

‘You can’t have one without the other’

The differential impact of civil society strength on the implementation of EU policies

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ABSTRACT: The importance of civil society in policymaking is twofold; CSOs monitor government performance and mediate between citizens and the state to ensure proper implementation. In this study we focus on the relation between civic participation as a structural dimension of civil society and the implementation performance of EU member states. The analysis is based on a novel dataset of both legal and practical implementation across four policy areas in 24 member states. Controlling for legislative, institutional and societal constraints, we find that civil society strength positively affects member state’s practical implementation. However, its positive impact depends on whether civic participation goes together with opportunities for CSO’s to engage in consultation. Furthermore, the effect is conditional on states’ bureaucratic capacity to accommodate societal interests and in policy domains under public scrutiny it depends on societal preferences regarding the EU directives. This confirms common beliefs that civil society works differently across national contexts and policy areas and stipulates the configuration of CSO and state relations in measuring civil society strength across policy areas.

Introduction

Civil society organizations (CSOs) are often credited for increasing public accountability and improving governance outputs. A vibrant civil society can

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potentially increase transparency of policymaking and hold governments accountable to implement policies accordingly. Furthermore, CSOs can work together with policy-makers by communicating societal interest and creating a broad policy support base.

However, even within Europe the strength of civil society varies widely across countries. Many studies have reported a weak civil society in former communist countries in Central and Eastern Europe (CEE), due to low levels of societal engagement (Howard, 2003; Ockenfels and Weimann, 1996). Conversely, other scholars have pointed out that low levels of civic participation are compensated by activism aimed at connecting with political actors (Petrova and Tarrow, 2007; Foa and Ekiert, 2016) and thus shaping policy outcomes. The question is not only what aspects determine civil society strength, but also under what conditions civil society has a positive impact on governance outputs.

Governance is often defined as the cooperation between state and non-state actors in the formulation of public policy (Offe, 2009). However, governance is not only about the decision-making process, but national policies also need to be implemented in practice before they become effective (Treib, 2006). Practical implementation especially requires input from CSOs, as policy-makers cannot fully control how their policies are applied in practice. Because CSOs represent citizens directly affected by the policies, they are able to provide legislators with information and advice about the consequences of their decisions for practical implementation.

To analyze the impact of civil society on practical implementation, we focus on both the capacity of CSOs to mobilize their members (also known as the “logic of membership”) and their opportunities to influence the policymaking process (also known as the “logic of influence”). We expect that high levels of civic participation positively affect practical implementation only if policy-makers consult regularly with CSOs during the policymaking process. However, we do not expect civil society to matter equally across different countries and policy areas. First of all, civil society strength is likely to depend on effective institutions capable of handling societal interest in a credible manner. Secondly, policy areas under public scrutiny and providing societal actors with procedural tools to engage in its application are more likely to be

affected by civil society.

We apply our analysis to the impact of civil society on the practical implementation of EU policies by national government and administrative actors. EU policies present a common benchmark for comparing implementation outcomes across countries and issues. Each member state has to implement policies in accordance with EU requirements and civil society can contribute by monitoring the policy process or by voicing societal attitudes for policy change (Börzel, 2006; 2010). By studying the effect of different aspects of civil society on the practical implementation of EU policies we can analyse how civil society strength translates to implementation performance across different states and policy areas.

To test our hypotheses we rely on a novel dataset on both legislative and practical implementation performance across 24 member states and four policy areas (Internal Market, Environment, Justice and Home Affairs (JHA) and Social Policy). By combining data sources on both citizens' participation in voluntary associations and the degree that governments consult with CSOs, we are able to distinguish between different types of civil society strength across member states and policy areas.

Our findings show that civic participation and CSO consultation are like “horse and carriage”: for a positive impact on policy implementation, one cannot go without the other. Moreover, civic participation may actually debilitate member states' implementation performance when societal support is low and contentious policies provide societal actors with veto power. Finally, the results indicate a paradox; civil society is not effective in countries with low bureaucratic capacity, where civil society is needed most to improve government performance. Instead, bureaucratic capacity is vital for the positive impact of civil society on policy outcomes.

Civil society strength: state of the art

Since its revival in the last couple of decades, civil society has been described as an important facilitator for democracy by various strands of literature. Social capital scholars theorize and show that citizens participating in voluntary associations are more likely to develop democratic skills and social trust (Putnam, 2000). In addition, volunteers in associations (such as

women's groups or environmental organizations) are more likely to be politically active or engage in discussions about politics (Dekker and van den Broek, 1998). Scholars studying new social movements and contentious politics also credit civil society for the ability to challenge and contest government policy in the public sphere (Tilly and Tarrow, 2015). Facilitating collective action, civil society is seen as a way for citizens to mobilize in protest movements against government actions (Keck and Sikkink, 1998).

In a similar vein, studies of governance and interest mediation acknowledge that CSOs play an important role in policy formation and the implementation of government policies. For example, Hadenius and Uggla (1996) underline that CSOs need to cooperate with governments in order to effectively further democratic reforms in countries undergoing transition to democracy. CSOs aggregate the interests of citizens and act as mediators in state-society relations by communicating societal preferences to policy-makers (Schmitter, 1974; Treib et al, 2007). CSOs also represent their constituencies by voicing societal concerns against unfavorable policies (Zimmer and Freise, 2008).

However, the influence of civil society on policy reforms also depends on opportunity structures provided by the state. Studies show that different strategies towards civil society could either constrain or advance their impact on the policy process (Schmitter, 1974, Kitschelt, 1986, Kriesi et al 1992). For example, states can empower CSOs by providing them public recognition and access to policy-making through consultation mechanisms. Alternatively, states may deny CSOs opportunities to voice societal interests during the policy process, making the implementation phase vulnerable for disruptive protests.

Based on this literature, civil society strength is conceptualized as either the ability of citizens to organize themselves in social movements or the opportunities of CSOs to participate in policy-making. Nevertheless, we lack a systematic empirical research about the interaction between these different aspects of civil society strength and their impact on the implementation of public policy. Governance does not only entail the process of decision-making, or the laws that result from that; ultimately effective governance requires the actual application of policies in practice (Treib, 2006). Effective implementation of public policy necessitates state and non-state actors to

coordinate.

