.1991 (BOE 99, 25.4.1991)¹⁰, which is almost a literal copy of the Directive. Two principal modifications of the Spanish legislation on Air Protection (*Ley* 38/1972, 22.12.1972, *de Protección del Ambiente Atmosférico*, BOE 309, 16.12.1972) were necessary. On the one hand, global emission reduction standards for existing plants were established, a concept which had not existed in former national legislation. And on the other hand, the Directive sets stricter limits for the emissions of new plants. These modifications, however, did not bring any changes for the administrative system in Catalunya. This is due to the fact, that the LCP Directive hardly applies to Catalan combustion plants.

Five of the altogether seven combustion plants subject to the Directive run not only on fuel but also on gas. The sixth is a coal plant, by far the most serious polluter among the plants, but it is exempted from the directive for burning indigenous coal. Besides, with the exception of the coal plant, all the others run less than 10% of the year. The major energy supplier of the region (70%) are two nuclear power stations. These are the reasons given by the administration, the plant management and the environmentalists for why there are no major problems in meeting the emission standards prescribed by the national programme to reduce total emissions of existing plants (DMA, interview January 1997; Termicas de Besos, Fecsa, DEPANA, interviews March 1997). It has also to be mentioned that Spain has been granted a

⁹ *Decreto Nacional* 833/1975; BOE 96, 22.4.1975; *Orden del 18 de Octubre 1976 de la prevención y corrección de contaminación industrial*; *Orden del 25 de Febrero 1980*.

¹⁰ The RD was modified by the RD 1800/95, 3.11.1995 (BOE 293, 8.12.1995), in order to comply with the Directive 94/66.

temporary derogation from the full application of the emission limit value of sulphur dioxide fixed for existing and new plants (till 31.12.1999). The emission standards for new plants do not pose a problem in Catalunya either, as no new combustion plants have been installed in Catalunya since the enactment of the Directive.

The existing Spanish legislation is largely based on quality standards for the reduction of air pollution in heavily contaminated zones. The technology-driven and precautionary problem-solving approach entailed in the Directives and the imposition of total emission reduction levels are new to Spanish air pollution control. Therefore, the two Directives put in principle some considerable pressure on the Catalan administration for their implementation. Yet, they have not caused any changes in the administrative system in Catalunya. This is due to the fact that the one Directive has not been implemented at all and the other hardly applies so far.

Eco-Audit (1836/93)

Having direct effect, the regulation does not require transposition. However, the central state was supposed to establish the legislative framework for an approval system of independent environmental inspectors and the supervision of their activities, which was done by two *Real Decretos* (RD 2200/1995, BOE 32, 6.2.1996; RD 86/96, 26.1.1996; BOE 45, 21.2.1996). As Catalunya had to wait for the central state to set-up the legal framework for the practical application of the Eco Audit Regulation, the *Generalitat* (regional government) had repeatedly put pressure on Madrid to accelerate the implementation process. The *Generalitat* wrote a letter to the Commission complaining about the slow implementation of the regulation by the national government (DMA, interview January 1997). The DMA issued a decree in September 1993 on inspections and control in the area of environmental protection (*Decreto* 230/1993, 6.9.1993; DPGC 1806, 8.10.1993), with an *indirect* reference to the Eco Audit Regulation in Art. 2 d) on the validation of environmental declarations in the process of „environmental audits“. And an identical reference is found in an Order of the DMA of August 1993 on the accreditation and registration of ‘collaborating units’ of the Department in environmental inspections and controls (*Orden de* 17.8.1993, DOGC 1809, 15.10.1993). According to the DMA, these references are an „anticipation“ of the practical application of the Eco Audit Regulation for which Catalunya had to wait another two years (DMA, interview January 1997). After the central state had finally set the framework legislation,

Catalunya designated by decree the *Direció General de Qualitat Ambiental del Departament de Medi Ambient* as the competent public authority for registration of companies implementing an EMAS (*Decreto* 115/1996; 2.4.1996; DOGC 2192, 10.4.1996). With regard to accreditation, a case of conflict over competencies between Catalunya and the national government is pending before the Constitutional Court (BOE 150, 21.6.1996). Both the central state and Catalunya have the right to accredit independent inspectors carrying out the environmental audits. Madrid claims that those inspectors accredited by the central state institution ENAC can also act within the territory of the CCAA. Although not having accredited a single inspector yet, Catalunya rejects this claim as an interference in its sphere of competencies (DMA, interview January 1997).

