

Governance of biodiversity in Poland before and after the accession to the EU: the tale of two roads

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SUMMARY

Accession of the Central and Eastern European countries to the European Union involved considerable institutional changes in the field of environmental governance that undermined existing policy practices. Such changes in biodiversity governance are examined through two case studies from Poland concerning road development schemes in ecologically sensitive areas. Documentary material and semi-structured interviews are analysed and interpreted in light of the policy arrangement approach and historical institutionalism. After the EU accession there was a rapid shift from a government-monopolized arrangement towards a multi-level governance arrangement with regard to conflicts between infrastructure and natural areas. Previously, the government controlled practically all aspects of environmental policymaking, despite potential routes for greater involvement of non-state actors. Only the formal rules of Natura 2000 and environmental impact assessment, guarded by a coalition of powerful supranational bodies, non-governmental organizations and scientists, changed the pattern of governmental policy-making. New policy arrangements have increased capacity and legitimacy in the implementation of the European Union rules.

Keywords: Central and Eastern Europe, conservation, institutional change, Natura 2000, policy arrangement

INTRODUCTION

In the past 20 years, Poland and other countries of Central and Eastern Europe (CEE) have undergone two major socioeconomic transformations. In 1989, they began the process of democratization and transition to a market economy after half a century of communist rule, and in 2004, most CEE countries became members of the European Union (EU). Both transformations significantly influenced environmental policies in these countries, including formal and informal rules of policymaking, the actors in power and prevailing discourses. This paper examines the process of transition from

government-monopolized decision-making on biodiversity conservation to a more inclusive arrangement involving supra-national, sub-national and non-governmental actors in Poland.

The literature on multi-level governance (MLG) shows a growing complexity of environmental policy-making around the world (see for example Jordan 1999; Weale *et al.* 2000). In the area of biodiversity conservation, this has involved a more heterogeneous set of actors, diverse modes of participation, redefinition of policy problems (for example a new discourse of biodiversity) and new legal instruments (such as the Convention on Biological Diversity) (Keulartz & Leistra 2008; Newig & Fritsch 2009; Paavola *et al.* 2009).

In the European Communities, the adoption of the Birds Directive (79/409/EEC, see URL http://ec.europa.eu/environment/nature/legislation/birdsdirective/index_en.htm) and the Habitats Directive (European Community Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora 92/43/EEC, see URL http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm) was accompanied by controversies concerning the competence of the EU in wildlife protection (Baker 2003). A discursive coalition of the Directorate-General (DG) for the Environment of the European Commission (EC) and environmental non-governmental organizations (NGOs) active at the EU level played a key role in drafting the Habitats Directive (Weber & Christophersen 2002). Consequently, European legislation on biodiversity conservation went much further than anticipated by the member states (Fairbrass & Jordan 2001). The power of national governments was dispersed vertically towards the supranational bodies and sub-national levels, and horizontally towards non-state actors. However, this transition did not entail a shift from the use of command-and-control regulation and top-down hierarchical decision-making, based on governmental domination, towards more inclusive bottom-up approaches engaging non-state and local actors on par with governmental actors (Jordan *et al.* 2005). On the contrary, both directives were implemented by state governments, and with only limited public consultations (Wurzel 2008). As a result, the creation of Natura 2000 (N2000) was delayed, and involved conflicts with local communities, land-owners and managers (Paavola 2004).

In CEE, these processes had a different starting point from that in Western Europe and they ran parallel with wider

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socioeconomic transformations. Adoption of EU rules was carried out *en masse* within several years, rather than evolving as it did in Western Europe. Similarly to other policy areas in post-socialist countries, biodiversity conservation had a legacy of government-dominated policymaking, dependent on hierarchical control, expert domination and absence of public involvement (Tickle & Clarke 2000). However, unlike other policy domains, where democratization gradually opened access to policymaking, biodiversity governance remained relatively closed (Grodzińska-Jurczak & Cent 2011). Less centralized legal provisions of biodiversity conservation were not fully implemented, ignored, followed 'pro forma' or, if applied, caused conflicts between interest groups, state and non-state actors or between state-actors themselves (Lawrence 2008; Kluvánková-Oravská *et al.* 2009). Among policy-makers, economic interest was prioritized over environmental concerns (Hallstrom 2004), and biodiversity conservation was perceived as a potential hindrance to economic development (Ryan 2006).

Socioeconomic transformations in CEE make the shift from government to MLG likely, but the mechanisms of transition remain unclear. We aim to fill this gap by combining insights from the literature on MLG, institutional stability and change, and the policy arrangement approach (PAA) to analyse the shift to a biodiversity conservation arrangement in Poland that was more inclusive with respect to resolution of conflicts between protected areas and infrastructure development. The paper provides evidence of critical institutional changes in biodiversity conservation by examining conflicts over road projects in the ecologically sensitive areas of St Anne's Mountain and Rospuda River Valley. The conflicts, occurring before and after Poland's EU accession respectively, were resolved in differing ways, revealing the factors that are critical to changing modes of policy-making. The Rospuda Valley conflict was a catalyst for a rapid shift from the top-down command-and-control arrangement monopolized by the government, which dominated the St Anne's Mountain conflict, to a multi-level arrangement with some level of participation and increased bottom-up sensitivity. New organizational structures dealing with biodiversity-infrastructure conflicts increased the capacity and legitimacy of the decision-making. A combination of new EU rules and discourses guarded by powerful supranational bodies and the active role of NGOs was crucial for the transformation.