In this study, we focus on the role of civil society on the practical implementation of EU directives. Because the EU directives set policy requirements that have to be followed by all member states, they enable us to compare implementation performance across countries and issue areas.

Civil society and governance in the EU

Studies of European Union politics have also acknowledged the importance of civil society for both democracy and governance across EU member states. Resonating the distinct features of civil society in terms of facilitating collective action and mediating between citizens and the state, scholars have particularly discussed the impact of civil society in countries from Central and Eastern Europe (CEE) (Sedelmeier, 2008; Cichowski 2007; Conant 2002). For example, some scholars argue that societal mobilization in CEE countries is weak because communist legacies have prevented citizens from fully developing civic skills (Mendelson and Gerber, 2005; Howard, 2003). Other scholars, however, have opposed the view that civil society is particularly weak in countries with post-communist legacies (Petrova and Tarrow, 2006; Stark et al. 2006; Foa and Ekiert, 2016). Whereas citizens' engagement in civic action may be feeble, CSOs in the region have developed both enduring and temporary ties with organized non-state actors, political parties, government and bureaucratic institutions (Petrova and Tarrow, 2006). In a similar vein, collective action in Western societies depends on both civic engagement and opportunities to interact with state actors (McAdam et al, 2003).

However, it remains an open question how civil society affects the implementation of public policy across different countries and issue areas. In this study we assume that effective policy implementation is equivalent to implementation that is in line with the requirements of EU directives. There are two major theoretical approaches that explain why governments fail to implement the EU policies: enforcement and management (Tallberg, 2002). Whereas enforcement approaches focus on the preferences of implementing actors, management scholars emphasize that implementation problems often emerge from capacity limitations. The role of civil society on implementation is rooted in management explanations. However, there are competing

predictions on whether civil society improves or impedes the implementation of public policy. Thus, based on “management” approaches to compliance problems, civil society increases the capacity of national implementers by providing resources for monitoring the implementation process and reporting observed implementation gaps. The EU’s decentralized monitoring mechanism relies heavily on private actors at the domestic level to raise complaints or to litigate in national courts against breaches of EU law. CSOs also assist the implementation process by providing information about citizens’ policy preferences to policy-makers (Börzel, 2006, 2010). Conversely, some scholars argue that civil society could negatively affect the capacity of governments to resolve compliance problems. In particular, mechanisms that depend on government cooperation with interest groups or CSOs could inhibit the resolution of implementation problems by increasing the number of veto players that are able to disrupt the implementation process (Jensen, 2007). In this study, we argue that the impact of civil society on practical implementation depends on the interaction of two different logics of civil society strength: the logic of membership and the logic of influence. Depending on how civil society strength is conceptualized; it could have either a debilitating or a reinforcing role on state implementation performance.

Theorizing the role of civil society in policy implementation

Logics of membership and influence

The defining characteristics of civil society strength are captured by “the logic of membership” and “the logic of influence” (Schmitter and Streeck, 1999). Based on the logic of membership, civil society strength is a function of its ability to mobilize a large support base for civic causes. Larger membership helps CSOs legitimize the relevance of their causes and extract resources for public campaigns. Instead, according to the logic of influence, civil society strength depends on access to political institutions and ability to shape policy outcomes through cooperation with government.

Both logics play a role in the implementation of public policy. Based on the membership logic, CSOs enjoying large and active membership are better able to understand societal grievances and communicate these to the relevant political institutions. When involved in the implementation process, CSOs can

rely on the support of volunteers, mobilize collective action, and extract resources from their members to facilitate implementation (Stark, Vedres & Burszt, 2006). However, the impact of civic participation (logic of membership) on policy implementation depends on whether CSOs are involved in the policy process (logic of influence). If CSOs do not have access to political institutions, civic participation could even obstruct policy implementation. More precisely, the exclusion of CSOs from the policy process could lead to policies that lack legitimacy, because citizens are not able to communicate their interests to the state (Hadenius and Ugglå, 1996). Consequently, civic participation could cause societal discontent against public policies (Verba et al, 1995; Rose-Ackerman, 2005).

Based on the logic of influence, policy implementation depends on the coordination mechanisms between CSOs and political institutions. To influence public policy, CSOs share their expertise and provide advice to governments about societal interests and the most effective implementation strategies. CSO's involvement in the policy process, thus, helps policy-makers understand the impact of their decisions on the citizens they target and what are the best policy choices that reflect the EU policy requirements (Rose-Ackerman, 2005). For example, Putnam et al (1994) demonstrated that political reforms are most effectively carried out when they are a joint effort between CSOs and the state. However, the success of consultation processes is preconditioned on the existence of representative societal groups willing to participate and the public support CSOs are able to mobilize. Without broad support in society, CSOs may not be aware of societal grievances and provide incomplete and uninformed advice to governments regarding the impact public policy on the citizens that the policies target.

H1: Higher levels of civic participation (logic of membership) and cooperation between CSOs and the state (logic of influence) positively affect policy implementation.

State capacity

Furthermore, the impact of both aspects of civil society on policy implementation may be unequal across national contexts. Institutional

approaches to civil society demonstrate that governance is effective if bureaucratic capacity is high (Hadenius and Uggla, 1996; Bailer et al, 2013). Civil society should not be seen as a zero-sum game; rather, both the state and society benefit from each other's strength. While the state is dependent on the linkages between society and policy-makers to increase their implementation performance, CSOs gain influence through their engagement with the state (Sissenich, 2010). Although protected state-society relations, such as consultation, are instrumental for an advanced democracy, as argued by Tilly (2004) it also increases societal pressure on governments to be responsive and requires high government capacity. According to the seminal study by Almond and Verba (1963), a political system needs to be able to cope with and respond to intense societal demands for civic participation to have a beneficial effect on policy outcomes. In other words, policy implementation is only effective if states have highly functioning and reliable bureaucratic institutions that are able to incorporate both societal demands and the external requirements of the EU. If governments do not have the capacity to combine the interests of citizens with the external requirements of the EU, this may raise public discontent (Almond and Verba, 1963; Verba et al, 1978; 1995) and lead to non-compliance with EU policy. Accordingly, the expectation is that the positive impact of civil society on policy outcomes is conditional on the bureaucratic capacity of states and not a substitute for political institutionalization. Paradoxically, this implies that in countries where a strong civil society has the most potential to improve the performance of weak administrative institutions, the impact of civil society is weakest. Instead, civil society is most empowered in high-capacity countries (Foley and Edwards, 1996).