Despite the 'pre-emptive' implementation of the Eco-Audit Regulation by the Catalan administration, the Regulation is hardly applied in Catalunya. This is not only due to its voluntary character. Beside of the Eco-Audit scheme, there are two other audit schemes in Spain. One based on the UNE scheme (*Una Norma Española*) transposing the British Standard 7750 in 1994, and a second based on ISO 14001, introduced in October 1996. Both alternatives to the EU audit scheme are less demanding and less expensive in their implementation. Due to the general scepticism of many companies about the EU audit scheme, the DMA has launched a major information and „consciousness-building“ campaign involving various publications, conferences with business associations, environmentalists and the media, as well as commercials. According to the DMA (interview January 1997), the aim is to convince companies that it is in their proper interest to introduce the EMAS. The DMA has thereby to exclusively rely on means of persuasion. It argues that the EMAS is recognised in all EU member states as well as at the international level (DMA 1996). It is also stressed that the EMAS can turn into a comparative advantage over firms of other regions (in Spain and abroad) by reducing costs, that an environmental audit is often a requirement to get public subsidies and authorisations as well as that an eco audit scheme could „avoid“ extensive monitoring through public authorities. As one manager of a combustion plant put it: „The deal is that they would leave us alone“ (Termicas de Besos, interview March 1997). An incentive for implementation is also provided by a so called „via indirecta“ (indirect way) offering a gradual adaptation to the EMAS standards by first establishing a system which qualifies for the ISO 14001 Certificate. This is seen as an

attempt to integrate these two audit schemes. Furthermore, the DMA also plans to provide some subsidies for smaller companies to help them coping with the implementation costs.

The Eco Audit Scheme is a procedural regulation based on a consensual, pragmatic and precautionary problem-solving philosophy and the principles of voluntary self-regulation of industry and public access to information. It is still an alien, though not entirely new concept in Spanish environmental policy. Its practical application implies some pressure for adaptation. Yet, it is too early to assess whether the Eco-Audit Regulation will bring about some changes in the Catalan administrative system. So far, it has hardly been applied. Only one company registered with the DMA last February. As the Eco-Audit Regulation introduces new actors, such as consultants and employees, and provides actors, such as environmentalists and consumers, with additional resources (information, procedure to voice objection) this might eventually lead to an opening-up of the policy communities between public administration and business so far dominating the process of monitoring and improving the environmental performance of companies.

Access to Information Directive (90/313)

The Directive was only transposed into national law in 1995 (Ley 28/1995, BOE 297, 13.12.1995) after Spain had received an Art. 169 Letter by the Commission in 1993 (Commission 1994: 74) for failing to notify measures of implementation.¹¹ Spain, the central state as well as the regions, did not consider it to be necessary to transpose the Directive because of the already existing national legislation (DMA, interview January 1997; MMA, interview March 1997). Art. 105.b) of the Constitution expressly provides that every citizen has the right to have access to files and administrative registers, except where such access could affect national security and defence, criminal investigations or personal privacy. Art. 35 of the General Administrative Procedure Act (Ley 30/1992, BOE 40307, 27.11.1992) recognises the right of the citizens to have access to documents in the course of administrative proceedings, in which he or she is involved. It also gives the citizens the right of access to registers and files held by public authorities in accordance with the Constitution, the instant legislation or any other legislation (Art. 37; cf. De la Torre/Kimber 1997). Therefore, the Spanish government communicated to the Commission that the Directive had

¹¹ Several complaints that the time limit for implementing the Directive had expired without transposal were presented to the Commission, among them a complaint by Greenpeace in February 1993.

been implemented by means of the General Administrative Procedure Act. The complaints to the Commission, however, continued. Greenpeace forwarded another complaint in January 1994. The Commission finally opened an infringement procedure criticising the General Administrative Procedure Act for conflicting with the Directive as it limits access for the citizens to public registers and archives and does not specify a maximum time period for the public administration to respond to requests (three months in the directive) (Commission 1995: 60). Madrid finally agreed to supplement the national law by directly transposing the directive.

The Access to Information Directive has largely not been implemented by the Catalan administration - with the *Department de Medi Ambient* (DMA) being one major exception. Being asked about the impact of the directive upon the information policy of their respective unit, all the interviewees admitted that there have not been any changes (*Departament de Sanitat i Seguretat Social, Junta de Aguas, Junta de Residuos*, interviews January 1997). The reasons given for this passive attitude are twofold: First, openness and transparency have never been part of the administrative tradition in Spain and Catalunya. And second, the very few public requests for information could be handled under the already existing national law. This lack of interest on behalf of the citizens, again, is blamed on a traditionally closed and non-transparent administration not willing to give out information.¹² On the other hand, both environmentalists and consultancies complain about the impossibility of pursuing information from public authorities (KPMG, *Taillers d'Engineries, Martinez, DEPANA*, interviews March 1997). Requests are not answered, „fussy“ excuses are given for not handing out information (such as there is no Xerox machine, or industrial secrets have to be protected), or high fees are imposed. A representative of DEPANA (interview March 1997) even spoke of „state terrorism“. Whereas the Catalan environmentalists seem to have given up (suing the administration takes about three years and involves high costs), the environmentalists at the national level have chosen a confrontational strategy soliciting information as much as possible in order to change the attitude of public administrators (Greenpeace, AEDENAT, interviews March 1997). Besides, Greenpeace filed a complaint with the Spanish Supreme Court against the Ministry of Agriculture, Fishery and

¹² This lack of public interest in information is illustrated by a study of the DMA. Last year, some 3.600 requests for information have been issued falling into the area covered by the directive. 95% of these requests were made by phone, mostly on practical issues of waste disposal, and have not explicitly referred to the right of access to information (unpublished report, 5.2.1997).