METHODS

Analytical strategy and materials

In our analysis, we draw from the concept of historical institutionalism (Steinmo *et al.* 1992), which focuses on the establishment, maintenance and adaptation of institutions, understood as 'the rules of the game in the society' (North 1990). It seeks to explain these processes by interactions of actors with different resources, power and ideas (Sanders 2002). Institutional change is path dependent; initial choices

in a policy area will have a crucial effect on subsequent policy choices, often with unintended consequences. Created patterns will persist, until 'external punctuation' overcomes the 'path' created at the initial step of the policymaking (Peters *et al.* 2005).

For the analysis we also employed the PAA (Arts & Leroy 2006) which seeks to explain policy dynamics using a concept of 'policy arrangement', the way in which a certain policy domain is shaped in terms of organization and substance. A policy arrangement has four analytical dimensions: 'discourses', 'rules', 'actors' and 'resources'. It is under a constant pressure of change from day-to-day interactions and policymaking, structural changes and relations between state, markets and civil society, changes in adjacent policy arrangements and external events that affect the socioeconomic or environmental context of policymaking (Arts & Leroy 2006).

The description of the cases is a synthesis based on available primary and secondary written sources (such as legal acts, books, reports, newspaper articles and web pages). It also uses the data from 35 semi-structured interviews with actors involved in the conflicts, who were identified using written data and respondents' suggestions. Interviews were carried out in order to triangulate written data, supplement the storyline and improve the description of the PAA dimensions. Interviewees included members of local communities (10), NGOs (6), local authorities (6), road engineers (4), regional officials (3), politicians (3), a scientist, a forester and a protected area officer. The interviews were anonymous, conducted in a face-to-face manner and included questions covering four PAA dimensions. They were carried out between January 2010 and April 2011, recorded, transcribed and coded using QSR NVivo software (see <http://www.qsrinternational.com/>).

Study areas

The Landscape Park of St Anne's Mountain (LPSAM, *Park Krajobrazowy 'Góra św. Anny'*) includes the western part of the Silesian Upland, stretching 20 km in length and 5 km in width from north-west to south-east (Fig. 1). The highest point of the western part of the upland is St Anne's Mountain (*Góra św. Anny*), reaching 404 m above sea level, which, together with its surroundings, also forms a N2000 Special Area of Conservation (SAC). The Park is divided by the A4 motorway, construction of which led to major ecological protests in Poland in the 1990s.

Rospuda is an 80-km long river in north-east Poland (Fig. 2). In the western part of the Augustów Forest, the Rospuda channel forms a deep peat bog valley (Jabłońska *et al.* 2011) that hosts a number of endangered species of fauna and flora and, together with the whole of Augustów Forest, comprises a N2000 Special Protection Area (SPA) and SAC. It became the main obstacle for constructing the expressway Via Baltica connecting Helsinki, the Baltic States and Poland.

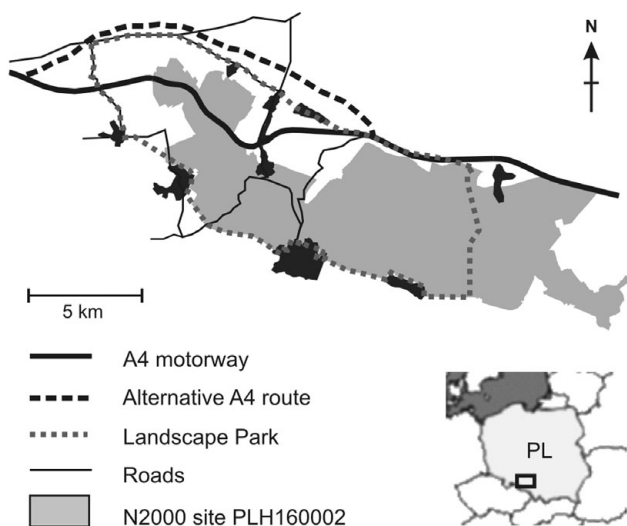


Figure 1 The Landscape Park of St Anne's Mountain (south Poland) and the planned routes of the A4 motorway.

