The Impact of EU Environmental Policies on Patterns of Social Mobilization in Southern Europe

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Abstract

The paper seeks to evaluate the impact of EU environmental policies on patterns of social mobilization in Italy and Greece. The conventional view is that the level of social mobilization in southern societies is considerably lower than in the northern parts of Europe reflecting socio-historical factors such as the absence of a “civic culture” and the prevalence of clientelistic patterns of societal integration into the political system. Others have contended that social mobilization simply takes different forms, i.e. is more localized in the South than in the North. This paper seeks to add a new dimension to the study of environmental mobilisation in southern Europe. It argues that both approaches fail to account for the actual impact of EU environmental policies on the patterns of environmental mobilizations and their capacity to influence actual policy outcomes, in terms of policies pursued at the domestic level. It will suggest a number of empirical indicators that allow such an assessment in comparative perspective.

Introduction

The paper seeks to evaluate the impact of EU environmental policies on patterns of social mobilisation in Italy and Greece. Literature on environmental policies in southern Europe focuses on social mobilizations as a critical factor that indicates the level of environmental awareness in different EU member states and the capacity of domestic actors to adopt a pro-active approach to environmental problem solving. However, existing literature provides contested evaluations on the degree of social mobilization in southern Europe. The conventional view offered by the literature is that the level of societal mobilization in the four southern member states of the EU (Greece, Italy, Spain and Portugal) is considerably lower comparing to their Northern European

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1 The paper draws on an on-going research project hosted at the Institute of Social Science, Humboldt University of Berlin that seeks to explain non-compliance with EU Law in Greece and Italy (see http://www2.hu-berlin.de/compliance and http://www.iue.it/RSCAS/Research/Tools/). The author wishes to thank Tanja Boerzel, Carina Sprunk and Mieke Duzniak for their comments and suggestions.
counterparts. This profound weakness reflects a number of socio-historical factors and endemic characteristics of the socio-political institutions in these countries such as the absence of “civic culture” and the prevalence clientelistic patterns of societal integration into the political system. These characteristics summarised under the well-known label *Mediterranean Syndrome* hinder effective implementation and enforcement of environmental policies in southern member states (La Spina et al. 1993). Other authors contest this view by arguing social mobilization simply takes different forms, i.e. is more localized in the South than in the North (Eder et al. 2001; Kousis 2001).

Despite these contested evaluations a consensual point between both strands in the literature is that EU environmental policies have a profound impact on domestic politics and policies in southern member states. However, both approaches fail to trace this impact on patterns of environmental mobilizations in a systematic way. The present study seeks to add a new dimension on the study of the domestic impact of EU environmental policies on patterns of environmental mobilization in southern Europe. It seeks to integrate the dynamics of a top-down and bottom-up approach to the domestic impact of EU environmental policies. The analysis seeks to identify not only the effects of new political opportunity structures offered by EU environmental policies but also to assess the impact of domestic actors on actual policy outcomes. EU institutions offer a wide range of opportunities to non-state actors to address environmental problems through the European Commission, the European Parliament and the European Court of Justice. To what extent do these political opportunity structures incorporated in their strategies and action repertoires and shape environmental politics? What is the impact
of domestic environmental mobilizations on actual policy outcomes? In order to approach these questions the paper employs a number of empirical indicators based on data related to member state non-compliance with EU environmental law. Drawing on a dataset of all infringement cases opened by the Commission against member states, the paper will present evidence of the impact of non-state actors in pushing compliance with EU environmental policies.\(^2\) It will assess the degree of their success as an indicator of the strength of environmental mobilisation in the Italy and Greece.

The paper is divided in four parts. Part two explicates the theoretical and methodological approach to the study of societal mobilization. Part three provides an overview of contested evaluations of the level of societal mobilisation found in the literature on southern Europe. Part three seeks to suggest an alternative approach in order to assess the strength of environmental mobilisation. It argues that approaches found in the literature so far fail to account for the impact of environmental mobilisations on actual policy outcomes in terms of their capacity to influence decisions and policies pursued at the EU and domestic levels. In this context, we will present an alternative approach that is capable of capturing the dynamics of societal inputs on environmental policy making at the domestic and EU levels and a set of indicators that allow such an assessment in comparative perspective. Finally, part four will present some preliminary tentative outcomes from our on-going research.