Alimentation for not disclosing information on fishery stocks and another complaint with the Commission against Spain for not properly implementing the AI Directive (Greenpeace, interview March 1997). AEDENAT launched a major campaign informing about the Right to Access to Information before the Directive was transposed, and filed a complaint against the *Consejo de Seguridad Nuclear* for denying access to information about a nuclear power plant before the Spanish Supreme Court (AEDENAT, interview March 1997). However, it is agreed that some administrative bodies are more accessible, such as the national and regional Departments of the Environment, Urbanism, Public Works (opposed to Industry, Agriculture, Defence), and the accessibility highly depends on the nature of information requested (KPMG, Taillers d'Engineres, Martinez, DEPANA, Greenpeace, AEDENAT, CODA, ADENA interviews March 1997). The only public administrations at both the national and the regional level which have undertaken some efforts to improve their information policy seem to be the national and regional Ministries of the Environment. The *Department de Medi Ambient* (DMA) of Catalunya has produced various publications and other materials on environmental management in Catalunya. Annual reports are published with statistical data on the quality of the environment in the different sectors. The local authorities and the public media are regularly provided with this kind of information. An informational on-line system (*Sistema d'Informació de Departament de Medi Ambient*) has been put into place in February 1997, which can be accessed from the territorial representations of the *Gene-ralitat* in Barcelona, Girona, Llerida and Tarragona. The DMA has also installed a home page on the Internet including information about policies and activities of the DMA, public and private projects affecting the environment, publications and events on the environment as well as statistical data about the quality of the environment (monitoring data etc.). A „*linea verde*“, a toll-free number for phone requests for environmental information has been recently installed. And the staff of the DMA has been briefed in several sessions about the different measures taken to implement the Access to Information Directive. Nevertheless, most of these measures are not seen to be directly related to the implementation of the Directive (DMA, interview January 1997). And whereas the assessment of the accessibility varies, the interviewees agreed that there has not been any improvement through the Access to Information Directive.

Spain and Catalunya traditionally have a culture of secrecy in the administrative practice, which is hostile to the openness and transparency, the Directive strives to promote. Despite

some national legislation granting the citizens general access to information, the prevailing administrative practice was and is restricting the public access to information. Fundamentally challenging the existing attitudes and practices, the practical application of the Directive would require substantial changes in the administrative system. Through the access to information, societal actors, such as environmentalists or consumers, can gain influence in the policy process, especially in the case of the authorisation of activities with a potentially negative impact upon the environment or the monitoring of compliance with environmental law. These issues can no longer be exclusively 'negotiated' between the public administration and business. Yet, the Directive is not systematically applied by the Catalan administration, and societal actors hardly make use of their right to information.

Environmental Impact Assessment (85/337)

Unlike in other member states, such as France, Greece, Denmark, and Portugal, Spain has implemented the EIA through an independent law instead of integrating it into sectoral legislation such as nature protection. There has been no legal or administrative regulation for a comprehensive EIA in Spain. Like in other member states, however, different sectoral environmental laws and regulations require the assessment of certain environmental impacts of a planned project. The most important predecessor of EIA in Spain is the *Reglamento de Actividades Molestas, Insalubres y Peligrosas* (RAMINP) of 30 November 1961 (*Decreto* 2414/1961; BOE 292, 7.12.1961). This administrative decree, partly modified in 1965, requires a sort of EIA for so called „classified activities“, i.e. activities being annoying, unhealthy and dangerous. In order to get the necessary authorisation for such activities, to be granted by the local authorities, the impact of a proposed project on the environmental conditions relevant to public health have to be assessed and measures must be implemented to remedy such effects.¹³ Yet, the predecessors of EIA in Spain have been primarily oriented towards specific sectors of the environment. This is why the Royal Decree of 1986 transposing the EIA Directive itself characterises in its preface the regulation of EIA in Spain as „fragmented and of marginal value within the sectoral norms at different levels“.

¹³ In the administrative order of the Ministry of Industry of 18 October 1976 on the law on air pollution control (*Orden de 18 octubre de 1976, Prevención y corrección de la contaminación atmosférica de origen industrial*), the notion „evaluación de impacto ambiental“ (EIA) is mentioned for the first time. This order explicitly requires an EIA for the installation of new industrial plants and the modification of existing industrial plants (Art. 2, 1a). The EIA, however, only applies to the aspect of air quality. Finally, the Royal Decree of 15 October 1982 on the recultivation of nature reserves affected by mining activities (*RD 2994/1982, 15 October 1982, Restauración de espacio natural afectado por actividades mineras*), and the law on water quality control of 2 August 1985 (*Ley de Aguas 29/1985, de 2 de agosto de 1985*) also require EIA for planned projects.