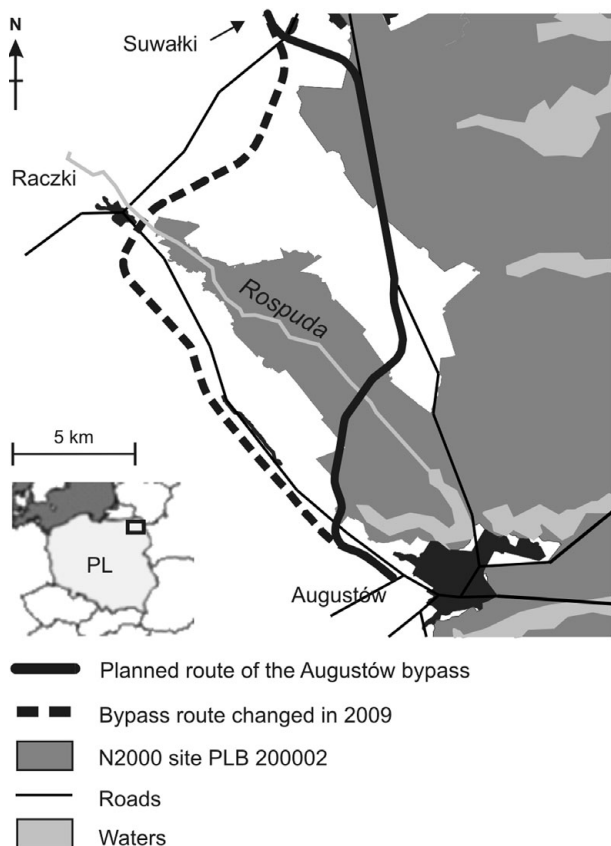


Figure 2 The Rospuda River (north-east Poland) near its mouth, and the planned routes of the Augustów bypass.

RESULTS

The case of St Anne's Mountain

Planning, land acquisition and construction of the motorway through St Anne's Mountain started in the 1930s, when the

area belonged to Germany (Dubel 1990). After the war, the project was largely dormant until the 1990s. In the late 1980s, a group of regional scientists promoted the establishment of the LPSAM (Turwid 1990). They also proposed an alternative northern motorway bypass of the LPSAM that would cross intensively used agricultural land of several villages (Dubel 1990). The change of routing was mainly opposed by local farmers, who did not want their land to be expropriated and cut by the motorway (Turwid 1990). The LPSAM was accepted by highest level of regional authority in 1988 (Voivodship National Council in Opole 1998). An environmental impact assessment (EIA) of both proposed motorway routings was carried out in 1990; it was critical of the original routing but concluded that an optimal solution did not exist and that the final decision should be left to regional governmental and self-governmental authorities (Instytut Ochrony Środowiska 1990). Decision makers did not want to stir social unrest and, as the original routing was also supposed to be less costly and quicker to realize, they finally selected it for implementation (Interview with Polish politician, personal communication 2011).

Construction of the motorway section crossing the LPSAM started in 1997. Before that, the Opole Voivoda (the highest level of government in the Opole region; see URL http://www.paiz.gov.pl/polish_regions/voivodships/ for a definition) decided to mark off a 500-m wide strip of land from the LPSAM for its construction (Dubel 1998). The investor was a governmental agency, the General Directorate of Public Roads, later renamed the General Directorate of National Roads and Motorways (*Generalna Dyrekcja Dróg Krajowych i Autostrad*, here referred to as GDDKiA).

In February 1998, a group of NGOs formed the 'Coalition for St Anne's Mountain' to change the location of the motorway (WAB [Workshop for All Beings] 1998). The Coalition started a campaign against the construction plans. The key protests took place in May and June 1998, and were directed at the Opole Voivoda who, according to the protesters, could still change the routing. NGOs proposed a comprehensive public EIA consultation to consider potential routes. The activists, including some from the UK and Germany, organized a protest camp on the planned route of the motorway within the LPSAM. During the 40-day demonstration, there were repeated clashes with construction workers and private security guards who were trying to log the trees and prepare the site for development, as well as negotiations with the Opole Voivoda (Swolkień 1998).

To increase the pressure on the government, the NGOs organized demonstrations in various parts of Poland and appealed to the European institutions. The vice-president of the Green Group in the European Parliament, Inger Schrling wrote a letter to the Polish Minister of the Environment, expressing concern over the situation in the LPSAM. She indicated the motorway location was inconsistent with European standards and suggested halting the works until the full EIA of alternative routes had been executed. She also highlighted that some of the funds for the motorway

came from the EU, and validity of their use should be reconsidered (Schrling 1998). A number of organizations and private individuals wrote open letters to the authorities supporting the protesters; however, these initiatives had no effect. The activists were eventually removed by force by the police (Grzeszak 1998). The construction works continued and the motorway was completed in 2001.

Both the Opole Voivoda and the NGOs regarded the outcome of the conflict a success (Grzeszak 1998). The former argued that the conflict had been resolved without yielding to the demands of protesters. The latter claimed that they had succeeded in turning public attention to the environmental threats of motorways, and demonstrated that neglecting nature conservation would involve additional costs. The NGOs argued that they had gathered experience in organizing protests and new social networks.

In April 2004, recognizing its importance for the conservation of biodiversity at a regional scale, the Polish government officially designated St Anne's Mountain as a SAC. In 2007, the SAC was included in the N2000 (Commission Decision 2008/25/WE, URL <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:012:0383:0677:PL:PDF>); this covers 5174 ha and includes a 30-km section of the A4 motorway.