\(^2\) Aggregate data analysis is publicly available at [www.iue.it/RSCAS/Research/Tools/ComplianceDB/Index.shtml](http://www.iue.it/RSCAS/Research/Tools/ComplianceDB/Index.shtml)
Explaining non-compliance in southern Europe: The role of non-state actors

The paper seeks to develop an alternative explanatory framework that challenges geographically bound conventional explanations inherent in the Mediterranean Syndrome approach. This attempt does not undermine dismiss fact that both Italy and Greece face considerable compliance problems with EU environmental legislation. To a certain extent the rather feeble compliance performance of both countries is an indicator of a ‘southern problem’ in terms of weak implementation, monitoring and enforcement capacities. Greece, followed by the other three Southern member states has the reputation of being particular laggard. Chart 1 shows that Italy and Greece alone account for 25% of the infringement proceedings opened against the member states since 1978.
The overall ranking of member states does not change if we control for the length of membership that is clearly a factor that amounts for variations in the number of infringement cases opened by the Commission against member states.
The starting point of our analysis is that non compliance is not a cultural phenomenon but a rational choice of political actors. This conceptualisation is in line with recent work on compliance with EU law that stresses political actors’ cost/benefit considerations regarding their compliance performance (Börzel 2003). The fundamental assumption is that domestic actors’ compliance performance is contingent upon their perceptions regarding adjustment costs involved in applying the specific requirements incorporated to EU laws. Implementation of EU policies (application and enforcement) depends on domestic institutional and administrative structures. The EU Commission lacks its own enforcement mechanisms. Through the constitutional doctrines of supremacy and direct effect EU law penetrates well established domestic institutional...
and administrative arrangements and notions of appropriateness, domestic structures and patterns of interest intermediation.

Adjustment costs imposed by EU policies shape the incentives of domestic actors to undermine effective domestic implementation of EU policies (Duina, 1997; Knill, 1998; Börzel, 2000) These cases are often resolved through a variety of means at the disposal of the European Commission and the Council of Ministers. These include temporary derogations, transitional periods and the use of financial instruments such as the structural funds to compensate domestic costs of adjustment. Moreover, thought the adoption of certain policy programs the European Commission can strengthen domestic institutional capacities to mobilise critical resources that secure effective implementation. This is particularly the case of initiatives that seek to strengthen non-state actors’ involvement in the policy process such as the LIFE program.

In these cases of voluntary non-compliance domestic actors’ cost/benefit considerations are also affected by a number of counter factors such as the effectiveness of EU monitoring and enforcement mechanisms and the impact of non-compliant behaviour on the country’s image and reputation as a “good European” or “laggard” in environmental protection. In environmental policies a weak compliance performance can also have direct negative effects on macro-economic indicators since locational preferences of firms and availability of finance by major credit institutions increasingly reflects environmental performance indicators and considerations of corporate responsibility.
Non-state actors’ activism is a crucial factor that affects cost/benefit considerations of domestic actors regarding compliance with EU law by increasing the costs of non-compliance (Börzel 2003). This can be achieved not only through the use of pressure activities such as media campaigns, protests and lobbying but also through the use of domestic and EU institutionalised opportunities mechanisms. The EU Commission lacks its own enforcement mechanisms at the domestic level while the Commission’s Directorate General Environment (DG-ENVI) has rather weak monitoring and enforcement capacities comparing to other DGs such as Competition Policy (Macrory 1996). The Commission’s access to information regarding the actual state of member state compliance with certain legislative acts depends on a rather weak system that involves three main alarm mechanisms:

a) Complaints by citizens, business, NGOs

b) Own initiatives of the Commission

c) Petitions and questions by the EP

Complaints and petitions to the EP by non-state actors such as individual citizens, business and environmental organizations and NGOs are the most important source of information regarding the actual state of member state compliance with EU laws. Non-state actors’ activism in using these opportunity structures offered by EU institutions can have a catalytic effect on domestic actors’ capacities to comply with EU laws since they alter the distribution of costs and benefits between domestic actors increasing their willingness to comply.
Individuals, citizen groups, environmental organizations, NGOs, firms and business associations have a stake in environmental policies that impose costs or increase their benefits in terms of quality of life, personal income, corporate profits or losses. These cannot be easily portrayed in simple matrix. Individuals and citizen groups may favour compliance with EU rules that ameliorate their living conditions and health standards while opposing environmental measures that directly affect their portfolios. Environmental organizations and NGOs may favour different areas of environmental intervention depending on their organizational orientation and resources. Firms and business associations can strongly oppose initiatives that affect their production costs and at the same time advocate high environmental standards that strengthen their competitiveness in the global markets. Certain industrial sectors can be more exposed to pressures for introducing environmental ethics and responsibility in their corporate image and practices than others.

To what extent are these conflicting interests and strategies of non-state actors expressed through the use of opportunity structured offered by EU institutions? What is their impact on actual policy outcomes in terms of strengthening domestic institutional capacities and willingness of domestic institutional actors to comply EU environmental legislation? Our explanatory framework departs from the territorially bound causal interpretations inherent in the Mediterranean syndrome approach that treat southern European member states as a homogenous geographical entity. These approaches fail to account for cross country variations between southern member states or even variations in the compliance performance between different legislative acts within member states.
Accounting for the strength of non-state actors’ activism in pressuring for member state compliance with EU law allows systematic cross-country and cross-sectoral comparisons of member state compliance performance across the EU.

European integration has been studied as a crucial factor affecting the structures, strategies and visibility of non-state actors by opening up new opportunity structures or providing new constraints for collective mobilization (Imig et al. 2001; della Porta et al. 1999). Literature offers competing accounts on the effect of new opportunity structures offered by European integration on patterns of societal mobilization based on varied interpretations of the end result of Europeanization. To a large extent these differences reflect the well-established debate between scholars of European integration summarized under the labels strengthening, weakening or the transformation of the state theses. Scholars adopting an inter-governmentalist perspective argue that since European integration strengthens the relative powers of national authorities the former favours the advancement of institutional actors such as parties and state authorities that have privileged access to policy developments at the EU level comparing to civil society actors. The latter continue to express their demands predominately through national channels challenging national institutions. On the contrary, scholars that abide to a functionalist perspective argue that European integration offers new opportunity structures to civil society actors to channel their demands. The latter, especially those with limited resources in their own countries, increasingly use the supranational level as their reference point and organization (Smith et al. 1994; della Porta et al. 1999). Finally, others represent the middle ground arguing that the emergent Euro-polity is
characterized by the emergence of a system of shared competencies between multiple levels of government (European, national, regional and local) that entails both opportunities and challenges to social movements. EU institutions provide additional access points that can be used in a complementary way to pre-existing national ones (Marks et al. 1999). However, Europeanization exposes societal movement to challenges regarding their capacities to mobilize resources in a broader and more diverse geographical unit (della Porta et al. 1999).

Italy and Greece experience serious non-compliance problems. The high level of non-compliance with EU environmental legislation as an indicator of the severity of environmental conditions in both countries generates similar opportunities to non-state actors to use opportunity structures offered by EU institutions in order to exert pressure to their respective authorities for effective implementation, monitoring and enforcement of these laws. Domestic institutional conditions affect the capacity of non-state actors to incorporate EU political opportunity structures in their action repertoires. Greece and Italy provide a critical setting within which the mobilization model can be empirically tested against the Mediterranean Syndrome. Italy and Greece substantially differ with regard to the explanatory factors specified by the Mediterranean Syndrome literature. Italy is the forth-biggest economy in Europe. Its policy-making structures are highly fragmented, both vertically and horizontally. Executive powers are rather weak due to unstable, frequently changing coalition governments. Greece, by contrast, has one of the weakest economies in the EU. It is also one of the most centralized member states. The executive has considerable powers to unilaterally define the contents of public policies
due to an electoral law that favours one-party stable governments. Using a ‘most
different systems’ design (Przeworski and Teune, 1970) allows to discard most
conventional explanations of non-compliance since they differ between the two
countries whereas the level of non-compliance is similar. The comparative case study
can therefore focus on the degree of societal mobilization as the major explanatory factor
and trace its impact on the level of non-compliance in the two countries.