RAMINP, for example, requires a far less detailed EIA study¹⁴ and includes only a period of public information of 10 days. The EIA plays only a minor role in the authorisation process. Besides, the limited resources (finance, expertise, logistic) of many municipalities and their policies to promote local industrial development, led to a low efficiency of the RAMINP (DMA, interview January 1997, Martinez, interview March 1997).

The transposition of the Directive into Catalan law (Decreto 114/1988, DOGC 1000, 3,6,1988) came only two years after the transposition by the central state (Real Decreto Legislativo 1302/1986; BOE 155, 30.6.1986). Yet, the national law was only executed in 1988 (Real Decreto 1131/1988; BOE 239, 5.10.1988).¹⁵ Spain has been repeatedly reprimanded by the Commission for not including Annex II (except for headings 1d, 2a, 2c, 2e, 2h-k) into the national transposition norm (Commission 1995: 63).¹⁶ The Spanish government claims that Art. 4 of the Directive leaves it to the discretionary judgement of the member states whether the undertaking of EIA for Annex II projects should be mandatory (Commission 1993: 231). Catalunya, on the other hand, which had simply copied the national legal text in 1988, enacted a second *Decreto* in 1992, taking on the Annex II of the Directive for projects within *espacios de interés natural* (national and nature parcs, which cover 22% of the territory of Catalunya) (Decreto 328/1992, DOGC 1714, 1.3.1993). Administrative changes in Catalunya have been rather small. This is due to the fact that the EIA procedure could be integrated into existing administrative procedures for the implementation of RAMINP complementing them by the steps necessary to comply with the EIA procedure outlined in the Directive. With RAMINP, the local authorities have been responsible for assessing the EIA. However, due to their limited capacities, especially in Catalunya with her many small municipalities, the regional environmental authority has often taken over responsibility for the EIA. In order to incorporate the EIA Directive into the existing administrative procedures, only the unit working on EIA in the DMA was slightly enlarged and some additional steps have been introduced into the procedure. Formally speaking, the EIA Directive is properly applied in Catalunya. However, the EIA is considered to be a merely

¹⁴ RAMINP, however, applies to a wider range of activities and projects than the EIA Directive (including all projects and activities falling under the Annex II of the Directive). It is still in place applying to all those projects not covered by the (regional transposition of the) Directive.

¹⁵ Furthermore, other laws requiring an EIA for specific activities are the Ley 25/1988 on highways (BOE 182, 30.7.1988) and the Ley 4/1989 on conservation of natural areas and wildlife (BOE 74, 28.3.1989).

¹⁶ A reasoned opinion was sent in 1992. The Spanish government had agreed to remedy the matter till 1994, but has not reported to the Commission by the end 1995 (Commission 1996: 365).

political decision. The consultancies negotiate with the DMA on an informal level, which corrective measures would have to be undertaken to receive the EIA declaration (DMA, interview January 1997; Martinez, Taillers d'Engineries, interviews March 1997). Thus, according to an unpublished study of DEPANA, about 90% of the solicited projects receive a positive declaration of the EIA (DEPANA, interview March 1997). This assessment is confirmed by the consultants (Martinez, Taillers d'Engineries, interviews March 1997). Hardly any industrial or public works projects are turned down. Most of the cases of negative declaration involve projects for sports harbours and alike. A negative declaration is only issued if the EIS contains flaws not to be ignored, or in the very few cases where there is some major public opposition against the project. Substantial corrective measures are usually only imposed on private projects (Escobar 1993). Environmental concerns are only taken into account when pursued by the consultants, of whom some are member of DEPANA, and try to „sell“ environmental measures as cost-reducing means to their clients (Martinez, Taillers d'Engineries, interviews March 1997). Alternatives are not seriously considered in many cases (Commission 1993: 237). The 'Null-Alternative' is never taken into account, i.e. the purpose of the project itself is never challenged (DMA, interview January 1997; Martinez, Taillers d'Engineries, DEPANA, interviews March 1997). Besides, the DMA has only a limited capacity for assessing the EIS. In the area of industrial activities, only two persons are responsible for the assessment of all EIS in Catalunya (about 70 per year).¹⁷ And the EIA declaration has to be issued within 30 days, which does not leave time for a detailed review of the EIS. In addition to the limited capacity and a lack of environmental concern on behalf of the regional administration, another problem is that many projects do either not ask for authorisation at all or only after already being implemented. The involvement of the public in general and environmentalists in particular in the EIA process is very low.