H2: The impact of CSO strength on policy implementation is stronger in high-capacity countries.

Societal support

However, civil society may also have a debilitating effect on member states' implementation performance. Although most literature focused on the facilitating role of CSOs and other interest groups in improving EU policy implementation (Dai, 2005; Börzel, 2006), some studies have acknowledged

the potential negative effects as well. In his study on member states' ability to implement EU labour market policy, Jensen (2007) argues that societal actors opposed to EU policy can act as veto players and obstruct the implementation process. Conceptualized as societal veto players, CSOs are different from the institutional or party-political veto players, as they do not gain their veto rights from their formal position (see Bauer et al, 2004 and Fink, 2009 for their adaptation to Tsebelis' veto player theory). Instead, their ability to act as a veto player is determined by their potential to mobilize their constituents to block policy implementation that is not in line with their preferences. These preferences depend on the societal groups they represent and are issue-specific (Fink, 2009). Only when policies enjoy limited to no support by citizens, are CSOs able to use their role as a veto player and mobilize against implementation. In other words, if societal preferences are not in line with particular EU policy, CSOs representing public interest can be expected to mobilize against its practical implementation in the domestic context, resulting in a deteriorating of the member states' implementation performance.

H3: Higher levels of civic participation without societal support negatively affect policy implementation.

Finally, due to differences of the type of policy in costs and benefits for societal groups, the strength of veto power by CSOs varies across policy areas. We expect that the effect of civic participation is stronger in policy areas that stimulate public notice and are made under public scrutiny. The more controversial and contentious a policy is, the more likely it is that at least some societal actors disagree with its implementation. Therefore, we expect that civil society has stronger veto powers in the area of social policy. First, this type of policy is designed to redistribute civil rights from one group to the other, leading to controversy and public attention, as one group (women and minority groups), will benefit while another (men and majority groups) might lose their advantage (Lowi, 1965). Second, because the directives in the area of social policy are characterized by concentrated costs and benefits, they will also lead to higher engagement of interest groups (Wilson, 1995). Moreover,

policy instruments related to workers' rights and employment allow for all sorts of consultative and collaborative arrangements, which provide potential veto-player access to the policy process (Börzel & Panke, 2005). More specifically, the directives ensuring minimum standards on equal treatment between women and men and the prohibition of discrimination provide societal actors with procedural tools to engage in the policy process (Muir, 2013). For example, according to the EU requirements associations with a legitimate interest in the implementation of these policies may engage in any kind of procedure aimed to enforce the directive. Although these procedural tools in equality law are intended to enhance the effectiveness of implementation, including citizens and CSOs in the application of EU law in the area of social policy may also provide for opportunities to act as a veto-player and enable them to block the implementation process when societal support is low.

H4: The effect of societal veto-players is stronger in the area of social policy.

Research design

Data and measurement of practical implementation

To test our hypotheses we rely on a novel dataset on implementation performance across different member states and EU policy areas that was collected by Zhelyazkova et al., (2016). The dataset is based on external evaluation reports about national implementation of EU policies that were prepared by various consultancies. Because the Commission contracted these external experts, the dataset includes directives that were considered important by at least some EU stakeholders, but it excludes directives introducing less substantive demands on the member states.

Nevertheless, this is currently the only large-n dataset that distinguishes between legislative outcomes by national governments and practical implementation across 24 EU member states.³ In addition, data collection was based on several important criteria to ensure validity and reliability of the information. First, evaluation reports had to be prepared between 2007 and

³ Croatia was excluded from the analysis due to lack of information on practical implementation. We also excluded Luxembourg, Cyprus and Malta due to missing data on several independent variables.

2013 and several years after the implementation deadlines. Second, the researchers only coded reports with explicit compliance assessments (non-conform, incorrect, problematic, etc.) that focused on all major provisions in a directive for each member state. Third, the external experts who prepared the evaluations had to justify their assessments.

Finally, the dataset covers EU directives from four policy areas: Internal Market, JHA, Environment and Social Policy⁴. Because these policy areas capture distinct civil societal groupings within the member states, we are able to test whether the impact civil society strength on governance outcomes is consistent across different sectors.

The final dataset contains information about both legal and practical implementation for 24 directives (three Internal Market, three Environment, four Social Policy, and fourteen JHA directives). Zhelyazkova et al (2016) did not find evidence that the considerably higher number of JHA directives is problematic. We also control for policy-area differences to account for the unbalanced number of directives within the four sectors.

The operationalization of practical implementation outcomes in a cross-county and cross-issue framework remains a major challenge for Europeanization scholars. The evaluation reports provide information about member states' implementation performance regarding separate provisions in a directive. Relevant provisions refer to articles or sub-articles that address separate EU requirements within directives that require national implementation. For example, some provisions require the establishment of particular institutional arrangements to ensure effective enforcement of the EU policies (e.g., equality bodies in Social policy), while others demand effective information dissemination to target groups (e.g., visa resident procedures). Practical implementation with EU directives is measured as the share of correctly implemented provisions by each member states relative to all relevant provisions in a directive that were assessed by the country experts.

⁴ Zhelyazkova et al (2016) provide some information about the selection of policy areas.

Measuring civil society strength and state capacity

The need for comparative research on civil society has led to discussions how to find an empirical baseline that is both fully comparable and contextually valid (Heinrich, 2005; Howard, 2005; Kubik, 2005). As such, civil society should be treated as a multi-dimensional concept with multiple indicators from different data sources to measure its strength (Anheiner, 2005).

Following our theoretical arguments, the strength of CSOs in domestic contexts depends on two separate aspects: levels of civic participation and the extent to which CSOs are engaged in the policymaking process (CSO consultation). Although various comparative projects take into account both the capacity of citizens to engage in civil society and the infrastructure that facilitates CSOs, most datasets either lack variation across years⁵, do not cover all EU member states⁶ or do not allow for a comparison across indicators⁷. Instead, we rely on two separate data sources that provide variation across time, cover all EU member states and even allow us to differentiate between policy areas.