Yet, the capacity of non-state actors to expand their strategies and action
repertoires by incorporating new opportunity structures offered by the EU depends on a
number of enabling factors and institutional preconditions embedded in their domestic
institutional environment. Our hypothesis is straightforward: We expect non-state
actors with limited opportunities to intervene and influence environmental policies at
the domestic level to benefit the most from alternative political opportunity structures
offered by the EU. The former seek to compensate their limited influence in the domestic
policy arena by re-directing their demands at the EU level. As it will be analysed in the
following section of the article Greek non-state actors facing limited opportunities at the
domestic level given the country’s centralised polito-administrative system, single party
dominated government with no major internal fractions and the lack of multiple veto
points are expected to be more active in pursuing their demands at the EU level. On the
contrary, Italian non-state actors being embedded in a more dispersed polito-
administrative system with multiple veto points, multi-party government coalitions and
a party system with numerous internal fractions are expected to address environmental
demands primarily at the domestic level and be more reluctant to alternate their action orientation to alternative structures offered by the EU.

The paper challenges the existing literature on two grounds: First, non-compliance in the EU is not considered as an exclusively “Southern problem”. Second, without denying that southern European member states face significant compliance problems, these problems cannot be simply attributed to endemic characteristics of their socio-political institutions. Instead, the project will demonstrate that social mobilization is crucial in explaining (non-)compliance with EU policies. While the degree of social mobilization is not necessarily lower in the South than in the North, it takes different forms, which tend to be less effective in overcoming the resistance of public and private actors to comply with EU policies.

Environmental Mobilisation in Southern Europe: weak or alternative forms?

Literature of environmental policies in southern Europe offers contested accounts on the degree of mobilization by non-state actors such as environmental organizations, business and citizen groups and its impact on the policy process. The conventional argument found in the literature is that patterns of social mobilization in Southern Europe are indeed weak comparing to those in Northern member states. Green parties have, in all southern EU member states, failed to penetrate the party system (Aguilar Fernandez, 1997; Demertzis, 1995). Clientelism and the relatively recent experiences with authoritarian regimes have weakened fundamental structures of civil society. While some have argue that the level of social mobilization in southern societies is
considerably lower than in the northern parts of Europe (Yearley et al., 1994; Pridham and Cini, 1994; Aguilar Fernandez, 1994), others have contended that social mobilization simply takes different forms, e.g. is more localized in the South than in the North (Eder and Kousis, 2001; Kousis, 2001). Evidence manifests that social mobilization is not necessarily lower but takes different forms which are less effective in bringing about compliance with European policies.

The Italian and Greek experience seems to confirm this view. Most of case studies challenge the assumption that southern member states have weak civil society by presenting evidence of an increasing number of environmental organizations and incidents of grassroots mobilizations (Kousis, 2001). The literature is reach and diverse. In short, it focuses on three fundamental areas of interest:

a) On the driving forces and conditions that contribute to their emergence (della Porta et al. 1999);
b) On the patterns and structures of resource mobilization and their interactions with other societal and political actors;
c) On their claims and discourses manifested in their action repertoires (protests, campaigns, legal actions (Koopmans and Statham 1999).

In this context, three different methodological approaches have been employed:

a) Protest event analysis based on data collected from various media sources. This approach seeks to account for the degree of social mobilization by measuring the
instances where social mobilizations occur in the media at the national, regional and local levels (Tilly 1978; Tarrow 1989; Kriesi et al. 1995; Rucht et al. 1999);

b) Discourse analysis that seeks to reveal their ideological and political commitments;

c) Claim-making analysis that seeks to account for the way in which social mobilizations interact with other social and political actors by focusing not only on protest events and discourses but also on a broader spectrum of claims such as demands, proposals, criticisms and decisions included in instances such as public demonstrations, statements, legal actions etc. (Andretta et al. 2003).