The precautionary problem-solving approach of the EIA Directive and its principle of procedural regulation, also involving some communicative elements, challenge existing administrative practices in the authorisation of activities carrying a potentially negative impact on the environment. Although the EIA is not new to the Catalan administration and could be incorporated into the already existing administrative procedures, there have been

¹⁷ Non-industrial projects are dealt with in a different division (Servei de Protecció de l'Entorn Natural, Secció d'Avaluació i Control de l'Impacte). Those projects mostly (80%) relate to the mining of rocks and gravel, which used to be dealt with by this DMA division already under the pre-existing legislation. Additional EIA projects include gulf courses, sports harbour, camping sites, restaurants etc..

some changes in the administrative system. First, the regional administration has been empowered at the expense of the local level. The DMA now deals with the evaluation of most projects formerly subject to the RAMINP and thus under the responsibility of the municipalities. Besides, the DMA has gained political weight in the authorisation process vis-à-vis the sectoral administrative bodies, as the positive EIA declaration is an obligatory requirement for authorisation. Finally, what might be more significant in the long run, is that the authorisation process seems to become more open for societal actors. This is due to two factors: 1) the inclusion of private consultants in the EIA process, who can serve as intermediates between economic and environmental interests, 2) the existence of informal relations between the administration, the environmentalists and other NGOs, business, consultants, and politicians. Public participation in the EIA procedure is usually low. Yet, in (the rare) cases in which there is some public mobilisation against a project, the administration activates these relationships in order to resolve the conflict at an informal level. This 'ad-hoc problem-solving' in policy networks provides societal actors, such as environmentalists, with 'occasional' access points to the policy process.

Integrated Pollution Prevention and Control (96/61)

The IPPC Directive is the most recent policy of those included in this study. It was only passed in September 1996. Therefore, the following assessment can merely be tentative. It is largely based on information given „off the record“ during the interviews. Nevertheless, the IPPC should be mentioned here, as it is one of the few EU environmental policies carrying a direct and almost unavoidable pressure for adaptation, which is equally recognised by both the administrations at all levels of government and societal actors such as industry and environmentalists. The precautionary, technology based problem-solving approach and the procedural regulation does not only challenge the prevailing approaches at the national and regional level. The Directive is believed to have a direct, „almost revolutionary“ (MMA, interview March 1997) effect on the administrative structures, especially with regard to the relations between the central state and the regions. The Directive obliges the decentralised member states to coordinate the administrative procedures for environmental authorisation. In Spain, this will require a major effort of coordination between the national, regional and local level. Catalunya has already drafted a proposal for transposing the Directive into regional law. With regard to the local level, it is a clear attempt to centralise the authorisation

process at the regional level as the DMA is supposed to grant one integrated environmental authorisation for all classified activities. This would be a substantial empowerment of the DMA, because so far, the DMA has only a minor role in authorising such activities (DMA, interview January 1997). The own experience of the Catalan administration with the IPPC as an effective device for centralisation renders the application of the Directive in the central state-CCAA relations a delicate issue. There are practically no effective vertical mechanisms which could be used to coordinate the activities of the national and regional administrations in the authorisation process (MMA, interview March 1997). The MMA is currently negotiating with the different CCAA on a bilateral level in order to reach a consensus for a coordination framework. The implications for the horizontal dimension of the administrative structures might be less significant in Catalunya. The Catalan administration plans to integrate the necessary intra-administrative coordination procedure into the structures existing for the declaration of the EIA (DMA, interview January 1997).

III. Why Europe Does not Matter So Much

The aim of this empirical study was to explore the relationship between Europeanisation and domestic change. The implementation of EU environmental policy in Catalunya was taken as an example to analyse how European policies may affect the domestic structures of a member state.

Six ways can be identified in which the Catalan administration has implemented the eight EU environmental policies. A seventh (patching-up) is added from the literature which does not apply, however, to the Catalan case so far:

1. *non-implementation*: the EU policy is neither transposed nor practically applied and enforced, like in case of the Framework Directive for Industrial Plants.
2. *absorption*: the EU policy are simply integrated into the existing legislative and administrative system, like in case of Drinking Water Directive.
3. *incorporation*: the implementation of the EU policy leads to the establishing of new institutions, new procedures and/or new policies, which are, however, integrated into the existing legislative and administrative system, like in the case of Urban Wastewater

Treatment Directive, the Eco-Audit Regulation and Incineration of Hazardous Waste Directive.

4. *superficial implementation*: the EU policy is transposed into national/regional legislation, i.e. formally implemented, but no practical measures are invoked to practically apply and enforce the policy (allocation of resources, setting-up of administrative procedures), like in the case of Access to Information and the Large Combustion Plants Directive.
5. *patching-up*: for the implementation of the EU policy, new measures, procedures, institutions are added to the already existing arrangements without replacing them (Héritier et al. 1996: 335).
6. *adjustment*: existing administrative structures and practices are adjusted or modified to implement the EU policy, like in the case of EIA Directive.
7. *transformation*: existing administrative structures and practices are removed or substituted to implement the EU policy, leading to „tangible changes“ (Héritier et al. 1996: 335) in the domestic structures of the member state, which might possibly be the case for the Integrated Pollution Prevention and Control Directive.