The case of the Rospuda Valley

The development of the Via Baltica expressway project commenced in 1988 (Kuijken 2003). There were two possible routes for the road through north-east Poland, one through the town of Białystok, crossing a national park and a landscape park, and one through the town of Łomża (Fig. 3). The latter route was promoted by environmental NGOs. In 2001, the former route was endorsed by the government. One of its sections was to cross the Rospuda valley and divert heavy traffic from the town of Augustów. NGOs challenged the government's decision by taking legal actions and starting a public campaign (WAB 2009). They submitted a complaint to the Council of Europe accusing Poland of violating the Bern Convention of 1979 (see http://europa.eu/legislation_summaries/environment/nature_and_biodiversity/128050_en.htm) and highlighting the lack of strategic environmental assessment (SEA) and EIA. In response, the Bern Convention Standing Committee adopted recommendation 108/2003, requiring an environmental evaluation of alternative variants. This was accepted by the GDDKiA.

In May 2004, Poland joined the EU, and the Rospuda valley became a SPA. The NGOs also included it into their 'shadow list' as a SAC (WAB 2009). The new legal situation made the GDDKiA commission a new EIA for the Augustów bypass, which was carried out in 2004–2005. The EIA was executed when the construction of the preferred variant had already been prepared for and most of the needed land acquired. The same variant was again chosen because of its lower costs (SISKOM [Stowarzyszenie Integracji

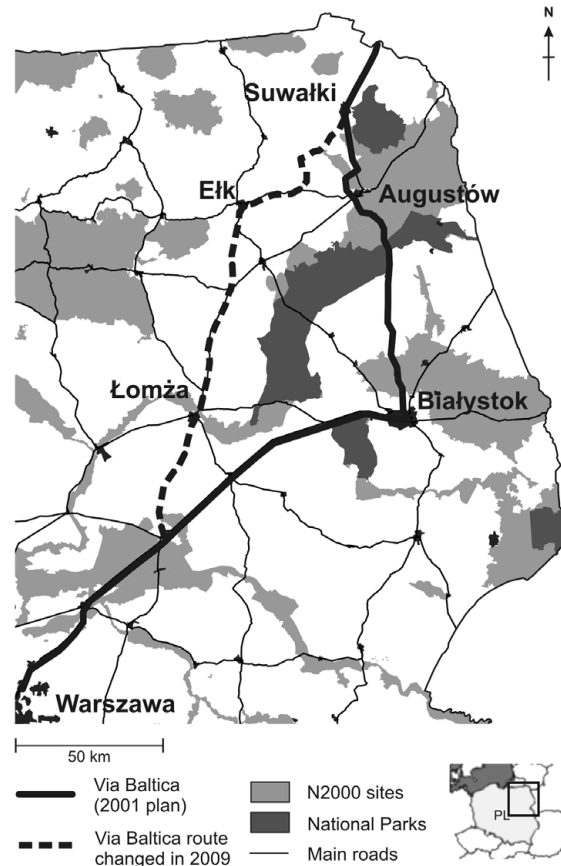


Figure 3 Alternative routes for the Via Baltica express road (north-east Poland).

Stołecznej Komunikacji] 2012). Based on the EIA, the GDDKiA applied for permission to construct the Augustów bypass through the N2000 area. This was challenged by the NGOs, which criticized the EIA. However, the Minister of the Environment gave his consent to the scheme; this decision was again subject to a legal challenge by the NGOs (WAB 2009). In February 2007, the construction site was handed over to a construction company. In response, a major Polish daily prepared a petition to the President of Poland signed by more than 150 000 people, requesting the process be halted (Gazeta Wyborcza 4 August 2006, URL <http://wiadomosci.gazeta.pl/wiadomosci/0,74178,3491896.html>). NGOs organized a protest camp on the planned route of the bypass, widely reported by media, accompanied by picket lines in several Polish towns and public wearing of a green ribbon as a sign of support for protection of the valley.

The whole Via Baltica routing was challenged by NGOs in June 2005, who filed a complaint to the EC accusing the Polish government of violating EU law during the road planning (Bohdan 2006). Following the complaint, the NGOs had been keeping the EC informed about the situation on the ground. They also wrote complaints to the European Parliament, which sent its representatives to investigate the

conflict (Committee on Petitions 2007). In December 2006, the EC opened an EU law infringement procedure against Poland. Despite this, in February 2007, the first geodetic surveys started in the section of the Via Baltica crossing the Rospuda Valley.

In March 2007, the EC took Poland to the European Court of Justice (ECJ) over the construction of the Augustów bypass through the Rospuda Valley (EC 2007). In the meantime, NGOs managed to overrule the Minister's approval for the bypass construction (Warsaw Administrative Court's ruling No. IV SANVa 2319/06, URL <http://siskom.waw.pl/rospuda/WSA-210407.pdf>). According to the court, the implementation of European legislation overrode earlier legal barriers to changing the routing. Despite this, the Ministry of Transport informed the EC that the construction works would continue as planned. When the EC asked the ECJ to issue a stopping order, the Polish Prime Minister announced that the construction of the 6-km section of the Augustów bypass within the N2000 site would not start until the ECJ's ruling (WAB 2009). This declaration was followed by protests from Augustów dwellers in front of the EC's and Greenpeace's premises in Warsaw, demanding the bypass be built immediately to decrease the heavy truck traffic through the town. The construction of the 11-km section of the bypass outside of the N2000 site continued.