Qualitative studies reveal that EU policy initiatives had a catalytic impact in stimulating environmental awareness and assisting the creation of environmental NGOs. However, these developments are far from constituting a clear path break in domestic traditions of weak structures and patterns of social mobilization. Competition for funding between environmental NGOs, due to the lack of own resources, fosters them to adopt cooperative strategies vis-à-vis central governments that control the implementation of such programs. Competitive pressures reduce political opportunity structures available to local environmental groups that lack significant organizational and political resources. Experience from different environmental campaigns demonstrates that success depends on the capacity of both international environmental NGOs and local environmental movements to overcome the tension between professionalism and scientific environmentalism, on the one hand and political activism, on the other, inherent in their relationships and build up effective coalitions (Close, 1998). Forno (2003: 9-11) argues that the prevalence of localized patterns of social
mobilizations based on spontaneous “citizen committees” in Italy reflects organizational weaknesses of civil society to mobilize resources at the national level since their claims predominately address issues of national rather than local interest. Literature offers contested evaluations of their effect on patterns and structures of political representation. While some authors consider their emergence in the 1990s as a new form of grassroots democratic groups that challenge traditional forms of political representation in crisis such as political parties, others argue that their emergence deepens such a crisis to the extent that they represent NIMBY (not in my backyard) parochial demands that seek to paralyze decision making in public good provision by blocking large infrastructure projects (Gould et al. 1996; Della Porta and Andretta 2002).

All three approaches seek to identify the role of social movements in constructing a public sphere at the European, national, regional and local levels by focusing on their action repertoires and strategies. In this context, European integration has been conceptualized as a crucial factor affecting their structures, strategies and visibility by opening up new opportunity structures or providing new constraints for collective mobilization (Imig et al. 2001; della Porta et al. 1999). Literature offers competing accounts on the effect of new opportunity structures offered by European integration on patterns of societal mobilization based on varied interpretations of the end result of Europeanization. To a large extent these differences reflect the well-established debate between scholars of European integration summarized under the labels strengthening, weakening or the transformation of the state theses. Scholars adopting an integovernmentalist perspective argue that since European integration strengthens the
relative powers of national authorities the former favours the advancement of institutional actors such as parties and state authorities that have privileged access to policy developments at the EU level comparing to civil society actors. The latter continue to express their demands predominately through national channels challenging national institutions. On the contrary, scholars that abide to a functionalist perspective argue that European integration offers new opportunity structures to civil society actors to channel their demands. The latter, especially those with limited resources in their own countries, increasingly use the supranational level as their reference point and organization (Smith et al. 1994; della Porta et al. 1999). Finally, others represent the middle ground arguing that the emergent Euro-polity is characterized by the emergence of a system of shared competencies between multiple levels of government (European, national, regional and local) that entails both opportunities and challenges to social movements. On the one hand, EU institutions provide additional access points that can be used in a complementary way to pre-existing national ones (Marks et al. 1999). On the other hand, Europeanization exposes societal movement to challenges regarding their capacities to mobilize resources in a broader and more diverse geographical unit (della Porta et al. 1999).

The extent to which European policies trigger social mobilization in southern societies and whether the observed forms of social mobilization differ from what we find in northern Europe is a matter of in-depth empirical analysis. The following section presents evidence on the extent to which non-state actors in Italy and Greece make use
of opportunity structures offered by EU institutions to press for compliance their respective public authorities.

Approaching the Impact of non-state actors on actual policy outcomes: some alternative indicators

This paper argues that literature on social mobilization in southern Europe fails to account for their actual impact on policy outcomes. Beyond confrontational mobilisations EU institutions offer a wide range of opportunities to non-state actors to address environmental problems through the European Commission, the European Parliament and the European Court of Justice (Marks et al. 1999; Imig et al. 1999). Europeanization has been conceptualized as a new political opportunity structure for social mobilization by non-state actors. It comprises an additional and/or alternative sphere of social mobilization. A number of scholars argue that fundamental characteristics of the emerging Euro-polity favour rather conventional forms of social mobilization over unconventional ones such as distractive activities such as massive protests. National political arenas remain the dominant points of reference of social mobilization due to weaknesses in organizational capacities of various social groups to stimulate effective mobilizations and the pan-European level but also the weak forms of the emerging common public sphere at the EU level.3 To what extent do these political