Whereas non-implementation, absorption, and incorporation do not carry any potential for changes in the domestic structures (*no change*), patching-up and adjustment may gradually lead to some *changes within the domestic structures*, i.e. changes which do not alter the underlying principles the administrative structure and/or the patterns of administrative interest intermediation of a member state are based on. Only transformation affects the domestic structures of a member state in a way that they might become substantially changed (*change of domestic structures*), i.e. the underlying principles of the administrative structure and/or the patterns of administrative interest intermediation are changed.

The possible effects of European policies on the domestic structures of the member states can be placed on a continuum taking no change as one end and change of domestic structures as the opposing end:

Figure 2: Continuum of Change

non-implementation	absorption	incorporation		patching-up	adjustment	transformation
	<i>no change</i>			<i>change within</i>		<i>change of</i>
				<i>domestic structures</i>		

According to the criteria for change applied in this paper, the impact of the eight EU environmental policies upon the administrative structure and administrative interest intermediation in Catalunya is relatively low. The findings of the case study are summarised in the following two tables:

Figure 3a: Effectiveness of Implementation and Changes in Administrative Tradition in Catalunya: Drinking Water, Urban Wastewater Treatment, Incineration of Hazardous Waste, Large Combustion Plants

	Drinking Water (80/778)	Urban Wastewater Treatment (91/271)	Incineration of Hazardous Waste (94/67)	Large Combustion Plant (84/360; 88/609)
Implementation Problems a) transposition b) practical application and enforcement	apparently none but: suspected problems of monitoring through local authorities due to lack of resources	no problems, Catalunya strives to be 7 years ahead in implementation	a) Central state not transposed yet, Catalunya transposed already proposal of directive and imposed stricter standard b) too early to tell	a) 84/360 not transposed b) 88/609 not fully applied yet due to derogation; nuclear power plants
Changes in Administrative System a) administrative structure b) patterns of administrative interest intermediation	ABSORPTION NO CHANGE	INCORPORATION NO CHANGE	INCORPORATION NO CHANGE	SUPERFICIAL IMPLEMENTATION NO CHANGE

Figure 3b: Effectiveness of Implementation and Changes in Administrative Tradition in Catalunya: Eco-Audit, Access to Information, Environmental Impact Assessment, Integrated Pollution Prevention and Control

	Eco-Audit (1836/93)	Access to Infor- mation (90/313)	Environmental Impact Asses- sment (85/337)	Integrated Pollu- tion Prevention and Control (96/61)
Implementation Problems a) transposition b) practical appli- cation and en- forcement	a) properly trans- posed b) hardly applied due to high in- vestment costs (very often analysis but no attempt for registration) and existence of ISO 14001 and UNE (less demanding and less expensive); in Catalunya only one regis- tration	a) only transposed in 1995 after Art. 169 letter b) varies across sectors and ac- cording to na- ture of infor- mation, but in general: very reluctant due to prevailing ad- ministrative attitude hostile towards open- ness and trans- parency	a) transposed by central state without Annex II (in Catalun- ya; Annex II partially ap- plicable) b) EIA declara- tion is a politi- cal decision, i.e. environ- mental con- cerns of little relevance; not sufficient staff to evaluate EIA studies	not transposed yet
Changes in Ad- ministrative Sys- tem a) administrative structure b) patterns of administrative interest inter- mediation	INCORPORA- TION NO CHANGE SO FAR	SUPERFICIAL IMPLEMENTA- TION NO CHANGE	ADJUSTMENT CHANGE WITHIN DO- MESTIC STRUC- TURES	POTENTIAL TRANSFORMA- TION POTENTIAL CHANGE OF DOMESTIC STRUCTURES

In the cases of Drinking Water, Incineration of Hazardous Waste, Urban Wastewater Treatment, and Large Combustion Plants, one would not expect any changes due to the lack of external pressure for adaptation. Those policies have been integrated into the administrative system. For the Framework Directive for Industrial Plants, Access to Information, Eco-Audit, EIA, and IPPC, however, the pressure for adaptation is considerable. But actual changes in the administrative structure and the patterns of administrative interest intermediation could hardly be observed. Where absorption or incorporation is not possible, like in the case of the Framework Directive of the LCP and the Access to Information Directive, these policies are not or only superficially implemented. In case of the EIA Directive, there are some changes,

but those are rather incremental and not systematic (yet). In how far the implementation of the IPPC Directive will lead to changes within or even of domestic structures can only be speculated about.