Following the administrative court's ruling, the construction permit of the Augustów bypass was repealed in December 2008 (Frey 2008). In October 2007, after the party in power had lost general elections, a new Minister of the Environment proposed convening a 'roundtable' of experts, local and regional authorities, the GDDKiA and NGOs to discuss the best solution for the Rospuda Valley (Anon. 2008). The Minister, Polish members of parliament, the Podlasie Voivoda and a representative of the EC were to be observers. During meetings organized between January and June 2008, the round table decided to prepare a new EIA. They agreed that at least three variants should be taken into consideration and proposed criteria for their evaluation (SISKOM 2012).

The new EIA of the Augustów bypass was ready in February 2009. It showed that the GDDKiA's variant was environmentally the most harmful. One of the NGO proposals was assessed as the least harmful. The government announced that the bypass would be built according to the EIA suggestions (Wajrak & Medek 2009). In response, the EC withdrew the case from the ECJ (EC 2009). In July 2009, the GDDKiA was provided with a SEA of the whole Via Baltica section in north-east Poland, suggesting a routing through Łomża. The government formally adopted this suggestion (Kancelaria Prezesa Rady Ministrów 2009).

The conflict over the Via Baltica contributed to the reform of EIA procedure in Poland. The major legal changes introduced in September 2008 included streamlining of the procedure and establishing the General Directorate for Environmental Protection to supervise administrative proceedings concerning conflicts between infrastructure development and nature conservation, and to manage N2000

sites (EIA Act 2008). The Directorate, with 16 regional branches and 1000 employees, replaced regional conservation officials subordinate to regional governmental representatives and has considerably sped up EIA procedures, supplemented the list of N2000 sites and improved cooperation with NGOs (Interviews with NGO members, personal communication 2010).

Comparison of the cases

We analysed the cases, along the four dimensions of the PAA (namely actors, their power, formal and informal rules, and discourses), and applied a historical institutional perspective to interpret the observations. During the ten years between the cases of the LPSAM and Rospuda, policy arrangements for resolution of conflicts between road development and nature conservation had almost completely changed.

In both cases there were two competing coalitions, a 'development' one and a 'conservation' one, united by shared resources (Rhodes & Marsh 1992), such as information, money, authority, legitimacy, public support and shared beliefs (Sabatier 1988). By the time of the Rospuda case, the number of actors in each coalition had increased to include all levels of authorities, as well as much of the local communities on one side, and a network of NGOs, scientists, media outlets and supranational authorities on the other. The development coalition grew due to the administrative reforms in the late 1990s, which strengthened sub-national self-governmental authorities (Izdebski 2004). In the LPSAM case, conservation actors were not acting jointly, despite clear resource dependencies of expert knowledge and public activism. Early activities of scientists lacked the support of the nascent NGO movement and the 1998 NGO protests lacked scientific support. This had changed by the time of the Rospuda case, when NGOs and scientists acted in concert. In the LPSAM case, the coalition of NGOs was small, including only a few relatively minor NGOs from Poland and Western Europe, and lacking the support of European institutions and the media. In the Rospuda case, the conservation coalition grew over time, because of the increasing involvement of local, national and international NGOs (such as Greenpeace and the World Wildlife Fund), gradual diversification of NGOs in Poland, their professionalization and internationalization, and the direct involvement of new domestic (for example Polish ombudsman and mainstream media) and supranational actors (such as the Council of Europe, European Parliament and EC). In Rospuda, the official routing of the bypass was also formally opposed by a few local farmers who, however, generally did not coordinate their legal activities with NGOs (Interview with local farmer, personal communication 2011).

Before the EU accession, distribution of power among the coalitions was very uneven. The development coalition in the LPSAM case had direct access to the government, controlled administrative apparatus and direct influence over decisions. The Opole Voivoda was a defender of the legal order and that position legitimized him to determine how

the conflict should be resolved. The NGOs lacked scientific, administrative, legal and financial background. Their main power consisted in mobilizing public interest. Ten years later, in the Rospuda case, the power of the development coalition still relied on political links between different tiers of government and control over the administrative apparatus. However, the coalition had only limited capacity to respond to the changing situation connected with the EU accession. It was unable to argue against the NGOs and the EC over the substance of the conflict (Kuijken 2003; Committee on Petitions 2007). Its members not only lacked scientific backing and appropriate strategic documents, but also disregarded the significance of the EU rules.

Conversely, as suggested by Hicks (2004), the capacity of NGOs increased considerably in the 2000s. In both cases, they were able to attract public attention and support. In the Rospuda case, however, they started action at an early stage, engaged in legal procedures, produced convincing scientific evidence, organized large-scale public campaigns and networked with supranational bodies, which proved to be their major advantage. One NGO interviewee stated, 'The talks with the road agency and the cooperation with media outlets were not bringing results. This was just a talking shop (. . .). Only when we took up the legal issues did the scales turn in our favour. One of such legal tools was a complaint to the EC'.