First, *Civic participation* is measured by the percentage of respondents in Eurobarometer surveys that indicated they participate in specific voluntary organizations. The survey question was asked in 2004, 2006 and 2011⁸ and the respondents could select the type of organization from a number of alternatives. We only considered participation in organizations that are relevant for the policy areas in our dataset. EU policies in the area of environment set minimum standards for the protection of the environment through targets for emission ceilings and recycling of packaging and vehicles.⁹ Furthermore, the directives in the policy domain of Internal Market set EU requirements for consumer protection by improving the quality of services, complaint procedures and transparency.¹⁰ Moreover, the implementation of JHA policies is aimed to protect human rights of asylum seekers, third-country nationals facing deportation, third-country nationals for the purposes

⁵ Civic Civil Society Enabling Environment Index (EEI)

⁶ CNP Global Society Index

⁷ USAID Civil Society Organizational Index (CSOI)

⁸ Data was taken from Eurobarometer 62.2 for 2004, 66.3 for 2006 and 76.2 for 2011, and merged with the same or closest years when practical implementation was recorded.

⁹ 2001/81/EC; 2004/12/EC; 2000/53/EC

¹⁰ 2004/109/EC; 2006/123/EC; 2008/6/EC

of studies and the free movement of EU citizens¹¹. Finally, EU requirements in the area of Social Policy set minimum standards on the equal treatment of women and men¹² and the prohibition of discrimination on the basis of ethnicity, religion, sexual orientation, age and disability¹³. The list of relevant organizations includes: “*an organization for protection of the environment*” (Environment), *consumer organizations* (Internal Market), *an international organization: human rights* (JHA). In the case of Social Policy, the dataset includes issues of antidiscrimination and gender equality. In this case, we measure participatory activity in *organizations for the defence of the rights of minorities and interest groups for specific causes (such as sexual orientation or women’s issues)*. Furthermore, societal preferences towards specific supranational policies could affect the extent to which high civic participation can mobilize against or in favour of the practical implementation of the policies in the domestic context. Societal support reflects the percentage of Eurobarometer respondents (averaged for all years) who believe that a given policy area should be decided at the EU level.¹⁴

Second, to obtain information about *CSO consultation* we rely on data from the V-Dem project (Coppedge et al, 2015). Country experts were asked whether major CSOs were routinely consulted by policy-makers on policies relevant to their members. Based on the expert assessments, governments were considered insulated from CSO input (coded as 0), CSOs were considered as but one set of voices policy-makers take into account (coded as 1) or important CSOs were recognized as stakeholders and given a voice on important policy areas (coded as 2). Using Bayesian ordinal item-response theory measurement model, the ordinal scale was converted to interval while at the same time correcting for systematic biases across coders (Pemstein et al, 2015).¹⁵

¹¹ 2001/40/EC; 2001/51/EC; 2001/55/EC; 2002/90/EC; 2003/86/EC; 2003/86/EC; 2003/9/EC; 2004/81/EC; 2004/83/EC; 2004/114/EC; 2004/38/EC; 2004/82/EC; 2008/115/EC

¹² 2004/113/EC; 2006/54/EC

¹³ 2000/43/EC; 2000/78/EC

¹⁴ The variable combines information provided from the following Eurobarometer items and surveys: environment protection (1996-2010); immigration policy (1996-2010); competition policy (2005-2010); human rights protection (1999) and men/women equality (2009).

¹⁵ Multiple country experts provided ordinal ratings for each civil society indicator in V-dem. To create a reliable continuous variable these ratings were aggregated using a Bayesian item response theory model which takes into account variation in reliability levels across and within coders in the estimation process (Pemstein et al, 2015).

State capacity is measured based on data from the Worldwide Governance Indicators Database (2016). We employ the “Government Effectiveness” indicator, which ranges between -2.5 and 2.5 and is the most widely used aggregate measure for bureaucratic state capacity. The indicator combines societal perception and expert assessments about the quality of public and civil services measured on yearly basis.

Control variables

In addition to the main independent variables, we control for several country and policy characteristics that could affect our findings. For example, civil society is generally considered to be weaker in the new EU member states from Central and Eastern Europe (CEE) than the EU-15 member states from Western Europe (Sedelmeier, 2008) (Western state = 1). Furthermore, the willingness of governments to engage CSOs in the policymaking process could depend on the policy-makers’ preferences towards supranational policies. The expert reports also provide unique information about the relevant ministers involved in the implementation process for a given directive. We identified their party affiliations on the basis of the date of transposition and the Political Yearbooks of the European Journal of Political Research. Information about political actors’ positions regarding different policy sectors was obtained from the Chapel Hill surveys (Bakker et al. 2015). Moreover, state capacity to implement the EU policies does not only depend on characteristics of the national bureaucracies, but also on the number of institutional veto players responsible for policy implementation (measured as the number of ministries involved in the implementation process).

In their study, Zhelyazkova et al (2016) also find that the quality of national legislation with regard to supranational policy is a strong predictor for practical implementation. When national laws provide effective guidelines for the implementation process, civil society may exert little additional influence on implementation performance. The measure for legal compliance follows the same logic as the operationalization of the dependent variable and thus captures the share of legally compliant EU provisions relative to all evaluated provisions within a directive based on the expert assessments.

At the policy level, we acknowledge that civil society strength and practical implementation vary across policy areas. We also control for the degree of leeway or discretion that EU directives grant to member states at the implementation stage (measured as the share of “may” provisions relative to all directive provisions (Franchino, 2007)).

Finally, differences in the evaluation reports may bias the validity of the estimates. Similar to Zhelyazkova et al (2016) we control for the *structure* (reports structured based on specific rules or specific countries), *length* (number of pages allotted to a particular country) and *timing* of the reports (number of days between the implementation deadline and the publication of the first report).

Results

Descriptive analysis

Before testing the effect of both civic participation and the consultation of organized civil society on the practical implementation of EU policies, we analyze how these two components of civil society strength are distributed.¹⁶

First, civic participation by respondents in the Eurobarometer survey across member states between 2004 and 2011 is most pronounced within the field of Social policy (Figure 1, left). The median level of voluntary participation in associations related to the protection of women’s and minority rights is 2.1%. The percentage of civic participants was lower in associations related to other policy areas. The percentage of active participants is lowest in associations related to JHA, with a median of 0.8%. This is because there is a high number of individuals reporting no or very low civic participation in international and human right organizations. The median level of volunteers in associations for protection of the environment is 1.4%. Participation rates in Internal Market are in between those of Environment and Social Policy; consumer associations can count on a median of 1.8% volunteers.