Hence, the first main conclusion which can be drawn from the case study is that external pressure for adaptation, arising from the divergence between European and domestic problem-solving approaches and policy instruments, is not enough to trigger domestic change. Or, to put it differently, external pressure for adaptation is only the necessary but not the sufficient condition for domestic change. In general, public administration strives first to integrate a new EU policy into the existing policy-making system. If this is impossible, due to the incompatibility of domestic problem-solving approaches and policy instruments and those entailed in the EU policy, the policy is not or only superficially implemented. Only if the external pressure is complemented by a *domestic pressure for adaptation*, i.e. there are domestic actors who take up the EU policy and pressure the administration to put it into practice, the administration is practically implementing the policy, which then leads to changes in the administrative structure and/or patterns of administrative interest intermediation. The EIA Directive is a case in point to illustrate the relevance of domestic pressure for adaptation to trigger domestic change. The occasional opening-up of the authorisation process for societal, non-economic interests, to be found as a result of the practical application of the EIA Directive, only occurs if social actors mobilise against a project to be authorised. The EIA then provides those actors with a possibility to effectively voice their objections. In such cases of public opposition, the administration starts consulting these societal actors on an informal level, activating existing policy networks, in attempt to resolve the conflict. A similar argument could be made for the IPPC Directive. Here, there is high external pressure for adaptation, which is currently taken up by the central state administration (internal pressure), which strives to use the IPPC to introduce some mechanisms of vertical coordination. The contrasting case is the Access to Information Directive, where there is also high external pressure for adaptation but no domestic actors pushing the Catalan administration to put the Directive into practice. The Directive is practically not applied and no changes occur.

The two cases of the EIA and the IPPC directive draw the attention to a second factor which might be relevant for explaining domestic change as a result of Europeanisation. In case of

the EIA, the lack of *systematic* domestic pressure allows the administration to accommodate the occasional domestic pressures through falling back on a sort of ‘ad-hoc problem-solving’ at the informal level, without having to change its general patterns of administrative interest intermediation by systematically opening-up the authorisation process for third parties. In the implementation of the IPPC Directive, on the other hand, the Catalan administration will not be able to resort on existing (in)formal structures to accommodate internal pressure. There are neither formal mechanisms of vertical coordination nor networks, which could provide the necessary framework for coordinating. Hence, unlike in the case of EIA, the implementation of the IPPC could lead to some substantial changes in the relationship between central state and regional level of government. In other words, the existence of administrative *slack*, i.e. additional resources, such as finance, expertise, competencies (material slack), as well as informal relationships with societal actors (relational slack), may play an important role in accounting for the differing degrees of domestic change.

Finally, a third conclusion, which can be drawn from the case study, refers to the ambitious implementation of some EU environmental policies such as the Urban Wastewater Treatment, the Incineration of Hazardous Waste and the Eco-Audit Regulation. Here, the Catalan administration pursues a clear *institutional self-interest* of consolidating and expanding its competencies with the goal to present itself as a model region in Spain and in Europe (strategy of *state-building*). This goes hand in hand with an attempt to use EU environmental policies to centralise competencies and functions at the regional level at the expense of the municipalities, which can be observed in the case of the EIA and the proposal for the implementation of the IPPC Directive.

These considerations, based on the findings of the empirical case study, lead to the following model of Europeanisation and domestic change:

Figure 4: Model of Europeanisation and Domestic Change

EU: *problem-solving approach and policy instruments challenging domestic approaches and instruments*

**EXTERNAL PRESSURE
FOR ADAPTATION**

ADMINISTRATIVE SYSTEM

- Administrative Structure
- Administrative Interest intermediation

SLACK
INSTITUTIONAL
SELF-INTEREST

- 1) NO CHANGE
- 2) CHANGE WITHIN
DOMESTIC STRUCTURES
- 3) CHANGE OF DOMESTIC
STRUCTURES

**DOMESTIC PRESSURE
FOR ADAPTATION**

MS: *social mobilisation in favour of EU policy*

The major hypothesis about the relationship between Europeanisation and domestic change, following from this model, is that changes in the domestic structures of a member state can only be expected if the external pressure for adaptation, entailed in an EU policy, is complemented by a domestic pressure, i.e. domestic actors take-up the EU policy and push the administration to put it into practice. The degree of change, then, depends on the amount of slack, the administration disposes of to accommodate the pressures for adaptation. Changes induced in the absence of any pressure for adaptation can be explained by the interest of the administration to increase its institutional power vis-à-vis other actors.