The European bodies took advantage of NGOs as watchdogs and experts in the nature conservation, which created a close resource interdependency between European and non-governmental actors. The conservation coalition surpassed the government and its allies with regard to the technical, administrative and legal expertise, as well as in their ability to mobilize public support.

Both formal and informal rules influencing and structuring the conflicts changed. Formal rules concerning the EIA were gradually improved and tightened. In the late 1990s, EIA was still regarded as a formal document prepared by an expert designated by authorities and requiring little public input (Karaczun 1998). EIA concerning motorways did not have to include comparison of alternative variants with regard to their impact on the environment and human health. The early 2000s brought legislative changes, introducing EIA as an administrative procedure with the report requiring the inclusion of specified elements, such as different variants of investment and proposed compensatory and mitigation measures, and improved public consultations (Radecki 2010). However, full compliance with the EU legislation materialized only in 2008.

At the time when the two conflicts started, informal rules cast EIA and consultation procedures as mere formalities (Swolkień 1996). Participation of NGOs in the EIA procedure and their opinions were considered unimportant for the investment or ignored to lower the costs (Interview with NGO member, personal communication 2011). Public consultations were leaving certain non-state actors outside of the process (for example by failing to inform them about the proceedings),

while including those regarded as harmless. One local person commented, 'When we were writing letters and protesting, there was a meeting with the road agency. The director told us plainly: 'We do not tell you how to plough your field and you do not tell us how to build roads and where to do it'. That was the conversation. No one cared about what we wanted'.

As a result, the interventions of non-state actors were taking place at a relatively late stage of the investment, which involved a higher financial stake and considerable time losses (Interview with NGO member, personal communication 2010). To make their arguments heard, NGOs had to appeal to the EU bodies.

Another informal rule concerned protected areas. It was acceptable to degrade them if required by large infrastructural investments. During both conflicts, formal rules constituting protected areas were adhered to only as far as the supervising authority was ready to enforce them. Neither the formal rules of the LPSAM nor those regarding the national park to be crossed by Via Baltica, nor those regarding protected species of the Rospuda Valley, were sufficient to stop major public investments. This situation was challenged by public protests, litigation and reference to supranational bodies. However, all opposition was ineffective before Poland joined the EU. Similarly, EIA procedure became formally amended and informally acknowledged only after the changed balance of power that was manifested in the Rospuda case. From then on, supervised by a new environmental agency, new rules regarding EIA and N2000 were increasingly adhered to by investors, one NGO representative stating, 'Generally speaking, it is good that this case of the Rospuda took place and became so notorious, because this helped us in these consultations of hundreds of kilometres of motorways in western Poland, as everyone was more open there to compromise and consensus building'.

Investors realized that it was less costly to consult and negotiate with NGOs at an early stage of the EIA, by proposing various variants and compensations, rather than risk protests, litigation, EU pressure and the potential withdrawal of financing. New formal rules and the new powers of supranational actors, who after the accession had authority to formally influence the government, made it possible for the non-state actors to successfully undermine top-down practices and informal rules they opposed and become more involved in the decision-making process. One NGO representative commented, 'It became a norm - fulfilling the EU directives, particularly those concerning EIA and their implementation in Poland and, specifically, public consultation part. And not just in an automatic, standard way, but so that it would be written which remarks were brought within the consultations, which proposals, what was agreed, etc.'.

For the Rospuda case, another NGO member observed, 'the times have changed and the voice of the society matters, that we are no longer informed only about the fact that some decisions were taken - amen, but we can also have a real influence on how these decisions will be. This is democracy in practical terms'.

Table 1 Expectations for nature policy practices with regard to transition to governance/multi-level governance (modified from Van der Zouwen 2006) and evidence from the cases of the Landscape Park of St Anne's Mountain (LPSAM) and the Rospuda River, Poland.

<i>Dimensions</i>	<i>Governance/multi-level governance</i>	<i>Differences between the LPSAM and Rospuda cases</i>
Actors and coalitions	Increase in governmental, non-governmental, local, sub-national and supranational actors	Increasing diversity of actors within each coalition; new governmental agency; new European level actors
Power and resources	Increase in power and resources of non-governmental, local, sub-national and supranational level actors	Increased power and resources of non-governmental and European actors
Rules of the game	Increase in importance of local, sub-national and supranational rules Increase in informal and negotiable rules	Crucial role of new EU rules The 'round table' as a way to resolve the conflict; increasing role of direct negotiations between NGOs and investors
Discourses	Increase in discourses which challenge the dominant discourse Increase in discourses stemming from local, sub-national and supranational level	The dominant developmental discourse is 'softened' to include environmental considerations rather than opposed Increase in discourses highlighting the European context of nature conservation and in global discourses of biodiversity conservation and ecological connectivity

With regard to another PAA dimension, namely discourses, the narratives represented by the development coalition remained stable. They prioritized economic development, epitomized by road infrastructure, over environmental concerns, seeing it as a crucial step for Poland to become economically viable (Committee on Petitions 2007). The coalition saw infrastructural development as indispensable. Environmental questions could be considered only as far as they did not affect the investments (for example, environmental compensation might be considered, but not changes in the location of the road). Interviews with local decision-makers revealed that local authorities perceived decisions taken at the central level as binding, and did not see reasons to challenge them. Interviewed local people mostly supported the official routings seeing them as a way to improve their economic conditions and transport safety. However, there were also members of the local communities interested in changing the official routings because they crossed their fields or ran in the vicinity of their houses. Some local people used the areas to be developed for recreation or picking herbs and were afraid that the investment might degenerate the area and some simply agreed with the arguments of NGOs (Interview with locals, personal communication 2011).