Figure 1

¹⁶ Considering a number of observations fall outside the range of observations in Environment, Internal Market and JHA, we employed robustness checks, which showed that the potential mild and extreme outliers did not significantly change the results.

Furthermore, an interesting pattern emerges when we plot civic participation across member states (Figure 1, right). There is a clear divide between Western and CEE member states when it comes to participation in CSOs related to the four policy areas in our dataset. All CEE member states have lower rates of civic participation than Western member states. This is in line with earlier studies that report a lack of engagement of citizens in voluntary organizations as an indicator of a weak civil society in this region (Howard, 2003; Ockenfels and Weimann, 1996). Less than 1% of the respondents in any CEE member states, except for Lithuania (1.1%), reported participation activities in either of the CSOs. On average, civic participation is highest in Sweden (4.7%), followed by Italy (4.0%) and Denmark (3.8%).

However, differences across member states concerning CSO consultation paint a more mixed picture. In line with findings by Petrova and Tarrow (2006) and Foa and Ekiert (2016), civil society in CEE member states is not systematically weaker than in their Western counterparts once you take into account other dimensions of civil society strength. Moreover, both aspects of civil society are not necessarily associated. Whereas, CSOs in Sweden can count on a relatively large base of volunteers, their engagement in the policymaking process through consultation is limited. In contrast, the Polish government does routinely engage in consultation with CSOs, but very few citizens participate in voluntary organizations.

Looking more closely to the relation between the two aspects of civil society and how this differs across countries with varying capacities (Figure 2), we observe that civic participation and CSO consultation are only very weakly correlated ($r = 0.098$, $p = 0.052$). In other words, high civic participation does not imply a consultative status in the policymaking process. Moreover, not all countries with highly efficient bureaucracies have also established routine consultation with CSOs. However, extensive CSO consultation does mostly occur in countries with a strong capacity ($r = 0.477$, $p = 0.000$).

Figure 2

In sum, we observe east-west divide in civic participation, but for CSO consultation the picture is more mixed. However, CSO consultation is related

to state capacity. Interestingly, participation and consultation are not necessarily related to one another.

Explanatory analysis

Table 1 presents the results on the impact of civil society strength and preferences on the implementation performance of member states regarding 24 EU directives from four different policy areas. Because practical implementation is bounded between 0 and 1, we employ fractional logit analysis¹⁷ to test our hypotheses.

Table 1 reports the effects of civic participation and consultation separately (Model 1), the interaction between the two aspects of civil society strength (Models 2) and the interaction between societal preferences and civic participation across all policies (Model 3) and only for social policy directives (Model 4).

Table 1

The results in Table 1 provide notable insights about the relationships between civic participation, civil society cooperation and member states' implementation performances. In particular, high rates of participation in voluntary organizations (logic of membership) and frequent access to national government (logic of influence) alone have no significant impact on state implementation performance (Model 1). However and in line with our expectations, high levels of civic participation coupled with frequent CSO involvement in government consultations increases the effectiveness of practical implementation (Model 2).

Our findings portray a complex relationship between civic participation and government consultation practices with CSOs. In particular, we observe a significant negative effect of civic participation on practical implementation for scenarios where national governments never consult with the relevant CSOs. This finding supports our theoretical arguments and earlier studies that

¹⁷ We also employed a multilevel mixed effect model to take the nested structure of the data into account. Since only the random effects of the grouping structure according to directives had a significant effect, we only cluster in directives and control for important member state characteristics instead. In the supplementary appendix we present the models with robust standard errors clustered in member states.

high levels of civic participation are likely to obstruct practical implementation if CSOs are not granted access to political institutions.

In a similar vein, CSO consultation decreases the quality of practical implementation of EU directives, when CSOs can rely on a low membership base. Figure 3 illustrates the marginal effect of CSO consultation for different values of civic participation (i.e., percentage of Eurobarometer respondents participating in issue-specific voluntary organizations). It shows that CSO involvement in consultations with government has indeed a negative effect on practical implementation, when civic participation is extremely low (civic participation = 0).

Figure 3

One possible explanation is that lack of civic participation may transform CSOs into detached elites, who lack awareness about societal concerns and are, hence, unable to effectively convey potential implementation problems during the consultation process. Conversely, the significant positive interaction effect supports our theoretical argument that high civic participation coupled with frequent interactions with government improves member state's implementation performance with regard to EU directives. The impact of CSO consultation on practical implementation becomes increasingly positive, as the percentage of participants in relevant voluntary organizations increases (Figure 3).

Whereas we find general support for the relevance of civil society strength on the practical implementation of EU directives (H1), the impact of civil society is likely to be conditional on both state capacity (H2) and societal preferences regarding EU directives (H3).

To test H2 on the conditional effect of state capacity on practical implementation, we replicated the analysis of Model 2 for low- and high-capacity countries separately. A state is considered to have high administrative capacities to implement public policy, if it scores higher than 0.90. While the threshold may appear arbitrary, the choice aims to ensure that both CEE and Western member states are represented in the two capacity

categories. Western member states generally score higher on capacity-related measures than CEE member states.¹⁸

Table 2

Table 2 presents the results from the analysis of the impact of civil society strength on practical implementation in countries with varying bureaucratic abilities. Based on the results, civil society strength does not affect practical implementation in low-capacity states. The picture is different for high-capacity countries, where the impact of engaged citizens and routine CSO consultations on implementation performance strongly resembles the findings in Model 2 of Table 1. Figure 4 presents a three-dimensional illustration of the interactive relationship between civic participation and CSO consultation in high capacity countries.

Figure 4

When civic participation is 0, the predicted effect of CSO involvement in government consultations on practical implementation remains negative. In the absence of civic participation, frequent interactions with CSOs do not contribute to the realization of compliant public policy. In instances where CSOs are excluded from government policy-making, higher civic participation even further complicates the implementation process (as illustrated by the increasingly negative predicted effect of civic participation on practical implementation at minimum levels of CSO policy involvement). The predicted effect of civil society strength turns positive only when CSO involvement in policy-making reaches its peak and at least 6% of Eurobarometer respondents indicated voluntary participation in one of the selected policy areas. In short, the analysis suggests that a high rate of civic participation in combination with

¹⁸ Setting higher thresholds for government effectiveness resulted in models where state capacity was collinear with post-communist legacies. Consequently, the observed relationship could be due to the fact that civil society in the established democracies of Western member states is not encumbered by the legacies of communism (Howard, 2003). The distinction helps us ensure some variation within the two clusters of high and low-capacity countries. We should note however that we replicated the analysis, using different thresholds for low and high capacity. The results remain essentially the same and are reported in the supplementary appendix.