3 Recent literature on social movement argues that contentious types of mobilization based on disruptive actions (road blockages, political violence) are in a process of gradual decline due to changes in the structure of mass communications that has significantly broaden their repertoire of protest leading to
opportunity structures incorporated in their strategies and action repertoires and shape environmental politics? Drawing on a dataset of all infringement cases opened by the Commission against member states, the paper will present evidence of the impact of non-state actors in pushing compliance with EU environmental policies.

a) Non-state actors and the Commission

Complaints by citizens, business and NGOs are the most important opportunity offered to non-state actors to hold member states accountable for non-compliance with EU law. The following chart demonstrates that while overall complaints account for a notable proportion of infringement cases open by the Commission against all member states, there are significant variations between Italy and Greece.
The same holds even if we exclude the infringements that correspond to cases of non-transposition that are opened by the Commission on its own initiative after the expiration of deadlines for the notification of the transposition by national authorities and they do not include the intervention of non-state actors.
Charts 3 and 4 demonstrate that there is not a clear south–north divide on the degree of non-state mobilization in the area of environmental compliance. 11.5% of infringements opened by the Commission against member states for non-compliance with various environmental legislative acts were triggered by complaints from non-state actors. Complaints by Greek non-state actors score the highest, 46.5% of infringements followed by the UK and Spain, with much lower scores 28.3% and 23.9% respectively. Italy scores much lower, below the average with 8.3%.

The same holds if we account for variations in the population size of member states.

Source: EUI database on Member State Compliance with EU Law, own elaboration
Chart 5 also disconfirms arguments found in the literature that there is a clear south-north divide in the degree of non-state actor’s activism in environmental policies. Greece followed by Spain belongs to the leading member states. Yet, the distribution of complaints to population demonstrates that southern member states cannot be perceived as a homogenous geographical entity characterized by low level of civic activism in environmental matters. While Greece, Spain and Portugal are above the average, Italy scores the second lowest category after the Netherlands.

A longitudinal analysis of complaints between Italy and Greece reveals highly homogeneous patterns of non-state actors’ activism in triggering the initiation of infringement proceedings by the Commission in the area of environmental legislation.

Source: EUI database on Member State Compliance with EU Law, own elaboration
Chart 6 - EL Complaints 1982-1997 - Environment

Source: EUI database on Member State Compliance with EU Law, own elaboration
Greece’s high scores in 1986 can be interpreted as an initial effect of membership. Apart from this variation, both Italy and Greece demonstrate highly homogeneous temporal distribution of complaints with a drastic increase between the years 1992–1993 followed by a notable decrease in the following years until 1997.

b) Non-state actors and the European Court of Justice

Infringement proceedings opened by the Commission against member states follow four distinguished stages. The proceedings open with a Formal Letter of Notice
were the Commission states its initial points that establish a potential case of non-compliance. Following an unsatisfactory reply by member states the Commission proceeds with a Reasoned Opinion that it’s the first communication to the member state of the legal argumentation that establishes an infringement case. In cases where member states fail to demonstrate compliance the process ends in the ECJ (articles 226 and 228 EU Treaty).

The traces of non-state actor’s litigation activism can be identified taking into consideration two indicators. The first indicator accounts for the contribution of complaints to ECJ Judgments. In order to identify these cases we referred to the ECJ case law database where each case is analyzed regarding the pre-litigation procedure followed by the defendants. According to our analysis there are significant variations between Italy and Greece regarding the capacity of non-state actors to affect actual policy outcomes in terms of fostering their respective governments to comply by EU environmental policies.
33.3% of cases brought by the Commission to the ECJ against Greece correspond to infringement cases triggered by non-state actors, while the rest 67.3% of cases were opened by the Commission’s own initiative. The same indicators for Italy reveal differentiated results with the vast majority of cases brought by the Commission to the ECJ, 90.3% corresponding to proceedings opened by its own initiative, with only 9.7% of cases corresponding to proceedings triggered by complaints by non-state actors. According to our investigation, the court decision’s outcome of all cases initiated by complaints was negative for the member states.
b) Non-state actors’ and the national courts

State actor’s influence on member state compliance with EU environmental legislation does not necessarily follow EU institutional avenues. National courts to a varied extent offer also opportunities to non-state actors to intervene in the process by litigating against member state improper application and implementation of EU rules. It is difficult to trace data on the level to which non-state actors resort to national courts in order to push member state compliance. Italian and Greek courts’ archives are not systematically organized and easily accessible.