The discourse of the conservation coalition changed considerably between the two conflicts. It moved from ethical and aesthetical positions to arguments based on scientific evidence and legal rules. Ethical arguments were still present in the background, but as a way to engage public opinion. While in the LPSAM case, NGOs opposed road construction in general, in the Rospuda case, they accepted it if appropriately assessed environmentally. NGOs were also ready to engage in legal struggles, which they previously

regarded as ineffective, unnecessary and as legitimizing the 'system' (Interview with NGO member, personal communication 2010). The Rospuda case increasingly represented a conflict between European rules and the illegal activities of the government and developers, which put the conservation coalition in the position of defenders of the legal order (NGO Statement 2007). The NGOs started also using new discourses of ecological connectivity and ecological corridors, which formed the basis of the N2000. Designated areas, as they argued, should be protected despite national or regional socioeconomic priorities. As a result, they could form a discursive coalition with a new environmental agency, established to implement EU biodiversity rules.

When assessed against expectations concerning transition towards less centralized modes of policy-making (Van der Zouwen 2006, p. 143), changes in the four dimensions of the PAA indicate a shift towards more MLG practices (Table 1).

The two cases highlight an institutional change that happened in the sub-domain of biodiversity conservation policy in Poland over a decade. The LPSAM conflict took place after a major external 'punctuation' associated with the transition from communism to market economy, but before the other shock of EU accession. Major decisions concerning motorways were at that time taken by the government in a hierarchical top-down way without meaningful public consultations. Even after major socioeconomic changes towards democratization, these decisions structured the further policy choices of the powerful techno-administrative apparatus. This style was supported by the dominant discourse of economic modernization, symbolized by the development of road infrastructure, shared by government,

regional and local authorities, and many of the local communities. Opposing discourses and actors had no impact on the situation and were quickly dismissed as insignificant distortions to the development process.

This pattern persisted in the Rospuda case until Poland's EU accession. Despite the growing influence of NGOs, which gained significant experience and took legal measures to challenge the developments, the authorities followed a path of top-down political influence and administrative and legal superiority. The change came about only because of the new external shock of EU accession, producing new rules guarded by powerful supranational actors and based on new discourses. The diverse network of NGOs and scientists proved more flexible than state actors in readjusting their arguments to comply with EU environmental discourses, winning over new allies and using the new legal situation. As a result, resolution of conflicts between infrastructure development and biodiversity conservation moved towards a more multi-level arrangement.

DISCUSSION

The paper presents an analysis of the transition from a centralized arrangement of resolving conflicts between biodiversity conservation and road development towards MLG practices with decision-making power dispersed from the government towards other actors of supranational and non-state character. The results support the assertions of Tickle and Clarke (2000) and Kluvánková-Oravská *et al.* (2009) with regard to biodiversity governance in CEE countries, that, until recently, the old hierarchical and centralized practices dominated. There is a tension between old communist rules and new rules introduced after democratization and EU accession. Top-down practices are becoming increasingly difficult for the government to use and power is increasingly dispersed towards sub-national authorities; however, these often lack the capacity and political will to engage in biodiversity conservation (Niedziałkowski *et al.* 2012). These findings are supported by other research concerning the post-accession period in CEE countries (Lawrence 2008; Grodzińska-Jurczak & Cent 2011). Although the EU rules potentially provide a legal framework facilitating better execution of law, creating stronger institutions and better involvement opportunities for the non-state actors (Kronenberg & Bergier 2012), nature conservation is still characterized by the socialist centralism, which creates tensions when individuals and organizations seek access to policy-making or pressure inefficient authorities to take action (Gliński & Koziarek 2007). In the LPSAM case, biodiversity conservation rules were still relatively lax and additionally undermined by informal rules favouring development objectives. Owing to this, conservation actors could not effectively challenge the authorities. The situation reflected Bell's (2004, p. 204) argument that 'before 1989, there were few remedies available when a Soviet bloc government failed to honour its own laws. Similarly, there was no oversight

mechanism for frustrated citizens to invoke'. In some aspects of biodiversity conservation this attitude lingered on even after 1989. As illustrated by the cases we analysed, several factors contributed to the shift from this policy path.

The major factors conducive to the transition to MLG were the European rules, discourses and actors. Opportunities created by European biodiversity policy, developed by a coalition of EC and NGOs (Weber & Christophersen 2002), proved effective at empowering local and national pro-conservation actors in attaining greater impact at a national level. Actors from CEE did not take part in the EU level lobbying that led to the creation of the EU biodiversity policy, but were able to take advantage of their Western European peer organizations' activities at earlier stages of European policy-making (Van Koppen & Markham 2007). In the Rospuda case, Polish NGOs by 'working via Brussels' influenced the government through the supranational organizations, similarly to their Western counterparts (Weale *et al.* 2000).