CSO consultation is more likely to benefit high-capacity states than low-capacity states.

Finally, the observed negative impact of civic participation could be also due to lack of societal support towards EU policy implementation (H3). However, in contrast to our expectations, societal support does not significantly affect practical implementation (Model 1 of Table 1) or the relationship between civic participation and compliance (Model 3 of Table 1). Nevertheless, the analysis in Model 4 (see Table 1) shows that societal preferences towards EU policy-making moderate the relationship between civic engagement and practical compliance in highly controversial policy areas like social policy. Figure 5 provides a more precise illustration of this effect.

Figure 5

In particular, civic participation has a negative effect on practical implementation even when more than 50% of the Eurobarometer respondents expressed support for supranational control over issues related to social policy. The effect turns positive only at very high levels of public support for EU social policy (80% of respondents). Social policy represents an interesting case based on our analysis. Even though the majority of citizens support EU social policy (minimum support is equal or higher than 50%), it is also the most problematic to implement in practice (see Table 1). Because social policy directives are likely to attract interest groups with opposing interests, higher levels of civic participation increases the number of veto players capable of blocking practical implementation. Only when support for policy implementation is almost undisputed, do we observe a positive effect of civic participation on practical compliance with EU directives.

Conclusion

Many scholars and policy-makers alike have attributed an important role to civil society in improving governance outputs. CSOs can increase transparency in the policy process by monitoring implementation performance or act as an intermediary between citizens and policy-makers by representing societal interests. Both the capacity of CSOs to mobilize their members to extract

resources and their ability to influence the policy process through consultation could facilitate proper policy implementation.

In this study we analyzed under what conditions civil society positively impacts the implementation of EU policies across member states and four policy areas. The EU policies provide common benchmarks for assessing the effectiveness of policy implementation across different countries and policy issues. In line with a growing consensus, we treated civil society as a multidimensional concept (Anheiner, 2005; Heinrich, 2005; Foa and Ekiert, 2016). However, unlike previous research, we were able to examine the interactive effect of the level of citizen engagement (logic of membership) and the degree to which member states cooperate with societal actors (logic of influence) on governance outputs. Furthermore, going beyond a cross-country comparison of civil society impact, studying the implementation of EU requirements within different issue areas enabled us to explore variation across policy domains as well.

Our findings reveal that countries with high levels of civic participation do not necessarily include CSOs in the policymaking process. Moreover, depending on the dimension of civil society strength, different patterns emerge across member states. Whereas civic participation is consistently lower in CEE member states than in their Western counterparts, the picture is more mixed when we analyse the degree to which CSOs are regularly consulted. This finding supports research that found that post-communist countries in Europe are characterised by weak civil engagement (Howard, 2003; Ockenfels and Weimann, 1996); at the same time it is in line with findings that demonstrate that civil society is not systematically weaker in CEE countries if you take into account other dimensions (Petrova and Tarrow, 2006; Foa and Ekiert, 2016).

However, for civil society to improve practical implementation, member states cannot have one without the other. Civil society only contributes to policy implementation if citizens are engaged (according to the logic of membership) and policy-makers include CSOs in the policymaking process (according to the logic of influence). Without civic participation, consultation with CSOs does not improve practical implementation, as detached elites lack awareness of societal concerns and might not be able to communicate potential

implementation problems. As a result, policies are at risk of being out of tune with societal interests. Similarly, when CSOs do not have the opportunities to influence the policymaking process, engaged citizens are more likely to mobilize against implementation. Furthermore, societal actors may worsen member states' implementation performance in policy areas that are under public scrutiny and rely on citizens and associations to enforce its application (such as social policy) if societal support for that type of policy is limited. These findings provide insights on the conditions under which civil society actors virtually act as veto players (Jensen, 2007) or facilitators (Börzel, 2006; 2010) in the implementation process.

Nevertheless, accommodating societal interest through consultation requires certain levels of state capacity. We find that the positive impact of civil society on practical implementation is stronger in high-capacity countries. This implies a paradox in ideas about the role of civil society in governance as described by Foley and Edwards (1996). In those countries in which a vibrant civil society is needed most to counterbalance weak bureaucratic institutions, CSOs are not able to exert a positive impact on policy outcomes. Instead, the positive impact of civil society on practical implementation is conditional on bureaucratic capacity.

Therefore, CSOs facilitate policy implementation as long as they represent societal interest, are given access to the policy process, state capacity allows for a credible accommodation of societal demands and policies are supported by society. EU institutions that emphasize the role of civil society in implementing policies according to EU requirements should be aware of these conditions and invest in domestic institution building as well as fostering a vibrant civil society within nation states.

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Table 1. Analysis of civil society strength and practical compliance with EU directives

	Model 1	Model 2	Model 3	Model 4
Civic participation	-0.030 [0.046]	-0.258*** [0.054]	-0.039 [0.613]	-4.664** [1.537]
CSO consultation	0.011 [0.058]	-0.245** [0.083]	0.011 [0.057]	0.209 [0.266]
Participation*Consultation		0.125*** [0.033]		
Societal support	-0.642 [0.530]	-0.718 [0.518]	-0.655 [0.821]	-6.606*** [1.691]
Participation*Soc. Support			0.006 [0.403]	2.779** [0.947]
Legal compliance	1.335*** [0.354]	1.378*** [0.349]	1.335*** [0.349]	
State capacity	0.222 [0.156]	0.222 [0.157]	0.223 [0.164]	0.555+ [0.290]
Western state	-0.021 [0.171]	-0.006 [0.170]	-0.022 [0.180]	
Ministerial support	-0.047 [0.058]	-0.080 [0.062]	-0.047 [0.056]	
Number of ministers	-0.223*** [0.058]	-0.230*** [0.059]	-0.223*** [0.059]	
Policy discretion	3.578* [1.758]	3.495* [1.708]	3.579* [1.799]	
<i>Policy sectors</i>				
Internal Market	-1.587+ [0.896]	-1.570+ [0.893]	-1.587+ [0.897]	
Justice & Home Affairs	-1.390+ [0.712]	-1.420* [0.706]	-1.389* [0.695]	
Social Policy	-1.300*** [0.316]	-1.417*** [0.312]	-1.300*** [0.315]	
<i>Report characteristics</i>				
Rule-specific	-1.769** [0.670]	-1.768** [0.660]	-1.770** [0.676]	
Evaluation period	-0.0002 [0.0002]	-0.0002 [0.0002]	-0.0002 [0.0002]	
Number of pages	0.017 [0.031]	0.020 [0.031]	0.017 [0.032]	
Constant	3.638*** [1.069]	4.384*** [1.034]	3.659* [1.608]	10.063*** [2.937]
Observations	409	409	409	59