IV. Neither Strengthening, nor Weakening, nor Transformation of the State

The aim of this paper was to explore the relationship between Europeanisation and domestic change. In order to analyse the ways in which European policy-making can impact upon the domestic structures of a member state, a case study was done on the implementation of EU environmental policy in Catalunya. Eight EU environmental policies, involving different degrees of incompatibility with domestic problem-solving approaches and policy instruments, were chosen to examine how the Catalan administration responded to the different levels of pressure for adaptation. The overall finding of the case study is that, indeed, Europeanisation does not make much of a difference. There are hardly any changes in the administrative

structure and the patterns of administrative interest intermediation to be found in Catalunya. This is rather surprising if the quite considerable external pressure for adaptation is taken into account. Yet, EU policies which prove to be difficult to be integrated into the existing domestic structures are usually not or only formally implemented. The overall conclusion of the empirical case study is that external pressure for adaptation is only a necessary condition for domestic change. Only if there are domestic actors who take up the EU policy, pushing the administration to put it into practice, domestic change should be expected. The degree of change, then, depends of the amount of slack, the administration can resort to, to accommodate the pressure for adaptation. According to this model of Europeanisation and domestic change, profound changes in the domestic structures of the member states are both far less likely and far more diverse than often suggested in the literature.

It is fully recognised that the hypothesis put forward in this paper is developed on the basis of an empirical study on a very specific case. Nevertheless, its line of reasoning does not only apply to the implementation of EU environmental policy in a Spanish region. It can be easily transferred to other policy areas and other member state. This paper ends with a plea for more careful empirical research on the effects of Europeanisation on the domestic structures of the member states which goes beyond the rather simplifying debate about the strengthening, weakening and transformation of the state.

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Annex I: List of Abbreviations

ADENA	Asociación para la Defensa de la Naturaleza (WWF)
AEDENAT	Asociación Ecologista para la Defensa de la Naturaleza
AENOR	Asociación Española de Normalización
AGBAR	Aguas de Barcelona (Catalunya's biggest water company)
AI	Access to Information
BOE	Boletín Oficial de España (Spanish Official Journal)
CA	Comunidad Autónoma (autonomous region)
CAMA	Consejo Asesor de Medio Ambiente
CCAA	Comunidades Autónomas (autonomous regions)
CCIAC	Comisión Central de Industrias y Actividades Clasificadas
CEOE	Confederación Española de Organizaciones Empresariales (Confederation of Employers Organizations)
CODA	Confederación Española de la Defensa Ambiental
DEPANA	Liga per la Defensa del Patrimoni Natural
DMA	Departament de Medi Ambient (Catalan Ministry of the Environment)
DOGC	Diario Oficial de la Generalitat de Catalunya (Catalan Official Journal)

EIA	Environmental Impact Assessment
EMAS	Eco-Management and Audit Scheme
ENAC	Entidad Nacional de Acreditación
LCP	Large Combustion Plants
MMA	Ministerio de Medio Ambiente (Spanish Ministry of the Environment)
RAMINP	Reglamento de Actividades Molestas, Insalubres y Peligrosos
RD	Real Decreto (Royal Decree)
D	Decreto (Decree)
DG	Dirección General
UGT	Union General de Trabajadores
UNE	Una Norma Española

Annex II: List of Interviews

- representatives of the regional administration responsible for the implementation of the different EU environmental policies
 - Departament de Medi Ambient:
 - a) Relaciones Internacionales (International Relations)
 - b) Servicio Legal (Legal Service)
 - c) Direcció General de Promoció i Educació Ambiental (AI)
 - d) Direcció General de Qualitat Ambiental, Servei d'Activitats Classificades, Secció d'Avaluació d'Impacte Ambiental (EIA)
 - e) Direcció General de Patrimoni Natural, Servei de Protecció de l'Entorn Natural, Secció d'Avaluació i Control de l'Impacte (EIA)
 - f) Direcció General de Qualitat Ambiental, Subdirecció General de Prevenció i Qualificació Ambiental, Servei de Recerca i Qualificació Ambiental (Eco-Audit)
 - g) Direcció General Qualitat Ambiental, Servei de Protecció de l'Ambient Atmosfèric, Secció de Control d'Emissions (LCP)
 - Junta de Sanejament
 - Junta de Residuos
 - Departament de Sanitat i Seguretat Social:
 - a) Direcció General de Salut Pública
 - b) Servei de Sanitat Ambiental
- representatives of the municipalities
 - Federació de Municipis de Catalunya
 - Entidad Metropolitana del Medio Ambiente
- representatives of the Province of Barcelona: Diputació de Barcelona
- representatives of the central state administration
 - Ministerio de Medio Ambiente, Gabinete de la Ministra
 - Ministerio de Medio Ambiente, Secretaría General Técnica, Area de Comunidades Autonomas
- representatives of the Catalan environmentalists: DEPANA
- representatives of national environmentalists:
 - Greenpeace
 - ADENA (WWF)
 - AEDENAT

- CODA
- representatives of consultancies doing EIA and Eco-Audit
 - KMPG
 - Tailler d'Engineries
 - Eduardo Martinez
- representatives of the „target group“ of the EU policies:
 - Combustion Plants (FECSA, BESOS)
 - AGBAR (drinking water supply)
- representatives of the „social partners“
 - Employers' Association
 - a) CEOE (Madrid)
 - b) Fomento de Trabajo (Barcelona)
 - Trade Union: UGT (Barcelona)