However, this role of NGOs was not evident at the accession stage. Bell (2004, p. 206) noted that the extent to which civil society actors would use new European opportunities depended on 'the domestic legal system and legal culture and their own creativity and will'. It seems that, in the Rospuda case, the NGOs stood up to the challenge. Apart from the creativity and will, they had resources to engage in the struggles with a powerful development coalition. Here again, the role of the EU was considerable. By the time of EU accession, Hicks (2004) argued that the EU had strengthened environmental movements in CEE and encouraged participation, for example through EIA. This has led to professionalization, specialization and improved coordination of actions among civil society actors. Additionally, owing to the EU, 'environmental groups are provided with increased sources of power and bargaining, as they point to implementation failure or use national courts to secure action that would otherwise not take place' (Weale *et al.* 2000). NGOs in Poland had a history of political activity even during the communist era, being then one of the few voices of opposition (Jancar-Webster 1998). The LPSAM case proved that, even without institutional support and favourable legal rules, the NGOs were able to organize a campaign that attracted public attention and highlighted the environmental problem. Still, to overcome the centralized policy path, new capacity building in the form of new resources and allies proved crucial (Carmin & Vandever 2004).

Börzel (2009) and Börzel and Buzogány (2010) also commented that EU laws had supported cooperation between state and non-state actors and enabled the latter to circumvent the former in biodiversity policy-making. Guttenbrunner (2009) used a conflict over Via Baltica to show how the EU 'pushed from above', NGOs 'pushed from below' and transnational policy networks 'pushed from the side' to make the Polish government abide by EU environmental rules and involve non-state actors in decisions over the road's location. However, all these authors remained sceptical about the establishment of new modes of governance, believing

command-and-control policy-making still dominated and that there was little evidence of more inclusive processes that could increase the effectiveness and legitimacy of EU policies. The weakness of state administration and civil society actors remained key challenges.

However, analysing differences between the LPSAM and the Rospuda cases, it can be argued that the later conflict affected the structure of governmental agencies, their staff, discourses and procedures, and pushed Poland towards MLG. The new arrangement proved to have increased capacity to implement EU rules effectively and legitimately. Firstly, the new agency was much stronger, with numerous professional staff and much independence from regional actors (Interview with regional official, personal communication 2011). Secondly, there were new advisory bodies created to the regional branches of the agency, where, unlike previously, NGOs were strongly represented. It improved communication between NGOs, the agency and investors. Thirdly, relations between the environmental authorities and NGOs changed. Some regional branches of the agency started contacting particular NGOs requesting remarks on investors' EIA reports that they wanted to make more 'nature-friendly' but could not formally do themselves (Interview with NGO member, personal communication 2010). Some NGOs were also contracted to organize training for the agency's staff (Interview with NGO member, personal communication 2010). As a result, relations seem to be increasingly based on mutual understanding and trust, facilitating negotiations and conflict resolution. This seems to challenge Börzel and Buzogány's (2010) argument that long-term cooperative relations between the state and civil society did not materialize in biodiversity conservation. Rather, as pointed by Bell (2004, p. 211), in the world in which transparency is emphasized over obscure policy-making behind closed doors characteristic for the communist system, 'the entire non-state sector is called on to become participants rather than mere protestors in the evolving society'. The cases brought up in this study seem to support this evolution, at least in the policy sub-domain we analysed. Evidence from other sub-domains, such as national park governance (see Niedziałkowski *et al.* 2012), suggests that this tendency is not universal to the whole policy domain.

CONCLUSIONS

The accession of the CEE countries to the EU in 2004 created new opportunities for their economic development and infrastructure improvement. This created a field of potential conflicts, with biodiversity conservation being another important area of EU-related policy changes. We argue that, in Poland, the government followed its old style of dealing with such conflicts using centralized decision-making favouring developmental objectives until, catalysed by a conflict over the location of the Via Baltica, a rapid shift took place to a more multi-level and inclusive arrangement. This shift resulted from the accumulation of a critical mass

of change-initiating factors, including actors, their resources and power, rules of the game and discourses.

Resolution of conflicts between infrastructure development and biodiversity conservation after the Rospuda conflict shows features of MLG. Environmental decision-making is now vertically dispersed between local, regional, national and supranational actors. There is also a horizontal dispersion of power towards non-state actors who, within the new structures, are engaged in continuous negotiation with state actors at regional, national and supranational levels. The EC gained direct influence over national and regional environmental decision-making, and sub-national groups bypassed the government in voicing their interests and values at the international level. However, these shifts address decision-making rather than policy-making. For the CEE countries, the latter still had a hierarchical, top-down character, neglecting the views of actors from lower levels, only this time policy-making was originating not from the usual governmental level but at a European level. Paradoxically, new top-down measures challenged the former top-down methods of the socialist past to produce a more open and legitimate decision-making process.

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