Notes: Standard errors in brackets, clustered in Directives in Models 1-3 and in Member States in Model 4; + p<0.10, * p<0.05, ** p<0.01, *** p<0.001

Table 2. Effects of civil society strength on practical implementation for low- and high-capacity countries

	Low- capacity	High- capacity	Low- capacity	High- capacity
Civic participation	-0.076 [0.099]	-0.430* [0.177]	-0.160 [0.123]	-0.445* [0.221]
CSO consultation	-0.036 [0.134]	-0.390+ [0.227]	-0.068 [0.161]	-0.450+ [0.271]
Participation*Consultation	-0.012 [0.033]	0.172** [0.064]	0.091 [0.063]	0.202** [0.071]
Legal compliance	0.921 [0.754]	1.369* [0.643]	1.180** [0.442]	1.368** [0.429]
Western state	0.143 [0.257]	0.201 [0.247]	-0.139 [0.191]	0.248 [0.251]
Societal support			-1.861 [1.155]	-0.794 [0.628]
Ministerial support			0.015 [0.100]	-0.101 [0.085]
Number of ministers			-0.297*** [0.081]	-0.175* [0.082]
Policy discretion			3.424* [1.657]	2.968+ [1.674]
<i>Policy sectors</i>				
Internal Market			-2.409** [0.868]	-1.206 [1.050]
Justice & Home Affairs			-1.494* [0.701]	-1.390+ [0.709]
Social Policy			-2.532*** [0.427]	-1.104*** [0.295]
<i>Report characteristics</i>				
Rule-specific			-1.399* [0.577]	-1.960* [0.767]
Evaluation period			-0.0004* [0.0002]	-0.0001 [0.0002]
Number of pages			0.048+ [0.028]	0.008 [0.033]
Constant	0.694 [0.435]	1.219* [0.617]	6.110** [2.157]	5.248*** [1.241]
Observations	185	282	160	249

Notes: Standard errors in brackets, clustered in Directives;

+ p<0.10, * p<0.05, ** p<0.01, *** p<0.001

Figure 1. Distribution of civic participation across policy areas (left) and mean of civic participation compared to mean of CSO consultation across member states (right)

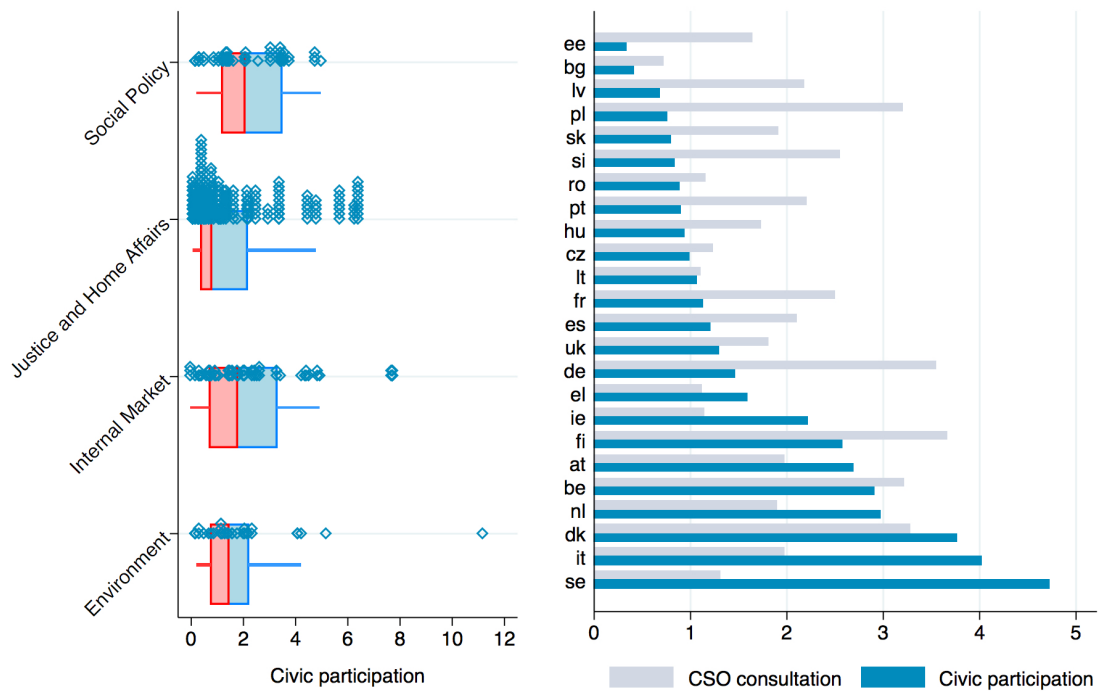


Figure 2. Relation between civic participation, CSO consultation and state capacity