Instead we turn to data related to preliminary ruling procedure provided by Article 234 (ex 177) of the EU Treaty. This article provides for national courts to submit queries to the ECJ for a correct interpretation of EU law. This is the case when non-state actors bring cases in front of national courts claiming incorrect implementation or failed transposition of EU legislation. Judicial cooperation under Article 234 is indeed a powerful compliance mechanism, equal to the Commission’s enforcement mechanism analyzed in the previous section. Through the constitutional doctrines of supremacy and direct effect judicial cooperation in the framework of Article 234 has served as an integrative mechanism providing opportunities for judicial activism to the ECJ to expand EU law by interpreting fundamental principles but also empower national judges and stimulate non-state actors activism (Cichowski 2001; Conant 2001). State liability for infraction of EU law increases non-state actor’s incentives to litigate.
Based on a dataset of preliminary references submitted to ECJ in the period 1961-1995 we elaborated statistics on the extent to which national courts in Italy and Greece resort to Article 234 procedure that is indicative of the degree of non-state actors’ activism in pressing member state compliance. Our analysis reveals significantly divergent patterns of non-state actors’ activism regarding environmental legislation in Italy and Greece. Environmental legislation represents only 1.54 percent of the total number of preliminary references raised to the ECJ. The following chart shows the distribution of these references by member state.


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4 The dataset is publicly available on www.iue.it/RSCAS/Research/Tools/ReferencesECLaw/Index.shtml. Data is also presented in Stone Sweet and Brunell (1998a; 1998b).
Our statistical analysis is very rewarding since it reveals that Italy does not necessarily manifest lower degree of non-state actors’ activism in pressing their national authorities for compliance with EU law as data on complaints and ECJ judgments presented in the previous sections suggests. Data on preliminary references to the ECJ suggests that societal activism in Italy simply follows difference institutional avenues than in Greece. While Italy scores the lowest in both complaints and ECJ cases with Greece occupying the highest position in the relevant ranking of member states, the reverse results occur considering non-state actors activism in front of national courts. Italian non-state actors seem to compensate their low presence in all indicators accounting for the use of EU institutional opportunities with the highest degree of litigation in front of national courts.

However, one should be cautious to infer secure conclusions using data on Art 234 preliminary references. Existing literature argues that cross country variations in the use of preliminary references can be attributed to the willingness of national judges to surrender autonomy by increasingly cooperating with the ECJ (Stone Sweet 1998a). Another potential factor that could affect cross-country variations is differences in litigation culture across member states and the extent to which non-state actors incorporate litigation in their action repertoires.
Concluding Remarks

The paper seeks to contribute to the existing literature on social mobilization in southern Europe in two major ways. First, it explores the role of non-state actors in pushing compliance with EU environmental policies in Italy and Greece. Second, it adds a new dimension on the study of environmental mobilization by suggesting ways to account for its actual impact on policy outcomes. In this context, we present a number of indicators that reveal the extent to which non-state actors in Italy and Greece incorporate new political opportunity structures offered by EU institutions in their strategies and action repertoires.

Our statistical analysis focuses on three indicators that reveal the extent to which EU institutionalized avenues such as the Commission, the ECJ and national courts acting in the framework of judicial cooperation with the ECJ have been incorporated to the action repertoires of non-state actors in Italy and Greece. The results reveal quite different patterns of societal activism in Italy and Greece. The overall view is that Greek non-state actors are increasingly resorting to EU institutions as a means of promoting high levels of environmental protection. On the contrary, their Italian counterparts predominantly focus on national courts rather than the Commission and the ECJ.

Data presented in this paper does not allow a full appraisal of the strength of social mobilization in Italy and Greece. However, it reveals some tentative trends regarding the extent to which non-state actors in both countries exploit EU opportunity
structures in order to address their environmental concerns and demands. These outcomes challenge conventional explanatory factors found in the literature such as the Mediterranean Syndrome that approaches southern European member states as a homogenous social entity characterised by weak civil societal activism in environmental matters. However, our outcomes call for qualitative research and detailed case studies in order to test the explanatory potential of our hypothesis.
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