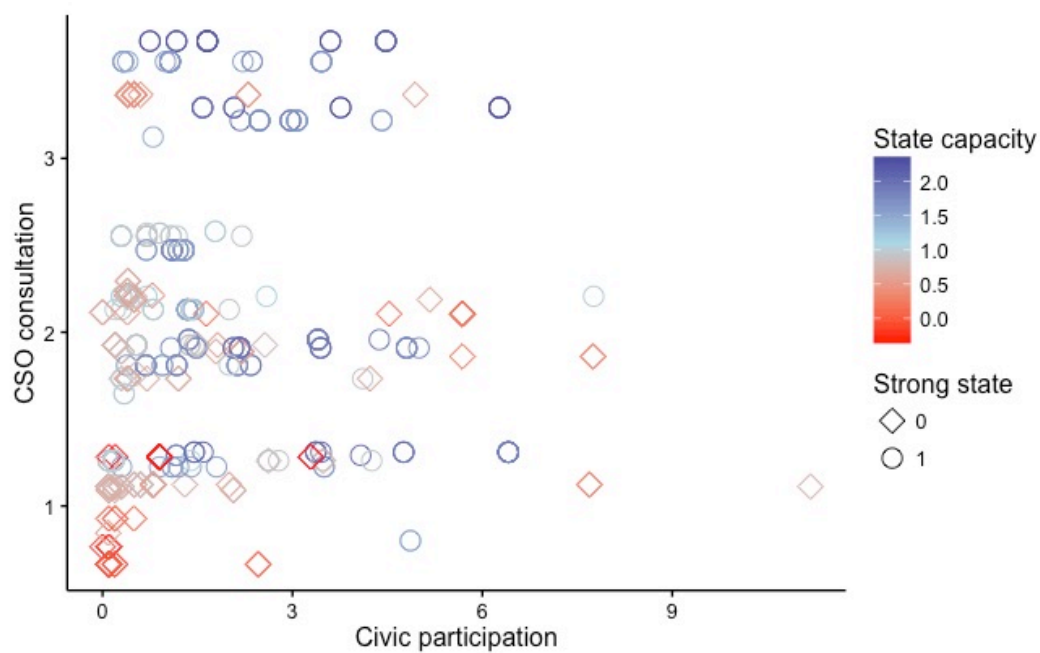


Figure 3. Marginal effect of CSO consultation at different levels of civic participation

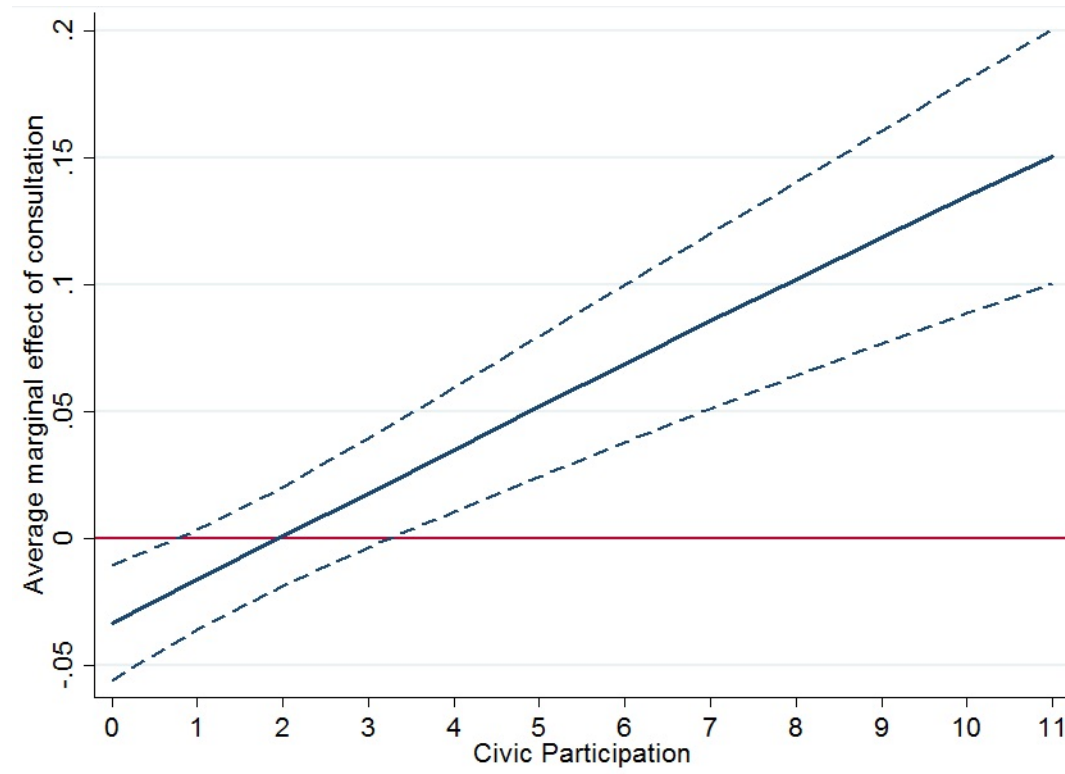


Figure 4. Predicted coefficients of CSO consultation and civic participation for high-capacity states

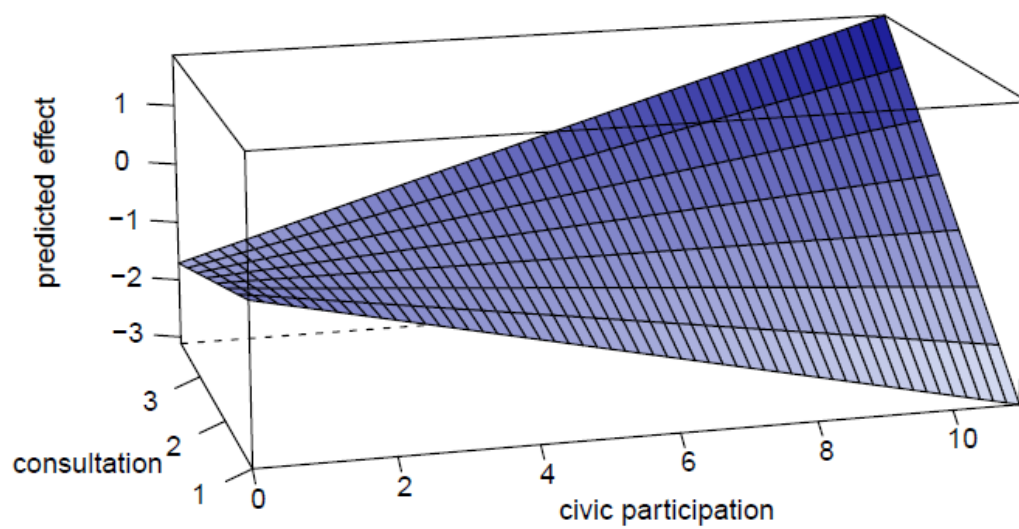


Figure 5. Marginal effect of civic participation at different levels of societal support EU policy

